



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

Prepared By: Christopher Williamson, AICP, Senior Planner *CW* Agenda Item No. L-1  
 Reviewed By: City Manager *[Signature]* City Attorney *Rupp SMF* Finance *JC* Other (Specify) \_\_\_\_\_

**DATE:** February 27, 2008

**TO:** City Council

**FROM:** Susan Martin, AICP, Planning Manager *smate*

**SUBJECT:** Planning and Zoning Permit No. 09-580-2 (Zone Text Amendment) to Amend the Coastal Energy Facilities Subzone (EC) Text. Filed by City of Oxnard.

**RECOMMENDATION**

That City Council approve the first reading of an ordinance approving Planning and Zoning Permit No. 09-580-02 (Zone Text Amendment) related to the Coastal Energy Facilities subzone.

**DISCUSSION**

The proposed text amendment to Section 17-20 of the City Code clarifies the intent of the City Council that the Coastal Energy Facilities (EC) subzone allows only coastal dependent power generating facilities. This amendment would apply to all EC zoned parcels within the City's Coastal Zone. The California Coastal Act defines 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). Coastal-dependency is a recurring intent in the Oxnard Coastal Land Use Plan (LCP) and the implementing Coastal Zoning Ordinance, City Code Chapter 17. When the LCP was being developed in the late 1980's, the City created the EC zone to accommodate the 1950's era Ormond Beach and Mandalay Bay power plants that both require ocean water for cooling. The purpose of the Coastal Zoning Ordinance is stated in Section 17-2(A)(2), "To assure priority for coastal-dependent and coastal-related development over other development on the coast."

CEQA Guidelines §15061(B)(3) state, "Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The proposed text amendment clarifies the intent of existing language relating to allowed uses and is covered by the general rule that CEQA applies only to discretionary actions which have the potential for causing a significant effect on the environment. As this amendment does not change the meaning of the text nor the allowed uses, there is no potential for causing a significant effect on the environment.

The Planning Commission recommended approval at its February 19, 2009 meeting.

In accordance with Section 30514 of the California Public Resource Code, a certified local coastal program and all local implementing ordinances, regulations, and other actions may be amended by the appropriate local government, but no such amendment shall take effect until it has been certified by the Coastal Commission. The City will submit the amendment to the Coastal Commission for certification upon approval by the City Council.

## **FINANCIAL IMPACT**

There is no financial impact associated with the proposed action.

### **Attachments:**

1. Ordinance
2. February 5, 2009 Planning Commission staff report
3. Powerpoint slides from the February 5, 2009 meeting

ORDINANCE OF THE CITY OF OXNARD

ORDINANCE NO. \_\_\_\_\_

**ORDINANCE OF THE CITY COUNCIL APPROVING AN AMENDMENT TO SECTION 17-20 OF THE OXNARD CITY CODE RELATING TO COASTAL DEPENDENT USES WITHIN THE COASTAL ENERGY FACILITIES SUBZONE. FILED BY CITY OF OXNARD, 214 SOUTH C STREET, OXNARD, CA, 93030.**

WHEREAS, February 19, 2009, the Planning Commission approved Resolution No. 2009-05 recommending that City Council adopt an ordinance approving Planning and Zoning Permit No. 09-580-02 (Zone Text Amendment) to amend Section 17-20 of the Oxnard City Code, filed by the City of Oxnard; and

WHEREAS, the City Council has held a public hearing and received and reviewed written and oral comments related to the Zone Text Amendment No. 09-580-02; and

WHEREAS, the City Council finds after due study and deliberation that the public interest and general welfare require the adoption of Zone Text Amendment No. 09-580-02; and

WHEREAS, the proposed text amendment clarifies the existing meaning of an established allowed use and is covered by the general rule (§15061(B)(3)) that the California Environmental Quality Act CEQA applies only to discretionary actions that have the potential for causing a significant effect on the environment, that this amendment does not change the meaning or allowed uses within the zone, and that the Planning Commission reviewed and considered the information before approving the amendment; and

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

- Part 1. Section 17-20 of the Oxnard City Code is hereby amended to read as shown herein in Exhibit A.
- Part 2. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the City. Ordinance No. \_\_\_\_\_ was first read on March 10, 2009, and finally adopted on \_\_\_\_\_, 2009, to become effective thirty days thereafter.

