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STAFF REPORT: CDP HEARING

Application Number:	3-13-0960
Applicant:	City of Santa Cruz
Project Location:	At the downcoast end of Main Beach, seaward of the Santa Cruz Seaside Company's Boardwalk and adjacent to the San Lorenzo River and Monterey Bay in the City of Santa Cruz (APN 007-321-07).
Project Description:	Construct a fireworks staging area and safety zone to launch a 30-minute fireworks display as a one-time free event to celebrate the Santa Cruz Municipal Wharf's 100 th anniversary.
Staff Recommendation:	Approval with Conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed project is located at the upcoast end of Main Beach, seaward of the Santa Cruz Seaside Company's Boardwalk, and adjacent to the San Lorenzo River and Monterey Bay in the City of Santa Cruz. The project includes the construction of a fireworks staging area/safety zone and presentation of a 30-minute fireworks display as a one-time free public event to celebrate the Santa Cruz Municipal Wharf's 100th anniversary. The display will begin about 9:00 pm on October 4, 2014 and will last approximately 30 minutes. The Applicant estimates that 10,000 - 20,000 spectators will view the free public fireworks event.

In terms of public recreational access, no public streets will be closed for the fireworks event and the City will operate a free trolley to allow visitors to park downtown and be transported to the beach area. A portion of Main Beach will be closed off temporarily as a fireworks safety zone/staging and launching area, but the remainder of Main Beach will remain open to the public. As such, the event should not adversely affect coastal visitors generally and will provide a free attraction to them. With conditions of approval to require the maintenance of lateral beach access seaward of the fireworks safety zone, and post-event clean-up and restoration of Main Beach and the surrounding waters for a minimum of two days after the event, the project can be found consistent with the Coastal Act's public access and recreation policies.

The fireworks display will take place over the waters of Monterey Bay and within the boundaries of the Monterey Bay National Marine Sanctuary (Sanctuary). In order to ensure the Commission's coastal development permit (CDP) is effectively integrated with the required Sanctuary authorization, this approval is conditioned for evidence of Sanctuary authorization. This approval is also conditioned for U.S. Coast Guard and Santa Cruz Fire Department authorization.

The fireworks event is planned for early October, which is outside of the nesting season for local birds and the breeding seasons for seals and sea lions. There are no beaches that are used as marine mammal haul-out areas in this urbanized location. However, seals and sea lions are known to haul out on the Santa Cruz Wharf, and marine mammals are also present in the waters offshore of the project site. Although any noise disturbances from the fireworks display to birds and marine mammals are expected to be temporary and short-term, given the presence of an existing haul out site on the Wharf and the presence of marine mammals in the waters offshore of the project site, this approval is conditioned to require pre- and post-event marine mammal censuses and the submission of a final monitoring report. With this requirement and additional conditions to ensure that Main Beach and the surrounding waters are adequately cleaned up following the event to protect water quality and wildlife from event debris, to prohibit the use of certain types of pyrotechnics (including specifically at the beginning of the fireworks show) and pyrotechnic materials, and to limit the event to a maximum of 30 minutes, the proposed event is consistent with the Coastal Act's marine resources policies.

The City is in agreement with the proposed special conditions. As conditioned, the project is consistent with the Coastal Act, and staff recommends **approval** of the CDP. The motion and resolution are found on page 4 below.

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I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and 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 approve Coastal Development Permit Number 3-13-0960 pursuant to the staff recommendation, and I recommend a yes vote.*

