

City of Morro Bay

City Council Agenda

Mission Statement

The City of Morro Bay is dedicated to the preservation and enhancement of the quality of life. The City shall be committed to this purpose and will provide a level of municipal service and safety consistent with and responsive to the needs of the public.

REGULAR MEETING – TUESDAY, APRIL 12, 2011

**CLOSED SESSION – TUESDAY, APRIL 12, 2011
CITY HALL CONFERENCE ROOM - 5:00 P.M.
595 HARBOR ST., MORRO BAY, CA**

CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS.

Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to 1 parcel.

- Property: 5 acre vacant lot at end of Chorro Creek Road
Negotiating Parties: Wakefield and City of Morro Bay.
Negotiations: Lease Terms and Conditions.

**IT IS NOTED THAT THE CONTENTS OF CLOSED SESSION MEETINGS
ARE CONFIDENTIAL AND EXEMPT FROM DISCLOSURE.**

**PUBLIC SESSION – TUESDAY, APRIL 12, 2011
VETERANS MEMORIAL HALL - 6:00 P.M.
209 SURF ST., MORRO BAY, CA**

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE
MAYOR AND COUNCILMEMBERS ANNOUNCEMENTS & PRESENTATIONS
CLOSED SESSION REPORT

PUBLIC COMMENT PERIOD - Members of the audience wishing to address the Council on City business matters (other than Public Hearing items under Section B) may do so at this time.

To increase the effectiveness of the Public Comment Period, the following rules shall be followed:

- When recognized by the Mayor, please come forward to the podium and state your name and address for the record. Comments are to be limited to three minutes.
- All remarks shall be addressed to Council, as a whole, and not to any individual member thereof.
- The Council respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, commission and/or staff.
- Please refrain from public displays or outbursts such as unsolicited applause, comments or cheering.
- Any disruptive activities that substantially interfere with the ability of the City Council to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in City Council meetings is welcome and your courtesy will be appreciated.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (805) 772-6205. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A. CONSENT CALENDAR

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF MARCH 22, 2011; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF RESOLUTION AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO VESSEL PUMPOUT INSTALLATION GRANT CONTRACT WITH THE DEPARTMENT OF BOATING AND WATERWAYS; (HARBOR)

RECOMMENDATION: Adopt Resolution 24-11 authorizing execution of grant contract agreement.

A-3 PROCLAMATION DECLARING APRIL 10-16, 2011 AS "CHILDHOOD CANCER AWARENESS WEEK"

RECOMMENDATION: Adopt Proclamation.

A-4 ADOPTION OF RESOLUTION NO. 26-11 APPROVING A ONE-YEAR LICENSE AGREEMENT WITH LIMO AND COURTNEY LONG, DOING BUSINESS AS SOUTH BAY HOOKERS; (HARBOR)

RECOMMENDATION: Adopt Resolution 26-11 approving one-year lease agreement.

A-5 ANNUAL REPORTING ON THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT AND SCHEDULING OF A PUBLIC HEARING; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Council to acknowledge receipt of the annual report and budgets, and set the date for the public hearing for the renewal of the MBTBID on April 26, 2011, and the adoption of Resolution No. 25-11

A-6 APPROVAL OF VEHICLE TRANSFER FROM THE POLICE DEPARTMENT TO THE PUBLIC SERVICES DEPARTMENT AND ASSOCIATED FUND TRANSFER; (POLICE)

RECOMMENDATION: Approve vehicle transfer between the Police Department and the Public Services Department.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 APPEAL OF PLANNING COMMISSION'S DECISION ON MARCH 2, 2011 TO DENY THE APPEAL OF THE REMOVAL AND REPLACEMENT OF 8 TREES LOCATED IN THE CITY RIGHT OF WAY; (PUBLIC SERVICES)

RECOMMENDATION: Deny appeal of the removal and replacement of 8 trees.

B-2 RESOLUTION NO. 28-11 INITIATING PROCEEDINGS TO LEVY THE ANNUAL ASSESSMENT FOR THE CLOISTERS PARK AND OPEN SPACE LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

RECOMMENDATION: Adopt Resolution 28-11 ordering the preparation of the Engineers Report detailing expenses for the maintenance of the Cloisters Park and Open Space.

B-3 RESOLUTION NO. 29-11 INITIATING PROCEEDINGS TO LEVY THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (RECREATION & PARKS)

RECOMMENDATION: Adopt Resolution 29-11 ordering the preparation of the Engineers Report detailing expenses for the maintenance of the North Point Natural Area.

B-4 REQUEST FOR A USE PERMIT TO ALLOW INSTALLATION OF A DOCK SYSTEM AND ASSOCIATED FACILITIES AT LEASE SITES 105.1W/105.2W LOCATED AT 1001 FRONT STREET; (PUBLIC SERVICES)

RECOMMENDATION: Approval of CUP #UPO-284 and the adoption of the Mitigated Negative Declaration for project construction at 1001 Front Street.

B-5 RECOMMENDATION ON THE FUTURE OF THE VISITORS CENTER, INCLUDING DISCUSSION ON A MARKETING SPECIALIST, AND THE COMBINING OF THE COMMUNITY PROMOTIONS COMMITTEE (CPC) AND THE TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID); (ADMINISTRATION)

RECOMMENDATION: Discuss and approve staff's recommendations for the Visitors Center as well as the possible combination of the CPC and TBID Committees.

C. UNFINISHED BUSINESS - NONE

D. NEW BUSINESS

D-1 APPROVAL OF THE SERVICE RETIREMENT INCENTIVE PROGRAM FOR FISCAL YEAR 2011/12 BUDGET; (ADMINISTRATION)

RECOMMENDATION: Approve the Service Retirement Incentive Program as presented.

D-2 RESOLUTION TO APPROVE AMENDMENT #6 TO THE LEASE AGREEMENT TOR LEASE SITE 87-88/87W-88W, THE OUTRIGGER RESTAURANT, LOCATED AT 833 EMBARCADERO; (HARBOR)

RECOMMENDATION: Adopt Resolution 27-11 approving Amendment #6 to the lease agreement for Lease Site 87-88/87W-88W, the Outrigger Restaurant, located at 833 Embarcadero.

D-3 DISCUSSION OF POLICIES AND PROCEDURES REGARDING ABSENCES FROM PLANNING COMMISSION; (CITY COUNCIL)

RECOMMENDATION: Require the Planning Commissioner to adhere to the policies for advisory bodies and meet the attendance requirement or declare the position vacant.

D-4 DISCUSSION OF REALLOCATION OF HARBOR FUNDS FOR THE EMBARCADERO BANNER PROJECT; (CITY COUNCIL)

RECOMMENDATION: Approve the expenditure of \$25,000 from the Harbor Fund for the purchase of four sets of decorative banners for the Embarcadero street light poles.

E. DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

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 CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6201 FOR FURTHER INFORMATION.

MATERIALS RELATED TO AN ITEM ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC INSPECTION AT CITY HALL LOCATED AT 595 HARBOR STREET; MORRO BAY LIBRARY LOCATED AT 625 HARBOR STREET; AND MILL'S COPY CENTER LOCATED AT 495 MORRO BAY BOULEVARD DURING NORMAL BUSINESS HOURS.

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – MARCH 22, 2011
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Vice-Mayor Smukler called the meeting to order at 5:00 p.m.

PRESENT:	Noah Smukler	Vice-Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
ABSENT:	William Yates	Mayor
STAFF:	Robert Schultz	City Attorney
	Susan Slayton	Administrative Services Director
	Jamie Boucher	Human Resources Analyst

CLOSED SESSION

MOTION: Councilmember Borchard moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Johnson and unanimously carried. (4-0)

Vice-Mayor Smukler read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54957.6; CONFERENCE WITH LABOR NEGOTIATOR. Conference with City Manager, the City's Designated Representative, for the purpose of reviewing the City's position regarding the terms and compensation paid to the City Employees and giving instructions to the Designated Representative.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:27 p.m.

MOTION: Councilmember Smukler moved the meeting be adjourned. The motion was seconded by Councilmember Borchard and unanimously carried. (4-0)

The meeting adjourned at 5:27 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 22, 2011
VETERANS MEMORIAL HALL - 6:00 P.M.

Vice-Mayor Smukler called the meeting to order at 6:00 p.m.

PRESENT:	Noah Smukler	Vice-Mayor
	Carla Borchard	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
ABSENT:	William Yates	Mayor
STAFF:	Robert Schultz	City Attorney
	Bridgett Kessling	City Clerk
	Eric Endersby	Harbor Operations Manager
	Susan Lichtenbaum	Harbor Business Manager
	Mike Pond	Fire Chief
	Susan Slayton	Administrative Services Director
	Kathleen Wold	Planning Manager
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

CLOSED SESSION REPORT - City Attorney Robert Schultz reported the City Council met in Closed Session, and no reportable action under the Brown Act was taken.

PUBLIC COMMENT

John Weiss and Craig Schmidt of the Chamber of Commerce presented Chris Christianson of Morro Bay 4th with a check for \$1,500 to go towards this year's 4th of July fireworks and festivities. Mr. Christianson expressed appreciation to the Chamber and the City for their encouragement to make this event a success.

Bill Shewcheck presented Suite 1 Gallery and some local artists that showcase artwork at the gallery located at Marina Square on the Embarcadero.

Betty Winholtz stated Morro Bay was on the front page of the *Tribune* last Friday regarding the Coastal Commission's review of the City's permit application for the Wastewater Treatment Plant upgrade project. She said the Commission found the proposed project to be deficient in issues such as alternative technology and site location, and water reclamation.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 22, 2011

Ms. Winholtz stated the City has spent over \$300,000 of tax payer's money to put forward a document that was not successful, and is now requesting to spend \$100,000 on a lobbyist in order to try to be successful at the Coastal Commission level. She said these funds could have been used on the infrastructure of the Wastewater Treatment Plant, and requested Council stop gambling with the taxpayer's money.

David Weisman, Alliance for Nuclear Responsibility, expressed concern with the devastation taking place in Japan, and the same affects that could take place with Diablo Canyon Nuclear Power Plant if an earthquake hit this area. He requested the City Council agendaize the consideration of sending a letter to the Nuclear Regulatory Commission and California Utilities Commission regarding the PG&E relicensing process and seismic hazards analysis/study.

Joan Solu, Del Mar PTA President, announced the Del Mar Elementary School Art Auction and Fundraiser will be held on April 10th.

Haley Revalee, Del Mar Elementary School student, invited the community to the Art Auction and Fundraiser and noted donations are still being accepted. She said all proceeds will go towards classroom technology and field trips.

Gay Skivalasquez, San Luis Obispo Council of Governments, announced the Coastal Trail Community Workshop will be held on March 30th to kick-off the Master Plan process for the coastal trail through the Northern San Luis Obispo Coastal region.

Mark Shaeffer, CEO for FunRide, reviewed the local car sharing service. He said the cost for car sharing is \$240 per year and there is a one-time fee of \$30 per driver. Mr. Shaeffer stated the service is available 24 hours per day, 7 days per week; and cars can be reserved by the hour.

Barry Brannin read his statement regarding the Coastal Commission's review of the Wastewater Treatment Plant upgrade project that took place on March 11th in Santa Cruz.

Virginia Hiramatsu encouraged participation at the Relay for Life Morro Bay Kickoff meeting which will be held on March 24th at the Embarcadero Grill.

Susan Stewart, Chair of the Community Promotions Committee, stated at the last City Council meeting and as a result to the vote on the Advertising Agency there seemed to be a disconnect between the Council, the Advisory Boards and the business community. She said the Community Promotions Committee will be making an effort to reaching out to the Council and business community for better consensus on goals and objectives.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 22, 2011

Ms. Stewart listed the following goals: 1) to improve communication, she will report at Council meetings once a month, hold regular joint meetings with the Tourism Business Improvement District Advisory Board, and will work with the Business Forum regarding Community Promotions activities; 2) there is a need to move forward effectively with a City-wide workshop to get the community, businesses, boards and Council working together with regards to City promotions, image and advertising; 3) coordinate and approach advertising broadly and openly; 4) TJA Advertising has provided a clear advertising plan focused on a variety of demographics around California with monthly budget outlines where advertising dollars are spent in print and on-line venue; with the new advertising agency, the Committee will continue to review the approach and solicit community input; and 5) TJA is preparing for the transition to the new agency in hopes that there is no lag time in City promotion efforts or website availability; internet and print ads will continue to run as scheduled and new ideas will continue to be explored.

John Barta addressed Item D-1 (Review and Discussion of Morro Bay Municipal Code 17.48.320 Regarding Secondary Dwelling Units) stating using existing resources without expanding City boundaries, including granny units or secondary dwelling units, can assist in the State fair share housing requirement.

Richard Margesten stated he hopes the City does not fight the Coastal Commission's requirements regarding the Wastewater Treatment Plant upgrade project. He said his concern is the costs of contractors' bids are below engineers estimates.

Garry Johnson thanked the City for their efforts through the tsunami warnings. He also noted the reason there have been so many costs for the Wastewater Treatment Plant upgrade project are due to the appeals that have been filed against it.

Vice-Mayor Smukler closed the hearing for public comment.

A. CONSENT CALENDAR

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 APPROVAL OF CITY COUNCIL MINUTES FOR REGULAR MEETINGS OF FEBRUARY 22, 2011 AND MARCH 8, 2011, AND THE SPECIAL MEETING OF MARCH 15, 2011; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 22, 2011

A-2 RESOLUTION NO. 23-11 AUTHORIZING HINDERLITER, DE LLAMAS & ASSOCIATES (HDL COMPANIES) TO RETAIN COUNSEL TO INTERVENE IN THE CASES OF *CITY OF BRISBANE, ET AL, V. CALIFORNIA STATE BOARD OF EQUALIZATION (BOE) AND DOES 1-500*, AND TO REPRESENT THE CITY OF MORRO BAY’S INTERESTS IN THESE CASES; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 23-11, and direct the City Manager to complete HdL Companies’ form *Authorization – Motion to Intervene*.

A-3 AUTHORIZATION TO PURSUE CALTRANS TRANSPORTATION PLANNING GRANT FOR A COMPLETE STREETS/GREEN STREET PROGRAM; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution 22-11 authorizing the Public Services Director to pursue the application for a Transportation Planning Grant and to act as the City’s representative in administration of the Grant if the application is successful.

A-4 PROCLAMATION DECLARING APRIL 2011 AS "MONTH OF THE CHILD" AND “CHILD ABUSE PREVENTION MONTH” AND APRIL 9, 2011 AS “DAY OF THE CHILD”; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

A-5 PROCLAMATION DECLARING APRIL 2011 AS “FAIR HOUSING MONTH”; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Proclamation.

MOTION: Councilmember Johnson moved the City Council approve the Consent Calendar. The motion was seconded by Councilmember Borchard and carried unanimously. (4-0)

B. PUBLIC HEARINGS, REPORTS & APPEARANCES – NONE.

C. UNFINISHED BUSINESS – NONE.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 22, 2011

D. NEW BUSINESS

D-1 REVIEW AND DISCUSSION OF MORRO BAY MUNICIPAL CODE
17.48.320 REGARDING SECONDARY DWELLING UNITS; (CITY
ATTORNEY)

City Attorney Robert Schultz stated on February 14, 2005 the City Council enacted a moratorium on secondary dwelling units in order to bring the City zoning into compliance with Government Code §65852.2. This law, also known as AB 1866, required cities to develop a process by which at least some secondary dwelling units may be permitted through a ministerial process. On February 21, 2005 the Planning Commission held a public hearing to familiarize the Planning Commission and community with the current State and local regulatory framework, and take public testimony on the topic of secondary dwelling units. On March 7, 2005 Staff sought direction from the Planning Commission on how to best achieve compliance with State law. The Planning Commission provided feedback as to what the proposed ordinance should entail. Staff then drafted an ordinance that met State laws and balanced local land use needs and objectives. On April 25, 2005, May 9, 2005 and May 23, 2005 the City Council considered and adopted revisions to Morro Bay Municipal Code Section 17.48.320 regarding Secondary Units. The revisions adopted by the City Council established a process whereby one could build a small, affordable secondary unit (900 sq. ft.) with minimal city or neighborhood involvement by obtaining a ministerial permit. At the same time, if one desired to build a larger secondary dwelling unit they could continue to do so under Conditional Use Permit standards and processing requirements. Mr. Schultz recommended the City Council review the adopted Summary of Ordinance Amendments, and direct staff on whether to draft changes to the current Secondary Dwelling Unit Ordinance.

Councilmember Johnson stated granny units are a way to meet State regulations and provide low-income housing. She referred to Summary of Ordinance Amendment #3 in the staff report, and stated it is very limited and should be eliminated, which would be the easiest and most effective way to approach second dwelling units.

Councilmember Borchard stated she supports Councilmember Johnson's suggestion to eliminate Amendment #3; this will help with the City's housing requirements and infrastructure needs. Councilmember Borchard referred to Morro Bay Municipal Code Section 17.48.320(E) – Architectural Compatibility, noting she would like to strike-out "type of windows, and trim details" and replace it with "reasonably compatible."

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – MARCH 22, 2011

Councilmember Leage stated he agrees with Councilmember Johnson's comments. He said this makes it more versatile for homeowners especially with the expense of housing. Councilmember Leage stated this is a great way to meet the City's housing requirements.

Councilmember Smukler stated he does not support making extreme changes to the code.

MOTION: Councilmember Borchard moved the City Council direct the City Attorney to return with the following amendments to Morro Bay Municipal Code Section 17.48.320:

- C. Minimum and Maximum Floor Area. The floor area of a second unit shall not exceed the maximum allowable amount of 1,200 square feet as per State guidelines.
- E. Architectural Compatibility. The architectural design, exterior materials and colors, roof pitch and style, ~~type of windows, and trim details~~ **reasonably compatible** of the second unit
- F. Parking. The parking space can be open and uncovered; however neither may be in tandem with required parking ~~of the principal dwelling unit or secondary unit, and cannot be located in the front or street side setback area.~~
- I. Conditional Use Permit. **(Remove entire regulation.)**

Councilmember Smukler stated he does not support removing (I) in its entirety.

The motion was seconded by Councilmember Johnson and carried with Councilmember Smukler voting no. (3-1)

DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Smukler requested to agendize the approval to send a letter to the Nuclear Regulatory Commission and California Utilities Commission regarding PG&E relicensing process and seismic hazards analysis/study - Councilmember Smukler will supply the letter; Council consensus.

ADJOURNMENT - The meeting adjourned at 7:45 p.m.

Recorded by:

Bridgett Kessler
City Clerk



AGENDA NO: A-2

MEETING DATE: 04/12/11

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 31, 2011

FROM: Eric Endersby, Harbor Operations Manager

SUBJECT: Approval of Resolution Authorizing the City of Morro Bay to Enter Into Vessel Pumpout Installation Grant Contract with the Department of Boating and Waterways

RECOMMENDATION:

Staff recommends the City Council adopt Resolution #24-11 authorizing the Harbor Operations Manager to execute the attached \$15,000 grant contract agreement #10-107-715 with the California Department of Boating and Waterways (DBW) for purchase and installation of a vessel pumpout/dump station.

FISCAL IMPACT:

This is a 75% funding grant, with the city required to provide a 25% funding match. Total project cost is estimated to be \$19,101.83. City has committed 25.3% or \$4833.82, in funding match, mostly in the form of Harbor Department personnel labor and administrative overhead. Approximately \$500.00 of City supplied materials and supplies are estimated and will be funded with existing budget line-items.

BACKGROUND:

Over the years the Harbor Department has obtained various grants from DBW, including vessel pumpout grants. In January the Harbor Department applied for and was approved for a grant to replace the aging and outdated Tidelands Dock vessel pumpout/dump station. This is the most heavily used vessel pumpout in the bay. Harbor Department staff has identified equipment in need of replacement and applied for the grant accordingly.

CONCLUSION:

Staff recommends that the City Council adopt Resolution #24-11.

Prepared By: _____	Dept Review: _____
City Manager Review: _____	
City Attorney Review: _____	

RESOLUTION NO. 24-11

**AUTHORIZATION FOR THE CITY OF MORRO BAY
TO ENTER INTO VESSEL PUMPOUT INSTALLATION GRANT
CONTRACT WITH THE DEPARTMENT OF
BOATING AND WATERWAYS**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the City of Morro Bay installed a vessel sewage pumpout station at the Tidelands Park dock in 1995; and,

WHEREAS, the City of Morro Bay is desirous of upgrading and improving the vessel pumpout/dump station facility at Tidelands Park dock to meet the needs of the boaters and to provide access to these facilities; and,

WHEREAS, the Department of Boating and Waterways (DWB) has awarded a grant of \$15,000.00 for the purchase and installation of a new vessel pumpout/dump station facility at Tidelands Park dock.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the City of Morro Bay is hereby authorized to enter into contract #10-107-715 with DBW for purchase and installation of a vessel pumpout/dump station; and

BE IT FURTHER RESOLVED, that Harbor Operations Manager Eric Endersby is hereby authorized to act as the City's agent in regard to all aspects of the grant agreement.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 12th day of April, 2011 on the following vote:

AYES:

NOES:

ABSENT:

William Yates, Mayor

ATTEST:

Jamie Boucher, Deputy City Clerk

**A PROCLAMATION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
DECLARING APRIL 10 – 16, 2011 AS
“CHILDHOOD CANCER AWARENESS WEEK”**

**CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection report cancer is the leading cause of death by disease among children in the United States. This tragic disease is detected in nearly 15,000 of our nation's young people each and every year; and

WHEREAS, founded nearly twenty years ago by Steven Firestein, a member of the philanthropic Max Factor family, the American Cancer Fund for Children, Inc. and sister organization, Kids Cancer Connection, Inc. are dedicated to helping these children and their families; and

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection provide a variety of vital patient psychosocial services to children undergoing cancer treatment at Cottage Children's Hospital: Department of Pediatrics; Division of Hematology/Oncology in Santa Barbara, as well as participating hospitals throughout the country, thereby enhancing the quality of life for these children and their families; and

WHEREAS, through its uniquely sensitive and comforting Magical Caps for Kids program, the American Cancer Fund for Children and Kids Cancer Connection distributes thousands of beautifully handmade caps and decorated baseball caps to children who want to protect their heads following the trauma of chemotherapy, surgery and/or radiation treatments; and

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection also sponsor nationwide Courageous Kid recognition award ceremonies and hospital celebrations in honor of a child's determination and bravery to fight the battle against childhood cancer.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay does hereby proclaim the week of April 10 – 16, 2011 as “**CHILDHOOD CANCER AWARENESS WEEK.**”

IN WITNESS WHEREOF I have
hereunto set my hand and caused the
seal of the City of Morro Bay to be
affixed this 12th day of April, 2011

WILLIAM YATES, Mayor
City of Morro Bay, California

providing low-income jobs to 7-15 people per month. The work is seasonal due to fishing closures and weather conditions.

The Harbor Department has only received 2 complaints during the time that South Bay Hookers has been in operation on the site: one from a business person wondering if they had liability insurance and one from a local fisherman that the business provided baiting service to a vessel from Santa Barbara. To date, the Harbor Department has not had any enforcement issues with South Bay Hookers.

This issue was reviewed by the Harbor Advisory Board at their March 3, 2011 meeting. The Harbor Advisory Board unanimously moved to recommend to City Council approval of the Harbor Department License Agreement with South Bay Hookers.

The Harbor Department is proposing a one-year license agreement with South Bay Hookers. The proposed license agreement allows the South Bay Hookers to use a portion of the fenced property as outlined in Exhibit A of the agreement, with a monthly rent of \$50 and a term of one-year. The agreement also requires that the business abide by all local and state regulations and obtain liability insurance naming the City as additional insured.

This license agreement will be reviewed again next year to determine if a longer term license agreement would be appropriate for continuation of the bait operation on a portion of City property and to review the rental terms.

CONCLUSION:

Staff recommends that the City Council adopt Resolution No. 26-11 approving a one-year license agreement with South Bay Hookers. Staff also recommends the City Council review the license agreement next year to determine if the agreement should be continued.

RESOLUTION NO. 26-11

**APPROVAL OF A ONE-YEAR LICENSE AGREEMENT BETWEEN
THE CITY OF MORRO BAY AND
LIMO AND COURTNEY LONG, DOING BUSINESS AS SOUTH BAY
HOOKERS**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the City of Morro Bay is the manager and lessor of certain properties on the Morro Bay Waterfront described as City Tidelands properties; and

WHEREAS, Limo and Courtney Long, doing business as South Bay Hookers have been operating a small baiting service for local groundfish boats on a portion of City Tidelands property west of the Harbor/Commercial Fisherman's storage area; and

WHEREAS, South Bay Hookers are providing a needed service to our local groundfish fishermen and low-income jobs to 7-15 people per month; and

WHEREAS, the City and South Bay Hookers have agreed to a one-year license agreement that requires South Bay Hookers to abide by all local and state regulations in addition to obtaining liability insurance naming the City as additional insured.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that the license agreement with Limo and Courtney Long, doing business as South Bay Hookers is hereby approved, and that the Harbor Business Manager is hereby authorized to execute said license.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 12th day of April, 2011 on the following vote:

AYES:

NOES:

ABSENT:

William Yates, Mayor

ATTEST:

Jamie Boucher, Deputy City Clerk



AGENDA NO: A-5

MEETING DATE: 04/12/2011

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 31, 2011
FROM: Susan Slayton, Administrative Services Director/City Treasurer
SUBJECT: Annual Reporting on the Morro Bay Tourism Business Improvement District and Scheduling of a Public Hearing

RECOMMENDATION:

Council to acknowledge receipt of the annual report and budgets, and set the date for the public hearing for the renewal of the MBTBID on April 26, 2011, and the adoption of Resolution No. 25-11.

FISCAL IMPACT:

Estimated revenue for 2011/12 is \$380,000 in assessments, and \$500 in interest, all dedicated to advertising and promotions.

SUMMARY:

This is the annual reaffirmation of the MBTBID and authorization of the 3% assessments, as required by State law. Staff requests that Council acknowledge receipt of the annual report and budgets, and set the date for the public hearing for the renewal of the MBTBID on April 26, 2011, and the adoption of Resolution No. 25-11.

DISCUSSION:

State law requires the City Council to annually renew business improvement districts, and receive annual reports for each fiscal year. These reports are attached as Exhibits A, B, and C.

In the 2009/10 fiscal year, the MBTBID revenues totaled \$381,444 (\$380,375 TOT and \$1,069 interest), and expended \$362,074 on advertising and promotions. The adopted budget for the 2010/11 fiscal year is \$320,000, and the proposed budget for the 2011/12 fiscal year is \$380,500 (\$380,000 TOT and \$500 interest), all of which, in both fiscal years, is budgeted for marketing expenditures.

Staff requests that Council acknowledge receipt of the annual report and budgets, and set the date for the public hearing for the renewal of the MBTBID on April 26, 2011, and the adoption of Resolution No. 25-11.

Prepared By: _____ **Dept Review:** _____
City Manager Review: _____
City Attorney Review: _____

RESOLUTION NO. 25-11

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MORRO BAY, CALIFORNIA,
DECLARING THE INTENTION TO CONTINUE THE PROGRAM AND
ASSESSMENTS FOR THE 2011/12 FISCAL YEAR FOR THE MORRO BAY
TOURISM BUSINESS IMPROVEMENT DISTRICT (MBTBID)**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the Parking and Business Improvement Area Law of 1989, Section 36500 et seq., of the California Streets and Highway Code authorizes cities to establish and review business improvement areas of the purpose of promoting tourism; and

WHEREAS, on April 13, 2009, the City Council held a public hearing and first reading of Ordinance 546 to establish the Morro Bay Tourism Business Improvement District (MBTBID), and approved Ordinance 546 at its April 27, 2009 meeting; and

WHEREAS, the advisory board has requested the renewal of the TBID for the 2011/12 fiscal year to continue its activities; and

WHEREAS, all other findings of Ordinance 546 to establish the TBID remain unchanged; and

WHEREAS, staff has prepared an annual report for the fiscal year 2009/10 (the first year of the TBID), the adopted budget for 2010/11, and the budget plan for the fiscal year 2011/12, all of which are attached to this Resolution as Exhibits A, B, and C; and

WHEREAS, the annual report and budget plan generally describe the activities to be advertising, public relations, and marketing activities, which attract and extend overnight stays in Morro Bay hotels; and

WHEREAS, it is the intention of the City Council to levy and collect 3% assessments from the hoteliers within the TBID for the 2011/12 fiscal year; and

WHEREAS, the City Council conducted a public meeting on April 12, 2011, to affirm the annual report and budgets, and set the public hearing date for April 26, 2011, according to California Streets and Highway Code Sections 36524 and 36525; and

WHEREAS, on April 26, 2011, the City Council will conduct a public hearing regarding the renewal of the TBID for the 2011/12 fiscal year at 6:00 p.m. (or soon thereafter as possible) in the Morro Bay Veterans Memorial Hall located at 209 Surf Street, Morro Bay, California; and

WHEREAS, at the public hearing, affected businesses will have the opportunity to protest the TBID renewal.

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

1. That the above recitations are true and correct, and incorporated herein by reference.
2. That the City Council, having affirmed the annual report and budgets on April 12, 2011 at a regular meeting, declares its intention to renew the Morro Bay Tourism Business Improvement District for the 2011/12 fiscal year, and to levy and collect 3% assessments from hoteliers.

PASSED AND ADOPTED by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 26th day of April, 2011, by the following vote:

PASS

AYES:

NOES:

ABSENT:

William Yates, Mayor

Bridgett Kessling, City Clerk



AGENDA NO: A-6

MEETING DATE: April 12, 2011

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 4, 2011

FROM: Tim Olivas, Police Chief

SUBJECT: Approval of Vehicle Transfer from the Police Department to the Public Services Department and Associated Fund Transfer

RECOMMENDATION:

Staff recommends the City Council approve the transfer of the Police Department's Dodge Durango to the Public Services Department.

FISCAL IMPACT:

Transfer of funds totaling \$8,500 (Kelly Blue Book) from the Water (50%) and Sewer (50%) Accumulation Fund to the Police Department's Vehicle Replacement fund, which currently has a zero balance.

SUMMARY:

The Police Department currently has a Dodge Durango that is not effectively being utilized. Recognizing the Police Department has a need to replace the watch commander vehicle (Ford Expedition) and since the Durango is not an appropriate vehicle to convert to the watch commander's vehicle, the department started looking at options of selling or trading the Durango.

We contacted Public Services knowing they were in need of a vehicle similar to the Durango. Director Rob Livick inspected the Durango and determined that it was appropriate for their needs. We are proposing that the Police Department's Dodge Durango be transferred to the Public Services Department to be utilized for their needs. In return, Public Services would transfer \$8,500 from the Water (50% of the funding) and Sewer (50% of the funding) Accumulation Fund to the Police Department's vehicle replacement fund. The \$8,500 would be recommended to be utilized by the Police Department to help purchase an appropriate vehicle to replace the watch commander's vehicle in FY 2011/12.

BACKGROUND:

Prepared By: TO

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

In 2001, our Department purchased a Dodge Durango to be utilized for patrol. It quickly became apparent that the vehicle was not an appropriate patrol vehicle. The Durango lacked sufficient internal space, was not pursuit rated and had insufficient handling capabilities required for a police “pursuit” patrol vehicle. It was removed from active patrol and converted to our DARE vehicle. In 2004, the DARE vehicle was assigned to the School Resource Officer position. In 2005, due to budgetary restraints we had to cut our School Resource Officer position. The Durango is only utilized as our DARE vehicle during the nine week DARE program each year. In short, the vehicle has been underutilized for this purpose and to date only has 30,000 miles.

During the 2010/11 budget process, the Public Services Department requested permission to purchase a vehicle with the water and sewer (enterprise) accumulation funds. The discussion at the City Council meeting involved concern with purchasing vehicles at the same time the City was laying off employees and the request was denied. Public Services still has a need for a vehicle similar to the Durango to be primarily used by the Water and Sewer Engineering/Admin staff for project inspection and other utility functions as they are currently using a 1990 Ford Explorer that has 137,000 miles on it and is at the end of its productive life. The Explorer was previously used by Police, Fire and Recreation and Parks. Additionally, intermittently, the Explorer has a sticking accelerator, suspension problems and breaking and steering issues.

DISCUSSION:

When the police department first began researching options to sell or trade the Durango we thought the money could be utilized to benefit the fund raising efforts for the K-9 program. In August 2010, with the cooperation of the “Friends of the Morro Bay Police Department, INC.” the Department started a grass roots campaign to raise \$60,000 to return a K-9 program to the police department. The \$60,000 includes funds to purchase and outfit an appropriate vehicle for the K-9 as well as the dog and training. The community has been very supportive of the program and we have been able to raise approximately \$40,000 to date. The original request was to use the money from the transfer of the Durango, if approved, for the purchase of the vehicle to be utilized for the K-9 program. There were some concerns raised by council members that if the money was used to purchase the K-9 vehicle it conflicted with the original intention of raising the money for the K-9 program through community donations. If the transfer is approved, we will utilize the money to replace the watch commander’s vehicle and continue our fund raising efforts through the community to return a K-9 program to Morro Bay Police Department.



AGENDA NO: B1

MEETING DATE: April 12, 2011

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 12, 2011

FROM: Rob Livick PE/PLS, Public Services Director/City Engineer
Damaris Hanson, Engineering Technician

SUBJECT: Appeal of Planning Commission’s Decision on March 2, 2011 to Deny the Appeal of the Removal and Replacement of 8 Trees Located in the City Right of Way.

RECOMMENDATION:

Staff recommends the City Council deny the appeal of the Planning Commission’s approval for the removal of 8 trees (205 Surf, 214 & 225 Beach, 1129, 1149, 1169 Market and two trees at 1320 Main) within the City Right of Way.

FISCAL IMPACT:

The City’s cost for maintenance is relatively the same for the existing trees and the replacement trees. The cost to replace the sidewalks damaged by these mature trees, which are not suitable for tree wells, is roughly \$1,000-2,000 per tree well. Grinding the lifted sidewalk is sometimes an option but is only a temporary fix and cannot be preformed if the sidewalk has lifted more than two inches. Additionally, the City faces potential financial liability for injuries due to persons tripping on the lifted sections of sidewalk. These claims can run into the hundreds of thousands of dollars for severe injuries. The “Right Tree Right Place” program removes the trees at no cost and haul off all branches smaller than 4” and provides \$50/tree in replacement monies. The City is responsible for removing all larger branches and any necessary stump grinding, typically \$200-\$300 per stump.

BACKGROUND:

Pacific Gas and Electric Company (PG&E) owns, operates, and maintains the high voltage electric distribution lines within the City of Morro Bay’s Right of Way under a franchise easement. On September 22, 2010 a City tree caused a power outage where approximately 6,000 PG&E customers lost power for approximately five (5) hours. State law requires minimum clearances of 10 feet between vegetation and high voltage lines at all times for public safety and system reliability. PG&E currently has a program, “Right Tree Right Place” for removing problem trees which require repeated pruning to comply with this requirement and replacing the tree with a tree suitable for planting near power lines (Attachment 1).

Prepared By: _____ Dept Review: _____
City Manager Review: _____
City Attorney Review: _____

DISCUSSION:

Due to the power outage City staff met with PG&E's Vegetation Management Forester, Greg Saenz, on October 12, 2010 to discuss trees which would qualify for this program. Nine trees in the public right of way were identified as successful candidates for removal and replacement. The nine trees are located at: 205 Surf, 214 & 225 Beach, 1129, 1149, 1169 Market, 2511 Juniper and two trees at 1320 Main. The City has decided not to include the tree located at 2511 Juniper in this program at this time. *Attachment 2, photo of the trees

The City has an interest in removing several of these trees due to the damage the trees have caused to sidewalks. Several of these trees are the Red Flowering Eucalyptus, while beautiful trees, are not suitable for an urban tree well environment. Because of the damage to the sidewalks, replanting with an appropriate tree for an urban environment would benefit the City, thereby reducing the exposure to liability of trip and fall accidents. PG&E has a greater interest in removing the identified trees, due to their proximity to the power lines and tree trimming maintenance; therefore planting more appropriate trees would lessen PG&E's tree maintenance and potential for power disruption in the future.

The tree removal process was conducted according to MBMC 12.08.070; if a tree creates a condition as to constitute a hazard the tree meets the criteria for removal by city for cause. Furthermore MBMC 12.08.110 states "Any person doing business as a public utility subject to the jurisdiction of the Public Utilities Commission of the state and any constituted public agency authorized to provide, and providing utility service **shall be given** a permit to trim, brace, **remove** or perform such other acts with respect to trees growing adjacent to the public streets or the City, or which grow upon private property to the extent that they encroach upon such public streets as may be necessary to comply with safety regulations of the commission and as may be necessary to maintain the safe operations of its business" (emphasis added).

The said trees were posted for 10 days and postcards were sent to all property owners and residents within 300 feet of the trees. The appellant, Robin Cole, filed an appeal (Attachment 3) within the 10 day appeal period. The appellant requested no trees be removed, careful pruning be done to accommodate power lines, and to consider the aesthetic appearance of the said trees. The appeal was heard at a Planning Commission public hearing, on March 2, 2011, where the Planning Commission took public testimony, deliberated and denied the appeal. The appellant, Robin Cole, filed an appeal (attachment 4) to City Council within the 10 day appeal period. The appellant has additionally requested Council member Johnson excuse herself from the appeal hearing. The appellant also requests the trees be trimmed to accommodate the power lines until the City has an official plan for trees along the commercial streets.

CONCLUSION:

Staff recommends the City Council deny the appeal of the Planning Commission's decision and allow PG&E to remove said trees and replant with more appropriate trees.

ATTACHMENT 1



**Pacific Gas and
Electric Company®**

Vegetation Management

650 "O" Street, #25
Fresno, CA 93760-0001

February 18, 2011

City of Morro Bay
c/o Ms. Damaris Hansen
955 Shasta Avenue
Morro Bay, CA 93442

Re: Tree(s) Planted Under or Adjacent to Electric Distribution Line

Dear Ms. Hansen:

Pacific Gas and Electric Company (PG&E) owns, operates, and maintains the high voltage electric distribution line within the City of Morro Bay's franchise easement.

During our annual vegetation management patrol it was noted that the City of Morro have several large trees under or adjacent to PG&E's high voltage electric line. State law requires minimum clearances between vegetation and high voltage lines at all times for public safety and system reliability. Consideration must also be given for the effect of tree growth, wind, conductor sway, and conductor sag due to ambient temperature and electric load. Some tree species and locations are not compatible with this requirement.

We are bringing this to your attention because PG&E is required to repeatedly prune these trees to maintain safe clearances. These trees are not compatible with high voltage electric facilities and will never reach their mature growth potential. As such, PG&E is willing to remove the identified trees at no cost, haul the debris under 4" in diameter and provide \$50/tree in replacement monies. Generally speaking, tall growing trees should be planted a minimum of 25' back (horizontal distance) from overhead distribution lines.

This alert is provided as a public service to prevent electrical outages, personal injury, property damage, and vegetation caused fires. We recommend that you visit <http://selectree.calpoly.edu/> for more information on selecting the right tree to plant near the power lines.

Thank you for your attention to this matter. If you have any question or wish to discuss this further, please contact me at 805/ 595-6304.

Sincerely,

A handwritten signature in cursive script that reads 'Greg Saenz'.

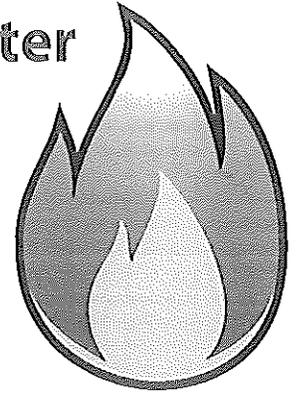
Greg Saenz
Vegetation Management Forester

GES



Trees & Power Lines

Trees + Power Lines = Disaster



Do Your Part:

1. **Fire Safety:** Trees in contact with high voltage power lines can act as an ignition source for fire.
2. **Public Safety:** To prevent injury to people climbing or working in trees adjacent to power lines.
3. **Reducing Outages:** Trees represent one of the largest causes of power outages in California.

Your Utility Company's Responsibility

- **It's the Law:** State law requires utility companies to maintain specific clearances (depending on voltage running through the line) between electric power lines and all vegetation.
- **Homeowner Liability:** Failure to allow a utility company to comply with the law can result in liability to the homeowner for damages or injuries resulting from a vegetation hazard. Many insurance companies do not cover these types of damages if the policy owner has refused to allow the hazard to be eliminated.

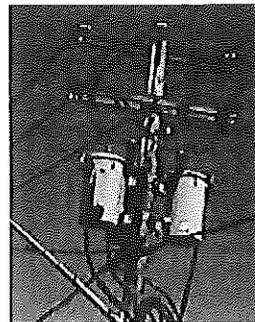
You can help prevent electrical outages, fire and public safety hazards by:

- Clearing all flammable vegetation within minimum of 100 feet around your home and other structures. This provides the greatest chance for survival and is also required by law. Public Resources Code 4291.
- Not planting trees under or near power lines. Before planting trees close to any power line, contact your local utility company to confirm the maximum tree height allowed for that location.
- Look into planting vegetation that is more fire resistant. However, vegetation is only fire resistant if it is cared for, watered and trimmed. Talk with your local nursery for more information.
- Never allow children to climb trees growing near power lines.
- Never prune trees near power lines. Call your local utility company first to inspect the trees. In many instances the utility company may perform the tree work at no cost to the homeowner.
- Inspect the trees on your property annually for hazards. For expert advice on tree health or hazards consult an International Society of Arboriculture Certified Arborist.

www.fire.ca.gov

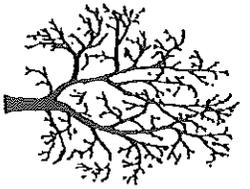


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This brochure has been created with the cooperation of the CPUC to inform you about electrical safety, fire prevention and pertinent rules and regulations that affect all homeowners.

The information here covers the general rules and regulations that affect all homeowners. You can make a difference by acting on this information. If you are interested in knowing more call us or your local utility. We're here to help!

Resources



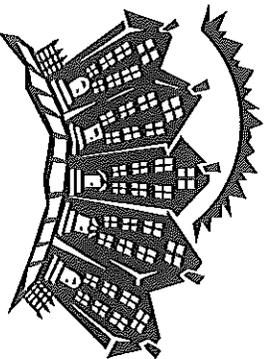
California Public Utilities Commission Consumer Affairs (CPUC) (800) 649-7570



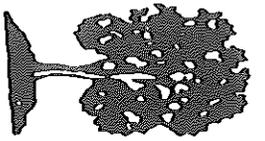
California Department of Forestry & Fire Protection, Headquarters (CDF) (916) 653-5123
www.fire.ca.gov

California Homeowners & Utility Companies

Understanding our shared vegetation responsibilities



*A message from the
CPUC & CDF*



WHY DO ELECTRIC UTILITY COMPANIES PRUNE AND REMOVE TREES NEAR HIGH VOLTAGE POWER LINES?

Public Safety

- To prevent injury to people climbing or working in trees adjacent to power lines.

Fire Safety

- Trees in contact with high voltage power lines can act as an ignition source of fires.

Reduce outages

- Trees represent one of the largest causes of power outages in California.

IT'S THE LAW

State law requires utility companies to maintain specific clearances (depending on voltage running through the line) between electric power lines and all vegetation.

Reference

California Public Resource Code Sections
4293: Power Line Clearance Required
4292: Power Line Hazard Reduction
4291: Reduction of Fire Hazards
 Around Buildings
41771: Public Nuisances
(<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=prcg&group=04001-05000&file=4291-4299>)

California Code of Regulations
Title 14: Minimum Clearance Provisions
Sections 1250 - 1258

General Industry Safety Orders
Title 8: Group 3: Articles 12, 13, 36, 37, 38
California Penal Code Section 385
(<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=369a-402c>)

California Public Utilities Commission
General Order 95: Rule 35
(<http://www.cpuc.ca.gov/>)

Homeowner Liability

Failure to allow a utility company to comply with the law can result in liability to the homeowner for damages or injuries resulting from a vegetation hazard.

Many insurance companies do not cover these types of damages if the policy owner has refused to allow the hazard to be eliminated.

HOMEOWNER PREVENTION

You can help prevent electric outages, fire and public safety hazards.

Clearing all flammable vegetation a minimum of 30 feet around your home and other structures provides the greatest chance for survival and is also required by law. (section 4291)

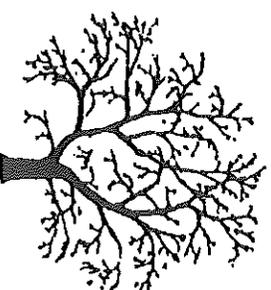
Plant the right tree in the right place. If you must plant trees near power lines, make sure the maximum *mature* tree height is ten feet away from the closest power line.

Plant fire resistant plants.

Never allow children to climb trees growing near power lines.

Never prune trees near electric lines. Call your local electric utility company first to inspect the trees. In many instances the utility may perform the tree work at no cost to the homeowner.

Inspect the trees on your property annually for hazards. For expert advice on tree health or hazards consult an International Society of Arboriculture Certified Arborist.



limited. These trees are appropriate as well for narrow planting areas (less than 4 feet (1 meter) wide); planting squares or circles surrounded by concrete; large, raised planting containers; or other locations where underground space for roots will not support tall- or medium-zone trees.

Some Further Suggestions

Plant evergreen trees to serve as windbreaks on the west or north side of the house, approximately 50 feet (15 meters) or more from the house.

Plant deciduous trees (those that drop their leaves in the fall) on the south and/or west side of the house to cool in the summer and allow sun to enter the house in the winter.

Right Tree—Right Place

Planning before planting can help ensure that the right tree is planted in the right place. Proper tree selection and placement enhance your property value and prevent costly maintenance trimming and damage to your home.

For further information on planting and helpful tips on tree selection, refer to ISA's brochures on tree selection and new tree planting. If you have any more questions, please contact your local ISA Certified Arborist or tree care professional, utility company, local nursery, or county extension office.

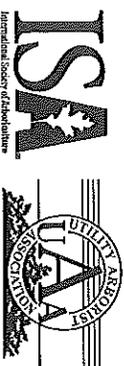
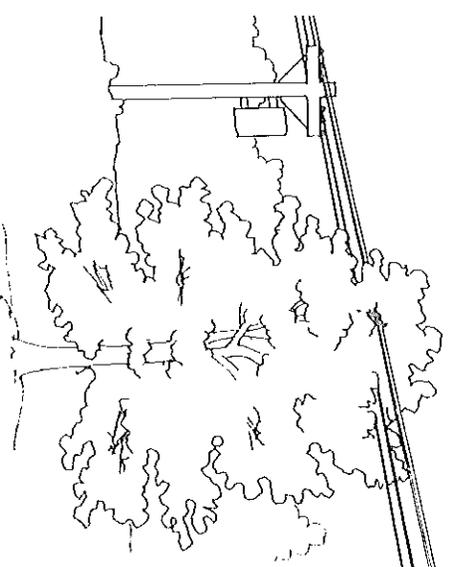
This brochure is one in a series published by the International Society of Arboriculture as part of its consumer information program. You may have additional interest in the following titles currently in the series:

- Avoiding Tree and Utility Conflicts
- Benefits of Trees
- Buying High-Quality Trees
- Insect and Disease Problems
- Mature Tree Care
- New Tree Planting
- Plant-Health Care
- Proper Mulching Techniques
- Pruning Mature Trees
- Pruning Young Trees
- Recognizing Tree Hazards
- Treatment of Trees Damaged by Construction
- Tree Selection
- Trees and Turf
- Value of Trees
- Why Hire an Arborist
- Why Topping Hurts Trees

Avoiding Tree & Utility Conflicts

D*etermining where to plant a tree is a decision that should not be taken lightly. Many factors should be considered prior to planting. When planning what type of tree to plant, remember to look up and look down to determine where the tree will be located in relation to overhead and underground utility lines.*

Often, we take utility services for granted because they have become a part of our daily lives. For us to enjoy the convenience of reliable, uninterrupted service, distribution systems are required to bring utilities into our homes. These services arrive at our homes through overhead or underground lines.



Developed by the International Society of Arboriculture (ISA), a nonprofit organization supporting tree care research around the world and dedicated to the care and preservation of shade and ornamental trees. For further information, contact ISA, P.O. Box 3129, Champaign, IL 61826-3129, U.S.

www.isa-arbor.com
www.treesaregood.org

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TREES
ARE GOOD

Overhead lines can be electric, telephone, or cable television. Underground lines include those three plus water, sewer, and natural gas.

The location of these lines should have a direct impact on your tree and planting site selection. The ultimate mature height of a tree to be planted must be within the available overhead growing space. Just as important, the soil area must be large enough to accommodate the particular rooting habits and ultimate trunk diameter of the tree. Proper tree and site selection provide trouble-free beauty and pleasure for years to come.

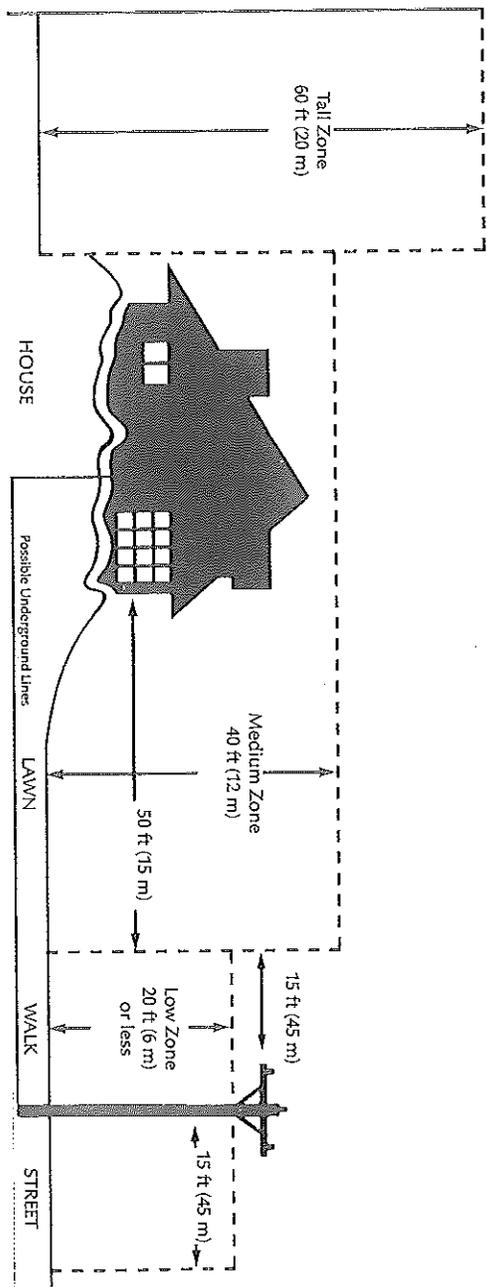
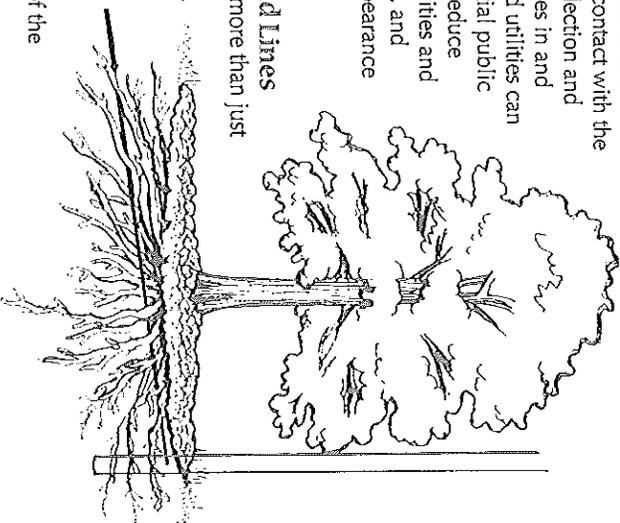
Overhead Lines

Overhead utility lines are the easiest to see and probably the ones we take most for granted. Although these lines look harmless enough, they can be extremely dangerous. Planting tall-growing trees under and near these lines eventually requires your utility to prune them to maintain safe clearance from the wires. This pruning may result in the tree having an unnatural appearance. Periodic pruning can also lead to a shortened life span for the tree. Trees that must be pruned away from power lines are under greater stress and are more susceptible to insects and disease. Small, immature trees planted today can become problem trees in the future.

