



AGENDA NO: A-3

MEETING DATE: September 12, 2023

**AGENDA CORRESPONDENCE
RECEIVED BY THE CITY COUNCIL FOR
PUBLIC REVIEW PRIOR TO THE MEETING**

Heather Goodwin

From: Sean Green <[REDACTED]>
Sent: Tuesday, September 12, 2023 8:38 AM
To: City Clerk Distribution Group
Cc: Council
Subject: Council Agenda Item A-3: Maritime Museum Lease Renewal

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

Council and staff,

Of all the entities receiving subsidized rent on city-owned properties, the Maritime Museum successfully serves as an ideal model for how to earn your keep (and more). The dedication, hard work, and ambition of the Museum's leadership and volunteers have resulted in not only a constantly improving tourist attraction but a representative landmark for our coastal city as well. Big thanks to everyone involved in their past, present, and future efforts.

Sincerely,

Sean Green
Morro Bay, CA

Heather Goodwin

From: Jeffrey Heller [REDACTED] >
Sent: Sunday, September 10, 2023 12:00 PM
To: Council
Subject: Agenda Correspondence - Item A-3 - Reg. CC Mtg 9/12/23

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Dear Council and staff

I greatly appreciate the proposed 10 year lease between the City and the Central Coast Maritime Museum. We pride ourselves in providing free access to significant historical maritime information to adults and children. The museum has become a "must see" destination for families and visitors from the region and around the world. Granting us a 10 year lease as well as additional land will allow us to continue our mission.

Thank you all so much!

Jeff Heller
Volunteer



AGENDA NO: A-5

MEETING DATE: September 12, 2023

**AGENDA CORRESPONDENCE
RECEIVED BY THE CITY COUNCIL FOR
PUBLIC REVIEW PRIOR TO THE MEETING**

Morro Bay residents and stakeholders,

Please take note that this evening, unless a brave Council member chooses to pull Consent Agenda Item A-5 for further deliberation, decisionmakers plan to sign yet another lease extension at Tidelands Trust site 86/86W (801 Embarcadero), a site whose redevelopment has been publicly discussed for decades, whose master lease expired 5 years ago (2018), whose interim lease and exclusive rights were granted 3 years to its current tenant with fresh promises of redevelopment (2020), whose interim lease and exclusive rights were then renewed a year later despite little public evidence of progress, and, whose interim lease and exclusive rights, most recently, were again renewed in September 2022 despite an unsuccessful concept plan at the February 2022 meeting of our Planning Commission (19 months ago).

Today marks another emergency extension, this time to prevent the expiration of the interim leaseholder's tenancy set to expire September 30, 2023.

By signing the agreement in today's Item A-5, an agreement that provides 22 more months of interim tenancy with little in return, Council misses an opportunity to break from the harmful patterns of our past. Negotiated by city staff during closed session meetings of City Council, the proposed contract, as written:

- prolongs a dysfunction that our City policies specifically aim to correct
- jeopardizes the Harbor Fund's solvency in the name of patience
- deters outside competition for expired master lease sites despite policies that dictate otherwise
- elevates private waterfront entities above the general public whose lands they occupy

Certainly, this discussion could have been considered mostly moot and redevelopment delays easier to stomach had the expired master lease site 86/86W been generating significant revenue for the Harbor Fund during these several extension periods. Unfortunately, the financial contributions from 801 Embarcadero have been underwhelming, especially in percentage terms relative to its location at the center of Embarcadero, and almost immaterial relative to the Harbor Fund as a whole. Frankly, a vacant lot generating no revenue at this key location may very well have offered just as much value to Morro Bay by way of expanded ocean views, open space activities, and pedestrian access between Centennial Parkway and the bay, a corridor through which it is surprisingly difficult to see any water at all.

To this end, a series of renderings were created in 2022 and submitted by email to city staff, planning commissioners, and city council members as part of a competitive effort for expired master lease site 86/86W. These renderings and accompanying concept summary incorporated city history, multi-use space, and expanded view corridors into its unsolicited proposal; more importantly, they showed what's possible at the heart of the Embarcadero with a little imagination.



Old 5th Street Terminal at 801 Embarcadero (east elevation)



Old 5th Street Terminal at 801 Embarcadero (bay side)

Yet, because the interim lease and exclusive rights between City and current tenant were never allowed to lapse, and because an RFP has still not been released (as the 2020 Harbor Lease Policy mandates for expired and expiring master leases), the renderings above achieved nothing more than to create excitement for an impossibility.

Meanwhile, the renderings below were presented publicly at the February 1, 2022 meeting of Planning Commission by the interim leaseholder:



Morro Bay's waterfront is a special place. We all know that. And we should all appreciate the Waterfront Master Leaseholders (WMLs) who do their part to invest in, beautify, maintain, and financially support this essential piece of our city. But when we squander opportunities to maintain and improve our waterfront offerings in a timely and financially responsible way, as we have done on so many recent occasions, we're only shooting ourselves in the foot.

Understandably, Morro Bay residents may not be fully tuned into the intricacies of the rather complex Harbor Enterprise Fund, its relationship to our City's similarly complicated custodianship of Tidelands Trust lands, and the management structure of our waterfront leases. Suffice it to say that opportunities exist to improve the management of private leaseholds along the public waterfront that will pay dividends for years, and new Harbor Director Schiafone and City Manager Kimball, with Council's help, appear to be the right people to lead that charge. Today's Consent Agenda Item A-5, if pulled and reconsidered by Council and staff, represents an early opportunity for new players to study past mistakes and to hold ourselves collectively accountable to the policies we've specifically created to avoid these mistakes in the future.

Offering strong, compliant, thriving businesses the opportunity to operate long-term along our unique public waterfront is an essential component of a successful Morro Bay waterfront. Thankfully, we have many such entities. That said, open competition for expired, expiring, or underperforming master lease sites is another essential component of a successful waterfront. Today marks another opportunity to help right the ship.

