

A. CONSENT CALENDAR

- A-1** Current and Advanced Planning Processing List
Staff Recommendation: Receive and file.

B. PUBLIC HEARINGS

- B-1** **Case No.:** Major Modification (MAJ20-003) to UPO-520, CPO -562 and AD0-132
Site Location: 2996 Alder Avenue, Morro Bay, CA
Project Description: Major Modification for approval of exterior modifications to the building and landscaping. The changes reflect change in roof line variation on east side, change to siding material on north and south sides at garage level, changes to landscape screening wall on west side and changes to second floor balcony dividing walls to full height. This project is in the R-4/SP zoning district and is not within the appeals jurisdiction of the California Coastal Commission.
CEQA Determination: Categorically Exempt, Section 15301, Class 1a
Staff Recommendation: Conditionally Approve the project subject to Finding and Conditions
Staff Contact: Nancy Hubbard, Contract Planner (805) 772-6211
- B-2** **Case No.:** UP0-044 / UP0-200
Site Location: 560 Embarcadero, Morro Bay, CA
Project Description: Review of Conditional Use Permits for Thai Bounty restaurant: UP0-044 was approved by Planning Commission on November 15, 2004 for a restaurant use. UP0-200 was administratively approved on January 13, 2009 for approval of an outdoor dining area and grill. UP0-044 was administratively amended on April 23, 2010 for outdoor dining changes. Project includes review of restaurant and outdoor dining uses as it relates to repeated noise complaints received. The project zoning is WF/PD/S.4 and the site is located within the Coastal Commission appeals jurisdiction
CEQA Determination: Categorically Exempt, Section 15301.
Staff Recommendation: Conditionally Approve
Staff Contact: Cindy Jacinth, Senior Planner (805) 772-6577
- B-3** **Case No.:** *Plan Morro Bay: General Plan/Local Coastal Program Update*
Site Location: Citywide
Applicant/Project Sponsor City of Morro Bay
Proposed Project: General Plan/ Local Coastal Program Update known as “Plan Morro Bay” hearing draft for review and adoption. The Public Draft was released for public review in 2018 and reviewed by the General Plan Advisory Committee (GPAC) and the Planning Commission (PC). The Plan Morro Bay Adoption Hearing Draft incorporates public comments, GPAC, PC, and Coastal Commission staff comments into a Hearing Draft now available for public review. Plan Morro Bay is an integrated General Plan and Local Coastal Program Land Use Plan which is proposed to update the City’s existing separate General Plan adopted in 1988 and Local Coastal Program certified by the Coastal Commission in 1984.
CEQA Determination: Environmental Impact Report
Staff Recommendation: Review hearing draft of Plan Morro Bay and provide recommendation to City Council for adoption.
Staff Contact: Scot Graham, Community Development Director (805) 772-6291

C. NEW BUSINESS

D. UNFINISHED BUSINESS

E. PLANNING COMMISSIONER COMMENTS/FUTURE AGENDA ITEMS

F. COMMUNITY DEVELOPMENT DIRECTOR COMMENTS

G. ADJOURNMENT

Adjourn to the next regular Planning Commission meeting on December 1, 2020 at 6:00 p.m. via teleconference.

PLANNING COMMISSION MEETING PROCEDURES

This Agenda is subject to amendment up to 72 hours prior to the date and time set for the meeting. Please refer to the Agenda posted at the Community Development Department, 955 Shasta Avenue, for any revisions, or call the Department at 805-772-6264 for further information.

Written testimony is encouraged so it can be distributed in the Agenda packet to the Commission. Material submitted by the public for Commission review prior to a scheduled hearing should be received by the Planning Division at the Community Development Department, 955 Shasta Avenue, no later than 5:00 P.M. the Tuesday (eight days) prior to the scheduled public hearing. Written testimony provided after the Agenda packet is published will be distributed to the Commission but there may not be enough time to fully consider the information. Mail should be directed to the Community Development Department, Planning Division.

This Agenda may be found on the Internet at: www.morrobayca.gov/planningcommission or you can subscribe to Notify Me for email notification when the Agenda is posted on the City's website. To subscribe, go to www.morrobayca.gov/notifyme and follow the instructions.

The Brown Act forbids the Commission from taking action or discussing any item not appearing on the agenda, including those items raised at Public Comment. In response to Public Comment, the Commission is limited to:

1. Responding to statements made or questions posed by members of the public; or
2. Requesting staff to report back on a matter at a subsequent meeting; or
3. Directing staff to place the item on a future agenda. (Government Code Section 54954.2(a))

Commission meetings are conducted under the authority of the Chair who may modify the procedures outlined below. The Chair will announce each item. Thereafter, the hearing will be conducted as follows:

1. The Planning Division staff will present the staff report and recommendation on the proposal being heard and respond to questions from Commissioners.
2. The Chair will open the public hearing by first asking the project applicant/agent to present any points necessary for the Commission, as well as the public, to fully understand the proposal.
3. The Chair will then ask other interested persons to present testimony either in support of or in opposition to the proposal.
4. Finally, the Chair may invite the applicant/agent to respond to the public testimony. Thereafter, the Chair will close the public testimony portion of the hearing and limit further discussion to the Commission and staff prior to the Commission taking action on a decision.

APPEALS

If you are dissatisfied with an approval or denial of a project, you have the right to appeal this decision to the City Council up to 10 calendar days after the date of action. Pursuant to Government Code §65009, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Commission, at, or prior to, the public hearing. The appeal form is available at the Community Development Department and on the City's web site. If legitimate coastal resource issues related to our Local Coastal Program are raised in the appeal, there is no fee if the subject property is located with the Coastal Appeal Area. If the property is located outside the Coastal Appeal Area, the fee is a \$277 flat fee. If a fee is required, the appeal will not be considered complete if the fee is not paid. If the City decides in the appellant's favor then the fee will be refunded.

City Council decisions may also be appealed to the California Coastal Commission pursuant to the Coastal Act Section 30603 for those projects that are in their appeals jurisdiction. Exhaustion of appeals at the City is required prior to appealing the matter to the California Coastal Commission. The appeal to the City Council must be made to the City and the appeal to the California Coastal Commission must be made directly to the California Coastal Commission Office. These regulations provide the California Coastal Commission 10 working days following the expiration of the City appeal period to appeal the decision. This means that no construction permit shall be issued until both the City and Coastal Commission appeal period have expired without an appeal being filed. The Coastal Commission's Santa Cruz Office at (831) 427-4863 may be contacted for further information on appeal procedures.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development Department at (805) 772-6264. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.



City of Morro Bay
 Community Development Department
 Current & Advanced Project Tracking Sheet

This tracking sheet shows the status of the work being processed by the Planning & Building Divisions

New Planning items or items recently updated are highlighted in yellow.

Approved projects are deleted on next version of log.

Agenda No: A-1

Meeting Date November 17, 2020

#	Applicant/ Property Owner	Project Address	Application Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
Hearing or Action Ready Projects:										
1	City of Morro Bay	Citywide			Plan Morro Bay: General Plan / Local Coastal Program / Zoning Code Update project	Comprehensive overall update to the City's 1988 General Plan, 1984 Local Coastal Program, and 1997 Zoning Code. For more information or to get involved, visit www.morrobayca.gov/planmb . Public draft of combined General Plan/ LCP released May 2018 for review. Worked with Coastal staff on CCC input received during 2019. Adoption Draft to be reviewed by Planning Commission at 10/20/20 hearing. Admin Draft of EIR received and to be circulated. Continued to the 11/4/2020 & 11/17/20 PC meeting				
2	Nagy	2996 Alder	11/3/20	MAJ20-003	Major Modification to newly completed 3 unit apartment building to modify 4 conditions of the exterior design/finish materials/color and landscaping	Scheduled for Planning Commission November 17, 2020. Public notice period 11/6/20 to 11/17/20.				nh
3	Thai Bounty / Milanes	560 Embarcadero	11/6/20	UP0-044 and UP0-200	Review of Conditional Use Permits for Thai Bounty business operation as a result of noise complaints received	Noticed as a public hearing in order to conduct CUP review at 11-17-2020 PC meeting				
4	HS Nutmeg LLC	2681 Nutmeg Ave	7/14/20	CDP20-009	New 2585 sf home with 500 sf JADU and 463 sf attached garage.	Comment provided 8/3/20. Resubmittal received 9/17/20. Comment letter sent 9/29/20. Resubmittal received 10/21/20. Deemed complete 10/26/20, public notice in process, Admin decision on 11/16/20				nh
5	Pavacich	501 Marina	8/3/20	CDP20-011	Existing 2 story home previously converted into two dwelling units without a permit. CDP is necessary to bring this project into conformance with General Plan and Land Use policies. Also requires after-the-fact building permit.	Submittal is under review. Comment letter sent 8/21/20. Resubmittal received 10/21/20, Planning review is complete, public works reviewing. Project deemed complete, noticing from 11/9/20 to 11/19/20, Admin Decision on or about 11/20/20.				nh
6	Hubbard	603 Driftwood Street	9/14/20	CDP20-015 / CUP20-06 / PKG20-04	Two story addition (540 sf) to existing home with 104 sf deck, remodel existing 840 sf home.	Under review. Planning Comment letter sent 10/14/20. Resubmittal received 10/22/20, under review. Deemed complete, PC hearing scheduled for December 1, 2020.				nh
7	Fowler	1215 Embarcadero	9/28/20	MIN20-009	Minor Modification to UP0-058 to repurpose existing floating bait receiver/ after the fact approval of floating kayak storage.	Under review. Incomplete letter sent 10/26/20. Resubmittal received and project complete. Project to be noticed for admin approval.				cj

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30 -Day Review, Incomplete or Additional Submittal Review Projects:										
8	Ennis	655 Paula St	11/3/20	CDP20-019	Admin CDP for new 395 sf attached garage with 866 sf ADU. Concurrent with B20-0189.	Under review.				am
9	Keith	500 Atascadero Rd, #F1	10/26/20	CDP20-018	Admin CDP for tree removal (Italian stone pine) in a mobile home space.	Under review. Comment letter sent 11/9/2020, awaiting resubmittal.				am
10	Vazquez	590 Morro Ave	10/22/20	MAJ20-002	CDP/CUP Major Modification to propose equipment upgrade to an existing rooftop telecom wireless site.	Under review				cj
11	Gaffney	960 Napa	10/14/20	CUP20-09/CDP20-017/PKG 20-03	A 984 sf addition to existing single family home with single car garage	Under review. Comment letter sent 11/1/20, need resubmittal.				nh
12	HASLO	405 Atascadero	10/8/20	LTM20-01	Lot Merger application	Under Review. Comment letter sent 10/29/20. Need resubmittal.				nh
13	Zinngrabe	Seashell Estates Subdivision / 1305 Theresa Dr. (301 Sea Shell Cove)	9/28/20	MIN20-008	Minor Modification to subdivision approvals to reduce lot size of Lots 7 & 8 to reduce impacts to sensitive plant species.	Under review. Applicant requested project to be put on hold.				cj
14	AT&T	800 Quintana	9/23/20	MAJ20-001	Major Modification to CDP/CUP Amendment proposed to modify existing rooftop wireless telecommunications site on commercial building. Request includes 3 foot height increase of corner antennas.	Under review. Incomplete letter sent 10/22/20. Resubmittal received 10/28/20.				cj
15	Appel	400 Pico	8/24/20	CDP20-013	Admin CDP for garage conversion to a 408sf ADU	Submittal is under review. Deemed incomplete. Correction letter sent 9/14/2020, waiting for resubmittal				am
16	Hurless	2290 Greenwood Ave	5/7/20	CDP20-007	Legalize ADU from prior construction. Was a previous Code Enforcement issue. Plans difficult to understand.	Correction letter sent 5/18/20. Resubmittal received June 16, 2020 under review. Project deemed incomplete, comment letter sent July 16, 2020, waiting for resubmittal.				nh
17	Bean	Unaddressed Main Street (AKA 199 Sandpiper Court)	12/19/19	CUP19-20, CDP19-04, VAR20-001	CUP/CDP for new home on triangular small parcel on the bluff. Proposed home is 526 sf 2-stories with access easement to Main Street	Project deemed incomplete, comment letter sent January 7, 2020. Resubmittal received 10/26/20 adding a variance request, under review				nh
18	Gambril	571 Embarcadero	10/14/19	MAJ19-006	Major Modification to CUP Amendment for proposed public access improvements, dock and gangway realignment, conversion of 2nd floor to hotel units and request for 1st floor ADA accessible hotel unit	Correction letter sent 11/13/2019. Awaiting resubmittal.		PN-Conditionally Approved 10/16/2019		cj
19	Cleary	1282 and 1290 Embarcadero Road	5/23/19	CDP19-016	CDP for removal of major vegetation.	Submittal is under review. Correction letter sent 6/10. Awaiting resubmittal.				cj
Projects Appealed to Planning Commission or PC Continued projects:										

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20	State Parks - Mike Walgren	11 State Park Road	8/20/18	CDP 18-004, CUP18-04	Coastal Development Permit & Conditional Use Permit to install modular building for office space, parking and landscape improvements at Morro Bay State Park	Submitted on 8-20-18. Deemed incomplete 9.10.18. Applicant to resubmit plans. Plans resubmitted with additional information on 10-26-18. Project deemed complete. Scheduled for PC on December 18, 2018. Continued to date uncertain by PC on 12/18/18. Applicant to provide additional information. Followed up with applicant 2/3/20 - they are waiting for reports prior to resubmittal.		PN- Approved 9/4/2018		nh
Projects Appealed or Forwarded to City Council: None at this time										
Environmental Review:										
21	City of Morro Bay	N/A		UP0-423	MND for Chorro Creek Stream Gauges	Applicant requesting meeting for week of 9/9/13. SWCA performing the environmental review. Received completed MND from Water Systems Consulting (WSC) on 4/1/15. Routed to State Clearinghouse for required 30 day review period. Tentative hearing 8/4/15. No recent activity.	No review performed.	MND complete. Cut permit checks to RWQCB and CDFW on 2/27/15		cj
Final Map Under Review Projects:										
22	Eisemann	535 Atascadero Road	3/7/19	PAR19-01	Final Parcel map	Submittal is under review. Planning disapproved 3/14/19. Resubmittal disapproved on May 14, 2019. Resubmittal received , review comments provided 6-5-19. Disapproved 11-5-19. Waiting for revised submittal to remove improvements not requested by CalTrans. Applicant granted an extension of the timeline to finalize the final parcel map to August 8, 2021.		PN- Disapproved 11-6-2019		nh
Projects going forward to Coastal Commission for review (Pending LCP Amendments) / or State Department of Housing:										
23	City of Morro Bay	Citywide	10/16/13	A00-013. A00-029: Ordinance 601	Zoning Text Amendment - Second Unit	Secondary Unit Ordinance Amendment. Ordinance 576 passed by City Council in 2012. Change recommended by PC after Council direction which led to Adoption of Ord. 585 by City Council on 5/13/14. Ordinance to be sent as an LCP Amendment for certification by Coastal Commission. New language for PC and Council review. Second reading going to council on April 12, 2016. PC reviewed change 5-3-16. CC second First Reading 6-28-16.. Application submitted to Coastal Commission August 2016. Coastal objected to ban on use as vacation rentals. New State legislation in effect 1-1-20 which supersedes previous adopted ordinances. To be incorporated into Plan Morro Bay.	No review performed.			wm

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Projects Continued Indefinitely, No Response to Date on Incomplete Letter or inactive:										
24	Verizon / Knight	184 Main new location, Corner of Main and Cabrillo	11/19/14	UP0-394 and CP0-512	Coastal Development Permit and Conditional Use Permit for installation of new Wireless Facility/Verizon antennas on existing pole.	Under Review. JG. Incomplete. Waiting on response from Tricia Knight. Wants to keep project open and figure out the parking situation or move location. 1/26. JG. Applicant looking to move location to pole across the street. resubmittal rcv'd 5/26. Deemed Complete, waiting for Applicant to confirm PC meeting date. PC hearing held on 9/6/16 and continued for further review to 11-1-16 PC hearing. Continuance requested. Continued to a date uncertain		PN- Conditionally approved 6/14/16		cg
Grants										
25	California Coastal Commission, California Ocean Protection Council	City-wide	4/6/16		\$400,000 Grant for LCP update to address sea-level rise and climate change impacts. Round 3 Grant award of \$200,000 for Lateral Access Plan, and ESHA delineation. Round 6 funding of \$65,000 received Mar 2020.	Grant agreements for both the grants are in place and grant administration has been turned over to Michael Baker International, per terms of the GP/LCP update contract. Received signed grant agreement for \$200,000 LCP Planning grant by CCC for Round 3 awards 2-27-17. Additional LCP grant funding received in 2020 under Round 6 for \$65,000 to complete LCP update.	No review performed.	N/A		sg
26	City of Morro Bay	City-wide			Community Development Block Grant/HOME Program - Urban County Consortium	Staff has ongoing responsibilities for contract management in coordination with County staff administration. Final 2016 funding recommendations reviewed by Council on 3-8-16. 2016 Subrecipient Agreement executed and Council approved 2018-2020 Cooperation Agreement with County on 6-13-17. City Council approved Cooperation Agreement for 2021-2023 CDBG Program Years at 5/26/20 Council meeting.	No review performed.	N/R		cg
27	City of Morro Bay	City-wide			Climate Action Plan - Implementation	Staff has ongoing responsibilities for implementation of Climate Action Plan as adopted by City Council January 2014. Staff coordinating activities with other Cities and County of SLO via APCD.				cg
Projects in Building Plan Check:										
27	Richie	963-A	Balboa St.	9/29/20	B20-0173	Convert existing attached garage (298 sf) into a junior ADU unit with access from the side of the property; add 82 sf rear of main residence to create laundry area/transition area between units.	Planning can't approve until CDP permit is final and issued. CDP issued 11/4/20 - waiting for building permit resubmittal.	Bldg. - Approved 10/15/20		nh
28	Goldstein	186	Bayshore Dr.	11/4/20		Remodel kitchen, dining & living area.		Bldg. - Approved 11/09/20		sg

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29	LaPlante	3093	Beachcomber	4/29/17	B-31487	New SFR: 3,495 sf w/ 500 sf garage on vacant land. No activity on this project. Remains in plan check.	Approved 8-9-18. Requested permit extension. Additional permit extension requested for Planning permit which expires 9/20/2020. PC to consider extension request on 10/6/20.	Ready to issue	PN - Approved 6/21/2018	Emailed comments on 10-20-17.	cj
30	Diaz	365	Driftwood	1/6/20	B19-0280	328 sq ft addition to master bedroom and bath on second flr. Convert covered patio to living space 50 sq ft enclosed covered porch 30 sq ft interior remodel.	Under review. Planning disapproved 1/31/20. Waiting for resubmittal	Bldg - Disapproved 1/15/20			nh
31	Brebes	495	Driftwood	12/20/19	B19-0269	New 3778 sf duplex homes including garages on lot with existing SFH	Pending approval of planning permits, applicant changing potential density on the site in CDP permit process. CDP permit issued. Waiting for resubmittal	Bldg - Disapproved 2/7/20			nh
32	City of Morro Bay	595	Embaracadero	12/31/19	B19-0278	Commercial T.I. to former Aquarium building to meet accessibility requirements, remove asbestos from 1st floor, update electrical, mechanical and plumbing, new structural shear wall, repair concrete columns, new raised deck, stairs & railing for tasking room & brewery (Three stacks & A Rock Brewing Company.	Approved.	Bldg. - Approved 7/22/20			sg
33	Post	2445	Greenwood Ave.	8/5/20	B20-0125	Demo existing Single Family Residence and propose new construction Single Family Residence 2-story - 3 bedroom, and 2.5 Bath. 1868 sf of living space plus 484 sf attached garage.	Planning disapproved pending CDP. CDP permit issued 6/15/20 pending resubmittal of building plans.	Bldg. - Approved 10/19/20			nh
34	Wilkie	476-A	Hill	3/26/20	B20-0057	ATTACHED ADU - Convert existing attached garage to 344 sf Accessory Dwelling Unit.	Correction letter sent 4/30/20. Awaiting resubmittal.	Bldg. - Approved 4/8/20			nh
35	Friesen	2390	Juniper Ave.	3/5/20	B20-0043	Build new observation deck over existing roof top. Applicant is modifying the scope of work to include a new room with an attached deck and a deck extension in the front over the driveway.	Applicate revising submittal to deck extension at front of existing home (as of 7/10/20). Awaiting resubmittal.	Bldg - Diapproved 3/12/20			nh
36	Friesen	2390	Juniper Ave.	11/5/20	B20-0192	240 sf addition (expansion of master suite), demo existing 144 sf 2nd story front deck and reconstruct new expanded 240 sf 2nd story front deck, also new 84 sf floor height deck off of new addition.		Bldg. - Plancheck			sg
37	Yaroslava	2670	Laurel Ave.	10/28/20	B20-0186	New multi-level SFR on existing vacant R-1/S2 lot. Residence designed as 3 bedroom, 3 bathroom, approx 2150 sf w/play room & enclosed attached 485 sf 2 car garage. Existing driveway, graded/paved pad & site retaining wall to be modified.		Bldg. - Plancheck			sg
38	Peter	890	Main St.	2/13/19	B19-0026	ADA and parking lot improvements. ADA stall to be relocated closer to street and make van accessible.	Approved on 3/1/19 - sg	Bldg - Approved 2/27/19 Fire - Approved 2/26/19	Disapproved on 4/15/19		sg