Tall-growing trees near overhead lines can cause service interruptions when trees contact wires. Children or adults climbing in these trees can be severely injured or even killed if they come in contact with the wires. Proper selection and placement of trees in and around overhead utilities can eliminate potential public safety hazards, reduce expenses for utilities and their rate payers, and improve the appearance of landscapes.

Underground Lines

Trees are much more than just what you see overhead. Many times, the root area is larger than the branch spread above ground. Much of the



utility service provided today runs below ground. Tree roots and underground lines often coexist without problems. However, trees planted near underground lines could have their roots damaged if the lines need to be dug up for repairs.

The biggest danger to underground lines occurs during planting. Before you plant, make sure that you are aware of the location of any underground utilities. To be certain that you do not accidentally dig into any lines and risk serious injury or a costly service interruption, call your utility company or utility protection service first. Never assume that these utility lines are buried deeper than you plan to dig. In some cases, utility lines are very close to the surface.

Proper Places for Trees Around Homes

The illustration indicates approximately where trees should be planted in relation to utility lines. Your garden center staff or tree care professional will gladly help you select the right tree.

Tall Zone

Trees that grow as tall as 60 feet (20 meters) can be used in the area marked as the tall zone; however, you should consider your neighbor's view or their existing plantings of flower beds and/or trees.

Plant large trees at least 35 feet (11 meters) away from the house for proper root development and to minimize damage to the house or building. These large-growing

trees are also recommended for streets without overhead restrictions.

Street planting sites must also have wide planting areas or medians (greater than 8 feet (3 meters)) that allow for a large root system, trunk diameter, and root flare.

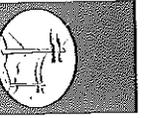
Large trees are also recommended for parks, meadows, or other open areas where their large size, both above and below ground, will not be restricted, cause damage, or become a liability.

Medium Zone

Trees that grow up to 40 feet (12 meters) tall can be used to decorate or frame your house or provide a parklike setting. Select your trees first, then plant shrubs to complement the trees. Medium-sized trees are also recommended for planting anywhere the available above and below ground growing space will allow them to reach a mature height of 30 to 40 feet (10 to 12 meters). Appropriate soil spaces are wide planting areas or medians [4 to 8 feet (1 to 3 meters) wide], large planting squares [8 feet (3 meters) square or greater], and other open areas of similar size or larger.

Low Zone

This zone extends 15 feet (4.5 meters) on either side of the wires. Trees with a mature height of less than 20 feet (6 meters) may be planted anywhere within this zone, including street tree plantings under utility lines. Such trees are also recommended when the growing space is

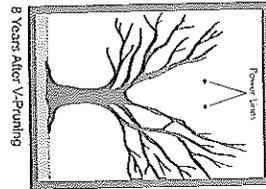
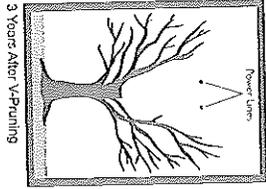
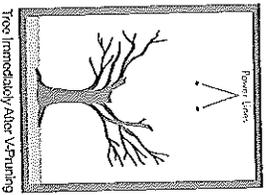


Directional Pruning - A Better Way

Directional pruning is promoted by the International Society of Arboriculture and the National Arborist Association. It is the accepted industry pruning standard. It allows a portion of the tree to attain the normal mature height for the species.

Initially your trees might look different after directional pruning. In the long run, however, they will be less susceptible to pest problems and decay and less likely to drop branches during storms. Directional pruning is actually better than other pruning methods for safety and the protection of your tree's health.

Here's why:

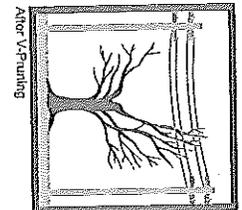
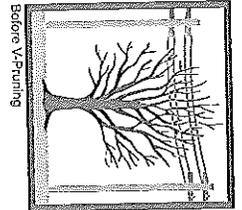


VARIATIONS ON DIRECTIONAL PRUNING

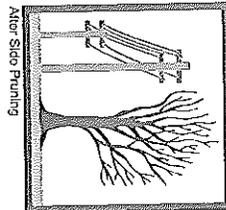
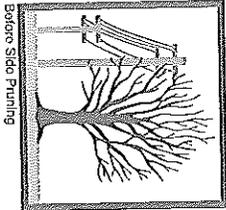
Directional pruning removes only those branches that conflict with power lines. Rather than cutting limbs back to unsightly and unnatural stubs, branches are pruned back to the center of the trunk where trees normally shed them. Future tree growth is directed away from the power lines. Weakly attached regrowth is minimized and hazardous branches are removed.

V-pruning and side pruning are the two main variations of directional pruning to remove branches that conflict with high voltage electric power lines. Illustrations of possible outcomes and brief descriptions are shown here. Your tree may look different due to its form, structure and past pruning history. Some trees with one main trunk growing straight up may not be good candidates for directional pruning. These trees must be topped on order to achieve the state mandated clearance.

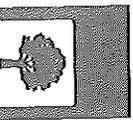
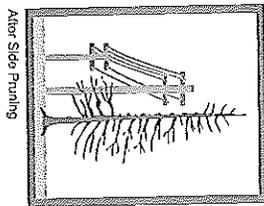
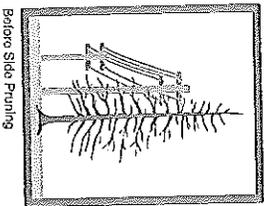
V-PRUNING INVOLVES CUTTING BACK PORTIONS OF A TREE'S UPPER CROWN.



SIDE PRUNING-CONSISTS OF CUTTING BACK OR REMOVING SIDE BRANCHES.

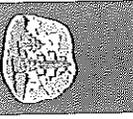
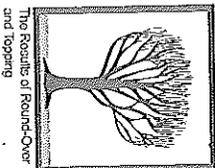
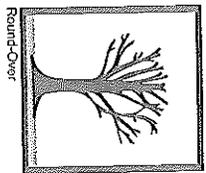


SIDE PRUNING OF CONIFEROUS TREES OFTEN RESULTS IN A SHAPE SIMILAR TO THIS PICTURE.



Unhealthy Methods of Pruning

The less desirable methods of pruning round-over or topping all tree limbs are cut back to stubs or small branches, eliminating foliage and buds containing next season's growth. This stimulates the production of vigorous, crowded, poorly tapered and weakly attached shoots also called water-sprouts. The cut stubs are prone to decay and the water-sprouts are susceptible to breakage. Round-over and topping can weaken trees and make them less resistant to pest problems, while destroying their natural structure and aesthetic value. However, some trees cannot be directionally pruned to achieve the required clearance around high voltage wires. Each tree pruning situation must be evaluated on an individual basis.

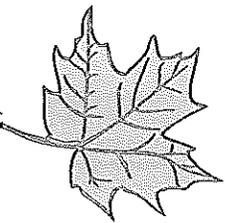
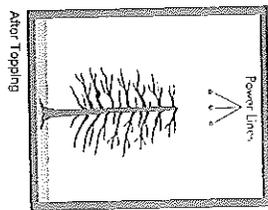
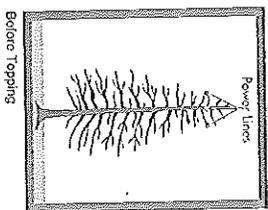


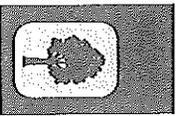
When Tree Removal is Necessary

In some cases it may be necessary to remove a tree. According to experts, trees that require pruning more than once every seven years for line clearance are examples of the wrong tree in the wrong place. These trees are often good candidates for removal. Removal is also necessary if a tree's proximity to an electric line threatens property or human life. For example, children climbing in trees growing near power lines could be injured or electrocuted if they touch the power lines or touch anything in contact with the power lines.

SAFETY TIP: Never built tree houses in trees growing near power lines. Your child's life may depend on it.

TREES WITH ONE MAIN TRUNK GROWING STRAIGHT UP MUST BE TOPPED TO ALLOW POWER LINES TO PASS SAFELY ABOVE.





Trees need space to grow both above and below ground.

Consider carefully where you want to plant. Proper selection of trees under or near power lines reduces fire hazards, limits the need for frequent pruning, increases property value, and adds beauty to the community.

Be especially attentive when selecting trees to plant near power lines. Make sure that the ultimate height and spread of the trees will remain at least 10 feet away from power lines at maturity.

In addition, care should be taken that trees are planted at least six feet to the side of underground facilities. Utility cables and equipment, including phone and cable television facilities that run underground, need to be accessible. To find out where these facilities are located before you plant, call "USA* Underground Service Alert" at 1-800-227-2600.

PG&E is working every day to prune the trees growing near its power lines for fire safety, public safety, and to ensure that your electric service is not interrupted. In addition, PG&E prunes tree branches growing near power lines to comply with state laws. If there is ever a question, we are always available to check the trees growing near power lines.

And finally, NEVER attempt to prune trees near power lines yourself. Only qualified line clearance tree contractors are allowed to work within 10 feet of high voltage lines. If there is any question, call PG&E for an inspection of your tree and line situation at 1-800-749-5000.

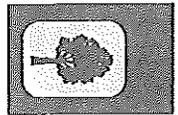


Early everyone likes trees and appreciates their many benefits. But if not properly maintained, trees near electric power lines can cause problems for both you and Pacific Gas and Electric Company.

Tree limbs that touch or fall on power lines can cause electrical outages, property damage, and fires. Outages can also affect traffic light controls, residents on life-support systems and other vital public facilities.

Tree Pruning is not only important, it's necessary. In fact, state law requires utilities to regularly prune trees growing near high voltage power lines to ensure safety around electric facilities and to minimize disruption of service to customers.

PG&E's Vegetation Management Program is designed to do just that. Our method of pruning is also endorsed by the National Arbor Day Foundation as the preferred way to prune trees near power lines for their health, safety and longevity.



Trees increase property value, help save energy, provide wildlife habitats, produce oxygen and improve our communities in many other ways. PG&E's Vegetation Management Program helps preserve trees and enhance these benefits. If you would like more information on directional tree pruning or other related subjects, contact the following:

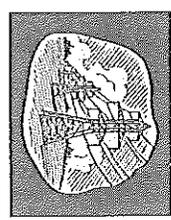
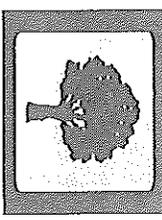
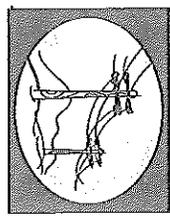
International Society of Arboriculture
P.O. Box 66
Savoy, IL 61874-9902

National Arborists Association
P.O. Box 1094
Amherst, NH 03031

The National Arbor Day Foundation
100 Arbor Avenue
Nebraska City, NE 68410

PG&E's Vegetation Management Program

Cleaning Vegetation from Power Lines to Ensure Electric Safety and Reliability

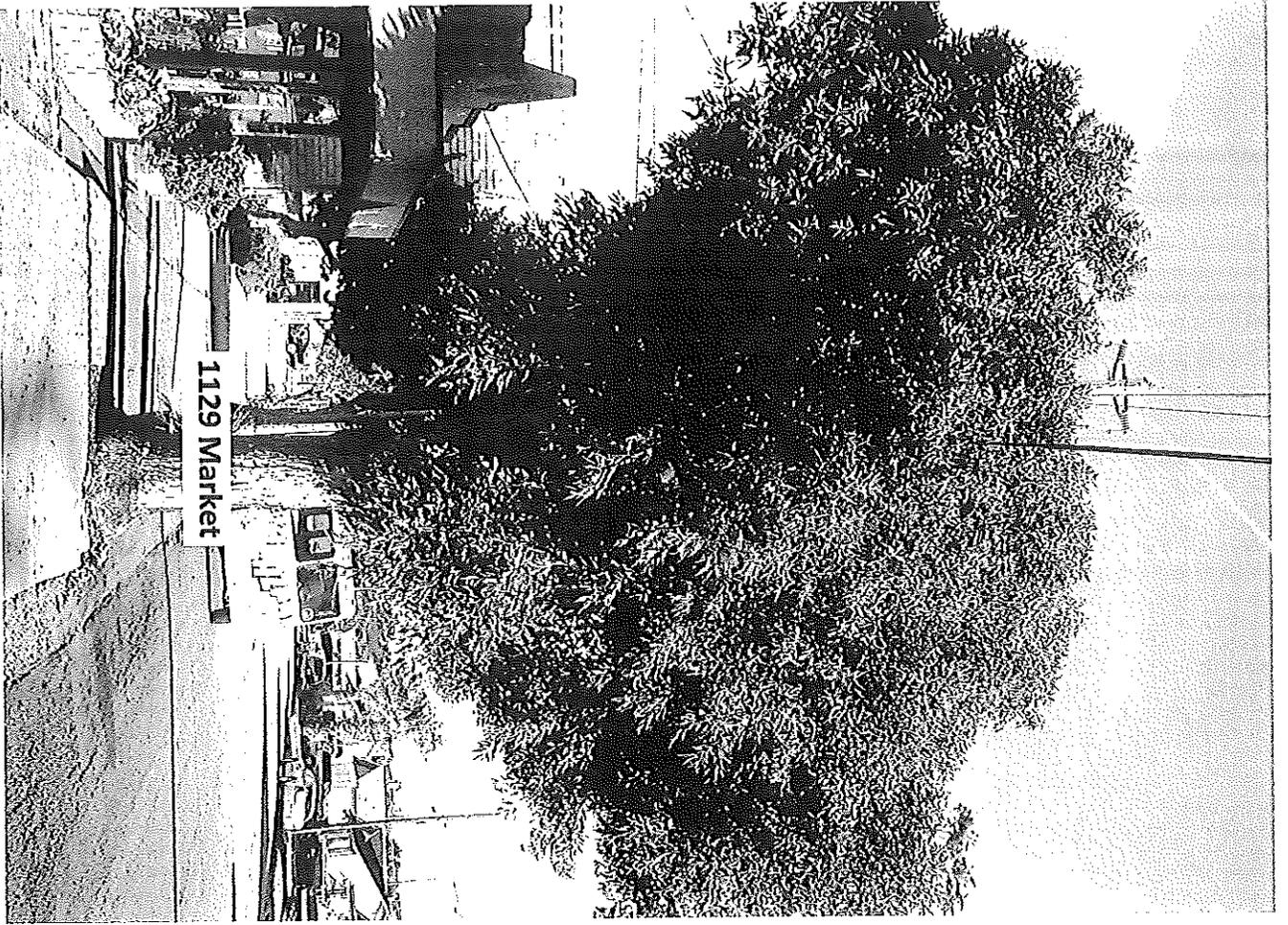


THE RIGHT TREE IN THE RIGHT PLACE
PG&E Vegetation Management Services
62-0997 REV. 2/12/08
Printed on Recycled Paper.



ATTACHMENT 2



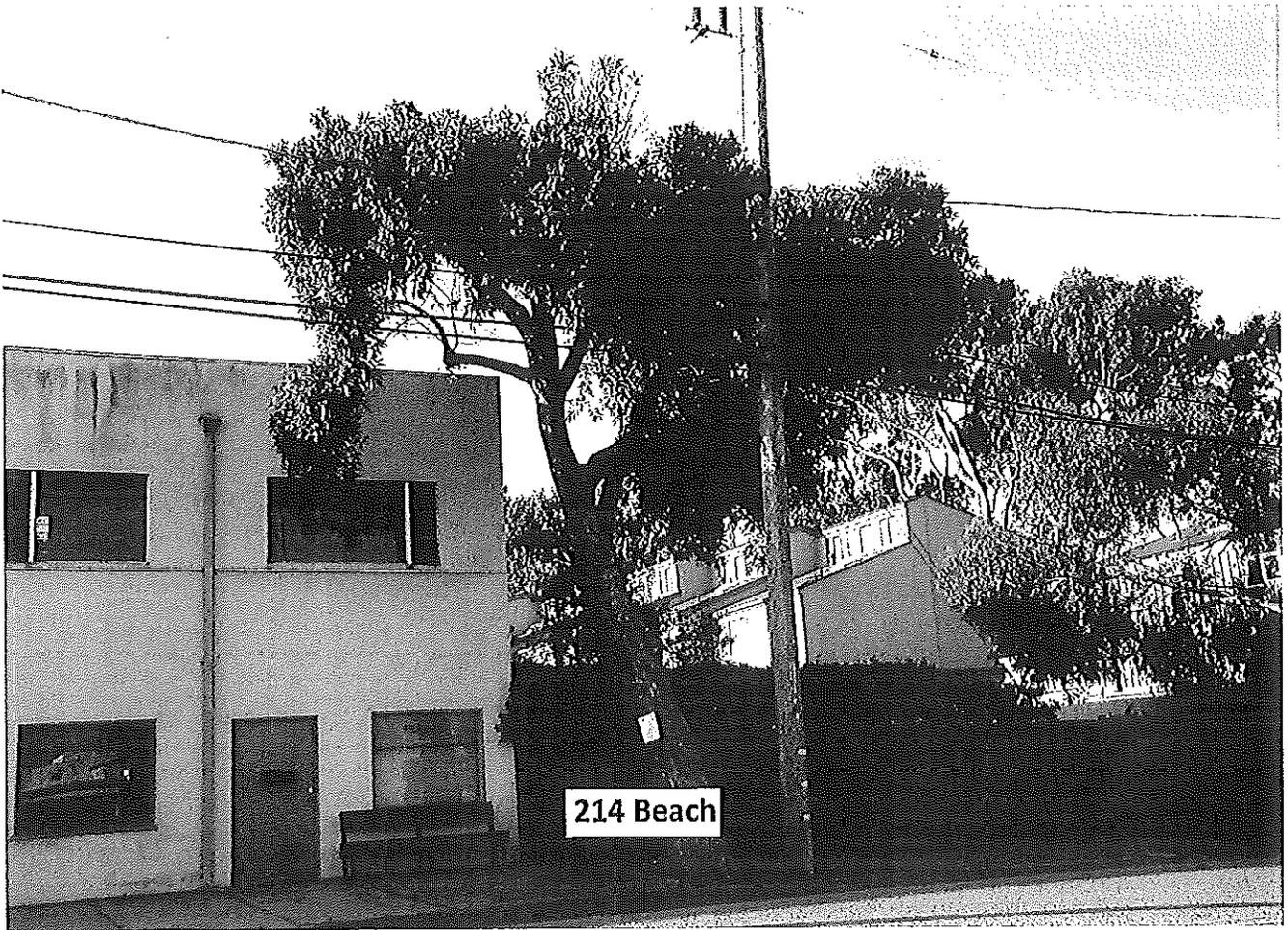




1169 Market



225 Beach



214 Beach



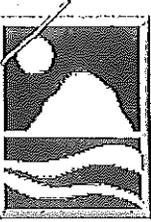
205 SURF



1320 Main
Tree 1



1320 Main
Tree 2



CITY OF MORRO BAY
PUBLIC SERVICES DEPARTMENT
APPEAL FORM

10-29-2010

OCT 29 2010

APPEAL FROM THE DECISION OR ACTION OF (GOVERNING BODY OR CITY OFFICER):

City of Morro Bay
Public Services Department

City of Morro Bay

APPEAL OF SPECIFIC DECISION OR ACTION:

Monkey cypresses of great concern.

Removal of tree located at 2511 Juniper Ave as well as

PERMIT TYPE BEING APPEALED (IE. COASTAL PERMIT, USE PERMIT, TENTATIVE SUBDIVISION):

those on attached list

DATE DECISION OR ACTION RENDERED:

APPELLANT (PLEASE PRINT):

Robin Cole

SIGNATURE:

Robin Cole

ADDRESS:

2581 Juniper Ave

TELEPHONE NUMBER:

805-771-9983

GROUND(S) FOR THE APPEAL (ATTACH SHEETS AS NECESSARY):

Please see attached notes.
Important environmental issues re residents.
Residents for future dealings with these issues
are at stake.

REQUESTED RELIEF OR ACTION:

No removal of trees - Careful pruning to
accommodate power lines, and to consider aesthetic
appearance of said trees.

FOR OFFICE USE ONLY

DATE APPEAL FILED:

ACCEPTED BY:

APPEAL BODY:

DATE OF APPEAL HEARING:

Robin Cole

The trees in jeopardy are mostly majestic Monterey Cypress, a species nominated as our city's official tree. This cypress has been designated by the U.S.D.A. as one of the three most valuable species contributing carbon sequestration to the environment. In this time of clean-air concern it is illogical to be destroying a species that stores more and more carbon the older it gets. We cannot replace easily trees which have taken generations to grow to maturity. These trees as well as others on the list provide shelter for a large variety of birds. In addition, they buffer frequent high winds. Their roots absorb rain-water run-off - roots running probably as deep as the tree is high. Run-off is a hillside problem, collecting under home foundations.

These trees typify the unique beauty of our Central Coast. They add property value to land and home owners. Legislation to come will benefit.

With some careful pruning to accommodate the power lines, these trees can continue to add both practical and aesthetic benefits to our environment.

Yes, periodic trimming will be necessary to maintain them. In this age of environmental awareness, we need to respect and perpetuate our natural environment.

Check Mail New

Mail Search

Delete Reply Forward Spam Move...

Folders

Kate and Chucks letter on the tree Tuesday, October 26, 2010 11:29 AM

"Monique and David" <moniqueanddavid@sbcglobal.net>

"Betty Winholtz" <winholtz@sbcglobal.net>

"Robin Cole" <rwcpug@yahoo.com>

FYI. Here is a copy of Kate and Chucks letter. October 21, 2010

City of Morro Bay
Public Services Department
955 Shasta
Morro Bay, CA 93442

Re: Appeal decision to remove Monterey Cypress tree at 2511 Juniper Ave,

I received notice that the Monterey cypress in front of our home is scheduled to be removed. I want to express my concern and appeal that decision. I believe the tree is one of the older trees in the area and is valuable in a number of ways. I found a 1936 photo online and believe the tree may very well be in that photo. I have included the photo on the following page and have compared it to a clipping from Maps.google. The arrow in the 1936 points to where I believe our home (and tree) is at 2511 Juniper Ave. The "a" bubble on the Google map indicates our home location.

On the Morro Bay website (), it indicates that Morro Bay has been a partner in the Tree City USA program for over 19 years. The Monterey cypress is on the City of Morro Bay, Street Tree List 2010. It does not seem appropriate to remove an older, established, native, and healthy tree in our neighborhood. This tree also provides wonderful bird habitat, which is limited in this part of Morro Bay. I hope that before the City and PGE move forward with removal that further discussion and examination can be conducted to determine if there are other alternatives. PGE has selectively pruned the tree in the past (without considering the aesthetics), why is this no longer an option? I would like to request that an arborist and potentially an engineer examine the tree and the surrounding area to determine what other options exist.

In this time when cities and countries are responding to climate disruption our city leaders had the foresight to sign the "U.S. Mayor's Climate Protection Agreement" that states that "City shall strive to inventory global warming emissions in City operations and in the community, set reduction targets and create an action plan."

() It seems a tree of this age and size would be considered an attribute. A USDA report that examined the value (economic, environmental, health) of carbon sequestration in San Francisco mentioned the Monterey Cypress as one of the 3 most valuable tree species in that area and also noted that as trees grow, they store more carbon.

My husband and I will be out of town from October 27-November 1 and I request that nothing be done to the tree before we have been consulted after our return.

Sincerely,

Chuck and Kate Lancaster
2511 Juniper Ave
Morro Bay, CA 93442
805.772.7452

Delete Reply Forward Spam Move...

Select Message Encoding

Check Mail New

Mail Search

RECEIVED

November 5, 2010

NOV 08 2010

City of Manassas
Public Services Department

Appeal Addendum

With regard to my previous appeal concerning the tree on Juniper, I'm very pleased that it was spared. However I now know that some twenty other trees are at jeopardy throughout the City of Manassas Bay.

I would like to extend my appeal, asking that each tree be carefully evaluated before it is felled. These trees provide such wonderful benefits as noted in my initial appeal. They add to the Ambiance we so need to attract tourists. P.G. & E. should take measures to insure underground wiring which in the long run would save them money. Respectfully, Brian Cole

From R. Cole - Please add to Appeal

Trees along bike path south of bike bridge- NOT ON CITY PROPERTY, BIKE PATH ONLY A EASEMENT, DYNERGY'S PROPERTY
5 Monterey Cypress
5 Red Flowering Gum Eucalyptus

10
7
2

Between Main St and PG&E Facility Entrance near bike path. NOT ON CITY PROPERTY, DYNERGY'S PROPERTY
7 Monterey Pines

Along Main St in front of Lemo's Pet Supply and Culligan water. POSTED 10.19.2010
2 Red Ironbark Eucalyptus

1196 Front St. City of Morro Bay Harbor Maintenance NOT IN CITY RIGHT OF WAY, THEY ARE IN THE HARBOR STORAGE YARD, NEED A (CDP) TO REMOVE
2 Monterey Cypress

2

214 Beach St. Corner of West and Beach St. POSTED 10.19.2010
1 Red Flowering Gum Eucalyptus

7

205 Surf St. POSTED 10.19.2010
1 Blue Gum Eucalyptus

1

1169 Market Ave POSTED 10.19.2010
-1 Red Flowering Gum Eucalyptus

7

1149 Market Ave POSTED 10.19.2010
1 Red Flowering Gum Eucalyptus

7

1129 Market Ave POSTED 10.19.2010
1 Red Flowering Gum Eucalyptus

1

225 Beach St POSTED 10.19.2010
1 Red Flowering Gum Eucalyptus

1

A few Red Flowering Gum Eucalyptus along Harbor St around City Hall and Morro Bay Library. ANOTHER YEAR

RECEIVED
NOV 09 2010
City of Morro Bay
Public Services Department

~~28~~ total
28 trees

Environmentally and aesthetically sound alternatives

P.G. & E needs to start replacing lines

underground

Re.

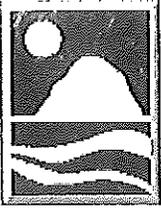
Robin Cole

771-9983

RECEIVED

MAR 11 2011

CITY OF MORRO BAY
PUBLIC SERVICES DEPARTMENT



CITY OF MORRO BAY
PUBLIC SERVICES DEPARTMENT
APPEAL FORM

APPEAL FROM THE DECISION OR ACTION OF (GOVERNING BODY OR CITY OFFICER): <i>Morro Bay City Planning Commission</i>	
APPEAL OF SPECIFIC DECISION OR ACTION: <i>Denial of an appeal to terminate planned removal of trees on public property</i>	
PERMIT TYPE BEING APPEALED (IE, COASTAL PERMIT, USE PERMIT, TENTATIVE SUBDIVISION): <i>Use permit</i>	
DATE DECISION OR ACTION RENDERED: <i>March 2, 2011</i>	
APPELLANT (PLEASE PRINT): <i>Robin Cole</i>	
SIGNATURE: <i>Robin Cole</i>	
ADDRESS: <i>2581 Juniper Avenue MB</i>	TELEPHONE NUMBER: <i>(805) 771-9983</i>

GROUNDS FOR THE APPEAL (ATTACH SHEETS AS NECESSARY):

Please see attachment

REQUESTED RELIEF OR ACTION:

Please see attachments

FOR OFFICE USE ONLY	
DATE APPEAL FILED:	ACCEPTED BY:
APPEAL BODY:	
DATE OF APPEAL HEARING:	

Reasons for appeal to City Council.

1. Unknown pressure from a city council member:

- a. commenting on the appeal during public comment,
- b. without identifying herself as a council member,
- c. nor identifying in the beginning whether she spoke on behalf of the city council or herself,
- d. giving her side of the appeal and using the words "I recommend" to the commission on how to vote.
- e. Put this in the context that one month earlier it had been proposed that 2 of the 4 planning commissioners hearing this appeal should be removed from their commission seats and this council member spoke critically of the them.

2. Evolution of appeal.

The purpose of my appeal was to challenge PG&E's permit rather than address the city's concern for sidewalks; a whole other issue.

- a. In the beginning, PG&E asked to cut 28 trees, so they would no longer have to trim them. At the bottom of PG&E's tree list was the comment that more trees were to be cut the following year on Harbor and Shasta Streets. This was in October.
- b. In February, when the staff report came out, PG&E's angle changed. These trees were the most likely to cause power outages. The list was down to 10 trees, all within a 4-block area.
- c. The tree of primary concern to me, in front of my house was on, then off, then on, and the day before the hearing, off again, from the list. I know this because the posted sign was up, down, up.
- d. The night of the hearing, there was no representative from PG&E. City staff was their surrogate, and then made their own argument regarding sidewalks, not a PG&E issue.

3. Commissioners not informed of the law.

- a. The section of the Municipal Code that addresses this situation was not included in the staff report, 12.08.110 Utility Permit.
- b. Another section of the Municipal Code was identified by number, 12.08.070, but not title or content, so you don't know what it says (Removal by City for Cause).
- b. During the hearing, neither the planning staff nor the city attorney informed the commissioners of the Municipal Code's relevance to the hearing.
- c. Though the Code sections were read by a member of the public, the commissioners did not address these codes in their comments.

4. Arguments for the original appeal.

- a. These trees are healthy, not dying.
- b. They are currently all below PG&E power lines.
- c. They have been trimmed until now.
- d. The trimming that has been done, has not been done well.
- e. Other trees in town have a greater chance of creating a power outage, i.e.

the palms on North Main Street.

f. If there is thought to systematically replacing the current street trees, it should be done in a public process, not by a utility and not haphazardly without a known plan.

Requested relief of action.

1. Council Member Johnson should excuse herself from the appeal hearing.
2. No trees should be cut down, but trimmed to accommodate the power lines, until the city has an official plan for trees along the commercial streets.

After the initial formation of the assessment district; each year beginning in April/May the City must hold a series of three (3) public hearings to confirm the levy of assessment for the upcoming fiscal year. The first public hearing initiates the annual levy process and directs the preparation of an Engineer's Report, the second hearing approves the Engineer's Report and notices the intent to levy the assessment and the third public hearing actually levies the assessment for the upcoming fiscal year.

DISCUSSION:

Upon adoption of Resolution No. 28-11, which initiates the proceedings to levy the annual assessment, an Engineer's Report will be prepared for review at the May 10, 2011 City Council meeting. The May 10th agenda item will also include a resolution of Intention declaring the City Council's intent to levy and collect the assessment. The Resolution lists the improvements, names the district and gives its general location, it also refers to the proposed assessment and gives notice of the time and place for the third and last public hearing regarding the levy of the proposed assessment, as well as stating whether or not the proposed assessment is an increase from the previous year. The Government Code states that the third and final public hearing must be noticed ten (10) days prior to the actual hearing, which is tentatively scheduled for June 28, 2011. Any interested person may file a written and/or oral protest with the City Clerk stating all grounds of objection for levy of assessment. However, only protests by property owners in the proposed assessment district are used to determine if a majority protest exists. A majority protest would only affect the ability to increase the assessment amount, but would not be effective in dissolving the assessment district.

The Cloisters Landscaping and Lighting Maintenance Assessment District is a separate fund from all other City funds and can only be utilized for improvements within the District. Once set, the annual assessment is transmitted to the County Auditor for recording on the County assessment role. The assessment amount will then appear each year on the parcel owner's property tax bill.

In conformance with Proposition 218 The Right to Vote on Taxes Act, passed in 1996 by the voters in the State of California; the Cloisters Landscaping and Lighting Maintenance Assessment District was approved by one hundred percent (100%) of the owners for which the assessment is to be levied. All property owners were fully apprised of the costs and benefits associated with the district, prior to its approval by them.

CONCLUSION:

Resolution No. 28-11 has been prepared for City Council review and adoption. The Resolution serves as the initiation of the annual assessment proceedings and orders an Engineer's Report detailing the proposed costs for the maintenance of the Cloisters Park and Open Space for the purpose of assessing private property owners of Tract Map No. 1996 (excluding the City's property). The Resolution also gives notice that a public hearing on the intent to levy the assessment, review and acceptance of the Engineer's Report, will be held on May 10th, 2011.

RESOLUTION NO. 28-11

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
INITIATING PROCEEDINGS TO LEVY THE ANNUAL ASSESSMENT
FOR CLOISTERS LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT PURSUANT TO THE
“LANDSCAPING AND LIGHTING ACT OF 1972”
(STREETS AND HIGHWAYS SECTION 22500 ET SEQ.)**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the City Council has placed certain conditions on the development of Tract 1996, The Cloisters, requiring formation of a property Maintenance Assessment District encompassing and coterminous with the proposed subdivision to provide for the maintenance of a public park, bicycle pathway, right-of-way landscaping, coastal access ways, ESH restoration area, and other common area improvements to be held by or dedicated to the City of Morro Bay as required by City Ordinance: and

WHEREAS, these conditions are more specifically identified in Vesting Tentative Tract Map (condition 10e) and Precise Plan (condition 2c) as required by City Ordinance; and

WHEREAS, the Owners of the real property within the proposed district have consented in writing to the formation of the district pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500 et seq.), and are the only owners of property to be subject to assessments within the district; and

WHEREAS, the Owners of real property within the proposed district have offered to dedicate in fee and in perpetuity, Lot 121 (Parcel 1) and Lot 122 of Tract 1996, and the City has agreed to accept said Offer of Dedication, provided that the cost of maintenance of thereof shall be borne by an assessment district as required by the Conditions of Approval of the project; and

WHEREAS, one hundred percent (100%) of the property owners approved formation of the district to assure conformance with the recently enacted “Right to Vote on Taxes Act” (Proposition 218, California Constitution Act XIII C & D); and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay that:

- a. The City Council of the City of Morro Bay hereby declares its intent to initiate the proceedings to levy and collect assessments pursuant to the “Landscaping and Lighting Act of 1972”. (Streets and Highways Code Sections 22500 et seq.)

- b. The improvements to be subject to assessment for maintenance by such District shall include those enumerated in the conditions of project approval and in Streets and Highways Code Section 22525 which are installed by the developer as a condition of approval of Tract 1996 or which are hereafter installed by developer; pursuant to the Final Improvement Plans for the Cloisters Project as approved by the City.
- c. The Assessment District is a District located in the City of Morro Bay, County of San Luis Obispo. A map showing the boundaries of the proposed District is attached as Exhibit A which is hereby incorporated herein.
- d. An Engineer's Report will be prepared for consideration at the May 10, 2011 City Council meeting.
- e. This District shall be called the "Cloisters Landscaping and Lighting Maintenance Assessment District".

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 12th day of April, 2011 by the following vote:

AYES:

NOES:

ABSENT:

William Yates, Mayor

ATTEST:

Jamie Boucher, Deputy City Clerk

DISCUSSION:

Upon adoption of Resolution No. 29-11, which initiates the proceedings to levy the annual assessment, an Engineer's Report will be prepared for the second public hearing scheduled for the May 10, 2011 City Council meeting. The May 10th agenda item will also include a Resolution declaring the City Council's intent to levy and collect the assessment. The Resolution also lists the improvements, names the district and gives its general location, refers to the proposed assessment, gives notice of the time and place for the third and last public hearing regarding the levy of the proposed assessment as well as states whether or not the proposed assessment is an increase from the previous year.

The Government Code states that the third and final public hearing must be noticed ten (10) days prior to the actual hearing, which is tentatively scheduled for June 28, 2011. Any interested person may file a written and/or oral protest with the City Clerk stating all grounds of objection for levy of assessment. However, only protests by property owners in the proposed assessment district are used to determine if a majority protest exists. A majority protest would only affect the ability to increase the assessment amount, but would not be effective in dissolving the assessment district. However, the assessment amount cannot be increased over the highest assessment on record, \$5,645, should a majority protest exist.

The North Point Natural Area Landscaping and Lighting Maintenance Assessment District is a separate fund from all other City funds and can only be expended for improvements authorized for the District. Once set, the annual assessment is transmitted to the County Auditor for recordation on the County assessment role. The assessment amount will then appear each year on the parcel owner's property tax bill.

In conformance with Proposition 218, "The Right to Vote on Taxes Act", passed in 1996 by the voters in the State of California, the North Point Natural Area Landscaping and Lighting Maintenance Assessment District was approved by one hundred percent (100%) of the owners for which the assessment is to be levied. All property owners were fully apprised of the costs and benefits associated with the district, prior to its approval by them.

CONCLUSION:

Resolution No. 29-11 has been prepared for City Council review and adoption. The Resolution serves as the initiation to the annual assessment proceedings and orders an Engineer's Report detailing the proposed costs for the maintenance of the North Point Natural Area for the purpose of assessing private property owners of Tract Map No. 2110 (excluding the City's property). The Resolution also gives notice that a public hearing on the intent to levy the assessment, review and accept the Engineer's Report will be held on May 10, 2011.

RESOLUTION NO. 29-11

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
INITIATING PROCEEDINGS TO LEVY THE ANNUAL ASSESSMENT
FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT PURSUANT TO THE
"LANDSCAPING AND LIGHTING ACT OF 1972"
(STREETS AND HIGHWAYS SECTION 22500 ET SEQ.)**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the City has placed certain conditions on the development of Tract 2110 "North Point", requiring formation of a property Landscaping and Lighting Maintenance Assessment District encompassing and coterminous with the proposed subdivision to provide for the maintenance of a natural area, parking lot, landscaping, decomposed granite and asphalt walkways, and coastal access stairway and other common area improvements to be held by or dedicated to the City of Morro Bay as required by the Morro Bay Municipal Code 16.16.030; and

WHEREAS, these conditions are more specifically identified in the Precise Plan (condition F1-F7); and

WHEREAS, the Owners of the real property within the proposed district consented to the formation of the district pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22608.2 et seq.), and are the only owners of property to be subject to assessments within the district; and

WHEREAS, the Owners of real property within the proposed district offered in fee and in perpetuity, Lot 11 of Tract 2110, and the City has agreed to said Offer of Dedication, provided that the cost of maintenance of thereof is borne by an assessment district as required by the Conditions of Approval of the project; and

WHEREAS, one hundred percent (100%) of the property owners approved formation of the District to assure conformance with the recently enacted "Right to Vote on Taxes Act" (Proposition 218, California Constitution Act XIII, C & D).

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that

1. The City Council of the City of Morro Bay hereby declares its intent to initiate the proceedings to levy and collect assessments pursuant to the "Landscaping and Lighting Act of 1972". (Streets and Highways Code Sections 22500 et seq.)

2. The improvements to be subject to assessment for maintenance by such District shall include those enumerated in the conditions of project approval and in Streets and High ways Code Section 22525 which are installed by the developer as a condition of approval of Tract 2110 or which are hereafter installed by developer; pursuant to the Final Improvement Plans for the North Point Project as approved by the City.
3. The Assessment District is a District located in the City of Morro Bay, County of San Luis Obispo. A map showing the boundaries of the proposed District is attached as Exhibit A which is hereby incorporated herein.
4. An Engineer's Report will be prepared for consideration at the May 10, 2011 City Council meeting.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 12th day of April, 2011 by the following vote:

AYES:

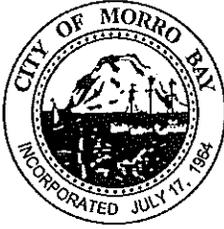
NOES:

ABSENT:

William Yates, Mayor

ATTEST:

Jamie Boucher, Deputy City Clerk



AGENDA NO: B-4
MEETING DATE: April 12, 2011

Staff Report

TO: Honorable Mayor and City Council **DATE:** April 4, 2011
FROM: Sierra Davis, Assistant Planner
SUBJECT: Request for a Use Permit to Allow Installation of a Dock System and Associated Facilities at Lease Sites 105.1W/105.2W Located at 1001 Front Street.

RECOMMENDATION:

Planning Commission forwarded a favorable recommendation from the March 16, 2011 Planning Commission Meeting for approval of Conditional Use Permit #UP0-284 and the adoption of the Mitigated Negative Declaration for the construction of a new dock, gangway, landing, awning and parking lot at 1001 Front Street with the attached findings and conditions as amended by the Planning Commission as seen in Attachment 1 and 2.

FISCAL IMPACT:

The project has the potential to create a negative fiscal impact to the City's parking in lieu fund if City Council were to grant the applicant's request for historic parking beyond that established within the Municipal Code.

SUMMARY:

The project was heard before the Planning Commission at a publicly noticed hearing on March 16, 2011. Please refer to the Planning Commission staff report for a full project description. This staff report contains additional information that is not contained in the Planning Commission staff report.

The project is located on lease sites 105.1W and 105.2W adjacent to 1001 Front Street and is zoned Harbor and governed by the Waterfront Master Plan. The upland portion of the project site is located within the Waterfront/Planned Development (WF/PD) Zoning District, with an S.4 overlay (design overlay), and is governed by the Waterfront Master Plan. The existing building includes Giovanni's Fish Market and take out window, a restaurant, and a clothing store. No improvements to the existing building are proposed with this project.

Prepared By: SD Dept Review: JE
City Manager Review: CA
City Attorney Review: _____

Since the project is located in the Planned Development overlay area the Municipal Code requires a concept plan for all projects over acre in size or for projects on public land as such the use permit under consideration is for a Concept Plan (MBMC 17.40.030). This Concept Plan was heard by the Planning Commission on March 16, 2011. The Concept Plan shall be approved by the City Council prior to the applicant applying to the California Coastal Commission for a Coastal Development Permit. Should the Coastal Commission grant a Coastal Development Permit then the applicant will return with the Precise Plan.

The proposed project consists of the installation of a new head float, the addition of four finger docks, landing and gangway and the installation of an awning system over the public outdoor dining area.

BACKGROUND:

The new dock, gangway, landing, awning and parking lot project located 1001 Front Street was heard before the Planning Commission at a regularly schedule public hearing on March 16, 2011.

The Planning Commissioners reviewed the documents supplied by staff and all were invited by the applicant's agent to tour the site. All Planning Commissioners visited the site. At the meeting the Commissioners discussed the following issues:

1. The condition to provide landscaping in the parking lot and the applicant's request to remove that condition due to difficulty with irrigation;
2. Whether to require the Applicant to dedicate sidewalk to the City; and
3. The parking lot and the following issues associated with it:
 - a. Whether to remove or modify the landscaping conditions;
 - b. The existing fence and landscaping on the street frontage;
 - c. The parking design; and
 - d. The ADA handicap parking spot and its location.

Staff addressed the concerns of Planning Commissioners.

1. The applicant was given the option of providing landscape planters in lieu of cutting into the existing asphalt to provide the required tree wells and landscape buffers between every 5 parking spaces. The landscape planter would also address the concern over the difficulty with irrigating the site. The applicant could water the landscape plants will other methods besides a permanent irrigation system.
2. The Municipal Code and Waterfront Master Plan requires land owners to dedicate the public right-of-way where sidewalk is located on private property. The City maintains all sidewalks and the required dedication of land allows the City to maintain the area without conflict.
3. The parking lot plan was submitted the day of the Planning Commission meeting, however the City Engineer reviewed the plan and found the circulation portion of the plan to be acceptable.

The Planning Commission forwarded a favorable recommendation to the City Council to approve the project and adopt Mitigated Negative Declaration. The Planning Commission forwarded a favorable recommendation with the following amendments to the Conditions of Approval:

Amendment to Planning Conditions #9 of Attachment 2:

1. That a maximum of a three foot high masonry wall with landscaping on top in lieu of a landscaping plan or a permanent fencing material consistent with zoning ordinance 17.48.100 and a landscaping plan submitted with a precise plan that covers a minimum of 5% landscaping unless it is demonstrated that it cannot be done otherwise. Either alternative shall maintain the pedestrian view shed to the Bay.

DISCUSSION:

Regulations

The project is located in the California Coastal Commission's Original Jurisdiction; therefore the City of Morro Bay has Jurisdiction over the use permit entitlements for the project and the California Coastal Commission will be the agency responsible for the Coastal Development Permit. Both agencies must approve the project in order for the project to have its full entitlements and to be constructed.

The project shall be reviewed pursuant to the General Plan, Zoning Ordinance, Waterfront Master Plan, and Parking Management Plan. The applicant has asked for exceptions to the parking lot design regulations.

General Plan

The General Plan looks to the Local Coastal Plan to provide guidelines for the development of Morro Bay and has delineated fishing, boating and harbor facilities as an important resource in the city. The California Coastal Act of 1976 requires Morro Bay to protect and, where feasible upgrade commercial and recreational fishing facilities. This is in keeping with the community's policy of giving priority to commercial fishery in new harbor development (also found in the Local Coastal Plan, 148).

The objective of the General Plan in relation to fishing facilities is to pursue additional, adequate berthing spaces for both commercial and pleasure vessels as long as these spaces are compatible with the overall function of the harbor and its ecological surrounding. The proposed project would provide additional berthing facilities for both commercial and recreational boating activities and has been reviewed pursuant to the California Environmental Quality Act and therefore can be supported by staff as a project that upholds the objective of the General Plan.

The General Plan also speaks to the issues that surround the circulation and parking situation in Morro Bay including:

1. Lack of Full Parking Improvements: The parking lots shall meet City standards in order to provide the most parking spaces on a site, and improve site drainage.

2. Conflicts Created by On-Street Parking: Requiring persons to parking off-site on the street has the potential to slow traffic flow in high traffic areas, such as the Embarcadero area. On-site parking allows for persons to pull off the public right-of-way and parking in a public or private parking lot and not disrupt parking flow.
3. Poor Parking Configuration: Parking lots that were developed prior to the zoning ordinance or not reviewed for consistency with the zoning ordinance exhibit poor design, inefficiency, poor appearance, lack of landscaping resulting in a barren appearance.
4. Lack of Handicap Parking: Existing uses should provide handicap parking spaces at the time of remodel or expansion, when feasible. The handicap parking should be consistent with State criteria both in terms of design and number.

In a letter received February 3, 2011 submitted by the applicant's agent, was the request for exceptions to the City parking standards including; ADA space location, lighting, landscaping, curb stops, screening, configuration, and parking stall size. Since submitting the letter the agent has submitted a parking lot plan that addresses the parking lot configuration and is acceptable to the City Engineer. However the other requested exceptions are in conflict with the adopted General Plan and Zoning Ordinance. The Planning Commission approved the project as conditioned with modifications to these conditions that a new wall is constructed with landscaping that would provide a public benefit with a view of the working docks and view of the harbor. The Planning Commission and staff can support the project as conditioned, however there were exceptions requested by the applicant which were not supported.

Zoning Ordinance

The applicant is requesting exceptions from the Zoning Ordinance parking requirements as outlined in the March 16, 2011 Planning Commission staff Report. Staff can find the project consistent with the Zoning Ordinance with the attached conditions as amended by the Planning Commission.

Waterfront Master Plan

The Waterfront Master Plan is a specific plan for the East and West side of the Embarcadero. The applicant's property is located on the West side of the Embarcadero and is subject to the regulations. Staff has researched the plan as it applies to the project and has found that the applicant shall improve existing sidewalks to provide a minimum 8 foot wide public sidewalk. The applicant did not provide a scalable plan to staff therefore staff cannot determine where the property line is in relation to the existing sidewalk. The applicant shall dedicate the necessary right of way for a minimum 8 foot wide sidewalk to the City for a public side walk.

Parking Management Plan

The parking management plan was produced by TPG Consulting firm for the City of Morro Bay to analyze the parking capacity and demand on the Embarcadero and in the Downtown area. The project site was included in the parking analysis and referred to as "Block 3". The plan analyzed the study area on two different days, which represented weekday and weekend need on the peak tourist season and non-peak tourist season.

Parking supply is represented by the raw count of spaces within and surrounding the study blocks without differentiation between public and private spaces. The results of each of the hourly calculations by block, as well as a daily averaging were tabulated for the week and weekend.

Parking demand within the Downtown and Embarcadero Areas was determined by dividing the total “available” (empty) spaces by the total inventory of spaces in each one hour interval during the 6-hour survey period. This calculation results in a percent of available spaces, which, when subtracted from 100% is considered to be “demand” (of the reverse of availability).

A demand of below 75% is considered to be acceptable and not representative of a serious or significant parking supply shortage. A demand of between 75% and 85% is considered to be an early-warning of a potential emerging supply shortage. High demand, where a critical parking need may already exist is considered to be 85% or higher and means that only 15% of the parking spaces are open and available. A block with a demand over 100% in any hour clearly represents an immediate supply shortage for that block during the study time.

The following table represents the parking demand for Block 3, which includes that proposed project.

Weekday Average	Adequate Parking below 75% demand
Weekend Average	86% - 100% Parking Demand
Weekday Peak Hour 1:00pm to 2:00pm	75% - 85% Parking Demand
Weekend Peak Hour 1:00pm to 2:00pm	100% Parking Demand -- Map excludes the proposed parking lot

Although the parking study demonstrates that the subject property is in an area that has the potential to have inadequate parking, the consultants concluded that it is not a significant problem. The “shortages” are only occurring in certain blocks during certain hours of the day during a Peak Season weekend. The north end of the Embarcadero study area blocks 2 – 9, in which the study area is included, has 2 expansive public parking lots and abundant on-street parking (providing a total of about 390 spaces, representing approximately 46% of all the parking within the Embarcadero Area, defined as Blocks 1-10. The consultants identified isolated locations during short periods of time where there existing critical parking demand. However there is an abundance of available parking nearby during the peak demand, and this maybe a result of poor parking management and not necessarily a parking problem.

Historic Parking Credits

The applicant’s agent has suggested that historic parking credits should be granted for the side tie configuration that has been utilized at the head float in the past. The applicant’s agent submitted an amended project description in June 2010, and stated that the “existing side tie dock system could accommodate up to eight boats by “rafting” together.” However, in the graphic submitted there were ten boats shown rafting. There is approximately 50 feet from the head float to the

lease limit line as such the maximum amount of boats that could be accommodated on the lease site side-tie together would be 3 assuming the width of the boats would be between 13 feet to 17 feet wide.

The current zoning ordinance does not have regulations requiring additional parking be provided for the side-tying boats and research indicates that no previous ordinance required parking for that activity either. Since there was never a requirement to provide this parking under the City's ordinances then a historic credit cannot be granted. Staff did give historic credit based on the length of the head float and the parking requirement contained in code of 1 space for every 35 feet of dock length or 1.7 spaces (2 parking spaces).

Section 17.44.020.3.C of the Zoning Ordinance provides regulation for parking marine related uses is as follows:

l.) Marinas and moorings: one space for each thirty-five lineal feet of boat tie-down area or two spaces for each thirty-five lineal feet of boat tie-down area to be used by live aboard boats. One space for each mooring location

m.) Cruise ships or other passenger for hire vessels: one space for each six and one-half lineal feet of boat length.

The table below outlines the parking requirements for docks on recent projects.

801-833 Embarcadero	17 boat slips	22 parking spaces parked at 1/35 linear feet
575-591 Embarcadero	70 linear feet of dock	2 parking spaces parked at 1/35 linear feet
845 Embarcadero	231 linear feet of dock	7 parking spaces parked at 1/35 linear feet
1205-1215 Embarcadero	Expansion of dock system. Parking credited at a rate of 1/35 linear feet even though side tie was utilized on the water lease.	3 additional parking spaces at 1/35 linear feet

All projects were credited for existing docks at a ratio of 1 parking space for each 35 linear feet of dock tie down area. At 1205-1215 Embarcadero (GAFCO Revitalization project) it was also noted that "rafting" boats together by side tying to other boats occurred, however the historic credit given to this project was also based on the 1 space per 35 linear feet and not on the number of boats side tied together. Staff was unable to locate any past project which received historic credit for side-tying. Establishing a new method of granting historic parking credits may result in a loss of parking in lieu fees being paid as more parking spaces are "credited" and a loss of parking in-lieu fees which would ultimately reduce the number of public parking stalls that the city can establish in the area.

