

4.9 LAND USE

This section reviews existing land uses in the vicinity, and applicable policies and regulations that pertain to the project as identified for review in the State CEQA Guidelines.

Public and agency comments related to land use were received during the public scoping period in response to the Notice of Preparation (NOP). Issues raised in these comments include:

- ☐ The standard of review for Local Coastal Plan-Land Use Plan amendments is that they must be consistent with Chapter 3 policies of the Coastal Act.
- ☐ The EIR should evaluate appropriate land use and zoning designations for the locations adjacent to and near the Riverwalk along Front Street, such as mixed-used zoning with visitor-serving and coastal recreational uses.
- ☐ EIR should provide explanation of why San Lorenzo River Urban River Plan (SLURP) policies are being eliminated.
- ☐ Potential conflicts with development patterns in the area due to changes in density resulting from the General Plan and zoning amendments at the City's "urban edge".

To the extent that issues identified in public comments involve potentially significant effects on the environment according to the California Environmental Quality Act (CEQA) and/or are raised by responsible agencies, they are identified and addressed within this EIR. Public comments received during the public scoping period are included in Appendix B. The comment regarding consideration of other land use and zoning designations is noted, but is not within the scope of the proposed amendments. It is noted, however, that both the Community Commercial General Plan designation and the Downtown Recovery Plan encourage mixed uses.

4.9.1 Environmental Setting

Regulatory Setting

The City of Santa Cruz General Plan 2030, the Local Coastal Plan, and Title 24 (Zoning) of the Municipal Code govern land use and development for parcels within City limits. The southern portion of the project area is located within the coastal zone as is the beach area that would be affected by the proposed General Plan amendment.

Vicinity Land Uses

The project area is located within downtown Santa Cruz and is located to the west of the San Lorenzo River. The area is characterized by a mix of primarily commercial buildings, some of which have upper floor office and residential units. The area supports a mix of both pre- and post- Loma Prieta earthquake constructed structures with a variety of architectural styles and

building heights. Most of the buildings constructed after the earthquake are located north of Cathcart Street.

The project area subject to changes in building height is located along Pacific Avenue and Front Street generally between Laurel Street on the south and Cathcart Street on the north, with the west side of Front Street up to Soquel Avenue. The area is characterized by a mix of commercial structures, some of which have upper floor office uses. South of Cathcart, residential uses are limited primarily to the building at 1010 Pacific Avenue. Buildings along Front Street are a mix of mostly older buildings of varying architectural styles, sizes and heights. The older buildings along Front Street are generally one story and approximately 16-20 feet in height. Buildings are a mix of two and three stories along Pacific Avenue and generally one story in height along Front Street. There is less street tree landscaping along lower Front Street. Photos of representative views in the project area and downtown are shown on Figure 4.1-1.

Relevant Plans and Zoning Regulations

General Plan

All areas within the project study area are designated “RVC” (Regional Visitor Commercial) with a 0.25 to 3.5 floor area ratio (FAR) in the City’s existing *General Plan 2030*. This designation applies to areas that emphasize a variety of commercial uses that serve Santa Cruz residents as well as visitors. Mixed-use development is strongly encouraged in RVC districts. Areas designated RVC include:

- ☐ **Downtown Santa Cruz.** Emphasizes a mix of regional office and retail uses, residential and mixed-use developments, restaurants, and visitor attractions such as entertainment venues. The Downtown Recovery Plan provides detailed requirements for this area.
- ☐ **South of Laurel.** Emphasizes mixed-use and residential development along with visitor-serving and neighborhood commercial uses to connect the Beach Area with Downtown Santa Cruz. The Beach and South of Laurel Comprehensive Area Plan provides detailed requirements for this area.
- ☐ **Beach Area.** Emphasizes visitor-serving commercial uses such as hotels, motels, restaurants, and amusement parks, as well as residential and mixed-use development in the Beach Area neighborhoods. The Beach and South of Laurel Comprehensive Area Plan provides detailed requirements for this area.

