

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

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Prepared May 19, 2004 (for the June 9, 2004 hearing)

To: Commissioners and Interested Persons

From: Diane Landry, District Manager
Dan Carl, Coastal Planner

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Subject: Santa Cruz County LCP Major Amendment Number 3-03 Part 2 (Wireless Facilities Ordinance) Proposed major amendment to the Santa Cruz County certified Local Coastal Program to be presented for public hearing and Commission action at the California Coastal Commission's June 9, 2004 meeting to take place at the Sheraton Los Angeles Harbor, 601 South Palos Verdes Street, in San Pedro.

Summary

Santa Cruz County is proposing to add wireless communications facility (WCF) ordinance sections to its certified Local Coastal Program (LCP) Implementation Plan (IP, also known as the LCP zoning code). 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, agricultural, open space, and community/aesthetic character of the County'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). 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). FTA does not, however, generally prohibit state and local governments from otherwise regulating the siting, design, and modification of WCFs. Per FTA, such regulation cannot discriminate among service providers and cannot prohibit provision of wireless service within the County. Current case law is slowly shaping the state and local government regulation parameters.

The County's ordinance would apply throughout the County's coastal zone and is structured to have three basic tiers within which different levels of WCF review and criteria would apply. 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 school grounds), WCFs would be prohibited. 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 would be restricted and criteria would be established on how and where they could be constructed in these areas. In all other non-prohibited and non-restricted areas, WCFs would be allowed subject to specific application, siting and design criteria that would be



California Coastal Commission

June Meeting in San Pedro

Staff: D. Carl Approved by: *DSL*

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established. Certain types of WCFs (such as minor facilities, personal television antenna, public safety facilities, etc.) would be exempted from most of the requirements of the proposed IP sections (but not the remainder of the LCP). The ordinance would establish a variance criteria to vary those parts of it that can be proven by an applicant to violate FTA in an individual WCF application.

The Commission previously reviewed and approved (with modifications) a similar proposal by Santa Cruz County in August 2003. The County was mostly in agreement with the Commission's suggested modifications at that time, but, instead of accepting the modifications, the County subsequently decided that it wanted to restructure several components of the ordinance and resubmit a revised ordinance for Commission review. It is this revised ordinance that is now before the Commission. The revised ordinance mostly incorporates the Commission's previous suggested modifications, with some minor and some major changes. The most significant changes from what was approved previously by the Commission involve requirements for facilities exempt from the ordinance and standards applicable to the right-of-way of the first through public road parallel to sea.

In terms of exempt facilities, the Commission had previously suggested that some of the general siting requirements applicable to WCFs still apply to otherwise exempt facilities, and that some LCP text be added encouraging (but not requiring) exempt WCFs to reduce their visual impact (through stealth technologies, co-location, screening, undergrounding support facilities, etc.). The County has re-worded the section that describes the general siting requirements that apply to exempt facilities, but the re-wording does not change the sections that the Commission suggested apply to coastal zone development and does not change the Commission's suggestions in this regard. The suggested text encouraging reduction of visual impacts has been deleted in the current version. The effect of this change is minor because this previously suggested language would not have imposed any requirements on exempt WCFs. Although the suggested language would have provided additional explicit context for the review of exempt WCFs, its removal shouldn't significantly reduce the effectiveness of the review of these facilities under the LCP because existing LCP policies provide similar direction for avoiding coastal resource impacts.

In terms of the first through public road, the Commission's previous approval made both the right-of-way and the area seaward of it part of a prohibited area. This "prohibition" would still have allowed siting of WCFs in that area under certain circumstances, but it would have been an impediment to such siting. The County indicated that they envision the right-of-way as an appropriate siting location for WCFs in many cases, provided such facilities are micro-facilities that are co-located to minimize viewshed impacts. The County's revisions now define the right-of-way as a restricted area within which co-located micro facilities (e.g., small panels on existing power poles) would be allowed in certain circumstances; the area seaward of the right-of-way would remain a prohibited area. This proposed restricted right-of-way area shouldn't result in WCF development that is conspicuous, and may allow for lesser impacts cumulatively because a series of small (micro) facilities would be integrated into the existing right-of-way landscape, negating the need for relatively larger facilities inland of it.

In general, the revised proposed WCF ordinance sections provide clear, well thought-out policy direction for the siting of WCFs. The County has honed the ordinance over the past three years through multiple



public hearings, through an advisory group including stakeholders from the wireless service industry and local environmental groups, and more recently with Commission staff during the course of the previous amendment review and the subsequent County process. The proposed WCF requirements clearly and adequately address the issues associated with siting and designing WCFs in the most sensitive coastal zone areas, particularly the County's rural north and south coasts and the areas seaward of the first public road that could easily be adversely affected by a proliferation of WCF buildings, towers, and antennas.

Staff is mostly supportive of the proposed ordinance text, but believes that there are a few areas that need to be clarified so that coastal resources are protected to the maximum extent feasible as directed by LCP Land Use Plan (LUP) policies. These changes are minor clarifications designed to help tighten the ordinance language and eliminate potential areas of confusion and/or internal inconsistency that could affect the implementation and function of it in the future. Staff has worked closely with County staff on the suggested modifications, and County and Commission staff are in agreement on the changes.

With the identified modifications, staff recommends that the Commission find that the proposed LCP amendment is consistent with and adequate to carry out the policies of the LUP. As so modified, staff recommends that the Commission approve the LCP amendment.

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I. Staff Recommendation – Motions and Resolutions

Staff recommends that the Commission, after public hearing, approve the proposed amendment only if modified. The Commission needs to make two motions in order to act on this recommendation.¹

1. Denial of Implementation Plan Major Amendment Number 3-03 Part 2 as Submitted

Staff recommends a YES vote on the motion below. Passage of this motion will result in rejection of the amendment and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (1 of 2). I move that the Commission **reject** Part 2 of Major Amendment Number 3-03 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by Santa Cruz County.

Resolution to Deny. The Commission hereby **denies** certification of Part 2 of Major Amendment Number 3-03 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by Santa Cruz County and adopts the findings set forth in this staff report on the grounds that, as submitted, the Implementation Plan amendment is not consistent with and not adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse effect which the Implementation Plan Amendment may have on the environment.

2. Approval of Implementation Plan Major Amendment Number 3-03 Part 2 if Modified

Staff recommends a YES vote on the motion below. Passage of this motion will result in certification of the amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (2 of 2). I move that the Commission **certify** Part 2 of Major Amendment Number 3-03 to the Santa Cruz County Local Coastal Program Implementation Plan if it is modified as suggested in this staff report.

Resolution to Certify with Suggested Modifications. The Commission hereby **certifies** Part 2 of Major Amendment Number 3-03 to the Santa Cruz County Local Coastal Program Implementation Plan if modified as suggested and adopts the findings set forth in this staff report on the grounds that, as modified, the Implementation Plan amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act

¹ Note that the motions and resolutions refer to "Part 2 of Major Amendment Number 3-03." The reason for this is that this amendment request is part two of a three part LCP amendment submitted by the County. In other words, LCP amendment number 3-03 is in three parts. The other two parts of the amendment are not a part of this staff report, and are not before the Commission at this time.



because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.

II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Land Use Plan consistency findings. If the County of Santa Cruz accepts each of the suggested modifications within six months of Commission action (i.e., by December 9, 2004), by formal resolution of the Board of Supervisors, the corresponding amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format denotes text to be deleted and text in underline format denotes text to be added

1. **Modify Section 13.10.660(e).** The following changes shall be made to the first paragraph of this subsection:

The types of wireless communications facilities, devices and activities listed below are exempt from the provisions of Sections 13.10.660 through 13.10.668 inclusive, except that Sections 13.10.663(a)(1) through 13.10.663 (a)(8) shall continue to apply if the facility, device and/or activity requires a Coastal Zone Approval pursuant to Chapter 13.20. This exemption is not intended to limit or expand the scope of other Federal, state and local policies and regulations, including but not limited to the General Plan/Local Coastal Program, which apply to these facilities, devices and/or activities. If Chapter 13.20 requires a Coastal Development permit for a facility, device or activity exempted from this ordinance, the factors set forth in 13.10.663(a)(1) through 13.10.663(a)(8) shall apply.

2. **Modify Section 13.10.660(e)(7).** The following changes shall be made to this subsection:

Wireless communication facilities and/or components of such facilities to be used solely for public safety purposes, installed and operated by authorized public safety agencies (e.g., County 911 Emergency Services, police, sheriff, and/or fire departments, first responder medical services, hospitals, etc.). Unless otherwise prohibited by law or exempted by action of the Board of Supervisors, public safety agencies shall be required to provide a map of facility locations for inclusion in the County's Wireless Communication Facilities GIS map. If a wireless communication facility approved for an authorized public safety agency is not or ceases to be operated by an authorized public safety agency, and if a non-public safety agency operator proposes to use the approved facility, then the change in operator shall require that the new operator submit an application for the wireless communication facility to be evaluated as if it were a new facility subject to Sections 13.10.660 through 13.10.668 inclusive and the General Plan/Local Coastal Program.



The facility shall not be operated by the new operator until a final decision has been rendered on the application.

3. **Modify Section 13.10.661(b)(2).** The following changes shall be made to this subsection:

Prohibited Coastal Areas. Wireless communication facilities are prohibited in areas that are located between the sea and the ~~inland~~ seaward side of the right-of-way of the first through public road parallel to the sea, unless a Telecommunications Act Exception is approved pursuant to Section 13.10.668(a).

4. **Modify Section 13.10.661(b)(4).** The following changes shall be made to the end of this subsection:

...

~~In addition to the requirements of this subsection above, any wireless communications facility and any associated development in the right-of-way of the first public road parallel to the sea shall comply with all of the following:~~

~~(iii) The facility shall be located on the inland side of the vehicular travel lanes unless a location on the seaward side of the vehicular travel lanes would result in less visual impact; and~~

~~(iv) If co-located on a utility pole: (a) the facility shall not require the installation of a new utility pole, but rather shall be co-located on an existing or replacement utility pole (where "replacement" means that there exists a utility pole in that location and it is replaced with a pole that looks the same or better (i.e., has a reduced visual impact) and has the same or lesser (i.e., has a reduced visual impact) dimensions as the existing utility pole); and (b) the facility shall only be allowed in the right-of-way provided the applicant's agreement(s) with the owner and operator of the right-of-way and the utility pole specifies that the facility shall be removed and the site restored by the applicant if informed by the owner and operator that the utility pole is to be removed because the utilities the pole supports are to be relocated underground.~~

5. **Modify Section 13.10.661(c)(2)(i).** The following changes shall be made to this subsection:

...

c. shall have an equipment cabinet that is no more than 24" high, 18" wide, and 10" deep if mounted upon the utility pole or on the ground, or is located in an underground vault, and;

d. shall be fully camouflaged through stealth techniques to render the facility as visually inconspicuous as possible;

6. **Modify Section 13.10.661(c)(2)(iii).** The following changes shall be made to this subsection:

~~If located on a the utility pole, The facility shall only be allowed in the coastal right-of-way provided~~



the applicant's agreement(s) with the owner and operator of the right-of-way and the utility pole specifies that the facility shall be removed and the site restored by the applicant if informed by the owner and operator that the utility pole is to be removed because the utilities the pole supports are to be relocated underground.

7. Modify Section 13.10.661(j). The following changes shall be made to this subsection:

Major Modification to Visual Impact. Any proposed major modification that would increase the visual impact of a wireless communication facility, as defined in Section 13.10.660(d), shall be subject to all requirements of this Sections 13.10.660 through 13.10.668 inclusive.

8. Modify Section 13.10.662(c). The following changes shall be made to the first paragraph of this subsection:

Alternatives Analysis. For applications for wireless communication facilities proposed to be located in any of the ~~restricted and/or~~ prohibited areas specified in Sections 13.10.661(b) and non-collocated wireless communication facilities proposed to be located in any of the restricted areas specified in 13.10.661(c), an Alternatives Analysis must be submitted by the applicant, subject to independent RF engineering review, which shall at a minimum: ...

9. Retroactivity. Section V of Ordinance 4743 and Section XII of Ordinance 4744 adopted by the County shall not apply to applications for development in the coastal zone.

III. Findings and Declarations

The Commission finds and declares as follows:

A. Standard of Review

The standard of review for proposed modifications to the County's LUP is consistency with the Coastal Act. The standard of review for proposed modifications to the County's IP is that they must be consistent with and adequate to carry out the policies of the LUP. In general, Coastal Act policies set broad statewide direction that are generally refined by local government LUP policies giving local guidance as to the kinds, locations, and intensities of coastal development. IP (zoning) standards then typically further refine LUP policies to provide guidance on a parcel by parcel level. Because this is an IP (only) LCP amendment, the standard of review is the certified LCP LUP.

B. Proposed LCP Amendment

1. Federal Telecommunications Reform Act of 1996

The County's LCP amendment proposes to regulate wireless communication facilities (WCFs) that are



also regulated by federal law. The consideration of this amendment is thus bound by federal law as summarized as follows (47 U.S.C. 332(c)):

1. Federal statute prohibits state and local regulations that prohibit or have the effect of prohibiting the provision of personal wireless services.
2. Federal statute prohibits state and local regulation of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions.
3. Any decision to deny a permit for a personal wireless service facility must be in writing and must be supported by substantial evidence.

Under section 307(c)(7)(B) of the Federal Telecommunications Act of 1996 (FTA), state and local governments may not unreasonably discriminate among providers of personal wireless services, and any decision to deny a permit for a personal wireless service facility must be in writing and must be supported by substantial evidence. These provisions are similar to the requirements of California law, including the Coastal Act. FTA also prevents state and local governments from regulating the placement of wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the regulations of the Federal Communications Commission (FCC) concerning such emissions.

The LCP amendment is not meant to pre-empt federal law, and in particular is written to be consistent with the FTA. FTA includes restrictions regarding what state and local governments can and cannot do with regard to WCFs, but it does not, however, generally prohibit state and local governments from otherwise regulating the siting, design, and modification of WCFs. FTA restrictions are written directly into the proposed IP text (see Section 13.10.660(a), (b), and (c) in exhibit B). Current case law is slowly shaping the state and local government regulation parameters.

2. Description of Proposed LCP Amendment

The amendment would add Sections 13.10.660 through 13.10.668 to the County's LCP IP, and would add wireless communications facilities as a conditional use in all LCP zoning districts (see proposed LCP sections in exhibit B, and proposed LCP use code additions in exhibit C). The IP text proposed would apply throughout the County's coastal zone and is structured to have three basic layers within which different levels of WCF review and criteria apply. 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 school grounds), WCFs would be prohibited. Within other sensitive areas of the County (the first public road right-of-way, and specific residential and other zoning districts), WCFs would be restricted and criteria would be established on how and where they can be constructed in these areas. In all other non-prohibited and non-restricted areas, WCFs would be allowed subject to specific application, siting and design criteria. Special siting, design, and alternative analysis criteria would apply to WCFs proposed within a designated scenic area, and if WCF sites must be considered within the prohibited or restricted (if non-collocated) zone (because of FTA violation and/or because it meets



certain criteria specific to the restricted area).

The County has prepared a map exhibit keyed to the restricted areas identified above (see exhibit D).

3. Effect of Changes Proposed

The LCP does not currently provide guidance on the siting and design of WCFs specifically. Rather, the more general LCP requirements for development in the coastal zone currently apply to WCFs, including the requirements of the underlying zone district in which they may be proposed and any policies applicable to site specific issues (e.g., ESHA). These facilities are not currently explicitly identified as allowed uses within the coastal zone zoning districts.

The primary effect of the new LCP sections proposed would be to explicitly allow WCFs as a conditional use in all zone districts, and to apply specific application and approval standards addressing siting and design of them. Thus, the types of issues generally raised by these facilities will be better understood and should lead to better informed decisions. The new sections specifically direct siting of WCFs away from sensitive coastal resource areas, including avoiding areas located seaward of the first public road and on commercial agricultural property. In addition, a clear LCP preference for avoiding coastal resource areas is established, subject to FTA variance requirements and special criteria. In other words, it will be relatively more difficult to site WCFs seaward of the first public road and in the rural agricultural, scenic, and open space areas of the County (see map in exhibit D). All WCFs would be designed to minimize impacts. WCFs would be made conditional uses in all zoning districts, and thus decisions on them would be appealable to the Coastal Commission (because WCFs would not be principally permitted in any LCP zoning district).

C. LUP Consistency

In order to approve an Implementation Plan amendment, it must be consistent with and adequate to carry out the Land Use Plan.

1. Applicable LUP Policies

Visual Resources

The County's LCP is extremely protective of coastal zone visual resources, particularly views from public roads, and especially along the shoreline. This is particularly true as it pertains to maintaining the rugged character of the rural north Santa Cruz coast. LUP policies include:

Objective 5.10.a Protection of Visual Resources. To identify, protect, and restore the aesthetic values of visual resources.

Objective 5.10.b New Development in Visual Resource Areas. To ensure that new development is appropriately designed and constructed to minimal to no adverse impact upon identified visual resources.



LUP Policy 5.10.2 Development Within Visual Resource Areas. Recognize that visual resources of Santa Cruz County possess diverse characteristics.... Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section. ...

LUP Policy 5.10.3 Protection of Public Vistas. Protect significant public vistas...from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations, ... inappropriate landscaping and structure design.

LUP Policy 5.10.5 Preserving Agricultural Vistas. Continue to preserve the aesthetic values of agricultural vistas. Encourage development to be consistent with the agricultural character of the community. Structures appurtenant to agricultural uses on agriculturally designated parcels shall be considered to be compatible with the agricultural character of surrounding areas.

LUP Policy 5.10.6 Preserving Ocean Vistas. Where public ocean vistas exists, require that these vistas be retained to the maximum extent possible as a condition of approval for any new development.

LUP Policy 5.10.7 Open Beaches and Blufftops. Prohibit the placement of new permanent structures that would be visible from a public beach, except where allowed on existing parcels of record, or for shoreline protection and for public beach access. Use the following criteria for approved structures: (a) allow infill structures (typically residences on existing lots of record) where compatible with the pattern of existing development. (b) Require shoreline protection and access structures to use natural materials and finishes to blend with the character of the area and integrate with the landform.

LUP Policy 5.10.9 Restoration of Scenic Areas. Require on-site restoration of visually blighted conditions as a mitigating condition of permit approval for new development. The type and amount of restoration shall be commensurate with the size of the project for which the permit is issued. Provide technical assistance for restoration of blighted areas.

LUP Policy 5.10.10 Designation of Scenic Roads. The following roads and highways are valued for their vistas. The public vistas from these roads shall be afforded the highest level of protection. State Highways: Route 1 – from San Mateo County to Monterey County...

LUP Policy 5.10.11 Development Visible From Rural Scenic Roads. In the viewsheds of rural scenic roads, require new discretionary development, including development envelopes in proposed land divisions, to be sited out of public view, obscured by natural landforms and/or existing vegetation. Where proposed structures on existing lots are unavoidably visible from scenic roads, identify those visual qualities worthy of protection (See policy 5.10.2) and require the siting, architectural design and landscaping to mitigate the impacts on those visual qualities. (See policy 5.14.10.)

LUP Policy 5.10.12 Development Visible From Urban Scenic Roads. In the viewsheds of urban



scenic roads, require new discretionary development to improve the visual quality through siting, design, landscaping, and appropriate signage.

LUP Policy 5.10.23 Transmission Lines and Facilities. *Require transmission line rights-of-way and facilities to be reviewed in accordance with the Zoning ordinance to minimize impacts on significant public vistas; especially in scenic rural areas, and to avoid locations which are on or near sensitive habitat, recreational, or archaeological resources whenever feasible.*

LUP Policy 5.10.24 Utility Service Lines. *Require underground placement of all new utility service lines and extension lines to and within new residential and commercial subdivisions. Require underground placement of all other new or supplementary transmission lines within views from scenic roads where it is technically feasible, unless it can be shown that other alternatives are less environmentally damaging or would have unavoidable adverse impacts on agricultural operations. When underground facilities are installed parallel to existing above ground lines, require the existing lines to be placed underground with the new lines. When above ground facilities are necessary, require that the design of the support towers or poles be compatible with the surroundings and that lines cross roadways at low elevations or curves in the road in accordance with California Public Utility Commission regulations for public utility facilities.*

LUP Objective 5.11 Open Space Preservation. *To identify and preserve in open space uses those areas which are not suited to development due to the presence of natural resource values or physical development hazards.*

LUP Policy 7.7.1 Coastal Vistas. *Encourage pedestrian enjoyment of ocean areas and beaches by the development of vista points and overlooks with benches and railings, and facilities for pedestrian access to the beaches...*

Urban/Rural Distinction

The LCP is also structured to encourage rural lands to stay rural, and to direct development to urban areas of the County better able to absorb such development. LUP policies include:

LUP Objective 2.1 Urban/Rural Distinction. *To preserve a distinction between urban and rural areas of the County, to encourage new development to locate within urban areas and discourage division of land in rural areas; and to achieve a rate of residential development which can be accommodated by existing public services and their reasonable expansion, while maintaining economic, social, and environmental quality.*

Chapter 5 Open Space Protection Goal. *To retain the scenic, wooded, open space and rural character of Santa Cruz County; to provide a natural buffer between communities; to prevent development in naturally hazardous areas; and to protect wildlife habitat and other natural resources.*



Land Use Priorities

The LCP establishes a hierarchy of priority uses. The LUP states:

LUP Policy 2.22.1 Priority of Uses within the Coastal Zone. Maintain a hierarchy of land use priorities within the Coastal Zone:

First Priority: Agriculture and coastal-dependent industry

Second Priority: Recreation, including public parks; visitor serving commercial uses; and coastal recreation facilities.

Third Priority: Private residential, general industrial, and general commercial uses.

LUP Policy 2.22.2 Maintaining Priority Uses. Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority.

Agriculture

The LCP is protective of agricultural land. Most of the County's north coast and south county rural coastal zone areas are designated for agriculture in the LUP. LUP policies include:

LUP Objective 5.13 Commercial Agricultural Land. To maintain for exclusive agricultural use those lands identified on the County Agricultural Resources Map as best suited to the commercial production of food, fiber, and ornamental crops and livestock and to prevent conversion of commercial agricultural land to non-agricultural uses. To recognize that agriculture is a priority land use and to resolve policy conflicts in favor of preserving and promoting agriculture on designated commercial agricultural lands.

LUP 5.13.5 Principal Permitted Uses on Commercial Agricultural (CA) Zoned Land. Maintain a Commercial Agricultural (CA) Zone District for application to commercial agricultural lands that are intended to be maintained exclusively for long-term commercial agricultural use. Allow principal permitted uses in the CA Zone District to include only agricultural pursuits for the commercial cultivation of plant crops, including food, flower, and fiber crops and raising of animals including grazing and livestock production.

LUP 5.13.6 Conditional Uses on Commercial Agricultural (CA) Zoned Lands. All conditional uses shall be subject to standards which specify siting and development criteria; including size, location and density. Allow conditional uses on CA zoned lands based upon the following conditions: (a) The use constitutes the principal agricultural use of the parcel; or (b) The use is ancillary incidental, or accessory to the principal agricultural use of the parcel; or (c) The use consists of an interim public use which does not impair long term agricultural viability; and (d) The use is sited to avoid conflicts with principal agricultural activities in the area; and (e) The use is sited to avoid, where possible, or otherwise minimize the removal of land from agricultural production.

LUP 5.13.7 Agriculturally Oriented Structures. Allow only agriculturally oriented structures or



dwelling on Commercial Agricultural Land; prohibit non-agricultural residential land use when in conflict with the fundamental objective of preserving agriculture.

