

CALIFORNIA COASTAL COMMISSION

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W21a



September 21, 2017

TO: Commissioners and Interested Persons

FROM: Karl Schwing, Deputy Director
Charles Posner, Supervisor of Planning
Meg Vaughn, Staff Analyst

RE: **Concurrence with the Executive Director's determination that the action of the City of Laguna Beach accepting certification with suggested modifications of LCP Amendment No. 2-13 (LCP-5-LGB-13-0216-2 Wireless Communications Facilities, Chapter 25.55) is legally adequate. For Commission review at the October 11, 2017 meeting in Cambria.**

On September 20, 2013, the City of Laguna Beach submitted a request to amend the Implementation Plan portion of the City's certified Local Coastal Program (LCP) to make changes to Chapter 25.55 (Telecommunications Facilities). On October 4, 2013, the submittal was determined to be incomplete and Commission staff requested that the City provide additional materials and information. On March 14, 2016, the requested additional information was received from the City and the Executive Director determined the City's LCP amendment request to be in proper order and legally adequate to comply with the submittal requirements of Coastal Act Section 30510(b). The LCP amendment request was submitted to the Commission's South Coast District office pursuant to City Council Resolution No. 13.052 which requests action on Ordinance No. 1579.

City of Laguna Beach LCP Amendment No. 2-13 amends Chapter 25.55 to ensure consistency with recent federal legislation (Middle Class Tax Relief and Job Creation Act of 2012, otherwise known as the Spectrum Act) which includes provisions that preempt local governments from requiring discretionary review for certain qualifying modifications to telecommunication facilities that do not substantially change the physical dimensions of an existing wireless tower or base station and that involve co-location of new transmission equipment, or the removal or replacement of transmission equipment, as those terms are defined in applicable FCC regulations. The proposed modifications to Chapter 25.55 (*Telecommunications*) clarify when discretionary review is required and when it is exempt pursuant to the Act cited above, makes changes to definitions, and replaces the term "telecommunication" with the term "wireless communications" throughout Chapter 25.55, including in the Chapter title. Also, the amendment expands the current submittal requirements for review of wireless communication facilities that require discretionary review, establishes a new requirement for expert review of proposals when appropriate, establishes new and specific development standards for wireless communication facilities subject to discretionary review, applies the Administrative Use Permit procedure to some wireless communication facilities requests, and adds standards to Subsection 25.55.008 *Review Criteria/Standard Conditions*. The LCP amendment does not alter the City's coastal development permit procedures.

On March 8, 2017 the Commission approved LCP Amendment No. 2-13 with suggested modifications necessary to: assure protection of sensitive habitats, public access, public recreation, and public views; clarify when a coastal development permit may be required; and, to clarify four of the proposed definitions. The suggested modifications also ensure that the LCP's requirements are consistent with currently applicable federal rules implementing the Spectrum Act.

Executive Director's Determination of Adequacy
City of Laguna Beach LCP Amendment 2-13

On July 25, 2017, the Laguna Beach City Council adopted Ordinance No. 1627 incorporating into the Certified LCP the modifications suggested by the Commission pursuant to its approval of LCP Amendment No. 2-13. The City has submitted the modifications to the Executive Director with City Council Resolution No. 17-045 for a determination that the City's action is consistent with the Commission's March 8, 2017 action (see attachment).

Pursuant to Section 13544 of the California Code of Regulations, Title 14, Division 5.5, the Executive Director must determine that the action taken by the City of Laguna Beach acknowledging receipt and acceptance of and agreement with the Commission's certification of the above-referenced LCP amendment with suggested modifications is legally adequate and report that determination to the Commission. In this case, the Executive Director has determined that the City's action is legally adequate. Unless a majority of the Commissioners object to the Executive Director's determination, the certification of City of Laguna Beach Implementation Plan Amendment No. 2-13 shall become effective upon the filing of the required Notice of Certification with the Secretary of Resources as provided in Public Resources Code Section 21080.5(d)(2)(E).

STAFF RECOMMENDATION

Staff recommends that the Commission concur with the Executive Director's determination that the City's action is legally adequate.