



Meeting Date: March 24, 2009

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

Prepared By: Christopher Williamson, AICP Senior Planner *ew* Agenda Item No. N-1
 Reviewed By: City Manager *SRB* City Attorney *MF* Finance *JK* N/A Other (Specify) N/A

DATE: March 16, 2009

TO: City Council

FROM: Matthew Winegar, Development Services Director *Matthew Winegar*

SUBJECT: Position Letter to the Coastal Commission Regarding the Southern California Edison (SCE) Peaker Plant Proposal, Located at 251 North Harbor Boulevard.

RECOMMENDATION

That City Council members sign the attached letter and instruct staff to transmit it to the Coastal Commission.

DISCUSSION

The attached letter welcomes the California Coastal Commission to Oxnard, restates the City Council's reasons for urging that the Commission deny the SCE peaker plant appeal, withdraws proposed mitigations previously listed in its letter of May 6, 2008, and states that there are no acceptable mitigations for an environmental justice impact.

FINANCIAL IMPACT

There is no financial impact associated with this recommendation.

Attachment 1 - Letter to Commissioner Neely, Coastal Commission Chair



CITY COUNCIL OFFICE

305 West Third Street • Oxnard, CA 93030 • (805) 385-7428 • Fax (805) 385-7595

March 24, 2009

Ms. Bonnie Neely, Chair
California Coastal Commissioners
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Appeal of the City of Oxnard's Denial of the Southern California Edison (SCE) Peaker Plant Coastal Development Permit (CDP), Located at 251 North Harbor Boulevard: Appeal No. A-4-OXN-07-096

Dear Chair Neely and Commissioners:

Welcome to Oxnard! It is our pleasure to host the California Coastal Commission (Commission) and we hope you enjoy the Performing Arts Center theater, our city, and especially our beaches and coastal access. We appreciate the rescheduling of the appeal to April 9th so that more of our residents may participate in the SCE peaker plant appeal hearing. We invite you to drive by the SCE project site so that you may see how the characterization of the project as "...add[ing] another industrial facility to an area that is already dominated by industrial development" is not correct, as shown in the attached photograph (Attachment A).¹ A map is attached showing the location of the project site, your hotel, and the Performing Arts Center (Attachment B).

As you are aware, the City of Oxnard (City) continues to ask that the Commission deny SCE's appeal of the City's denial of a CDP for construction of a 45-MW peaker electrical generation facility at 251 North Harbor Boulevard. Before restating our reasons for denial, we request that the record show that we withdraw mitigation measures that were listed in our letter of May 6, 2008.² The City's position is that there are no acceptable mitigations, especially for the environmental justice issue of burdening Oxnard's majority minority population with a third power plant.

It is unfortunate that we are in this position with SCE. The City and SCE have a long record of cooperation, which we wish to continue. We understand why SCE choose this site in its response to the August 15, 2006 *Assigned Commissioner's Ruling Addressing Electric Reliability Needs In Southern California For Summer 2007* (ACR Ruling) that called for immediate construction of up to 250 MW of additional electrical generation power by summer 2007 in response to the heat wave of 2006. SCE should be

¹ Coastal Commission Staff Report, August 10, 2007, pg. 26.

² 1) Create an intermediate parcel and dedicate it to the City, 2) Contribute \$500,000 towards coastal access facilities.

commended for the four peaker plants that were installed within one year at inland locations. The Oxnard site, however, is not just another convenient SCE-controlled parcel next to an existing power facility. The Oxnard site is the remnant oil tank farm of an obsolete, 50-year old, ocean-dependent, once-through cooling, seldom used peaker plant located between two parks, endangered species beach nesting sites, and Environmentally Sensitive Habitat Area (ESHA).³ This is a different type of site, the circumstances are now different, and we urge the Commission to carefully consider its role and its decision.