CONCLUSION:

The proposed project would be consistent with applicable development standards of the zoning ordinance and all applicable provisions of the General Plan and Local Coastal Plan with the incorporation of recommended conditions. The project is located within the California Coastal Commission Original Jurisdiction.

ATTACHMENTS:

Attachment 1 – Findings

Attachment 2 – Conditions of Approval as amended by Planning Commission

Attachment 3 – Plans and Pictures

Attachment 4 – March 16, 2011 Planning Commission Packet

Attachment 5 – Memo to the Planning Commission at the March 16, 2011 meeting

Attachment 6 – Amended Conditions of Approval given to Planning Commissioners at the March 16, 2011 meeting

Attachment 1

FINDINGS

California Environmental Quality Act (CEQA)

- A. The project qualifies for a CEQA Mitigated Negative Declaration was posted on February 4, 2011. The applicant has agreed to implement the mitigation measures proposed in the Negative Declaration. Thus there are no significant impacts with the implementation of those mitigation measures.

Concept Plan Findings

- B. Modification of standards shall only be approved upon finding that greater than normal public benefits may be achieved by such deviations. Such benefits may include, but are not limited to improved or innovative site and architectural design, greater public or private usable open space and provision of housing for the elderly or low/moderate income families, provision or extraordinary public access, provision for protection environmentally sensitive habitat (ESH) area, but in all cases these provisions shall meet the coastal land use policies.

The project as designed and conditioned provides greater than normal public benefits as it provides enhanced public access to the harbor and waterfront which upholds the city policies set forth within the General Plan, Local Coastal Plan and Waterfront Master Plan.

Use Permit Findings

- C. That the project is an allowable use in its zoning district and is also in accordance with the certified Local Coastal Program and the General Plan for the City of Morro Bay based on the analysis and discussion in the attached staff memorandum; and
- D. The establishment, maintenance, or operation of the use applied for will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use as the project will be consistent with all applicable zoning and plan requirements as indicated in the attached staff memorandum; and
- E. The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City since the project, as conditioned, will be constructed and developed consistent with all applicable City regulations, as indicated in the attached staff memorandum.

Attachment 2

CONDITIONS OF APPROVAL

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report referenced above, dated April 12, 2011 for the project depicted on the attached plans labeled "Attachment 3", dated April 5, 2011, on file with the Public Services 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 the aforementioned exhibit, 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 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 of Public Services, 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 Director of Public Services. Any changes to this approved permit determined not to be minor by the Director 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, City of Morro Bay, 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 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 Director of Public Services 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 the applicant shall file with the Director of Public Services written acceptance of the conditions stated herein.

PLANNING CONDITIONS

1. State and County Compliance: Prior to the issuance of a building permit applicant shall demonstrate compliance with all State and County regulations and provide documentation to the Public Services Department.
2. 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. on weekdays and eight a.m. to 7 p.m. on weekends, unless an exception is granted by the Director of Public Services pursuant to the terms of this regulation.
3. Parking Agreement: The parking lot to be utilized for on-site parking is located on an adjacent site. The applicant shall provide a parking agreement between all properties owners on which parking lot is located. This agreement shall be submitted and recorded prior to the issuance of any building permit.
4. Live Aboards: Live aboard marine vessels shall not be allowed unless a modification to this permit is obtained and there has not been permitting provided for such use.
5. Parking Circulation: The parking lot shall be restriped to meet all circulation minimum requirements for drive aisle and parking space dimensions. The parking spaces shall be a maximum of 45 degree angled parking and shall only have one way drive aisle.
6. Parking Space Labels: The parking spaces reserved for the docks shall be labeled and open and available for people using the docks. At no time shall equipment, delivery trucks, or marine storage tanks, nor the like be placed in the parking spaces.
7. Exit and Entrance Directional Arrows: Exit and entrance direction arrows shall be marked on the pavement where one-way driveways are used. Pavement signing shall be

marked and maintained as required by the city engineer. Entrance signing may be required by the City Engineer whenever conditions warrant. Code requirement.

8. Accessible Parking Space: The van accessible parking space shall be moved to the to the west side of the parking lot and shall be the first parking space adjacent to the landing and gangway.
9. Street Frontage: That a maximum of a three foot high masonry wall with landscaping on top in lieu of a landscaping plan or a permanent fencing material consistent with zoning ordinance 17.48.100 and a landscaping plan submitted with a precise plan that covers a minimum of 5% landscaping unless it is demonstrated that it cannot be done otherwise. Either alternative shall maintain the pedestrian view shed to the Bay.
10. Curb Stops: Curb stops shall be provided for each parking space that head into a wall, fence, building, or the side of another parking space.
11. Landscape Plan: A landscape plan shall be submitted with the precise plan depicting that the minimum 5% landscaping requirement is maintained.
12. Docks: Docks cross water lease lines and an agreement from the City and lease holders shall be secured.
13. Photometric Plan: A photometric plan shall be submitted to the Planning Division prior to issuance of any building permit detailing that the lighting will meet a minimum of 5 foot candle for all dock areas.

FIRE CONDITIONS

1. Standpipe Systems. Marinas and boatyards shall be equipped throughout with Standpipe Systems in accordance with NFPA 303. (CFC 905.3.7) Please submit plans and detail of all required Standpipe System and Hose Cabinets at Building Plan submittal.
2. Water supply for fire protection of piers and wharves shall be in accordance with NFPA 307 (Chapter 7).
3. Fuel Dispensing. Marina Fuel dispensing units for transferring fuels from storage tanks shall be in accordance with NFPA 30-A. (NFPA 303-8.3.10 & CFC 2210.1)
4. Construction and fire protection of marine terminals, piers, and wharves shall be in accordance with NFPA 307 (Chapter 4 Piers and Wharves).
5. Construction of Marine Docks and Gangways shall be in accordance with Morro Bay Municipal Code, Chapter 14.52.

6. Portable Fire Extinguishers. Placement of portable fire extinguishers on piers, bulkheads, and fuel dispensing areas, shall be in accordance with NFPA 10 (Chapter 5). (NFPA 303-6.2.1.1.1 & 6.2.1.1.2.1)
7. Awning Plan. Please provide details of the Awning Plan at Building Plan submittal.
8. 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 materials meeting the flame propagation performance criteria of NFPA 701, or treated with a flame retardant in an approved manner. (CFC 2404.2)
9. 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)
10. 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.
11. 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)
12. 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 devise or any other unapproved devise 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)
13. LP-Gas. The storage, handling and use of LP-gas and LP-gas equipment shall be located outside canopy structures, with safety release valves pointed away. (CFC 2404.16)
14. Fuel-Fired Appliances. The installation of non-portable 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)
15. Means of Egress. At least two exits shall be provided in this A-2 occupancy. (CFC 1019)

16. 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)

ENGINEERING CONDITIONS

1. Should the City Council defers the installation of the upgrade of the sidewalk to a minimum of 8 feet in width, the deferral shall be recorded as an indenture against the property and shall run with the land. (MBMC 17.40 and 14.40). At such time the City deems the public improvements necessary the applicant or successors in interest shall be responsible for all cost and construction of public improvements and shall be completed within the timeframe as set forth by the Public Services Director. All public improvements shall be installed accordance with City standards for the full length of the street frontage(s) of the subject properties.

ENVIRONMENTAL CONDITIONS

Aesthetics

1. The awning system shall be freestanding and shall only be attached at the base of the awning system to the wharf. The awning shall not be attached to the existing windscreen, structures on site nor be attached in a way that would enclose the area in any fashion.
2. The awning system shall maintain a minimum 6 inch height clearance above the top of the windscreen to maintain that the awning system does not enclose the public view area.

Air Quality

The project is subject to standard construction practices, including dust control measures required by the Municipal Code and the Air Pollution Control District to address short-term air quality impacts related to construction.

The standard mitigation measures for reducing nitrogen oxide (NO_x), reactive organic gases (ROG), and diesel particulate matter (Diesel PM) emissions from construction equipment are listed below:

- a. Maintain all construction equipment in proper tune according to manufacturer's specifications;
- b. Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
- c. Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner offroad heavy-duty diesel engines, and comply with the State off-Road Regulation;
- d. Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;
- e. Construction or trucking companies with fleets that that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NO_x exempt area fleets) may be eligible by proving alternative compliance;

- f. All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5 minute idling limit;
- g. Diesel idling within 1,000 feet of sensitive receptors is not permitted;
- h. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
- i. Electrify equipment when feasible;
- j. Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and,
- k. Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.

With the implementation of the mitigation measures, potential impacts to air quality resulting from the project would be reduced to less than significant levels.

Biological Resources

- 1. Federal and state permits applicable to the proposed project shall be secured and evidence of permits shall be on file with the Public Services Department prior to the issuance of building permits.
- 2. Silt screens shall be placed within the area of all in-water construction or disturbance to reduce potential turbidity associated impacts and all construction shall occur within the project footprint.
- 3. To avoid impacts, all work that disturbs the ocean floor (i.e. installation of pilings) shall be overseen and monitored by the project biologist (Tenera Environmental or equivalent professional biologist approved by the Director of Public Services). The biologist shall be under contract prior to issuance of a building permit. Prior to the final building inspection the biologist shall submit a monitoring report to the Director of Public Services.
- 4. A pre- and post-construction Eelgrass survey shall be performed and submitted to the Director of Public Services and if necessary, an Eelgrass restoration plan shall be prepared in accordance with the Southern California Eelgrass Mitigation Policy. This Eelgrass restoration plan shall be submitted and approved by the Public Services Department prior to issuance of certificates of occupancy.
- 5. Prior to the issuance of a building permit, an approved "otter watcher" shall be under contract or otherwise committed to being on the job site at all times during which the pile driver is in operation. The contract or other written agreement between the applicant and the "otter watcher" shall specifically encourage or empower the "otter watcher" to stop work immediately in the event that a sea otter is detected in the project area. The contract, agreement, work scope or similar document shall further specify that no work shall be resumed until after the marine mammal has left the area. With this mitigation, the project would not have a significant impact of animals, or require a state or federal take permit. The results shall be reported to the Director of Public Services.
- 6. A Marine Wildlife Contingency Plan should be developed and approved by the NMFS, USFWS, and CDFG prior to the initiation of pile driving activities. This plan should

- describe specific methods that will be used to reduce pile driving noise and describe on-site marine wildlife monitoring and reporting requirements.
7. Power to the pile driver should be ramped up to allow marine wildlife to detect a lower sound level and depart the area before full power noise levels are produced.
 8. If an impact hammer is used the installation of a “pad” between the pile and the pile drive hammer should be investigated and, if feasible, used to reduce impact hammer noise.

Geology/Soils

Applicant shall submit a soil/geological report prior to the issuance of building permits.

Hazards/Hazardous Materials

1. Prior to demolition of the existing structures, asbestos, and lead-based paint surveys shall be conducted. If asbestos containing materials are encountered, the materials will be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the San Luis Obispo Air Pollution Control District (APCD). If lead-based paint is identified, federal and State construction worker health and safety regulations should be followed during demolition activities. Any loose or peeling lead based paint should be removed by a qualified lead-abatement contractor and disposed of in accordance with existing hazardous waste regulations.
2. The following precautions shall be taken when handling creosote-treated wood:
 - a. Dispose of treated wood by ordinary trash collection or burial.
 - b. Do not burn wood in open fires or in stoves, fireplaces, or residential boilers because toxic chemicals may be produced as part of the smoke and ashes.
 - c. Avoid frequent or prolonged inhalation of sawdust from treated wood.
 - d. Avoid frequent or prolonged skin contact with creosote-treated wood
 - e. When handling the wood, wear long-sleeve shirts and long pants and use gloves impervious to the chemicals.
 - f. When power-sawing and machining, wear goggles to protect eyes from flying particles.
 - g. Wash clothes worn while working with creosote-treated materials separately from other household clothing.
3. At minimum one oil only absorbent spill kit for a capacity of 21 gallons or greater shall be provided on the head float dock in case of accidental release of a hazardous material or liquid into the bay.
4. Signs shall be provided on all finger docks stating the location and hours of operation for all pump out facilities in the Morro Bay Harbor.

With the implementation of these mitigation measures the potential impacts of hazardous or hazardous materials that could result from the project would be reduced to less than significant

levels.

Hydrology/Water Quality

1. The proposed project shall be incorporated into the City of Morro Bay's existing tsunami warning and evacuation system. Local authorities should be able to evacuate people safely from the proposed project site in the event of a tsunami.
2. Silt screens shall be placed within the area of all in-water construction or disturbance to reduce potential turbidity associated impacts.
3. To reduce the potential of petroleum leakage/spills from equipment used in conjunction with the project the following practices shall be followed:
 - a. A project-specific Oil Spill Response and Recovery Plan that includes methods and procedures for reporting and responding to spills, available on-site equipment and contracted services, and personnel responsibilities should be completed and approved prior to the initiation of construction activities.
 - b. Refueling of onshore equipment should be accomplished within a designated area of the parking lot. The site shall be covered with impervious material, be located away from drains, and have spill recovery material within the immediate vicinity. The area shall be surrounded with a waddle of sorbent material.
 - c. A minimal volume of petroleum product shall be stored onsite and spill containment and recovery equipment should be sufficient to respond to the worse case spill volume.
4. Netting or fencing around and underneath the dock shall be installed to catch and remove debris released during and after de-construction.

Noise

1. Project construction shall be limited to the hours of 7 a.m. to 7 p.m. on Monday through Friday and all large construction equipment will be equipped with "critical" grade noise mufflers. Engines will be tuned to insure lowest possible noise levels. Back up "beepers" will also be tuned to insure lowest possible noise levels. All necessary measures to muffle, shield or enclose construction equipment shall be implemented in order to insure that noise levels at the property line of the nearest parcels do not exceed 70 dBA. Construction timing shall be noted on the grading and construction plans.
2. Power generating and other noise generating machinery used for construction shall be partially or completely surrounded by temporary acoustical shelters if within 300 feet of a sensitive receptor.
3. Refer to section 4, Biology Resources mitigations 6, 7, and 8.

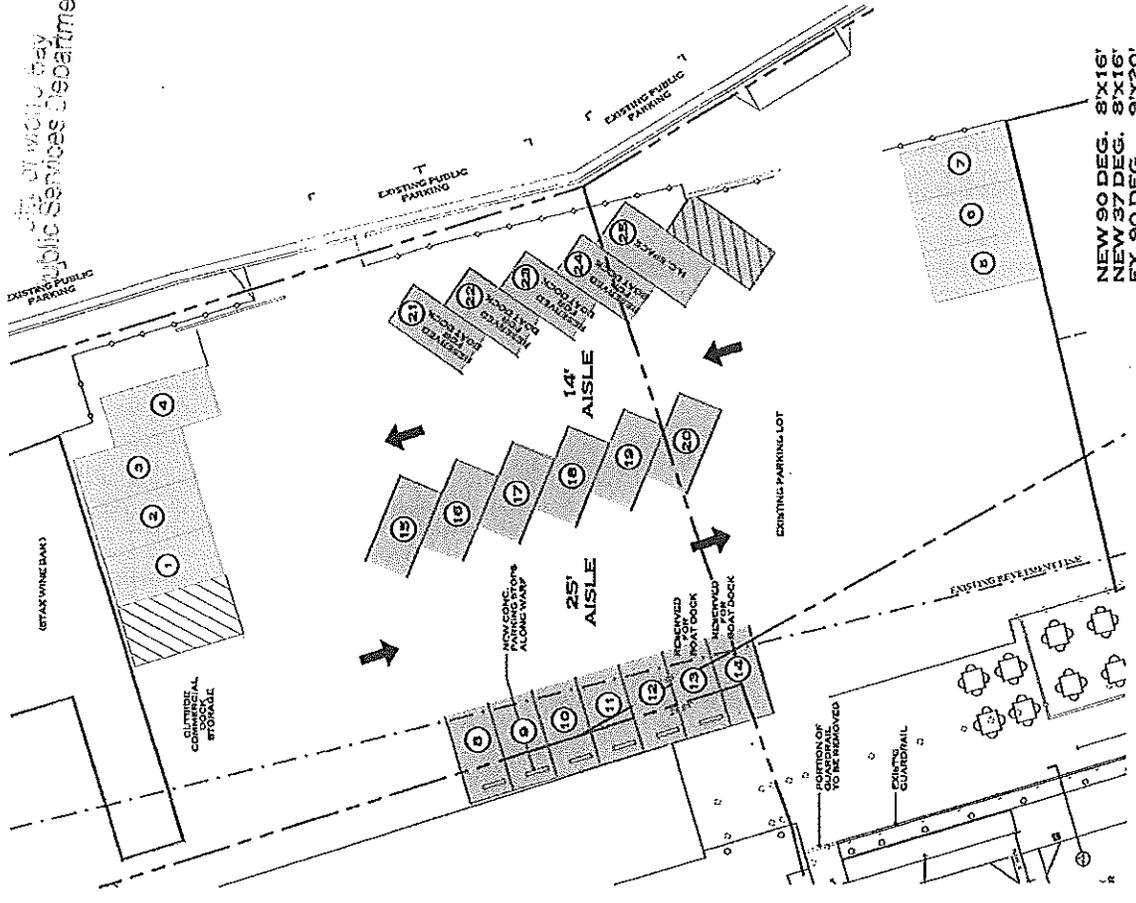
Utilities and Service Systems

Please refer to Hazards/Hazardous Materials section mitigation measure number 4.

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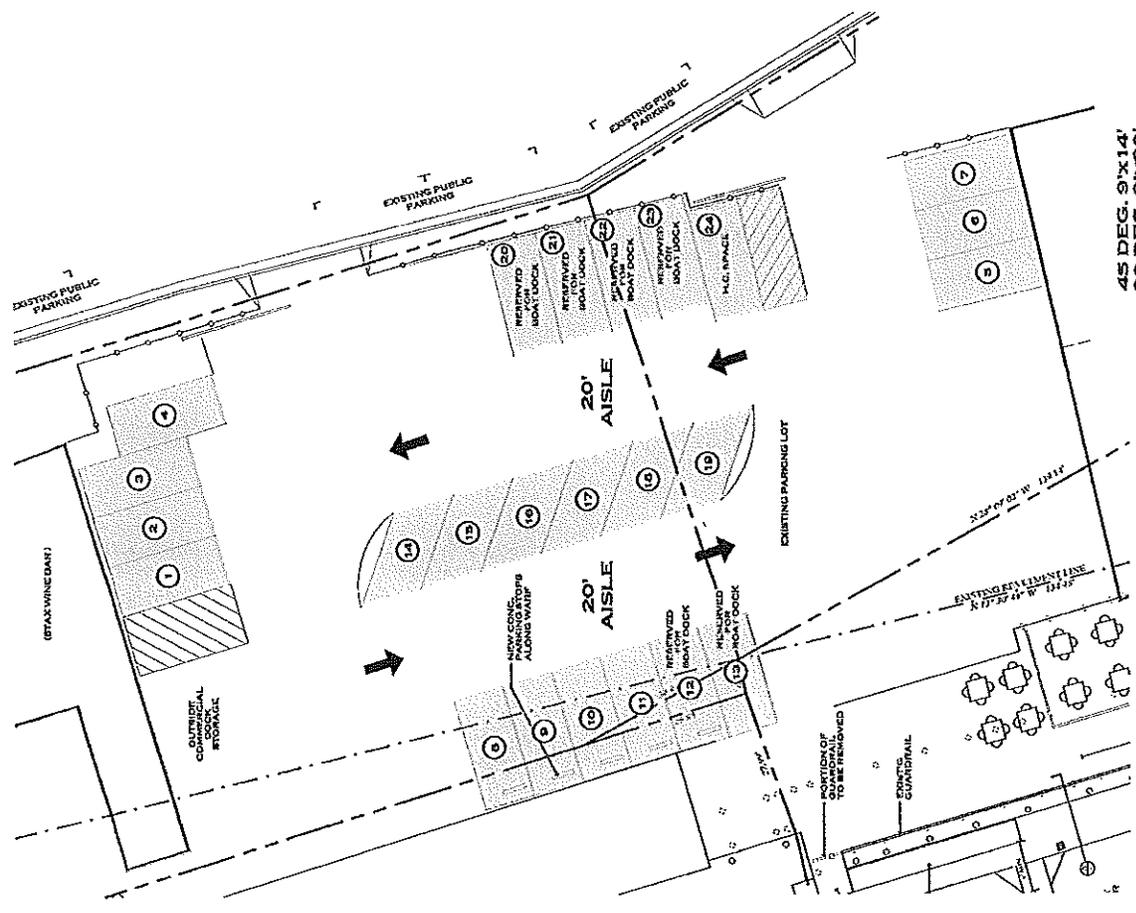
APR 05 2011

City of Wichita
Public Services Department



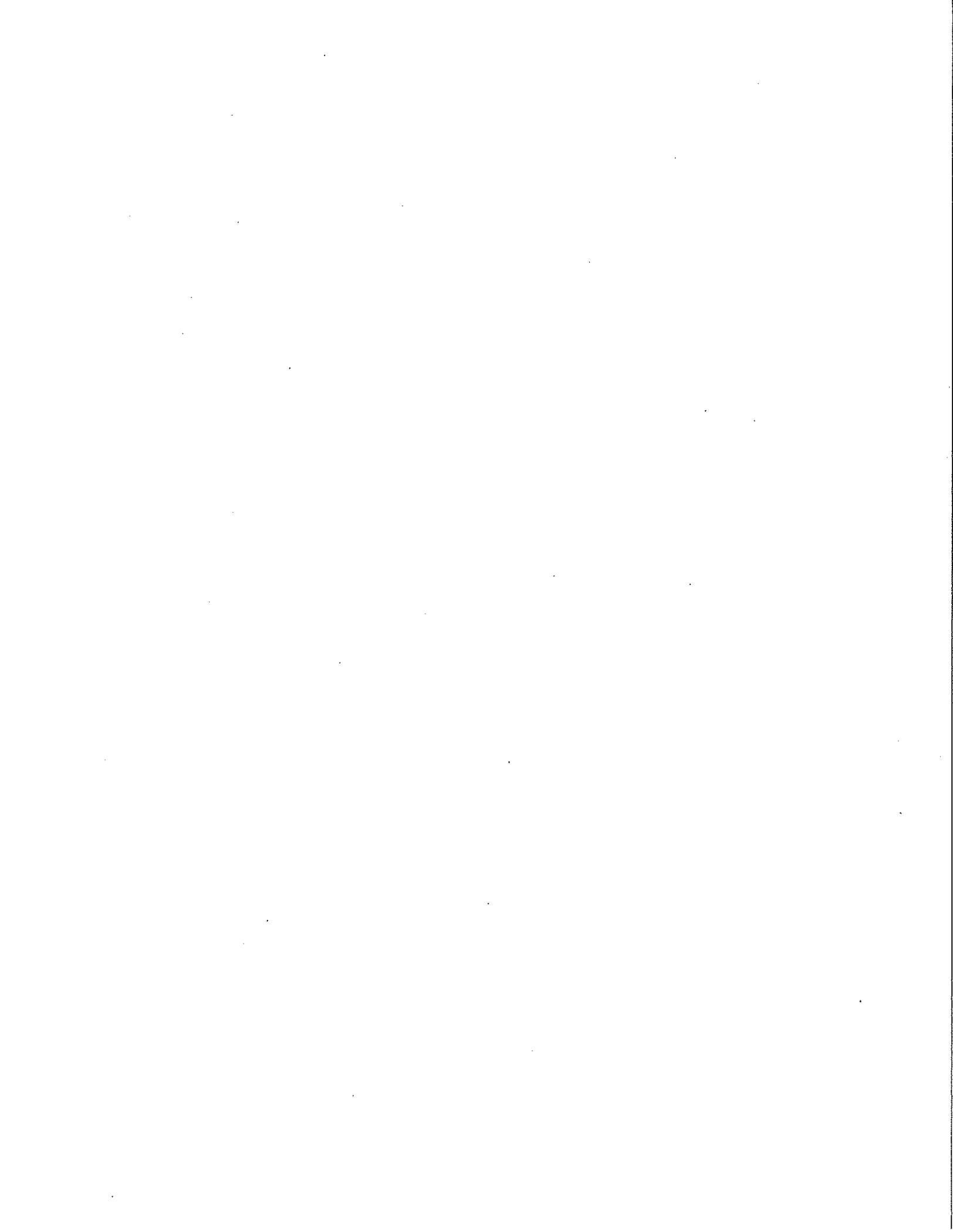
CITY PROPOSED PARKING LAYOUT

25 SPACES TOTAL

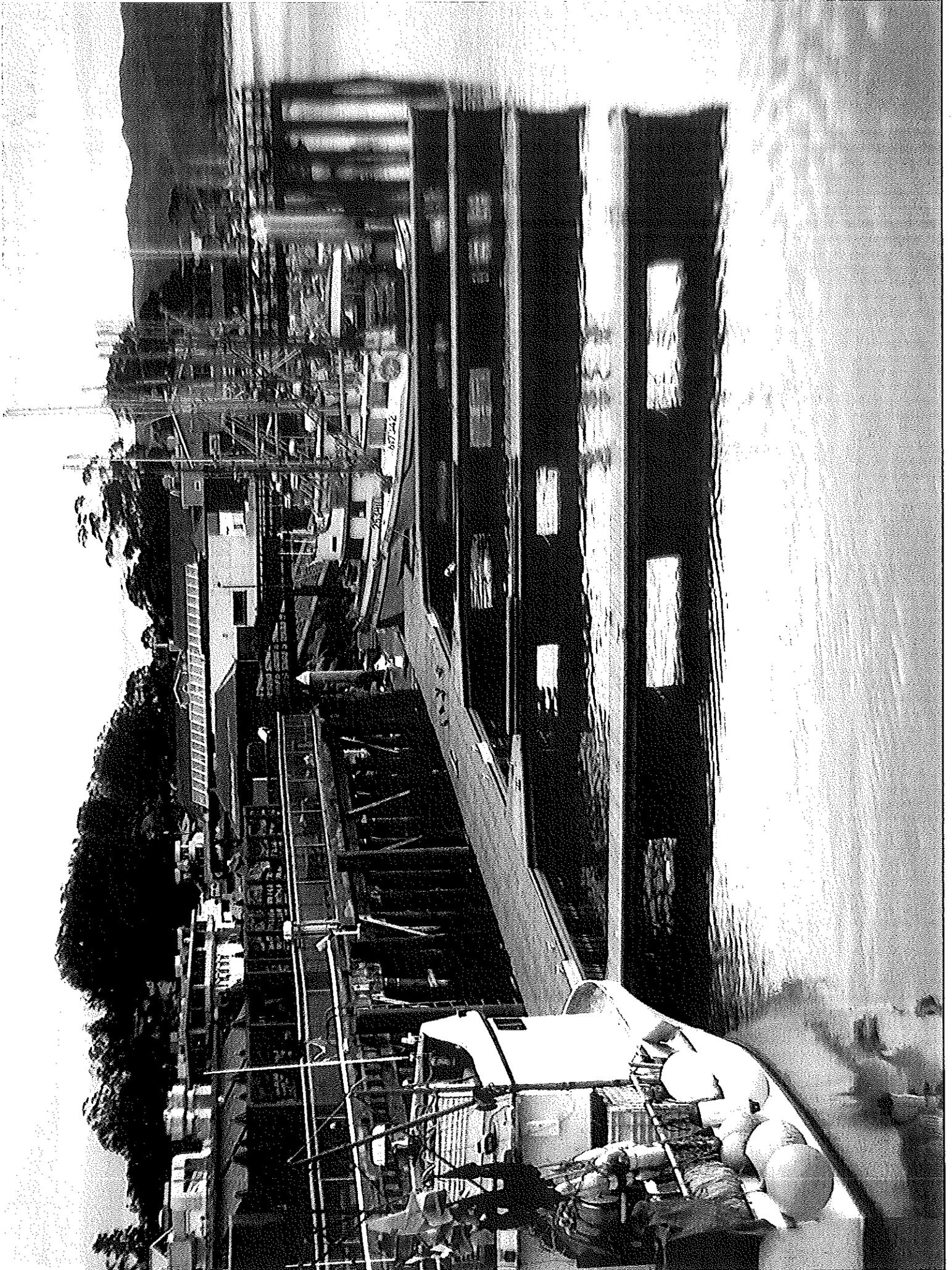


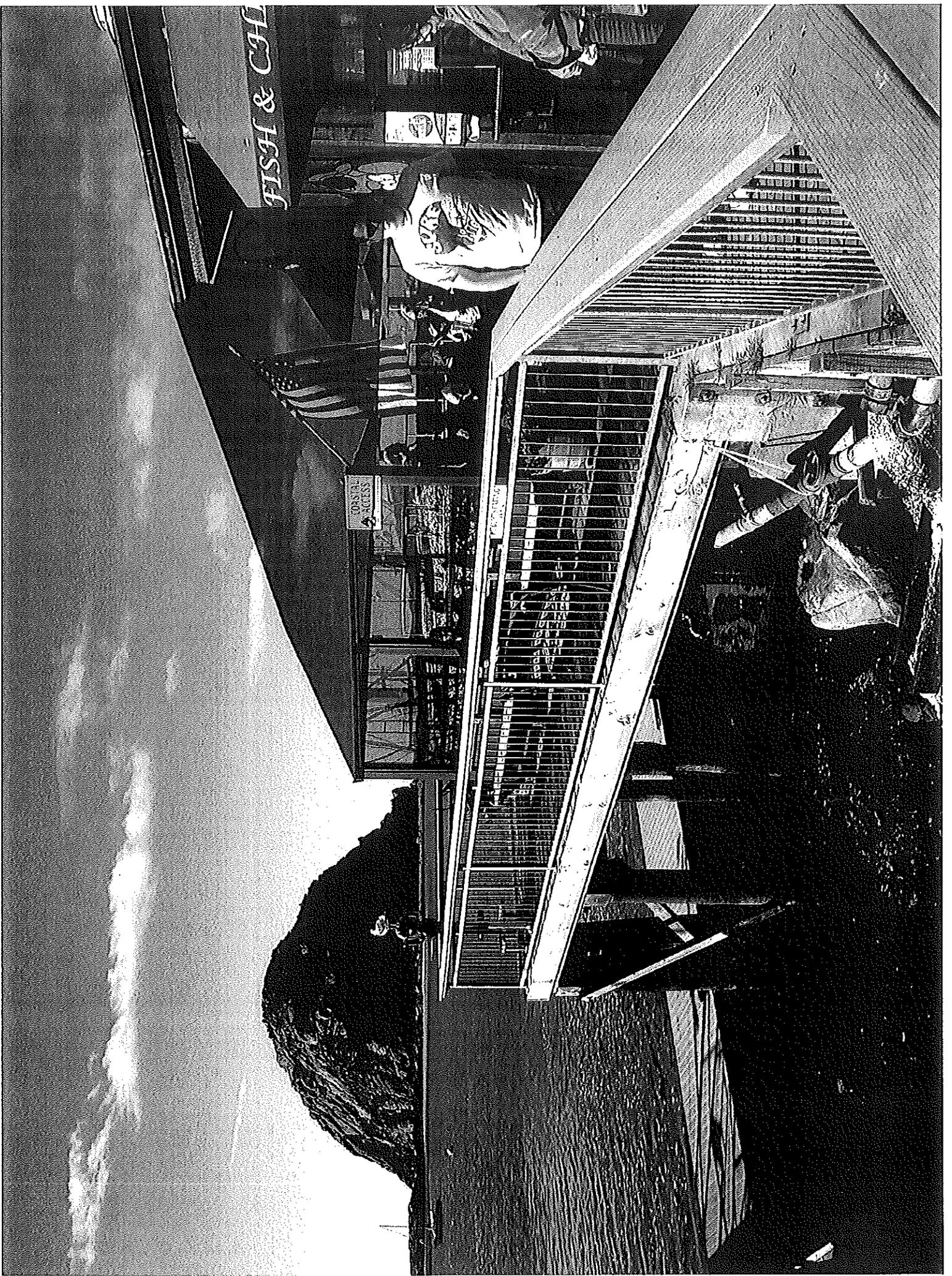
EXISTING PARKING LAYOUT

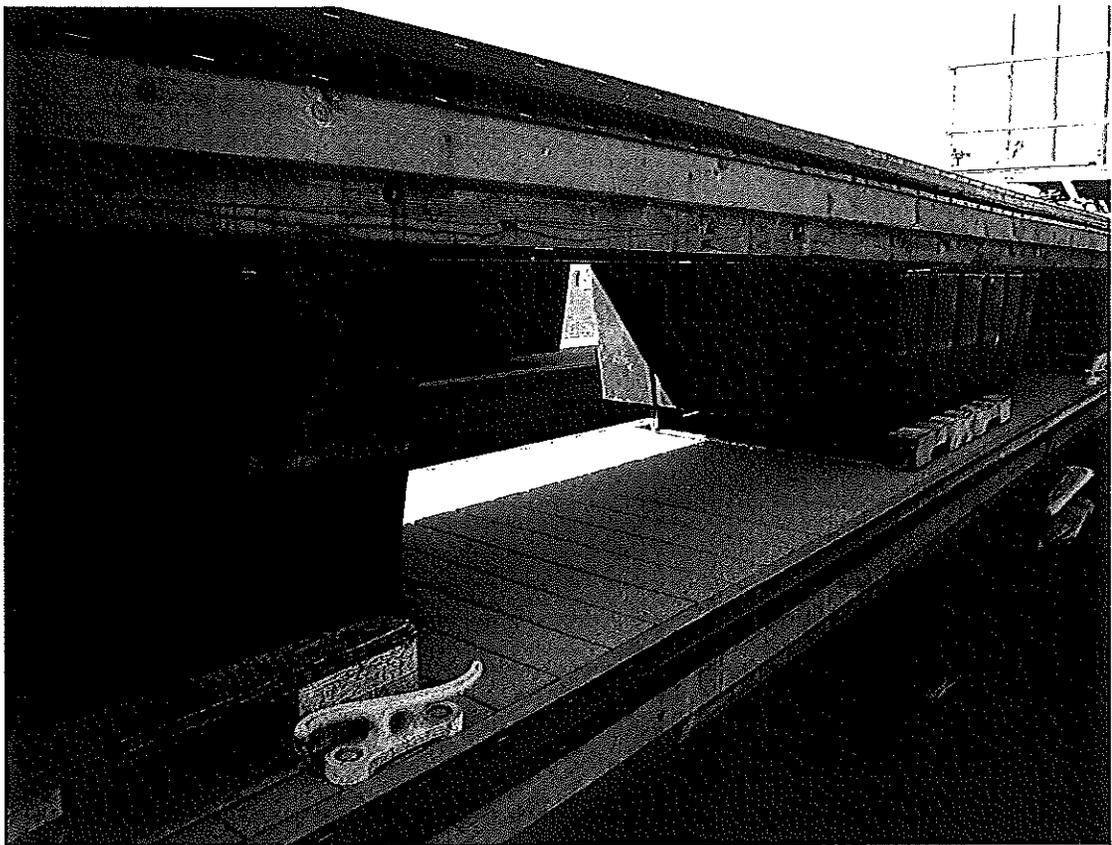
24 SPACES TOTAL











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Florida (800) 432-5321, (800) 786-7605 • Georgia (800) 786-7603 • Illinois (800) 786-7608
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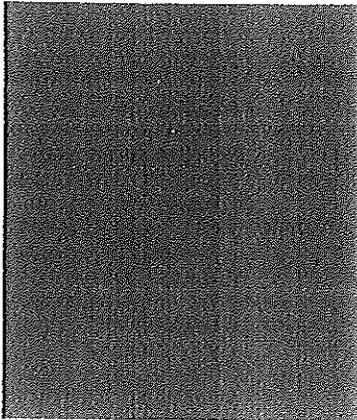
Starfire is a registered trademark of The Astrop Company.
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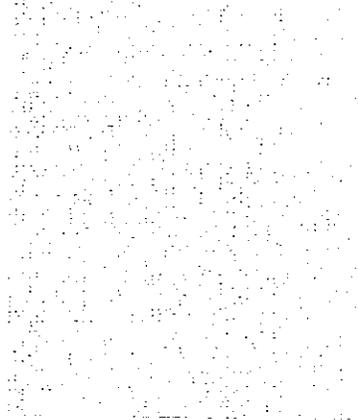
LST-1008-6765

Awning and Banner Fabric

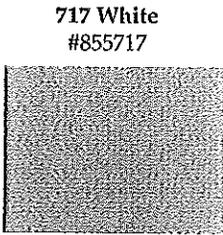
- 60* inches wide, 15 ounces per square yard.
- Pigmented and acrylic top coated 45% polyester/55% cotton fabric.
- Meets California State Fire Marshall requirements for flame retardancy - Title 19, CPAI-84 (Section 6), and FMVSS-302.
- Tensile Strength: 283 lbs. x 214 lbs.
- Water and mildew resistant.
- Easily cleaned.
- Lightweight, yet strong and durable.
- Soft, flexible, easy to handle.
- Put up in 45 yard UPS size rolls.
- 5-Year manufacturer's limited warranty.



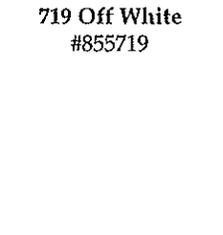
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#855727



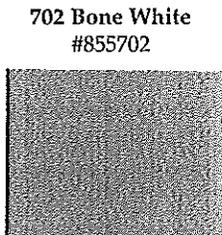
708 Eggshell
#855708



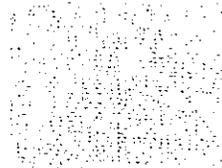
717 White
#855717



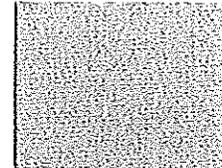
719 Off White
#855719



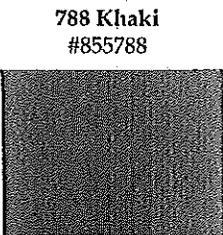
702 Bone White
#855702



708 Eggshell
#855708



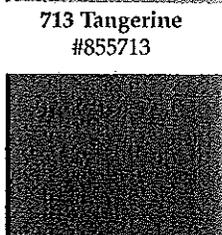
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#855749



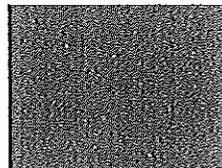
788 Khaki
#855788



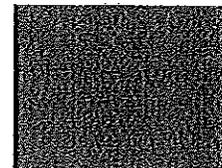
706 Yellow
#855706



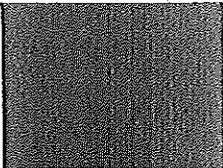
713 Tangerine
#855713



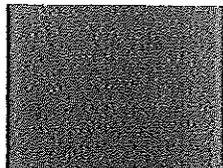
714 Terra Cotta
#855714



720 Brown
#855720



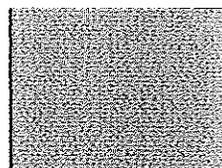
707 Red
#855707



727 Berry
#855727



709 Burgundy
#855709



753 Pearl Gray
#855753



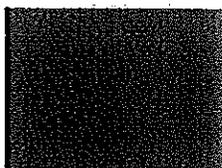
718 Light Gray
#855718



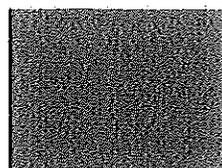
721 Royal Purple
#855721



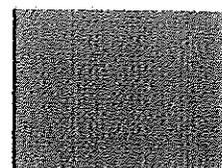
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#855712



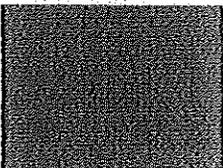
728 Blueberry
#855728



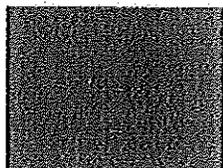
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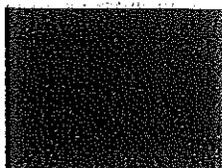
742 Brite Blue
#855742



701 Emerald Green
#855701



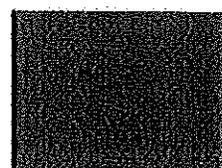
703 Forest Green
#855703



722 Black
#855722



715 Linen
#855715

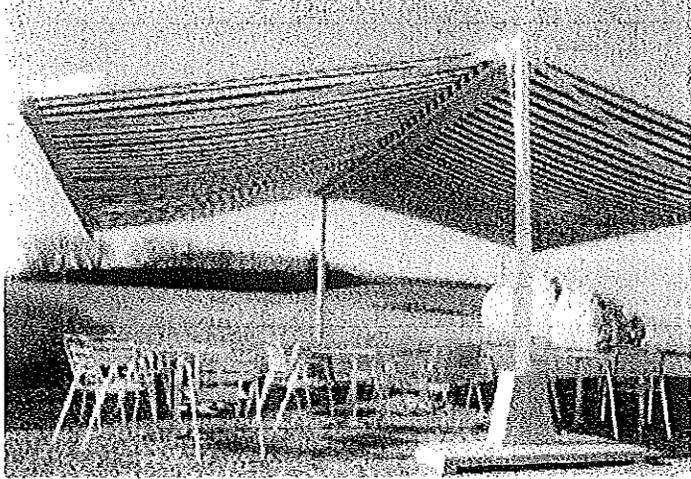


723 Ivy Green
#855723

Colors are representative only. Small variations in shade should be anticipated and are within commercial tolerances.
*Also available on special order slit to 30". Subject to minimum yardage requirements.

Stobag Boxmobile

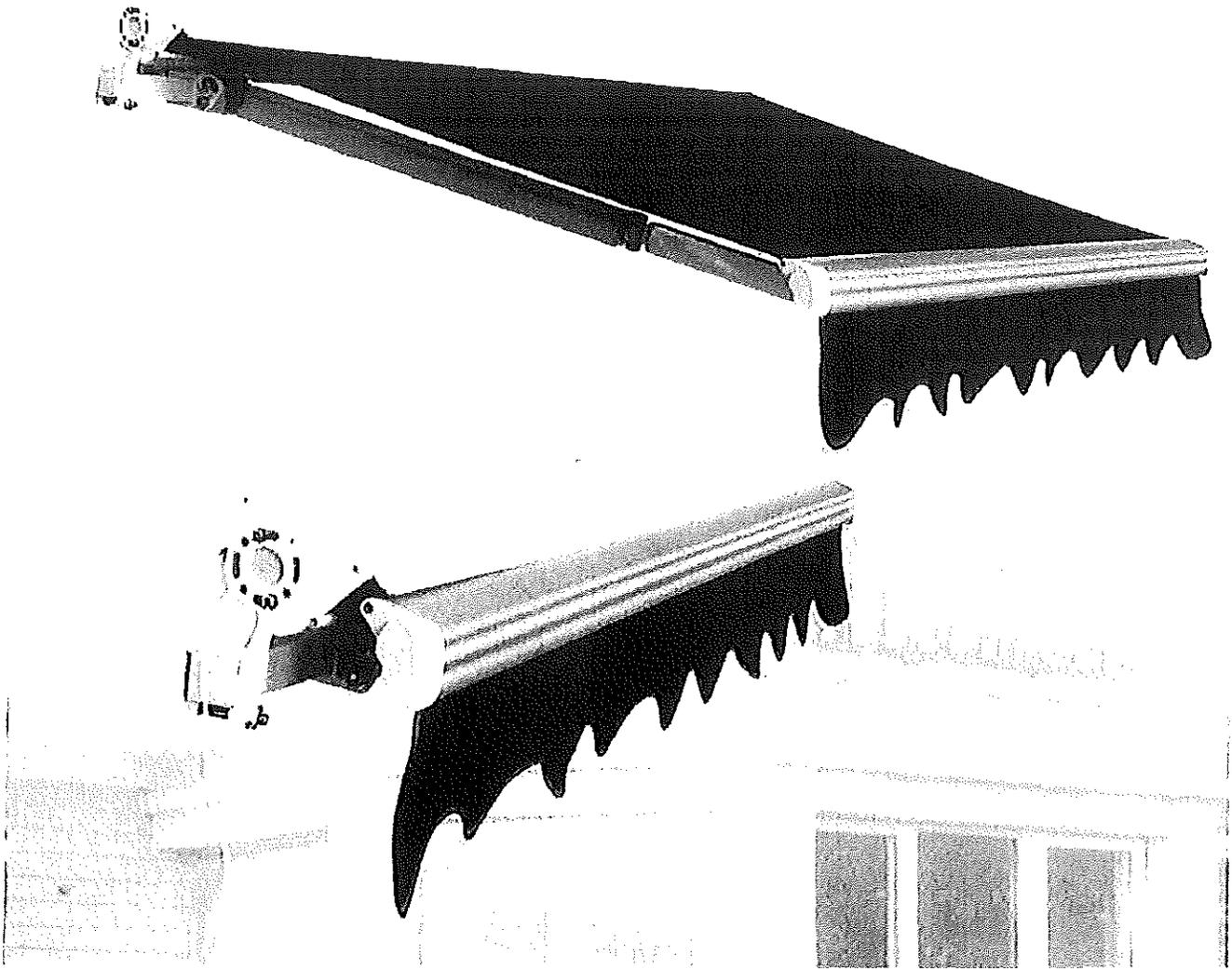
Mobile Awning



The Boxmobil is the easy way to shade large open spaces of up to 50 yd². The freestanding awning system is especially suitable for catering businesses, swimming pools, events and many other uses.

The construction consists of a post set on which two box awnings are hung. They can be operated individually by gear and crank or by an optional electric motor. The automation and control systems available as accessories, such as wind or rain sensors, protect the Boxmobil awning against damages following sudden weather changes.

The fabric and folding arms are perfectly protected by the all-round sealed boxes against the weather when rolled up. Stability is guaranteed by the concrete sockets or fixing with floor sleeves. It is also possible to link several awnings together.

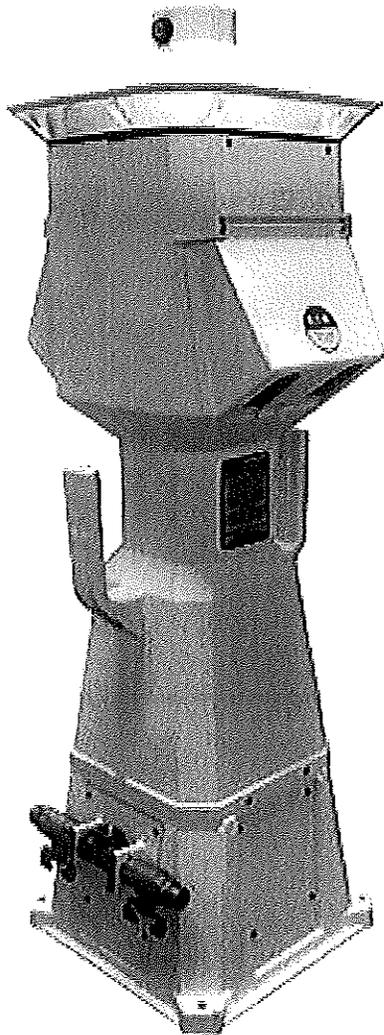




Lighthouse

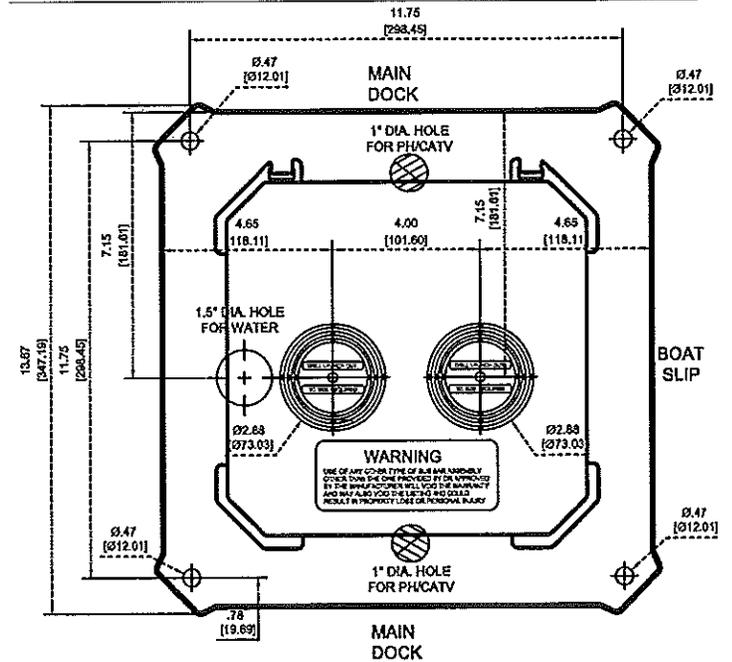
Power Pedestal

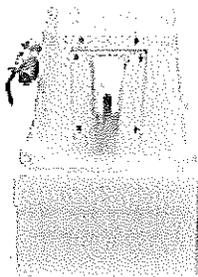
One of our most popular units, the all-purpose Lighthouse pedestal has a wide range of features. With units in service around the world, this stylish power pedestal is recognized for its practicality and exceptional durability.



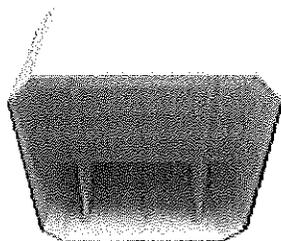
Above: Lighthouse Power Pedestals, Cordova Marina, Alaska

Lighthouse Base Diagram





Base Extension



Base Cap

Lighthouse Power Pedestal

- Standard Features
- Available Options
- Dimensions

Receptacle Configurations

For a complete listing of the receptacle configurations available for the Lighthouse power pedestal, see page 21.

Standard Features

- Photocell Controlled 13 Watt Fluorescent Light (Clear Lens or Amber Lens for Bug Reduction)
- Lockable Weatherproof Doors Which Protect Breakers and Receptacles While In Use (A Requirement of N.F.P.A. 303 and NEC Art. 555)
- Hose and Cable Brackets
- Heavy Resin Housing with a Two-Part Polyurethane Coating for a UV Resistant, Long Lasting Finish
- Copper Bus Bar with Ratings from 250 to 500 Amps
- New "Hingeless" Base Providing Easy Access for Both Installation and Maintenance
- Backlit Faceplate for Easy Receptacle Plug-In at Night

Available Options

- Digital Electronic Metering (One, Two or Three Element Meters Available)
- Built-In Meter Socket
- 20A/125V GFI Receptacle (Max of 2 GFI Receptacles per Pedestal)*
- High-Speed Internet Connections
- Wireless Remote Metering for Electric and Water
- Transient Voltage Surge Suppressor (TVSS) to Protect from Voltage Surges, Spikes or Lightning on the AC Power Line (Extends Warranty on Internal Parts to Three Years)
- Stainless Steel Door Hinge on Receptacle Main Doors
- Single or Dual Steel 1/4 Turn Ball Valves with 3/4" Hose Bibs and Stainless Steel Handles
- Single or Dual Phone and /or Cable TV Connections
- Base Cap
- Base Extension
- LED Lighting

Dimensions

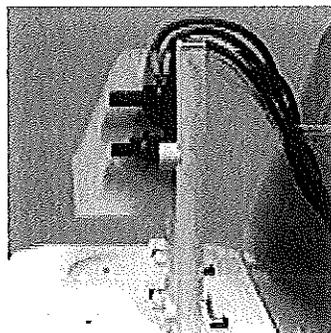
LIGHTHOUSE		
	IN.	MM
Height:	44	1117.6
Width:	13.75	349.25
Depth:	13.75	349.25

* 20 Amp GFI receptacles are not to be used for shore power.

