



CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 5th Floor

Long Beach, CA 90802

(562) 570-6194

FAX (562) 570-6068

April 7, 2011

CHAIR AND PLANNING COMMISSIONERS

City of Long Beach
California

RECOMMENDATION:

Receive and file a report on proposed zoning amendments related to the City's regulation of wireless telecommunications facilities; and recommend approval of proposed zoning amendments to the City Council (Citywide).

APPLICANT: City of Long Beach, Department of Development Services
333 W. Ocean Blvd., 5th Floor
Long Beach, CA 90802
(Application No. 1004-27)

DISCUSSION

Since April 20, 2010, a moratorium has been in effect in the City of Long Beach temporarily halting the approval of permits for wireless telecommunications facilities. This moratorium subsequently was amended by the City Council on May 18, 2010, to include only sites in Residential (R) zoning districts, and amended again on July 6, 2010, to include sites in Institutional (I) zoning districts. The moratorium was intended to allow the Department of Development Services to conduct a study of other cities' wireless ordinances, conduct community meetings and outreach, and present findings to the Planning Commission over the course of several study sessions.

Staff has indicated the need to update the wireless telecommunications ordinance since a 2009 study session, and discussed the issue in more detail with the Planning Commission in February 2010. After the adoption of the initial moratorium on April 20, 2010, staff carried out an extensive survey of other cities' wireless ordinances and best practices, and conducted outreach to both Long Beach residents and members of the wireless industry. Staff brought a framework of the new ordinance to the Planning Commission in a June 17, 2010 study session, and then presented a first draft of the proposed ordinance at the August 19, 2010 study session.

On October 21, 2010, the Planning Commission held a public hearing, approved the draft ordinance, and forwarded it to the City Council for consideration and adoption. However, before the item could be heard by the City Council, two separate developments caused the need for additional revisions to the draft ordinance.

First, City staff and the City Attorney's Office became concerned that the ordinance as written would put the City at a disadvantage as a prospective lessor in situations involving wireless carriers on City properties in the Park (P) zoning district. Since any new wireless telecommunications facility in a City park would be required to obtain both a Conditional Use Permit (CUP) from the Planning Commission as well as lease approval from the City Council, two public hearings would be required, instead of the one public hearing for a CUP required for wireless sites on private properties. At the advice of the City Attorney's Office, staff has removed the CUP requirement for facilities in the Park zoning district, while retaining a Site Plan Review requirement, which will be carried out by the City Council at the lease hearing. Staff has also retained a fee equivalent to the CUP fee for these Site Plan Review applications. The goal of these proposed changes is to ensure similar levels of public scrutiny for projects on public property as for projects on privately owned sites.

Second, the California Public Utilities Commission (CPUC) made a ruling that the CPUC alone has the authority to issue discretionary permits for utilities, including wireless telecommunications sites, in the public right-of-way. While the validity of this ruling is disputed by a number of municipal agencies, staff felt it would be best to revise the ordinance to avoid any potential conflict if this policy were to be upheld. Therefore, staff has rewritten the section of the draft ordinance that deals with regulation of wireless sites in the public right-of-way. This new language is modeled on successful existing right-of-way ordinances from Glendale, Inglewood, Murietta, San Francisco, Santa Monica, and Whittier.

As before, the current revised draft ordinance (Exhibit A – Revised Draft Ordinance) would completely replace the City's existing rules on wireless telecommunications facilities, and would accomplish the following:

- Encourage placement of these facilities away from residential areas. Applicants would have to meet a high burden of proof to demonstrate that no other feasible locations are available before a wireless site would be placed in a residential area (however, wireless sites cannot be completely banned from residential areas without exposing the City to legal action, as a ban may effectively deny the provision of wireless service, which is prohibited by law, and is not the intent of this ordinance).
- Require co-location instead of construction of a new site any time a co-location opportunity is available.
- Require reports on each site's compliance with FCC rules on radio frequency emissions.
- Institute a requirement for a master Conditional Use Permit (CUP) and 10-year build-out plan for each site.
- Set clear design standards for sites, especially roof/building-mounted sites.
- Set higher application standards, including provision of more information about surrounding sites and all of the applicant carrier's existing sites in the City.
- Set standards for development of wireless sites in the public right-of-way.
- Set standards for developments of sites on City park properties in the Park (P) zoning district.

Staff has also included a flowchart to provide more clarity on how wireless applications would be affected by the new ordinance (Exhibit B – Wireless Application Flowchart).

Staff believes that the proposed amendments will accomplish the City's goals of increasing design review and aesthetic control over wireless sites to reduce the potential visual blight caused by these uses, while at the same time setting clear rules and expectations to create less uncertainty for City residents and the wireless industry and to allow permits to be processed in an objective and expeditious manner. For those reasons, staff recommends that the Planning Commission forward these amendments to the City Council with a recommendation of approval.

PUBLIC HEARING NOTICE

A public hearing notice was published in the Long Beach Press-Telegram on March 23 and 24, 2011, as required by the Long Beach Municipal Code. Staff has received no comments or inquiries on the item as of the writing of this report.

ENVIRONMENTAL REVIEW

In accordance with the Guidelines for Implementation of the California Environmental Quality Act, a Categorical Exemption (CE) was prepared for the proposed project (Exhibit C – CE 10-064).

