

CALIFORNIA COASTAL COMMISSION

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September 27, 2018

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TO: COMMISSIONERS AND INTERESTED PERSONS**FROM: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
TONI ROSS, COASTAL PROGRAM ANALYST, SD COAST DISTRICT****SUBJECT: STAFF RECOMMENDATION ON CITY OF OCEANSIDE LOCAL COASTAL
PROGRAM AMENDMENT NO. LCP-6-OCN-18-0054-1 (Wireless
Telecommunication Facilities) for Commission Meeting of October 11, 2018**

SYNOPSIS

The City of Oceanside submitted Local Coastal Program Amendment No. LCP-6-OCN-18-0054-1 on June 22, 2018. The subject LCP implementation plan amendment was filed as complete on August 9, 2018. A one-year time extension was granted on September 14, 2018. As such, the last date for Commission action on this item is October 8, 2019. This report addresses one of three components of the City's submittal. LCP-6-OCN-18-0053-1 addresses nonconforming uses and structures and will likely go to the Commission the end of this year. LCP-6-OCN-18-0055-1 addressed accessory dwelling units and was certified by the Commission at its September, 2018 hearing.

SUMMARY OF AMENDMENT REQUEST

The City of Oceanside is proposing to revise the City's Zoning Ordinance, part of the certified LCP implementation plan (IP), to update its regulation of wireless communication facilities. Zoning regulations for communication facilities are currently addressed in Articles 39 (Wireless Communication Facility, Satellite Dish and Antenna Standards) and 39A (Amateur Radio Antenna and Support Structure Standards). These articles were certified by the Commission in 2012. However, also in 2012, Congress approved the federal *Middle Class Tax Relief and Job Creation Act of 2012*. While the majority of this legislation was not related to communication facilities, the act contained Section 6409(a), also known as the Spectrum Act, and was intended to expedite certain types of wireless facilities and limits local and State government oversight, as a means of stimulating the economy. Section 6409 preempts local governments from regulating certain aspects of communication facility placement, operation, construction, and modification and limit the City's ability to prohibit personal wireless services, unreasonably discriminate among providers, or deny requests to construct such facilities because of radio frequency or emissions, and to deny modification to existing wireless towers that do not cause a "substantial change" to existing structures.

To address these revisions to federal law, the City is proposing the repeal Articles 39 and 39A, to be replaced with new Articles 39A, B, and C. Article 39A addresses new or substantially modified wireless communication facilities. Article 39B addresses those proposals which include collocation and modifications to existing facilities pursuant to Section 6409 of the Spectrum Act. Article 39C addresses amateur radio antenna and associated support structures. The amendment also proposed minor revisions to Article 12 (D Downtown District) Article 15 (Open Space District), and Article 41 (Use Permits) to reflect the changes made to Article 39 including updating various definitions for such facilities to “Wireless Communication Facilities” and to update references to the revised Article 39.

SUMMARY OF STAFF RECOMMENDATION

Staff is first recommending denial of the Implementation Plan (IP) amendment as submitted, and then recommends approval of the IP amendment with two suggested modification(s). The proposed revisions to the City’s certified Implementation Plan (IP) will incorporate newer federal law regulating wireless communication facilities. While the amendment includes a number of provisions that will serve to significantly reduce the concerns related to coastal resource protection, there remain a few concerns regarding the City’s proposal within Article 39A. The most prominent concern is that it is unclear how the coastal development permit process will be included in the review of wireless communication facility proposals. As proposed, the City has either exempted wireless communication facilities or requires the issuance of a conditional use permit. The article makes no reference to the potential need for a coastal development permit. As such, staff is recommending language be added, through the incorporation of Suggested Modification No. 1, to clarify that a coastal development permit process may still be necessary for any proposed facility. The proposed amendment also fails to give clear priority to requiring the utilization of sites that contain little or no coastal resource impact potential. Staff is therefore recommending language be added, through the incorporation of Suggested Modification No. 2 requiring that priority be given to those sites that have no coastal resource impact concerns.

