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, OCTOBER 8, 2013
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
CLOSED SESSION REPORT
MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PUBLIC PRESENTATIONS - None

PUBLIC COMMENT - Members of the audience wishing to address the Council on City business matters not on the agenda may do so at this time. For those desiring to speak on items on the agenda, but unable to stay for the item, may also address the Council 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 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A. CONSENT AGENDA

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 THE SPECIAL CLOSED SESSION MEETING HELD ON SEPTEMBER 12, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF THE CITY COUNCIL MINUTES FOR THE SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON SEPTEMBER 24, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF CITY COUNCIL MINUTES FOR THE REGULAR CITY COUNCIL MEETING HELD ON SEPTEMBER 24, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 PROCLAMATION DECLARING OCTOBER 6-12, 2013 AS FIRE PREVENTION WEEK; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-5 PROCLAMATION DECLARING OCTOBER 20-26, AS FREEDOM FROM WORKPLACE BULLIES WEEK; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-6 REVIEW AND APPROVE THE PUBLIC ART PROPOSAL FOR A MARBLE SCULPTURE TO BE LOCATED IN FRONT OF THE MORRO BAY SENIOR CENTER; (RECREATION & PARKS)

RECOMMENDATION: Review and approve the proposal from Ann Marie Schneztler by artist Crissa Hewitt in memory of Nicole Poucel which includes the design and installation of a marble sculpture at the Morro Bay Senior Center; located at 1001 Kennedy Way; Staff recommends Alternative 1.

A-7 AUTHORIZATION TO FILE NOTICE OF COMPLETION PROJECT NO. MB-2010-PD1: WIRELESS COMMUNICATIONS UPGRADES; (PUBLIC SERVICES)

RECOMMENDATION: File the Notice of Completion for Wireless Communications Upgrades.

A-8 CONSIDERATION OF AMENDMENT OF SECTION 2.2 OF THE CITY COUNCIL POLICIES AND PROCEDURES REGARDING MEMBERS RECEIVING UNEXPENDED MONTHLY DOLLARS FROM THE COST OF THEIR MEDICAL PLANS; (ADMINISTRATION**)**

RECOMMENDATION: Return to the City Council with a Resolution amending the City Council Policies and Procedures, Section 2.2, striking the language that currently allows Council members from receiving any unexpended monthly dollars from the cost of their medical plan.

A-9 APPROVAL OF RESOLUTION 49-13 FOR LEASE AGREEMENT FOR LEASE SITE 82-85/82W-85W; 725 EMBARCADERO (ROSE'S LANDING, REDICAN); (HARBOR)

RECOMMENDATION: Approve Resolution No. 49-13 approving a new Lease Agreement for Lease Site 82-85/82W-85W, located at 725 Embarcadero, with 725 Embarcadero LLC, owned by Doug Redican.

B. PUBLIC HEARINGS

B-1 APPEAL OF THE PLANNING COMMISSION DENIAL OF CP0-246 FOR THE DEMOLITION AND RECONSTRUCTION OF A SINGLE FAMILY RESIDENCE. (360 CERRITO PLACE, N. TURNER, APPELLANT/APPLICANT); (PUBLIC SERVICES)

RECOMMENDATION: Notice the project for a full De Novo Public hearing at the Planning Commission level allowing for a full review of the current project as submitted and direct the applicant to pay $138 for the required noticing.

B-2 APPEAL OF ADMINISTRATIVE DECISION REGARDING STAFF AUTHORIZATION OF A FENCE ON CITY OWNED PROPERTY ADJACENT TO CHORRO CREEK ROAD IN THE UNINCORPORATED AREA OF SAN LUIS OBISPO COUNTY (JOSEPH GOODWIN APPELLANT; MIKE AND CARRIE BURTON, PERMITEES); (PUBLIC SERVICES)

RECOMMENDATION: Uphold staff decision to allow the access onto City real property for the installation of a fence.

B-3 ZONING TEXT AMENDMENT A00-015 DRAFT SIGN ORDINANCE (MUNICIPAL CODE SECTION 17.68); (PUBLIC SERVICES)

RECOMMENDATION: Open the public hearing and receive testimony and direct staff to prepare an environmental document based on the draft Sign Ordinance as forwarded by the Planning Commission on September 4, 2013 and return with the environmental document and the draft Sign Ordinance for the first reading on December 10, 2013.

C. UNFINISHED BUSINESS

C-1 STATUS REPORT OF A MAJOR MAINTENANCE & REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLAN; (PUBLIC SERVICES)

RECOMMENDATION: Receive and file this report.

C-2 WATER RECLAMATION FACILITY (WRF) PROJECT STATUS AND DISCUSSION; (ADMINISTRATION)

RECOMMENDATION: Discuss in open session, the progress to date on the Water Reclamation Facility (WRF) and provide direction to staff as necessary.

D. NEW BUSINESS

D-1 CONSIDERATION AND DIRECTION REGARDING THE EXPANSION OF THE UNITED STATES COAST GUARD (USCG) FACILITIES IN MORRO BAY; (ADMINISTRATION)

RECOMMENDATION: Review the attached documentation and provide direction regarding the USCG request to enter into a long term lease agreement with the City of Morro Bay for expansion of USCG facilities in Morro Bay.

D-2 APPROVAL OF CONSENT OF LANDOWNER AGREEMENT FOR LEASE SITE 86/86W AT 801 EMBARCADERO (EMBARCADERO GRILL, CALDWELL) TO FILE AN APPLICATION FOR LEASE SITE IMPROVEMENTS AND ALLOW STAFF TO ENTER INTO LEASE NEGOTIATIONS; (HARBOR)

RECOMMENDATION: Consider the three alternatives and provide direction; staff is recommending either Alternative A or Alternative B.

D-3 APPROVAL OF RESOLUTION 48-13 DESIGNATING $399,000 IN PARKING IN-LIEU FUNDS FOR REVISIONS TO THE PARKING IN-LIEU MAP AND IMPROVEMENTS TO THE CITY-OWNED FRONT STREET AND TRIANGLE PARKING LOT ADJACENT TO THE DYNEGY POWER PLANT, AND REVIEW AND DISCUSSION REGARDING THE CITY PARKING MANAGEMENT PLAN; (CITY ATTORNEY/PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 48-13.

E. COUNCIL 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 772-6205 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.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN A CITY MEETING, PLEASE CONTACT THE CITY CLERK'S OFFICE AT LEAST 24 HOURS PRIOR TO THE MEETING TO INSURE THAT REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.

AGENDA NO: A-1

MEETING DATE: 10/8/2013

MINUTES – MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
SEPTEMBER 12, 2013
CITY HALL CONFERENCE ROOM – 5:00PM

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	Nancy Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Irons called the meeting to order at 1:00pm.

> MOTION: Mayor Irons moved to adjourn and continue this meeting to the Morro Bay Veteran's Hall at 209 Surf Street to begin at 1:30pm. The motion was seconded by Councilmember Smukler and carried unanimously, 5-0.

The meeting adjourned at 1:01pm.

The meeting reconvened at the Morro Bay Veteran's Hall and was called to order at 1:33pm.

SUMMARY OF CLOSED SESSION ITEMS - The Mayor read a summary of the Closed Session item.

CLOSED SESSION PUBLIC COMMENTS - Mayor Irons opened the meeting for Public Comment. Due to the large number of speakers, Mayor Irons limited public comment to 1 minute and requested that there be no applause.

The following persons questioned the process and spoke in support of the City Manager and the City Attorney:
Rob Kitzman, John Weiss, Stan House, Adrienne Harris, Rick Grantham, Darryl Scheck, Heather Salyer-Frith, John Barta, Neil Trout, Vicki Landis, Kathleen Welles, Peter Candela, Mike Pond, Kevin Rice, Garry Johnson, Renee Sanmiengo, Bridgett Kessling, Al Romero, John Solu, Joan Solu, Sandy Christey, Jeff Eckles, Rodger Anderson, Jim Hayes, Susan Stewart, Homer Alexander, Marjory Rau, Trudy O'Brien, Todd Gailey, Bill Peirce, Janice Peters, Mike Durick, John Gajdos, Marlene Peter, Pamela Craig, Rick Algert, Rob Seitz, Lanny McKay, Ken Versterfelt, Smith Held, Jack Barrett, Bill Yates, Nancy Barta, Chris Christensen, Greg Wilson, Chris Frith, Penni Daugherty, John Fennacy, Bill Black, Cathy Novak, Hank Roth, Ken McMillan, Mick Theis, Bruce Keogh, Jeff Jones, Alex Beattie, Phil Kispersky, Rick Sauerwein, Bobbie Morrison, Paul Reicgardt, Cherie Hayes, and Stan Trapp.

The following persons spoke in support of the process and in moving forward with discipline/dismissal/release of the City Manager and City Attorney:
Rigmor, Clark Kuyler, Nancy Bast, Walter Heath, Nicole Dorfman, Jim Davis, Barbara Doerr, Lynda Merrill, Betty Forsythe, Marla Jo Bruton and Betty Winholtz.

As there were no presented charges or complaints against the City Manager or the City Attorney, per Government Code 54957(b)(2), the City Council moved to Closed Session and heard the following item:

CS-1 **GOVERNMENT CODE SECTION 54957(b)(1): PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE.** The employees are the City Manager and the City Attorney.

CITY COUNCIL CONVENED TO OPEN SESSION – The City Council convened to open session; Mayor Irons reported out that no actions were taken at this time.

ADJOURNMENT
The meeting adjourned at 4:50pm.

Recorded by:

Jamie Boucher
City Clerk

AGENDA NO: A-2

MEETING DATE: 10/8/2013

MINUTES – MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
SEPTEMBER 24, 2013
CITY HALL CONFERENCE ROOM – 5:00PM

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

ESTABLISH QUORUM AND CALL TO ORDER

SUMMARY OF CLOSED SESSION ITEMS - The Mayor read a summary of Closed Session items.

CLOSED SESSION PUBLIC COMMENTS - Mayor Irons opened the meeting for Public Comment

Matt Deal, spoke representing Broc Assets Inc., a San Diego based builder/remodeler of homes. He has been engaged by Broc Assets to find small, buildable projects located in good communities, whose property is in a good location and can be sold as a good product. This land meets all of those criteria and he hopes to be able to move forward working with the City in purchasing this piece of property.

The Public Comment period was closed.

The City Council moved to Closed Session and heard the following items:

CS-1 GOVERNMENT CODE SECTION 54956.8: 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 one parcel.

- **Property: Property: Vacant Lot/Corner of Coral/San Jacinto**
  Negotiating Parties: Broc Assets, Inc. and City of Morro Bay
  Negotiations: Voluntary Purchase and Sale

CITY COUNCIL CONVENED TO OPEN SESSION – The City Council convened to open session; City Attorney, Rob Schultz reported that no reportable action under the Brown Act was taken.

ADJOURNMENT
The meeting adjourned at 5:24pm.

Recorded by:

Jamie Boucher
City Clerk

AGENDA NO: A-3

MEETING DATE: 10/8/2013

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – SEPTEMBER 24, 2013
VETERAN'S MEMORIAL HALL – 6:00P.M.

PRESENT:	Jamie Irons	Mayor
	Christine Johnson	Councilmember
	George Leage	Councilmember
	Noah Smukler	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	City Clerk
	Amy Christey	Police Chief
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director
	Rob Livick	Public Services Director

Mayor Irons called the meeting to order at 6:00 p.m.

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT – City Attorney Robert Schultz reported that City Council met in a Special Closed Session on September 24, 2013 on the following item: Government Code Section 54956.8: 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 one parcel: Vacant Lot/Corner of Coral/San Jacinto; no reportable action under the Brown Act was taken.

MAYOR AND COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PUBLIC PRESENTATIONS

2013 Beach Lifeguard Program Summary – Kyle Shaffer, Lifeguard Supervisor and Reserve Harbor Patrol Officer with the City's Harbor Department presented a recap of the 2013 Beach Lifeguard Program. This has been the 5th year of conducting our own USLA Lifeguard Training Academy where we trained 11 lifeguards. Our own City lifeguards placed 1st in the Annual SLO County Lifeguard Agency 5 Man Paddle Relay. The lifeguard season ran weekends only from Memorial Day until June 8th when 7 day a week coverage began. This full coverage went through Labor Day weekend; weekend only coverage continues through October 6th. The summer statistics include an estimated 108,000 beach goers; 3 rescues, 5 swimmer assists, 79 preventable actions, 19 medical aids, 3 lost and found, 2800 public contacts, 385 public safety

lectures, 27 animal rescues/assists, assisted the Harbor Department with boating emergencies twice and most importantly, NO drownings or near-drownings.

> MOTION: Mayor Irons moved to pull Items A-4 and A-5 in order to present the Proclamations to those in attendance for Rideshare Month and Energy Awareness Month. The motion was seconded by Councilmember Christine Johnson and carried 4-0-1 with Councilmember Nancy Johnson not in attendance.

PUBLIC COMMENT

Richard Sadowski supports the Council on this issue; he feels we could do better. He feels that our attorney is more aligned with the Cayucos CSD on the WWTP issue. He also stated that he has presented evidence of clear violations of building practices, one being on Quintana and Main, and was dismissed. This is a matter of public trust and he thinks the Council should get better representation.

Marla Jo Bruton also feels we could do better. She has presented examples of how we could do better with a change in administration – the following have been done improperly: wastewater treatment plant design contract, Measure D, Harbor Leases conducted behind closed doors, and the Power Plant Lease Agreement.

Joan Solu stated that she has been an HR Director with at will employees and as such recognizes the need for clear and transparent employment practices, policies and procedures; always respecting the negative impact a poorly conducted termination would have on the financial register and the morale of the remaining employees. An at will termination must be backed by a well thought out exit strategy for the employee and a prepared succession plan. Termination of 2 top level executives could be thought of as reckless and she also feels this will place the City in extreme financial strain. She asked the Council to consider the goals that won't be able to be met with the void of upper level management. She also feels that Council should cease these actions as it is creating a hostile work environment.

David Nelson stated that this is a Council decision and it is your job to determine if a majority of you feel this is a necessary step. He hopes there is a plan in place. We have to move ahead quickly and efficiently.

Nicole Dorfman has questions regarding the revisions made to the contracts of the City Attorney and the City Manager back on November, 2012. She directed her questions to those Councilmembers who were in office at the time. She asked if the contracts were revised to include an additional 3 months' severance for each employee; she asked if any other employee's contracts were also revised; she asked for the reasoning behind adding the benefit; and she asked how these changes benefitted the citizens of Morro Bay.

Betty Forsythe spoke on an attracted nuisance on a hillside by her home. The hillside at Driftwood was used by many visitors as a shortcut to the Avocado Margarita Festival which is causing a dangerous erosion issue. The City fixed a barrier for the cars but didn't fix the hillside.