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39	Sonic	1840	Main St.	10/17/17	B-31730	Sonic Drive-in Restaurant, 1395 sf building, 1020 sf covered patio, 2646 sf covered parking	Corrections sent 12-8-17. Resubmitted 3-2-18. Application incomplete and corrections sent 4-5-18. Resubmittal received and unaddressed corrections sent back 7-19-18. Project required to underground utilities. Utility plan and coordination with public utilities in process. cj. Requested permit extension. Awaiting resubmittal. Requested Permit Extension. Planning permit extension requested and granted to allow new permit expiration of April 2021.	BLDG - Disapproved by California Code Check (contract building inspection services (see memo) on 7-23-18. PB Permit extended to 4/18/21	Disapproved by jb on 11-21-17.	1-2-18 - Emailed BLDG (code ck) comments to architect. PB	cj
40	Cleath	2790	Main St.	7/2/20	B20-0106	Remove 736 sf existing building and construct new 4996 sf 8 room hotel.	Planning approved 7/27/20.	Bldg - Disapproved 7/27/20			nh
41	LifePoint Church	615	Monterey	1/6/20	B19-0279	Remodel/upgrade current building	Planning disapproved 1/27/20. Awaiting resubmittal.	Bldg - Diapproved 1/30/20			nh
42	Kolb	691	Morro Ave	7/30/20	B20-0121	1,150 S.F. TI in an existing medical office building		Bldg - Disapproved 10/22/20			sg
43	Singh	940	Morro Bay Blvd	5/28/20	B20-0085	Installation of an ATM machine on the exterior of the existing gas station building. Includes lighting and minor parking modifications	Under review, pending approval of Minor Modification to existing CUP/CDP. MIN permit issued 8/31/20. Planning approved 9/16/20	Bldg -Approved 9/16/20			nh
44	Luhr	2335	Nutmeg Ave.	8/27/20	B20-0158	ATTACHED ADU - Construct 498 sf addition to existing SFR to be used as an ADU.	Permit disapproved waiting for CDP. CDP s/b final on October 19, 2020. Planning approved 11/5/20	Bldg. - Approved 11/2/20			nh
45	Loe	2605	Nutmeg Ave.	7/14/20	B20-0110	Repair Driveway		Bldg - Approved 9/17/20			sg
46	Erb	2630	Nutmeg Ave	2/14/19	B19-0029	Demo 195 sf third story deck at front of home and rebuild with 80 sf extension to allow for deck beam and column support. Remove 152 sf deck on south side of home, misc. construction to repair water damage.	Dissapproved 3/6/19. Disapproved 4/9. Variance application approved. Awaiting building permit resubmittal.	Bldg - Approved 3/27/19			wu
47	Cohen	331	Orcas St	6/25/20	B20-0099	Demolish a 386 sf cottage and installation of a 990 sf manufactured home, a 336 sf (16' x 21') semi attached site built garage with rooftop deck, exterior landing and stairs to garage and exterior stairs to rooftop deck.	Planning approved 7/3/20	Bldg - Approved 9/29/20			nh
48	Enns	655-A	Paula St.	11/3/20	B20-0189	ATTACHED ADU - Demo existing attached garage & construct new 395 sf attached garage with 866 sf ADU.	Under review.	Bldg. - Disapproved 11/05/20			am
49	Renent	325	Pico St.	11/4/20	B20-0191	Install sunroom 12'x20.5'	Disapproved 11/10/2020. Awaiting resubmittal.	Bldg. - Disapproved 11/09/20			am
	Frank	448	Zanzibar	11/3/20	B20-0193	Replace rotted wood on existing back deck. Foundation, piers, headers, and metal sheer brackets will remain. Joists, fascia, and railing piers to be replaced with new <u>pressure treated lumber of same dimensions. 6.5'x18'</u>	Under review.				am
50	Steel	450	Piney Way	7/27/20	B20-0117	521 sf deck extension and replacement of 2 sliding glass doors and 1 window.		Bldg - Approved 8/10/20			sg

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51	Lee	684	Piney Way	9/10/20	B20-0168	Demo existing detached 416 sf work shed with bathroom & reconstruct new 416 sf garage/shop with electrical, keeping existing bathroom on existing slab/foundation.	Planning disapproved 9/15/20. Waiting for resubmittal.	Bldg - Disapproved 9/17/20			nh
52	Scharin Family Trust Johan C. Scharin Trustee	710	Quintana	5/21/20	B20-0082	Remodel of former Dollar Tree into a new O'Reilly Auto Parts for the retail sale of automotive parts and accessories.		Bldg - Disapproved 11/2/20			wu
53	Barnett	1955	Ironwood Ave.	10/12/20	B20-0180	Remove and replace 35" x 35" and a 28" x 71" window in kitchen, 71" x 35" in bedroom and 69" x 28" in 2nd bedroom.		Bldg. - Disapproved 10/12/20			co
54	Giannini	750	Radcliff Ave.	7/22/19	B19-0156	Remove three existing panel antennas, three radio and replace with three radio intergrated antennas and assoicated cabling. Install equipment expansions to the top of existing cabinets (approx 1'2') with associated electrical wiring.	Approved 9/26/19.	Ready to issue			cj
55	Kennedy	1130	Scott Street	12/20/19	B19-0271	New commercial project with residential security unit above	Conditionally approved 1/3/20	Bldg - Disapproved 1/7/20			nh
56	Parker	580	Shasta Ave	8/31/20	B20-0159	Add new detached garage	Planning under review. Planning disapproved 9/8/20. Need resubmittal	Bldg. - Disapproved 9/14/20			nh
57	Stanton	351	Trinidad	3/26/19	B19-0054	Repairs to existing 200 sf rooftop deck. Replace all dry-rot structural members, install new waterproof membrane., new copper drip edge flashing, replace plaster, replace guardrail if needed.	Disapproved 4/11/19. Awaiting resubmittal.	Bldg - Approved 3/27/19			wu
58	Davis	1149	West Ave	7/8/19	B19-0145	Construct lower level 360 sf enclosed patio (12' x 30') at rear of existing SFR.	Disapproved, proposed enclosed patio extended into the 25 foot bluff setback.	Bldg - Approved 7/10/19			nh

Planning Projects & Permits with Final Action:

1	Pappas / AT&T	475 Radcliff	5/11/20	CUP20-04 / CDP 20-008	CDP and CUP request for new wireless telecommunication facility to include new tower, installation of panel antennas, and associated equipment along with 300sf equipment shelter at base of telecomm tower.	Incomplete letter sent 5/20/20. Resubmittal received and deemed incomplete again on 7/7/20. Resubmittal received 8/25/20. Response sent 9/8 to Applicant. Noticed for the 11/4/20 PC meeting.					cj
2	Richie	963 Balboa Street	9/29/20	CUP20-08 / CDP20-16	Convert garage into JADU with 82 sf laundry/mud room addition for transition into new unit.	Under review. Comment letter sent 10/14/20. Project deemed complete, public notice period from 10/23 to 11/3/20 in process. Permit approved and issued 11/4/20.					nh

Staff Directory:

Scot Graham - sg Chad Ouimet - co Cindy Jacinth - cj Pam Newman - pn Nancy Hubbard - nh Abby Miramontes - am



AGENDA NO: B-1

MEETING DATE: November 17, 2020

Staff Report

TO: Planning Commissioners DATE: November 10, 2020

FROM: Nancy Hubbard, Contract Planner

SUBJECT: 2996 Alder Avenue; Applicant: Paul Nagy; Major Modification (MAJ20-003) to Conditional Use Permit (UP0-520), Coastal Development Permit (CP0-562) and Parking Exception (AD0-132), as previously amended for minor changes. Request for approval of changes in exterior design details, colors, materials, and landscaping. The site is in the R-4 Residential Zoning District in the North Main Street Specific Plan overlay area. It is outside of the Coastal Commission Appeal Jurisdiction.

RECOMMENDATION:

CONDITIONALLY APPROVE THE PROJECT by approving Planning Commission **Resolution 18-20** that includes Findings and Conditions of Approval for the above noted modifications to existing permits, as depicted on site elevations received by the City on November 3, 2020.

PROJECT APN:

068-192-001

PLANNING COMMISSION CONCEPT REVIEW FEEDBACK:

The original design for this project was reviewed at a Concept Review level by the Planning Commission on May 1, 2018. Following public testimony and Planning Commission discussion, the following direction was provided to the Applicant, bold italic statements are a description of the changes reflected in the revised plans presented to PC on July 18, 2018:

Concept Review Comments on Height:

1. Redesign the project to improve architectural presence, make project worthy of height exception. ***Applicant lowered the parking level slightly, changed roofline to flat roofs, added more windows, increased the entry door width, enhanced exterior lighting, and added more landscaping to create a residential modern beach cottage design. The applicant has also committed to include solar panels into the design (assuming it can be achieved without exceeding the roof height restriction), provide in-unit laundry facilities and provide each unit with a private outdoor patio area and storage area in the garage.***
2. Redesign to make more 'residential' with more articulation on exterior façade. ***Applicant has lowered the parking garage level and to improve the residential scale and has added architectural and landscape features to improve the residential feel of the project.***

Original Plan (Sequoia & Birch):



Revised Plan (Sequoia & Birch)



Planning Commission project approval

The project was presented to the Planning Commission on July 17, 2018 for approval of the Conditional Use Permit, Parking Exception and Coastal Development Permit. The project was approved with one additional condition added to the Resolution (see full Resolution 18-18 attached as Exhibit C):

Project design shall include a change in the 2nd floor roofline on the Birch Street elevation over the common patio area. Change shall break up the long roof line with a change in materials to look similar to the canopy's over the people doors and garage door on the parking level. Change should be reflected on the building permit submittal drawings. ***Added by Planning Commission on July 17, 2018.***

Minor Modifications approved administratively:

The project was issued a building permit on September 26, 2019. The following minor modifications were approved for this project prior to completion:

Change #1 – prior to building permit issuance: Garage modification approved administratively on September 20, 2019 was necessary to meet the building code ventilation requirements. The change included removal of the automated garage door and an increase in size of the openings in the garage walls to meet the ventilation requirements. See revised rendering below to show the changes in the garage and the site changes on the east side to accommodate ADA access from the public sidewalk. Note that this drawing includes the change in the roofline to address the Planning Commissions added condition of approval included in the requirements of the planning permits.



**Change in garage openings.
Also shows siding & wider white
banding around ground floor,
half-height walls on decks and
roof line variation on east side.**

Change #2 – prior to final building inspection:

The second minor modification was approved administratively on September 15, 2020 to replace the artificial turf with shrubs and trees.

REQUEST FOR MAJOR MODIFICATION APPROVAL FOR EXTERIOR CHANGES:

The building is just about complete and during building and planning department final inspections, several aspects of the building features were noted to be different from the conditions and the approved plans. The owner has stated that since the building is complete, it would be very costly to make some of the changes, and as such is requesting approval of the following changes in the building exterior and landscaping plan:

- 1. East Roof line modification:** The roofline variation on the east side that addresses the Planning Commission's request for a "change in the 2nd floor roofline to break up the long roofline with a change in materials for a look similar to the canopies over the people doors and garage entry door" was overlooked during construction and the result was a long roofline similar to what was originally presented to Planning Commission that resulted in the added condition. The property owner is suggesting two alternatives to achieve the PC objective to "break up the long roofline" both of which can be accomplished without changing a structural element of the building. See both options for alternate solutions to break up the roofline, compared to the final rendering with the approved roofline variation. **Staff's conditions are drafted to include approval of Option 1 for the roofline variation.**

Final Approved Plan, before landscape modification



OPTION 1 – ADDITION OF METAL AWNING OVER SECOND FLOOR DECK



Condition of building at first inspection on October 8



OPTION 2 – POP-OUT SECTION WITH STUCCO FINISH IN DIFFERENT COLOR

- 2. Dividing walls at 2nd floor deck:** The approved plans show half-wall separations between all of the decks on both residential floors, including half-walls at the south and north end of the unit decks. During construction, the builder thought it would provide more privacy to each unit and more structural support for the roof overhang to build full-height stucco walls between each second-floor deck and on both ends of the decks. The owner is not proposing an alternate but asking for approval of this change.

Below is a rendering of the building as approved by PC and the final building as constructed. ***The conditions of approval assume approval of this existing condition (See Planning Condition 1b).***



Building rendering as approved (1/2 walls at all decks)

ALDER AVENUE PRESPECTIVE

Existing conditions on first inspection October 8, 2020 – full height end walls and dividing walls at 2nd floor decks. No change proposed



- 3. Exterior finish on north and south elevations of the building:** The building as approved by PC, included horizontal siding on the ground floor, on all sides of the building, and a wide band between the ground floor and second floor. The second and third floors were to be painted different colors, which has been done. The property owner states that when the changes were made to the garage door and wall openings for ventilation, that created a situation that would make weather proofing difficult if using the horizontal siding as originally approved. The applicant

did not provide a reason for the lack of siding on the south facing elevation. The property owner used stucco on the north and south sides of the building and would like approval of this alternate exterior finish and is proposing that by continuing the white band and painting the stucco the same color as the siding, it will not be a noticeable change. He is suggesting this change for only the north elevation because of the lack of visibility of the south facing wall. See approved renderings and proposed change to north wall. ***The conditions of approval include approval of this treatment for both the north and south sides of the building (See Planning Condition 1c).***



Existing condition on October 8, 2020, no color change, no white band, no siding

As approved, horizontal siding around ground floor with wide white banding



- 4. Landscape planter change on west side of building.** The plans approved by PC included a short masonry wall along the west side of the building with plants on both sides of the wall. The purpose was to hide the utilities going into the building and the

concrete foundation wall along that façade. The contractor/owner did not include the required screening planter wall along the west side of the building stating that it would create a storm drainage problem retaining water adjacent to the foundation wall of the garage. The property owner is proposing a short fence with plants on both sides to meet the intent of the originally approved landscape plan on the west side of the building. Note that the minor amendment to the landscape plan approved on September 15, 2020, included the concrete planter along the west side of the building. ***The conditions of approval include a requirement for a short screening fence with plantings on both sides (See Planning condition 2).***



WEST SIDE VIEW OF APPROVED BUILDING – WITH CONCRETE LANDSCAPE BED WITH PLANTS TO SCREEN THE LOWER WALL.

CORNER OF ALDER & SEQUOIA PERSPECTIVE



Existing condition of building on west side



CONCLUSION:

The project with the major modifications proposed continues to be consistent with the General Plan and Local Coastal Plan, provide for a wide range of densities and to ensure residential land is developed to a density suitable to its location and physical characteristics. The project

is consistent with the Zoning Ordinance because apartment housing is a principally allowed use in the High-Density land use designation and the Zoning Ordinance (MBMC section 17.56.160).

PUBLIC NOTICE:

Notice of this item was published in the San Luis Obispo Tribune newspaper on November 6, 2020, and all property owners and occupants of record within 500 feet of the subject site were notified of this evening's public hearing and invited to share their concerns on this application.

ENVIRONMENTAL DETERMINATION:

Environmental review was performed for this project and staff determined it meets the requirements for a Categorical Exemption under CEQA Guidelines Section 15301 Class 1a. The exemption applies to minor interior or exterior modifications to an existing building. Additionally, none of the Categorical Exemption exceptions, noted under Section 15300.2, apply to the project.

RECOMMENDATION:

Staff recommends the Planning Commission approve the requested Major Modification (MAJ20-002) to approved Conditional Use Permit #UPO-520, Coastal Development Permit #CPO-562 and Parking Exception #AD0-132 for the (4) four exterior modifications to the originally approve project at 2996 Alder Avenue, as shown on elevations provided on November 03, 2020, by adopting Planning Commission **Resolution 18-20** which includes the Findings and Conditions of Approval for the Major Modifications.

EXHIBITS:

Exhibit A – Planning Commission Resolution 18-20

Exhibit B – Rendering comparisons – 4 views

Exhibit C – Final signed Resolution 18-18 from July 17, 2018 project approval

EXHIBIT A

RESOLUTION NO. PC 18-20

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION APPROVING
A MAJOR MODIFICATION OF
CONDITIONAL USE PERMIT AND COASTAL DEVELOPMENT PERMITS
CASE NO. (MAJ 20-003) OF UP0-520, CP0-562 and AD0-132
SITE LOCATION: 2996 Alder Ave

WHEREAS, the Planning Commission of the City of Morro Bay (the “City”) conducted a public hearing via video conference on November 17, 2020 for the purpose of considering approval of a Major Modification (MAJ20-003) of Coastal Development Permit CP0-562, Conditional Use Permit UP0-520 and Parking Exception (ADO-132), as amended for minor modifications for approval of changes in the exterior building design, materials, colors and landscaping (“Project”); and

WHEREAS, pursuant to the Governor's Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19, the City of Morro Bay Planning Commission is authorized to hold public meetings via teleconferencing and all requirements in the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived; and

WHEREAS, notice of the public hearings were provided at the time and in the manner required by law; and

WHEREAS, the Planning Commission has duly considered all evidence, including the testimony of the applicant, interested parties, and the evaluation and recommendations by staff, presented at said hearing.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Morro Bay as follows:

Section 1: The foregoing recitals are all true and correct and are incorporated herein by this reference.

Section 2: Findings. Based upon all the evidence, the Commission makes the following findings:

California Environmental Quality Act (CEQA) Finding

Pursuant to the California Environmental Quality Act, the project meets the requirements for a Categorical Exemption under CEQA Guidelines Section 15303 Class 3a (new residential in a residential zone) and Section 15301, Class 1a for alterations to existing facilities. Additionally, none of the Categorical Exemption exceptions, noted under Section 15300.2, apply to the project

EXHIBIT A

Coastal Development Finding

1. The project, with the proposed modifications, continues to be consistent with applicable provisions of the Local Coastal Program (LCP)

Conditional Use Permit Finding

1. The project, with the proposed modifications, continues to be in compliance with the General Plan and certified Local Coastal Program and will not be detrimental to the health, safety, and general welfare of persons residing or working in the surrounding neighborhood.

Section 3. Action. The Planning Commission does hereby approve the Major Modification (MAJ20-003) to the Coastal Development Permit CP0-562, Conditional Use Permit UP0-520 and Parking Exception AD0-132 for property located at 2996 Alder Ave subject to the following conditions:

II. CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. Permit: Major Modification (MAJ20-003) to Conditional Use Permit (UP0-520), Coastal Development Permit (CP0-562) and Parking Exception (AD0-132), as previously amended for minor changes administratively. Request for approval of changes in exterior design details, colors, materials, and landscaping. The building is substantially complete and requires this approval prior to receiving final Certificate of Occupancy. The site is in the R-4 Residential Zoning District in the North Main Street Specific Plan overlay area. It is outside of the Coastal Commission Appeal Jurisdiction
2. Inaugurate Within Two Year: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this approval and is diligently pursued thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Said extensions may be granted by the Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. Changes: Two previous minor modifications were approved by the Community Development Director, which are: September 20, 2019: Change to the ground floor level garage openings to comply with the required ventilation requirements and September 15, 2020 a change in landscaping to eliminate artificial turf, to be replaced by shrubs and plants in accordance with the revised landscaping plan. Additional minor changes may be approved by the Community Development Director. Any substantial change will require the filing of an application for an amendment.

EXHIBIT A

4. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicant's failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: Compliance with and execution of all conditions listed hereon shall be necessary, unless otherwise specified, prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Community Development Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
7. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation.
8. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code and shall be consistent with all programs and policies contained in the certified Coastal Land Use plan and General Plan for the City of Morro Bay.