At a March 2, 2009 workshop held by a California Public Utilities Commission (CPUC) Administrative Law Judge, the consensus of those attending seemed to be that the immediate intent of the ARC Ruling was satisfied and there is no urgent need for the fifth peaker plant, at least not until 2015 or 2016 according to Michelle Nuttal of SCE.⁴ The most recent findings of the CPUC and the California Independent System Operator (CAISO) also cast doubt on whether the Oxnard peaker is needed to meet system demand loads. In December 2007, the CPUC found that resources would be adequate in the broader Southern California region ("SP26") until 2013 – even considering the possible retirement of over 5,000 MW of existing resources.⁵ And the CAISO has also stated that resources well in excess of need existed as of last summer.⁶

SCE's current justification for the Oxnard peaker is that the configuration of SCE's transmission and distribution system and the geography of Ventura and Santa Barbara counties make this portion of SCE's service territory particularly vulnerable to transmission disruptions. According to SCE, adding "black start" capability would enable the utility to re-start the Mandalay Bay and Ormond Beach generating units and then serve the area with this local generation even if an earthquake or wildfire or other disruption cut it off from the rest of SCE's grid.⁷ SCE cites four events in 38 years as precedents, yet none of the events actually led to a regional failure.⁸ Given the relatively low demand for peak power and low risk of losing our connection to the regional transmission network, would this new peaker plant ever be used? This situation of "needing" a local startup ability has existed for decades, even when SCE owned and operated the Mandalay Bay and Ormond Beach generating units, and no record has been presented that shows this was a serious network concern in the past. However, the SCE argument is respected and the City of Oxnard would otherwise support SCE's efforts to improve the reliability of our local network.

³ Letter by David Magney Environmental Consulting to Peter Douglas, March 10, 2009. pg. 3.

⁴ TURN meeting notes, March 3, 2009.

⁵ See Decision (D.) 07-12-052, Table SCE-1 (at p. 117), lines 4, 5 and 22 in particular, dated December 20, 2007. D.07-12-052 is available at http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/76979.pdf.

⁶ See California Independent System Operator, 2008 Summer Loads and Resources Operations Preparedness Assessment, p. 3, dated April 28, 2008, as cited at the CAISO's "Phase II Comments" in CPUC Rulemaking 08-01-025, p. 35, filed February 17, 2009. Assessment available at <http://www.caiso.com/1fb7/1fb7855eed50.pdf> and Comments available at <http://docs.cpuc.ca.gov/efile/CM/97507.pdf>.

⁷ Draft letter to Coastal Commission, TURN, March 12, 2009

⁸ CPUC Workshop – McGrath Peaker Justification, March 2, 2009, pg. 6.

What the City cannot support is SCE's argument that there is no alternative site or alternative "blackstart" configuration. The Reliant plant previously had "blackstart" capability. There must be a way to entice or require Reliant to reinstall and/or upgrade a "blackstart" on or at its facility rather than spend \$60 million to construct the proposed SCE peaker plant.⁹ This cost will be proposed to be passed on to ratepayers that the Commission is being asked to indirectly approve. A more appropriate process would be for SCE to demonstrate the purported local reliability problem to the CPUC and examine a full range of potential solutions consistent with CPUC procedures and evaluated by qualified CPUC staff. The already purchased peaker equipment could be resold or used as spare parts for the four operation peakers. There are options, and we are confident that a better solution can be found if SCE is directed to the CPUC.

Based on the record to date, the City of Oxnard requests that the Coastal Commission deny the above application for the following reasons:

1. PRC Section 30413 Requirements Are Not Satisfied

Section 30413(b) of the Public Resources Code requires the Coastal Commission to periodically designate specific locations within the Coastal Zone where projects such as this may be located. The exception to this requirement only applies to "specific locations that are presently used for such facilities and reasonable expansion thereof". If the proposed SCE peaker plant is a stand-alone facility and Reliant is not a party to the application, then the previous use of the site as an oil tank farm does not qualify it as a designated location under PRC Section 30413(b). If the proposed peaker is an expansion or accessory use of the adjacent Reliant plant, which seems to be the current SCE argument since SCE emphasizes the lack of "blackstart" at the Reliant plant, the SCE facility should be tied to the licensing of the Reliant plant and SCE should agree to remove the peaker plant should the Reliant plant be decommissioned in the future. The record is not clear, and the Commission has not fully addressed PRC Section 30413.