Article 39B addresses only collocated facilities or non-substantive modifications to existing facilities and can be approved as submitted. Article 39C of the proposed amendment which addresses amateur radio antennas, raises no concerns and can also be approved as submitted.

The appropriate resolutions and motions begin on Page 5. The suggested modifications begin on Page 6. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 7. The findings for approval of the IP amendment, if modified, begin on Page 12.

BACKGROUND

Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (otherwise known as the Spectrum Act) mandates that a State or local government approve certain wireless broadband facilities siting requests for modifications and collocations of wireless transmission equipment on an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station. Article 39 and 39A of the City's IP regulates such facilities; however, this article has not been updated to include the regulation changes that occurred with ratification of the Spectrum Act. The City is therefore updating its Implementation Plan (IP) to incorporate these requirements; and, in order to do so, is proposing to repeal and replace Article 39.

ADDITIONAL INFORMATION

Further information on the City of Oceanside LCP Amendment No. LCP-6-OCN-18-0054-1 may be obtained from Toni Ross, Coastal Planner, at (619) 767-2370.

EXHIBITS

[Exhibit 1 – Resolution No. 18-R0102-1](#)

[Exhibit 2 – Ordinance No. 18-ORO117-1](#)

[Exhibit 3 – Proposed Text Changes in Strikeout/Underline](#)

PART I. OVERVIEW

A. LCP HISTORY

The City of Oceanside first submitted its Land Use Plan (LUP) to the Commission in July 1980, and it was certified with suggested modifications on February 19, 1981. This action, however, deferred certification on a portion of the San Luis Rey River valley where an extension of State Route 76 was proposed. On January 25, 1985, the Commission approved with suggested modifications the resubmitted LUP and Implementing Ordinances. The suggested modifications for this approval were related to the guaranteed provision of recreation and visitor-serving facilities, assurance of the safety of shorefront structures, and the provision of an environmentally sensitive routing of the proposed Route 76 east of Interstate 5. The suggested modifications to the Zoning/Implementation phase resulted in ordinances and other implementation measures that were consistent with the conditionally certified LUP policies.

With one exception, the conditionally certified LUP and Implementing Ordinances were reviewed and approved by the City on May 8, 1985. The City requested that certification be deferred on one parcel adjacent to Buena Vista Lagoon designated by the City for “Commercial” use; the Commission's suggested modification designated it as “Open Space.” On July 10, 1985, the Commission certified the City's LCP as resubmitted by the City, including deferred certification on the above parcel.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the subject amendment request on January 1, 2018 and March 14, 2018 respectively. All local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. MOTION I:** *I move that the Commission reject Implementation Program Amendment No. LCP-6-OCN-18-0054-01 for the City of Oceanside as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of Oceanside and adopts the findings set forth below on grounds that the Implementation Program amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Program amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program amendment as submitted

- II. MOTION II:** *I move that the Commission certify the Implementation Program Amendment No. LCP-6-OCN-18-0054-1 for the City of Oceanside if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment for the City of Oceanside if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carry out the certified Land Use Plan. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse

effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. Modify Section 3904 – Approvals Required, as follows:

A. Administrative Conditional Use Permit. An administrative conditional use permit, subject to the City Planner’s review and approval in accordance with the provisions in the Oceanside Zoning Ordinance Article 41 (Use Permits and Variances), as modified by this Article, is required for:

- (1) All new stealth wireless facilities;
- (2) All collocations, modifications or other changes to existing stealth facilities not qualifying for Section 6409 permitting pursuant to Article 39B;
- (3) All new camouflaged wireless facilities, and substantial changes to existing camouflaged wireless facilities, proposed to be located or existing in any non-Residential District.

B. Conditional Use Permit. A conditional use permit, subject to the CDC’s or Planning Commission’s review and approval in accordance with provision in Oceanside Zoning Ordinance Article 41 (Use Permits and Variances), as modified by this Article, is required for:

- (1) All new wireless facilities and changes to existing wireless facilities that require a limited exception pursuant to Section 3907(C);
- (2) All other new wireless facilities and substantial changes to existing wireless facilities not subject to an administrative conditional use permit, or a Section 6409 approval.