***Resolution to Approve CDP:** The Commission hereby approves Coastal Development Permit Number 3-13-0960 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Other Agency Approval.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director for review and approval evidence of all permits, permissions or approvals granted for the fireworks display from: (1) Monterey Bay National Marine Sanctuary; (2) Santa Cruz Fire Department; and (3) United States Coast Guard. The Permittee shall inform the Executive Director of any changes to the project required by any of the above-listed agencies. Such changes shall not be incorporated into the project until the Permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally necessary.
2. **Fireworks Limitations.**
 - a. **Aerial Salute Limitations.** The total number of aerial “salute” shells or devices shall not exceed 6% of the total number of aerial shells and/or special effect pyrotechnic devices combined. Aerial “salute” shells/devices shall not be launched or detonated during the first five minutes of the fireworks display.
 - b. **All Labels and Wrapping Removed.** All plastic and aluminum labels and wrappings shall be removed from all aerial shells and special effect pyrotechnic devices prior to use and before they are launched or detonated.
 - c. **Prohibited Devices.** Aerial shells and/or special effect pyrotechnic devices that include a plastic outer casing and/or non-biodegradable inner components that make up more than 5% of the mass of the shell/device shall be prohibited.
 - d. **Duration of Display.** The fireworks display shall be limited to no longer than 30 minutes.
3. **Clean-up and Restoration of Main Beach and Adjacent Ocean Waters.** Following the event, all fireworks-related debris from the launch site shall be recovered. The Permittee shall inspect Main Beach, the Santa Cruz Municipal Wharf, and the adjacent water area for a minimum of two days following the conclusion of the fireworks (i.e., through Sunday and Monday) for any remaining event debris, including but not limited to all fireworks detritus. All such debris found shall be properly disposed of and the inspections shall continue for at least 24 hours from the time that any such fireworks debris is located, and indefinitely until such inspections do not identify any more fireworks debris.
4. **Lateral Public Access.** The Permittee shall provide and maintain a lateral public access corridor that is at least 10 feet wide, to be located along the beach seaward of the fireworks safety zone. This lateral access shall be available from 8 a.m. to sunset on the day of the event, i.e. October 4th, 2014. At sunset on October 4th, the Permittee may close this lateral access to general public access, and shall re-open this access by 11 p.m. on October 4th. The Permittee shall ensure that the public accessway remains a minimum of 10 feet wide as measured inland from the tidal reach of Monterey Bay by adjusting any safety zone fencing

inland as necessary throughout the day. Fencing shall not be allowed to enter into Monterey Bay waters at any time.

5. Pre and Post-Event Monitoring Report. WITHIN 60 DAYS OF THE CONCLUSION OF THE EVENT, the Permittee shall submit a Pre- and Post-Event Monitoring Report to the Executive Director for review and approval. The Report shall, at a minimum, include:

(a) Marine Mammals Monitoring Report.

- i) Conduct a census detailing the number of all pinnipeds and otters in the impact area of the event, i.e. Main Beach, underneath the Santa Cruz Wharf, and in the surrounding waters, on the day prior to the fireworks display with observations to occur for no less than 30 minutes;
- ii) Monitor, record and report all marine mammal injury, serious injury, or mortality observed in the vicinity of the fireworks display area, i.e. Main Beach and the Santa Cruz Wharf and the surrounding waters. Monitoring for injury, serious injury, or mortality shall occur no later than the morning after the fireworks display, and shall occur for no less than 30 minutes.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

Project Description and Location

The City of Santa Cruz is proposing to launch fireworks from the upcoast end of Main Beach as a one-time free public event on Saturday, October 4th, 2014 to celebrate the Santa Cruz Municipal Wharf's 100th year anniversary. The display will begin about 9:00 p.m. and will last approximately 30 minutes. The proposed project involves the siting of a fireworks safety zone/staging and launching area on a portion of Main Beach near the San Lorenzo River mouth, which will be enclosed by temporary snow fencing. The safety zone will be closed to the public on the day of the event from 8 a.m. until 10 a.m. the following day. Lateral beach access will be available seaward of the fireworks safety zone from 8 a.m. to sunset the day of the event and will be reopened again by 11 p.m. The fireworks display will take place over the waters of Monterey Bay and within the boundaries of the Monterey Bay National Marine Sanctuary (Sanctuary). The City estimates that 10,000 - 20,000 spectators will view the free public fireworks event.

Following the event, the City proposes a beach clean-up and site inspection, along with additional clean-up, including sand sifting that will be performed the following morning. Staff from the City of Santa Cruz Parks and Recreation Department, the Santa Cruz Seaside Company, and volunteers from Save Our Shores¹ will assist with clean-up operations.

Please refer to **Exhibit 1** for a Location Map and **Exhibit 2** for an aerial photo of the project site.

¹ Save Our Shores is a non-profit marine conservation organization based in Santa Cruz, California whose mission is caring for the marine environment through ocean awareness, advocacy, and citizen action.

B. PRIOR COMMISSION FIREWORKS ACTIONS

The Commission has processed several CDPs for fireworks displays, including those that involve potential impacts to public use of sandy beaches or other public access areas, and to marine and habitat resources. For example, since 2000 the Commission has conditionally approved five CDP applications and two CDP amendments² to allow the Monte Foundation to close a portion of Seacliff State Beach in Santa Cruz County to allow a fee-based fair and fireworks display in October of each year. The Commission attached conditions to these CDPs requiring cleanup after the events (including but not limited to all fireworks detritus), post-event monitoring of impacts to wildlife (given this site's location near marine mammal haul-out areas and nearby bird habitat on the bluff), other agency approvals, as well as restrictions on the types and amount of fireworks that can be used.

