

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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**Th7c****RECORD PACKET COPY**

April 17, 2003

TO: Commissioners and Interested Persons

FROM: Charles Lester, Deputy Director
 Diane Landry, District Manager *DSL/04/17/03*
 Susan Craig, Coastal Planner

SUBJECT: CITY OF SANTA CRUZ: LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 1-02 (Part A). For public hearing and Commission action at its meeting of May 8, 2003, to be held in Monterey at the Monterey Conference Center, 1 Portola Plaza, Monterey, CA 93940.

SYNOPSIS

The City Of Santa Cruz is proposing to amend the Implementation Plan (Zoning Ordinance) of the Local Coastal Program to: 1) clarify the time period during which nonconforming uses displaced by City or Redevelopment Agency construction activities can resume, and; 2) eliminate the requirement of a design permit for installation of solar panels on buildings.

This amendment, which constitutes the majority of a larger amendment submittal, was filed on April 4, 2003. The Planning Commission and the City Council held noticed public hearings. The other components of the amendment regarding creation of a West Cliff Drive Overlay District with associated design guidelines, single-room occupancy units, creation of an administrative historic alteration permit, and amendments to the Downtown Recovery Plan will be scheduled for a future hearing.

SUMMARY OF STAFF RECOMMENDATION

Staff has reviewed the proposed amendments to the Zoning Ordinance for consistency with the certified Land Use Plan. Issues raised by the proposed amendments include renewable energy sources and visual impacts. As discussed in detail below, Staff recommends **approval** of Zoning Ordinance Major Amendment No. 1-02 (Part A) as submitted.

ANALYSIS CRITERIA

The relationship between the Coastal Act and a local government's Local Coastal Program (LCP) can be described as a three-tiered hierarchy with the Coastal Act setting generally broad statewide policies. The Land Use Plan (LUP) portion of the LCP incorporates and refines Coastal Act policies for the local jurisdiction, giving local guidance as to the kinds, locations, and intensities of coastal development. The Implementation Plan (IP), or zoning portion of an LCP typically sets forth zone districts and site regulations which are the final refinement specifying how coastal development is to proceed on a

**California Coastal Commission**

particular parcel. The IP must be consistent with, and adequate to carry out, the policies of the LUP. The LUP must be consistent with the Coastal Act.

In this case, the proposed LCP amendment affects only the IP component of the City of Santa Cruz LCP. Thus the standard of review for the amendment is consistency with the policies of the LUP.

ADDITIONAL INFORMATION

Further information on the submittal may be obtained from Susan Craig at the Central Coast District Office of the Coastal Commission at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.

Staff Report Contents

page

SYNOPSIS..... 1

I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS..... 2

II. FINDINGS AND DECLARATIONS 3

 A. Nonconforming Uses 3

 B. Solar Panels 3

III. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) 4

I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS

Staff recommends adoption of the following resolution:

Resolution I. (Resolution to approve City of Santa Cruz Implementation Plan Major Amendment No. 1-02 (Part A) as submitted)

Staff recommends a **NO** vote on the motion below. Failure of this motion will result in certification of the Implementation Plan amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion. I move that the Commission reject Major Amendment #1-02(Part A) to the City of Santa Cruz Local Coastal Program Implementation Plan as submitted.

Resolution to Certify the Implementation Plan Amendment as Submitted: The Commission hereby certifies Major Amendment #1-02 (Part A) to the Implementation Plan of the City of Santa Cruz Local Coastal Program, as submitted, and adopts the findings set forth below on grounds that the Implementation Plan conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment will meet the requirements of the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Plan amendment as submitted.



II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Nonconforming Uses

The City of Santa Cruz is proposing to amend two sections of its zoning ordinance to clarify the time period during which non-residential nonconforming uses displaced by City or Redevelopment Agency construction activities can resume (see Exhibit 1 for amendment text). Currently any nonconforming non-residential use that ceases operation for a period of six months or more may not be resumed. This restriction would remain in place except for any non-residential nonconforming use that is required to cease operation because of City or Redevelopment Agency construction activities. In that case, the amendment would allow the nonconforming use to resume within two years of cessation of use or within six months after the City's or Redevelopment Agency's construction activities are completed, whichever is later. This change is minor and does not present any coastal issues. Staff recommends approval as submitted.