There is no vegetation there and the hill is beginning to slide. She would like a fence placed there.

Janice Peters stated that neither the City Manager nor City Attorney have had any charges or complaints filed against them. Also, the City Manager and the City Attorney both received above satisfactory reviews just 5 months ago. She also stated that Mayor Irons has said that he has been thinking about this for quite awhile but has made no efforts to work out these disagreements with either employee but instead abruptly called a meeting to discuss their termination. There is no wonder that everybody is so upset as there are no reasons for this proposed dismissal. She stated these 2 employees have served for several Councils and have always made the adjustments necessary to respond to a change in Council direction. They deserve to be respected, not terminated. She questioned what the agenda here was.

Carla Wixom feels that this is a blatant abuse of power and stated that just because you can, doesn't mean you should. Both the City Manager and the City Attorney are loyal City employees who have served the City for many years. Council promised transparency, integrity and unity but this action couldn't be more divisive, unprofessional and wrong. This is a shameful waste of tax dollars.

Bridgett Kessling served as the City's City Clerk from 1992-2011 and worked for 5 City Managers. Andrea Lueker by far is top notch. She is saddened by this issue and finds herself in a place of opposition with people she has a good relationship with. She doesn't understand some of the claims she has read like Twin Bridges or Cerrito Peak, neither of which either employee have had anything to do with. Both the City Manager and City Attorney are doing the jobs as they should be done; it is Council that makes the decisions on key issues.

Barbara Doerr thanked Mayor Irons, and Councilmembers Christine Johnson and Smukler. She voted for all three and finds each to be intelligent individuals and thanks them for putting their unique talents to work for us. She trusts in the decisions they are making. She has been an elected official, has been a government employee and a volunteer for many years for governmental groups and so believes she knows good elected officials when she sees them. She feels they should be proud and hopes they don't let intimidation sway them. They have encouraged public input, more public workshops, more citizen advisory committees and earlier review of important decisions facing the City.

Dorothy Cutter has lived in Morro Bay for 54 years. She stated she feels there are 2 groups, a majority that just wants to live in a beautiful place and the minority whose bottom line is greed at the expense of the majority who lost control in the election of 2012 and will do anything to get it back. The newly elected Council has stopped the wasting of the City's money.

Gayle Bickford stated that Council has promised transparency however, as of last week's fiasco, calling a meeting with 24 hours' notice is not transparent.

John Headding loves where he lives and loves the people of Morro Bay. What he has noticed is that there is a significant amount of divisiveness in Morro Bay right now. He knows about running organizations, he looked at the history of Morro Bay and found the Management

Partners Report from 2008 which he encourages everybody to take a look at. The community needs to come together, we can't be divisive.

Bill Yates is chagrined and disappointed. In 25 years of coming to Council meetings, he has never seen crowds like this. These actions are shaking up the community. He told the majority Council, "you won, take the ball and run with it". He doesn't believe the Mayor should be putting things on or taking things off the agenda on his own.

Rick Grantham announced the upcoming Thanksgiving Day Dinner being sponsored by the Police Officer Association and the Rotary Club of Morro Bay. The dinner is free of charge and is being held at the Community Center from 1-3pm. He thanked the many sponsors who make this dinner possible.

Marianne Shoemaker applauded the way Council handled the last meeting. She was shocked by the hostility. She stated we needed to work together to find a way to make this work. She feels that with Mayor Irons at the helm, we have good leadership.

Melody DeMerritt served on the Council from 2004-2008. She served on a polite and kind Council who treated each other professionally. There were dismissals during her tenure which were taken care of swiftly which is important. Mayor Peters would never have put up with the meeting that was held on September 12th. She requested that both Council and the public treat each other with respect. She stressed that the Mayor has every right to clear the room if necessary.

Stan House stated that never in the history of Morro Bay has so few people done so much harm in such a short period of time. He can't believe that this is being proposed during the treatment plant issue. He feels this will be the most expensive lesson the taxpayers of Morro Bay have ever learned.

Maurie Garza appreciates the transparency that Council promised the public. He thanked the current Council for doing the great job they've been doing. He stated that nobody but you know what the full story is, he is trusting that you will do the right thing.

Chuck Stoll stated that the wastewater debate was the deciding factor for him in this recent election. Unfortunately there are 2 very strong factions here and we stand at a crossroads. The question is, are we going to support this Council and their decision. He stated the majority was elected without a runoff election indicating widespread support among those who cared to vote. He feels these 2 employees still harbor loyalties to the previous council and their supporters which was evidenced by the raise in their severance package after the election; if a majority of Council feels it's in the best interest to replace these 2 employees, then that is their right and prerogative.

Dan Costley stated he has worked for and served those that he has supported and those he hasan't supported; in all his involvement, he has never experienced the back room, outside influenced politics that he is seeing going on right now. Up to now, he has never been very vocal in our local politics but he is now and will continue to be.

Royal Martin spoke after witnessing the unruly public response to the September 12th meeting. He supports Mayor Irons. A majority of the voters voted Mayor Irons into office which was a message that the public wanted change. If the removal of key staff members is necessary, so be it. That is the democratic process.

Don Boatman supports the Council and in reference to the September 12th meeting, he saw several people call you a corporation you aren't; you are a democratically elected body. The people expect checks and balances from their government. Mayor Irons' goal of openness at City meetings has been great and putting the town on the right path for the water reclamation facility, using citizen involvement and advice, is getting us off to a good start. This is being balanced by the personnel decisions you are making.

Keith Taylor said he only had 3 things to say to Mayor Irons and Councilmembers Christine Johnson and Smukler, "Shame on you".

John Solu stated that since Mayor Irons has delivered on his number 1 promise, getting the sewer plant moved, but at the same time, he has alienated our partner, the Cayucos Sanitary District. Lack of a partner could cost the citizens of Morro Bay millions of additional dollars. Now he is deciding to play HR Director and tonight he is asking for $12,500 for legal services to advise the City how to legally fire the top 2 executives which could cost the City an additional $500,000. He asked the Mayor if he knew what $500,000 can buy that would benefit the City of Morro Bay. He asked when Council is going to stop wasting our money.

Jane Heath watched the September 12th public meeting and was appalled by the attacks. She stated that the Council gives selflessly and deserves our respect. These 2 employees are at-will and as such, serve at the pleasure of their employers. They can be let go for a good reason, for a bad reason or for no reason. As a Council majority, you have to trust that these employees can deliver on the objective that they were sent there to meet. Severance should never be a reason to retain an employee. It is now appropriate at this time to obtain an unbiased legal opinion for taking this action.

Trudy O'Brien spoke voicing her concern for the actions being taken. These actions are causing turmoil and hostility, and this is causing unnecessary division in the City of Morro Bay.

Jim Hayes, who was a candidate for City Council, didn't and still doesn't understand why anybody would want to lobby the Coastal Commission to subvert a project already in planning with the goal of paying to pump sewage to a location uphill, that has to be purchased, knowing it would be expensive and unwise. He believes, as a past City employee in the collections division, his thoughts and opinions are relevant. He feels he knows what you have in mind with the City Manager's position. If you are trying to build consensus, you are going about it all wrong.

Bob Keller spoke out against the personal attacks and outburst that occurred at the September 12th meeting. He feels we all need to show professionalism with your personal comments when you disagree. Our Council serves with the best interests of Morro Bay in mind, they are doing us a public service and deserve our sincere respect. In the past when there were decisions made he

didn't agree with, he didn't attack, he just voted. He realizes there are tough decisions to be made and he is in support of the Council.

Lynda Merrill told the Council that there are plenty of people in support of your decisions. Unfortunately, some people can't face the truth. She told Mayor Irons that he needs to carry on with what you believe is best for the City.

Garry Johnson announced that in 2014 we are celebrating Morro Bay's 50th Anniversary. We live in a well-balanced, diversified community. If we have transparency, he doesn't see the need to fire these people – what's your reason? What are we going to gain? And who are you going to put up there?

Ahmed Kassem is interested in how a voted out City Council can make financial decisions. The severance package and the power plant lease outflow decisions that were made with 3 out of the 5 Councilmembers who had been voted out. He would like to see democracy work better. He would like to see any newly elected Councilmembers seated right away and not have to wait.

Marlene Owens said that there are things she has learned being in business for many years. First and foremost, in your business dealings with your employees, you are responsible for their security, their financial security and their mental security. With this decision, you are going to be sending ripples of insecurity through the masses of City employees which could lead to an exodus of employees.

Bill Peirce has been a part of Council's who have had to terminate City Managers. Council has had good service with both your City Manager and City Attorney. We'll let the people decide if they still support you, at this point, he stated that Mayor Irons has been served a Notice of Intent to Circulate a Recall Petition.

Barbara Jo Osborne thanked Council as she voted for them. You run the City, you deal with it. The 2 department heads know they are at risk. This takes leadership, it's not a popularity contest – do what needs to be done – the faster you do it, the better.

Kevin Rice can give multiple reasons why the City of San Luis Obispo City Manager should be fired. What are this Council's reasons for these firings? These people don't trust you; tell them why you are proposing these actions. Even if there is no legal cause, you should at least be able to say that you don't get along. He stated that the turmoil of a recall will cause a lot of grief and you should back down.

Colby Crotzer stated that this is a democracy and the people who are elected will be able to pick their staff. When there was an initiative that passed that forced the primary, he didn't like it but it passed. When this Council was elected, they have to have a staff to work for them that will achieve the will of the people expressed by that election.

Shoosh Crotzer stated that this Council was elected in a huge overwhelming majority. We really trust and want to empower you to do what you need to do. This isn't about whether people are nice or not. The idea that the last lame duck Council gave these folks extra severance pay that

might cost the citizens of Morro Bay an extra $75,000 alone, could be one of the reasons you could even think about this action.

Ron Burkhart stated for the record that the last speaker said that Janice Peters said that you were overwhelming elected and Ms. Peters never said that.

Dave Burton stated that change is hard and there are lots of changes going on in Morro Bay. He has professionally seen a lot of changes and growth. He has also had to fire people that were good, qualified employees but they didn't fit with the new vision and weren't part of the change. It is this Council's prerogative and also duty to question the status quo. He believes that Council will make the best decision for Morro Bay.

Ken Vesterfelt asked a hypothetical question, given the fact that this could cost upwards of $500,000, what could be bought with that money. The morale at the Police Department isn't high. He is hoping the majority of the Council will think about the safety of the City when making this decision.

Troy Leage stated he is a bit flabbergasted about how to speak on this subject. He is an employer who has worked from the grass roots up. Andrea Lueker has also worked from the bottom all the way up, who could be more qualified than that? Rethink what you are doing and look at support of Morro Bay. Both Rob Schultz and Andrea Lueker live and breathe Morro Bay, please recognize that and don't do this.

Gary Owens thinks that one thing that Council hasn't considered that while it will cost $300,000-$500,000 to fire them, how much is it going to cost to replace them. The Council was elected by 25% of the voters, which leaves 75% to vote in a recall election or the primary in June.

Roger Anderson stated he has sat in the Council chairs probably more years than all of you combined. When the need comes to dismiss someone, it's for reasons; maybe they aren't a good fit. But when people are a good fit, when there has been economic benefit, when they have demonstrated years and years and years of excellent service, there has to be reason for making changes.

Bonnie Tognazzini asked what the Council was doing. She is totally distressed. We have 2 good City employees that have stood up for her and now she is standing up for them.

Doug Pasley wanted to publicly state his vote of confidence for the City Attorney and City Manager. He would hope to see Council get along with the City Attorney and City Manager. There are much bigger things coming up, in fact he talked with Cayucos recently and he feels we need Andrea Lueker and Rob Schultz to help with the wastewater treatment plant facility move forward. We need to pull together right now.

Hunter Kilpatrick stated that on September 12th, the Mayor told Mr. Schultz that the intent of the special meeting was to call to question on their contracts. To call the question means it goes straight to vote without discussion. That didn't happen; instead it went to closed session and

they discussed this matter. He doesn't see any report or any minutes of that vote being taken or the results of that vote.

The Public Comment period was closed.

A. CONSENT AGENDA

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 THE SPECIAL CLOSED SESSION MEETING HELD ON SEPTEMBER 10, 2013; (CITY ATTORNEY)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF THE CITY COUNCIL MINUTES FOR THE REGULAR COUNCIL MEETING HELD ON SEPTEMBER 10, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF CITY COUNCIL MINUTES FOR THE SPECIAL CLOSED SESSION MEETING HELD ON SEPTEMBER 12, 2013; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 PROCLAMATION DECLARING OCTOBER 2013 AS ENERGY AWARENESS MONTH; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-5 PROCLAMATION DECLARING OCTOBER 2013 AS RIDESHARE MONTH AND OCTOBER 9, 2013 AS INTERNATIONAL WALK TO SCHOOL DAY; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-6 APPROVAL OF ONE YEAR CONTRACT EXTENSION WITH MV TRANSPORTATION FOR MORRO BAY TRANSIT AND TROLLEY OPERATIONS AND MANAGEMENT; (PUBLIC SERVICES)

RECOMMENDATION: Approve a one (1) year extension of the current Morro Bay Transit and Trolley Operations and Management Agreement with MV Transportation and authorize staff to prepare a Request for Proposals for the operation and management of Morro Bay Transit and Trolley services for release in August 2014 for award by Council in November 2014.

A-7 OBTAIN OUTSIDE INDEPENDENT LEGAL COUNSEL TO ADVISE CITY COUNCIL ON CITY MANAGER AND CITY ATTORNEY CONTRACTS AND RELATED ISSUES; (MAYOR)

RECOMMENDATION: Authorize Mayor Jamie Irons to obtain outside independent legal counsel for the purpose of guiding Council through any and all personnel matters of the City Attorney and City Manager.

Mayor Irons opened up the public comment period for items on the Consent Calendar.

Marla Jo Bruton requested Council pull Item A-3 from the Consent Calendar. She requested that she would like to see the public comment portion of those minutes appear like normal minutes, with content included, as well as be presented in chronological order.

Joan Solu spoke on Item A-7 requesting Council not hire outside counsel for the recommended $12,500 to guide you through a process that is unnecessary.

Nicole Dorfman supports the Mayor's request for the money for outside counsel. We need neutral legal advice in this situation.

Betty Forsythe stated that we should be looking for this outside legal counsel from the State of Arizona or Nevada. She doesn't think we can go to the State of California because of the bar association.

Carla Wixom asked that the Council not waste more of our tax dollars, use it for good things like paving our streets.

Bridgett Kessling wants her tax dollars to go to something more worthwhile – police, fire, streets, etc. She hoped that Council was receiving public testimony with an open mind.

Barbara Doerr stated that Council is currently sitting without legal counsel and as such, she supports the request to hire outside legal counsel. She believes that past Mayors and staff have left you with problems. She also believes this Council has done everything according to the Brown Act.

