Council Agenda Report

City Council Meeting
12-09-02
Item
3.B.8.

To: Mayor Jennings and the Honorable Members of the City Council

Prepared by: Thomas Gorham, Senior Planning Consultant

Reviewed by: Drew D. Purvis, Planning Director
Christi Hogin, City Attorney

Approved by: Katie Lichtig, City Manager

Date prepared: November 21, 2002 Meeting date: December 9, 2002

Subject: Resolution Of Intent To Initiate Zoning Text Amendment Regarding Wireless Telecommunications Antennas And Facilities.

RECOMMENDED ACTION: Adopt Resolution No. 02-50 initiating the Zoning Text Amendment (ZTA) regarding wireless telecommunications antennas and facilities.

FISCAL IMPACT: None

DISCUSSION: The Public Works Commission held three public hearings on wireless telecommunications issues in the City, hearing testimony from the wireless facilities providers and from the community. As a result of these hearings, a new Wireless Telecommunications Ordinance was drafted by staff. On August 28, 2002, the Public Works Commission unanimously passed a motion to recommend that the Council adopt the new Draft Wireless Telecommunications Ordinance amending City Ordinance No.155, which is incorporated into the Interim Zoning Ordinance (IZO) under Chapter 17.46.

A major concern expressed by the community was the lack of public noticing given when new facilities were proposed within the public rights-of-way. It had been existing procedure that new telecommunications facilities proposed to be located within public rights-of-way were exempt from the existing wireless telecommunications ordinance. The Public Works Department was issuing encroachment permits, which did not require public noticing. The proposed draft ordinance requires that all applications (both in the public-right-of-way and on private property) for new telecommunications facilities go through a site plan review (SPR) or a conditional use permit (CUP) process, both of

which require public noticing. The proposed ordinance would require that new facilities to be installed on private property within residential zoning go through the CUP process allowing the City to tailor conditions of approval to the neighborhood character and potential impacts of the proposed facilities; and installations within commercially zoned areas or within public rights-of-way utilize the SPR process.

Another major concern was regarding the proliferation of these facilities such that eventually every wooden pole would have antennas on it. Regulations in the draft ordinance require that a minimum spacing of 450-feet be maintained between installations in the public-right-of-way. This provision seemed to satisfy concerned residents and was acceptable to the telecommunications providers.

Lastly, a concern of some residents was the health issue of these telecommunication facilities adjacent to residential land uses. The City Attorney explained that wireless telecommunication emission standards are regulated by the Federal Communications Commission (FCC), and that the City could not impose more restrictive requirements. The telecommunications providers explained that the levels of emissions are well below limits established by the FCC.

Staff's original intent was to amend the Local Coastal Implementation Plan (LIP), which has a wireless telecommunications ordinance included, and which differs from the City's existing ordinance and the proposed amended ordinance. Because of the indefiniteness of the timing for implementation of the LIP and the desire to be responsive to resident concerns, staff recommends that the Council amend the City's existing ordinance. The amended ordinance would then be incorporated into the LCP Application at the appropriate time decided by the Council, and submitted to the Coastal Commission along with the other LCP modifications considered by the City Council.

ALTERNATIVES: The current Wireless Telecommunications Ordinance will continue to be implemented.

STAFF FOLLOW-UP: Prepare an Initial Study for the ZTA to determine the proper environmental documentation required; present the draft ZTA to the Interim Zoning Ordinance & Code Enforcement Subcommittee for review; send the proposed ZTA to the Planning Commission for public hearing and recommendation; return the proposed ZTA to the City Council with the Planning Commission's recommendation.

ATTACHMENTS:

1. City Council Resolution of Intention regarding Wireless Telecommunication Antennas and Facilities.

RESOLUTION NO. 02-50

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU DECLARING ITS INTENT TO INITIATE A ZONING TEXT AMENDMENT REGARDING WIRELESS TELECOMMUNICATION FACILITES

THE CITY COUNCIL OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. On several occasions the public has raised concerns regarding the installation of wireless telecommunications facilities within the public rights-of-way. This concern included lack of public notice for proposed facilities in the public rights-of-way; proliferation of said facilities; and proximity of said facilities to residential land uses.

B. The Public Works Commission held three public hearings on wireless telecommunications issues in the City, hearing testimony from the wireless facilities providers and from the community. As a result of these hearings, a new Wireless Telecommunications Ordinance was drafted. On August 28, 2002, the Public Works Commission unanimously passed a motion to recommend that the Council adopt a new Wireless Telecommunications Ordinance amending City Ordinance No.155, which is incorporated into the Interim Zoning Ordinance (IZO) under Chapter 17.46.

Section 2. Initiation

In accordance with Section 17.74.020 Initiation of Hearings of the Interim Zoning Ordinance, the City Council does hereby declare its intent to amend the Interim Zoning Ordinance with respect to Wireless Telecommunication Antennas and Facilities.

Section 3. Certification.

The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 9th day of December, 2002.

JEFFREY D. JENNINGS, Mayor

ATTEST:

LISA POPE, City Clerk

APPROVED AS TO FORM:

FOR CHRISTI HOGIN, City Attorney

Attachment 1

I CERTIFY THAT THE FOREGOING RESOLUTION NO.02-50 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 9th day of December, 2002, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

LISA POPE, City Clerk
(seal)

Any action challenging the final decision of the City made as a result of the public hearing on this application must be files within the time limits set forth in Section 1.12.010 of the Malibu Municipal Code and Code of Civil Procedure Section 1094.6