

## CALIFORNIA COASTAL COMMISSION

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### RECORD PACKET COPY

**DATE:** May 20, 2004

**TO:** Commissioners and Interested Persons

**FROM:** Charles Damm, Senior Deputy Director  
Gary Timm, District Manager  
Melanie Hale, Supervisor, Planning and Regulation  
Shana Gray, Coastal Program Analyst

**SUBJECT:** Santa Barbara County Local Coastal Program Amendment No. MAJ-1-03-C (Commercial and Non-Commercial Telecommunications) for Public Hearing and Commission Action at the June 9, 2004, Commission Meeting in San Pedro.

#### DESCRIPTION OF THE SUBMITTAL

Santa Barbara County is requesting an amendment to the Coastal Zoning Ordinance/Implementation Plan (CZO/IP) portion of its certified Local Coastal Program (LCP) to provide new procedures and development standards that regulate the construction and use of commercial telecommunication facilities and to provide new procedures and development standards that regulate the construction and use of non-commercial telecommunication facilities.

The amendment consists of three separate changes to the County's certified LCP: (A) add interim Housing Element requirements for affordable housing projects to the certified Zoning Ordinance; (B) rezone 18,103 sq. ft. from Recreation to Residential on the certified Zoning Map; and (C) amend and add development standards for commercial and non-commercial telecommunication facilities to the certified Zoning Code. This staff report and recommendation deals with Part C of the amendment. Part A was approved as submitted at the May 13, 2004 Commission hearing. Part B will be the subject of a separate staff report and public hearing.

The submittal was deemed complete and filed on August 29, 2003. At its October 2003 Commission meeting, the Commission extended the 60-day time limit to act on Local Coastal Program Amendment 1-03 for a period not to exceed one year. The Commission must therefore act upon the amendment by its October 2004 Commission meeting.

#### SUMMARY OF STAFF RECOMMENDATION

Staff recommends the Commission reject the proposed amendment and approve it only if modified so that the ordinances will be consistent with and adequate to carry out the certified LUP. The motions are found on **page 5** of this report. The suggested modifications require any commercial antennas, associated support structures, equipment shelters, buildings, or other components of the facilities, that are not within

**Santa Barbara County**  
**Local Coastal Program Amendment 1-03-C**  
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or on existing buildings or structures, to obtain a conditional use permit if located in the recreation zone district. The suggested modifications also include provisions for commercial and amateur radio facilities to be located within environmentally sensitive habitat only where there is sufficient evidence that there are no other feasible locations available to the operator that will serve the same purpose, and such projects would be required to be processed via a conditional use permit and fully mitigated. Additionally, the suggested modifications provide supplemental development standards for amateur radio facilities, unless exempted pursuant to a major conditional use permit.

**Substantive File Documents**

Resolution No. 03-077, County of Santa Barbara, *In the matter of submitting to the Coastal Commission amendments to the text and maps of the Santa Barbara County Local Coastal Program*, passed, approved, and adopted by the Board of Supervisors March 18, 2003; Resolution No. 02-174, County of Santa Barbara, *In the matter of approving amendments to the Santa Barbara LCP to amend the CZO to amend, clarify, and revise certain permit processes and zoning text provisions pertaining to commercial and non-commercial telecommunications facilities*, passed, approved, and adopted by the Board of Supervisors May 7, 2002; Ordinance 4459, *Case Number 01-OA-005*, adopted by Board of Supervisors May 7, 2002;

**Additional Information:** Please contact Shana Gray, California Coastal Commission, South Central Coast Area, 89 So. California St., Second Floor, Ventura, CA. (805) 585-1800.

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### EXHIBITS

- Exhibit 1. Board of Supervisors Resolution 03-077
  - Exhibit 2. Board of Supervisors Resolution 02-174
  - Exhibit 3. Santa Barbara County Ordinance 4459
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## **I. PROCEDURAL ISSUES**

### **A. STANDARD OF REVIEW**

The Coastal Act provides:

*The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...*

*The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30514)*

The standard of review for the proposed amendments to the Implementation Plan (Coastal Zoning Ordinance) of the certified Local Coastal Program, pursuant to Section 30513 and 30514 of the Coastal Act, is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified Santa Barbara County Local Coastal Program. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

### **B. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The County held a series of public hearings (Planning Commission Hearings 6/6/01, 8/8/01, 9/17/01, 10/3/01, 10/24/01, 11/26/01, and 1/16/02 and Board of Supervisors Hearings 3/26/02 and 5/7/02) and received verbal and written comments regarding the project from concerned parties and members of the public. The hearings were noticed to the public consistent with Sections 13552 and 13551 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

### **C. PROCEDURAL REQUIREMENTS**

Pursuant to Section 13551 (b) of the California Code of Regulations, the County resolution for submittal may submit a Local Coastal Program Amendment that will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, because this approval is subject to suggested modifications by the Commission, if the Commission approves this Amendment, the County must act to accept the certified suggested modifications within six months from the date of Commission action in order for the Amendment to become effective (Section 13544.5; Section 13537 by reference;). Pursuant to Section 13544, the Executive Director shall determine whether

the County's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. If the Commission denies the LCP Amendment, as submitted, no further action is required by either the Commission or the County.

## **II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS ON THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO)**

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

### **A. DENIAL AS SUBMITTED**

**MOTION I:**        *I move that the Commission reject the County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-1-03-C 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 County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-1-03-C and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program 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 as submitted

### **B. CERTIFICATION WITH SUGGESTED MODIFICATIONS**

**MOTION II:**        *I move that the Commission certify County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-1-03-C 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 County of Santa Barbara Implementation Program/Coastal Zoning Ordinance Amendment STB-MAJ-1-03-C if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended, if modified as suggested herein. Certification of the Implementation Program 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 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.

**III. SUGGESTED MODIFICATIONS ON THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO)**

The staff recommends the Commission certify the following, with the modifications as shown below. The proposed amended language to the certified LCP Implementation Plan is shown in straight type. Language recommended by Commission staff to be ~~deleted~~ is shown in ~~line-out~~. Language proposed by Commission staff to be inserted is shown underlined. Other suggested modifications that do not directly change LCP text (e.g., revisions to maps, figures, instructions) are shown in italics.

**1. Commercial Telecommunication Facilities: Processing**

***Sec. 35-144F.3. Processing.***

No permits for development subject to the provisions of this Section shall be approved or issued except in conformance with the following requirements, including the requirements of Sections 35-144F.4 through 35-144F.8 unless otherwise specified.

...

2. The following development requires a Development Plan approved by the Director of Planning and Development pursuant to Sec. 35-174 and the approval and issuance of a Coastal Development Permit pursuant to Sec. 35-169:

b. Wireless telecommunication facilities that may not be permitted pursuant to Sections 35-144F.3.1 or 35-144F.3.2a but do conform to the following development standards may be allowed in all non-residential zone districts as identified in Section 35-52, except for the recreation zone district.

4. The following requires a Major Conditional Use Permit approved by the Planning Commission pursuant to Sec. 35-172 and the issuance and approval of a Coastal Development Permit pursuant to Sec. 35-169:

a. Wireless telecommunication facilities that may not be permitted pursuant to Sections 35-144F.3.1, 35-144F.3.2a, 35-144F.3.2b or 35-144F.3.3 but do conform to the following development standards may be allowed in all zone districts:

...

3) If the facility is proposed to be located in a residential zone district as identified in Section 35-52, or located in the recreation zone district, or does not comply with subsection 2) above, the Planning Commission, in order to approve a conditional use permit, must also find that the area proposed to be served by the telecommunications facility would otherwise not be served by the carrier proposing the facility.

## **2. Commercial Telecommunications Facilities: Development Standards**

### ***Sec. 35-144F.4. Additional Development Standards for Telecommunications Facilities.***

1. Telecommunication facilities shall comply in all instances with the following development standards:

....

i. All buildings, poles, towers, antenna supports, antennas, and other components of each telecommunication site shall be initially painted and thereafter repainted as necessary with a non-reflective paint. ~~Colors shall be consistent with those specified in Appendix F: Guidelines for Telecommunication Sites in Rural and Inner Rural Areas.~~ The lessee shall not oppose the repainting of their equipment in the future by another lessee if an alternate color is deemed more appropriate by a decision-maker in approving a subsequent permit for development.

2. Telecommunication facilities shall comply with the following development standards in all instances except that the decision-maker may exempt a facility from compliance with one or more of the following development standards. However, such an exemption may only be granted if the decision-maker finds, after receipt of sufficient evidence, that failure to adhere to the standard in the specific instance (a) will not increase the visibility of the facility or decrease public safety, or (b) is required due to technical considerations such that if the exemption were not granted the area proposed to be served by the facility would otherwise not be served by the carrier proposing the facility.

~~e. Disturbed areas associated with the development of a facility shall not occur within the boundaries of any environmentally sensitive habitat area.~~

3. Telecommunication facilities shall comply with the following development standards in all instances. If an exemption from one or more of the following standards is requested, then the facility requires a major conditional use permit approved by the Planning Commission pursuant to Sec. 35-172. An exemption may only be granted if the Planning Commission finds, after receipt of sufficient evidence, that failure to adhere to the standard in the specific instance (a) will not increase the visibility of the facility or decrease public safety, or (b) is required due to technical considerations such that if the exemption were not granted the area proposed to be served by the facility would otherwise not be served by the carrier proposing the facility.

e. Disturbed areas associated with the development of a facility shall not occur within the boundaries or buffer of any environmentally sensitive habitat area. An exemption may be approved only upon showing of sufficient evidence that there is no other feasible location(s) in the area or other alternative facility configuration that would avoid impacts to environmentally sensitive habitat areas. If an exemption is approved with regard to this standard, the County shall require the applicant to fully mitigate impacts to environmentally sensitive habitat consistent with the provisions of the certified LCP.

### **3. Commercial Telecommunications Facilities: Collocation**

#### ***Sec. 35-144F.5. Project Installation and Post Installation Provisions.***

3. Collocation. Following initial approval of a telecommunication project, the permittee and property owner shall avail its facility to other prospective applicants and, in good faith, accommodate all reasonable requests for collocation in the future subject to the following limits: ...

### **4. Non-Commercial Telecommunication Facilities: Development Standards**

#### ***Sec. 35-144G.4. Development Standards.***

1. The following standards shall apply to the construction or erection of antennas and antenna support structures associated with amateur radio stations. These non-commercial telecommunication facilities shall comply with the following development standards only to the extent such requirements do not (1) preclude amateur service communications and (2) reasonably accommodate amateur service communications. If an exemption from one or more of the following standards is requested, then the facility requires a major conditional use permit approved by the Planning Commission pursuant to Sec. 35-172. The purpose and intent of these standards is to allow for maximum flexibility in amateur radio operations while protecting the public interest. It is recognized that there are local, state, national, and international interests in services provided by the amateur radio



community such that the provision of these services must be protected. However, this must be balanced with local interests regarding public safety and welfare. Antennas and support structures, ~~including those that may be exempt from permit requirements due to their value being less than \$2,000.00, as provided in Section 35-169.2~~ shall comply with the following standards and any other applicable regulations of the Article including but not limited to setbacks.

5. The visible support facilities shall be finished in non-reflective materials.

6. The components of the facility shall be of a color that blends with surrounding environment to the maximum extent feasible.

7. If the facility is visible from public viewing areas, native vegetation shall be planted to screen the facility.

8. No facility shall be located so as to silhouette against the sky if substantially visible from a state-designated scenic highway or other public viewing area.

9. Facilities that are substantially visible from public viewing areas shall be sited below the ridgeline, depressed or located behind earth berms in order to minimize their profile and minimize any intrusion into the skyline. If it is necessary for the facility, or portion of the facility, to extend above an exposed ridgeline, the facility shall be designed to blend with the surrounding existing natural or man-made environment in such a manner so as to not be substantially visible from public viewing areas (e.g., public roads, trails, recreational areas).

10. Disturbed areas associated with the development of a facility shall not occur within the boundaries or buffer of any environmentally sensitive habitat area. An exemption may be approved only upon showing of sufficient evidence that there is no other feasible location(s) or other alternative facility configuration that would avoid impacts to environmentally sensitive habitat areas and would allow operator to meet the same communication goal. If an exemption is approved with regard to this standard, the County shall require the applicant to fully mitigate the impacts to environmentally sensitive habitat consistent with the provisions of the certified LCP.

## **5. Telecommunication Facilities: Exemptions**

### ***Sec. 35-169.2. Applicability.***

1. Before using any land or structure, or commencing any work pertaining to any development or use in the Coastal Zone of the County, wherein permits are required under the provisions of this Article, a Coastal Development Permit shall be issued, unless other regulations of this Article specifically indicate that such activity is exempt. Activities which are exempt from the issuance of a Coastal Development Permit shall comply with applicable regulations of this Article including but not limited to use, setback, and height, as well as all required provisions and conditions

of any existing approved permits for the subject property. The following activities shall be exempt from the issuance of a Coastal Development Permit:

...

e. Buildings or structures, except for telecommunications facilities regulated under Sections 35-144F and 35-144G, having an aggregate value of less than \$2,000.00, as determined by the Planning and Development Department.

## **IV. FINDINGS FOR DENIAL AS SUBMITTED AND APPROVAL OF THE LOCAL COASTAL PROGRAM IF MODIFIED AS SUGGESTED**

The following findings support the Commission's denial of the LCP amendment as submitted, and approval of the LCP amendment if modified as indicated in Section III (*Suggested Modifications*) above. The Commission hereby finds and declares as follows:

### **A. AMENDMENT DESCRIPTION**

Santa Barbara County is requesting an amendment to the Coastal Zoning Ordinance (Implementation Plan) portion of its certified Local Coastal Program (LCP) to provide new procedures and development standards that regulate the construction and use of commercial telecommunication facilities and to provide new procedures and development standards that regulate the construction and use of non-commercial telecommunication facilities.

Specifically, the County proposes to (see Exhibit 3, Ordinance 4459):

1. Amend Section 35-52, *Zoning District Designations and Applicability*, of the Zoning Code to identify the Mobile Home Park District as a residential district.
2. Amend Section 35-58, *Definitions*, of the Zoning Code to define *Amateur Radio Station; Inhabited Area; Non-ionizing Electro Magnetic Radiation (NIER); Scenic Highway Corridor; Substantially Visible, Telecommunication Facility; Telecommunication Facility, Collocated; Telecommunication Facility, Commercial; Telecommunication Facility, Height; Telecommunication Facility, Multiple User; Telecommunication Facility, Non-Commercial; Telecommunication Facility, Tenant Improvement; Telecommunication Facility, Wireless; Telecommunication Site, Collocated; Tower; Tower, Lattice; and Tower, Monopole.*
3. Amend Section 35-58, *Definitions*, of the Zoning Code to modify definitions of *Antenna* and *Antenna Support Structure* and to delete existing definitions of *Collocated Communication Facility, Collocated Communication Site, Lattice Tower, Master Television Antenna, Monopole, and Wireless Communication Facility.*
4. Amend Section 35-127, *Height*, to the Zoning Code to allow antennas for wireless communication facilities to exceed 75 feet in height in certain cases

when an antenna is mounted on or within an existing building or when mounted on an existing, operational public utility pole or similar support structure (e.g., street light standard); and to allow amateur radio antennas to exceed 75 feet where necessary for the operational need of the operator.

5. Amend Section 35-144F.1 and .2, *Commercial Telecommunication Facilities*, of the Zoning Code to specify the purpose and intent of the section to provide uniform standards for siting and development of commercial telecommunications that transmit or receive electromagnetic signals to protect public safety and visual resources.
6. Amend Section 35-144F.3, *Commercial Telecommunication Facilities*, of the Zoning Code to specify what level of facility requires processing with a Coastal Development Permit (CDP) only, a Development Plan (DP) and Coastal Development Permit, a Minor Conditional Use Permit (CUP) and Coastal Development Permit, or a Major Conditional Use Permit and a Coastal Development Permit, and further, which projects require Board of Architectural Review.
7. Amend Section 35-144F.4, *Commercial Telecommunication Facilities*, of the Zoning Code to provide additional development standards for commercial telecommunication facilities that must be met: setbacks, barriers for public to access the facility, sites designated historical landmarks, compliance with FCC regulations, provisions for new roadways and parking, minimization of night-lighting, exceptions for facilities within an airport safety zone, requirements for non-reflective materials, requirements for landscape screening and protection of existing vegetation. Also to provide additional development standards that must be met unless exempted by the decision maker related to: backup generators, freestanding support structures, environmentally sensitive habitat areas, collocation, and undergrounding of facilities visible from public viewing areas. Also to provide additional development standards that are required unless exempted with approval of a Major CUP from the Planning Commission related to: visibility from scenic corridors, avoidance of siting on ridgeline, and visibility from public viewing areas.
8. Amend Section 35-144F.5, *Commercial Telecommunication Facilities*, of the Zoning Code to specify installation requirements to ensure public safety; to allow for inspection of the project every five years to determine if there are more effective means of ensuring aesthetic compatibility and compliance with safety requirements; to provide hierarchy of collocation standards; to require site removal and site restoration for abandoned facilities; to specify requirements for transfer of ownership; and to detail color compatibility protocols.
9. Amend Section 35-144F.6, *Commercial Telecommunication Facilities*, of the Zoning Code to specify additional noticing requirements in addition to those required under Section 35-181.3 (Coastal Development Permit Noticing), including a special requirement for new projects that include a new freestanding antenna that is visible from the surrounding area and which is within 1000 feet of residentially zoned property.

