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Prepared July 21, 2023 for August 10, 2023 Hearing

To: Commissioners and Interested Persons

From: Kevin Kahn, Central Coast District Manager
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**Subject: Santa Cruz County LCP Amendment Number LCP-3-SCO-22-0033-1
(Wireless Facilities Provisions)**

SUMMARY OF STAFF RECOMMENDATION

Santa Cruz County proposes to amend its Local Coastal Program (LCP) to update its Wireless Communications Facilities (WCF) ordinance, a component of its Implementation Plan (IP). The proposed amendment primarily serves to align the current WCF ordinance, which has not been substantially changed since its original certification twenty years ago, with more recent Federal and State telecommunications law, particularly related to the timing and processing of WCF project applications.

The overarching goal of the existing ordinance is to ensure that WCF facilities are located in areas that either are not visible from public view and thus do not adversely affect scenic character and other coastal resources, or, through an exhaustive alternatives analysis that describes technical feasibility as well as needed compliance with Federal telecommunications law, why a certain location was identified as the proposed location (and then too, whether collocation on existing facilities and/or visual screening and blending is feasible). Overall, the ordinance has worked well in ensuring appropriate WCF siting and design, and thus any amendments should be considered through a lens of retaining as much of the existing requirements as possible while updating it to reflect today's legal and technical environment in WCF regulation. Generally, the proposed amendment does just this. The proposed amendment requires that all such facilities meet stringent siting and design standards to protect visual and other coastal resources. These measures include, to the extent allowable under Federal and State law, directing the siting of WCFs to zoning districts where such facilities are most appropriate (e.g., to industrial and other commercial zones), requiring visual screening/camouflage methods to protect visual resources, encouraging collocation instead of new construction where feasible, and requiring WCFs to meet all other applicable LCP coastal resource protection policies and standards (such as not being allowed in wetlands or ESHA). Additionally, the amendment will set forth the procedures through which WCF projects are evaluated, including by imposing Federally- and State-required review timeframes (or "shot clocks"). Even though such shot clock rules result

in an expedited review timeframe, the County indicates that it will do its collective best in meeting such deadlines while still implementing the LCP. Finally, other sections of the IP will be amended simply to update references to the permitting requirements of the updated WCF ordinance in each zoning district but will not otherwise substantively change these IP sections.

While the amendment as proposed includes many of the existing ordinance's provisions, Commission staff identified several necessary modifications to the proposed amendment in order to maintain or expand upon the current level of visual and other coastal resource protection afforded by the existing WCF ordinance, and to meet the Land Use Plan's (LUP) stringent visual resource protection requirements. These include additional necessary findings in the approval of WCF projects in the coastal zone, more protective and specific language with regard to the siting, design, and deployment of WCFs, and explicit mitigation requirements for impacts to visual resources which were otherwise not retained from the existing WCF ordinance. Other modifications clarify the amendment to facilitate consistent and careful review of WCF project applications. Commission and County staff worked together to identify these modifications and are in agreement on their inclusion.

In sum, County and Commission staff have worked cooperatively to ensure a robust WCF ordinance that should continue to effectively regulate these facilities in the coastal zone. As modified, the amendment is consistent with and adequate to carry out the LUP, the standard of review for this IP amendment, and the County has indicated it agrees with the staff recommendation. Therefore, staff recommends that the Commission approve the amendment with suggested modifications. The required motions and resolutions are found on page 4 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on June 28, 2023. The proposed amendment affects the LCP's IP, and the 60-working-day action deadline is September 22, 2023. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until September 22, 2023 to take a final action on this LCP amendment.

Therefore, if the Commission fails to take a final action in this case (e.g., if the Commission instead chooses to postpone/continue LCP amendment consideration), then staff recommends that, as part of such non-final action, the Commission extend the deadline for final Commission action on the proposed amendment by one year. To do so, staff recommends a YES vote on the motion below. Passage of the motion will result in a new deadline for final Commission action on the proposed LCP amendment. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion: I move that the Commission extend the time limit to act on Santa Cruz County Local Coastal Program Amendment Number LCP-3-SCO-22-0033-1 to September 22, 2024, and I recommend a yes vote.