In 2002, the Commission approved an LCP amendment³ to the certified Mission Bay Park Master Plan (San Diego) that addressed fireworks programs at Sea World. The City of San Diego established a program for the fireworks, setting the limit on the number of displays per year at 150. The Commission did not take issue with the number of displays, but required suggested modifications to the LCP amendment addressing cleanup of debris, monitoring of overall effects and, at the wildlife agencies' requests, movement of the barge from which the fireworks would be launched further east so that fireworks debris would not land as heavily on Fiesta Island. The Commission also required a better water cleanup system, including the use of divers each morning following a display, and the submission of annual monitoring reports.

In 2009, the Commission approved a CDP for the City of Capitola to allow a 30-minute fireworks display that was launched from the end of the Capitola Wharf as a one-time free event held on September 2, 2009 to celebrate the City of Capitola's 60th anniversary.⁴ The Commission conditioned its approval to require other agency approvals, restrictions on the types and amount of fireworks used, and cleanup and restoration of Capitola Wharf, Capitola Beach, and the surrounding waters after the event.

The Commission has also not required a CDP for a fireworks event when it determined that based upon the submitted application, the specific temporary planned event did not have any significant adverse impact on coastal resources. For example, in 2003, the City of Morro Bay requested a Commission determination as to whether or not the City's proposed fireworks display would qualify as a temporary event that did not require a permit. Due to concerns raised by the Audubon Society and by the Commission, the City proactively took action to move the display from the planned location near Morro Rock (where there are nesting falcons and western snowy plovers) to another location within the bay where there was less potential for disturbance to avian and marine species. The City also offered to implement a number of measures to direct access away from sensitive areas, provide information to attendees regarding the sensitivity of the area, clean up after the display, and to allow third party monitoring of sensitive sites in conjunction with the Audubon Society and relevant state agencies. Based upon the City's actions specifically taken to address Coastal Act concerns, the Commission determined that the temporary event was not expected to have a significant adverse effect upon coastal resources and

² CDPs 3-00-117, 3-01-058, 3-02-027, 3-03-034, 3-03-034-A1, and 3-03-034-A2.

³ City of San Diego Major LCP Amendment Number 2-2001-C.

⁴ CDP 3-09-016.

therefore no CDP was required under Coastal Act section 30610(i).

C. STANDARD OF REVIEW

The proposed project site is located within the Commission's retained CDP jurisdiction area. Thus, the standard of review for this proposed project is the Coastal Act, but the City of Santa Cruz's LCP can provide non-binding guidance.

D. MARINE RESOURCES

The Coastal Act protects the marine resources and habitat offshore of this site. Coastal Act Section 30230 requires that marine resources be maintained, enhanced and restored. Coastal Act Section 30231 requires that new development not interfere with the biological productivity of coastal waters or the continuance of healthy populations of marine species. Coastal Act Sections 30230 and 30231 specifically state:

***Section 30230.** Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

***Section 30231.** The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Analysis

The City's proposed fireworks display would be launched from the safety zone on Main Beach and the display will take place over the waters of Monterey Bay and the Monterey Bay National Marine Sanctuary (Sanctuary) (see Exhibit 2). The Sanctuary has historically expressed concern about the potential cumulative impacts to marine wildlife and the environment from fireworks displays, particularly if they proliferate to multiple sites within the Sanctuary. Because of this concern, and to provide guidance for future proposed fireworks events in the Sanctuary, in 2001 the Sanctuary developed an Assessment of the impacts of fireworks displays.⁵ This Assessment recognized the historical use of fireworks in certain locations (including Santa Cruz⁶ and Capitola⁷) and authorized future fireworks in four discrete areas within the Sanctuary (including

⁵ *Assessment of Pyrotechnic Displays and Impacts within the Monterey Bay National Marine Sanctuary 1993-2001*, dated March 2002.

⁶ The City of Santa Cruz presented annual fireworks shows between 1991 and 2004 (without CDPs) to celebrate the City's date of incorporation.