Environmentally Sensitive Habitat Areas

The LCP is very protective of environmentally sensitive habitat areas. LUP wetland and wildlife protection policies include Policies 5.1 et seq (Biological Diversity) and 5.2 et seq (Riparian Corridors and Wetlands). In general, these LUP policies define and protect ESHAs, allowing only a very limited amount of development at or near these areas. Relevant LUP policies include:

***LUP Objective 5.1 Biological Diversity.** To maintain the biological diversity of the County through an integrated program of open space acquisition and protection, identification and protection of plant habitat and wildlife corridors and habitats, low-intensity and resource compatible land uses in sensitive habitats and mitigations on projects and resource extraction to reduce impacts on plant and animal life.*

***LUP Policy 5.1.2 Definition of Sensitive Habitat.** An area is defined as a sensitive habitat if it meets one or more of the following criteria: (a) Areas of special biological significance as identified by the State Water Resources Control Board. (b) Areas which provide habitat for locally unique biotic species/communities, including coastal scrub, maritime chaparral, native rhododendrons and associated Elkgrass, mapped grasslands in the coastal zone and sand parkland; and Special Forests including San Andreas Live Oak Woodlands, Valley Oak, Santa Cruz Cypress, indigenous Ponderosa Pine, indigenous Monterey Pine and ancient forests. (c) Areas adjacent to essential habitats of rare, endangered or threatened species as defined in (e) and (f) below. (d) Areas which provide habitat for Species of Special Concern as listed by the California Department of Fish and Game in the Special Animals list, Natural Diversity Database. (e) Areas which provide habitat for rare or endangered species which meet the definition of Section 15380 of the California Environmental Quality Act guidelines. (f) Areas which provide habitat for rare, endangered or threatened species as designated by the State Fish and Game Commission, United States Fish and Wildlife Service or California Native Plant Society. (g) Nearshore reefs, rocky intertidal areas, seacaves, islets, offshore rocks, kelp beds, marine mammal hauling grounds, sandy beaches, shorebird roosting, resting and nesting areas, cliff nesting areas and marine, wildlife or educational/research reserves. (h) Dune plant habitats. (i) All lakes, wetlands, estuaries, lagoons, streams and rivers. (j) Riparian corridors.*

***LUP Policy 5.1.3 Environmentally Sensitive Habitats.** Designate the areas described in 5.1.2 (d) through (j) as Environmentally Sensitive Habitats per the California Coastal Act and allow only uses dependent on such resources in these habitats within the Coastal Zone unless other uses are: (a) consistent with sensitive habitat protection policies and serve a specific purpose beneficial to the public; (b) it is determined through environmental review that any adverse impacts on the resource will be completely mitigated and that there is no feasible less-damaging alternative; and (c) legally necessary to allow a reasonable economic use of the land, and there is no feasible less-damaging alternative.*



LUP Policy 5.1.7 Site Design and Use Regulations. *Protect sensitive habitats against any significant disruption or degradation of habitat values in accordance with the Sensitive Habitat Protection ordinance. Utilize the following site design and use regulations on parcels containing these resources, excluding existing agricultural operations: (a) Structures shall be placed as far from the habitat as feasible. (b) Delineate development envelopes to specify location of development in minor land divisions and subdivisions. (c) Require easements, deed restrictions, or equivalent measures to protect that portion of a sensitive habitat on a project parcel which is undisturbed by a proposed development activity or to protect sensitive habitats on adjacent parcels. (d) Prohibit domestic animals where they threaten sensitive habitats. (e) Limit removal of native vegetation to the minimum amount necessary for structures, landscaping, driveways, septic systems and gardens; (f) Prohibit landscaping with invasive or exotic species and encourage the use of characteristic native species.*

LUP Policy 5.1.9 Biotic Assessments. *Within the following areas, require a biotic assessment as part of normal project review to determine whether a full biotic report should be prepared by a qualified biologist: (a) Areas of biotic concern, mapped; (b) sensitive habitats, mapped & unmapped.*

LUP Policy 5.1.12 Habitat Restoration with Development Approval. *Require as a condition of approval, restoration of any area of the subject property which is an identified degraded sensitive habitat, with the magnitude of restoration to be commensurate with the scope of the project. ...*

LUP Policy 5.1.14 Removal of Invasive Plant Species. *Encourage the removal of invasive species and their replacement with characteristic native plants, except where such invasive species provide significant habitat value and where removal of such species would severely degrade the existing habitat. In such cases, develop long-term plans for gradual conversion to native species providing equal or better habitat values.*

LUP Objective 5.2 Riparian Corridors and Wetlands. *To preserve, protect and restore all riparian corridors and wetlands for the protection of wildlife and aquatic habitat, water quality, erosion control, open space, aesthetic and recreational values and the conveyance and storage of flood waters.*

LUP Policy 5.2.5 Setbacks From Wetlands. *Prohibit development within the 100 foot riparian corridor of all wetlands. Allow exceptions to this setback only where consistent with the Riparian Corridor and Wetlands Protection ordinance, and in all cases, maximize distance between proposed structures and wetlands. Require measures to prevent water quality degradation from adjacent land uses, as outlined in the Water Resources section.*

LUP Policy 5.2.7 Compatible Uses With Riparian Corridors. *Allow compatible uses in and adjacent to riparian corridors that do not impair or degrade the riparian plant and animal systems, or water supply values, such as non-motorized recreation and pedestrian trails, parks,*



interpretive facilities and fishing facilities. Allow development in these areas only in conjunction with approval of a riparian exception.

Water Quality

In addition to the above policies that incorporate water quality protection into them, the LCP also more categorically protects water quality, including its affect on ESHA. Relevant LUP policies include:

Objective 5.4 Monterey Bay and Coastal Water Quality. *To improve the water quality of Monterey Bay and other Santa Cruz County coastal waters by supporting and/or requiring the best management practices for the control and treatment of urban run-off and wastewater discharges in order to maintain local, state and national water quality standards, protect County residents from health hazards of water pollution, protect the County's sensitive marine habitats and prevent the degradation of the scenic character of the region.*

Objective 5.7 Maintaining Surface Water Quality. *To protect and enhance surface water quality in the County's streams, coastal lagoons and marshes by establishing best management practices on adjacent land uses.*

LUP Policy 5.4.14 Water Pollution from Urban Runoff. *Review proposed development projects for their potential to contribute to water pollution via increased storm water runoff. Utilize erosion control measures, on-site detention and other appropriate storm water best management practices to reduce pollution from urban runoff.*

LUP Policy 5.7.1 Impacts from New Development on Water Quality. *Prohibit new development adjacent to marshes, streams and bodies of water if such development would cause adverse impacts on water quality which cannot be fully mitigated.*

LUP Policy 5.7.4 Control Surface Runoff. *New development shall minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control: (a) include curbs and gutters on arterials, collectors and locals consistent with urban street designs; and (b) oil, grease and silt traps for parking lots, land divisions or commercial and industrial development.*

LUP Policy 5.7.5 Protecting Riparian Corridors and Coastal Lagoons. *Require drainage facilities, including curbs and gutters in urban areas, as needed to protect water quality for all new development within 1000 feet of riparian corridors or coastal lagoons.*

LUP Policy 7.23.1 New Development. *...Require runoff levels to be maintained at predevelopment rates for a minimum design storm as determined by Public Works Design Criteria to reduce downstream flood hazards and analyze potential flood overflow problems. Require on-site retention and percolation of increased runoff from new development in Water Supply Watersheds and Primary Groundwater Recharge Areas, and in other areas as feasible.*

LUP Policy 7.23.2 Minimizing Impervious Surfaces. *Require new development to limit*



coverage of lots by parking areas and other impervious surfaces, in order to minimize the amount of post-development surface runoff.

LUP Policy 7.23.5 Control Surface Runoff. *Require new development to minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control:...(b) construct oil, grease and silt traps from parking lots, land divisions or commercial and industrial development. Condition development project approvals to provide ongoing maintenance of oil, grease and silt traps.*

Cumulative Impacts

The LCP protects against impacts associated with individual projects, as well as the cumulative impact from such projects in relation to current and potentially planned development. The LUP states:

LUP Policy 2.1.4 Siting of New Development. *Locate new residential, commercial or industrial development, within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.*

Conclusion

In sum, the County's LUP protects coastal resources, particularly rural, open space and agricultural lands, and specifically visual resources. The County's rural north and south coast areas, mostly agricultural and rural, are explicitly protected against inappropriate structures and development that would impact agricultural viability and public viewsheds. Overall, these LUP requirements reflect and implement similar fundamental goals of the Coastal Act.

2. Consistency Analysis

In general, the proposed WCF ordinance provides clear, well thought-out policy direction for the siting of WCFs. The County has honed the ordinance over the past three years through multiple public hearings, through an advisory group (including stakeholders from the wireless service industry, local environmental groups, and other interested parties), and more recently with Commission staff during the course of the previous amendment review and the subsequent County process up to the current date. The proposed WCF addresses the issues associated with siting and designing WCFs in the most sensitive coastal zone areas, particularly the County's rural north and south coasts and the areas seaward of the first public road that could easily be adversely affected by a proliferation of WCF buildings, towers, and antennas.

The proposed ordinance sections are predominantly consistent with and adequate to carry out the LUP policies cited above, with a few minor exceptions. Namely, there are some areas of potential confusion that affect the ability of the proposed text to implement the cited land use plan policies, and thus that affect the ability of the proposed text to protect the County's coastal zone resources (including visual resources, agricultural lands, urban-rural boundaries, ESHAs, and water quality – both from individual and cumulative effects) from the potential adverse effects associated with WCFs. These are discussed



more specifically below.²

First Public Road

The proposed ordinance sections define a series of areas within which WCFs are prohibited (see pages 9 and 10 of exhibit B). This includes the area between the sea and the first public road parallel to it. However, the proposed text includes an internal inconsistency because it designates the area seaward of the inland right-of-way as a prohibited coastal area, but then designates the right-of-way itself as a restricted area (see proposed Sections 13.10.661(b) and (c) on pages 9-12 of exhibit B). In other words, the proposed text designates the right-of-way as both prohibited and restricted. Because of this, it is unclear as to what criteria would apply within the right-of-way of the first public road. This is critical in the County, particularly in the rural north coast where the first through public road is predominantly Highway One, and a critical public viewshed.

The County has indicated that a primary reason for this resubmitted amendment was to designate the right-of-way as a restricted area, and to allow co-located micro facilities (e.g., small structures on existing power poles) in certain circumstances. These facilities would be subject to specific criteria to designed to ensure that they blend seamlessly into the existing roadway aesthetic (i.e., very small, mounted on existing utility poles, small or subsurface equipment cabinets, inland (of travel lanes) location, etc – see pages 11 and 12 of exhibit B). Given the way the ordinance sections are structured to discourage facilities in the restricted areas, and specifically to allow only co-located micro facilities in the right-of-way subject to specific criteria, this shouldn't result in WCF development that is conspicuous, and may allow for lesser impacts cumulatively because a series of small (micro) facilities would be integrated into the existing right-of-way landscape, negating the need for relatively larger facilities inland of it.

That said, there are several corrections necessary for LUP conformance.

First, the internal confusion about the right-of-way being designated both a prohibited and a restricted area at the same time needs to be fixed (see suggested modification 3).

Second, to provide incentive for co-location in the restricted areas, the County has indicated (in proposed Section 13.10.661(c)(3)) that only non-located proposals in restricted areas would require an alternatives analysis (as specified in proposed Section 13.10.662(c)). Such an incentive seems appropriate. However, proposed Section 13.10.662(c) requires such an analysis in restricted areas whether co-located or not. To rectify this internal inconsistency, Section 13.10.662(c) needs to be modified for consistency with 13.10.661(c)(3) (see suggested modification 8).

Third, proposed Section 13.10.661(b)(4) includes criteria that is only applicable to development in the right-of-way. Because this section does not apply to the right-of-way itself (see above), and because this

² Commission staff have worked closely with County staff on these identified issues, and appropriate changes to address concerns in this respect. Each of the modifications discussed in this finding have been discussed with the County, and Commission staff and County staff are in agreement on them.



criteria has been encapsulated in proposed Section 13.10.661(c)(2), this language is redundant, and could lead to confusion (see suggested modification 4).

Fourth, the intent of allowing co-located facilities in the right-of-way of the first public road is that they are expected to be visually inconspicuous and fully camouflaged. This is implied, but not made specific in proposed Section 13.10.661(c)(2). Explicit reference to this objective is appropriate in this section, and would make it clear that the first public road viewshed is critically important within the County's coastal zone (see suggested modification 5).

And finally, proposed Section 13.10.661(c)(2)(iii) includes a qualifier that it only applies if a facility is located on a utility pole. Because siting on a utility pole is required in the right-of-way (per 13.10.661(c)(2)(i)(a)), this reference is confusing and internally inconsistent. In addition, should a utility pole be under grounded in the future, and the WCF facility removed as would be required, there may be residual site restoration issues at such a site that would need to be resolved (e.g., if utility cabinet removal resulted in a hole in the ground, a remainder concrete pad, or some other site degradation). Although such restoration is implied by the proposed removal requirement in this section, such a requirements should be explicit. See suggested modification 6.

In sum, the proposed right-of-way policies need some minor tweaking to ensure consistency with the cited LUP policies, as well as implementation of them through the proposed LCP text. As modified, WCF development in the right-of-way should not result in significant impacts to coastal resources.

Exemptions

The types of WCFs exempted from the requirements of the ordinance sections are generally appropriate, and include public safety WCFs operated by public safety agencies and minor facilities. These facilities would not be exempted from the more general criteria of Sections 13.10.663(a)(1) through 13.10.663(a)(8) (see pages 22-24 of exhibit B), and would not be exempted from other requirements of the LCP. However, the language proposed in the introductory paragraph of Section 13.10.660(e) needs additional clarity to ensure that this is the case. In particular, the proposed text states in part as follows:

If Chapter 13.20 requires a Coastal Development permit for a facility, device or activity exempted from this ordinance, the factors set forth in 13.10.663(a)(1) through 13.10.663(a)(8) shall apply.

This sentence is important in relation to the exemptions because it makes explicit the manner in which otherwise exempted facilities are to be reviewed in relation the proposed WCF LCP sections. There are several issues with this sentence as proposed:

- LCP Chapter 13.20 refers to "Coastal Zone Approvals" as opposed to coastal development permits. The Commission typically refers to them as the latter, and one could infer that LCP Chapters 18.10 and 13.20, when read together, refer to a coastal development permit, but the LCP's zoning code is not that clear on this point. The term "coastal development permit" is not defined in Chapter 13.20



(or the zoning code elsewhere), although it is defined in the LUP.³ Thus, the sentence as proposed could lead to an assertion that Chapter 13.20 never requires a coastal development permit because there is no reference to same in that chapter. This could in turn lead to the cited sections never applying to exempted facilities as intended. Fortunately, this can easily be fixed changing the reference to "Coastal Zone approvals" because that is the terminology used in LCP Chapter 13.20.

- The way the sentence is structured, the proposed text could be read to imply that only 13.10.663(a)(1) through 13.10.663(a)(8) would apply (and not the other LCP policies) to projects requiring CDPs. This is not the intention, and a broad interpretation of the LCP as a whole would counter such an argument. That said, there is no reason it cannot be made clear that these sections apply in addition to applicable LCP sections.
- The proposed text refers to being "exempted from this ordinance" when it is actually the proposed LCP sections from which such facilities would be exempted. The term ordinance is unclear in this context and has no LCP status. This problem can be clarified by instead referring to the applicable sections (i.e., 13.10.660 through 13.10.668).
- The proposed text includes an "or" that could be read to create separate categories to which this sentence would apply. It is most likely that these projects will be a mix of facilities, devices, and activities. To be most inclusive of projects that are not only one or the other of the categories (and rather are a mix of the three), the "or" can be made into an "and/or" so that it is clear that the text applies to any permutation of these development types.
- Finally, the proposed text refers to "factors" in the cited sections. However, these sections do not refer to factors, but rather to criteria. To ensure that the criteria are applied as intended, the term factor would need to be replaced by criteria.

There are a number of ways of modifying the subject sentence to clarify the above issues while retaining its intent. In this case, adding text to the first sentence of this section and deleting the subject sentence resolves these issues in the most simple manner. In this way, it specifies the WCF sections that continue to apply to projects that require CDPs, and then goes on to say that the exemption does not undo the LCP requirements that continue to otherwise apply to such facilities (see suggested modification 1).

Also related to exemptions, the proposed list of exemptions includes facilities that are generally smaller in scale and/or for non-commercial use, and it also includes public safety agency facilities (see pages 8 and 9 of exhibit B for the proposed exemptions). Although these public safety agency facilities could be smaller in scale than a typical WCF, it is more likely that they would be similar in size and scope to a commercial operation. Because they would be exempt from most of the proposed WCF sections, it is possible that exempted public safety agency facilities could have relatively more impacts than would typical WCFs. This is unlikely because the general siting criteria of Sections 13.10.663(a)(1) through

³ This issue will need to be addressed in a future clean-up amendment that involves either Chapter 13.20 and/or the definitions section of the LCP zoning code.



13.10.663(a)(8) would still apply, as would all other applicable LCP coastal permitting requirements (see above). However, it seems possible that a public safety agency facility with more impacts than might be allowed for a commercial operator could be allowed due to a critical public need for such a facility. In such case, both the benefit and the burden of such a facility would all be on the public, and it is conceivable that it might be found appropriate in certain circumstances. However, should such an unlikely scenario occur, and then should that public agency facility no longer be operated by the public, but be operated instead by a commercial operator for private gain, the benefit-burden ratio would be upset. At such time, it would be appropriate to re-review the appropriateness of such a facility as a commercial operation against the standards of the LCP and the WCF ordinance sections to ensure LCP consistency in this regard (see suggested modification 2).

Reference to 13.10.660 through 13.10.668 inclusive

The proposed ordinance sections almost exclusively refer to "Sections 13.10.660 through 13.10.668 inclusive" except in proposed Section 13.10.661(j) (see page 13 of exhibit B). This is easily fixed to ensure internal consistency (see suggested modification 7).

Retroactivity of Interim Ordinance within the Coastal Zone

In adopting the proposed LCP text, the County also adopted a standard specifying that a previous interim wireless ordinance adopted by the County would apply to applications deemed complete by April 29, 2003 (see page 33 of exhibit B and page 3 of exhibit C). However, the interim ordinance was not submitted and was thus not reviewed nor certified by the Commission as part of the LCP. It cannot be made to apply retroactively to coastal zone applications deemed complete as of a specific date. The Commission's practice has been that the certified standards in effect at the time that a decision is rendered are the standards that are applied within the context of that decision. The same would be the case for any applications received by the County for which actions have not yet been taken. Therefore, a modification is necessary to specify that the retroactivity clause does not apply to applications for development in the coastal zone (see suggested modification 9).

Maximum Heights

The proposed ordinance sections do not establish maximum heights for WCF facilities and/or towers. Rather, the ordinance is structured to minimize impacts, including through the use of minimizing heights to the degree necessary to accomplish this. The ordinance states that "all towers shall be designed to be the shortest height possible so as to minimize visual impact" (see Section 13.10.663(b)(6) on page 25 of exhibit B). In addition, all standards of the underlying zoning districts continue to apply. That said, the underlying district regulations are not directive towards WCF facilities and towers. They are instead focused on the types of structures generally considered in those districts (e.g., residential structures, agricultural structures, etc.).

Section 13.10.510(d) lists a series of height exceptions allowed in the zone districts, including specifying that "utility and commercial poles and towers may not be subject to the height limits prescribed in the district regulations" (see exhibit F). It could be argued, therefore, that there is no absolute height



associated with commercial WCFs.

In terms of minor facilities exempted from the ordinance, the exemption text indicates that they cannot exceed the height limit for “non-commercial antennas” in the zoning district. Section 13.10.510(d) indicates that non-commercial antennas can be erected to a height not more than 25 feet above the height limit allowed in the zoning district, and further specifies that this height can be exceeded by 25 feet with a level 4 (administrative, public notice required) approval. That said, it isn’t clear to what height limit this section refers (since, like commercial facilities, the zone district texts themselves do not explicitly indicate what the height limit is for this type of project).

Thus, there is a certain lack of clarity as regards maximum allowed height for both the minor facilities (that need only be consistent with the underlying zone districts in this regard), and all other WCFs. Given the underlying LCP policies directed towards avoiding and otherwise minimizing impacts, like visual impacts, the lack of an absolute limit in this regard is not critical. It is expected that impacts due to height for non-exempted WCFs will be sufficiently addressed by the requirements of the proposed ordinance, including the requirement that towers be as short as possible, and the remainder of the LCP. Any such structures will likely be kept to levels consistent with the aesthetics of surrounding land and the built environment, and avoid visual impacts. For exempt facilities, by making it clear that the general parameters of the proposed ordinance sections (for siting and design preference) apply, and that the remainder of the LCP policies also apply (see above), these facilities too should not result in undue impact based on the lack of clarity regarding maximum heights.

That said, the lack of an absolute height maximum in the zoning districts is an LCP issue that should be addressed in the future.⁴ Any such future LCP amendment should clearly specify height limits in each zone district for all structures (in addition to those generally expected, like SFDs in a residential zone), and should clarify the relationship of Section 13.10.510(d) to them. The Commission’s rebuttable presumption is that height limits for structures associated with conditional uses in this respect should not exceed the existing maximum height limit established for other conditional uses in those zone districts (e.g., the height limit identified for conditional use residential structures in the CA Commercial agriculture zone district is 28 feet), and should be subject to reasonable upper limits for the types of structural elements identified in Section 13.10.510(d). In addition, the Commission expects that that is how questions of interpretation regarding structure heights will be resolved until such time as an LCP fix is provided. In sum, the LCP should be read broadly to protect against coastal resource impacts – primarily expected to be visual resource impacts – in these areas that might arise due to height of structures.

Conclusion

The Commission must determine whether the zoning code changes proposed are consistent with and adequate to carry out the LUP. In general, the IP text proposed is consistent with the LUP in this sense. There are, however, a few areas in which there are inconsistencies and/or other issues that would affect

⁴ County staff indicates that this has been identified as a future planning work item.



the proposed text's ability to carry out the LUP policies that ensure that coastal resources are protected as directed by the LUP. These issue areas are primarily confined to specificity regarding the standards that apply within the right-of-way of the first public road parallel to the sea, and to clarification of the proposed exemption text. Both of these issue areas are particularly important. The first public road is typically a scenic viewshed, particularly on the County's north coast, and potential WCF development within it must be understood in this special context. As to exemptions, facilities that are exempt from the proposed LCP text will not have been reviewed based on the explicit guidance present there that has been created for this specific type of development. As such, it is important that references to other standards that continue to apply be as clear as possible to ensure LCP consistency. Fortunately, there are modifications that can be made to address the identified issues. These modifications have been discussed with the County and they are supportive of them.

In conclusion, if so modified in all of the ways outlined here according to the cited modification texts, then the IP as amended by the proposed amendment, and as further modified as suggested above and in the cited modification texts, is approved as being consistent with and adequate to carry out the certified LUP as amended.

D. California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments 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 of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

The County in this case exempted the proposed amendment under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).



BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. 324-2003

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

RESOLUTION AMENDING THE WIRELESS COMMUNICATION FACILITIES ORDINANCE (COUNTY CODE SECTION 13.10.660 THROUGH 13.10.668 INCLUSIVE) AND AMENDING THE ZONING ORDINANCE USES CHART (COUNTY CODE SECTIONS 13.10.312, 13.10.322, 13.10.332, 13.10.342, 13.10.352, 13.10.362, AND 13.10.372) TO INCORPORATE THE CALIFORNIA COASTAL COMMISSION'S SUGGESTED MODIFICATIONS AND OTHER RELATED REVISIONS

WHEREAS, the proliferation of wireless communication towers and antennas have the potential to create significant, adverse visual impacts and, therefore, there is a need to regulate the siting, design, and construction and major modification of wireless communication facilities to ensure that the appearance and integrity of the community is not marred by the cluttering of unsightly facilities; and

WHEREAS, General Order 159A of the Public Utilities Commission (PUC) of the State of California acknowledges that local citizens and local government are often in a better position than the PUC to measure local impact and to identify alternative sites; and

WHEREAS, accordingly, the PUC will generally defer to local governments to regulate the location and design of cellular towers and other wireless communication facilities, including (a) the issuance of land use approvals; (b) acting as Lead Agency for purposes of satisfying the California Environmental Quality Act (CEQA) and, (c) the satisfaction of noticing procedures for both land use and CEQA procedures; and

WHEREAS, while the licensing of wireless communication facilities is under the control of the Federal Communication Commission (FCC) and Public Utilities Commission (PUC) of the State of California, local government must address public health, safety, welfare, zoning, and environmental concerns where not preempted by federal statute or regulation; and

WHEREAS, on April 29, 2003, the Board of Supervisors, after a duly noticed public hearing, adopted the Santa Cruz County Wireless Communication Facilities Ordinance and related Zoning Ordinance Use Chart amendments and directed the Planning Department to forward the new and amended ordinances to the California Coastal Commission for their approval and certification, as Local Coastal Program (LCP) Implementation Plan Major Amendment 1-03 (Part 1), as required under the Coastal Act; and

WHEREAS, the proposed Wireless Communication Facilities Ordinance and associated ordinance amendments have been found to be categorically exempt from the California Environmental Quality Act (CEQA), and consistent with the provisions of CEQA and the County of Santa Cruz Environmental Review Guidelines; and

WHEREAS, on August 6, 2003, the California Coastal Commission considered and denied as submitted, but then approved with suggested modifications, the proposed LCP Major Amendment 1-03 (Part 1); and

WHEREAS, while the Coastal Commission's suggested modifications consist primarily of minor changes that provide clarification, remove redundancies, or strengthen environmental protection provisions in the LCP Implementation Plan amendments previously approved by the Board of Supervisors, the County finds two of the modifications objectionable because they will inhibit the installation of public safety wireless communication network of public safety and will remove incentives to co-locate wireless facilities; and

WHEREAS, the Santa Cruz County Board of Supervisors has six (6) months from the date of the Coastal Commission action (i.e., until February 6, 2004) to adopt the Coastal Commission's suggested modifications to LCP Major Amendment 1-03 (Part 1);

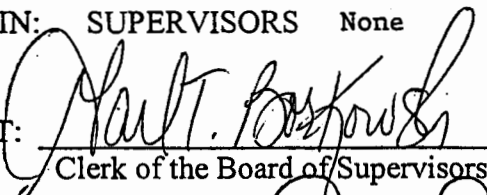
NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Board of Supervisors approves most of the Coastal Commission's suggested modifications to the previously approved Wireless Communication Facilities Ordinance, as set forth in Exhibits 1-A and 1-B, except for the modifications to the public safety exemption (Section 13.10.660(e)(7)) and Restricted Area prohibition exceptions (Section 13.10.661(c)(3)) for which the Board of Supervisors approves staff's revisions to said sections, as set forth in Exhibit 1-A, and any other appropriate changes, and approves the CEQA Categorical Exemption incorporated herein by reference, and authorizes their submittal to the California Coastal Commission for its certification.

IT IS FURTHER RESOLVED AND ORDERED THAT this Resolution shall take effect the date of approval of this Resolution for those areas outside the Coastal Zone, and shall take effect on the date of final certification by the Coastal Commission for those areas within the Coastal Zone.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this 18th day of November, 2003 by the following vote:

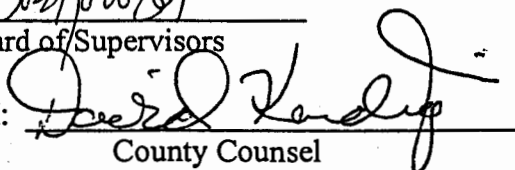
AYES:	SUPERVISORS	Beautz, Wormhoudt, Campos, Stone and Pirie
NOES:	SUPERVISORS	None
ABSENT:	SUPERVISORS	None
ABSTAIN:	SUPERVISORS	None

ATTEST:


Clerk of the Board of Supervisors


Chairperson of the Board of Supervisors

APPROVED AS TO FORM:


County Counsel

Exhibits:

- 1-A: Coastal Commission Suggested Modifications, with County Staff's Revisions, to the Wireless Communication Facilities Ordinance - County Code Sections 13.10.660 through 13.10.668 inclusive

Attachment 1

1-B: Coastal Commission Suggested Modifications to Zoning Ordinance Use Charts
Amendments Related to the Wireless Communication Facilities Ordinance - County
Code Sections 13.10.312, 13.10.322, 13.10.332, 13.10.342, 13.10.352, 13.10.362,
13.10.372 - Adding Wireless Communication Facilities as an Allowed Use in
Various Zoning Districts

cc: County Counsel
Planning Department
California Coastal Commission

ORDINANCE NO. 4743

**AN ORDINANCE OF THE COUNTY OF SANTA CRUZ ESTABLISHING
ZONING REGULATIONS REGARDING
WIRELESS COMMUNICATION FACILITIES**

SECTION I

Section 13.10.659 of the Santa Cruz County Code is hereby repealed effective upon certification of this Ordinance by the California Coastal Commission as to those areas within the Coastal Zone.

SECTION II

The Santa Cruz County Code Section 13.10.660 through 13.10.668 inclusive is hereby amended to read as follows:

**13.10.660 REGULATIONS FOR THE SITING, DESIGN, AND CONSTRUCTION OF
WIRELESS COMMUNICATION FACILITIES**

(a) PURPOSE:

The purpose of Sections 13.10.660 through 13.10.668 inclusive is to establish regulations, standards and circumstances for the siting, design, construction, major modification, and operation of wireless communication facilities in the unincorporated area of Santa Cruz County. It is also the purpose of Sections 13.10.660 through 13.10.668 inclusive to assure, by the regulation of siting of wireless communications facilities, that the integrity and nature of residential, rural, commercial, and industrial areas are protected from the indiscriminate proliferation of wireless communication facilities, while complying with the Federal Telecommunication Act of 1996, General Order 159A of the Public Utilities Commission of the State of California and the policies of Santa Cruz County. It is also the purpose of Sections 13.10.660 through 13.10.668 inclusive to locate and design wireless communication towers/facilities so as to minimize negative impacts, such as, but not limited to, visual impacts, agricultural and open space land resource impacts, impacts to the community and aesthetic character of the built and natural environment, attractive nuisance, noise and falling objects, and the general safety, welfare and quality of life of the community. It is also the purpose of Sections 13.10.660 through 13.10.668 inclusive to provide clear guidance to wireless communication service providers regarding the siting of and design of wireless communication facilities.

(b) FINDINGS:

- (1) The proliferation of antennas, towers, satellite dishes, and other wireless communication facility structures could create significant, adverse visual impacts, therefore, there is a

need to regulate the siting, design, and construction of wireless communication facilities to ensure that the appearance and integrity of the community is not marred by unsightly commercial facilities, particularly in residential, historically significant, scenic coastal areas, and other environmentally sensitive areas.

- (2) General Order 159A of the Public Utilities Commission (PUC) of the State of California acknowledges that local citizens and local government are often in a better position than the PUC to measure local impact and to identify alternative sites. Accordingly, the PUC will generally defer to local governments to regulate the location and design of cell sites, wireless communication facilities and Mobile Telephone Switching Offices (MTSOs) including (a) the issuance of land use approvals; (b) acting as Lead Agency for purposes of satisfying the California Environmental Quality Act (CEQA) and, (c) the satisfaction of noticing procedures for both land use and CEQA procedures.
- (3) While the licensing of wireless communication facilities is under the control of the Federal Communication Commission (FCC) and Public Utilities Commission (PUC) of the State of California, local government must address public health, safety, welfare, zoning, and environmental concerns where not preempted by federal statute or regulation.
- (4) In order to protect the public health, safety and the environment, it is in the public interest for local government to establish rules and regulations addressing certain land use aspects relating to the construction, design, siting, major modification, and operation of wireless communication facilities and their compatibility with surrounding land uses.
- (5) Commercial wireless communication facilities are commercial uses and as such are generally incompatible with the character of residential zones in the County and, therefore, should not be located on residentially zoned parcels unless it can be proven that there are no alternative nonresidential sites from which can be provided the coverage needed to eliminate or substantially reduce significant gaps in the applicant carrier's coverage network.

(c) **APPLICABILITY:**

Activities and development regulated by this ordinance include the siting, design, construction, major modification, and operation of all wireless communication facilities, including Federal Communication Commission (FCC) regulated dish antennas, antennas used for Multi-channel, Multi-point Distribution Services (MMDS) or "Wireless Cable" and personal wireless service facilities (e.g., cellular phone services, PCS - personal communication services, wireless paging services, wireless internet services, etc.). The regulations in this ordinance are intended to be consistent with state and federal law, particularly the Federal Telecommunications Act of 1996, in that they are not intended to: (1) be used to unreasonably discriminate among providers of functionally equivalent services; or (2) have the effect of prohibiting personal wireless services within Santa Cruz County; or (3) have the effect of prohibiting the siting of wireless communication facilities on the basis of the environmental/health effects of radio frequency emissions, to the extent that the regulated services and facilities comply with the regulations of the Federal Communications Commission concerning such emissions.

(d) DEFINITIONS:

- (1) Antennas - Any system of wires, poles, rods, reflecting discs, dishes, flat panels, or similar devices, including "whip antennas", attached to a telecommunications tower, mast or other structure, which in combination with the radio-frequency radiation generating equipment associated with a base station are used for the transmission or reception of electromagnetic waves.
- (2) Available Space - The space on a tower or structure to which antennas of a telecommunications provider are both structurally and electromagnetically able to be attached.
- (3) Base Station - The primary sending and receiving site in a wireless telecommunications network, including all radio-frequency generating equipment connected to antennas. More than one base station and/or more than one variety of telecommunications providers can be located on a single tower or structure.
- (4) Cellular Service - A wireless telecommunications service that permits customers to use mobile telephones and other communication devices to connect, via low-power radio transmitter sites, either to the public-switched telephone network or to other fixed or mobile communication devices.
- (5) CEQA- California Environmental Quality Act.
- (6) Channel - The segment of the radiation spectrum from an antenna which carries one signal. An antenna may radiate on many channels simultaneously.
- (7) Co-location or Co-located Facility - When more than one wireless service providers share a single wireless communication facility. A co-located facility can be comprised of a single tower, mast/pole or structure that supports two or more antennas, dishes, or similar wireless communication devices, that are separately owned or used by more than one public or private entity. Co-location can consist of additions or extensions made to existing towers so as to provide enough space for more than one user, or it can involve the construction of a new replacement tower with more antenna space that supplants an older tower with less capacity. Placing new wireless communication facilities/antennas upon existing or new P.G.&E. or other utility towers or poles (e.g., "micro-cell" sites) is also considered co-location.
- (8) Communication Equipment Shelter - A structure located at a base station designed principally to enclose equipment used in connection with telecommunication transmissions.
- (9) dBm - Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

- (10) Dish Antenna - Any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia-shaped and is used to transmit and/or receive electromagnetic signals.
- (11) Equipment Building, Shelter or Cabinet - A cabinet or building used to house equipment used by wireless communication providers at a facility.
- (12) FAA - Federal Aviation Administration
- (13) Facility Site - A property, or any part thereof, which is owned or leased by one or more wireless service providers and upon which one or more wireless communication facility(s) and required landscaping are located.
- (14) FCC - Federal Communications Commission, the federal government agency responsible for regulating telecommunications in the United States.
- (15) GHz - Gigahertz - One billion hertz.
- (16) Ground-Mounted Wireless Communication Facility - Any antenna with its base placed directly on the ground, or that is attached to a mast or pipe, with an overall height of not exceeding sixteen (16) feet from the ground to the top of the antenna.
- (17) Hertz - One hertz is a unit of measurement of an electric or magnetic field which reverses its polarity at a frequency of once per second (i.e., one cycle or wavelength per second).
- (18) Least Visually Obtrusive - with regard to wireless communication facilities, this shall refer to technically feasible facility site and/or design alternatives that render the facility the most visually inconspicuous relative to other technically feasible sites and/or designs. It does not mean that the facility must be completely hidden, but it may require screening or other camouflaging so that the facility is not immediately recognizable as a wireless communication facility from adjacent properties and roads used by the public.
- (19) Macrocell Site - A radio transceiver (i.e., transmits and receives signals) facility that is comprised of an unmanned equipment shelter (above or below ground) approximately 300 square feet per licensed provider, omni-directional whip, panel or microwave dish antennas mounted on a support structure (e.g., monopole, lattice tower) or building. A macrocell site typically includes 60 radio transmitters.
- (20) Major Modification to Power Output - Any of the following resulting in an increase in the wireless communication facility's power output and/or increase in the intensity or change in the directionality of NIER propagation patterns: increase or intensification, or proposed increase or intensification, in power output or in size or number of antennas; change in antenna type or model; repositioning of antenna(s); change in number of channels per antenna above the maximum number previously approved by the County of Santa Cruz, including changes to any/all RF-generating equipment/componentry that are attached to antennas (e.g., conversion of wireless communication to wireless internet that requires continuous transmitting at full power).

- (21) Major Modification to Visual Impact – Any increase or intensification, or proposed increase or intensification, in dimensions of an existing and/or permitted wireless communications facility (including, but not limited to, its telecommunications tower or other structure designed to support telecommunications transmission, receiving and/or relaying antennas and/or equipment) resulting in an increase of the visual impact of said wireless communications facility.
- (22) MHz – Megahertz – One million hertz.
- (23) Microcell Site – A small radio transceiver facility comprised of an unmanned equipment cabinet with a total volume of one hundred (100) cubic feet or less that is either under or aboveground, and one omni-directional whip antenna with a maximum length of five feet, or up to three small (approximately 1'x 2' or 1'x 4') directional panel antennas, mounted on a single pole, an existing conventional utility pole, or some other similar support structure.
- (24) "Minor Antenna" or "Minor Wireless Communication Facility" - means any of the following:
- (i) A ground- or building-mounted receive-only radio or television antenna that is: (a) six (6) inches or less in diameter or width; and (b) ten (10) feet or less in height as measured from existing grade (including mast or pipe) or, for building mounted antennas, not exceeding the height limit for non-commercial antennas in the zoning district;
 - (ii) A ground- or building-mounted citizens band radio antenna that is: (a) six (6) inches or less in diameter or width; and (b) ten (10) feet or less in height as measured from existing grade (including mast or pipe) or, for building mounted antennas, not exceeding the height limit for non-commercial antennas in the zoning district;
 - (iii) A ground- or building-mounted satellite receiving dish that: (a) is not more than one (1) meter in diameter for a residential zoned parcel, or is not more than two (2) meters in diameter for a commercial or industrial zoned parcel; and (b) does not exceed the height limit for non-commercial antennas in the zoning district; or
 - (iv) A ground-, building-, or tower-mounted antenna operated on a non-commercial basis by a federally licensed amateur radio operator as part of the Amateur Radio Service, the height of which (including tower or mast) does not exceed the height limit for non-commercial antennas in the zoning district.
- (25) Monitoring – The measurement, by the use of instruments in the field, of radio-frequency/non-ionizing radiation exposure at a site as a whole, or from individual wireless communication facilities/towers/antennas/repeaters.
- (26) Monitoring Protocol – An industry accepted radio-frequency (RF) radiation measurement protocol used to determine compliance with FCC RF radiation exposure standards, in accordance with the National Council on Radiation Protection and Measurements Reports 86 and 119 and consistent with the RF radiation modeling specifications of OET Bulletin

65 (or any superceding reports/standards), which is to be used to measure the emissions and determine radio-frequency radiation exposure levels from existing and new telecommunications facilities. RF radiation exposure measurements are to be taken at various locations, including those from which public RF exposure levels are expected to be the highest

- (27) MMDS – Multi-channel, Multi-point Distribution Services (also known as “wireless cable”).
- (28) MTSOs - Mobile Telephone Switching Offices.
- (29) Monopole - A single pole-structure erected on the ground to support one or more wireless communication antennas.
- (30) Non-Ionizing Electromagnetic Radiation (NIER) – Radiation from the portion of the electromagnetic spectrum with frequencies of approximately 1 million GHz and below, including all frequencies below the ultraviolet range, such as visible light, infrared radiation, microwave radiation, and radio frequency radiation.
- (31) Non-Major Modification or Maintenance Activity – A modification that is not a major modification to power output and is not a major modification to visual impact, or a maintenance activity that does not result in a major modification to power output or a major modification to visual impact.
- (32) PCS - Personal Communications Services - Digital wireless communications technology such as portable phones, pagers, faxes and computers. Also known as Personal Communications Network (PCN).
- (33) PUC or CPUC - California Public Utilities Commission.
- (34) Personal Wireless Services – Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. These services include: cellular services, personal communication services, specialized mobile radio services, and paging services.
- (35) Radio-Frequency (RF) Radiation – Radiation from the portion of the electromagnetic spectrum with frequencies below the infrared range (approximately 100 GHz and below), including microwaves, television VHF and UHF signals, radio signals, and low to ultra low frequencies.
- (36) Repeater – A small receiver/relay transmitter of relatively low power output designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.
- (37) Stealth Technology/Techniques – Camouflaging methods applied to wireless communication towers, antennas and/or other facilities, which render them visually inconspicuous.

- (38) Significant Gap – A gap in the service provider's (applicant carrier's) own personal wireless services network within the County of Santa Cruz, 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.
- (39) Structurally Able – The determination that a tower or structure is capable of carrying the load imposed by the new antennas under all reasonably predictable conditions as determined by professional structure engineering analysis.
- (40) Structure-Mounted Wireless Communication Facility - Any immobile antenna (including panels and directional antennas) attached to a structure, such as a building façade or a water tower, or mounted upon a roof.
- (41) Technically Feasible: Capable of being accomplished based on existing technology compatible with an applicant's existing network.
- (42) Telecommunication Tower (tower) - A mast, pole, monopole, guyed tower, lattice tower, free-standing tower, or other structure designed and primarily used to support antennas.
- (43) Viable – Primarily in reference to the Alternatives Analysis, an alternative site for which there is a property owner/manager interested in renting, leasing, selling, or otherwise making available, space for one or more wireless communication facilities upon said site on reasonable terms commensurate with the market in Santa Cruz County.
- (44) Visual Impact – An adverse effect on the visual and/or aesthetic environment. This may derive from blocking of a view, or introduction of elements that are incompatible with the scale, texture, form or color of the existing natural or human-made landscape, including the existing community character of the neighborhood.
- (45) Wireless Communication (or "telecommunications") Facility – A facility, including all associated equipment, that supports the transmission and/or receipt of electromagnetic/radio signals. Wireless communication facilities include cellular radio-telephone service facilities; personal communications service facilities (including wireless internet); specialized mobile radio service facilities and commercial paging service facilities. These types of facilities can include, but are not limited to, the following: antennas, repeaters, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking areas, and other accessory development.
- (46) Wireless Communication Facilities GIS Map – A map maintained by the County in Geographic Information System (GIS) format that includes location and other identifying information about wireless communication facilities in the County.

(e) EXEMPTIONS:

The following types of wireless communications facilities, devices and activities listed below are exempt from the provisions of Sections 13.10.660 through 13.10.668 inclusive. This exemption is not intended to limit or expand the scope of other Federal, state and local policies and regulations, including but not limited to the General Plan/Local Coastal Program, which apply to these facilities, devices and/or activities. If Chapter 13.20 requires a Coastal Development permit for a facility, device or activity exempted from this ordinance, the factors set forth in 13.10.663(a)(1) through 13.10.663(a)(8) shall apply.

- (1) A ground- or building-mounted citizens band or two-way radio antenna including any mast that is operated on a non-commercial basis.
- (2) A ground-, building- or tower-mounted antenna operated on a non-commercial basis by a federally licensed amateur radio operator as part of the Amateur or Business Radio Service.
- (3) A ground- or building-mounted receive-only radio or television antenna which does not exceed the height requirements of the zoning district, and which, for a television dish antenna, does not exceed three (3) feet in diameter if located on residential property within the exclusive use or control of the antenna user.
- (4) A television dish antenna that is no more than six (6) feet in diameter and is located in any area where commercial or industrial uses are allowed by the land use designation.
- (5) Temporary mobile wireless services, including mobile wireless communication facilities and services providing public information coverage of news events, of less than two-weeks duration. Any mobile wireless service facility intended to operate in any given location for more than two weeks is subject to the provisions of Sections 13.10.660 through 13.10.668 inclusive.
- (6) Hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers and similar devices.
- (7) Wireless communication facilities and/or components of such facilities to be used solely for public safety purposes, installed and operated by authorized public safety agencies (e.g., County 911 Emergency Services, police, sheriff, and/or fire departments, first responder medical services, hospitals, etc.). Unless otherwise prohibited by law or exempted by action of the Board of Supervisors, public safety agencies shall be required to provide a map of facility locations for inclusion in the County's Wireless Communication Facilities GIS map.
- (8) Any "minor" antenna or facility described under Section 13.10.660(d)(24).
- (9) Any "non-major" modification or maintenance activities, as defined by Section 13.10.660(d)(31), carried out as part of the routine operation of existing permitted wireless communication facilities.

- (10) Small scale, low powered, short-range and visually inconspicuous, wireless internet transmitter/receivers (e.g., "Wi-Fi hotspots").

13.10.661 GENERAL REQUIREMENTS FOR WIRELESS COMMUNICATIONS FACILITIES:

All wireless communications facilities shall comply with all applicable goals, objectives and policies of the General Plan/Local Coastal Program, area plans, zoning regulations and development standards; are subject to Level V review (Zoning Administrator public hearing pursuant to County Code Chapter 18.10); are subject to the California Environmental Quality Act (CEQA); and shall comply with the following requirements:

- (a) Required Permits. All new wireless communication facilities shall be subject to a Commercial Development Permit, and also a Coastal Development Permit if in the Coastal Zone. Additionally, a building permit will be required for construction of new wireless communication facilities.

(b) Prohibited Areas:

- (1) Prohibited Zoning Districts. Wireless communication facilities are prohibited in the following zoning districts, unless a Telecommunications Act Exception is approved pursuant to Section 13.10.668(a):

- Single-Family Residential (R-1),
- Multi-Family Residential (RM),
- Single-Family Ocean Beach Residential (RB),
- Commercial Agriculture (CA),

and the Combining Zone overlays for:

- Mobile Home Parks (MH)

- (2) Prohibited Coastal Areas. Wireless communication facilities are prohibited in areas that are located between the sea and the inland side of the right-of-way of the first through public road parallel to the sea, unless a Telecommunications Act Exception is approved pursuant to Section 13.10.668(a).

- (3) Prohibited School Grounds. Wireless communication facilities are prohibited on all public and private K-12 school sites, unless a Telecommunications Act Exception is approved pursuant to Section 13.10.668(a).

- (4) Exceptions to Prohibited Areas Prohibition. If a Telecommunications Act Exception is approved pursuant to Section 13.10.668(a) that allows for siting a wireless communications facility within any of the above-listed prohibited areas, then such facility shall comply with the remainder of Sections 13.10.660 through 13.10.668

inclusive, and shall be co-located. Applicants proposing new wireless communication facilities in any of the above-listed prohibited areas must submit as part of their application an Alternatives Analysis, as described in Section 13.10.662(c) below. Non-collocated wireless communication facilities may be sited in the prohibited areas listed above only in situations where the applicant can prove that:

- (i) The proposed wireless communication facility would eliminate or substantially reduce one or more significant gaps in the applicant carrier's network; and
- (ii) 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 areas identified in Section 13.10.661(b) that could eliminate or substantially reduce said significant gap(s).

Any wireless communications facility and any associated development allowed in a prohibited area: (1) shall be sited and designed so that it is not visible from public vantage points to the maximum extent feasible; or (2) where some portion or all of such a facility and/or any associated development is unavoidably sited and/or designed in a manner that makes it visible from public vantage points (and cannot be sited and/or designed to not be visible), that portion shall be screened and/or camouflaged so that it is inconspicuous and designed to blend seamlessly into the existing public view.

In addition to the requirements of the subsection above, any wireless communications facility and any associated development in the right-of-way of the first public road parallel to the sea shall comply with all of the following:

- (iii) The facility shall be located on the inland side of the vehicular travel lanes unless a location on the seaward side of the vehicular travel lanes would result in less visual impact; and
- (iv) If co-located on a utility pole: (a) the facility shall not require the installation of a new utility pole, but rather shall be co-located on an existing or replacement utility pole (where "replacement" means that there exists a utility pole in that location and it is replaced with a pole that looks the same or better (i.e., has a reduced visual impact) and has the same or lesser (i.e., has a reduced visual impact) dimensions as the existing utility pole); and (b) the facility shall only be allowed in the right-of-way provided the applicant's agreement(s) with the owner and operator of the right-of-way and the utility pole specifies that the facility shall be removed and the site restored by the applicant if informed by the owner and operator that the utility pole is to be removed because the utilities the pole supports are to be relocated underground.