Kevin Rice requested, in the spirit of adhering with full transparency, Councilmember Leage asked questions at the beginning of the meeting and he would like to hear those questions answered before public comment.

Nattala Merzoyan supports the current Council in their actions; she has nothing against the City Manager or City Attorney.

William Welles is not here to talk about the $13,000, that's chump change. Who are going to replace these people with? You need to let the people know what is going on.

John Fennacy stated that there are always 3 versions of the truth - yours, mine and the truth. He previously spoke encouraging the Council to seek the advice of competent counsel; that time has passed. That should have been done before public session was held. There are better uses for this money. Everybody can probably say that if this Council stepped back and just said no, we aren't going to go forward with this, the respect and healing of the community would be immense.

Phil Kispersky stated that truth isn't mean, it's just the truth. That's all people want to hear, why does Council need to release these folks? And why do you then need $12,500 for reasons you can't state? Stand up and speak the truth, then we will judge.

Mike Tannler stated that Council is asking for money to engage outside counsel to get rid of 2 employees who recently had good reviews which could cost the City a half million dollars. A half million dollars could buy patrol cars, patrol vests, radios, fire equipment, training, etc. What is the benefit to him as a citizen to get rid of these people, he asked Council to vote no on Item A-7.

Hunter Kilpatrick has had the pleasure of working with both Andrea Lueker and Rob Schultz and while they have not always agreed, he has never felt that he was treated with anything but fairness and respect. Both employees have always made decisions based on case history and City policy. Without justified cause or complaint, there is no reason to fire these employees. Anytime you vote for any expense, it is his money you are using, as a tax paying citizen, he does not grant your permission to use his money to continue this matter any further.

Melinda Elster worked to help elect the present Council because they were going to provide vision and leadership for our community. As such, she supports this desire to allow additional counsel to come on to help make sure as the City moves forward, everything is does accordingly. She hopes we can come through this as a community united, not divided.

Abby Diodati looks to herself to unite, not to others. She hopes we can do this with class whether we have different opinions. She stated that any decision that Council makes about our City management is not made out of self-interests, but what is in the best interest of the community of Morro Bay as a whole. She trusts this is the Council that can take Morro Bay into the future.

John Diodati supports the action to hire outside counsel for the personnel issue you have. He encourages those concerned about transparency to look at the Brown Act and read it; this Council is doing the right thing. Personnel matters under the Brown Act have considerable constraints that Councils have to work under.

Nancy Bast stated that we finally have a Mayor and Council majority who are working for the entire community. She requested allocation of money for the outside counsel and she stated reasons why you should which include past mismanagement of money and the City's failing infrastructure.

Homer Alexander stated that the 3 Councilmembers will find out that the $12,500 will be pocket change when compared to the total cost of firing these employees. The cost to handle day-to-day legal questions while you recruit will add up. He is very familiar with the current budget, and there is no expense line item for a $500,000 termination, it will have to come from reserves. Based on these expenditures, he wouldn't count on any tax measure passing.

Claire Grantham spoke in opposition to Item A-7. She is concerned that Council has already made up their minds so why pay another $12,000 to hire an attorney. We are all actively trying to raise money for our police dog program and you have no idea how hard it is to raise this money. To see you spend money this way is distressing. Just because you can, doesn't mean you should.

Rick Grantham was very concerned about where the funding for all of this was going to come from. It comes from our emergency fund. What you are doing is taking the money that we depend on when we have a natural disaster, which we will one day; we will need this money and it shouldn't be used to hire an attorney to fire another attorney. He fought long and hard for this emergency fund when he was on Council and doesn't want to see it spent in this way.

Carrie Burton supports this request by Council. It is well known that the flash mob antics is not the way the public feels about you. She stated that the actions of those from the last meeting were very troubling to her. She knows what has been done to her. She questioned how much money the City has spent on outside counsel on other issues.

Janice Peters questioned why the Council is asking to bring in outside counsel on an issue already heard and no action was taken on. She disputed charges that were brought up from public comment, the City lost 3 million/year with the plant was not allowed to remodel; we lost over 1 million when the fishing industry was regulated almost out of existence. This was not a result of a Council or these 2 people; you can't blame those losses on these 2 people. She finished by stating that you can't get a better recommendation than 27 years of service to this City.

Lynda Merrill supports spending the money on outside counsel, and as soon as possible; we all need to move on.

Gary Owens stated that if the Brown Act has been followed, why do you need outside legal counsel?

Bill Yates questioned what the outside legal counsel is about; he fired 2 City Managers and Janice Peters was part of a Council that fired 2 City Managers and they never needed outside legal counsel. He stated that if we are going to pay $500,000, if there will be a slowdown of City services, if we are taking from reserves – I'm back. The reserves are there for an emergency, not to fund severance packages.

Jim Pauley stated that this is the best City Council that he has ever seen. It is the fairest, the most progressive, the most above board that he's been exposed to. The $12,500 is chicken feed compared to what other Councils have spent.

Bob Keller has nothing personal with anybody here tonight. He asked "what Council wouldn't go for outside counsel in a situation like this".

Rick Sauerwein spoke in support of the Council, in support of the citizens of Morro Bay and to speak in support of Andrea Lueker and Rob Schultz. He has worked here for the last 8 months and has seen firsthand how hard every member of the City staff works to support the agenda that you have set for this City. We've got a lot of different tasks ahead of us and don't need diversions that divide this community. We need 5 statesmen to stand up to unite people that will take us in a direction that will benefit everybody here. $12,500 doesn't need to be spent in this community.

Garry Johnson is not in support of hiring outside legal counsel. Also, if you hire by the hour, it will likely go longer and thus go higher.

The public comment period for the Consent Calendar was closed.

Mayor Irons pulled Items A-3 and A-7 from the Consent Calendar.

> MOTION: Councilmember Smukler moved the City Council approve Items A-1, A-2, A-4, A-5 and A-6 of the Consent Calendar as presented. The motion was seconded by Councilmember Leage and carried unanimously 4-0-1; Councilmember Nancy Johnson was not in attendance.

A-3 APPROVAL OF CITY COUNCIL MINUTES FOR THE SPECIAL CLOSED SESSION MEETING HELD ON SEPTEMBER 12, 2013; (ADMINISTRATION)

Mayor Irons questioned the City Clerk as to how the minutes of the Special Meeting of September 12, 2013 were prepared. City Clerk Jamie Boucher stated that when there was such an abundance of comment, it was common to prepare the minutes as presented. Councilmember Smukler requested the public to contact the City Clerk should they request their comment be specifically noted as opposed to summarized as a group.

> MOTION: Mayor Irons moved to continue this item and should the public wish their comments specifically stated, they should contact the City Clerk with that request. The motion was seconded by Councilmember Smukler and carried unanimously 4-0-1; Councilmember Nancy Johnson was not in attendance.

A-7 OBTAIN OUTSIDE INDEPENDENT LEGAL COUNSEL TO ADVISE CITY COUNCIL ON CITY MANAGER AND CITY ATTORNEY CONTRACTS AND RELATED ISSUES; (MAYOR)

Mayor Irons read a prepared written statement in which he stated that outside legal counsel was needed. Council needs independent legal advice as there is a clear conflict of interest with our City Attorney advising City Council and representing himself in this personnel matter. At Thursday's meeting, the City Attorney claimed that a Brown Act violation occurred; if that is true, we need outside legal counsel to cure and correct that violation. We need outside legal

counsel to help facilitate proper legal procedures, maintain confidentially of personnel matters and to protect the City. I am asking for Council support to hire outside legal counsel.

Councilmember Leage presented Council with a list of 10 questions to which he wanted answers to: ~how did you determine $250/hr; ~do you have a particular firm in mind; ~how is the firm going to be picked, will there be an rfp; ~what kind of firm are you considering; ~how are you going to tell the public which firm has been hired; ~what questions are we going to ask this outside attorney; ~do you plan to bring this report back to an open session so the public can hear what's in the report; ~are you the only person on Council that will be able to speak to this firm and if I have questions, how do I go about asking them; ~where is the money going to come from; ~ what other budgeted item is going to be reduced to provide for this money? He wants answers to these questions.

Councilmember Christine Johnson stated that in normal circumstances, A-7 wouldn't be needed. Over the course of the days since September 11th and especially since September 12th, we can agree that these aren't normal circumstances. At this point, we are looking at a situation that has been created where our in-house City Attorney can't represent his own interests in a situation we currently have, it is purely a matter of a conflict of interest. Looked at that way, it would be in the best interest of all of Morro Bay to go forward with Item A-7.

Councilmember Smukler looks forward to having discussion about Mr. Leage's questions. He also stated we need to follow a process that ensures the employees' privacy as well as not expose the City to any further litigation or challenges. His hope is that we would be involved with this contract attorney specific to these questions. He looks forward to getting answers to the questions.

Mayor Irons stated that obtaining legal counsel is the path to "why". He has done some research and found that hourly rates for lawyers run between $150-250/hour. He has 3 firms in mind, Simas & Associates, Snyders & Associates, and Meyers, Widders, Gibson, Jones & Feingold. All 3 firms are municipal law and personnel law experienced. He plans to come back with a report as to who is hired. The outside counsel will be for the use of all City Councilmembers. The money will come from the Risk Management Reserve. And no other budget items will be reduced.

Councilmember Christine Johnson requested a timeline to which Mayor Irons responded that if authorized, he would initiate contact with firms immediately, then work out the contractual details, then as soon as legal representation is available, we could proceed with noticing of meetings as soon as next week. Councilmember Christine Johnson then asked if each firm would submit a proposal that would be reviewed for Council to make this decision. Mayor Irons stated that he is proposing to make the decision to select the legal counsel.

There was a request made to discuss as to who would be selecting the outside counsel. Councilmember Leage hoped that it would at least be a committee of two Councilmembers in on the decision to obtain the outside counsel – one from the 'majority' and one from the 'minority'. People are uncomfortable with who may be brought in.

Councilmember Smukler stated that time is very important and that legal counsel is a key part of that. He thinks everyone would agree that we need move as quickly as possible. This is an extreme situation which would supersede our need for review. He is confident that this Council will act in an unbiased, open manner.

Councilmember Christine Johnson thinks it's important to go out; her preference would be that a firm that has had any dealings with Morro Bay not be selected. She would like to see closure on this so she would be willing to talk about a compressed timeline and allow the Mayor to select the firm.

Councilmember Leage is upset about this, as this outside counsel is going to be representing him as well.

Councilmember Smukler agrees that we need to move on this process but at the same time, remain within the rules. He is in support of this.

Mayor Irons stands by his request. He would also support a review of the September 12th meeting for any possible mistakes made.

> MOTION: Mayor Irons moved approval of Item A-7 in addition to reviewing the September 12th meeting for any possible mistakes made. The motion was seconded by Councilmember Smukler and carried 3-1-1 with Councilmember Leage voting not and Councilmember Nancy Johnson not in attendance.

B. PUBLIC HEARINGS - NONE

C. UNFINISHED BUSINESS

C-1 PROJECT STATUS REPORT; (ADMINISTRATION)

City Manager Andrea Lueker presented the staff report.

Mayor Irons opened up the public comment period for Item C-1.

Marla Jo Bruton requested the agendas be produced that give a clear definition of what the subject is. She also doesn't have a copy of the spreadsheet that listed the projects being discussed. She continues to have concern with the North Main Street trunk line. She feels it's a shame we haven't addressed this project. She produced a series of reports regarding the condition of collection lines throughout the City and there are 2 lines that have been a main issue of concern for her and it's a shame that this issue of possible contamination of sewage into the Morro Basin Aquifer hasn't been addressed.

Richard Sadowski also stated that in reviewing the report and video tape, the 60/40 line continues to have breaks and leaks in them and nothing has been done. Raw sewage is leaking into Alva Paul Creek. Also, he's said it since 2007; the JPA needs to be revised.

The public comment period for item C-1 was closed.

The report is for review and file.

D. NEW BUSINESS

D-1 APPROVAL OF CONSENT OF LANDOWNER AGREEMENT FOR LEASE SITE 96/96W (ROCCA'S, VAN BEURDEN) TO FILE AN APPLICATION FOR LEASE SITE IMPROVEMENTS AND ALLOW STAFF TO ENTER INTO LEASE NEGOTIATIONS; (HARBOR)

Councilmember Leage recused himself from the discussion due to the proximity of his property to the project location.

City Manager Andrea Lueker presented the staff report.

Project representative Cathy Novak spoke representing Stan Van Beurden for his project located at 945 Embarcadero. This lease site is one of the City's smallest. Add to that the extensive remodel undertaken by Mr. Van Beurden and there are limited opportunities for proposing a new project. As such, Mr. Van Beurden has proposed a plan which he believes will maximize the visitor serving uses and public opportunities for the site. This project proposes to add 173 square feet to the northern side of the building as well as reconfigure the existing western portion to create a new 590 square foot of dining area. Second, this project will look to relocate the trash enclosure inside the building which will free up the public walkway area. Other public benefits proposed include an improved public sidewalk from the Embarcadero to the Harborwalk along the park edge. In addition, this also proposes to construct a new angled access way from the park sidewalk to the existing public deck and Harborwalk. Lastly, the project proposes new picnic tables in the park adjacent to the new sidewalk. Mr. Van Beurden is prepared to submit this project to the City and is respectfully requesting that the Council authorize staff to sign the consent of landowner form to begin the formal planning review process.

Stan Van Beurden is currently developing the lease site known as Rocca's. The site is currently generating the maximum possible income seeing increases of revenue for the site grow from $12,000/year to almost $25,000/year. He stated that most Embarcadero lease holders are mom and pop type owners. Most of us have invested our lives, raised families and have been willing to pay back by reinvesting in the Embarcadero. Many lease holders take risks that most banks and financial institutions will not lend on due to restricted lease terms. What makes Morro Bay unique is the personalized service business owners provide. Many customers have been returning for generations. He feels that lease site information on the Embarcadero is very transparent. Any investment on the waterfront must be profitable to the investor or no one would be interested in investing here. The leases should reflect a fair and equal partnership. The emphasis shouldn't be on a set amount of money the leaseholder is required to spend but by how much the City will benefit by the investment. This particular site doesn't allow for any further improvements or additions as may be allowed by larger sites. He is more than willing to be a partner with the City and hopes we can make it work so that all can benefit. He hopes that this project will be moved forward tonight and negotiations can resume for the lease site.

Mayor Irons opened up the public comment period for Item D-1.

Barbara Doerr stated that additional seating will be great. However she also feels that a 20 year lease extension for no reason at all is outrageous. She also feels that Anchor Park should be preserved.

The public comment period for Item D-1 was closed.

Councilmember Christine Johnson stated that the staff report and drawings is a good first step and first look at what's happening.

