



DEPARTMENT OF CITY PLANNING
RECOMMENDATION REPORT



CITY PLANNING COMMISSION

Date: June 9, 2011
Time: After 8:30 a.m.*
Place: Room 350, Los Angeles City Hall
200 North Spring Street
Los Angeles, CA 90012

Case No: CPC 2011-958-ICO
CEQA No: ENV 2011-959-CE
Location: Citywide
Council No: All
Plan Area: All

PUBLIC HEARING REQUIRED

REQUEST: Interim Control Ordinance (ICO)

SUMMARY: A proposed ICO temporarily prohibiting the issuance of demolition, building, and any other applicable permits for the installation of ground mounted solar photovoltaic systems located within the Very High Fire Hazard Severity Zones.


RECOMMENDED ACTIONS:

1. **Adopt** the staff report as its report on the subject.
2. **Adopt** the Categorical Exemption as the CEQA clearance on the subject.
3. **Disapprove** the proposed ICO (Appendix A) and recommend it to be denied by the City Council.

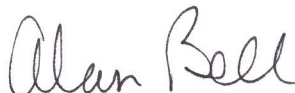
MICHAEL J. LOGRANDE
Director of Planning



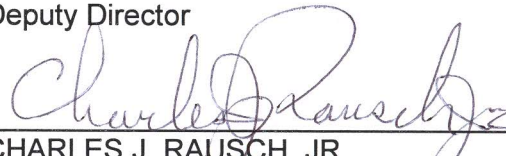
LINN K WYATT
Chief Zoning Administrator



THOMAS ROTHMANN
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ALAN BELL, AICP
Deputy Director



CHARLES J. RAUSCH, JR.
Senior City Planner, Office of Zoning Administration



DEBORAH KAHEN
Policy Planner, Code Studies
Telephone: (213) 978-1202

ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the *Commission Secretariat, 200 North Spring Street, Room 272, Los Angeles, CA 90012* (Phone No. 213-978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent the week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to its programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request not later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at (213) 978-1300.

EXECUTIVE SUMMARY

The proposed ordinance (Appendix A) is an Interim Control Ordinance (ICO) prohibiting the issuance of demolition, building, and any other applicable permits for the installation of ground mounted solar photovoltaic systems (solar installations) located within the Very High Fire Hazard Severity Zone. The ICO would be effective for 45 days with the possibility of future extensions. City Planning staff recommends disapproval of the ordinance.

STAFF REPORT

REQUEST

At the November 10, 2010 City Council meeting, Councilmember Reyes introduced motion 10-2410 instructing the Department of City Planning to prepare an ICO to temporarily prohibit solar installations within the Very High Fire Hazard Severity Zone. The motion directed staff to include an Urgency Clause in the proposed ICO. The Urgency Clause would enable the ICO to become effective upon adoption by the City Council, rather than after the required publication period and approval by the Mayor.

DISCUSSION

The number of applications for solar installations in the Very High Fire Severity Zone has been increasing and is expected to accelerate further after anticipated incentive programs from the Department of Water and Power are implemented. The proposed ICO was proposed out of concern over possible issues related to public safety, water drainage, erosion, glare, and obstruction of the existing habitat corridors. The ICO would temporarily prohibit solar panel installations located within the Very High Fire Severity Zone to afford the Department of City Planning staff sufficient time to analyze these concerns.

City Planning staff recommends disapproval of the proposed ICO. Under Government Code section 65850.5, municipalities may only regulate solar panel installations if a proposed installation would have a specific, adverse impact upon the public health or safety. There is no evidence that such impacts exist.

CONCLUSION

The proposed ICO is preempted by State law. Therefore, staff recommends that the City Planning Commission disapprove the proposed ICO.

APPENDIX A

ORDINANCE NO. _____

A proposed ICO temporarily prohibiting the issuance of demolition, building, and any other applicable permits for the installation of ground mounted solar photovoltaic systems located within the Very High Fire Hazard Severity Zone.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. **PROHIBITION.** Notwithstanding any provision of the LAMC to the contrary, or any other ordinances or agreements adopted by the City Council containing regulations or provisions regarding solar installation projects, for 45 days with possible extensions pursuant to Government Code Section 65858 from the effective date of this ordinance.

A. No demolition, building, or any other applicable permits for the installation of ground mounted solar photovoltaic systems located within the Very High Fire Hazard Severity Zone shall be issued.

Sec. 2 **EXEMPTIONS.** The prohibitions specified in Section 1 of this ordinance shall not apply to any permit application submitted with appropriate fees paid to the Department of Building and Safety prior to the effective date of the ordinance.

Sec. 3. **HARDSHIP EXEMPTIONS.** The City Council, acting in its legislative capacity, and by resolution, may grant an exemption from the provisions of this ordinance in cases of extreme hardship pursuant to a set of defined criteria and standards as set forth by the City Council. An application for hardship exemption shall be filed with the City Clerk on forms provided by the Department of City Planning.