Respectfully submitted,

Sean Green
Morro Bay, CA



AGENDA NO: B-1

MEETING DATE: September 12, 2023

**AGENDA CORRESPONDENCE
RECEIVED BY THE CITY COUNCIL FOR
PUBLIC REVIEW PRIOR TO THE MEETING**

Heather Goodwin

From: Lorna Buis [REDACTED] >
Sent: Sunday, September 10, 2023 4:49 PM
To: Council
Subject: Site Location: 1140 Allesandro, Morro Bay

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

My residence is directly across from the proposed construction. The current plan is absurd in relation to the parking. Also I feel the definition of light manufacturing use is too vague and doesn't address the noise issue of same. PLEASE come and see the sight for yourself. Thank you for your consideration. Lorna Buis

Heather Goodwin

From: STEVE RYAN [REDACTED] >
Sent: Saturday, September 9, 2023 11:32 AM
To: Council; Council
Subject: 1140 Allesandro St.

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

My name is Steve Ryan, I live at [REDACTED] in Morro Bay.
I'm emailing you regarding the project at 1140 Allesandro St.

I am not in favor of the building project. I feel it's over building of the area. On the Marengo side I feel that the units being almost 30' tall will block the view of the hills.
The buildings don't "fit" in the neighborhood.
Some concerns of mine are what type of business will be allowed to in these "Live-Work" units. Could they be an artist, attorney, auto repair, who makes this determination?
What's to stop these from being used as vacation rentals?
Parking has not been adequately addressed on the Marengo side, will there be enough room for emergency vehicles?

I do understand the need for housing in Morro Bay, but this proposed mix used project isn't the answer for this area.
Thank you for your time and consideration regarding this matter.

Sincerely,
Steve Ryan
[REDACTED]
Morro Bay

Heather Goodwin

From: Cathy Ryan <[REDACTED]>
Sent: Saturday, September 9, 2023 10:16 AM
To: Council
Subject: Project at 1140 Allesandro

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

Dear Council Member:

My name is Cathy Ryan and I live at [REDACTED], Morro Bay. I have been a citizen of this town for 74 years. I have lived on Marengo Drive for 60 of those years. My parents' home was on [REDACTED]. I have listed some of my concerns below but there are many more.

This project is boxing our street in and taking away any view or feeling of openness, which is why those of us live here. This has always been an industrial area for many years and not residential. I don't think there is any way you will be able to offer us any assurance that things will work out as you have planned or that the plans you pass will be followed.

The developer doesn't live in this area, so he doesn't care about our neighborhood.

CONCERNS OF ALLESANDRO BUILDING PROJECT

What type of businesses will be allowed in the live/work units? Will there be any limitations regarding that?

Where will customers park?

What about the number of handicapped parking spaces?

What about traffic, 5-way stop? (Allesandro, Marengo, Belle Vista)

What about parking on Marengo, front door facing Marengo?

The street doesn't allow for a car to pass a delivery truck, trash pick up, etc. while another car is parked on Marengo Drive.

What about the congestion on Allesandro with the Storage Unit customers and the trucking company?

Is there any concern for our neighborhood getting "boxed in" by having three stories?

Sincerely,

Cathy Ryan,

[REDACTED], Morro Bay

Concerned Citizen

Dana Swanson

From: Terry Simons <[REDACTED]>
Sent: Monday, September 11, 2023 11:12 AM
To: Dana Swanson
Attachments: 1140 Project RS_068_068_001.pdf

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

- Comments on the 1140 Allesandro St Project
City of Morro Bay City Council consideration of Appeal
City Council consideration of proposed abandonment

Summary-

The mixed use project proposed for 1140 Allesandro St is a visually attractive design that will provide an appropriate buffer between the residential uses on Marengo Street and the light industrial uses to the north of Allesandro St. Unfortunately, to accommodate the proposed design Staff has proposed to have the City grant several specific exceptions as listed in the Staff Report that seem to reinforce the conclusion that the project as designed is Overbuild and Under Parked

Overbuilt/Under parked-

The project is proposed to be built on a site (APN 066-095-004) that contains 10890 sqft. The proposed abandonment would add approximately 1000 sqft to the site or an approximate land value of \$60,000 based on current residential lot prices. However, the additional land represents considerably more in terms of added value to the project inasmuch as it facilitates a much larger project that would normally be considered appropriate

The project gross square footage is 15869 sqft.

The project fronts on two Legal Streets: Allesandro and Marengo but staff as determined that the “technical frontage” is the pointed end of the parcel that has no frontage, thus allowing for the Front set back requirement to be met there rather than either actual street frontage.

The project most appropriately should be addressed on Allesandro as to the Commercial units and Marengo as to the Residential units. This direction should be added to the conditions of approval.

The project would fail to meet the front setback requirement on either street but Staff has somehow made the determination that the Front of the project is at the intersection of Allesandro and Merango. This has contributed to the Overbuilding of the site by unfairly reducing setbacks to be benefit of the applicant. In addition, and possibly in recognition that the project is not adequately parked, Staff notes that: **“There is also available street parking for 6-8 cars.”** This seems to be a new methodology for calculating parking compliance. Historically, parking in the public ROW has not been used to meet the requirements for parking a project.

Unjustified Abandonment-

Historic and current city policy requires that when existing buildings are to be remolded or expanded beyond 50 % of value that all the building must comply with current requirements. In the case of this project, this would require the removal of that portion of the building that is in the City ROW. The Staff has chosen to support the concept of granting an abandonment of this City ROW to the applicant to meet this requirement. In addition to reducing the net width of Marengo street, this has the effect of making the proposed frontage parking along Marengo less viable in a neighborhood that is already vehicularly impacted

It is represented in the Staff report that the existing building on the site encroaches into the public ROW more than 4 feet. No evidence of the encroachment has been provided but the 1992 Record of Survey used to obtain a prior abandonment does show a 3.9ft encroachment. Regardless, this prior abandonment has never been recorded and the 2 year window to do so has expired. To that end, the Council should be looking at the appropriateness of this granting of public ROW to a private property to simply eliminate the necessity for the required removal of that portion of the existing building. Considering the size, scope and value of the proposed project, it is hard to make an argument that there is any economic hardship implied in not granting this abandonment. Further, The project as proposed appears to be relying on this 1960's building for support of the units above. It seems unlikely that during the construction drawing/engineering justification that the existing building will not be required to have substantial additional structural additions both vertical and lateral/seismic requirements. As a practical matter, the abandonment is key to the entire project as it facilitates site access, parking and setbacks and as such, should be considered a granting of special privilege.

Lack of private open space-

While the project as designed does have some outdoor decks, the location, dimensions and configuration of the "private open spaces" does not seem to appropriately support the needs of the residential units that are as large as proposed.