Councilmember Smukler stated he can see the clear public benefit in the proposal as there are park improvements, removal of trash to a less visible area, as well as enhancement of public access to the waterfront area. He also likes the fact that the western side is being opened up maximizing the enjoyment of the view. He feels it would be beneficial for the Council to give staff leeway to work with these smaller lease sites as ultimately the final decision would come back to Council.

Mayor Irons stated we are trying to bring sidewalks to 8 feet and should try to make this a goal with this project as well. He would like to see Rocca's stay but also feels the need to visit the sign ordinance with this location as well. He is in support of moving forward with this but would also like to look into the investment versus square footage versus return on investment. He suggested one of our local banks look at the proposal as it relates to return on investment.

Councilmember Smukler is cautious about expanding beyond a 6 foot sidewalk as well as keep the options of the grass and what the park offers; Councilmember Christine Johnson is amenable to a 6 foot sidewalk and leaving the grass if possible; and, Mayor Irons thinks that an 8 foot sidewalk is the way to go.

> MOTION: Councilmember Christine Johnson moved approval of Item D-1, Alternative A. The motion was seconded by Councilmember Smukler and carried 3-0-2 with Councilmember Leage having recused himself and Councilmember Nancy Johnson was not in attendance.

Councilmember Smukler wanted to restate the importance for us to be clear and give the leeway for staff to explore alternative lease terms based on size and constraints of the site.

D-2 DISCUSSION ON ESTABLISHING A SUBCOMMITTEE TO MEET WITH THE OWNERS OF THE PROPERTY LOCATED AT THE SEC EMBARCADERO AND HARBOR TO DISCUSS POTENTIAL USES OF THE PROPERTY; (CITY ATTORNEY)

City Attorney Rob Schultz presented the staff report.

The public comment period for Item D-2 was opened.

Barbara Doerr agrees with staff that there isn't anything to do right now.

Pam Craig stated it would be a conflict of interest to have a subcommittee if a project was being brought forward to the staff level.

The public comment period for Item D-2 was closed.

Councilmember Smukler says it's important to note that our intent was to try and find a use of the property and put it to use for the community; he hopes that this project will fulfill that.

Councilmember Leage stated that they have been talking about developing this property for quite some time and nothing has ever been done.

There was Council consensus not to form a sub-committee.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Smukler requested a discussion of and approval of a Resolution in support of participating in HERO – Home Energy Renovation Opportunity Program; Mayor Irons and Councilmember Christine Johnson concurred.

ADJOURNMENT

The meeting adjourned at 10:37pm.

Recorded by:

Jamie Boucher
City Clerk

AGENDA NO: A-4

MEETING DATE: 10/8/13

A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY DECLARING OCTOBER 6-12, 2013 AS

FIRE PREVENTION WEEK

CITY COUNCIL
City of Morro Bay, California

WHEREAS, Fire Prevention Week commemorates the great Chicago Fire of 1871, which killed more than 250 persons, left 100,000 homeless and destroyed more than 17,400 buildings, and serves as the motivating force to bring the citizens of Morro Bay together to build a safer community; and

WHEREAS, the City of Morro Bay is committed to ensuring the safety and security of all those living in and visiting our City; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

WHEREAS, the nonprofit National Fire Protection Association (NFPA) has documented through its research that home fires killed 2,380 people in the U.S. in 2012; and

WHEREAS, Morro Bay's firefighters are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

WHEREAS, Morro Bay's residents are responsive to public education measures and are able to take personal steps to increase their safety from fire; and

WHEREAS, residents who have a working Smoke Detector in their homes and regularly test it will therefore be more likely to survive a fire; and

WHEREAS, the 2013 Fire Prevention Week theme, **"Prevent Kitchen Fires"** effectively serves to remind us all that cooking is the number one cause of home fires, and a significant contributor to home fires deaths; and

WHEREAS, the Morro Bay Fire Department recommends that all citizens educate themselves on the suppression of kitchen fires; and

WHEREAS, the 2013 San Luis Obispo County Fire Chief's Burn Relay will be arriving at Del Mar Elementary on Thursday October10, 2013, to provide 450 students a fire prevention message to include, "Stop Drop and Roll, Get Down Get Low and Get Out, and Smoke Detector Testing,"

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Morro Bay, does hereby proclaim October 6-12, 2013, as **Fire Prevention Week** and during National Fire Prevention Week, attention is focused on promoting fire safety and prevention, however we should practice fire safety all year long.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 8th day of October, 2013

_____

JAMIE L. IRONS, Mayor
City of Morro Bay, California

AGENDA NO: A-5

MEETING DATE: 10/8/13

A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY DECLARING OCTOBER 20-26, 2013 AS

"FREEDOM FROM WORKPLACE BULLIES WEEK"

CITY COUNCIL
City of Morro Bay, California

WHEREAS, the City of Morro Bay has an interest in promoting the social and economic well-being of its employees and citizens; and

WHEREAS, that well-being depends upon the existence of healthy and productive employees working in safe and abuse-free environments; and

WHEREAS, research has documented the stress-related health consequences for individuals caused by exposure to abusive work environments; and

WHEREAS, abusive work environments are costly to employers with consequences including reduced productivity, absenteeism, turnover, employee dissatisfaction, and injuries; and

WHEREAS, protection from abusive work environments should apply to every worker, and not limited to legally protected class status based only on race, color, gender, national origin, age, or disability.

NOW, THEREFORE BE IT RESOLVED that the City Council of Morro Bay does hereby proclaim October 20-26, 2013 as **"Freedom from Workplace Bullies Week"** and commends the California Healthy Workplace Advocates and the Workplace Bullying Institute, which raises awareness of the impacts of, and solutions for, workplace bullying in California and the U.S.; and encourages citizens to mark this week with special activities and programs to break through the shame and silence enshrouding adult bullying at work.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 8th day of October, 2013

_____

JAMIE L. IRONS, Mayor
City of Morro Bay, California

AGENDA NO: A-6

MEETING DATE: 10/08/2013

Staff Report

TO: **Honorable Mayor and Council** **DATE: 10/02/2013**

FROM: **Joe Woods, Recreation and Parks Director**

SUBJECT: **Review and Approve the Public Art Proposal for a Marble Sculpture to be Located in Front of the Morro Bay Senior Center**

RECOMMENDATION

The Recreation and Parks Commission (RPC), as well as staff, recommend City Council review and approve the proposal from Ann Marie Schneztler by artist Crissa Hewitt in memory of Nicole Poucel which includes the design and installation of a marble sculpture at the Morro Bay Senior Center; located at 1001 Kennedy Way. Staff recommends Alternative 1.

ALTERNATIVES

1. Accept the recommendation from RPC and approve the Public Art Proposal with direction to staff to work with the applicant to complete the project and execute a donation agreement.
2. Approve the Public Art Proposal with Council directed conditions and direct staff to work with the applicant to complete the project and execute a donation agreement.
3. Deny the Public Art Proposal.

FISCAL IMPACT

The sculpture is being sponsored by Ann Marie Schneztler and all costs associated with the design and installation of the project is included as a part of her donation. The sculpture project may be enhanced by lowering the privacy wall in front of the Senior Center. This potential construction would be the responsibility of the City and that cost is estimated at $2,000 which would come out of the General Fund.

SUMMARY

In March 2013, staff received a public art proposal from Ann Marie Schneztler for installation of a marble sculpture to be located at the Morro Bay Senior Center. The proposal has been reviewed and approved by both the City Manager and RPC. This proposal for public art is now being presented to City Council for review and approval.

Prepared By: ***JMW*** **Dept Review:** ***JMW***

City Manager Review: _____

City Attorney Review: _____

BACKGROUND/DISCUSSION

Pursuant to the current Public Art Policy, (attached), all requests for public art donations start at the City Manager's office. After review for completeness, the application for public art is forwarded to the appropriate Advisory Boards for consideration and recommendations. Recommendations regarding the request to donate public art are then forwarded to City Council for final consideration.

In March 2013, staff received a public art proposal from Ann Marie Schneztler. The art proposal is a marble sculpture in memory of Nicole Poucel. After staff's review and discussions with both the donor and artist, it was concluded that the appropriate location for the project would be on the patio area in front of the Senior Center. The project would also include seating for visitors to observe the art sculpture.

At the regular meeting of the Recreation and Parks Commission on September 19, 2013, this public art proposal was reviewed. The RPC commented on the location of the proposed art, work done on the privacy wall, and any comments from the Morro Bay Senior Citizens Inc. (MBSCI). They concluded that the patio area in front of the Senior Center was a good location for the project, but would like some input from the MBSCI. Staff did share the input received to date from the MBSCI's President, who has been involved from the beginning of the proposal. The President is in favor of the project, and the location. Staff has requested the RPC's Senior Representative discuss the project at the next scheduled MBSCI Board meeting, unfortunately that meeting is scheduled for October 9, 2013. Any notable suggestions or concerns by the MBSCI Board regarding the project would be addressed by staff, and reported back to City Council if warranted.

Some Commissioners found it difficult to decide on this proposed public art based on pictures alone, as the piece is an abstract and a one dimensional viewing does not give the piece justice. After further discussion, the RPC moved to accept the proposed public art project with a 4-0 vote; and recommended approval by City Council.

CONCLUSION

It is the recommendation of the Recreation and Parks Commission, as well as Staff, that the City Council review and approve the proposal from Ann Marie Schneztler by artist Crissa Hewitt in memory of Nicole Poucel to include the design and installation of a marble sculpture at the Morro Bay Senior Center; located at 1001 Kennedy Way. The addition of this proposed public art will further enhance the Morro Bay Senior Center and promote the City's interest in providing opportunities to showcase public art.

Public Art Request

Overall Description
In memory of a dear friend Nicole Poucel, Ann Marie Schnetzler wishes to donate a marble sculpture by artist Crissa Hewitt. The piece is to be placed outside of Morro Bay Senior Center. A short biography of Ms. Poucel is attached and will demonstrate why this location is a fitting site for this memorial. The theme is an abstraction of water, waves and rocks that are much a part of the region and the life of Nicole. The art piece is called, "L'Amour De La Mer" (Love of the Sea).

Technical Sculpture Information
Sculpture materials: Italian white marble, Clear Creek Jade from San Benito and County, "Wild See" granted, and concrete. The tallest marbled piece is approximately 2' tall. There are four white marble forms and one naturally formed piece of jade. Together they are positioned on a platform.
Size: platform: footprint is 20" x 48" (this is approximate to the maximum dimensions)

Base/pedestal: materials consist of rebar, poured concrete, concrete block, and stucco.
Size: 30" to 40" h x 48"w x 28" (this is approximate to the maximum dimensions).

The pedestal will be constructed as an integral part in a concrete pad. This path will sit flush with the ground level with depth to be determined by my licensed contractor. The pedestal surface below the sculpture platform will be stucco and painted (charcoal gray).

To facilitate easy viewing around the sculpture, the plan is to put an area of pavers around the pedestal sides and would extend to the curb. There is a bush with a dedicated plaque nearby and perhaps the paver area could be configured to include it and better set off the bush. Pavers would not cover the entire small plot and would be designed in consultation with the Recreation and Parks Department. The white marble is translucent in areas and it could be very effectively lit if a flush to ground light was installed in an area behind the sculpture. This is not a requirement for the piece.

Mounting
The slab and pedestal will be constructed on site as one unit. The top section that will be the platform for the marble pieces will be attached to this finished pedestal. The details are in the attached drawing. The sculpture pieces will be mounted to the top of the base as diagrammed. Stainless steel all thread hardware would be epoxied into the marble and into the base.

Maintenance
The artist will be responsible for cleaning and general maintenance of the sculpture. Over time, the marble will age and may develop some small surface pits and/or hairline cracks, both of which are natural. This is what marble does when outside. Installation of the sculpture will be the responsibility of the artist and her licensed contractor in consultation with appropriate City of Morro Bay staff.

Contact Information
Crissa Hewitt, 805-541-1095; 69 Benton Way, San Luis Obispo 93405

City of Morro Bay
PUBLIC ART POLICY
Approved by Morro Bay City Council on February 27, 2006

PURPOSE

The City of Morro Bay encourages public art on appropriate City owned property. The purpose of this policy is to set forth standardized policies and procedures for the acceptance of donated artwork offered to the City by the artist.

DEFINITION OF PUBLIC ART

For the purpose of this policy, public art will be artwork located in public places (indoor or outdoor) owned by the City of Morro Bay.

REVIEW PROCEDURE

A. Any artist wishing to donate artwork to the City of Morro Bay must submit an application to the City Manager's office in the form attached hereto:
   1. Photo, plans or model of proposed donation
   2. Technical description of the work
   3. Any special care, maintenance, mounting or display requirements
   4. Resume of the artist
   5. Statement of value of the proposed donation

B. City staff shall review the application and supporting documentation for the proposed donation. Upon finding that the application is complete, City staff shall place the application on the agenda of all City boards and commissions for their comments. Input shall be encouraged from the Morro Bay Art Association, Morro Bay Public Art Foundation and the public at large. It shall then go to the City Council for final approval or denial.

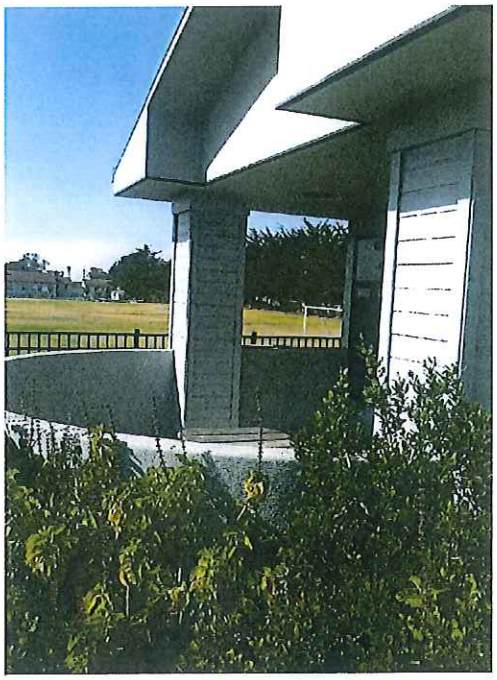
SELECTION CRITERIA

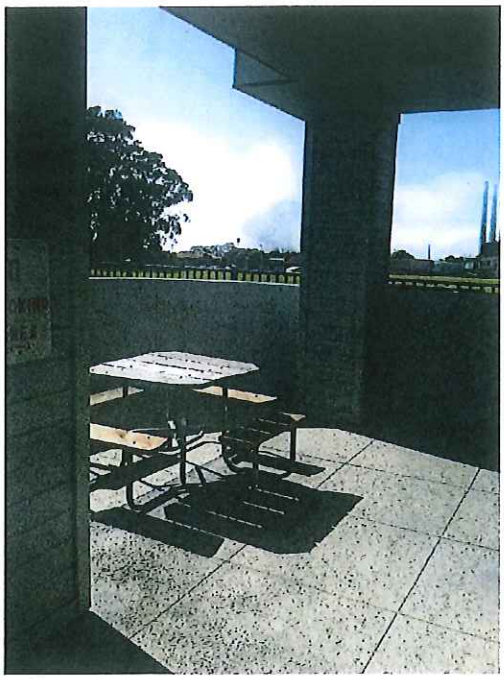
A. The City Council will consider the following criteria when considering whether to accept or reject a donation of public art.
   1. The design and placement of public art will not impede pedestrian or vehicle traffic or conflict with public or private easements.
   2. Whether the artist has the necessary funds/resources to properly install, care for and maintain the donated public art.
   3. Appropriateness of the site.