10. Amend Section 35-144F.7 *Commercial Telecommunication Facilities*, of the Zoning Code to outline additional findings required for the approval of any commercial telecommunication facilities, including the finding of compatibility with surrounding development, minimization of visibility from public, design blending into the surrounding environment, compliance with all required development standards unless granted exemption by appropriate decision-maker, and the demonstration that the facility will be operated within the allowed frequency range permitted by the FCC.
11. Amend Section 35-144F.8 *Commercial Telecommunication Facilities*, of the Zoning Code to specify the contents of a commercial telecommunications facility application.
12. Add new Section 35-144G, *Noncommercial Telecommunications Facilities*, to the certified Zoning Code to provide standards for the siting and development of non-commercial telecommunications facilities, including amateur radio antennas. Non-commercial telecommunication facilities are allowed in all zone districts.  
*Processing.* Amateur radio antennas and support structures which do not exceed 65 feet will be processed as a CDP. Amateur radio antennas and support structures which exceed 65 feet will require a Development Plan approved by the Planning Director. Antenna and support structures valued less than \$2,000 are exempt from permit requirements. *Development Standards.* Four development standards for amateur radio facilities regarding: (1) structures may not impede access by fire or other safety personnel; (2) structures on roofs shall be located away from public viewing areas when feasible; (3) building and electrical permits shall be obtained prior to erecting the facilities; and (4) structures shall not be located or extend over a neighboring property without permission of property owner. *Noticing.* Additional noticing requirements in addition to those required under Section 35-181.3 (Coastal Development Permit Noticing), including a special requirement to mail the approved CDP to neighbors ten days prior to issuance and a special requirement to mail the notice of pending decision on a Development Plan to neighbors, including statement that said neighbor may request a public hearing on the proposed development plan.

## **B. PROPOSED CHANGES TO THE CERTIFIED LOCAL COASTAL PLAN**

The proposed ordinance separates the existing "Communication Facilities" section of the zoning ordinance into a section to regulate commercial telecommunications facilities and a separate section to regulate non-commercial telecommunications facilities. The changes proposed to the certified LCP are discussed below.

### **1. Commercial Telecommunications Facilities**

Under the proposed Commercial Telecommunications Facilities section, a four-tiered permitting system is proposed. The proposed tiering system allows small unobtrusive facilities to obtain coastal development permits at the staff level. Larger more complex projects require greater review by the Director of Planning and Development, the County Zoning Administrator, or the County Planning Commission. This same tiered

processing hierarchy is outlined in the existing certified zoning ordinance; however, the language with regard to type, sizing, and placement are more specific and more up-to-date with technological trends. Additionally, the development standards have been refined and the amendment proposes a three-tiered hierarchy as follows: (1) development standards that must be met by all commercial facilities, (2) development standards that must be met by all commercial facilities unless and exemption is granted by the decision-maker for cause; and (3) development standards that must be met by all commercial facilities unless exempted by the Planning Commission through approval of a major conditional use permit, for cause. Additionally, the amendment includes new provisions regarding project installation, post installation, abandonment and site restoration. These provisions include five-year reviews by the Planning & Development Department and extensive requirements for the applicant to make a good faith effort to utilize and allow for collocation of commercial facilities with other operators whenever feasible.

The proposed ordinance requires five additional findings to be made by the decision-maker in order to approve the application, including the finding of compatibility with surrounding development, minimization of visibility from public, design blending into the surrounding environment, compliance with all required development standards unless granted exemption by appropriate decision-maker, and the demonstration that the facility will be operated within the allowed frequency range permitted by the FCC.

Under existing LCP, the maximum allowable height for any antennas, including wireless and amateur radio facilities, and associated support structures is 75 feet. Under the proposed amendment, antennas for wireless communication facilities may exceed 75 feet if (1) the antenna is on or within existing building and the highest point does not protrude above the roof and (2) the antenna is on an existing operational public utility pole or similar support structure and the highest point does not exceed the height of the pole or structure.

The ordinance proposes new noticing requirements in addition to those required under the existing LCP. Approved Coastal Development Permits (CDP) for commercial telecommunication facilities shall be mailed, prior to issuance of the CDP, to property owners and residents within 300 feet of the exterior boundaries of the parcel and to any person filing a written request. Additionally, for facilities requiring approval of a Development Plan, the notice will also state that the person receiving the notice may request a public hearing by written request. Additionally, if the project is located in a residential zone district or within 1000 feet of residentially zoned property, and the project includes a new freestanding antenna that is visible from the surrounding area, then in addition to all other noticing requirements, notice shall be mailed to all property owners within 1000 feet of the exterior boundary of the facility lease area.

The amendment makes a general modification to the ordinance, shifting the mobile home zone district from its current designation under "Other Districts" to a new designation under "Residential Districts." In the proposed amendment, commercial telecommunication facilities are permitted only in non-residential zone districts, unless a major conditional use permit is approved and a coastal development permit issued by the Planning Commission. The existing ordinance allows communication facilities in all

zone districts, except facilities meeting the definition of a macrocell (low power radio transceiver facility comprised of an unmanned equipment shelter approximately 300 sq. ft. per licensed provider, omni-directional whip, panel or microwave dish antennas mounted on a support structure or building). Therefore, commercial telecommunications facilities are no longer allowed in the mobile home zone district, unless a major conditional use permit is obtained by the applicant.

## **2. Non-Commercial Telecommunications Facilities**

The existing Communication Facilities ordinance applies "to all communication facilities for the transmission and reception of radio, television, and communication signals including, but not limited to, wireless communication services (personal communication, cellular, and paging)." Therefore, non-commercial telecommunication facilities, such as satellite dish antennas and amateur "ham" radio antennas, have many of the same processing and application requirements as the commercial facilities. There are no changes proposed with regard to permissibility by zone district. Both the existing and proposed ordinances allow non-commercial facilities in all zone districts.

The proposed Non-Commercial Telecommunications Facilities section represents a downshifting of regulation with regard to amateur radio antennas, to correspond with federal requirements (see Section C below). Under the certified LCP, amateur radio operations require a minor conditional use permit. In the proposed amendment, amateur radio antennas, including support structures, would be permitted via staff level coastal development permit for facilities up to 65 feet in height. For facilities which exceed 65 feet, the applicant would need to obtain a development plan and a coastal development permit.

Presently, there are no specific development standards for amateur radio facilities. The amendment proposes to add four development standards such that: (1) structures may not impede access by fire or other safety personnel; (2) structures on roofs shall be located away from public viewing areas when feasible; (3) building and electrical permits shall be obtained prior to erecting the facilities; and (4) structures shall not be located or extend over a neighboring property without permission of property owner.

Under the existing LCP, the maximum allowable height for any antennas, including wireless and amateur radio facilities, and associated support structures is 75 feet. Under the proposed amendment, amateur radio antennas can exceed 75 feet if the County finds that an increased height is necessary in order to allow for the operational needs of the operator. Therefore, in the proposed amendment there would be no maximum height requirement.

Additionally, the proposed amendment includes new noticing requirements in addition to the usual noticing procedures of the certified LCP. If the height of the antenna exceeds 50 feet or if it requires a CDP, then a copy of the CDP shall be mailed, prior to issuance, to property owners within 300 feet of the exterior boundaries of the parcel that the project is located on and to any person who filed a written request. For facilities requiring approval of a Development Plan, the notice will also state that the person receiving the notice may request a public hearing by written request.

There is no change to the processing of satellite dish antennas. Satellite dish antennas between one and two meters in diameter would continue to require a coastal development permit. Satellite dish antennas smaller than that are exempt and antennas larger than that require a development plan and coastal development permit.

### **C. BACKGROUND FEDERAL PREEMPTION**

The subject LCP amendment proposes to regulate communication devices that are also regulated by federal law. These communication devices include: amateur radio antennas, satellite antenna and wireless services facilities. The consideration of this LCPA is bound by federal law as summarized in the following chart and further discussed below.

<b>Type of Communication Device</b>	<b>Federal Authority Which Limits State and Local Regulation of Communication Device</b>	<b>Federal Limitation on State and Local Regulation of Communication Device</b>
1. Amateur Radio Antenna	47 CFR Part 97.15 101 F.C.C. 2d 952	<ol style="list-style-type: none"> <li>1. State and local regulations that preclude amateur radio communications are preempted.</li> <li>2. State and local regulations which involve the placement, screening, or height of antennas based on health, safety or aesthetic considerations are permitted as long as the regulations do not restrict the effectiveness of the amateur radio.</li> </ol>
2. Satellite Antennas Smaller Than 1 Meter Used to Receive Video Programming which are placed on property where the viewer has a property interest (ownership or leasehold) and exclusive use or control of the area where the antenna will be installed.	47 CFR 1.4000	1. Federal Rule prohibits state and local aesthetic or visual restrictions that: (a) unreasonably delay or prevent installation, maintenance or use (such as the requirement to obtain a permit); (b) unreasonably increase the cost of installation, maintenance or use (such as the requirement to purchase an antenna of a different height); or (c) preclude reception of an acceptable quality signal.
3. Satellite Earth Station Antennas Larger Than 1 Meter	47 CFR 25.104	1. Federal rule prohibits state and local regulation of a satellite earth station antenna that is two meters or less in diameter (i.e. between 1 and 2 meters) and is proposed to be located in any area where commercial or industrial uses are generally permitted by land use designation.



		<p>2. Federal rule prohibits state and local regulations that materially limit transmission or reception by satellite earth station antennas (other than those listed in 1 above) unless the regulation (a) has a clearly defined health, safety or aesthetic objective that is stated in the text of the regulation itself; and (b) furthers the stated health, safety or aesthetic objective without unnecessarily burdening the federal interests in ensuring access and promoting fair competition.</p>
<p>4. Personal Wireless Services Facilities</p>	<p>47 U.S.C. 332(c)</p>	<p>1. Federal statute prohibits state and local regulations that unreasonably discriminate among providers of functionally equivalent services.</p> <p>2. Federal statute prohibits state and local regulations that prohibit or have the effect of prohibiting the provision of personal wireless services.</p> <p>3. Federal statute prohibits state and local regulation of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions.</p> <p>4. Any decision to deny a permit for a personal wireless service facility must be in writing and must be supported by substantial evidence.</p>

**1. Amateur Radio Antenna**

Conflicts between amateur operators regarding radio antennas and governing authorities regarding restrictive ordinances are common. The amateur radio operator is governed by the regulations contained in 47 C.F.R. Part 97. Those rules do not limit the height of an amateur radio antenna but they require, for aviation safety reasons, that certain FAA notification and FCC approval procedures must be followed for radio antennas which exceed 200 feet in height above ground level or antennas which are to be erected near airports. Thus, under FCC rules some amateur radio antenna support structures require obstruction marking and lighting. On the other hand, local municipalities or governing bodies frequently enact regulations limiting antennas and their support structures in height and location, e.g. to side or rear yards, for health, safety or aesthetic considerations. These limiting regulations can result in conflict because the effectiveness of the communications that emanate from an amateur radio station are directly dependent upon the location and the height of the antenna. Amateur radio operators maintain that they are precluded from operating in certain bands allocated for their use if the height of their radio antennas is limited by a local ordinance.



By declaratory ruling, the FCC announced a limited preemption of state and local regulations governing amateur radio installations. 101F.C.C.2d 952, PRB-1(1985). The FCC stated that there is a strong federal interest in promoting amateur radio communications and that state and local regulations that preclude amateur radio communications are in direct conflict with federal objectives and must be preempted. However, regulation of such devices is permitted as long as the regulations do not restrict the effectiveness of the communications involved.

Because amateur radio communications are only as effective as the antennas employed, antenna height restrictions directly affect the effectiveness of amateur communications. therefore, state or local regulations which involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to reasonably accommodate amateur communications, and to represent the minimum practicable regulation to accomplish the governing authority's legitimate purpose.

## **2. Antennas Smaller Than 1 Meter Used To Receive Video Programming**

As directed by Congress in Section 207 of the Telecommunications Act of 1996, the Federal Communications Commission adopted the Over-the-Air Reception Devices Rule concerning governmental and non-governmental restrictions on viewers' ability to receive video programming signals from direct broadcast satellites, multichannel multipoint distribution (wireless cable) providers, and television broadcast stations. (47 U.S.C. § 332.)

The rule is cited in 47 C.F.R. Section 1.4000 and has been in effect since October 14, 1996. It prohibits restrictions that impair the installation, maintenance or use of antennas used to receive video programming. The rule applies to video antennas including direct-to-home satellite dishes that are less than one meter (39.37") in diameter (or of any size in Alaska), TV antennas, and wireless cable antennas. The rule prohibits most restrictions that: (1) unreasonably delay or prevent installation, maintenance or use; (2) unreasonably increase the cost of installation, maintenance or use; or (3) preclude reception of an acceptable quality signal. The rule does not apply to devices that have transmission capability only. Also VSAT, a commercial satellite service that may use satellite antennas less than one meter in diameter, is not within the purview of the rule because it is not used to provide over-the-air video programming.

The rule applies to viewers who place video antennas on property that they own and/or rent and that is within their exclusive use or control, including condominium owners and cooperative owners or renters who have an area where they have exclusive use, such as a balcony or patio, in which to install the antenna. The rule applies to townhomes and manufactured homes, as well as to single-family homes. The rule does not apply to property not under the viewer's exclusive use or control such as common areas, for e.g., the roof or exterior walls of a multiple dwelling unit.

The rule allows local governments, community associations and landlords to enforce restrictions that are needed for safety or historic district preservation. The rule prohibits

restrictions that impair a viewer's ability to install, maintain, or use a video antenna and restrictions that are imposed for other than safety or historic district preservations. Accordingly, restrictions for aesthetic or visual purposes are prohibited unless a local government receives a waiver of 47 CFR Section 1.4000. To request a waiver from the FCC, governmental and non-governmental entities must petition the FCC setting forth the specific local restriction in question and demonstrating good cause for the waiver, including a showing that the restriction is so vital to the local public interest as to outweigh the federal interest. The petition for waiver must be specific, narrowly targeted and served on all interested parties. The burden of proof is on the entity seeking to enforce the restriction (e.g., the local government). While the petition for waiver is pending with the FCC, the restriction cannot be enforced.

The rule applies to state or local laws or regulations, including zoning, land-use or building regulations, private covenants, homeowners' association rules, condominium or cooperative association restrictions, lease restrictions, or similar restrictions on property within the exclusive use or control of the antenna user where the user has an ownership or leasehold interest in the property. A restriction impairs if it: 1) unreasonably delays or prevents use of, 2) unreasonably increases the cost of, or 3) precludes a viewer from receiving an acceptable quality signal from, one of these antennas. The rule does not prohibit legitimate safety restrictions or restrictions designed to preserve designated or eligible historic or prehistoric properties, provided the restriction is no more burdensome than necessary to accomplish the safety or preservation purpose. The safety or historic purpose must be clearly articulated, and the restriction must be tailored to achieve that specific purpose. No waiver is needed to enforce a restriction that is necessary for a legitimate, articulated safety or historic preservation purpose and that is no more burdensome than necessary to achieve the legitimate safety or historic preservation purpose.

Procedural requirements can unreasonably delay installation, maintenance or use of an antenna covered by this rule. A regulation or restriction that unreasonably delays or prevents antenna installation, maintenance or use will be found to impair reception. For example, local regulations that require a person to obtain a permit or approval prior to installation create unreasonable delay and are generally prohibited. Only permits or prior approval necessary to serve a legitimate safety or historic preservation purpose may be permissible. Permits or prior approvals for aesthetic or visual purposes are not permissible unless a local government petitions the FCC for a waiver of 47 CFR Section 1.4000.

A restriction that prohibits all antennas would prevent viewers from receiving signals, and is prohibited by the Commission rule. However, a regulation for a legitimate safety or historic preservation purpose that requires that antennas be placed where they are not visible from the street would be permissible if this placement does not prevent reception of an acceptable quality signal or impose unreasonable expense or delay. For example, if installing an antenna in the rear of the house costs significantly more than installation on the side of the house, then such a requirement would be prohibited. If, however, installation in the rear of the house does not impose unreasonable expense or delay or preclude reception of an acceptable quality signal, then the restriction is

permissible and the viewer must comply. Restrictions cannot require that relatively unobtrusive direct broadcast satellite antennas be screened by expensive landscaping. On the other hand, a requirement to paint an antenna in a fashion that will not interfere with reception so that it blends into the background against which it is mounted would likely be acceptable.

Finally, because masts are very often a necessary part of antennas covered by Section 1.4000, they are included in the definition of antennas. However, for safety purposes, state and local governments and associations may require antenna users to obtain a permit for masts that exceed twelve feet above the roofline.

