

Department of Conservation and Development

County Planning Commission

Wednesday, November 8, 2017 – 7:00 .P.M.

STAFF REPORT

Agenda Items 4b and 5a

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| Project Title: | General Plan and Ordinance Code Amendments to Allow Commercial/Distribution-Scale Solar Energy Projects in Certain Commercial and Industrial Areas |
| County File Numbers: | GP17-0006 and ZT17-0004 |
| Applicant/Owner: | N/A |
| Project Location: | Countywide |
| California Environmental Quality Act (CEQA) Status: | Exempt pursuant to CEQA Guidelines Section 15061(b)(3) |
| Project Planner: | Will Nelson, Principal Planner, (925) 674-7791 |
| Staff Recommendation: | Adopt a resolution recommending that the Board of Supervisors adopts the proposed General Plan and Ordinance Code amendments. See full recommendation in Section II. |

I. PROJECT DESCRIPTION

The proposed project consists of a County-initiated General Plan Amendment (GPA) to update the Land Use and Conservation Elements of the 2005-2020 County General Plan and an Ordinance Code Amendment (aka Zoning Text Amendment [ZTA]) to revise County Ordinance Code Chapters 84-54 – C General Commercial District and 84-58 – L-I Light Industrial District, to allow commercial/distribution-scale solar energy projects with approval of a land use permit (LUP) in General Commercial (C), Light Industrial (L-I), and Heavy Industrial (H-I) zoning districts.

II. RECOMMENDATION

Each GPA and ZTA requires a recommendation by the County Planning Commission prior to the Board of Supervisors taking final action. Staff recommends that the Planning Commission adopt a resolution (see Attachment A, Draft County Planning Commission Resolution No. 15-2017) recommending that the Board of Supervisors:

1. FINDS, based on the whole record before the County, for purposes of compliance with CEQA and the State and County CEQA Guidelines, there is no possibility the proposed project will have a significant effect on the environment, and that the project is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3); and

2. ADOPTS the General Plan Amendment (County File No. GP17-0006) and Zoning Text Amendment (County File No. ZT17-0004) amending the Land Use and Conservation Elements of the 2005-2020 Contra Costa County General Plan, and County Ordinance Code Chapters 84-54 – C General Commercial District and 84-58 – L-I Light Industrial District.

III. ENVIRONMENTAL REVIEW

The proposed project consists of amendments to the County General Plan and Ordinance Code. Such amendments qualify as projects under CEQA and are therefore subject to environmental review. Staff determined that the proposed project would not have a significant impact on the environment for the following reasons:

- a. In no way would the proposed General Plan and Ordinance Code amendments grant an entitlement or approval for a development project with the potential to cause significant environmental impacts;
- b. Development projects that may be pursued as a result of the proposed General Plan and Ordinance Code amendments would be subject to their own project-level CEQA review;
- c. The proposed General Plan and Ordinance Code amendments would not increase existing or planned densities, alter existing development patterns, or allow development to occur in areas where it is currently prohibited;
- d. The proposed General Plan and Ordinance Code amendments would not affect the physical environment in any reasonably foreseeable way.

Pursuant to CEQA Guidelines Section 15061(b)(3), the proposed GPA/ZTA is exempt from CEQA because it can be seen with certainty that the project would not have a significant effect on the environment.

IV. BACKGROUND

Pursuant to California Government Code Section 65850.5 and guidance provided in the *California Solar Permitting Guidebook* published by the Governor's Office of Planning and Research, Department of Conservation and Development (DCD) staff routinely approves solar energy projects where the energy produced will be utilized on-site. Most of these projects have been residential rooftop solar arrays, but some have been located on commercial properties, including a one-megawatt project at the G3 sand quarry in Byron.

The County continually receives inquiries from developers of commercial/distribution-scale solar energy facilities regarding the possibility of constructing such facilities in the unincorporated area. However, neither the General Plan nor zoning ordinance contains provisions for permitting "commercial" solar energy projects, where the energy produced will be sold to an off-site purchaser or consumer. Because the General Plan and zoning ordinance are essentially silent on the issue, staff's practice has been to turn these developers away.

In April 2017 DCD received notification it had been awarded a \$48,989 grant to study the county's potential to generate renewable energy from wind, solar, biomass, and biogas and identify necessary changes to the General Plan and zoning code to facilitate development of these resources. DCD expects to complete the renewable energy study in the first half of 2018 and prepare comprehensive amendments to the General Plan and zoning code for the Planning Commission's consideration in the 2018-2019 timeframe.