For most areas designated RVC, the minimum and maximum development intensity is specified in the Downtown Recovery Plan or the Beach and South of Laurel Comprehensive Area Plan. In areas that are designated RVC but are not addressed in an Area Plan, the minimum FAR is 0.25 and the maximum is 1.75.

Local Coastal Plan

A portion of the downtown and project study area lies within the coastal zone. Pursuant to the California Coastal Act, the City has a Local Coastal Plan (LCP) that was certified by the California Coastal Commission (CCC). The LCP consists of a land use plan, implementing ordinances and maps applicable to the coastal zone portions of the City, and applies to all private and public projects located within the coastal zone. The Land Use Plan consists of: text; policies, programs and maps; Area Plan coastal policies and maps; and a Coastal Access Plan. The Implementation Plan consists of ordinances and regulations used to implement the Land Use Plan, including sections in the Zoning Code. The City is in the process of updating and revising the LCP Land Use Plan as a separate document from the General Plan. The LCP applies to private and public projects located within the coastal zone. Additionally, Chapter 4 of the Downtown Recovery Plan is incorporated by reference in the CBD zone district, and the district is part of the implementation section of the LCP.

In addition to the development standards of Chapter 4, there are several LCP policies that are proposed to be modified. Since the original certification of the City's LCP in 1985, additional plans have been prepared and policies incorporated into the LCP as amendments. The City adopted the San Lorenzo Urban River Plan (SLURP) in 2003 as a resource management protection plan for the river. Subsequent to the City Council approval, several resource-related and land use policies were included in the LCP and approved by the CCC as an amendment to the City's LCP. There are nine coastal policies based on the SLURP that pertain to development along Front Street within the coastal zone.

Downtown Recovery Plan

The Downtown Recovery Plan (DRP) was adopted in 1991 to guide reconstruction of the 1989 Loma Prieta earthquake as the earthquake destroyed significant portions of downtown Santa Cruz. The intent was to establish policies, development standards and guidelines to direct the recovery process toward the rebuilding after the earthquake. In addition to an Introduction, Summary, and Implementation Strategy, the DRP includes the following components:

- ☐ Land Use Plan for four subareas (Chapter 3),
- ☐ Development Standards and Design Guidelines (Chapter 4)
- ☐ Circulation and Parking Plan (Chapter 5)
- ☐ Streetscape and Open Space Plan (Chapter 6).

The DRP has been modified several times over the past 25 years with the most recent change in 2016 to relocate the downtown sign regulations from the DRP to Chapter 24 of the Zoning Code. Implementation of the DRP also included amendments to the Zoning Code. Specifically, DRP Chapter 4—Development Standards and Design Guidelines—is incorporated by reference in Part 24 of the Zoning Code, the Central Business District (CBD).

Zoning Code

The downtown areas are zoned “Commercial Business District” (CBD). This district implements the Land Use Plan, Development Standards and Design Guidelines of the DRP. It is intended to refine the Plan in the area of land use and regulations. It supports the purpose of the DRP, in the context of the General Plan, which aims to make downtown the urban center of the city, with the many functions a city center serves. This section of the Zoning Ordinance is also part of the Local Coastal Implementation Plan. The DRP and CB is divided into four subareas, in order to enhance the character of each by special consideration of the character of each. The Lower Pacific Avenue subdistrict has been added and consists of the CBD District South of Laurel Street. The Lower Pacific Avenue subdistrict is intended to implement the policies of the South of Laurel Plan and is separate from the Downtown Recovery Plan. The project study area is located with the Pacific Avenue Retail subdistrict and the Front Street/Riverfront subdistrict.

4.9.2 Impacts and Mitigation Measures

Thresholds of Significance

In accordance with the California Environmental Quality Act (CEQA); State CEQA Guidelines (including Appendix G); City of Santa Cruz plans, policies and/or guidelines; and agency and professional standards, a project impact would be considered significant if the project would:

- 9a. Physically divide an established community;
- 9b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; or
- 9c. Conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan.

Analytical Method

Site visits of the project vicinity were conducted to ascertain surrounding land uses and development. Relevant City plans were reviewed with regards to land use concerns or policy issues with which the project might result in potential conflicts.