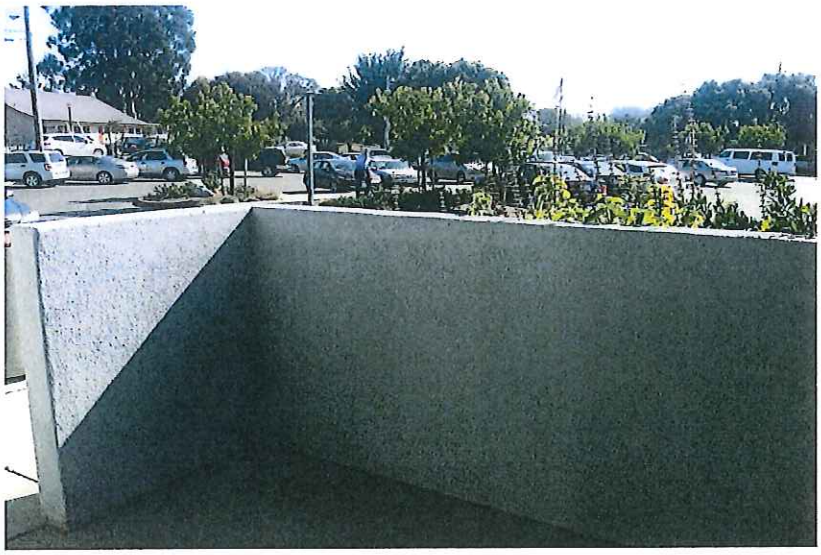
ACCEPTANCE

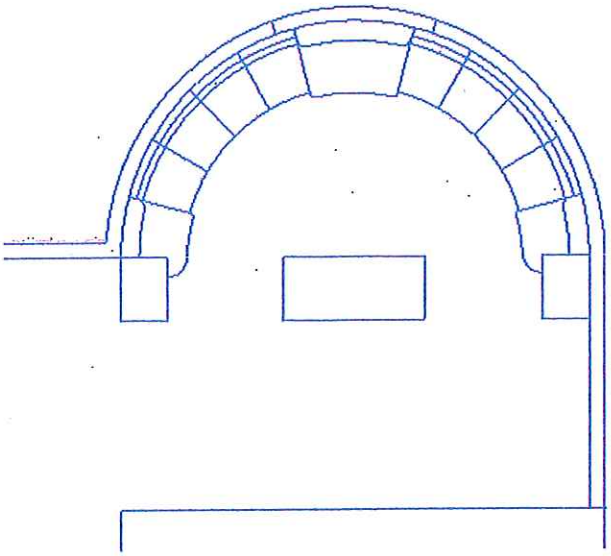
A. If the City Council votes to accept the donated artwork, the artist shall enter into a donation agreement. Upon execution of the agreement by the artist, title of the artwork shall pass to the City.

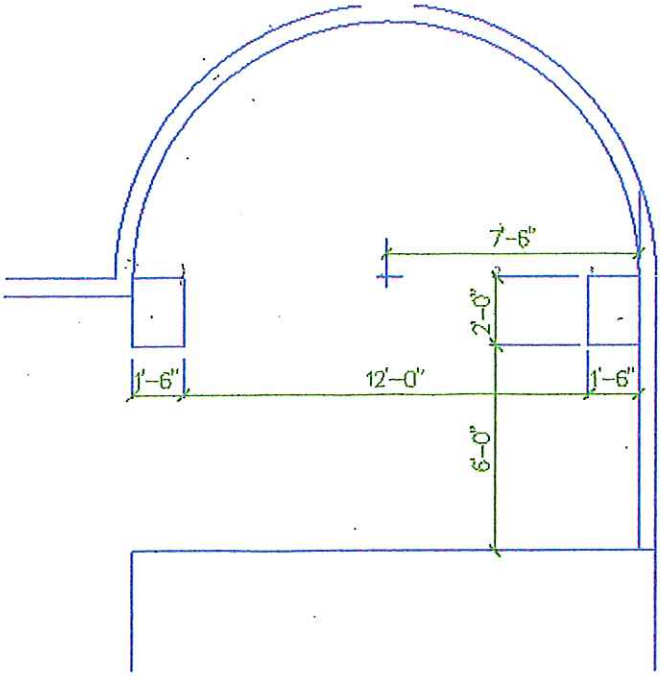
B. The City in its sole discretion may remove from its collection any donated artwork. In such event the City shall make reasonable efforts to contact the artist who donated the artwork and offer to return the artwork. If the artist cannot be located after reasonable efforts, or the artist declines to accept the return of the artwork, the City may determine the disposition of the artwork.







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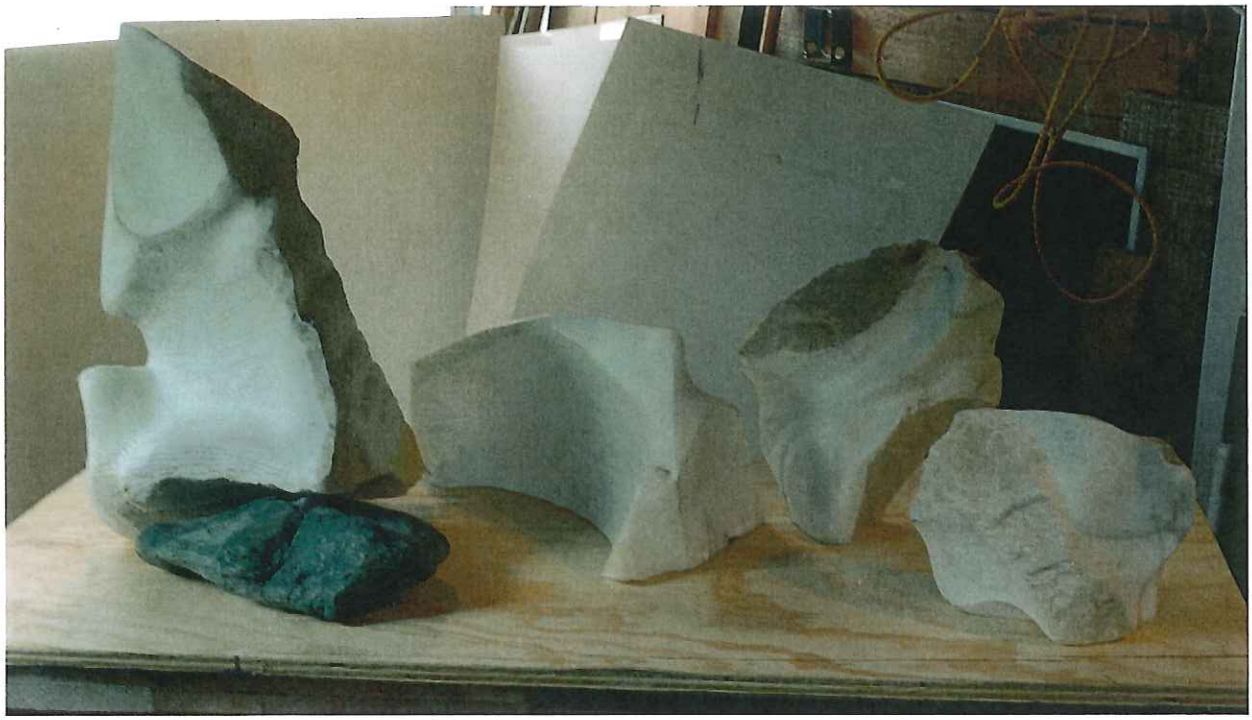
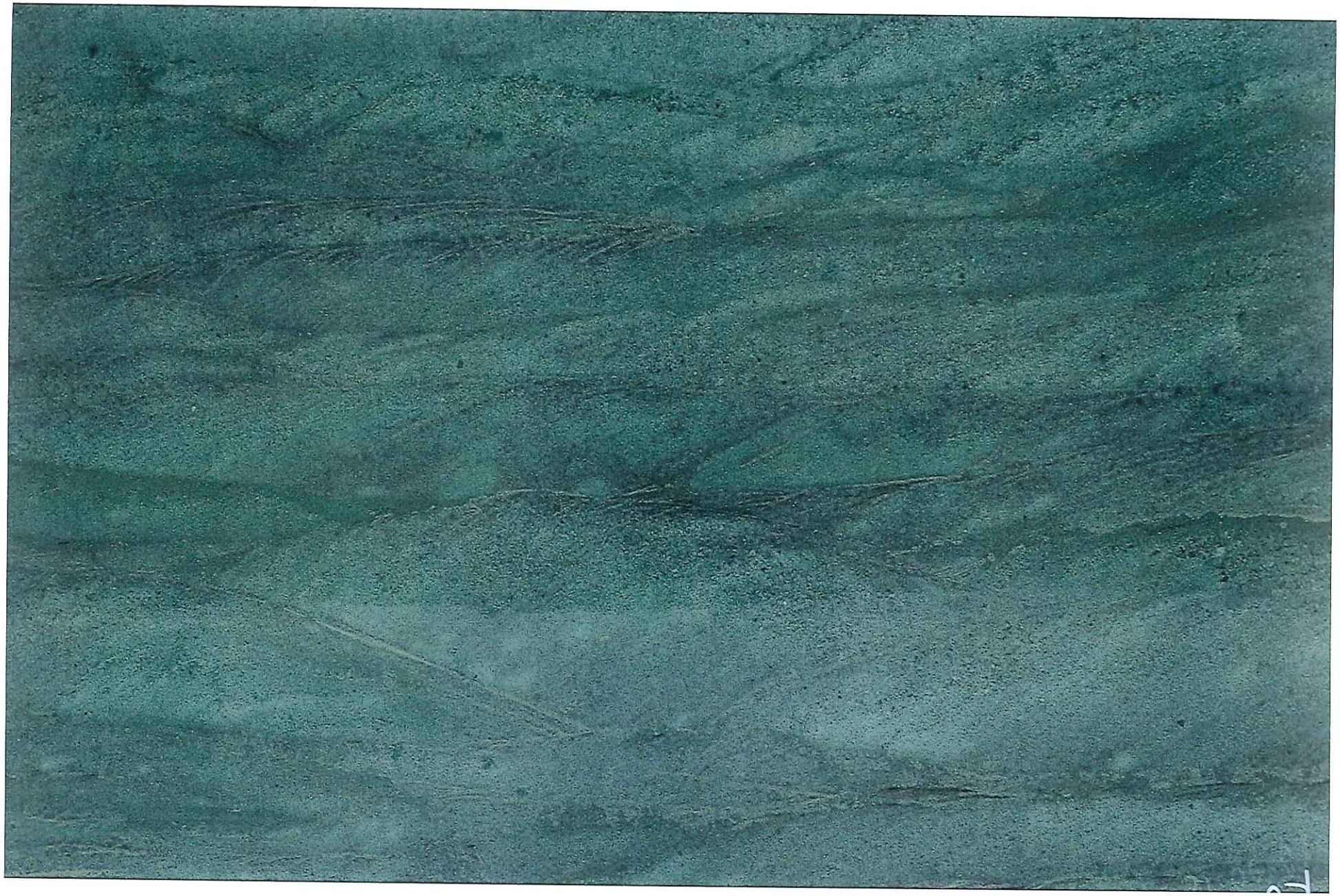


FRONT VIEW

approx 50" WIDE

BACK VIEW



GRANITE SLAB THAT WILL SIT UNDER WHITE MARBLE

AGENDA NO: A-7

MEETING DATE: October 8, 2013

Staff Report

TO: **Honorable Mayor and City Council** **DATE: September 30, 2013**

FROM: **Barry Rands, PE – Associate Engineer**

SUBJECT: **Authorization to File Notice of Completion**
Project No. MB-2010-PD1: Wireless Communications Upgrades

RECOMMENDATION
Authorize staff to file the Notice of Completion for Wireless Communications Upgrades.

ALTERNATIVES
Staff does not recommend any alternatives to the recommendation.

FISCAL IMPACT
The project was funded from City Funds (Measure Q) and was approved in the City's FY2013/14 annual budget. The preliminary budget was $60,000 but the competitively bid project was completed for a final total contract cost of $32,439.14 including one approved change order.

DISCUSSION
This project included the replacement of all existing antennas, cables, and roof entry system on the existing communication tower in the Police Department parking lot.

Three firms were solicited for this informal bid. Only one bidder, Coast Electronics, responded. Their bid was opened on July 2, 2013 coming in at $30,036.24. As this bid was significantly below the engineering estimate of $60,000, it was accepted. Construction started in early September and was substantially completed, including testing, on September 9, 2013. The project was accepted as complete on September 24, 2013 by the City Engineer. One change order was approved, increasing the project cost by 8% ($2,402.90) to account for sales tax inadvertently omitted from the original bid. The new communication system is expected to last at least another 10 years.

CONCLUSION
Coast Electronics has completed the project and staff recommends the City Council accept the project and authorize the filing of a Notice of Completion.

ATTACHMENT
Notice of Completion

Prepared By: BR Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

Recording requested by: and
When recorded mail to:
City of Morro Bay – City Engineer
595 Harbor Street
Morro Bay, Ca. 93442-1957

NOTICE OF COMPLETION
CITY OF MORRO BAY

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN by the undersigned City Clerk of the City of Morro Bay, 595 Harbor Street, Morro Bay, County of San Luis Obispo, California, 93442, having the sole interest in fee, that the construction of the

PROJECT NO. MB-2013-PD1: WIRELESS COMMUNICATION UPGRADES

in the City of Morro Bay, has been completed by

COAST ELECTRONICS

and was accepted on October 8, 2013.

_____
Jamie Boucher, City Clerk
City of Morro Bay, California

The undersigned hereby deposes and says:

That she is the City Clerk of the City of Morro Bay, County of San Luis Obispo, California; that she has read the foregoing Notice and knows the contents thereof and that the same is true of her own knowledge.

I declare the foregoing to be true under penalty of perjury.