Cable & Internet Connections



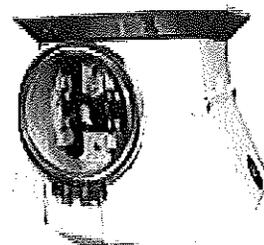
Bus Bar



New Hingeless Base



Optional Meter Socket



Unique & Exclusive Solar Powered Outdoor Lighting



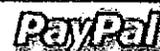
HOME | ABOUT | SITEMAP | PRODUCTS | PAYMENTS | EMAIL | CHECKOUT | INFO

Items: 0 Value: 0

- Company Information & Showroom Pictures
- Solar Energy Facts & Information
- Frequently Asked Questions (FAQ's)
- Store Locations Maps & Directions
- Special Offers & Latest News
- The Superior Collections
- Information About LED's



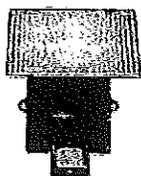
The largest selection of solar lights available in the USA! Worldwide shipping. International orders welcome. All orders ship from our S.W. Florida Warehouse.



Solar Illuminations® > Solar Security Floodlights (Motion Sensor)

SF01 Solar 'Protector' Security Floodlight With PIR Motion Sensor Internet Price: \$69.99

This is a great security floodlight fixture made by Solar Illuminations, that can be installed quickly and easily almost anywhere. This solar security light comes complete with a Siemens solar panel that has a 12' (4 metre) cable cord allowing the panel to be remotely sited, where necessary, to catch most sunlight. All plastic construction therefore no parts to rust. Passive infra-red motion sensor detects persons within a 12 metre range with 180 degree coverage. 'Light-on' time can be adjusted to suit (up to 60 seconds after last activity detection). Available in either black or white finish. Can be wall, fence or possibly post mounted. This solar security flood light is one of our most popular product lines and it is offered at a very competitive price. It is also one of the brightest solar floodlights available. Typically one floodlight will illuminate an area of approximately 30' x 30' (900' square) and beyond. A solar security floodlight can enhance security and help deter intruders and trespassers in a residential or light commercial environment. Solar powered, so no electricity required. If you require a floodlight that does not have a motion sensor then consider our FL03, FL04, FL05, FL06, FL09 or FL10 floodlights instead, which can be found in our 'Floodlights & Sign Lights' category. This product is supplied with a 6 volt 10 watt JC halogen bulb already fitted. However this product will accept a 6 volt 20 watt JC halogen bulb, instead, if required. Replacement 10 or 20 watt bulbs are available or you can purchase a spare from us - see below. Colour of fixture is black or white (make a selection). Color of light output is white.



CLICK THE PURPLE MORE INFO BUTTON BELOW TO VIEW ADDITIONAL INFORMATION, SPECIFICATIONS & DIMENSIONS



CHOICE AVAILABLE
Select Color of Light Fixture



SF02 Spare 'JC/G4' Halogen Light Bulb (Bi-Pin) 6 Volt 10 or 20 Watt Internet Price: \$4.99

It's always best to keep a few spare light bulbs. This bulb is suitable for our solar powered security light / floodlight. Consider keeping an original 10 watt spare or upgrade to a brighter 20 watt version. Our price is lower than what you will usually find at a home improvement or hardware store. Remember, when installing, not to touch a halogen

SF01 Solar 'Protector' Security Floodlight With PIR Motion Sensor

TECHNICAL SPECIFICATIONS

Passive infra-red motion sensor/detector (adjustable tilt/swivel for accurate aiming).

Approximately 180 degree / 12 metre detection range.

On/off mode switch on side of main fixture..

Supplied with a 10 watt / 6 volt halogen JC/G4 light bulb.

Optional 20 watt / 6 volt JC/G4 halogen bulb available.

Capable of accepting either a 10w or 20w bulb.

Integral high capacity 6 volt 4 A/hr sealed lead acid rechargeable battery.

Replacement batteries available from us.

High quality Siemens 1.35 watt solar panel (with a mounting plate and adjustable tilt position).

Detachable solar panel can be separated up to 12' (4 metres) away with cable cord supplied.

High quality Siemens solar panel.

The lamp will illuminate and stay on when activity is detected and the timer starts after activity ceases.

Adjustable 'light-on' duration/timer setting (1 to 60 seconds after last activity detection).

Adjustable sensitivity setting dial.

Adjustable lux setting dial.

All plastic construction, no parts to rust.

Color of light output is white.

Easy to install almost anywhere.

Solar panel best fixed facing South (otherwise East or West).

Provides illumination of an area approx. 30' x 30' (900' square) and beyond to the extent of what 10 or 20 watts of halogen light can provide.

Choice of a black or white colored fixture.

This motion sensor security light is naturally, not designed to be used for continuous illumination. Its purpose is to illuminate for short periods upon activation of the motion sensor.

Solar panel is approximately 5" x 5" (L x W) with the attached mounting plate having a footprint of approx. 6" x 3" (L x W).

Floodlight main body is approximately 5" x 5" x 2.5" (L x W x D) although just two screws or bolts are required to secure this fixture to almost any vertical surface.

The floodlight head (lampshade/lens section) is approximately 7" x 4" x 2" (L x W x D).

Time length of night time illumination is estimated and subject to various factors including geographic location, seasons, weather conditions & location of product etc.

Shorter illumination time due to one or more of the above factors does not define the fixture as being defective or define the fixture as being advertised incorrectly.

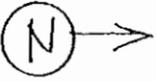
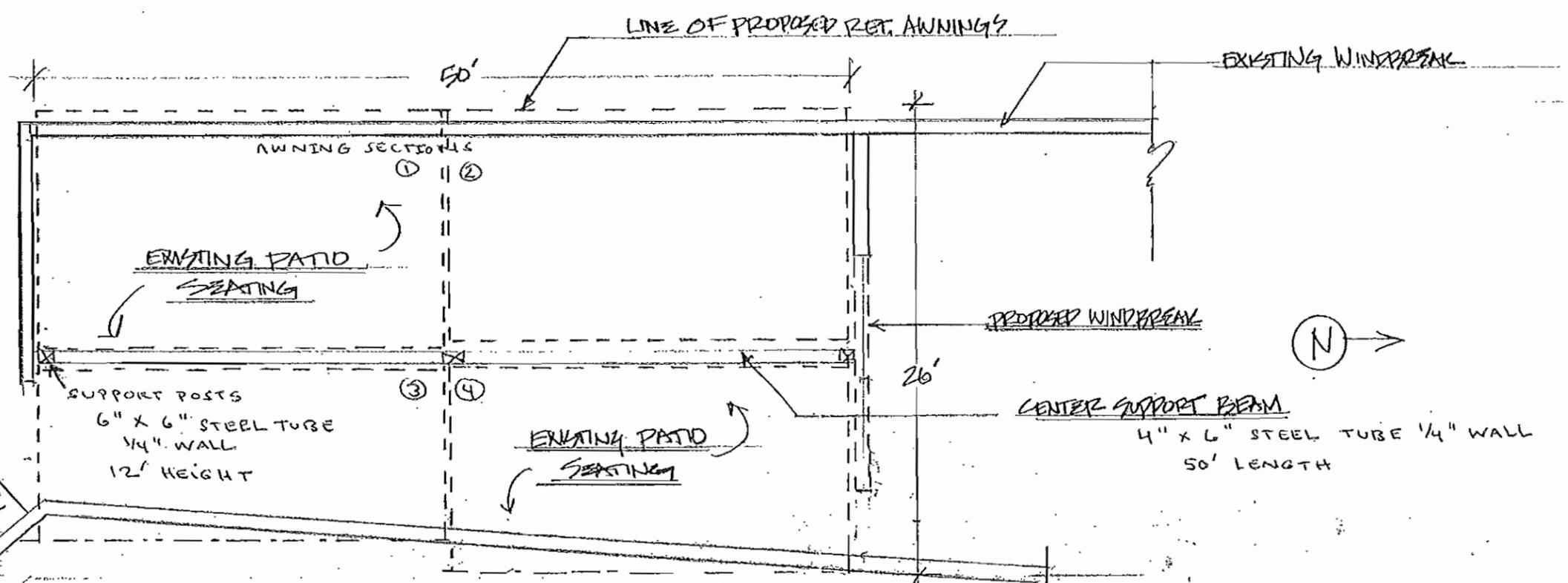
We advertise and supply our solar lights to customers all over the world are therefore, naturally, we are unable to guarantee the nightly illumination time as it can vary and any time stated is quoted as 'up to' x amount hours.

Minor errors & omissions must be accepted.

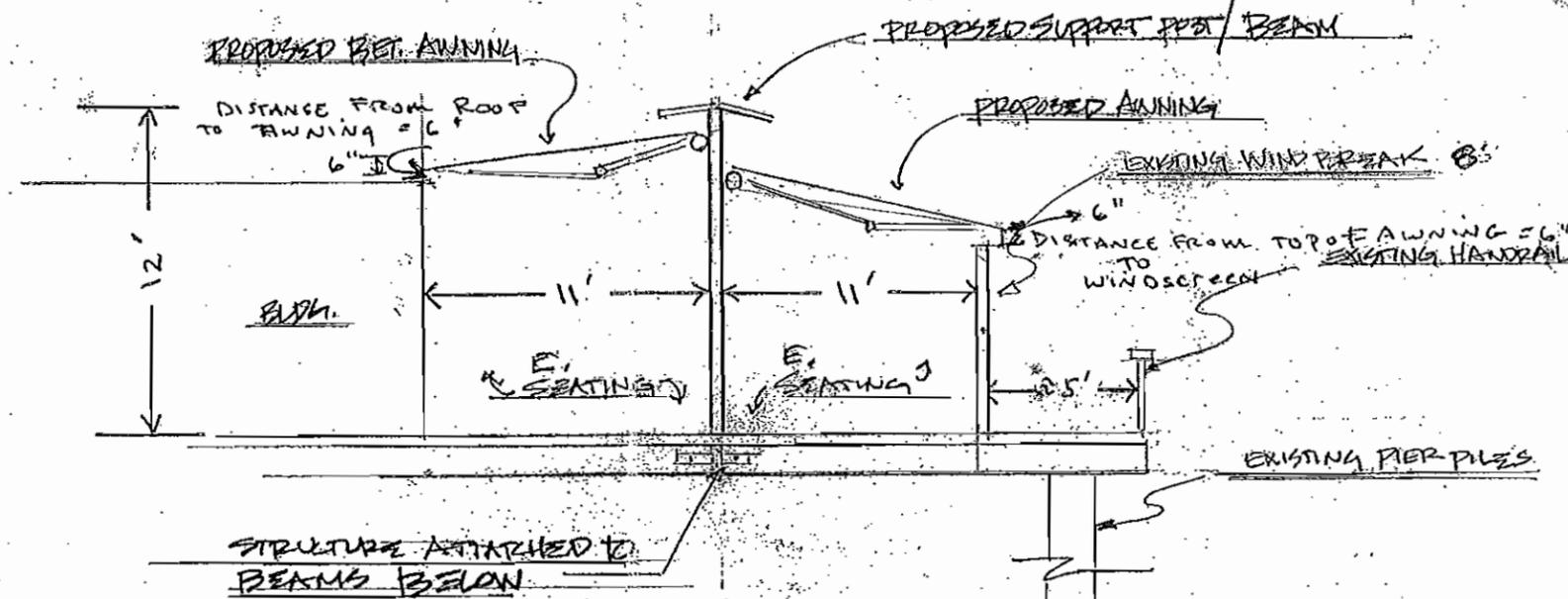
Although unlikely, we reserve the right to supply this product with any minor alterations or minor changes to the specifications (shown above by text description or by photographs) due to different supplies or product batches received, incorporating such product changes made by the manufacturer, without further notice.

Descriptions, specifications and photographs are updated regularly but may not be current when minor changes to a product have only recently been made.

All solar lights must be used in a completely dark location at night time otherwise they may not illuminate. Nearby strong lighting sources or ambient lighting may affect the operation of a solar light. This does not define the fixture as being defective.



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 FEB 02 2011
 City of Morro Bay
 Public Services Department
 Changes made.

PROJECT: NEW CANVAS AWNING
 GIOVANNI'S FISH MARKET
 1001 Front Street Morro Bay, Ca. 93442

Shoreline Awning & Patio Inc.
 Lic #594614
 P.O. Box 2898 Paso Robles, Ca 93446
 (805) 238-4110 fax (805) 238-0361
 russ@shorelineawnings.com

ATTACHMENT 4



AGENDA NO: VII-B

MEETING DATE: March 16, 2011

Staff Report

TO: Planning Commissioners

DATE: March 7, 2011

FROM: Sierra Davis, Assistant Planner

SUBJECT: Conditional Use Permit #UP0-284, 1001 Front Street, Dock, Gangway, Landing, Awning, and Parking Lot.

RECOMMENDATION:

Staff recommends the Planning Commission approve Conditional Use Permit #UP0-284 for the construction of a new dock, gangway, landing, awning and parking lot at 1001 Front Street with the attached findings and conditions as seen in Attachment 1 and 2.

SUMMARY:

The project is located on lease sites 105.1W and 105.2W adjacent to 1001 Front Street and is zoned Harbor and governed by the Waterfront Master Plan. The upland portion of the project site is located within the Waterfront/Planned Development (WF/PD) Zoning District, with an S.4 overlay (design overlay), and is governed by the Waterfront Master Plan. The existing building includes Giovanni's Fish Market and take out window, a restaurant, and a clothing store. No improvements to the existing building are proposed with this project.

The proposed project consists of the installation of a new head float, the addition of four finger docks, landing and gangway and the installation of an awning system over the public outdoor dining area.

BACKGROUND:

The project was initiated without the benefit of permits. Upon the City establishing that the project was done without benefit of a Coastal Development Permit or Conditional Use Permit the applicant was required to remove the finger docks and apply for a Conditional Use Permit. The Coastal Development Permit shall be pursued through the California Coastal Commission because it is located in the Original Jurisdiction. The project has evolved throughout the process to include a new awning system over the public seating area, and a new landing and gangway.

Prepared By: SD

Dept Review: HL

City Manager Review: H/A

City Attorney Review: H/A

The project requires additional parking spaces because of the new dock configuration which includes additional moorage thus increasing parking demand. The parking lot adjacent to the 1001 Front Street was constructed without benefit of a permit and therefore was added to the project proposal in order to make the parking lot legal and therefore allow it to be utilized as the on-site parking for the project.

REGULATIONS:

The proposed project is location in a Planned Development overlay district therefore the project shall be presented as a concept plan to Planning Commission and City Council. The applicant will then have to apply to the California Coastal Commission for their Coastal Development Permit. Once they receive entitlements from the California Coastal Commission documentation will be provided to the Public Services Department and the applicant can submit precise plan. The precise plans will be in substantial conformance with the concept plan, and will incorporate Coastal Commission conditions. The precise plans will then be presented to the Planning Commission requesting final approval.

<u>Adjacent Zoning/Land Use</u>			
North:	Waterfront/Commercial	South	Waterfront/Commercial
East:	Commercial Visitor Serving	West:	Harbor

<u>Site Characteristics</u>	
Existing Use	Commercial, docks, and parking lot
Terrain:	Flat
Vegetation/Wildlife	Harbor located to the west of the property, property is urban/developed
Archaeological Resources	Not applicable, site is located on fill.
Access	Embarcadero

<u>General Plan, Zoning Ordinance & Local Coastal Plan Designations</u>	
General Plan/Coastal Plan Land Use Designation	Waterfront/Harbor
Base Zone District	Waterfront (WF)/Harbor
Zoning Overlay District	Design Overlay (S.4)
Special Treatment Area	Planned Development (PD)
Combining District	N/A

Specific Plan Area	N/A
Coastal Zone	Original Coastal Commission Jurisdiction

DISCUSSION:

Landing, Gangway and Docks

The project includes the construction of a new accessible landing and gangway which would replace the current access from the head float dock via a ladder up to the wharf as well as temporary access through the City's gangway to the south of the project site. The new finger docks will eliminate the current method of side tie docking to the head float and will replace it with boats docking at the four finger docks and accessing land via the head-float and newly proposed landing and gangway.

The proposed landing area at the top of the gangway is a six foot by six foot area that will be cantilevered from the existing wharf. A portion of the existing guardrail will be removed and the landing will cantilever over a small portion of the water and head float. The small portion of water covered by the new landing will not adversely affect marine life in the harbor since an eel grass study was conducted and no sensitive species are located in the area under the wharf, head float, proposed docks nor surrounding harbor area.

The proposed gangway will be connected to the proposed landing and will be 35 feet in length from the top of the landing to the head float. The gangway and landing shall not be considered a replacement based on documentation submitted by the applicant's agent, depicting the gangway and docks on the adjacent site also owned by the applicant, therefore the gangway attached to the proposed landing are considered new construction.

Prior to the applicant applying for the permits the previous 60 foot by 8 foot head float was demolished and removed without benefit of a permit. The head-float dock currently on site was increased in length by approximately 74 linear feet, for a new head float length of 134 linear feet over the most recent configuration of 60 linear feet. The proposed docks will be constructed with a light brown colored Trex decking. Attached to the expanded head-float, currently in the water, four new floating finger docks will be installed and will be approximately 50 feet by 4 feet 4 inches wide. One of the finger docks will be 5 feet wide in order to provide a dock that meets accessibility requirements. The head-float will not require additional pilings, however each new finger will need 3 new piles to secure the end of the dock, for a total of 12 new pilings.

Lighting

The project proposes new light sources on both the head float and at the ends of the finger docks, because the existing light on site is not adequate. The project will include 4 power and light pedestals that will provide a minimum five foot candle level for all passenger loading areas, pursuant to the building code. On the ends of the docks 4 solar 'protector' flood lights with motion sensors are proposed.

The project is required by the building code to provide lights on the existing head float and the

new finger docks. The design of the light source directs the light down towards the ground for safety purposes. Because of the configuration there will be limited light pollution into the day or nighttime sky. The lights are for directional and safety purposes and will not adversely affect the scenic views at any time of the day.

Awning System

The project also includes the addition of a windscreen and retractable awning over the existing general public outdoor dining area located on the wharf. The existing outdoor dining area is approximately 1,425 square feet with approximately 16 tables with umbrellas approximately 8 feet in diameter and enclosed within the existing windscreen. The awnings will be constructed in four individual sections centered over the patio area and supported by a center beam spanning approximately 50 feet between two vertical supports at a height of 12 feet. The northern end of the awning will additionally have a 7 foot high windscreen located perpendicular to the existing windscreen, which will be consistent with the existing windscreen height. The windscreen will be constructed of glass (approximately 60%) on top and wood (approximately 40%) on the bottom to match the existing screen. Currently there are umbrellas covering the existing dining area and are each approximately 8 foot diameter and cover most of the dining area. The canvas color of the new awning system will be the same as the existing canvas awnings used around the site for consistency.

The awning has the most substantial effect on the scenic vista because the awning system is taller and covers a larger area than the existing umbrellas. The proposed awning is a freestanding mechanical system that can retract the awnings as weather permits. The awnings are connected to the support system and are not attached to the existing windscreen or structure, and will maintain a minimum of 6 inch gap between the top of the windscreen and top of the roof. The configuration will create an area that is substantially enclosed. The existing umbrellas are not connected, therefore it does not create continuous coverage over the southern portion of the deck. The existing configuration of the umbrellas allows for views over the top of the windscreen and is partially open to the sky. The proposed awning system would not allow for views over the windscreen and to the sky when the awning is closed. When the awning system is retracted the area will be exposed to the elements and will have more of a view shed than what currently exists on site.

Parking

The applicant proposes to utilize an existing unpermitted parking lot to provide the required on-site parking spaces for the new docks. The parking lot is located on the adjacent site at 1099 Embarcadero. The applicant and staff have not located permits indicating that the parking lot was permitted by the City or the Coastal Commission, therefore the parking lot was not reviewed pursuant to the Municipal Code. City records, CityGIS and Google Earth software, staff has determined that between 1997 and 2005 the parking lot was stripped with the current parking lot configuration and circulation.

The applicant's agent indicated in a letter, dated September 2010, that the "parking lot was

constructed in approximately 2000, to create additional spaces for general use.” Pursuant to 17.44.020.D.1.a., any new parking lot or lot which is proposed to be extended in area or capacity which is not proposed as part of a larger development, an administrative Coastal Development Permit shall be obtained from the planning and building department. Since the parking lot was not previously permitted, the permit has been elevated and shall be included in the Planning Commission reviewed.

The applicant has proposed making the parking lot legal by including the parking lot in this review. The applicant has requested exceptions to the parking requirements because they are located in the Planned Development overlay. The applicant has requested the following exceptions from the City of Morro Bay Municipal parking standards; ADA parking space location, lighting, landscaping, curb stops, screening, parking space sizes, and configuration of parking spaces and drive aisles, however it has been determined that the parking spaces and aisles shall meet minimum standards.

ADA Parking Space Location

The existing parking lot was striped with 20 parking spaces with one van accessible parking space. The van accessible parking space located on the east side of the parking lot adjacent to the public right-of-way was not a requirement for any business located adjacent to the parking lot. The accessible parking space is proposed to be the accessible space for the dock project, however pedestrians have to cross the parking lot, without benefit of a path of travel delineated. In a letter dated February 3, 2011 the applicant’s agent stated that a path of travel through the parking lot would create “significant hazard due to the fact that this is still a working waterfront dock.” The agent also indicated that there is an accessible parking space on the southern side of the building, however that is to be utilized for previously approved uses, and the ADA accessible parking space in questions is strictly for use of the new docks. The City Engineer shall require that the ADA parking space be moved to the western side of the parking lot closest to the dock, landing and gangway, therefore eliminating the “significant hazard” of crossing the parking lot with trucks and machinery.

Lighting

Pursuant to section 17.44.020.D.4, Parking Lot lighting, Parking lots shall have security lighting when required by the Police Chief. All parking lot light fixtures shall be designed so that they do not direct glare into the street or into adjacent residential uses. Lighting poles shall not exceed twenty feet in height unless a greater height is approved by the Planning Commission.

The applicant requested an exception from lighting requirements, however the requirement is based on Police Chief request. The project was routed to the Police Department, and the Police Chief did not request additional lighting be provided for the parking lot, therefore an exception is not applicable.

Landscaping and Screening

The Zoning Ordinance outlines regulations for parking lot screening and landscaping

requirements for all parking lots within the City of Morro Bay. The existing parking lot is utilized by the applicant's businesses, for the docks, delivery of goods, and parking for patrons. Although the site is used for multiple uses, the zoning ordinance addresses high risk parking areas in regards to circulation and planting areas. The planting areas are incorporated into parking lots with the goal to prevent, unbroken expanses of parking area. Pursuant to section 17.44.020.D.5, the parking lot shall have a least five percent of their surface devoted to landscaping, exclusive of setbacks and street screening, arranged in an appropriate effective manner. The existing parking lot does not include any landscaping and does not have any setbacks. The applicant has requested that the landscaping requirement be waived to allow for trucks and the like to drive across the parking lot without obstacles, however all parking lots are required to have specific parking requirements, please refer to section 17.44.020.D.5, Landscaping and Screening.

In addition, the parking lot is adjoining a street shall have the street frontage and their outside perimeter screened by a three-foot-high decorative masonry wall, mature hedge, or landscaping berm, except at those points of vehicular or pedestrian access. The applicant's agent stated in a letter dated January 3, 2011, received February 3, 2011, "the installation of a solid fence to screen the lot would be visually obtrusive and prevent the pedestrian from viewing the operations and the bay." However, a solid fence at a height of three feet, mature hedge, or landscaping, would not obscure pedestrian's view of the bay from the public right-of-way.

Staff has reviewed the plans and determined that planting boxes or containers would be an acceptable form of landscaping because the applicant would not have to break ground on the parking lot. The site is also located on fill and which is not an acceptable soil to plant trees or vegetation.

Curb Stops

Pursuant to section 17.44.020.D.3.k. Curb and wheel stops shall be required where parking spaces head into a wall, fence, building, or the side of another parking space, of as determined necessary by the City Engineers wherever conditions warrant. Curb stops are a safety requirements and shall not be waived.

Parking Space Sizes and Parking Lot Configuration

The previous head float was approximately 60 linear feet which would have required 1.7 parking spaces (2 whole parking spaces), which is parked at a ratio of 1 parking space per 35 linear feet of docks. The new dock configuration shall require 9 parking spaces, and with a historic credit of 2 parking spaces, 7 parking spaces are required at this time for on-site parking requirements.

The existing parking lot has a combination of angled and perpendicular parking space configurations does not allow for a safe parking lot circulation, because minimum parking bays are not provided. The City of Morro Bay's Zoning Ordinance provides for standard sized parking spaces that are required to be 20 feet by 9 feet shall have a minimum or 14 foot back out area for parking spaces at a 45 degree angle. The existing parking lot provides approximately 15.5 feet

for back out area, however the parking spaces do not meet the minimum parking space dimension requirement.

The angled parking spaces have perpendicular parking on to the north, east, and south. The City of Morro Bay's Zoning Ordinance does not provide standards for 90 degree parking spaces with a one way drive aisle. The requirements have been engineered in the City of San Luis Obispo for a variety of different situations. The City Engineer would accept engineered standards from another city if the Morro Bay Municipal Code does not specifically address requirements. The applicant has provided a bay width of 38' on the east side of the parking lot and a 41.5' bay width on the west side of the parking lot, and a 26' bay width on the north side of the parking lot for perpendicular parking spaces. The minimum requirement for 90 degree parking space pursuant to the City of San Luis Obispo parking standards is 43.3 feet, therefore the parking lot does not meet engineered parking standards for 90 degree parking spaces. The angled parking spaces meet minimum acceptable standards, however when used in combination with perpendicular parking spaces the parking lot does not meet acceptable standards for safe circulation. The parking lot shall be re-stripped to meet minimum parking lot requirements for angled parking at a maximum 45 degree for one way traffic.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

The project qualifies for a CEQA Mitigated Negative Declaration and was posted on February 4, 2011. The applicant has agreed to implement the mitigation measures proposed in the Negative Declaration. Thus there are no significant impacts with the implementation of those mitigation measures.

CONCLUSION:

The proposed project would be consistent with applicable development standards of the zoning ordinance and all applicable provisions of the General Plan and Local Coastal Plan with the incorporation of recommended conditions. The project is located with the California Coastal Commission Original Jurisdiction.

ATTACHMENTS:

- Attachment 1 – Findings
- Attachment 2 – Conditions of Approval
- Attachment 3 – Plans and Pictures
- Attachment 4 – Correspondence
- Attachment 5 – California Coastal Commission Waivers
- Attachment 6 – City of San Luis Obispo Parking Standards
- Attachment 7 – Environmental Documents

Attachment 1

FINDINGS

California Environmental Quality Act (CEQA)

- A. The project qualifies for a CEQA Mitigated Negative Declaration was posted on February 4, 2011. The applicant has agreed to implement the mitigation measures proposed in the Negative Declaration. Thus there are no significant impacts with the implementation of those mitigation measures.

Use Permit Findings

- B. That the project is an allowable use in its zoning district and is also in accordance with the certified Local Coastal Program and the General Plan for the City of Morro Bay based on the analysis and discussion in the attached staff memorandum; and
- C. The establishment, maintenance, or operation of the use applied for will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use as the project will be consistent with all applicable zoning and plan requirements as indicated in the attached staff memorandum; and
- D. The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City since the project, as conditioned, will be constructed and developed consistent with all applicable City regulations, as indicated in the attached staff memorandum.

Parking Exception

- E. Special Circumstances. The exceptions will not constitute a grant of a special privilege inconsistent with the driveway and parking limitations upon other properties in the vicinity and the reduced parking or alternative to the parking design standards of this chapter will be adequate to accommodate on site all parking needs generated by the site. Certain exceptions to the parking requirements can be granted however they must adhere to the Conditions of Approval for specific parking standards, the remaining exceptions if granted would create inadequate parking design and therefore cannot be granted.
- F. Health, Safety and Welfare. The exception will not adversely affect the health, safety or general welfare of persons working or residing in the vicinity and that no traffic safety problems will result from the proposed modification of parking standards. With the implemented Conditions of Approval, and the restriping of the parking lot to meet

Conditions of Approval, the Planning Commission can find that the parking lot would incorporate safe circulation standards.

- G. Applicant's Full Enjoyment. The exception is reasonably necessary for the applicant's full enjoyment of uses similar to those upon the adjoining real property. The parking exceptions granted are reasonable however the remaining exceptions are not exhibited anywhere in the vicinity and therefore if granted would be considered a special entitlement.

Attachment 2

CONDITIONS OF APPROVAL

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report referenced above, dated May 17, 2010 for the project depicted on the attached plans labeled "Exhibit F", dated September 17, 2008, on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:
 1. Site development, including all buildings and other features, shall be located and designed substantially as shown on the aforementioned exhibit, 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 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 of Public Services, 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 Director of Public Services. Any changes to this approved permit determined not to be minor by the Director 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, City of Morro Bay, 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 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 Director of Public Services 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 the applicant shall file with the Director of Public Services written acceptance of the conditions stated herein.

PLANNING CONDITIONS

1. State and County Compliance: Prior to the issuance of a building permit applicant shall demonstrate compliance with all State and County regulations and provide documentation to the Public Services Department.
2. 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. on weekdays and eight a.m. to 7 p.m. on weekends, unless an exception is granted by the Director of Public Services pursuant to the terms of this regulation.
3. Parking Agreement: The parking lot to be utilized for on-site parking is located on an adjacent site. The applicant shall provide a parking agreement between all properties owners on which parking lot is located. This agreement shall be submitted and recorded prior to the issuance of any building permit.
4. Live Aboards: Live aboard marine vessels shall not be allowed unless a modification to this permit is obtained and there has not been permitting provided for such use.
5. Parking Circulation: The parking lot shall be restriped to meet all circulation minimum requirements for drive aisle and parking space dimensions. The parking spaces shall be a maximum of 45 degree angled parking and shall only have one way drive aisle.

6. Parking Space Labels: The parking spaces reserved for the docks shall be labeled and open and available for people using the docks. At no time shall equipment, delivery trucks, or marine storage tanks, nor the like be placed in the parking spaces.
7. Exit and Entrance Directional Arrows: Exit and entrance direction arrows shall be marked on the pavement where one-way driveways are used. Pavement signing shall be marked and maintained as required by the city engineer. Entrance signing may be required by the City Engineer whenever conditions warrant. Code requirement.
8. Accessible Parking Space: The van accessible parking space shall be moved to the to the west side of the parking lot and shall be the first parking space adjacent to the landing and gangway.
9. Street Frontage: A maximum of 3 foot high masonry wall, mature hedge or landscaping berm shall be required in order to maintain the pedestrian view shed to the bay.
10. Curb Stops: Curb stops shall be provided for each parking space that head into a wall, fence, building, or the side of another parking space.
11. Landscape Plan: A landscape plan shall be submitted with the precise plan depicting that the minimum 5% landscaping requirement is maintained.
12. Docks: Docks cross water lease lines and an agreement from the City and lease holders shall be secured.
13. Photometric Plan: A photometric plan shall be submitted to the Planning Division prior to issuance of any building permit detailing that the lighting will meet a minimum of 5 foot candle for all dock areas.

FIRE CONDITIONS

1. Standpipe Systems. Marinas and boatyards shall be equipped throughout with Standpipe Systems in accordance with NFPA 303. (CFC 905.3.7) Please submit plans and detail of all required Standpipe System and Hose Cabinets at Building Plan submittal.
2. Water supply for fire protection of piers and wharves shall be in accordance with NFPA 307 (Chapter 7).
3. Fuel Dispensing. Marina Fuel dispensing units for transferring fuels from storage tanks shall be in accordance with NFPA 30-A. (NFPA 303-8.3.10 & CFC 2210.1)

4. Construction and fire protection of marine terminals, piers, and wharves shall be in accordance with NFPA 307 (Chapter 4 Piers and Wharves).
5. Construction of Marine Docks and Gangways shall be in accordance with Morro Bay Municipal Code, Chapter 14.52.
6. Portable Fire Extinguishers. Placement of portable fire extinguishers on piers, bulkheads, and fuel dispensing areas, shall be in accordance with NFPA 10 (Chapter 5). (NFPA 303-6.2.1.1.1 & 6.2.1.1.2.1)
7. Awning Plan. Please provide details of the Awning Plan at Building Plan submittal.
8. 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 materials meeting the flame propagation performance criteria of NFPA 701, or treated with a flame retardant in an approved manner. (CFC 2404.2)
9. 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)
10. 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.
11. 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)
12. 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)
13. LP-Gas. The storage, handling and use of LP-gas and LP-gas equipment shall be located outside canopy structures, with safety release valves pointed away. (CFC 2404.16)
14. Fuel-Fired Appliances. The installation of non-portable 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)

15. Means of Egress. At least two exits shall be provided in this A-2 occupancy. (CFC 1019)
16. 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)

ENVIRONMENTAL

Acoustics

1. The awning system shall be freestanding and shall only be attached at the base of the awning system to the wharf. The awning shall not be attached to the existing windscreen, structures on site nor be attached in a way that would enclose the area in any fashion.
2. The awning system shall maintain a minimum 6 inch height clearance above the top of the windscreen to maintain that the awning system does not enclose the public view area.

Air Quality

The project is subject to standard construction practices, including dust control measures required by the Municipal Code and the Air Pollution Control District to address short-term air quality impacts related to construction.

The standard mitigation measures for reducing nitrogen oxide (NOx), reactive organic gases (ROG), and diesel particulate matter (Diesel PM) emissions from construction equipment are listed below:

- a. Maintain all construction equipment in proper tune according to manufacturer's specifications;
- b. Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
- c. Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State off-Road Regulation;
- d. Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;
- e. Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NOx exempt area fleets) may be eligible by proving alternative compliance;
- f. All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5 minute idling limit;
- g. Diesel idling within 1,000 feet of sensitive receptors is not permitted;

- h. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
- i. Electrify equipment when feasible;
- j. Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and,
- k. Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.

With the implementation of the mitigation measures, potential impacts to air quality resulting from the project would be reduced to less than significant levels.

Biological Resources

1. Federal and state permits applicable to the proposed project shall be secured and evidence of permits shall be on file with the Public Services Department prior to the issuance of building permits.
2. Silt screens shall be placed within the area of all in-water construction or disturbance to reduce potential turbidity associated impacts and all construction shall occur within the project footprint.
3. To avoid impacts, all work that disturbs the ocean floor (i.e. installation of pilings) shall be overseen and monitored by the project biologist (Tenera Environmental or equivalent professional biologist approved by the Director of Public Services). The biologist shall be under contract prior to issuance of a building permit. Prior to the final building inspection the biologist shall submit a monitoring report to the Director of Public Services.
4. A pre- and post-construction Eelgrass survey shall be performed and submitted to the Director of Public Services and if necessary, an Eelgrass restoration plan shall be prepared in accordance with the Southern California Eelgrass Mitigation Policy. This Eelgrass restoration plan shall be submitted and approved by the Public Services Department prior to issuance of certificates of occupancy.
5. Prior to the issuance of a building permit, an approved "otter watcher" shall be under contract or otherwise committed to being on the job site at all times during which the pile driver is in operation. The contract or other written agreement between the applicant and the "otter watcher" shall specifically encourage or empower the "otter watcher" to stop work immediately in the event that a sea otter is detected in the project area. The contract, agreement, work scope or similar document shall further specify that no work shall be resumed until after the marine mammal has left the area. With this mitigation, the project would not have a significant impact of animals, or require a state or federal take permit. The results shall be reported to the Director of Public Services.
6. A Marine Wildlife Contingency Plan should be developed and approved by the NMFS, USFWS, and CDFG prior to the initiation of pile driving activities. This plan should describe specific methods that will be used to reduce pile driving noise and describe on-site marine wildlife monitoring and reporting requirements.

7. Power to the pile driver should be ramped up to allow marine wildlife to detect a lower sound level and depart the area before full power noise levels are produced.
8. If an impact hammer is used the installation of a "pad" between the pile and the pile drive hammer should be investigated and, if feasible, used to reduce impact hammer noise.

Geology/Soils

Applicant shall submit a soil/geological report prior to the issuance of building permits.

Hazards/Hazardous Materials

1. Prior to demolition of the existing structures, asbestos, and lead-based paint surveys shall be conducted. If asbestos containing materials are encountered, the materials will be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the San Luis Obispo Air Pollution Control District (APCD). If lead-based paint is identified, federal and State construction worker health and safety regulations should be followed during demolition activities. Any loose or peeling lead based paint should be removed by a qualified lead-abatement contractor and disposed of in accordance with existing hazardous waste regulations.
2. The following precautions shall be taken when handling creosote-treated wood:
 - a. Dispose of treated wood by ordinary trash collection or burial.
 - b. Do not burn wood in open fires or in stoves, fireplaces, or residential boilers because toxic chemicals may be produced as part of the smoke and ashes.
 - c. Avoid frequent or prolonged inhalation of sawdust from treated wood.
 - d. Avoid frequent or prolonged skin contact with creosote-treated wood
 - e. When handling the wood, wear long-sleeve shirts and long pants and use gloves impervious to the chemicals.
 - f. When power-sawing and machining, wear goggles to protect eyes from flying particles.
 - g. Wash clothes worn while working with creosote-treated materials separately from other household clothing.
3. At minimum one oil only absorbent spill kit for a capacity of 21 gallons or greater shall be provided on the head float dock in case of accidental release of a hazardous material or liquid into the bay.
4. Signs shall be provided on all finger docks stating the location and hours of operation for all pump out facilities in the Morro Bay Harbor.

With the implementation of these mitigation measures the potential impacts of hazardous or hazardous materials that could result from the project would be reduced to less than significant levels.

Hydrology/Water Quality

1. The proposed project shall be incorporated into the City of Morro Bay's existing tsunami warning and evacuation system. Local authorities should be able to evacuate people safely from the proposed project site in the event of a tsunami.
2. Silt screens shall be placed within the area of all in-water construction or disturbance to reduce potential turbidity associated impacts.
3. To reduce the potential of petroleum leakage/spills from equipment used in conjunction with the project the following practices shall be followed:
 - a. A project-specific Oil Spill Response and Recovery Plan that includes methods and procedures for reporting and responding to spills, available on-site equipment and contracted services, and personnel responsibilities should be completed and approved prior to the initiation of construction activities.
 - b. Refueling of onshore equipment should be accomplished within a designated area of the parking lot. The site shall be covered with impervious material, be located away from drains, and have spill recovery material within the immediate vicinity. The area shall be surrounded with a waddle of sorbent material.
 - c. A minimal volume of petroleum product shall be stored onsite and spill containment and recovery equipment should be sufficient to respond to the worse case spill volume.
4. Netting or fencing around and underneath the dock shall be installed to catch and remove debris released during and after de-construction.

Noise

1. Project construction shall be limited to the hours of 7 a.m. to 7 p.m. on Monday through Friday and all large construction equipment will be equipped with "critical" grade noise mufflers. Engines will be tuned to insure lowest possible noise levels. Back up "beepers" will also be tuned to insure lowest possible noise levels. All necessary measures to muffle, shield or enclose construction equipment shall be implemented in order to insure that noise levels at the property line of the nearest parcels do not exceed 70 dBA. Construction timing shall be noted on the grading and construction plans.
2. Power generating and other noise generating machinery used for construction shall be partially or completely surrounded by temporary acoustical shelters if within 300 feet of a sensitive receptor.
3. Refer to section 4, Biology Resources mitigations 6, 7, and 8.

Utilities and Service Systems

Please refer to Hazards/Hazardous Materials section mitigation measure number 4.

Lighthouse
Power Pedestal

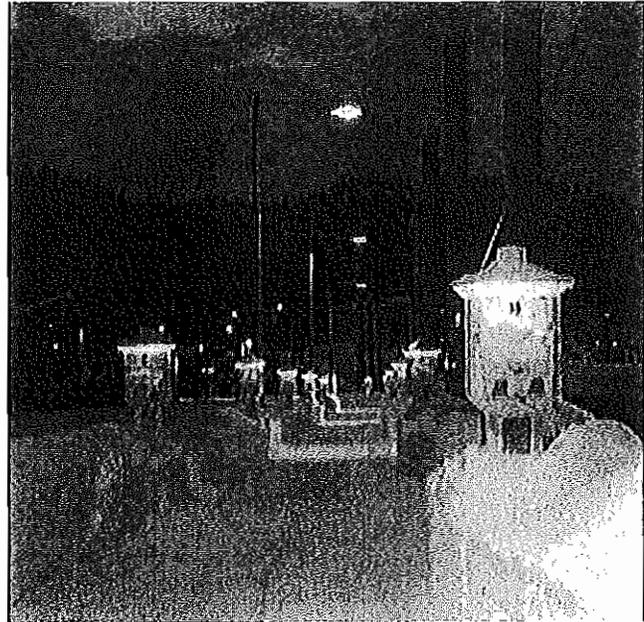
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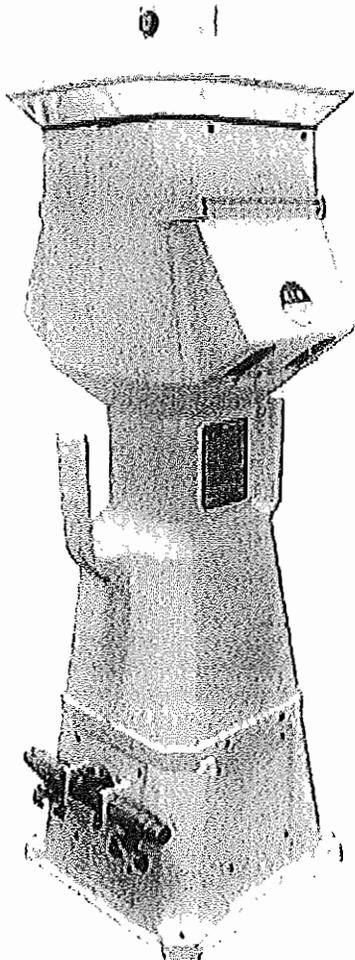
FEB 22 2011

City of Morro Bay
Public Services Department

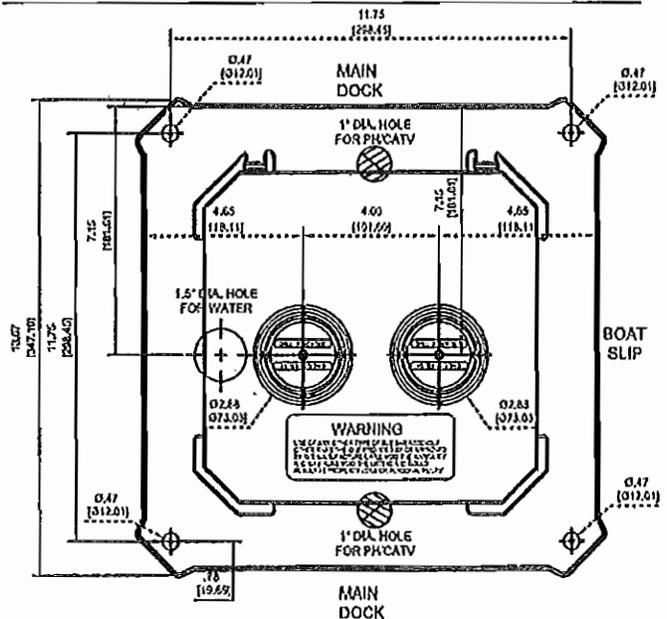
One of our most popular units, the all-purpose Lighthouse pedestal has a wide range of features. With units in service around the world, this stylish power pedestal is recognized for its practicality and exceptional durability.

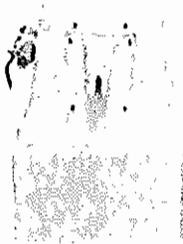


Above: Lighthouse Power Pedestals, Cordova Marina, Alaska

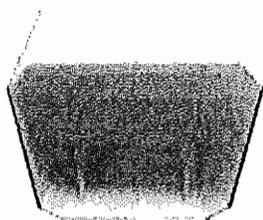


Lighthouse Base Diagram





Base Extension



Base Cap

Lighthouse Power Pedestal

- Standard Features
- Available Options
- Dimensions

Receptacle Configurations

For a complete listing of the receptacle configurations available for the Lighthouse power pedestal, see page 21.

Standard Features

- Photocell Controlled 13 Watt Fluorescent Light (Clear Lens or Amber Lens for Bug Reduction)
- Lockable Weatherproof Doors Which Protect Breakers and Receptacles While In Use (A Requirement of N.F.P.A. 303 and NEC Art. 555)
- Hose and Cable Brackets
- Heavy Resin Housing with a Two-Part Polyurethane Coating for a UV Resistant, Long Lasting Finish
- Copper Bus Bar with Ratings from 250 to 500 Amps
- New "Hingeless" Base Providing Easy Access for Both Installation and Maintenance
- Backlit Faceplate for Easy Receptacle Plug-In at Night

Available Options

- Digital Electronic Metering (One, Two or Three Element Meters Available)
- Built-In Meter Socket
- 20A/125V GFI Receptacle (Max of 2 GFI Receptacles per Pedestal)*
- High-Speed Internet Connections
- Wireless Remote Metering for Electric and Water
- Transient Voltage Surge Suppressor (TVSS) to Protect from Voltage Surges, Spikes or Lightning on the AC Power Line (Extends Warranty on Internal Parts to Three Years)
- Stainless Steel Door Hinge on Receptacle Main Doors
- Single or Dual Steel 1/4 Turn Ball Valves with 3/4" Hose Bibs and Stainless Steel Handles
- Single or Dual Phone and /or Cable TV Connections
- Base Cap
- Base Extension
- LED Lighting

Dimensions

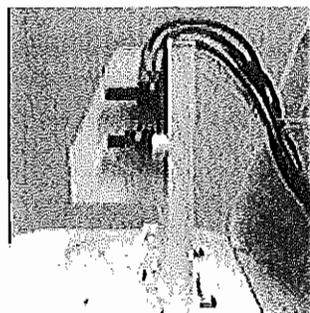
LIGHTHOUSE	IN.	
	MIN.	MAX.
Height:	44	1117.6
Width:	13.75	349.25
Depth:	13.75	349.25

* 20 Amp GFI receptacles are not to be used for shore power.

Cable & Internet Connections



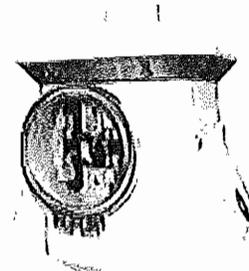
Bus Bar

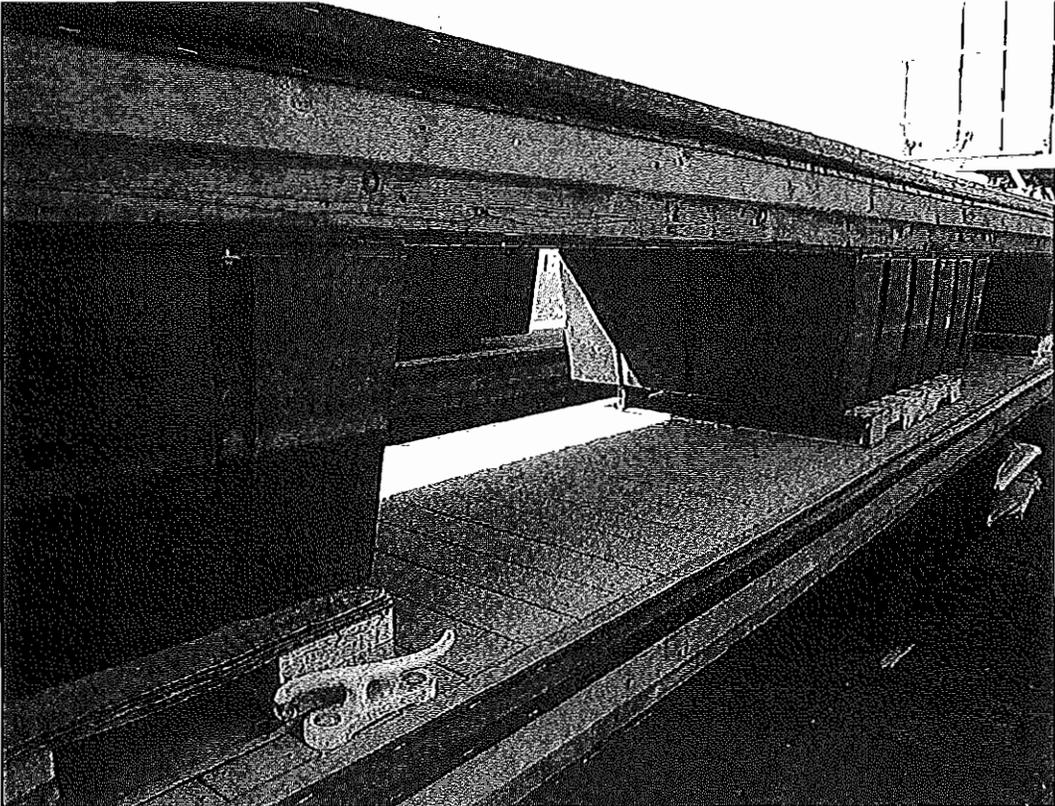


New Hingeless Base



Optional Meter Socket



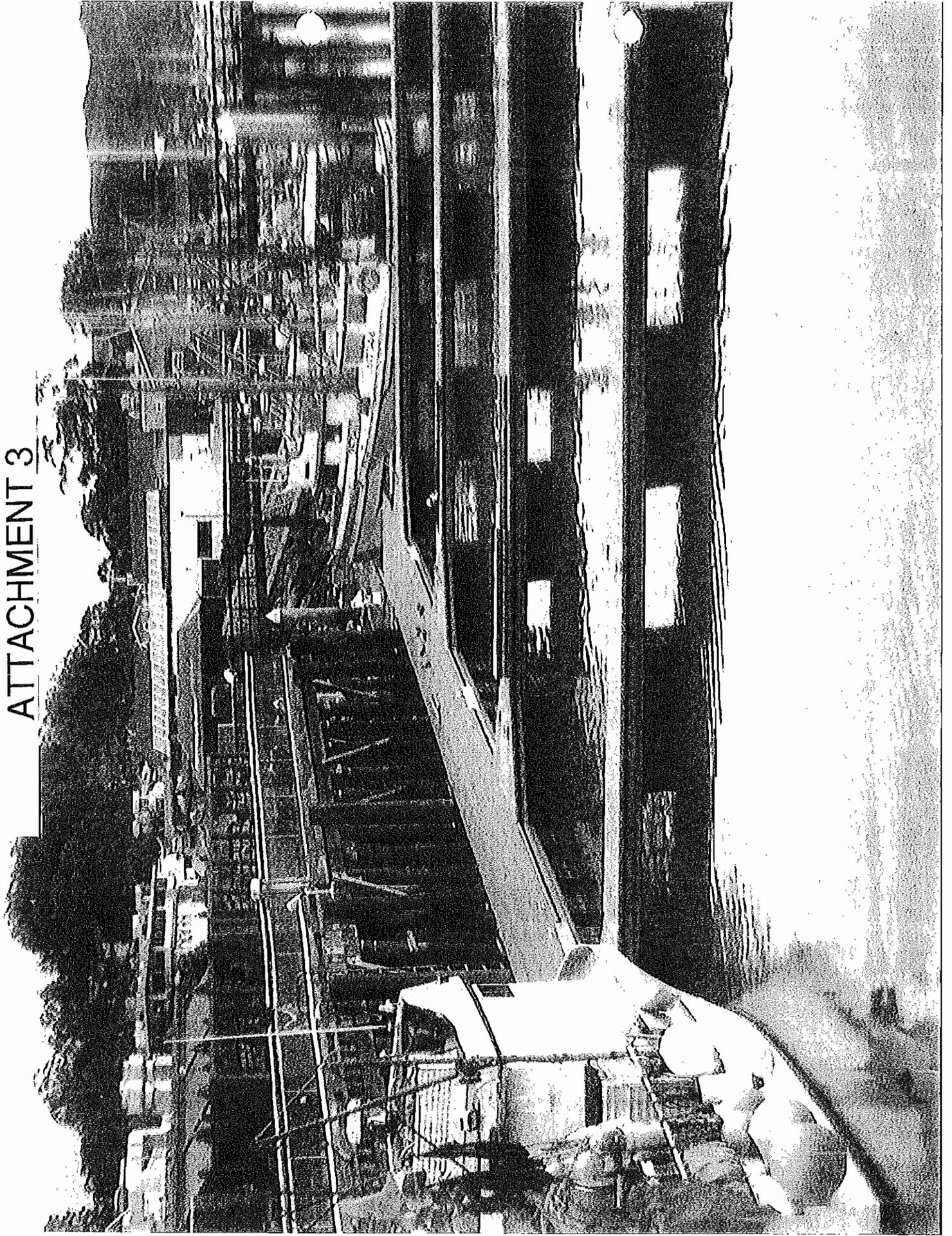


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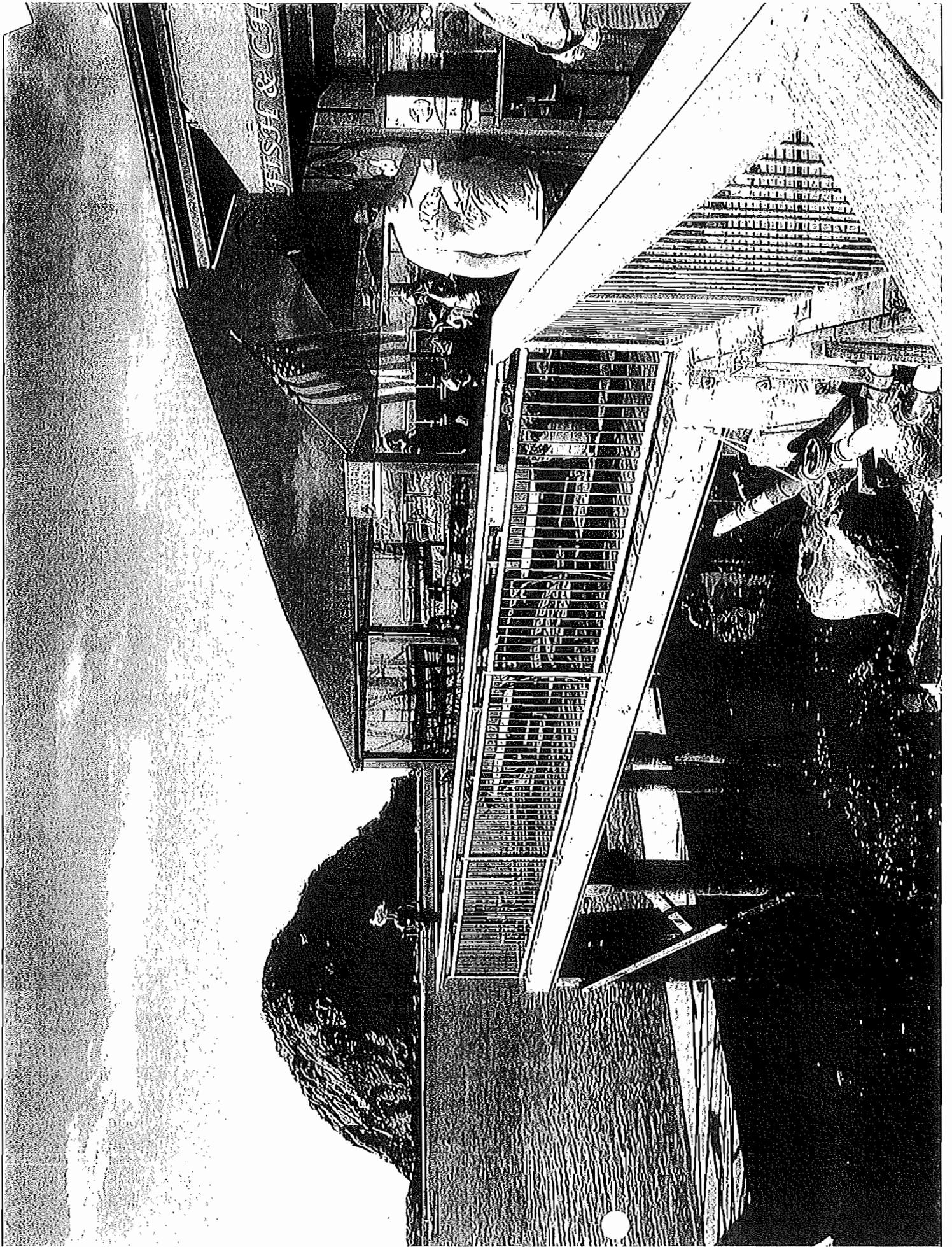
FEB 22 2011

City of Morro Bay
Public Services Department

ATTACHMENT 3







ATTACHMENT 4

3/22/10

The project is located at lease sites 105.1W and 102W, adjacent to 1001 Front Street. The project proposes to reconfigure the existing side tie floating dock system, approximately 134 feet by 8 feet, by constructing four new finger style floating docks, 50 feet by 4 feet wide. Additionally, four main piles and eight supporting piles will be installed to support the end of each new finger dock.