### **3. Transmission Or Reception By Satellite Antennas Larger Than 1 Meter**

The FCC adopted 47 CFR § 25.104 as an implementing regulation of the Communications Policy Act of 1984. The purpose of the regulation was to protect "the federally guaranteed right of earth station antenna users to receive certain satellite signals for home viewing. The rule was adopted in 1986 in response to evidence that state and local governments were, in some instances, imposing unreasonably restrictive burdens on the installation of satellite antennas. The 1986 rule preempted ordinances that discriminate against satellite antennas and impose unreasonable limitations on reception or unreasonable costs on users.

The satellite earth station antennas governed by the rule fall into two basic categories, depending on the service provided. The first category consists of antennas designed for direct-to-home reception of video programming for home entertainment purposes. Service can be provided with antennas less than one meter in diameter. The second broad category of antennas is designed for two-way, commercial communications. Most VSAT antennas are less than two meters in diameter.

In crafting the preemption policies, the FCC attempted to reflect the differences in the antennas involved and tried to accommodate the varying local interests. The main state and local concerns regarding installation of satellite earth stations related to aesthetics, health, and safety. These concerns would appear to be greater for larger antennas, thus the rule permits greater local regulation for larger antennas. For smaller antennas, these interests are less compelling and, accordingly, the FCC has more narrowly defined permissible regulation.

Any state or local zoning, land-use, building, or similar regulation that materially limits transmission or reception by satellite earth station antennas, or imposes more than minimal costs on users of such antennas, is preempted unless the promulgating authority can demonstrate that such regulation is reasonable. Regulation of a satellite earth station antenna that is larger than one meter but is two meters or less in diameter and is located or proposed to be located in any area where commercial or industrial uses are generally permitted by land-use regulation shall be presumed unreasonable and is also preempted.

Therefore, for satellite earth station antennas larger than one meter in residential areas and two meters in commercial and industrial areas, state and local governments can

impose reasonable health, safety, or aesthetic regulations. It must be noted that unlike the FCC rule for antennas smaller than 1 meter used to receive video programming (see section 2 above), this rule allows a state or local government to regulate antennas larger than 1 meter in residential areas and antennas larger than 2 meters in industrial and commercial areas for aesthetic or visual purposes. Some set-back from a public road, for example, would appear to be a reasonable health and safety regulation under the rule as long as comparable setbacks are required for other visual obstructions. Finally, for truly unique situations, such as an architecturally historic area, a waiver procedure is available. Some examples of circumstances that might warrant consideration of a waiver, depending on the circumstances and on how other types of antennas or modern accoutrements are treated, are genuine historic districts, waterfront property, or environmentally sensitive areas.

#### **4. Wireless Service Facilities**

Under section 307(c)(7)(B) of the Telecommunications Act of 1996, state and local governments may not unreasonably discriminate among providers or apply regulations that have the effect of prohibiting the provision of personal wireless services. Any decision to deny a permit for a personal wireless service facility must be in writing and must be supported by substantial evidence. The Telecommunications Act also prevents state and local governments from regulating the placement of wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the regulations of the Federal Communications Commission concerning such emissions.

### **D. CONSISTENCY ANALYSIS**

The stated intent of both the commercial and non-commercial telecommunication facilities ordinances is to "promote their orderly development and ensure that they are compatible with surrounding land uses in order to protect the public safety and visual resources." As described above, federal law regulates telecommunications facilities in a manner that preempts local regulatory authority. Faced with these rules, the County has exempted the one-meter dishes from its antenna permits and has developed an streamlined procedure for other devices. Additionally, the County has outlined a new set of procedures to site and design new facilities to protect coastal resources in a manner that would not unreasonably discriminate among commercial providers of functionally equivalent services and would not preclude amateur service communications.

The proposed ordinance implements the Land Use Plan (LUP) policies with regard to protection of coastal resources. The certified LUP contains provisions for new development, visual resources, environmentally sensitive habitat, water quality, and public access and recreation policies, to name a few. The ordinance itself focuses primarily on impacts to visual resources, a notable impact from these types of facilities. However, all other standards of the certified LCP shall still be implemented during the processing of telecommunication facilities applications unless they are in direct conflict with the telecommunications ordinance. Note, all Chapter 3 policies of the Coastal Act

have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

New Development / Cumulative Impacts

In order to ensure that new development is sited in areas able to accommodate it and where it will not have significant cumulative impacts on coastal resources, as required by Section 30250 of the Coastal Act (incorporated by reference into the certified LUP), siting and design must also take into account the requirements of other applicable policies of the certified LUP, including public access, recreation, environmentally sensitive habitat areas, and scenic and visual quality. To reduce cumulative impacts as a result of commercial telecommunication facilities consistent with the provisions of the certified LCP, the proposed ordinance includes extensive requirements for applicants to co-locate their facilities, where feasible and where impacts to coastal resources may be decreased.

The amendment proposes to collocate commercial telecommunication facilities to the maximum extent feasible. The collocation requirements apply to any facilities of the type and size which require (1) a conditional use permit (minor or major) or (2) new freestanding facilities, support structures, buildings, etc. that require processing as a Development Plan, unless exempted by the decision-maker after receipt of sufficient evidence, that failure to adhere to the standard in the specific instance (a) will not increase the visibility of the facility or decrease public safety, or (b) is required due to technical considerations such that if the exemption were not granted the area proposed to be served by the facility would otherwise not be served by the carrier proposing the facility. Collocation is not required for projects sited within or on existing buildings or other structures (e.g., utility poles).

Further, collocation is required unless: (1) the applicant can demonstrate reasonable efforts, acceptable to the decision-maker, have been made to locate the antenna(s) on an existing support structure and such efforts have been unsuccessful; (2) collocation cannot be achieved because there are not existing facilities in the vicinity of the proposed facility; or (3) the decision-maker determines that collocation of the proposed facility would result in greater visual impacts than if a new support structure were constructed. Each facility will be assessed as potential collocation facilities or sites to promote facility and site sharing so as to minimize the overall visual impact. Sites determined to be appropriate as collocated facilities or sites shall be designed such that antenna support structures and other associated appurtenances, including but not limited to, parking areas, access roads, utilities and equipment buildings, may be shared by site users. Criteria used to determine suitability for collocation include but are not limited to the visibility of the existing site, potential for exacerbating the visual impact of the existing site, availability of necessary utilities (power and telephone), existing vegetative screening, availability of more visually suitable sites that meet the radiofrequency needs in the surrounding area, and cumulative radiofrequency emission studies showing compliance with FCC radiofrequency standards.

The responsibility of the permittee to avail its facility to other prospective applicants is outlined in the *Project Installation and Post Installation Provisions*. The permittee must in good faith accommodate all reasonable requests for collocation provided: (1) the party seeking the collocation is responsible for all facility modifications, environmental review, mitigation measures, associated costs, and permit processing; (2) the addition of facilities do not compromise the operational effectiveness of its facility or place its prior approval at risk; and (3) the facilities are made available on a non-discriminatory and equitable basis & County reserves the right to verify that the use of the facilities and property conforms with County policies regarding collocation and to impose additional permit conditions in order to assure these policies are fulfilled. Furthermore, in the event that the need for access to such facilities is demonstrated by other developers, the carrier must make any excess space of their facilities at an equitable cost. If collocation/access to an existing facility is denied by the applicant, then the applicant must submit the terms (including financial terms) under which other carriers in the area would be permitted to enter and use the facilities and/or property. If these terms are determined to be unacceptable to potential users of the facility and if agreement cannot be reached, the County shall reserve the right to impose additional conditions to amend the permit. The imposition of such conditions shall be based on evidence of the charges and terms supplied by the applicant and carrier requesting to collocate. The intent is to ensure the efficient and maximum use of collocated telecommunication facilities in the County.

Notably, commercial telecommunication sites tend to be leased from an underlying property owner. Therefore to ensure adequate implementation of the collocation requirements and minimize cumulative impacts to coastal resources, Suggested Modification Three (3) requires the permittee *and* property owner both agree that the facility shall be made available to other prospective applicants and, in good faith, accommodate all reasonable requests for collocation in the future.

### Visual

Coastal Act Section 30251 (incorporated by reference into the certified LUP) requires that visual qualities of coastal areas be protected, landform alteration be minimized, and where feasible, degraded areas shall be enhanced and restored. This policy requires that development be sited and designed to protect views to and along the ocean and other scenic coastal areas. This policy also requires that development be sited and designed to be visually compatible with the character of surrounding areas. New development must also minimize the alteration of natural landforms, and, where feasible, include measures to restore and enhance visual quality where it has been degraded. Furthermore, Policy 4-3 of the certified LUP requires that new development in rural areas be compatible with the character of the surrounding natural environment in height, scale, and design. Additionally LUP Policy 3-14 requires that new development be designed to fit the topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Policy 3-14 further requires that areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.



Consistent with the above policies for protection of visual resources, the amendment includes new development standards for commercial telecommunication facilities that serve to minimize the construction of new antenna support structures, reduce visibility, reduce the amount of development associated with telecommunication facilities, and protect existing vegetation. Among the new development standards are requirements for undergrounding facilities where visible from public viewing areas such that support facilities (e.g., vaults, equipment rooms, utilities, equipment enclosures) shall be located underground, if feasible, if they would otherwise be visible from public viewing areas (e.g., public roads, trails, recreational areas).

However, while construction of commercial facilities require substantial oversight when impacting public views, non-commercial telecommunication facilities are unrestricted under the proposed amendment. Although federal regulation does limit local regulation of amateur radio facilities, the FCC has not precluded the local government from instituting *any* regulation of these facilities. As stated above in Section 4.C.1, the FCC found that there is a strong federal interest in promoting amateur radio communications and that state and local regulations that preclude amateur radio communications are in direct conflict with federal objectives and must be preempted. However, regulation of such devices is permitted as long as the regulations do not restrict the effectiveness of the communications involved. To better meet the FCC ruling, the proposed amendment significantly downshifts the level of regulation on these types of facilities, by requiring staff level coastal development permit or Director-approved development plan for facilities over 65 feet in height. Under the certified language, amateur radio facilities require a minor conditional use permit.

Given the height and visual similarity to commercial stand-alone antennas, the Commission finds that visual resources could be degraded by construction of amateur radio facilities. Without the additional development standards for amateur radio facilities, the LUP will not be adequately implemented to protect visual resources from the individual or cumulative impacts associated with such structures. Therefore, the Commission requires Modification Four (4) to add five development standards consistent with LUP policy requirements to protect visual resources, including (1) visible support facilities shall be finished in non-reflective materials; (2) components of the facility shall be of a color that blends with surrounding environment to the maximum extent feasible; (3) if the facility is visible from public viewing areas, native vegetation shall be planted to screen the facility; (4) facilities shall not be located so as to silhouette against the sky if substantially visible from a state-designated scenic highway or other public viewing area; and (5) facilities that are substantially visible from public viewing areas shall be sited below the ridgeline, depressed or located behind earth berms in order to minimize their profile and minimize any intrusion into the skyline. If it is necessary for the facility, or portion of the facility, to extend above an exposed ridgeline, the facility shall be designed to blend with the surrounding existing natural or man-made environment in such a manner so as to not be substantially visible from public viewing areas (e.g., public roads, trails, recreational areas).

Additionally, to ensure that the proposed development standards above do not preclude amateur radio facilities consistent with FCC requirements, Special Condition Four (4) adds policy language such that the non-commercial telecommunication facilities must comply with the following development standards only to the extent such requirements do not (1) preclude amateur service communications and (2) reasonably accommodate amateur service communications. If an exemption from one or more of the following standards is requested, then the facility requires a major conditional use permit approved by the Planning Commission pursuant to Sec. 35-172.

#### Public Access/ Recreation

To carry out the requirement of Section 4 of Article X of the California Constitution, Coastal Act Section 30210 (incorporated by reference into the certified LUP) provides that maximum access and recreational opportunities be provided consistent with public safety, public rights, private property rights, and natural resource protection. Coastal Act Section 30211 (also incorporated by reference into the certified LUP) requires that development not interfere with the public's right of access to the sea with certain exceptions. Section 30240 of the Coastal Act (incorporated by reference into the certified LUP) further requires that development adjacent to parks and recreation areas be sited and designed to prevent impacts.

In the proposed amendment, commercial telecommunication facilities are permitted in all non-residential zone districts, unless a major conditional use permit is approved and a coastal development permit issued by the Planning Commission. Therefore these commercial facilities are allowed in the Recreation (REC) zone district. The purpose of the REC zone district is to provide for various forms of outdoor recreation of either a public or private nature. The intent is to encourage outdoor recreational uses which will protect and enhance areas which have both active and passive recreation potential because of their beauty and natural features. Such development should offer recreational uses which complement and are appropriate to the area because of these features.

However, the placement of commercial structures could adversely impact long-term access or recreation if sited in the recreation zone district. Therefore to ensure protection of public recreational opportunities consistent with the above requirements, the Commission finds it necessary to impose Suggested Modification One (1) such that all new freestanding antennas, associated support facilities, or buildings proposed within a recreation zone district, be processed as a conditional use permit. Suggested Modification One makes further provisions for facilities that are subject to a *major* conditional use permit and are located within the recreation zone district, the Planning Commission will make an additional finding that the area proposed to be served by the telecommunications facility would otherwise not be served by the carrier proposing the facility.



## ESHA

The Coastal Act requires the protection of environmentally sensitive habitat areas (ESHA) against any significant disruption of habitat values. No development may be permitted within ESHA, except for uses that are dependent on the resource. Section 30240 (incorporated by reference into the certified LUP) of the Coastal Act further requires that development adjacent to ESHA is sited and designed to prevent impacts that would significantly degrade ESHA and to be compatible with the continuance of the habitat areas. LUP Policy 2-11 requires all development adjacent to environmentally sensitive habitat areas be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.

The existing certified LCP provides general policies which require development adjacent to areas designated on the land use plans or resource maps as ESHA, to be regulated to avoid adverse impacts on habitat resources, including measures such as setbacks, buffers, grading and water quality controls. Additionally the LUP and Zoning Ordinance provide specific development standards by ESHA type.

In the proposed amendment, commercial facilities are allowed within the boundaries of environmentally sensitive habitat when the decision-maker determines, after receipt of sufficient evidence, that failure to adhere to the standard in the specific instance (a) will not increase the visibility of the facility or decrease public safety, or (b) is required due to technical considerations such that if the exemption were not granted the area proposed to be served by the facility would otherwise not be served by the carrier proposing the facility. However, there is another level of exemption that would provide additional protection of ESHA consistent with the policies of the LUP. Therefore, to ensure that the environmentally sensitive habitat protection policies of the certified are implemented to the maximum extent feasible under federal and state law, the Commission requires Suggested Modification Two (2) which changes the level of exemption from the ESHA development standard from administrative approval by the decision-maker to approval of facilities within ESHA or ESHA buffer only with a conditional use permit. Additionally, Suggested Modification 2 specifies that an exemption may be approved only upon showing of sufficient evidence that there is no other feasible location(s) in the area or other alternative facility configuration that would avoid impacts to environmentally sensitive habitat areas. If such an exemption is approved, the County shall require the applicant to fully mitigate impacts to environmentally sensitive habitat consistent with the provisions of the certified LCP.

The Commission further finds that ESHA could be degraded by construction of amateur radio facilities. Therefore, to ensure adequate implementation of the ESHA protection policies of the certified LCP, the Commission requires Modification 4 to provide a specific provision for siting amateur radio facilities where ESHA may be impacted. Modification Four (4) requires that implementation language be added to the extent that approval of facilities within ESHA or ESHA buffer shall only occur with a conditional use permit. Suggested Modification 4 specifies that an exemption may be approved only upon showing of sufficient evidence that there is no other feasible location(s) or other alternative facility configuration that would avoid impacts to environmentally sensitive

**Santa Barbara County**  
**Local Coastal Program Amendment 1-03-C**  
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habitat areas. If such an exemption is approved, the County shall require the applicant to fully mitigate impacts to environmentally sensitive habitat consistent with the provisions of the certified LCP.

Additionally, to ensure that the proposed development standard above does not preclude amateur radio facilities consistent with FCC requirements, Special Condition Four (4) adds policy language such that the non-commercial telecommunication facilities must comply with the development standards only to the extent that such requirements do not (1) preclude amateur service communications and (2) reasonably accommodate amateur service communications. If an exemption from one or more of the following standards is requested, then the facility requires a major conditional use permit approved by the Planning Commission pursuant to Sec. 35-172.

LCP Implementation

Section 30514 of the Coastal Act requires that the certified LCP may be amended but no such amendment shall take effect until it has been certified by the Commission. In this case, the ordinance refers to an Appendix (Appendix F: Guidelines for Telecommunication Site in Rural and Inner Rural Areas) which has not been submitted part of the LCP amendment, is not presently part of the certified LCP, and is subject to change without further notice to the Commission. The overall incorporation (by reference in this case) of such documents into the certified LCP has potential effects that were not specifically reviewed for impacts to coastal resources or adequately addressed during noticing of the LCP amendment. The County may submit the aforementioned document for review and inclusion into the LCP; however in the interim, to ensure that all implementing ordinances, regulations, or other actions within the coastal zone are officially certified as required under Section 30514 of the Coastal Act, the Commission finds that Modification Two (2) is necessary to eliminate the reference to Appendix F. The deletion of this text does not preclude the County's administrative use of these documents for informational purposes during CDP review and does not limit their applicability to other County-required approvals or permits.