Executed at Morro Bay, California, this _____ day of _____, 2013

_____
Jamie Boucher, City Clerk

CITY OF MORRO BAY

CERTIFICATE OF COMPLETION

The undersigned hereby certifies that the construction of

PROJECT NO. MB-2013-PD1
WIRELESS COMMUNICATION UPGRADES

by **COAST ELECTRONICS**

has been inspected and found to substantially comply with the approved project agreement and specifications and has been accepted as having been completed in accordance therewith.

It is, therefore, requested that the City Clerk file a Notice of Completion.

By: _____
Robert Livick, PE/PLS
Public Services Director/City Engineer

Date: September 24, 2013

AGENDA NO:	**A-8**
Meeting Date:	**10/8/13**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: September 30, 2013**

FROM: **Andrea K. Lueker, City Manager**

SUBJECT: **Consideration of Amendment of Section 2.2 of the City Council Policies and Procedures Regarding Members Receiving Unexpended Monthly Dollars from the Cost of their Medical Plans**

RECOMMENDATION

Direct staff to return to the City Council with a Resolution amending the City Council Policies and Procedures Manual, Section 2.2, striking the language that currently allows Council members to receive any unexpended monthly dollars from the cost of their medical plans (Alternative 1). This recommendation is made as it is the most fiscally responsible alternative.

ALTERNATIVES

Alternative 1 – approve the recommendation in the staff report, which would result in staff returning with a Resolution at an upcoming City Council meeting, amending the City Council Policies and Procedures Manual, Section 2.2, striking the language that currently allows Council members to receive any unexpended monthly dollars from the cost of their medical plans.

Alternative 2 – do not approve the staff report amending Section 2.2 of the City Council Policies and Procedures Manual, thus continuing the current practice.

Alternative 3 – approve the recommendation in the staff report with some amendments. This would result in staff returning with a Resolution at an upcoming City Council meeting, amending Section 2.2 of the City Council Policies and Procedures Manual, allowing City Council members to receive a designated percentage or specific dollar amount of any unexpended monthly dollars from the cost of their medical plan.

FISCAL IMPACT

Not applicable at this time.

SUMMARY

The City Council adopted Resolution No. 28-10 (attached), which amended Section 2.2 of the City Council Policies and Procedures Manual to read:

> **2.2 RETIREMENT, MEDICAL, DENTAL, VISION, AND LIFE INSURANCE**
> The Mayor and Council Members are required to participate in P.A.R.S. retirement. The City shall pay a contribution to P.A.R.S. equal to 1% of salary. **The City shall pay, in full, the cost of the Mayor's and Council Members' participation in the lowest cost HMO or PPO medical plan (self-only), dental, vision, and life insurance. Any unexpended amount in medical will be distributed to the Mayor and Council Members. (Reso. 28-10), (part)**

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

At the August 13, 2013 City Council meeting, Councilmember Nancy Johnson asked to have Resolution No. 28-10 brought back to the City Council for reconsideration of the portion that discussed unexpended monies from medical plans to be distributed to the Mayor and Councilmembers. There was support for this item to return.

BACKGROUND

In 2010, the City Council passed Resolution No. 28-10, which included an amendment that provides the Mayor and Councilmembers cash back from any unexpended amount of their funds allocated, but not spent, for the cost of the lowest HMO or PPO medical plan. Should a Councilmember select a City-provided medical insurance plan, then they would not receive any "cash back" as there would be no unexpended amounts of money. Should a Councilmember not select a City-provided medical insurance plan, then that Councilmember would receive that lowest cost medical plan premium amount as "cash back" in his/her paycheck.

This "cash back" practice was, at one time, also enjoyed by City employees but during the significant budget reductions in and around 2005, this practice was discontinued (there are a small number of employees that still receive this benefit pursuant to the negotiated contracts and/or agreements in place at the time, they were "grandfathered").

DISCUSSION

Should the City Council determine to terminate the practice that currently allows Council members to receive any unexpended monthly dollars from the cost of their medical plan, staff recommends the following amendment to the City Council Policies and Procedures Manual, Section 2.2:

> **2.2 RETIREMENT, MEDICAL, DENTAL, VISION, AND LIFE INSURANCE**
> The Mayor and Council Members are required to participate in P.A.R.S. retirement. The City shall pay a contribution to P.A.R.S. equal to 1% of salary. The City shall pay, in full, the cost of the Mayor's and Council Members' participation in lowest cost HMO or PPO medical plan (self-only), dental, vision, and life insurance. ~~Any unexpended amount in medical will be distributed to the Mayor and Council Members. (Reso. 28-10), (part)~~

Should the City Council move in this direction, staff would bring back a Resolution to a subsequent City Council meeting to amend the City Council Policy and Procedures Manual.

The City Council could also decide to make no change to the City Council Policies and Procedures Manual, which would continue to allow the current practice of "cash back." A 3rd alternative would be to amend the Policies and Procedures Manual, allowing City Council members to receive a designated percentage or amount of any unexpended monthly dollars from the cost of their medical plans. This action would also require staff to bring back a Resolution to a subsequent meeting to make that amendment.

CONCLUSION

While staff has provided three alternatives, the staff recommendation is for the City Council to direct staff to return with a Resolution, amending the City Council Policies and Procedures Manual, Section 2.2, striking the language that currently allows Council members to receive any unexpended monthly dollars from the cost of their medical plan.

RESOLUTION NO. 28-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA ADOPTING THE OPERATING BUDGETS AND MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2010-11 FOR THE CITY OF MORRO BAY

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, the City of Morro Bay is required to appropriate and expend public funds to conduct the day-to-day business activities of the City; and

WHEREAS, the Morro Bay City Council finds and determines that the appropriations are necessary for continued efficiency, economy and effectiveness of the City government operations; and

WHEREAS, Section 37208 of the California Government Code provides that payments or demands conforming to an approved budget adopted by ordinance or resolution do not require audit by the City Council prior to payment; and

WHEREAS, the City Council recognizes that Capital Improvement Projects authorized and approved in prior fiscal years may not be completed by June 30, 2010; and

WHEREAS, the continuing efforts of staff to operate the business of the City within an approved budget and to create savings wherever feasible are acknowledged by the City Council.

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

1. The Fiscal Year 2010-11 Operating Budgets are adopted as presented herewith and in subsequent attached amendments (if any), and any further amendments made at this meeting;

2. Staff is directed to prepare and publish a final budget document;

3. The City Manager is authorized to transfer appropriations within the adopted budget so long as the appropriations changes do not have a significant policy impact, and total appropriations are not exceeded;

4. City Council approval is required to transfer appropriations between funds, capital projects, or capital outlay items;

5. The City Council authorizes and directs the transfer of balances for capital projects approved in prior fiscal years, but not completed by June 30, 2010, to the Capital Improvement Project Fund(s) for the 2010-11 fiscal year;

6. The City Council directs that the hiring freeze for positions in the City workforce continue for those positions funded within the General Fund, with the exception of safety personnel, and the City Council reserves the right to review any vacancies on a case-by-case basis as to its official policy; and

7. The City Council agrees that the following language will amend Section 2.2 of the Council Policies and Procedures:

> The Mayor and Council Member are required to participate in P.A.R.S. retirement. The City shall pay a contribution to P.A.R.S. equal to 1% of salary. The City shall pay, in full, the cost of the Mayor's and Council Members' participation in the lowest cost HMO or PPO medical plan (self only), dental vision, and life insurance. Any unexpended amount in medical will be distributed to the Mayor and Council Members.

PASSED AND ADOPTED, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 14th day of June 2010, by the following vote:

AYES: Borchard, Grantham, Smukler, Winholtz, Peters

NOES: None.

ABSENT: None.

JANICE PETERS, Mayor

BRIDGETT KESSLING, City Clerk

AGENDA NO: A-9

MEETING DATE: October 8, 2013

Staff Report

TO: **Honorable Mayor and City Council** **DATE: October 3, 2013**

FROM: **Eric Endersby, Harbor Director**

SUBJECT: **Approval of Resolution 49-13 for Lease Agreement for Lease Site 82-85/82W-85W; 725 Embarcadero (Rose's Landing, Redican)**

RECOMMENDATION

Approve Resolution No. 49-13 approving a new Lease Agreement for Lease Site 82-85/82W-85W, located at 725 Embarcadero, with 725 Embarcadero LLC, owned by Doug Redican.

ALTERNATIVES

A. Approve Resolution No. 49-13 (Staff recommendation)
B. Reject Resolution No. 49-13

FISCAL IMPACT

Increased positive fiscal impact is expected if proposed slips get built when the percent-of-gross sales requirements (10%) are applied to the new slip revenue.

SUMMARY

The owner of Lease Site 82-85/82W-85W has a City Council approved Consent of Landowner Agreement for a proposed new vessel slip development project on his site. He has submitted his project to the Planning Division to begin the Planning review process, in addition to negotiating a new lease with the City which is being presented for Council approval.

BACKGROUND

At the April 16, 2013 City Council meeting, the Council approved a Consent of Landowner Agreement with Mr. Redican for his proposed project, which consists of seven new slips, one of which will be dedicated for public use under City control. The current Master Lease for this lease site is already on the City's modern lease format, and was one of the first to do so in 2002.

Mr. Redican has submitted his proposed project preliminary plans to the Planning Division to begin the Planning review and permit process. Since this proposed project is nearly identical to a portion of the larger conference center project that was proposed several years ago and received Coastal Commission approval (but was never built), it is anticipated that the total permit process time will be

Prepared By: _____ **Dept Review:**_____

City Manager Review: _____

City Attorney Review: _____

abbreviated as much of the research, documentation, and engineering has already taken place, and it is a "familiar" project with all permitting agencies, including the City.

DISCUSSION

The attached draft lease contains the lease terms and conditions as negotiated between Mr. Redican and the City, including the most recent review at the August 13, 2013 City Council Closed session. The major highlights are:

- 49 year term, beginning January 1, 2014, based on just over 31 years left on his current lease, and 18 years added for construction of the slips and other associated improvements.
- Starting Base Rent of $58,587 per year, which is this Fiscal year's current Base Rent.
- Same percent-of-gross sales requirements as in the current lease, with the addition of the new slips' requirement of 10%.
- Necessary addition of vessel slips/tie-up as a permitted use.
- Investment and timeline requirements for construction of the new slips and associated improvements.
- Retention of the requirement that the on-site restroom facilities remain open to the public during business hours, and available to tenants, including slip holders, after business hours.

CONCLUSION

Staff recommends approval of Resolution 49-13, approving a new Master Lease agreement for 725 Embarcadero LLC (Doug Redican) based on Mr. Redican's proposed project. This project was previously approved by Council for a Consent of Landowner Agreement to begin the project Planning review and lease negotiation processes. The attached new lease is a culmination of the lease terms and conditions negotiated.

L E A S E

by and between

the CITY OF MORRO BAY

("CITY")

and

725 EMBARCADERO LLC

("TENANT")

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Style Definition: Lev2

LEASE

This LEASE is made and entered into by and between the CITY OF MORRO BAY, a municipal corporation of the State of California herein called CITY, and _____, a _____ [DESCRIBE type of business, such as "California general partnership" or "a Delaware corporation," etc.] currently doing business as _____, [if TENANT uses another name for its business, insert here] herein called TENANT.

WITNESSETH

WHEREAS, the State of California granted certain tide and submerged lands located within the CITY limits of CITY to the County of San Luis Obispo and to its successors, being Chapter 1076, Statutes of 1947, as amended by Chapter 413, Statutes of 1955, Chapter 1874, Statutes of 1957, and Chapter 70, Statutes of 1960, first extraordinary session; which Statutes may be amended from time to time by the Legislature of the State of California; all of which Statutes are expressly recognized and agreed to be in full force and effect by the parties hereto; and

WHEREAS, the parties hereto recognize and agree that on July 17, 1964, the CITY of Morro Bay, Lessor herein, succeeded to all of the right, title and interest of the County of San Luis Obispo in and to all of the tide and submerged lands conveyed to said County by the State of California pursuant to the above mentioned acts; and

WHEREAS, judgment has been entered on October 14, 1968, in the case of CITY of Morro Bay, Plaintiff, versus County of San Luis Obispo, and State of California, Defendants, by the Superior Court of the State of California in and for the County of San Luis Obispo, #30417, adjudging and decreeing, among other things, that the title to said tide and submerged lands so conveyed by the State of California to the County of San Luis Obispo in trust, as set forth above, passed automatically to the CITY of Morro Bay upon the date of its incorporation as a CITY on the 17th day of July, 1964; and

WHEREAS, TENANT accepts the within Lease with full knowledge that there is no warranty of title in and to the within described premises by CITY to TENANT; and

WHEREAS, in order to develop and improve Morro Bay Harbor and to assist in carrying out the provisions of the tideland grant as aforesaid, and in order to provide facilities for the

accommodation of those using Morro Bay Harbor, CITY desires to lease to TENANT the within described property upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the covenants to be performed and the rental to be paid by TENANT to CITY, CITY leases to TENANT, and TENANT leases from CITY, all of the following premises (herein collectively referred to as the "Premises") in the CITY of Morro Bay, County of San Luis Obispo, State of California, described as follows:

Lease Site 82-85/82W-85W

This property is delineated on Parcel Map of the CITY of Morro Bay No. 68-30, which map was recorded on October 10, 1968, in Book 3, Page 10 of Parcel Maps in the Office of the County Recorder, San Luis Obispo County, California. A copy of said Map is attached hereto as Exhibit A and made a part hereof by reference.

Article 1 FIXED TERM

Section 1.01 Term.

The term of this Lease shall be a period of 49 years, commencing January 1, 2014 (the "Commencement Date"). The term of this Lease shall terminate without notice on December 31, 2062, unless sooner terminated as herein provided.

Section 1.02 No Extensions.

The term of this Lease shall not be extended nor shall this Lease be renewed. Requests for continued use of the Premises shall be treated as an application for a new lease and shall require appropriate application to the CITY with all required supporting information and documents, CITY Council approval and the execution of a new CITY lease, containing the then most current terms, covenants, conditions and rent schedules.

Section 1.03 Hold Over.

Should TENANT hold the demised Premises after the expiration of the term of this Lease with the consent of the CITY, express or implied, such holding over (in the absence of a written agreement between CITY and TENANT with respect thereto) shall be deemed to create a tenancy from month to month, terminable on thirty (30) days written notice from either party to the other, at a monthly rental equal to two hundred percent (200%) of the average total Rent per month for the twelve (12) months immediately preceding the expiration of the Lease, and otherwise subject to each and every term, covenant and condition of this Lease.

Section 1.04 Replacement.

As of the Commencement Date of this Lease, this Lease shall extinguish and replace every prior lease between CITY and TENANT respecting the Premises, if any. Any right or interest held by the TENANT pursuant to any existing lease with respect to the Premises which is not granted pursuant to this Lease shall be extinguished as of the Commencement Date of this Lease.