2. August 15, 2006 ARC Ruling Satisfied

The ARC Ruling clearly stated on page 2 "...SCE should pursue the development and installation of up to 250 MW...for summer 2007 operation" and on page 6 "...SCE should pursue development of no more than five non-RFO generation units" by August 2007 (emphasis added). The ARC Ruling has been satisfied as SCE developed four inland peaker plants that are all operational. There is no urgency to justify development of a coastal site with a non-coastal dependent energy facility that effectively commits the site to permanent energy use with an expensive facility that may seldom be used.

⁹ CPUC Workshop, March 2, 2009, SCE McGrath Peaker Cost Summary

3. EC Zone Means “Coastal Dependent”

The City’s longstanding intent is that the EC zone allows only coastal-dependent energy facilities, and we respectfully disagree with the Commission staff interpretation of our certified Local Coastal Plan (LCP). Mr. Dick Maggio, who was the Community Development Director between 1983 and 2000 when the LCP and zoning were being developed and certified by your predecessors, wrote and stated “At the time of adoption of the Coastal Zoning Ordinance it was the intent of Staff and the Oxnard City Council to permit only Coastal Dependant Energy Uses within the Coastal Zone. . . Our intent was always that any additional, accessory, or related facilities to Oxnard’s two coastal power plants were also to be “Coastal Dependent.”¹⁰ The City is preparing a Coastal Land Use Plan and Zone Text amendment to clarify that EC means “coastal dependent.” The amendments should be before the Commission later this year.

4. Environmental Justice Impact Cannot be Mitigated

The small geographic extent of the August 10, 2007 Commission staff Environmental Justice analysis was inadequate and did not reflect the City’s demographics of 68 percent Hispanic, 82 percent minority. We have two power plants, two closed land fills, numerous oil wells, and one EPA-superfund site. There is no mitigation for an environmental justice issue other than to deny the project. The City does not consider funds or any other kind of “payoff” as acceptable. If the Coastal Commission approves the appeal, it must state in the record what is the overriding consideration that justifies an unmitigated environmental justice impact.

5. Other Suitable Sites and Alternatives

The proposed peaker plant could be installed at the SCE Santa Clara substation based on SCE’s own alternatives analysis which stated, “A peaker at this location would likely be capable of black starting the Mandalay Generation Station. Power from this location can be used to serve load in the Santa Barbara system during emergencies via the 66 kV system.”¹¹ The SCE analysis goes on to cite costs and timing as reasons for not considering the Santa Clara substation more seriously, including initiating a CEQA review. Both costs and timing are not relevant, as legitimate costs are recoverable and timing is not urgent, again by SCE’s own admission. The Santa Clara substation site is at least one feasible alternative to the proposed project. In any event, the relative adequacy of alternatives is a CPUC issues that should not be before the Commission, with all due respect, as the Commission and its staff are not qualified to make CPUC decisions.

¹⁰ Richard Maggio, Letter to Coastal Commission, May 6, 2008

¹¹ Supplemental Analyses for the Southern California Edison Mandalay Peaker Project, undated, pg. 16.

6. Missed Coastal Planning Opportunity

Consider the City's long range desire that the Reliant plant be decommissioned and removed and the beach and dunes that stretch 2.5 miles from Fifth Street to the Santa Clara River eventually becomes a continuous stretch of backdune preserve, restoration, and coastal access. The City intends to update our Coastal Land Use Plan after we adopt our 2030 General Plan later this year. We urge the Commission to not commit the SCE site to a permanent non-coastal utility use and to allow the City an opportunity to explore alternative uses for the Reliant power plant.