PLANNING CONDITIONS:

1. Modifications to the building design, color and materials:
 - a. Roof line variation Option 1 with the addition of the metal awning over the open deck area on 2nd floor roof on east side of the building shall be installed to meet the intent of the PC Condition #18 added by PC on July 17, 2018.
 - b. Full height deck dividing walls (including end walls) on the 2nd floor shall be an acceptable alternative to the original approved design that included short dividing walls.
 - c. The north and south sides of the ground floor level of the building shall be painted a color to match horizontal siding on the east and west sides of the building, continuing the white horizontal band from the east and west sides to all sides of the building between ground level and 2nd floor units.
2. Modifications to the Landscaping Plan (which was revised and approved administratively on 9/15/20): A short wood fence, painted to match the wood colors used in the deck railing, shall replace the originally planned concrete planter

EXHIBIT A

Planning Commission Resolution 18--20

MAJ19-003: 2996 Alder Ave

Page 4

to run along the westerly edge of the building. The new screening fence shall be of a height to fully screen the foundation of the building and the utility connections along that side of the building. The new screening fence may be placed further from the building than the originally approved concrete planter to avoid the existing utilities and provide easier maintenance access to the utilities. Plants, as approved by the Community Development Director shall be placed on both sides of the short screening fence.

NO FURTHER NEW CONDITIONS OF APPROVAL. ALL CONDITIONS OF APPROVAL ASSOCIATED WITH PERMITS UP0 520, CP0 562 and AD0 132 REMAIN IN FULL FORCE AND EFFECT.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 17th day of November 2020 on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson Gerald Luhr

ATTEST

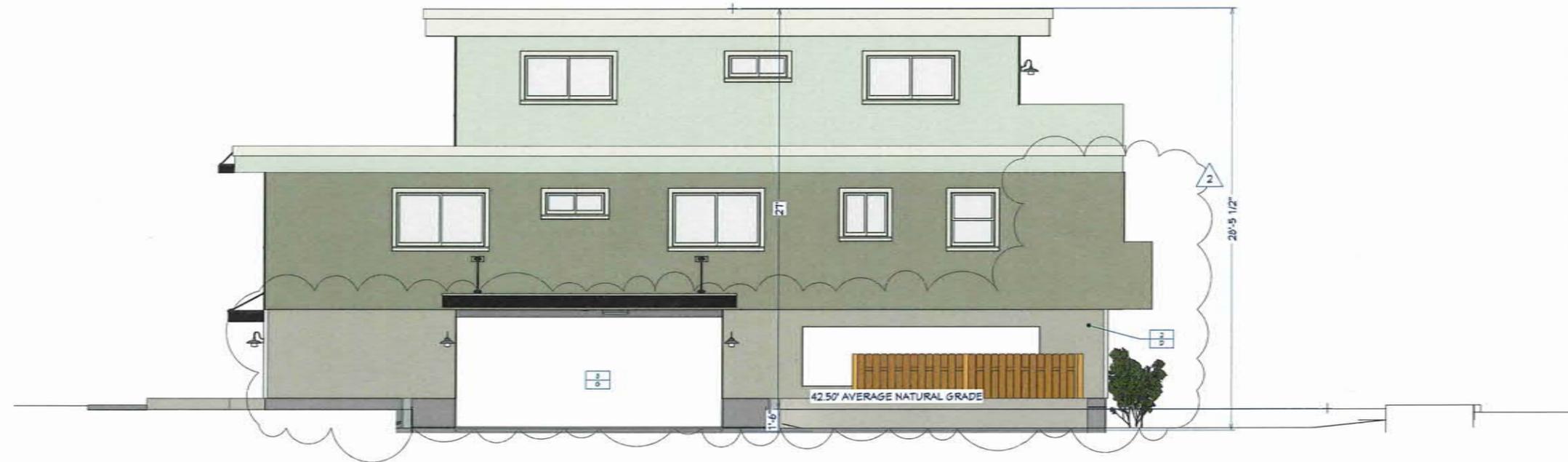
Scot Graham, Community Development Director

The foregoing resolution was passed and adopted this 17th day of November 2020.



BIRCH AVENUE ELEVATION

Scale: 1/4" = 1'-0"



SEQUOIA STREET ELEVATION

Scale: 1/4" = 1'-0"

MATERIALS

1. SMOOTH SAND STUCCO EXTERIOR FINISH
2. SMOOTH FINISH CONCRETE WALLS WITH TWO HORIZONTAL "V" GROVES IN CONCRETE
3. FLAT ROOF WATERPROOFING MEMBRANE
4. VINYL WINDOW
5. FIBERGLASS DOORS
6. EXTERIOR WALL MOUNTED LIGHT - "Y DECOR" MODEL# LORA
7. CABLE GUARDRAIL SYSTEM - "FORTRESS RAILING SYSTEM" ALUMINUM WHITE, SEE DETAIL ON SHEET A-25
8. OPEN GARAGE DOOR
9. VELLUX SYLIGHS
10. 1x4 WINDOW & DOOR TRIM
11. 2x10 BELLY BAND BOARD
12. PRE-FABRICATED HANGING INDUSTRIAL METAL DOOR ANNING WITH CABLES
13. 3'-0" HIGH CMU PLANTER RETAINING WALL WITH ROCK VENEER FINISH
14. 1x6 FENCE ON TOP OF CMU WALL FOR PARKING PRIVACY SCREENING - 3'-6" TOTAL HEIGHT ABOVE FINISH GRADE
15. 1x4 CORNER TRIM
16. "HARDIE" BOARD LAPPED SIDING - T BOARD EXPOSED
17. FLAT ROOF OVERHANG WITH STUCCO FINISH AT SIDE AND SOFFIT
18. 2x10 WITH STUCCO FINISH TO CREATE BUMP AT TOP OF FLAT ROOF OVERHANG
19. 2x10 FASCIA BOARD WRAP IN GALVANIZED SHEET METAL TO MATCH METAL ANNING

COLORS

- A. BROWN - "BEHR" CURLY WILLOW
- B. DARK GREEN - "BEHR" SIMPLY SAGE
- C. LIGHT GREEN - "BEHR" JADE TINGE
- D. WHITE - "BEHR" FROST
- E. BLACK
- F. GRAY - TIMBERLINE ROOFING (CHELSEA GRAY)
- G. BLUE - "BEHR" THUNDERCLOUD
- H. NATURAL STONE COLOR



Richard Blair LeGros, Architect

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SHEET TITLE:	DATE
1	5-11-20
2	11-3-20

PROJECT:
Alder Apartments
2996 Alder Ave.
Morro Bay, CA

DRAWN BY:
AARON GANNAGE

DATE:
11/3/2020

SHEET:

A-12



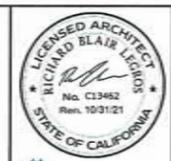
ALDER AVENUE ELEVATION

Scale: 1/4" = 1'-0"



SIDE ELEVATION

Scale: 1/4" = 1'-0"



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GANNAGE
 DESIGN

G

P.O. Box 14502
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 (805) 758-3453 aaron@gannagedesign.com

SHEET TITLE	DATE
1	5-11-20
2	11-3-20

PROJECT:
Alder Apartments
 2996 Alder Ave.
 Morro Bay, CA

DRAWN BY:
AARON GANNAGE

DATE:
 11/3/2020

SHEET:

A-13



BIRCH AVENUE ELEVATION

Scale: 1/4" = 1'-0"



SEQUOIA STREET ELEVATION

Scale: 1/4" = 1'-0"

MATERIALS

1. SMOOTH SAND STUCCO EXTERIOR FINISH
2. SMOOTH FINISH CONCRETE WALLS WITH TWO HORIZONTAL "Y" GROVES IN CONCRETE
3. FLAT ROOF WATERPROOFING MEMBRANE
4. VINYL WINDOW
5. FIBERGLASS DOORS
6. EXTERIOR WALL MOUNTED LIGHT - "Y DECOR" MODEL# LORA
7. CABLE GUARDRAIL SYSTEM - "FORTRESS RAILING SYSTEM" ALUMINUM WHITE, SEE DETAIL ON SHEET A-25
8. OPEN GARAGE DOOR
9. VELLUX SYLIGHTS
10. 1x4 WINDOW & DOOR TRIM
11. 2x10 BELLY BAND BOARD
12. PRE-FABRICATED HANGING INDUSTRIAL METAL DOOR FINISHING WITH CABLES
13. 3'-0" HIGH CMU PLANTER RETAINING WALL WITH ROCK VENEER FINISH
14. 1x6 FENCE ON TOP OF CMU WALL FOR PARKING PRIVACY SCREENING - 3'-6" TOTAL HEIGHT ABOVE FINISH GRADE
15. 1x4 CORNER TRIM
16. "HARDIE" BOARD LAPPED SIDING - "T" BOARD EXPOSED
17. FLAT ROOF OVERHANG WITH STUCCO FINISH AT SIDE AND SOFFIT
18. 2x10 WITH STUCCO FINISH TO CREATE BUMP AT TOP OF FLAT ROOF OVERHANG
19. 2x10 FASCIA BOARD WRAP IN GALVANIZED SHEET METAL TO MATCH METAL FINISHING

COLORS

- A. BROWN - "BEHR" CURLY WILLOW
- B. DARK GREEN - "BEHR" SIMPLY SAGE
- C. LIGHT GREEN - "BEHR" JADE TINGE
- D. WHITE - "BEHR" FROST
- E. BLACK
- F. GRAY - TIMBERLINE ROOFING (CHELSEA GRAY)
- G. BLUE - "BEHR" THUNDERCLOUD
- H. NATURAL STONE COLOR



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SHEET TITLE	DATE
1	5-11-20
2	11-3-20

PROJECT:
 Alder Apartments
 2996 Alder Ave.
 Morro Bay, CA

DRAWN BY:
 AARON GANNAGE

DATE:
 11/3/2020

SHEET:

A-12

EXHIBIT C

RESOLUTION NO. PC 18-18

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION APPROVING MINOR USE PERMIT (UP0-520), COASTAL DEVELOPMENT PERMIT (CP0-562) AND PARKING EXCEPTION (AD0-132) TO ALLOW CONSTRUCTION OF A NEW THREE-UNIT APARMENT BUILDING WITH SEMI-SUBTERANEAN PARKING OUTSIDE OF THE COASTAL APPEAL JURISDICTION AT 2996 ALDER AVENUE

WHEREAS, the Planning Commission of the City of Morro Bay (the "City") conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on July 17, 2018, for considering a Minor Use Permit (UP0-520), a Coastal Development Permit (CP0-562) and a Parking Exception AD0-132 for construction of a new three-unit apartment building with parking outside of the Coastal Commission appeal jurisdiction; and

WHEREAS, notice of the public hearing was provided at the time and in the manner required by law; and

WHEREAS, the Planning Commission has duly considered all evidence, including the testimony of the applicant, interested parties, and the evaluation and recommendations by staff, presented at said hearing.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Morro Bay as follows:

Section 1: Findings. Based upon all the evidence, the Commission makes the following findings:

California Environmental Quality Act (CEQA) Finding

1. Pursuant to the California Environmental Quality Act, the project is categorically exempt under Section 15303, Class 3(b), for construction of less than a 4-unit apartment in an urbanized area. None of the exceptions found in CEQA Section 15300.2 apply to this project.

Minor Use Permit and North Main Street Specific Plan Findings

1. As conditioned, the project is consistent with the General Plan and Local Coastal Program regarding the location of residential uses and development.
2. As conditioned, the project will not be detrimental to the health, safety and welfare of persons residing or working in the neighborhood.

Section 2. Action. The Planning Commission does hereby approve Minor Use Permit (UP0-520), a Coastal Development Permit (CP0-562) and a Parking

EXHIBIT C

Exception (AD0-132) for the property located at 2996 Alder Ave subject to the following conditions:

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report dated July 17, 2018, for the project at 2996 Alder Ave (APN:068-192-001) depicted on plans received by the City on June 11, 2018, as part of Minor Use Permit (UP0-520), a Coastal Development Permit (CP0-562) and a Parking Exception (AD0-132), on file with the Community Development Department, as modified by these conditions of approval, and more specifically described as follows: Site development, including all buildings and other features, shall be located and designed substantially as shown on plans, unless otherwise specified herein.
2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this Resolution and is diligently pursued, thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Any extension may be granted by the City's Community Development Director (the "Director"), upon finding the project complies with all applicable provisions of the Morro Bay Municipal Code (the "MBMC"), General Plan and certified Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Community Development Director. Any changes to this approved permit determined, by the Director, not to be minor shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, the City, and any other governmental entity shall be complied with in the exercise of this approval, (b) This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan for the City.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or

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applicant's failure to comply with conditions of approval. Applicant understands and acknowledges the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.

6. Compliance with Conditions: The applicant's establishment of the use or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Director or as authorized by the Planning Commission. Failure to comply with any of these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the MBMC and is a misdemeanor.
7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan of the City.

PLANNING DEPARTMENT CONDITIONS

1. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The applicant shall be liable for costs associated with the professional investigation.
2. Construction Hours: Pursuant to MBMC subsection 9.28.030.I, Construction or Repairing of Buildings, the erection (including excavating), demolition, alteration or repair of any building or general land grading and contour activity using equipment in such a manner as to be plainly audible at a distance of fifty feet from the building other than between the hours of seven a.m. and seven p.m. on weekdays and eight a.m. and seven p.m. on weekends except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Community Development Department, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues.

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3. Dust Control: That prior to issuance of a grading permit, a method of control to prevent dust and wind blow earth problems shall be submitted for review and approval by the Building Official.
4. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.
5. Architecture: Building color and materials shall be as shown on plans as approved by the Planning Commission and specifically called out on the plans submitted for a Building Permit to the satisfaction of the Community Development Director Director.
6. Boundaries and Setbacks: The property owner is responsible for verification of lot boundaries. Prior to requesting foundation inspection, a licensed land surveyor shall verify lot boundaries and building setbacks to the satisfaction of the Community Development Director. A copy of the surveyor's *Form Certification* based on a boundary survey shall be submitted with the request for foundation inspection. See Planning Condition #10 for allowed parking space within setback area.
7. Building Height Verification: Prior to foundation inspection, a licensed land surveyor shall measure and inspect the forms and submit a letter to the Community Development Director certifying that the tops of the forms are in compliance with the finish floor elevations as shown on approved plans. Prior to either roof nail or framing inspection, a licensed surveyor shall submit a letter to the building inspector certifying that the height of the structures is in accordance with the approved plans and zoning ordinance standards, including the bluff development standards.
8. Building Height Calculation: Plans submitted for a building permit shall clearly identify the high and low topographic elevation points within the footprint of the new structure as certified by a licensed land surveyor.
9. Undergrounding: Prior to final occupancy clearance, the applicant shall install all utility distribution and service lines underground.
10. Landscaping: Project landscaping shall include native and drought tolerant plants. Street trees are required to be planted as part of frontage improvements. In addition to lower growing shrubs and groundcover, the landscape plan submitted with plans for a building permit shall include a selection of larger native and drought tolerant shrubs to the satisfaction of the Community Development Director.
8. HVAC Location: HVAC equipment shall be located within the garage or other space not visible from the public right of way to the satisfaction of the Community Development Director.

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9. Landscape: Apartment units in the R-4 zone require landscaping plans with 15% minimum permeable surface. The landscape plans submitted for building permit review must address this requirement.
10. The Parking Exception requires installation of an automated garage door and prohibits parking within the driveway. One parking space along the west side of the parking structure entrance will be permitted, but cannot extend into the driveway space. Prohibited parking in the driveway may be in the tenant lease documents. These requirements must be addressed in the building permit submittal.
11. One apartment unit shall be designed to be easily convertible into a fully accessible unit and rental marketing shall be directed toward a tenant who can benefit from the accessibility provisions prior to rental to a tenant who does not require accessibility features and parking.
12. Parking garage shall be equipped with an electric vehicle charging outlet between or available to 2 parking spaces.
13. Bike storage areas shall be provided within the apartment units, the storage areas or in a common area available to the tenants.
14. The owner shall investigate solar panels to reduce some of the monthly utility costs to the tenants. Location of the solar panels will need to be reviewed and approved as part of the building permit submittal and cannot extend beyond the approved height of the building.
15. Project design shall include a change in the 2nd floor roofline on the Birch Street elevation over the common patio area. Change shall break up the long roof line with a change in materials to look similar to the canopy's over the people doors and garage door on the parking level. Change should be reflected on the building permit submittal drawings. ***Added by Planning Commission on July 17, 2018.***

BUILDING DEPARTMENT CONDITIONS

1. Building permit plans shall be submitted by a California licensed architect or engineer when required by the Business & Professions Code, except when otherwise approved by the Chief Building Official.
2. The owner shall designate on the building permit application a registered design professional that shall act as the Registered Design Professional in Responsible Charge. The Registered Design Professional in Responsible Charge shall be responsible for reviewing and coordinating submittal documents prepared by others including phased and staggered submittal items, for compatibility with design of the building.
3. The owner shall comply with the City's Structural Observation Program. The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer of record or architect responsible for the structural design, to

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perform structural observation as defined in Section 220. Observed deficiencies shall be reported in writing to the owner's representative, special inspector, contractor and the building official. The structural observer shall submit to the building official a written statement that the site visits have been made and identify any reported deficiencies that, to the best of the structural observer's knowledge, have not been resolved.

4. The owner shall comply with the City's Special Inspection Program. Special inspections will be required by Section 1704 of the California Building Code. All Special Inspectors shall first be approved by the Building Official to work in the jurisdiction. All field reports shall be provided to the City Building Inspector when requested at specified increments in order for the construction to proceed. All final reports from Special Inspectors shall be provided to the Building Official when they are complete and prior to final inspection.
5. Mitigation measures for natural occurring asbestos require approval from San Luis Obispo County Air Pollution Control District.
6. A soils investigation performed by a qualified professional shall be required for this project. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability; details shall be provided.
7. Fire sprinklers are required by City Codes.
8. BUILDING PERMIT APPLICATION. To apply for building permits, submit three (3) sets of construction plans to the Building Division.
9. The Title sheet of the plans shall include:
 - a. Street address, lot, block, track and Assessor Parcel Number.
 - b. Description of use.
 - c. Type of construction.
 - d. Height of the building.
 - e. Floor area of the building(s).
 - f. Vicinity map.

All construction will conform to the 2016 California Building Code (CBC), 2016 California Residential Code (CRC), 2016 California Fire Code (IFC), 2016 California Mechanical Code (CMC), 2016 California Plumbing Code (CPC), 2016 California Electrical Code (CEC), 2016 California Energy Code, 2016 California Green Code (CGBC), and Accessibility Standards where applicable and all City codes as they apply to this project.

(Code adoption dates are subject to change. The code adoption year is established by application date of plans submitted to the Building Division for plan review.)

EXHIBIT C

B. CONDITIONS TO BE MET DURING CONSTRUCTION:

BUILDING DIVISION:

1. **SITE MAINTENANCE.** During construction, the site shall be maintained to not infringe on neighboring property, such as debris and dust.
2. **ARCHAEOLOGICAL MATERIALS.** In the event unforeseen archaeological resources are unearthed during any construction activities, all grading and or excavation shall cease in the immediate area and the find left untouched. The Building Official shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, Native American, or paleontologist, whichever is appropriate. The qualified professional shall evaluate the find and make reservations related to the preservation or disposition of artifacts in accordance with applicable laws and ordinances. If discovered archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the Building Official shall notify to county coroner. If human remains are found to be of ancient age and of archaeological and spiritual significance, the Building Official shall notify the Native American Heritage Commission. The developer shall be liable for costs associated with the professional investigation.
3. Certification of compliance with the soils report shall be submitted to the Building Division prior to foundation approvals. A final report certifying compliance with the soils report or grading plans shall be submitted to the Building Division prior to final approvals.
4. A licensed surveyor or engineer shall verify pad elevations, setbacks, prior to foundation inspection, and building height prior to framing inspection when determined necessary by the Planning Division.

C. CONDITIONS TO BE MET PRIOR TO FINAL INSPECTION AND ISSUANCE OF CERTIFICATE OF OCCUPANCY:

BUILDING DIVISION:

1. Prior to building division final approval all required inspections from the other various divisions must have been completed and verified by a city inspector. All required final inspection approvals must be obtained from the various departments and documented on the permit card.

FIRE DEPARTMENT CONDITIONS:

1. Fire Safety. During Construction and Demolition shall be in accordance with 2016 California Fire Code, Chapter 33. This chapter prescribes minimum

EXHIBIT C

safeguards for construction, alteration and demolition operations to provide reasonable safety to life and property from fire during such operations.