⁷ Fireworks displays were typically held on Independence Day in Capitola throughout the 1970s, and possibly in the decades preceding the 1970s. The City discontinued the Independence Day fireworks displays due to safety and crowd control concerns. Since creation of the Sanctuary in 1993, only two fireworks displays have been held in

Santa Cruz), while noting that fireworks displays would be prohibited within the remainder of the Sanctuary. On March 26, 2001, the Sanctuary requested formal programmatic consultation from the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) within the context of both the Endangered Species Act and the Marine Mammal Protection Act as to the potential for “take” of listed species and/or protected mammals due to fireworks displays within the Sanctuary’s boundaries. On June 22, 2005, USFWS provided its biological opinion and concurred that the Sanctuary’s authorization of fireworks events within four discrete areas⁸ within the Sanctuary would not likely substantially reduce the overall populations of endangered or threatened species located within these areas. On July 19, 2006, NMFS issued a letter of authorization (LOA) to the Sanctuary authorizing professional fireworks displays within Sanctuary waters. On June 28, 2012, NMFS issued an updated LOA to the Sanctuary authorizing fireworks displays within Sanctuary waters until 2017. Both USFWS and NMFS recommended that the Sanctuary include appropriate mitigation and conservation measures when authorizing fireworks displays within the Sanctuary to minimize or avoid impacts to special status species. Previously, both the Commission and the Sanctuary have authorized fireworks within Sanctuary waters based in part on the Assessment and its recommendations.⁹

In terms of potential bird impacts, the event will take place on October 4th when the nesting season for birds in the area, including sensitive bird species, is complete. As a result, the fireworks display is not expected to impact nesting birds. As to potential impacts to non-nesting birds, these impacts would be temporary and short term. Birds would be expected to retreat from the area when the fireworks start, and to return afterwards. Thirteen years of monitoring for similar fireworks events at Seacliff State beach in Aptos has not shown significant adverse bird impacts.

Regarding marine mammals, California sea lions and harbor seals are known to congregate around the Santa Cruz Wharf and use the supportive platforms below the wharf to haul out. However, the shoreline in the immediate vicinity of Main Beach is highly urbanized, actively used by beach goers, and generally lacks isolated sites that could be used by marine mammals to haul out on the beach. In addition, this event is not happening during the seal and sea lion breeding seasons, which occurs in early to mid-spring for harbor seals (i.e. March to early May) and late spring into summer (i.e. May to July) for sea lions. Also, this area of Santa Cruz is not a known breeding ground for these species.¹⁰ However, the sea lions and seals congregating at the Wharf may be flushed out into the water at the beginning of the fireworks event.

Regarding marine mammals located in the waters offshore of the project site (including sea lions, harbor seals, and otters), while it is likely that the noise from the fireworks display will disturb

Capitola: One in 1999 to celebrate the City’s 50th anniversary, and the other in 2009 (CDP 3-09-016) to celebrate the City’s 60th anniversary of incorporation.

⁸ These four areas consist of: 1) Half Moon Bay; 2) Northern Monterey Bay Area (including Santa Cruz, Capitola, and Aptos); 3) Southern Monterey Bay Area; and 4) Cambria.

⁹ See, for example, CDPs 3-00-117, 3-01-058, 3-02-027, 3-03-034, 3-03-034-A1 and 3-03-034-A2 (approval until end of 2015) (Monte Foundation Fireworks at Seacliff State Beach) and CDP 3-09-016 (City of Capitola fireworks display in 2009).

¹⁰ According to the Sanctuary findings in *Assessment of Pyrotechnic Displays and Impacts Within the Monterey Bay National Marine Sanctuary 1993 – 2001* (2002)

marine mammals that may be present in these offshore waters at the time of the event, this disturbance will be temporary and short-term. As with bird impacts, thirteen years of monitoring of fireworks impacts at Seacliff State Beach has not shown a discernable impact to offshore marine mammals,¹¹ and lacking any other indication that there is any kind of unusually high marine mammal activity at or near the Main Beach, the proposed event is not expected to significantly impact marine mammals. However, given the presence of the haul-out site on the Wharf and the presence of marine mammals in the waters offshore of the project site, **Special Condition 2(d)** limits the length of the fireworks display to a maximum of 30 minutes. In addition, **Special Condition 5** requires that a pre-event census of marine mammals in the vicinity of the project site be done, along with a post-event evaluation to determine if any injury or mortality to these species occurred. This condition also requires submittal of a monitoring report within 60 days of conclusion of the event. The mammal censuses and monitoring report will provide valuable information that may be used to provide appropriate mitigation as necessary in future CDPs for fireworks displays at this location.