7. Unmitigated Environmental Impacts

SCE's proposed 80-foot stack, when combined with the existing and larger Reliant stack and plume, will further dominate the western horizon of Ventura County and further impact expansive views of the Channel Islands National Park. Special Condition 6 removes the screening trees that the City had requested along Harbor Boulevard to screen the peaker plant from the 292-unit Northshore residential development immediately to the southeast of the project site. The area east of Harbor is ESHA and will be impacted by the development. None of these impacts can be fully mitigated. If the Coastal Commission approves the appeal, it must state in the record what are the overriding consideration that justify these significant adverse impacts.

8. Water Supply Despite State Drought?

Although Calleguas Water District (District) has provided a letter stating they have "new" water, the State of California is in a declared drought and water shipments to Southern California are being reduced for the coming year. It is not clear how the District can make its statement when the District is receiving less water from the California Water Project this year.

9. Located in Sea Level Rise Flood Plain

The March 2009 report by the California Climate Change Center includes a sea-level rise map that places the proposed peaker plant within the 1.4 meter coastal base flood zone (Attachment 1). The report notes that many coastal public and private structures and uses need to be evaluated in the coming years, including 30 coastal power plants. The report states, "Continued development in vulnerable areas will put additional areas at risk and raise protection costs."¹² It does not make sense to locate a \$60 million major critical public facility in an area that is identified as being inundated by sea level rise.

¹² The Impact of Sea-Level Rise on the California Coast, California Climate Change Center, March 2009. Executive Summary, pg. 3: California Flood Risk, Sea Level Rise Oxnard (map).

10. GreenHouse Gas Mitigation Not Assured

On October 24, 2008, the California Air Resources Board (CARB) released its Preliminary Draft Staff Proposal on Recommended Approaches for Setting Interim Significance Thresholds (Thresholds) for Greenhouse Gases under the California Environmental Quality Act for review and public comment. The Proposal identifies benchmarks or standards that assist lead agencies in the significance determination for industrial, residential, and commercial projects. CARB staff intend to make its final recommendations on thresholds in early 2009, consistent with new draft CEQA guidelines addressing GHG emissions. The Commission cannot state with certainty if or how the proposed peaker plant will meet or exceed ARB and CEQA Thresholds.

In summary, the above are significant procedural and environmental impacts and questions that prevent the Commission from making the findings that there are no feasible alternatives to the project, or that the project will not have significant adverse environmental impacts, or that overriding consideration justifies the adverse impacts, or that an environmental justice impact is warranted.

Finally, this is a CPUC issue regarding the best technology to address a system need. You do not need to be put in this position. For all of the above stated reasons, the City respectfully requests the Commission to deny the appeal.

Very truly yours,

Dr. Thomas E. Holden
Mayor

Dean Maulhardt
Councilmember

Andres Herrera
Mayor Pro Tem

Bryan A. MacDonald
Councilman

Dr. Irene G. Pinkard
Councilwoman

Attachments:

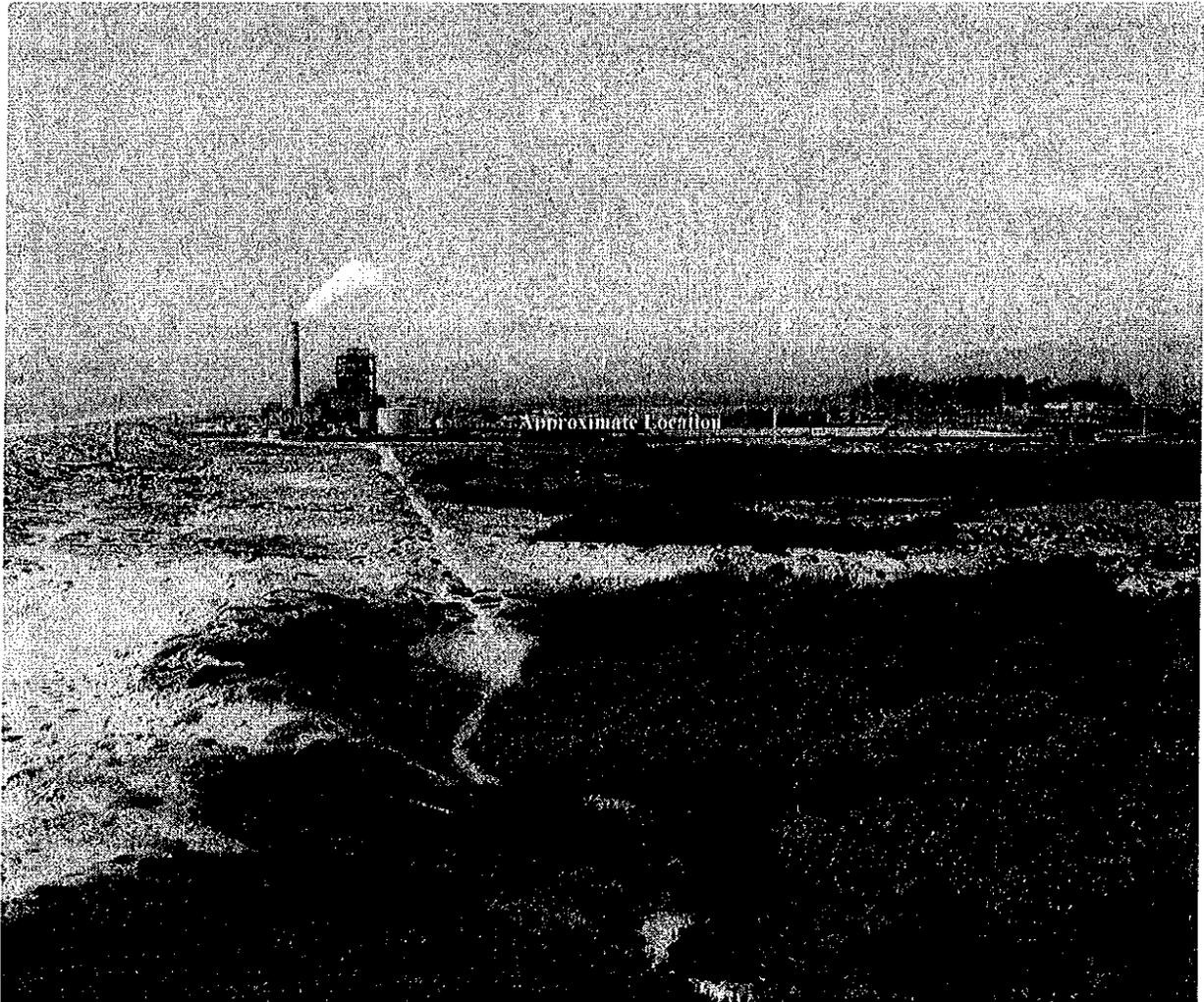
- A. Aerial photo of the Oxnard SCE project site
- B. Map of PAC, hotel, and proposed project site
- C. California Flood Risk: Sea Level Rise Oxnard (map)

CBW:cbw

cc: Dianne Feinstein, United States Senator
Barbara Boxer, United States Senator
Lois Capps, Member of Congress, 23rd District
Sheila Kuehl, California State Senator, 23rd District
Julia Brownley, California Assembly Member, 41st District
Pedro Nava, California Assembly Member, 35th District
Members of the Ventura County Board of Supervisors
Marty Robinson, Ventura County Executive Director