(c) Restricted Areas:

- (1) Restricted Zoning Districts. Non-collocated wireless communication facilities are discouraged in the following zoning districts, subject to the exceptions described in

Section 13.10.661(c)(3) and/or unless a Telecommunications Act Exception is approved pursuant to Section 13.10.668(a):

- Residential Agricultural (RA),
- Rural Residential (RR),
- Special Use (SU) with a Residential General Plan designation,

and the Combining Zone overlays for:

- Historic Landmarks (L), and
- Salamander Protection areas (SP).

(2) Restricted Coastal Right-of-Way Area. Wireless communications facilities are discouraged in the right-of-way of the first through public road parallel to the sea, subject to the exceptions described in Section 13.10.661(c)(3). If a wireless communications facility is allowed within said right-of-way pursuant to Section 13.10.661(c)(3), then the wireless communications facility shall, in addition to complying with the remainder of Sections 13.10.660 through 13.10.668 inclusive, comply with all of the following:

- (i) The facility shall be of the microcell site type (as defined in Section 13.10.660(d)), and:
 - a. shall be mounted upon an existing or replacement utility pole (where "replacement" means that there exists a utility pole in that location and it is immediately replaced with a pole that has the same or a reduced visual impact, and has the same or lesser dimensions as the existing utility pole), and
 - b. shall have antennas no larger than 1'x 2' that are flush mounted and of a color that blends with that of the supporting utility pole, and
 - c. shall have an equipment cabinet that is no more than 24" high, 18" wide, and 10" deep if mounted upon the utility pole or on the ground, or is located in an underground vault;
- (ii) The facility shall be located on the inland side of the right-of-way unless a location on the seaward side of the right-of-way would result in less visual impact; and
- (iii) If located on a the utility pole, shall only be allowed in the coastal right-of-way provided the applicant's agreement(s) with the owner and operator of the right-of-way and the utility pole specifies that the facility shall be removed by the applicant if informed by the owner and operator that the utility pole is to be removed because the utilities the pole supports are to be relocated underground.

- (3) Exceptions to Restricted Area Prohibition. Wireless communication facilities 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 above. 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:
- (i) The proposed wireless communication facility would eliminate or substantially reduce one or more significant gaps in the applicant carrier's network; and
 - (ii) 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).
- (d) Compliance with FCC Regulations. Wireless communication facilities shall comply with all Federal Communication Commission (FCC) rules, regulations, and standards. Inhabitants of the county shall be protected from the possible adverse health effects associated with exposure to harmful levels of NIER (non-ionizing electromagnetic radiation) by ensuring that all wireless communication facilities comply with NIER standards set by the FCC.
- (e) Compliance with FAA Regulations. Wireless communication facilities shall comply with all applicable criteria from the Federal Aviation Administration (FAA) and shall comply with adopted airport safety regulations for Watsonville Municipal Airport (County Code Section 13.12).
- (f) Site Selection – Visual Impacts. Wireless communication facilities shall be sited in the least visually obtrusive location that is technically feasible, unless such site selection leads to other resource impacts that make such a site the more environmentally damaging location overall.
- (g) Co-Location. Co-location of new wireless communication facilities into/onto existing wireless communication facilities and/or existing telecommunication towers is generally encouraged. 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. 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.

- (h) Public Notification. Public hearing notice shall be provided pursuant to Section 18.10.223. However, due to the potential adverse visual impacts of wireless communication facilities the neighboring parcel notification distance for wireless communication facility applications is increased from the normal 300-feet to 1,000-feet from the outer boundary of the subject parcel. To further increase public notification, onsite visual mock-ups as described below in Section 13.10.662(d) are also required for all proposed wireless communication facilities, except for co-located and microcell facilities that do not represent a major modification to visual impact as defined in Section 13.10.660(d).
- (i) Major Modification to Power Output. Any proposed major modification that would increase the power output of a wireless communication facility, as defined in Section 13.10.660(d), shall require the submission of an affidavit by a professional engineer registered in the State of California that the proposed facility improvements will not result in RF exposure levels to the public in excess of FCC's NIER exposure standard. In addition, within 90-days of commencement of operation of the modified facility, the applicant shall conduct RF exposure level monitoring at the site, utilizing the Monitoring Protocol, and shall submit a report to the Planning Department documenting the results of said monitoring.
- (j) Major Modification to Visual Impact. Any proposed major modification that would increase the visual impact of a wireless communication facility, as defined in Section 13.10.660(d), shall be subject to all requirements of this Section.
- (k) Transfer of Ownership. 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 County 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 Planning Department within 30-days of transfer of interest of the facility.

13.10.662 APPLICATION REQUIREMENTS FOR WIRELESS COMMUNICATION FACILITIES

All new wireless communication facilities must be authorized by a Commercial Development Permit, and also by a Coastal Development Permit if located in the coastal zone, and are subject to the following permit application requirements:

- (a) Pre-Application Meeting. All applicants for proposed wireless communication facilities are encouraged to apply for the Development Review Group process, pursuant to County

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Code Chapter 18.10, in order to allow Planning Department staff to provide feedback to the applicant regarding facility siting and design prior to formal application submittal.

- (b) Submittal Information – All Applications. For all wireless communication facilities, in addition to the submittal requirements for Level V projects as specified in Section 18.10.210(b), the information listed below must accompany each application (for the purpose of permit processing, the Planning Director or his/her designee may release an applicant from having to provide one or more of the pieces of information on this list upon a written finding that in the specific case involved said information is not necessary to process or make a decision on the application being submitted):
- (1) The identity and legal status of the applicant, including any affiliates.
 - (2) The name, address, and telephone number of the officer, agent or employee responsible for the accuracy of the application information.
 - (3) The name, address, and telephone number of the owner, and agent representing the owner, if applicable, of the property upon which the proposed wireless communication facility is to be built and title reports identifying legal access.
 - (4) The address and assessor parcel number(s) of the proposed wireless communication facility site, including the precise latitude/longitude coordinates (NAD 83) in decimal degree format, of the proposed facility location on the site.
 - (5) A description of the applicant service provider's existing wireless communication facilities network, and the provider's currently proposed facilities and anticipated future facilities for all proposed sites for which an application has been submitted, and for all proposed sites for which site access rights or agreements have been secured by the provider. This must include a map, and a table (in hardcopy and digital formats) listing facility situs/addresses, site names/identification, facility types, and precise latitude/longitude coordinates (NAD 83) in decimal degree format, for all of the applicant carrier's existing and proposed facilities, within both the unincorporated and incorporated areas of Santa Cruz County, for inclusion on the County's Wireless Communication Facility GIS Map. In lieu of submitting this information with multiple applications, if this information has been previously submitted by the applicant, the applicant alternatively may certify in writing that none of the submitted information has changed. Information regarding proposed network expansions will be kept confidential by the County if identified in writing as trade secrets by the applicant.
 - (6) A description of the wireless communication services that the applicant intends to offer to provide, or is currently offering or providing, to persons, firms, businesses or institutions within both the unincorporated and incorporated areas of Santa Cruz County.
 - (7) Information sufficient to determine that the applicant has applied for and/or received any certificate of authority required by the California Public Utilities Commission (if

applicable) to provide wireless communications services or facilities within the unincorporated areas of the County of Santa Cruz.

- (8) Information sufficient to determine that the applicant has applied for and/or received any building permit, operating license or other approvals required by the Federal Communications Commission (FCC) to provide services or facilities within the unincorporated areas of the County of Santa Cruz.
- (9) Compliance with the FCC's non-ionizing electromagnetic radiation (NIER) standards or other applicable standards shall be demonstrated for any new wireless communication facility through submission of a written opinion submitted, by a professional engineer registered in the State of California, at the time of application.
- (10) A plan for safety/security considerations, consistent with Section 13.10.664. 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 communication facility, consistent with the NIER standards of the FCC or any potential future superceding standards, must be submitted as part of the application. The submitted plans must also 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. The emergency contact shall be someone available on a 24-hour a day basis who is authorized by the applicant to act on behalf of the applicant regarding an emergency situation. For the protection of emergency response personnel, each wireless communication facility shall have an on-site emergency shut-off switch to de-energize all RF-related circuitry/componentry at the base station site (including a single shut off switch for all facilities at a co-location site), or some other type of emergency shut-off by emergency personnel acceptable to the local Fire Chief, unless the applicant can prove that the FCC public exposure limits cannot be exceeded in the vicinity of the proposed facility, even if firefighters or other personnel work in close proximity to the antenna(s) or other RF radiation emitting devices/components.
- (11) A detailed Visual Analysis, including computer photo simulations of the proposed wireless communication facility, shall be provided along with a written description from the installer. Photo-simulations shall be submitted of the proposed wireless communication facility from various locations and/or angles from which the public would typically view the site. All photo simulations shall include a site map indicating the location from which the photo was taken, and a description of the methodology and equipment used to generate the simulation. More in-depth visual analyses shall be required for facilities proposed in visual resource areas designated in Section 5.10 of the County General Plan/LCP. The Visual Analysis shall identify and include all potential mitigation measures for visual impacts, consistent with the technological requirements of the proposed telecommunication service.
- (12) Detailed maps of proposed wireless communication facility site and vicinity, in full-size and 8.5" x 11" reduction formats. Reduced plans shall include a graphic scale to

allow for direct measurement from them. The following maps are required at the time of application submittal:

- i. Topographic/Area Map – copy a portion of the most recent U.S.G.S. Quadrangle topographical map (with 20-foot contour intervals), at a scale of 1:24,000, indicating the proposed wireless communication facility site, and showing the area within at least two miles from the proposed site.
 - ii. Proximity Map and Aerial Photo – prepare a map and an aerial photo at a scale of approximately 1"= 200' (1:2,400), with contour intervals (for map only) no greater than 20 feet, showing the entire vicinity within a 1,500-foot radius of the wireless communication facility site, and including topography (map only), public and private roads, driveways on the subject parcel, buildings and structures, bodies of water, wetlands, landscape features, and historic sites. Draw a 1,500-foot radius circle on the map and aerial photo with the proposed facility at its center and indicate all structures within 1,500 feet of the proposed tower/antennas. Indicate property lines of the proposed tower/facility site parcel and of all parcels and right-of-ways abutting the tower/facility site parcel.
- (13) Detailed plans and cross sections of proposed wireless communication facility and site, in full-size and 8.5" x 11" reduction formats. Reduced plans shall include a graphic scale to allow for direct measurement from them. Full-size plans shall be on 24" x 36" sheets, on as many as necessary, and at scales which are no smaller than those listed below. Each plan/cross section sheet shall have a title block indicating the project title, sheet title, sheet number, date, revision dates, scale(s), and signature(s) of the professional(s) who prepared the plan. The following plans and cross sections are required at the time of application submittal:
- (i) Proposed Site Plan – Proposed wireless communication facility site layout, grading and utilities at a scale no smaller than 1"=40' (1:480) with topography drawn at a minimum of 10-foot contour intervals, showing existing utilities, property lines, existing buildings or structures, walls or fence lines, existing trees, areas with natural vegetation, existing water wells, springs, and the boundaries of any wetlands, watercourses and/or floodplains.
 - a. Proposed tower/facility location and any associated components, including supports and guy wires, if any, and any accessory building (communication equipment shelter or other). Indicate property boundaries and setback distances from those boundaries to the base(s) of the tower/mast and to each facility-related structure and/or component. Include dimensions of all proposed improvements.
 - b. Indicate existing and proposed grade elevations where the existing and proposed grade intersects the proposed tower/mast, any guy wires, and all facility-related structures and/or components.

- c. Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility or communication lines, and whether underground or above ground.
- d. Limits of area where vegetation is to be cleared or altered, and justification for any such clearing or alteration.
- e. Any direct or indirect alteration proposed to environmentally sensitive habitat areas, including wetlands and riparian corridors. Note that such alteration is only allowed under very specific circumstances and subject to specific requirements governed by the LCPs environmentally sensitive habitat area, wetland, riparian corridor, and other similar resource protection requirements; these requirements are not suspended in any way by this section.
- f. Detailed drainage plans designed to control and direct all site runoff, including specific measures to control erosion and sedimentation, both during construction and as a permanent measure. The plan shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater and other runoff leaving the site.
- g. Plans indicating locations and descriptions of proposed screening, landscaping, ground cover, irrigation systems, fencing, and any exterior lighting or signs. For any vegetation proposed to be used for screening purposes, the plans shall identify the expected dimensions and other characteristics of each individual species over time (including, at a minimum, on a yearly basis until maturity and/or maximum size is reached), and the expected dimensions and other characteristics of any overall vegetation screen over time (including, at a minimum, on a yearly basis until maturity and/or maximum size is reached). All species to be planted shall be non-invasive species native to Santa Cruz County, and specifically native to the project location. See also Section 13.10.663(b)(9).
- h. Plans of proposed access driveway or roadway and parking area at the facility site. Include grading, drainage, and traveled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface materials.
- i. Plans showing any changes to be made to an existing facility's landscaping, screening, fencing, lighting, drainage, wetlands, grading, driveways or roadways, parking, or other infrastructure as a result of a proposed modification of the facility. Note that changes to wetlands and other sensitive habitat areas are only allowed under very specific circumstances and subject to specific requirements governed by the General Plan/LCP environmentally sensitive habitat area, wetland, and

other similar resource protection requirements; these requirements are not suspended in any way by this section.

(ii) Proposed Tower/Facility and Related Structures and/or Components :

- a. Plans, elevations, sections and details at appropriate scales, but no smaller than 1"=10'.
- b. Two cross sections through proposed tower/facility drawn at right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of any vegetation clearing or beyond the fall zone of the tower/mast, whichever is greater, and showing any guy wires or supports. Dimension the proposed height of the tower/mast above average grade at tower/mast base. Show all proposed antennas including their location on the tower/facility.
- c. Detail proposed exterior finish of the tower/facility. Provide precise depictions, photo examples, and/or detail drawings for all stealth features (such as "monopine" branches).
- d. Indicate relative height of the tower/facility as compared to the tops of surrounding trees as they presently exist, and to existing and proposed finished grades.
- e. Illustration of the modular structure of the proposed tower/facility indicating the heights of sections which could be removed or added in the future to adapt to changing communications conditions or demands (including potential future co-location).
- f. A Structural Professional Engineer's written description of the proposed tower/facility structure and its capacity to support additional antennas or other communication facilities at different heights and the ability of the tower to be shortened if future communication facilities no longer require the original height.
- g. A description of the available space on the tower, providing illustrations and examples of the type and number of co-located wireless communication facilities which could be mounted on the structure.
- h. Photographs precisely depicting the tower/facility type to be installed.

- (iii) Proposed Communications Equipment Shelter – including (a) floor plans, elevations and cross sections at a scale of no smaller than 1/4"=1' (1:48) of any proposed structural component (b) representative elevation views, indicating the roof, facades, doors and other exterior appearance and materials, and (c) a description of all equipment to be contained therein,

including number, make and model of each electromagnetic and radio-frequency apparatus to be installed.

(iv) Proposed Equipment Plan:

- a. Plans, elevations, sections and details at appropriate scales but no smaller than 1"=10'.
- b. Number of antennas and repeaters, as well as the exact locations, of antenna(s) and all repeaters (if any) located on a map as well as by degrees, minutes and seconds of Latitude and Longitude (in decimal degree format).
- c. Mounting locations on tower or structure, including height above existing and proposed finished grades.
- d. A recent survey of the facility site at a scale no smaller than 1"=40' (1:480) showing horizontal and radial distances of antenna(s) to nearest point on property line, and to the nearest dwelling unit.
- e. For applications for new wireless communication facilities in any of the prohibited or restricted areas, as set forth in Sections 13.10.661(b) and 13.10.661(c), the applicant must also disclose:
 1. Number, type(s), manufacturer(s) and model number(s) for all antennas and other RF-generating equipment.
 2. For each antenna, the antenna gain and antenna radiation pattern.
 3. Number of channels per antenna, projected and maximum.
 4. Power input to each antenna.
 5. Power output, in normal use and at maximum output for each antenna and all antennas as an aggregate.
 6. Output frequency of the transmitter(s).
- f. For modification of an existing facility with multiple emitters, the results of an intermodulation study to predict the interaction of the additional equipment with existing equipment.

- (14) If co-location is not proposed, the applicant shall provide information pertaining to the feasibility of joint-use antenna facilities, and discuss the reasons why such joint use is not a viable option or alternative to a new facility site. Such information shall include:

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- (i) Whether it is feasible to locate proposed sites where facilities currently exist;
 - (ii) Information on the existing structure that is closest to the site of the applicants proposed facility relative to the existing structure's structural capacity, radio frequency interface, or incompatibility of different technologies, which would include mechanical or electrical incompatibilities; and
 - (iii) Written notification of refusal of the existing structure owner to lease space on the structure.
- (15) For any application that involves a major modification to, or replacement of, an applicant's wireless communication facility, the applicant shall submit a brief narrative description and any supporting graphics (such as plans, photos, relevant literature, etc.) detailing any changes in wireless communication facility technologies that would allow the existing facility to be modified to provide for the same or increased level of service with less environmental impact, including less visual resource impact, as technically feasible.
- (c) Alternatives Analysis. For applications for wireless communication facilities proposed to be located in any of the restricted and/or prohibited areas specified in Sections 13.10.661(b) and (c), an Alternatives Analysis must be submitted by the applicant, subject to independent RF engineering review, which shall at a minimum:
- (1) Identify and indicate on a map, at a minimum two (2) viable, technically feasible, and potentially environmentally equivalent or superior alternative locations outside the prohibited and restricted areas which could eliminate or substantially reduce the significant gap(s) in the applicant carrier's network intended to be eliminated or substantially reduced by the proposed facility. If there are fewer than two such alternative locations, the applicant must provide evidence establishing that fact. The map shall also identify all locations where an unimpaired signal can be received to eliminate or substantially reduce the significant gap(s). For all non-collocated wireless communication facilities proposed in a restricted/prohibited area, the applicant must also evaluate the potential use of one or more microcell sites (i.e., smaller facilities often mounted upon existing or replacement utility poles), and the use of repeaters, to eliminate or substantially reduce said significant gaps in lieu of the proposed facility. For each alternative location so-identified, the applicant shall describe the type of facility and design measures that could be used at that location so as to minimize negative resource impacts (e.g., the use of stealth camouflaging techniques).
 - (2) Evaluate the potential for co-location with existing wireless communication facilities as a means to eliminate or substantially reduce the significant gap(s) in the applicant carrier's network intended to be eliminated or substantially reduced by the proposed facility.
 - (3) Compare, across the same set of evaluation criteria and to similar levels of description and detail, the relative merits of the proposed site with those of each of

the identified technically feasible alternative locations and facility designs. Such comparison analysis shall rank each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives) in terms of impacts (i.e. from least to most environmentally damaging), and shall support such ranking with clear analysis and evidence.

- (4) Include photo-simulations of each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives).
- (5) Document good faith and diligent attempts to rent, lease, purchase or otherwise obtain the use of at least two (2) of the viable, technically feasible alternative sites which may be environmentally equivalent or superior to the proposed project site. The decision making body may determine that an alternative site is not viable if good faith attempts to rent, lease, purchase or otherwise obtain the site have been unsuccessful.

The Planning Director (or his/her designee) or the decision making body may also require an Alternatives Analysis for proposed wireless communication facility projects that are located in environmentally sensitive areas other than those set forth in Sections 13.10.661(b) and/or 13.10.661(c), such as visual resource areas as identified in General Plan/LCP Section 5.10.

- (d) Onsite Visual Demonstration Structures (Mock-Ups) Onsite visual demonstration structures (i.e., mock-ups) shall be required for all proposed wireless communication facilities, except for co-located and microcell facilities that do not represent a major modification to visual impact as defined in Section 13.10.660(d). For proposed rooftop or ground-mounted antennas, a temporary mast approximating the dimensions of the proposed facility shall be raised at the proposed antenna/mast location. For proposed new telecommunications towers the applicant will be required to raise a temporary mast at the maximum height and at the location of the proposed tower. At minimum, the onsite demonstration structure shall be in place prior to the first public hearing to consider project approval, on at least two weekend days and two weekdays between the hours of 8 a.m. to 6 p.m., for a minimum of 10 hours each day. A project description, including photo simulations of the proposed facility, shall be posted at the proposed project site for the duration of the mock-up display. The Planning Director or his/her designee may release an applicant from the requirement to conduct on-site visual mock-ups upon a written finding that in the specific case involved said mock-ups are not necessary to process or make a decision on the application and would not serve as effective public notice of the proposed facility.
- (e) Amendment. Each applicant/registrant shall inform the County, within thirty (30) days of any change of the information required pursuant to Sections 13.10.660 through 13.10.668 inclusive.
- (f) Technical Review. The applicant will be notified if an independent technical review of any submitted technical materials is required. The Planning Director or his/her designee shall review and, in his or her discretion, procure additional information and data as may

assist him/her in reviewing the following: (1) reports concerning conformance with the FCC RF radiation exposure levels; (2) reports concerning the need for a facility; and/or (3) reports concerning availability or suitability of alternatives to a proposed facility. The Planning Director may employ, on behalf of the County, an independent technical expert or experts to review any technical materials submitted including but not limited to those required under this Section, and in those cases where a technical demonstration of unavoidable need or unavailability of alternatives is required. The review and procurement of such additional information/data shall be undertaken for all applications that seek approval of a facility in a Prohibited or Restricted Area, unless the Planning Director, his/her designee, or the approving body determines in writing that such review is unnecessary to inform the decision-making process. In addition, the review and procurement of information for applications in other areas may be required if the Planning Director determines that such review is necessary to inform the decision-making process. The applicant shall pay all the costs of said review and may be required to deposit funds in advance to cover the estimated costs of said review. If clearly marked as such by the applicant, any trade secrets or proprietary information disclosed to the County, the applicant, or the expert hired shall remain confidential and shall not be disclosed to any third party.

- (g) Technical Feasibility. For any technical infeasibility claims made, the applicant shall be required to conclusively demonstrate, including submitting adequate evidence to that effect, the reasons for the technical infeasibility.
- (h) Fees. Fees for review of all Commercial Development Permits for wireless communication facilities shall be established by Resolution of the Board of Supervisors.

13.10.663 GENERAL DEVELOPMENT/PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATION FACILITIES:

(a) Site Location

The following criteria shall govern appropriate locations and designs for wireless communication facilities, including dish antennas and Multi-channel, Multi-point Distribution Services (MMDS)/wireless cable antennas, and may require the applicant to select an alternative site other than the site shown on an initial permit application for a wireless facility:

- (1) Visual Character of Site. Site location and development of wireless communications facilities shall preserve the visual character, native vegetation and aesthetic values of the parcel on which such facilities are proposed, the surrounding parcels and road right-of-ways, and the surrounding land uses to the greatest extent that is technically feasible, and shall minimize visual impacts on surrounding land and land uses to the greatest extent feasible. Facilities shall be integrated to the maximum extent feasible to the existing characteristics of the site, and every effort shall be made to avoid, or minimize to the maximum extent feasible, visibility of a wireless communication facility within significant public viewsheds. Utilization of camouflaging and/or stealth techniques shall be encouraged where appropriate.

Support facilities shall be integrated to the existing characteristics of the site, so as to minimize visual impact.

- (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.
- (3) Ridgeline Visual Impacts. Wireless communication facilities proposed for visually prominent ridgeline, hillside or hilltop locations shall be sited and designed to be as visually unobtrusive as possible. Consistent with General Plan/LCP Policy 8.6.6, wireless communication facilities should be sited so the top of the proposed tower/facility is below any ridgeline when viewed from public roads in the vicinity. If the tower must extend above a ridgeline the applicant must camouflage the tower by utilizing stealth techniques and hiding it among surrounding vegetation.
- (4) Site Disturbance. Disturbance of existing topography and on-site vegetation shall be minimized, unless such disturbance would substantially reduce the visual impacts of the facility.
- (5) Exterior Lighting. Any exterior lighting, except as required for FAA regulations for airport safety, shall be manually operated and used only during night maintenance checks or in emergencies. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled.
- (6) Aviation Safety. No wireless communication facility shall be installed within the safety zone or runway protection zone of any airport, airstrip or helipad within Santa Cruz County unless the airport owner/operator indicates that it will not adversely affect the operation of the airport, airstrip or helipad. In addition, no wireless communication facility shall be installed at a location where special painting or lighting will be required by the FAA regulations unless the applicant has demonstrated to the Planning Director that the proposed location is the only technically feasible location for the provision of personal wireless services as required by the FCC.
- (7) Coastal Zone Considerations. New wireless communication facilities in any portion of the Coastal Zone shall be consistent with applicable policies of the County Local Coastal Program (LCP) and the California Coastal Act. No portion of a wireless communication facility shall extend onto or impede access to a publicly used beach. Power and telecommunication lines servicing wireless communication facilities in the Coastal Zone shall be required to be placed underground.
- (8) Consistency with Other County Land Use Regulations. All proposed wireless communication facilities shall comply with the policies of the County General Plan/Local Coastal Plan and all applicable development standards for the zoning district in which the facility is to be located, particularly policies for protection of

visual resources (i.e., General Plan/LCP Section 5.10). Public vistas from scenic roads, as designated in General Plan Section 5.10.10, shall be afforded the highest level of protection.