The County ordinance exempts telecommunication facilities costing less than \$2,000 as allowed, generally, under the certified zoning ordinance outlining coastal development permit procedures. However, the amendment contains standards that apply to all telecommunication facilities, regardless of cost. Though this is a certified portion of the existing LCP, the subject amendment outlines extensive procedures regarding type, location, and design in a tiered manner to capture the appropriate level of permit processing and regulation of impacts. Under the amendment, smaller projects would already be exempt under the proposed amendment or would require only a staff level coastal development permit. For example, even when a CDP would otherwise be required by the LCP, a CDP cannot be required for (1) satellite antennas smaller than 1 meter used to receive video programming which are placed on property owned or leased and within the exclusive use or control of the user and (2) a satellite antenna that is two meters or less in diameter and is proposed to be located in any area where commercial or industrial uses are generally permitted by land use designation. In this case, a monetary expenditure exemption is inappropriate given that the entire ordinance was developed to capture the level of review necessary to implement the

LCP consistent with FCC regulations. Therefore the Commission requires Modifications Four (4) and Five (5) which delete the \$2000 exemption for all telecommunications facilities.

For the reasons above, the Commission finds that the proposed IP amendments are not consistent with or adequate to carryout the provisions of LUP Policies with respect to visual, environmentally sensitive habitat areas, and implementation unless modified as suggested above.

## **V. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Pursuant to Section 21080.9 of the California Environmental Quality Act ("CEQA"), the Coastal Commission is the lead agency responsible for reviewing Local Coastal Programs for compliance with CEQA. The Secretary of Resources Agency has determined that the Commission's program of reviewing and certifying LCPs qualifies for certification under Section 21080.5 of CEQA. In addition to making the finding that the LCP amendment is in full compliance with CEQA, the Commission must make a finding that no less environmentally damaging feasible alternative exists. Section 21080.5(d)(2)(A) of CEQA and Section 13540(f) of the California Code of Regulations require that the Commission not approve or adopt a LCP, "...if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment."

The proposed amendment is to the County of Santa Barbara's certified Local Coastal Program Implementation Ordinance. The Commission originally certified the County of Santa Barbara's Local Coastal Program Land Use Plan and Implementation Ordinance in 1981 and 1982, respectively. For the reasons discussed in this report, the LCP amendment, as submitted is inconsistent with the applicable policies of the Coastal Act, as incorporated by reference into the Land Use Plan, and the certified Land Use Plan and feasible alternatives and mitigation are available which would lessen any significant adverse effect which the approval would have on the environment. The Commission has, therefore, modified the proposed LCP amendment to include such feasible measures adequate to ensure that such environmental impacts of new development are minimized. As discussed in the preceding section, the Commission's suggested modifications bring the proposed amendment to the Land Use Plan and Implementation Plan components of the LCP into conformity with the certified Land Use Plan. Therefore, the Commission finds that the LCP amendment, as modified, is consistent with CEQA and the Land Use Plan.

RESOLUTION OF THE BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF SUBMITTING TO THE ) COASTAL COMMISSION AMENDMENTS TO THE ) TEXT AND MAPS OF THE SANTA BARBARA ) COUNTY LOCAL COASTAL PROGRAM )	) ) ) ) ) )	<b>RESOLUTION NO:</b> 03-077 <b>CASE NO.s:</b> 01-OA-005, 01ORD-00000- 00002; 02ORD-00000-00001; 00-GP-009; 00-RZ-007
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WITH REFERENCE TO THE FOLLOWING:

- A. On January 7, 1980, by Resolution No. 80-12, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Land Use Plan; and
- B. On July 19, 1982, by Ordinance 3312, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Zoning Ordinance, Article II of Chapter 35 of the Santa Barbara County Code; and
- C. The Board of Supervisors, having deemed it to be in the interest of orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of said County, has amended the Local Coastal Program as specified below.

**Commercial and Non-Commercial Telecommunications Amendments:**

- 1. **01-OA-005**, amend Article II of Chapter 35 of the Santa Barbara County Code, as follows: amend existing **Sections Zoning District Designations and Applicability; Definitions; General Regulations (Height); Communication Facilities**. Add a new section titled **Noncommercial Telecommunications Facilities**.

**Interim Amendments to the County's 1993 Housing Element:**

- 1. **01ORD-00000-00002**, amend Article II of Chapter 35 of the Santa Barbara County Code as follows: amend **Section 35-102C, AH Affordable Housing**, to restart the 30-year affordability term with each sale of an affordable unit for a maximum 60-year period; amend **Section 35-144C, Density Bonus for Affordable Housing Projects**, to restart the 30-year affordability term with each sale of an affordable unit for a maximum 60-year period.

**Amendments to Regulate the Installation and Use of Small Wind Energy Systems Outside of Urbanized Areas:**

- 1. **02ORD-00000-00001**, amend Article II of Chapter 35 of the Santa Barbara County Code, as follows: amend **Division 7 (General Regulations)** to add a new **Section 35-149 (Small Wind Energy Systems)**.

**Mecay Hotchkiss General Plan Amendment and Rezone**

- 1. **00-GP-009**, amend the Santa Barbara County Coastal Land Use Plan by changing the Land Use Designation from Public Park/Recreation to Residential.
- 2. **00-RZ-007**, rezone 18,823 square feet from Recreation (REC) to Residential (7-R-1) under the provisions of Article II of Chapter 35 of the Santa Barbara County Code

<b>EXHIBIT 1</b>
<b>STB-MAJ-1-03-C</b>
County Resolution 03-077 to submit LCP Amendment to Commission

- D. Public officials and agencies, civic organizations, and citizens have been consulted on and have advised the Planning Commission on the said proposed amendments in duly noticed public hearings pursuant to Section 65353 of the Government Code, and the Planning Commission has sent its written recommendations to the Board pursuant to Section 65354 of the Government Code.
- E. This Board has held duly noticed public hearings, as required by Section 65355 and 65856 of the Government Code, on the proposed amendments, at which hearings the amendments were explained and comments invited from the persons in attendance.
- F. These amendments to the Local Coastal Program are consistent with the provisions of the Coastal Act of 1976, the Santa Barbara County Coastal Plan, and the requirements of State Planning and Zoning laws as amended to this date.
- G. The Board now wishes to submit these amendments to the California Coastal Commission.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

- 1. The above recitations are true and correct.
- 2. Pursuant to the provisions of Section 65356 and 65857 of the Government Code and Section 30514 of the Public Resources Code, the above described changes have been previously adopted as amendments to the Santa Barbara County Coastal Plan, Coastal Zoning Ordinance text, and Coastal Zoning Maps.
- 3. The Board certifies that these amendments are intended to be carried out in a manner fully in conformity with the said California Coastal Act.
- 4. The Board submits these Local Coastal Program amendments to the California Coastal Commission for review and certification.
- 5. The Chairman and the Clerk of this Board are hereby authorized and directed to sign and certify all maps, documents and other materials in accordance with this resolution to reflect the above described action by the Board of Supervisors.

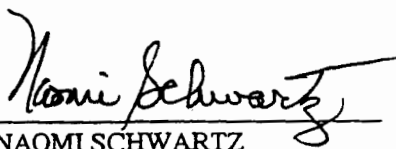
PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 18<sup>th</sup> day of March, 2003, by the following vote:

AYES: Supervisors Schwartz, Rose, Gray and Centeno

NOES: None

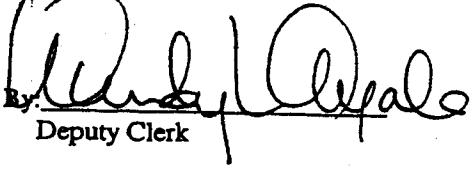
ABSTAIN: None

ABSENT: Supervisor Marshall

  
\_\_\_\_\_  
NAOMI SCHWARTZ  
Chair, Board of Supervisors  
County of Santa Barbara

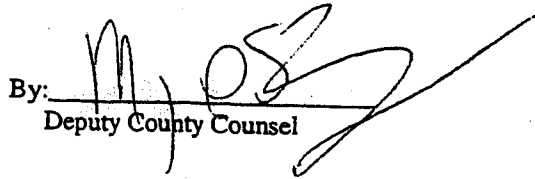
ATTEST:

MICHAEL F. BROWN  
Clerk of the Board of Supervisors

By:   
Deputy Clerk

APPROVED AS TO FORM:

STEPHEN SHANE STARK  
County Counsel

By:   
Deputy County Counsel

ATTACHMENT F

RESOLUTION OF THE BOARD OF SUPERVISORS  
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF APPROVING AMENDMENTS TO )  
THE SANTA BARBARA COUNTY LOCAL COASTAL )  
PROGRAM TO AMEND THE COASTAL ZONING )  
ORDINANCE, ARTICLE II OF CHAPTER 35 OF THE )  
SANTA BARBARA COUNTY CODE, TO AMEND, )  
CLARIFY, AND REVISE CERTAIN PERMIT )  
PROCESSES AND ZONING TEXT PROVISIONS )  
PERTAINING TO COMMERCIAL AND NON- )  
COMMERCIAL TELECOMMUNICATIONS FACILITIES )  
 )  
 )

RESOLUTION NO.: 02-174  
CASE NO.: 01-OA-005

WITH REFERENCE TO THE FOLLOWING:

A. On January 7, 1980, by Resolution No. 80-12, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Plan; and

B. On July 19, 1982, by Ordinance 3312, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Zoning Ordinance, Article II of Chapter 35 of the Santa Barbara County Code; and

C. It is now deemed to be in the interest of orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of said County, that the Board of Supervisors amends the Local Coastal Program as specified below:

01-OA-005: Amend Article II of Chapter 35 of the Santa Barbara County Code, as follows:

1. Amend Section 35-52, Zoning District Designations and Applicability, to identify the Mobile Home Park zone district as a residential district;
2. Amend Section 35-58, Definitions, to define Amateur Radio Station, Inhabited Area, Non-Ionizing Electromagnetic Radiation, Scenic Highway Corridor, Substantially Visible, Telecommunication Facility - Collocated, Telecommunication Facility - Commercial, Telecommunication Facility - Height.

<b>EXHIBIT 2</b>
<b>STB-MAJ-1-03-C</b>
<b>County Resolution 02-174 to amend the Zoning Code provisions regarding telecommunications facilities</b>

Telecommunication Facility - Multiple User, Telecommunication Facility - Non-Commercial, Telecommunication Facility - Tenant Improvement, Telecommunication Facility - Wireless, Telecommunication Site, Collocated Tower, Tower, Lattice Tower, Monopole; to amend the existing definitions of Antenna and Antenna Support Structure; and to delete the existing definitions of Collocated Communication facility, Collocated Communication Site, Lattice Tower, Master Television Antenna, Monopole, and Wireless Communication Facility;

3. Amend Section 35-127, Height, to clarify uses allowed in architectural projections and allow the antenna height to exceed the height limit when mounted in or on an existing building that exceeds the height limit provided the top of the antenna does not extend beyond the top of the existing wall; and to allow amateur radio operators to exceed the height when necessary to meet the operational needs of the operator;
4. Amend Section 35-144F, Communication Facilities, to repeal the existing section and replace it with a new section titled Commercial Telecommunication Facilities that will govern the siting and development of telecommunication facilities, including new development standards for commercial telecommunication facilities; and,
5. Add Section 35-144G, Non-commercial Telecommunication Facilities, that will govern the siting and development of non-commercial telecommunication facilities including but not limited to amateur radio stations.

D. Public officials and agencies, civic organizations, and citizens have been consulted on and have advised the Planning Commission on the said proposed amendments in duly noticed public hearings pursuant to Section 65854 of the Government Code, and the Planning Commission has sent its written recommendations to the Board by its Resolution No. 02-1 pursuant to Section 65855 of the Government Code.

E. This Board has held duly noticed public hearings, as required by Section 65856 of the Government Code, on the proposed amendments, at which hearings the amendments were explained and comments invited from the persons in attendance.



F. These amendments to the Local Coastal Program are consistent with the provisions of the Coastal Act of 1976, the Santa Barbara County Coastal Plan, and the requirements of State Planning and Zoning laws as amended to this date, and are attached as Exhibit 1 (01-OA-005) and incorporated as though fully set forth herein.

G. The Board will submit these amendments to the California Coastal Commission for certification on the next appropriate date.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.
2. Pursuant to the provisions of Section 65857 of the Government Code and Section 30514 of the Public Resources Code, the above described changes are hereby adopted as amendments to the Local Coastal Program (Coastal Zoning Ordinance text) of Santa Barbara County.
3. The Board certifies that these amendments are intended to be carried out in a manner fully in conformity with the said California Coastal Act.
4. The Board will submit these amendments to the California Coastal Commission for review and certification on the appropriate date.
5. The Chair and the Clerk of this Board are hereby authorized and directed to sign and certify all maps, documents and other materials in accordance with this Resolution to reflect the above described action by the Board of Supervisors.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 7th day of May, 2002, by the following vote:

AYES: Supervisors Schwartz, Rose, Marshall, Gray, Urbanske

NOES: None

ABSTAIN: None

ABSENT: None



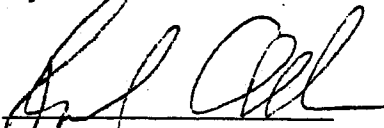
GAIL MARSHALL  
Chair, Board of Supervisors  
County of Santa Barbara

ATTEST:

MICHAEL F. BROWN  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:  
STEPHEN SHANE STARK  
County Counsel

By:   
Deputy County Counsel

ORDINANCE NO. 4459

AN ORDINANCE AMENDING ARTICLE II, OF CHAPTER 35 OF THE SANTA BARBARA COUNTY CODE BY AMENDING DIVISION 1, IN GENERAL, DIVISION 2, DEFINITIONS; AND DIVISION 7, GENERAL REGULATIONS; TO IDENTIFY THE MOBILE HOME PARK ZONE DISTRICT AS A RESIDENTIAL DISTRICT; TO DEFINE AMATEUR RADIO STATION, INHABITED AREA, NON-IONIZING ELECTROMAGNETIC RADIATION, SCENIC HIGHWAY CORRIDOR, SUBSTANTIALLY VISIBLE, TELECOMMUNICATION FACILITY, TELECOMMUNICATION FACILITY, COLLOCATED, TELECOMMUNICATION FACILITY, COMMERCIAL, TELECOMMUNICATION FACILITY, HEIGHT, TELECOMMUNICATION FACILITY, MULTIPLE USER, TELECOMMUNICATION FACILITY, NON-COMMERCIAL, TELECOMMUNICATION FACILITY, TENANT IMPROVEMENT, TELECOMMUNICATION FACILITY, WIRELESS, TELECOMMUNICATION SITE, COLLOCATED, TOWER, TOWER, LATTICE, TOWER, MONOPOLE; TO AMEND THE EXISTING DEFINITIONS OF ANTENNA, ANTENNA SUPPORT STRUCTURE; TO DELETE THE EXISTING DEFINITIONS OF COLLOCATED COMMUNICATION FACILITY, COLLOCATED COMMUNICATION SITE, LATTICE TOWER, MASTER TELEVISION ANTENNA, MONOPOLE, WIRELESS COMMUNICATION FACILITY; TO AMEND GENERAL REGULATIONS TO CLARIFY ALLOWABLE USES WITHIN ARCHITECTURAL PROJECTIONS AND ALLOW ANTENNAS USED IN CONJUNCTION WITH WIRELESS TELECOMMUNICATION FACILITIES TO EXCEED THE HEIGHT LIMIT WHEN MOUNTED ON AN EXISTING STRUCTURE AND ALLOW ANTENNAS ASSOCIATED WITH AMATEUR RADIO STATIONS TO EXCEED THE HEIGHT LIMIT UPON A DEMONSTRATION OF NECESSITY; TO PROVIDE NEW PROCEDURES AND DEVELOPMENT STANDARDS THAT REGULATE THE CONSTRUCTION AND USE OF COMMERCIAL TELECOMMUNICATION FACILITIES; AND TO PROVIDE NEW PROCEDURES AND DEVELOPMENT STANDARDS THAT REGULATE THE CONSTRUCTION AND USE OF NON-COMMERCIAL TELECOMMUNICATION FACILITIES.