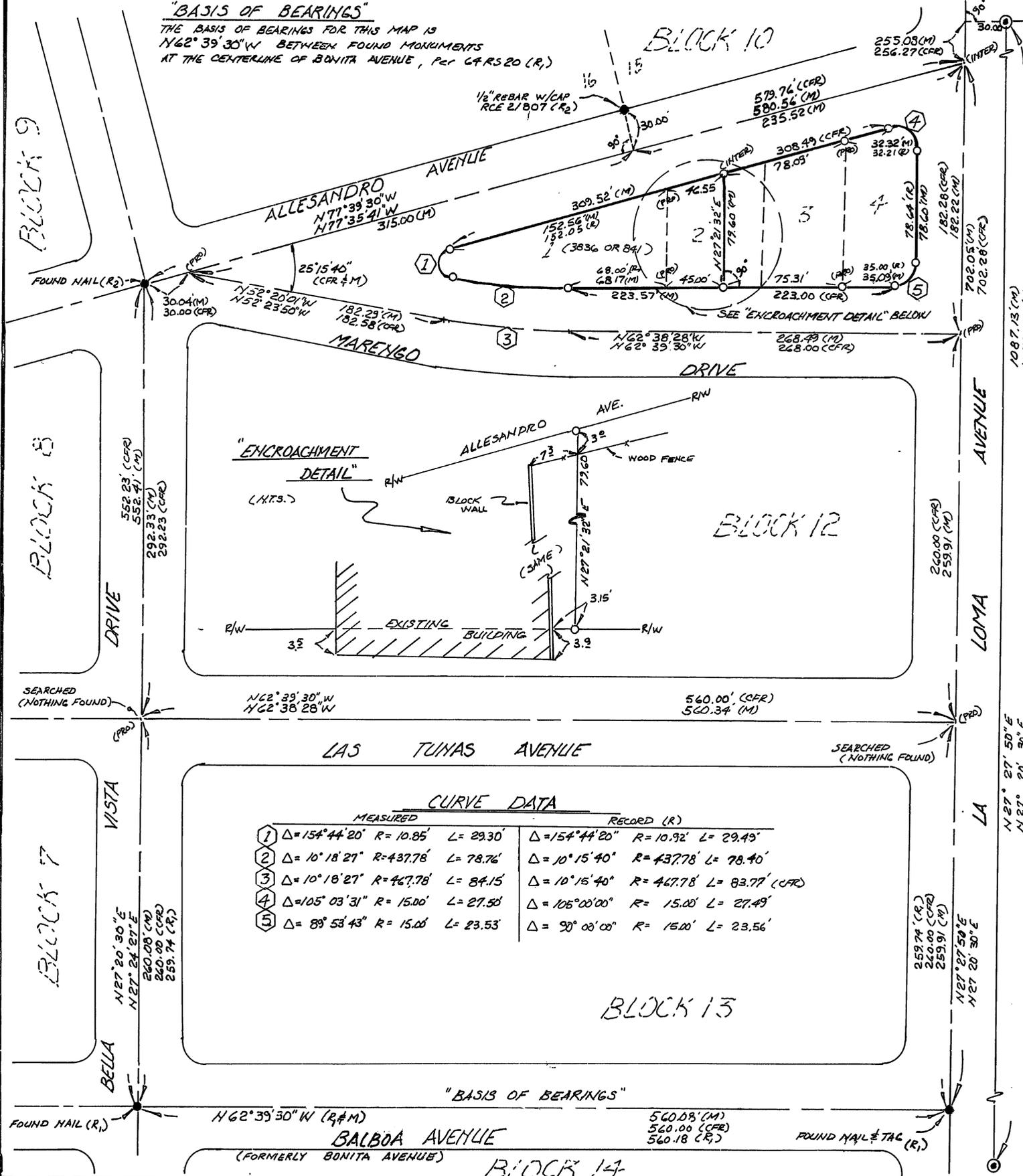
Scale of project-

As proposed, this is a multi-unit project with 15 bedrooms; 16.5 baths in 9749 sqft living area with 4140 sqft of garage and 1970 sqft of work space. Typical Live/work space projects are designed as cohesive units where as this project has completely separated the work space portions into nominally separate units: A-1 and E-1. The design of these units that include restrooms functionally allow for them to be utilized independent of the appurtenant residential units and as such could be rented out as additional units. The existing building has functioned as a cabinet shop and during this time has had significantly more need for parking and outdoor storage than is planned/provided by the proposed project. Adding an additional freestanding work space will probably have similar parking/storage requirements. The garages for the non-live/work units seem excessively large. Unless otherwise constrained, it seems probable that these garages will qualify for ADUs under current and pending state law and probably not be required to provide additional parking for these ADUs. It is reasonable to believe that each ADU should have at least 1 parking space. Using a typical formula of 1 parking space for each bedroom for a townhouse project, plus at least two parking for each work space, it is conceivable that in its final configuration, this project will have a parking need for 21 parking spaces where only 10 covered and 3 uncovered are provided. Because the 10 Parking spaces are in enclosed garages, there is an enhanced likelihood that these garages will be used for storage or converted to ADUs. If this should occur, the neighborhood parking impacts will be severe. Staff has not addressed this very real possibility in their support of this project. Hopefully the City Council will take a closer look at the implication and precedents that this project presents.

R/S 92-044
RE 10-15-92

"BASIS OF BEARINGS"

THE BASIS OF BEARINGS FOR THIS MAP IS
N62°39'30"W BETWEEN FOUND MONUMENTS
AT THE CENTERLINE OF BONITA AVENUE, Per GARS 20 (R₁)



RECORD OF SURVEY
LOT 1 & A PORTION OF LOT 2, A PORTION OF LOT 3 AND LOT 4,
OF BLOCK 11, MORRO BAY VISTA, TRACT #1
CITY OF MORRO BAY
SAN LUIS OBISPO COUNTY, STATE OF CALIFORNIA

SURVEYOR'S STATEMENT:
THIS MAP CORRECTLY REPRESENTS A SURVEY
MADE BY ME OR UNDER MY DIRECTION IN
CONFORMANCE WITH THE REQUIREMENTS OF
THE LAND SURVEYOR'S ACT AT THE REQUEST
OF ADELE COSTA IN AUGUST, 1992.