2. Automatic Fire Sprinklers. Fire Protection Systems and Equipment. An approved automatic fire sprinkler system shall be provided throughout this project, pursuant to Morro Bay Municipal Code, Section 14.60.200. Submit all plans and specification sheets for the required fire sprinkler system to the Building Department for review and approval prior to installation. The sprinkler system shall be in accordance with NFPA Standard 13.
3. Knox key box. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a key box to be installed in an approved location (CFC 506). Provide a Knox Box on exterior of the structure, in an approved location. Please obtain a Knox application from Morro Bay Fire Department during business hours.
4. Fire extinguishers. Fire Extinguishers. A minimum of one 2A-10-BC extinguisher shall be provided for each floor area, so that travel distance does not exceed 75 feet. Extinguishers shall be serviced annually and shall have a current service tag attached. (CCR, Title 19, Sec. 3.29)
5. Carbon monoxide. Alarms in new dwellings and sleeping units. An approved carbon monoxide alarm shall be installed in dwellings having a fossil fuel-burning heater or appliance, fireplace or an attached garage. Carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions.
6. Elevator Car to Accommodate Ambulance Stretcher. Where elevators are provided, at least one elevator shall be provided for fire department emergency access to all floors. The elevator car shall be of such a size and arrangement to accommodate an ambulance stretched 24-inches by 84-inches with not less than 5-inch radius corners, in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than 3-inches high and shall be placed inside on both sides of the hoist way doorframe. (MBMC 14.08.090(I))
7. Trash Enclosures: must comply with the 2016 California Fire Code. Dumpsters and containers with an individual capacity of 1.5 cubic yards or more shall not be stored in buildings or placed within 5 feet of combustible walls, openings or combustible roof eave lines.
8. Change of Occupancy to R-2: Residential occupancies containing sleeping units or more than two dwellings units where the occupants are primarily permanent in nature. CFC 310.0

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PUBLIC WORKS DEPARTMENT CONDITIONS:

1. Stormwater Management: The City has adopted Low Impact Development (LID) and Post Construction requirements to protect water quality and control runoff flow from new and redevelopment projects. The requirements can be found in the Stormwater management guidance manual on the City's website. Projects with more than 2,500sf of new or redeveloped impervious area are subject to these requirements. Complete and submit the "SFR Performance Requirement Determination Form".
2. Frontage Improvements: The installation of frontage improvements is required. Show the installation of a City standard driveway approach B-6, sidewalk, curb and street tree. If permeable pavers are to be used, a modified driveway approach with a 12" wide PCC grade beam should be constructed to stabilize the front edge of the pavers. An encroachment permit is required for any work within the Right of Way.
3. Sewer Lateral: If an existing lateral is used, perform a video inspection of the lateral and submit to Public Works via flash drive or DVD, prior to building permit issuance. Lateral shall be repaired as necessary and all repairs shall be noted on approved set of plans. A sewer backwater valve and downstream cleanout, extended to grade, shall be installed on the sewer lateral.
4. Sewer Backwater Valve: A sewer backwater valve shall be installed on site to prevent a blockage or maintenance of the municipal sewer main from causing damage to the proposed project (MBMC 14.24.070).
5. Grading and Drainage: Indicate on plans the existing and updated contours, drainage patterns, spot elevations, finish floor elevation and all existing and proposed drainage pipes and structures.
6. Erosion and Sediment Control Plan: For small projects less than one acre and less than 15% slope, provide a standard erosion and sediment control plan. The Plan shall show control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or ecologically sensitive area.
7. Water Backflow Prevention Device: Verify and label all new or existing water backflow preventers. Devices are required for fire water systems, irrigation systems on a dedicated water meter, systems which may change in character of use (commercial rentals, etc.), gray water systems, or any plumbing system which has cross-connections or the ability to allow water of deteriorated sanitary quality to enter the public water supply. Add note

EXHIBIT C

to plan that device is an approved domestic water backflow prevention device.

8. Encroachment Permits: A standard encroachment permit shall be required for the proposed driveway; the driveway shall comply with B-9 (Driveway Ramps: Size & Location). A sewer encroachment permit shall be required for any repairs or installation of a sewer lateral within the City right-of-way or within a utility easement. When utility connections require pavement cuts a traffic control plan indicating appropriate signing, marking, barricades and flaggers must be submitted with the Encroachment Permit application. If a construction dumpster is used, the dumpster location shall be on private property, unless allowed by an encroachment permit within the City right-of-way.
9. Water Meter: Indicate and label new or existing water meter on plans.
10. Utilities: Show all existing and proposed locations of the sewer lateral, water service, and water and sewer mains on the building plans. Include sizes where appropriate. Note the location of all overhead utilities and construction underground service entrances per the CBC.
11. Add the following Notes to the Plans:
 - Any damage, as a result of construction operations for this project, to City facilities, i.e. curb/berm, street, sewer line, water line, or any public improvements shall be repaired at no cost to the City of Morro Bay.
 - No work shall occur within (or use of) the City's Right of Way without an encroachment permit. Encroachment permits are available at the City of Morro Bay Public Works Office located at 955 Shasta Ave. The Encroachment permit shall be issued concurrently with the building permit.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 17th day of July 2018 on the following vote:

AYES: Luhr, Barron, Ingraffia

NOES: Lucas, Sadowski

ABSENT:

ABSTAIN:


Chairperson Gerald Luhr

ATTEST



Scot Graham, Community Development Director

The foregoing resolution was passed and adopted this 17th day of July 2018.

Planning Commission

MAJOR MODIFICATION
(MAJ20-003)
TO EXISTING PERMITS:
UPO-520, CPO-562 & ADO-
132
NOVEMBER 17, 2020

Google Earth

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MORRO BAY
PUT LIFE ON COAST

Project Review - roofline:

Concept Review Design

Final approved plan – July 17, 2018, before reflecting added condition to modify roofline over deck opening



- ❑ Design changes include: flat roofs, added windows, increased landscaping, 12 inch exterior banding between garage and residential floors, remove wing-walls between decks, enhanced exterior lighting, increased deck opening on 2nd floor.



MORRO BAY
PUT LIFE ON COAST

Modification #1 - roofline:

Final approved plan – July 17, 2018, showing roof line change and modification to garage openings for ventilation

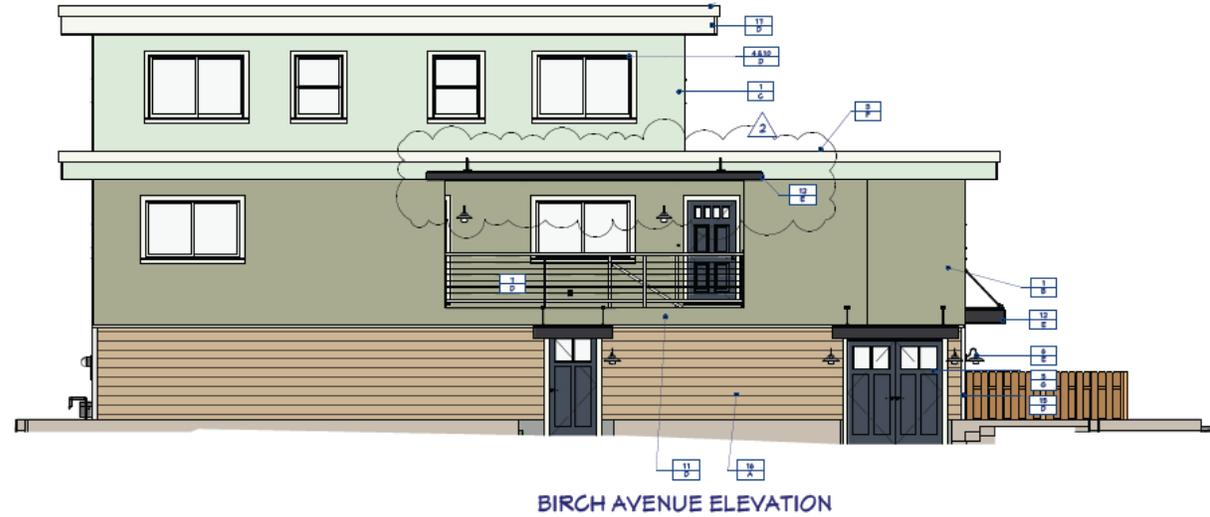


CORNER OF SEQUOIA & BIRCH PRESPECTIVE

Existing condition of building on October 8, 2020 (east elevation)



Option 1 – added metal awning over opening



Option 2 – pop out roof line with stucco section



Project Review – deck walls:

Final approved plan – July 17, 2018

Concept Review Design



View from Alder and Sequoia



Shows additional windows, removed wing-wall separators between west facing decks, added banding between ground and second floor, increased landscaping and new parking area, screened with a fence and landscaping.



MORRO BAY
PUT LIFE ON COAST

Modification #2 – Deck walls:

Final approved plan – July 17, 2018



Existing condition of building
– all 2nd floor deck walls are
full height – including the end
of building walls

No Modification is suggested,
Owner is requesting approval of
existing conditions for deck walls

Project Review – finish on lower level:

Final approved plan – July 17, 2018

Concept Review Design



Shows increase in number of windows, addition of siding to the ground floor and wide white banding to separate ground floor from 2nd floor level.

View from Alder and Sequoia



MORRO BAY
PUT LIFE ON COAST

Modification #3 – Exterior wall finish north and south sides:

Final approved plan – July 17, 2018
with garage modifications shown



Existing condition – no banding, no siding, no color difference between ground floor and 2nd floor



CORNER OF SEQUOIA & BIRCH PRESPECTIVE

Proposed alternate – paint stucco to match siding color, add white banding to match east/west sides – change on north side only



Project Review: - landscape on west side

Concept Review Design



Final approved plan – July 17, 2018



Both show masonry planter wall with plants on both sides of the wall. PC conditions were to increase landscaping.



MORRO BAY
PUT LIFE ON COAST

Modification #3 – Landscape change to screen west wall:

Final approved plan – July 17, 2018



Existing condition

Proposed modification – add short screening fence with plants on both sides of the fence (fence not shown in this elevation)



MORRO BAY
PUT LIFE ON COAST

The Staff recommendation is for Approval of the Major Modification (MAJ20-003) to existing CUP/CDP/PKG Permits by adopting Planning Commission Resolution 18-20, which includes findings and conditions for approval of these modifications.





AGENDA NO: B-2

MEETING DATE: November 17, 2020

Staff Report

TO: Planning Commissioners

DATE: November 10, 2020

FROM: Cindy Jacinth, Senior Planner

SUBJECT: 560 Embarcadero: Conditional Use Permit Review (#UP0-200 / #UP0-244) in regard to repeated noise complaints received at the Thai Bounty restaurant

RECOMMENDATION:

Review staff report and provide direction to staff and/ or Permit holder as applicable

PERMITTEE/BUSINESS: Jorge Milanes, Thai Bounty

LEGAL DESCRIPTION/APN: 066-131-028

INTRODUCTION:

This project is a review of previously approved Conditional Use Permit #UP0-044 and Minor Use Permit #UP0-200 for the Thai Bounty restaurant located at 560 Embarcadero. The property is located on the east side of the Embarcadero adjacent to bluff top residential to the east as shown on the picture on the next page.

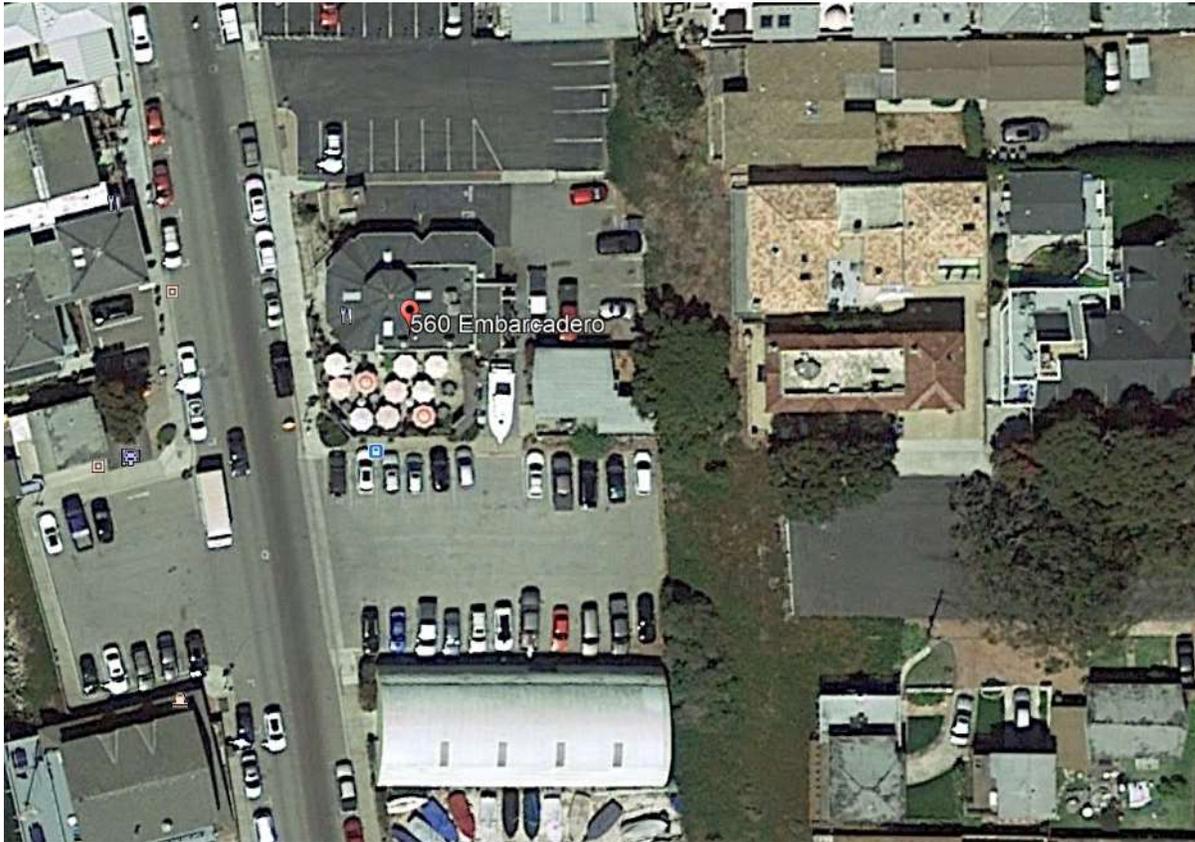
Over the last several months, the City has received numerous noise complaints regarding excessively loud music being played on the Thai Bounty patio. The previously approved planning permits for the property allow for the restaurant, bbq, and outdoor dining uses but did not specifically include allowance for music on the patio.

PERMIT BACKGROUND:

The project zoning is C-VS/PD/S.4 and the site is located within the Coastal Commission appeals jurisdiction. The Planning Commission approved #UP0-044 on November 15, 2004 for a restaurant use (Exhibit B). On January 13, 2009, a Minor Use Permit (#UP0-200) was approved for an outdoor dining area and grill (Exhibit C). Following that, #UP0-044 was administratively amended on April 23, 2010 to allow for outdoor dining changes (Exhibit D). Staff reviewed the property history and has included permit history relevant to the current CUP's review as noted below:

Prepared By: CJ

Department Review: SG



RELEVANT PERMIT HISTORY:

CP0-065/UP0-044: 11-15-2004 Planning Commission approved a coastal development permit and conditional use permit for restaurant use

UP0-200: 1-13-2009 Administrative MUP approval to locate an outdoor grill

Minor Mod: 4-23-2010 Administrative amendment to UP0-200, CP0-065, UP0-044 to allow modification to fence design and height and allow installation of a retractable canvas shade cover over enclosed outdoor dining area

MUNICIPAL CODE SECTIONS: The below are relevant municipal code sections regarding noise decibel levels and operations hours:

MBMC 17.52.030.A states that any business operation with sustained or intermittent noise levels exceeding seventy dB Ldn (or CNEL) as described by the noise

element...will not be allowed within one hundred feet of residential uses ..and other noise sensitive uses unless noise levels are mitigated in compliance with this section.

MBMC 17.52.030.B Operational Hours. All commercial and industrial deliveries and loud commercial activities such as loading and unloading, leaf blowers, bands with loudspeakers within 100 feet of a residential use shall be limited to the hours between 7a.m. and 10p.m.

NOISE COMPLAINTS

In response to the noise complaints, the Police Department has been to the site and previously issued a citation related to excessive noise on the patio (Report attached as Exhibit G). Then with no response from the business owner to address the noise complaints, on September 10, 2020, the City sent a Notice of Noise Complaints letter to Mr. Jorge Milanés, owner of Thai Bounty (Exhibit E). The letter formally notified Mr. Milanés of the noise complaints and requested his cooperation in mitigating the noise impacts on surrounding commercial and residential areas.

The letter provided 3 options in order to address the noise complaints: 1. Discontinue the playing of music on the patio and submit an application for amendment of permits to include outdoor music supported by an acoustic analysis; 2. Reduce music volume levels such that music cannot be heard beyond the property line; or 3. Discontinue playing of music on the patio.

To date, Mr. Milanés has refused to comply with the direction provided in the September 10, 2020 letter and he continues to play loud music on the patio and the City continues to receive complaints from surrounding neighbors.

Conditional Use Permit findings

All conditional use permits are required to have findings for approval which include (in part) that the proposed use will not impact health, safety, or general welfare. The specific findings approved with the restaurant use at 560 Embarcadero are listed below:

- C. *“The establishment, maintenance, or operation of the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the neighborhood of the proposed use, because the use is similar to other uses in the area and district and is a use permitted by ordinance and;*

D. The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City because the project, as conditioned, will be constructed and will operate in accordance with all applicable City standards and regulations intended to protect persons and property, as indicated in the staff report.”

PUBLIC NOTICE:

Notice of a public hearing on this item was posted at the site and published in the Tribune newspaper on November 6, 2020 and mailed directly to all property owners and occupants of record within 500 feet of the subject site. The notices invited the public to attend the hearing and express any concerns they may have regarding the proposed project.

ENVIRONMENTAL:

Environmental review was performed for this project and staff determined it meets the requirements for a Categorical Exemption under CEQA Guidelines Section 15301 Class 1a. The exemption applies to minor exterior alterations which would apply for noise mitigation. Additionally, none of the Categorical Exemption exceptions, noted under Section 15300.2, apply to the project.

CONCLUSION:

In response to the noise complaints, the Planning Division review of the permits found that the permits do not specifically include allowance for music on the patio. Given that the CUP approval requires findings that the use will not be detrimental to surrounding neighborhood, the complaints can be reviewed in relation to whether the patio is operating in compliance with the permits issued.

Given that Mr. Milanese is unwilling to work with staff to address the noise issue on the patio and given the City continues to receive noise complaints from neighboring property owners, it is staff's recommendation to prohibit the playing of music on the patio. Mr. Milanese would still have the option of submitting an application in the future to amend his existing permits to allow the playing of music on the patio, along with an acoustical analysis that mitigates noise impacts to adjacent property owners. The attached Resolution 19-20 amends both existing UP0-044 and UP0-200 to prohibit the playing of music on the patio.

EXHIBITS:

Exhibit A – Resolution 19-20

Exhibit B -- 11/15/2004 Planning permit CP0-065/UP0-044 approved by PC

Exhibit C – 1/13/2009 Minor Use permit UP0-200 approved by Director

- Exhibit D – 4/23/2010 Minor Modification to UP0-200, CP0-065, and UP0-044
approved by Director
- Exhibit E – City Noise Violation letter dated September 10, 2020
- Exhibit F – Public Correspondence Received
- Exhibit G – Police Department report
- Exhibit H – Powerpoint presentation

EXHIBIT A

RESOLUTION NO. PC 19-20

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION APPROVAL OF AN AMENDMENT OF CONDITIONAL USE PERMIT #UP0-044 AND MINOR USE PERMIT #UP0-200 SITE LOCATION: 560 EMBARCADERO ROAD

WHEREAS, the Planning Commission of the City of Morro Bay (the “City”) conducted a public hearing via video conference on November 17, 2020 for the purpose of considering an amendment of Conditional Use Permit #UP0-044 and Minor Use Permit #UP0-200, for minor modifications to outdoor dining and music, (“Project”); and

WHEREAS, pursuant to the Governor's Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19, the City of Morro Bay Planning Commission is authorized to hold public meetings via teleconferencing and all requirements in the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived; and

WHEREAS, notice of the public hearings were provided at the time and in the manner required by law; and

WHEREAS, the Planning Commission has duly considered all evidence, including the testimony of the applicant, interested parties, and the evaluation and recommendations by staff, presented at said hearing.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Morro Bay as follows:

Section 1: The foregoing recitals are all true and correct and are incorporated herein by this reference.

Section 2: Findings. Based upon all the evidence, the Commission makes the following findings:

California Environmental Quality Act (CEQA) Finding

Pursuant to the California Environmental Quality Act, the project meets the requirements for a Categorical Exemption under CEQA Guidelines Section 15301, Class 1a for alterations to existing facilities. Additionally, none of the Categorical Exemption exceptions, noted under Section 15300.2, apply to the project

EXHIBIT A

Conditional Use Permit Finding

1. The existing permits for the restaurant and outdoor patio do not expressly allow the playing of music on the patio and the City has received numerous noise complaints from neighboring property owners related to the volume of the music being played.
2. The City issued a letter on September 10, 2020 outlining options to address the noise issue on the patio and to date Mr. Milanés has refused to address the noise complaints in any meaningful way and the City continues to receive noise complaints related to the volume at which music is played on the patio.
3. The project, as amended, is in compliance with the General Plan and certified Local Coastal Program and will not be detrimental to the health, safety, and general welfare of persons residing or working in the surrounding neighborhood.