Case No. 01-OA-005

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION 1:

Section 35-52, Zoning District Designations and Applicability, DIVISION 1, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-52.2 as follows:

2. Residential Districts
  - RR Rural Residential
  - R-1/E-1 Single Family Residential
  - R-2 Two-Family Residential

<b>EXHIBIT 3</b>
<b>STB-MAJ-1-03-C</b>
<b>Ordinance 4459 – Amending Telecommunications Zoning Code</b>

EX-1 One-Family Exclusive Residential  
DR Design Residential  
PRD Planned Residential Development  
SR-M Medium Density Student Residential  
SR-H High Density Student Residential  
MHP Mobile Home Park

SECTION 2:

Section 35-52, Zoning District Designations and Applicability, DIVISION 1, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Section 35-52.5 as follows:

5. Other Districts
- PU Public Utilities
  - REC Recreation
  - RES Resource Management
  - ~~MHP Mobile Home Park~~
  - TC Transportation Corridor

SECTION 3:

Section 35-58, Definitions, DIVISION 2, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to add new definitions for Amateur Radio Station, Inhabited Area, Non-Ionizing Electromagnetic Radiation, Substantially Visible, Telecommunication Facility, Telecommunication Facility, Collocated, Telecommunication Facility, Commercial, Telecommunication Facility, Height, Telecommunication Facility, Multiple User, Telecommunication Facility, Non-Commercial, Telecommunication Facility, Tenant Improvement, Telecommunication Facility, Wireless, Telecommunication Site, Collocated, Tower, Tower, Lattice, and Tower, Monopole, to read as follows:

AMATEUR RADIO STATION: A radio station operated in the Amateur Radio Service under license by the Federal Communication Commission.

INHABITED AREA: Any dwelling, any other structure regularly occupied by people, or any area used by people on a regular basis.

NON-IONIZING ELECTROMAGNETIC RADIATION (NIER): Electromagnetic radiation occurring primarily in the visible, infrared, and radio-frequency portions of the electromagnetic spectrum.

SCENIC HIGHWAY CORRIDOR: A corridor of land that extends 2,000 feet outward from the right-of-way lines of any state-designated scenic highway.

SUBSTANTIALLY VISIBLE: An object is considered to be substantially visible if it stands out as a conspicuous feature of the landscape when viewed with the naked eye.

TELECOMMUNICATION FACILITY: A facility that transmits and/or receives electromagnetic signals for communication purposes including data transfer. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or reception of such signals; telecommunication towers or similar structures supporting said equipment; equipment buildings; parking areas; and other accessory development. It does not include facilities staffed with other than occasional maintenance and installation personnel or broadcast studios.

TELECOMMUNICATION FACILITY, COLLOCATED: A telecommunication facility comprised of a single telecommunications pole, tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one public or private entity.

TELECOMMUNICATION FACILITY, COMMERCIAL: A telecommunications facility that is operated primarily for a business purpose or purposes.

TELECOMMUNICATION FACILITY, HEIGHT: The height of a telecommunication tower shall be measured from the natural, undisturbed ground surface below the center of the base of said tower to the top of the tower itself, or, if higher, the tip of the highest antenna or piece of equipment attached thereto. In the case of an antenna or antenna support structure mounted on a building or structure, the height of the antenna and/or antenna support structure includes the height of the portion of the building on which it is mounted.

TELECOMMUNICATION FACILITY, MULTIPLE USER: A telecommunications facility comprised of multiple telecommunication towers or buildings supporting one or more antennas owned or used by more than one public or private entity.

TELECOMMUNICATION FACILITY, NON-COMMERCIAL: A telecommunication facility that is operated solely for a non-business purpose.

TELECOMMUNICATION FACILITY, TENANT IMPROVEMENT: A wireless telecommunication facility where the transmission facility and the associated antennas are (1) entirely enclosed within an existing building or (2) located on the roof of an existing building or structure, or (3) the antenna is located on the exterior wall of a building or structure, and the general public does not have access to the facility. Tenant improvements do not include antennas that are mounted on utility poles or similar structures.

TELECOMMUNICATION FACILITY, WIRELESS: A commercial telecommunication facility that transmits and/or receives radio communication signals through the air for cellular, personal communication services, pagers, and/or similar services. The facility can include, but is not limited to: antennas, radio transmitters, equipment shelter or cabinet(s), air vents, antenna support structure, air conditioning units, fire suppression systems, emergency back-up generators including fuel storage.

TELECOMMUNICATION SITE, COLLOCATED: Any site where more than one antenna support structure is installed in close proximity to one another on one parcel.

TOWER: A mast, pole, monopole, guyed tower, lattice tower, freestanding tower, or other structure designed and primarily used to support one or more antennas.

TOWER, LATTICE: A multiple sided open metal frame support structure that supports antennas and related equipment.

TOWER, MONOPOLE: A tower consisting of a single pole, constructed without guy wires and ground anchors.

SECTION 4:

Section 35-58, Definitions, DIVISION 2, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend existing definitions of Antenna and Antenna Support Structure to read as follows:

ANTENNA: ~~A horizontal or vertical element, panel, or dish that may be attached to a pole, tower, building or other support structure for the purposes of transmitting and/or receiving communication signals (e.g., radio, microwave, television).~~ Any system of wires, poles, rods, horizontal or vertical elements, panel, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves.

ANTENNA SUPPORT STRUCTURE: A pole, utility pole, monopole tower, lattice tower, guyed tower, telescoping mast, tower tripod, ~~water tower, building~~ or other similar structure on which antennas, used for the purposes of receiving and/or transmitting communication signals, are mounted utilized for the purpose of supporting an antenna(s) used for the transmission and reception of electromagnetic waves.

#### SECTION 5:

Section 35-58, Definitions, DIVISION 2, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to delete existing definitions of Collocated Communication Facility, Collocated Communication Site, Lattice Tower, Master Television Antenna, Monopole, and Wireless Communication Facility.

#### SECTION 6:

Section 35-127, Height, DIVISION 7, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to amend Sections 35-127.1 and 35-127.2 as follows:

##### ***Sec. 35-127. Height***

1. Chimneys; elevator and stair housings; television receiving ~~antennae~~ antennas for individual receiving sets; flag poles; monuments; oil and gas derricks; church spires; and similar architectural features and similar structures may be up to ~~fifty (50)~~ feet in height in all zone districts where such excess heights are not prohibited by the F Airport Approach or VC, View Corridor Overlay District. No such structure shall be employed for any commercial or advertising use unless specifically allowed by the applicable zone district or general regulations except that antennas and associated equipment may be located within the architectural projections.
2. Antennas and the associated support structure (e.g., lattice tower, monopole, or similar structure) used for the commercial reception and transmission of communication signals (e.g., radio, television, and wireless) and or with amateur "~~ham~~" radio antennas stations may be up to ~~fifty (50)~~ feet in height. These facilities may exceed ~~fifty (50)~~ feet up to a maximum of ~~seventy-five (75)~~ feet in height where technical requirements dictate, unless prohibited by the F Airport Approach ~~Area~~ Overlay District. Amateur radio antennas may exceed 75 feet when the County finds that an increased height is necessary in order to

allow for the operational needs of the operator. Antennas used in connection with wireless communication facilities may exceed 75 in height feet if:

- a. The antenna is mounted on or within an existing building and the highest point of the antenna does not protrude above the roof of the building, including parapet walls and architectural facades, that the antenna(s) is mounted on.
- b. The antenna is mounted on an existing, operational public utility pole or similar support structure (e.g., street light standard), as determined by Planning and Development, provided the highest point of the antenna does not exceed the height of the existing utility pole or similar support structure that it is mounted on.

**SECTION 7:**

Section 35-144F, Communication Facilities, DIVISION 7, of Article II of Chapter 35 of the Santa Barbara County Code is hereby re-titled as follows:

**Sec. 35-144F. Commercial Telecommunication Facilities.**

**SECTION 8:**

Section 35-144F.1, Purpose and Intent, DIVISION 7, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended as follows:

***Sec. 35-144F.1. Purpose and Intent.***

The purpose of this ~~S~~section is to provide ~~for the siting of communication facilities and to set forth specific permit regulations for those communication facilities~~ a uniform and comprehensive set of standards for the siting and development of commercial telecommunication facilities and to establish specific permit regulations and development standards for such facilities. The intent is to ~~ensure that these facilities are properly sited and designed in a manner consistent with the provisions of this Article,~~ promote their orderly development, and ensure that ~~these facilities~~ they are compatible with surrounding land uses in order to protect the public safety and visual resources.

**SECTION 9:**

Section 35-144F.2, Applicability, DIVISION 7, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended as follows:

***Sec. 35-144F.2. Applicability.***



The provisions of this Section shall apply to all commercial telecommunication facilities for the transmission and/or reception of that transmit or receive electromagnetic signals including but not limited to radio, television, and other communication signals including, but not limited to, wireless communication services (e.g., personal communication, cellular, and paging). Such facilities shall also be subject to all the provisions set forth in Sec. 35-169. (Coastal Development Use Permits), Sec. 35-172. (Conditional Use Permits), and Sec. 35-174. (Development Plans), as applicable. Modifications to zone district regulations (~~e.g., setbacks~~) are allowed under Section 35-315, and Section 35-317, ~~unless otherwise~~ only as specified in this section. This section shall not be construed to apply to hand-held, vehicular, or other portable transmitters or transceivers, including but not limited to, cellular phones, CB radios, emergency services radio, and other similar devices.

**SECTION 10:**

Section 35-144F.3, Processing, DIVISION 7, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended as follows:

***Sec. 35-144F.3. Processing.***

No permits for development subject to the provisions of this Section shall be approved or issued except in conformance with the following requirements, including the requirements of Sections 35-144F.4 through 35-144F.8 unless otherwise specified:

1. The following development which requires the approval and issuance of a Coastal Development Permit (CDP) pursuant to (Sec. 35-169, et seq.) shall include:
  - a). Wireless telecommunication facilities that qualify as Tenant Improvements communication facility that and conforms to the following development criteria set forth in Sec. 35-292h.4.1, standards is may be allowed in all non-residential zone districts, except residential zone districts as identified in Section 35-52. Minor exterior additions to existing buildings or structures that a facility is proposed to be located on or within may be permitted in order to comply with applicable development standards.
    - 1) Antennas, associated support structures, and equipment shelters shall comply with the height limit of the zone district that the project is located in subject to the limitations and exceptions provided below. If a facility is

located in an agricultural zone as identified in Section 35-52, the height limit is that which applies to residential structures in that location.

- 2) Antennas, associated support structures and equipment shelters may exceed the height limit of the zone district that the project is located in under the following circumstances:
  - i) The antenna, associated support structure and equipment shelter is located within an existing building or structure.
  - ii) The antenna is mounted on an exterior wall of an existing building or structure, and the highest point of either the antenna or the support structure does not extend above the portion of the wall, including parapet walls and architectural façades, that the antenna is mounted on.
  - iii) The antenna or equipment shelter is located on the roof of an existing building or structure behind a parapet wall or architectural façade such that the highest point of the antenna or equipment shelter does not protrude above the parapet wall or architectural façade.
- 3) Antennas and associated support structures proposed to be installed on the roof or directly attached to an existing building or structure shall be fully screened or architecturally integrated into the design of the building or structure. The highest point of the antenna and associated support structure shall not extend above the portion of the building or structure, including parapet walls and architectural facades, that it is mounted on and shall not protrude more than two feet horizontally from such building or structure. If mounted on the roof of an existing building or structure the highest point of the antenna shall not extend above the parapet wall or architectural façade.
- 4) Equipment shelters proposed to be installed on the roof of an existing or proposed building or structure shall be fully screened or architecturally integrated into the design of the building or structure (e.g., located behind a parapet wall or architectural façade) such that the highest point of the

equipment shelter does not protrude above the parapet wall or architectural façade.

5) Access to the facility is provided by existing roads or driveways.

b) ~~Ground or roof mounted receive only satellite dish antennas or wireless television antennas over one (1) meter in diameter but not greater than two (2) meters in diameter, which is used solely for the non-commercial, private reception of communication signals (e.g., television) is allowed in all zone districts.~~

Wireless telecommunication facilities that conform to the following development standards may be allowed in all zone districts as identified in Section 35-52:

1) Antennas are limited to panel antennas or omnidirectional antennas. Antennas and associated equipment do not exceed a combined volume of one cubic foot.

2) The antenna is mounted on an existing operational public utility pole or similar support structure (e.g., streetlight standard) which is not being considered for removal, as determined by Planning & Development, located within a road right-of-way. No more than two antennas shall be located on a single utility pole or similar structure unless it is determined that there will not be a negative visual impact. If at a later date the utility poles are proposed for removal as part of the undergrounding of the utility lines, the permit for the facilities shall be null and void.

3) The highest point of the antenna does not exceed the height of the existing utility pole or similar support structure that it is mounted on.

2. The following development which requires a ~~Director Approved~~ Development Plan approved by the Director of Planning and Development pursuant to (Sec. 35-174. et seq.) and the approval and issuance of a Coastal Development Use Permit (CDP) pursuant to (Sec. 35-169. et seq.) shall include:

a). Wireless telecommunication facilities that qualify as ~~A Tenant Improvements~~ facility that and conforms to the following development ~~criteria set forth in~~ Section 35-292h.4.2 is standards may be allowed in all non-residential zone districts as identified in Section 35-52. Additions to existing buildings or structures that a facility is proposed to be located on or within may be permitted in order to comply with applicable development standards.

- 1) Antennas, associated support structures, and equipment shelters shall comply with the height limit of the zone district that the project is located in subject to the limitations and exceptions provided below. If the facility is located in an agricultural zone as identified in Section 35-52, the height limit is that which applies to residential structures in that location. No modifications to the height limit pursuant to Sec. 35-174 shall be allowed.
  - 2) Antennas, associated support structures and equipment shelters may exceed the height limit of the zone district that the project is located in under the following circumstances:
    - i) As provided in Sec. 35-144F.3.1.a.2.
    - ii) The portion of the facility that would exceed the height limit is located within an addition that qualifies as an architectural projection pursuant to Sec. 35-127 (General Regulations).
  - 3) The height of the antenna and associated support structure shall not exceed 15 feet above the highest point of the building or structure that the antenna and support structure are located on. Architectural projections shall not be used in determining the highest point of the building or structure. If located on a flat roof of an existing building or structure, the height of the antenna above the roof shall not exceed the distance the antenna is set back from any edge of the roof.
- b). ~~A Microcells, or similar facility, that conforms to the development criteria set forth in Section 35-292h.4.2, is~~ Wireless telecommunication facilities that may not be permitted pursuant to Sections 35-144F.3.1 or 35-144F.3.2.a but do conform to the following development standards may be allowed in all non-residential zone districts as identified in Section 35-52.
- 1) Antennas, the associated support structures, and equipment shelters shall comply with the height limit of the zone district that the project is located in subject to the limitations and exceptions as provided below. If the facility is located in an agricultural zone as identified in Section 35-52, the height limit is that which applies to residential structures in that location. No modifications to the height limit pursuant to Sec. 35-174 shall be allowed.

- 2) Antennas and equipment shelters may exceed the height limit of the zone district that the project is located in under the following circumstances:
    - i) As provided in Sec. 35-144F3.2.a.2.
    - ii) The antenna is mounted on an existing, operational public utility pole or similar support structure (e.g., streetlight standard), as determined by Planning and Development, provided that the highest point of the antenna does not exceed the height of the existing utility pole or similar support structure that it is mounted on.
  - 3) The height of the antenna and associated support structure shall not exceed 15 feet above the highest point of the building or structure that the antenna and support structure are located on. Architectural projections shall not be used in determining the highest point of the building or structure. If located on a flat roof of an existing building or structure, the height of the antenna above the roof shall not exceed the distance the antenna is set back from any edge of the roof.
  - 4) The base of any new freestanding antenna support structure shall be set back from any residentially zoned parcel a distance equal to the five times the height of the antenna and antenna support structure, or a minimum of 300 feet, whichever is greater.
  - 5) A facility may be located within a designated scenic highway corridor, or within a scenic corridor as designated on an Environmental Resources Management Element map, provided all the components of the facility are not substantially visible from the roadway located within the corridor.
  - c) ~~A ground or roof-mounted receive only satellite dish antenna and wireless television antenna greater than two (2) meters in diameter, which is used solely for the non-commercial, private reception of communication signals (e.g., television), is allowed in all zone districts.~~
3. The following which development requires a Minor Conditional Use Permit (CUP) approved by the Zoning Administrator pursuant to (Sec. 35-172-et seq.) and the issuance and approval of a Coastal Development Permit (CDP) pursuant to (Sec. 35-169-et seq.) shall include:

a). ~~A Tenant Improvement facility that conforms to the development criteria set forth in Sec. 35-292h.4.3 is~~ Wireless telecommunication facilities that may not be permitted pursuant to Sections 35-144F.3.1, 35-144F.3.2.a or 35-144F.3.2.b but do conform to the following development standards may be allowed in all non-residential zone districts as identified in Section 35-52.