Impacts and Mitigation Measures

As described in the Initial Study (see Appendix A), the project site is located within the developed downtown area of the City, as well as the developed beach area and upper Ocean Street area. The proposed development would not physically divide an established community (9a). There are no adopted Habitat Conservation or Community Conservation Plans in the project area (9c).

The following impact analyses address potential project conflicts with any applicable land use plan, policy, or regulations adopted for the purpose of avoiding or mitigating an environmental effect (9b) .

Impact 4.9-1: Conflicts with Policies and Regulations. The proposed project will not conflict with policies or regulations adopted for the purpose of avoiding or mitigating an environmental effect, and therefore, will result in *no impact* related to consistency with local plans and policies.

The following discussion provides an overview of consistency with local plans and policies. The proposed project consists of a series of amendments to the following adopted City plans. Amendment to Municipal Code Section 24.10, Part 24, Central Business District (CBD), of the Zoning Code to modify extension area regulations and add Parklet standards.

- ☐ Downtown Recovery Plan: Amendment to extend Additional Height Zone A, modify Additional Height Zone B, and modify development standards as fully described in Chapter 3, Project Description.
- ☐ General Plan 2030: Amendment to modify Floor Area Ratio for the Regional Visitor Commercial land use designation in the downtown area. The reason for General Plan Amendment is that the CBD zone is the primary zone district that implements the broader RVC General Plan land use designation. The modifications proposed for the CBD additional height Zone A between Pacific Avenue and Front Street would potentially allow for upper level floor area that could exceed the existing 3.5 FAR.
- ☐ Local Coastal Plan (LCP): Amendment to Land Use Plan text to modify San Lorenzo Urban River Plan land use development policies. There are several LCP policies that are proposed to be modified. Since the original certification of the City's LCP in 1985, additional plans have been prepared and policies incorporated into the LCP as amendments. The City adopted the San Lorenzo Urban River Plan (SLURP) in 2003 as a resource management protection plan for the river. Subsequent to the City Council approval, several resource-related and land use policies were included in the LCP and approved by the CCC as an amendment to the City's LCP. There are nine coastal policies based on the SLURP that pertain to development along Front Street within the coastal zone. The proposed amendment would modify one policy, eliminate the other existing eight policies, and add two new LCP policies.

The LCP policies proposed for deletion address maintenance of 50-foot building heights along Front Street, provision of public amenities, and building architecture. Appendix C lists the policies proposed for deletion with an explanation provided by City Planning Department staff. The primary reason for deletion is either the language is from a process that is now outdated or applies to properties outside of the coastal zone. It is

also noted that the SLURP was intended as a resource protection programmatic guide and not a land use planning document regarding policies on building height. Since the adoption of the SLURP, the City has undertaken a comprehensive effort to update the principal land use document for the area – the Downtown Recovery Plan. Development standards for this area are appropriately located in the DRP and not within the Local Coastal Plan. However, the following three policies proposed for elimination address building height and views, but would be inconsistent with proposed Downtown Plan amendments if those are approved. The proposed amendment includes elimination of the SLURP LCP policy to limit heights to 50 feet in the Front Street/Riverfront area. The policies related to building heights, mass and views; see section 4.1 of this EIR, Aesthetics, for a full discussion of impacts of the proposed amendments on building height, massing and overall aesthetic and visual character of the study areas.

- SRFA – 1 Maintain existing development standards in the Downtown Recovery Plan (DRP) for the Front Street Riverfront Area including principal permitted uses for ground-level and upper-floors, conditional uses, and height and step back requirements. Maintain maximum height restriction to 50 feet with development above 35 feet in height stepping back at least 10 feet at an angle not to exceed 42 degrees. (DRP, p. 47-50)
- SRFA – 10 Maintain views from both taller downtown buildings to the River and from the River trail to distant mountains and ridges, avoiding creation of a development “wall” between the downtown and the River.
- SRFA – 11 Preserve views along the Front Street area to and from Beach Hill, a significant historic feature in this area.