Danny F. Horn
DANNY F. HORN - LS 4562

COUNTY SURVEYOR'S STATEMENT:
THIS MAP HAS BEEN EXAMINED IN
ACCORDANCE WITH SECTION 8766 OF THE
LAND SURVEYOR'S ACT THIS 20th DAY
OF Oct., 1992.

Clinton Wilne
COUNTY SURVEYOR
RCE 10585
EXP. 12/31/92

COUNTY RECORDER'S STATEMENT:
FILED THIS 21st DAY OF October
1992, AT 10:38 A.M. IN BOOK 608
OF LICENSED SURVEYS AT PAGE 608
AT THE REQUEST OF DANNY F. HORN

FEE: \$6.00 DOC. NO. 73228

Francis M. Cooney
COUNTY RECORDER

BY: Sandra A. Curran
DEPUTY

DANNY F. HORN
LICENSED LAND SURVEYOR
P.O. BOX 30
PASO ROBLES, CA. 93447
(805) 239-0355



SCALE
1"=50'

NOTE:
ALL ROADS SHOWN HEREDY ARE 60 FEET WIDE
(R₁ & R₂)

- LEGEND:**
- FOUND 4" BRASS CAP PER (R₂ & R₃)
 - FOUND MONUMENT AS NOTED
 - SET 1/2" REBAR & CAP MARKED "LS4562"
 - (R) - 3MB 57
 - (R₁) - GARS 20
 - (R₂) - 49 RS 88
 - (R₃) - 17 RS 41

(CFR) - CALCULATED FROM RECORD
(PRO) - POINT ESTABLISHED BY PROPORTION
(INTER) - POINT ESTABLISHED BY INTERSECTION

CURVE DATA

MEASURED	RECORD (R)
1) Δ=154°44'20" R=10.85' L=29.30'	Δ=154°44'20" R=10.92' L=29.49'
2) Δ=10°18'27" R=437.78' L=78.76'	Δ=10°15'40" R=437.78' L=78.40'
3) Δ=10°18'27" R=467.78' L=84.15'	Δ=10°15'40" R=467.78' L=83.77' (CFR)
4) Δ=105°03'31" R=15.00' L=27.50'	Δ=105°00'00" R=15.00' L=27.49'
5) Δ=89°53'43" R=15.00' L=23.53'	Δ=90°00'00" R=15.00' L=23.56'

10-14-92

Dana Swanson

From: betty winholtz <[REDACTED]>
Sent: Monday, September 11, 2023 4:13 AM
To: Carla Wixom; Laurel Barton; Jennifer Ford; Zara Landrum; Cyndee Edwards
Cc: Nancy Hubbard; Dana Swanson
Subject: Re: appeal

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

Dear City Council:

Please accept this correspondence as an addendum to my appeal. I request 10 minutes for my oral presentation during the hearing.

In terms of procedure, I would note that (1) I was not informed the appeal was scheduled for this meeting, (2) the yellow public notice staked on the property was placed on the east side of the property not on the north, which the staff report identifies as the front of the property, and (3) there are no Minutes from the Planning Commission hearing.

In terms of content, these are my main points and requested relief.

1. Abandonment of Rights of Way.

A. **Issue.** Abandonment is marked in yellow along Marengo as it curves into Allesandro to the north on page 244 of 361. However, the table on page 242 of 361 states, "5 feet on Allesandro for the shop portion of Unit A." This is not marked in yellow on the map; the length is indiscernible, so the square footage of additional abandonment is unknown.

B. **Issue.** Without stakes or markers it is a guess where the property line is on Marengo, and therefore, how far up the slope the 5' abandonment lies. If one uses the 4' encroachment from the NW corner of the current shop building, it appears the property boundary line is near the toe of the slope.

C. **Issue.** With the use of the words "less earthwork and fill" and "westerly walls of the ground floor garages and shop areas to provide support for the steep slope," are these walls actually a retaining wall?

2. Inconsistency with what the building is being called and what facilities are included in the 'drawing' plans.

A. **Issue.** The development is a Subdivision. In addition, without calling it by name, the development meets the criteria for Compact Infill, "[a] project which would result in the creation of lots with sizes smaller than those otherwise allowable under the Zoning Ordinance."

B. **Issue.** I believe all criteria for Compact Infill are addressed except for these: (1) Common Open Space and (2) "secondary living units shall not be allowed." The latter may not be possible since passage of state law. (3) Is minimum size being met for Private Open Space?

3. and 4. Setbacks and Orientation.

A. **Issue.** Though the front of the lot is designated as north, front doors are facing west. With this change, orienting the front door to the west instead of the north, setbacks become confusing as to whether or not they are being met.

B. **Issue.** An MCR zone must have a 10' front yard setback when across the street from a residential zone.

5. Impact to neighborhood.

A. **Issue.** In both written and oral testimony, the number one major concern of the neighborhood (which is only Marengo since Allesandro is across the street from storage units) is the increase in on-street parking. Marengo is a 60' wide street on paper. It is currently paved to less than 1/2 that width.

B. **Issue.** There is an abandonment of ROW for the benefit of the development to the detriment of the neighbors when there "shall" be curb/gutter/sidewalk.

C. **Issue.** A statue at the intersection of Allesandro and Marengo is an unwanted "public benefit." A public benefit is necessary due to the abandonment of public right of way. What other neighborhood has a public statue that is designated as a public benefit?

6. Lack of public improvements in a timely fashion.

A. **Issue.** The only public improvement is a curb/gutter/sidewalk on Allesandro. The other required curb/gutter/sidewalk on Marengo is granted a deferral. Yet this is the side that is directly impacted the most.

Requested Relief.

1. **Require the curb/gutter/sidewalk on Marengo now.** This is the most critical piece to the neighborhood which is already impacted by street parking to the extent that Marengo residents street-park on Allesandro as well as Marengo. If this is a financial hardship, defer the curb/gutter/sidewalk on Allesandro instead, since there is already public improvements on this street.

2. **Require parking on Marengo.** If it can be proven that both a sidewalk and parking cannot be accommodated on Marengo, either *not* abandon the ROW or choose parking over sidewalk. Don't give away public land without a return. While residents may park in their garages, their visitors will not. They will park by the front doors. Marengo is narrow enough they will be parking in the street.

3. **Require Common Open Space.** Since it appears this cannot be accommodated on the project site, abandon the unused triangle on the north intersection of Allesandro and Marengo for this purpose, with an accompanying public benefit of fixing the different street elevations at this corner, or something else.