Section 3. Action. The Planning Commission does hereby approve an amendment to Conditional Use Permit UP0-044 and Minor Use Permit #UP0-200 for property located at 560 Embarcadero Road subject to the following conditions:

II. CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. Permit: Modification to Conditional Use Permit (UP0-044), and Minor Use Permit (UP0-200) to prohibit playing of outdoor music. The site is in the C-VS/PD/S.4 Commercial Visitor Serving Zoning District and is within the Coastal Commission Appeal Jurisdiction
2. Inaugurate Within Two Year: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this approval and is diligently pursued thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Said extensions may be granted by the Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. Changes: Additional minor changes may be approved by the Community Development Director. Any substantial change will require the filing of an application for an amendment.

EXHIBIT A

4. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicant's failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: Compliance with and execution of all conditions listed hereon shall be necessary, unless otherwise specified, prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Community Development Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
7. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation.
8. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code and shall be consistent with all programs and policies contained in the certified Coastal Land Use plan and General Plan for the City of Morro Bay.

PLANNING CONDITIONS:

1. The playing of music whether live or recorded shall be prohibited on the patio until such time as the applicant has submitted an application and received approval for outdoor music. Any such application shall be accompanied by an acoustical analysis that mitigates noise impacts to adjacent properties.
2. All conditions of approval associated with Permits UP0-044 and UP0-200 shall remain in full force and effect.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 17th day of November 2020 on the following vote:

EXHIBIT A

Planning Commission Resolution 19-20
UP0-044/UP0-200: 560 Embarcadero
Page 4

AYES:
NOES:
ABSENT:
ABSTAIN:

Chairperson Gerald Luhr

ATTEST

Scot Graham, Community Development Director

The foregoing resolution was passed and adopted this 17th day of November 2020.

November 17, 2004

Thomas Brajkovich
1009 Morro Street
San Luis Obispo, CA 93401

SUBJECT: Case No.: CP0-065/UP0-044 SITE: 560 Embarcadero

Dear Mr. Brajkovich

At its regular meeting on November 15, 2004 the City of Morro Bay Planning Commission conditionally approved your request for a restaurant and an addition of an ADA restroom to an existing commercial building. This action does not constitute a building permit. Any further processing of this project must be initiated by the applicant, subject to the applicable rules and regulations of the Morro Bay Municipal Code. ***Please be advised that you must return the enclosed Acceptance of Conditions form, signed, to this department within thirty (30) days of this approval or the action is null and void .***

The Morro Bay Municipal Code provides for an appeal of the action by the Planning Commission within ten (10) days of adoption and anyone wishing to appeal may do so in writing by delivering such letter to the office of the City Clerk. There is a fee for processing appeals which are not coastal permits.

Please also find enclosed the Notice of Exemption for your project. The City of Morro Bay no longer files notices of exemptions.

You may file the Notice of Exemption with the County Clerk's office located 1144 Monterey Street, San Luis Obispo. The filing Fee is \$25.00. You must also take the California Department of Fish and Game, Certificate of fee exemption enclosed.

Section 15062 (d) of The California Environmental Quality Act (CEQA) provides:

"The filing of a Notice of Exemption and the posting on the list of notices start a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. If a Notice of Exemption is not filed, a 180 day statute of limitations will apply."

Sincerely,

Bruce Ambo
Director Public Services Department

By: _____
Greig S. Cummings

enc: Permit, Findings, Conditions of Approval, and Acceptance of Conditions Form
cc Nancy Silva

COASTAL DEVELOPMENT PERMIT AND CONDITIONAL USE PERMIT
--

CASE NO: CP0-065/UP0-044**THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:**SITE ADDRESS: 560 EmbarcaderoAPPLICANT: Nancy SilvaAPN/LEGAL: 066-131-018/ Parcel 3, MB 78-198DATE APPROVED: November 17, 2004 APPROVED BY Planning Commission

CEQA DETERMINATION: Categorically Exempt Class 1

DESCRIPTION OF APPROVAL

THIS APPROVAL IS BASED UPON THE ATTACHED FINDINGS AND IS VALID ONLY IF CONDITIONS (ATTACHED) ARE MET AND ONLY AFTER THE APPLICABLE APPEAL PERIOD. Failure to comply with the conditions of this permit shall, at the discretion of the Public Services Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void.

YOUR PROPERTY IS LOCATED IN THE CITY OF MORRO BAY JURISDICTION, THERE IS AN APPEAL PERIOD OF TEN (10) *Calendar days*, WITHIN WHICH TIME YOUR PERMIT IS APPEALABLE TO THE CITY COUNCIL/PLANNING COMMISSION

YOUR PROPERTY IS LOCATED IN THE COASTAL COMMISSION APPEALS JURISDICTION: THE FOLLOWING COASTAL COMMISSION APPEAL PERIOD APPLIES TO YOUR PROJECT: This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. The applicant or any aggrieved person may appeal this decision to the Coastal Commission within TEN (10) *Working days* following Commission receipt of this notice. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, Ste. 300, Santa Cruz, CA 95060, Phone: 415-427-4863. If you have any questions, please call the City of Morro Bay Public Services Department, 772-6261.

IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE:

ATTEST: _____ DATE: _____

THIS IS A DISCRETIONARY APPROVAL AND DOES NOT CONSTITUTE A BUILDING PERMIT

EXHIBIT A

FINDINGS
UPO-044, CPO-065

California Environmental Quality Act (CEQA)

- A. The project qualifies for a Class 1 and Class 3 Categorical exemption under the California Environmental Quality Act (CEQA) because the project is a small addition to an existing structure and there is no potential for significant environmental impacts.

Conditional Use Permit Findings

- B. The project is an allowable use in the C-VS zoning district and is consistent with the certified Local Coastal Program and General Plan for the City of Morro Bay, based on the analysis and discussion in the staff report; and
- C. The establishment, maintenance, or operation of the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the neighborhood of the proposed use, because the use is similar to other uses in the area and district and is a use permitted by ordinance and
- D. The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City because the project, as conditioned, will be constructed and will operate in accordance with all applicable City standards and regulations intended to protect persons and property, as indicated in the staff report.

In-lieu Parking Fee

- E. Because additional parking cannot be reasonably provided on site and the required number of spaces is twelve the applicant shall pay the required in-lieu fee for the additional six parking spaces.

EXHIBIT B**CONDITIONS OF APPROVAL**

UPO-044, CPO65

STANDARD CONDITIONS

1. This permit is granted for the use as described in the staff report for the November 15, 2004, Planning Commission hearing and as depicted on plans received by the Public Services Department on October 1, 2004, ("Exhibit C" of the staff report).
2. **Inaugurate Within Two Years:** If the approved use is not commenced within two (2) years of the effective date of this approval, this approval will automatically become null and void. However, upon written request by the applicant prior to the expiration date of this approval, up to two (2) one-year time extensions may be granted. Said extensions may be granted by the Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. **Changes:** Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Public Services Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an amendment subject to Planning Commission review.
4. **Compliance with the Law:** All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval. This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
5. **Hold Harmless:** The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
6. **Compliance with Conditions:** The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
7. **Acceptance of Conditions:** Prior to obtaining a building permit and within thirty (30) days of the effective date of this permit, the applicant shall file with the Director of Public Services written acceptance of the conditions stated herein.
8. **Water Saving Devices:** Prior to final occupancy clearance, water saving devices shall be installed in the project in accordance with the policies of the Morro Bay Coastal Land Use Plan and as approved by the Building Official.

PLANNING CONDITIONS

9. **In-lieu Parking Fee:** Prior to building permit issuance, the applicant shall maintain six of the improved parking spaces now located on the site including the one ADA space. Because additional parking cannot be reasonably provided on site and the required number of spaces is twelve the applicant shall pay the required in-lieu fee. Unless the required fee is amended by the City Council, the applicant shall pay a fee of \$4,000 for each of the additionally required six spaces for a total of \$24,000.
10. **Screening of Equipment/Utility Meters/Fencing:** All roof-mounted air conditioning, or heating equipment, vents, ducts and/or utility meters shall be screened from view from adjoining public streets in a manner approved by the Director of Public Services. Prior to building permit issuance, the approved method of screening shall be shown on the project plans.
11. **Construction Hours:** Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. daily, unless an exception is granted by the Director of Public Services pursuant to the terms of this regulation.
12. **Exterior Lighting:** Pursuant to MBMC Section 17.52.080, prior to building permit issuance, complete details of all exterior lighting shall be shown on the project plans for review and approval by the Director of Public Services All exterior lighting shall be low level with a height of fixture not to exceed a maximum of 20 feet and shall achieve the following objectives; avoid interference with reasonable use of adjoining properties; shielded to minimize on-site and off-site glare; provide adequate on-site lighting; limit fixture height to avoid excessive illumination; provide structures which are compatible with the total design of the proposed facility.
13. **Landscape and Irrigation Plan:** Prior to the issuance of a building permit, a landscaping plan, prepared and stamped by a licensed Landscape Professional, (i.e., Landscape Architect, Architect, or Landscape Contractor) shall be submitted for review and approval by the Director of Public Services in accordance with all requirements of Section 17.48.290 of the MBMC. Said plan shall include a planting plan showing the species, number, size, and location of all plant materials. An irrigation plan shall include the proposed method and location of irrigation. Native and/or drought tolerant plant and tree species shall be used to the maximum extent feasible. Trees shall be selected from the Master City Street Tree List prepared by the Public Works Department. The landscape plans shall also include fencing details, utility meter screening, and screening of the trash enclosure.
14. **Maintenance of Landscaping:** All required plant materials shall be maintained in accordance with the watering schedule as specified in the approved landscape plan notes. All landscaping shall be cared for, maintained, watered, fertilized, fumigated, pruned and kept in a healthy growing condition for the life of the project. Where required plant(s) have not survived, it shall be promptly replaced with new plant materials of similar species, functional, size, and characteristics as specified in the approved landscape plant notes.
15. **Alcoholic Beverage Sales:** The applicant shall be required to obtain any necessary licenses from the State Alcoholic Beverage Control Board prior to commencement of any alcoholic beverage sales.

PUBLIC SERVICES DEPARTMENT

NOTICE OF FINAL ACTION ON COASTAL DEVELOPMENT PERMIT

NOTICE OF FINAL CITY ACTION on Coastal Development Permit No. CP0-065

THE FOLLOWING PROJECT IS LOCATED IN THE MORRO BAY COASTAL ZONE AND A COASTAL PERMIT APPLICATION HAS BEEN ACTED ON BY THE CITY.

Applicant: Nancy Silva

Address: 2899 Coral Avenue, Morro Bay, CA 93442

Project Description:

Project Location: 560 Embarcadero

APN/Legal: 066-131-018/ Parcel 3, MB 78-198 Lot Area 8,488 square feet

Zoning: C-VS/PD/S-4 LUP/General Plan Visitor Serving/District Commercial
 Filing Date: December 15, 2004 Action Date November 15, 2004

Action By: Planning Commission

Action Taken: Approved

Attachments: Permit, Findings, if any, and Conditions of Approval

- THIS SITE IS OUTSIDE OF THE COASTAL COMMISSION APPEAL JURISDICTION
- This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. The applicant or any aggrieved person may appeal this decision to the Coastal Commission within TEN (10) working days following Commission receipt of this notice. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, #300, Santa Cruz, CA 95060, 415-427-4863

APPLICANT'S ACCEPTANCE
OF
CONDITIONS OF APPROVAL

CASE NO. CP0-065/UP0-044

SITE LOCATION: 560 EMBARCADERO

APPLICANT NAME: NANCY SILVA

APPROVAL BODY: Planning and Building Director
 Zoning Administrator
 Planning Commission
 City Council

DATE OF ACTION: NOVEMBER 15, 2004

I, _____ the undersigned, have read and
(APPLICANT'S NAME - PLEASE PRINT)

reviewed the conditions of approval imposed by the Approval Body in its action

approving Case Number: CP0-065/UP0-044

I UNDERSTAND AND ACCEPT SAID CONDITIONS AND AGREE TO FULLY COMPLY WITH THEM.

APPLICANT'S SIGNATURE

DATE:

CITY OF MORRO BAY

NOTICE OF EXEMPTION

TO: San Luis Obispo Co. Clerk
 County Government Center
 San Luis Obispo CA 93401

FROM: City of Morro Bay
 Public Services Department
 590 Morro Bay Blvd
 Morro Bay, CA 93442

Office of Planning & Research
 1400 Tenth Street
 Sacramento, CA 95814

Project Title: Nancy Silva, CP0-065/UP0-044, Restaurant and addition of ADA restroom to commercial building.

Project Location - Specific: 560 Embarcadero

Project Location - City: MORRO BAY County: SAN LUIS OBISPO

Description of Project: Establish a restaurant use in an existing commercial building and add an ADA compliant restroom at 560 Embarcadero with conditions.

Name of Public Agency Approving the Project: CITY OF MORRO BAY

Name of Person or Agency Carrying Out Project: Nancy Silva

Exempt Status: (Check One)

Reasons why project is exempt: Small addition to a small existing building.

Ministerial (Sec. 21080(b)(1); 15268);

Categorical Exemption:
 Type and Section Number: Class 1 and Class 3

Declared Emergency (Sec. 21080(b)(3); 15269(a)

Section 15301 and 15303

Declared Emergency (Sec. 21080(b)(3); 15269(a)

Statuary Exemption Code No. _____

Lead Agency: CITY OF MORRO BAY

Contact Person: Greig S. Cummings Telephone: (805) 772-6261

Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Certification:

I hereby certify that the public agency has made the above finding and that the project is categorically exempt from CEQA.

 Signature Title: Planning Manager Date: November 17, 2004

California Department of Fish and Game
CERTIFICATE OF FEE EXEMPTION
 De Minimis Impact Finding

PROJECT TITLE & NUMBER: _CP0-065/UP0-044

Project Applicant

Name: Nancy Silva
 _Address: 2899 Coral Avenue
 City, State, Zip Code: Morro Bay, CA 93442
 Telephone #: (805) 772-5720

PROJECT DESCRIPTION/LOCATION: See attached Notice of Determination

FINDINGS OF EXEMPTION:

There is no evidence before this agency that the proposed project has the potential for adverse effect on wildlife resources for one or more of the following reason(s):

- (X) The project is located in an urbanized area that does not contain substantial fish or wildlife resources or their habitat.
- (X) The project is located in a highly disturbed area that does not contain substantial fish or wildlife resources or their habitat.
- (X) The project is of a limited size and scope and is not located in close proximity to significant wildlife habitat.
- () The applicable filing fees have/will be collected at the time of issuance of other City approvals for this project. Reference Document Name and No.
- () Other:

CERTIFICATION:

I hereby certify that the lead agency has made the above findings of fact and that, based upon the initial study and the hearing record, the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

Greig S. Cummings, Planning Manager
 City of Morro Bay

Date: November 17, 2004

MINOR USE PERMIT

CASE NO: UP0-200

THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:

SITE ADDRESS: 560 Embarcadero

APPLICANT: Phil Kispersky

APN: 066-131-018

LEGAL: Parcel 3, MB 78-198

DATE APPROVED: January 13, 2009

APPROVED BY: Director

APPROVED BASED UPON ATTACHED FINDINGS (*Findings and Conditions of Approval Attached*)

CEQA DETERMINATION: CATEGORICALLY EXEMPT CLASS 1 & 3

DESCRIPTION OF APPROVAL: Outdoor grill to be used in conjunction with a previously approved restaurant.

THIS APPROVAL IS CONDITIONAL AND IS VALID ONLY IF CONDITIONS (ATTACHED) ARE MET AND ONLY AFTER THE APPLICABLE APPEAL PERIOD. Failure to comply with the conditions of this permit shall, at the discretion of the Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void.

THERE IS AN APPEAL PERIOD OF TEN (10) Calendar days, WITHIN WHICH TIME YOUR PERMIT IS APPEALABLE TO THE PLANNING COMMISSION

IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: January 23, 2009

ATTEST:

DATE: January 13, 2009

Jaime Hill, Planner

FOR: Bruce Ambo, PUBLIC SERVICES DIRECTOR

THIS IS A DISCRETIONARY APPROVAL AND DOES NOT CONSTITUTE A BUILDING PERMIT

EXHIBIT A: FINDINGS
UPO-200

California Environmental Quality Act (CEQA):

- A. The project qualifies for a Class 1 and Class 3 Categorical exemption under the California Environmental Quality Act (CEQA) because the project is a small remodel to an existing structure that has been approved as a restaurant use and there is no potential for significant environmental impacts.

Minor Use Permit Findings:

- B. The project is an allowable use in the C-VS zoning district and is consistent with the certified Local Coastal Program and General Plan for the City of Morro Bay, based on the analysis and discussion in the staff report and approved permit CP0-065/UP0-044; and
- C. The establishment, maintenance, or operation of the proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the neighborhood of the proposed use, because the use is similar to other uses in the area and district and is a use permitted under CP0-065/UP0-044 and the minor improvements will not significantly change the use or operation; and
- D. The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City, because the project, as conditioned, will be constructed and will operate in accordance with all applicable City standards and regulations intended to protect persons and property.

EXHIBIT B: CONDITIONS OF APPROVAL
UPO-200

STANDARD CONDITIONS

1. This permit is granted for the continued use and minor improvements described above and as depicted on plans received by the Public Services Department on December 2, 2008 ("Exhibit C").
2. Inaugurate Within Two Years: If the approved use is not commenced within two (2) years of the effective date of this approval, this approval will automatically become null and void. However, upon written request by the applicant prior to the expiration date of this approval, up to two (2) one-year time extensions may be granted. Said extensions may be granted by the Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Public Services Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an amendment subject to Planning Commission review.
4. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval. This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
7. Water Saving Devices: Prior to final occupancy clearance, water saving devices shall be installed in the project in accordance with the policies of the Morro Bay Coastal Land Use Plan and as approved by the Building Official.

PLANNING CONDITIONS:

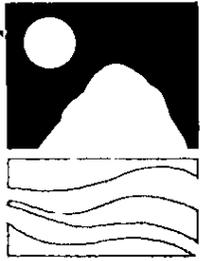
8. CP0-065/UP0-044/UPO-191: The applicant shall continue to be subject to all other conditions of the previous approval, unless modified by this permit.

FIRE CONDITIONS:

9. Open Burning Permit. An operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground. (CFC 105.6.30) The permit shall be renewed annually through the City Business License process. A permit may be obtained from Morro Bay Fire Department.
10. Distance from combustible construction. Open-flame cooking devices shall not be located within 10 feet of combustible construction. (CFC 308.3.1)
11. Spark Arrestor. The exhaust chimney shall be equipped with a one-quarter inch spark arrestor. (CFC 603)
12. Fire Extinguisher. Provide one fire extinguisher (2A10BC minimum) within 20 feet of the outdoor cooking appliance. (CFC 906.6)
13. Ash Disposal. Provide a lockable, metal dumpster (with metal lid) or canister, dedicated for ash disposal. (CFC 305.2)

PUBLIC WORKS CONDITIONS:

14. The BBQ area shall be built on a concrete pad with an area for containment of any wash water. This contained area shall be designed with a drain which shall not allow for stormwater to enter, and which shall drain into a grease trap prior to the sanitary sewer system.
15. With plans submitted for building permit review, include a narrative of the maintenance procedures for the BBQ area. This shall include, but not be limited to, how the facility will be cleaned, types of cleaning products proposed, and the management of the ash and grease waste.



City of Morro Bay

Morro Bay, CA 93442 • 805-772-6200
www.morro-bay.ca.us

April 23, 2010

Phil and Maureen Kispersky
583 Morro Avenue
Morro Bay, CA 93442

RE: Minor Modification to permits UP0-200, CP0-065 and UP0-044.

SITE: 560 Embarcadero

Dear Mr. and Mrs. Kispersky:

On April 23, 2010, the Public Services Director approved your request for a Minor Amendment to your existing permits UP0-200, CP0-065 and UP0-044 which previously approved a restaurant remodel, outdoor BBQ and Outdoor dining area enclosed by a fence to amend the permit subject to the conditions listed in exhibit B as follows:

A modification to the enclosure height and materials, the installation of a retractable canvas shade cover suspended over the patio area by wires and a reduction in the front yard setback and exterior side setback via setback averaging as provided for within the Waterfront Master Plan.

This action does not constitute a building permit. Any further processing of this project must be initiated by the applicant, subject to the applicable rules and regulations of the Morro Bay Municipal Code. Please be advised that you must return the Acceptance of Conditions form, signed, to this department prior to any building permit be issued on this approval.

