

DOCKETED

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MEMO



October 17, 2016

TO: Ashley Gutierrez, California Energy Commission

FROM: Chris Williamson, Consultant to City of Oxnard for the P3 AFC

SUBJECT: How the City would Implement the General Plan Height Overlay District

Below is in response to your recent request as to how the City would implement the 2030 General Plan Height Overlay District (HOD) when processing development permits.

1) 2030 General Plan

The City of Oxnard (City) adopted the 2030 General Plan in 2011 and established a Height Overlay District (HOD) within Chapter 3, Community Development, Section 3.5 “Land Use Designations and Standards” (2030 General Plan Goals and Policies, pages 3-14/15 and pg 3-19). The HOD requires City Council approval to exceed six stories, with no fixed height limit. Table 3-2 (pg 3-19/20) “General Plan/Zoning Consistency” includes a column “Height Overlay” with either “Yes” or “No” for each listed General Plan Land Use Designation and its implementing Zone Designation(s). *See* Appendix of City Regulations attached to this memorandum.

The Height Overlay District is not specifically mentioned in the City’s Local Coastal Plan (LCP). However, the City applies General Plan policies to the Coastal Zone where the policies are of general applicability and where they do not conflict with the LCP or Coastal Act. Where LCP policies or zoning regulations are more restrictive, the City applies those LCP policies or zoning (LCP Land Use Plan, Policies 1 and 2, pg. III-1).. For example, if the LCP contained a height limit that was lower than the HOD, then the LCP height limit would apply. The City’s Municipal Code also defers to the general provisions of the zoning code to address development in the coastal zone that are not otherwise addressed by the coastal zoning provisions. Municipal Code § 17-51(B). *See* Appendix. The City has not yet updated is Municipal Code to incorporate the General Plan HOD, but developments must still comply with the HOD to ensure consistency with the General Plan.

When evaluating development applications, City staff determines the applicable height limit during its initial review of the project. In the case of the proposed P3 power plant at the Mandalay Generating Station, the coastal zoning is “EC, Coastal Energy Facilities, Sub-Zone” Municipal Code §17-20. There is no height limit listed. Instead, Section 17-20(C) refers to §17-5 “General Requirements” and Articles III and IV for additional applicable provisions.

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Section 17-5(M) states, "...An application approved by any reviewing body must be found to be consistent with the objectives, policies, general land uses and programs of the city general plan and the coastal land use plan. If there are any conflicts between the provisions or land use designations of the coastal land use plan and the general plan, the coastal land use plan shall prevail" (pg. 15). As there are no height limits specifically referenced in the LCP, the General Plan provisions control.

Because of the General Plan HOD applies generally and because development in the coastal zone must comply with the General Plan as well as the LCP, it is the City's position that the HOD applies to the proposed P3 project and cannot exceed six stories without City Council approval. In this case, for a structure without "stories" an interpretation is made that a "story" would equate to 12 feet, on average, for a commercial structure or industrial structure. Therefore the applicable HOD height limit is 72 feet. With a proposed height of 188 feet, the P3 clearly exceeds the HOD.

APPENDIX OF CITY REGULATIONS RE: HEIGHT LIMITS

General Plan Height Overlay:

Height Overlay. All new structures and/or remodels are limited to six stories except in areas designated as Low Density Residential, Low-Medium Density Residential, Mobile Home Park, Airport Compatible, and areas subject to the Ventura County Harbor Public Works Plan which are limited by their respective development standards. All entitlements that exceed six stories as of the adoption of the 2030 General Plan are exempt from the Height Overlay District unless they propose project modifications that create new development more than six stories, as defined by Chapter 16 of the City Code. Development located within the Height Overlay District may be permitted to exceed six stories by application and/or as part of an Urban Village specific plan or strategic plan. Exceeding six stories includes an impact fee and/or equivalent mitigation as required by the City Council. The granting of additional stories may require environmental review that includes shade and shadow and local wind impact analyses. (pg. 3-19)

Height Overlay District. A designation in addition to other land use classifications with supplemental regulations that may modify the underlying designation and/ or introduce additional height regulations. (pg 3-4)

Urban Village Program and Height Overlay: Develop and implement the Urban Village program and Height Overlay District as the principal growth management tools as the 2020 General Plan-designated infill and opportunity sites are gradually developed. General Plan Policy CD-4.3 (pg.3-25)

ZONING PROVISIONS:

SEC. 17-51. GENERAL STANDARDS.

(A) Purpose - The purpose of this section is to provide general standards relating to fencing, building heights, zone walls, on-site lighting, architectural features and similar provisions which generally apply to all development within the coastal zone.

(64 Code, Sec. 37-4.7.1)

(B) Applicability and specific standards - Except as otherwise provided in this chapter, the general standards of chapter 16 shall apply to development in the coastal zone.

(64 Code, Sec. 37-4.7.2)

(Ord. No. 2145, 2716)