



Meeting Date: July 24, 2007

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input type="checkbox"/> Info/Consent
<input checked="" type="checkbox"/> Res. No(s).	<input type="checkbox"/> Report
<input type="checkbox"/> Ord. No(s).	<input checked="" type="checkbox"/> Public Hearing
<input type="checkbox"/> Other	<input type="checkbox"/> Other

Prepared By: Christopher Williamson, AICP Senior Planner Agenda Item No. L-1  
 Reviewed By: City Manager [Signature] Rupp City Attorney [Signature] Finance N/A Other (Specify) N/A

**DATE:** July 12, 2007

**TO:** City Council

**FROM:** Susan L. Martin, AICP, Planning and Environmental Services Manager [Signature]

**SUBJECT:** Appeal of the Planning Commission's Denial of Planning and Zoning Permit No. 06-400-5 (Coastal Development Permit) for the Edison Peaker Plant Proposal, Located at 251 North Harbor Boulevard.

**RECOMMENDATION**

That City Council adopt a resolution upholding the Planning Commission's denial of Coastal Development Permit No. PZ 06-400-5 for a 45-Megawatt (MW) Electric Generation Peaker Plant located at 251 N. Harbor Boulevard.

**DISCUSSION**

In November, 2006, Southern California Edison (SCE) filed for a coastal development permit to develop a 45-MW electric generator at 251 N. Harbor Boulevard (just south of the Reliant power plant) that includes one natural gas-fired General Electric (GE) LM6000 gas turbine generator, pollution control equipment, an 80-foot tall exhaust stack, a 10,500-gallon 19-percent aqueous ammonia storage tank, fuel gas supply line, fuel gas compressor, water supply line, water demineralizer, two water storage tanks, transformers, 66 kilovolt (kV) transmission tap line, a natural gas-fired "black-start" generator, a power control module, a 65- by 75-foot substation, and a 40- by 75-foot gas metering station.

The project site is vacant and was formerly the oil tank farm for the Reliant Energy Mandalay Power Plant (Mandalay) facility. The project site is bounded on the north by the existing Mandalay facility and channel; on the west by an existing oil processing facility, coastal dunes, and the Mandalay State Beach and Pacific Ocean; on the east by Harbor Boulevard, undeveloped SCE-owned land, and agricultural fields; on the southeast by the 292-unit *Northshore at Mandalay Bay* (Northshore) residential development now under construction; and on the south by an access road; two operating oil pumps, and state and city-owned coastal dunes.

The proposed development is subject to review in accordance with the California Environmental Quality Act (CEQA). A Mitigated Negative Declaration (MND)/initial study was prepared to analyze the project's potential significant environmental effects and the MND was circulated between May 11 and June 18, 2007 (38 days). MND 07-02 considered potential impacts and included mitigations air quality, biological and cultural resources, hazards and hazardous materials, land use and planning, and traffic.

On June 28, 2007, the Planning Commission held a public hearing on the proposed SCE project, which deliberation focused on the staff finding that the project does not conform to the Energy Coastal (EC) coastal zone designation for the project site. The appropriate interpretation of the EC zone requires that an energy facility be coastal dependent, which is defined by the Coastal Act as a development or use which requires a site on, or adjacent to, the sea to be able to function at all (PRC §30101). In a letter to staff, SCE confirmed that the proposed project is not coastal dependent and could be situated in non-coastal locations. As such, staff concluded that the proposed project conflicts with the purpose and intent of the EC zone designation.

Public comment and Planning Commission deliberation also focused on several discussions in the Mitigated Negative Declaration (MND) 07-02; analysis of possible noise impacts from rerouted aircraft departing from Oxnard Airport, visual and lighting impacts, air quality in terms of greenhouse gases and global warming, and the lack of alternative locations and/or alternative methods of electrical generation. A majority of the Planning Commission members stated that the MND was inadequate and/or an Environmental Impact Report was needed. The Commission did not adopt MND 07-02.

Some support for the project was voiced in favor of the project from several speakers, generally representing the business community, as the proposed project would contribute to the local electric distribution system and increase its reliability. The majority of speakers voiced opposition to the project.

The Planning Commission voted 5 to 2 to deny the application. Staff recommends that the City Council uphold the Planning Commission's action on the same rationale that the proposed use is not coastal dependent and, therefore, not allowed in the EC zone. A resolution to uphold the Planning Commission's denial is included as Attachment 5. Should the City Council consider overruling the Planning Commission denial and approving the proposed project, MND 07-02 would also have to be adopted. However, staff recommends that either MND 07-02 be revised and re-circulated or an EIR be prepared prior to the City Council's consideration of project approval.