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EXHIBITS

- Exhibit 1: Proposed IP Amendment
- Exhibit 2: Applicable LUP Provisions

1. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment with suggested modifications. The Commission needs to make two motions on the IP amendment in order to act on this recommendation.

A. Deny the IP Amendment as submitted

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

Motion: *I move that the Commission reject the Implementation Plan Amendment LCP-3-SCO-22-0033-1 as submitted by Santa Cruz County.*

Resolution to Deny: *The Commission hereby denies certification of LCP Amendment Number LCP-3-SCO-22-0033-1 as submitted by Santa Cruz County and adopts the findings set forth below on grounds that the Implementation Plan 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 Plan 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 Plan Amendment as submitted.*

B. Certify the IP Amendment with Suggested Modifications

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

Motion: *I move that the Commission certify LCP Amendment Number LCP-3-SCO-22-0033-1 as submitted by Santa Cruz County if it is modified as suggested in this staff report.*

Resolution to Certify: *The Commission hereby certifies LCP Amendment Number LCP-3-SCO-22-0033-1, if modified as suggested, and adopts the findings set forth below on grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan 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 plan 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.

2. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed Implementation Plan amendment, which are necessary to make the requisite Land Use Plan consistency findings. If Santa Cruz County accepts the suggested modifications within six months of Commission action (i.e., by February 10, 2024), by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in underline format denotes proposed text to be deleted/added by the County. Text in ~~double cross-out~~ and double underline denotes text to be deleted/added by the Commission.

1. Modify IP Section 13.10.660(B)(27) as follows:

(27) "Visual impact" means the placement or design of a wireless communication facility or the associated equipment such that they are not fully screened or shielded or are plainly visible and are likely to be noticeable or otherwise conspicuous. ~~Any wireless communication facility outside the 300-foot setback from a public viewshed shall not be considered a significant visual impact.~~

2. Modify IP Section 13.10.660(C)(4)(b) as follows:

(b) The proposed facility is located on the least ~~intrusive~~ visually obtrusive site and least visually obtrusive portion of the site, where the applicant provides substantial evidence that it chose the best solution for the community after a meaningful comparison of alternative sites and designs, including but not limited to considering less sensitive sites, alternative system designs, alternative tower designs, placement of antennae on existing structures, and other viable, technically feasible, and environmentally (i.e., visually) equivalent or superior potential alternatives.

3. Modify IP Section 13.10.660(C)(5) as follows:

(5) Coastal Zone. All wireless communication facilities in any portion of the Coastal Zone shall be consistent with the County Local Coastal Program 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 unless the County identifies an environmentally superior alternative. New wireless communication facilities located ~~in the public right of way~~ of between the sea and the seaward side of the first through public road parallel to the sea and within mapped scenic resource areas in the Coastal Zone shall be prohibited unless the applicant complies with SCCC 13.10.660(C)(4)(a) and (b). ~~When so located, the inland side of the right of way shall be preferred unless otherwise justified by site-specific camouflage or stealth factors.~~

4. Modify IP Section 13.10.660(E)(3) as follows:

(3) Scenic Resources. Wireless communication facilities proposed for in mapped scenic areas, scenic road viewsheds, ridgelines, hilltop locations, or locations visible from public beaches shall be hidden from public view, to the maximum extent where feasible and as demonstrated by an alternatives analysis, and shall incorporate camouflage and stealth techniques to minimize visual impacts. Wireless communication facilities proposed in mapped scenic areas, scenic road viewsheds, ridgelines, hilltop locations, or locations visible from public beaches within the Coastal Zone shall be prohibited unless the applicant complies with SCCC 13.10.660(C)(4)(a and b).

5. Add IP Section 13.10.660(E)(5) as follows:

(5) Visual Impact Mitigation. Special design of wireless communication facilities is 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 a small cell facility, is encouraged. Telecommunication towers camouflaged 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 is required. Collocation of a new wireless communication facilities is required pursuant to SCCC 13.10.660(E)(1) above. 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 the General Plan/Local Coastal Program, shall be afforded the highest level of protection.