- 1) Antennas, the associated support structures, and equipment shelters shall comply with the height limit of the zone district that the project is located in subject to the limitations and exceptions as provided below. If the facility is located in an agricultural zone as identified in Section 35-52, the height limit is that which applies to residential structures in that location. Modifications to the height limit pursuant to Sec. 35-172 may be allowed, however, the highest point of the antenna and associated support structure may not exceed 50 feet.
- 2) Antennas, associated support structures and equipment shelters may exceed the height limit of the zone district that the project is located in without the approval of a modification pursuant to Sec. 35-172 under the following circumstances:
  - i) As provided in Sec. 35-144F.3.2.b.2.
  - ii) The antenna and antenna support structure are mounted on an existing building or structure and the height of the antenna and antenna support structure does not exceed 15 feet above the highest point of the building or structure provided the highest point of the antenna does not exceed 50 feet. Architectural projections shall not be used in determining the highest point of the building or structure.
- 3) New freestanding antenna support structures and associated antennas that do not utilize an existing, operational public utility pole or similar support structure, as determined by Planning and Development, shall not exceed a height of 50 feet.
- 4) The base of any new freestanding antenna support structure shall be set back from any residentially zoned parcel a distance equal to the five times

the height of the antenna and antenna support structure, or a minimum of 300 feet, whichever is greater.

b). ~~A Microcell, or similar facility, that conforms to the development criteria set forth in Section 35-292h.4.3., is allowed in all zone districts.~~

c) ~~A Macrocell, or similar facility, that conforms to the development criteria set forth in Section 35-292h.4.3. is allowed in all non-residential zone districts, except RES Resources Management and MT-GOL Mountainous Goleta zone districts, and in residential zone districts only where the subject site has a Comprehensive Plan Land Use Designation or Overlay of Institutional/Government Facility. If the applicant proposes to co-locate on an existing support structure, which has an existing and valid Conditional Use Permit, the project may be processed as a Substantial Conformity Determination, an Amendment, a Revision to the existing Conditional Use Permit, or a new Conditional Use Permit, consistent with the requirements of Sec. 35-315.11.~~

d) ~~Amateur "ham" radio operations used solely by the occupant of the property where the facility is located or is used solely by the Coast Guard or Coast Guard Auxiliary operations, are allowed in all zone districts.~~

~~Other telecommunication facilities and/or structures, including satellite ground station facilities, relay towers, towers or antennas for the transmission and/or reception of radio, television and communication signals which that (1) are not subject to regulation by the Federal Communications Commission or the California Public Utilities Commission and (2) do not exceed ~~five~~ 50 feet in height, ~~are~~ may be allowed in all non-residential zone districts ~~except residential zone districts as specified identified in Sec. Section 35-52.~~~~

~~f)c.~~ Private, non-commercial telecommunication facilities used in conjunction with and serving an agricultural operation located on the property ~~on which~~ that the facility is located ~~on,~~ is are allowed in all agricultural zone districts.

4. The following Development which requires a Major Conditional Use Permit approved by the Planning Commission pursuant to (Sec. 35-172. et seq.) and the issuance and approval of a Coastal Development Permit pursuant to (Sec. 35-169. et seq.):

a). ~~A Tenant Improvement facility that conforms to the development criteria set forth in Sec. 35-292h.4.4., is allowed in all zone districts. Wireless telecommunication~~

facilities that may not be permitted pursuant to Sections 35-144F.3.1, 35-144F.3.2.a, 35-144F.3.2.b or 35-144F.3.3 but do conform to the following development standards may be allowed in all zone districts:

- 1) The height of the antenna and antenna support structure shall not exceed 75 feet.
  - 2) The base of any new freestanding antenna support structure shall be set back from any residentially zoned parcel a distance equal to the five times the height of the antenna and antenna support structure, or a minimum of 300 feet, whichever is greater.
  - 3) If the facility is proposed to be located in a residential zone district as identified in Section 35-52, or does not comply with subsection 2) above, the Planning Commission, in order to approve a conditional use permit, must also find that the area proposed to be served by the telecommunications facility would otherwise not be served by the carrier proposing the facility.
- b). ~~A Microcell, or similar facility, that conforms to the development criteria set forth in Sec. 35-144F.4.4., is allowed in all zone districts.~~
- c) ~~A Macrocell that conforms to the development criteria set forth in Sec 35-144F.4.4., is allowed in all zone districts, except residential zone districts as specified in Sec. 35-52.~~
- d) Other telecommunication facilities that are (1) subject to regulation by the Federal Communications Commission or the California Public Utilities (e.g., AM/FM radio stations, television stations) which include but are not limited to: equipment shelters, antennas, antenna support structures and other appurtenant equipment related to communication facilities for the transmission or reception of radio, television, and communication signals, ~~including Master Television Antenna(s) subject to the provisions of Sec. 35-144F.7, or (2) other telecommunication facilities which that exceed fifty (50) feet in height, except amateur "ham" radio facilities and Wireless communication Facilities,~~ are allowed in all non-residential zone districts, except residential zone districts as specified identified in Sec. 35-52. This does not include wireless telecommunication facilities that are subject to



the provisions of Sec. 35-144F.4.a or amateur radio facilities that are subject to the provisions of Sec. 35-144G.

5. ~~All Commercial telecommunication facilities, except private ground or roof mounted satellite dishes and wireless television antennas,~~ shall be subject to Sec. 35-184 (Board of Architectural Review) under the following circumstances:
- a. The facility includes the construction of a new building or structure or the remodel of or addition to an existing building or structure that is otherwise subject to review by the Board of Architectural Review pursuant to Sec. 35-184.
  - b. The facility is under the jurisdiction of the Planning Commission.

#### SECTION 11:

Section 35-144F.4, Development Criteria for Wireless Communication Facilities, DIVISION 7, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended as follows:

#### ***Sec. 35-144F.4 Additional Development Criteria Standards for Wireless Telecommunication Facilities***

1. ~~A Tenant Improvement facility that requires a Coastal Development Permit only shall comply with all of the following development criteria:~~
  - a) ~~The facility is entirely enclosed within an existing building or structure (except antennas, the associated support structure, and air vents) or is located on the roof of an existing building or structure within an equipment shelter where the general public does not have access to the transmission facility and the associated antennas.~~
  - b) ~~If the equipment shelter is proposed to be located on the roof of an existing building or structure, it shall be fully screened or incorporated into the architectural design of the structure.~~
  - c) ~~Antennas installed on the roof or directly attached to an existing building or structure must be fully screened or integrated into the architectural design of the building or structure.~~
  - d) ~~The highest point of the antenna and any supporting structure installed within or on an existing building or structure does not protrude above the highest point of the building or structure (including parapet walls and architectural facades) on~~

~~which it is mounted. Antennas that are mounted on the exterior wall of an existing building or structure shall not protrude more than two feet horizontally from such building or structure.~~

- ~~e) Access to the facility is provided by existing roads or driveways.~~
- ~~f) The facility does not include night lighting.~~
- ~~g) The facility is not located within a residential zone district and is a minimum of 50 feet from the nearest existing residential dwelling unit, residentially zoned parcel line, licensed day care facility, and educational facility.~~
- ~~h) Electricity provided by a public utility is the primary power source.~~
- ~~i) If the facility is proposed to be installed in or on a historic building or structure, as identified in the County list of Historical Landmarks, the project shall be subject to review by the Historical Landmark Advisory Committee.~~
- ~~j) The noise levels associated with the facility do not exceed County and State standards or policies.~~
- ~~k) The maximum composite effective radiating (ERP) power of the facility, or sum of the power of all facilities collocated on the building or structure, is 1,000 watts or less. If a facility is sectorized (i.e., using more than one directional antenna), the maximum composite ERP shall be limited to 1,000 watts or less per sector. If the site is collocated with a sectorized and a non-sectorized (e.g., using an omnidirectional whip antenna) facility, the maximum ERP associated with the site shall be calculated by adding the maximum ERP associated with the whip antenna(s) and the maximum ERP associated with one of the directional antennas.~~
- ~~l) Notice of the approved project shall be provided in accordance with Sec. 35-181.3. (Coastal Development and Land Use Permit Noticing). In addition, a copy of the approved Coastal Development Permit must be mailed to property owners within 300 feet and residents within 100 feet of the exterior boundaries of the project site, and to any person who has filed a written request and provided a self addressed stamped envelope to Planning and Development.~~

2. ~~Tenant Improvement facilities that do not comply with the development criteria identified in Sec. 35-144E.4.1 and Microcells, or similar facility, which require a Director Approved Development Plan shall comply with the following pertinent development criteria:~~

- a) ~~Tenant Improvement Facility:~~
- i) ~~The facility is entirely enclosed within an existing building or structure (excluding antennas, the associated support structure, and air vents), or is located on the roof of an existing building/structure within an equipment shelter where the general public does not have access to the transmission facility and the associated antennas.~~
  - ii) ~~If the facility is proposed to be installed in or on a historic building or structure, as identified in the County list of Historical Landmarks, the project shall be reviewed and approved by the Historical Landmark Advisory Committee.~~
  - iii) ~~The maximum height of the antenna(s) conforms to the zone district height requirements. No modifications (Sec. 35-172 or Sec. 35-174.) of the height limit shall be allowed. If located on a flat roof of an existing building or structure, the height of the antenna shall be not greater than the distance the antenna is setback from the edge of the roof.~~
  - iv) ~~Notice of the project has been provided pursuant to Sec. 35-181 and no written request for a hearing has been submitted to Planning and Development within ten (10) calendar days of such notice. If such request is received the project shall be processed as a Zoning Administrator Development Plan.~~
- b) ~~Microcell, or similar facility:~~
- i) ~~The general public is excluded from the facility (e.g., underground or locked cabinet).~~
  - ii) ~~The maximum height of the antenna(s) conforms to the zone district height requirements. No modifications (Sec. 35-172 or Sec. 35-174.) of the height limit shall be allowed, except as follows; the highest point of the antenna(s) may exceed district height requirements only when mounted on an existing, operational public utility pole or similar support structure, as determined by Planning and Development. In no case shall the highest point of the antenna exceed the height of the utility pole or similar support structure (e.g., street light standard) on which it is mounted.~~

iii) ~~The location of the microcell or similar facility shall conform to the following:~~

- a) ~~Above ground facility (e.g., equipment cabinet) must meet applicable zone district setback regulations, unless a modification of such setbacks is approved. The antenna may be located within setbacks or right of way if installed on an existing, operational, public utility pole, or similar existing support structure (e.g., street light).~~
- b) ~~Underground equipment (e.g., equipment cabinet) and associated antenna(s) may be located within the zone district setbacks and the right of way provided that the antenna(s) is installed on an existing, operational, public utility pole or similar existing support structure (e.g., street light). If the facility is located within the road right of way no portion of the facility shall obstruct existing or proposed sidewalks, trails, and vehicular ingress/egress. In addition, the applicant must also obtain the necessary encroachment permits for the installation and operation of the facility.~~
- c) ~~The maximum number of microcells using a single operational utility pole as a support structure for the antennas shall not exceed two (2).~~

iv) ~~Notice of the project has been provided pursuant to Sec. 35-181 and no written request for a hearing has been submitted to Planning and Development within ten (10) calendar days of such notice. If such request is received the project shall be processed as a Zoning Administrator Development Plan.~~

3. ~~Tenant Improvement facilities and Microcells, or similar facilities, that do not conform to the development criteria outlined in Sec. 35-144F.4.1. and Sec. 35-144F.4.2., and Macrocells require a Minor Conditional Use Permit and shall conform to the following development criteria:~~

- a) ~~Tenant Improvement Facility:~~

- ~~i) The facility is entirely enclosed within an existing building or structure (excluding antennas, the associated support structure, and air vents) or is located on the roof of an existing building or structure within an equipment shelter where the general public does not have access to the transmission facility and the associated antenna(s).~~
- ~~ii) If the facility is proposed to be installed in or on a historic building or structure, as identified in the County list of Historical Landmarks, the project shall be reviewed and approved by the Historical Landmark Advisory Committee.~~
- ~~iii) The height of the antenna(s) and supporting structure shall not exceed 50 feet. No modifications (Sec. 35-172. or Sec. 35-174.) of the height limit shall be allowed. If the antenna(s) is located on an existing building or structure, the antenna shall not exceed fifteen (15) feet above the highest point of the structure. If the antenna(s) is located on a flat roof, the height of the antenna(s) shall be no greater than the distance the antenna(s) is setback from the edge of the roof up to a maximum of fifteen (15) feet.~~
- b) ~~Microcell, or similar facility:~~

  - ~~i) The general public is excluded from the facility (e.g., underground or locked cabinet).~~
  - ~~ii) The height of the antenna(s) and supporting structure shall not exceed fifty (50) feet. No modifications (Sec. 35-172. or Sec. 35-174.) of the height limit shall be allowed, except as specified below. If the antenna is located on an existing building or structure, the antenna shall not exceed fifteen (15) feet above the highest point of the structure. If the antenna(s) are located on a flat roof, the height of the antenna(s) shall be no greater than the distance the antenna is setback from the edge of the roof up to a maximum of fifteen (15) feet. The highest point of the antenna(s) may exceed fifty (50) feet only when mounted on an existing operational public utility pole or similar support structure, as determined by Planning and Development, but in no case shall the highest point of the antenna exceed the height of the utility pole or similar base on which it is mounted.~~

- iii) ~~The location of the microcell, or similar facility, shall conform to the following:~~
  - a) ~~Above ground facility (e.g., equipment cabinet) must meet applicable zone district setback regulations, unless a modification of such setbacks is approved. The antenna(s) may be located within setbacks or right of way if installed on an existing utility pole, or similar existing support structure (e.g., street light).~~
  - b) ~~Underground equipment (e.g., equipment cabinet) and associated antennas may be located within the zone district setbacks and the right of way provided that the antenna is installed on an existing, operational, public utility pole or similar existing support structure (e.g., street light). If the facility is located within the road right of way no portion of the facility shall obstruct existing or proposed sidewalks, trails, and vehicular ingress/egress. In addition, the applicant must also obtain the necessary encroachment permits for the installation and operation of the facility.~~
  - c) ~~The maximum number of microcells using a single operational utility pole as a support structure for the antennas shall not exceed two (2).~~
- c) ~~Macrocell, or similar facility.~~
  - i) ~~The general public will be excluded from the facility (e.g., fenced).~~
  - ii) ~~The height of the antenna and supporting structure shall not exceed 50 feet. No modifications (Sec. 35-172. or Sec. 35-174.) of the height limit shall be allowed.~~
  - iii) ~~The support structure and associated antennas are : 1) a monopole with an antenna envelope of no more than 2 feet in diameter, 2) designed to look like the natural or man-made environment (e.g., designed to look like a tree, rock outcropping, or street light), or 3) designed to integrate into the natural environment (e.g., imbedded in a hillside), do not protrude into the skyline, and include a maximum of two sectors (i.e., antennas transmitting in two directions) and 6 antennas.~~

- iv) ~~The facility is not located within a residential zone district, unless the subject site has a Comprehensive Plan Land Use Designation or Overlay of Institutional/Government Facility and the facility is a minimum of 100 feet from the nearest existing residential dwelling unit, existing educational facility, including licensed day care centers, on an adjacent parcel, or other residentially zoned parcel line.~~
- v) ~~The facility is not located within a Scenic Highway Corridor.~~
- vi) ~~The project, including the support structure, shall meet all setback regulations provided in the applicable zone district, unless a modification of such setbacks is approved.~~
- vii) ~~Co location of macrocells on an existing support structure shall be required unless:~~
  - a) ~~The applicant can demonstrate that reasonable efforts, as determined by Planning and Development, have been made to locate the antenna(s) on an existing support structure and such efforts have been unsuccessful; or~~
  - b) ~~Co location cannot be achieved because there are no existing facilities in the vicinity of the proposed facility; or~~
  - c) ~~Planning and Development determines that co location of the proposed facility would result in greater visual impacts than if a new/separate support structure (e.g., monopole, lattice tower) were constructed.~~

4. ~~Wireless Communication facilities that do not conform to the development criteria set forth in Sec. 35-144F.4.1., Sec. 35-144F.4.2., or Sec. 35-144F.4.3., require a Major Conditional Use Permit and shall comply with the following development criteria:~~

- a) ~~Tenant Improvement Facility:~~
  - i) ~~The facility is entirely enclosed within an existing building or structure (excluding antennas, the associated support structure, and air vents) or is located on the roof of an existing building or structure within an equipment shelter where the general public does not have access to the transmission facility and the associated antennas.~~

- ii) ~~If the facility is proposed to be installed in or on a historic building or structure, as identified in the County list of Historical Landmarks, the project shall be reviewed and approved by the Historical Landmark Advisory Committee.~~
- b) ~~Microcell, or similar facility:~~
  - i) ~~The general public is excluded from the facility (e.g., underground or locked cabinet).~~
  - ii) ~~The location of the microcell or similar facility shall conform to the following:~~
    - a) ~~Above ground facility (e.g., equipment cabinet) must meet applicable zone district setback regulations, unless a modification of such setbacks is approved. The antenna(s) may be located within setbacks or right of way if installed on an existing, operational, public utility pole, or similar existing support structure (e.g., street light).~~
    - b) ~~Underground equipment (e.g., equipment cabinet) and associated antennas may be located within the zone district setbacks and the right of way provided that the antenna is installed on an existing, operational, public utility pole or similar existing support structure (e.g., street light). If the facility is located within the road right of way no portion of the facility shall obstruct existing or proposed sidewalks, trails, and vehicular ingress/egress. In addition, the applicant must also obtain the necessary encroachment permits for the installation and operation of the facility.~~
    - c) ~~The maximum number of microcells using a single operational utility pole as a support structure for the antennas shall not exceed two (2).~~
- c) ~~Macrocell, or similar facility.~~
  - i) ~~The general public is excluded from the facility (e.g., fenced).~~
  - ii) ~~Macrocell facility that does not conform to the development criteria set forth in Sec. 35-144F.4.3. shall be prohibited in all residential zone districts as specified in Sec. 35-52.~~



- iii) ~~Macrocell facility shall be a minimum of 100 feet from the nearest existing residential dwelling unit, existing educational facility including licensed day care centers, on an adjacent parcel, or residentially zoned parcel line.~~
- iv) ~~The project, including the support structure, shall meet all setback regulations provided in the applicable zone district, unless a modification of such setbacks is approved.~~
- v) ~~Macrocells, or similar facility, shall be collocated on an existing support structure unless:~~
  - a) ~~The applicant can demonstrate that reasonable efforts, as determined by Planning and Development, have been made to locate the antenna(s) on an existing support structure and such efforts have been unsuccessful, or~~
  - b) ~~Co location cannot be achieved because there are no existing facilities in the vicinity of the proposed facility, or~~
  - c) ~~Planning and Development determines that co location of the proposed facility would result in greater visual impacts than if a new/separate support structure (e.g., monopole, lattice tower) were constructed.~~

In addition to the development standards contained in Sec. 35-144F.3, commercial telecommunication facilities shall also comply with the following development standards unless otherwise indicated.