ATTACHMENT 1  
PAGE 1 OF 4

AYES:

NOES:

ABSENT:

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Dr. Thomas E. Holden, Mayor

ATTEST:

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Daniel Martinez, City Clerk

APPROVED AS TO FORM:

  

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Alan Holmberg, City Attorney

ATTACHMENT 1  
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EXHIBIT A

**SEC. 17-20. EC, COASTAL ENERGY FACILITIES, SUB-ZONE.**

(A) Purpose - The purpose of the EC sub-zone is to provide areas that allow for siting, construction, modification and maintenance of COASTAL DEPENDENT power generating facilities and electrical substations consistent with Policies 51, 52, 54, 55 and 56 of the Oxnard coastal land use plan. Additionally, the EC sub-zone is designed to provide a framework for coordinating the requirements and responsibilities of applicable city, State and federal regulatory agencies vested with the authority for reviewing energy facility development. To assure consistency with the Oxnard coastal land use plan, the following coastal act provisions and land use plan policies shall apply:

(1) Coastal dependent energy facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth, where consistent with this article. (Coastal Act, Section 30260)

(2) All new energy related development shall conform to the air quality regulations set forth by the Ventura County Air Pollution Control District, the air quality management plan and new source review rule 26. (Policy 29)

(3) Energy related development shall not be located in coastal resource areas including sensitive habitats, recreational areas and archeological sites. All development adjacent to these resource areas or agricultural areas shall be designed to mitigate any adverse impacts. (Policy 30)

(4) All new energy related development shall be located and designed to minimize adverse effects upon public access to the beach. (Policy 54)

(5) No energy related development shall be located seaward of the 100 year flood/wave run-up line as designated by the U.S. Department of Housing Insurance Program Administration and the land use map of the Oxnard coastal land use plan. (Policy 56)

(6) Wastewater from any energy related facilities shall be treated as necessary and put to reuse including, but not limited to the following:

(a) Re-injection into the aquifer or ground water recharge system; and

(b) Recycling for industrial, agricultural or urban use. (Policy 64)

('64 Code, Sec. 37-2.11.1)

(B) Conditionally permitted uses - The following uses are permitted subject to the approval of a coastal development permit pursuant to the provisions of article V:

(1) Off-street public parking facility;

(2) **COASTAL DEPENDENT** electrical power generating plant and accessory uses normally associated with said power generating facility;

(3) Electrical substation; and

(4) Natural gas pump and extraction facilities.

('64 Code, Sec. 37-2.11.2)

(C) Applicable provisions - All uses shall be subject to the applicable standards of this chapter, including standards contained in the following sections:

(1) Section 17-5, General requirements;

(2) Article III, Specific Coastal Development and Resources Standards;

(3) Article IV, General Coastal Development and Resource Standards; and

(4) Article V, Administration.

('64 Code, Sec. 37-2.11.3)

(Ord. No. 2034, 2716)



*Planning Division*

## PLANNING COMMISSION STAFF REPORT

**TO:** Planning Commission

**FROM:** Christopher Williamson, AICP, Senior Planner

**DATE:** February 19, 2009

**SUBJECT:** Planning and Zoning Permit No. 09-580-2 (Zone Text Amendment) to Amend the Coastal Energy Facilities Subzone (EC) Text. Filed by City of Oxnard.

- 1) **Recommendation:** That the Planning Commission adopt a resolution recommending that the City Council approve Planning and Zoning Permit No. 09-580-02 (Zone Text Amendment).
- 2) **Project Description and Applicant:** The proposed text amendment to Section 17-20 of the City Code clarifies the intent of the City Council that the Coastal Energy Facilities (EC) subzone allows only coastal dependent power generating facilities. This amendment would apply to all EC zoned parcels within the City's Coastal Zone. Filed by City of Oxnard, 214 South C Street, Oxnard, CA 93030.
- 3) **Background Information:** In 2006, Southern California Edison (SCE) proposed development of a 45 Megawatt gas turbine power generation facility for their vacant parcel, zoned EC, located at 251 N. Harbor Boulevard. The City denied the application because the proposed facility was not coastal dependent as required by the EC subzone. SCE appealed the denial to the Coastal Commission contending that the EC subzone text may be interpreted as allowing non-coastal dependent energy generation.
- 4) **Analysis:** The California Coastal Act defines 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). Coastal-dependency is a recurring intent in the Oxnard Coastal Land Use Plan and its implementing Coastal Zoning Ordinance (Oxnard City Code Chapter 17). 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."

When the Oxnard Coastal Land Use Plan and the Coastal Zoning Ordinance were developed and adopted in the 1980's, the Coastal Energy Facility Sub-Zone (EC) was created and applied to

then two Southern California Edison (SCE) Ormond Beach and Mandalay Bay 1950's era power plants. Both power plants use ocean water for cooling and discharge. The SCE substation at Victoria Avenue and Hemlock Street is not a power generation facility and is an allowed EC use at that location. 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..."