The existing side tie dock system can accommodate up to eight boats by "rafting" together. The new configuration will accommodate eight boats therefore replacing with like numbers. There is sufficient parking on-site for the boat owners and since there is no increase to the existing use, there is no change for the parking requirements.

Access to the docks are via two points, 1) an existing ladder from the wharf to the existing side tie dock and 2) through the City's gangway to the existing docks to the south of this site.

Lastly, the project is located in the H zone whereby floating docks are an acceptable use.

Cathy Novak Consulting

Governmental & Community Relations ♦ Planning

April 7, 2010

Ms. Genene Lehotsky
City of Morro Bay Public Services Department
955 Shasta Street
Morro Bay, CA 93442

RE: 1100 Front Street project

Dear Genene,

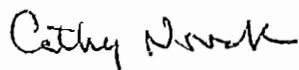
I would like to respectfully request that the project description for the above mentioned project be amended to include the installation of a retractable awning over a portion of the existing outdoor general public dining area and support beams.

The patio area is approximately 90 feet in length and the retractable awning will cover approximately one-half the existing seating area. The awning will be supported by a center support post/beam spanning approximately 50 feet. The northern end of the awning will additionally have a 7 foot high windscreen, consistent with the existing windscreen height. The windscreen will be constructed of glass (approximately 60%) and wood (approximately 40%) as in the existing screen. The remaining patio area will open air with individual umbrellas for the tables. The canvas color will be the same as the existing canvas awnings used around the site for consistency.

The purpose of this seasonal retractable canvas cover is to provide for shade and protection from the inclement weather which will allow for better use of this general public area.

Please let me know if you have any questions. Thanks for your time and consideration in this matter.

Regards,



Cathy Novak

cc: Mr. Giovanni DeGarimore

PO Box 296
Phone/Fax: (805) 772-9499

Morro Bay, CA 93443
Email: NovakConsulting@charter.net

APR 08 2010

Amended Project Description (June 2010)

Floating Docks:

The project is located at lease sites 105.1W and 102W, adjacent to 1001 Front Street. The project proposes to reconfigure the existing side tie floating dock system, approximately 134 feet by 8 feet, by constructing four new finger style floating docks, 50 feet by 4 feet wide. Each finger dock will be constructed with a light brown colored Trex decking to match the existing side tie dock. Additionally, four main piles and eight supporting piles will be installed to support the end of each new finger dock.

The existing side tie dock was repaired and replaced with a light brown colored Trex decking. The side tie dock was increased in length by approximately ten feet over the most recent configuration. However, over the years as the dock has been repaired with sections that have been removed and again replaced. The dock as currently configured is shorter than it has been in some of the past years.

The existing side tie dock system can accommodate up to eight boats by "rafting" together. The new configuration will accommodate eight boats therefore replacing with like numbers. There is sufficient parking on-site for the boat owners and since there is no increase to the existing use, there is no change for the parking requirements.

Access to the docks are via three points, 1) an existing ladder from the wharf to the existing side tie dock and 2) a temporary access through the City's gangway to the existing docks to the south of this site and, 3) a replacement gangway from the wharf.

Recreational and passengers for hire vessels are allowed south of Beach Street per Zoning Ordinance 17.24.190 (4.a). These docks will be used for recreational vessels, passengers for hire vessels and commercial fishing vessels as berthing facilities. There will be no limitation on the hours of operations since these types of vessels will need the flexibility to depart and return at any time. The existing fuel dock operations are at the northern end of this project site and there are no plans to change the existing operations. The new dock configuration will not encroach into the fuel dock area and tie-up space.

Lastly, the project is located in the H zone whereby floating docks are an acceptable use.

Awning:

The applicant proposes the installation of a retractable awning system over a portion of the existing outdoor general public dining area and support beams.

The awnings will be constructed in four individual sections and when rolled up, will be centered over the patio area and supported by the center beam. With each section independent of each other, it allows the applicant flexibility to cover only portions of the patio area at any one time.

The patio area is approximately 90 feet in length and the retractable awning will cover approximately one-half the existing seating area. The awning will be supported by a center support post/beam spanning approximately 50 feet. The northern end of the awning will additionally have a 7 foot high windscreen, consistent with the existing windscreen height. The windscreen will be constructed of glass (approximately 60%) and wood (approximately 40%) as in the existing screen. The remaining patio area will open air with individual umbrellas for the tables. The canvas color will be the same as the existing canvas awnings used around the site for consistency.

The purpose of this seasonal retractable canvas cover is to provide for shade and protection from the inclement weather which will allow for better use of this general public area.

Cathy Novak Consulting

Governmental & Community Relations ♦ Planning

June 29, 2010

Ms. Sierra Davis
City of Morro Bay Public Services Department
955 Shasta Street
Morro Bay, CA 93442

RE: Replacement gangway at 1001 Front Street

Dear Sierra,

This letter is regards to the installation of gangway from the wharf area at 1001 Front Street. Mr. Giovanni DeGarimore wishes to submit for a building permit to replace a gangway that has been historically in place over the years. Prior to the submission for the building permit, Mr. DeGarimore would like concurrence form the Planning Department that the replacement will not require any additional planning permits.

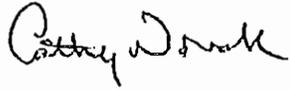
The floating docks, gangway and wharf ladder have been in existence for many years however, the configuration has changed from time to time to accommodate the needs of the fishing boats and unloading activities at the wharf. I have been able to locate an aerial photo dated June 25, 1993 from the California Coastal Records Project, <http://www.californiacoastline.org/> that shows the gangway in place at that time. Aerial and other photos to show the preexistence of the gangway are somewhat difficult to locate so; this appears to be the best that we can provide.

The replacement gangway will be 35 feet in length and located in the same location as the previous gangways. The landing area for the top of the gangway is a six foot by six foot section which will meet the building code standards. The landing, at the wharf elevation, will cantilever over the existing docks below. Since the landing and gangway will be constructed over the existing docks, there will be no new "fill" or "coverage" of the water area. Furthermore, this project site received a waiver (3-00-044W) from the CA Coastal Commission in June 2001 for the repair and replacement of existing wharf, dock and pier structure. It is in our opinion that the replacement of the gangway was permitted through this waiver issued by the coastal Commission.

PO Box 296 Morro Bay, CA 93443
Phone/Fax: (805) 772-9499 Email: NovakConsulting@charter.net

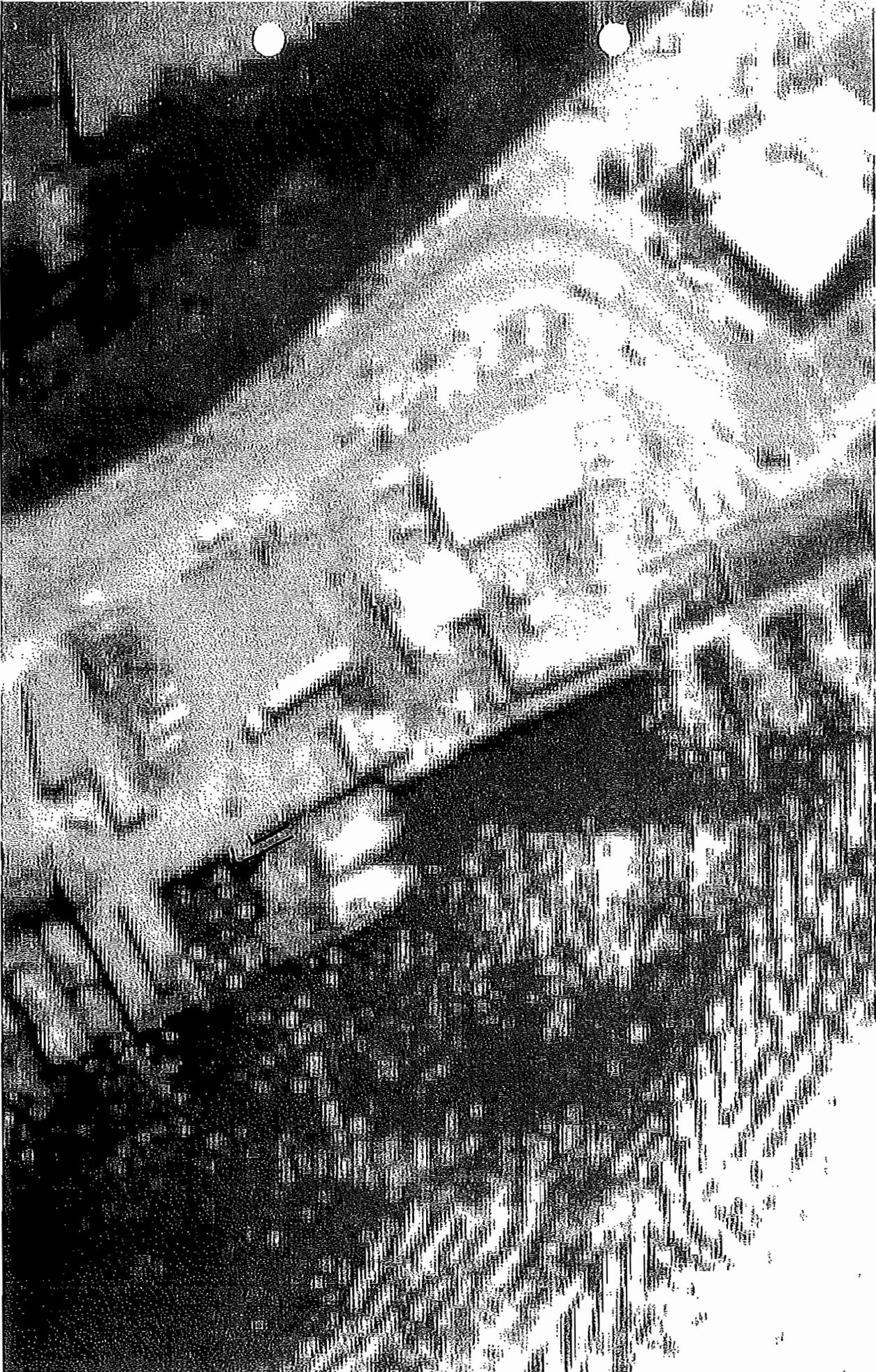
Please let me know if you have any further questions. Thank you for your time and consideration in this matter.

Sincerely,

A handwritten signature in black ink that reads "Cathy Novak". The signature is written in a cursive style with a large initial 'C'.

Cathy Novak
Project representative

Cc: Mr. Giovanni DeGarimore



CITY OF MORRO BAY
PUBLIC SERVICES DEPARTMENT
955 SHASTA AVENUE ♦ MORRO BAY, CA 93442 ♦ 805.772.6261

APPLICATION

- TEMPORARY USE PERMIT
- SPECIAL USE PERMIT
- COASTAL DEVELOPMENT PERMIT
- CONDITIONAL USE PERMIT
- MINOR USE PERMIT

Revised 10-10
CASE NO. *UPD-284*
BUILDING PERMIT:

Project address: Lease sites 105.1W and 102W (1001 Front Street)

Existing use: Floating dock, wharf & public seating Existing sq. ft.

Lot Block Tract APN. 066-033-003

Project description: Re-configure and expand existing side tie floating dock, install new finger style floating docks, install gangway and modify railing in the area, and install four main and eight supporting piles for floating docks.

Applicant: Giovanni DeGarimore Day phone: 772-1276

Address: 1001 Front St.

City: Morro Bay Zip code: 93442

Agent (If any): Cathy Novak Business phone: 772-9499

Address: PO Box 296

City: Morro Bay Zip code: 93443

Property owner: City of Morro Bay Day phone:

Address: 1275 Embarcadero Road

City: Morro Bay Zip code: 93442

Acceptance of this application does not imply approval/authorization of this request. I realize that this application may be denied or that conditions may be attached to this request to assure compliance with applicable Municipal Code requirements.

Applicant's signature: 

Date: *9/28/10*

Property owner's signature:

Date:

APPLICATION SUBMITTAL REQUIREMENTS - SEE PAGE TWO

SUBMITTAL REQUIREMENTS: (Applicant must provide information indicated below or on the attached checklist before this application can be accepted.)

I. Number of plans for Administrative permits:

- ◆ Five full sized sets of plans and one 8½" x 11" reduced set that includes the following :
- ◆ Site Plan reflecting
 - ✓ Topography – 2 foot contour intervals
 - ✓ drainage
 - ✓ location and use of structures on adjoining properties

II. Number of plans for Use Permits:

- ◆ Seven full sized sets of plans, one 8½" x 11" reduced set, that include the following :
- ◆ Site Plan reflecting
 - ✓ Topography – 2 foot contour intervals
 - ✓ drainage
 - ✓ location and use of structures on adjoining properties

III. All permit plans should include the following information:

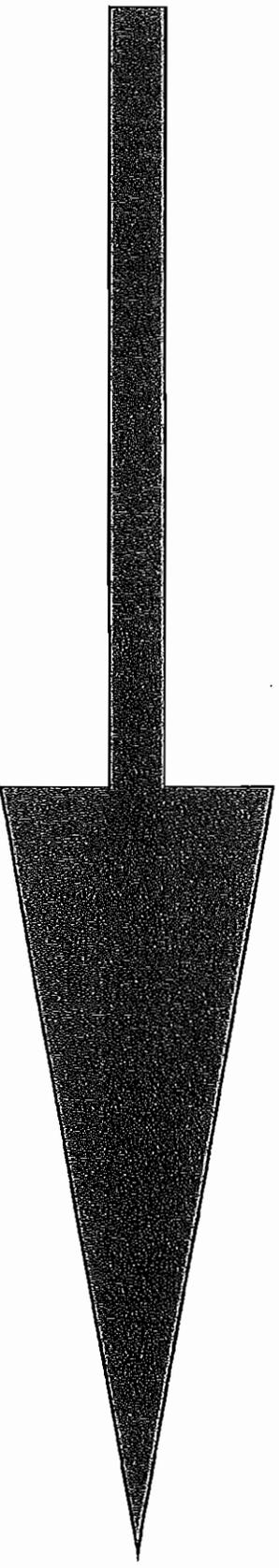
- ◆ Elevations: Dimensioned & Indicating the height of all structures from the natural & the finished grade.
- ◆ Floor Plans: Dimensioned
- ◆ Area Map with Radius Circle and Address Mailing Labels for:
 - Administrative Coastal Permits:
 - ✓ Property Owners within 100' of site
 - ✓ Residents within 100' of site
 - Regular Coastal Permits:
 - ✓ Property Owners within 300' of site
 - ✓ Residents within 100' of site
 - Conditional Use Permits and Minor Use Permits
 - ✓ Property owners within 300' of site
- ◆ Environmental Information Form

THIS SECTION FOR DEPARTMENT USE ONLY

List of additional charges:	Conditional Use Permit:
	Minor Use Permit:
Receipt No.:	Coastal Development Permit:
Date:	Environmental fees:
	Other charges:
	Total:

Commercial Boat Loading

Please Use Other Gangway



Amended Project Description (September 2010)

Floating Docks & gangway:

The project is located at lease sites 105.1W and 102W, adjacent to 1001 Front Street. The project proposes to reconfigure the existing side tie floating dock system, approximately 60 linear feet by 8 feet, by constructing an additional 74 linear feet to the existing side tie dock and installing four new finger style floating docks approximately 50 feet by 4 feet wide. Each finger dock will be constructed with a light brown colored Trex decking to match the existing side tie dock. Additionally, four main piles and eight supporting piles will be installed to support the end of each new finger dock.

The existing side tie dock was repaired and replaced with a light brown colored Trex decking. The side tie dock was increased in length by approximately 74 linear feet over the most recent configuration. However, over the years as the dock has been repaired with sections that have been removed and again replaced. The dock as currently configured is shorter than it has been in some of the past years.

Parking:

The existing side tie dock system can accommodate up to eight boats by "rafting" together. The new configuration will accommodate eight boats therefore replacing with like numbers. There is sufficient parking on-site for the boat owners and since there is no increase to the numbers of boats that could use the docks.

Using the Zoning Ordinance calculations, the new configuration will require six parking spaces based upon the dock linear footage. However since the floating docks have been on this site for many years, there are historical parking credits that should be taken into consideration. The site plan reflects six spaces in the parking lot that can be used for the new docks. This parking lot was constructed in approximately 2000 to create additional spaces for general uses. The existing buildings on-site pre-date many of the City's regulations and have historic parking credits (consistent with other sites along the Embarcadero) issued by the City. Furthermore, this parking lot has never been used for the purposes of any new development on this site and all the spaces provided are available for meeting the parking requirements as needed.

Since the dock size has fluctuated over the years it is difficult at best to determine the actual number of historic parking credits that should go with the docks. Based upon historic use and the numbers of boats that have traditionally used the docks for tie-up space, this project should receive at least four historic parking credits. Therefore only two spaces should be taken from the existing parking lot for the purposes of future parking allocations.

Dock Access:

Access to the docks are via three points, 1) an existing ladder from the wharf to the existing side tie dock and 2) a temporary access through the City's gangway to the existing docks to the south of this site and, 3) a new gangway from the wharf.

Allowed Uses:

Recreational and passengers for hire vessels are allowed south of Beach Street per Zoning Ordinance 17.24.190 (4.a). These docks will be used for recreational vessels, passengers for hire vessels and commercial fishing vessels as berthing facilities. There will be no limitation on the hours of operations since these types of vessels will need the flexibility to depart and return at any time. The existing fuel dock operations are at the northern end of this project site and there are no plans to change the existing operations. The new dock configuration will not encroach into the fuel dock area and tie-up space.

Lastly, the project is located in the H zone whereby floating docks are an acceptable use.

CONSENT OF LANDOWNER FORM

Consent for what activity? Business License or type of permit: Conditional Use Permit

Site location: Lease sites 105.1W and 102W

Property owner: City of Morro Bay

Day phone: 772-6259

Address: 1275 Embarcadero Road

City: Morro Bay

Zip code: 93442

Person authorized to act as Agent/Applicant: Giovanni DeGarimore

Applicant/Agent: Cathy Novak

Day phone: 772-9499

Address: PO Box 296

City: Morro Bay

Zip code: 93443

I/We, the undersigned owner(s) of record of the fee interest in the above noted land for which an application for a permit, business license or other City entitlement is being requested, do certify that:

- I. Business Licenses: I am aware of the Home Occupation Permit being requested and the applicant has my/our full consent to operate the home occupation at this location; **OR THAT**
- II. Building Permits, Land Use Permits: Such application may be filed and processed with my/our full consent. The applicant is authorized to act as our agent in all contacts with the City in connection with this matter. I/We hereby grant the City of Morro Bay or any of its authorized agents the right to enter upon the land described herein at any time during normal business hours for the purposes of site inspection in advance of City action on the Land Use Permits; inspection of any construction, grading or other development activities following any land use permit approval or evaluation of the satisfactory completion of development authorized through land use permit approval, including continuing compliance with any conditions of approval.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



3/18/10

Property owner signature

Date

LEGAL NOTICE ATTESTMENT
(Submit with Application and Mailing Labels)

Application case no.

Site location: **Lease sites 105.1W and 102W**

Applicant: **Giovanni DeGarimore**

Address: **1001 Front St.**

Phone: **772-1276**

City: **Morro Bay**

Zip code: **93442**

The attached mailing labels represent the complete list of the property owners and/or occupants of the property within the required Noticing Area from the project site:

Required noticing area (please check all that apply):

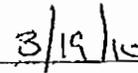
- Administrative Coastal Permits
 - Notice to property owners within 100' of the building site; and
 - Notice to occupants of the structures within 100' of the building site.

- Regular Coastal Permits
 - Notice to property owners within 300' of the building site; and
 - Notice to occupants of the structures within 100' of the building site.

- Conditional Use Permits and Variances
 - Notice to property owners within 300' of the building site.

I certify the above information and attached labels to be true and correct:


Signature of applicant


Date

ENVIRONMENTAL INFORMATION FORM

Date filed: _____

GENERAL INFORMATION:

1. Name and address of developer or project sponsor: Giovanni DeGarimore

2. Address of project: Lease sites 105.1W and 102W

3. APN: 066-033-003

4. Name, address, and phone # of contact person: Cathy Novak
PO Box 296, Moro Bay 93443, 772-9499

5. Application number: _____
6. List and describe any other related permits and other public approvals required for this project including those required by the City, Regional, State, and Federal agencies:
CDP - CA Coastal Commission, CUP - City of Morro Bay and
LOP - Army Corps of Engineers

7. Proposed use of site: Floating docks for boat tie-ups & gangway

PROJECT DESCRIPTION:

8. Site size: Docks & gangway = 8,512 sq. ft.

9. Square footage: Docks -200 sq. ft. each; gangway - 140 sq. ft.

10. Number of floors of construction: NA

11. Amount of off-street parking provided: Currently on-site and no new spaces required

12. Proposed scheduling: Construction to start after permitting

13. Associated projects (if any): None

14. Anticipated incremental development (if any): None

15. If residential, include the number of units: _____

16. If commercial, indicate the type and whether neighborhood, city or regional oriented, square footage of sales area, and loading facilities:

Marine related use

17. If Industrial, indicate the type, estimated employment per shift, and loading facilities:

18. If Institutional, indicate the major function, estimated employment per shift, estimated occupancy, loading facilities, and community benefits derived from the project:

19. If the project involves a variance, conditional use permit, or zoning application state this and explain why:
Conditional Use Permit required for construction in the H Zone

ARE THE FOLLOWING ITEMS APPLICABLE TO THE PROJECT OR ITS EFFECTS? PLEASE PROVIDE AN EXPLANATION FOR ANY ITEMS CHECKED "YES" (ATTACH ADDITIONAL SHEETS AS NECESSARY):

	YES	NO
20. Change in existing features of any bays, tidelands, beaches, hills, or substantial alteration of ground contours?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
21. Change in scenic views, vistas from existing residential areas, public lands, or roads?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
22. Change in pattern, scale, or character of project's general area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
23. Significant amounts of solid waste or litter?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
24. Change in dust, ash, smoke, fumes, or odors in the vicinity?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
25. Change in ocean, bay, lake, stream, ground water quality or quantity, or alteration of existing drainage patterns?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
26. Substantial change in existing noise or vibration levels in the vicinity?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
27. Is the site on filled land or on a 10% or greater slope?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
28. Use of disposal or potentially hazardous materials such as toxic substances, flammables, or explosives?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
29. Substantial change in demand for municipal services (police, fire, water, sewer, etc.)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- 30. Substantially increase fossil fuel consumption (electricity, oil, natural gas, etc.)?
- 31. Relationship to a larger project or series?

ENVIRONMENTAL SETTING:

32. Describe the project as it exists before the project and include any information on topography, soil stability, plants, animals, and any cultural/historical/scenic aspects. Describe any existing structures on the site and its use. Please attach photographs of the site (snapshots or Polaroid photos will be accepted):

See attached project description

33. Describe the surrounding properties and include information on plants, animals, and any cultural/historical/scenic aspects. Indicate the type of land use (residential, commercial, etc.), intensity of land use (one-family, duplex, etc.), and scale of development. Attach photos of the vicinity.

See attached project description

CERTIFICATION:

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability; and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

8/19/10

 Date



 Signature
 For: _____

CATHY • NOVAK

consulting

RECEIVED

January 3, 2011

FEB 08 2011

City of Morro Bay
Public Services Department

Ms. Sierra Davis
City of Morro Bay Public Services Department
955 Shasta Street
Morro Bay, CA 93442

RE: Dock and awing project, UPO-284

Dear Sierra,

Based upon our discussions regarding the parking lot, I wanted to follow up with a written request to address the issues.

First, since the dock project requires parking on-site, the applicant would like the City to include the parking lot with this application for permitting. The applicant is not able to ascertain whether the parking as it exists currently was ever formally permitted by the City.

Secondly, the applicant is requesting exceptions to the City parking standards that allow continued use of the parking lot as currently configured. Mainly the following items appear to have a conflict with City codes which, I will provide further details below:

- ADA space location
- Lighting
- Landscaping
- Curb stops
- Screening
- Configuration – angled and perpendicular with lane widths
- Parking stall size

This property is somewhat of an anomaly in that it is only one of two properties on the west side of the Embarcadero that are privately owned. Additionally, this property has a long history (even before the City was incorporated) associated with commercial fishing, processing, marine fuel service and other marine dependent uses.

GOVERNMENTAL & COMMUNITY RELATIONS • PLANNING

CELL 805.441.7581 • PHONE & FAX 805.772.9499

POST OFFICE BOX 296 • MORRO BAY, CA 93443

NOVAKCONSULTING@CHARTER.NET

The area in question has been used for a parking lot, storage, fish unloading and many other things over the years. It has always been an impervious surface to allow the uses as mentioned above to safely navigate the property. It was just a few years ago that the parking lot as you see it today was formally stripped to create individual spaces for employees, deliveries and the like to use. While in the process of stripping the lot, the applicant decided to voluntarily strip a van accessible ADA space close to the sidewalk so that it would be convenient and easy to use. There is another ADA space on the opposite side of the fish market building that can also be used.

In considering the global picture and use of the entire property, it makes much more sense to leave the ADA space in its current location rather than moving it close to the gangway for several reasons. If the ADA space is moved next to the gangway, it will then have a limited use because it will not be in close proximity to the sidewalk along the Embarcadero. It has been also mentioned that a safe travel path from the existing spot to the gangway should be installed. This creates a significant hazard due to the fact that this is still a working waterfront dock. The City has recognized policies that provide exceptions to codes, for example the installation of a lateral access way through working dock locations, because of the nature of the business with trucks, fork lifts and other machinery operating and causing safety issues. In this case the same rationale should prevail. There is, as I mentioned, an alternative ADA space located on the other side of the building that would be more appropriately used for a person wanting to access the docks. There is a clear and safe path of travel along the outdoor public seating area to the gangway. Furthermore, it has been presented to the City that a sign indicating passenger loading for the dock facilities will be placed on the rail at the southern side of the fish market indicating that people should walk along the path I just mentioned to the gangway. For all the reasons stated above it would be much safer and convenient for the ADA space to remain where it is currently located and without any additional stripping.

Next I would like to address the lighting, landscaping and curb stop requirements. In a situation where a parking lot is constructed for general public use and is anticipated that passenger cars and trucks are the only vehicles that use the site, so it would make sense to have these requirements. However in this case, the lot and area must accommodate semi-trailers, large delivery trucks, fork lift operations and on occasion the storage of fish bins and other marine related items. The installation of any of these items that would prevent full use of the area without the risk of running into or over one these will prevent the applicant from using his site as he needs to for all of the operations that take place. Again, the City has understood over the years that there are specific locations that need exemptions from particular codes in order to run a safe and efficient business. There are only three working docks, near the Flying Dutchman, Giovanni's and the Commercial Fishermen's dock area, left on the Embarcadero that can accommodate fish unloading and these other activities. The protection of these businesses is a high priority of the City and Coastal Commission and therefore it

is imperative that these businesses be allowed exemptions that would otherwise be harmful to business.

The City's zoning ordinance requires screening for parking lots abutting a street however, this seems to be a moving target as to whether the Planning Commission would like to see a fence to screen a parking lot or open area, or not. In this location the installation of a solid fence to screen the lot would be visually obtrusive and prevent the pedestrians from viewing the operations and the bay. Secondly, adding a landscape berm to the Embarcadero side of the lot to screen would require additional space in the lot area. This would present a two-fold problem. One is that the business maneuvers as I mentioned above would be further restricted and two, that the spaces along the fenced area or mid section would need to be completely removed therefore eliminating at least four spaces and possibly the ADA space as well.

The City and Coastal Commission have put a value on parking spaces and in some cases required on-site parking for projects. In this case, the applicant voluntarily stripped a pre-existing area to make it user friendly and keep employee parking off the Embarcadero. While some of the spaces may not meet the strict code requirements for lane widths and stall size, it should be noted that this business has gone above and beyond to provide spaces for their private use. The zoning ordinance sample parking lot layouts, figure 44-2, have "suggested standards" that range from 14'-6" to 21' and lane widths from 12' to 25" feet for one way traffic and angled parking. The perpendicular parking diagram shows a two way lane that is 25'. Using this example and applying it to this project, it appears that could be flexibility in the space layout.

In conclusion, the parking design of the existing parking lot can accommodate all the parking needs generated by the use. An exception in this case to the parking lot standards is warranted because of the nature of the business, City recognition of marine related and fishing industry needs, the previous history of parking on-site (not starting a new development with a vacant property), and the need for parking spaces in the Embarcadero off street. I would also note that the City's parking lot on the Embarcadero is lacking many of these same items and has not made an attempt to install or change this facility.

Please let me know if you have any further questions. Thank you for your time and consideration in this matter.

Sincerely,



Cathy Novak
Project representative

Cc: Mr. Giovanni DeGarimore

Attn: Mike

STATE OF CALIFORNIA THE RESOURCES AGENCY

GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4663



NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER

DATE: May 25, 2001
TO: Degarimore Properties, Attn: Michael Degarimore
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver of Coastal Development Permit Requirement:
Waiver Number 3-00-044-W

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13252 of the California Code of Regulations.

APPLICANT: Degarimore Properties, Attn: Michael Degarimore
LOCATION: 1001 Front Street, Morro Bay (San Luis Obispo County) (APN(s) 066-352-001, 066-033-004, 006-552-033, 066-033-002, 006-352-034, 006-033-002)
DESCRIPTION: Repair and replacement of existing wharf, dock, & pier structure
RATIONALE: Proposed development involves no significant impacts on coastal resources or public access to the shoreline.

IMPORTANT: This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Wednesday, June 13, 2001, in Los Angeles. If three Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Sincerely,
PETER M. DOUGLAS
Executive Director

Rick Hyman
By: RICK HYMAN
District Chief Planner

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
726 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95080
(831) 427-4803



NOTICE OF PERMIT WAIVER EFFECTIVENESS

DATE: June 14, 2001
TO: Degarimore Properties, Attn: Michael Degarimore
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver Number 3-00-044-W

Please be advised that Waiver Number 3-00-044-W, which was reported to the Commission on June 13, 2001, became effective as of that date. Any deviation from the application and plans on file in the Commission office may require a coastal development permit for the entire project.

APPLICANT: Degarimore Properties, Attn: Michael Degarimore
LOCATION: 1001 Front Street, Morro Bay (San Luis Obispo County) (APN(s) 066-352-001, 066-033-004, 006-552-033, 066-033-002, 006-352-034, 006-033-002)
DESCRIPTION: Repair and replacement of existing wharf, dock, & pier structure

Should you have any questions, please contact our office.

Sincerely,

PETER M. DOUGLAS
Executive Director

By: RICK HYMAN
District Chief Planner

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4883
www.coastal.ca.gov



NOTICE OF PERMIT WAIVER EFFECTIVENESS

DATE: July 14, 2006
TO: Giovanni's Fish Market, Attn: Giovanni Degarimore
FROM: Peter M. Douglas, Executive Director
SUBJECT: Waiver Number 3-06-013-W

Please be advised that Waiver Number 3-06-013-W, which was reported to the Commission on July 13, 2006, became effective as of that date. Any deviation from the application and plans on file in the Commission office may require a coastal development permit for the entire project.

APPLICANT: Giovanni's Fish Market, Attn: Giovanni Degarimore
LOCATION: 1001 Front Street, Morro Bay (San Luis Obispo County) (APN(s) 066-352-030)
DESCRIPTION: Addition of approximately 350 sq.ft. and take out service window to an existing fish market building.

Should you have any questions, please contact our office.

Sincerely,

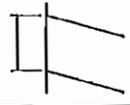
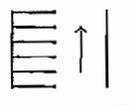
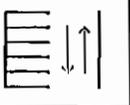
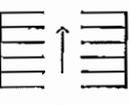
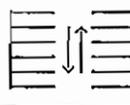
PETER M. DOUGLAS
Executive Director

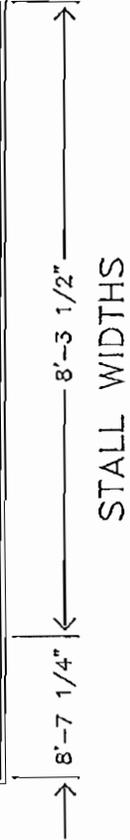
A handwritten signature in cursive script that reads "Steve Monowitz".

By: STEVE MONOWITZ
District Manager

cc: Local Planning Dept.

AVERAGE CARS

PARKING ANGLE	WIDTH AT CURB	SINGLE LOADED AISLES		DOUBLE LOADED AISLES	
		ONE-WAY TRAFFIC	TWO-WAY TRAFFIC	ONE-WAY TRAFFIC	TWO-WAY TRAFFIC
					
BAY WIDTH * (feet)					
30°	16.61	26.9	34.9	41.9	50.0
32.5°	15.45	27.5	35.4	42.9	51.0
35°	14.48	27.9	35.8	43.9	51.9
37.5°	13.64	28.4	36.3	44.8	52.7
40°	12.92	28.7	36.7	45.5	53.3
42.5°	12.29	29.4	37.1	46.4	53.9
45°	11.74	30.2	37.6	47.6	54.6
47.5°	11.26	31.1	38.0	48.8	55.2
50°	10.84	32.0	38.3	49.9	55.8
52.5°	10.47	32.7	38.7	50.9	56.3
55°	10.14	33.6	39.0	51.7	56.7
57.5°	9.84	34.3	39.4	52.4	57.1
60°	9.59	35.1	39.7	53.3	57.5
62.5°	9.36	35.8	40.1	54.1	57.8
65°	9.16	36.5	40.4	54.9	58.2
67.5°	8.99	37.2	40.8	55.5	58.5
70°	8.83	37.9	41.1	56.1	58.8
72.5°	8.70	38.5	41.4	56.7	59.0
75°	8.59	39.2	41.7	57.3	59.2
77.5°	8.50	40.0	42.0	57.9	59.5
80°	8.43	40.6	42.3	58.5	59.7
82.5°	8.67	41.3	42.6	58.9	59.8
85°	8.63	42.0	42.9	59.4	59.9
87.5°	8.61	42.6	43.1	59.7	60.0
90°	8.60	43.3	43.3	60.1	60.1

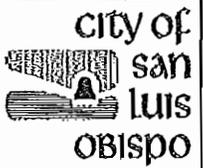


Bay widths are based on 18'-5" stall lengths and stall width as noted.
 Alternate stall widths may only be used for 82.5°-90° parking angles and must have special approval of the Community Development Director.

- 9'-0" width - Subtract 2 feet from bay width
- 9'-6" width - Subtract 4 feet from bay width

*See ENG. STANDARD #2220 for clarification of "BAY WIDTH"

REVISIONS	BY	APP	DATE
<i>New border</i>	JDL	WAP	1-98
<i>Rearrange</i>	RMH	WAP	1-95
STANDARD CURRENT AS OF:	January 2010		



PARKING BAY DIMENSIONS AVERAGE CARS

ATTACHMENT 7

City of Morro Bay
PUBLIC SERVICES DEPARTMENT
955 SHASTA AVENUE ♦ MORRO BAY, CA 93442
805-772-6261

Public Notice of Availability
Document Type: Mitigated Negative Declaration

CEQA: CALIFORNIA ENVIRONMENTAL QUALITY ACT

CITY OF MORRO BAY

February 3, 2011

The City has determined that the following proposal qualifies for a

Negative Declaration **Mitigated Negative Declaration**

PROJECT TITLE: Giovanni's Fish Market and Galley head-float, finger docks, landing, gangway, patio awnings, windscreen and parking lot.

PROJECT LOCATION: The project is located at 1001 Front Street, Morro Bay, California. The City of Morro Bay is located approximately 15 miles west of the City of San Luis Obispo. The City is within an area that has several coastal resources such as beaches, coastal bluffs, an estuary, sand spit and Morro Rock.

CITY: Morro Bay

COUNTY: San Luis Obispo

CASE NO.: UP0-284

PROJECT DESCRIPTION: The project is located on lease sites 105.1W and 105.2W adjacent to 1001 Front Street and is zoned Harbor and is governed by the Waterfront Master Plan. The project proposes to reconfigure and expand the existing dock system which is approximately 60 linear feet by 8 feet, by constructing an additional 74 linear feet to the existing dock for a proposed length of approximately 134 linear feet and an area of approximately 1,072 square feet. Attached to the expanded head-float installation will be four new finger floating docks approximately 50 feet by 4 feet 4 inches wide. One of the four docks will be 5 feet wide in order to provide a dock that meets accessibility requirements. Each finger dock will be constructed with a light brown colored Trex decking. The head-float will not require additional pilings, however each new finger will need 3 new piles to secure the end of the dock. The applicant has not specified the use of the docks.

The head-float dock was increased in length by approximately 74 linear feet over the most recent configuration of 60 linear feet. The previous 60 foot head float was removed and replaced with a new head float and constructed with a light brown colored Trex decking without benefit of permits. This project includes permitting the installation of the new head float.

The project proposes new light sources on both the head float and at the ends of the finger docks, because the existing light on site is not adequate. The project will include 4 power and light pedestals that will provide a minimum five foot candle level for all passenger loading areas, pursuant to the building code. On the ends of the docks 4 solar 'protector' flood lights with motion sensors are proposed.

Access from the head float dock is currently via a ladder up to the wharf as well as temporary access through the City's gangway to the south of the project site. The project would include the construction of a new accessible landing and gangway. The new finger docks will eliminate the current method of side tie docking and will replace it with boats docking at the finger docks and accessing land via the head-float and newly proposed gangway and landing.

The upland portion of the project site is located within the Waterfront/Planned Development (WF/PD) Zoning District, with an S.4 overlay (design overlay), and is governed by the Waterfront Master Plan. The building existing building includes Giovanni's Fish Market and take out window, a restaurant, and a clothing store. No improvements to the existing building are proposed with this project.

The project also includes the addition of a windscreen and retractable awning over the existing general public outdoor dining area located on the wharf. The existing outdoor dining area is approximately 1,425 square feet with approximately 16 tables enclosed within the existing windscreen. The awnings will be constructed in four individual sections centered over the patio area and supported by a center beam between two vertical supports. The patio area is approximately 90 feet in length and the retractable awning will cover approximately one-half the existing seating area. The awning will be supported by a center support post/beam spanning approximately 50 feet. The northern end of the awning will additionally have a 7 foot high windscreen, consistent with the existing windscreen height. The windscreen will be constructed of glass (approximately 60%) and wood (approximately 40%) to match the existing screen. Currently there are umbrellas covering the existing dining area and are each approximately 8 foot diameter and cover most of the dining area. The canvas color of the new awning system will be the same as the existing canvas awnings used around the site for consistency.

The applicant also proposes to utilize an existing parking lot to provide 5 required parking spaces for the new docks on the adjacent site at 1099 Embarcadero. The applicant paved the parking lot and striped the parking lot without benefit of a permit, therefore the parking lot was not reviewed pursuant to the Municipal Code. The applicant has proposed making the parking lot legal by including the parking lot in this review. Exemptions from certain parking lot requirements such as landscaping have been requested, however the parking spaces and aisles shall meet minimum standards.

LEAD AGENCY: City of Morro Bay

CONTACT PERSON: Sierra Davis, Assistant Planner

TELEPHONE: (805) 772-6270

ADDRESS WHERE DOCUMENT MAY BE OBTAINED:

Public Services Department
955 Shasta Avenue
Morro Bay, California 93442
(805) 772-6261

PUBLIC REVIEW PERIOD: Begins: February 4, 2011 to March 7, 2011

Anyone interested in this matter is invited to comment on the document by written response or contacting the Public Services Department.

A handwritten signature in cursive script that reads "Sierra Davis". The signature is written in black ink and is positioned above a horizontal line.

Signature

Sierra Davis, Assistant Planner

City of Morro Bay
PUBLIC SERVICES DEPARTMENT
955 SHASTA AVENUE ♦ MORRO BAY, CA 93442
805-772-6261

D R A F T M I T I G A T E D N E G A T I V E D E C L A R A T I O N

CEQA; CALIFORNIA ENVIRONMENTAL QUALITY ACT

CITY OF MORRO BAY
955 Shasta Avenue
Morro Bay, California 93442
805-772-6261

The State of California and the City of Morro Bay require, prior to the approval of any project, which is not exempt under CEQA, that a determination be made whether or not that project may have any significant effects on the environment. In the case of the project described below, the City has determined that the proposal qualifies for a Mitigated Negative Declaration.

CASE NO.: UP0-284

PROJECT TITLE: Giovanni's Fish Market and Galley head-float, finger docks, landing, gangway, patio awnings, windscreen and parking lot.

APPLICANT / PROJECT SPONSOR: Giovanni DeGarimore/Cathy Novak

PROJECT DESCRIPTION: The project is located on lease sites 105.1W and 105.2W adjacent to 1001 Front Street and is zoned Harbor and is governed by the Waterfront Master Plan. The project proposes to reconfigure and expand the existing dock system which is approximately 60 linear feet by 8 feet, by constructing an additional 74 linear feet to the existing dock for a proposed length of approximately 134 linear feet and an area of approximately 1,072 square feet. Attached to the expanded head-float installation will be four new finger floating docks approximately 50 feet by 4 feet 4 inches wide. One of the four docks will be 5 feet wide in order to provide a dock that meets accessibility requirements. Each finger dock will be constructed with a light brown colored Trex decking. The head-float will not require additional pilings, however each new finger will need 3 new piles to secure the end of the dock. The applicant has not specified the use of the docks.

The head-float dock was increased in length by approximately 74 linear feet over the most recent configuration of 60 linear feet. The previous 60 foot head float was removed and replaced with a new head float and constructed with a light brown colored Trex decking without benefit of permits. This project includes permitting the installation of the new head float.

The project proposes new light sources on both the head float and at the ends of the finger docks, because the existing light on site is not adequate. The project will include 4 power and light pedestals that will provide a minimum five foot candle level for all passenger loading areas, pursuant to the building code. On the ends of the docks 4 solar 'protector' flood lights with motion sensors are proposed.

Access from the head float dock is currently via a ladder up to the wharf as well as temporary access through the City's gangway to the south of the project site. The project would include the construction of a new accessible landing and gangway. The new finger docks will eliminate the current method of side tie docking and will replace it with boats docking at the finger docks and accessing land via the head-float and newly proposed gangway and landing.

The upland portion of the project site is located within the Waterfront/Planned Development (WF/PD) Zoning District, with an S.4 overlay (design overlay), and is governed by the Waterfront Master Plan. The building existing building includes Giovanni's Fish Market and take out window, a restaurant, and a clothing store. No improvements to the existing building are proposed with this project.

The project also includes the addition of a windscreen and retractable awning over the existing general public outdoor dining area located on the wharf. The existing outdoor dining area is approximately 1,425 square feet with approximately 16 tables enclosed within the existing windscreen. The awnings will be constructed in four individual sections centered over the patio area and supported by a center beam between two vertical supports. The patio area is approximately 90 feet in length and the retractable awning will cover approximately one-half the existing seating area. The awning will be supported by a center support post/beam spanning approximately 50 feet. The northern end of the awning will additionally have a 7 foot high windscreen, consistent with the existing windscreen height. The windscreen will be constructed of glass (approximately 60%) and wood (approximately 40%) to match the existing screen. Currently there are umbrellas covering the existing dining area and are each approximately 8 foot diameter and cover most of the dining area. The canvas color of the new awning system will be the same as the existing canvas awnings used around the site for consistency.

The applicant also proposes to utilize an existing parking lot to provide 5 required parking spaces for the new docks on the adjacent site at 1099 Embarcadero. The applicant paved the parking lot and striped the parking lot without benefit of a permit, therefore the parking lot was not reviewed pursuant to the Municipal Code. The applicant has proposed making the parking lot legal by including the parking lot in this review. Exemptions from certain parking lot requirements such as landscaping have been requested, however the parking spaces and aisles shall meet minimum standards.

PROJECT LOCATION: The project is located at 1001 Front Street, Morro Bay, California. The City of Morro Bay is located approximately 15 miles west of the City of San Luis Obispo. The City is within an area that has several coastal resources such as, beaches, coastal bluffs, an estuary, sand spit and Morro Rock.

FINDINGS OF THE: Environmental Coordinator

It has been found that the project described above will not have a significant effect on the environment. The Initial Study includes the reasons in support of this finding. Mitigation measures, if necessary and required to assure that there will not be a significant effect in this case, are described in the attached Initial Study and Checklist and have been added to the permit conditions of approval.

INITIAL STUDY AND CHECKLIST -- Giovanni's Fish Market and Galley Side Tie Dock, Finger Docks, Awnings, and Parking Lot
CASE NO. UP0-284
DATE: February 3, 2010



City of Morro Bay
PUBLIC SERVICES DEPARTMENT
955 SHASTA AVENUE ♦ MORRO BAY, CA 93442
805-772-6261

INITIAL STUDY AND CHECKLIST

I. PROJECT INFORMATION

Project Title:	Giovanni's Fish Market and Galley head-float, finger docks, landing, gangway, patio awnings and windscreen.		
Case Number:	UP0-284		
Lead Agency:	City of Morro Bay 955 Shasta Ave Morro Bay, CA 93442	Phone: Fax:	(805) 772-6261 (805) 772-6268
Project Applicant and Landowner:	Giovanni DeGarimore 1001 Front St. Morro Bay, CA 93442	Phone: Fax:	(805) 772-1276 .
Project Agent:	Cathy Novak P.O. Box 296 Morro Bay, CA 93443	Phone: Fax:	(805) 772-9499 .

PROJECT DESCRIPTION: The project is located on lease sites 105.1W and 105.2W adjacent to 1001 Front Street and is zoned Harbor and is governed by the Waterfront Master Plan. The project proposes to reconfigure and expand the existing dock system which is approximately 60 linear feet by 8 feet, by constructing an additional 74 linear feet to the existing dock for a proposed length of approximately 134 linear feet and an area of approximately 1,072 square feet. Attached to the expanded head-float installation will be four new finger floating docks approximately 50 feet by 4 feet 4 inches wide. One of the four docks will be 5 feet wide in order to provide a dock that meets accessibility requirements. Each finger dock will be constructed with a light brown colored Trex decking. The head-float will not require additional pilings, however each new finger will need 3 new piles to secure the end of the dock. The applicant has not specified the use of the docks.

The head-float dock was increased in length by approximately 74 linear feet over the most recent configuration of 60 linear feet. The previous 60 foot head float was removed and replaced with a new head float and constructed with a light brown colored Trex decking without benefit of permits. This project includes permitting the installation of the new head float.