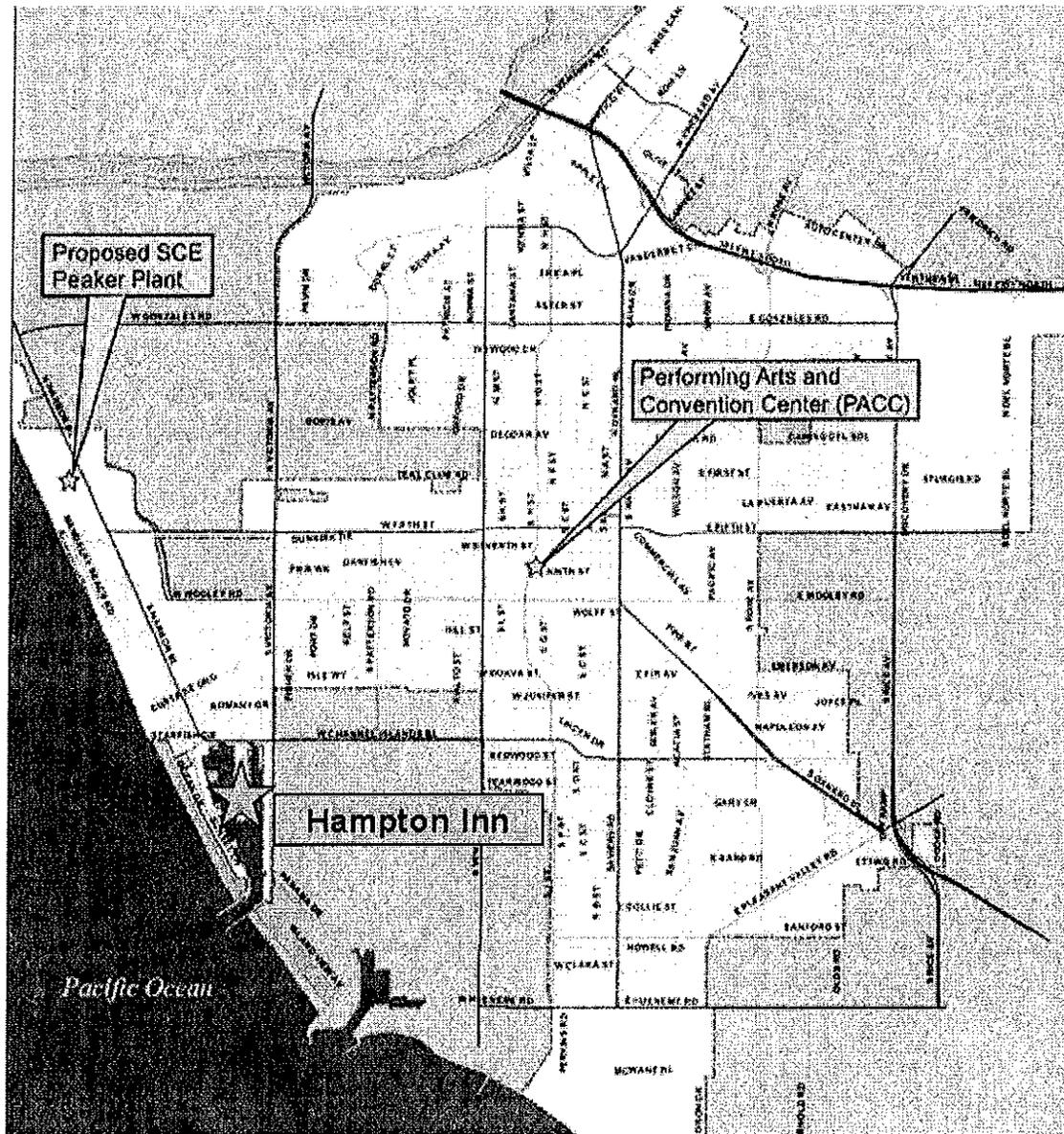
ATTACHMENT A

PHOTO OF THE SCE PEAKER PLANT PROJECT SITE
FROM FIFTH STREET LOOKING NORTH
MANDALAY BEACH PARK (UNIMPROVED) IN FOREGROUND