6. Modify IP Section 13.10.660(F)(1) as follows:

(1) Screening. All components of wireless communication facilities and associated enclosures shall be designed to include stealth, camouflage, or screening techniques appropriate to the proposed location, design, visual environment, and nearby uses and/or structures. Landscape plans shall be prepared by a qualified professional and shall be designed to provide long-term screening of the facility. Only noninvasive species that are native to Santa Cruz County shall be used as vegetative screening, with a preference for species that are native to Santa Cruz County the specific location of the wireless facility. Visual screening shall be maintained/restored including visual screening impacted by any maintenance on the wireless communication facilities. ~~No actions shall be taken subsequent to project completion with respect to the vegetation present and any stealth, camouflage, or screening techniques that would increase the visibility of the facility itself or the access road and power/telecommunication lines serving it.~~

7. Modify IP Section 13.10.660(F)(3) as follows:

(3) Lighting. Constant lighting shall be prohibited unless otherwise required under FAA regulations. Permittees shall install only timed or motion-sensitive lights and design all lights associated with the wireless communication facility, other than lighting that may be required by FAA regulation, shall be downcast so that direct light rays shall be confined to the premises and light intensity minimized to the extent feasible.

8. Modify IP Section 13.10.660(G)(1) as follows:

(1) Height. All towers shall be designed to be the shortest height technically feasible to minimize visual impacts. The height of a free-standing facility shall be measured from the existing undisturbed ground surface below the center of the base of the facility to the top of the facility itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto. In the case of structure-mounted facilities, the height of the facility includes the height of the structure directly below the facility. The maximum facility/antenna heights allowed in each zone district are as follows:

<u>Zone District</u>	<u>Structure-Mounted</u>	<u>Free-Standing</u>
<u>Residential and Timber Production (TP, inside the Coastal Zone)</u>	<u>50 feet</u>	<u>75 feet</u>
<u>Non-residential</u>	<u>60 feet</u>	<u>85 feet</u>
<u>Timber Production (TP, outside the Coastal Zone)</u>	<u>125 feet</u>	<u>150 feet</u>

9. Modify IP Section 13.10.660(G)(2) as follows:

(2) Height Exceptions. Any applications for facilities of a height more than the allowed height for facilities in each zone district per SCCC 13.10.660(G)(1) must include a written justification proving the need for a facility of that height and comply with SCCC 13.10.660(C)(4)(a) and (b).

10. Add IP Section 13.10.661(D)(1)(a)(iii) as follows:

(iii) For projects in the Coastal Zone, the approving body must make both findings.

11. Modify IP Section 13.10.661(D)(1)(b) as follows:

(b) For sites located in one of the prohibited and/or restricted areas set forth in SCCC 13.10.660(C), and for facilities of a height more than the allowed height for facilities in each zone district per SCCC 13.10.660(G)(1), and for sites located in the Coastal Zone identified in SCCC 13.10.660(E)(3), that the applicant has provided documentation to enable the decision-making body to make the findings in SCCC 13.10.660(C)(4)(a) and (b) above.

12. Modify IP Section 13.10.661(D)(3) as follows:

(3) Alternatives Analysis. For applications with wireless communication facilities proposed in prohibited or otherwise restricted areas specified in SCCC 13.10.660(C)(4), or other areas identified in this Chapter that require compliance with SCCC 13.10.660(C)(4)(a and b), an alternatives analysis must be submitted by the applicant. The alternatives analysis ~~should~~ shall identify all technically feasible potential location sites which reasonably meet the service provider's coverage objectives, particularly building-mounted sites, within the project vicinity, provide analysis as to the feasibility of those alternatives and compare the level of visual impact with that of the proposed project. At a minimum, this analysis ~~should~~ shall identify the location of all existing wireless communication facilities within a quarter mile of the proposed site; provide an explanation of why collocation has not been proposed at each of these sites.

3. FINDINGS AND DECLARATIONS

A. Description of Proposed LCP amendment

The proposed amendment would modify the Santa Cruz County Local Coastal Program (LCP) by updating the County's existing Implementation Plan (IP) provisions regarding wireless communications facilities (WCF) (IP Sections 13.10.660 et seq.) with new provisions that: regulate the siting, aesthetics, operation, and construction of WCFs; set forth the application procedures for WCFs; regulate WCFs located within public rights-of-way; and regulate modifications to existing WCFs. The County's current WCF ordinance has not been substantially updated since its original implementation twenty years ago, and more recent Federal¹ and State² laws have imposed new requirements on local agencies for the review of WCF applications, particularly in terms of timing. Consequently, the County is updating its WCF ordinance to align the provisions with these Federally- and State-imposed requirements.