- (9) Visual Impacts to Neighboring Parcels. To minimize visual impacts to surrounding residential uses, the base of any new freestanding telecommunications tower shall be set back from any residentially zoned parcel a distance equal to five times the height of the 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 will 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).
- (10) Setbacks. All components of new wireless communication facilities must comply with the setback standards for the applicable zoning district. Depending upon specific site constraints and circumstances, this requirement may not apply to antennas proposed to be co-located on existing towers or utility poles (e.g., microcell sites), nor to underground equipment shelters, if it would prohibit use of the proposed facility site.

(b) Design Review Criteria

The following criteria apply to all wireless communication facilities:

- (1) Non-Flammable Materials. All wireless communication facilities shall be constructed of non-flammable material, unless specifically approved and conditioned by the County to be otherwise (e.g., when a wooden structure is may be necessary to minimize visual impact).
- (2) Tower Type. All telecommunication towers shall be self-supporting monopoles except where satisfactory evidence is submitted to the appropriate decision-making body that a non-monopole (such as a guyed or lattice tower) is required or environmentally superior. All guy wires must be sheathed for their entire length with a plastic or other suitable covering.
- (3) Support Facilities. The County strongly encourages all support facilities, such as equipment shelters, to be placed in underground vaults, so as to minimize visual impacts. Any support facilities not placed underground shall be located and designed to minimize their visibility and, if appropriate, disguise their purpose to make them less prominent. These structures should be no taller than twelve (12) feet in height, and shall be designed to blend with existing architecture and/or the natural surroundings in the area or shall be screened from sight by mature landscaping.

- (4) **Exterior Finish.** All support facilities, poles, towers, antenna supports, antennas, and other components of communication facilities shall be of a color approved by the decision making body. If a facility is conditioned to require paint, it shall initially be painted with a flat (i.e., non-reflective) paint color approved by the decision making body, and thereafter repainted as necessary with a flat paint color, unless it is determined that flat paint color would lead to more adverse impact than would another type of paint color. Components of a wireless communication facility which will be viewed against soils, trees, or grasslands, shall be of a color or colors consistent with these landscapes. All proposed stealth tree poles (e.g., "monopines") must use bark screening that approximates natural bark for the entire height and circumference of the monopole visible to the public, as technically feasible.
- (5) **Visual Impact Mitigation.** Special design of wireless communication facilities may be required to mitigate potentially significant adverse visual impacts, including appropriate camouflaging or utilization of stealth techniques. Use of less visually obtrusive design alternatives, such as "micro-cell" facility-types that can be mounted upon existing utility poles, is encouraged. Telecommunication towers designed to look like trees (e.g., "monopines") may be favored on wooded sites with existing similar looking trees where they can be designed to adequately blend with and/or mimic the existing trees. In other cases, stealth-type structures that mimic structures typically found in the built environment where the facility is located may be appropriate (e.g., small scale water towers, barns, and other typical farm-related structures on or near agricultural areas). Rooftop or other building mounted antennas designed to blend in with the building's existing architecture shall be encouraged. Co-location of a new wireless communication facility onto an existing telecommunication tower shall generally be favored over construction of a new tower. Owners/operators of wireless communication towers/facilities are required to maintain the appearance of the tower/facility, as approved, throughout its operational life. Public vistas from scenic roads, as designated in General Plan/LCP Section 5.10.10, shall be afforded the highest level of protection.
- (6) **Height.** The height of a wireless communication tower shall be measured from the existing undisturbed ground surface below the center of the base of said tower to the top of the tower itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto. In the case of building-mounted towers the height of the tower includes the height of the portion of the building on which it is mounted. In the case of "crank-up" or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised. All towers shall be designed to be the shortest height possible so as to minimize visual impact. Any applications for towers of a height more than the allowed height for structures in the zoning district must include a written justification proving the need for a tower of that height and the absence of viable alternatives that would have less visual impact, and shall, in addition to any other required findings and/or requirements, require a variance approval pursuant to Code Section 13.10.230.

- (7) Lighting. Except for as provided for under Section 13.10.663(a)(5), all wireless communication facilities shall be unlit except when authorized personnel are present at night.
- (8) Roads and Parking. All wireless communication facilities shall be served by the minimum sized roads and parking areas feasible.
- (9) Vegetation Protection and Facility Screening.
 - (i) In addition to stealth structural designs, vegetative screening may be necessary to minimize wireless communication facility visibility within public viewsheds. All new vegetation to be used for screening shall be compatible with existing surrounding vegetation. Vegetation used for screening purposes shall be capable of providing the required screening upon completion of the permitted facility (i.e., an applicant cannot rely on the expected future screening capabilities of the vegetation at maturity to provide the required immediate screening).
 - (ii) Because Santa Cruz County contains many unique and threatened plant species and habitat areas, all telecommunications facilities to be located in areas of extensive natural vegetation shall be installed in such a manner so as to maintain the existing native vegetation. Where necessary, appropriate mature landscaping can be used to screen the facility. However, so as to not pose an invasive or genetic contamination threat to local gene pools, all vegetation proposed and/or required to be planted that is associated with a wireless communication facility shall be non-invasive species native to Santa Cruz County, and specifically native to the project location. Non-native and/or invasive species shall be prohibited (such as any species listed on the California Exotic Pest Plant Council "Pest Plant List" in the categories entitled 'A', 'B', or 'Red Alert'). Cultivars of native plants that may cause genetic pollution (such as all manzanita, oak, monkey flower, poppy, lupine, paintbrush and ceanothus species) shall be prohibited in these relatively pristine areas. All wireless communication facility approvals in such areas shall be conditioned for the removal of non-native invasive plants (e.g., iceplant) in the area disturbed by the facility and replanting with appropriate non-invasive native species capable of providing similar or better vegetated screening and/or visual enhancement of the facility unless the decision making body determines that such removal and replanting would be more environmentally damaging than leaving the existing non-native and/or invasive species in place (e.g., a eucalyptus grove that provides over wintering habitat for Monarch butterflies may be better left alone). All applications shall provide detailed landscape/vegetation plans specifying the non-invasive native plant species to be used, including identification of sources to be used to supply seeds and/or plants for the project. Any such landscape/vegetation plan shall be prepared by a qualified botanist experienced with the types of plants associated with the facility area. For purposes of this section, "mature landscaping" shall mean trees, shrubs or other vegetation of a size that will provide the appropriate level of visual screening immediately upon installation. All nursery stock, construction materials and

machinery, and personnel shall be free of soil, seeds, insects, or microorganisms that could pose a hazard to the native species or the natural biological processes of the areas surrounding the site (e.g., Argentine ants or microorganisms causing Sudden Oak Death or Pine Pitch Canker Disease). Underground lines shall be routed outside of plant drip lines to avoid damage to tree and large shrub root systems to the maximum extent feasible.

- (iii) No actions shall be taken subsequent to project completion with respect to the vegetation present that would increase the visibility of the facility itself or the access road and power/telecommunication lines serving it. All owners of the property and all operators of the facility shall be jointly and severally responsible for maintenance (including irrigation) and replacement of all required landscaping for as long as the permitted facility exists on the site.
- (10) Fire Prevention/Emergency Response. All wireless communication facilities shall be designed and operated in such a manner so as to minimize the risk of igniting a fire or intensifying one that otherwise occurs. To this end, all of the following measures shall be implemented for all wireless communication facilities, when determined necessary by the Fire Chief:
 - (i) At least one-hour fire resistant interior surfaces shall be used in the construction of all buildings;
 - (ii) Rapid entry (KNOX) systems shall be installed as required by the Fire Chief;
 - (iii) Type and location of vegetation, screening materials and other materials within ten (10) feet of the facility and all new structures, including telecommunication towers, shall have review for fire safety purposes by the Fire Chief. Requirements established by the Fire Chief shall be followed;
 - (iv) All tree trimmings and trash generated by construction of the facility shall be removed from the property and properly disposed of prior to building permit finalization or commencement of operation, whichever comes first; and
 - (v) For the protection of emergency response personnel, at any wireless communication facility where there is the possibility that RF radiation levels in excess of the FCC public exposure limit could be experienced by emergency response personnel working in close proximity to antennas/RF-emitting devices, said facility shall have an on-site emergency power shut-off (e.g., "kill switch") to de-energize all RF-related circuitry/componentry at the base station site, or some other method (acceptable to the local Fire Chief) for de-energizing the facility. For multi-facility (co-location) sites where there is a possibility that RF radiation levels in excess of the FCC public exposure limit could be experienced by emergency response personnel working in close proximity to antennas/RF-emitting devices, a single power shut off switch (or other method acceptable to the local Fire Chief) shall be installed that will de-energize all facilities at the site in the event of an emergency.

- (11) Noise and Traffic. All wireless communication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end all the following measures shall be implemented for all wireless communication facilities:
- (i) Outdoor noise producing construction activities shall only take place on non-holiday weekdays between the hours of 8:00 a.m. and 6:00 p.m. unless allowed at other times by the approving body; and
 - (ii) Backup generators shall only be operated during power outages and for testing and maintenance purposes. If the facility is located within one hundred feet (100') of a residential dwelling unit, noise attenuation measures shall be included to reduce noise levels at the facility to a maximum exterior noise level of 60 Ldn at the property line and a maximum interior noise level of 45 Ldn within nearby residences.
- (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. New telecommunications towers should be designed and constructed to accommodate future additional antennas 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, 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:
- (i) 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;
 - (ii) To negotiate in good faith for shared use of the wireless communication facility by third parties; and
 - (iii) To allow shared use of the wireless communication facility if an applicant agrees in writing to pay reasonable charges for co-location.

- (13) Coastal Zone Design Criteria. In addition to the requirements set forth herein, all wireless communication facilities requiring a Coastal Development Permit shall conform with the Coastal Zone design criteria requirements of County Code Section 13.20.130.
- (14) Signage. A notice shall be posted at the main entrance of all buildings or structures where structure-mounted or free-standing wireless communication facilities are located on the same parcel. The notice shall be 12"x 12" and shall inform the public that a wireless communication facility is located on the building, structure or property and shall be consistent with the requirements of Federal law.
- (15) Existing Facilities. Where applications involve existing wireless communication facilities, modifications to the existing facilities to reduce environmental impacts, including visual impacts, shall be pursued as technically feasible. If such modifications would reduce impacts, then such modifications shall be made as feasible, technically and otherwise, provided the reduction in impact is roughly commensurate with the cost to make the modifications.
- (16) Approved Project. Approvals of wireless communication facilities shall require that the facility, including, but not limited to, all stealth design measures and vegetation screening, be maintained in its approved state for as long as it exists on the site. Approved facility plans, detailing the approved facility and all camouflaging elements, and including all maintenance parameters designed to ensure that camouflaging is maintained over the life of the project, shall be required for all approvals.
- (17) Ongoing Evaluation. Wireless communication service providers are encouraged to evaluate their wireless communication facilities on a regular basis to ensure that they are consistent with the goals, objectives, policies, and requirements of the General Plan/Local Coastal Program, including specifically siting and design standards meant to minimize any negative impacts to visual resources and the character of the built and natural environment. Wireless service providers are encouraged to individually and collectively pursue modifications to their networks and/or individual facilities to reduce environmental impacts, including visual impacts; particularly over time as new technologies may be developed that allow for less visually intrusive wireless communication facilities, and/or a lesser number of them, while still allowing for the same or better level of wireless communication service associated with both any individual wireless service provider's facilities and the overall universe of wireless communication facilities in the County.

13.10.664 **NON-IONIZING ELECTROMAGNETIC RADIATION (NIER) SAFETY AND MONITORING REQUIREMENTS FOR WIRELESS COMMUNICATION FACILITIES:**

Initial post-construction monitoring of wireless communication facility NIER/radio-frequency (RF) radiation exposures is required for all wireless communication facilities constructed under

the auspices of Sections 13.10.660 through 13.10.668 inclusive to prove that all new wireless communication facilities operate in compliance with the FCC RF radiation exposure standards. NIER monitoring is to be conducted utilizing the Monitoring Protocol described in Section 13.10.660(d) above. The County may require that the required NIER/RF radiation monitoring reports described below may be independently reviewed by a qualified telecommunications/RF engineer, at the applicant's expense. The following applies to all wireless communication facilities:

- (a) **Public Health and Safety.** No wireless communication facility shall be located or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end, no telecommunication facility or combination of facilities shall produce at any time power densities in any area that exceed the FCC-adopted standard for human exposure, as amended, or any more restrictive standard subsequently adopted or promulgated by the Federal government. Areas in the immediate vicinity of all antennas or other transmitting devices in which the FCC RF radiation exposure standards could potentially be exceeded, especially near rooftop antennas, must be clearly demarcated and/or fenced off, with warning signs in English, Spanish and international symbols clearly visible.
- (b) **Non-Ionizing Electromagnetic Radiation (NIER) Measurements.**
 - (1) Consistent with Section 13.10.662(b)(9) above, all applications for new wireless communication facilities must include written certification by a professional engineer registered in the State of California that the proposed facility will comply with the FCC's RF radiation exposure standard.
 - (2) **Post-Construction NIER Measurement and Reporting.** Monitoring of (NIER/RF radiation to verify compliance with the FCC's NIER standards is required for all new wireless communication facilities and for all wireless communication facilities proposing to undergo a major modification of power output (as defined in Section 13.10.660(d)). This requirement shall be met through submission of a report documenting NIER measurements at the facility site within 90-days after the commencement of normal operations, or within 90-days after any major modification to power output of the facility. The NIER measurements shall be made, at the applicant's expense, by a qualified third-party telecommunications or radio-frequency engineer, during typical peak-use periods, utilizing the Monitoring Protocol described in Section 13.10.660(d). The report shall list and describe each transmitter/antenna present at the facility, indicating the effective radiated power of each (for co-located facilities this would include the antennas of all other carriers at the site). The report shall include field measurements of NIER emissions generated by the facility and also other emission sources, from various directions and particularly from adjacent areas with residential dwellings. The report shall compare the measured results to the FCC NIER standards for such facilities.

The report documenting the measurements and the findings with respect to compliance with the established FCC NIER exposure standard, shall be

submitted to the Planning Director within 90-days of commencement of facility operation. Failure to comply with this requirement may result in the initiation of permit revocation proceedings by the County.

- (3) Failed Compliance. Failure to supply the required reports, or to remain in continued compliance with the NIER standard established by the FCC, or other regulatory agency if applicable shall be grounds for review of the use permit or other entitlement and other remedy provisions.

13.10.665 REQUIRED FINDINGS FOR WIRELESS COMMUNICATION FACILITIES

In order to grant any Commercial Development Permit for a wireless communication facility and/or any Coastal Development Permit if the facility is located in the Coastal Zone, the approving body shall make the required development permit findings (Section 18.10.230) and the required coastal development permit findings if in the coastal zone (Section 13.20.110) as well as the following findings:

- (a) That either: (1) the development of the proposed wireless communications facility as conditioned will not significantly affect any designated visual resources, environmentally sensitive habitat resources (as defined in the Santa Cruz County General Plan/LCP Sections 5.1, 5.10, and 8.6.6.), and/or other significant County resources, including agricultural, open space, and community character resources; or (2) there are no other environmentally equivalent and/or superior and technically feasible alternatives to the proposed wireless communications facility as conditioned (including alternative locations and/or designs) with less visual and/or other resource impacts and the proposed facility has been modified by condition and/or project design to minimize and mitigate its visual and other resource impacts.
- (b) That the site is adequate for the development of the proposed wireless communications facility and, for sites located in one of the prohibited and/or restricted areas set forth in Sections 13.10.661(b) and 13.10.661(c), that the applicant has demonstrated that there are not environmentally equivalent or superior and technically feasible: (1) alternative sites outside the prohibited and restricted areas; and/or (2) alternative designs for the proposed facility as conditioned.
- (c) That the subject property upon which the wireless communications facility is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of this Title and that all zoning violation abatement costs, if any, have been paid.
- (d) That the proposed wireless communication facility as conditioned will not create a hazard for aircraft in flight.
- (e) That the proposed wireless communication facility as conditioned is in compliance with all FCC and California PUC standards and requirements.

- (f) For wireless communication facilities in the coastal zone, that the proposed wireless communication facility as conditioned is consistent with the all applicable requirements of the Local Coastal Program.

Any decision to deny a permit for a wireless communication facility shall be in writing and shall be supported by substantial evidence and shall specifically identify the reasons for the decision, the evidence that led to the decision and the written record of all evidence.

13.10.666 SITE RESTORATION UPON TERMINATION/ABANDONMENT OF WIRELESS COMMUNICATION FACILITIES

- (a) The site shall be restored as nearly as possible to its natural or pre-construction state within six months of termination of use or abandonment of the site.
- (b) Applicant shall enter into a site restoration agreement, consistent with Section 13.10.666(a), subject to the approval of the Planning Director.

13.10.667 INDEMNIFICATION FOR WIRELESS COMMUNICATION FACILITIES:

- (a) Each permit issued pursuant to Sections 13.10.660 through 13.10.668 inclusive shall have as a condition of the permit, a requirement that the applicant defend, indemnify and hold harmless the County and its officers, agents, and employees from and against any claim (including attorney fees) against the County, its officers, employees or agents to attack, set aside, void or annul the approval of the permit or any subsequent amendment of the permit.

13.10.668 TELECOMMUNICATION ACT EXCEPTION PROCEDURE:

- (a) If the application of the requirements or limitations set forth in Sections 13.10.660 through 13.10.668 inclusive, including but not limited to applicable limitations on allowed land uses, would have the effect of violating the Federal Telecommunications Act as amended, the approving body shall grant a Telecommunications Act Exception to allow an exception to the offending requirement or application. The applicant shall have the burden of proving that application of the requirement or limitation would violate the Federal Telecommunications Act, and that no alternatives exist which would render the approval of a Telecommunications Act Exception unnecessary.

SECTION III

This ordinance shall become effective on the 31st day after the date of final approval in those areas outside the Coastal Zone. This ordinance shall become effective upon certification by the California Coastal Commission in those areas within the Coastal Zone.

SECTION IV

The Board of Supervisors hereby finds, determines, and declares that this ordinance is adopted and is necessary for the protection of the public health, safety and general welfare.

SECTION V

Each application for a wireless communication facility that is deemed complete prior to April 29, 2003 shall be subject to the standards and requirements of Ordinance number 4631, the Interim Wireless Communication Facilities Ordinance, which, for the purposes of such applications only, is incorporated in its entirety into and made a part of this Section by this reference.

PASSED AND ADOPTED this 18th day of November 2003, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS Wormhoudt, Beautz, Campos, Stone and Pirie
 NOES: SUPERVISORS None
 ABSENT: SUPERVISORS None
 ABSTAIN: SUPERVISORS None

Attest: [Signature]
 Clerk of the Board

[Signature]
 Chairperson of the Board of Supervisors

APPROVED AS TO FORM: [Signature]
 Assistant County Counsel

DISTRIBUTION: County Counsel, CAO, Planning Department, Sheriff, General Services

ORDINANCE NO. 4744

**AN ORDINANCE OF THE COUNTY OF SANTA CRUZ
AMENDING USES CHART OF ZONING ORDINANCE
TO ADD WIRELESS COMMUNICATION FACILITIES
AS AN ALLOWED USE IN VARIOUS ZONING DISTRICTS**

SECTION I

Subsection (b) of Section 13.10.312 - Uses Allowed in Agricultural Districts of the County Code is hereby amended to read as follows:

	CA	A	AP
Wireless Communication Facilities, subject to Section 13.10.660 through 13.10.668 inclusive	5	5	5

SECTION II

Subsection (b) of Section 13.10.322 - Residential Uses - of the County Code is hereby amended to read as follows:

	RA	RR	R-1	RB	RM
Wireless Communication Facilities, subject to Section 13.10.660 through 13.10.668 inclusive	5	5	5	5	5

SECTION IV

Subsection (b) of Section 13.10.332 - Commercial Uses - of the County Code regarding commercial uses is hereby amended to read as follows:

	PA	VA	CT	C-1	C-2	C-4
Wireless Communication Facilities, subject to Section 13.10.660 through 13.10.668 inclusive	5	5	5	5	5	5

SECTION V

Subsection (b) of Section 13.10.342 - Uses in Industrial Districts - of the County Code is hereby amended to read as follows:

	M-1	M-2	M-3
Wireless Communication Facilities, subject to Section 13.10.660 through 13.10.668 inclusive	5	5	5

SECTION VII

Subsection (b) of Section 13.10.352 of the Parks, Recreation and Open Space Uses Chart of the County Code is hereby amended to read as follows:

	PR
Wireless Communication Facilities, subject to Section 13.10.660 through 13.10.668 inclusive	5

SECTION VIII

Subsection (b) of Section 13.10.362 - Public and Community Facility Uses of the County Code is hereby amended to read as follows:

	PF
Wireless Communication Facilities, subject to Section 13.10.660 through 13.10.668 inclusive	5

SECTION IX

Subsection (b) of Section 13.10.372 - of the County Code is hereby amended by amending the use of the Timber Production Zone district to read as follows:

	TP
Wireless Communication Facilities, subject to Section 13.10.660 through 13.10.668 inclusive	5

"TP" USES CHART

SECTION X

This ordinance shall become effective on the 31st day after the date of final approval for those areas outside the Coastal Zone. This ordinance shall become effective upon certification by the California Coastal Commission for those areas within the Coastal Zone.

SECTION XI

The Board of Supervisors hereby finds, determines, and declares that this ordinance is adopted and is necessary for the protection of the public health, safety and general welfare.

SECTION XII

Each application for a wireless communication facility that is deemed complete prior to April 29, 2003 shall be subject to the standards and requirements of Ordinance No. 4631, the Interim Wireless Communication Facilities Ordinance, which, for the purposes of such applications only, is incorporated in its entirety into and made a part of this Section by this reference.