C. Coastal Development Permit. For a project located in the coastal zone, the applicant shall obtain a Coastal Development Permit pursuant to the City’s certified LCP, if applicable, except where clearly inconsistent with federal law.

D. Other Permits and Regulatory Approvals. [...]

2. Modify Section 3909 – Site Locations Guidelines, as follows:

- A. Preferred Locations. All applicants must, to the extent feasible, propose new wireless facilities in locations according to the following preferences, order from most preferred to least preferred:
- (1) City-owned or controlled property and structures on private property and structures on private property and in the public right-of-way;
 - (2) Industrial Districts;
 - (3) Commercial Districts;
 - (4) Public and Semi-Public Districts;
 - (5) Open Space Districts;
 - (6) Agricultural Districts;
 - (7) Residential Districts;
- B. Preferred Locations in the Coastal Zone. In addition to the preferential ranking above, proposals located in the coastal zone, sites that will have no or minimal impacts to sensitive habitat, public views and public access and recreation shall be given priority.
- C. Preferred Support Structures. [...]

**PART IV. FINDINGS FOR REJECTION OF THE CITY OF OCEANSIDE
IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED**

A. AMENDMENT DESCRIPTION

The City of Oceanside is proposing to update its regulation of wireless communication facilities. Zoning regulations for communication facilities are currently addressed in Articles 39 (Wireless Communication Facility, Satellite Dish and Antenna Standards) and 39A (Amateur Radio Antenna and Support Structure Standards). However, new federal law (Middle Class Tax Relief and Job Creation Act of 2012, otherwise known as the Spectrum Act) preempts local governments from regulating certain aspects of communication facility placement, operation, construction, and modification and limit the City's ability to prohibit personal wireless services, unreasonably discriminate among providers, or deny requests to construct such facilities because of radio frequency or emissions, and to deny modification to existing wireless towers that do not cause a "substantial change" to existing structures. To address these revisions the City is proposing to repeal Articles 39 and 39A and replace with new Articles 39A, B, and C. Article 39A addresses new wireless communication facilities. Article 39B addresses

those proposals which include collocation and modifications to existing facilities pursuant to Section 6409 of the Spectrum Act. Article 39C addresses amateur radio antenna and associated support structures. The amendment also proposes minor revisions to Article 12 (D Downtown District), Article 15 (Open Space District), and Article 41 (Use Permits) to update and accurately reflect the changes made to Article 39, including updating various terms of art for such facilities to “Wireless Communication Facilities” and to update the references to Article 39.

B. SPECIFIC FINDINGS FOR REJECTION

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

a) Purpose and Intent of the Ordinance.

The intent of the ordinance is to establish comprehensive, citywide standards and procedures for construction, installation, collocation, modification, operation, relocation and removal of wireless communication facilities with the City of Oceanside. The ordinance is broken into three sections – A, B and C – each of which concentrates on different types of communication facilities. Subsection “A” addresses new or substantially modified facilities. Subsection “B” addressed those types of facilities subject to the Spectrum Act (collocated or not substantially modified facilities). Subsection “C” addresses amateur radio antenna facilities.

b) Major Provisions of the Ordinance.

The major provisions of the ordinance include:

- Definitions – including definitions for “Concealment,” “Stealth,” and “Substantial Change” consistent with federal law;
- Approvals required - including minor and regular Conditional Use Permits;
- Application requirements;
- Noticing requirements – including specific noticing requirements in the coastal zone;
- Standard conditions of approval;
- Site location guidelines;
- Development standards

For Subsections 39B and 39C (projects subject to the Spectrum Act or considered amateur radio antenna), the subsections pertaining to “Site Location Guidelines” and “Development Standards” are not included.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The Commission may only reject LCP implementation plan amendments where it can be shown that the amendment would be inconsistent with the certified land use plan (LUP) or render the IP inadequate to carry out the LUP. The applicable provisions of the City's LUP are listed below and state:

Section III. Water and Marine Resources; Diking, Dredging, Filling, and Shoreline Structures; And Hazard Areas

A. Coastal Act Policies: The Coastal Act requires maintenance, protection and restoration of marine resources and coastal water quality, as well as control of discharges and run-off into the ocean and coastal waters...

