

CALIFORNIA COASTAL COMMISSION

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Th9a

ADDENDUM

December 8, 2020

TO: California Coastal Commissioners and Interested Public

FROM: South Central Coast District Staff

SUBJECT: **ADDENDUM TO ITEM Th9a, County of Santa Barbara LCP Amendment No. LCP-4-STB-19-0157-1 (2019 General Package) FOR THE COMMISSION MEETING OF THURSDAY, DECEMBER 10, 2020.**

The purpose of this addendum is to attach and respond to correspondence received from the County of Santa Barbara and to make a minor revision to page 17 of the staff report dated November 19, 2020 in order to correct an inadvertent error. The County submitted a letter dated December 4, 2020 in which County staff states their intention to recommend acceptance of the certification of the Local Coastal Program Amendment (LCPA) with the suggested modifications to the County Board of Supervisors. In addition, the County provides clarification on statements that were made within the findings section of the staff report.

The first clarifying statement is in response to Suggested Modifications 1 and 2 which would restore the public hearing requirement for certain appealable telecommunications projects. As described in the staff report, the required CDP for certain telecommunication facility projects can be approved by the County's Planning Director without a public hearing, unless the facility is in the appeals jurisdiction of the Coastal Commission and a public hearing is requested by a member of the public. In these cases, the County would need to process the application more quickly in order to comply with the federal deadline for County action, to account for the potential need for a public hearing under the LCP if a hearing is requested by a member of the public receiving notice of the County's decision. In their December 4th letter, County staff express that they have already streamlined their permitting process and reiterate the difficulty that they will have meeting the federal deadlines set forth in the Spectrum Act if the hearing requirement is maintained. While Commission staff understands the challenge of meeting the federal deadlines imposed by the Spectrum Act, the hearing requirement will only apply to a subset of projects located within the Commission's geographic appeal jurisdiction area and in cases that a noticed recipient requests a public hearing. In addition, Section 13566 of the Commission's regulations requires public participation in the form of at least one public hearing for all appealable CDP's, and Section 30624.9 of the Coastal Act only allows public hearing requirements to be waived for minor development that meets certain requirements after public notice is provided. Section 30624.9 also provides for public participation in the form of a public hearing if a noticed recipient requests a hearing. Therefore, although Commission staff understands the difficulty of holding a hearing within the federal timeframes, only a limited subset of appealable projects will require a hearing and the hearing requirement is necessary to comply with the Coastal Act and the California Code of Regulations.

The second clarification is in regards to Suggested Modification 1 and the permit requirements for certain Spectrum Act telecommunication facility modifications. As described in the staff report, the County proposes to process Spectrum Act facility modification projects through a ministerial Zoning Clearance, rather than a CDP, in order to expedite these projects to meet the federal deadline. However, a Zoning Clearance is not a type of CDP action under the County's LCP and not all qualifying facility modifications projects may be exempt from the requirement to obtain a CDP pursuant to the County's LCP, the Coastal Act, and the Commission's Regulations. Suggested Modification 1 clarifies that a CDP is required for Spectrum Act facility modifications, unless they are determined to be exempt from the requirement to obtain a CDP.

In their December 4th letter, County staff indicate that in order to exempt any facility modification projects from obtaining a CDP, Section 35-51B.B.2 of the County's Implementation Plan/Coastal Zoning Ordinance (IP/CZO) would need to be amended in the future to specifically identify which Spectrum Act facility modification projects may be exempt from the requirement to obtain a CDP. Commission staff would note that Section 13253 of the Commission's Regulations exempts certain improvements to existing structures that do not involve a risk of adverse environmental effect, adversely affect public access, or involve a change in intensity of use. Section 35-51B.B.2 of the County's IP/CZO mirrors the language of Section 13253 of the Commission's regulations, but also includes a list of specific improvements to existing structures that may be exempt improvements to an existing structure even when the development is not directly attached to the existing structure, such as detached storage sheds or pergolas that do not exceed 120 sq. ft., for example. Although the Commission does not interpret the specific improvements listed in that section of the County's IP/CZO to be an exhaustive list, to the extent that the County does interpret the list to be exhaustive, Commission staff would welcome a future amendment to clear up any discrepancy between this LCP amendment and the intent of the Commission and County. Commission staff is supportive of the County pursuing a focused IP/CZO amendment in the future to identify certain Tier 1(b) projects as exempt under Section 35-51B.B.2.