4. **Address the confusion** regarding

--quantity of abandonment on Allesandro by shop A;

--retaining wall requirements and quantity of fill;

--where the property line runs along, and 5' abandonment extends into, Marengo;

--whether garages can be converted to ADUs, and

--should there be a stop sign as requested;

--appropriateness of a statue; and

--codifying which unit is the low income unit.

In doing these things, the public health, safety and welfare will be protected and comply with the General Plan.

Sincerely,
Betty Winholtz



AGENDA NO: C-1

MEETING DATE: September 12, 2023

**AGENDA CORRESPONDENCE
RECEIVED BY THE CITY COUNCIL FOR
PUBLIC REVIEW PRIOR TO THE MEETING**

Dana Swanson

From: Zara Landrum
Sent: Wednesday, September 13, 2023 12:52 PM
To: Dana Swanson
Subject: Fwd: Regarding Agenda Item C-1, 9/12/23 Council Meeting

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From: Gail Johnson [REDACTED]
Sent: Wednesday, September 13, 2023 12:50:52 PM
To: Carla Wixom <cwixom@morrobayca.gov>
Cc: Zara Landrum <zlandrum@morrobayca.gov>; Laurel Barton <lbarton@morrobayca.gov>; Cyndee Edwards <cedwards@morrobayca.gov>; Jennifer Ford <jford@morrobayca.gov>
Subject: Fwd: Regarding Agenda Item C-1, 9/12/23 Council Meeting

CAUTION: This is an external email. Please take care when clicking links or opening attachments.

Madam Mayor & Council Members —

After reviewing the correspondence submitted prior to the City Council meeting last evening, I notice that my letter below, which was sent individually to each Council Member, was not included in the record.

Please add my letter to the received correspondence so that my suggestions and opinions will be part of the record.

Thank you for your commitment to the integrity of our beautiful town.

Appreciatively,
Gail Johnson

Begin forwarded message:

From: Gail Johnson [REDACTED] >
Subject: Regarding Agenda Item C-1, 9/12/23 Council Meeting
Date: September 12, 2023 at 9:15:11 AM PDT
To: cwixom@morrobayca.gov

September 23, 2023

Honorable Mayor Wixom:

I am proud and pleased to have been a part of the signature gathering efforts on behalf of the "Citizens for Estero Bay Preservation" Initiative. By gathering 160% of the necessary signatures in 10 short weeks, we have proven that our Morro Bay residents are vitally concerned with the quality and direction of our beautiful community.

Regarding Agenda Item C-1:

You are facing a decision this evening that is vitally important to the future of our community. I am afraid that your staff has advised 3 options that, although well-considered, place you and the rest of the Council between a “rock and a hard place”. None of these choices offer reasonable outcomes to such a significant matter.

Please consider the following choices that you have been given:

- 1) Order a staff report, which would be redundant and expensive.
- 2) Adopt the Initiative. This option would be materially detrimental to the people who signed the Initiative in the belief that they, and all Morro Bay Citizens, would have the opportunity to *vote* on the Initiative as a Ballot Measure. (When I was gathering signatures, not everyone was opposed to BESS, but they appreciated the idea that the issue would be put to the vote, thereby allowing the majority of citizens to decide.) Personally, I fear that any action decided by the Council today could be just as easily undone by a future Council. The Initiative was meant to circumvent the whims of politicians and their influencers, and to codify the Initiative *through a vote*, thereby giving the power to the citizens.
- 3) Place the Initiative on the Ballot in the November 2024, whereby the "Citizens for Estero Bay Preservation" would lose their well-earned and hard-won momentum, and would give Vistra and their collaborators time to effect an outcome that is not in favor of the Initiative and the Initiative's supporters.
The text of the Initiative states that the “. . . city is directed to *promptly* take all appropriate actions needed to implement this Initiative . . .” * Postponing a vote for 14 months following the certification of the signatures is NOT a prompt implementation of this successful effort.

I would like to offer another outcome for tonight's Council vote, and a solution for the above objections. There is way to get the Initiative on the March 5, 2024 Ballot. In light of the arguments above, I ask that you:

- 1) **Postpone your decision on Item C-1 until the City Council meeting of November 14, 2023.***

(* NOTE: It may also be possible to simply postpone the decision on C-1 until the December 5, 2023 City Council Meeting, at which time a Special Election could be called, eliminating the need for the Staff Report. I am not sure of City Restrictions regarding deadlines and timelines so I can't advise which is the better option.)

- 2). During the November 14 Council Meeting, choose Option #1 and order a Staff Report for the sole purpose of starting the “official clock” to get the Initiative on the Ballot for "a" Special Election. (The Staff has only to recommend that the Initiative be scheduled for the first possible Consolidated Special Election, which is March 5, 2024. Any argument on their part regarding the 21 day time-frame to complete the “new” Report is mute, since the meat of the new Report has already been cooked in to the Staff Report that has been submitted for the September 12, 2023 meeting.) **The Staff Report must be presented to the Council during the City Council Meeting on December 5, 2023 and include the recommendation that the Initiative be place on the Ballot in the March 5, 2024 election;**

3) **On December 5, call for a special election to place the Initiative on the March 5, 2024 Ballot** (90 days from 12/5/23).

Staff has advised that the City "would not be able to consolidate a special election with the March 2024 election run by the County." This is *not* correct, according to their own Report, which states on page 290: "Any other established election date, including the March 2024 statewide primary, would be considered a special election. **In order for the Council to consider placing this initiative on the March 2024 Ballot, the election must be called between November 23 – December 8, 2023** (i.e., 88-103 days before that election date)."

Because of the specific requirements and deadlines to get this Initiative placed on the March 2024 Ballot, "time is of the essence".

Although this would not be considered the most fiscally prudent avenue, the citizens who expressed their wishes to vote on this matter would find the additional expense a small price to pay for the *prompt* implementation of their rights. (See Staff Report, pg. 290 ". . . an option to send the ballot measure to voters in March 2024, the cost to consolidate a ballot measure on a special election already being held by the County is substantially more than adding a ballot measure to the general election. The SLO County Clerk-Recorder's office estimated the cost to add this ballot measure to the March 2024 primary would be \$39,000.")

As an elected representative of the citizens of Morro Bay, you have been given the responsibility to care for the integrity of our City and to implement the wishes of your constituents. You have an overwhelming obligation to the supporters of this Initiative to act on their behalf.