On July 10, Ms. Nancy Williams, representing SCE, filed for an appeal of the Planning Commission's denial of the coastal development permit. SCE contends that the correct interpretation and plain meaning of the EC zone designation allows for an energy facility that is not coastal dependent. SCE asks that MND 07-02 be adopted and that Coastal Development Permit No. PZ 06-400-5 be approved.

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The Planning Commission staff report with project plans, MND 07-02, comments received on MND 07-02, and draft minutes of the June 28, 2007 Planning Commission hearing are attached. Attachment 4 is an SCE-prepared appeal document submitted for City Council consideration.

## **FINANCIAL IMPACT**

There would be no financial impact if the project were denied.

- Attachment 1 - Planning Commission Staff Report (includes MND 07-02)  
2 - Planning Commission Resolution 2007-19  
3 - Planning Commission Action Agenda of June 28, 2007  
4 - SCE Appeal Document  
5 - City Council Draft Resolution

Note: Attachments 1 and 4 have been provided to the City Council. Copies are available for review at the Circulation Desk in the Library after 6:00 p.m. on the Thursday prior to the Council meeting and at the City Clerk's Office after 8:00 a.m. on Monday, July 23, 2007.

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RESOLUTION NO. 2007-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD DENYING COASTAL DEVELOPMENT PERMIT (PZ 07-400-5) FOR A 45-MW ELECTRICAL GENERATING FACILITY LOCATED AT 251 NORTH HARBOR BOULEVARD, WITHIN THE COASTAL ZONE. FILED BY SOUTHERN CALIFORNIA EDISON, 2244 WALNUT GROVE AVENUE, ROSEMEAD, CA, 91770.

WHEREAS, the Planning Commission of the City of Oxnard considered the above-described application for a Southern California Edison 45-MW electrical power-generating facility and related equipment (“the project”); and

WHEREAS, the California Coastal Act defines a “Coastal-dependent development or use” as “...any development or use which requires a site on, or adjacent to, the sea to be able to function at all” (PRC §30101), and

WHEREAS, the project location is located in the Coastal Zone of the City Of Oxnard and subject to the Oxnard Coastal Land Use Plan and Chapter 17 (Coastal Zoning Ordinance) of the City Code; and

WHEREAS, the purpose of the Coastal Zoning Ordinance is stated in Section 17-2(2), “To assure priority for coastal-dependent and coastal-related development over other development on the coast”; and

WHEREAS, the coastal zone designation for the project site is Coastal Energy Facility Sub-Zone (EC); and

WHEREAS, Coastal Zoning Ordinance Section 17-20(B)(2) includes “Electrical power generating plant and accessory uses normally associated with said power generating facility” as a conditionally allowed use in the EC zone, requiring a coastal development permit; and

WHEREAS, there are no uses allowed in the EC zone other than by coastal development permit and the electrical power generating plant and accessory uses normally associated with said power generating facility use should be considered in the context of coastal-dependent; and

WHEREAS, a non-coastal dependent energy-generating facility would not be allowable based on Section 17-5(I) of the City Code which states, “If a proposed use is not listed as permitted or conditionally permitted, such use shall be assumed to be prohibited unless the city council determines, following recommendations from the commission and a public hearing, that the proposed use is substantially the same as a listed use.”; and

000092

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DATE 1 OF 2

WHEREAS, the project was characterized by the applicant in letters dated April 19, 2007 and June 15, 2007 as "non-coastal dependent" and four identical projects are being developed in non-coastal locations.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard finds that the proposed project is not an allowed use in the EC zone and denies the application for coastal development permit No. PZ 07-400-5.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on the 28<sup>th</sup> day of June, 2007, by the following vote:

AYES: Commissioners: Medina, Sanchez, Elliott, Frank, Okada

NOES: Commissioners: Dean, Pinkard

ABSENT: Commissioners: None

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Dr. Sonny Okada, Chairperson

ATTEST: \_\_\_\_\_  
Susan L. Martin, Secretary

000093

APPROPRIATE 2  
PAGE 2 OF 2

# CITY OF OXNARD PLANNING COMMISSION AGENDA

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## SPECIAL MEETING

Planning Conference Room, 305 West Third Street  
Wednesday, June 27, 2007, 12:00 noon

**A. ROLL CALL**

**B. PUBLIC COMMENTS**

At this time, a person may address the Planning Commission on matters within the jurisdiction of the Planning Commission, including information/consent items and any item not appearing on the agenda. The Chair shall limit public comments to three (3) minutes. The Planning Commission cannot take action on any item presented during public comments that is not on the agenda and such item may only be referred to Commission Secretary. Persons wishing to speak on public hearing items should do so at the time of the public hearing.