Lastly, the County's letter points out an inadvertent error within the findings section of the staff report. On page 17 is an explanation of Suggested Modification 1 that states that certain Tier 1(b) Spectrum Act facility modifications, when determined to be exempt, would require a Zoning Clearance. As pointed out by the County, Suggested Modification 1 would not allow this alternative permit option; rather, this modification simply replaces the County proposed Zoning Clearance requirement with the CDP requirement. The mention of a Zoning Clearance was an inadvertent error to be deleted as shown below.

The following revision to the first sentence on Page 17 of the staff report is made as follows (language to be inserted is shown underlined and language to be deleted is shown in ~~line-out~~):

Therefore, to be consistent with the permitting requirements of the LCP and Coastal Act and to adequately protect coastal resources, Suggested Modification 1 is necessary to clarify that a CDP is required for Tier 1(b) Spectrum Act facility modifications, unless determined to be exempt from the requirement to obtain a CDP, in which case, only a Zoning Clearance would be required.



County of Santa Barbara Planning and Development

Lisa Plowman, Director
Jeff Wilson, Assistant Director
Steve Mason, Assistant Director

December 4, 2020

California Coastal Commission
South Central Coast District Office
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Sent via email to SouthCentralCoast@coastal.ca.gov

Re: Comments Regarding Suggested Modifications to Santa Barbara County Local Coastal Program Amendment No. LCP-4-STB-19-0157-1 (2019 General Package) [“County’s LCPA”]

Dear Commissioners:

The County of Santa Barbara Planning and Development Department (P&D) reviewed the staff report and suggested modifications for the County’s LCPA. We appreciate the courtesy and opportunity that Coastal Commission staff afforded us by allowing us to review and discuss the suggested modifications to the LCPA, prior to release of the staff report. P&D staff intends to recommend to the County Board of Supervisors (Board) that the Board accept certification of the LCPA with the suggested modifications; however, P&D staff identified the following statements set forth in the staff report that require clarification.

First, the suggested modifications would restore a hearing requirement for certain appealable telecommunications projects (i.e., those deemed appealable due to certain geographic locations). The County proposed to remove the hearing requirement in order to streamline the permit process to comply with new timelines required by federal legislation and rules. Coastal Commission staff states on pages 4 and 18 of the staff report that “County staff will need to process the application more quickly to meet the 60 and 90 day deadlines.” County staff discussed with Coastal Commission staff the difficulty with meeting the 60 and 90 day federal timelines if a hearing is required to approve these small projects. The County has already streamlined administrative practices to process these applications as efficiently as possible; to simply state that County staff will need to process these applications more quickly does not recognize the inherent time constraints associated with bringing a project to hearing and a decision to require a hearing could inhibit the Department’s ability to meet these timelines.

Second, clarification is needed regarding the effect of Suggested Modification 1. Suggested Modification 1 revises the permit requirement for the County-proposed Tier 1(b) projects from a

Zoning Clearance to a Coastal Development Permit (CDP). As discussed in the staff report, the County proposed a ministerial Zoning Clearance as Tier 1(b) projects consist of minor additions to existing, permitted facilities, or replacement or removal of equipment. Additions or replacements would be limited in size and scope based on the requirements of the Spectrum Act. Page 16 of the staff report states that it is likely that many Tier 1(b) projects would qualify for an exemption but that some may not. Page 17 of the staff report states:

***Suggested Modification 1** is necessary to clarify that a CDP is required for Tier 1(b) Spectrum Act facility modifications, unless determined to be exempt from the requirement to obtain a CDP, in which case, only a Zoning Clearance would be required.*

The staff report suggests that this modification would allow the County to exempt some Tier 1(b) projects and approve them with a Zoning Clearance, while requiring a CDP for non-exempt Tier (b) projects. However, Suggested Modification 1 would not allow this alternative permit option; rather, this modification simply replaces the County proposed Zoning Clearance requirement with the CDP requirement. Furthermore, to exempt these projects (with or without the requirement of a Zoning Clearance), the County Coastal Zoning Ordinance would need to be amended to identify some Tier 1(b) projects as exempt under Subsection 35-51B.B.2.

The County will continue to explore alternatives to expedite processing telecommunication projects within the Coastal Zone in order to comply with federal mandates and will discuss options with Coastal Commission staff in the future. Thank you for your consideration of these comments on the suggested modifications. If you have any questions regarding this letter, please contact Julie Harris of my staff at (805) 568-3543.

Sincerely,



Lisa Plowman
Director, Planning and Development Department

cc: Jeff Wilson, Assistant Director, Planning and Development Department
Daniel T. Klemann, Deputy Director, Planning and Development Department