The proposed new LCP SLURP policies are:

- Require new development projects to incorporate design features that encourage active engagement with the Riverwalk such as: filling adjacent to the Riverwalk and landscaping, providing direct physical access to the Riverwalk, including appropriate active commercial and/or residential uses adjacent to the Riverwalk, or providing a combination of these and/or other design features that support the resource enhancement and river engagement policies of the San Lorenzo Urban River Plan.
- Require new development projects to incorporate pedestrian and/or bicycle connections between Front Street and the Riverwalk at appropriate locations such as the extensions from Maple Street and near Elm Street.

California Coastal Commission (CCC) staff have indicated that the standard of review for a LCP amendment is consistency with policies in the Coastal Act. Coastal Act consistency will be made by the CCC at the time the LCP amendment is reviewed.

In accordance with Appendix G of the state CEQA Guidelines, the review focuses on potential project conflicts with policies or regulations adopted for the purpose of avoiding or mitigating an environmental impact. There are no apparent conflicts between the proposed project and applicable plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect, as summarized in Table 4.9-1 at the end of this section. It is also noted that the proposed Downtown Plan amendments are consistent with General Plan Action CD2.1.7 that calls for an update to the Downtown Recovery Plan to reflect Santa Cruz's successful recovery from the 1989 Loma Prieta earthquake and "to respond to current opportunities and challenges."

The City's General Plan includes a number of policies and actions to promote use of alternative transportation modes. In accordance with significance criteria 3f in Section 4.8 of this EIR, Transportation and Traffic, the General Plan mobility policies were reviewed to determine potential project conflicts with adopted plans, plans or programs regarding public transit, bicycle or pedestrian facilities. The project would not conflict with any such policies as summarized on Table 4.9-1.

It is noted that there are other policies in these plans which are applicable to the project, and which address a broader range of land use, project design, circulation, and planning concerns. Project consistency with local adopted plans and policies will be determined ultimately by the City Council. Because the policy language found in any city or county general plan is often susceptible to varying interpretations, it is often difficult to determine, in a draft EIR, whether a proposed project is consistent or inconsistent with such policies. Case law interpreting the Planning and Zoning Law (Gov. Code, § 65000 et seq.) makes it clear that: (i) the ultimate meaning of such policies is to be determined by the elected city council, as opposed to city staff and EIR consultants, applicants, or members of the public; and (ii) the city council's interpretations of such policies will prevail if they are "reasonable," even though other reasonable interpretations are also possible (*See No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223, 245-246, 249.) Courts also have recognized that, because general plans often contain numerous policies emphasizing differing legislative goals, a development project may be "consistent" with a general plan, taken as a whole, even though the project appears to be inconsistent or arguably inconsistent with some specific policies within a given general plan (*Sequoyah Hills Homeowners Association v. City of Oakland* (1993) 23 Cal.App.4th 704, 719). Furthermore, courts strive to "reconcile" or "harmonize" seemingly disparate general plan policies to the extent reasonably possible (*No Oil, supra*, 196 Cal.App.3d at p. 244).

Consistency with Regional Plans

The State CEQA Guidelines section 15125(d) require that a discussion be provided regarding any inconsistencies between a proposed project and applicable general and regional plans. Examples of other regional plans include air quality plans, water quality control plans, regional transportation plans, regional housing allocation plans, habitat conservation plans and regional land use plans. As discussed in section 4.2 of this EIR, Air Quality and Greenhouse Gas Emission, the project would not conflict with the Monterey Bay Unified Air Pollution Control District's "Air

Quality Management Plan”. There are no provisions in the current Basin Plan¹ (water quality) that are applicable to the proposed project. There are no Habitat Conservation Plans in the project area or other regional plans with which the project may be in conflict. Applicable regional transportation plans are discussed in Section the TRANSPORTATION and TRAFFIC (Chapter 4.4) section of this EIR. The proposed project consists of residential development and does conflict with regional housing allocation plans.

Mitigation Measures

No mitigation measures are required as a significant impact has not been identified.