Section IV. San Luis Rey River Specific Plan

Policy 3 – Developers proposing projects in the San Luis Rey Specific Plan study area shall:

a. Maintain adequate buffers surrounding sensitive habitat areas, using setbacks, fencing and/or vertical separation

Section V. Environmentally Sensitive Habitat Areas

A. Coastal Act Policies: The Coastal Act requires that environmentally sensitive habitat areas be protected against significant disruption. Development adjacent to such shall be sited and designed to prevent adverse environmental impacts.

Policy 2 – Prior to approving any development on dry lands adjacent to Buena Vista Lagoon, the City shall consult the State Department of Fish and Game to ensure that adequate measures are provided to protect and enhance the lagoon's sensitive resources. Such measures shall include, where appropriate:

a. Provision of adequate buffers between development and the lagoon.

Section VI. Visual Resources and Special Communities

A. Coastal Act Policies: The Coastal Act requires that the visual qualities of the Coastal Zone shall be protected and that new development be sited and designed to be visually compatible with the character of surrounding areas.

Policy 1 – In areas of significant natural aesthetic value, new developments shall be subordinate to the natural environment.

Policy 4 – The City shall maintain existing view corridors through public rights-of-way.

Policy 8 – The City shall ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.

Section VII. New Development and Public Works

1. The City shall deny any project which diminishes public access to the shoreline, degrades coastal aesthetics, or precludes adequate urban services for coastal-dependent, recreation, or visitor serving uses.

The City's LCP also includes a number of guidance documents, and relevant sections of these guidance documents are included below:

Design Standards for Preserving and Creating Views

The visual orientation to the Pacific Ocean is a major identity factor for the City of Oceanside. Traditional view corridors should be preserved and reinforced in the placement of buildings and landscaping. Additionally, some views not presently recognized deserve consideration in the design and location of further coastal improvements.

Standards for the Identification and Protection of Sensitive Habitat Areas

A. Permitted Uses within Habitat Areas

The following uses shall be permitted within sensitive habitats:

- 1. Nature education and research or similar resource-dependent activities;*
- 2. Fishing, birding, biking, and hiking where designated by signs and trail systems.*
- 3. Very minor incidental public service facilities, including, but not limited to, burying cables and pipes and maintenance of existing intake and outfall lines when specifically approved by the State Department of Fish and Game.*
- 4. Necessary water supply projects -- streams and rivers only, providing that any substantial alterations incorporate the best mitigation measures feasible to minimize adverse environmental effects.*
- 5. Flood control projects providing the project is necessary for public safety or to protect existing development and there is no other feasible method for protecting existing structures in the floodplain.*

6. *Habitat restoration measures specifically approved by the State Department of Fish and Game.*

B. Mitigation Measures

1. Buffer Zones

A buffer zone shall be established around all sensitive habitats. The buffer zone shall be generally 100 feet for small projects on existing lots. If the project requires substantial improvements or increased human impacts, a much wider buffer area shall be required...

No principal structures shall be permitted within a buffer zone. Development shall be limited to access paths, fences necessary to protect the habitat area and similar developments which have beneficial effects or no significant adverse effects.

The City of Oceanside's LCP also contains a document titled "City of Oceanside Coastal Permit Handbook – Local Coastal Program," and is included as a certified part of the City's Land Use Plan. This Handbook includes what projects can be exempted from a coastal development permit and states, in part:

III. PROJECT PERMIT CATEGORY DETERMINATION

A. Exempt Projects:

The following projects are exempt from the requirements of a Regular or Administrative Coastal Permit:

- 1. Repair and maintenance of seawalls;*
- 2. Maintenance dredging of existing navigation channels;*
- 3. The replacement of any structure destroyed by a natural disaster;*
- 4. Improvements and Additions to existing structures and buildings except where:
 - a. The structure or improvement would encroach within 50 feet of the edge of a coastal bluff; and*
 - b. Where the improvement or addition is located within the appeal area as shown on the City of Oceanside Post LCP certification Map on file in the Planning Division**

The following exclusions are allowed (except as provided for in subsections (a) and (b) above:

a. All appurtenances and other structures including decks, directly attached to the structure; [emphasis added]

[...]