B. Solar Panels

The following LCP policies provide incentives for use of renewable energy systems:

Environmental Quality Policy 5.3.5: *Review building codes to remove obstacles to utilizing renewable energy systems, and provide incentives in obtaining permits for such systems.*

Environmental Quality Policy 5.4: *Develop and implement a retrofit program of incentives and requirements to improve the energy efficiency of existing structures (including swimming pools and spas) with cost-effective conservation and renewable energy systems.*

In recent years, there has been an increase in demand for the installation of solar electric generating systems in Santa Cruz. Local advocates of solar energy have expressed frustration over the current requirement of a design permit, which includes a fee and additional planning staff review/findings, because it is counterproductive to encouraging the use of solar panels. Thus, the City of Santa Cruz is proposing to amend Section 24.08.410 of the City's Zoning Ordinance to remove the requirement of a design permit for the addition of solar panels to buildings (see Exhibit 2 for amendment text).

Solar energy panels are generally installed to lie flat or nearly flat on rooftops. Thus, they generally remain visually unobtrusive. A minor visual impact results from the differing visual texture/composition between the roof and the solar panels. In general, this minor visual impact is not significant enough to continue requiring a design permit, especially given the environmental benefits of solar energy. In addition, because solar panels are sited at a particular location and angle to a rooftop *by necessity*, it is unlikely that the design permit review process would provide for feasible alternative installation locations for solar panels for any particular project.

As stated above, the installation of solar panels will create a minor visual impact that is not significant enough to continue requiring a design permit. An exception would be for potential visual impacts of



solar panels on historic and/or landmark buildings in the City. The addition of solar panels to historic or landmark buildings, however, would require approval of an historic alteration permit by the Historic Preservation Commission, subject to a public hearing. Also, approval of an historic alteration permit may be appealed to the City Council. Thus, even with removal of the requirement of a design permit for solar panels, the LCP will continue to provide adequate protection regarding potential visual and historical impacts to historic and landmark structures from installation of solar panels.

LCP Environmental Quality Policies 5.3.5 and 5.4 call for removing obstacles and providing incentives for use of renewable energy systems. The amendment removes the requirement of a design permit for solar panels on buildings, consistent with these Environmental Quality policies. Staff recommends approval of the amendment as submitted.

III. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for Local Coastal Programs and amendments to them has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information that the local government has developed. Approval of the amendments, as submitted, will not have significant environmental effects, consistent with the California Environmental Quality Act.



ORDINANCE NO. 2000-19

AN ORDINANCE OF THE CITY OF SANTA CRUZ AMENDING
SECTIONS 24.18.070 AND 24.12.1108 OF THE SANTA CRUZ MUNICIPAL CODE
PERTAINING TO NONCONFORMING USES

BE IT ORDAINED by the City Council of the City of Santa Cruz as follows:

Section 1. Section 24.18.070 of the Santa Cruz Municipal Code is hereby amended to read as follows:

“24.18.070 NONCONFORMING USE - DISCONTINUANCE.

1. Any nonconforming, nonresidential use that is nonconforming due to district use regulations and/or violates performance standards and which is discontinued or abandoned or otherwise ceases operation for a period of six months or more shall not be resumed, and all subsequent use of such structure or portion of structure or site shall conform to this title. An administrative use permit shall be required for a new use exceeding the parking requirement for the use it replaces. The approving body shall find that the reduction in parking requirements will not adversely affect parking on adjacent and nearby streets and properties.

2. Whenever any part of a building, structure or land occupied by a nonconforming use is changed to or replaced by a use conforming to the provisions of this title, regardless of the period of time such conforming use occupies the building, such premises shall not thereafter be used or occupied by a nonconforming use.

3. Any uses nonconforming by reason of noncompliance with performance standards established herein shall be deemed illegal until compliance with performance standards is achieved.

4. Notwithstanding the provisions of paragraph 1, above, any nonconforming use which operates on property being acquired by the City or Redevelopment Agency by eminent domain or under threat of condemnation and which is required to discontinue or otherwise cease operation because of construction activities undertaken by the City or Redevelopment Agency may resume said use without losing its status as nonconforming: (1) within two years; or (2) within six months after the City's or Redevelopment Agency's construction activities are completed so as to enable said use to resume, whichever is later. Nothing contained in this paragraph shall be construed as having any effect upon the City's or Redevelopment Agency's proprietary interest in property acquired by eminent domain or under threat of condemnation.”

Section 2. Section 24.12.1108 of the Santa Cruz Municipal Code is hereby amended to read as follows:

“24.12.1108. MODIFICATION OF EXISTING ESTABLISHMENTS SELLING
ALCOHOLIC BEVERAGES.