¹ Regional Water Quality Control Board, Central Coast Region. June 2011. “Water Quality Control Plan for the Central Coastal Basin.”

TABLE 7-1: Potential Project Conflicts with City of Santa Cruz General Plan Policies

[POLICIES RELATED TO MITIGATING ENVIRONMENTAL IMPACTS]

Element	Policy Number	Policy	Potential Conflict
General Plan 2030			
COMMUNITY DESIGN	CD1.2	Ensure that the scale, bulk and setbacks of new development preserve important public scenic views and vistas.	NO CONFLICT: Future development would not impact public scenic views.
	CD3.2	Ensure that the scale, bulk and setbacks of new development preserve public views of city landmarks where possible.	NO CONFLICT: Future development would not affect public views or City landmarks as none exist in the vicinity of the project.
LAND USE	LU1.3	Ensure that facilities and services required by a development are available, proportionate, and appropriate to development densities and use intensities.	NO CONFLICT: Public services are available.
MOBILITY	M3.1.3	Strive to maintain the established “level of service” D or better at signalized intersections.	NO CONFLICT: Project traffic would not result in a decrease in level of service below D at any signalized intersection.
	M3.3.4	Mitigate safety, noise, and air quality impacts from roadways on adjacent land uses through setbacks, landscaping, and other measures.	NO CONFLICT WITH MITIGATION: No significant air emission impacts were identified. Inclusion of structural design features to attenuate exterior noise levels is a required mitigation measure for future development.
CIVIC AND COMMUNITY FACILITIES	CC5.1.8	Require new development to maintain predevelopment runoff levels.	NO CONFLICT: Future development accommodated by the proposed Plan amendments will be required to comply with the City’s stormwater requirements and regulations.
	CC5.1.9	Reduce stormwater pollution.	NO CONFLICT: Future development would be in compliance with City requirements.
HAZARDS, SAFETY AND NOISE	H22.2.1	Require future development projects to implement applicable Monterey Bay Unified Air Pollution Control District (MBUAPCD) control measure and/ or air quality mitigations in the design of new projects as set forth in the District’s “CEQA Guidelines.”	NO CONFLICT: No significant air emission impacts were identified, and no mitigation is required.
	H23.1.1	Require land uses to operate at noise levels that do not significantly increase surrounding ambient noise.	NO CONFLICT: No significant impacts were identified related to project increases in ambient noise levels.

TABLE 7-1: Potential Project Conflicts with City of Santa Cruz General Plan Policies

[POLICIES RELATED TO MITIGATING ENVIRONMENTAL IMPACTS]

Element	Policy Number	Policy	Potential Conflict
	HZ3.1.6	Require evaluation of noise mitigation measures for projects that would substantially increase noise.	NO CONFLICT WITH MITIGATION: Inclusion of structural design features in future development to attenuate exterior noise levels is a required mitigation measure.
PARKS, RECREATION, AND OPEN SPACE	PR1.3.1	Ensure that adequate park land is provided in conjunction with new development.	NO CONFLICT: Future projects will be required to pay park dedication fee.
	PR4.2.3	Require development projects located along planned trail routes to dedicate trails or trail easements.	NO CONFLICT: Proposed Downtown Plan amendments require dedication of access along Cathcart, Maple and Elm Street extensions.
NATURAL RESOURCES	NRC1.2.1	Evaluate new uses for potential impacts to watershed, riverine, stream, and riparian environments.	NO CONFLICT WITH MITIGATION: Potential indirect significant impacts to birds as a result of future construction of taller buildings can be mitigation to a less-than-significant level .
AND CONSERVATION	NRC2.1.3	Evaluate development for impacts to special-status plant and animal species.	NO CONFLICT: No potentially significant impacts to special status plant or wildlife species were identified.
LCP Land Use Plan			
COMMUNITY DESIGN	2.2	Preserve important public views and viewsheds by ensuring that the scale, bulk and setback of new development does not impede or disrupt them.	NO CONFLICT: Future development would not impact public scenic views.