As a means to strictly limit the effect of fireworks on wildlife in the area, previous Commission actions in this area have included limitations on the types of fireworks that could be launched at the beginning of the event. The intent has been to open an event with more minimal fireworks that allow wildlife to ease into the event and flush more readily from the area without an immediate barrage of huge explosions and salutes that may exacerbate impacts. This restriction is appropriate in this case as well, and thus this approval is conditioned to limit the total number of aerial “salute” shells or devices to no more than 6% of the total number of aerial shells and/or special effect pyrotechnic devices combined, and to prohibit such aerial “salute” shells/devices during the first five minutes of the fireworks display (see **Special Condition 2a**).

Event debris from a fireworks program can impair Sanctuary water quality as well as harm wildlife that may ingest and/or become entangled in such debris. The USFWS biological opinion noted that Sanctuary staff has documented the presence of a substantial number of fireworks casings in the ocean immediately following previous fireworks displays held over Sanctuary waters. Other fireworks debris that may enter the ocean includes cardboard cylinders, disks, and shell case fragments; paper strips and wadding; plastic wadding, disks, and tubes; aluminum foil; cotton string; and even whole unexploded shells (i.e. duds or misfires). It is likely that paper strips, cardboard, and cotton string are biodegradable and do not persist for long periods of time in the ocean environment. However, other materials, such as plastic, are likely to persist in the marine environment for lengthy periods if they are not washed ashore and removed by personnel. In previous permits for fireworks programs over Sanctuary waters, the Commission and the Sanctuary have prohibited the use of specific pyrotechnic devices, such as those containing an outer plastic casing, and have required that all plastic labels and wrappings be removed from the pyrotechnic shells before they are launched. **Special Conditions 2 (b) and (c)** incorporate these prohibitions into this permit. Additionally, **Special Condition 3** requires the City to inspect Main Beach and the shoreline and the water area surrounding the Wharf for a minimum of two days following the conclusion of the fireworks program to look for any remaining event debris, including but not limited to all fireworks detritus, and also that this debris be properly disposed of.

¹¹ See, for example, CDPs 3-00-117, 3-01-058, 3-02-027, 3-03-034, 3-03-034-A1 and 3-03-034-A2 (approval until end of 2015) (Monte Foundation Fireworks at Seacliff State Beach).

Finally, the Sanctuary is currently processing an application and has indicated that an approval is expected with conditions similar to those required by the Commission and the Sanctuary in years past for other fireworks displays (e.g., a limitation on aerial “salute” shells, requirements for removal of plastic labels and packaging from shells, prohibition on plastic casings, inspection and cleanup of the beaches and waters in the event area for as long as it takes to effectively dispose of all event-related debris, etc.). To ensure the Commission’s CDP is effectively integrated with the Sanctuary’s authorization (as in past cases of fireworks CDPs that involved the Sanctuary), this approval is conditioned for evidence of Sanctuary approval (see **Special Condition 1**).

As conditioned, the Commission finds that the proposed fireworks event will maintain water quality and protect marine resources in the vicinity of Main Beach and the Wharf. Thus, the project is consistent with the marine resources policies of the Coastal Act.

E. PUBLIC ACCESS AND RECREATION

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.” The proposed project is located seaward of the first through public road (Beach Street). Coastal Act Sections 30210, 30211, 30213, 30221 and 30252 specifically protect public access and recreation. In particular:

***Section 30210.** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***Section 30211.** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

***Section 30213.** Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

***Section 30221.** Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

***Section 30252(3):** The location and amount of new development should maintain and enhance public access to the coast by... providing non-automobile circulation within the development.*

Coastal Act Section 30240(b) also protects parks and recreation areas, such as the Main Beach area adjacent to the Santa Cruz Municipal Wharf. Section 30240(b) states:

Section 30240(b). Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

These overlapping policies protect the beach (and access to and along it) and offshore waters for public access and recreation purposes, including lower-cost access and recreational opportunities.

Analysis

Main Beach is located directly adjacent to the San Lorenzo River and Monterey Bay. The proposed fireworks display is a free public temporary event that will take place on October 4th 2014. All normally accessible areas, including adjacent Cowell Beach, the Boardwalk and most of Main Beach, will remain open and available to the general public as usual, with the exception of the fireworks safety zone on a portion of Main Beach. Public access to the fireworks safety zone portion of the beach will be restricted on the day of the event from 8 a.m. until 10 a.m. the following day to allow for pre-display setup and staging in preparation of the event, and for the actual fireworks launching, and then tear-down and clean-up of the launch facilities area. Although the proposed project will cover a portion of the beach, this closure is temporary, and it will affect only a portion of Main Beach.