1. Any establishment lawfully existing prior to the effective date of ~~the ordinance codified in this section and licensed by the State of California for the retail sale of alcoholic beverages for on-site and/or off-site consumption shall obtain a use permit as previously described in this part and shall be subject to any applicable special requirements set forth in Sections 24.12.1102 and 24.12.1106~~ when (a) the establishment

Exhibit 1
STC-MAJ-1-02
(Part A)
pg 1 of 2

ORDINANCE NO. 2000-19

changes its type of liquor license within a license classification and/or (b) there is a substantial change in the mode or character of operation. For purposes of this Part, "substantial change in the mode or character of operation" shall include, but not be limited to, (a) a pattern of conduct in violation of other laws or regulations, ~~(b) a period of closure for at least one year, or (c) (b) an increase of 20% or greater of floor area in any 5-year period to accommodate retail sale of alcoholic beverages for on-site and/or off-site consumption, or (c) either (1) in the case of an establishment which operates on property being acquired by the City or Redevelopment Agency by eminent domain or under threat of condemnation and which is required to discontinue or otherwise cease operation because of construction activities undertaken by the City or Redevelopment Agency, a period of closure for at least two years or six months after the City's or Redevelopment Agency's construction activities are completed so as to enable said use to resume, whichever is later, or (2) in any other case, a period of closure for at least one (1) year.~~

2. Any establishment which becomes lawfully established on or after effective date of ~~the ordinance codified in this Part~~ and licensed by the State of California for the retail sale of alcoholic beverages for on site and/or off-site consumption shall obtain a modification of use permit when (a) the establishment changes its type of liquor license within a license classification and/or (b) there is a substantial change in the mode or character of operations of the establishment."

Section 3. This ordinance shall be in full force and take effect thirty (30) days after its final adoption.

PASSED FOR PUBLICATION this 26th day of September, 2000, by the following vote:

AYES: Councilmembers: Fitzmaurice, Beiers, Rotkin, Hernandez, Mathews, Krohn; Mayor Sugar.

NOES: Councilmembers: None.

ABSENT: Councilmembers: None.

DISQUALIFIED: Councilmembers: None.

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

EXHIBIT NO. 1
APPLICATION NO.
SIC-MAJ-1-02(A)
Dg 2052
California Coastal Commission

ORDINANCE _____

AN ORDINANCE OF THE CITY OF SANTA CRUZ AMENDING
CHAPTER 24.08 OF THE CITY ZONING ORDINANCE PERTAINING
TO DESIGN PERMITS FOR THE ADDITION OF SOLAR PANELS ON
BUILDINGS

The City Council of the City of Santa Cruz ordains as follows:

Section 1. Chapter 24.08.410 of the Municipal Code of the City of Santa Cruz shall be amended to read as follows:

24.08.410 General Provisions.

A design permit shall be required for the following types of projects:

1. Multiple dwellings and dwelling groups containing three or more dwelling units;
2. New structures intended for commercial use;
3. New structures intended for industrial use;
4. Commercial or industrial uses of land not involving a building;
5. Accessory structures and uses except those accessory uses of structures associated with a single-family dwelling;
6. Any structure on, or use of, a substandard residential lot, except for structures which provide access to the first floor for the physically challenged;
7. Any exterior remodeling and/or site alteration of either \$50,000.00 or twenty-five percent additional floor area to any existing commercial or industrial building or structure;
8. All signs except the following:
 - a. Any permanent freestanding sign or signs five feet in height or lower as measured from grade and containing an aggregate area of thirty square feet or less;
 - b. Real estate signs of six square feet or less in area, placed on a property and advertising that property for sale, lease or rent;
 - c. Signs placed within windows;
 - d. Any sign required by law or placed to protect health and safety;
 - e. Public art;
 - f. Construction project signs conforming to other requirements of Part 6 of this chapter.
9. Short-term signs;
10. Banners;
11. Any project where the applicant is a public agency over which the city may exercise land use controls;
12. Public projects in the Coastal Zone, including but not limited to buildings, roads, bridges, wharf structures, shoreline riprap, and port district projects;
13. Any project which requires a design permit as a result of a specific city action or as a result of a condition of a prior project approval;
14. Parking lots with capacity for five or more spaces;
15. Addition of solar panels to all buildings.
16. 15. Any project which requires a planned development permit;
17. 16. Single-family homes over four thousand square feet in R-1-10; five hundred square feet in R-1-7, and three thousand square feet in R-1-5 zoning (Ord. 95-30 § 2, 1995; Ord. 94-34 § 8, 1994; Ord. 94-33 § 17, 1994; Ord. 92-88-20 § 1, 1988; Ord. 85-05 § 1 (part), 1985).

EXHIBIT NO. 2
APPLICATION NO.
STC-MAJ-1-02(A)
pg 1 of 1
California Coastal Commission