The current WCF ordinance requires that all such facilities meet stringent siting and design standards to protect visual and other coastal resources, and these protective measures are by and large retained by the proposed amendment. These retained/proposed measures include, to the extent allowable under Federal and State law, directing the siting of WCFs to zoning districts where such facilities are most

¹ Primarily, Section 332(c)(7) of the Communications Act of 1932, adopted as part of the Telecommunications Act of 1996, mandates that state and local governments shall not unreasonably discriminate among providers of functionally equivalent services, shall not prohibit or have the effect of prohibiting the provision of personal wireless services, shall not regulate facilities on the basis of environmental effects of radio frequency emissions to the extent that such emissions comply with Federal Communications Commission (FCC) regulations, and imposes procedural obligations on state and local governments to act on requests for wireless communication facilities within a reasonable period of time, among other things. Additionally, Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 requires the approval, and prohibits the denial, of eligible facility modifications, based on objective design standards, that do not substantially change the dimensions of the facility to be modified.

² California Assembly Bill 537 ("AB 537") codifies FCC orders requiring timely action on applications to local governments for wireless facilities and directed local governments to adopt provisions for these expediency requirements. AB 537 implements those rules contained in Subpart U (commencing with Section 1.6001) of Part 1 of Subchapter A of Chapter I of Title 47 of the Code of Federal Regulations.

appropriate (e.g., within industrial zoning districts and not within residential ones), requiring visual screening/camouflage methods to protect visual resources, directing new WCFs to areas outside of highly scenic locales, particularly inland of Highway 1, encouraging collocation³ instead of new construction where feasible, and requiring WCFs to meet all other applicable LCP coastal resource protection policies and standards (such as not being permissible in wetlands, ESHA, and on beaches).

More specifically regarding zoning restrictions, like the current WCF ordinance, the proposed amendment limits WCFs in agricultural and residential areas but adds additional clarity regarding the restrictions in these zoning districts. For example, these restrictions limit WCFs in agricultural and residential areas to small facilities, collocation on or modification of existing facilities, or only when such facilities will eliminate or substantially reduce significant service gaps and when such siting is supported by a substantial analysis of alternatives, consistent with applicable Federal and State laws. The ordinance will still require that WCFs conform with the LCP's coastal resource protection policies and standards in their design and construction. The proposed amendment expands and further clarifies careful emphasis on collocation, setbacks, structure height, vegetative screening, camouflage techniques, lighting, undergrounding where feasible and when environmentally superior, and structure design consistent with the character of the surroundings (e.g., "barn" aesthetics in agricultural areas or inconspicuous placement of facilities on existing roofs).

While the amendment largely retains the resource protection requirements WCFs must meet, one of the more substantive changes proposed in the amendment is the establishment of time limits on the WCF application review process, referred to as "shot clocks," for both small⁴ and regular facilities. These shot clocks are: 1) 60 days for the collocation of small wireless facilities at existing facilities; 2) 90 days for the collocation of regular wireless facilities; 3) 90 days for the construction of a new small wireless facility, and 4) 150 days for the construction of a new regular facility. That said, the proposed amendment still requires that all applications for WCFs in the coastal zone go through the typical coastal development permit (CDP) process, and thus CDP review processes must be undertaken within these required timeframes.

³ Collocation means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes. Collocation also means when more than one wireless service providers share a single wireless communication facility. A collocated facility can be comprised of a tower, pole, or structure that supports one or more antennas, dishes, or similar wireless communication devices, that are separately owned or used by more than one public or private entity.

⁴ The proposed amendment defines "Small cell wireless facility" or "small cell facility" as: "a type of wireless communication facility that has the same meaning as set forth in 47 C.F.R. 1.6002(l), or any successor provision, which defines the term to mean a wireless communication facility where each antenna is no more than three cubic feet in volume, the associated wireless equipment is no more than 28 cubic feet in volume, and the facility is mounted on structures 50 feet or less in height, including antennas, or mounted on structures no more than 10 percent taller than adjacent structures, or that do not extend existing structures on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater."