PASSED AND ADOPTED this 18th day of November 2003, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES:	SUPERVISORS	Wormhoudt, Beautz, Campos, Stone and Pirie
NOES:	SUPERVISORS	None
ABSENT:	SUPERVISORS	None
ABSTAIN:	SUPERVISORS	None

Attest:

Marty Boykowski
Clerk of the Board

Alan Pirie
Chairperson of the Board of Supervisors

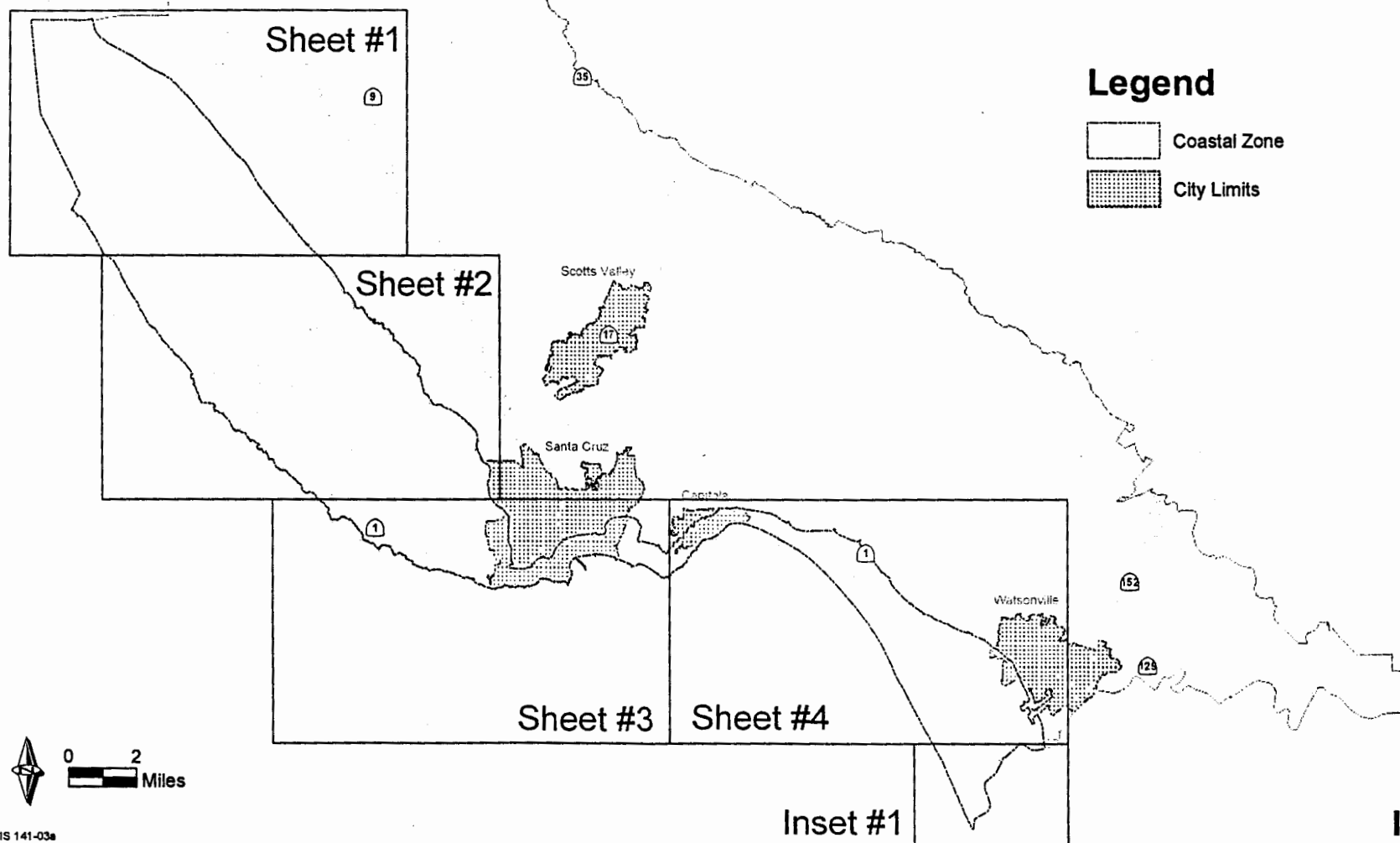
APPROVED AS TO FORM:

David K. Kessler
Assistant County Counsel

DISTRIBUTION: County Counsel, CAO, Planning Department, Sheriff, General Services

JCC Exhibit C
(page 3 of 3 pages)

County of Santa Cruz Local Coastal Program (LCP) Amendment 1-03 Part 1, Wireless Facilities Ordinance



CCC Exhibit D
(page 1 of 5 pages)



Santa Cruz County GIS 141-03a

INDEX







County of Santa Cruz

Local Coastal Program (LPC) Amendment 1-03

Part 1, Wireless Facilities Ordinance

Sheet #1

Legend

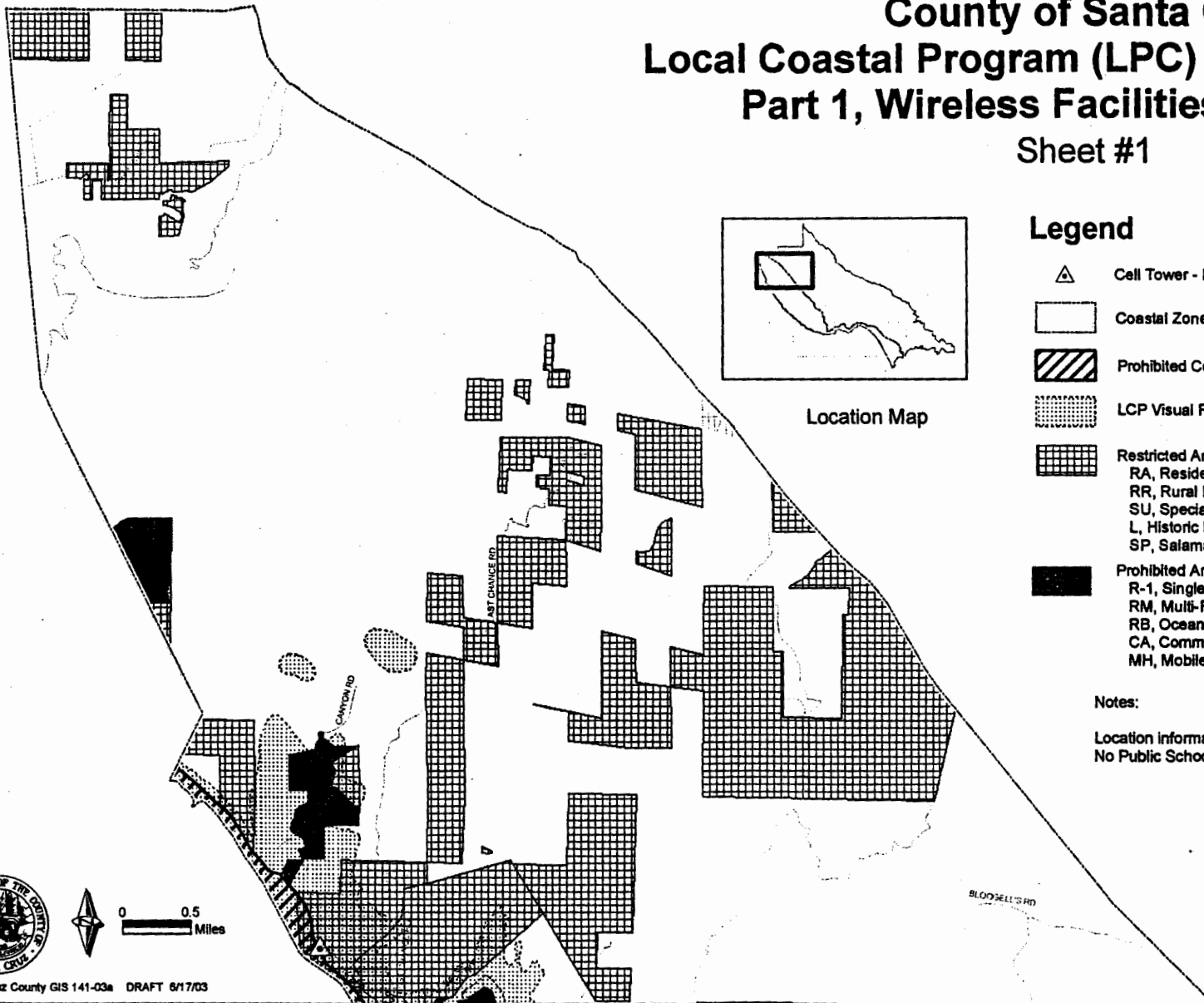
-  Cell Tower - Proposed
-  Coastal Zone
-  Prohibited Coastal Areas (Sec. 13.10.661 (b) (2))
-  LCP Visual Resources (GP Scenic Resources)
-  Restricted Areas include the following zoning districts:
RA, Residential Agriculture
RR, Rural Residential
SU, Special use with a residential General Plan designation
L, Historic Landmarks Combining Zone
SP, Salamander Protection Areas Combining Zone
-  Prohibited Areas includes the following zoning districts:
R-1, Single Family Residential
RM, Multi-Family Residential
RB, Ocean Beach Residential
CA, Commercial Agricultural
MH, Mobile Homes Combining Zone

Notes:

Location information on Private Schools was not available.
No Public School sites were identified on Sheet 1.



Location Map











Santa Cruz County GIS 141-03a DRAFT 6/17/03

County of Santa Cruz Local Coastal Program (LPC) Amendment 1-03 Part 1 Wireless Facilities Ordinance Sheet #2

Location Map

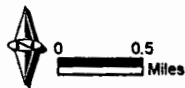


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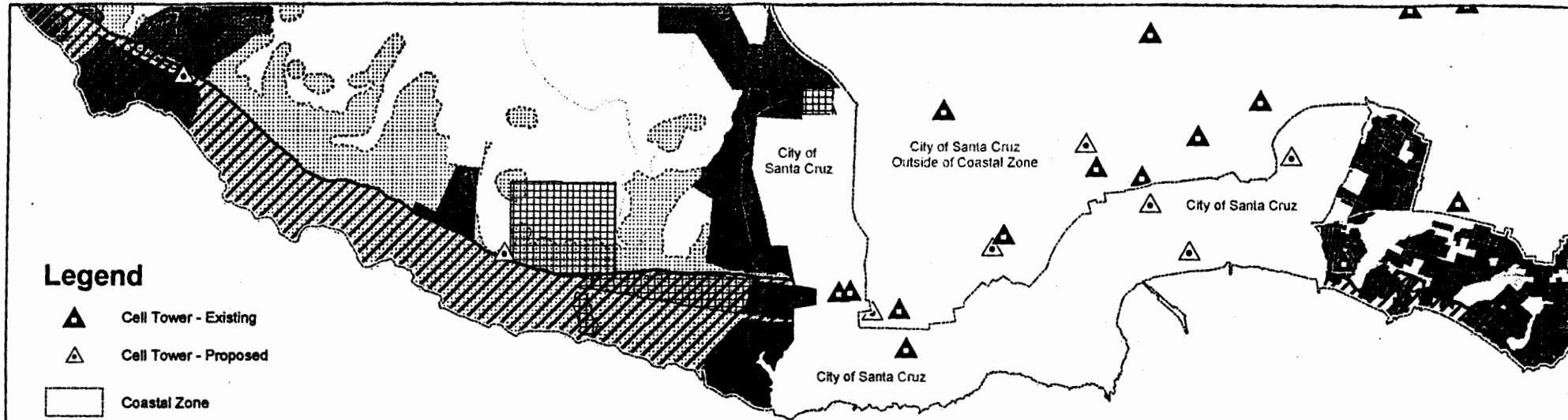
-  Cell Tower - Existing
-  Cell Tower - Proposed
-  Coastal Zone
-  Prohibited - Public School Grounds
-  Prohibited Coastal Areas (Sec. 13.10.661 (b) (2))
-  LCP Visual Resources (GP Scenic Resources)
-  Restricted Areas include the following zoning districts:
RA, Residential Agriculture
RR, Rural Residential
SU, Special use with a residential General Plan designation
L, Historic Landmarks Combining Zone
SP, Salamander Protection Areas Combining Zone
-  Prohibited Areas includes the following zoning districts:
R-1, Single Family Residential
RM, Multi-Family Residential
RB, Ocean Beach Residential
CA, Commercial Agricultural
MH, Mobile Homes Combining Zone

Notes:









Location information on Private Schools was not available.



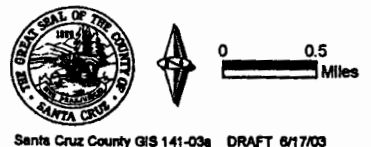
Santa Cruz County GIS 141-03a DRAFT 8/17/03



Legend

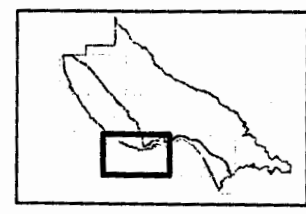
-  Cell Tower - Existing
-  Cell Tower - Proposed
-  Coastal Zone
-  Prohibited - Public School Grounds
-  Prohibited Coastal Areas (Sec. 13.10.661 (b) (2))
-  LCP Visual Resources (GP Scenic Resources)
-  Restricted Areas include the following zoning districts:
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 - RR, Rural Residential
 - SU, Special use with a residential General Plan designation
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 - SP, Salamander Protection Areas Combining Zone
-  Prohibited Areas includes the following zoning districts:
 - R-1, Single Family Residential
 - RM, Multi-Family Residential
 - RB, Ocean Beach Residential
 - CA, Commercial Agricultural
 - MH, Mobile Homes Combining Zone

Notes:
Location information on Private Schools was not available.



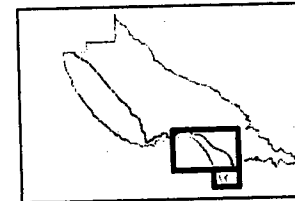
**County of Santa Cruz
Local Coastal Program (LPC)
Amendment 1-03
Part 1, Wireless Facilities Ordinance
Sheet #3**

Location Map



County of Santa Cruz Local Coastal Program (LPC) Amendment 1-03 Part 1, Wireless Facilities Ordinance Sheet #4

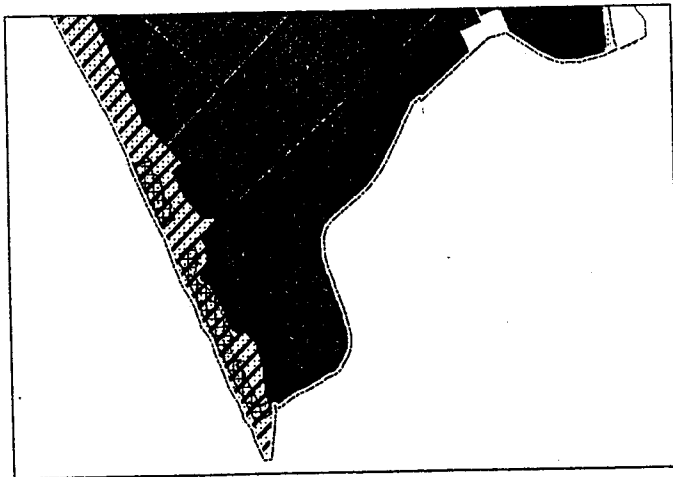
Location Map



0 0.5 Miles

Santa Cruz County GIS 141-03a DRAFT 6/17/03

Inset #1



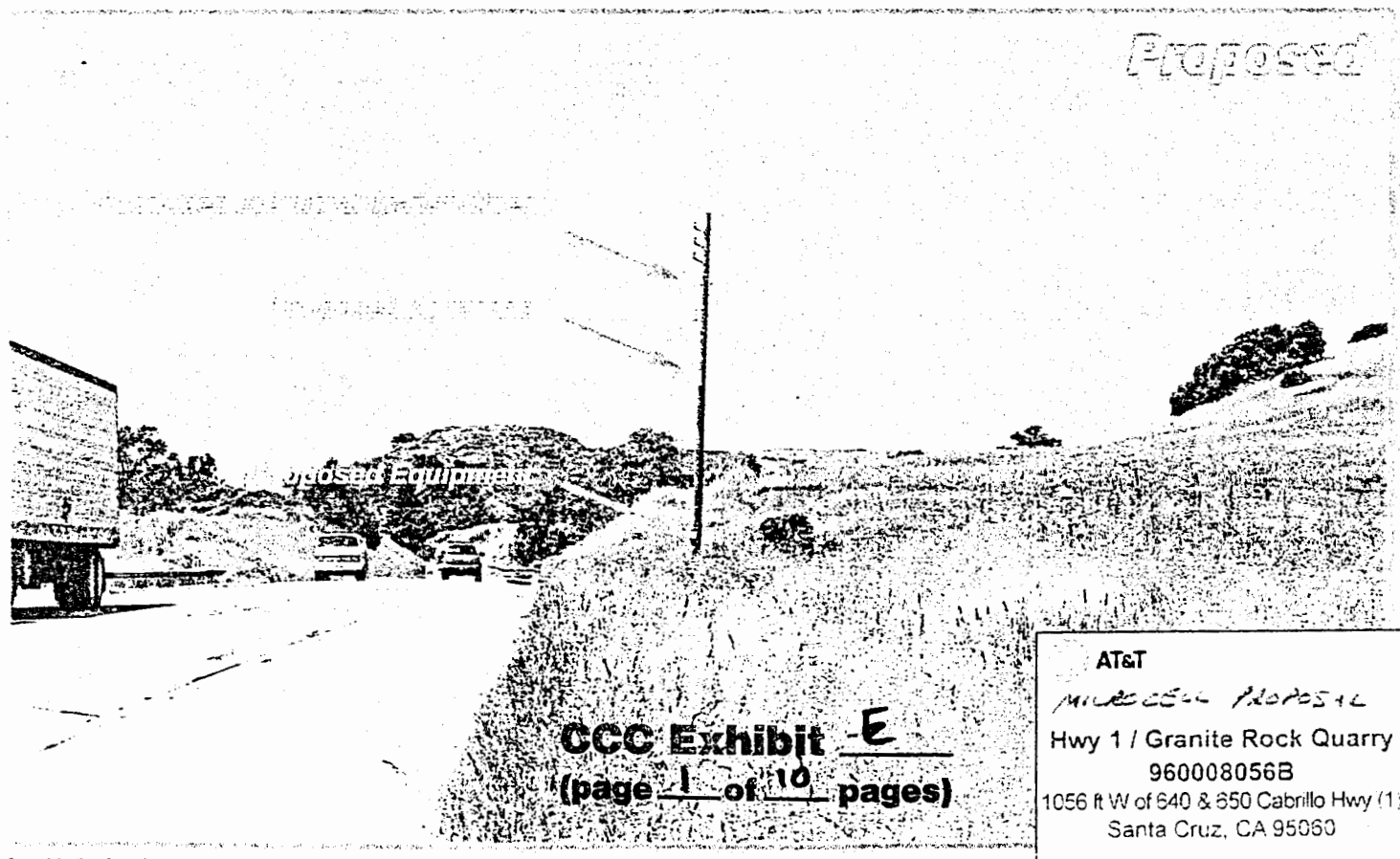
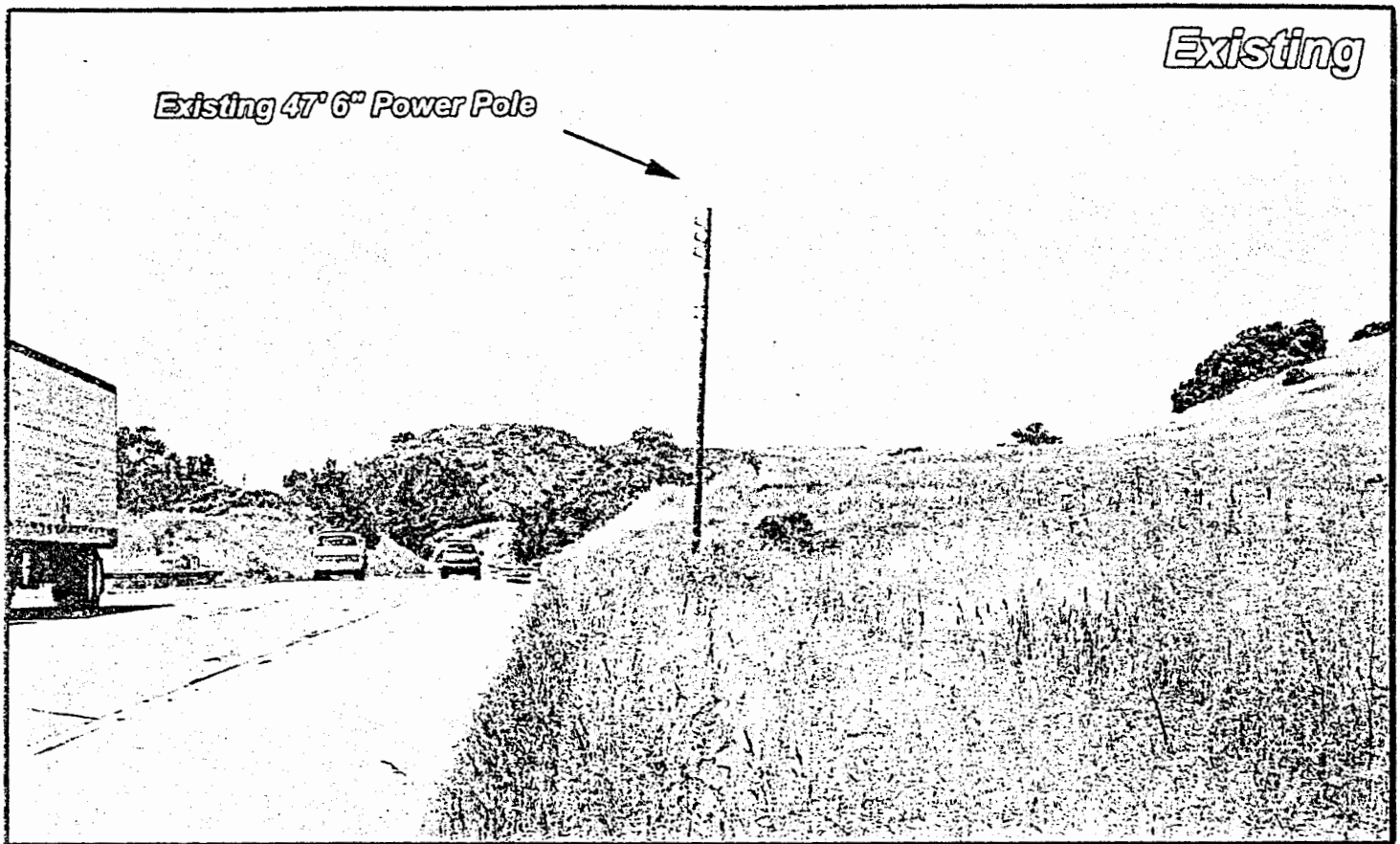
Legend

- Cell Tower - Existing
- Cell Tower - Proposed
- Coastal Zone
- Prohibited - Public School Grounds
- Prohibited Coastal Areas (Sec. 13.10.661 (b) (2))
- LCP Visual Resources (GP Scenic Resources)

- Restricted Areas include the following zoning districts:
RA, Residential Agriculture
RR, Rural Residential
SU, Special use with a residential General Plan designation
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- Prohibited Areas includes the following zoning districts:
R-1, Single Family Residential
RM, Multi-Family Residential
RB, Ocean Beach Residential
CA, Commercial Agricultural
MH, Mobile Homes Combining Zone

Note: Location information on Private Schools was not available.