1. Telecommunication facilities shall comply in all instances with the following development standards:
  - a. The facility shall comply with the setback requirements of the zone district that the facility is located in except as follows:
    - 1) Antennas may be located within the setback area without approval of a modification provided they are installed on an existing, operational, public utility pole, or similar existing support structure.
    - 2) Underground equipment (e.g., equipment cabinet) may be located within the setback area and rights-of-way provided that no portion of the facility

shall obstruct existing or proposed sidewalks, trails, and vehicular ingress or egress.

- 3) A modification to the setback is granted pursuant to Section 35-172 (Conditional Use Permits) or Section 35-174 (Development Plans).
- b. The general public is excluded from the facility by fencing or other barriers that prevent access to the antenna, associated support structure and equipment shelter.
  - c. Facilities proposed to be installed in or on a building, structure or site that has been designated by the County as a historical landmark shall be reviewed and approved by the Historical Landmark Advisory Commission, or the Board of Supervisors on appeal.
  - d. The facility shall comply at all times with all Federal Communication Commission rules, regulations, and standards.
  - e. The facility shall be served by roads and parking areas consistent with the following requirements:
    - 1) New access roads or improvements to existing access roads shall be limited to the minimum required to comply with County regulations concerning roadway standards and regulations.
    - 2) Existing parking areas shall be used whenever possible, and any new parking areas shall not exceed 350 square feet in area.
    - 3) Any newly constructed roads or parking areas shall, whenever feasible, be shared with subsequent telecommunication facilities or other permitted uses.
  - f. The facility shall be unlit except for the following:
    - 1) A manually operated or motion-detector controlled light that includes a timer located above the equipment structure door that shall be kept off except when personnel are actually present at night.
    - 2) Where an antenna support structure is required to be lighted, the lighting shall be shielded or directed to the greatest extent possible in such manner so as to minimize the amount of light that falls onto nearby residences.
  - g. The facility shall not be located within the safety zone of any airport unless the airport operator indicates that it will not adversely affect the operation of the airport. The height of an antenna and associated support structure proposed to be

located within an area zoned as F- Airport Approach Overlay District (Sec. 35-100) shall comply with the height limitations of that overlay district.

- h. The visible surfaces of support facilities (e.g., vaults, equipment rooms, utilities, equipment enclosures) shall be finished in non-reflective materials.
  - i. All buildings, poles, towers, antenna supports, antennas, and other components of each telecommunication site shall be initially painted and thereafter repainted as necessary with a non-reflective paint. Colors shall be consistent with those specified in Appendix F: Guidelines for Telecommunication Sites in Rural and Inner-Rural Areas. The lessee shall not oppose the repainting of their equipment in the future by another lessee if an alternate color is deemed more appropriate by a decision-maker in approving a subsequent permit for development.
  - j. The facility shall be constructed so as to maintain and enhance existing vegetation through the implementation of the following measures:

    - 1) Existing trees and other vegetation that screens the facility and associated access roads, power lines and telephone lines that is not required to be removed in order to construct the facility shall be protected from damage during the construction period and for the life of the project.
    - 2) Underground lines shall be routed to avoid damage to tree root systems to the maximum extent feasible.
    - 3) Additional trees and other native or adapted vegetation shall be planted and maintained in the vicinity of the project site, and associated access roads, power lines and telephone lines under the following situations:

      - i) Such vegetation is required to screen the improvements from public viewing areas.
      - ii) The facility or related improvements are likely to become significantly more visible from public viewing areas over time due to the age, health, or density of the existing vegetation.
- Required landscape plans shall be comprised of appropriate species and should be prepared by a botanist, licensed landscape contractor or licensed landscape architect. Performance security shall be required to guarantee the installation and maintenance of any new plantings.

- 4) Any existing trees or significant vegetation used to screen the facility that dies in the future shall be replaced with native trees and vegetation of a comparable size, species and density. The facility may be required to be repainted during the time required for the newly planted vegetation to mature and provide adequate screening.
- 5) The vegetation that exists when the project is initially approved that is required to provide screening for the facility shall not be altered in any manner that would increase the visibility of the facility and associated access roads, power lines and telephone lines except:
  - i) Where such alteration is specifically allowed by the approved project, or
  - ii) Where necessary to avoid signal interference to and from the approved facility.

Any alteration of such vegetation shall be done under the direction of a licensed arborist.

2. Telecommunication facilities shall comply with the following development standards in all instances except that the decision-maker may exempt a facility from compliance with one or more of the following development standards. However, such an exemption may only be granted if the decision-maker finds, after receipt of sufficient evidence, that failure to adhere to the standard in the specific instance (a) will not increase the visibility of the facility or decrease public safety, or (b) is required due to technical considerations such that if the exemption were not granted the area proposed to be served by the facility would otherwise not be served by the carrier proposing the facility.

- a. The primary power source shall be electricity provided by a public utility. Backup generators shall only be operated during power outages and for testing and maintenance purposes. Any new utility line extension longer than 50 feet installed primarily to serve the facility shall be located underground unless an overhead utility line would not be visible from a public viewing area. Any new underground utilities shall contain additional capacity (e.g., multiple conduits) for additional power lines and telephone lines if the site is determined to be suitable for collocation.

- b. Freestanding antenna support structures exceeding 35 feet in height shall be monopoles or guyed or lattice towers except where satisfactory evidence is submitted to the decision-maker that a different design is required in order to:
- 1) Provide the height or capacity necessary for the proposed use.
  - 2) Minimize the need for screening from adjacent properties.
  - 3) Lessen the visibility of the tower.
  - 4) Lessen the possibility of bird strikes.
- c. Disturbed areas associated with the development of a facility shall not occur within the boundaries of any environmentally sensitive habitat area.
- d. Collocation on an existing support structure shall be required for facilities permitted pursuant to Sec. 35-144F.3.2.b, Sec. 35-144F.3.3 and Sec. 35-144F.3.4 unless:
- 1) The applicant can demonstrate that reasonable efforts, acceptable to the decision-maker, have been made to locate the antenna(s) on an existing support structure and such efforts have been unsuccessful; or
  - 2) Collocation cannot be achieved because there are no existing facilities in the vicinity of the proposed facility; or
  - 3) The decision-maker determines that collocation of the proposed facility would result in greater visual impacts than if a new support structure were constructed.

All proposed facilities shall be assessed as potential collocation facilities or sites to promote facility and site sharing so as to minimize the overall visual impact. Sites determined by Planning & Development to be appropriate as collocated facilities or sites shall be designed such that antenna support structures and other associated appurtenances, including but not limited to, parking areas, access roads, utilities and equipment buildings, may be shared by site users. Criteria used to determine suitability for collocation include but are not limited to the visibility of the existing site, potential for exacerbating the visual impact of the existing site, availability of necessary utilities (power and telephone), existing vegetative screening, availability of more visually suitable sites that meet the radiofrequency needs in the surrounding area, and cumulative radiofrequency emission studies

showing compliance with radiofrequency standards established by the FCC. Additional requirements regarding collocation are located in Sec. 35-144F.5.3.

e. Support facilities (e.g., vaults, equipment rooms, utilities, equipment enclosures) shall be located underground, if feasible, if they would otherwise be visible from public viewing areas (e.g., public roads, trails, recreational areas).

3. Telecommunication facilities shall comply with the following development standards in all instances. If an exemption from one or more of the following standards is requested, then the facility requires a major conditional use permit approved by the Planning Commission pursuant to Sec. 35-172. An exemption may only be granted if the Planning Commission finds, after receipt of sufficient evidence, that failure to adhere to the standard in the specific instance (a) will not increase the visibility of the facility or decrease public safety, or (b) is required due to technical considerations such that if the exemption were not granted the area proposed to be served by the facility would otherwise not be served by the carrier proposing the facility.

a. No facility shall be located so as to silhouette against the sky if substantially visible from a state-designated scenic highway or roadway located within a scenic corridor as designated on an Environmental Resources Management Element map.

b. No facility shall be installed on an exposed ridgeline unless it blends with the surrounding existing natural or man-made environment in such a manner so as to not be substantially visible from public viewing areas (e.g., public road, trails, recreational areas) or is collocated in a multiple user facility.

c. No facility that is substantially visible from a public viewing area shall be installed closer than two miles from another substantially visible facility unless it is an existing collocated facility situated on multiple-user site.

d. Telecommunication facilities that are substantially visible from public viewing areas shall be sited below the ridgeline, depressed or located behind earth berms in order to minimize their profile and minimize any intrusion into the skyline. In addition, where feasible, and where visual impacts would be reduced, the facility shall be designed to look like the natural or man-made environment (e.g., designed to look like a tree, rock outcropping, or street light), or designed to

integrate into the natural environment (e.g., imbedded in a hillside). Such facilities shall be compatible with the existing surrounding environment.

SECTION 12:

Section 35-144F.5, Abandonment Procedures, DIVISION 7, of Article III of Chapter 35 of the Santa Barbara County Code is hereby amended as follows:

*Sec. 35-144F.5 ~~Abandonment Procedures Project Installation and Post Installation Provisions~~*

~~If a commercial facility used for the transmission and/or reception of communication signals including radio equipment and antennas, has not been in use for twelve (12) continuous months, the facility and all appurtenant structures shall be considered abandoned. Prior to permit approved for the installation of such facility, the applicant shall post a performance security in an amount determined by Planning and Development that is sufficient to cover the cost of removal of the facility in the event that the such facility is abandoned. If Planning and Development determines that the facility has been abandoned, the applicant may be required to remove all equipment belonging to the applicant from the premise within 30 calendar days of receipt of notice to abate. If such facility is not removed within 30 days, the County may remove the facility at the applicant's expense.~~

1. Installation. No telecommunication facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public safety. No telecommunication facility or combination of facilities shall produce at any time power densities that exceed the Federal Communications Commission Maximum Permissible Exposure Limit for human exposure or any legally binding, more restrictive standard subsequently adopted by the federal government.
  - a. Initial compliance with this requirement shall be demonstrated for all commercial telecommunication facilities through submission, at the time of application for the necessary permit or other entitlement, of non-ionizing electromagnetic radiation (NIER) calculations specifying NIER levels.
  - b. If these calculated NIER levels exceed 80 percent of the NIER standard established by this section, the applicant shall notify the Director of Planning and Development and the Director shall hire a qualified electrical engineer licensed by the State of California to measure NIER levels at said location after the facility is

in operation. A report of these measurements and the engineer's findings with respect to compliance with the established NIER standard shall be submitted to the Director. The cost of the preparation of said report shall be paid for by the applicant.

- c. Said facility shall not commence normal operations until it complies with, or has been modified to comply with, this standard. Proof of said compliance shall be a certification provided by the engineer who prepared the original report.

2. Project Review.

- a. Five years after the issuance of the initial land use permit for the facility and no more frequently than every five years thereafter, the Director of Planning and Development may undertake inspection of the project and require the permittee to modify its facilities. Modifications may be required if, at the time of inspection it is determined that:

- 1) The project fails to achieve the intended purposes of the development standards listed in Section 35-92h.4 for reasons attributable to design or changes in environmental setting; or
- 2) More effective means of ensuring aesthetic compatibility with surrounding uses become available as a result of subsequent technological advances or changes in circumstance from the time the project was initially approved.

The Director's decision shall take into account the availability of new technology, capacity and coverage requirements of the permittee, and new facilities installed in the vicinity of the site. The scope of modification, if required, may include, but not be limited to a reduction in antenna size and height, collocation at an alternate permitted site, and similar site and architectural design changes. However, the permittee shall not be required to undertake changes that exceed ten percent of the total cost of facility construction. The decision of the Director as to modifications required under this section shall be deemed final unless appealed pursuant to Sec. 35-182.2 of this article.

- b. Every telecommunication facility shall demonstrate continued compliance with the NIER standard established by this section.
- 1) Every five years, or other time period as specified by the decision-maker as a condition of approval of the project, a report listing the effective



radiated power radiated of the whole facility shall be submitted by the newest carrier operating at the facility to the Director of Planning and Development. If the effective radiated power has changed, calculations specifying NIER levels in inhabited areas shall be prepared and submitted with the report. NIER calculations shall also be prepared every time the adopted NIER standard changes by the newest carrier locating on the facility.

- 2) If calculated levels in either of these cases exceed 80 percent of the NIER standard established by this section, the said carrier shall notify the Director and the Director shall hire a qualified electrical engineer licensed by the State of California to measure actual NIER levels produced. A report of these calculations, required measurements, if any, and the author's/engineer's findings with respect to compliance with the current NIER standard shall be submitted to the Director within five years of facility approval and every five years thereafter. The cost of the preparation of said reports shall be paid for by said carrier.
- 3) In the case of a change in the standard, the required report shall be submitted within 90 days of the date said change becomes effective.
- 4) Failure to supply the required reports within 30 days following the date that written notice is mailed by the Director that such compliance report is due or to remain in continued compliance with the NIER standard established by this section shall be grounds for revocation of the use permit or other entitlement of use by the Director. The decision of the Director to revoke a use permit or other entitlement of use shall be deemed final unless appealed pursuant to Sec 35-182.2 of this article.
3. Collocation. Following initial approval of a telecommunication project, the permittee shall avail its facility to other prospective applicants and, in good faith, accommodate all reasonable requests for collocation in the future subject to the following limits:
  - a. The party seeking the co-location shall be responsible for all facility modifications, environmental review, mitigation measures, associated costs and permit processing.
  - b. The permittee shall not be required to compromise the operational effectiveness of its facility or place its prior approval at risk.

- c. Applicants shall make facilities and property available for collocation of telecommunication facilities on a non-discriminatory and equitable basis. County retains the right to verify that the use of the facilities and property conforms with County policies regarding collocation and to impose additional permit conditions where necessary to assure these policies are being fulfilled.
  - d. In the event that the need for access to such facilities is demonstrated by other developers to the decision-maker, carriers shall make available to such other developers any excess space of their project facilities at an equitable cost.
  - e. In the event access to an existing facility is denied by the applicant, and at the request of the carrier requesting to collocate, the applicant shall submit to the Director of Planning and Development terms, including financial terms, under which other carriers in the area would be permitted to enter and use either the facilities or the property. In addition, the applicant shall submit a record of the typical financial terms used for similar facilities at other locations. The applicant shall submit the requested information to the Director of Planning and Development within 30 days of such request. If these terms are determined to be unacceptable to potential users of the facility and if agreement cannot be reached, the County shall reserve the right to impose additional conditions as described above by the Director to amend the permit. The imposition of such conditions shall be based on evidence of the charges and terms supplied by the applicant and carrier requesting to collocate. The decision of the Director to impose additional conditions shall be deemed final unless appealed pursuant to Sec. 35-182.2 of this Article. The intent of this condition is to ensure the efficient and maximum use of collocated telecommunication facilities in the County.
4. Project Abandonment/Site Restoration. If the use of a facility is discontinued for a period of 12 consecutive months, the facility shall be considered abandoned.
- a. Said time may be extended by the decision-maker with jurisdiction over the project one time for good cause shown, provided a written request, including a statement of reasons for the time extension request, is filed with Planning and Development prior to completion of the one year period.
  - b. The facility shall be removed and the site shall be restored to its natural state unless the landowner requests that the facility remain and obtains the necessary permits. The permittee shall remove all support structures, antennas, equipment and

associated improvements and restore the site to its natural pre-construction state within 180 days of the date of receipt of the County's notice to abate.