**C. AGENDA REVIEW MEETING**

**D. PLANNING COMMISSION BUSINESS**

**E. ADJOURNMENT**

## SPECIAL MEETING

Council Chambers, 305 West Third Street  
Thursday, June 28, 2007, 7:00 p.m.

**A. ROLL CALL -All present**

**B. PUBLIC COMMENTS- On Items Not On The Agenda**

At this time, a person may address the Planning Commission on matters within the jurisdiction of the Planning Commission, including information/consent items and any item not appearing on the agenda. The Chair shall limit public comments to three (3) minutes. The Planning Commission cannot take action on any item presented during public comments that is not on the agenda and such item may only be referred to Commission Secretary. Persons wishing to speak on public hearing items should do so at the time of the public hearing.

**C. READING OF AGENDA**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in a meeting, you should contact Planning & Environmental Services Division at (805) 385-7858. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

City of Oxnard internet address: <http://www.ci.oxnard.ca.us>

**000094**

AGENDA 3  
1 of 3

**D. CONSENT AGENDA**

**Items listed under the Consent Agenda may be enacted by one motion and one vote. If discussion is desired, an item may be removed from the Consent Agenda and will be considered individually.**

1. Adoption of a resolution denying a Special Use Permit (PZ 05-540-05) for a Planned Residential Group and commercial development to modify certain zone standards and recommending denial of a General Plan Amendment (PZ 05-620-7), Zone Change (PZ 05-570-4), and Tentative Subdivision Map (PZ 05-300-29) to allow a residential development, public park and commercial development known as Gateway Walk, located at 1250 South Oxnard Boulevard (APN'S 204-0-020-05, 08, 09, 10, 11, 14, 15, 26, 27, and 28). Filed by the Olson Company, 1701 N. Lombard, Suite 100, Oxnard, CA 93030.

**PROJECT PLANNER: ASHLEY GOLDEN**

**ACTION: Approved Reso. 2007-16**

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2. PLANNING AND ZONING PERMIT NO. 06-300-19 (Tentative Subdivision Map for Tract No. 5644), a request to subdivide 268.5 acres into 335 parcels for subsequent development into 299 single family residences, and open space, a park, local streets, alley, detention basins and easements. The permit requested at this time is for subdivision of the property only (not construction). The project site is located within the northerly portion of Planning Districts H of the *RiverPark Specific Plan* area, north of Highway 101, and east of the Santa Clara River (APN: 133-001-001, 133-001-057, 133-001-060 and 132-02-038). An environmental impact report has been certified for the proposed project. Filed by Tony Talamante, RiverPark Legacy, LLC, 30699 Russell Ranch Road, Suite 290, Westlake Village, CA 91361.

**PROJECT PLANNER: LINDA WINDSOR**

**ACTION: Approved Reso. 2007-18**

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3. PLANNING AND ZONING PERMIT NO. 07-400-01 (Coastal Development Permit) to construct a two story residential duplex, consisting of two, 2,355 square foot side by side dwelling units. Each dwelling unit consists of 1,879 square feet of livable area with three bedrooms on the second floor and an attached 476 square foot, two-car garage. The project site is located at 5021 Catamaran Street, within the Oxnard Dunes Neighborhood. The project is categorically exempt under Section 15332 (Class 32) of CEQA. Filed by Terry Tarr, 4611 Falkirk Bay, Oxnard, CA 93035.