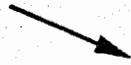
Existing / Proposed View as seen from Hwy 1 "Northbound"- looking West



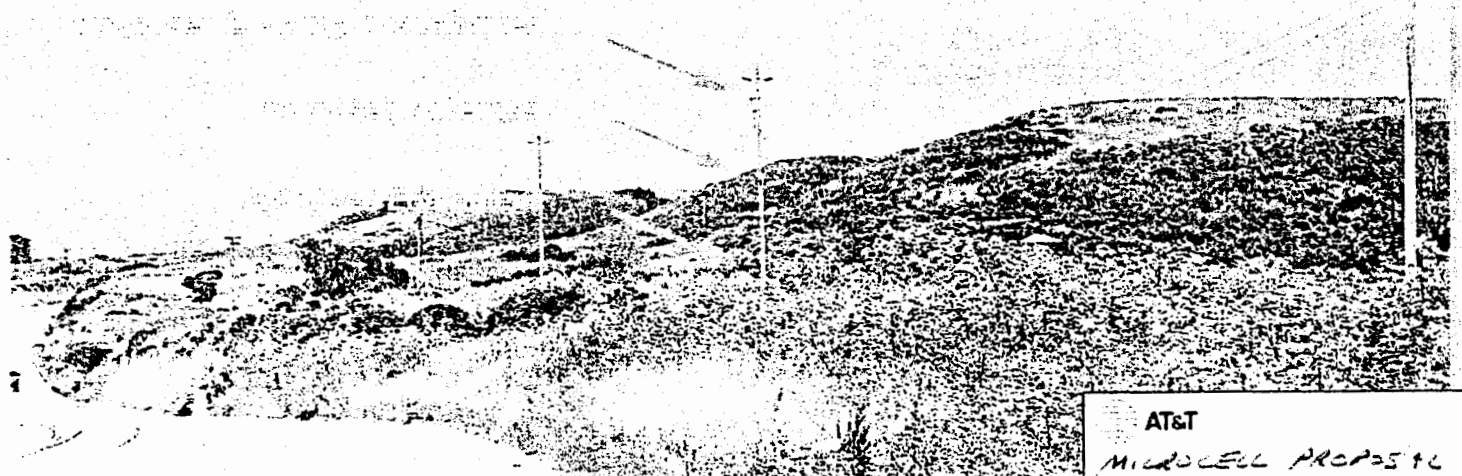
Existing / Proposed View as seen from Hwy 1 Northbound-looking West

Existing

Existing 39' 8" Power Pole



Proposed



CCC Exhibit E
(page 2 of 10 pages)

AT&T
MICROCELL PROPOSAL
Hwy 1 / Dimeo Lane
960008054A
W of Dimeo Ln & N of Hwy 1
Santa Cruz County, CA

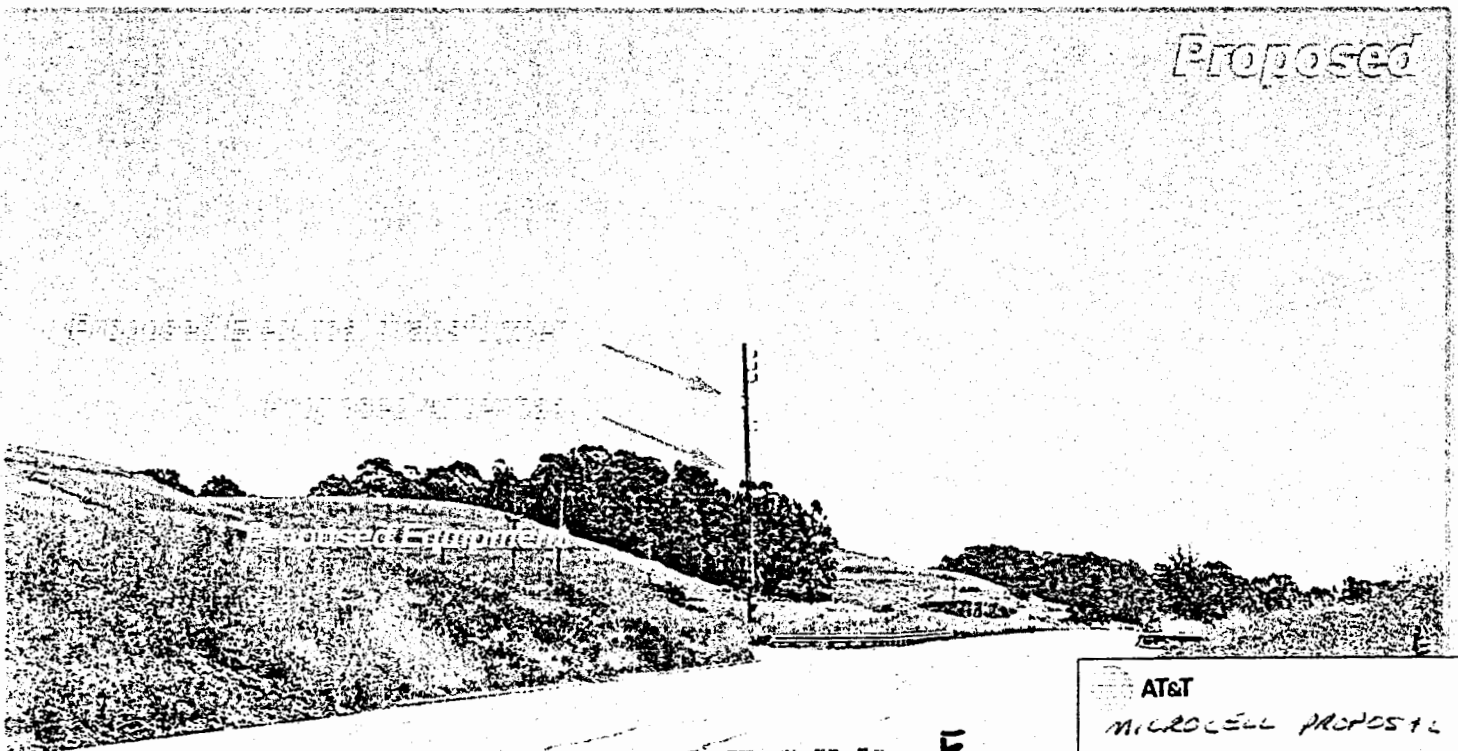
Existing / Proposed View as seen from Hwy 1 Southbound-looking East

Existing

Existing 47' 6" Power Pole



Proposed



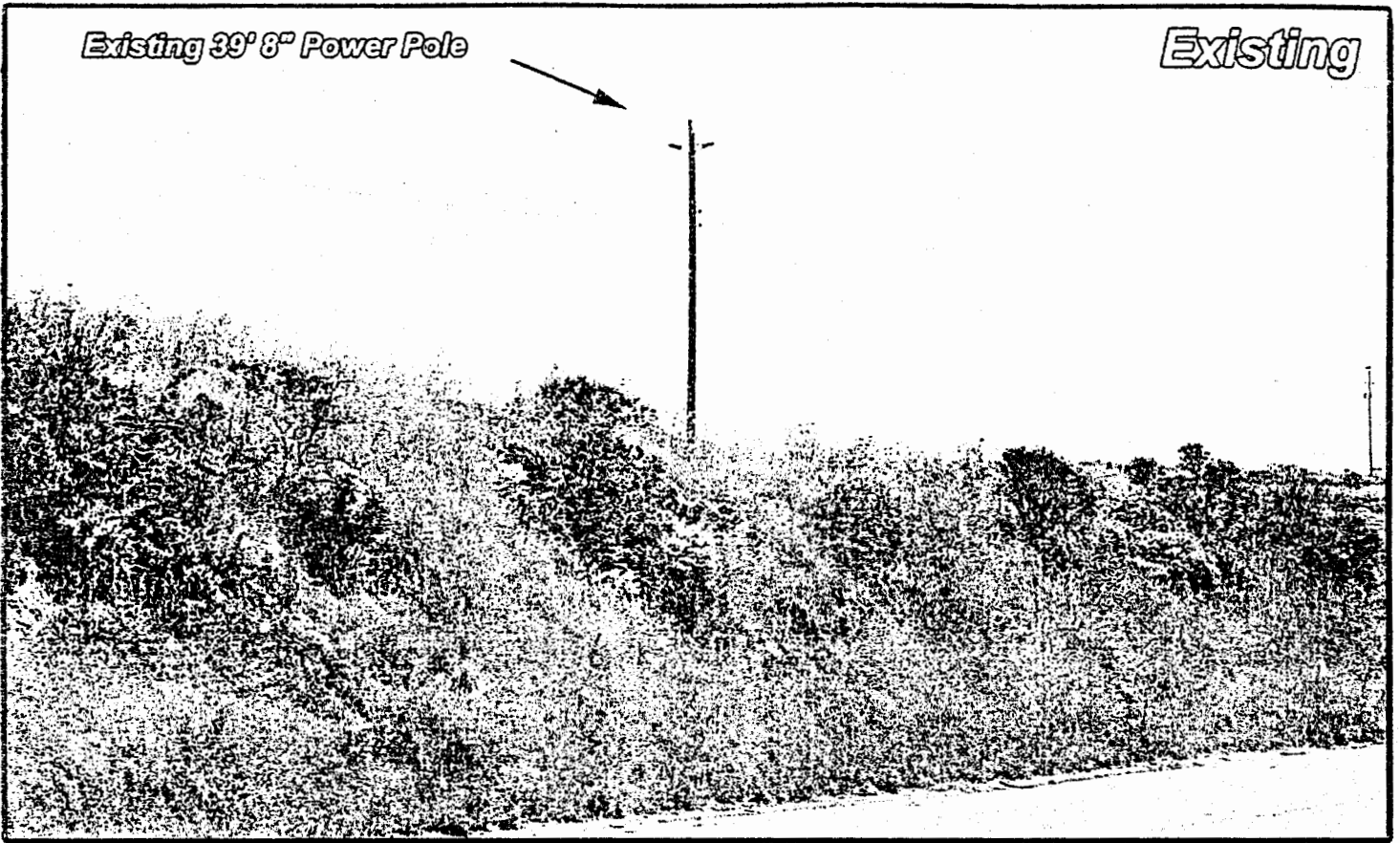
CCC Exhibit E
(page 3 of 10 pages)

AT&T
MICROCELL PROPOSAL
Hwy 1 / Dimeo Lane
960008054A
W of Dimeo Ln & N of Hwy 1
Santa Cruz County, CA

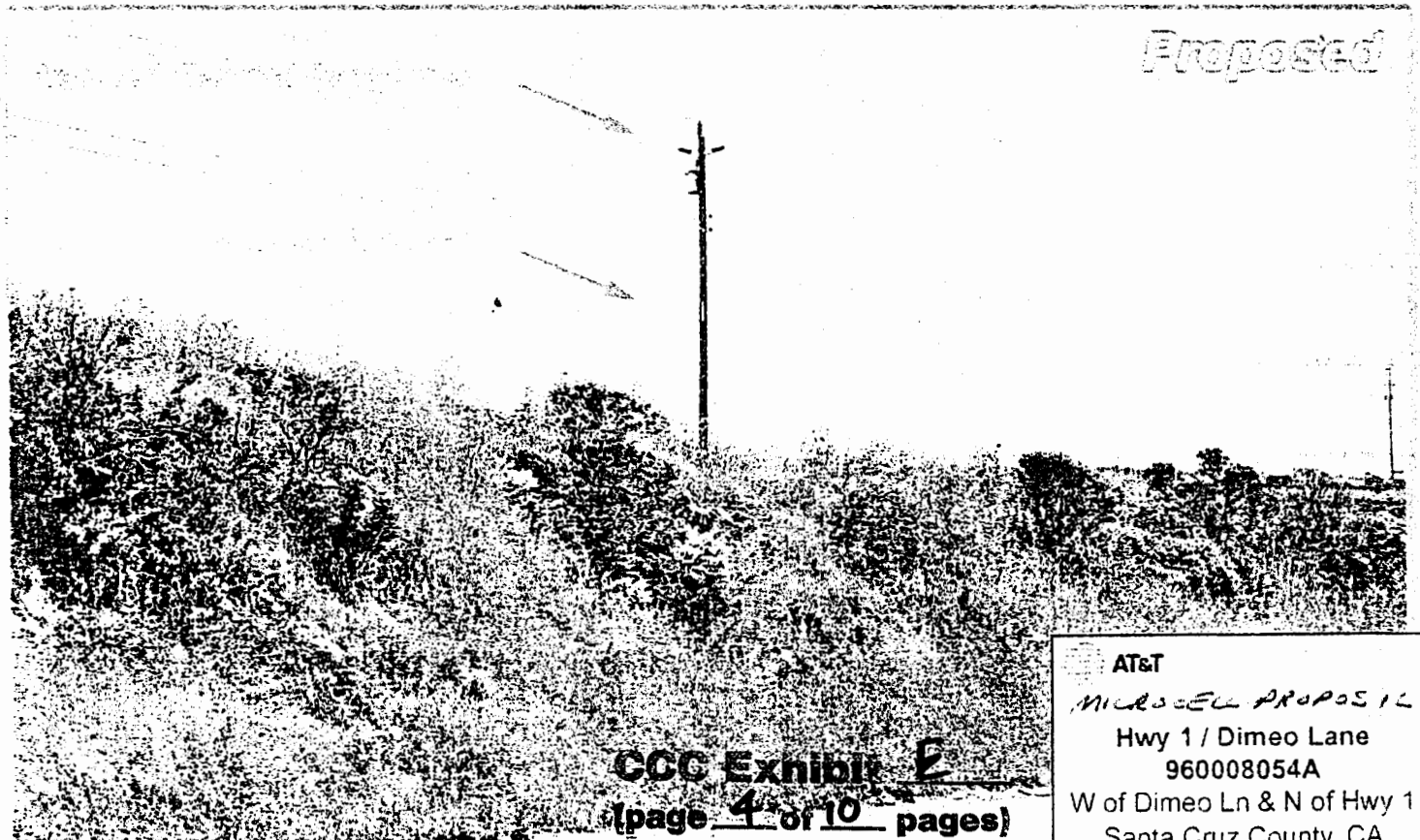
Existing / Proposed View as seen from Hwy 1 "Southbound" - looking East

Existing 39' 8" Power Pole

Existing



Proposed



CCC Exhibit E
(page 4 of 10 pages)

AT&T

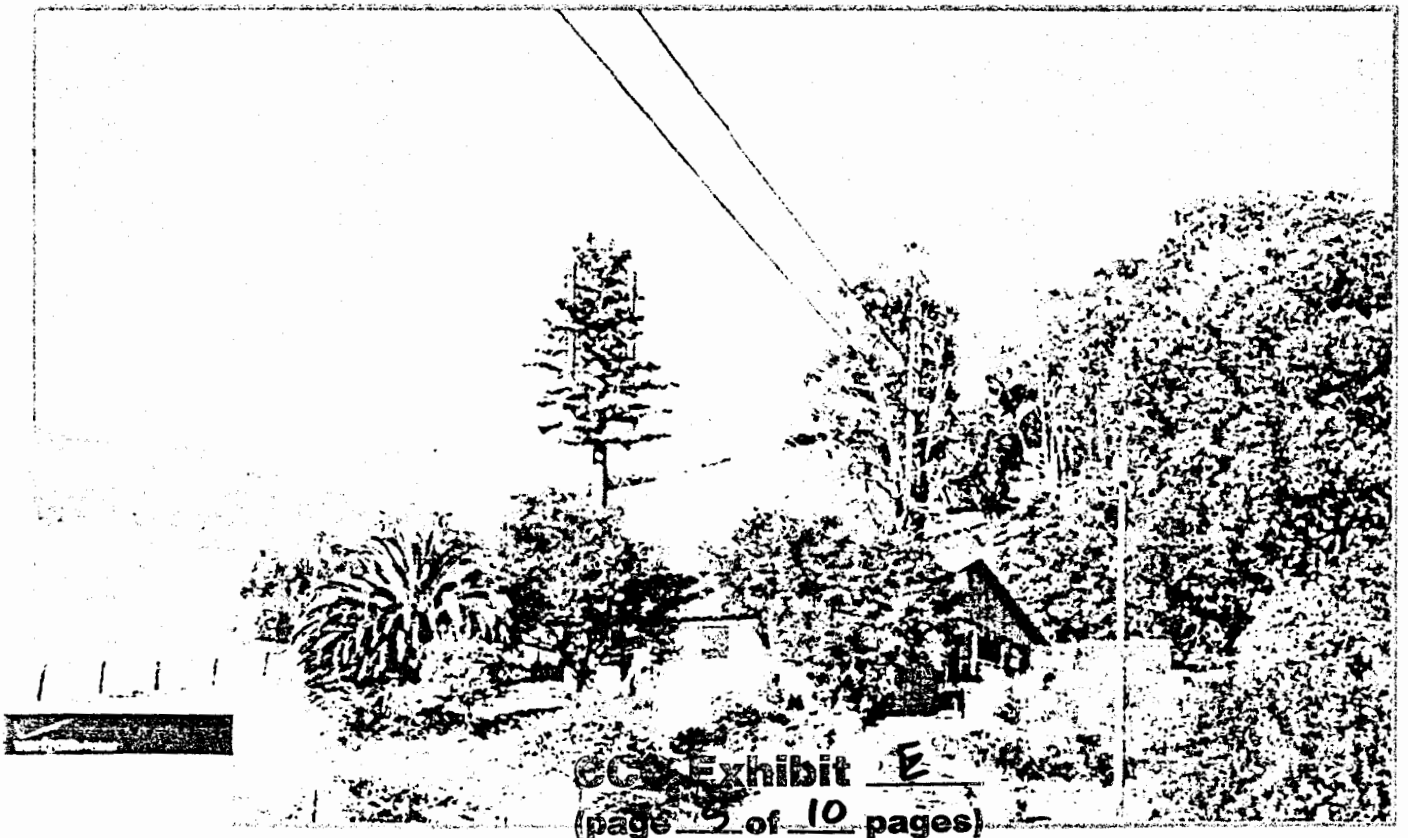
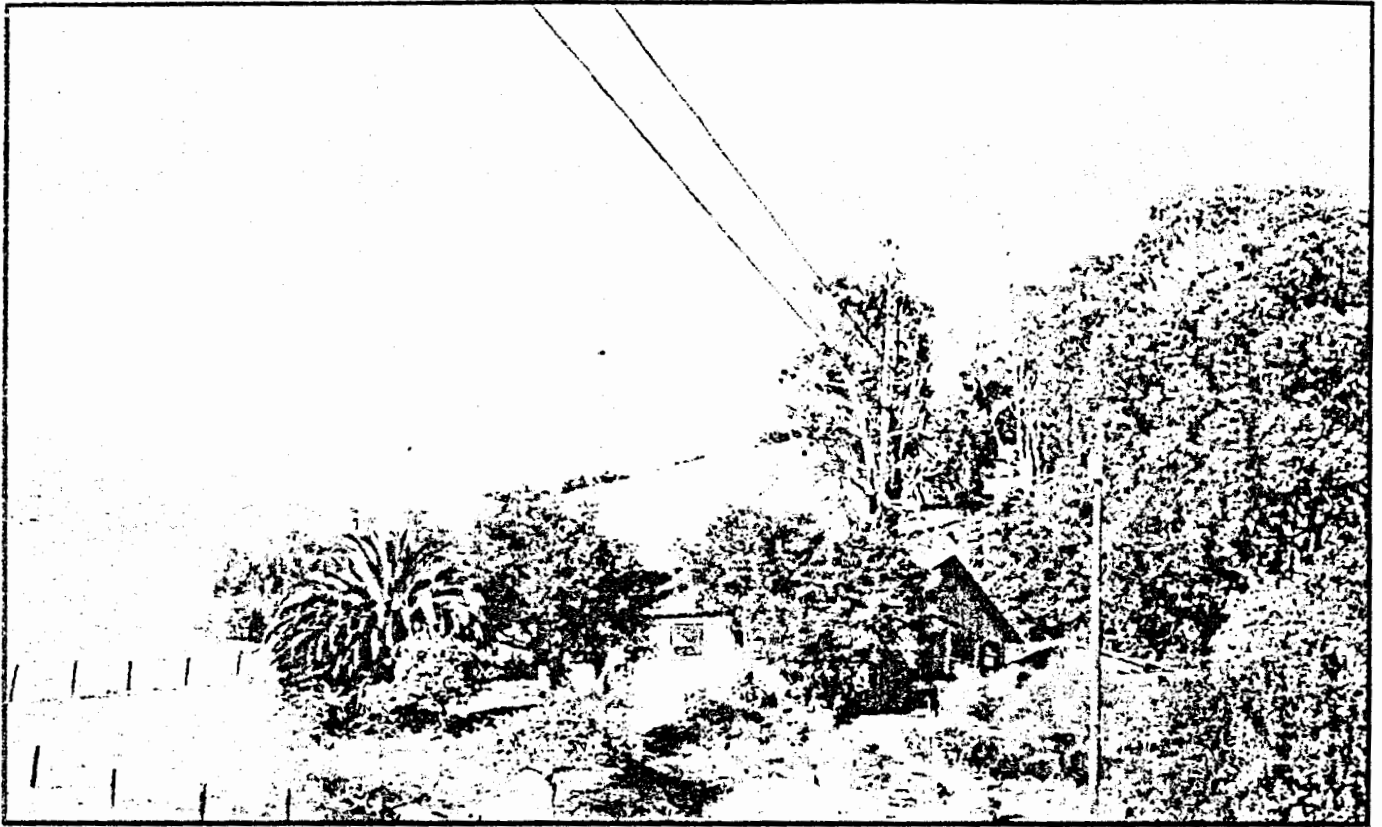
MICROCELL PROPOSAL