Based on the popular approval of this Initiative, your constituency has already voiced their opinion.

Ultimately, and regardless of the staff's recommendations, please take whatever measures necessary so that this Initiative is submitted to Morro Bay Voters on the Ballot for the next San Luis Obispo County Election on March 5, 2024.

Thank you . . . sincerely!

Gail Johnson
Morro Bay

* *TEXT OF THE INITIATIVE: Section 3. Implementation.*

A. Effective Date: "Effective Date" means the date that this initiative became effective pursuant to state law. Upon the Effective date of this Initiative, the city is directed to promptly take all appropriate actions needed to implement this Initiative, include but not limited to, taking any administrative steps necessary to update any and all of the City maps, figures, and any other documents maintained by the City so that they conform to the legislative policies set forth in this Initiative.

Heather Goodwin

From: Monica Irons <[REDACTED]>
Sent: Tuesday, September 12, 2023 3:31 PM
To: Council; Dana Swanson
Cc: Jamie Irons
Subject: Re: Item C1, September 12, 2023 City Council Meeting

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Mayor and City Councilmembers,

We urge you to adopt recommendation #1, Order a Report on the Effects of the Proposed Ordinance, as described in the staff report with the following addition:

1. Direct the City Attorney to provide a legal analysis of AB205 as it relates to the proposed Battery Energy Storage System project and the proposed initiative.

The Legislature designed Elections Code Section 9212 “to better inform the electorate and [legislative body] about proposed initiatives.” Given the report must be presented within 30 days and staff is indicating it could be brought to Council and the community on October 10, 2023, this seems like a reasonable step given the significance of the issue.

The proposed initiative has been entwined in a highly emotional discussion of a proposed battery storage facility. We deserve to know whether it would stop that or not. And, we deserve to consider the impacts of having land use designation in the hands of the voters (instead of the elected) and how that would position the City in future negotiations with potential developers.

Order the report and make an informed decision on October 10 when the report returns, to consider placing the initiative on the November 5, 2024 election. The cost of a special election is not justifiable.

Sincerely,

Monica and Jamie Irons

To the City Council:

Since I am unable to attend the September 12 council meeting, I would like to comment on item C-1: I urge you to vote for option 1: direct the staff to prepare a report on the impacts of the citizen's initiative on the City and its finances and report back to Council. The proponents of the initiative are providing an idyllic picture of what might happen on the old power plant property that is based on wishful thinking not on facts. The public is unaware that passing this initiative would not achieve the proponents' goal of stopping the BESS, but it would have serious consequences for the City. Citizens need that information before voting on the initiative in March.

Marlys McPherson
Morro Bay

Dana Swanson

From: Carol Swain [REDACTED]
Sent: Tuesday, September 12, 2023 1:20 PM
To: Dana Swanson
Subject: Facts about initiative needed

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Dear City Council:

The citizens initiative that, as written, will supersede the authority of the City of Morro Bay to make decisions on projects on zoned parcels raises many questions. It is claimed that the initiative does not seek to change zoning purposes for the outlined acreage. Still, too many of the unknown factors make it difficult to make an informed up-or-down vote, for or against it.

- What types of development would be permissible for the property at issue, considering its level of toxicity?
- What possible actions by the enactment of the initiative could be set in motion, e.g., by the State of California?
- In terms of the Battery Energy Storage System, if the City turns down Vistra's effort to build, will the company walk away from the defunct power plant and leave us with the crumbling and contaminated structure?

These and many other questions need to be addressed in order for citizens to make an informed decision. Please help us get the facts before asking us to make a choice. Thank you.

Regards,
Carol Swain

Heather Goodwin

From: patticake801 [REDACTED]
Sent: Monday, September 11, 2023 4:19 PM
To: Council
Subject: C-1

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Oh for heavens sake! Not another study!! Either accept the initiative or put it on the ballot. Option 1 is ridiculous and truly a joke because this is the way the city ALWAYS responds.... Hires consultants and studies the heck out of everything! Try something different. How about going with the WILL of the people for a change! Stop wasting our time and money. Accept it or put it to a vote!!!! Patti Anderson

[Sent from the all new AOL app for iOS](#)

Dana Swanson

From: Zara Landrum
Sent: Monday, September 11, 2023 4:33 PM
To: Dana Swanson
Subject: FW: Agenda correspondence, September 12, 2023

Hi Dana,
This gentleman wasn't sure your received this and asked that I forward it to you.

From: GARY KURIS <[REDACTED]>
Sent: Monday, September 11, 2023 3:17 PM
To: danaswanson@morrobayca.gov; Carla Wixom <cwixom@morrobayca.gov>; Zara Landrum <zlandrum@morrobayca.gov>; Laurel Barton <lbarton@morrobayca.gov>; Jennifer Ford <jford@morrobayca.gov>; Cyndee Edwards <cedwards@morrobayca.gov>
Subject: Agenda correspondence, September 12, 2023

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Please credit Morro Bay voters with the intelligence to make a decision, pro or con, regarding the zoning initiative (agenda item C-1) and adopt proposed Option 3. "Further study" is the time-honored M.O. for killing measures that may be distasteful to one party or another. The two sides should have the time to lay their arguments before the public, and the public should have the time to evaluate them.

Gary Kuris
Morro Bay, CA

Heather Goodwin

From: Dawn Beattie [REDACTED]
Sent: Monday, September 11, 2023 11:58 AM
To: Council
Subject: Item C-1 on 9-12-23 agenda

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I would like to support option 1. Order a Report on the Effects of the Proposed Ordinance

and here's why.

If this "initiative" were to pass, requiring a vote of citizens every time a potential change to land use of these designated areas was proposed, no more development would ensue in an important area of Morro Bay (historically speaking, votes on these kinds of land use proposals never pass). That may be the goal of this citizens group, but with the City revenues dependent on sources that are not growing (sales tax on gasoline, for instance), the first thing to be impacted will be our city-owned police and fire.

This is definitely not something I believe our City should support. Choose Option 1 and look deeper at the effects of this proposed "initiative."

Thank you.
Dawn Beattie

MMBS, LLC

September 7, 2023

City Council
City of Morro Bay
945 Harbor Drive
Morro Bay, CA. 93442

RE: City Council Agenda Item C-1
September 12, 2023 City Council Meeting

Madam Mayor and Members of the City Council,

On the matter of the proposed Initiative Measure I would urge the council to adopt staff recommendation #1 and request that the staff provide the Council with a report on the effects of the initiative both for the edification of the Mayor and Council members but also for dissemination to the general public who are being asked to vote on the measure.