**PROJECT PLANNER: JUAN MARTINEZ**

**ACTION: Approved Reso. 2007-17**

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**E. CONTINUED PUBLIC HEARINGS**

**F. NEW PUBLIC HEARINGS**

1. PLANNING AND ZONING PERMIT NO. 06-400-5 (Coastal Development Permit) a request to a request to develop a 45-Megawatt peaker generator at 251 N. Harbor Boulevard (just south of the Reliant power plant) that includes one natural gas-fired General Electric (GE) LM6000 gas turbine generator, pollution control equipment, an 80-

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foot tall exhaust stack, a 10,500-gallon 19-percent aqueous ammonia storage tank, fuel gas supply line, fuel gas compressor, water supply line, water demineralizer, two water storage tanks, transformers, 66 kilovolt (kV) transmission tap line, a natural gas-fired "black-start" generator, a power control module, a 65- by 75-foot customer substation, and a 40- by 75-foot gas metering station. MND 07-02 was prepared and circulated, and is proposed for adoption in compliance with CEQA. Filed by Southern California Edison, 2244 Walnut Grove Avenue, Rosemead, CA 91770.

**PROJECT PLANNER: CHRIS WILLIAMSON**

**ACTION: Denied Reso. 2007-19**

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- 2. PLANNING AND ZONING PERMIT NO. 07-580-01(Zone Text Amendment) a request to permit and limit the location of multi-plex theaters to properties zoned CBD (central business district) or designated as Commercial (District D) in the RiverPark Specific Plan. The proposed project is exempt from environmental review under CEQA. Filed by City of Oxnard, Development Services Department, 305 West Third Street, Oxnard. CA 93030.

**PROJECT PLANNER: MATTHEW WINEGAR/CURTIS CANNON**

**ACTION: Denied**

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**G. PLANNING COMMISSION BUSINESS**

**H. PLANNING MANAGER COMMENTS**

**I. ADJOURNMENT**

**FUTURE MEETINGS**

**THURSDAY, JULY 5, 2007 – TO BE CANCELLED**

Thursday, July 19, 2007, 7:00 p.m., City Council Chambers

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*[Handwritten marks and stamps]*  
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CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AFFIRMING THE PLANNING COMMISSION DECISION DENYING PLANNING AND ZONING PERMIT NO. 06-400-5 (COASTAL DEVELOPMENT PERMIT) FOR THE SOUTHERN CALIFORNIA EDISON PEAKER PLANT PROPOSAL, LOCATED AT 251 NORTH HARBOR BOULEVARD. FILED BY SOUTHERN CALIFORNIA EDISON, 2244 WALNUT GROVE AVENUE, ROSEMEAD, CA, 91770.

WHEREAS, the California Coastal Act defines a “Coastal-dependent development or use” as “...any development or use which requires a site on, or adjacent to, the sea to be able to function at all” (PRC §30101), and

WHEREAS, the project location is located in the Coastal Zone of the City Of Oxnard and subject to the Oxnard Coastal Land Use Plan and Chapter 17 (Coastal Zoning Ordinance) of the City Code; and

WHEREAS, the purpose of the Coastal Zoning Ordinance is stated in Section 17-2(2), “To assure priority for coastal-dependent and coastal-related development over other development on the coast”; and

WHEREAS, the coastal zone designation for the project site is Coastal Energy Facility Sub-Zone (EC); and

WHEREAS, Coastal Zoning Ordinance Section 17-20(B)(2) includes “Electrical power generating plant and accessory uses normally associated with said power generating facility” as a conditionally allowed use in the EC zone, requiring a coastal development permit; and

WHEREAS, there are no uses allowed in the EC zone other than by coastal development permit and the electrical power generating plant and accessory uses normally associated with said power generating facility use should be considered in the context of coastal-dependent; and

WHEREAS, a non-coastal dependent energy-generating facility would not be allowable based on Section 17-5(I) of the City Code which states, “If a proposed use is not listed as permitted or conditionally permitted, such use shall be assumed to be prohibited unless the city council determines, following recommendations from the commission and a public hearing, that the proposed use is substantially the same as a listed use”; and

WHEREAS, the project was characterized by the applicant in letters dated April 19, 2007 and June 15, 2007 as “non-coastal dependent” and four identical projects are being developed in non-coastal locations; and

**000097**

ATTACHMENT 5  
PAGE 1 OF 2

WHEREAS, section 15270(a) of the State Guidelines to the California Environmental Quality Act (CEQA) provides that CEQA does not apply to projects that are disapproved.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard affirms the decision of the Planning Commission denying the application for a coastal development permit (PZ 06-400-5).

PASSED AND ADOPTED by the City Council of the City of Oxnard on the 24<sup>th</sup> day of July, 2007, by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Dr. Thomas E. Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Daniel Martinez, City Clerk

*Gary L. Gillig*  
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Gary L. Gillig, City Attorney

000098

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ATTACHMENT 5  
PAGE 2 OF 2