The project proposes new light sources on both the head float and at the ends of the finger docks, because the existing light on site is not adequate. The project will include 4 power and light pedestals that will provide a minimum five foot candle level for all passenger loading areas, pursuant to the

building code. On the ends of the docks 4 solar 'protector' flood lights with motion sensors are proposed.

Access from the head float dock is currently via a ladder up to the wharf as well as temporary access through the City's gangway to the south of the project site. The project would include the construction of a new accessible landing and gangway. The new finger docks will eliminate the current method of side tie docking and will replace it with boats docking at the finger docks and accessing land via the head-float and newly proposed gangway and landing.

The upland portion of the project site is located within the Waterfront/Planned Development (WF/PD) Zoning District, with an S.4 overlay (design overlay), and is governed by the Waterfront Master Plan. The building existing building includes Giovanni's Fish Market and take out window, a restaurant, and a clothing store. No improvements to the existing building are proposed with this project.

The project also includes the addition of a windscreen and retractable awning over the existing general public outdoor dining area located on the wharf. The existing outdoor dining area is approximately 1,425 square feet with approximately 16 tables enclosed within the existing windscreen. The awnings will be constructed in four individual sections centered over the patio area and supported by a center beam between two vertical supports. The patio area is approximately 90 feet in length and the retractable awning will cover approximately one-half the existing seating area. The awning will be supported by a center support post/beam spanning approximately 50 feet. The northern end of the awning will additionally have a 7 foot high windscreen, consistent with the existing windscreen height. The windscreen will be constructed of glass (approximately 60%) and wood (approximately 40%) to match the existing screen. Currently there are umbrellas covering the existing dining area and are each approximately 8 foot diameter and cover most of the dining area. The canvas color of the new awning system will be the same as the existing canvas awnings used around the site for consistency.

The applicant also proposes to utilize an existing parking lot to provide 5 required parking spaces for the new docks on the adjacent site at 1099 Embarcadero. The applicant paved the parking lot and striped the parking lot without benefit of a permit, therefore the parking lot was not reviewed pursuant to the Municipal Code. The applicant has proposed making the parking lot legal by including the parking lot in this review. Exemptions from certain parking lot requirements such as landscaping have been requested, however the parking spaces and aisles shall meet minimum standards.

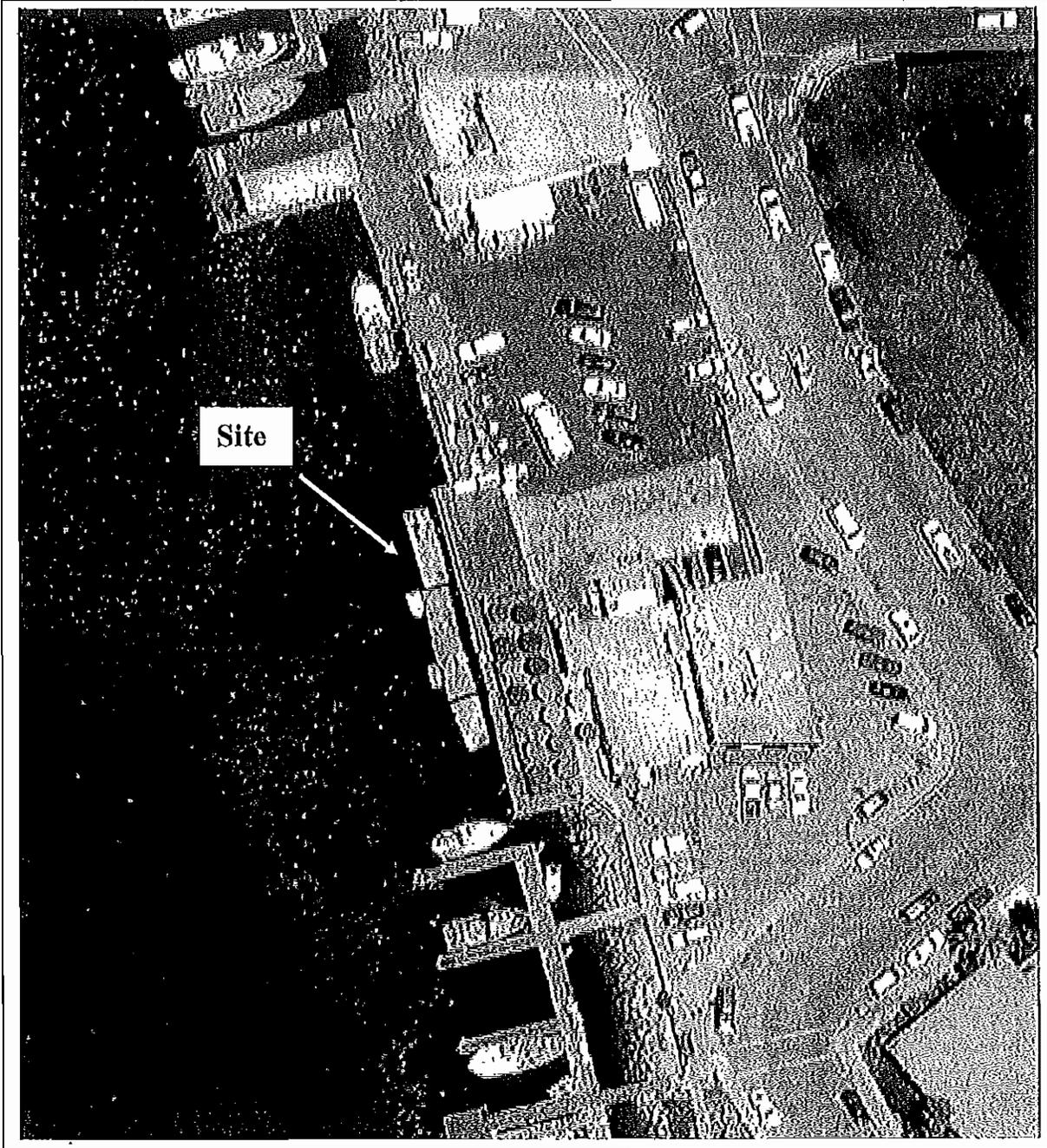
Project Location:	1001 Front St.
Assessor Parcel Number(s):	APN: 066-033-004, 066-033-003, and 066-033-002 and Water Lease Sites 105.1W and 102W
General Plan Designation:	Mixed Uses Harbor and Visitor Serving
Zoning:	H and WF/PD/S.4

INITIAL STUDY AND CHECKLIST – Giovanni’s Fish Market and Galley Side Tie Dock, Finger Docks,
 Awnings, and Parking Lot
 CASE NO. UP0-284
 DATE: February 3, 2010

Surrounding Zoning and Land Uses	
North	Commercial/Recreation Fishing (CF)/Planned Development (PD)
South	Commercial - Visitor Serving (C-VS)/Planned Development (PD)/S.4 Design Overlay and Waterfront (WF)/Planned Development (PD)/S.4 Design Overlay
West	Harbor (H)
East	Commercial - Visitor Serving (C-VS)/Planned Development (PD)/S.4 Design Overlay

Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.) California Coastal Commission, Army Corp of Engineer.

VICINITY MAP



II. ENVIRONMENTAL SETTING AND IMPACTS

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" or is "Potentially Significant Unless Mitigated", as indicated by the Environmental Checklist:

x	1. Aesthetics		10. Land Use/Planning
	2. Agricultural Resources		11. Mineral Resources
x	3. Air Quality	x	12. Noise
x	4. Biological Resources		13. Population/Housing
	5. Cultural Resources		14. Public Services
x	6. Geology/Soils		15. Recreation
	7. Greenhouse Gas Emissions		16. Transportation/Circulation
x	8. Hazards/Hazardous Materials	x	17. Utility/Service Systems
x	9. Hydrology/Water Quality		18. Mandatory Findings of Significance

Environmental Setting: The City of Morro Bay is a small coastal town in the western region of San Luis Obispo County. Morro Bay is bounded by the Santa Lucia Mountains to the east and the Pacific Ocean to the west, Morro Bay harbor to the southeast and the unincorporated town of Cayucos to the north. The major roadway corridors in the project vicinity include Cabrillo Highway (State Route 41) and State Route 1. The two state routes overlap at the intersection of Atascadero Road and Main Street and Highway 1.

<u>Surrounding Land Use</u>			
North:	Commercial/Recreation Fishing (CF)/Planned Development (PD)	East:	Commercial - Visitor Serving (C-VS)/Planned Development (PD), Specific Plan (SP)
South:	Waterfront (WF) Planned Development (PD) Design Overlay S.4	West:	Harbor (H)

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effect that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigated pursuant to that earlier EIR

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or NEGATIVE DECLARATION, including revisions or mitigation measure that are imposed upon the
proposed project, nothing further is required.

Signature

Date

Printed Name

For

III. ENVIRONMENTAL CHECKLIST

1. AESTHETICS: Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Have a substantial adverse effect on a scenic vista?		X		
b. Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within view of a state scenic highway?			X	
c. Substantially degrade the existing visual character or quality of the site and its surroundings?		X		
d. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?		X		

Environmental Discussion: The General Plan and the Local Coastal Plan contain policies that protect the City's visual resources. The waterfront and Embarcadero are designated as scenic view areas in the City's Visual Resources and Scenic Highway Element. The project site is not located within view of the scenic Highway 1, but the site is located on the water side of the Embarcadero. The site is located on the water side of the Embarcadero have significant visual resources including Morro Rock, the sand spit, harbor and navigable waterways which can all be viewed from the project site. The Waterfront Master Plan identifies public view sheds and view corridors in determining the importance of visual resources.

Scenic vistas generally include areas of high scenic quality that are visible to a number of people, including recreational travelers. Policies contained within the Local Coastal Plan and General Plan speak to the need to protect visual resources. Regulations are also contained within the City's Waterfront Master Plan that require the provision of view corridors to preserve scenic resources. Finally, the project is also subject to Section 17.48.190 of the Zoning Ordinance that requires "protection of visual resources" and "compatible design."

Impact Discussion:

a - c.) The project is located on the water side of the Embarcadero and has views of the harbor area, which are designated a scenic vista. The project description includes new floating docks, gangway, landing and awnings. The floating docks, gangway and landing are all located at the same elevation as the existing wharf or in the area below the wharf to the surface of the water. These elements of the project will not have a substantial effect on the views to the harbor, therefore do not substantially affect the views to and from the site.

The proposed awning will be replacing approximately 16 removable umbrellas over the existing public seating area. The awning has the most substantial effect on the scenic vista because the awning system is taller and covers a larger area than the existing umbrellas. The proposed awning is a freestanding mechanical system that can retract the awnings as weather permits. There will be four separate awnings connected a central support system that is 12 feet in height and 50 feet in length and is proposed to cover the southern portion of the existing public view deck. The awnings are connected to the support system and are not attached to the existing windscreen or structure, and will maintain a minimum of 6 inch gap between the top of the windscreen and top of the roof. The configuration will create an area that is substantially enclosed. The existing umbrellas are not connected, therefore it does not create continuous coverage over the southern portion of the deck. The existing configuration of the umbrellas allows for views over the top of the windscreen and is partially open to the sky. The proposed awning system would not allow for views over the windscreen and to the sky when the awning is open. When the awning system is retracted the area will be exposed to the elements and will have more of a view shed than what currently exists on site.

The project is located in the original jurisdiction of the California Coastal Commission, therefore the project must conform to the California Coastal Act. The Coastal Act addresses new development on properties located in the

Original Jurisdiction, however does not specifically address additions to existing developments. In section 30251 of the Coastal Act it is encouraged that “scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance.” The section goes on to say that developments shall “be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas.” The site is currently utilized as a commercial visitor serving use with associated marine facilities. The expanded marine facilities and marine commercial uses are encourage as a part of the Local Coastal Plan and therefore are not viewed as a detriment to the visual quality of the surrounding area.

The awning is proposed over the existing wharf and public seating area and will be higher than current height of existing shade umbrellas in use at the same location, therefore may substantially affect the visual quality of the area without mitigation measures implemented as listed below.

d.) The project is required by the building code to provide lights on the existing head float and the new finger docks. The design of the light source directs the light down towards the ground for safety purposes. Because of the configuration there will be limited light pollution into the day or nighttime sky. The lights are for directional and safety purposes and will not adversely affect the scenic views at any time of the day.

Mitigation and Residual Impact:

1. The awning system shall be freestanding and shall only be attached at the base of the awning system to the wharf. The awning shall not be attached to the existing windscreen, structures on site nor be attached in a way that would enclose the area in any fashion.
2. The awning system shall maintain a minimum 6 inch height clearance above the top of the windscreen to maintain that the awning system does not fully enclose the public view area.

Monitoring: The Public Services will inspect the floating dock, gangway, landing and awning for conformance to the approved plans, conditions of approval and environmental mitigation measures. The Public Services Department will have to deem the project conforming in order to final the project and grant occupancy.

2. AGRICULTURAL RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocol adopted by the California Air Resources Board. Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Convert prime farmland, unique farmland, or farmland of statewide importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X

c.	Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				X
d.	Result in the loss of forest land or conversion of forest land to non-forest use?				X
e.	Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?				X

Environmental Discussion: The existing and proposed uses on the site are visitor serving and are consistent with the zoning designation of the site. The property, water lease, and surrounding areas are not zoned for agricultural uses and are not suitable for agricultural use because the upland portion of the site is located on fill and the portion of the site where the project is located is in the water. The site has not historically been used for farming nor has it been designated as prime or otherwise important farmland. The project does not impact any agricultural lands or uses.

Impact Discussion:

a – e.) The California Department of Conservation, Farmland and Monitoring Program's map San Luis Obispo County Important Farmland 2006, designates land within the boundary of the City of Morro Bay as a urban and built out, grazing land or land defined as "other" land. The area is characterized by land occupied for structures and is not longer suitable for agricultural purposes. The specific site where the project is located on a water lease that is designated Harbor (H) and is not used for agricultural purposes. The upland portion of the project is located within the City limits, therefore is not designated as prime or important farmland.

Mitigation and Residual Impact: No agricultural resources will be affected by the project; therefore no mitigation measures are required.

Monitoring: Not applicable.

3. AIR QUALITY		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.					
Would the project:					
a.	Conflict with or obstruct implementation of the applicable air quality plan?		X		
b.	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?		X		
c.	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?			X	
d.	Expose sensitive receptors to substantial pollutant concentrations?				X
e.	Create objectionable odors affecting a substantial number of people?			X	

Environmental Setting: Morro Bay is considered a clean air area and very rarely exceeds state or federal standards. The project area is located in the South Central Coast Air Basin (SCCAB). The SCCAB consists of San Luis Obispo County and a portion of Santa Barbara County north of the Santa Ynez Mountain ridgeline. Atmospheric pollutant concentrations in the SCCAB are generally moderate, due to persistent west-to-northwesterly winds that blow off the Pacific Ocean and enhance atmospheric mixing. Although meteorological conditions in the project area are usually conducive to pollutant dispersal, pollution can sometimes accumulate during the fall and summer months when the Eastern Pacific High can combine with high pressure over the continent to produce light winds and extended inversion conditions in the region. As a result, state ambient air quality standards for ozone and particulate matter less than 10 microns in diameter (PM10) are sometimes exceeded in the County.

Impact Discussion:

a.) San Luis Obispo County is a non-attainment area for the State PM10 (fine particulate matter 10 microns or less in diameter) air quality standards. State law requires that emissions of non-attainment pollutants and their precursors be reduced by at least 5% per year until the standards are attained. The Clean Air Plan (CAP) for San Luis Obispo County was developed and adopted by the Air Pollution Control District (APCD) to meet that requirement. The CAP is a comprehensive planning document designed to reduce emissions from traditional industrial and commercial sources, as well as from motor vehicle use. According to the APCD "CEQA Air Quality Handbook" (2009), both construction activities and ongoing activities of land uses can generate air quality impacts. The APCD has established the threshold of significance as project construction activities lasting more than one quarter and land uses that generate 1.25 or more pounds per day (PPD) of diesel particulate matter, .25 PPD of reactive organic gases, oxides of nitrogen, sulfur dioxide, or fine particulate matter, or more than 550 PPD of carbon monoxide, as having the potential to affect air quality significantly. The project is a size that is below APCD's air quality significance thresholds for new land uses.

No Federal, state or regional regulatory agency has provided methodology or criteria to determine the significance of local greenhouse gas emissions on global climate change. Therefore, the lead agency is unable to provide a scientific or regulatory-based conclusion in regard to whether the project's contribution to climate change is cumulatively considerable. In the short-term, the proposed project could result in minor increases in emission of greenhouse gases. Such an increase would not individually contribute to global climate change; however, it could contribute considerably to the cumulative or global emission of GHGs.

b.) The project does not propose additional square footage to the existing upland building; therefore disturbance of fine particulate matter will be minimal during construction phase. The existing dock and addition of four finger docks may increase the number of boats at this location therefore slight additional air quality impacts could result from nautical use on the site. However, the project will not generate a significant impact on long-term air quality. However, construction operations would potentially result in the emission of ROG, NOx, and Diesel Particulate Matter. Standard construction mitigation measures required by the APCD to mitigate emissions are recommended.

c.) The proposed project is a size that is below APCD's air quality significance threshold for new land uses, therefore for the project will not contribute to a considerable net increase of criterion pollutant.

d.) The project location is not located within the vicinity of a school, hospital, residential or alternate sensitive receptor site nor will the project release a substantial amount of pollutants, therefore the project would not affect sensitive receptors.

e.) The proposed project does not include any uses that will emit objectionable odors from the site. The expansion of the docks has the potential to increase marina uses, however marine activities already occur at this site and do not create objectionable odors.

Mitigation: The project is subject to standard construction practices, including dust control measures required by the Municipal Code and the Air Pollution Control District to address short-term air quality impacts related to construction.

The standard mitigation measures for reducing nitrogen oxide (NOx), reactive organic gases (ROG), and diesel particulate matter (Diesel PM) emissions from construction equipment are listed below:

- a. Maintain all construction equipment in proper tune according to manufacturer’s specifications;
- b. Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
- c. Use diesel construction equipment meeting ARB’s Tier 2 certified engines or cleaner offroad heavy-duty diesel engines, and comply with the State off-Road Regulation;
- d. Use on-road heavy-duty trucks that meet the ARB’s 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;
- e. Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NOx exempt area fleets) may be eligible by proving alternative compliance;
- f. All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5 minute idling limit;
- g. Diesel idling within 1,000 feet of sensitive receptors is not permitted;
- h. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
- i. Electrify equipment when feasible;
- j. Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and,
- k. Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.

With the implementation of the mitigation measures, potential impacts to air quality resulting from the project would be reduced to less than significant levels.

Monitoring: All mitigation measures shall be required as notes on the plans and Public Services Department staff shall monitor compliance with the conditions in the normal course of reviewing building plans.

4. BIOLOGICAL RESOURCES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		X		
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of fish and Game or U.S. Fish and Wildlife service?		X		
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc) through direct removal, filling, hydrological interruption, or other means?			X	
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?		X		

e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f.	Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?			X	

Environmental Setting: The land portion of the site is developed and covered with paved surfaces or structures and does not contain any native or critical habitat, plant or wildlife resources. The site is adjacent to Morro Bay, which provides habitat for state and federally listed species and are designated as Waters of the United States (i.e. open water habitat of Morro Bay) and are subject to Section 404 of the Federal Clean Water Act administered by the USEPA and USACE. Waters of the United States are also subject to Section 10 of the Federal Rivers and Harbors Act of 1899 when constructing any obstruction in navigable waterway is proposed.

Morro Bay Estuary is the largest semi-enclosed bay on the California central coast and is designated a national and state estuary. The bay supports a diverse estuarine system, including plant, invertebrate, fish, bird and other wildlife species. The marine portion of the project site is limited to the area of an existing dock adjacent to the existing wharf and the wharf. Within the Morro Bay Estuary there are two habitats that can form: open water habitat and protected Eelgrass habitat. Open water habitat provides food, shelter and is a migratory corridor for fish populations. Special status fish species that may occur in the project vicinity include the endangered tidewater goby (fish) and the threatened south-central California coast steelhead DPS (fish). It is unlikely that the project will result in the take of steelhead since they are highly mobile. The tidewater goby habitat generally occur close to major stream drainages that usually occur in the upper estuary within the fresh water and salt water interface. The U.S. Fish and Wildlife Service stated that major habitation loss in the future is now unlikely, but ongoing harbor and estuary maintenance may cause disruption to habitat or habitat loss. Both resident and migratory birds and marine mammals also utilize open water habitat for feeding and to rest on the surface.

The estuary also has the potential to support Eelgrass beds which is a flowering plant that forms beds at low intertidal and shallow sub-tidal depths, and is considered an important habitat in the estuary. Morro Bay has the largest remaining Eelgrass acreage south of the San Francisco Bay covering almost 51% of potential Eelgrass habitats within the estuary. Eelgrass provides shelter for invertebrates and juvenile fish, contributes to the detrital food chain, and is considered an essential habitat for some vertebrate and invertebrate species. Eelgrass beds also provide important foraging habitat for shorebirds at low tide, and for diving birds at high tide when the beds are submerged.

Marine mammals that have been reported from within Morro Bay include the California sea lion (*Zalophus californicus*), harbor seal (*Phoca vitulina*) and the southern sea otter (*Enhydra lutris*). California sea lions are common in California coastal waters and are frequently sighted in and around Morro Bay (MBNEP, 2000a). NOAA has maintained a database of the rookeries and haul-out sites throughout California and within Morro Bay eight haul-out sites have been identified in the southern part of the Bay (see Figure 5.4-2, NOAA 2008, Chambers Group, 2001 and MBNEP, 2000a). Chambers Group (2001) also reported that there were six to eight resident sea otters in the harbor area.

Marine Mammals. All marine mammals are protected under the 1972 Federal Marine Mammal Protection Act (MMPA). In addition, many are listed as threatened or endangered by the federal and/or state resource agencies. Within the project area (Morro Bay), sea lions, harbor seals, and sea otters could be expected to occur. Disturbing, harassing, injuring, or killing a protected species is prohibited by the MMPA. The Pacific harbor seal (*Phoca vitulina*) and the California sea lion (*Zalophus californicus*) are the two pinniped species most likely to occur within Morro Bay.

Pacific harbor seal. Pacific harbor seals range from Mexico to the Aleutian Islands. The most recent minimum population estimates of the California stock indicate that at least 31,600 individuals are known to occur (Carretta, et al., 2008). After increases in the 1990s, this population is believed to be stable and possibly reaching its carrying

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capacity (NMFS, 2005). Eight haul-out sites have been identified within the mudflats in the southern part of the Bay where adults and pups have been sighted (NOAA 2008, Chambers Group, 2001 and MBNEP, 2000a).

California sea lion. California sea lions range from Baja California to British Columbia, are common in California coastal waters, and are frequently sighted in and around Morro Bay (MBNEP, 2000a). The most recent population estimates for the California sea lion United States' stock indicate that at least 141,842 individuals are known to occur in California (Carretta, et al., 2008). Although California sea lions have been seen hauled-out on buoys and floating docks, no documented haul out and/or rookery sites have been cited within Morro Bay.

Southern sea otter (*Enhydra lutris*) is a federally threatened species that currently ranges from Alaska to southern California. The California population is considered a sub-species (*E. lutris nereis*) because of its disjunctive and restricted distribution. Although the sea otter was nearly extirpated by the fur trade during the 18th and 19th centuries, currently, the population size off the coast of California is approximately 3,026 animals, and is experiencing a slight increase from previous years (US Geological Surveys [USGS], 2007). Sea otters are recorded along the central California coast, and individuals may utilize nearshore kelp beds in Estero Bay as rafting and feeding areas (Padre Associates, Inc., 2005b). Sea otters are also commonly observed utilizing Morro Bay as a resting and feeding area. Therefore, some individuals are likely to occur near the project site as they forage or transit between rafting sites (Padre Associates, Inc., 2005b).

Impact Discussion:

a.) Morro Bay Estuary is the largest semi-enclosed bay on the California central coast and is designated a national and state estuary. The bay supports a diverse estuarine system, including plant, invertebrate, fish, bird and other wildlife species. The marine portion of the project site is limited to the area of an existing dock adjacent to the existing wharf and the wharf. Within the Morro Bay Estuary there are two habitats that can form: open water habitat and protected Eelgrass habitat.

A biological resources study analyzing the potential Eelgrass Impact of the project has been conducted in the project area by Tenera Environmental Group, dated March 23, 2010. Eelgrass is not an endangered species but it is protected under a federal "no-net loss" policy for wetlands. Like wetlands, they are recognized as Special Aquatic Sites per Clean Water Act Section 404(b)(1) Guidelines. Eelgrass and other sea grass ecosystems receive this level of protection because of their importance to the lifecycles of other species. The Eelgrass community in the vicinity of the proposed project has been surveyed and mapped in accordance with specifications of the Southern California Eelgrass Mitigation Policy (Revision 8), adopted by the National Marine Fisheries Service, US Fish and Wildlife Service and California Department of Fish and Game. The survey report, prepared by Tenera Environmental (March 23, 2010), is attached hereto and incorporated herein by reference.

Tenera surveyed for the presence of eelgrass and *Caulerpa taxifolia*, a highly invasive algal species that reproduces by fragmentation as projects disturb the seabed. The survey boundaries included a 50 ft. buffer zone surrounding all areas of proposed construction and neither eelgrass or *Caulerpa taxifolia* were found which indicates that the area of proposed construction is unsuitable for eelgrass habitat. The survey notes that the lack of eelgrass likely due to boat and boardwalk shading, depth of the water where the proposed piles will be driven, and the result of a thick film of detritus that prevents the eelgrass seeds and algal spores from attaching and growing. In addition, the lack of other plant species such as kelp or algal species was also noted in this area.

Typically, short-term noise impacts associated with construction are restricted to daylight hours and are not viewed as significantly impacting the physical environment; however, mitigation measures have been added to prevent disturbing animals protected under the Endangered Species Act or Marine Mammal Protection Act during pile driving for the new finger docks.

Hazardous materials could be released as a result of project activities due to the improper handling of fuel and other hazardous materials during fueling or storage of onshore equipment. Potential petroleum spills could result in potentially significant impacts to water quality and the marine biota within the project site and region. See Section 8: Hydrology & Water Quality for additional discussion and recommended mitigation measures.

b-d.) Potential impacts to waters of the U.S. and migratory fish and wildlife species could result from in-water activities. See the impact discussion in (a) above.

e-f.) The California Coastal Act has jurisdiction over the project site and has set forth policy protecting the California coast and water. The Local Coastal Plan incorporates policy from the Coastal Act and section 30240(b) states, “Development in areas adjacent to environmentally sensitive habitat area and parks and recreation area shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such areas.” The report submitted by Tenera states that the area is not suitable for eelgrass habitat and the introduction of expanded docks will not preclude future habitat areas because the existing area without the docks does not currently support habitat.

Mitigation and Residual Impact:

1. Federal and state permits applicable to the proposed project shall be secured and evidence of permits shall be on file with the Public Services Department prior to the issuance of building permits.
2. Silt screens shall be placed within the area of all in-water construction or disturbance to reduce potential turbidity associated impacts and all construction shall occur within the project footprint.
3. To avoid impacts, all work that disturbs the ocean floor (i.e. installation of pilings) shall be overseen and monitored by the project biologist (Tenera Environmental or equivalent professional biologist approved by the Director of Public Services). The biologist shall be under contract prior to issuance of a building permit. Prior to the final building inspection the biologist shall submit a monitoring report to the Director of Public Services.
4. A pre- and post-construction Eelgrass survey shall be performed and submitted to the Director of Public Services and if necessary, an Eelgrass restoration plan shall be prepared in accordance with the Southern California Eelgrass Mitigation Policy. This Eelgrass restoration plan shall be submitted and approved by the Public Services Department prior to issuance of certificates of occupancy.
5. Prior to the issuance of a building permit, an approved “otter watcher” shall be under contract or otherwise committed to being on the job site at all times during which the pile driver is in operation. The contract or other written agreement between the applicant and the “otter watcher” shall specifically encourage or empower the “otter watcher” to stop work immediately in the event that a sea otter is detected in the project area. The contract, agreement, work scope or similar document shall further specify that no work shall be resumed until after the marine mammal has left the area. With this mitigation, the project would not have a significant impact of animals, or require a state or federal take permit. The results shall be reported to the Director of Public Services.
6. A Marine Wildlife Contingency Plan should be developed and approved by the NMFS, USFWS, and CDFG prior to the initiation of pile driving activities. This plan should describe specific methods that will be used to reduce pile driving noise and describe on-site marine wildlife monitoring and reporting requirements.
7. Power to the pile driver should be ramped up to allow marine wildlife to detect a lower sound level and depart the area before full power noise levels are produced.
8. If an impact hammer is used the installation of a “pad” between the pile and the pile drive hammer should be investigated and, if feasible, used to reduce impact hammer noise.

Monitoring: Public Services Department staff shall monitor compliance with the conditions by conducting site visits and in the normal course of reviewing building plans and the above required reports provided by City approved consultants. The project shall not receive occupancy clearance until the project is deemed to be in compliance with the above conditions.

5. CULTURAL RESOURCES		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:					
a.	Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5?				X

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b.	Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?				X
c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d.	Disturb any human remains, including those interred outside of formal cemeteries?				X

Environmental Setting: There are over 30 surveyed archaeological sites in the corporate boundaries of the City. At least two of these known sites are documented as the sites of prehistoric villages with significant resources including one with a cemetery. As a result of these discoveries, cultural resource surveys are frequently required for new development within the City and it is not unusual that mitigation measures are required. In this case however, the project site is located on fill and areas submerged in the harbor. It is highly unlikely that any cultural resources would be discovered in the fill that was placed in the shifting sand on the ocean floor.

Impact Discussion:

a.- d.) The structures on-site are not eligible for listing as historical resources and the project site is not a known archeological site. Therefore standard archeological mitigation measures would not be applicable for this project. Should any archeological resource be discovered during the course of construction section 17.48.310 of the Zoning Ordinance sets forth procedures for processing artifacts.

Mitigation and Residual Impact: Because no significant impacts on cultural resources would result, no mitigation measures are required. Therefore, the residual impact on cultural resources would be less than significant.

Monitoring: Not applicable.

6. GEOLOGY /SOILS		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:					
a.	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i	Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Publication 42)			X	
ii	Strong Seismic ground shaking?			X	
iii	Seismic-related ground failure, including liquefaction?			X	
iv	Landslides?				X
b.	Result in substantial erosion or the loss of topsoil?				X
c.	Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d.	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X

e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X
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Environmental Setting: The site is located within the Tidelands area of the Morro Bay Estuary, on the coastal edge of the Santa Lucia Range, within the Coast Range Geomorphic Province of California.

Impact Discussion: The General Plan Safety Element depicts landslide prone areas, flood prone areas, areas of high liquefaction potential, and areas of potential ground shaking.

ai.) The proposed project consists of the installation of a new head float, the addition of four finger docks, gangway, landing and the installation of an awning system over the public outdoor dining area. The four finger docks will be secured with three piles at the end of each dock. However this would not increase the risk of ground failure since the project will be constructed in accordance with seismic requirements of the International Building Code. In addition, the site is not located across an active fault, as designated by the most recent Alquist-Priolo Earthquake Fault Zoning Map, issued by the State Geologist for the area, or based on other substantial evidence of a known fault. The closest mapped Alquist-Priolo fault lines are located in San Simeon, California to the north and San Luis Obispo, California to the south east. There is potential that a earthquake occurring in either of these location may affect the City of Morro Bay. In addition to the Alquist-Priolo fault lines there are known faults in the area to the north and south of the City of Morro Bay, however the faults do not run under the project site, therefore no significant impacts would occur in association with rupture of a known earthquake fault.

all. - iii.) A seismic occurrence such as ground shaking and ground failure have a low probability of occurring at this project location because there are no known faults that are located under the project site. However, a large earthquake may affect the area. The Local Coastal Plan designates the project site as a location for potential area for ground shaking and moderate to high liquefaction. The land portion of the site is existing with the minor addition of awnings to be affixed to the existing wharf. The water portion of the site is not designated as an area subject to the ground shaking or liquefaction.

niv.) The Local Coastal Plan designates the project site as not subject to landslides or other types of slope failure. Additionally, the Safety Element of the General Plan figure S-4 does not identify the site as a location of high landslide risk. Therefore the potential for strong seismic ground shaking, landslides, or slope failure is less than significant.

b - d.) The soil in this area is fill soil and is characterized as sandy, not expansive soil. The addition of four finger docks, gangway, landing and the installation of an awning system over the outdoor dining area will require the applicant to submit a soils report to both the City of Morro Bay and the APCD for review. This is a standard requirement for commercial building permits within the City of Morro Bay and allows the Building Inspector to ensure that the site is adequately prepared for the proposed development and for the APCD to ensure that no asbestos is released into the atmosphere during building demolition. Because there is no demolition of a structure located on fill soil and minimal ground disturbance, there is no potential for loss of topsoil.

e.) Neither septic tanks nor alternative wastewater disposal systems are proposed in association with the project; therefore, no impacts would occur.

Mitigation and Residual Impact: Applicant shall submit a soil/geological report prior to the issuance of building permits.

Monitoring: Staff will review the report at time of building plan submittal to ensure proper construction methods are proposed for site conditions.

7. GREENHOUSE GAS EMISSIONS	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b. Conflict with an applicable plan, policy of regulation adopted for the purpose of reducing the emissions of greenhouse gases?			X	

Environmental Setting:

Executive Order S-3-05

In 2005, in recognition of California's vulnerability to the effects of climate change, Governor Schwarzenegger established Executive Order S-3-05, which sets forth a series of target dates by which statewide emissions of greenhouse gases (GHG) would be progressively reduced as follows.

- By 2010, reduce greenhouse gas emissions to 2005 levels;
- By 2020, reduce greenhouse gas emissions to 1990 levels; and
- By 2050, reduce greenhouse gas emissions to 80 percent below 1990 levels.

Assembly Bill 32

In 2006, California passed the California Global Warming Solutions Act of 2006 (Assembly Bill No. 32; California Health and Safety Code Division 25.5, Sections 38500, et seq., or AB 32), which requires the California Air Resource Board (CARB) to design and implement emission limits, regulations, and other measures, such that statewide GHG emissions will be reduced to 1990 levels by 2020.

In December 2007, CARB approved the 2020 emissions limit of 427 million metric tons of CO₂e (CO₂e) of greenhouse gases. The 2020 target of 427 million metric tons of CO₂e requires the reduction of 169 million metric tons of CO₂e, or approximately 30 percent, from the state's projected 2020 emissions of 596 million metric tons of CO₂e (business-as-usual).

AB 32 required development of a mandatory reporting rule for major sources of GHGs. The CARB's reporting rule (California Code of regulations Title 17, Subchapter 10, Article 2, section 95100 to 95133) became effective January 2009. The rule requires reporting of GHG emissions for: cement plants, oil refineries, fossil-fueled electric-generating facilities/providers, cogeneration facilities, and hydrogen plants and other stationary combustion sources that emit more than 25,000 metric tons/year CO₂e make up 94 percent of the point source CO₂e emissions in California.

CARB has not yet determined what amount of GHG emissions reductions it recommends from local government land use decisions; however, the *Climate Change Draft Scoping Plan* (CARB, 2008) does state that successful implementation of the plan relies on local governments' land use planning and urban growth decisions because local governments have primary authority to plan, zone, approve, and permit land development to accommodate population growth and the changing needs of their jurisdictions. CARB further acknowledges that decisions on how land is used will have large effects on the GHG emissions that will result from the transportation, housing, industry, forestry, water, agriculture, electricity, and natural gas emission sectors. The *Scoping Plan* states that the ultimate assignment to local government operations is to be determined (CARB, 2008b).

The *Climate Change Scoping Plan* also includes recommended measures that were developed to reduce GHG emissions from key sources and activities while improving public health, promoting a cleaner environment, preserving our natural resources, and ensuring that the impacts of the reductions are equitable and do not disproportionately impact low-income and minority communities.

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The total reduction for the recommended measures is 174 million metric tons/year of CO₂e slightly exceeding the 169 million metric tons/year of CO₂e of reductions estimated to be needed in the *Draft Scoping Plan*. The measures in the Scoping Plan approved by the Board will be developed over the next two years and will be in place by 2012.

Senate Bill 97

SB 97, signed August 2007 (Chapter 185, Statutes of 2007; Public Resources Code Sections 21083.05 and 21097), acknowledges that climate is a prominent environmental issue that requires analysis under CEQA. This bill directed the Governor's Office of Planning and Research (OPR), which is part of the state Resources Agency, to prepare, develop, and transmit to CARB guidelines for the feasible mitigation of GHG emissions (or the effects of GHG emissions), as required by CEQA, by July 1, 2009. The Resources Agency was required to certify and adopt those guidelines by January 1, 2010. On December 31, 2009, the Natural Resources Agency delivered its rulemaking package to the Office of Administrative Law for their review pursuant to the Administrative Procedure Act. The adopted guidelines became effective March 18, 2010.

Governor's Office of Planning and Research (OPR)

On June 19, 2008, OPR published a technical advisory on CEQA and Climate Change. The advisory provides OPR's perspective on the emerging role of CEQA in addressing climate change and GHG emissions, while recognizing that approaches and methodologies for calculating GHG emissions and addressing environmental impacts through CEQA review are rapidly evolving. The advisory recognizes that OPR will develop, and the Resources Agency will adopt amendments to the CEQA Guidelines pursuant to SB 97. In the interim, the technical advisory "offers informal guidance regarding the steps lead agencies should take to address climate change in their CEQA documents." (OPR, 2008)

The technical advisory points out that neither CEQA nor the CEQA Guidelines prescribe thresholds of significance or particular methodologies for performing an impact analysis. "This is left to lead agency judgment and discretion, based upon factual data and guidance from regulatory agencies and other sources where available and applicable" (OPR, 2008). OPR recommends that "the global nature of climate change warrants investigation of a statewide threshold of significance for GHG emissions" (OPR, 2008). Until such a standard is established, OPR advises that each lead agency should develop its own approach to performing an analysis for projects that generate GHG emissions (OPR, 2008)

Agencies should then assess whether the emissions are "cumulatively considerable" even though a project's GHG emissions may be individually limited. OPR states: "Although climate change is ultimately a cumulative impact, not every individual project that emits GHGs must necessarily be found to contribute to a significant cumulative impact on the environment" (OPR, 2008). Individual lead agencies may undertake a project-by-project analysis, consistent with available guidance and current CEQA practice (OPR, 2008)

If the lead agency determines emissions are a cumulatively considerable contributions to a significant impact, the lead agency must investigate and implement ways to mitigate the emissions (OPR, 2008). OPR states: "Mitigation measures will vary with the type of project being contemplated, but may include alternative project designs or locations that conserve energy and water, measures that reduce vehicle miles traveled (VMT) by fossil-fueled vehicles, measures that contribute to established regional or programmatic mitigation strategies and measures that sequester carbon to offset the emissions from the project" (OPR, 2008). OPR concludes that "A lead agency is not responsible for wholly eliminating all GHG emissions from a project; the CEQA standard is to mitigate to a level that is 'less than significant'" (OPR, 2008) The technical advisory included a list of mitigation measures that can be applied on a project-by-project basis.

Greenhouse gas emissions are still at the early stages of development in San Luis Obispo County and significant thresholds have not been established for construction activities. However, the APCD requires that greenhouse gases still be quantified for construction projects for the life of the projects. The APCD's calculations for construction activities can be amortized over the life of the project. State of California's Governor's Office of Planning and Research (OPR) released a Technical Advisory entitled CEQA AND CLIMATE CHANGE. The document states "Lead agencies should make a good-faith effort based on available information, to calculate, model, or estimate the amount of CO₂ and other GHG emissions from a project, including the emissions associated with vehicular traffic, energy consumption, water usage and construction activities."

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United States EPA

The United States EPA is the federal agency responsible for implementing the Clean Air Act. Prior to 2007, the EPA did not have regulations addressing Green House Gases (GHGs). The U.S. Supreme Court ruled on April 2, 2007 that Carbon Dioxide (CO₂) is an air pollutant as defined under the CAA, and that EPA has the authority to regulate emissions of GHGs. However, there are no federal regulations or policies regarding GHG emissions applicable at the time of writing. Several bills related to greenhouse gas emissions and climate change including AB 1493 (passenger vehicle GHG emission reductions), AB 32 (the California Global Warming Solutions Act of 2006), SB 1368 (utility GHG emission reductions), SB 97 (requiring climate change analysis under CEQA), the California Climate Action Registry, SB 1078 (electricity from renewable sources), SB 375 (land use and transportation planning), Executive Order S-3-05 (acknowledges potential impacts of climate change on state), and Executive Order S-13-08 (the Climate Adaptation and Sea Level Rise Planning Directive) have been passed.

Impact Discussion:

According to *CEQA Guidelines* Appendix G, the project would have a significant effect on greenhouse gases if it would:

- Conflict with or obstruct implementation of the applicable air quality plan;
- Violate any air quality standard or contribute substantially to an existing or projected air quality violation;
- Result in a cumulatively considerable net increase of any nonattainment pollutant (including releasing emissions that exceed qualitative thresholds for ozone precursors);
- Expose sensitive receptors to substantial pollutant concentrations;
- Create objectionable odors affecting a substantial number of people;
- Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or
- Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

The CEQA Guideline thresholds address the same impact as seen in the Air Quality section of this initial study (see discussion in *Air Quality* section).

a.-b.) For this analysis, the project would be considered to not have a significant impact on the cumulative impact of GHG, when analyzing the project against the CEQA Guideline thresholds. The proposed project is accessory to the existing use on site and the uses do not include substantial GHG emitting uses on site. The existing site is used for marine related commercial business on the working docks, and the upland portion includes a two restaurants and a t-shirt shop. The afore mentioned regulating documents from the State and Federal levels address elements of the project that would increase transportation trips, increased use of natural resources and the actual procedures of the uses. The proposed project includes the expansion of existing facilities or new accessory structures for existing uses. The expansion of the docks will slightly increase the amount of marine traffic (i.e. boats) to the site, because the docks will be expanded and will be able to accommodate more boats. The upland portion of the site project proposal includes the addition of an awning structure. The awning structure will cover an existing wharf and public seating area. The uses as proposed will not substantially contribute to the GHG emissions in the City of Morro Bay, therefore the project will not adversely affect the greenhouse gas emissions from the City of Morro Bay.

Mitigation and Residual Impact: The project will not substantially affect the GHG emission from the City of Morro Bay, therefore no mitigations are required for this project.

Monitoring: Not applicable.

8. HAZARDS/HAZARDOUS MATERIALS	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				

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a.	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?		X		
b.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?		X		
c.	Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d.	Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment?				X
e.	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f.	For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?			X	
h.	Expose people or structures to a significant risk of loss, injury or death involving wild land fires, including where wild lands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X

Environmental Setting: The property is located on the Embarcadero in the vicinity of sites that have been identified as potential polluters of ground water and soils. Properties in the vicinity include Morro Bay Wastewater Treatment Plant, PG&E substation and Dynegy Power Plant (Morro Bay Power Plant) which do handle materials that can be considered hazardous. The project is located on fill materials and has not been associated with hazardous waste or materials disposal.

The Morro Bay Wastewater Treatment Plant composts biosolids on the wastewater treatment plant site. The composting material is made available to the public to use in amending soils. The composting operation is the only solid waste site within the city limits of Morro Bay. Other solid wastes are taken out of the city and disposed of at various landfills.

The Dynegy Power Plant (Morro Bay Power Plant) and the PG&E sub-station, electric generation and substations, are located adjacent to one another and produce byproducts that are considered to be hazardous if leaked into the ground water or soils. The Department of Toxic Substances Control’s database *Evrostor*, has identifies the above ground storage tanks on Dynegy’s (Morro Bay Power Plant) property as a hazard. Dynegy (Morro Bay Power Plant) is currently taking corrective actions to mitigate the old tank farm for above ground storage of oil, by removing the tanks. The site potentially contains polychlorinated biphenyls (PCBS), polynuclear aromatic hydrocarbons (PAHS), gas, jet fuel, and motor oil. These contaminates may affect groundwater and soil in the surrounding area and has the potential to affect a larger area if the source is not cleaned up or demolished.

In addition to the Dynegy Power Plant (Morro Bay Power Plant), there are multiple sites in Morro Bay listed on the Leaking Underground Storage Tank website. Many of the cases have been cleaned up and have been closed,

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however there are two sites in Morro Bay located at the eastern end of Morro Bay Blvd adjacent to the freeway that are active site for leaking underground storage tanks as identified by the California Environmental Protection Agency and State Water Resource Control Board. The subject property is not located with 1,000 foot radius of any leaking underground storage tank that is active or one that has been cleaned up.

Enforcing regulations governing hazardous substance generators, hazardous substance storage and underground storage tanks is the responsibility of the San Luis Obispo County Environmental Health Department. The County regulates the use, storage, and disposal of hazardous substances in the County by issuing permits, monitoring regulatory compliance, investigating complaints, and other enforcement activities.

Impact Discussion:

a-b.) The project could potentially increase the amount of hazardous materials that currently exist. Existing and proposed vessel maintenance includes the use of fuel, oil, lubricants, and cleaning supplies. The release of sewage into the bay from visiting vessels could have a significant hazard to the public or the environment; however, current practice and procedures are in place to reduce the risk of accidents. These practices include inspections of vessels that are planning to dock one month or more at a specific location to assess seaworthiness, adequate sanitation, etc. In addition, if a spill occurs, a mitigation measure is included to require that a spill kit be provided and available on the dock to assist in the clean-up. Policies in place requires that if the City receives a complaint about dumping, an investigation will be conducted to determine the source. If traceable evidence is discovered, the perpetrator will be fined. The City offers visitors three free pump out facilities and encourage their use to prevent dumping waste into the bay. With routine procedures in place and a requirement to provide a spill kit, the impacts would be less than significant. In addition to City regulations, federal regulations govern public waterways and require permits in order to discharge any materials into the harbor.

Prior to the applicant applying for the permits associated with this environmental document the head float was demolition and removed without benefit of a permit. It is unknown to staff whether materials that would be harmful to construction workers and the general public were released during the demolition and removal of the previous head float. Demolition of portions of the existing wharf for the addition of the landing and gangway and the attachment method for the awning system may contain lead-based paint or asbestos building materials could cause the materials to be released as airborne particles or as particulate matter into the bay, which could affect construction workers, the general public, and/or marine wildlife. If asbestos-containing materials or lead-based paint were present in structures planned for demolition, construction workers and the general public could be exposed to asbestos fibers and/or lead-based paint dust. A mitigation measure is incorporated that requires asbestos and lead-based paint surveys to be conducted prior to demolition activities, and materials properly abated and safety regulations followed should such materials be detected.

Hazardous materials from petroleum-fueled construction equipment used to complete the proposed activities could be released as a result of project activities. In addition, the applicant has not specified whether or not the existing wharf is constructed of treated or untreated wood that will be removed and drilled to secure new portions of the landing and awning system. Treated wood waste has the potential to be considered a hazardous waste product that requires disposal at a hazardous waste site. Treated wood that is not considered a hazardous waste product can be disposed of at a non-hazardous waste landfill. The EPA considers creosote a restricted use pesticide and has handling procedures for creosote treated materials. Implementation of a mitigation measure will ensure proper handling of any creosote treated materials by workers.

c-f.) The project is not located within ¼ mile of a school or near any known hazardous material sites. It does not involve any interference with emergency response plans, create any potential public health or safety hazard, or expose the public to hazards from oil or gas wells and pipeline facilities. The project does not include any activities which could result in contamination of a public water supply. The project would not expose the public or structures to a significant risk of loss, injury, or death involving wild land fires. Therefore, impacts would be less than significant.

Mitigation and Residual Impact:

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1. Prior to demolition of the existing structures, asbestos, and lead-based paint surveys shall be conducted. If asbestos containing materials are encountered, the materials will be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the San Luis Obispo Air Pollution Control District (APCD). If lead-based paint is identified, federal and State construction worker health and safety regulations should be followed during demolition activities. Any loose or peeling lead based paint should be removed by a qualified lead-abatement contractor and disposed of in accordance with existing hazardous waste regulations.
2. The following precautions shall be taken when handling creosote-treated wood:
 - a. Dispose of treated wood by ordinary trash collection or burial.
 - b. Do not burn wood in open fires or in stoves, fireplaces, or residential boilers because toxic chemicals may be produced as part of the smoke and ashes.
 - c. Avoid frequent or prolonged inhalation of sawdust from treated wood.
 - d. Avoid frequent or prolonged skin contact with creosote-treated wood
 - e. When handling the wood, wear long-sleeve shirts and long pants and use gloves impervious to the chemicals.
 - f. When power-sawing and machining, wear goggles to protect eyes from flying particles.
 - g. Wash clothes worn while working with creosote-treated materials separately from other household clothing.
3. At minimum one oil only absorbent spill kit for a capacity of 21 gallons or greater shall be provided on the head float dock in case of accidental release of a hazardous material or liquid into the bay.
4. Signs shall be provided on all finger docks stating the location and hours of operation for all pump out facilities in the Morro Bay Harbor.

With the implementation of these mitigation measures the potential impacts of hazardous or hazardous materials that could result from the project would be reduced to less than significant levels.

Monitoring: Prior to issuance of demolition permits asbestos and lead-based paint surveys, including recommended actions, shall be submitted to and accepted by the Public Services Department. City of Morro Bay staff shall verify that signs are adhered to docks prior to final inspection.

9. HYDROLOGY/WATER QUALITY		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:					
a.	Violate any water quality standards or waste discharge requirements?			X	
b.	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X	
c.	Substantially alter the existing drainage pattern on the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off-site?			X	

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d.	Substantially alter the existing drainage pattern on the site or area, including through the alteration of the course of a stream or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?			X	
e.	Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?			X	
f.	Otherwise substantially degrade water quality?			X	
g.	Place housing within a 100-year flood hazard area as mapped on a federal flood hazard boundary or flood insurance rate map or other flood hazard delineation map?				X
h.	Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
i.	Expose people or structures to a significant risk or loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j.	Inundation by seiche, tsunami, or mudflow?		X		

Environmental Setting: The City of Morro Bay is located within the Morro Bay and Estero Bay Watersheds which are sub regions of the Central Coastal Watershed. The major surface water features in the region are Chorro Creek, Los Osos Creek, Toro Creek, Alva Paul Creek, San Bernardo Creek, Little Morro Creek, and Morro Creek, which all flow to the Pacific Ocean, either directly or through the Morro Bay Estuary. The creeks mentioned above also serve as receiving waters for the City's storm drain system.

The site is located in the southwestern portion of the Morro Hydrologic Subarea (Morro Basin) of San Luis Obispo County. The Morro Basin is an 810-acre area, extending from the coastline to the convergence of the Morro and Little Morro Valleys. Morro Creek, an ephemeral stream with headwaters in the Santa Lucia Range, is the primary stream draining Morro Basin. Basin recharge is infiltration of precipitation and from tributary watersheds upstream on the Morro and Little Morro Creeks. Morro Bay contains approximately 2,100 acres of water surface at low tide and approximately 6,500 acres at high tide, leaving approximately 980 acres of tidal mud flat and approximately 470 acres of salt marsh. The water quality of Morro Bay is affected by presence of nutrients, toxic substances, hydrocarbons, bacteria, heavy metals, suspended sediment, and turbidity. Studies by various authors also suggest that Morro Bay is subjected to a relatively rapid increase in sedimentation. Morro Bay, Los Osos and Chorro Creek are listed as "impaired waters" under the federal Clean Water Act, Section 303(d). These water areas, and the Morro Bay Estuary, are also listed as waters impaired by sedimentation/siltation, and are the subject of a Total Maximum Daily Load (TMDL), which is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards.