In early October, a sandbar will likely be in place at the San Lorenzo River mouth (immediately downcoast of the fireworks safety zone), with the river forming a lagoon behind the sandbar. As such, it should be possible to walk laterally along Main Beach to Seabright Beach, which is located just downcoast of the San Lorenzo River. The City proposes to maintain this lateral access along the beach seaward of the fireworks safety zone until sunset the day of the event, but has otherwise provided no specifics in this regard. In order to ensure that this lateral public access is maintained and is adequate for public access during the day of the event, **Special Condition 4** requires the maintenance of a 10-foot wide public access corridor seaward of the fireworks safety zone until sunset the day of the event, and also requires that this lateral access be reopened by 11 p.m. the day of the event. The public accessway is required to be a minimum of 10 feet wide as measured inland from the tidal reach of Monterey Bay at all times, by adjusting any safety zone fencing inland as necessary throughout the day. The safety zone fencing shall not be allowed to enter into Monterey Bay waters at any time.

The fireworks display is a one-time, temporary and free public event that will provide public recreation and enjoyment on the beach. No public streets will be closed for the event. Parking will be provided in the nearby Boardwalk parking lots and in on-street parking available in the Beach area and the nearby downtown area. In addition, the City will operate a free trolley service to allow spectators to park for free in the more remote downtown parking lots and to attend the event without bringing their cars into the Beach area. As such, the event should not adversely affect coastal visitors generally, and in fact will provide a free attraction to them in an urban setting capable of handling such an event that could draw a large number of potential visitors. Other than the safety zone for the fireworks staging area on Main Beach which will be closed, the general public will be able to recreate in the remaining beach area as normal.

The 30 minute fireworks display would temporarily impact the ability of boaters to use Monterey

Bay waters around the Wharf and offshore of Main Beach during the time of the event, but this impact will be minimal because the duration is so short. However, U.S. Coast Guard approval is required, and therefore this approval is conditioned for evidence of Coast Guard approval (see **Special Condition 1**).

The main public access issue in this case is really with respect to the cleanup of any fireworks and/or event debris following the event. It is possible that fireworks debris may make its way onto the beach, and it is possible that event attendees may leave other debris as well. Given that some debris may float, it may be that debris continues to be present even following initial cleanup activities. Some debris of this type can be avoided by simply prohibiting certain pyrotechnic devices (such as those that contain an outer plastic casing), and by requiring that all plastic labels and wrappings be removed from the pyrotechnic shells before they are launched. In addition, the Commission's experience with nearby fireworks events has been that aggressive and focused cleanup following the event is adequate to ensure that beach and offshore waters are returned to their pre-event state in a relatively short period of time.

The City proposes to inspect Main Beach and the surrounding waters for a minimum of two days following the event, i.e. Sunday through Monday, for any remaining event debris including, but not limited to, all fireworks detritus and all other event debris. In addition, the City's Beach Maintenance division will provide beach clean-up along the shoreline and post-event sand sifting to clean the beach. In addition, the City will be assisted by the Santa Cruz Seaside Company as well as volunteers from Save Our Shores to provide additional beach clean-up.

With conditions to maintain public lateral beach access at the shoreline prior to and after the event, to limit certain types of shell materials, and to ensure that the Santa Cruz Wharf, Main Beach, and the surrounding waters are adequately cleaned up following the event, the proposed event, as conditioned, is consistent with the Coastal Act's public access and recreation policies (see **Special Condition 2**, **Special Condition 3** and **Special Condition 4**).

F. FIRE HAZARDS

Coastal Act Section 30253 requires that fire risks be minimized. Section 30253 provides, in applicable part:

***Section 30253.** New development shall do all of the following: (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard...*

Analysis

Launching fireworks during the fire season raises the question of whether such an activity could increase fire hazard. In this case, the fireworks would be launched over the water, but they would also be launched from a public beach. There is also the potential for a misfire of some sort landing on nearby buildings or in other developed areas. The City indicates that an event permit is required from its own Special Events Task Force and Santa Cruz Fire Department (the local fire protection district) for the proposed fireworks display to ensure adequate precautions are taken to protect against fire hazard. In addition, Santa Cruz Fire Department officials will be on hand to monitor the fireworks through set up, take down and clean-up operations. This approval is conditioned for evidence of Santa Cruz Fire Department approval (see **Special Condition 1**).