The Morro Bay Municipal Code provides for an appeal of the action by the Public Services Director within ten (10) days of adoption and anyone wishing to appeal may do so in writing by delivering such letter to the office of the City Clerk. There is a fee for processing appeals, which are not coastal permits.

Sincerely,

Kathleen Wold
Senior Planner

Enclosures: Permit, Findings, Conditions of Approval

FINANCE
595 Harbor Street

HARBOR DEPARTMENT
1275 Embarcadero Road

ADMINISTRATION
595 Harbor Street

CITY ATTORNEY
955 Shasta Avenue

FIRE DEPARTMENT
715 Harbor Street

POLICE DEPARTMENT
850 Morro Bay Boulevard

PUBLIC SERVICES
955 Shasta Street

RECREATION AND PARKS
1001 Kennedy Way

**Minor Amendment to Permits UP0-200, CP0-065
and UP0-044**

CASE NO: Minor Amendment to Permits UP0-200, CP0-065 and UP0-044 to allow minor amendment to a existing permit to allow a modified fence design and height and to allow the installation of a seasonal canvas cover over the enclosed outdoor dining area. In addition a reduction of front yard and exterior side yard setback via setback averaging as provided for within the Waterfront Mater Plan.

THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:

SITE ADDRESS: 560 Embarcadero

APPLICANT: Phil and Maureen Kispersky

APN/LEGAL: 066-131-18 & 21

DATE APPROVED: April 23, 2010 APPROVED BY: Public Services Director

APPROVED BASED UPON ATTACHED FINDINGS (*Findings and Conditions of Approval Attached*)

CEQA DETERMINATION: EXEMPT

DESCRIPTION OF APPROVAL: A minor amendment to existing permit to allow a modified fence design and height and to allow the installation of a seasonal canvas cover over the enclosed outdoor dining area. In addition a reduction of front yard and exterior side yard setback via setback averaging as provided for within the Waterfront Mater Plan and the PD overlay.

THIS APPROVAL IS CONDITIONAL AND IS VALID ONLY IF CONDITIONS (ATTACHED) ARE MET AND ONLY AFTER THE APPLICABLE APPEAL PERIOD. Failure to comply with the conditions of this permit shall, at the discretion of the Planning & Building Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void. -

YOUR PROPERTY IS LOCATED IN THE CITY OF MORRO BAY JURISDICTION, THERE IS AN APPEAL PERIOD OF TEN (10) Calendar days, WITHIN WHICH TIME YOUR PERMIT IS APPEALABLE TO THE PLANNING COMMISSION

YOUR PROPERTY IS LOCATED IN THE COASTAL COMMISSION ORIGINAL JURISDICTION:

IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: May 3, 2010

ATTEST:


Kathleen Wold, Senior Planner

DATE: April 23, 2010

THIS IS A DISCRETIONARY APPROVAL AND DOES NOT CONSTITUTE A BUILDING PERMIT

ATTACHMENT A**FINDINGS**

CASE NO: Minor Amendment to Permits UP0-200, CP0-065 and UP0-044 to allow minor amendment to a existing permit to allow a modified fence design and height and to allow the installation of a seasonal canvas cover over the enclosed outdoor dining area. In addition a reduction of front yard and exterior side yard setback via setback averaging as provided for within the Waterfront Mater Plan and the PD overlay.

California Environmental Quality Act (CEQA)

That for purposes of the California Environmental Quality Act, the modification to permits UP0-200, CP0-065 and UP0-044 is Categorically Exempt from CEQA requirements under Class 1, CEQA Guidelines Section 15301(a), This exemption applies to minor alterations of private structures or facilities with no expansion of use.

There are no known sensitive environmental resources on the project site; consequently, this exemption is appropriate for this project.

Finding for the Amendment.

Pursuant to the condition 3 of permits UP0-200, CP0-065 and UP0-044 a Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Public Services Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an amendment subject to Planning Commission review Minor Amendment to existing permits may be allowed provided

The Public Services Director has determined that the project is a minor amendment to the existing permit and is in keeping with the original findings made for all permits associated with this use as well as the Waterfront Master Plan.

EXHIBIT B**CONDITIONS OF APPROVAL**

Minor Amendment to Permits UP0-200, CP0-065 and UP0-044 to allow a minor amendment to an existing permit to allow a modified fence design and height and to allow the installation of a seasonal canvas cover over the enclosed outdoor dining area. In addition a reduction of front yard and exterior side yard setback via setback averaging as provided for within the Waterfront Mater Plan.

STANDARD CONDITIONS

1. **Inaugurate Within Two Years:** If the approved Minor Amendment is not commenced within two (2) years of the effective date of this approval, this approval will automatically become null and void. However, upon written request by the applicant prior to the expiration date of this approval, up to two (2) one-year time extensions may be granted. Said extensions may be granted by the Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
2. **Compliance with the Law:** All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval. This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
3. **Hold Harmless:** The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
4. **Compliance with Conditions:** The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed here on shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

5. Acceptance of Conditions: Prior to obtaining a building permit and within thirty (30) days of the effective date of this permit, the applicant shall file with the Director of Public Services written acceptance of the conditions stated herein.

PLANNING CONDITIONS

1. The fence shall be constructed as follows: 3 feet of wood fencing with 4 feet of glass for a total of 7 feet on a 1 foot raised concrete pad. The posts/pilings shall be a maximum of 12 feet six inches in height inclusive of the 1 foot raised concrete pad. (Revised 6/9/2010—corrected height)
2. Prior to the installation of the canvas shade cover or the issuance a building permit for the installation of shade cover the applicant shall submit to the Planning Division an exhibit which details the design and color of the cover for approval by the Public Service Direction. Approval shall be based on the harmony of the color and design in relationship to the overall design of the project.
3. All other conditions of approval for permits UP0-200, CP0-065 and UP0-044 shall remain enforce.

FIRE DEPARTMENT CONDITIONS:

1. Flame propagation performance treatment. Before a permit is granted, the owner or agent shall file with the fire code official a certificate executed by an approved testing laboratory certifying that the proposed canopy is composed of material meeting the flame propagation performance criteria of NFPA 701, or treated with a flame retardant in an approved manner. (CFC 2404.2)
2. Label. Membrane structures, tents or canopies shall have a permanently affixed label bearing the identification of size and fabric or material type. (CFC 2404.3)
3. Certification. An affidavit or affirmation shall be submitted to the fire code official and a copy retained on the premises. The affidavit shall attest to the flame propagation performance criteria of the fabric. (CFC 2404.4)
4. Anchorage. Tents, canopies or membrane structures and their appurtenances shall be adequately roped, braced and anchored to withstand the elements of weather and prevent against collapsing. Documentation of structural stability shall be furnished to the fire code official. (CFC 2403.9)
5. Open or exposed flame. Open flame or other devices emitting flame, fire or heat or any flammable or combustible liquids, gas, charcoal or other cooking device or any other unapproved device shall not be permitted inside or located within 20 feet of the tent, canopy or membrane structures while open to the public unless approved by the fire code official. (CFC 2404.7)

7. Temporary Wiring. Temporary wiring for electrical power and lighting installations is allowed for a period not to exceed 90 days. The existing Christmas-Tree lighting around the perimeter of the patio dining area is not an approved use. (CFC 605.9)
8. Fuel-Fired Appliances. The installation of nonportable fuel gas appliance and systems shall comply with California Mechanical Code. All Installation shall be made in accordance with the manufacturer's instructions and applicable federal, state and local rules and regulations. (CFC 603.1)
9. Means of Egress. At least two exits shall be provided in this A-3 occupancy. (CFC 1019)
10. Posting of Occupant Load. Every room or space that is assembly occupancy shall have the occupant load posted in a conspicuous place, near the main exit or exit access doorway from the room or space. (CFC 1004.3)

APPLICANT'S ACCEPTANCE
OF
CONDITIONS OF APPROVAL

CASE NO. Minor Amendment to Permits UP0-200, CP0-065 and UP0-044 to allow a minor amendment to a existing permit to allow a modified fence design and height and to allow the installation of a seasonal canvas cover over the enclosed outdoor dining area. In addition a reduction of front yard and exterior side yard setback via setback averaging as provided for within the Waterfront Mater Plan.

SITE LOCATION: 560 EMBARCADERO

APPLICANT NAME: Phil and Maureen Kispersky

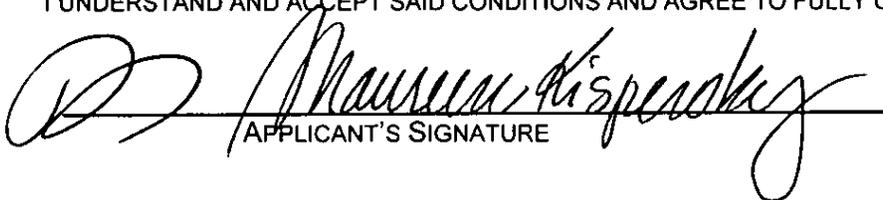
APPROVAL BODY: Public Services Director
 Planning Commission
 City Council

DATE OF ACTION: APRIL 23, 2010

I, PHIL & MAUREEN KISPERSKY the undersigned, have read and
(APPLICANT'S NAME - PLEASE PRINT)

reviewed the conditions of approval imposed by the Approval Body in its action

I UNDERSTAND AND ACCEPT SAID CONDITIONS AND AGREE TO FULLY COMPLY WITH THEM.

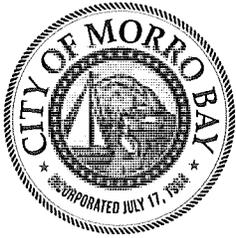

APPLICANT'S SIGNATURE

6.13.10
DATE:

RECEIVED

JUN 13 2010

City of Morro Bay
Public Services Department



CITY OF MORRO BAY
 COMMUNITY DEVELOPMENT DEPARTMENT
 955 Shasta Avenue
 Morro Bay, CA 93442

September 10, 2020

Jorge Milanes
 Thai Bounty
 560 Embarcadero
 Morro Bay, CA 93442

RE: Notice of Noise Complaints / Conditional Use Permits

Dear Mr. Milanes,

This letter is to inform you that the City has received numerous noise complaints for your business at 560 Embarcadero. These noise complaints focus on music being played on your outdoor patio/dining area in a manner that disturbs both residential neighbors located on the blufftop east of the restaurant and neighboring commercial businesses on the Embarcadero. As a result of these noise complaints, the Community Development Department initiated review of the planning permit history for the property.

Permit History:

- CP0-065/UP0-044: 11-15-2004 Planning Commission approved a coastal development permit and conditional use permit for restaurant use
- UP0-200: 1-13-2009 Administrative approval of an outdoor dining area and to locate an outdoor grill
- Minor Mod: 4-23-2010 Administrative amendment to UP0-200, CP0-065, UP0-044 to allow modification to fence design and height and allow installation of a retractable canvas shade cover over enclosed outdoor dining area

As noted above, the planning permits for 560 Embarcadero include approval for restaurant, bbq, and outdoor dining uses, but do not include approval of outdoor music. Also, Permit UPO-200 includes findings in association with the approval of the outdoor patio that indicate the “establishment, maintenance, or operation of the proposed use will not be detrimental to the health, safety, morals comfort and general welfare of persons residing or working in the neighborhood of the proposed use...”. The noise complaints appear to indicate that the restaurant is not operating in conformance with the noted finding and the approval for the restaurant and outdoor patio do not include allowance for the playing of outdoor music. Therefore, to address the noise complaints, the City is requesting your assistance in mitigating the impacts to the surrounding commercial and residential areas. To proceed, the options available are:

1. Discontinue the playing of music on the patio and submit an application for amendment of your permits to include outdoor music. As part of any such application you would need to submit an acoustical analysis prepared by a qualified firm that shows compliance with the City's Noise policies and identifies recommendations to mitigate noise impacts to the surrounding neighbors. You may also want the acoustical consultant to provide a baseline measurement of noise on the Embarcadero. We may be willing to allow music on the patio to continue while you pursue the aforementioned permit revision if volume levels can be reduced on the patio such that the music cannot be heard beyond the exterior boundary of the lot where the restaurant is located.
2. Reduce music volume levels such that the music cannot be heard beyond the exterior boundary of the lot where the restaurant is located.
3. Discontinue the playing of music on the patio.

You have five days from the date of this letter, to contact me regarding resolution to the noise compliant issue noted in this letter. Failure to make contact within the timeframe provided will result in the restaurant Use Permits being scheduled for review and amendment by the City's Planning Commission.

Please contact me at sgraham@morrobayca.gov or at 805-772-6291 no later than Tuesday September 15, 2020.

Sincerely,



Scot Graham
Community Development Director
City of Morro Bay
(805) 772-6291

Copy: Jason Nefores, Code Enforcement
Jody Cox, Police Chief

[REDACTED]

From: Chalice Markowitz [REDACTED]
Sent: Monday, November 09, 2020 10:01 AM
To: Cindy Jacinth
Subject: Case No:UP0-044/UP0-200

I would like to comment on the Thai Bounty noise complaint. I live nearby and though I don't directly hear their music from my house, I do hear it when walking closer to the restaurant, both on the Embarcadero and on Morro Avenue. Often, I have heard the music and observed that there wasn't anyone even eating outside on their patio. Once, I walked by and the restaurant appeared closed and the music was still playing.

I feel that the restaurant should be able to do just fine without the music playing. It's really annoying and detracts from our lovely neighborhood. I'm glad someone complained and I hope the city can stop the noise. I have often felt sorry for the people that have homes close to Thai Bounty.

Thank you.



Morro Bay Police Department

Jody Cox, Chief of Police
850 Morro Bay Blvd.
Morro Bay, CA 93442
(805) 772-6225 fax: (805) 772-2224

Scot Graham
Director, Community Development
City of Morro Bay
955 Shasta Ave
Morro Bay, CA 93442

Subject: Thai Bounty

Mr. Graham,

This purpose of this letter is to assist with an overview of the ongoing issues and concerns from the community, related to Thai Bounty Restaurant.

Statistics and responses related to Thai Bounty:

April 19, 2020 – November 1, 2020

- A total of 32 calls for service to the police from the community regarding loud music and COVID violations.
 - Complaining parties consist of the residential neighborhood to the east of Thai Bounty, and the neighboring businesses along the Embarcadero. Complaints are related to loud music disturbing their peace.
- Three citations issued by the police department, two for disturbing the peace (loud music), one for COVID violation (April 19, 2020) - serving people in the restaurant.
- Five, in person contacts from Chief Cox requesting Jorge Milanes to abide by local laws and State COVID mandates.
- During contacts, officers document a lack of cooperation from Jorge Milanes advising he does not agree with the policies. Officers also document Mr. Milanes is often intoxicated resulting in insults and profanity used toward the officers.
- On April 19, 2020 at 5:38 p.m., officers responded to Thai Bounty regarding a citizen complaining about a COVID violation. The police department previously received numerous complaints about Thai Bounty serving customers within the restaurant. April 19th, Mr. Milanes received a citation for failure to abide by the state mandate. This citation was given after more that a dozen warnings from officers and the Chief of Police.

- On October 11, 2020, at 3:00 a.m., patrol officers responded to Thai Bounty regarding a noise complaint. Officers arrived and found the business to be unsecured with all lights on and music playing. Officers checked the business and found no personnel inside. The business was closed and secured by officers. On this date, Jorge Milanes was arrested for being drunk in public near Main St. and Harbor St. It appeared that Mr. Milanes left his business unsecured and walked to the Siren where he consumed alcohol. Mr. Milanes was returning to his business when he violated the law and was contacted by officers. It was determined Mr. Milanes was unable to care for his own safety or the safety of others.
- On October 15, 2020 at 8:15 p.m., patrol officers were contacted by several citizens in the residential area to the east of Thai Bounty and by the business owner of Gray's Inn regarding a noise complaint, loud music from Thai Bounty. Officers had previously responded twice to Thai Bounty on this date, first trying to speak with Mr. Milanes about the music and asking him to turn it down, and a second time to issue a citation for disturbing the peace, loud music. Both incidents were recorded on officers' body worn cameras and showed an intoxicated and belligerent Mr. Milanes taunting officers to write him a citation and telling them to take him to jail. He used profanity and refused to comply with turning down his music. When officers left after the first warning, it appeared that Mr. Milanes turned the music up louder again taunting the neighborhood and officers. Officers returned to the business a third time and advised Mr. Milanes that he was at risk of being arrested for resisting or delaying a peace officer. Mr. Milanes again stated he did not care. After the officers left the business the music was turned down.

Summary:

It is unclear why the owner of Thai Bounty has become uncooperative with police and the city as it relates to the law and common courtesy for his surrounding businesses and neighbors. One common factor is the increased amount of alcohol that Mr. Milanes has consumed while working at his business. A report has been submitted to the Department of Alcoholic Beverage Control regarding the excessive noise, the consumption and abuse of alcohol by the owner of Thai Bounty, on the premises during business hours. Each contact with Mr. Milanes has grown increasingly unpredictable to where the only option is an arrest because of his lack of cooperation.

Additionally, 32 calls for service in a seven-month span is without question a nuisance to the community. Mr. Milanes's antics take time and precious resources away from the community impacting the overall safety and security of our citizens. The neighboring businesses are also being impacted by the noise disturbances on almost a nightly basis. The police department will be following up with a nuisance report and will be requesting an order issued to Thai Bounty. With the nuisance order, the business can be charged for each police response.

Mr. Milanes has been provided numerous alternatives and suggestions related to COVID mandates and noise ordinances. Mr. Milanes refuses to work with us as it relates to his business and the laws that govern a safe community. Officers have been yelled at, profanity used against them, and locked out of the open business as they have approached to conduct official business. This behavior has been an expressed concern to the community impacted, the officers and the

department who have been very professional and patient with Mr. Milanes. I am happy to provide any additional information or resources to assist in this matter.

Respectfully,

Amy Watkins, Commander
Morro Bay Police Department
(805)772-6237

Attachments:

MBPD Call for Service Log April 19, 2020 – November 1, 2020

Reference:

MBPD Crime Report Numbers 20001056, 20001112, 2004190023

Incident	Case Numbers	Units	Priority	Problem	Agency	Address	City	Response Date
2004190023		43S5	SHF 1	COVID On Site	San Luis Obispo Sheriff	560 EMBARCADERO RD	MORRO BAY	4/19/2020 5:38:15 PM
2005130004		43A7	SHF 2	415M Music	San Luis Obispo Sheriff	560 EMBARCADERO RD	MORRO BAY	5/13/2020 7:11:03 AM
2005130005		43A7	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	5/13/2020 8:10:04 AM
2006230011			SHF 2	Incomplete911	San Luis Obispo Sheriff	560 EMBARCADERO RD	MORRO BAY	6/23/2020 12:27:53 PM
2006290021		43S4	SHF 1	Parking Problem	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	6/29/2020 10:38:16 AM
2008130016		43A2	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	8/13/2020 12:43:31 PM
2008250030		43A4, 43A8	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	8/25/2020 5:40:47 PM
2008270032		43A2	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	8/27/2020 4:35:49 PM
2008290036		43A5	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	8/29/2020 11:26:31 AM
2008300003		43A13, 43A3	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	8/30/2020 2:44:05 AM
2008310060		43A5	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	8/31/2020 7:21:16 PM
2009060010		43M7	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/6/2020 10:20:35 AM
2009060040		43M7	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/6/2020 5:14:44 PM
2009060058		43A13, 43A3	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/6/2020 11:37:52 PM
2009070002		43A13, 43A3	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/7/2020 12:53:01 AM
2009080028		43A4	SHF 2	415M Music	San Luis Obispo Sheriff	560 EMBARCADERO RD	MORRO BAY	9/8/2020 2:50:02 PM
2009090034		43A8	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/9/2020 6:15:54 PM

Exhibit G

Exhibit G

2009090034		43A8	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/9/2020 6:15:54 PM
2009130013		43A7	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/13/2020 12:31:40 PM
2009150053		43A4, 43S2	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/15/2020 8:40:10 PM
2009160040		43S2	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/16/2020 8:24:00 PM
2009180029		43A2	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/18/2020 11:03:50 AM
2009180055		43A13, 43A9	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/18/2020 7:11:05 PM
2009190061		43A13, 43A3, 43A9, 43S5	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/19/2020 9:47:39 PM
2009230015		43A8	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/23/2020 11:59:55 AM
2009240042		43A9	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/24/2020 8:24:33 PM
2009290046		43A4, 43S2	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	9/29/2020 8:31:46 PM
2010010044	20001056	43A8	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	10/1/2020 5:30:34 PM
2010010051		43A4	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	10/1/2020 8:43:26 PM
2010040014		43S4	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	10/4/2020 11:10:14 AM
2010080042		43A9	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	10/8/2020 6:58:44 PM
2010110035		43A13	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	10/11/2020 7:21:24 PM
2010120006		43A9	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	10/12/2020 4:10:04 AM
2010150031	20001112	43A4, 43S2	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	10/15/2020 6:20:16 PM
2010290037		43A2	SHF 2	415M Music	San Luis Obispo Sheriff	560 Embarcadero Rd	MORRO BAY	10/29/2020 5:41:56 PM



EXHIBIT H

City of Morro Bay Planning Commission

**560 EMBARCADERO
#UP0-044 & #UP0-200
REVIEW OF CONDITIONAL
USE PERMIT**

**THAI BOUNTY RESTAURANT
PERMITTEE: JORGE MILANES**



NOVEMBER 17, 2020



MORRO BAY
PUT LIFE ON COAST

Conditional Use Permit Discussion:

- ▶ 11/15/2004 - #UP0-044 approved by PC
- ▶ 1/13/2009 – #UP0-200 approved by Director
- ▶ Permit history showed no approval for outdoor playing of music on the patio.
- ▶ 9/10/2020 – Noise Violation Letter sent to Thai Bounty business
- ▶ Planning permits require findings that proposed uses not impact health, safety, general welfare upon adjacent uses
- ▶ Repeated noise complaints remain unaddressed
- ▶ Project noticed as public hearing for PC review and action.