On June 6, 2017, the Board of Supervisors adopted Ordinance No. 2017-13, implementing community choice aggregation¹ in the unincorporated area of the county by joining the Marin Energy Authority (also known as Marin Clean Energy [MCE]). Joining MCE did not obligate the County to increase renewable energy production within its jurisdiction, but it appears to have created an expectation amongst commercial solar energy developers that the County will necessarily support development of solar energy projects. While DCD regularly received inquiries from prospective solar energy developers prior to the County joining MCE, the frequency of such inquiries has increased and the County's membership in MCE is commonly cited as a reason for seeking to develop here.

As a stopgap measure until the aforementioned comprehensive renewable energy amendments are brought before the Planning Commission and Board of Supervisors in late 2018 or 2019, staff has prepared draft amendments to the text of the General Plan and zoning code that would allow commercial solar energy generating facilities in the General Commercial, Light Industrial, and Heavy Industrial zoning districts after issuance of a LUP.

V. STAFF ANALYSIS

This project would affect the areas shown on Attachment B, CO/LI/HI General Plan Land Use Designations. The project is limited to commercial and industrial areas because these areas already tend to be disturbed, often have high electrical demand, tend to be less environmentally sensitive, and in the case of industry, sometimes include buffer zones that lend themselves to development of solar energy generating facilities. By requiring LUPs, the County would retain its ability to modify or deny projects that might be incompatible with neighboring uses or conflict with long-term economic development goals for commercial and industrial areas. Requiring LUPs also allows the County to streamline adoption of the proposed GPA/ZTA by exempting the project from further environmental review. As LUPs are discretionary actions, each individual commercial solar energy project would be subject to its own project-level CEQA review.

The proposed General Plan and zoning text amendments are shown in Exhibits A and B to the attached draft Planning Commission resolution. These minor amendments state that commercial/distribution-scale solar energy generating facilities may be established in certain commercial and industrial areas after approval of a LUP and affirm the County's

¹ Community choice aggregation allows cities and counties to group individual customers' purchasing power within a defined jurisdiction to buy energy. Community choice aggregators are legally defined as electric service providers.

support for the State's efforts to fulfill the Renewable Portfolio Standard². The proposed amendments do not allow for development of commercial solar energy projects in agricultural areas. Staff intends to address the issue of rural solar energy development with the 2018/2019 General Plan and zoning amendments.

Staff notes that the Land Use Element's description of the Heavy Industry land use designation and Ordinance Code Chapter 84-62 – Heavy Industrial District both refer back to and incorporate their Light Industry/Light Industrial counterparts. For this reason, solar energy projects may be permitted in light and heavy industrial areas by amending only the Light Industry and Light Industrial portions of the General Plan and zoning code, respectively.

VI. CONCLUSION

Adoption of the proposed General Plan and Ordinance Code amendments provides new opportunity for establishment of commercial solar energy projects while the County's more comprehensive renewable energy regulations are developed. There are no significant environmental impacts associated with the project. Therefore, staff recommends that the County Planning Commission adopts Resolution 15-2017, recommending that the Board of Supervisors a) finds the project to be exempt from CEQA and b) adopts the proposed General Plan and Ordinance Code amendments.

VII. ATTACHMENTS

- A. Draft County Planning Commission Resolution No. 15-2017
- B. CO/LI/HI General Plan Land Use Designations (map)

² The State's Renewable Portfolio Standard requires California utilities to obtain at least 33 percent of their electricity from renewable sources by 2020.

ATTACHMENT A

DRAFT COUNTY PLANNING COMMISSION RESOLUTION NO. 15-2017

RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, INCORPORATING RECOMMENDATIONS AND FINDINGS FOR ADOPTION OF A GENERAL PLAN AMENDMENT AFFECTING THE LAND USE AND CONSERVATION ELEMENTS OF THE COUNTY GENERAL PLAN, AND FOR ADOPTION OF AN AMENDMENT TO THE ORDINANCE CODE, OF SAID COUNTY.