Article 2 RENT

Section 2.01 Annual Minimum Rent.

TENANT agrees to pay to CITY a minimum guaranteed annual rental for the use and occupancy of the Premises, in an initial amount of $58,587.00 per year (the "Minimum Rent"), payable in advance in equal semiannual installments on January 1 and July 1 each year during the term of the Lease. If the Commencement Date is other than January 1 or July 1, then TENANT shall pay, on the Commencement Date, the proportionate amount of the Minimum Rent payable for the period from the Commencement Date until the next payment date of January 1 or July 1, as the case may be. If the term of the Lease expires on a date other than December 31 or June 30, TENANT'S final installment of Minimum Rent shall be proportionate to the time remaining in the term. All Rent, including the Minimum Rent and the Percentage Rent, shall be paid in lawful money of the United States of America, without offset or deduction and shall be paid to CITY at City Hall located at 595 Harbor Street, Morro Bay, California, or at such other place or places CITY may from time to time designate by written notice delivered to TENANT.

Section 2.02 CPI Adjustment to Annual Minimum Rent.

(1) The parties agree that as of every July 1 following the Commencement Date (each, a "CPI Adjustment Date"), except as outlined in section 2.03 hereof, the annual Minimum Rent shall be adjusted in direct proportion to any upward or downward movement in the Consumer Price Index for January 1, 2013 which is hereby agreed to be 238.02 (Base Index). The percentage adjustment for any given year shall be based on the monthly average Index for the calendar year immediately preceding the CPI Adjustment Date as compared with the Base Index. The Consumer Price Index referred to herein is the Consumer Price Index (all items indexes, all urban consumers) for Los Angeles - Anaheim - Riverside, California, compiled and published by the United States Department of Labor, Bureau of Labor Statistics, 1982-84 Base Year = 100 (the "Index")

(2) The Annual Minimum Rent shall be adjusted as of each CPI Adjustment Date, and will remain in effect as adjusted until the next CPI Adjustment Date. As an illustration only, if the Base Index (Jan. 1, 1999 CPI) is 166.1 and the monthly average CPI for 2000 is 171.6, then the percentage increase is equal to 3.31%. Therefore, the Minimum Rent would be increased by 3.31% as of July 1, 2001, and would continue at that rate through June 30, 2002.

(3) If the United States Department of Labor, Bureau of Labor Statistics, shall cease to compile and make public the Index as now constituted and issued, but shall substitute another index in its place, then said substituted index shall be used for the purpose of adjusting the Minimum Rent for the Premises. If the Index is changed so that the base year differs from that in effect on the Lease Commencement Date, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics.

Section 2.03 Calculation of New Minimum Rent.

At the end of the initial five (5) years and of each five-year period thereafter, a new Minimum Rent shall be calculated for the following five (5) year period (each, a "Subsequent Rental Period") as follows:

A. The Minimum Rent shall be subject to adjustment by appraisal as of the fifth anniversary of the Commencement Date and every five years thereafter (each, an "Appraisal Adjustment Date"). CITY, at its own cost and expense, shall retain an independent qualified appraiser for determination of the fair market value of said premises. Not more than nine (9) months prior to each Appraisal Adjustment Date, CITY shall provide written notice to TENANT of the pending appraisal and the appraiser selected by the CITY to determine the fair market value of the Premises, excluding fixtures and improvements unless such are expressly included in the description of the leasehold hereinabove. If TENANT does not reject CITY's appraiser in writing and within thirty (30) days of CITY's notice of its determination, then the Minimum Rent for the Subsequent Rental Period shall be in the amount determined by CITY as outlined in this Section 2.03. If TENANT rejects CITY's appraiser within thirty (30) days following CITY's notice to TENANT, then within fifteen (15) days after such 30-day period, each party, at its own cost, shall select an independent professionally designated appraiser who is a member of the American Institute of Real Estate Appraisers, or the Society of Real Estate Appraisers with a designation of MAI (Member of American Institute), SRPA (Senior Real Estate Analysis), to appraise the fair market value of the Premises. CITY may rely on its original appraisal, or select a new appraiser, at its cost. If a party does not appoint an appraiser within fifteen (15) days after the other party has given notice of the name of its appraiser, the single appraiser appointed shall

be the sole appraiser. Each appraiser shall conduct an independent appraisal within thirty (30) days after appointment. If the parties are unable to agree on the Minimum Rent for the Subsequent Rental Period within thirty (30) days after receiving the appraisal(s), then each party shall select one member of a three-member committee. The two so selected members shall select the third member, and this committee shall by majority vote select one or the other of the appraisals. The Minimum Rent determined on the basis of the selected appraisal shall be final and binding and all costs associated with the three-member committee shall be paid equally by CITY and TENANT.

B. In the event that the appraisal process is not concluded on or before the Appraisal Adjustment Date, the Minimum Rent shall be adjusted retroactively to such Appraisal Adjustment Date as set out hereinbelow when said appraisal process is completed.

C. The total Rent payable, including both the Minimum Rent and the Percentage Rent for each year within the applicable previous five-year period, shall be averaged to produce the average annual total Rent payable for such previous period.

D. The new Minimum Rent for the five-year period commencing on each Appraisal Adjustment Date shall be the greater amount of seventy-five percent (75%) of the average of the total yearly Rent payable during the previous five-year period (as set out in paragraph C. above) or eight percent (8%) of the fair market value of the Premises (as established in paragraph A. above.) The new Minimum Rent shall be divided by two to determine the semiannual payments and shall be paid by TENANT to CITY on the first of each January and July thereafter. This new Minimum Rent shall be adjusted each following year in proportion to any increase in the Consumer Price Index as set out in Section 2.02 of this Lease. The base index shall be adjusted upon each Calculation of new Minimum Rent as set out in this section so that the Base index for CPI adjustment shall be the Consumer Price Index for January 1 of the year of the calculation of new Minimum Rent.

Section 2.04 Percentage Rent.

A. In addition to the Minimum Rent, TENANT agrees to pay to CITY at the time and in the manner hereinafter specified, as additional Rent for the use and occupancy of the Premises, a sum equal to five percent (5%) of all TENANT'S Gross Sales, hereinafter defined, except those attributable to the second floor table service restaurant (both food and beverage) which shall be three percent (3%), and vessel slip and tie-up fees which shall be ten percent (10%), less the amount of the Minimum Rent paid pursuant to this Lease (the "Percentage Rent").

B. The term "Gross Sales," as used herein, shall mean (subject to the exceptions and authorized deductions as hereinafter set forth), the total selling price and the total gross amount received by TENANT from all rentals, merchandise sold and services rendered in, on or from the

Premises by TENANT, its sublessees, licensees, or concessionaires, both for cash and on credit including, but not limited to, rentals of dockage space, leasing and servicing operations and ticket sales, and if on credit whether or not payment be actually made therefore, all charges for services, alterations or repairs made in or upon the Premises; the gross amount received by TENANT for merchandise sold pursuant to orders received in the Premises, though filled elsewhere; and the gross amount received by TENANT from any and all other sources of income derived from the business conducted upon the Premises.

C. Notwithstanding the other provisions of Section 2.04, the term "Gross Sales" shall not include the following items, and such items may be deducted from Gross Sales to the extent they have been included therein or have been included in a prior computation of Gross Sales or for which a Percentage Rent has been paid under this Lease to CITY:

(1) Credits and refunds made to customers for merchandise returned or exchanged;

(2) Any sales or excise taxes otherwise includable in Gross Sales as defined in this Section because such taxes are part of the total selling price of merchandise or services rendered in, from, or on the Premises, where TENANT must account for and remit the taxes to the government entity or entities by which they are imposed; and

(3) With respect to credit card sales, fees retained or withheld by the issuer and/or merchant bank pursuant to TENANT'S credit card acceptance agreement, and

(4) Rental payments to TENANT from sublessees whose total gross sales are included in gross sales computations.

D. TENANT shall keep or cause to be kept full, complete, and accurate records, and books of account in accordance with accepted accounting practices showing the total amount of Gross Sales, as defined herein, made each calendar month in, on or from the Premises. TENANT shall keep said records and books of account within San Luis Obispo County and shall notify CITY in advance of their location at all times. Furthermore, TENANT shall at the time of sale and in the presence of the customer cause the full selling price of each piece of merchandise, each rental received and each service rendered in, on or from the Premises to be recorded in a cash register or cash registers that have cumulative totals and are sealed in accordance with standard commercial practices. Said records, books of account and cash register tapes, including any sales tax reports that TENANT may be required to furnish any government or governmental agency shall at all reasonable times be open to the inspection of CITY, CITY'S auditor, or other authorized representative or agent of CITY. TENANT consents to the release of sales tax information to CITY and on demand will furnish to CITY a copy of the sales tax reports, quarterly reports and any audit reports of sales for confidential internal use of the CITY in determining Gross Sales for TENANT. TENANT consents and authorizes CITY to request such

information directly from the State Board of Equalization or other state agency with which sales tax information is filed.

E. By July 31 of each year, TENANT shall furnish CITY with a statement, to be certified by TENANT as current, true and accurate, which shall set forth the Gross Sales of each department, sublessee, licensee and concession operating in, on or from the Premises for the previous twelve (12) calendar months, ending June 30, just concluded, and the authorized deductions, if any, therefrom; and with it TENANT shall pay to CITY the amount of the Percentage Rent which is due to CITY as shown thereby. If TENANT shall at any time cause an audit of sales of TENANT'S business to be made by a public accountant, TENANT shall furnish CITY with a copy of said audit without cost or expense to CITY. CITY may, once in any twelve-month period, cause an audit of the business of TENANT to be made by a public accountant of CITY'S own selection. TENANT shall, upon receiving written notice of CITY'S desire for such an audit deliver and make available all such books, records and cash register tapes to the public or certified public accountant selected by CITY. Furthermore, TENANT shall promptly on demand reimburse CITY for the full cost and expense of said audit, should the audit disclose that the questioned statement or statements understated Gross Sales by five percent (5%) or more but less than ten percent (10%). In the event that an audit performed at CITY'S request discloses that TENANT understated Gross Sales by less than 5%, the cost of such audit shall be paid by CITY. In the event that any audit or other review of records discloses that the amounts reported as Gross Sales was understated by TENANT by ten percent (10%) or more, CITY shall not only be entitled to recover from TENANT all costs of audit and review but shall also be entitled to recover from TENANT a penalty equal to two times the Percentage Rent due pursuant to this Lease on such unreported amounts. Whenever any audit discloses that Gross Sales were understated by any amount, TENANT shall immediately pay the additional Percentage Rent therein shown to be payable by TENANT to CITY, together with interest at the Default Rate thereon, from the date the Percentage Rent was payable until the date paid.

F. CITY shall be entitled at any time within five (5) years after the receipt of any such Percentage Rent payment, to question the sufficiency of the amount thereof and/or the accuracy of the statement or statements furnished by TENANT to justify the same. For the purpose of enabling CITY to check the accuracy of any such statement or statements, TENANT shall for said period of five (5) years after submission to CITY of any such statement keep all of TENANT'S records, including sales tax returns, all cash register tapes and other data which in any way bear upon or are required to establish in detail TENANT'S Gross Sales and any authorized deductions therefrom as shown by any such statements and shall upon request make the same available to CITY for examination.

Section 2.05 Reimbursements.

If TENANT fails to perform any term or covenant of this Lease, CITY may, but is not obligated to, perform such term or covenant, and TENANT shall reimburse CITY therefore as additional Rent hereunder. As an illustration and not as a limitation, if TENANT fails to procure the insurance required by this Lease, CITY may, but is not obligated to, obtain such insurance, with the cost of the premiums being due to CITY upon demand as additional Rent.

Section 2.06 Penalty and Interest.

(1) If any Rent is not received within ten (10) days following the date on which the Rent first became due, TENANT shall pay a late penalty of ten percent (10%) of the amount of the Rent in addition to the Rent.

(2) In addition to the penalty, TENANT shall pay interest at the rate of one percent (1%) per month or fraction thereof or the maximum amount permitted by law as of the date this Lease is signed, whichever is greater (the "Default Rate"), on the amount of the Rent, exclusive of the penalty, from the date on which Rent first became delinquent until paid. The term "Rent" includes any sums advanced by the CITY and any unpaid amounts due from TENANT to the CITY.

Article 3 USE OF PREMISES

Section 3.01 Permitted Uses.

The Premises shall, during the term of this Lease, be used for the purpose of operating and conducting thereon and therein the uses permitted by, and in compliance with, Conditional Use Permit Number 72-00, as it may be amended from time to time, and for no other purpose. At the commencement date of the lease, such uses include mixed use retail, bar and restaurant, and vessel slips/tie-up.

Section 3.02 Unauthorized Use.

TENANT agrees to allow only those uses authorized in Section 3.01 hereinabove and that any unauthorized use thereof shall constitute a breach of this Lease and shall, at the option of CITY, terminate this Lease.

Section 3.03 Operation of Business - Hours of Operation.

Failure to actively and diligently conduct the business authorized herein constitutes a breach of the agreement and shall, at the option of CITY, terminate this lease.

(1) TENANT shall during the term of this Lease conduct business of the nature specified in Section 3.01 of this Lease on the Premises in an efficient and diligent manner and keep the Premises open for the conduct of business continuously and without interruption for at least six hours each day of the year except one day each week and legal holidays. This provision shall not apply if the Premises shall be closed and the business of TENANT is temporarily shut down for a period not to exceed fourteen (14) calendar days in any calendar year to make necessary repairs, maintenance or other construction deemed necessary by TENANT. This provision shall not apply if the Premises shall be closed and the business of TENANT is temporarily shut down as authorized or required by the CITY Manager or on account of strikes, walkouts, or causes beyond the control of TENANT or for not more than three (3) days out of respect to the memory of an officer, employee, or close relative of any officer or employee of TENANT.

(2) TENANT shall operate TENANT'S business on the Premises with due diligence and efficiency and in like manner as comparable businesses operated in the CITY or the coastal area of San Luis Obispo County, so as to produce the maximum amount of Gross Sales and gross receipts from services which may be produced from TENANT'S business; and TENANT at all times shall carry on Premises, a stock or merchandise of such size, character, and quality as is reasonable, designed to produce the maximum return to TENANT, when the sale of merchandise is a permitted use under this Lease.

Section 3.04 Competition.

During the term of this Lease, TENANT shall not directly nor indirectly acquire or establish any similar or competing business within a radius of five (5) miles from the location of the Premises, provided, however, that TENANT may, with prior written approval from CITY, own or operate more than one business, whether or not competing and similar along the Embarcadero upon CITY lease sites. The purpose of this section is to prevent and prohibit TENANT from reducing revenue to CITY by diverting business from the operation at the Premises to another similar business owned by TENANT within the CITY but not upon a CITY lease site from which CITY is paid rent based on Gross Sales.