As proposed, the Implementation Plan amendment is inconsistent with and inadequate to carry out the provisions of the certified Land Use Plan regarding protection of sensitive habitat, public views, public access and recreation. Wireless communication facilities can certainly result in impacts to coastal resources from a number of aspects. The facility itself can block public views of the coast and the ocean. The placement of these facilities within or immediately adjacent to ESHA can result in both direct and indirect impacts to surrounding habitat and wildlife, such as creating a predator perch, shadow effects or noise disturbance.

As a whole, the language proposed by the City addresses the majority of concerns associated with wireless communication facilities, and Articles 39B and 39C do not raise LUP consistency concerns. Additionally, Article 39A contains a number of provisions that reduce potential LUP consistency concerns. Subsection 3903 clarifies that should any of the provisions contained within the ordinance conflict with the provisions of the City's certified LCP, the City's certified LCP would be controlling. Subsection 3906 clarifies the noticing requirements for proposals located within the coastal zone must be consistent with the noticing requirements contained within the City's LCP. The development standards include that, unless inconsistent with federal law, proposed facilities shall be concealed, may not encroach into required setbacks, and may not exceed the applicable height limit (determined by the base zone district) by more than ten (10) feet. Lastly, the City's language includes preferred locations for such facilities. Of the seven proposed locations, Open Space, Agricultural and Residential areas are the lowest priority. Thus, the districts most likely to contain coastal resources have been assigned the lowest priority. However, Article 39A fails to include the issuance of a coastal development permit in the approvals process. Additionally, while the City does prioritize the zones in which such facilities should be located, the amendment fails to include that priority must also be given to those sites that will either result in no or minimal impacts to coastal resources.

Regarding issuance of a coastal development permit, Section 3904 – Approvals Required, includes only when proposed development would require a conditional use permit. The section fails to make clear that the procedures applicable to processing an administrative or regular conditional use permit will have no effect on when a coastal development permit is required. The City's Coastal Permit Handbook, a certified part of the City's LCP, lists development exempt from permit requirements and includes nine development types, of which new wireless facilities attached to existing structures could be included; however, new *stand-alone* facilities could not. This could lead to interested parties interpreting the proposed articles to mean that new stand-alone facilities would only require the issuance of a conditional use permit. It is through the review and approval of a coastal development permit that the policies of the City's LUP are invoked; and, without this process, adequate coastal resource protection cannot be assured. As included

above, the City has a number of policies that require development to establish appropriate habitat buffers, height limitations, and protections of existing public accessways and view corridors. Thus, to be consistent with the permitting requirements of the LCP and to adequately protect coastal resources, the requirement of a coastal development permit should be clearly included within the proposed article.

In addition, Article 39A includes a list of preferred locations for new or substantially changed facilities and includes city-owned properties and Industrial and Commercial districts as highest priority and Open Space, Agricultural and Residential districts as lowest priority respectively. Thus, areas that are most likely to contain coastal resources, such as open space areas and agricultural areas, should receive the fewest approvals for wireless communication facilities. However, based on this, it would appear that the preferred location would always be within City-owned property or Industrial districts. This fails to recognize that under certain circumstances, it may be more protective of coastal resources to locate the facility in a different zone, or a different location within the same zone. As an example, based on the City's proposed language, a project site located within the Industrial zone, but in direct proximity to wetlands, will be given priority over a commercially zoned property that is surrounded by development. Therefore, using only the zoning district to determine the priority location could result in avoidable impacts to coastal resources, inconsistent with the certified LUP. Therefore, as proposed by the City, the amended regulations are not consistent with, and are inadequate to carry out, the certified LUP and must be rejected.