WHEREAS, on April 17, 2012, the County Board of Supervisors voted to authorize a General Plan Amendment study, County File No. GP12-0001 (now renumbered as GP17-0006) to consider updating Conservation Element Section 8.8, Renewable Energy Resources, in conjunction with amendments to County Ordinance Code Title 8 (also known as a Zoning Text Amendment) for the purpose of allowing commercial/distribution-scale solar and other renewable energy generating facilities in certain zoning districts.; and

WHEREAS, staff of the Department of Conservation and Development (DCD) prepared amendments to the General Plan Land Use and Conservation Elements (Exhibit A) and Ordinance Code Chapters 84-54 and 84-58 (Exhibit B) for the County Planning Commission's consideration. Together these amendments would allow for establishment of commercial/distribution-scale solar energy generating facilities in certain commercial and industrial areas after approval of a land use permit; and

WHEREAS, the County, exercising its independent judgement as lead agency, determined that the proposed project, consisting of amendments to the General Plan and Ordinance Code, is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3); and

WHEREAS, after notice having been lawfully given, a public hearing was scheduled before the County Planning Commission on Wednesday, November 8, 2017, whereat all persons interested in the matter might appear and be heard; and

WHEREAS, on Wednesday, November 8, 2017, the County Planning Commission fully reviewed, considered, and evaluated all testimony and evidence submitted in this matter.

NOW, THEREFORE BE IT RESOLVED that the County Planning Commission recommends that the Board of Supervisors:

1. FINDS, based on the whole record before the County, for purposes of compliance with CEQA and the State and County CEQA Guidelines, there is no possibility that the proposed amendments to the text of the Land Use and Conservation Elements of the 2005-2020 Contra Costa County General Plan, and Chapters 84-50 and 85-58 of the County Ordinance Code, will have a significant effect on the environment, and the project is therefore exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3). This determination is based on the following facts:
 - a. In no way would the proposed General Plan and Ordinance Code amendments grant an entitlement or approval for a development project with the potential to cause significant environmental impacts;

ATTACHMENT A
COUNTY PLANNING COMMISSION
RESOLUTION NO. 15-2017

- b. Development projects that may be pursued as a result of the proposed General Plan and Ordinance Code amendments would be subject to their own project-level CEQA review;
 - c. The proposed General Plan and Ordinance Code amendments would not increase existing or planned densities, alter existing development patterns, or allow development to occur in areas where it is currently prohibited;
 - d. The proposed General Plan and Ordinance Code amendments would not affect the physical environment in any reasonably foreseeable way; and
2. FINDS that adoption of the proposed General Plan Amendment is in the public interest, pursuant to Government Code Section 65358, as it would allow the County to approve commercial/distribution-scale solar energy generating facilities in certain zoning districts, thereby increasing renewable energy production and supporting the State's fulfillment of the Renewable Portfolio Standard; and
3. FINDS that the proposed General Plan Amendment would be fully compatible with the existing goals, policies, and implementation measures described in the General Plan, allowing the General Plan to remain internally consistent; and
4. FINDS that adoption of the proposed General Plan Amendment would not cause a violation of the 65/35 Land Preservation Standard or Urban Limit Line (ULL) because no land would be redesignated to another use; and
5. FINDS that the proposed General Plan Amendment would not cause a violation of any of the Growth Management Performance Standards described in the Growth Management Element. Specifically, no violation would occur because no development is being authorized; and
6. ADOPTS the proposed General Plan Amendment, County File No. GP17-0006, amending the text of the Land Use and Conservation Elements, as shown in Exhibit A, as part of the 3rd Consolidated General Plan Amendment for calendar year 2017, as permitted under State law; and
7. FINDS, that the proposed Ordinance Code Amendment would be consistent with the County General Plan as amended; and
8. ADOPTS the Ordinance Code Amendment, County File No. ZT17-0004, amending Chapters 84-54 – C General Commercial District and 84-58 – L-I Light Industrial District, as shown in Exhibit B.

ATTACHMENT A
COUNTY PLANNING COMMISSION
RESOLUTION NO. 15-2017

The instructions to prepare this resolution were given by motion of the County Planning Commission on Wednesday, November 8, 2017, by the following vote:

AYES: Commissioners -
NOES: Commissioners -
ABSENT: Commissioners -
ABSTAIN: Commissioners -

Duane Steele,
Chair of the Planning Commission,
County of Contra Costa,
State of California

I, Aruna Bhat, Secretary of the County Planning Commission, certify that the foregoing was duly called and approved on November 8, 2017.

ATTEST:

Aruna M. Bhat,
Secretary of the Planning Commission
County of Contra Costa,
State of California

Exhibit A: Draft Amendments to the County General Plan

Exhibit B: Draft Amendments to the County Ordinance Code

DRAFT GENERAL PLAN TEXT AMENDMENTS **RELATED TO COMMERCIAL SOLAR ENERGY GENERATING FACILITIES**

Proposed text changes are shown in red underline (insertions) and ~~strikeout~~ (deletions).