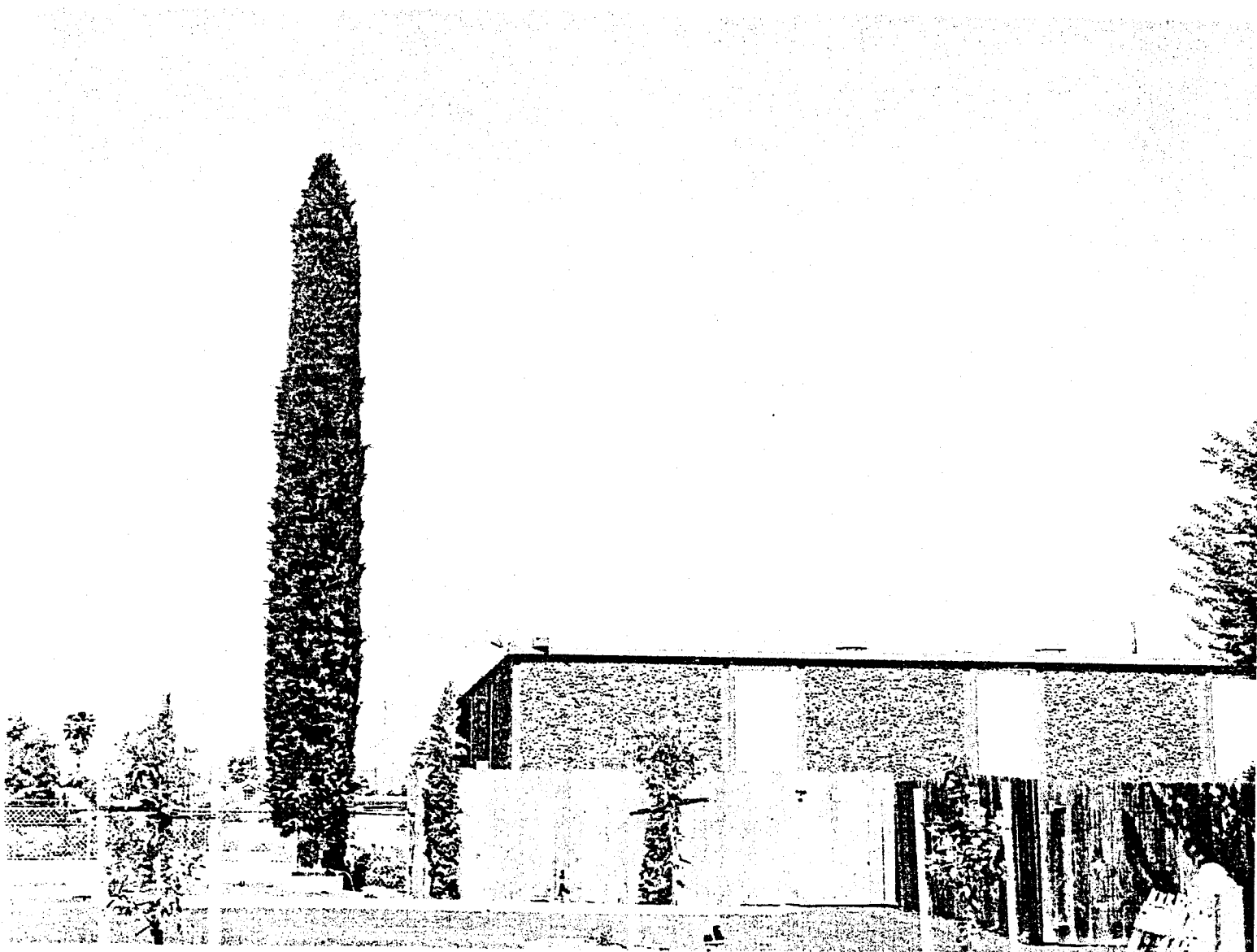
Hwy 1 / Dimeo Lane

960008054A

W of Dimeo Ln & N of Hwy 1
Santa Cruz County, CA

*Existing / Proposed View as
seen from the nearest residences*

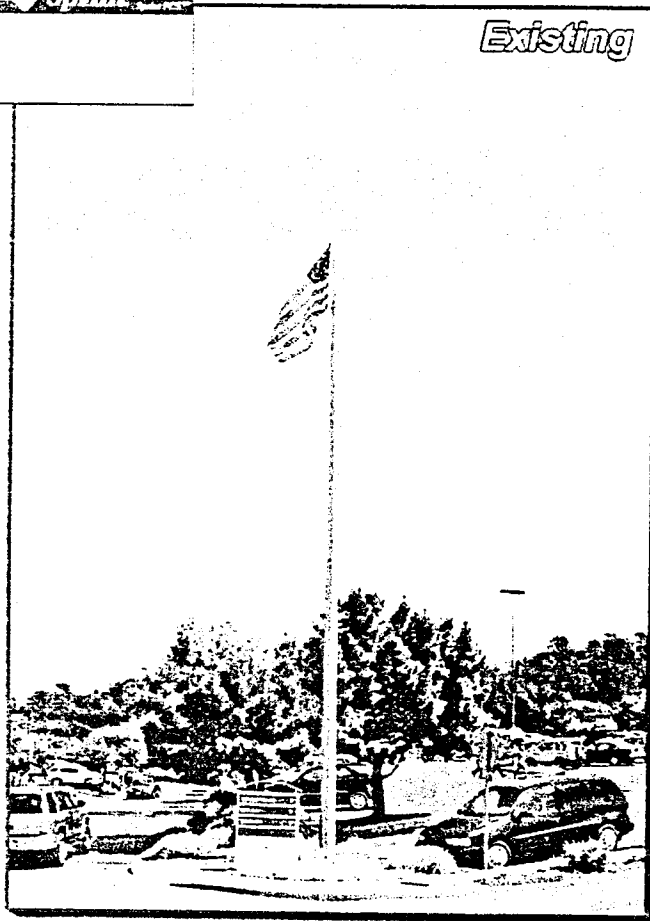




Existing / Proposed View looking East Proposed Flag Pole

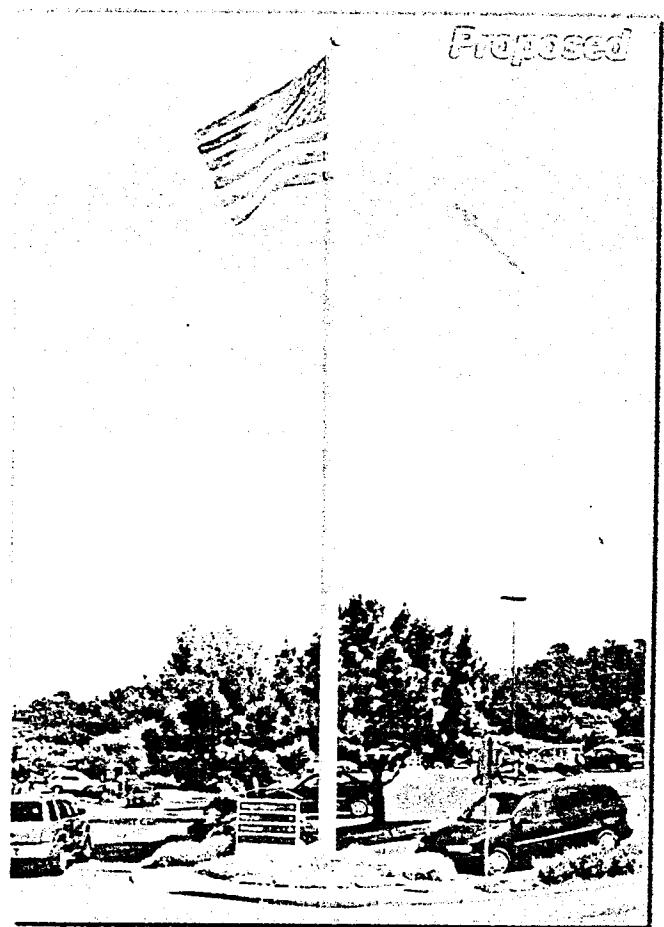


Existing

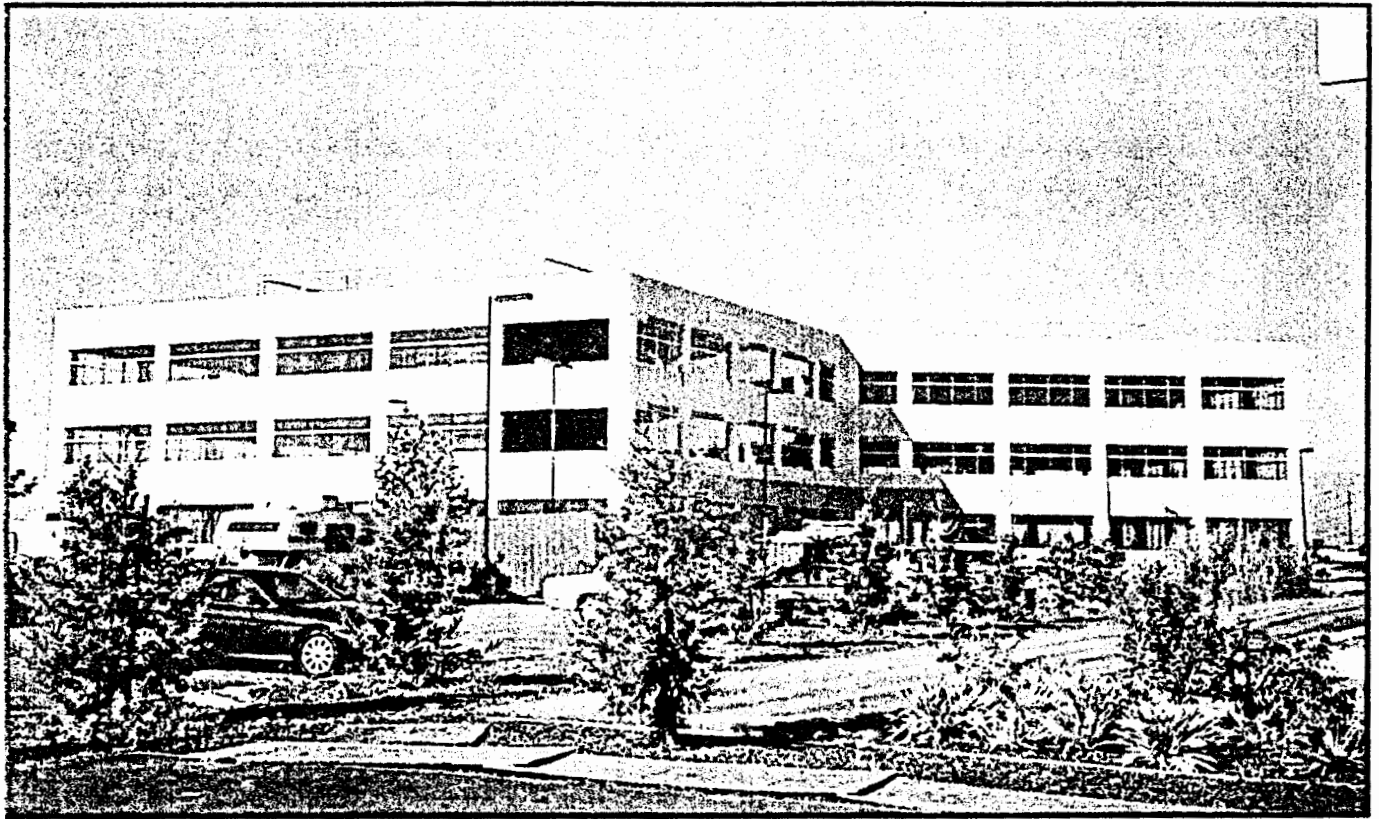


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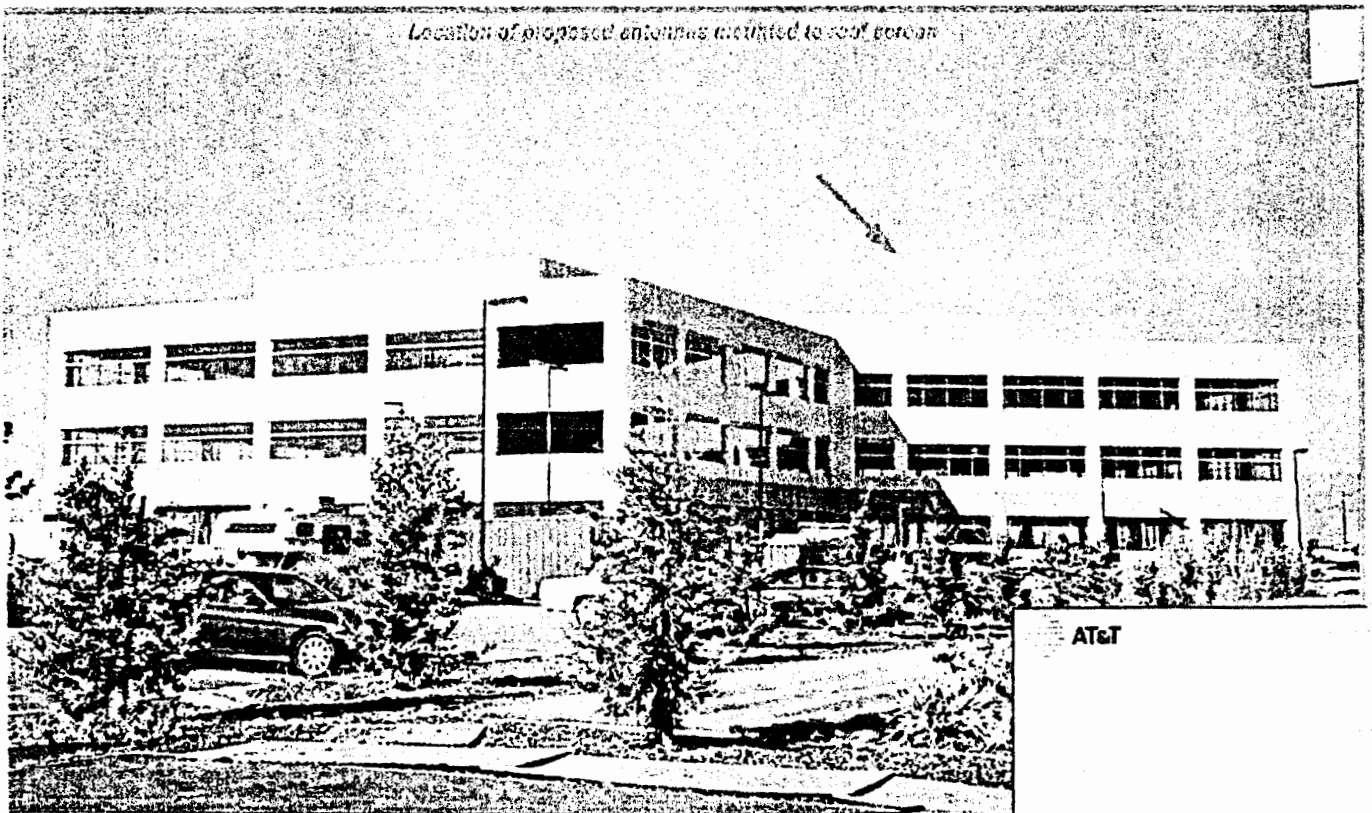
Proposed



Existing / Proposed View as seen from Parking Lot looking Northeast



Location of proposed antennas mounted to roof per plan



Existing / Proposed View as seen from Chualar River Road & Foletta Road looking South

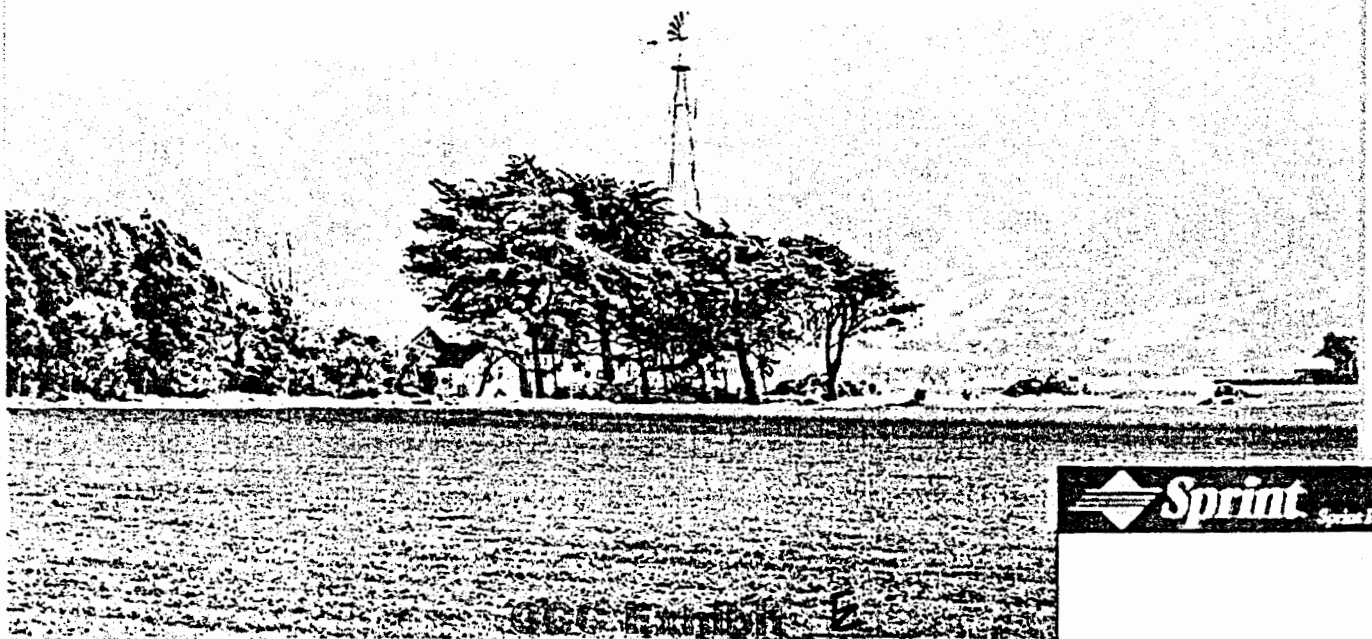
Existing

110mm Zoom

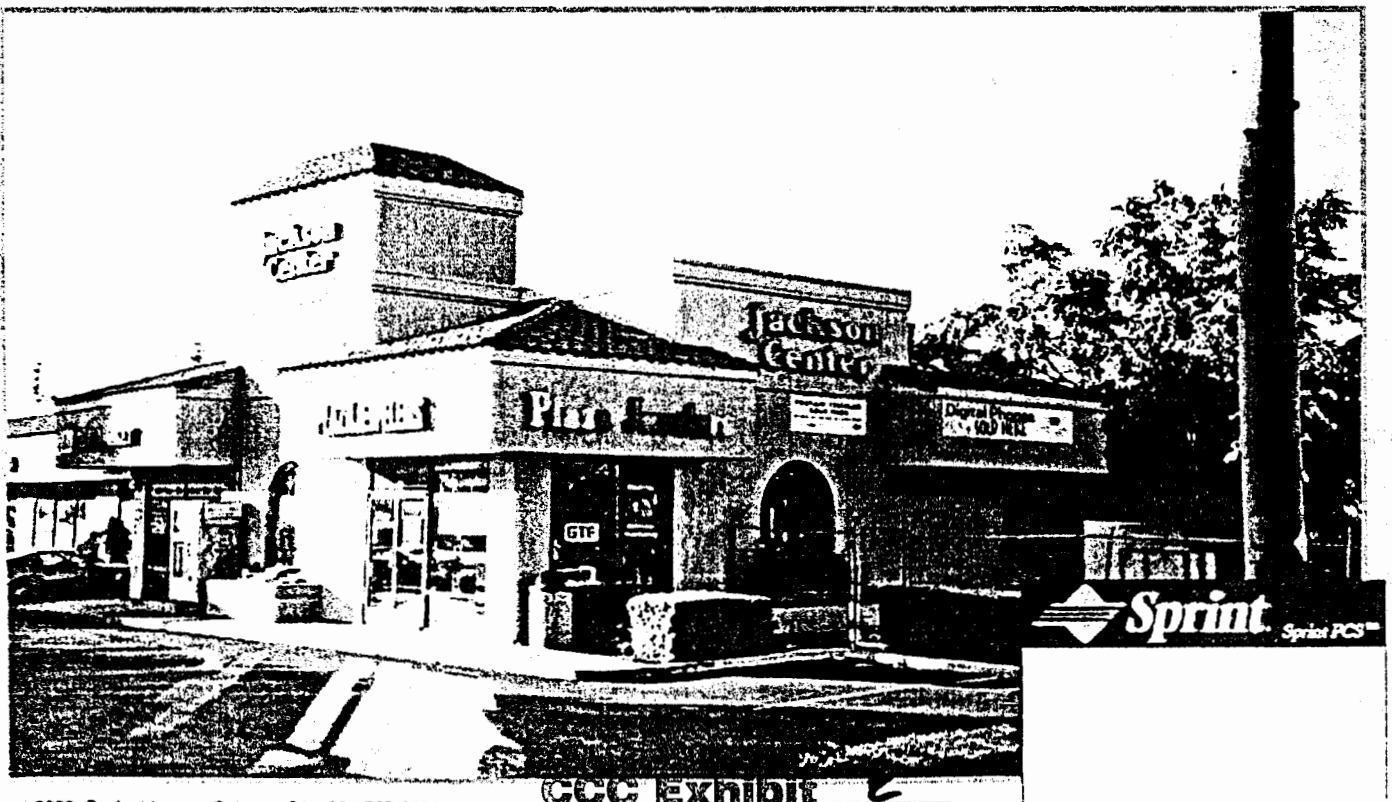
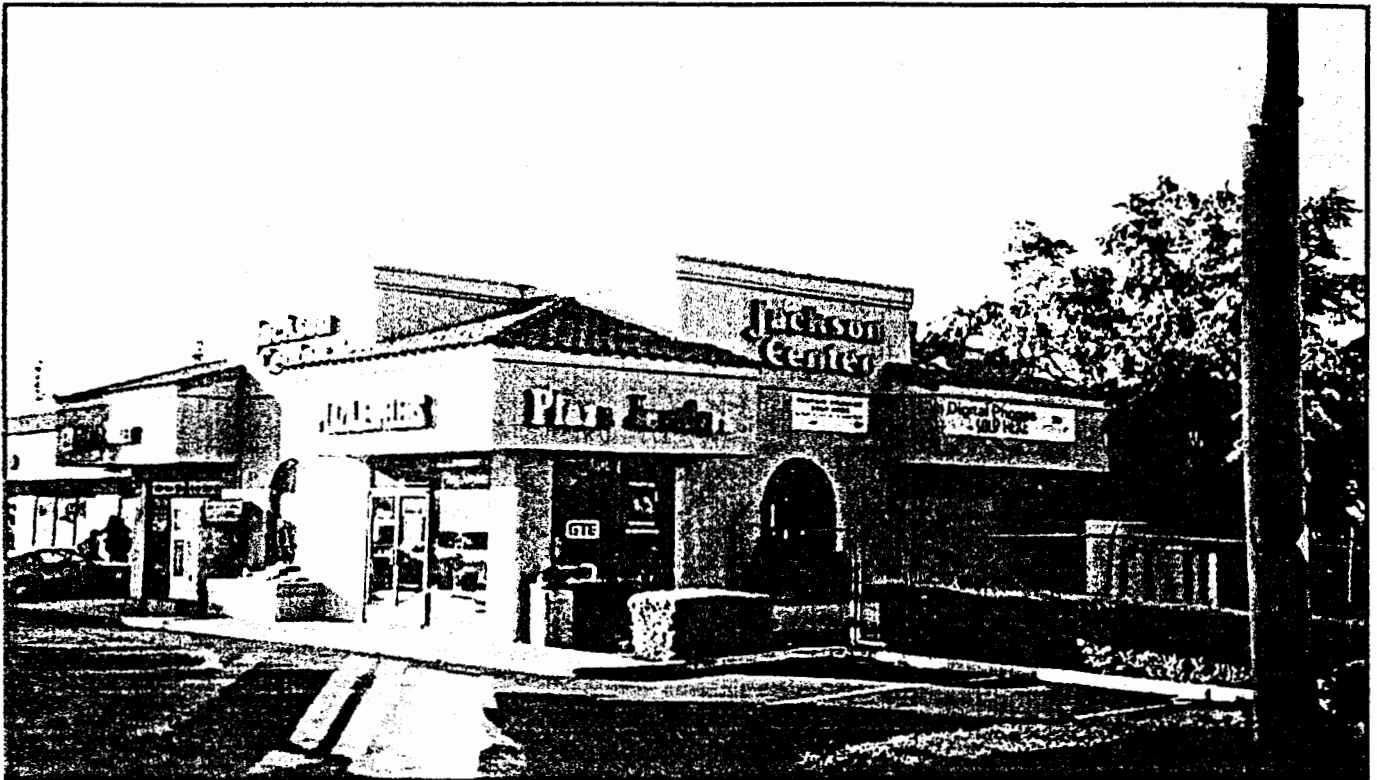


Proposed

110mm Zoom



Existing / Proposed View as seen from S. Jackson and E. Capitol Expy



- 13.10.575 Existing Uses
- 13.10.576 Reduction of Offstreet Parking and Loading Facilities
- 13.10.577 Designation of Offstreet Parking and Loading Facilities
- 13.10.578 Offstreet Parking and Offstreet Loading
- 13.10.580 Signs in R-1, RB, RR, RA, RM, A, AP, and CA Districts
- 13.10.581 Signs in C, CC, VA, PA, PF, and M Districts
- 13.10.582 Signs in the PR District
- 13.10.583 Temporary Signs in All Districts
- 13.10.584 Directional Signs
- 13.10.585 Nonconforming Signs
- 13.10.586 Historic Identification Plaques
- 13.10.591 Trip Reduction Requirements for Development Projects to be Occupied by 50 or More Employees
- 13.10.592 Trip Reduction Requirements for Residential Development Projects of 25 or More Housing Units

13.10.500 GENERAL SITE STANDARDS.

(Ord. 3344, 11/23/82; 3432, 8/23/83)

13.10.510 APPLICATION OF SITE STANDARDS.

- (a) Subsequent Divisions. No parcel shall be divided so as to reduce the building site area, width, depth or frontage below those required by this Chapter, except as indicated in Section 13.10.323(d)1. (Ord. 3593, 11/6/84; 4119, 3/5/91; 4122, 4/9/91; 4159, 12/10/91)
- (b) No yard or other open space provided about any building on one site shall be considered as providing a yard or open space for a building on any other site.
- (c) Exceptions to Site Standards. Site area, width, depth and frontage requirements of this Chapter shall not apply to sites used for tract offices, public utility structures and uses, power stations, radio and television transmission towers, drainageways, and similar structures which require a use approval, but appropriate requirements shall be determined by conditions of each use approval granted for each use. Flat plate solar collectors on existing structures shall be exempt from lot coverage and setback provisions.
- (d) 1. Height Limit. The allowable height of a structure is determined by a plane which parallels the topography of the site at the height limit established for each zone district, subject to exceptions for increased setbacks, discretionary design review, and certain exempt architectural

elements. Excavations within the building perimeter do not lower the allowable height plane.

A topographic map must be a part of each project submittal, unless determined to be unnecessary by the Planning Director, or his/her designee. The map must be prepared by a civil engineer, licensed surveyor, or architect. The plans must show the finish floor elevation at each floor and must show spot elevations at the high and low exterior grade elevations and the highest point of the building elevations.

Prior to foundation inspection approval, the required spot elevations shown on the approved plans must be verified by a civil engineer, licensed surveyor, or architect, unless determined by the Building Official to be unnecessary.

2. Height Exceptions. Chimneys, church spires and steeples, water tanks, cooling towers, elevators, flagpoles, monuments, non-commercial radio and television antennas, fire towers, and similar structures not used for human habitation and not covering more than ten percent of the ground area covered by the structure, may be erected to a height of not more than 25 feet above the height limit allowed in any district. Utility and commercial poles and towers may not be subject to the height limits prescribed in the district regulations. Height limits on windpowered generators shall be established in Section 12.24. Non-commercial radio and television towers or free-standing antennas may exceed the height limits above by 25 feet with the approval of a Level IV Use Approval. Flat plate solar collectors on existing structure shall be permitted to exceed height restrictions by three feet.

In an RM-5 to RM-9 District, for multiple dwelling projects of 5 or more units which are designed to contain all the required parking spaces under the dwelling structures, a maximum height of 35 feet is permitted, provided that one foot of additional side yard beyond the 10-foot required minimum side yard is added for every foot of height above 28-feet. Solar access on neighboring sites shall not be obstructed. (Ord. 4194, 5/12/92)

- (e) Plan Lines. Where an Official Plan Line has been established as a part of the Circulation Element of the General Plan, or any Area Plan, Village Plan or Specific Plan, the required yards on the street side shall be measured from the Official Plan Line. In no case shall the provisions of this chapter be construed as permitting any structure to extend beyond such Official Plan Line. However, where an Official Plan Line or street widening has reduced the depth or the width of a site to less than the minimum required depth or width, the front yard may be reduced by the amount that the site depth was reduced, but in no case to less than 10 feet. The side yard adjoining the street may be reduced by the amount that the site width was reduced, but in no case to less than 6 feet.