MORRO BAY
PUT LIFE ON COAST

Staff Recommendation:

Staff recommends amending the Conditional Use Permit #UP0-044 and #UP0-200 by adopting Planning Commission Resolution 19-20 which would prohibit playing of music whether live or recorded until such time as the applicant has submitted an application and received approval for outdoor music. Any such application shall be accompanied by an acoustical analysis that mitigates noise impacts to adjacent properties.



MORRO BAY
PUT LIFE ON COAST



AGENDA NO: B-3

MEETING DATE: November 17, 2020

Staff Report

TO: Planning Commissioners **DATE:** November 10, 2020

FROM: Scot Graham, Community Development Director
Cindy Jacinth, Senior Planner

SUBJECT: Continued Review of Adoption Hearing Draft of Plan Morro Bay: General Plan/Local Coastal Program Update

RECOMMENDATION:

Staff recommends the Planning Commission continue the review of the Adoption Hearing draft of Plan Morro Bay and provide recommendation to City Council for adoption.

CONTINUED HEARING:

This item was continued by the Planning Commission from its November 4, 2020 public hearing. Prior to that, the meeting was previously continued from the October 20, 2020 public hearing. Tonight's hearing is the third public hearing to review the Adoption Hearing Draft of Plan Morro Bay. At the two previous hearings, Planning Commission opened the public hearing, took public comment, and started its review of the Adoption Hearing draft.

As stated in previous staff reports, subsequent to the Planning Commission review on the 2018 public draft, staff received extensive comments from Coastal Commission staff in 2019. All comments received from the public, GPAC, Planning Commission, and Coastal Commission have all been taken into consideration for the final Adoption Hearing Draft. A summary of comments received and how the requested edits were incorporated and where they were included is in the online links below.

In addition, public correspondence was received by the Embarcadero Master Leaseholders, LLC dated 11/4/2020 and 10/20/2020 which is attached as Exhibit A. The letter includes comments on Land Use, Community Design, Circulation, Noise, Conservation, and Public Safety Element policies related to the Embarcadero.

Prepared By: CJ

Department Review: SG

CONCLUSION:

Staff recommends the Planning Commission take public comment, continue its review of the Adoption Hearing draft and provide recommendation to City Council for adoption.

Exhibits:

Exhibit A – Public Correspondence Received

ONLINE ATTACHMENTS:

Adoption Hearing Draft of Plan Morro Bay:

<https://www.morrobayca.gov/DocumentCenter/View/14876/Hearing-Draft-Plan-Morro-Bay-Oct-2020>

PC Comments Summary:

<https://www.morrobayca.gov/DocumentCenter/View/14871/PC-Comments-matrix>

Coastal Commission Comments Summary:

<https://www.morrobayca.gov/DocumentCenter/View/14870/CCC-Comments-matrix>

GPAC Comments Summary:

<https://www.morrobayca.gov/DocumentCenter/View/14872/GPAC-comments-matrix>

GP/LCP Comparison Chart (Comparison of old Element names to new Element name)

<https://www.morrobayca.gov/DocumentCenter/View/14869/GP-LCP-Comparison-Table>

2018 Public Draft Plan Morro Bay

<http://www.morro-bay.ca.us/DocumentCenter/View/11817/Plan-Morro-Bay-LCP-Public-Draft-May-2018>

Embarcadero Master Leaseholders, LLC

701 Embarcadero Road

Morro Bay, CA 93442

November 4, 2020

City of Morro Bay Planning Commission
Community Development Department
955 Shasta Street
Morro Bay, CA 93442

Dear Chair Luhr, Commissioners and staff,

Thank you for taking time to review our comments and continue to work with us regarding specific policies in the draft Plan Morro Bay.

The EML has taken additional time to separate out some of our earlier comments and to specifically address some of our significant concerns along with suggested language for the Commission's review. This attached document is formatted such that the proposed policy is in black text and the EML's comments and suggested language is in purple. If there is only an addition of text to the policy, we have shown that in purple italics. We hope this format makes it a little simpler to follow and review our comments.

Attached please also find the remaining policy comments that we had provided to the Commission on October 20. We have not included any suggested language for these policies but hope the Commission can take the opportunity review and address any questions that have been raised.

We will look forward to the upcoming Commission meetings and will make ourselves available to answer any questions you may have. Thank you in advance for your time.

Regards,



Paul Van Beurden
EML President

Board of Directors:

Paul Van Beurden, President, ninthdutch@yahoo.com

Smith Held, Vice-President, smithheld@sbcglobal.net

Bob Fowler, Secretary/Treasurer, BobF@meridianrealtyconsultants.com

Embarcadero Master Leaseholder's comments
November 4, 2020

POLICY LU-7.1: Lateral Access. All existing publicly used lateral accessways and areas shall be protected, preserved, and enhanced to the maximum possible extent, and new lateral accessways/areas shall be encouraged and provided, where appropriate. All lateral connections along the coast, with particular emphasis on the Embarcadero, shall be required to be improved and enhanced. All such connections shall be universally accessible. For new development (defined by the Coastal Act) adjacent to the bayfront or ocean, open and unobstructed public access shall be provided from the nearest public roadway to the shoreline and along the coast as required herein.

- g. Lateral access along the waterfront revetment may be achieved in the following manner:
- i. Walkways. In the form of open or enclosed unobstructed walkways, a minimum of 10 feet wide across the bayward side of the proposed development.
 - ii. Decking and/or boardwalks. Open and unobstructed exterior decking and/or boardwalks extending bayward a minimum of 12 feet (minimum of 10 feet of walkway).
 - iv. Connection to adjacent properties shall be planned for and implemented on a system wide basis.

Most of the lateral accessways on the Embarcadero have already been installed or approved in upcoming projects. Only a few, other than the access required on City owned properties, remain to be installed:

1. Associated Pacific (will have a 10' accessway when proposed)
2. The rental units south of Associated Pacific
3. Kayak Horizons (will have a 10' accessway when proposed)
4. The Aquarium building
5. Yacht Club
6. A portion of the Dutchman Seafood House (will have a 10' accessway when proposed)
7. Libertine Pub
8. Central Coast Fuel Dock (has 5' access now)
9. Santa Monica Seafoods
10. Tognazini's Dockside & Dockside II (Dockside has never completed the Harborwalk on the east side.
11. Morro Bay Oyster Company

City Owned Properties:

12. Coast Guard
13. PG&E Inlet structure
14. Harbor Dept.
15. Anchor Park
16. City ice machine
17. Tidelands Park

18. Street ends at Beach, Harbor, Centennial Stairway, Pacific, Marina and Driftwood

The accessways that are installed at 8 feet wide will, under his policy need to be upgraded to 10' (or is it 12'; see 7.1 g. i, ii and iv.

Nevertheless this policy requires those installed at 8' to be rebuilt to 10' or 12' upon a minor trigger such as a "change in land use designation, intensity of use or a change of use." (7.1 c.) This along with sections 7.1 d., e., f., seem to be too minor of a standard to require what may well be a very expensive retrofit. The only way to achieve the widened accessway where it already exists is to extend further out over the bay by a minimum of 2 feet plus. As we all know there are substantial obstacles to extending structures over the bay. If a cantilever design cannot be achieved then the only other alternative is to support the structure with pilings. That solution is fraught with complications with eelgrass and the prohibition of adding fill to the bay. The alternative is to widen the accessway by moving it into the occupied space of the building on the landward side. On a project recently built that is a very onerous condition to accept.

The effect of this is to discourage a Master Lessee from proposing a minor change in use. This needs to be a requirement imposed at the time that a major redevelopment or complete replacement of the building on the parcel is considered. We all, including the City, want these businesses to be able to adapt to changes in the market place and be able to accommodate uses that are appropriate without burdening the projects with impossible conditions. This would discourage a user wanting to make a change that otherwise would be good for the City.

Suggested language:

#c. **Change in use.** A change in land use designation requiring a major reconstruction of all or at least 50% of the property.

#d. delete

#e delete

#f delete unless needed in areas other than the Embarcadero waterfront.

#g Lateral access along the waterfront revetment may be achieved in the following manner:

- i. Walkways, decking or boardwalks in the form of open or enclosed walkways, a minimum of 10 feet wide across the bayward side of the proposed development.
- ii. Breezeways and/or walkways. Designated open breezeways and/or walkways within the structure, provided such breezeways are located as close as possible to the bay and designed to provide the most direct convenient connection between adjacent existing or potential lateral accessways. Exterior access is preferred over interior access.
- iv. Connection to adjacent properties shall be taken into consideration and planned for between adjacent property owners at the time construction plans are submitted to the City.

#h. Exceptions. The lateral access requirements specified above may be waived in the following situations:

- i. When the applicant can demonstrate, based on an engineering analysis, that all or a portion of such access is physically infeasible and there are no design alternatives capable of overcoming topographical or site constraints that jeopardize public safety and fragile coastal resources.
- ii. If continuous lateral access across the bayward portion of the parcel is found infeasible due to topographical or site constraints as defined in subsection (d)(i) of this section, the contribution of an in-lieu fee, equivalent to the cost of construction of an accessway along the bayward edge of the structure proposed, shall be paid to the City. Fees shall be used to coordinate the bayfront lateral and vertical access program, and shall be used to link lateral access where feasible and to improve vertical access provisions.

For our purposes here it applies to use of the lateral accesses by the general public and should protect the grantees of lateral access, except where there is "a willful or malicious failure to guard against a dangerous condition, use, structure or activity." It seems to the leaseholders that the fueling area and the fish unloading areas would fall under that exception and that additional precautions are needed to protect the public. This may be a legal question if the City can demand that an access is constructed when there is a clear and present danger for public and unsafe conditions that cannot be exempted.

If the lateral accessway is found to be infeasible an in lieu fee of the amount of the cost of construction doesn't seem to work. One of the reasons to have the in lieu fee is the potentially high cost of implementation. The in lieu fee needs to be established at some reasonable amount, perhaps a per linear foot fee, and what it is used for needs to be clearly defined. It should be spent on those lateral access areas that are City owned and within the Tideland Trust properties. Again, we don't want to discourage redevelopment or re-use of these properties so we need to make this a reasonably achievable goal.

Suggested language:

- i. Leave the public safety statement in the policy. So policy as written.
- ii. If continuous lateral access across the bayward portion of the parcel is found infeasible due to topographical or site constraints as defined in subsection (d)(i) of this section, the contribution of an in-lieu fee of \$_____ per linear foot shall be paid to the City for use in the establishment and construction of the lateral accessways on City owned properties such as but not limited to the Tidelands Park and the street ends at Harbor, Pacific, Marina, and Driftwood.

POLICY LU-7.3: Unobstructed Lateral Access. Furniture, windscreens, gates, fences, or other items shall not be placed in the area of pedestrian flow of a lateral accessway. Existing items of this sort shall be removed during future lease renewals or applications for improvements.

Part of the charm and attraction of the lateral accessways is the opportunity to enjoy the experience. Benches, windscreens, trash receptacles, potted plants and other amenities add to the ambience. We don't want this language to disallow those kinds of experience enhancing things to exist and we should want to encourage our Master Lessees and subtenants to provide those kinds of things. The lateral accessways are to be 10 feet wide, the ADA requirement is 4 feet, so there should be language that

requires a minimum of 4 feet clear or unobstructed accessway. If there is a particular issue for a particular accessway that can be dealt with in the approval process in the case of a new project or in the case of a lease renewal, in the lease itself.

Suggested language:

Lateral Access. Furniture, windscreens, gates, fences, or other items shall not be placed in areas that would obstruct pedestrian flow of a lateral accessway by a minimum of 4 feet clear.

POLICY LU-7.5: Coastal Access Amenities. Provide clear signage (including appropriate interpretive signs) and amenities (such as benches, picnic tables, trash and recycling service, bike racks, etc.) at all access ways points. (See also Policies CD-1.7 and CD-1.8)

Suggested language:

Coastal Access Amenities. Provide clear signage (including appropriate interpretive signs) and amenities (such as benches, picnic tables, trash and recycling service, bike racks, etc.) along the access ways. (See also Policies CD-1.7 and CD-1.8)

POLICY LU-7.8: Sea Level Rise Impacts on Lateral Access. The following monitoring and actions shall be taken to address issues related to sea level rise in lateral access areas:

The language in this section of the Plan is just too detailed for the purposes of this document. Besides that, this addresses just the lateral accesses. The lateral accesses only exist because the building and business enterprises are there. You have to address and protect the golden goose first and then the lateral accesses can be dealt with. The likelihood of sea level rise or the amount of such rise or the timeline of the rise occurring is speculative at best. To impose draconian mitigations, applicable in specific timeframes when the effects of the phenomenon are so nebulous is to be putting the cart before the horse. The statement here ought to be more generalized so that it can be applied if and when it is needed. To definitively call out the fixes for particular properties in particular timeframes is beyond what this document is designed to do and risks trapping us into doing fixes that may not be necessary or may be required in a much different timeframe.

Suggested language:

Sea Level Rise Impacts on Lateral Access. The following monitoring and actions shall be taken to address issues related to sea level rise in lateral access areas. The City shall evaluate whether any of the existing bayside lateral access in the 2050 inundation zone can be defended in that part of the Embarcadero. During lease renegotiations, raising of the bayside lateral access or installing floating access may be required if the existing bayside access cannot be defended. All lease sites affected through 2050 will need to be monitored for additional sea level rise impacts to lateral accessways through 2100 due to lease site vulnerability. When feasible, lease sites should be encouraged to implement floating bayside lateral accessways to improve design resiliency to sea level rise. Monitoring the need for improvements to the boat launch ramp will be done as part of this action. During lease renegotiations, raising of the bayside lateral access or installing floating access may be required in these areas if the existing bayside access cannot be defended.

- a. delete
- b. delete

- c. delete
- d. delete
- e. delete
- f. delete
- g. delete
- h. delete
- i. delete
- j. delete

Policy LU-8.7. **Embarcadero Coastal Hazards Standards.** In the Embarcadero area development shall include all feasible measures to avoid, or if avoidance is infeasible, to mitigate against coastal hazard threats and potential impacts to coastal resources. Fill and placement of materials in coastal waters, including shoreline protective devices in this area, shall be the minimum amount necessary, shall be allowable only where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects, consistent with the following:

- a. Upon the lease site approval or renewal, lease sites adjacent to the bayfront shall be required to relocate any underdeck utilities to a location above the sea level rise zone.
- b. Decks, piers, and other immobile bayside lateral accessways should be raised or reconstructed to heights above the sea level rise inundation zone.
- c. At-risk storm drains should be redesigned or relocated to maintain full function and prevent flooding as tides continue to rise.

First, this policy is under “GOAL LU-8: Morro Bay’s downtown and waterfront areas are active and welcoming locations for shopping, recreation, public access, visitor-serving needs, and coastal services.” So how does this section on coastal hazards apply to the particular language in the goal? See below for suggested relocation.

Second, this particular section is not necessarily appropriate for the Embarcadero. The Army Corps constructed the Embarcadero and rock revetment back in the 1940’s. So there is an approximate 80 year old structure that the City requires the leaseholders to maintain and repair when necessary but with this policy the City is requiring additional studies and in some instances limitations on what can be proposed as a project.

This policy would require an alternative analysis for “fill and placement of materials in coastal waters” which means piles, rock revetment, floating docks and any other things that are placed in the water. The applicants will be required and responsible for doing more studies to evaluate the least environmentally damaging alternatives for pilings, or rock rip rap, floating docks, repairs or reconstruction. The policy as written states that this “shall be allowable only where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects, consistent with the following: So does this mean if it is less environmentally damaging to have a vertical seawall rather than rip rap, then you will be required to take out the rip rap and put in a vertical wall rather than repair the existing rip rap?”

This could also mean that a Harborwalk or building would need to be cantilevered rather than supported by pilings. This may force a reduction in the size of the project so that it is even potentially feasible for a cantilever design. This policy as written also gives the City and Coastal Commission the authority to require the removal of the seawall and let it return to nature.

There will be a CEQA or equivalent review, and in some cases a proposed project will be exempt under CEQA that will consider the environmental impacts and incorporate mitigation measures to minimize the impacts of the proposed project where appropriate.

Additionally the language as presented potentially precludes a CEQA exempt determination especially for repair and maintenance as it states that the project “shall be allowable only where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects...”. The policy as written would trigger the need for an environmental analysis of the proposed project to determine whether it is the best alternative. The additional language included in the sub categories do not necessarily relate to the main goal in determining environmental feasibility of any alternative, minimum placement of fill and materials, or minimizing adverse environmental effects. Specifically the following:

a. Upon the lease site approval or renewal, lease sites adjacent to the bayfront shall be required to relocate any underdeck utilities to a location above the sea level rise zone.

The applicant or leaseholder will be **required** to “relocate any underdeck utilities to a location above sea level rise at the time of “lease site approval or renewal”. This is a complete unknown as a lease site may be required to elevate utilities above an existing level of a building that will not be feasible and at a point that the potential sea level rise point is well into the future. For example if a lease holder renews a lease 5 years after adoption of this policy, they will need to elevate the underdeck utilities well beyond a level of where the existing building is located. If there is an existing sewer line that that needs to be at the current level in order to flow to the city collection system and it is required to rise even a couple of feet, it may need a pump installed to get the wastewater to flow up and back down to the connection point. The underdeck utilities can also include a fire sprinkler system that is required to remain at its current location.

b. Decks, piers, and other immobile bayside lateral accessways should be raised or reconstructed to heights above the sea level rise inundation zone.

Docks, piers, and other immobile bayside lateral accessways “should” be raised to heights above sea level rise. Take note that the definition of “should” provided for in the Plan is stated as the following “Should” and “may” **are mandatory**, unless there is a compelling reason to do otherwise. How will this be done irrespective of the relationship to the existing building and adjacent sites, ADA standards and absent a defined period of time for this to be done that would necessitate planning for more than just one project area but more like the entire Embarcadero area.

c. At-risk storm drains should be redesigned or relocated to maintain full function and prevent flooding as tides continue to rise.

Taking into consideration that if there are storm drains that are at risk for flooding tides and/or sea level rise, then a greater issue is at hand for all the buildings and other developments that need to be considered on an area wide basis. Will this policy require the applicants to study the entire City storm drain system for the Embarcadero? Will this policy require that the applicant pay for relocation or one or more storm drains?

Consider the other polices in the Plan that encourage repair, maintenance and promote economic development.

Suggested language:

Consider moving this policy to Goal PS-3: Morro Bay is prepared for and responsive to the effects of sea level rise and other coastal hazards in both the short and longer term future.

Revise as follows:

Embarcadero Coastal Hazards Standards. In the Embarcadero area development shall include all feasible measures to avoid, or if avoidance is infeasible, to mitigate against coastal hazard threats and potential impacts to coastal resources.

#a - #c: Delete as these are undefined for specifics and create unintended consequences that cannot be remedied with a reasonable timeframe or with just one project.

IMPLEMENTATION ACTION CD-11 Decking for bayside lateral access decks shall be made of metal slats when eelgrass shading is an issue. Decking shall be made of timber when eelgrass shading is not an issue. Railings for all bayside lateral access decks shall be made of metal...

We believe the Commission has already decided to modify the language however a suggestion is below.

Suggested language:

Decking and railings for bayside lateral access decks shall be made of materials that are appropriate for the surroundings and grated decking for areas that may have an impact on eelgrass. This action will be incorporated into the Waterfront Master Plan when updated.

IMPLEMENTATION ACTION CD-13 New or replacement sections of the Harborwalk boardwalk shall use the same type of materials as the existing Harborwalk sections. If feasible, the lateral access icon shall be included on the Harborwalk by stamping or some other form of application. This action will be incorporated into the Waterfront Master Plan when updated.