- 5) **Environmental Determination:** CEQA Guidelines §15061(B)(3) state, "Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The proposed text amendment clarifies the intent of existing language relating to allowed uses and is covered by the general rule that CEQA applies only to discretionary actions which have the potential for causing a significant effect on the environment. As this amendment does not change the meaning of the text nor the allowed uses, there is no potential for causing a significant effect on the environment.
- 6) **Commission Certification:** In accordance with Section 30514 of the California Public Resource Code, a certified local coastal program and all local implementing ordinances, regulations, and other actions may be amended by the appropriate local government, but no such amendment shall take effect until it has been certified by the commission.

**Attachments:**

- A. Resolution

Prepared by:	<u>CW</u> CW
Approved by:	<u>SM</u> SM

ATTACHMENT A

RESOLUTION NO. [PZ 09-580-02]

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD RECOMMENDING THAT CITY COUNCIL ADOPT AN ORDINANCE APPROVING PLANNING AND ZONING PERMIT NO. 09-580-02 (ZONE TEXT AMENDMENT) AMENDING SECTION 17-20 OF THE CITY CODE. FILED BY CITY OF OXNARD, 214 SOUTH C STREET, OXNARD, CA, 93030.**

WHEREAS, the Planning Commission of the City of Oxnard has considered a proposed text amendment to Section 17-20 of the Oxnard City Code relating to coastal dependent energy generation use within the Coastal Energy Facilities subzone; and

WHEREAS, the proposed text amendment clarifies the existing meaning of an established allowed use and is covered by the general rule (§15061(B)(3)) that the California Environmental Quality Act CEQA applies only to discretionary actions that have the potential for causing a significant effect on the environment, that this amendment does not change the meaning or allowed uses within the zone, and that the Planning Commission reviewed and considered the information before approving the amendment; and

WHEREAS, in accordance with Section 30514 of the California Public Resource Code, a certified local coastal program and all local implementing ordinances, regulations, and other actions may be amended by the appropriate local government, but no such amendment shall take effect until it has been certified by the Coastal Commission; and

WHEREAS, the documents and other materials that constitute the record are located in the Planning Division of the City of Oxnard, and the custodian of the record is the Planning Manager; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing, that the proposed amendment conforms with adopted City standards and constitutes good city planning; and that the amendment will not adversely affect or be materially detrimental to adjacent land uses, buildings or structures or to the public health, safety or general welfare.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard recommends to the City Council the approval of Planning and Zoning Permit No. 09-630-02 (Zone Text Amendment), to amend Section 17-20 as shown in Exhibit A hereto attached.

PASSED and ADOPTED by the Planning Commission of the City of Oxnard on this 19<sup>th</sup> day of February, 2009 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

\_\_\_\_\_  
Deirdre Frank, Chair

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

# EXHIBIT A

## ORDINANCE OF THE CITY OF OXNARD

ORDINANCE NO. \_\_\_\_\_

**ORDINANCE OF THE CITY COUNCIL APPROVING AN AMENDMENT TO SECTION 17-20 OF THE OXNARD CITY CODE RELATING TO COASTAL DEPENDENT USES WITHIN THE COASTAL ENERGY FACILITIES SUBZONE. FILED BY CITY OF OXNARD, 214 SOUTH C STREET, OXNARD, CA, 93030.**

WHEREAS, on date, 2009, the Planning Commission approved Resolution No. 2009-XX recommending that City Council adopt an ordinance approving Planning and Zoning Permit No. 09-580-02 (Zone Text Amendment) to amend Section 17-20 of the Oxnard City Code, filed by the City of Oxnard; and

WHEREAS, the City Council has held a public hearing and received and reviewed written and oral comments related to the Zone Text Amendment No. 09-580-02; and

WHEREAS, the City Council finds after due study and deliberation that the public interest and general welfare require the adoption of Zone Text Amendment No. 09-580-02; and

WHEREAS, the proposed text amendment clarifies the existing meaning of an established allowed use and is covered by the general rule (§15061(B)(3)) that the California Environmental Quality Act CEQA applies only to discretionary actions that have the potential for causing a significant effect on the environment, that this amendment does not change the meaning or allowed uses within the zone, and that the Planning Commission reviewed and considered the information before approving the amendment; and

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Part 1. Section 17-20 of the Oxnard City Code is hereby amended to read as shown herein in Exhibit A.