Finally, other sections of the IP will be amended simply to update references to the permitting requirements of the updated WCF ordinance in each zoning district but will not otherwise substantively change these.

See **Exhibit 1** for the proposed IP amendment text.

B. Evaluation of Proposed LCP Amendment

Standard of Review

The proposed amendment affects the LCP's IP, and the standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP.

Applicable Land Use Plan Policies

The County's LUP contains myriad objectives and policies which serve to protect and enhance coastal resources, including the visual resources of scenic landscapes and ocean views, wetlands, sensitive habitat, and public coastal access. See **Exhibit 2** for a compilation of some of the more pertinent applicable LUP provisions. One of the primary coastal resources that tends to be adversely affected by WCFs is visual resources. The LUP seeks to protect public vistas, mitigate the visual impacts of development, restore visually blighted areas, and require careful siting and design to minimize impact on natural landforms and to harmonize development with the character of the particular area in question. Applicable LUP provisions related to visual resources include:

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

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

Policy 5.10.2: Development Within Visual Resource Areas. *Recognize that visual resources of Santa Cruz County possess diverse characteristics and that the resources worthy of protection may include, but are not limited to, ocean views, agricultural fields, wooded forests, open meadows, and mountain hillside views. 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. Require discretionary review for all development within the visual resource area of Highway One, outside of the Urban/Rural boundary, as designated on the GP/LCP Visual Resources Map and apply the design criteria of Section 13.20.130 of the County's zoning ordinance to such development.*

Policy 5.10.3: Protection of Public Vistas. *Protect significant public vistas as described in policy 5.10.2 from all publicly used roads and vista points by minimizing disruption of landform and aesthetic character caused by grading*

operations, timber harvests, utility wires and poles, signs, inappropriate landscaping and structure design. Provide necessary landscaping to screen development which is unavoidably sited within these vistas.

Policy 5.10.4: Preserving Natural Buffers. *Preserve the vegetation and landform of natural wooded hillsides which serve as a backdrop for new development. Also comply with policy 8.6.6 regarding protection of ridgetops and natural landforms.*

Policy 5.10.5: Preserving Agricultural Vistas. *Continue to preserve the aesthetic value 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.*

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

Policy 5.10.7: Open Beaches and Blufftops. *Prohibit the placement of new permanent structures which 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 allowed 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.

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.*

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 and require the siting, architectural design and landscaping to mitigate the impacts on those visual qualities.*

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, architectural design, landscaping and appropriate signage.*

8.6.6 Protecting Ridgetops and Natural Landforms. *Protect ridgetops and prominent natural landforms such as cliffs, bluffs, dunes, rock outcroppings, and other significant natural features from development. In connection with discretionary review, apply the following criteria:*

(a) Development on ridgetops shall be avoided if other developable land exists on the property.

(b) Prohibit the removal of tree masses when such removal would erode the silhouette of the ridgeline form. Consider the cumulative effects of tree removal on the ridgeline silhouette.

(c) Restrict the height and placement of buildings and structures to prevent their projection above the ridgeline or treeline. Restrict structures and structural projections adjacent to prominent natural land forms. Prohibit the creation of new parcels which would require structures to project above the ridgeline, treeline or along the edge of prominent natural landforms. (See Visual Resources section within the Conservation and Open Space chapter.)

(d) Require exterior materials and colors to blend with the natural landform and tree backdrops. With respect to the issuance of administrative permits, advise all applicants that they should design and site their structures to conform to the above policies.

Consistency Analysis

As a general matter, the LUP provides a robust framework to protect and enhance coastal resources such as wetlands, sensitive habitat, agricultural lands, and public coastal recreational access. The LUP also includes a suite of policies protecting the scenic visual quality of Santa Cruz County's coastal zone, particularly the rural, agricultural stretch along the northern coast between the limits of the City of Santa Cruz to the border with San Mateo County. The existing WCF ordinance was written some 20 years to protect to these important coastal resources and similarly to respond to the unique issues engendered by WCF facilities. The overarching theme of the existing ordinance is to ensure that WCF facilities are located in areas that either are not visible from public viewing areas and thus do not adversely affect scenic character, or, through an exhaustive alternatives analysis that describes technical feasibility as well as needed compliance with Federal telecommunications law, why a certain location was identified as the proposed location (and then too, whether collocation on existing facilities and/or visual screening and blending is feasible). Overall, the ordinance has worked well in ensuring appropriate WCF siting and design, and thus any amendments to it should be considered through a lens of retaining as much of the existing requirements as possible while updating it to reflect today's legal and technical environment in WCF regulation.