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The City of Santa Cruz, acting as lead agency, found that the project was exempt from CEQA requirements. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The preceding coastal development permit findings discuss the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above, which are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A)

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

1. CDP 3-11-027 City of Santa Cruz Beach Management Plan
2. City of Santa Cruz Local Coastal Program
3. Assessment of Pyrotechnic Displays and Impacts Within the Monterey Bay National Marine Sanctuary 1993 – 2001 (2002)
4. Letter of Authorization issued by National Marine Fisheries Service to the Monterey Bay National Marine Sanctuary, valid from July 4, 2012 through July 3, 2017.

Project Location

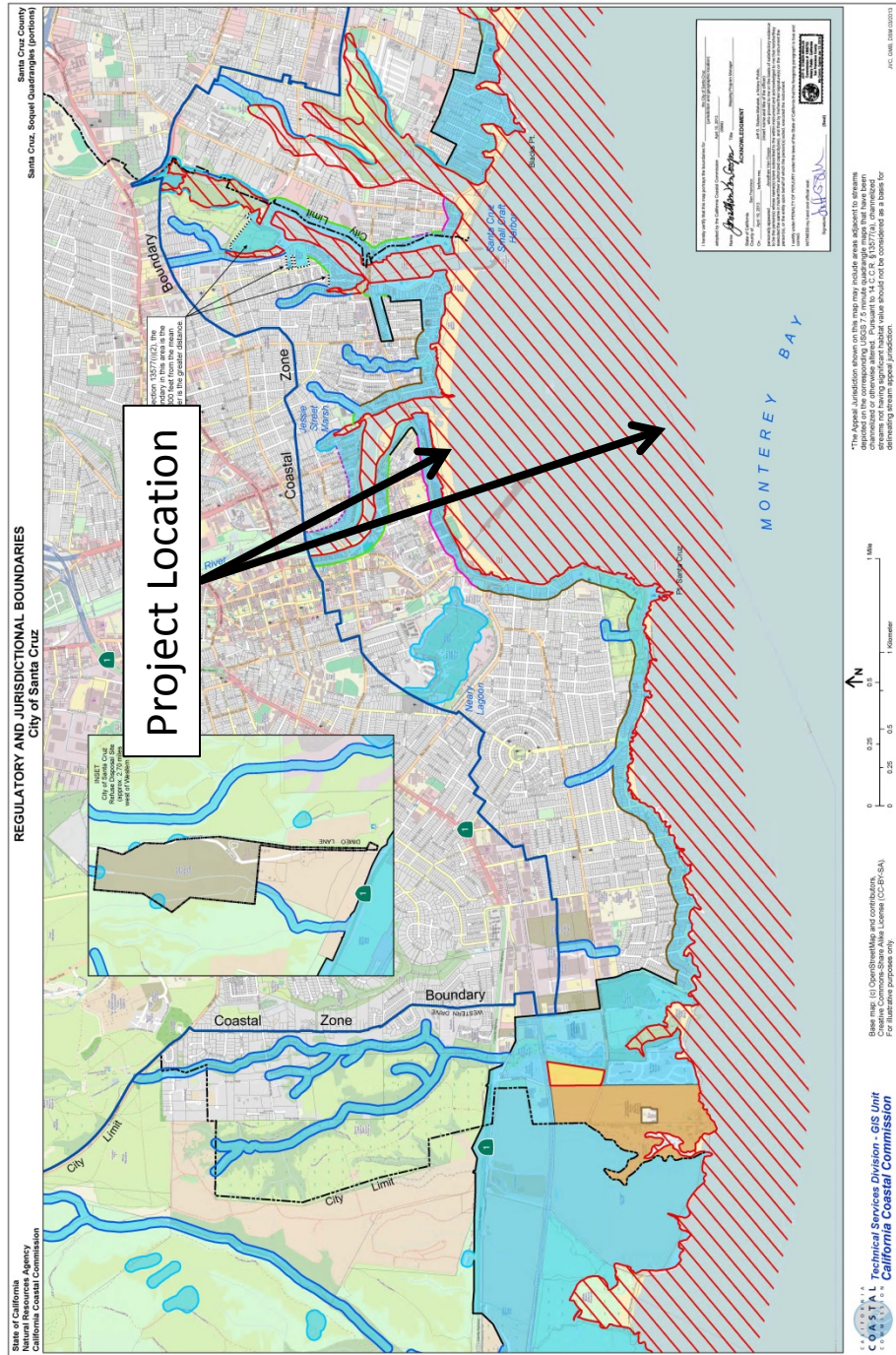
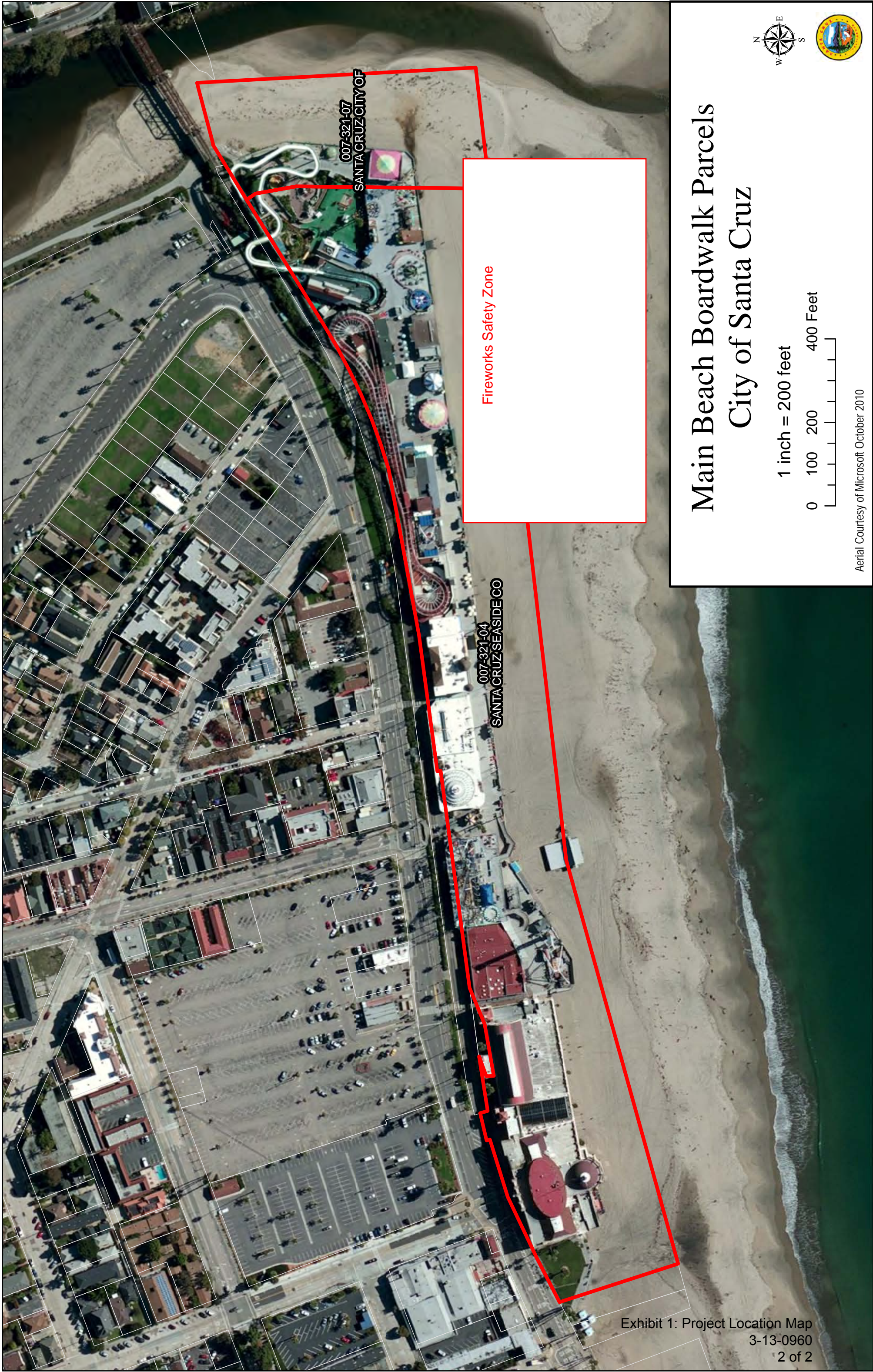


Exhibit 1: Project Location Map
3-13-0960
1 of 2



007-321-07
SANTA CRUZ CITY OF

007-321-04
SANTA CRUZ SEASIDE CO

Fireworks Safety Zone



Main Beach Boardwalk Parcels City of Santa Cruz

1 inch = 200 feet
0 100 200 400 Feet

Aerial Courtesy of Microsoft October 2010

Fireworks Safety Zone

City of Santa Cruz Fireworks Saturday, October 4, 2014



1 inch = 500 feet



Aerial Courtesy of Microsoft October 2010