The first part of this directly conflicts with #CD-11 as the other section requires metal or timber.

Suggested language:

If feasible, the lateral access icon shall be included on the Harborwalk by stamping or some other form of application. This action will be incorporated into the Waterfront Master Plan when updated.

IMPLEMENTATION ACTION CD-14 On-land lateral accessways (except the public sidewalk) shall be made of paved stained brick and shall include the lateral access icon incorporated into the pavement. This action will be incorporated into the Waterfront Master Plan when updated.

There is a caution that should be noted in using bricks as it may not be good to allow for water infiltration along the waterfront sites. Water flowing through this area may tend to carry the fines out to the bay creating additional sedimentation problems and leading to possible undermining on the site. The project engineer should be consulted prior to making this a requirement.

Suggested language:

On-land lateral accessways (except the public sidewalk) shall be made of paved stained brick or appropriate materials per the project engineer and shall include the lateral access icon incorporated into the material. This action will be incorporated into the Waterfront Master Plan when updated.

POLICY CIR-1.10: Goods Movement. Maintain smooth, consistent, and nonintrusive movement of trucks and goods through the city by way of truck routes, including working with businesses to minimize disruption to traffic flow during loading and unloading, and expanding designated commercial loading zones along the Embarcadero.

Expansion of loading areas should not displace existing parking.

Suggested language:

Goods Movement. Maintain smooth, consistent, and nonintrusive movement of trucks and goods through the city by way of truck routes, including working with businesses to minimize disruption to traffic flow during loading and unloading, and expanding designated commercial loading zones along the Embarcadero *as long as existing parking is not diminished.*

POLICY CIR-.2: Street End Pedestrian Connections. Create safer and more distinct lateral access connections across the street ends on the west side of the Embarcadero at Dunes, Harbor, Morro Bay Boulevard, Front, Pacific, Marina, and Driftwood Streets, including by relocating parking from these areas. (See also Policies LU-4.1, LU-4.5, LU-4.6, LU-7.1 through LU-7.6, and OS-1.6 and Implementation Action LU-19).

Parking is crucial in the Embarcadero area and its disbursement throughout the area is important. Rather than relocating parking to accommodate the street end Lateral Accessways the accessways should be built seaward over the rip rap areas or above the water areas west of the street ends.

Suggested language:

Suggested language:

Street End Pedestrian Connections. Create safer and more distinct lateral access connections across the street ends on the west side of the Embarcadero at Dunes, Harbor, Morro Bay Boulevard, Front, Pacific, Marina, and Driftwood Streets.

3 – F - Noise – Vibration - Vibration Decibels

There is a section discussion on vibration but no policies that refer to this. Why is it included? If language is included then it should be consistent with the draft EIR comments which states on page 4.10-16 “This analysis assumes that construction activity would not involve the use of vibration-generating pile drivers, as discussed in Impact N-1. There are no anticipated major sources of operational groundborne vibration in the city through the General Plan and LCP Update horizon;

therefore, this analysis focuses on potential vibration impacts during construction activity.” So therefore, marine construction should specifically be exempt for these policies.

Suggested language:

Acoustical Studies. Require an acoustical study for proposed projects in areas where existing or projected noise levels exceed or would exceed the maximum allowable levels established in this element. Adopt procedures to ensure project compliance with mitigation measures and enforcement of noise standards. *Marine, waterfront and harbor related temporary construction, such as pile driving, shall be exempt.*

IMPLEMENTATION ACTION NOI-5 Require acoustical studies for all discretionary development proposals that are likely to be exposed to existing or projected future noise levels that exceed the “normally acceptable” community noise exposure standard (Table NOI-3); and for projects that are likely to generate noise in excess of the community noise exposure standard (Table NOI-3); or as determined by the Community Development Director. For discretionary projects, acoustical analysis will be required at the time the application is accepted for processing. For development not subject to discretionary approval and/or environmental review, the requirements for an acoustical analysis shall be implemented prior to the issuance of a building permit.

Does this include marine related work? Does it include temporary construction noise? Suggestion below to add exemption.

Suggested language:

Require acoustical studies for all discretionary development proposals that are likely to be exposed to existing or projected future noise levels that exceed the “normally acceptable” community noise exposure standard (Table NOI-3); and for projects that are likely to generate noise in excess of the community noise exposure standard (Table NOI-3); or as determined by the Community Development Director. For discretionary projects, acoustical analysis will be required at the time the application is accepted for processing. For development not subject to discretionary approval and/or environmental review, the requirements for an acoustical analysis shall be implemented prior to the issuance of a building permit. *Marine, waterfront and harbor related temporary construction, such as pile driving, shall be exempt.*

POLICY NOI-3.3: Construction Shielding. Encourage shielding for construction activities to reduce noise levels and protect adjacent noise-sensitive land uses.

Does this include marine construction work? It appears from the main goal that this is for residential construction however to be clear, there should be a marine construction exemption since there are residential neighborhoods in close proximity to the waterfront.

Suggested language:

Construction Shielding. Encourage shielding for construction activities to reduce noise levels and protect adjacent noise-sensitive land uses. *Marine, waterfront and harbor related temporary construction, such as pile driving, shall be exempt.*

POLICY C-1.15 Eelgrass Protection. Continue to address and mitigate eelgrass impacts on a project-by-project basis using implementation guidelines from the California Eelgrass Mitigation Policy (CEMP) to promote eelgrass growth in the bay. In addition, investigate establishing an eelgrass mitigation bank.

Eelgrass has been a huge obstruction to development in the Bay and we need to establish less stringent protocols, so we need to keep open and encourage new policies that take actual conditions into consideration. Adding this language will keep the Plan current with any new federal regulations that are created.

Suggested language:

Eelgrass Protection. Continue to address and mitigate eelgrass impacts on a project-by-project basis using implementation guidelines from the California Eelgrass Mitigation Policy (CEMP) *or subsequent policies* to promote eelgrass growth in the bay. In addition, investigate establishing an eelgrass mitigation bank *and other mitigation or programs allowed for in the CEMP.*

POLICY PS-3.6: Shoreline Preservation as a City Goal. The Morro Bay shoreline is an irreplaceable resource and its preservation as a natural living shoreline is a matter of great public importance. Therefore, the intent of the Local Coastal Program is to ensure that shoreline protective devices and other shoreline altering development are only utilized in very rare situations and only when all coastal resource impacts are avoided, and where unavoidable are appropriately and proportionately mitigated, including consistent with Policies PS-3.7, PS-3.12, and PS-13.

The Embarcadero is different and should be recognized as such. This is State Tidelands and is set aside for commerce and navigation under the Tidelands Trust. This area with seawalls and other protective devices are found in other policies that indicate that they shall be maintained and repaired so this needs to be consistent with that direction.

Suggested language:

Shoreline Preservation as a City Goal. The Morro Bay shoreline is an irreplaceable resource and its preservation as a natural living shoreline is a matter of great public importance. Therefore, the intent of the Local Coastal Program is to ensure that shoreline protective devices and other shoreline altering development are only utilized in very rare situations and only when all coastal resource impacts are avoided, and where unavoidable are appropriately and proportionately mitigated, including consistent with Policies PS-3.7, PS-3.12, and PS-13. *Shoreline protective devices in the State Tidelands Trust from Morro Rock to Tidelands Park shall be allowed and maintained as consistent with other policies in this document.*

POLICY PS-3.7: Existing Shoreline Protective Devices. Repair and maintenance of existing legally established shoreline protective devices (including restacking dislodged rock rip-rap in revetments within the approved revetment profile and texturing/contouring a vertical seawall per the approved surface treatment, but not including replacement, augmentation, addition, or expansion) shall only be allowed if the shoreline protective device is required to protect existing structures (i.e., structures legally constructed prior to January 1, 1977, that have not been redeveloped since then) and coastal-dependent development in danger from erosion (i.e., when the development would be unsafe to use or occupy within two or three years). If it is not so required, then the shoreline protective device

shall be removed and the affected area restored. Any such allowable repair and maintenance projects shall include measures to address and mitigate for any coastal resource impacts the device is having, including with respect to public views and public recreational access. The City shall only be involved financially with public shoreline protective devices.

This could be interpreted to mean that shoreline protective devices cannot be repaired if there is no record of the development being legally constructed prior to January 1, 1977. The City and the County for that matter do not have good records of development prior to 1964 (City incorporation) and prior dates. This places the burden on the applicant to prove that the structure was legally constructed rather than recognizing that it may have been but there are no records. This in relation to the Embarcadero and not to other areas outside of this. What does it mean that the City will only be involved financially with public shoreline protective devices? Does this include the Tidelands Trust area even though the City has leased these areas and requires the master leaseholders to take care of the repair, maintenance or new construction?

Suggested language:

Existing Shoreline Protective Devices. Repair and maintenance of existing legally established shoreline protective devices (including restacking dislodged rock rip-rap in revetments within the approved revetment profile and texturing/contouring a vertical seawall per the approved surface treatment, but not including replacement, augmentation, addition, or expansion) shall only be allowed if the shoreline protective device is required to protect existing structures (i.e., structures legally constructed prior to January 1, 1977, that have not been redeveloped since then) and coastal-dependent development in danger from erosion (i.e., when the development would be unsafe to use or occupy within two or three years). If it is not so required, then the shoreline protective device shall be removed and the affected area restored. Any such allowable repair and maintenance projects shall include measures to address and mitigate for any coastal resource impacts the device is having, including with respect to public views and public recreational access. The City shall only be involved financially with public shoreline protective devices. *State Tidelands Trust from Morro Rock to Tidelands Park shall be allowed and maintained as consistent with other policies in this document and is exempt from this policy.*

POLICY PS-3.8: New Shoreline Protective Devices. New shoreline protective device development (including replacement, augmentation, addition, and expansion associated with an existing device) shall only be allowed where required to protect existing structures (i.e., structures legally constructed prior to January 1, 1977, that have not been redeveloped since then) and coastal-dependent development in danger from erosion (i.e., when the development would be unsafe to use or occupy within two or three years)... hazards. Such nonstructural options shall be used and prioritized wherever possible to protect coastal resources, including coastal habitats, public recreational uses, and public access to the coast.

Where such nonstructural options are not feasible in whole or in part, soft structural alternatives (sand bags, vegetation, etc.) shall be used and prioritized wherever possible before more significant shoreline protective devices are considered. Shoreline protective devices shall not be constructed to protect non-coastal-dependent development, development built on or after January 1, 1977 (including redeveloped structures), or where other measures/alternatives, including relocation, can adequately mitigate erosion hazards. All construction associated with shoreline protective devices and repair or

maintenance or augmentation of existing protection devices shall be designed to eliminate or mitigate adverse impacts to coastal resources. The City shall only be involved financially with public shoreline protective devices.

So this says that new seawalls “shall not be constructed to protect non-coastal-dependent development, development on or after January 1, 1977 (including redeveloped structures), or where other measures/alternatives, including relocation, can adequately mitigate erosion hazards”. This policy seems to be in direct conflict with other policies discussing repair and maintenance of the revetment along the Embarcadero. This policy also leaves the open concept that the buildings on the Embarcadero may not be able to install protective devices but rather to consider other alternatives, such as relocation, should be considered. Does the City need to add clarifying language regarding the Embarcadero if this area is not meant to be included in this policy? The City should only be involved financially with public shoreline protective devices so, how does this impact, or not, the Embarcadero?

Suggested language:

New Shoreline Protective Devices. New shoreline protective device development (including replacement, augmentation, addition, and expansion associated with an existing device) shall only be allowed where required to protect existing structures (i.e., structures legally constructed prior to January 1, 1977, that have not been redeveloped since then) and coastal-dependent development in danger from erosion (i.e., when the development would be unsafe to use or occupy within two or three years)... hazards. Such nonstructural options shall be used and prioritized wherever possible to protect coastal resources, including coastal habitats, public recreational uses, and public access to the coast.

Where such nonstructural options are not feasible in whole or in part, soft structural alternatives (sand bags, vegetation, etc.) shall be used and prioritized wherever possible before more significant shoreline protective devices are considered. Shoreline protective devices shall not be constructed to protect non-coastal-dependent development, development built on or after January 1, 1977 (including redeveloped structures), or where other measures/alternatives, including relocation, can adequately mitigate erosion hazards. All construction associated with shoreline protective devices and repair or maintenance or augmentation of existing protection devices shall be designed to eliminate or mitigate adverse impacts to coastal resources. The City shall only be involved financially with public shoreline protective devices. *State Tidelands Trust from Morro Rock to Tidelands Park shall be allowed and maintained as consistent with other policies in this document and is exempt from this policy.*

IMPLEMENTATION ACTION PS-13 Require new development in the Sea Level Rise Hazard Overlay Zone to evaluate potential impacts to adjacent or nearby properties from all proposed structural flood protection measures to ensure that these measures will not create adverse direct and/or cumulative on-site or off-site impacts.

On page 4-128 the last paragraph says “For all other areas outside of the Harbor, Marina, area immediately adjacent to the shoreline, and Working Waterfront Area, development shall be sited and designed in a manner consistent with the following policies.”

So this is more of a question and confirmation regarding the waterfront. Is the Embarcadero exempt from this policy?

GLOSSARY

Coastal Dependent and non-coastal dependent are not included in the glossary however these terms are used frequently in the Plan.

Embarcadero Master Leaseholder’s comments
October 20, 2020

POLICY LU-7.1:

#h.iii. ... for no more than 30 minutes prior to that activity and 30 minutes after that activity.

There should not be any time limits in this policy document as it is not the appropriate place for this. If anything, it should go in the Waterfront Master Plan. Hard and fast or specific times are difficult to control. For example, if you have seafood unloading and need to bring in semi-trucks the night before and set up the wharf with scales and other unloading equipment the night before so that when the boat arrives, you are ready to work. If the accessway is required to be open at sunrise and the boat is delayed because of weather and can't get to the dock until 10, this would be in violation of the policy because the accessway was closed the night before to allow enough time for set up and therefore technically has exceeded the 30 minute timeframe. Now the City may say that's not the intent but the policy however as written, it certainly leaves too much room for interpretation and room for complaints from those that do not understand the logistics of working in these situations.

Policy LU-8.4. **Embarcadero.** Investigate the feasibility of one-way closure or full closure of Embarcadero to create a pedestrian plaza.

There was a clear consensus recently that the Embarcadero merchants did not want one way traffic so why is it a policy to "investigate" this?

POLICY CD-1.7: Compliant Lateral Access Signage. ...“Whenever the City of Morro Bay enters into a Tidelands lease agreement with any individual or business entity, whether as a new agreement or a lease renewal, a requirement that all nonconforming signs at the site be removed or made to conform to the provision of this Chapter shall be incorporated into such lease agreement.” ...

Does this mean the businesses lose their entitlements for nonconforming signs? Does this mean if the signs are conforming now and the Zoning Code is updated and changes the standards that all the signs will then become nonconforming and need to be removed? Will this allow for a permit of nonconforming signs?

IMPLEMENTATION ACTION CD-9 All floating public lateral accessways shall have uniform and compliant signage and shall maintain clearance and access. If clearance and access are temporarily unavailable for safety reasons, temporary signage shall indicate that. This action will be incorporated into the Waterfront Master Plan when updated.

What does this mean? Isn't this already covered?

IMPLEMENTATION ACTION CD-10 Lateral access at lease sites with coastal-dependent uses that requires temporary closure for safety or other operational purposes shall

be allowed only during active unloading for 30 minutes before or after and when the use is not occurring or is occurring but safe to coexist with pedestrians...

This is not quite the same as on page 3-46 #h.iii. The time should not be included in the Plan but more definition in the Waterfront Master Plan. See other comments from previous section.

IMPLEMENTATION ACTION CD-12 ...The pavement icon shall be included in all new on-land pavement along the lateral access alignment in the lateral access focus area. If feasible, the icon should also be included on new or replaced sections of the Harborwalk by stamping or some other form of application. This action will be incorporated into the Waterfront Master Plan when updated...

It may be difficult to have a stamped or other icon imbedded into the fiberglass grating.

IMPLEMENTATION ACTION NOI-9 Develop and employ procedures to ensure that noise mitigation measures required pursuant to an acoustical analysis are implemented in the development review and building permit processes.

What does this mean? How is the City going to do this? Isn't this already covered under the CEQA review and inserted as a mitigation measure?"

POLICY C-7.18: Wastewater Marine Impacts. Wastewater disposal systems which minimize or eliminate marine resource pollution, and which provide for reclamation of wastewater for reuse, shall be required. New development, including redeveloped structures, shall connect to the public wastewater treatment system.

This policy does not consider tidal flows. There are certain instances, such as King Tides, that can have significant tidal differences which would make it virtually impossible to run enough sewer line length to accommodate for this fluctuation. Along with that, we saw extremes when there was the Tsunami which again would require a project to calculate and design a pipe system that would be long enough to account for the rise and fall.

In addition, this is inconsistent with policy LU-8.7.a which requires any underdeck utilities to a location above sea level rise. How would this be done?

POLICY C-7.23: Preservation of Morro Bay Estuary. ... to regularly evaluate the health of the complete estuary ecosystem. Adjust local and regional requirements and prohibitions on development, building design, water craft usage, pollution control, and other important issues to maintain the quality of the estuary system.

Who is going to regularly evaluate the complete estuary ecosystem? What is the potential cost? Is this funded from the Harbor Dept. budget? What does "regularly" mean in the context of time?

POLICY C-9.9: Infrastructure, and Utility Requirements. ... If undergrounding is not possible, an in-lieu fee shall be paid toward future undergrounding.

What is the cost of the in-lieu fee? How will this cost be determined?

IMPLEMENTATION ACTION C-34

Establish an in-lieu fee program to fund infrastructure and utility undergrounding efforts.

Same questions as above.

IMPLEMENTATION ACTION OS-4. Implement an incentive program for local waterfront businesses and leaseholders to encourage regular maintenance and upgrades of infrastructure at nearby trails or parks.

This policy says to provide incentives do maintenance and upgrades to local parks and trails so the City needs to figure out a way to make this easy to do and not difficult by requiring more permits.

4D – Public Safety

The Embarcadero

While the Embarcadero rests at a relatively higher elevation and can endure some sea level rise,...The area currently is generally armored by revetments and bulkhead walls, but these structures will need to be maintained and improved to ensure resiliency to sea level rise.

Several polices in this document do not make it easy to maintain and improve the revetments but rather make it extremely costly and a mountain of extra studies to get there. Other policies require that the least environmentally damaging alternative be proposed so how is this policy to maintain and improve consistent with the other policies that appear to say the revetment maybe not be such a good idea anymore. See policy PS-3.6 which appears to conflict with this statement.

POLICY PS-3.1: Definitions. The following definitions apply in the Goal PS-3 policies below:

Shoreline protective devices: Structures...but not limited to seawalls, revetments, gunite, sheet piles, breakwaters, groins, bluff retention devices, retaining walls, and pier/caisson foundation and/or wall systems.

POLICY PS-3.10: Shoreline Management Plan. The City shall prepare a Shoreline Management Plan for approval by the Coastal Commission as an amendment to the Local Coastal Program... The plan shall be prepared in coordination with relevant local, regional, and/or state agencies for the purpose of protecting coastal resources, as well as ensuring the resilience of coastal public infrastructure.

How long will it take to prepare a Shoreline Management Plan? What is the cost? Will this come out of the Harbor budget? The Plan shall be prepared in coordination with other government agencies so how will that be done? Will these other agencies have the final say

and direct the City to do it a specific way? How do you resolve differences between agencies?

The Shoreline Management Plan may be amended every five to ten years, as appropriate, by the City Council, and adopted by the Coastal Commission through the Local Coastal Program amendment process. For all other areas outside of the Harbor, Marina, area immediately adjacent to the shoreline, and Working Waterfront Area, development shall be sited and designed in a manner consistent with the following policies.

This should be a larger heading to make clear the following policies are not related to the Harbor area because is confusing and not readily apparent that polices are not including the harbor area when you read separately. Some polices state in the sea level rise zone, which the Embarcadero is and makes it more confusing.

IMPLEMENTATION ACTION PS-6. Work with property and business owners whose assets are exposed to flooding from sea level rise to adapt to the anticipated hazards in the 50-year time horizon. If an asset cannot be sufficiently protected from coastal flooding, establish a timeline for relocation. Ensure that the timeline includes the following activities:

- Securing land for the relocated asset, either an infill site or a suitable undeveloped location.
- Permitting and environmental review activities.

- Deconstruction and reconstruction.

Is the Embarcadero and Harbor outside of this and therefore not required? If so, should a statement be included to clarify? There are areas along the Embarcadero that have been identified as in the flooding and 50-year time horizon.