Sec. 4 **EXTENSION OF REGULATIONS.** The City Council may, by resolution, extend the provisions of this ordinance so long as the Council makes the following finding: that the appropriate City agencies and officials are exercising due diligence to assure that the permanent regulations are being expeditiously processed.

Sec. 5. **SEVERABILITY.** If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance which can be implemented without the invalid provision, and, to this end, the provisions of this ordinance are declared to be severable.

Sec. 5. **APPLICABILITY OF THE ZONING CODE.** The regulations of this ordinance are in addition to those set forth in the planning and zoning provisions of

Chapter 1 of the LAMC and any other ordinances adopted by the City Council, and do not contain any rights not otherwise granted under the provisions and procedures contained in that Chapter or any other ordinances.

Sec. 6. **URGENCY CLAUSE.** The City Council finds and declares that this ordinance is required for the immediate preservation of the public peace, health and safety for the following reasons. This ordinance is necessary to prevent irreversible development from occurring pending adoption of a permanent ordinance, by temporarily halting the proliferation of ground mounted solar photovoltaic structures in Very High Fire Severity Zones. These structures may negatively be impacting communities with potential fire access hazards, yet applications for said structures have been proliferating. Therefore, this ordinance shall become effective upon publication pursuant to Los Angeles City Charter Section 253.

Sec. 7. The City Clerk shall certify...

COUNTY CLERK'S USE

CITY OF LOS ANGELES

CITY CLERK'S USE

OFFICE OF THE CITY CLERK
200 NORTH SPRING STREET, ROOM 360
LOS ANGELES, CALIFORNIA 90012

**CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION**

(California Environmental Quality Act Section 15062)

Filing of this form is optional. If filed, the form shall be filed with the County Clerk, 12400 E. Imperial Highway, Norwalk, CA 90650, pursuant to Public Resources Code Section 21152 (b). Pursuant to Public Resources Code Section 21167 (d), the filing of this notice starts a 35-day statute of limitations on court challenges to the approval of the project. Failure to file this notice with the County Clerk results in the statute of limitations being extended to 180 days.

LEAD CITY AGENCY City of Los Angeles Department of City Planning	COUNCIL DISTRICT All
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PROJECT TITLE * Interim Control Ordinance (ICO) – Solar Installations in the Very High Fire Severity Zone (CPC 2011-958-ICO).	LOG REFERENCE ENV 2011-959-CE
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PROJECT LOCATION
* Citywide

DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT:
* A proposed ICO temporarily prohibiting the issuance of demolition, building, and any other applicable permits for the installation of ground mounted solar photovoltaic systems located within the Very High Fire Hazard Severity Zones, for an initial 45 days with the possibility of future extensions.

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT, IF OTHER THAN LEAD CITY AGENCY:
*

CONTACT PERSON *Deborah Kahen	AREA CODE * 213	TELEPHONE NUMBER *978 - 1202	EXT.
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EXEMPT STATUS: (Check One)

	STATE CEQA GUIDELINES	CITY CEQA GUIDELINES
<input type="checkbox"/> MINISTERIAL	Sec. 15268	Art. II, Sec. 2b
<input type="checkbox"/> DECLARED EMERGENCY	Sec. 15269	Art. II, Sec. 2a (1)
<input type="checkbox"/> EMERGENCY PROJECT	Sec. 15269 (b) & (c)	Art. II, Sec. 2a (2) & (3)
<input checked="" type="checkbox"/> CATEGORICAL EXEMPTION	Sec. 15300 <i>et seq.</i>	Art. III, Sec. 1
<input type="checkbox"/> GENERAL EXEMPTION	Sec. 15060	n/a

Class 4 Category Section 15304 (State CEQA Guidelines)

OTHER See Public Resources Code Sec. 21080 (b) and set forth state and City guideline provision.
Section 15061 (b) (3) and City of Los Angeles CEQA Guidelines Article II, Section 1.

JUSTIFICATION FOR PROJECT EXEMPTION: The proposed ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) and City guidelines for the implementation thereof pursuant to Section 15061 (b) (3) of the CEQA Guidelines and City of Los Angeles CEQA Guidelines Article II, Section 1 because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The proposed ordinance temporarily prohibits the installation of solar panels in Very High Fire Hazard Severity Zones.

IF FILED BY APPLICANT, ATTACH CERTIFIED DOCUMENT ISSUED BY THE CITY PLANNING DEPARTMENT STATING THAT THE DEPARTMENT HAS FOUND THE PROJECT TO BE EXEMPT.

SIGNATURE <i>Deborah Kahen</i>	TITLE Planner	DATE May 24, 2011
FEE:	RECEIPT NO.	REC'D. BY
		DATE

DISTRIBUTION: (1) County Clerk, (2) City Clerk, (3) Agency Record.

Rev. 11-1-03 Rev. 1-31-06 Word

IF FILED BY THE APPLICANT:

* THOMAS ROTHMANN
NAME (PRINTED)

* Thomas Rothmann
SIGNATURE

5/24/2011
DATE