I would suggest the report include the staff's analysis of:

1. The effect of AB 205 on the application by Vistra for the BESS project. As you know the bill was signed by the governor in July of 2022 to enable the State Energy Commission to usurp local jurisdiction's authority in land use decisions pertaining to green energy projects like the BESS and the wind energy projects where the local jurisdiction has denied a project. I think the report should include staff's analysis of the following issues at a minimum:
 - a. If the initiative passes in March of next year, does the passing of the initiative trigger the provisions of AB 205 and Vistra's right to apply to the State Energy Commission to intervene for land use approval for the project?
 - i. If so, does that accelerate the approval of the BESS project on a faster timeline than if the project were to be brought through the City's normal approval process? Can they provide an estimate of how much sooner the BESS project will come on line in that scenario?
 - b. Please ask the staff to opine on their best estimate of the status of the BESS project's approval at the time of the initiative's passing in March 2024.
 - i. Will the CEQA process be complete?
 - ii. Will there be a draft of the conditions of approval?
 - iii. If so, what is their best assessment of whether the State Energy Commission will have to take into consideration the local jurisdiction's record of the jurisdiction's requirement of the BESS project's mitigation measures?

1215 Embarcadero, Morro Bay, Ca. 93442
(805) 701-5702

MMBS, LLC

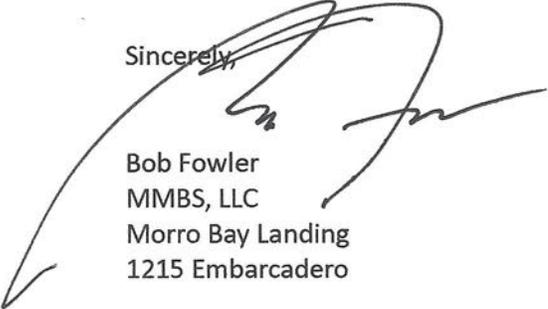
1. Demolition of the stacks and the power plant property.
2. Remediation of the frontage on Embarcadero.
3. Dedication of road right of way where required by the City.
4. Remediation of contamination on the remaining property
5. Local fire department concerns and mitigation requirements.

I don't think that the initiative's backers have taken into consideration the unintended consequences of this initiative. I don't disagree with their opposition to the BESS project, but I believe our community needs to remain involved in the decision making process. The initiative will trigger the provisions of AB 205 at least a year earlier than if the City conducted its normal approval process and had established a record of the conditions and mitigation requirements promulgated by the community. If the project then is denied by the City, and Vistra appeals to the State Energy Commission to intervene, the State Energy Commission will have to take the community's concerns into consideration. Whereas the passing of the initiative will have silenced our community's ability to appropriately condition and mitigate our concerns. It will have left us reliant on state bureaucrats to discern our interests.

A report by staff addressing the foregoing and other issues, including the fiscal impact to the City, will be the Council's only opportunity to inform the electorate on the unintended consequences of the initiative.

Thank you.

Sincerely,



Bob Fowler
MMBS, LLC
Morro Bay Landing
1215 Embarcadero

1215 Embarcadero, Morro Bay, Ca. 93442
(805) 701-5702

Heather Goodwin

From: Jeffrey Heller <[REDACTED]>
Sent: Sunday, September 10, 2023 12:11 PM
To: Council
Subject: Correspondence on Agenda Item C-1 for CC Reg Mtg 9/12/23

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Getting an initiative before the city council takes a tremendous effort by residents. This effort has been made and accomplished.

I recommend the Council approve option 3--to place this initiative on the ballot.

Hats off to our actively involved Morro Bayans!

Jeff Heller

City Council Meeting Agenda Correspondence
September 12, 2023 Council Meeting
Agenda Item C-1

Agenda item C-1 relates to Council action relative to a Citizen's Initiative Petition addressing amending the City's General Plan to prohibit any change to land use designations on land currently owned by Vistra, and other lands.

I beseech Council to adopt agenda item Recommendation 1. "Order a Report on the Effects of the Proposed Ordinance".

Proponents of the initiative have approached their desire to block the BESS project by proposing changes to the City's General Plan that go far beyond the issue of the BESS. To date the proponent's campaign prominently features arguments based upon fear, while ignoring the far-reaching implications of such a change to the General Plan.

Below are listed some, but not all the factors and potential impacts at play:

- The initiative would reduce community input and local control. The General Plan defines the land uses exactly the way the initiative proposes. However, if the initiative passes, the City Council cannot act relative to land use in the identified parcels, and the established processes for involving citizens will be bypassed in discussions about land-use for those parcels.
- California Division of Toxic Substances Control (DTSC) prohibits visitor-serving development on significant portions of the affected parcels. The DTSC filed restrictive covenants with the County on July 21, 2022, explicitly forbidding uses such as hotels, motels, and other human-related development.
- Land use covenants are contained in the private ownership agreements of the parcels associated with the power plant property. PG&E, the first owner of the property, placed deed restrictions that prohibit human-related uses that might expose persons to dangerous contaminants, which remain unknown under the plant and the stacks. Subsequent owners of the property accepted the PG&E restrictions as a condition of sale.
- Zoning alone cannot stop the BESS, which the initiative proponents state is the principal intent. California law AB 205 (2021), signed into law in June 2022, creates an alternative permitting process for renewable energy, storage, and transmission projects that eliminates the need for local approval.
- No past or present owner of the property is legally obligated to clean up the site (including demolishing the power plant building, the stacks, the intake building, and remediation), and this initiative effectively reduces incentive for the property owners to do so.
- The initiative makes any development of the parcels subject to a public vote – which may well be a significant disincentive for potential developers for virtually any use of the land.

Thank you,

Ron Reisner, Morro Bay Resident

Dana Swanson

From: Glenn Silloway [REDACTED] >
Sent: Friday, September 08, 2023 1:16 PM
To: Dana Swanson
Subject: comment for City Council meeting Sept 12

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Please add this to the correspondence file:

To the City Council:

In regard to the matter of the proposed citizens' ballot initiative to freeze existing land use zoning on parcels near the harbor, I urge you to choose door #1: ask staff to dig into the facts about and possible consequences of placing a permanent zoning classification on the specified parcels.