Land Use Element Section 3.7, Land Use Designations

Commercial/Office/Industrial Uses

a. Commercial (CO)

This designation allows for a broad range of commercial uses typically found in smaller scale neighborhood, community and thoroughfare commercial districts, including retail and personal service facilities, limited office and financial uses. Commercial/distribution-scale solar energy generating facilities are allowed in areas zoned C – General Commercial District after issuance of a land use permit. The following standards shall apply to uses in this designation:

- | | |
|---------------------------------------|---------------|
| (1) Maximum site coverage: | 40 percent |
| (2) Maximum building height: | 35 feet |
| (3) Maximum floor area ratio: | 1.0 |
| (4) Average employees per gross acre: | 160 employees |

i. Light Industry (LI)

This designation allows light industrial activities such as processing, packaging, machinery repair, fabricating, distribution, warehousing and storage, research and development, and similar uses which emit only limited amounts of smoke, noise, light, or pollutants. Commercial/distribution-scale solar energy generating facilities are allowed after issuance of a land use permit. The following standards apply:

- | | |
|---------------------------------------|--------------|
| (1) Maximum site coverage: | 50 percent |
| (2) Maximum building height: | 50 feet |
| (3) Maximum floor area ratio: | 0.67 |
| (4) Average employees per gross acre: | 60 employees |

Conservation Element Section 8.8, Renewable Energy Resources

Renewable Energy Resources Goals

8-M. To support the State of California's efforts to fulfill the Renewable Portfolio Standard (RPS), which requires utilities to obtain 33% of electricity from renewable energy sources by 2020. To ensure the continued viability of mineral extraction operations which are important to the County's economy.

Goal 8-M will be relocated from the "Mineral Resources Goals" subsection. The deleted original text of Goal 8-M will become Goal 8-N and all subsequent goals will be renumbered to now conclude at Goal 8-AE.

Renewable Energy Resources Policies

8-52. Commercial/distribution-scale solar energy generating facilities may be established in areas designated Commercial, Light Industry, or Heavy Industry on the Land Use Element Map, after issuance of a land use permit. Energy recovery projects, e.g. methane recovery from sewage (biomass), shall be encouraged, subject to adequate environmental protection.

The deleted original text of Policy 8-52 will become Policy 8-53 and all subsequent policies will be renumbered to now conclude at Policy 8-112.

ORDINANCE NO. 2017-____ **DRAFT**

COMMERCIAL SOLAR ENERGY GENERATION FACILITIES

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance amends the County Ordinance Code to allow the establishment of commercial solar energy generation facilities in the general commercial (C), light industrial (L-I), and heavy industrial (H-I) districts.

SECTION II. Section 84-54.404 of the County Ordinance Code is amended to read:

84-54.404 Uses—Requiring land use permit. The following uses may be allowed in a C district on the issuance of a land use permit:

- (1) Transit-mix plants;
- (2) Motels;
- (3) Hotels;
- (4) Structures having three or more residential apartment units. Minimum off-street parking requirements for apartment units shall be as required in Section 84-24.1202;
- (5) Nonaccessory signs;
- (6) Accessory signs having more than eighty square feet in area, or more than twenty-five feet in height, or that are rotating, flashing, or animated;
- (7) Solar energy generation facilities established for the purpose of generating electricity for sale to a public or private utility or an off-site consumer;
- (8) If a road, having a right-of-way width of fifty-five feet or less, forms the common boundary between a district of this classification and a district of any residential classification, no access to property in the district of this classification adjacent to the common boundary is permitted to or from the road until a land use permit is obtained. The permit shall be determined by the effects of traffic upon the road occasioned by use within the district, the characteristics of the adjacent areas, traffic problems, pedestrian traffic, and other considerations found pertinent to the particular area concerned. (Ords. 2017- ____ § 2, 67-39 § 3, 1967: Ord. 67-27 § 1, 1697: Ords. 2011, 1984, 1781, 1569: prior code § 8161(b): Ords. 1046, 382).

SECTION III. Section 84-58.404 of the County Ordinance Code is amended to read:

84-58.404 Uses—Requiring land use permit. The following uses may be allowed in an L-I district on the issuance of a land use permit:

- (1) All of the uses permitted in the following districts: single-family residential districts, multiple family residential districts, retail business districts, neighborhood business districts, general commercial districts, agricultural districts, and forestry recreation districts.
- (2) Solar energy generation facilities established for the purpose of generating electricity for sale to a public or private utility or an off-site consumer. (Ords. 2017- ____ § 3, 67-39 § 4, 1967; prior code § 8163(a); Ords. 1046, 1006, 382).