Respectfully submitted,



AMY J. BODEK, AICP
DIRECTOR OF DEVELOPMENT SERVICES

AB:DB:sk

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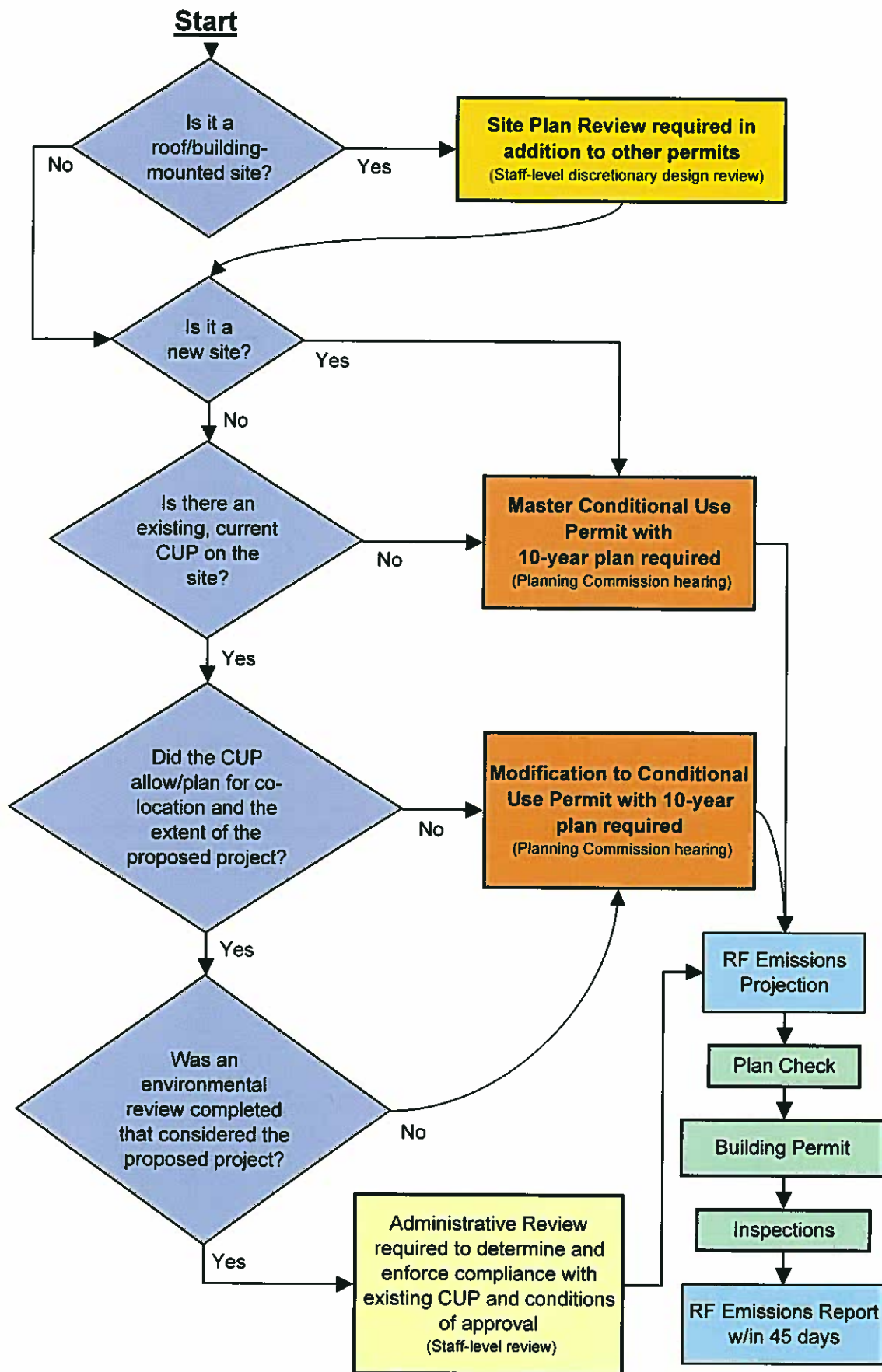
Attachments

Exhibit A – Draft Ordinance

Exhibit B – Wireless Application Flowchart

Exhibit C – Categorical Exemption CE 10-064

Proposed Chapter 21.56 Wireless Telecommunications Facilities Regulations Flowchart





CITY OF LONG BEACH NOTICE OF EXEMPTION

DEPARTMENT OF DEVELOPMENT SERVICES
333 W. OCEAN BLVD., 5TH FLOOR, LONG BEACH, CA 90802
(562) 570-6194 Fax: (562) 570-6068
lbs.longbeach.gov

TO: Office of Planning & Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

FROM: Department of Development Services
333 W. Ocean Blvd, 5th Floor
Long Beach, CA 90802

L.A. County Clerk
Environmental Fillings
12400 E. Imperial Hwy. 2nd Floor, Room 2001
Norwalk, CA 90650

Categorical Exemption CE-10-064

Project Location/Address: Citywide

Project/Activity Description: _____

Zoning Amendment to modify the City's regulations pertaining to wireless telecommunications facilities Citywide.

Public Agency Approving Project: City of Long Beach, Los Angeles County, California

Applicant Name: City of Long Beach Dept. of Development Services

Mailing Address: 333 W. Ocean Blvd., 5th Floor, Long Beach, CA 90802

Phone Number: (562) 570-6194 Applicant Signature: [Signature]

BELOW THIS LINE FOR STAFF USE ONLY

Application Number: 1004-27 Planner's Initials: SK

Required Permits: Zoning Amendment

THE ABOVE PROJECT HAS BEEN FOUND TO BE EXEMPT FROM CEQA IN ACCORDANCE WITH STATE GUIDELINES SECTION 15305, Class 5, Minor Alterations in Land Use Limitations

Statement of support for this finding: minor modification of City's land use regulations for wireless telecommunications facilities

Contact Person: Craig Chalfant Contact Phone: 562-570-6369

Signature: [Signature] Date: 8/3/10