Impact Discussion:

a.) The sewage that will be generated by this project will be collected and disposed of in the City's sewage system and runoff from storm runoff will drains to the bay via storm drains and direct run off from the site to the adjacent harbor waters. The proposed project will not substantially increase water discharged from the site, therefore will not violate water quality standards or waste discharge requirements. In-water activities including dock demolition/construction, rip-rap removal, pile installation, vessel anchoring, and dredging could result in an increase in water column turbidity and an anticipated decrease in dissolved oxygen concentration. However, substantial turbidity occurs naturally in the Bay, particularly following surface water runoff from Chorro Creek and Los Osos Creek during winter storms. Tidal scour also contributes to the natural turbidity and is a major contributor during the spring tide periods when the change in tidal levels, rate of tidal exchange, and current speed are highest.

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b.) The project is the reconstruction of an existing dock, the addition of four finger docks, and the installation of an awning system over the existing outdoor dining area. The Land Use Table depicted in Section 13.20.070 of the Municipal Code indicates that the project will result in a minor increase in water usage. However, the City's annual water report indicates that there are sufficient water resources to satisfy this minor demand. In addition, the City's predominant source of water to serve residences is obtained from the State Water Project. Therefore, substantial depletion of ground water would not occur as a result of the proposed project. The project will not require the need from substantial water and therefore will not substantially deplete groundwater supplies.

c. - f.) The project is proposed as accessory uses to the existing uses on site and will not develop the site in a way that will alter the existing drainage. The existing site is composed of predominantly non-permeable surfaces and currently all drainage is directed to the adjacent harbor. The new uses will not substantially impact the drainage on site because the new uses are located on top of the wharf or on top of the water. The new uses will not contribute to the degradation of the water runoff from the site because the wharfs are for water use and the awnings will direct the water to the existing wharf. Therefore, the proposed project would not substantially alter existing drainage on the site, nor result in substantial erosion or siltation on or off site.

g.-h.) The Federal Emergency Management Agency has maps that designate the 100-year flood plains. The water portion of the site is subject to the "special flood hazard areas subject to inundation by the 1% annual chance flood". The 1% annual flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood. The upland portion of the site is designated as "Zone X Area" and has a 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile. The water portion of the site is located in an area designated as a one percent chance of being equaled or exceeded on any given year, however this is not an area of concern since the use is located in the water and the docks are designed to move up and down with the tides. Therefore damage to this area from a 100-year flood is not going to be substantial. The upland portion of the site has less of a chance of flooding and has been designed to route all flood water to storm management system which all flow into the harbor, which in this case is located in or adjacent to the project site. Considering that the project site is located on the FEMA flood maps as an area of concern, the risk is not substantial and will not expose people or structures to significant loss.

i.) The project site is not located in an area adjacent to a levee or dam, therefore failure of such structure would not be a risk on this property.

j.) Since the project site is located along the coast at an elevation below 50 feet above mean sea level, a potential hazard from tsunamis exists. There is not enough evidence, however, to predict recurrence intervals of tsunamis. The last known tsunami warning occurred in the mid-1960's. As discussed in the Safety Element of the General Plan, the most feasible protection in the event of a tsunami is a warning system and evacuation plan. The warning is handled by the United States Weather Service and the Safety Element outlines safety preparedness measures. Therefore, the hazard presented by tsunamis is less than significant.

Mitigation and Residual Impact:

1. The proposed project shall be incorporated into the City of Morro Bay's existing tsunami warning and evacuation system. Local authorities should be able to evacuate people safely from the proposed project site in the event of a tsunami.
2. Silt screens shall be placed within the area of all in-water construction or disturbance to reduce potential turbidity associated impacts.
3. To reduce the potential of petroleum leakage/spills from equipment used in conjunction with the project the following practices shall be followed:
 - a. A project-specific Oil Spill Response and Recovery Plan that includes methods and procedures for reporting and responding to spills, available on-site equipment and contracted services, and personnel responsibilities should be completed and approved prior to the initiation of construction activities.

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- b. Refueling of onshore equipment should be accomplished within a designated area of the parking lot. The site shall be covered with impervious material, be located away from drains, and have spill recovery material within the immediate vicinity. The area shall be surrounded with a waddle of sorbent material.
- c. A minimal volume of petroleum product shall be stored onsite and spill containment and recovery equipment should be sufficient to respond to the worse case spill volume.
- 4. Netting or fencing around and underneath the dock shall be installed to catch and remove debris released during and after de-construction.

Monitoring: Prior to issuance of building permits an Oil Spill Response and Recovery Plan shall be submitted to and accepted by the Public Services staff. Public Services staff shall verify compliance through the inspection of required fencing, silt screens and refueling operations during site inspections. Public Services Department staff shall monitor compliance with all other conditions in the normal course of reviewing improvement and building plans. The Fire Department will insure that the project site is incorporated into the City of Morro Bay’s tsunami warning and evacuation system.

10. LAND USE AND PLANNING		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:					
a.	Physically divide an established community?				X
b.	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c.	Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

Environmental Setting: The project is located within the City of Morro Bay on the Embarcadero and within the original jurisdiction of the California Coastal Commission. The water portion of the site is zoned Harbor and the associated upland portion of the site is zoned Waterfront/Planned Development and has an S.4 overlay. The project is governed by the Waterfront Master Plan. The project is consistent with the Harbor zoning designation.

Impact Discussion:

a. – c.) The project cannot be approved unless found consistent with the California Coastal Act, Local Coastal Program and Municipal Code. The project is within the Harbor zoning district where docks are an allowed use. Therefore the proposed additions of docks would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project. The project would not physically divide an established community as it is in the water adjacent to an associated restaurant and on an existing wharf, and the project would not conflict with a conservation plan, as the city has not adopted a conservation plan.

The proposed project is consistent with the land use diagram and policy provisions of the City’s General Plan and Local Coastal Plan by providing public access through the project and along the bay. As adjacent properties are redeveloped, public access to the bay will be required, which will ultimately provide a contiguous pathway running north and south along the Embarcadero for visitors and residents. The proposed project already provides public access where currently none exists. At publicly noticed hearings, the Planning Commission and City Council shall ensure that the proposed project is in compliance with the California Coastal Act, Local Coastal Program and the Municipal Code.

Mitigation and Residual Impact: The project will not physically divide the City and does not conflict any adopted land use policy, therefore no mitigation is required.

Monitoring: Not applicable.

11. MINERAL RESOURCES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Result in the loss of availability of a known mineral resources that would be of value to the region and the residents of the state?				X
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

Environmental Setting: The project site is on the Embarcadero which was constructed on fill which was dredged from the harbor and placed behind the revetment. Because of this the soil is composed of sandy soil that does not have mineral value. The closest mineral resources in the area is Morro Rock which in the past was mined for rock materials from construction. Morro Rock is now a federally protected site and no longer a viable mineral resource. The project site is not located on a site that is an important to mineral resources and is not sited to be a site of mineral production in the future.

Impact Discussion:

a.-b.) The proposed project is located on fill soil and is not considered a mineral resource, therefore the proposed project will not impact the availability of resources in the community.

Mitigation and Residual Impact: The proposed project located is not a area that produces mineral resources nor does the area have a potential to produce minerals, therefore no mitigation is required for this site and protection of mineral resources.

Monitoring: Not applicable.

12. NOISE	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Expose people to, or generate, noise levels exceeding established standards in the local general plan, coastal plan, noise ordinance or other applicable standards of other agencies?		X		
b. Expose persons to or generation of excessive groundborne vibration or groundborne noise levels?		X		
c. Cause a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d. Cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	

Environmental Setting: The most significant source of noise to the project site is from traffic or transportation. The City’s General Plan Noise Element threshold for traffic noise exposure is 60dB for most land uses. The City’s Zoning Ordinance also contains noise limitations and specifies operational hours, review criteria, noise mitigation, and requirements for noise analyses. Sensitive receptors within the vicinity of the project include residential uses to the east.

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The noise element of the General Plan for each local jurisdiction contains minimum standards for various land uses (e.g. commercial, single-family residential, multi-family residential). The City of Morro Bay’s Zoning Ordinance contains noise requirements with general noise limitations in Chapter 17.52, Performance Standards. The noise ordinance also covers operational hours, criteria for review of development projects, noise mitigation, and requirements for noise reduction measures and acoustical analyses.

The City of Morro Bay reviews new public and private development proposals to determine conformance with Noise Element policies. When projected future noise levels are expected to exceed land use conformance standards, the City may require an acoustical analysis early in the review process so that noise mitigation may be included in the project design. The size of development, noise source(s), noise exposure, and topography are criteria used for conditions of approval by the City with regard to acoustical analyses. Where existing noise levels significantly impact existing noise-sensitive land uses or where there would be a cumulative increase in noise levels resulting from new development, noise reduction measures would be required.

Noise-sensitive land uses are generally defined as locations where people reside or where the presence of unwanted sound could adversely affect the use of the land. Noise-sensitive land uses include residences, hospitals and nursing homes, schools, churches, libraries, office buildings, and hotels/motels, as well as other uses deemed noise-sensitive by the local jurisdiction. Noise-sensitive land uses within the City of Morro Bay and the Morro Bay State Park and Marina (Project Site) include individual residences, transient lodging, schools, museums, libraries and playgrounds and parks.

Impact Discussion:

a.-d.) The project will not add noise levels that are inconsistent with the surrounding uses or in conflict with standards in the General Plan, Local Coastal Plan or Zoning Ordinance. However, construction noise represents a short-term impacts related to the use of construction equipment including trucks and pile driving equipment. Pile driving equipment would generally create slightly greater noise levels than standard construction equipment which could potentially impact marine wildlife. See the Impact discussion in Section 4 Biological Resources. The peak noise level for most of the equipment that will be used during construction is estimated to reach 80 to 95 dBA at a distance of 50 feet (without mitigation). At 250 feet, the peak construction noise (without mitigations) is estimated to reach approximately 67 to 82 dBA (without mitigation). These noise levels are based upon “worst case” conditions. These potential noise levels are dependent on the location of the equipment on the site as well as the actual number and type of equipment used during construction. Mitigation measures are required to limit hours of construction and the reduce the noise levels of equipment during construction.

Following construction-related activities, the ambient noise levels at the project site are anticipated to return to near pre-project levels. The expansion of the docks and new awning system will not include the addition of any stationary noise sources. An increase in use of the facilities as a result of renovation and enhancement activities may cause a slight increase in ambient noise levels at the site, but it is not anticipated that these activities will be enough to increase ambient levels above their current range.

The City of Morro Bay General Plan Noise Element estimated that the project site is within the 45 dBA contour range.

Mitigation and Residual Impact:

1. Project construction shall be limited to the hours of 7 a.m. to 7 p.m. on Monday through Friday and all large construction equipment will be equipped with “critical” grade noise mufflers. Engines will be tuned to insure lowest possible noise levels. Back up “beepers” will also be tuned to insure lowest possible noise levels. All necessary measures to muffle, shield or enclose construction equipment shall be implemented in order to insure that noise levels at the property line of the nearest parcels do not exceed 70 dBA. Construction timing shall be noted on the grading and construction plans.
2. Power generating and other noise generating machinery used for construction shall be partially or completely surrounded by temporary acoustical shelters if within 300 feet of a sensitive receptor.
3. Refer to section 4, Biology Resources mitigations 6, 7, and 8.

Monitoring: During the construction process, Planning and Building staff will make periodic site visits to ensure construction hours are adhered too and noise levels are within the allowable limits during construction.

13. POPULATION AND HOUSING	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c. Induce substantial growth in an area either directly (for example, by proposing new homes and businesses) or indirectly (e.g. through extension of roads or other infrastructure)?				X

Environmental Setting: The proposed project is located on the Embarcadero which is a commercial district. The project site has existing commercial facilities on the land portion and a dock on the water lease that services both commercial and recreational boats.

Impact Discussion:

a.-c.) The proposed project is located on a site that is currently utilize for commercial and fishing operations. The site does not have a residential component and there is no proposal to develop the site with residential units or live aboard units. The water portion of the project will provide temporary lodging for recreational vessels; however, the project does not propose to house permanent residents. Therefore, the project’s ability to have transient lodging will not change, and there is not an impact to the amount of residential and transient lodging available in the City.

Mitigation and Residual Impact: Because no significant impacts on population and housing would result, no mitigation measures are required. The residual impact on population and housing would be less than significant.

Monitoring: Not applicable

14. PUBLIC SERVICES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project result in a substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:				
a. Fire protection?			X	
b. Police protection?			X	
c. Schools?				X
d. Parks or other recreational facilities?				X
e. Other governmental services?				X

Environmental Setting: The project site is located within the boundaries of the City of Morro Bay; therefore the City of Morro Bay provides most of the public services, including Fire and Police protection. The San Luis Coastal Unified School District operates an elementary school and a high school within the City. The project is not expected to cause any change in governmental service levels or trigger the need for new facilities or equipment to maintain

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existing service levels. The project is within the density allowed and all existing services are considered adequate to serve the project.

Impact Discussion:

a.-b.) The Morro Bay Fire Department and Police Department would be responsible for conflicts or life saving measures are necessary on site. The proposed project consists of expanding existing facilities, therefore no new uses are proposed on site and the Police and Fire Departments have the capacity to handle emergency situations on site. Although the uses on site are expanding the additional recreational and commercial uses do not require the addition of firefighters or police officers in the City of Morro Bay.

c.-d.) The proposed project does not include the construction of new residences that would create a demand for additional schools, parks or other recreational facilities.

e.) No other governmental services will be affected.

Mitigation and Residual Impact: City-provided services are not expected to be affected by the project, because no significant impacts on public services would result, no mitigation measures are required. The residual impact on public services would be less than significant.

Monitoring: Not applicable

15. RECREATION		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:					
a.	Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b.	Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?			X	

Environmental Setting: A variety of recreational activities including hiking, boating, bird watching, and other outdoor activities are available in Morro Bay City limits with over 10 miles of ocean and bay front shoreline. Approximately 95% of the shoreline has public lateral or beach access to recreational activities for visitors and residents.

Impact Discussion:

a.-b.) The existing site utilized for commercial, recreational, fishing, and marine operations and the proposed facilities will provide better access to the expanded dock facilities. The proposed landing and gangway will be able to accommodate a wider range of visitors and residents because of accessibility requirements through the Uniform Building Code. The proposed project itself is recreational in nature and does not include any commercial or residential uses that would be growth inducing and will not create a need for additional recreational facilities.

Mitigation and Residual Impact: The project itself is a recreational use and will not create a demand for the development of additional recreational facilities, therefore will not require mitigation measures.

Monitoring: Not applicable.

16. TRANSPORTATION/CIRCULATION Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, street, highway and freeways, pedestrian and bicycle path, and mass transit?			X	
b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the country congestion management agency for designated roads or highways?			X	
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d. Substantially increase hazards due to a design feature (e.g. limited sight visibility, sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?				X
e. Result in inadequate emergency access?			X	
f. Conflicts with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities or otherwise decrease the performance or safety of such facilities?			X	

Environmental Setting: The City of Morro Bay is primarily a residential community with a commercial core that extends from the Embarcadero up Morro Bay Boulevard. The community is bisected by Highway 1, a major regional roadway and Highway 41. The majority of traffic in Morro Bay is handled by a few arterials while most streets have relatively light traffic. Through traffic is concentrated primarily on Highway 1 and Atascadero Road Highway 41 as well as on Morro Bay Boulevard and Main Street. Local traffic utilizes Quintana Road for access to shopping area as well as the streets mentioned above. The Embarcadero and Beach Street provide major access for visitors and local residents to the tourist commercial and marine uses along the harbor. South Bay Boulevard and State Park Road provide access to and from the Los Osos Area. Traffic volumes on the streets are irregular due to the high volume of traffic during tourist seasons, however local traffic remains consistent throughout the rest of the year.

Impact Discussion:

a.-b.) The main component of the project is the expansion of the dock system in the water and the main circulation that will be affected is marine related and the circulation within the harbor. The use of the docks has not been identified by the applicant at this time, beyond the approved one business existing. Traffic to the site and surrounding area will increase. Although the expansion of the docks will not substantially affect traffic on established streets, parking for the expanded docks will be required. The existing dock required 4 parking spaces, and with the dock expansion 5 additional parking spaces will be provided, for a total of 9 parking spaces.

The initial construction of the new docks will be related to workman activity and equipment associated with the project, which will temporarily result in minor increases in traffic to and from the site. However, following construction, the traffic leaves should return to pre-construction levels.

c.) The proposed traffic will not have any impact on airborne traffic and is not in the vicinity of an airport.

d-e.) The circulation located on site will not be reconfigured. The applicant previously paved the site and striped parking spaces, however the parking is not a requirement of any uses on site. As designed, the project provides sufficient backing and maneuvering room for cars to safely navigate the parking lot. In addition, the fire and police departments have reviewed the proposed project and determined that the project provides adequate emergency access.

f.) The project is located on the Embarcadero and therefore is included in the Waterfront Master Plan. As a requirement for any new development the applicant is required to provide a lateral accessway along the waterfront side of the property. The goal of this requirement is to create a continuous public access walkway on the Embarcadero. The project does not meet the criteria to be considered a new project and will not require a lateral access way to be constructed along the parking lot portion of the site north of the public seating area. However there is a lateral access way that is adjacent to the windscreen on the public seating area that shall be maintained on site.

The project would not conflict with adopted policies supporting other forms of alternative transportation including the trolley, regional bus system, or bicycles. The project will provide additional marine dock facilities that are keeping with the California Coastal Act of 1976. The Coastal Act requires Morro Bay to protect and, where feasible upgrade commercial and recreational fishing facilities. This is in keeping with the community’s policy of giving priority to commercial fishery in new harbor development. Therefore, potential impacts would be less than significant.

Mitigation and Residual Impact: The project will not have an adverse affect on the existing circulation, therefore will not require mitigation measures.

Monitoring: Not applicable.

17. UTILITIES & SERVICE SYSTEMS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?			X	
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?		X		
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?			X	
e. Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?				X
f. Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?			X	

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g. Comply with federal, state, and local statutes and regulations related to solid waste?			X	
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Environmental Setting: The project site is located on a developed site and will be served by all existing utilities. The proposed project will add additional elements to the existing property including an awning system (attached to the wharf), landing, gangway and expanding docks.

The project would also be served by local waste collection services which dispose of waste at Cold Canyon Landfill, which has been expanded to take increased waste anticipated within its service area. To the extent feasible, materials would be diverted to recycling facilities.

The Wastewater Treatment Plant (WWTP) serves City of Morro Bay and the community of Cayucos with a combined population of approximately 13,800. The treatment plant is designed for an average dry weather flow of 2.06 MGD and a peak wet weather flow of 6.64 MGD. The treatment plant discharged an annual average of just over 1.1 and 1.0 million gallon per day for 2002 and 2003. In 2009 the City of Morro Bay applied to the United States Environmental Protection Agency for the WWTP NPDES Permit and contained information of the projected usage of the WWTP. The wet weather flows in 2002 were 1.14 MGD. These flows are projected to slightly increase (with population growth) to 1.20 MGD in 2009 (based on 5.2% growth over that time period) and to 1.23 MGD in 2014 (based on a population increase of 9.8% between 2003 and 2014). However the two communities have a separate storm water drainage system.

Impact Discussion:

a-g.) Due to the small size of the project, there would be no significant impact to utilities and service systems. The City water and sewer systems have been reviewed pursuant to capacity studies which have determined that there is sufficient capacity for this project. The project is accessory to the primary uses on site and will not increase the need for water nor will increase the production of wastewater, solid waste and storm water from the site.

b.) The project does not require the construction of additional facilities for water or wastewater facilities. The City will not require additional sewage pump out facilities at this time therefore it will not increase the usage of wastewater treatment facilities. There will be an increase in boats in the vicinity The City has sewage pump out stations in the vicinity of the project that the boats can utilize.

Mitigation and Residual Impact: Please refer to Hazards/Hazardous Materials section mitigation measure number 4.

Monitoring: Please refer to Hazards/Hazardous Materials monitoring section.

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IV. INFORMATION SOURCES:

A. City / County / Federal Departments Consulted :

City of Morro Bay Public Works Department, Fire Department, Building Division, and City Engineer, San Luis Obispo Air Pollution Control District

B. General Plan

X	Land Use Element	X	Conservation Element
X	Circulation Element	X	Noise Element
X	Seismic Safety/Safety Element	X	Local Coastal Plan and Maps
X	Zoning Ordinance		

C. Other Sources of Information

X	Field Work / Site Visit	X	Flood Control Maps
X	Calculations	X	Zoning Maps
X	Project Plans / Description		Soils Maps / Reports
	Traffic Study		Plant Maps
X	Records	X	Archeological Maps
	Grading Plans	X	Elevations /Architectural Renderings
	Topographic Maps	X	Biological Study
X	AG Preserve Maps	X	Other: County of San Luis Obispo Air Pollution Control District, CEQA Air Quality Handbook, adopted December 2009

V. MANDATORY FINDINGS OF SIGNIFICANCE (Section 15065)

A project may have a significant effect on the environment and thereby require a focused or full environmental impact report to be prepared for the project where any of the following conditions occur (CEQA Sec. 15065):

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>Potential to degrade:</i> Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
<i>Cumulative:</i> Does the project have impacts that are individually limited but cumulatively considerable? (Cumulatively considerable means that incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
<i>Substantial adverse:</i> Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?			X	

Impact Discussion: The project is consistent with the General Plan, Local Coastal Plan and Zoning Ordinance. As such, the project, as mitigated, does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below a self-sustaining level, threaten to eliminate a plant or animal community, reduce the number or restrict the range of rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory as evidenced in the preceding discussions.

The proposed project includes the reconstruction of an existing dock, the addition of four finger docks, and the installation of an awning system over an outdoor dining area. Several potentially significant impacts associated with the in-water and on-shore activities have been identified, where it has been identified that air, water, and habitat quality could be degraded if specific practices are not employed. The recommended mitigation measures address aesthetics, air quality, biological resources, hydrology, noise, geology/soils, water quality, and potential hazardous materials and will reduce any significant impacts to a less than significant level when implemented.

VI. DETERMINATION

On the basis of this initial evaluation:

The Public Services Director has found that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

The Public Services Director has found that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

The Public Services Director has found that the proposed project **MAY** have limited and specific significant effect on the environment, and a **FOCUSED ENVIRONMENTAL IMPACT REPORT** is required.

The Public Services Director has found that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

With Public Hearing

Without Public Hearing

Previous Document : N/A

Project Evaluator : City of Morro Bay

Sierra Davis
Signature

February 3, 2011
Initial Study Date

Sierra Davis, Assistant Planner
Printed Name

On behalf of Robert Livick, Public Services Director

City of Morro Bay, California
Lead Agency

VII. ATTACHMENTS

Attachment A

SUMMARY OF REQUIRED MITIGATION MEASURES

Section: Aesthetics

Mitigation Measures

1. The awning system shall be freestanding and shall only be attached at the base of the awning system to the wharf. The awning shall not be attached to the existing windscreen, structures on site nor be attached in a way that would enclose the area in any fashion.
2. The awning system shall maintain a minimum 6 inch height clearance above the top of the windscreen to maintain that the awning system does not enclose the public view area.

Monitoring: The Public Services will inspect the floating dock, gangway, landing and awning for conformance to the approved plans, conditions of approval and environmental mitigation measures. The Public Services Department will have to deem the project conforming in order to finale the project and grant occupancy.

Section: Air Quality

Mitigation Measures

The project is subject to standard construction practices, including dust control measures required by the Municipal Code and the Air Pollution Control District to address short-term air quality impacts related to construction.

The standard mitigation measures for reducing nitrogen oxide (NOx), reactive organic gases (ROG), and diesel particulate matter (Diesel PM) emissions from construction equipment are listed below:

- a. Maintain all construction equipment in proper tune according to manufacturer's specifications;
- b. Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
- c. Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner offroad heavy-duty diesel engines, and comply with the State off-Road Regulation;
- d. Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;
- e. Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NOx exempt area fleets) may be eligible by proving alternative compliance;
- f. All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5 minute idling limit;
- g. Diesel idling within 1,000 feet of sensitive receptors is not permitted;
- h. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
- i. Electrify equipment when feasible;
- j. Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and,
- k. Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.

With the implementation of the mitigation measures, potential impacts to air quality resulting from the project would be reduced to less than significant levels.

Monitoring: All mitigation measures shall be required as notes on the plans and Public Services Department staff shall monitor compliance with the conditions in the normal course of reviewing building plans.

Section: Biological Resources

Mitigation Measures

1. Federal and state permits applicable to the proposed project shall be secured and evidence of permits shall be on file with the Public Services Department prior to the issuance of building permits.
2. Silt screens shall be placed within the area of all in-water construction or disturbance to reduce potential turbidity associated impacts and all construction shall occur within the project footprint.
3. To avoid impacts, all work that disturbs the ocean floor (i.e. installation of pilings) shall be overseen and monitored by the project biologist (Tenera Environmental or equivalent professional biologist approved by the Director of Public Services). The biologist shall be under contract prior to issuance of a building permit. Prior to the final building inspection the biologist shall submit a monitoring report to the Director of Public Services.
4. A pre- and post-construction Eelgrass survey shall be performed and submitted to the Director of Public Services and if necessary, an Eelgrass restoration plan shall be prepared in accordance with the Southern California Eelgrass Mitigation Policy. This Eelgrass restoration plan shall be submitted and approved by the Public Services Department prior to issuance of certificates of occupancy.
5. Prior to the issuance of a building permit, an approved "otter watcher" shall be under contract or otherwise committed to being on the job site at all times during which the pile driver is in operation. The contract or other written agreement between the applicant and the "otter watcher" shall specifically encourage or empower the "otter watcher" to stop work immediately in the event that a sea otter is detected in the project area. The contract, agreement, work scope or similar document shall further specify that no work shall be resumed until after the marine mammal has left the area. With this mitigation, the project would not have a significant impact of animals, or require a state or federal take permit. The results shall be reported to the Director of Public Services.
6. A Marine Wildlife Contingency Plan should be developed and approved by the NMFS, USFWS, and CDFG prior to the initiation of pile driving activities. This plan should describe specific methods that will be used to reduce pile driving noise and describe on-site marine wildlife monitoring and reporting requirements.
7. Power to the pile driver should be ramped up to allow marine wildlife to detect a lower sound level and depart the area before full power noise levels are produced.
8. If an impact hammer is used the installation of a "pad" between the pile and the pile drive hammer should be investigated and, if feasible, used to reduce impact hammer noise.

Monitoring: Public Services Department staff shall monitor compliance with the conditions by conducting site visits and in the normal course of reviewing building plans and the above required reports provided by City approved consultants. The project shall not receive occupancy clearance until the project is deemed to be in compliance with the above conditions.

Section: Geology/Soils

Mitigation Measures

Applicant shall submit a soil/geological report prior to the issuance of building permits.

Monitoring: Staff will review the report at time of building plan submittal to ensure proper construction methods are proposed for site conditions.

Section: Hazards/Hazardous Materials

Mitigation Measures

1. Prior to demolition of the existing structures, asbestos, and lead-based paint surveys shall be conducted. If asbestos containing materials are encountered, the materials will be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the San Luis Obispo Air Pollution Control District (APCD). If lead-based paint is identified, federal and State construction worker health and safety regulations should be followed during demolition activities. Any loose or peeling lead based paint should be removed by a qualified lead-abatement contractor and disposed of in accordance with existing hazardous waste regulations.

2. The following precautions shall be taken when handling creosote-treated wood:
 - a. Dispose of treated wood by ordinary trash collection or burlal.
 - b. Do not burn wood in open fires or in stoves, fireplaces, or residential boilers because toxic chemicals may be produced as part of the smoke and ashes.
 - c. Avoid frequent or prolonged inhalation of sawdust from treated wood.
 - d. Avoid frequent or prolonged skin contact with creosote-treated wood.
 - e. When handling the wood, wear long-sleeve shirts and long pants and use gloves impervious to the chemicals.
 - f. When power-sawing and machining, wear goggles to protect eyes from flying particles.
 - g. Wash clothes worn while working with creosote-treated materials separately from other household clothing.
3. At minimum one oil only absorbent spill kit for a capacity of 21 gallons or greater shall be provided on the head float dock in case of accidental release of a hazardous material or liquid into the bay.
4. Signs shall be provided on all finger docks stating the location and hours of operation for all pump out facilities in the Morro Bay Harbor.

With the implementation of these mitigation measures the potential impacts of hazardous or hazardous materials that could result from the project would be reduced to less than significant levels.

Monitoring: Prior to issuance of demolition permits asbestos and lead-based paint surveys, including recommended actions, shall be submitted to and accepted by the Public Services Department. City of Morro Bay staff shall verify that signs are adhered to docks prior to final inspection.

Section: Hydrology/Water Quality

Mitigation Measures

1. The proposed project shall be incorporated into the City of Morro Bay's existing tsunami warning and evacuation system. Local authorities should be able to evacuate people safely from the proposed project site in the event of a tsunami.
2. Silt screens shall be placed within the area of all in-water construction or disturbance to reduce potential turbidity associated impacts.
3. To reduce the potential of petroleum leakage/spills from equipment used in conjunction with the project the following practices shall be followed:
 - a. A project-specific Oil Spill Response and Recovery Plan that includes methods and procedures for reporting and responding to spills, available on-site equipment and contracted services, and personnel responsibilities should be completed and approved prior to the initiation of construction activities.
 - b. Refueling of onshore equipment should be accomplished within a designated area of the parking lot. The site shall be covered with impervious material, be located away from drains, and have spill recovery material within the immediate vicinity. The area shall be surrounded with a waddle of sorbent material.
 - c. A minimal volume of petroleum product shall be stored onsite and spill containment and recovery equipment should be sufficient to respond to the worse case spill volume.
4. Netting or fencing around and underneath the dock shall be installed to catch and remove debris released during and after de-construction.

Monitoring: Prior to issuance of building permits an Oil Spill Response and Recovery Plan shall be submitted to and accepted by the Public Services staff. Public Services staff shall verify compliance through the inspection of required fencing, silt screens and refueling operations during site inspections. Public Services Department staff shall monitor compliance with all other conditions in the normal course of reviewing improvement and building plans. The Five

INITIAL STUDY AND CHECKLIST – Giovanni's Fish Market and Galley Side Tie Dock, Finger Docks,
Awnings, and Parking Lot
CASE NO. UP0-284
DATE: February 3, 2010

Department will insure that the project site is incorporated into the City of Morro Bay's tsunami warning and evacuation system.

Section: Noise

Mitigation Measures

1. Project construction shall be limited to the hours of 7 a.m. to 7 p.m. on Monday through Friday and all large construction equipment will be equipped with "critical" grade noise mufflers. Engines will be tuned to insure lowest possible noise levels. Back up "beepers" will also be tuned to insure lowest possible noise levels. All necessary measures to muffle, shield or enclose construction equipment shall be implemented in order to insure that noise levels at the property line of the nearest parcels do not exceed 70 dBA. Construction timing shall be noted on the grading and construction plans.
2. Power generating and other noise generating machinery used for construction shall be partially or completely surrounded by temporary acoustical shelters if within 300 feet of a sensitive receptor.
3. Refer to section 4, Biology Resources mitigations 6, 7, and 8.

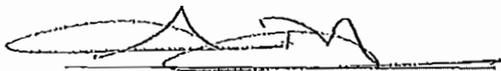
Monitoring: During the construction process, Planning and Building staff will make periodic site visits to ensure construction hours are adhered too and noise levels are within the allowable limits during construction.

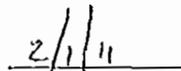
Section: Utilities and Service Systems

Mitigation and Residual Impact: Please refer to Hazards/Hazardous Materials section mitigation measure number 4.

Monitoring: Please refer to Hazards/Hazardous Materials monitoring section.

Acceptance of Mitigation Measures by Project Applicant:


Applicant


Date

Eelgrass (*Zostera marina*) and *Caulerpa taxifolia* Survey 1001 Front Street, Morro Bay, California

March 23, 2010

Prepared for:

Cathy Novak
P.O. Box 296
Morro Bay, CA 93443
805.772.9499

- and -

Giovanni DeGarimore
Giovanni's Fish Market & Galley
1001 Front Street
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Prepared by:

Tenera Environmental
141 Suburban Rd., Suite A2
San Luis Obispo, CA 93401
805.541.0310

Project Description

This report describes the results of an eelgrass (*Zostera marina*) and *Caulerpa taxifolia* survey completed on March 16, 2010 along a section of the Morro Bay Embarcadero known as Giovanni's Fish Market & Galley (Figures 1 and 2). This site is City of Morro Bay lease site 105.1W and 102W at 1001 Front Street, Morro Bay, California. There was no eelgrass or *Caulerpa* found. Details are provided below.

Mr. Giovanni DeGarimore, the lessee, wishes to attach four floating dock fingers (each 4 ft wide x 50 ft long) perpendicular to an existing 8 ft x 134 ft floating dock that runs parallel to the length of the parcel (Figures 3 to 6). The offshore end of each finger would be stabilized by 1-3 piles. The development application process for this work has been started with the City of Morro Bay.

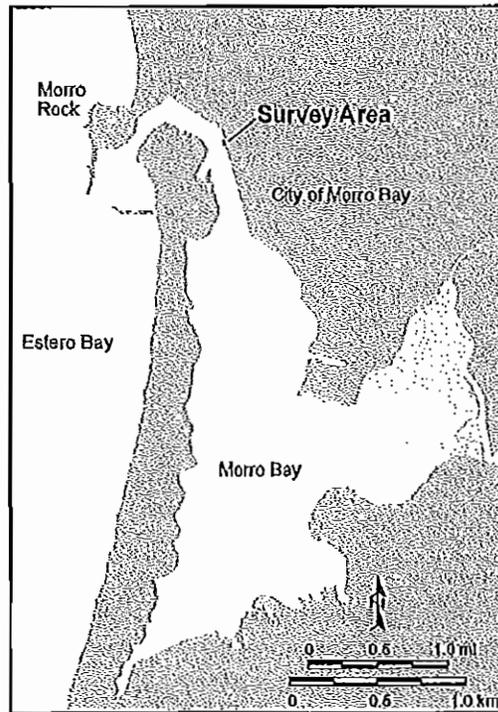


Figure 1. Location of the eelgrass survey at 1001 Front Street, Morro Bay.



In planning this work, Mr. DeGarimore with assistance from Ms. Cathy Novak (Cathy Novak Consulting) contacted Tenera Environmental of San Luis Obispo to complete an eelgrass mapping survey in the project area and to look for the potential occurrence of *Caulerpa*, an invasive green algal species. The survey was to determine what changes to eelgrass and *Caulerpa*, if present, might occur from installing the piles and from shading by the new dock fingers and boats using the new dock.

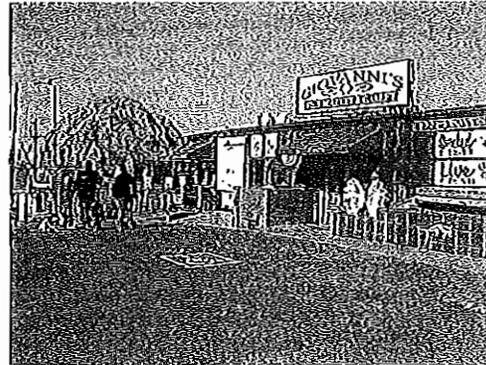


Figure 2. Giovanni's Fish Market & Galley at 1001 Front Street, Morro Bay, California.

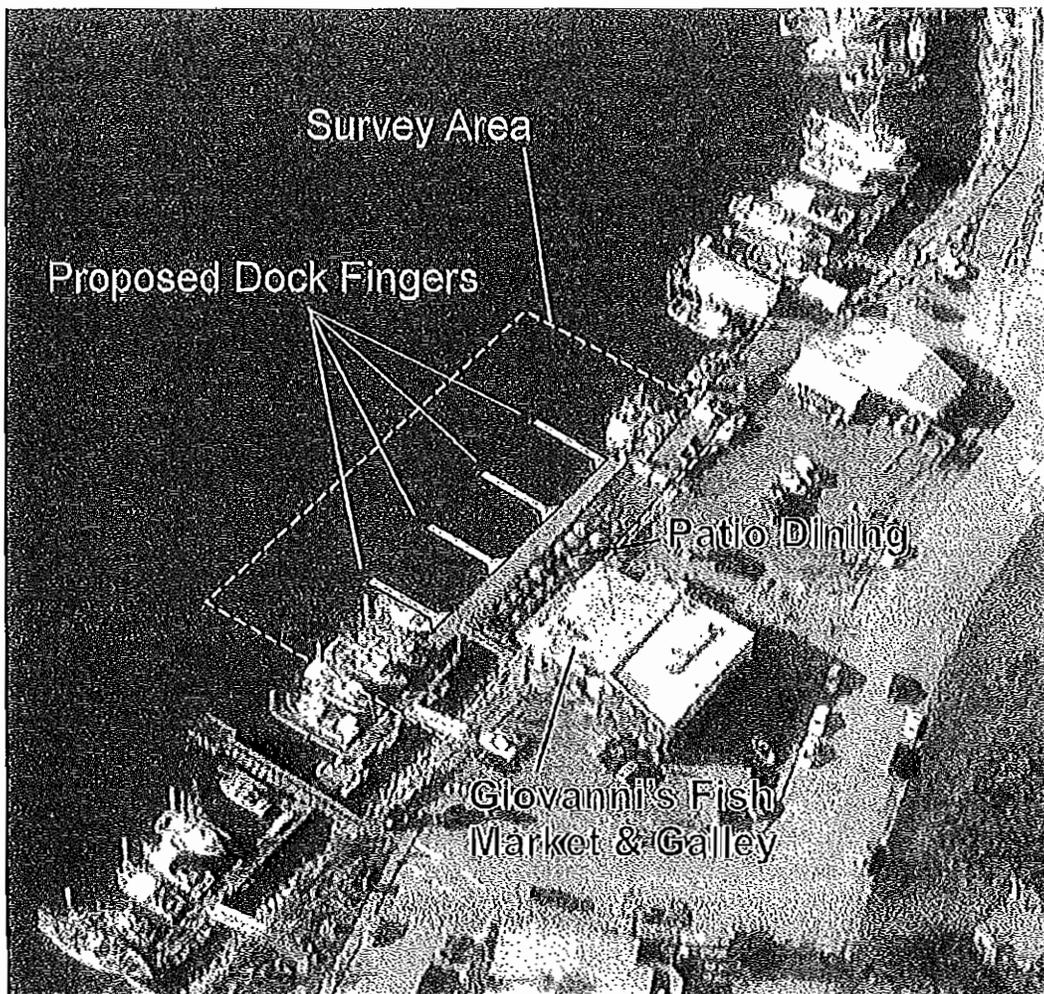


Figure 3. Proposed dock fingers off an existing floating dock at Giovanni's Fish Market & Galley and the seabed area surveyed for eelgrass and *Caulerpa* on March 16, 2010.



Eelgrass, as different from marine algae that reproduce by spores, is a flowering marine plant that reproduces by seeds. Eelgrass beds are known to occur in the general area, and are considered a Special Aquatic Site (SAS) by the U.S. Army Corps of Engineers, California Department of Fish and Game, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service. Eelgrass habitat is regulated under Section 404 of the Clean Water Act (CWA), and is also considered Essential Fish Habitat by NMFS. The 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) set the Essential Fish Habitat (EFH) provisions to identify and protect important habitats of federally managed marine species. Surveys are required to map the extent and location of eelgrass in projects that may affect eelgrass.

The mapping also included a careful search throughout the project area for the presence of *Caulerpa taxifolia*, a highly invasive green algal species that has been introduced into California. *Caulerpa* reproduces easily by fragmentation, and is therefore susceptible to spreading from waterfront construction projects that disturb the seabed, such as from installing piles.

Methods

The area of planned dock additions was the area offshore of the public boardwalk deck and floating dock at Giovanni's Fish Market & Galley (Figures 3 to 6). The seabed in the planned construction area is sand/mudflat with depths ranging between about -12 ft and -14 ft below the mean lower low water (MLLW) tide level.

Eelgrass in the project area was searched according to specifications of the Southern California Eelgrass Mitigation Policy (Revision 8), adopted by the National Marine

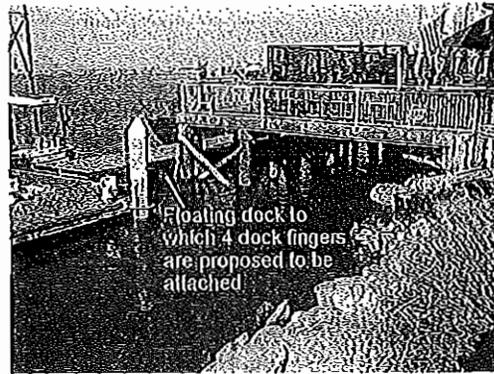


Figure 4. Floating dock beneath the public boardwalk deck to which four dock fingers are proposed to be attached.

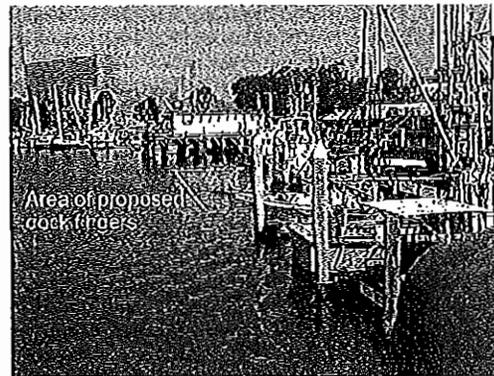


Figure 5. Area of proposed dock fingers.



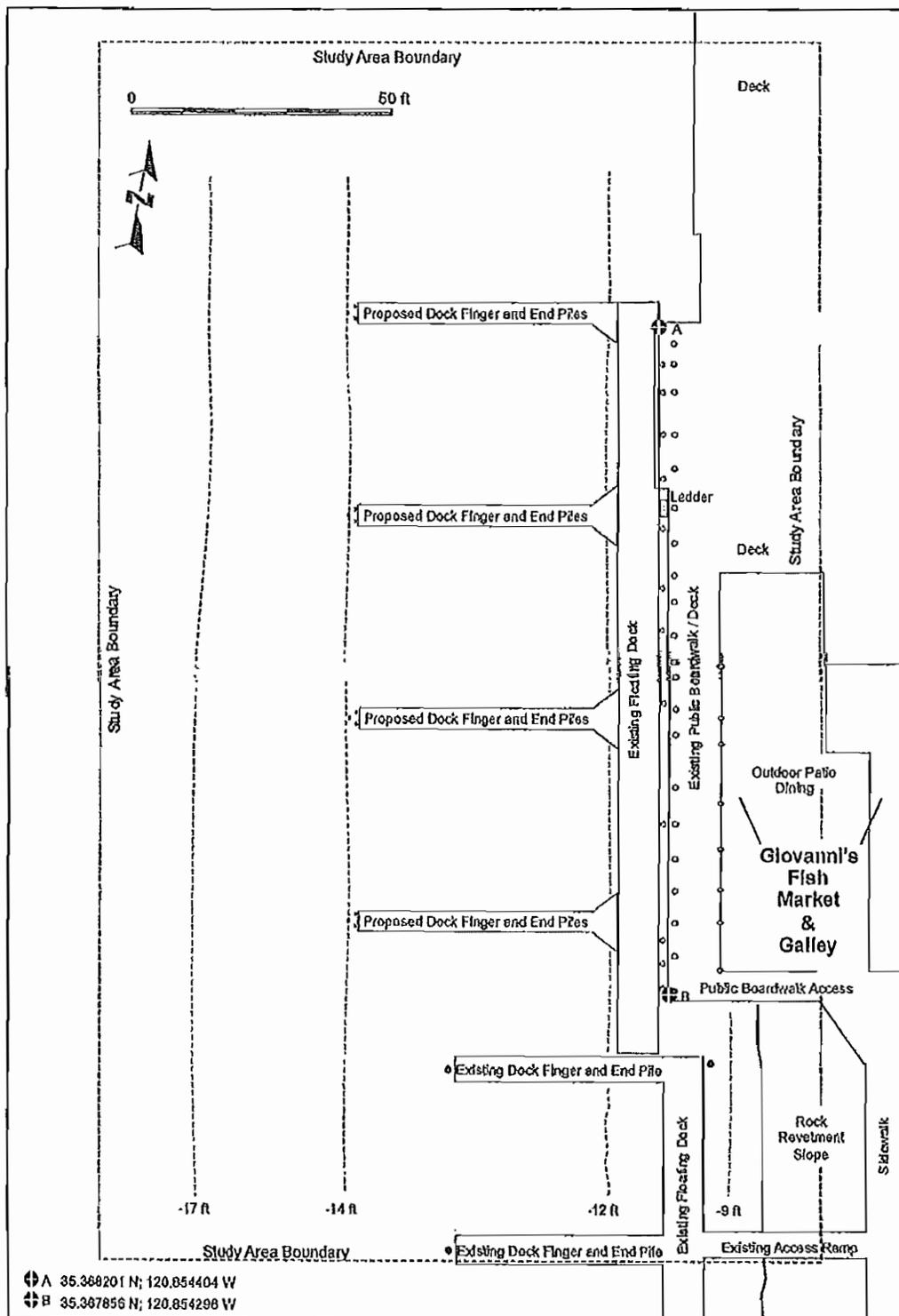


Figure 6. Proposed dock additions at 1001 Front Street, Morro Bay, California, and the seabed area surveyed for eelgrass and *Caulerpa* on March 16, 2010. No eelgrass or *Caulerpa* was found.



Fisheries Service (NMFS), U.S. Fish and Wildlife Service, and the California Department of Fish and Game. Two Tenere biologists equipped to map the distribution and density of eelgrass completed the survey using SCUBA. The along-shore length of the survey area was 234 ft (72 m) and the distance from the existing floating dock out to the offshore survey boundary was 100 ft (30 m) (Figure 6). These dimensions accounted for a 50 ft (15 m) perimeter surrounding all areas of proposed construction, a buffer zone suggested by the NMFS. Meter tapes were deployed as underwater transects at planned locations to search the area in a systematic fashion. The seabed beneath the overhanging deck and beneath all existing docks and docked boats in the survey area was also searched, including the rock-revetment open to direct sunlight located immediately south of Giovanni's Fish Market & Galley. All predominant species observed while searching for eelgrass and *Caulerpa* were recorded. This included kelp species, other algae, and invertebrates.

The survey was done on March 16, 2010 in the period before and after the slack 11:00 am high tide of approximately +3.5 ft MLLW. Underwater horizontal visibility was approximately 6 ft. Depths recorded in the survey area were corrected based on National Oceanic and Atmospheric Administration predicted tides and times for Morro Bay.

Survey Results

Eelgrass and *Caulerpa*

Eelgrass was not found, not even a single plant. Also, *Caulerpa* was not found. A separate report on the absence of *Caulerpa* was prepared and submitted to the NMFS, Southwest Region, Long Beach, California.

Other Species By Habitat

Sand/mudflat: Geoduck clams (*Panopea generosa*), ornate tube worms (*Diopatra ornata*), and unidentifiable burrows were present but not abundant in the sand/mudflat area where the dock fingers and piles are being considered. No plant species were observed, except for occasional blades of drift eelgrass snagged on the sheaths of ornate tube worms protruding above the sand/mudflat.

Areas underneath decking: The shore directly underneath the existing public boardwalk deck and outdoor dining patio, including the shore to the immediate north that is also underneath decking, is a vertical cement wall with rock rip-rap at the toe of the wall. These areas would not be affected by the new construction. No plant species (eelgrass or algae) were observed, because these areas are constantly shaded. The rock rip-rap at the toe of the cement wall was completely covered with a thick layer of loose detritus. Hydroids were the most common sessile invertebrates. Black turban snails (*Chlorostoma funebris*) and hermit crabs were the most common motile invertebrates.



Rock revetment south of Giovanni's Fish Market & Galley: The shore immediately south of Giovanni's Fish Market & Galley is a sloped revetment of rock rip-rap that angles downward into the bay and is open to direct sunlight. This area would not be affected by the new construction, due to location. While this area could potentially support eelgrass, no eelgrass was found. A thick layer of detritus covered all of the substrates in this area.

Hydroids and a few small clumps of filamentous red algae (*Polysiphonia* spp.) and brown algae (Ectocarpales) were present. A few small non-native bladder kelp plants (*Sargassum muticum*) were also observed, including a single juvenile giant kelp plant (*Macrocystis pyrifera*). Rough limpets (*Lottia scabra*) were the most common motile invertebrates on the revetment slope.

Pilings: Pilings were covered mainly with hydroids, bryozoans, and barnacles. The pilings were also heavily colonized by the introduced bryozoan *Watersipora subtorquata*.

Discussion

There was no eelgrass found in the Giovanni's Fish Market & Galley project area. This finding is generally consistent with eelgrass being variable in occurrence and density along the Morro Bay Embarcadero south of the Morro Bay T-piers.

Areas most likely to support eelgrass south of the T-piers tend to be close to or on the shoreline and between buildings, docks, and decks, areas not shaded by structures. Accordingly, a most likely area to find eelgrass near the proposed construction project was the revetment area located immediately south of Giovanni's Fish Market and Galley, because this area is shallow and is open to direct sunlight throughout the day. However, no eelgrass was found. The absence of eelgrass in this particular area was not unique, as other plant species (kelp and other algal species) were also lacking, or were very sparse in occurrence. The lack of essentially all plant species in this particular area was perhaps the result of the thick film of detritus covering all of the substrates being effective in preventing eelgrass seeds and algal spores from attaching and growing.

The absence of eelgrass further offshore on the sand/mudflat where the new dock fingers would be installed was likely due to insufficient light on the bottom, in being too deep. Many areas that Tenera has surveyed for eelgrass south of Giovanni's Fish Market & Galley have also lacked eelgrass at depths equivalent to those in the proposed construction area. On this basis, the area of the proposed construction appears to be unsuitable habitat for eelgrass. The absence of eelgrass could also be due in part from boat shading. Boats commonly use the existing floating dock attached to the public boardwalk and multiple boats can side-tie to each other at this dock for extended periods. Kelp plants and other algal species were also absent in the area of the proposed new dock fingers, indicative of insufficient light reaching the bottom.



ATTACHMENT 5



Memorandum

TO: PLANNING COMMISSION **DATE:** MARCH 16, 2011
FROM: SIERRA DAVIS, ASSISTANT PLANNER
SUBJECT: CLARIFICATION OF CODE REQUIREMENTS

Grandfathered Parking and Historic Parking Credits

Grandfathered parking and/or historic parking credits are based on parking requirements contained in the zoning ordinance at the time the building and/or use at the time a permit was granted .. For the purposes of the project located at 1001 Front Street the Zoning Ordinance would require parking for the docks at 1 space for every 35 linear feet of physical dock. Pursuant to Staff's research at no time has the city ever required parking be installed for side tying of boats. As such there would not be any historic credit for spaces because code would have never required such spaces. The the applicant's agent, Ms. Novak has request parking credits based on the past practices of the business, however business practices are not the method used by the city in determining required parking.

Accessible Parking Space

Accessible parking space, current code (CBC Sec 11298.1) requires that an accessible space be located on the shortest accessible route of travel from the parking lot to the accessible entrance to the proposed use. The code would be satisfied by relocating the accessible space to the west side of the parking lot requiring a path of travel of approximately 20 feet. If it were to remain as proposed by the applicant it would require approximately 520 feet of additional travel to reach the proposed use. Clearly a finding cannot be made that this location is the shortest route.

Head-float Dock

The plans dated January 25, 2011 delineate that the head float dock adjacent to the existing wharf is existing. Staff would like to clarify that the head-float is what currently exists on site, however the previous dock was removed and the current head float was done without benefit of a permit.

ATTACHMENT 6

Attachment 1

AMENDED FINDINGS

California Environmental Quality Act (CEQA)

- A. The project qualifies for a CEQA Mitigated Negative Declaration was posted on February 4, 2011. The applicant has agreed to implement the mitigation measures proposed in the Negative Declaration. Thus there are no significant impacts with the implementation of those mitigation measures.