SECTION IV. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of supervisors voting for or against it in the Contra Costa Times, a newspaper published in this County.

PASSED on _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST: DAVID J. TWA,
 Clerk of the Board of Supervisors
 and County Administrator

Board Chair

By: _____
Deputy

[SEAL]

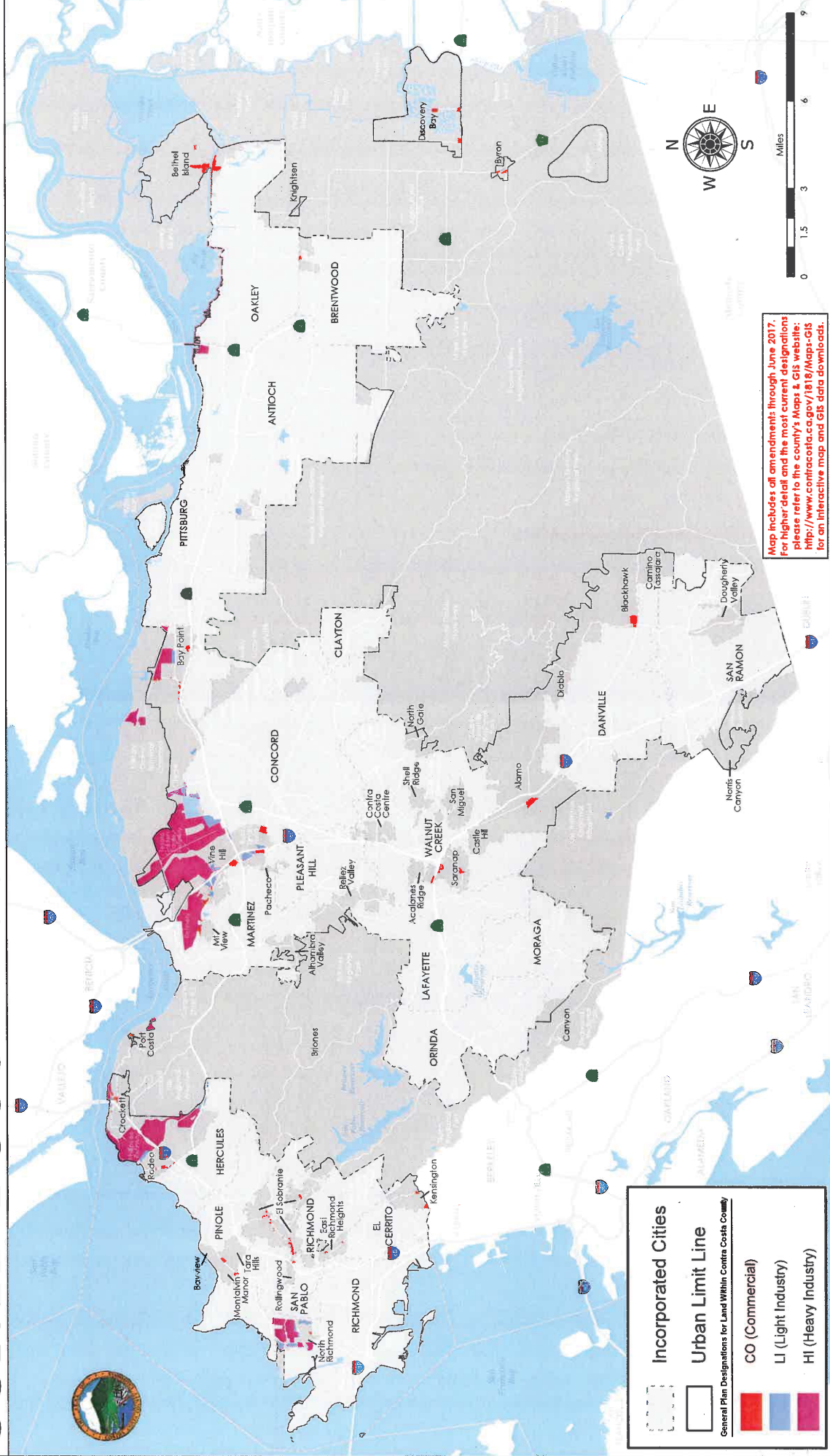
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ORDINANCE NO. 2017- ____ **DRAFT**

ATTACHMENT B

Map of CO/LI/HI General Plan Land Use Designations

CONTRA COSTA COUNTY CO/LI/HI General Plan Land Use Designations



Prepared by the Department of Conservation and Development

ANTIOCH Incorporated Areas
Alamo Unincorporated Areas