PART V. FINDINGS FOR APPROVAL OF THE CITY OF OCEANSIDE IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED

As previously discussed, the primary concerns associated with the proposed LCP amendment include that the City's proposed language does not clearly include the coastal development permit process, and it fails to give priority to those sites that will not impact coastal resources. As such, Commission has suggested two modifications to address these concerns.

Suggested Modification No. 1 has been included within the "Approvals Required" section of proposed Article 39A. This section of the article lists the types of development that would require a conditional use permit. Suggested Modification No. 1 clarifies that for a project located in the coastal zone, a coastal development permit will be necessary pursuant to the City's LCP. Again, this revision has been suggested to reinforce that the entire permitting process for approval of wireless communication facilities is not solely contained within Article 39A.

Suggested Modification No. 2 revises Section 3909 – Site location Guidelines, to include that for proposals located in the coastal zone, sites that have no or minimal impacts to sensitive habitat, public views and public access and recreation must be given priority.

As discussed previously, the construction and collocation of wireless communication facilities can have significant impacts to coastal resources. The size and height of such

facilities makes the predominant concern impacts to public views to and along the ocean. In addition, the location of the facility can also be problematic if located adjacent to or within a habitat, public access or public recreation area. Thus, through the incorporation of Suggested Modification No. 2, priority is given to a site that does not raise such concerns. If, however, there is no location that will result in no impacts to coastal resources, the inclusion of Suggested Modification No. 1 requires the issuance of a CDP whereby the LUP policies are invoked and will assure such impacts will be minimized to the maximum extent practicable and be mitigated accordingly. Therefore, through the incorporation of both suggested modifications, Article 39A contains its own provisions that will significantly reduce the likelihood that any wireless communication facility will impact coastal resources. However, should such protections not be feasible, the incorporation of the CDP process and the implementation of LUP policies designed to protect these resources will be carried out, consistent with the City's certified LCP.

The City also included two additional provisions within Article 39A of note. Under Section 3910 – Development Standards – the City is proposing to include both “Facility Specific Development Standards” and “Administrative Design Guidelines.” The facility specific development standards section provides a process for the City Council to adopt additional requirements for any proposed wireless communication facilities not subject to the Spectrum Act. The Administrative Design Guidelines will provide a similar mechanism to further regulate wireless facilities developed by the City Planner. Thus, either the Council or executive planning staff could have the ability to impose additional requirements onto wireless communication facilities without updating Articles 39 A, B, or C. Such revisions would be inconsistent with the City's LCP if the additional requirements would be in conflict with LCP provisions or if such guidelines facilitated impacts to coastal resources. In discussing these concerns with City staff, it was made clear that the City acknowledges that any future development standards or design guidelines developed by the City Council or Planning staff, if implemented in the coastal zone, would require a separate and additional Local Coastal Program amendment and any LUP consistency concerns would be addressed at that time.

In conclusion, through the incorporation of the above listed suggested modifications, it is made clear to all interested parties that wireless communication facilities may require the issuance of a coastal development permit; and that when determining a location for such facilities in the coastal zone; priority must be given to the sites where there are no coastal resources that could be impacted. It is only through these suggested modifications that the subject LCP plan amendment can be found consistent with the City's certified Land Use Plan. Therefore, the concerns associated with wireless communication facilities have been adequately addressed through the suggested modifications listed above and the amendment can be found consistent with the City's certified LUP.

PART VI. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in

connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP submission. The City of Oceanside found that the LCPA proposal is exempt, pursuant to Section 15061(b)(3) of CEQA [no possible effect on the environment].

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. In this particular case, the LCP amendment, with incorporation of the suggested modifications, will not have any significant adverse effects on the environment and no significant coastal resource impacts are anticipated. The suggested modifications will ensure that the approval of wireless facilities is consistent with LCP provisions related to protection of public views and provide adequate protection for wetlands and environmentally sensitive habitats, and associated buffer areas, while also carrying out the intent of federal law. Therefore, the Commission finds that the subject IP, as amended, conforms with the CEQA.