

CALIFORNIA COASTAL COMMISSION

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W20b

Prepared November 22, 2017 for December 13, 2017 Hearing

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
Rainey Graeven, Coastal Planner

**Subject: De Minimis Amendment Determination for City of Capitola LCP Amendment
Number LCP-3-CAP-17-0071-2 (Wireless Communication Facilities)**

City of Capitola's Proposed Amendment

The City of Capitola is proposing to replace Local Coastal Program (LCP) Implementation Plan (IP) Chapter 17.89 Wireless Communication Facilities (WCFs) with updated regulations and permitting requirements for WCFs. The City of Capitola seeks to update its WCF regulations because the existing regulations do not comply with all applicable Federal Communications Commission's (FCC) rules and regulations governing WCFs. The proposed amendments therefore include specific language consistent with the FCC's rules and regulations governing WCFs. In addition, the proposed amendment includes additional language clarifying coastal permitting and coastal resource protection requirements for WCFs. See Exhibit B for the text of proposed IP Chapter 17.89 and Exhibit A for the text of existing IP Chapter 17.89.

De Minimis LCP Amendment Determination

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

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

If the Executive Director determines that an amendment is de minimis, that determination must be reported to the Commission. If three or more Commissioners object to the de minimis LCP amendment determination, then the amendment shall be set for a future public hearing; if three or more Commissioners do not object to the de minimis determination, then the amendment is deemed approved, and it becomes a certified part of the LCP ten days after the date of the Commission meeting (in this case, on December 23, 2017).

The purpose of this notice is to advise interested parties of the Executive Director’s determination that the proposed LCP amendment is de minimis. Each of the de minimis criteria is discussed briefly below:

1. No impact to coastal resources and consistency with Chapter 3 of the Coastal Act:

Although the primary intent of the amendment is to comply with Federal law related to WCFs, the proposed language has also taken into account the Coastal Act, and has been designed to ensure that the proposed amendments will not result in adverse impacts to coastal resources. The proposed amendments include new language clarifying coastal permitting requirements, preferred and discouraged coastal zone siting, and specific provisions ensuring the protection of coastal resources, including public access and visual resources. Most notably, the proposed amendments include the addition of IP Section 17.98.060(F) Coastal Zone Siting, which states that new WCFs shall avoid being sited between the sea and the first road paralleling the sea, within 100 feet of Soquel Creek, within New Brighton State Beach, and within any environmentally sensitive habitat area (to the extent feasible and consistent with federal and state law). With respect to the protection of visual resources, the proposed amendments include language encouraging concealment (IP Section 17.98.070(A)(1)) and undergrounding of WCF equipment when feasible (IP Section 17.98.070(A)(2)). The proposed amendments also include the addition of IP Section 17.98.070(A)(3)(b)(4), which states that if a wireless facility is “located (or proposed to be located) in the City’s coastal zone [that it] does not impact public views to and along the ocean and scenic coastal areas.” The proposed amendments therefore include substantial new language related to WCF development in the coastal zone and the protection of coastal resources. Thus, the proposed amendments will not adversely affect coastal resources; rather they offer more clarity for WCF-related development in the coastal zone. Finally, the proposed amendments are also consistent with the policies of Chapter 3 of the Coastal Act.

2. Provision of public notice: The City provided public notice in advance of the City Council hearings (held on January 12, 2017, January 26, 2017, February 9, 2017, October 26, 2017, and November 9, 2017) where the proposed amendment was considered. For the City Council hearings, a newspaper advertisement notice was printed on January 3, 2017, February 17, 2017 and October 20, 2017. The amendment submittal was subsequently received by the Commission on November 16, 2017 (and filed as complete on November 17, 2017), and therefore, the 21-day noticing requirement has been satisfied.

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

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. The City exempted the proposed amendment from environmental review under CEQA. This report has discussed the relevant coastal resource issues with the proposal, and has concluded that the proposed LCP amendment is not expected to result in any significant adverse impact on the environment. Thus, it is unnecessary for the Commission to suggest modifications to the proposed amendment to address adverse environmental impacts because the proposed amendment, as submitted, will not result in any significant environmental effects for which feasible mitigation measures would be required.

Coastal Commission Concurrence

The Executive Director will report this de minimis LCP amendment determination, and any comments received on it, to the Coastal Commission at its December 13, 2017 meeting at the Ocean Institute located at 24200 Dana Point Harbor Drive in Dana Point. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Rainey Graeven at the Central Coast District Office in Santa Cruz. If you wish to comment on and/or object to the proposed de minimis LCP amendment determination, please do so by December 8, 2017.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on November 17, 2017. It amends the IP only and the 60-day action deadline is January 17, 2017. (*See* Pub. Res. Code Sections 30513, 30514(b).) Thus, unless the Commission extends the action deadline (it may be extended by up to one year per Pub. Res. Code Section 30517), the Commission has until January 17, 2017 to take a final action on this LCP amendment.

Exhibits

- Exhibit A: Existing Wireless Ordinance (IP Chapter 17.89 Wireless Communications Facilities)
- Exhibit B: Proposed Wireless Ordinance (IP Chapter 17.89 Wireless Communications Facilities)