Concept Plan Findings

- B. Modification of standards shall only be approved upon finding that greater than normal public benefits may be achieved by such deviations. Such benefits may include, but are not limited to improved or innovative site and architectural design, greater public or private usable open space and provision of housing for the elderly or low/moderate income families, provision or extraordinary public access, provision for protection environmentally sensitive habitat (ESH) area, but in all cases these provisions shall meet the coastal land use policies. The applicant has requested exceptions to the parking lot and shall be covered under the parking exception. All other elements of the plan meet code and shall be built in substantial conformance to the plans date January 25, 2011.

1. The following modification of standards are approved with this project:

Alternative parking design including modifications to circulation, stall size and reduction in landscaping. These modifications provide increase the number of parking stalls beyond those provided under Zoning Ordinance standards. The Water Front master Plan as well as the parking Management plan indentify the Embarcadero area as parking deficient therefore while these spaces are not within a public parking lot there addition will decrease the demand for customers to park off-site or in public parking lot located on the Embarcadero.

Remaining modifications requested by the applicant cannot be approved as the above finding could not be made.

Use Permit Findings

- C. That the project is an allowable use in its zoning district and is also in accordance with the certified Local Coastal Program and the General Plan for the City of Morro Bay based on the analysis and discussion in the attached staff memorandum; and
- D. The establishment, maintenance, or operation of the use applied for will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use as the project will be consistent with all applicable zoning and plan requirements as indicated in the attached staff memorandum; and

E. The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City since the project, as conditioned, will be constructed and developed consistent with all applicable City regulations, as indicated in the attached staff memorandum.

Parking Exception

F. Special Circumstances. The exceptions will not constitute a grant of a special privilege inconsistent with the driveway and parking limitations upon other properties in the vicinity and the reduced parking or alternative to the parking design standards of this chapter will be adequate to accommodate on site all parking needs generated by the site. Certain exceptions to the parking requirements can be granted however they must adhere to the Conditions of Approval for specific parking standards, the remaining exceptions if granted would create inadequate parking design and therefore cannot be granted.

G. Health, Safety and Welfare. The exception will not adversely affect the health, safety or general welfare of persons working or residing in the vicinity and that no traffic safety problems will result from the proposed modification of parking standards. With the implemented Conditions of Approval, and the restriping of the parking lot to meet Conditions of Approval, the Planning Commission can find that the parking lot would incorporate safe circulation standards.

H. Applicant's Full Enjoyment. The exception is reasonably necessary for the applicant's full enjoyment of uses similar to those upon the adjoining real property. The parking exceptions granted are reasonable however the remaining exceptions are not exhibited anywhere in the vicinity and therefore if granted would be considered a special entitlement.

Attachment 2

AMENDED CONDITIONS OF APPROVAL

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report referenced above, dated March 16, 2011 for the project depicted on the attached plans, dated January 25, 2011, on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:
 1. Site development, including all buildings and other features, shall be located and designed substantially as shown on the aforementioned exhibit, 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 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 of Public Services, 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 Director of Public Services. Any changes to this approved permit determined not to be minor by the Director 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, City of Morro Bay, 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 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 Director of Public Services 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 the applicant shall file with the Director of Public Services written acceptance of the conditions stated herein.

PLANNING CONDITIONS

1. State and County Compliance: Prior to the issuance of a building permit applicant shall demonstrate compliance with all State and County regulations and provide documentation to the Public Services Department.
2. 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. on weekdays and eight a.m. to 7 p.m. on weekends, unless an exception is granted by the Director of Public Services pursuant to the terms of this regulation.
3. Parking Agreement: The parking lot to be utilized for on-site parking is located on an adjacent site. The applicant shall provide a parking agreement between all properties owners on which parking lot is located. This agreement shall be submitted and recorded prior to the issuance of any building permit.
4. Live Aboards: Live aboard marine vessels shall not be allowed unless a modification to this permit is obtained and there has not been permitting provided for such use.
5. Parking Circulation: The parking lot shall be restriped to meet all circulation minimum requirements for drive aisle and parking space dimensions. New parking lot design shall be demonstrated in the precise plan subject to the approval by the Director of Public Services.
6. Parking Space Labels: The parking spaces reserved for the docks shall be labeled and open and available for people using the docks. At no time shall equipment, delivery trucks, or marine storage tanks, nor the like be placed in the parking spaces.
7. Exit and Entrance Directional Arrows: Exit and entrance direction arrows shall be marked on the pavement where one-way driveways are used. Pavement signing shall be marked and maintained as required by the city engineer. Entrance signing may be required by the City Engineer whenever conditions warrant. Code requirement.
8. Accessible Parking Space: The van accessible parking space shall be moved to the to the west side of the parking lot and shall be the first parking space adjacent to the landing and gangway.

9. Street Frontage: A maximum of 3 foot high masonry wall, mature hedge or landscaping berm shall be required in order to maintain the pedestrian view shed to the bay.
10. Curb Stops: Curb stops shall be provided for each parking space that head into a wall, fence, building, or the side of another parking space.
11. Landscape Plan: A landscape plan shall be submitted with the precise plan depicting that the minimum 5% landscaping requirement is maintained.
12. Docks: Docks cross water lease lines and an agreement from the City and lease holders shall be secured.
13. Photometric Plan: A photometric plan shall be submitted to the Planning Division prior to issuance of any building permit detailing that the lighting will meet a minimum of 5 foot candle for all dock areas.

FIRE CONDITIONS

1. Standpipe Systems. Marinas and boatyards shall be equipped throughout with Standpipe Systems in accordance with NFPA 303. (CFC 905.3.7) Please submit plans and detail of all required Standpipe System and Hose Cabinets at Building Plan submittal.
2. Water supply for fire protection of piers and wharves shall be in accordance with NFPA 307 (Chapter 7).
3. Fuel Dispensing. Marina Fuel dispensing units for transferring fuels from storage tanks shall be in accordance with NFPA 30-A. (NFPA 303-8.3.10 & CFC 2210.1)
4. Construction and fire protection of marine terminals, piers, and wharves shall be in accordance with NFPA 307 (Chapter 4 Piers and Wharves).
5. Construction of Marine Docks and Gangways shall be in accordance with Morro Bay Municipal Code, Chapter 14.52.
6. Portable Fire Extinguishers. Placement of portable fire extinguishers on piers, bulkheads, and fuel dispensing areas, shall be in accordance with NFPA 10 (Chapter 5). (NFPA 303-6.2.1.1.1 & 6.2.1.1.2.1)
7. Awning Plan. Please provide details of the Awning Plan at Building Plan submittal.
8. 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 materials meeting the flame propagation performance criteria of NFPA 701, or treated with a flame retardant in an approved manner. (CFC 2404.2)

9. 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)
10. 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.
11. 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)
12. 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)
13. LP-Gas. The storage, handling and use of LP-gas and LP-gas equipment shall be located outside canopy structures, with safety release valves pointed away. (CFC 2404.16)
14. Fuel-Fired Appliances. The installation of non-portable 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)
15. Means of Egress. At least two exits shall be provided in this A-2 occupancy. (CFC 1019)
16. 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)

ENVIRONMENTAL

Aesthetics

1. The awning system shall be freestanding and shall only be attached at the base of the awning system to the wharf. The awning shall not be attached to the existing windscreen, structures on site nor be attached in a way that would enclose the area in any fashion.
2. The awning system shall maintain a minimum 6 inch height clearance above the top of the windscreen to maintain that the awning system does not enclose the public view area.

Air Quality

The project is subject to standard construction practices, including dust control measures required by the Municipal Code and the Air Pollution Control District to address short-term air quality impacts related to construction.

The standard mitigation measures for reducing nitrogen oxide (NOx), reactive organic gases (ROG), and diesel particulate matter (Diesel PM) emissions from construction equipment are listed below:

- a. Maintain all construction equipment in proper tune according to manufacturer's specifications;
- b. Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
- c. Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner offroad heavy-duty diesel engines, and comply with the State off-Road Regulation;
- d. Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;
- e. Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NOx exempt area fleets) may be eligible by proving alternative compliance;
- f. All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5 minute idling limit;
- g. Diesel idling within 1,000 feet of sensitive receptors is not permitted;
- h. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
- i. Electrify equipment when feasible;
- j. Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and,
- k. Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.

With the implementation of the mitigation measures, potential impacts to air quality resulting from the project would be reduced to less than significant levels.

Biological Resources

1. Federal and state permits applicable to the proposed project shall be secured and evidence of permits shall be on file with the Public Services Department prior to the issuance of building permits.
2. Silt screens shall be placed within the area of all in-water construction or disturbance to reduce potential turbidity associated impacts and all construction shall occur within the project footprint.
3. To avoid impacts, all work that disturbs the ocean floor (i.e. installation of pilings) shall be overseen and monitored by the project biologist (Tenera Environmental or equivalent professional biologist approved by the Director of Public Services). The biologist shall be under contract prior to issuance of a building permit. Prior to the final building inspection the biologist shall submit a monitoring report to the Director of Public Services.
4. A pre- and post-construction Eelgrass survey shall be performed and submitted to the Director of Public Services and if necessary, an Eelgrass restoration plan shall be prepared in accordance with the Southern California Eelgrass Mitigation Policy. This Eelgrass restoration plan shall be submitted and approved by the Public Services Department prior to issuance of certificates of occupancy.

5. Prior to the issuance of a building permit, an approved “otter watcher” shall be under contract or otherwise committed to being on the job site at all times during which the pile driver is in operation. The contract or other written agreement between the applicant and the “otter watcher” shall specifically encourage or empower the “otter watcher” to stop work immediately in the event that a sea otter is detected in the project area. The contract, agreement, work scope or similar document shall further specify that no work shall be resumed until after the marine mammal has left the area. With this mitigation, the project would not have a significant impact of animals, or require a state or federal take permit. The results shall be reported to the Director of Public Services.
6. A Marine Wildlife Contingency Plan should be developed and approved by the NMFS, USFWS, and CDFG prior to the initiation of pile driving activities. This plan should describe specific methods that will be used to reduce pile driving noise and describe on-site marine wildlife monitoring and reporting requirements.
7. Power to the pile driver should be ramped up to allow marine wildlife to detect a lower sound level and depart the area before full power noise levels are produced.
8. If an impact hammer is used the installation of a “pad” between the pile and the pile drive hammer should be investigated and, if feasible, used to reduce impact hammer noise.

Geology/Soils

Applicant shall submit a soil/geological report prior to the issuance of building permits.

Hazards/Hazardous Materials

1. Prior to demolition of the existing structures, asbestos, and lead-based paint surveys shall be conducted. If asbestos containing materials are encountered, the materials will be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the San Luis Obispo Air Pollution Control District (APCD). If lead-based paint is identified, federal and State construction worker health and safety regulations should be followed during demolition activities. Any loose or peeling lead based paint should be removed by a qualified lead-abatement contractor and disposed of in accordance with existing hazardous waste regulations.
2. The following precautions shall be taken when handling creosote-treated wood:
 - a. Dispose of treated wood by ordinary trash collection or burial.
 - b. Do not burn wood in open fires or in stoves, fireplaces, or residential boilers because toxic chemicals may be produced as part of the smoke and ashes.
 - c. Avoid frequent or prolonged inhalation of sawdust from treated wood.
 - d. Avoid frequent or prolonged skin contact with creosote-treated wood
 - e. When handling the wood, wear long-sleeve shirts and long pants and use gloves impervious to the chemicals.
 - f. When power-sawing and machining, wear goggles to protect eyes from flying particles.
 - g. Wash clothes worn while working with creosote-treated materials separately from other household clothing.
3. At minimum one oil only absorbent spill kit for a capacity of 21 gallons or greater shall

be provided on the head float dock in case of accidental release of a hazardous material or liquid into the bay.

4. Signs shall be provided on all finger docks stating the location and hours of operation for all pump out facilities in the Morro Bay Harbor.

With the implementation of these mitigation measures the potential impacts of hazardous or hazardous materials that could result from the project would be reduced to less than significant levels.

Hydrology/Water Quality

1. The proposed project shall be incorporated into the City of Morro Bay's existing tsunami warning and evacuation system. Local authorities should be able to evacuate people safely from the proposed project site in the event of a tsunami.
2. Silt screens shall be placed within the area of all in-water construction or disturbance to reduce potential turbidity associated impacts.
3. To reduce the potential of petroleum leakage/spills from equipment used in conjunction with the project the following practices shall be followed:
 - a. A project-specific Oil Spill Response and Recovery Plan that includes methods and procedures for reporting and responding to spills, available on-site equipment and contracted services, and personnel responsibilities should be completed and approved prior to the initiation of construction activities.
 - b. Refueling of onshore equipment should be accomplished within a designated area of the parking lot. The site shall be covered with impervious material, be located away from drains, and have spill recovery material within the immediate vicinity. The area shall be surrounded with a waddle of sorbent material.
 - c. A minimal volume of petroleum product shall be stored onsite and spill containment and recovery equipment should be sufficient to respond to the worse case spill volume.
4. Netting or fencing around and underneath the dock shall be installed to catch and remove debris released during and after de-construction.

Noise

1. Project construction shall be limited to the hours of 7 a.m. to 7 p.m. on Monday through Friday and all large construction equipment will be equipped with "critical" grade noise mufflers. Engines will be tuned to insure lowest possible noise levels. Back up "beepers" will also be tuned to insure lowest possible noise levels. All necessary measures to muffle, shield or enclose construction equipment shall be implemented in order to insure that noise levels at the property line of the nearest parcels do not exceed 70 dBA. Construction timing shall be noted on the grading and construction plans.
2. Power generating and other noise generating machinery used for construction shall be partially or completely surrounded by temporary acoustical shelters if within 300 feet of a sensitive receptor.
3. Refer to section 4, Biology Resources mitigations 6, 7, and 8.

Utilities and Service Systems

Please refer to Hazards/Hazardous Materials section mitigation measure number 4.



AGENDA NO: B-5

MEETING DATE: 04/12/2011

Staff Report

TO: Honorable Mayor and City Council

DATE: April 7, 2011

FROM: Andrea K. Lueker, City Manager

SUBJECT: Recommendation on the Future of the Visitors Center, including Discussion on a Marketing Specialist, and the Combining of the Community Promotions Committee (CPC) and the Tourism Business Improvement District (TBID)

RECOMMENDATION

Staff recommends the following:

1. Leave the current management structure at the Visitors Center
 - a. Re-allocate Chamber/Visitors Center funds to create a full-time marketing specialist/events coordinator position;
 - b. Determine specific measures of success for the Visitors Center, with a status report to the City Council at six month intervals;
 - c. Participate on the Economic Development Committee;
 - d. Over the next year, combine the CPC and TBID; and
2. Add off-site, informational, visitors' kiosks.

FISCAL IMPACT

Not applicable at this time.

BACKGROUND

Over the past nine months, the City Council has initiated significant changes that affect the operation of the Visitors Center, to include:

1. Incorporating new language, regarding financial reviews of the Visitors Center, into the Agreement between the Chamber of Commerce and the City of Morro Bay, to include more comprehensive financial statements that delineate Visitors Center expenditures funded solely by the City, as well as expanded, detailed monthly statements;
2. Foregoing a TOT increase in exchange for TBID agreeing to increase its assessments from 2% to 3%;
3. Approving TBID funding of \$50,000 of the Visitors Center costs;
4. Adding the City Manager, or her designee, as a voting member of both the Chamber Executive Board and the General Board of Directors. Additionally, the City Manager, or her designee, will be part of the Finance Committee, which will be reviewing the financials with other members of the

Prepared By: AL

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Board of Directors;

5. Moving forward with a new marketing/advertising agency; and
6. Requiring that the Visitors Center provide to TBID/CPC, pursuant to a motion approved by the TBID Board in March 2011, a monthly report, including copies of invoices, a verbal report from the Chamber Executive Director, regarding how Visitors Center staff is trained/informed about TBID “packages or specials,” and a more comprehensive financial report.

During the January 25, 2011 City Council meeting, the Council further reviewed the progress to date, and directed staff to:

1. Reschedule this item as a public hearing within sixty (60) days to include further analysis and time study;
2. Invite stakeholders; and
3. Explore the concept of a public workshop.

DISCUSSION

Throughout the last few months, the City Council has evaluated the Visitors Center, as well as provided direction for a number of changes to be made, of which most have been accomplished. The City is in a redefining position now, with a new marketing/advertising agency, Barnett Cox, coming onboard to promote the Morro Bay experience. Barnett Cox is beginning work on a marketing plan that will provide clear direction for the City to take in its efforts to enhance and increase tourism, an important goal of the marketing strategy. In order for the City to realize its full potential, it is extremely important that the many different agencies and organizations in the City work collaboratively.

Attached are discussions of the recommended and not recommended options the City Council could pursue, and/or topics of discussion for a public workshop, as mentioned in the January 2011 City Council motion. Staff has provided a recommended direction for the City Council to consider and implement or amend, as they see fit.

CONCLUSION

With the changes the City Council has made and directed to be made with both the Visitors Center and the new marketing agency and marketing plan, accompanied by the Chamber of Commerce hiring a new Chamber CEO, staff believes that the City is poised for success. By implementing staff’s recommendation, staff believes the City will see an increase in tourism, better organize our marketing efforts, begin some strategic economic development, and hopefully enhance all agencies to foster cooperative working relationships.

ALTERNATIVES RECOMMENDED BY STAFF

1. Leave the Current Management Structure at the Visitors Center with Modifications Directed by the City Council

The City has engaged a new marketing firm, is in the second full year of increased funding for marketing, as a result of the TBID, and has a City Council that continues to stress business development/business friendly strategies in the City. Based on these factors, it may be prudent to leave the Visitors Center operation managed by the Chamber of Commerce, through a contract with the City, with the following modifications:

- a. **Marketing/Event Position** – the City Council has asked staff to bring back a discussion of a marketing position within the City structure. In light of the staffing reductions that took place last year in the General Fund, staff is concerned about adding another position to the City structure and where that funding might be found. However, funding a dedicated individual to marketing may be accomplished through a reallocation of funds. In previous years, the Chamber and the Visitors Center combined funding for a full-time Event Coordinator position at approximately \$35,000 per year. That Event Coordinator position was vacated some time ago, and has not been refilled, resulting in the remaining staff members absorbing those duties and hours. The Chamber realizes its need for an Events Coordinator, at least a ½ time position. Staff has discussed with the Chamber CEO, the concept of combining that ½ time events coordinator with a second ½ time position being dedicated solely to working on specific marketing issues in tandem with the new marketing agency. The specific job description and duties could be formulated after staff has successfully negotiated a contract with the new marketing firm, and discussions held on how this individual could be used. Initial work tasks may include coordinating all events for a comprehensive event calendar, attendance at the CPC/TBID meetings, acting as the contact person between the marketing company/City/Visitors Center/Chamber, and sitting on the Economic Development Committee.
- b. **Negotiate Specific Measures of Success** - discussions have taken place on how to measure the success of the Visitors Center. The Visitor Center’s function is to provide information to people responding to the various marketing efforts, and to provide information to people already in Morro Bay, with the goal of extending stays or increased spending by exposing them to new tourism opportunities. One of the best measures of success for the Visitors Center is traffic count. Other measures may include, but are not be limited to, website hits, monitoring of the new marketing strategies developed and implemented, results of periodic performance and audit reports, and expenditures within budget. These other measures, or indicators, rely on the success of other marketing programs, ad placements, quality of creative, targeted markets, the economy, and the way the community works together to execute an effective marketing plan.
- c. **Six Month Review of the Visitors Center** – staff would recommend that at intervals of six months, a report be provided to the City Council on how the Visitors Center is functioning, especially in relation to the established specific measures of success.

- d. **Formation of an Economic Development Committee** – one of the components, which the City of Morro Bay is not able to afford at this time, is a specific economic development professional. This individual would be the catalyst for economic development and business stimulation in the City, working with existing businesses for improvement, as well as attracting new options. The CEO of the Chamber recently formed an Economic Development Committee, which is a partnership of the Chamber and City, and examines the economic development needs of Morro Bay, develops strategies to address those needs, and forms the necessary partnerships to achieve its objectives. These aspects of economic development will be investigated including, but not limited to, business retention and expansion, business recruitment, entrepreneurial, workforce, and community development. The following individuals have agreed to participate on the committee: Andrea Lueker, Craig Schmidt, John Weiss, Nancy Johnson, Noah Smukler, Dan Reddell, Susan Stewart, George Ross, Steve Dinelli and Bill Pierce. The first meeting of this committee was held on Tuesday, April 5, 2011, with regularly scheduled meetings to follow on a monthly basis. The Committee is likely to consider some items that have been reviewed in the past, such as local business training and the consideration of a study on business recruitment and retention, as well as new concepts outlined above. The goal of the committee will be to formulate a broad strategic and economic development plan. Staff would anticipate that the City Council will be updated with the Economic Development Committee’s actions on a regular basis.
- e. **Combine the CPC and TBID Boards into One Larger Board** – as the CPC and the TBID have continued to work in parallel for the past 20 months, often on similar and/or the same projects, staff believes that, over the next year and through attrition of board members, the boards should be combined, and tasked with overseeing all funding generated from the TBID assessment, as well as the General Fund monies currently provided to the CPC. This move is not designed to eliminate and/or reduce the amount of General Fund money that is currently provided, but increase efficiencies and reduce redundancies. When the TBID was initially conceived, there was discussion of a single board, overseeing all promotions; but at that time, it was thought best to move forward with two separate boards for a period of time. The initial concept of a combined board includes continuing with a majority of hoteliers, as a more significant amount of money (at this time) comes from that segment, and eliminating, as a board member, the Chamber CEO, but continuing his participation as a non-voting member/staff. Should the City Council desire to move in this direction, staff will formulate a further plan on the combination of the boards.

2. **Kiosks/Booths around town**

Rather than relocate the Visitors Center, one concept is that of placing additional informational kiosks in several other locations in Morro Bay. These kiosks could include actual visitor information stands, booths with brochures, or touch screen computer kiosks. The kiosks/booths could be located in existing businesses, public buildings, or public spaces, and could be “managed” by a staff member of the Chamber, a business owner, or a volunteer. There would be initial purchase costs, and ongoing material or data upkeep costs.

ALTERNATIVES NOT RECOMMENDED BY STAFF

1. **Bring the Visitors Center In-House, Operated by the City of Morro Bay**

There are very few cities that operate their own Visitors Center. Of the three cities reviewed, two, in the last year, privatized those operations to other agencies; only the City of Pismo Beach continues operating its own.

Mammoth Lakes – in July 2010, the Town of Mammoth Lakes changed from an in-house operation to contracting out to Mammoth Lakes Tourism, a non-profit organization. This was done as Mammoth Lakes determined that contracting with a non-profit was more fiscally responsible, would increase participation by local businesses, leverage tax revenues more effectively, and have the ability to act more entrepreneurial.

Pismo Beach – the Convention and Visitors Bureau (CVB) is run by a mid-level manager that reports to the City Manager. The CVB Board and Pismo's Business Improvement Board are one in the same, and each has an approximate budget of \$570,000, for a total of \$1,140,000. The City-run CVB has two full-time and one part-time staff funded, allocating approximately 18% or \$200,000 for these costs, with an additional \$35,000 of funding paid to the City of Pismo Beach from the BID for administrative costs of managing the BID.

City of Redding – the Visitors Bureau was operated under the City's Support Services Department. However, last year, the City chose to no longer operate the Visitors Bureau, and contracted with the Shasta Cascade Wonderland Association.

2. **Extend a Request for Proposals (RFP) for the Operation of the Visitors Center**

The Visitors Center is currently operated by the Morro Bay Chamber of Commerce, who contracts with the City of Morro Bay for that operation. Currently, there is approximately \$102,000 of General Fund monies and \$50,000 of TBID monies funding that operation. The combining of staff for the Chamber and the Visitors Center seems to be an economical and functional way to offer services, especially for a community the size of Morro Bay. However, the City Council may be interested in what other organizations could provide in terms of Visitors Center operation. If the City Council directs staff to extend a RFP for the operation of the Visitors Center, the process will take approximately 4-6 months, which will include writing the document, circulation, review, interview and recommendation of award of contract.

3. **Community Assessment/Location of Visitors Center**

There has been continued discussion regarding the location of the Visitors Center. While staff is hesitant to recommend a study or consultant, City staff does not have the expertise to answer these questions, and recommends that if there is interest in a site review, it should be performed by a professional versed in this type of work, and the research should be done, based on some sort of recognized data. There are a number of research organizations that do this type of work, one of which is called Destination Development International (attached information). While staff is not recommending moving the Visitors Center at this time, we have provided information on an organization that conducts a measured procedure to determine the best location.

u.w.council.staff report continued discussion on vc final 4 2011



AGENDA NO: D-1

MEETING DATE: April 12, 2011

Staff Report

TO: Honorable Mayor and City Council

DATE: April 4, 2011

FROM: Andrea K. Lueker, City Manager

SUBJECT: Approval of the Service Retirement Incentive Program for Fiscal year 2011/12 Budget

RECOMMENDATION:

Staff recommends the City Council approve the Service Retirement Incentive Program.

FISCAL IMPACT:

Unknown at this time, due to unidentified number of participating employees; however, the program will create a net savings due to: replacement/new employee(s) being hired at a lower step than the retiring employee(s), the potential of the implementation of new retirement formulas for newly hired employees as well as costs savings attained during the hiring process for the newly vacated position(s).

BACKGROUND

During the budget process for the fiscal year 2010/11, the City Council offered a SRI program to employees that were eligible to retire. That program offered a lump-sum incentive of \$10,000 to be paid to those who retired by June 30, 2010. In order to be eligible for the lump sum payment, the employee was required to complete an agreement memorializing their commitment by May 15, 2010. A similar program was also offered during fiscal year 2009/10.

DISCUSSION

Especially in recent years, a number of cities have structured retirement incentives as a means of short-term and long-term savings. There are a number of ways to structure a retirement incentive, with the most popular being:

1. Purchasing two years of California Public Employees Retirement System (PERS) service credit.
2. Paying retiree health premiums for a specified period.
3. Contributing to a retiree health savings account.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

4. Providing a one-time, lump-sum payment.

Staff considered and evaluated various retirement incentive options and programs, and is presenting a one-time, lump-sum service retirement incentive program. The program does not add on-going cost to the City as do some of the other retirement incentive programs staff explored. As an example, purchasing PERS service credit potentially affects the City's PERS rates for a number of years.

The program creates both potential short-term and long-term savings for the City and allows employee flexibility in selecting their retirement date. A lump sum incentive also provides individuals with the flexibility to use the funds in any manner they choose. This lump-sum incentive will be reported by the City to the Internal Revenue Service as taxable income. The incentive payment is not considered compensation by PERS and therefore is not considered in an employee's single highest year for retirement benefit calculations.

After formal adoption of the program by the City Council, applicants will be required to sign an agreement and release of claim against the City in exchange for the incentive. Eligibility for the retirement incentive program is predicated upon a full-time regular employee having satisfied the conditions delineated by PERS with respect to age and years of credited service. Only regular benefitted employees are eligible to participate in the program.

This voluntary retirement incentive program will be communicated to all eligible employees after approval, if that occurs. After the May 31, 2011 deadline, staff will be able to provide you the exact numbers of employees who will take part in this incentive program.



City of Morro Bay
Service Retirement Incentive Program Application

Please submit this Application, as well as your executed Agreement and Release, to Susan Slayton, Administrative Services Director, as soon as possible, but no later than **5:00 pm on Tuesday, May 24, 2011.**

Employee Name: _____

Job Title: _____

Department: _____

Service Retirement Date: _____

I voluntarily choose the following incentive amount based on my voluntary service retirement (Check one box below.)

- One-time Lump-Sum payment in the amount of \$10,000 paid to me.**

- One-Time Lump-Sum payment in the amount of \$10,000, paid to my designated Deferred Compensation provider.**

- Reimbursement of retiree health insurance premiums up to a total of \$10,000, paid to me, on a monthly basis with proof of premium payment.**

EMPLOYEE SIGNATURE

DATE

City of Morro Bay
Service Retirement Incentive Program
Agreement and Release

This **Agreement and Release** (“Agreement”) is entered into this _____ day of _____, 2011, by and between _____ (“Employee”) and the City of Morro Bay (“City”).

WHEREAS, Employee is currently employed by City; and

WHEREAS, City is offering a “Service Retirement Incentive Program” (“Program”), Employee’s application for which is attached, to City of Morro Bay employees who are eligible for retirement on or before December 31, 2011; and

WHEREAS, employees of City, who are eligible to participate in the Service Retirement Incentive Program, may choose to participate in the program where the application period begins April 18, 2011, and ends May 24, 2011; and

WHEREAS, Employee is currently employed by City, is eligible to participate in the Service Retirement Incentive Program, and voluntarily chooses to participate in the Program; and

WHEREAS, Employee agrees to retire from employment with City no later than December 31, 2011,

THEREFORE, Employee and City enter into the following agreement:

(1) **Employee’s Voluntary Service Retirement.** Employee acknowledges that participation in the Program is entirely voluntary, and hereby knowingly and voluntarily, requests retirement from employment with City, no later than the close of business on December 31, 2011.

(2) **Incentive.** Based on the Employee’s designated date of retirement, the City of Morro Bay will provide a one-time lump-sum payment in the amount of \$10,000 for employees who retire by December 31, 2011 by election in one of the following ways:

- one-time lump-sum payment in the amount of \$10,000 paid to Employee
- one-time lump-sum payment of \$10,000 made to employee’s designated deferred compensation provider
- retiree health insurance reimbursement per month up to \$10,000

Employee acknowledges that City has provided no advice and made no representations as to the tax consequences of Employee’s participation in the Program, and affirms that Employee will be responsible for all tax liability resulting from the acceptance of this incentive.

(3) Employee’s group health insurance benefits will terminate effective the last day of the second month after his/her retirement date. Employee’s vision and dental benefits will terminate effective the last day of the month after his/her retirement date. Following the voluntary service retirement, Employee may continue City group insurance benefits to the extent allowed under PERS (health), COBRA (dental and vision) or other applicable law.

(4) On the Retirement Date, City will pay to Employee all compensable time earned and unused as of the retirement date. Thereafter, Employee will not be entitled to or accrue any additional leave time, and will not be eligible for any fringe benefits following the retirement date, except as expressly set forth in this Agreement.

(5) **WAIVER AND RELEASE BY EMPLOYEE.** In consideration of the Incentive Program payments and other consideration, as set out in this Agreement, to which Employee would not otherwise be entitled, Employee, for him or herself and his/her heirs, executors, administrators, successors, and assigns, hereby knowingly and voluntarily waives, releases, acquits and forever discharges City, its agents, officers and employees from any liability, action, suit, claim, damages, judgment, known or unknown, liquidated or un-liquidated, fixed or contingent which Employee has ever had or ever may have, arising out of or in conjunction with Employee's employment with City or the termination thereof, including, without limitation, claims under federal, state or local common law or statute, as well as any form of employment discrimination prohibited under Title VII of the Civil Rights Act of 1964, the Older Workers Benefit Protection Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, ERISA, the Rehabilitation Act of 1973, and any other local, state or federal anti-discrimination law or ordinance, any applicable collective bargaining agreement, any applicable wage and hour or workers' compensation laws (to the extent allowed by law), including, but not limited to any claim or damages for wrongful discharge, severance pay, breach of contract, breach of any express or implied promise, retaliation, breach of public policy, defamation, negligence or other tortious conduct, or any other theory, whether legal or equitable.

Employee covenants that this Agreement, and the Release contained in it, constitutes a waiver and release of any and all claims, including existing or subsequently discovered claims that are not known or suspected by Employee to exist as of the date of execution of this Agreement, which otherwise would be preserved by operation of **Section 1542 of the California Civil Code**. Section 1542 provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his/her favor at the time of executing the release, which if known by him/her must have materially affected his/her settlement with the debtor.

(6) Employee is hereby advised to consult with an attorney prior to executing this Agreement. Employee acknowledges that if he/she executes this Agreement and foregoes the advice of an attorney, he/she does so freely and knowingly, and waives any and all future claims that such action or actions would affect the validity of this Agreement.

Employee may revoke this Agreement within seven (7) calendar days after signing it. Notice of revocation must be received by Susan Slayton, Administrative Services Director, at the

City of Morro Bay, 595 Harbor Street, Morro Bay, CA 93442. If Employee revokes this Agreement, City will be immediately released of any further obligation under this Agreement,

(7) Employee covenants that he/she has not commenced, and will not commence, legal proceedings of any type, whether on his/her own behalf or on behalf of any other person or entity, against City or individuals or entities released in this Agreement, or any of their respective successors or assigns, and further covenants not to maintain, join or assist in any such legal proceeding, suit, charge, or action, except as may be required by law.

(8) To the extent allowed by applicable law, the parties agree to keep the terms of this Agreement confidential and not disclose those terms to anyone, except a spouse, attorney, or tax adviser.

(9) If Employee breaches the promise in paragraphs five (5) and/or seven (7) and files a lawsuit based on legal claims that Employee has released, Employee shall immediately return all sums which were paid to Employee pursuant to this Agreement.

(10) This Agreement shall be construed under the Laws of the State of California, and any dispute arising hereunder shall be conducted under the jurisdiction of the County of San Luis Obispo Superior Court.

(11) Each party hereto agrees that in the event of any dispute concerning this Agreement or claims, demands, liabilities or causes of action included within its scope, the prevailing party shall be entitled to recover attorney's fees and costs. The prevailing party shall be the party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment.

(12) If any portion of this Agreement shall be held invalid by a court of competent jurisdiction, the validity of the remainder of this Agreement shall not be affected.

(13) This Agreement supersedes any previous understandings, agreements or correspondence of the parties on this subject, and is binding on the parties, their heirs, executors, administrators, and successors in interest.

(14) This document is the entire Agreement and Release between Employee and City. City has made no promises to Employee other than those in this Agreement. This Agreement may not be changed orally, only in a written document signed by both parties. For purposes of this Agreement, the parties shall be deemed to have participated equally in its drafting.

(15) Employee understands that if he/she dies prior to his/her effective retirement date, then this "Agreement and Release," as well as the incentive payment, is void and neither City nor Employee's heirs shall have any right or obligation defined hereunder.

IN WITNESS WHEREOF, City and Employee have executed the Agreement on the day and year first set forth above.

Employee Signature

Date

Andrea K. Lueker, City Manager

Date

APPROVED AS TO FORM:

Robert W. Schultz, City Attorney



**City of Morro Bay
Service Retirement Incentive Program Application
(3/4 time Employee)**

Please submit this Application, as well as your executed Agreement and Release, to Susan Slayton, Administrative Services Director, as soon as possible, but no later than **5:00 pm on Tuesday, May 24, 2011.**

Employee Name: _____

Job Title: _____

Department: _____

Service Retirement Date: _____

I voluntarily choose the following incentive amount based on my voluntary service retirement (Check one box below.)

- One-time Lump-Sum payment in the amount of \$7,500 paid to me.**

- One-Time Lump-Sum payment in the amount of \$7,500, paid to my designated Deferred Compensation provider.**

- Reimbursement of retiree health insurance premiums up to a total of \$7,500, paid to me, on a monthly basis with proof of premium payment.**

EMPLOYEE SIGNATURE

DATE

City of Morro Bay
Service Retirement Incentive Program
Agreement and Release – 3/4 Time Employee

This **Agreement and Release** (“Agreement”) is entered into this _____ day of _____, 2011, by and between _____ (“Employee”) and the City of Morro Bay (“City”).

WHEREAS, Employee is currently employed by City; and

WHEREAS, City is offering a “Service Retirement Incentive Program” (“Program”), Employee’s application for which is attached, to City of Morro Bay employees who are eligible for retirement on or before December 31, 2011; and

WHEREAS, employees of City, who are eligible to participate in the Service Retirement Incentive Program, may choose to participate in the program where the application period begins April 18, 2011, and ends May 24, 2011; and

WHEREAS, Employee is currently employed by City, is eligible to participate in the Service Retirement Incentive Program, and voluntarily chooses to participate in the Program; and

WHEREAS, Employee agrees to retire from employment with City no later than December 31, 2011.

THEREFORE, Employee and City enter into the following agreement:

(1) **Employee’s Voluntary Service Retirement.** Employee acknowledges that participation in the Program is entirely voluntary, and hereby knowingly and voluntarily, requests retirement from employment with City, effective no later than the close of business on December 31, 2011.

(2) **Incentive.** Based on the Employee’s designated date of retirement, the City of Morro Bay will provide a one-time lump-sum payment in the amount of \$7,500 for employees who retire by December 31, 2011 by election in one of the following ways:

- one-time lump-sum payment in the amount of \$7,500 paid to Employee
- one-time lump-sum payment of \$7,500 made to employee’s designated deferred compensation provider
- retiree health insurance reimbursement per month up to \$7,500

Employee acknowledges that City has provided no advice and made no representations as to the tax consequences of Employee’s participation in the Program, and affirms that Employee will be responsible for all tax liability resulting from the acceptance of this incentive.

(3) Employee’s group health insurance benefits will terminate effective the last day of the second month after his/her retirement date. Employee’s vision and dental benefits will terminate effective the last day of the month after his/her retirement date. Following the voluntary service retirement, Employee may continue City group insurance benefits to the extent allowed under PERS (health), COBRA (dental and vision) or other applicable law.

(4) On the Retirement Date, City will pay to Employee all compensable time earned and unused as of the retirement date. Thereafter, Employee will not be entitled to or accrue any additional leave time, and will not be eligible for any fringe benefits following the retirement date, except as expressly set forth in this Agreement.

(5) **WAIVER AND RELEASE BY EMPLOYEE.** In consideration of the Incentive Program payments and other consideration, as set out in this Agreement, to which Employee would not otherwise be entitled, Employee, for him or herself and his/her heirs, executors, administrators, successors, and assigns, hereby knowingly and voluntarily waives, releases, acquits and forever discharges City, its agents, officers and employees from any liability, action, suit, claim, damages, judgment, known or unknown, liquidated or un-liquidated, fixed or contingent which Employee has ever had or ever may have, arising out of or in conjunction with Employee's employment with City or the termination thereof, including, without limitation, claims under federal, state or local common law or statute, as well as any form of employment discrimination prohibited under Title VII of the Civil Rights Act of 1964, the Older Workers Benefit Protection Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, ERISA, the Rehabilitation Act of 1973, and any other local, state or federal anti-discrimination law or ordinance, any applicable collective bargaining agreement, any applicable wage and hour or workers' compensation laws (to the extent allowed by law), including, but not limited to any claim or damages for wrongful discharge, severance pay, breach of contract, breach of any express or implied promise, retaliation, breach of public policy, defamation, negligence or other tortious conduct, or any other theory, whether legal or equitable.

Employee covenants that this Agreement, and the Release contained in it, constitutes a waiver and release of any and all claims, including existing or subsequently discovered claims that are not known or suspected by Employee to exist as of the date of execution of this Agreement, which otherwise would be preserved by operation of **Section 1542 of the California Civil Code**. Section 1542 provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his/her favor at the time of executing the release, which if known by him/her must have materially affected his/her settlement with the debtor.

(6) Employee is hereby advised to consult with an attorney prior to executing this Agreement. Employee acknowledges that if he/she executes this Agreement and foregoes the advice of an attorney, he/she does so freely and knowingly, and waives any and all future claims that such action or actions would affect the validity of this Agreement.

Employee may revoke this Agreement within seven (7) calendar days after signing it. Notice of revocation must be received by Susan Slayton, Administrative Services Director, at the

City of Morro Bay, 595 Harbor Street, Morro Bay, CA 93442. If Employee revokes this Agreement, City will be immediately released of any further obligation under this Agreement,

(7) Employee covenants that he/she has not commenced, and will not commence, legal proceedings of any type, whether on his/her own behalf or on behalf of any other person or entity, against City or individuals or entities released in this Agreement, or any of their respective successors or assigns, and further covenants not to maintain, join or assist in any such legal proceeding, suit, charge, or action, except as may be required by law.

(8) To the extent allowed by applicable law, the parties agree to keep the terms of this Agreement confidential and not disclose those terms to anyone, except a spouse, attorney, or tax adviser.

(9) If Employee breaches the promise in paragraphs five (5) and/or seven (7) and files a lawsuit based on legal claims that Employee has released, Employee shall immediately return all sums which were paid to Employee pursuant to this Agreement.

(10) This Agreement shall be construed under the Laws of the State of California, and any dispute arising hereunder shall be conducted under the jurisdiction of the County of San Luis Obispo Superior Court.

(11) Each party hereto agrees that in the event of any dispute concerning this Agreement or claims, demands, liabilities or causes of action included within its scope, the prevailing party shall be entitled to recover attorney's fees and costs. The prevailing party shall be the party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment.

(12) If any portion of this Agreement shall be held invalid by a court of competent jurisdiction, the validity of the remainder of this Agreement shall not be affected.

(13) This Agreement supersedes any previous understandings, agreements or correspondence of the parties on this subject, and is binding on the parties, their heirs, executors, administrators, and successors in interest.

(14) This document is the entire Agreement and Release between Employee and City. City has made no promises to Employee other than those in this Agreement. This Agreement may not be changed orally, only in a written document signed by both parties. For purposes of this Agreement, the parties shall be deemed to have participated equally in its drafting.

(15) Employee understands that if he/she dies prior to his/her effective retirement date, then this "Agreement and Release," as well as the incentive payment, is void and neither City nor Employee's heirs shall have any right or obligation defined hereunder.

IN WITNESS WHEREOF, City and Employee have executed the Agreement on the day and year first set forth above.

Employee Signature

Date

Andrea K. Lueker, City Manager

Date

APPROVED AS TO FORM:

Robert W. Schultz, City Attorney

Conference Center applicant.

The City has been working with Mr. Caldwell and his associates to work through permitting, design and lease negotiations during this entire period. Unfortunately Mr. Caldwell did not provide documentation on proposed cost estimates or an economic analysis that the City had requested for the purpose of moving forward with lease negotiations. Staff reviewed this issue with the City Council at their March 8, 2011 Closed Session meeting. On March 10, 2011, Mr. Caldwell was notified that due to failure to adequately respond to the City's requests, the City determined to terminate further negotiations for the lease for 801-833 Embarcadero. Mr. Caldwell retains his interest and lease agreement on Lease Site 86/86W, located at 801 Embarcadero, which will expire March 31, 2018. Council also directed staff to discuss an amendment to extend the term of the lease agreement for Lease Site 87-88-87W-88W, located at 833 Embarcadero, with the existing tenant, Violet Leage.

DISCUSSION:

Staff met with Ms. Leage and discussed the option of extending the term of the lease agreement for Lease Site 87-88/87W-88W and requested that Ms. Leage provide the City with a rough cost estimate of improvements she plans to implement within the near future. Ms. Leage provided the City with an estimate of \$40-50,000 to make the following improvements/repairs to the Lease Site.

Repair/Improvement	Date
Remove sign over existing patio area	May 31, 2011
Touch up exterior paint on the restaurant building	May 31, 2011
Removal of excess signage	May 31, 2011
Replace the roof sign over the restaurant entry	July 31, 2011
Repair/replace the sidewalk near the restaurant entry	May 31, 2012
Refinish the outdoor patio deck	May 31, 2012
Interior painting and table refinishing	May 31, 2012
Repair bay side catwalk	May 31, 2012
Courtyard entry façade and renovations	May 31, 2013

The Outrigger Restaurant, operated by subtenants Marco Lepe and Patrick Lynch since 2004, has dealt with four years of uncertainty as to how long they would be able to continue operations from the site. Throughout this difficult period they have remained good subtenants and have continued to operate a successful business.

Amendment #6 to the lease agreement for Lease Site 87-88/87W-88W will extend the term of the lease agreement until March 31, 2018, add a 10% penalty for late rental payment, reduce percentage of gross sales rent on bar/cocktail lounge sales from 10% to 5%, change the term of notification, and includes a schedule of required repairs/improvements to the site. All other

terms and conditions of the lease agreement remain the same.

Extending the term of the lease agreement to match the termination date of the adjacent Lease Site provides maximum flexibility for future planning in that area. The leases could be combined and put out to bid for a major redevelopment, the existing tenants could partner on a joint redevelopment, or the existing tenants could each propose a stand-alone redevelopment of their respective Lease Sites.

The notification section of the existing agreement requires either personal, certified or registered mail. The amendment changes the agreement to require either personal or first class mail notification on lease issues consistent with Master Lease Format.

All new lease agreements have a clause with a 10% penalty for late rental payment; adding this language brings the lease into compliance with the Master Lease Format.

The percentage of gross on bar/cocktail lounge sales was changed from 10% to 5% as is the case with most current lease agreements. Most of the bar/cocktail lounge sales in the Outrigger are with meals and as such are at the 3% level. This change would affect bar only sales which account for a very small percentage of overall sales and should not have a significant fiscal impact.

CONCLUSION:

Staff recommends that the City Council adopt Resolution No. 27-11 to approve Amendment #6 to the lease agreement for Lease Site 87-88/87W-88W, the Outrigger Restaurant, located at 833 Embarcadero.

RESOLUTION NO. 27-11

**APPROVAL OF AMENDMENT #6 TO THE LEASE AGREEMENT
FOR LEASE SITE 87-88/87W-88W, LOCATED AT 833 EMBARCADERO,
BEWTEEN THE CITY OF MORRO BAY AND VIOLET LEAGE**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the City of Morro Bay is the lessor of certain properties on the Morro Bay Waterfront described as Lease Site 87-88/87W-88W; located at 833 Embarcadero; and,

WHEREAS, in 2007 the Morro Bay City Council directed staff to put out a request for proposals for development of said Lease Site; and

WHEREAS, on September 24, 2007 the City Council designated Burt Caldwell and Doug Redican as primary proposer for said Lease Site; and

WHEREAS, on March 10, 2011 the City notified Mr. Caldwell that that due to failure to adequately respond to the City's requests for information on lease negotiation issues, the City determined to terminate further negotiations for the lease at 801-833 Embarcadero; and

WHEREAS, the existing lease agreement with Violet Leage for Lease Site 87-88/87W-88W, located at 833 Embarcadero, expires on December 31, 2011; and

WHEREAS, the City and Ms. Leage have agreed to a lease amendment that will extend the term of the lease agreement until March 31, 2018, will change notification requirements, add a 10% penalty for late rental payment, change percentage of gross sales rent on bar/cocktail lounge sales and includes a schedule for repairs/improvements to the site.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that Amendment #6 to the lease agreement for Lease Site 87-88/87W-88W, located at 833 Embarcadero is hereby approved and that the Mayor is hereby authorized to execute said Amendment.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 12th day of April, 2011 on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

William Yates, Mayor

ATTEST:

Jamie Boucher, Deputy City Clerk



AGENDA NO: D-3

MEETING DATE: April 12, 2011

Council Report

TO: MAYOR AND CITY COUNCIL DATE: APRIL 4, 2011
FROM: COUNCILMEMBER BORCHARD
SUBJECT: Discussion of Policies and Procedures Regarding Absences from Planning Commission

RECOMMENDATION:

It is recommended that the City Council require the Planning Commissioner to adhere to the policies for advisory bodies and meet the attendance requirement or declare the position vacant.

FISCAL IMPACT: None.

BACKGROUND:

The Planning Commission allows for members to formally request permission to be absent from three regular meetings per year pursuant to Morro Bay Municipal Code Section 2.28.100. Similarly City Council Resolution 10-06 addresses attendance requirements for boards, stating absence of four meetings in a consecutive 12-month period will constitute the voluntary resignation of the absent member.

DISCUSSION:

At the March 16th Planning Commission meeting a request was made and granted to Mr. Diodati to be excused for the next five Planning Commission meetings. In that discussion, Mr. Diodati indicated that while he might be able to attend some of those meetings, he would arrive late.

The concern regarding the issue is twofold. First, this action would set a precedent in allowing a Board or Commission to override the set policies of the City on absenteeism as outlined in Resolution 10-06. Second, in regard to “doing the business of the City”, the Planning Commission plays a vital role in land use decisions. It is important, when possible, that the applicant appearing before the Commission have a full board, hearing their project request. When

there are only four Commissioners present, there is certainly a possibility for a tie vote or a 2 to 1

Prepared By: C. Borchard

Dept Review: _____

City Manager Review: AL

City Attorney Review: _____

vote (if a conflict requires a Planning Commissioner to step down). In the case of a 2 to 1 vote, the motion then fails and forces the project to City Council. This can cause delays and unnecessary costs to an applicant.

Attending, but arriving late to these meetings would not provide the Commissioner the same level of information from public comment and/or Commission discussions as the other members which could certainly have relevancy on issues they would be voting on.

It is recognized that the meeting night for Planning Commission was changed in January 2011 by the City Council and this may have caused scheduling conflicts for some members.

CONCLUSION:

It is recommended that the City Council require the Planning Commissioner to adhere to the policies for advisory bodies and meet the attendance requirement or declare the position vacant.



AGENDA NO: D-4

MEETING DATE: April 12, 2011

Council Report

TO: CITY COUNCIL MEMBERS

DATE: APRIL 7, 2011

FROM: MAYOR WILLIAM YATES

SUBJECT: Discussion of Reallocation of Harbor Funds for the Embarcadero Banner Project

RECOMMENDATION:

It is recommended that the City Council approve up to \$25,000 of funds from the Harbor Budget for the purchase of four sets of decorative banners for the Embarcadero street light poles.

FISCAL IMPACT:

Up to \$25,000 for banner and hardware supplies and initial labor to install.

When the Fiscal Year 2010/11 budget was adopted, the City had not completed the Harbor Department reorganization. As a result, the approved FY budget included funding for a full time Harbor Director. With the reorganization completed, approximately \$40,000 of funding was left in the approved budget, but unallocated due to not replacing the Director position. At the time of reorganization approval, staff confirmed they would return to the City Council, prior to utilizing that unallocated funding for any purpose.

DISCUSSION:

For the past several months the City as well as other local groups have focused on repair, maintenance and beautification efforts on streets, sidewalks, parks and planters to make the City more attractive to both residents and visitors. Within the next few weeks, PG&E will be repainting the street lights along the Embarcadero. The next proposed step for beautification is installing colorful banners along the Embarcadero on these poles.

Prepared By: W. Yates

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

The proposed banners will be eye-catching colors, uniform throughout, thereby promoting the Embarcadero as a single entity. The printing will be simple, promoting the "Embarcadero" on one side (along with a seasonal graphic). On the reverse side would be a compelling statement, such as "Eat, Shop, Play".

One set of banners would be holiday, replacing the old, worn-out holiday decorations.

The Embarcadero Business Group is recommending canvas (Sunbrella) material as opposed to vinyl as the Sunbrella has a longer life. It is hoped the banners would last for at least two-plus years.

In the future, it is hoped other organizations will provide new banners. The Women for Fisheries organization has already approached the committee and wants to provide a set of banners promoting commercial fishing/fishermen.

It is anticipated the banners would be changed approximately every four months and in discussions with the City Manger, it would be feasible for City staff to aid in the interchanging of the banners with some dedicated help from another organization. Staff, with the help of the Embarcadero Business Group, is confident that they will be able to engage another organizations to aid in this endeavor. City staff currently changes out most of the downtown banners for such events as the Harbor Festival, Bird Festival, holiday banners, etc.

The Embarcadero has two different heights of street lamps, requiring two sizes of banners. The shorter lampposts from the Embarcadero Inn to Beach Street will have banners 4 ft by 2 ft. The taller lampposts from Beach St. to the Intake Structure will have banners 6 ft. by 3 ft.

Research has been done on this purchase with seven companies solicited for prices. The goal of the banner committee is to secure the banners, hardware, and installation at the lowest possible price while keeping quality (longevity) in mind. Should the City Council agree to this expenditure, purchase, installation and delivery is scheduled to occur prior to Memorial Day 2011.