Generally speaking, the proposed amendment does just this. The proposed amendment retains from the existing WCF ordinance the requirement that all WCFs in the coastal zone protect coastal resources to the maximum extent feasible consistent with presiding Federal and State law. For example, and as described earlier in this report, all applications for WCFs in the coastal zone will be reviewed through the discretionary CDP process (see Section 13.10.661(A) of the proposed IP amendment), meaning that these facilities must be designed and constructed consistent with the County's LCP, including the aforementioned policies protecting sensitive coastal resources such as ESHA, wetlands, beaches, and significant public views.

In addition to these baseline expectations and requirements for development within the coastal zone, the proposed amendment restricts the siting, design, and construction of WCFs in several ways which will further protect coastal resources. The amendment includes more explicit and specific findings that must be made in order to allow for WCFs in commercial agricultural and most residential areas,⁵ including only allowing in these zones small WCFs (see **Footnote 4** above), ones collocated on existing facilities, modifications to existing facilities, or if it is otherwise demonstrated by a qualified engineer that: 1) the proposed facility eliminates or significantly reduces one or more significant gap in the carrier's network, and 2) the proposed facility is located on the least intrusive site feasible based on a meaningful and substantial analysis of alternatives, which considers site sensitivity, system designs, and technical feasibility. Further, the proposed amendment requires collocation on existing facilities unless infeasible based on similarly demonstrated circumstances as described above, requires that a proposed WCF follow all applicable setbacks for the zoning district in which it is located, and requires the careful consideration of visual and scenic resources in WCF design and siting, including by requiring stealth and camouflage, non-reflective coating, limited lighting, and a restricted height of such facilities. WCFs proposed within the public ROW are similarly restricted, requiring that such facilities do not impact access to the coast, are placed underground where feasible and when environmentally superior, and that applicants must participate in a public art program to minimize visual intrusion by designing aesthetically pleasing facilities where appropriate and feasible.

With respect to the new shot clock rules regarding the prescribed time periods for review under Federal telecommunications law, although these timeframes are rather short, the County indicates that it will do its best to meet such requirements and still ensure LCP compliance.

Although the proposed amendment includes many of the existing provisions to protect visual and other coastal resources, some of the existing ordinance's particularly important requirements have been eliminated from the proposed amendment. As such, Commission and County staff worked together to identify which of the existing ordinance's requirements should be retained (or newly proposed provisions modified) to ensure coastal resource protection in conformance with the LUP.

⁵ These zones are Commercial Agricultural (CA), Single-Family Residential (R-1), Multi-Family Residential (RM), Single-Family Ocean/Beach Residential (RB), and Mobile Home Park (MH).

First, the amendment includes a new definition for “Visual Impact” and includes in this definition that “[a]ny wireless communication facility outside the 300-foot setback from a public viewshed shall not be considered a significant visual impact.” This has the potential effect of impacting the scenic quality of those areas of Santa Cruz County which have expansive and highly scenic viewsheds and where WCFs can be visible beyond 300 feet, like the vast agricultural/rural areas of north Santa Cruz County and the wide-open agricultural areas of south Santa Cruz County. These areas, which are afforded explicit protection by LUP visual resource policies (e.g., LUP Policies 5.10.2, 5.10.5, 5.10.11, 5.10.12, and 8.6.6) may very well be degraded even if a proposed WCF is set outside of a 300-foot setback. Therefore, **Suggested Modification 1** omits this distance-based portion of the definition of a “Visual Impact” to increase the protection afforded to such expansive areas and instead requires that other techniques be employed, such as screening and inconspicuous design elements.