- c. If such facility is not removed by the permittee and the site returned to its original condition within the specified time period, the County may remove the facility at the permittee's expense. Prior to the issuance of the land use permit to construct the facility, the applicant shall post a performance security in an amount and form determined by Planning and Development that is sufficient to cover the cost of removal of the facility in the event that such facility is abandoned.
- d. The applicant or a succeeding operator, shall submit a revegetation plan of proposed abandonment to be reviewed and approved by a Planning and Development approved biologist prior to demolition. The approved revegetation plan shall be implemented upon completion of site demolition during the time of year that will allow for germination of seed without supplemental irrigation.
5. Transfer of ownership. In the event that the original permittee sells its interest in a telecommunications facility, the succeeding carrier shall assume all responsibilities concerning the project and shall be held responsible for the County for maintaining consistency with all project conditions of approval. A new contact name for the project shall be provided by the succeeding carrier to the Director of Planning and Development within 30 days of the transfer of interest in the facility.
6. Color Compatibility. Prior to the issuance of the land use permit the applicant may erect an onsite demonstration structure of sufficient scale and height to permit the Director of Planning and Development to determine that the proposed exterior color is aesthetically compatible with the surrounding area. If the applicant elects not to erect such a demonstration structure prior to issuance of the land use permit, the Director may determine within 30 days of the facility becoming operational that the exterior color is not aesthetically compatible with the surrounding area and require that the exterior color be changed.

SECTION 13:

Section 35-144F.6, Contents of an Application, DIVISION 7, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended as follows:

**Sec. 35-144F.6 Contents of an Application Noticing.**

~~Unless otherwise specified by the Planning and Development Director, ten copies of the following information shall be included in an application for any Communication Facility:~~

- ~~1. A site plan of the proposed development which meets the requirements of Planning and Development. The Site Plan shall also include the following information:
  - a) ~~Location of existing, on-site prime scenic quality areas, habitat resources, water bodies and vegetation.~~
  - b) ~~Existing and proposed walls and fences~~
  - c) ~~Proposed landscaping or screening~~
  - d) ~~Proposed lighting~~~~
- ~~2. A topographic map that meets Planning and Development requirements and shows existing and proposed contours.~~
- ~~3. Proposed elevations of the building or structure including building height and other physical dimensions drawn in graphic scale.~~
- ~~4. Visual Impact assessments including mock-ups and photo montages. The assessment shall identify any proposed trimming of existing vegetation that will be required for the normal operation of the facility.~~
- ~~5. Site photos from three vantage points.~~
- ~~6. A statement of intent regarding the establishment of utilities and services (e.g., electricity).~~
- ~~7. Evidence that the parcel is valid (i.e., legally created).~~
- ~~8. Report prepared by a County approved radio frequency engineer showing that radio frequency radiation/electromagnetic frequency (RFR/EMF) emitted by the proposed facility conforms to safety standards adopted by the Federal Communications Commission, if applicable. The RFR reports prepared for wireless communication facilities shall conform to the reporting requirements set by the FCC. If a wireless communication facility meets the federal environmental evaluation exemption standards identified in Title 47 of the Code of Federal Regulations, as may be amended, a RFR/EMF report shall not be required. If the project permit does not clearly identify the maximum number of radio transceivers and effective radiated power associated with the facility, the County may require annual post construction RFR/EMF reports for up to five~~

- ~~years to verify that actual radiation levels emitted are consistent with those anticipated in the pre-approval report and do not exceed County/Federal safety standards.~~
- ~~9. Documentation showing that the noise generated by the proposed facility does not exceed County and State noise thresholds.~~
  - ~~10. Hazardous Materials Business Plan, if required by the County Fire Department Hazardous Materials Division.~~
  - ~~11. A title report or other legal instrument demonstrating legal access to the proposed site.~~
  - ~~12. If the applicant is not proposing to co-locate a proposed macrocell, the following information shall be submitted:
    - ~~a) Documentation regarding the proposed service area and attempts to contact the owners of the existing facilities within that service area, and/or documentation why co-location is impractical.~~
    - ~~b) An agreement to lease space on the proposed support structure to other users in "good faith."~~
    - ~~c) Documentation identifying the total capacity of the structure, including the number and types of antennas that can be accommodated over the life of the project~~
    - ~~d) Documentation which identifies failure characteristics of the tower and demonstrate that the site and setbacks are of adequate size to contain falling debris.~~
    - ~~e) Evidence demonstrating that the selected tower design is as visually unobtrusive as possible, given the technical and engineering considerations.~~~~
  - ~~13. Evidence that the applicant has provided notice to all wireless communication service carriers of the plans to develop the proposed facility.~~
  - ~~14. Verification of an operating license from the Federal Communications Commission.~~
  1. Notice of a Coastal Development Permit approved pursuant to Sec. 35-144F.3.1 shall be provided in accordance with Sec. 35-181.3. (Coastal Development and Land Use Permit Noticing). In addition, a copy of the approved Coastal Development Permit shall be mailed, at least ten calendar days prior to the date on which the Coastal Development Permit is to be issued, to property owners and residents within 300 feet of the exterior boundaries of the parcel that the project is located on and to any person who has filed a written request to Planning and Development.

2. Notice of the pending decision of the Director on a development plan pursuant to Sec. 35-144F.3.2 shall be provided pursuant to Sec. 35-181. except that:
  - a. Notice shall be mailed to property owners and residents within 300 feet of the exterior boundaries of the parcel that the project is located on and to any person who has filed a written request to Planning and Development.
  - b. The notice shall provide the date that the Director will take action on the Development Plan.
  - c. The notice shall provide a statement that the person to whom the notice was mailed may request a public hearing on the proposed Development Plan by submitting a written request to Planning and Development within ten calendar days of such notice. If a written request for a hearing is submitted to Planning and Development within ten calendar days of such notice the project shall be processed as a Development Plan under the jurisdiction of the Zoning Administrator.
  
3. Notice of projects that require a conditional use permit shall be provided in a manner consistent with the requirements of Sec. 35-181. (Noticing) and shall include mailed notice to property owners and residents within 300 feet of the exterior boundaries of the parcel that the project is located on and to any person who has filed a written request with Planning and Development..
  
4. If the project is located in a residential zone district as identified in Sec. 35-52 or within 1000 feet of residentially zoned property, and the project includes a new freestanding antenna that is visible from the surrounding area, then, in addition to the noticing required above, notice shall be mailed to all property owners and residents within 1000 feet of the exterior boundaries of the facility lease area that the project is located on.

SECTION 14:

Section 35-144F.7, Additional Requirements, DIVISION 7, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended as follows:

***Sec. 35-144F.7. Additional Requirements Findings***

~~In addition to the provisions set forth above, the following uses shall be subject to the requirements below:~~

~~Master Television Antennas.~~

1. ~~Any and all reasonable conditions related to the public health, safety, and welfare and not in conflict with general laws may be imposed on Conditional Use Permits granted as provided in this Article, including among other things, regulation of height, general appearance, and location of guy wires, provided, however, that in all cases the following express conditions shall apply whether expressly set out in the Conditional Use Permit or not:~~

- a) ~~No part of any Master Television Antenna(s), nor the cables or lines or other appurtenances thereto shall be permitted to encroach into, under, over, or upon, or cross under or over any public streets in the unincorporated territory of the County of Santa Barbara, unless a franchise and an encroachment permit shall first have been obtained from the County of Santa Barbara, and no such encroachment or crossing shall be permitted to be so maintained except pursuant to the terms of a valid existing franchise and an encroachment permit from said County.~~
- b) ~~Cables and lines and other appurtenances of Master Television Antenna(s) which are owned and operated by a nonprofit organization or entity may be permitted to use public streets in the unincorporated territory of said County pursuant to encroachment permits after first obtaining a Conditional Use Permit as provided herein. All such encroachment permits and all Conditional Use Permits granted hereunder shall automatically terminate and become null and void in the event any Master Television Antenna(s) or any part thereof, or cables, lines or other appurtenances thereto, or parts thereof owned and operated by a nonprofit organization or entity shall be transferred to or operated by any person, or entity organized or operating for profit-making purposes. This provision shall not be deemed to prevent the acquisition or operation of such Master Television Antenna(s) or parts thereof as set out herein above, by any person or entity organized or operating for profit-making purposes, which shall first have obtained a valid franchise and a valid Conditional Use Permit as provided herein, for such purposes.~~
- c) ~~Transmission of television and radio frequency modulation signals shall be by cable conforming to Federal Communications Commission standards to prohibit radiation interference, unless otherwise expressly permitted by the Board of~~

~~Supervisors upon satisfactory evidence that no such radiation interference is likely to result.~~

In addition to the findings required by be adopted by the decision-maker pursuant to Sections 35-169, 35-172 and 35-174, in order to approve an application to develop a telecommunication facility, the decision-maker shall also make the following findings:

1. The facility will be compatible with existing and surrounding development in terms of land use and visual qualities.
2. The facility is located so as to minimize its visibility from public view.
3. The facility is designed to blend into the surrounding environment to the greatest extent feasible.
4. The facility complies with all required development standards unless granted a specific exemption by the decision-maker as provided in Sec. 35-144F.4.
5. The applicant has demonstrated that the facility will be operated within the allowed frequency range permitted by the Federal Communications Commission and complies with all other applicable health and safety standards.

SECTION 15:

DIVISION 7, General Regulations, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to add Section 35-144F.8, Contents of an Application, as follows:

*Sec. 35-144F.8. Contents of an Application*

1. The Director shall establish and maintain a list of information that must accompany every application for the installation of a telecommunication facility. Said information may include, but shall not be limited to:
  - a. completed supplemental project information forms;
  - b. cross-sectional area calculations;
  - c. service area maps;
  - d. network maps;
  - e. alternative site analysis;
  - f. visual analysis and impact demonstrations including mock-ups and/or photo-simulations;
  - g. NIER exposure studies;



- h. title reports identifying legal access;
- i. security programs
- j. lists of other nearby telecommunication facilities.

The Director may excuse an applicant from having to provide one or more of the required submittals if it is determined that in the specific case the information is not necessary in order to process or make an informed decision on the submitted application.

2. The Director is authorized at his or her discretion to employ on behalf of the County independent technical experts to review any technical materials submitted including, but not limited to, those required under this section and in those cases where a technical demonstration of unavoidable need or unavailability of alternatives is required. Any proprietary information disclosed to the County or the hired expert shall remain confidential and shall not be disclosed to any third party.

#### SECTION 16:

DIVISION 7, General Regulations, of Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to add Section 35-144G as follows:

#### *Sec. 35-144G. Non-commercial Telecommunication Facilities*

##### *Sec. 35-144G.1. Purpose and Intent.*

The purpose of this Section is to provide a uniform and comprehensive set of standards for the siting and development of non-commercial telecommunication facilities and to establish specific permit regulations and development standards for such facilities. The intent is to promote their orderly development and ensure that they are compatible with surrounding land uses in order to protect the public safety and visual resources.

##### *Sec. 35-144G.2. Applicability.*

The provisions of this section shall apply to all non-commercial telecommunication facilities that transmit or receive electromagnetic signals including but not limited to radio, television, amateur radio stations, data and other non-commercial telecommunication signals. Such facilities shall be subject to all the provisions set forth in Sec. 35-169 (Coastal Development Permits), Sec. 35-172 (Conditional Use Permits), and Sec. 35-174 (Development Plans), as applicable.

Sec. 35-144G.3. Processing.

No permits for development subject to the provisions of this section shall be approved or issued except in conformance with the following requirements:

1. The following development requires the approval and issuance of a Coastal Development Permit pursuant to Sec. 35-169:

a. Ground or roof-mounted receive-only satellite dish antennas or wireless television antennas over one meter in diameter but not greater than two meters in diameter that are used solely for the non-commercial, private reception of telecommunication signals (e.g., radio, television, data) are allowed in all zone districts.

b. Amateur radio antennas used in connection with licensed amateur radio stations, including Military Affiliated Radio Stations, operated principally by the occupant of the property where the facility is located are allowed in all zone districts provided:

- 1) The height of the antenna including the support structure does not exceed 65 feet, and
- 2) The development standards set forth in Sec. 35-144G.4. are complied with.

Any antenna or antenna support structure installed without the necessary permits prior to [the effective date of the regulations contained in this section] shall not be considered a zoning violation provided any necessary permit for the antenna support structure and antenna installation are obtained within one year from [the effective date of these regulations].

2. The following development requires a Development Plan approved by the Director of Planning and Development pursuant to Sec. 35-174 and the approval and issuance of a Coastal Development Permit pursuant to Sec. 35-169:

a. A ground or roof-mounted receive-only satellite dish antenna and wireless television antenna greater than two meters in diameter that is used solely for the non-commercial, private reception of telecommunication signals (e.g., radio, television, data) is allowed in all zone districts.

b. Amateur radio antennas used in connection with licensed amateur radio stations, including Military Affiliated Radio Stations, operated principally by the occupant

of the property where the facility is located are allowed in all zone districts where the height of the antenna and associated support structure exceeds 65 feet provided the development standards set forth in Sec. 35-144G.4. are complied with. Any antenna and/or antenna support structure installed without the necessary permits prior to [the effective date of the regulations contained in this section] shall not be considered a zoning violation provided any necessary permit for the antenna support structure and antenna installation are obtained within one year from [the effective date of these regulations].

**Sec. 35-144G.4. Development Standards.**

The following standards shall apply to the construction or erection of antennas and antenna support structures associated with amateur radio stations. The purpose and intent of these standards is to allow for maximum flexibility in amateur radio operations while protecting the public interest. It is recognized that there are local, state, national and international interests in services provided by the amateur radio community such that the provision of these services must be protected. However, this must be balanced with local interests regarding public safety and welfare. Antennas and support structures, including those that may be exempt from permit requirements due to their value being less than \$2,000.00, as provided in Section 35-169.2 shall comply with the following standards and any other applicable regulations of the Article including but not limited to setbacks.

1. An antenna and its support structure shall not impede access by fire or other safety personnel to portions of the property on which the antenna and support structure is located. Where such access would be impeded, a minimum of three feet clearance must be provided between the antenna support structure and any other building, structure or other obstacle.
2. Antenna support structures that are located on roofs shall be located on the portion of the building that faces away from public viewing areas such as public streets, parks, etc., whenever technically feasible.
3. Any required building and electrical permits shall be obtained prior to erecting or operating the antenna support structure and associated antenna.
4. No antenna, regardless of height, shall be located so that it extends over any neighboring property without the express written, notarized consent of the affected property owner. If the affected property changes ownership, then written, notarized consent must be

obtained from the new owner within 120 days from the transfer of ownership. If a new agreement cannot be reached within this time period, then the antenna shall be modified so that it does not extend over the property line. If the antenna support structure must be relocated, then a new Coastal Development Permit shall be obtained prior to relocation of the antenna support structure.

**Sec. 35-144G.5. Noticing.**

1. Notice of a Coastal Development Permit approved pursuant to Sec. 35-144G.3.1 shall be provided in accordance with Sec. 35-181.3. (Coastal Development Permit Noticing). In addition, if the height of the antenna and associated support structure exceeds 50 feet, a copy of the approved Coastal Development Permit shall be mailed, at least ten calendar days prior to the date on which the Coastal Development Permit is to be issued, to property owners within 300 feet of the exterior boundaries of the parcel that the project is located on and to any person who has filed a written request with Planning and Development.
2. Notice of the pending decision of the Director on a development plan pursuant to Sec. 35-144G.3.2 shall be provided pursuant to Sec. 35-181 except that:
  - a. Notice shall be mailed to property owners and residents within 300 feet of the exterior boundaries of the parcel that the project is located on and to any person who has filed a written request with Planning and Development.
  - b. The notice shall provide the date that the Director will take action on the Development Plan.
  - c. The notice shall provide a statement that the person to whom the notice was mailed may request a public hearing on the proposed development plan by submitting a written request to Planning and Development within ten calendar days of such notice. If a written request for a hearing submitted to Planning and Development within ten calendar days of such notice the project shall be processed as a development plan under the jurisdiction of the Zoning Administrator.

**SECTION 17:**

Except as amended by this Ordinance, Divisions 1, 2 and 7 of Article II of Chapter 35 of

the Code of the County of Santa Barbara, California, shall remain unchanged and shall continue in full force and effect.

SECTION 18:

This ordinance shall take effect and be in force thirty (30) days from the date of its passage and before the expiration of fifteen (15) days after its passage, it, or a summary of it, shall be published once, together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News Press, a newspaper of general circulation published in the County of Santa Barbara.


PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 7th day of May, 2002, by the following vote:

AYES:

NOES:

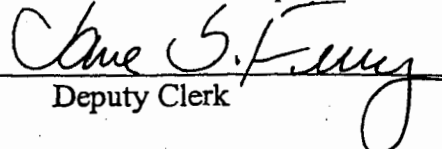
ABSTAINED:

ABSENT:

  
\_\_\_\_\_  
GAIL MARSHALL  
Chair, Board of Supervisors  
County of Santa Barbara

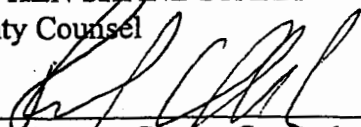
ATTEST:

MICHAEL F. BROWN  
Clerk of the Board of Supervisors

By   
\_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

STEPHEN SHANE STARK  
County Counsel

By   
\_\_\_\_\_  
Deputy County Counsel