All of the pertinent facts in the case are not yet known. A 30 day study would at least give a little more objective information to citizens and should uncover some of the unintended consequences of such a drastic action.

One known key fact is that zoning (ordinary or frozen by a vote) cannot stop the battery plant.

As you know, Vistra has the option by right to bypass all local ordinances including zoning to seek a permit for its battery plant from the California Energy Commission. The CEC would be the agency responsible for the EIR on the proposal without CEQA review.

In the end, if Vistra chooses to pursue a permit via the optional route bypassing the City, it will be important to have a complete and open discussion through public processes and an authoritative permitting decision by the Council on the record for consideration by the CEC. Zoning cannot accomplish that.

The proposed initiative is bad policy-bad for Morro Bay. Its proponents should withdraw it.

Glenn Silloway
resident of Morro Bay



AGENDA NO: C-2

MEETING DATE: September 12, 2023

**AGENDA CORRESPONDENCE
RECEIVED BY THE CITY COUNCIL FOR
PUBLIC REVIEW PRIOR TO THE MEETING**

Heather Goodwin

From: Darshan Patel <darshanpatel@ramkrupallc.com>
Sent: Tuesday, September 12, 2023 5:25 PM
To: Council
Subject: Fwd: Public Comment for September 12, 2023 City Council Meeting
Attachments: Letter to City Council - Opposing TOT Amendment.pdf

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Please see the email below.

Thank You,

Darshan Patel
Director of Development
Ram Krupa Real Estate LLC
(805) 538-0241
darshanpatel@ramkrupallc.com

CalDRE Broker License 02138652



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----- Forwarded message -----

From: Darshan Patel <darshanpatel@ramkrupallc.com>
Date: Tue, Sep 12, 2023 at 4:45 PM
Subject: Public Comment for September 12, 2023 City Council Meeting
To: Dana Swanson <dswanson@morrobayca.gov>
Cc: <cwixom@morrobayca.gov>, <lbarton@morrobayca.gov>, <jford@morrobayca.gov>, <cedwards@morrobayca.gov>, <zlandrum@morrobayca.gov>, Sarah Johnson-Rios <sjohnson-rios@morrobayca.gov>, <ykimball@morrobayca.gov>, Ankeet Patel <ankeetpatel@ramkrupallc.com>, Akash Patel <akashpatel@ramkrupallc.com>

Hello,

In regards to the city council meeting for tonight (September 12, 2023), and planned agenda item regarding Ordinance No. 660, we have prepared a comment letter for distribution to the Mayor and Council Members. The letter is attached to this email.

I would appreciate a confirmation of receipt.

Thank You,

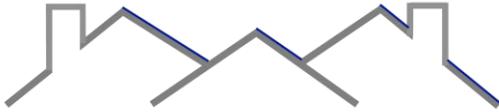
Darshan Patel
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Ram Krupa Real Estate
Hospitality, Development & Management

Ram Krupa, LLC
Sea Air Inn
845 Morro Ave
Morro Bay, CA 93442

12 September 2023

City of Morro Bay
Attn: Mayor and City Council
595 Harbor Street
Morro Bay, CA 93442

Dear Mayor and Honorable Members of the Council,

We firmly oppose Ordinance No. 660 Amending Section 3.24.100, and Repealing and Replacing Section 3.24.110, of Chapter 3.24 of the Morro Bay Municipal Code, Updating the Transient Occupancy Tax Appeals Process.

We believe the proposed ordinance will create further barriers for resolution and acts as a preventative method to avoid appeals regarding transient occupancy tax (TOT) audits due to the exceptionally high appeal fee. More specifically, the proposed ordinance's language 3.24.110C indicates "[t]he appeal fee for filing an appeal based upon this chapter is the full amount (i.e., full cost recovery) of the current fiscal year non-discounted fee provided for in the City's adopted fee schedule for appeals for non-land use administrative decisions." The current appeal fee for non-land use administrative decisions per the 2023-24 City of Morro Bay Master Fee Schedule is \$326. However, if the ordinance is approved as written, the fee specifically for operators appealing TOT audits will amount to \$3,565. This specific carve-out exemplifies bad faith and deceptive practices, especially as it is preemptive to currently pending appeals.

As City Staff has been informed, the pending appeals are due to unclear and ambiguous language regarding transient occupancy tax collection. For example, a major cause of appeals is the open-ended and ambiguous definition of "rent" within the existing tax code. Only the City Council has the authority to provide direction regarding these types of issues. A third party hearing officer would provide no benefit to Operators as they would be basing decisions under the same flawed tax code. Operators have given recommendations to provide clarity and transparency in the City's expectations to prevent similar issues from occurring in the future. This is not only the most cost-conscious option but will also reduce the use of public resources in needless appeals. Rather than addressing the ongoing transient occupancy tax issues raised by multiple hotel/motel owners and operators within Morro Bay, the amendment circumvents the core issue and does not address the root cause of the pending appeals.



Surrounding cities in California have released clarifications for their transient occupancy tax collection ordinances to remove the guesswork for Operators. For the benefit of Operators and the City of Morro Bay, the existing ordinance should be updated or clarifying materials be published, similar to many cities within California, to ensure compliance by all Operators within Morro Bay. This will lead to less audit findings and ultimately reduce appeals. Otherwise, the same issues will continue to occur regardless of the proposed amendment and cause further burdens.

Providing an independent hearing officer is a step in the right direction only if the unreasonably high fee is removed and the existing tax code language is clarified. To provide equitable access and opportunity for Operators to voice their concerns, the appeal fee should be the same \$326 for all non-land use administrative decisions. Otherwise, the existing appeal process should not be amended or changed. If the cost of appeals is a true concern, it is vital to practically analyze the situation. For example, the audit occurs every three years and not all properties receive findings. Further, of the properties that do receive findings, even fewer decide to appeal based on the nature of the findings. For an industry that generates upwards of \$15 million in revenue for the city, across those three years, there can be some deference in the event an operator decides to submit an appeal. Otherwise, the City of Morro Bay can create a line item fund from the transient occupancy tax revenue to support the cost of appeals.

We thank you for your thoughtful consideration and hope our relevant experience and perspective will help shape policy for the better.

Sincerely,

Darshan Patel
Managing Member
Ram Krupa, LLC