Second, a series of modifications are included to identify the specific resource protection standards that WCFs must meet. **Suggested Modifications 2, 4, and 6-9** further strengthen the visual resource protection provided by the amendment and ensure LUP consistency. **Suggested Modification 2** revises proposed IP Section 13.10.660(C)(4)(b), which sets forth the required documentation for siting a WCF in an otherwise restricted zoning district, to require that not only shall a WCF be sited on the least visually obtrusive site, but also be sited on the least visually obtrusive *portion* of the site, ensuring that siting will minimize visual impacts to the maximum extent possible. **Suggested Modification 4** ensures the explicit protection of mapped scenic resources, scenic road viewsheds, ridgelines, hilltop locations, and public beach viewsheds. **Suggested Modifications 6 and 7** provide for the long-term maintenance of vegetative screening using site-specific native species and require lighting to be downcast. As proposed, whereas the existing amendment does not include an absolute height maximum, the amendment sets the absolute maximum height limits for WCFs in the Timber Production (TP) zoning district at 125 feet for structure-mounted facilities and at 150 feet for free-standing facilities, approvable only through a variance.⁶ The coastal zone encompasses expansive forested areas zoned TP in north Santa Cruz County, including near the Bonny Doon area, and heights up to 125 or 150 feet may pose significant visual resource impacts in such areas that are specifically protected by LUP visual resource policies (e.g., LUP Policy 5.10.2, 5.10.11, and 8.6.6). **Suggested Modifications 8 and 9** lower the maximum height limits to 50 feet for structure-mounted facilities and 75 feet for free-standing facilities in the coastal zone to prevent projection over ridgelines and treelines as required by LUP Policy 8.6.6, and to ensure that if a WCF is granted a height variance to exceed what is allowed in the applicable zoning district, the project would not significantly degrade the visual quality of timberlands.

Third, in terms of visual resource mitigation, the proposed amendment does not explicitly require visual resource impact mitigation, despite being required by LUP Policies 5.10.2, 5.10.9, and 5.10.11, and having been a part of the existing WCF ordinance. Therefore, **Suggested Modification 5** retains this mitigation language from

⁶ Without a variance approval, the height limit is the maximum for the TP zoning district (28 feet).

the current WCF ordinance to make explicit the visual resource impact mitigation requirement, including through collocation, the use of the least visually obtrusive siting, camouflage, design elements which blend with the character of the site surroundings, and more. Additionally, as described previously, all WCFs in the coastal zone will require discretionary CDP approval. However, as proposed, as part of this review, the County must find that *either* 1) the development of the proposed WCF will not significantly affect any designated visual resources, environmentally sensitive habitat, and/or other significant coastal resources, or 2) there is no alternative to the proposed WCF that is technically feasible and environmentally equivalent or superior. **Suggested Modification 10** requires that both, as opposed to either, of these findings are made for WCF projects in the coastal zone.

Finally, **Suggested Modifications 3, 11, and 12** are minor clarifications regarding terminology and internal LCP consistency.

In sum, the proposed amendment seeks to align the County's Wireless Communications Facilities ordinance with current Federal and State law by providing for the timely review of WCF applications while still holding such applications to the strict coastal resource protection standards contained in the LCP. Although the proposed IP amendment does go to great lengths to protect coastal resources, including wetlands, sensitive habitat, agricultural lands, and public recreational access, some revisions are necessary to maintain or otherwise expand upon the protection currently afforded these resources by the existing WCF ordinance. These suggested modifications will retain protective language found in the existing WCF ordinance, expand the necessary findings for approval of WCFs, and increase the overall protection provided for coastal resources. As so modified, the amendment will ensure the utmost coastal resource protection, especially as related to visual resources, in the review of applications for WCFs, and can be found consistent with and adequate to carry out the policies of the certified LUP.

C. California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are not required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information about proposed LCPs and LCP amendments, including to help facilitate Coastal Act review.

The Coastal Commission is not exempt from satisfying CEQA requirements with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal, has addressed all comments received, and has concluded that the proposed LCP

amendment is expected to result in significant environmental effects, including as those terms are understood in CEQA, if it is not modified to address the coastal resource issues identified herein (all above findings are incorporated herein in their entirety by reference). Accordingly, it is necessary for the Commission to suggest modifications to the proposed LCP amendment to ensure that it does not result in significant adverse environmental effects. Thus, the proposed LCP amendment as modified will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).