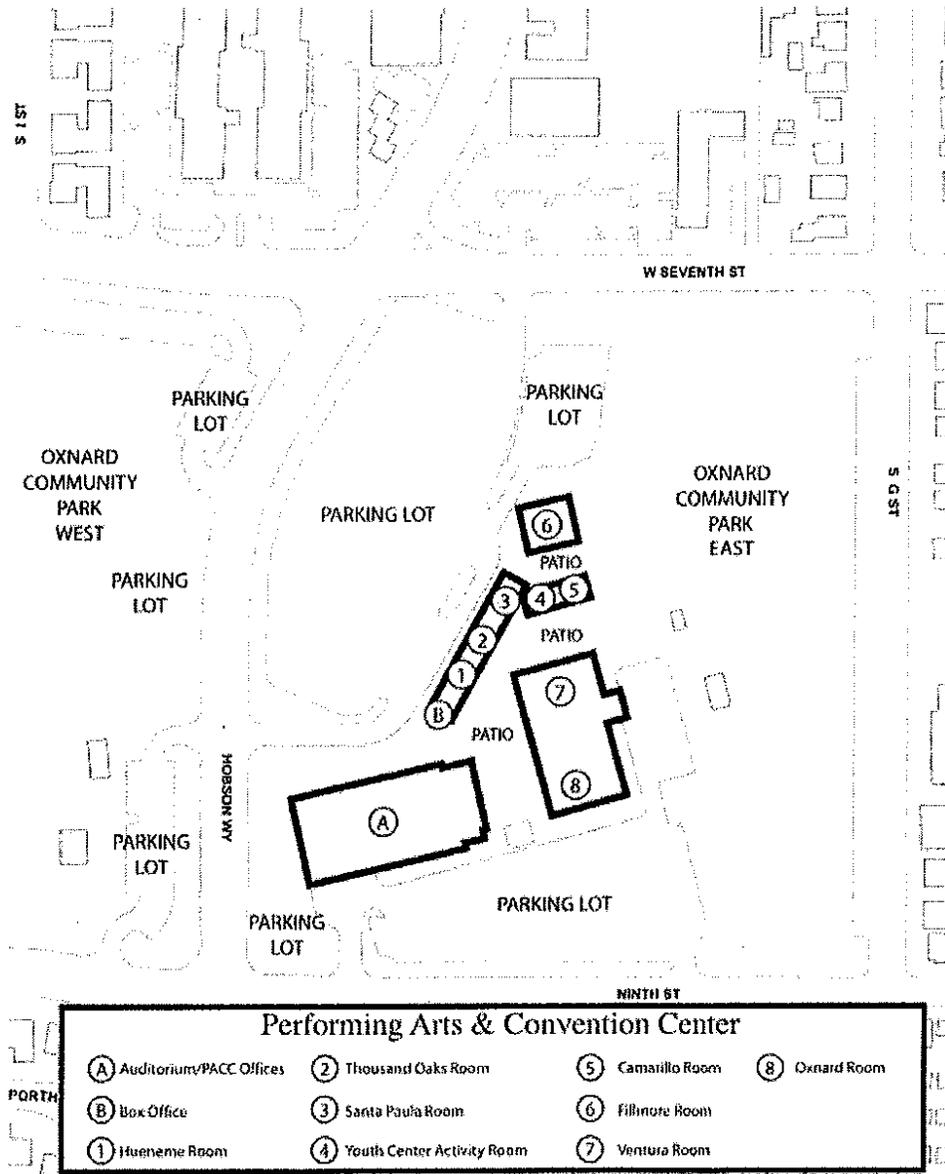


ATTACHMENT B

OXNARD MAP



ATTACHMENT B
 PERFORMING ARTS CENTER



ATTACHMENT C

California Flood Risk: Sea Level Rise
 Oxnard



PACIFIC
 INSTITUTE