Part 2. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the City. Ordinance No. \_\_\_\_\_ was first read on \_\_\_\_\_, 2009, and finally adopted on \_\_\_\_\_, 2009, to become effective thirty days thereafter.

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AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

  
Alan Holmberg, City Attorney

ATTACHMENT 2  
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EXHIBIT A

**SEC. 17-20. EC, COASTAL ENERGY FACILITIES, SUB-ZONE.**

(A) Purpose - The purpose of the EC sub-zone is to provide areas that allow for siting, construction, modification and maintenance of COASTAL DEPENDENT power generating facilities and electrical substations consistent with Policies 51, 52, 54, 55 and 56 of the Oxnard coastal land use plan. Additionally, the EC sub-zone is designed to provide a framework for coordinating the requirements and responsibilities of applicable city, State and federal regulatory agencies vested with the authority for reviewing energy facility development. To assure consistency with the Oxnard coastal land use plan, the following coastal act provisions and land use plan policies shall apply:

(1) Coastal dependent energy facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth, where consistent with this article. (Coastal Act, Section 30260)

(2) All new energy related development shall conform to the air quality regulations set forth by the Ventura County Air Pollution Control District, the air quality management plan and new source review rule 26. (Policy 29)

(3) Energy related development shall not be located in coastal resource areas including sensitive habitats, recreational areas and archeological sites. All development adjacent to these resource areas or agricultural areas shall be designed to mitigate any adverse impacts. (Policy 30)

(4) All new energy related development shall be located and designed to minimize adverse effects upon public access to the beach. (Policy 54)

(5) No energy related development shall be located seaward of the 100 year flood/wave run-up line as designated by the U.S. Department of Housing Insurance Program Administration and the land use map of the Oxnard coastal land use plan. (Policy 56)

(6) Wastewater from any energy related facilities shall be treated as necessary and put to reuse including, but not limited to the following:

(a) Re-injection into the aquifer or ground water recharge system; and

(b) Recycling for industrial, agricultural or urban use. (Policy 64)

(64 Code, Sec. 37-2.11.1)

(B) Conditionally permitted uses - The following uses are permitted subject to the approval of a coastal development permit pursuant to the provisions of article V:

(1) Off-street public parking facility;

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(2) **COASTAL DEPENDENT** electrical power generating plant and accessory uses normally associated with said power generating facility;

(3) Electrical substation; and

(4) Natural gas pump and extraction facilities.

(64 Code, Sec. 37-2.11.2)

(C) Applicable provisions - All uses shall be subject to the applicable standards of this chapter, including standards contained in the following sections:

(1) Section 17-5, General requirements;

(2) Article III, Specific Coastal Development and Resources Standards;

(3) Article IV, General Coastal Development and Resource Standards; and

(4) Article V, Administration.

(64 Code, Sec. 37-2.11.3)

(Ord. No. 2034, 2716)

ATTACHMENT 2  
PAGE 8 OF 8



**Proposed zone text amendment:**

clarifies the intent of the City Council that the Coastal Energy Facilities (EC) subzone allows only coastal dependent power generating facilities.

two insertions of "coastal dependent"

**SEC. 17-20. EC, COASTAL ENERGY FACILITIES, SUB-ZONE.**

(A) Purpose - The purpose of the EC sub-zone is to provide areas that allow for siting, construction, modification and maintenance of **COASTAL DEPENDENT** power generating facilities and electrical substations consistent with Policies 51, 52, 54, 55 and 56 of the Oxnard coastal land use plan. Additionally, the EC sub-zone is designed to provide a framework for coordinating the requirements and responsibilities of applicable city, State and federal regulatory agencies vested with the authority for reviewing energy facility development. To assure consistency with the Oxnard coastal land use plan, the following coastal act provisions and land use plan policies shall apply:

(1) Coastal dependent energy facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth, where consistent with this article. (Coastal Act, Section 30260)

(B) Conditionally permitted uses - The following uses are permitted subject to the approval of a coastal development permit pursuant to the provisions of article V:

- (1) Off-street public parking facility;
- (2) **COASTAL DEPENDENT** electrical power generating plant and accessory uses normally associated with said power generating facility;
- (3) Electrical substation; and
- (4) Natural gas pump and extraction facilities.

('64 Code, Sec. 37-2.11.2)

**Recommendation:**

That the Planning Commission adopt a resolution recommending that the City Council approve Planning and Zoning Permit No. 09-580-02.

Amendment shall take effect when certified by the Coastal Commission.