Section 3.05 Hazardous Materials.

(1) TENANT shall not transport, use, store, maintain, generate, dispose, release, treat or discharge any "Hazardous Material" (as defined below) upon or about the Premises (such activities being hereafter referred to as "Hazardous Materials Activities"), nor permit TENANT'S employees, agents, or contractors to engage in Hazardous Materials Activities upon or about the Premises, except as allowed by applicable law. The term "Hazardous Material" for purposes

hereof shall mean any chemical, substance, material or waste or component thereof which is now or hereafter listed, defined or regulated as a hazardous or toxic chemical, substance, material or waste or component thereof by any federal, state or local governing or regulatory body having jurisdiction, or which would trigger any employee or community "right-to-know" requirements adopted by any such body. All Hazardous Materials Activities at the Premises shall be conducted strictly in accordance with all applicable laws and regulations. If TENANT shall transport any hazardous waste from the Premises, such transportation shall be done only by a contractor duly licensed to haul hazardous waste and shall use only a duly licensed disposal site approved by TENANT'S liability insurer.

(2) TENANT shall promptly notify CITY of: (i) any enforcement, cleanup or other regulatory action taken or threatened by any governmental or regulatory authority with respect to the presence of any Hazardous Material on the Premises or the migration thereof from or to other property, (ii) any demands or claims made or threatened by any party against TENANT or the Premises relating to any loss or injury resulting from any Hazardous Material on or from the Premises, and (iii) any matters where TENANT is required by applicable law to give a notice to any governmental or regulatory authority respecting any Hazardous Material on the Premises. CITY shall have the right (but not the obligation) to inspect the Premises, to take such remedial action on the Premises, as CITY may deem appropriate, and to join and participate, as a party, in any legal proceedings or actions affecting the Premises initiated in connection with any environmental, health or safety law.

(3) If any Hazardous Material is released, discharged or disposed of by TENANT or its employees, agents or contractors, on or about the Premises in violation of the foregoing provisions, TENANT shall immediately notify CITY. CITY may elect either to take such remedial action as CITY deems appropriate, in which event TENANT shall reimburse CITY for all costs thereof within ten (10) days after demand, or direct TENANT to perform such remediation. If CITY directs TENANT to perform the remediation, TENANT shall immediately take such remedial action, as CITY shall direct. TENANT shall, properly and in compliance with applicable laws clean up and remove the Hazardous Material from the Premises and any other affected property at TENANT'S expense. If CITY directs TENANT to perform remediation hereunder and if TENANT shall fail to comply with the provisions of this Section within five (5) days after written notice by CITY, or such shorter time as may be required by applicable law or in order to minimize any hazard to persons or property, CITY may (but shall not be obligated to) arrange for such compliance directly or as TENANT'S agent through contractors or other parties selected by CITY at TENANT'S expense (without limiting CITY'S other remedies under this Lease or applicable law).

Section 3.06 Tidelands Trust.

TENANT shall use and occupy the Premises in strict compliance with the Tidelands Trust purposes under which the Premises or any portion thereof are held by CITY pursuant to the grants from the State of California as set forth in this Lease.

Section 3.07 Compliance with Law.

TENANT shall, at no cost to CITY, comply with all of the requirements of all local, municipal, county, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, and shall faithfully observe in the use of the Premises all local, municipal and county ordinances and state and federal statutes, rules, regulations and orders now in force or which may hereafter he in force (collectively, "Legal Requiremeuts") provided that TENANT shall not be required to comply with any Legal Requirement imposed by the CITY that would substantially deprive TENANT of a material benefit under this lease unless such Legal Requirement has been imposed or required by a county, state or federal authority. The judgment of any court of competent jurisdiction, or the admission of TENANT in any action or proceeding against TENANT, whether CITY be a party thereto or not, that TENANT has violated any such Legal Requirement in the use of the Premises shall be conclusive of that fact as between CITY and TENANT.

Section 3.08 Waste or Nuisance.

TENANT shall not commit or permit the commission by others of any waste on the Premises; TENANT shall not maintain, commit, or permit the maintenance or commission of any nuisance as defined by law on the Premises; and TENANT shall not use or permit the use of the Premises for any unlawful purpose.

Section 3.09 Use by CITY.

(1) Subject to TENANT's rights hereunder to possession of the Premises, CITY may grant licenses to, or otherwise authorize, other persons and entities permitting uses of the Morro Bay Harbor.

(2) CITY also retains and reserves for itself, its successors and assigns, all oil, gas, petroleum and other mineral or hydrocarbon substances in and under the lands leased hereby together with right to prospect and extract all such substances.

Article 4 CONSTRUCTION, ALTERATION AND REPAIRS

Section 4.01 Construction Approval.

(1) TENANT shall not make or permit any other person to make any alterations or structural additions or structural modifications to the Premises or to any structure thereon or facility appurtenant thereto if the cost thereof shall exceed ten thousand dollars ($10,000), without the prior written consent of CITY. The consent to be obtained pursuant to this Section 4.01(1) shall be requested from the Harbor Director, or the City's designee, for CITY. If the Harbor Director or any future successor to the duties of the City's Harbor Director, or the City's designee, gives such consent to proceed, it is understood that such consent is given by CITY only in its capacity as the landlord under this Lease and not as the permit-issuing authority. TENANT remains obligated to obtain any needed building permits and comply with all applicable planning processes.

(2) Where required by the Morro Bay Municipal Code, California Coastal Act, Corps of Engineers or any other state or federal agency having authority over the proposed project, then all Conditional Use Permits, Concept Plans, Precise Plans, Coastal Development Plans, and any other required plans or permits shall be applied for and approved prior to any construction, alteration or repairs.

Section 4.02 Construction Bond.

(1) Prior to the commencement of any construction the cost of which is greater than the amount of one hundred thousand dollars ($100,000), TENANT shall file with the Morro Bay CITY Clerk a final detailed Civil Engineer's, Registered Architect's or Licensed and Bonded General Contractor's estimate of the cost of construction and installation of improvements on the Premises. Said estimate must be submitted to the CITY Engineer for approval. TENANT shall file with the Morro Bay CITY Clerk a faithful performance bond, in a form and issued by a corporate surety company satisfactory to CITY, in an amount satisfactory to CITY but not in excess of one hundred percent (100%) of the final detailed cost estimate, securing the faithful performance of TENANT or its contractor in the completion of said construction.

(2) TENANT shall also file with the Morro Bay CITY Clerk a labor and materials bond, in a form and issued by a corporate surety company satisfactory to CITY, in an amount satisfactory to CITY but not in excess of one hundred percent (100%) of the final detailed cost estimate, securing the payment of all claims for the performance of labor or services on, or the furnishing of materials for, the performance of said construction.

(3) In lieu of the above referenced bonds, TENANT may post cash deposits or may make other mutually satisfactory arrangements to guarantee the completion of construction projects. In the event the contractor bonds the project, CITY may be named as additional indemnitee to comply with these requirements.

Section 4.03 Mechanics' Liens.

At all times during the term of this Lease, TENANT shall keep the Premises and all buildings, installations and other improvements now or hereafter located on the Premises free and clear of all liens and claims of liens for labor, services, materials, supplies, or equipment performed on or furnished to the Premises. TENANT further agrees to at all times, save CITY free and harmless and indemnify CITY against all claims for labor or materials in connection with any improvement, repairs, or alterations on the Premises, and the cost of defending against such claims, including reasonable attorneys' fees. Should TENANT fail to pay and discharge or cause the Premises to be released from such liens or claim of liens within ten (10) days after the filing of such lien or levy, TENANT shall upon written notification be required to immediately deposit with CITY a bond conditioned for payment in full of all claims on which said lien or levy has been filed. Such bond shall be acknowledged by TENANT as principal and by a company or corporation, licensed by the Insurance Commissioner of the State of California to transact the business of a fidelity and surety insurance company as surety. The beneficiary of any security instrument which instrument is on record with CITY, shall have the right to file such a bond on behalf of TENANT. CITY shall have right to post and keep posted on the Premises notices of non-responsibility and any other notices that may be provided by law or which CITY may deem proper for the protection of CITY and Premises from such liens. TENANT shall give CITY notice at least twenty (20) days prior to commencement of any work on the Premises to afford CITY the opportunity to post such notices.

Section 4.04 Ownership of Improvements.

The parties agree that CITY has the option and right to require TENANT to remove all buildings, structures, installations, improvements of any kind or other property belonging to or placed upon the Premises by TENANT at the termination of this Lease, however occurring, providing CITY gives notice, in writing, no later than thirty (30) days prior to the termination of the Lease, of its decision to require that such improvements be removed. The parties agree that if the CITY exercises its option, then at the termination of this Lease, however occurring, TENANT shall have sixty (60) days thereafter to remove all buildings, structures, facilities, installations, improvements and other property belonging to TENANT from the Premises. If CITY exercises such option and TENANT fails to remove all such improvements and other

property within sixty (60) days after the termination of this Lease, CITY shall have the right to have any or all such improvements and other property removed at the expense of TENANT. If CITY does not exercise its option to remove (or require the removal of) the improvements and other property, then title to such improvements and other property shall vest in CITY and TENANT shall not remove same.

Article 5 LEASEHOLD MORTGAGES

Tenant shall not mortgage, securitize or hypothecate the leasehold interest in whole or any part without the prior written approval of City as evidenced by a resolution of the City Council of the City of Morro Bay.

Article 6 REPAIRS, MAINTENANCE AND RESTORATION

Section 6.01 Maintenance by TENANT.

At all times during the term of this Lease, TENANT shall, at TENANT'S own cost and expense, keep and maintain all improvements now or hereafter on the Premises in good order and repair and in a safe and clean condition. Furthermore, TENANT shall, at TENANT'S own cost and expense, maintain at all times during the term of this Lease the whole of the Premises in a clean, sanitary, neat and orderly condition. CITY may, at the sole option of CITY, clean and clear the Premises, at TENANT'S cost and expense, in the event TENANT fails to clean and clear the Premises in accordance with this Section to the satisfaction of CITY after fifteen (15) days' written notice to TENANT from CITY of CITY'S intent to exercise this option.

Section 6.02 Seawalls and Revetment.

At all times during the term of this Lease, TENANT shall at TENANT'S own cost and expense repair, maintain, replace and rebuild as necessary, the improvements, pilings, bulkheads, seawalls, revetment, piers, posts and any structures or other improvements located in the water portion of the Premises. Further, TENANT shall at TENANT'S own cost and expense conduct maintenance surveys at reasonable intervals to locate and determine needed repairs.

Section 6.03 Legal Requirements.

At all times during the term of this Lease, TENANT, at no cost to CITY, shall:

(1) Make all alterations, additions, or repairs to the Premises or the improvements or facilities on the Premises required by any Legal Requirements (as defined in Section 3.07 above) now or hereafter made or issued;

(2) Observe and comply with all Legal Requirements now or hereafter made or issued respecting the Premises or the improvements or facilities located thereon;

(3) Obtain all required permits pursuant to the Morro Bay Municipal Code or State law prior to the initiation of any repair or maintenance activity; and

(4) Indemnify and hold CITY and the property of CITY, including the Premises, free and harmless from any and all liability, loss, damages, fines, penalties, claims and actions resulting from TENANT'S failure to comply with and perform the requirements of this section.

Section 6.04 Failure to Repair.

In the event failure to repair results in a hazardous or unsafe condition, CITY shall have the right and option but not the obligation to close and prohibit access to the unsafe portion of the Premises until such repairs are completed and accomplished and the Premises rendered safe for public use. In addition, if TENANT fails to repair any hazardous or unsafe condition within ten (10) days of written notice thereof from CITY, CITY shall have the right, but not the obligation, to perform such repair at TENANT'S expense. TENANT shall reimburse CITY for any such repair undertaken by CITY, promptly upon CITY'S demand, as additional Rent. Failure by CITY to enforce any of the provisions of this Article shall not constitute a waiver of these provisions and CITY may at any time enforce all of the provisions of this Article, requiring all necessary repairs, rebuilding or replacement.

Section 6.05 Inspection by CITY.

CITY or CITY'S agents, representatives, or employees may enter the Premises at all reasonable times for the purpose of inspecting the Premises to determine whether TENANT is complying with the terms of this Lease and for the purpose of doing other lawful acts that may be necessary to protect CITY'S interest in the Premises under this Lease or to perform CITY'S duties under this Lease.

Section 6.06 TENANT'S Duty to Restore Premises.

(1) Except as provided in Section 6.07 below, if at any time during this Lease, any improvements now or hereafter on the Premises are destroyed in whole or in part by the elements, or any other cause not the fault of TENANT or CITY, this Lease shall continue in full force and effect and TENANT, at TENANT'S own cost and expense, shall repair and restore the damaged or destroyed improvement(s) according to the original plan thereof or according to such modified plans therefore as shall be approved in writing by CITY. The work of permitting, repair and restoration shall be commenced by TENANT within one hundred eighty (180) days

after the damage or destruction occurs shall be pursued with due diligence, and shall be completed not later than one year after the work is commenced, unless the parties hereto mutually agree, in writing, to an extension. In all other respects, the work of repair and restoration shall be done in accordance with the requirements for construction work on the Premises set forth in Article 4 of this Lease. Any failure by TENANT either to commence or to complete repair and restoration as required by this Section 6.06 shall be a material default under this Lease.

(2) Any and all insurance proceeds that become payable at any time during the term of this Lease because of damage to or destruction of any improvements on the Premises shall be paid to TENANT and applied by TENANT toward the cost of repairing and restoring the damaged or destroyed improvements in the manner required by this Section 6.06, or, if this Lease is terminated, then applied as provided in Section 6.07. Except as set forth in Section 6.08 below, TENANT'S obligation to restore pursuant to this Section shall exist whether or not funds are available from insurance proceeds.

Section 6.07 Termination of Lease for Destruction.

(1) Notwithstanding the provisions of Section 6.06 of this Lease, TENANT shall have the option of terminating this Lease as provided in this Section 6.07 if:

(a) During the last fifteen (15) years of the term of this Lease, any improvements now or hereafter on the Premises are so damaged or destroyed by the elements or any cause not the fault of TENANT or CITY, that they cannot be repaired and restored as required by Section 6.06 of this Lease at a cost not exceeding thirty-five percent (35%) of the cost of replacing all improvements if they had been totally destroyed at the time of such damage; or

(b) During the last ten (10) years of the term of this Lease, any improvements now or hereafter on the Premises are so damaged or destroyed by the elements or any cause not the fault of TENANT or CITY, that they cannot be repaired and restored as required by Section 6.06 of this Lease at a cost not exceeding fifteen percent (15%) of the cost of replacing all improvements if they had been totally destroyed at the time of such damage.

(2) TENANT may exercise its right to terminate pursuant to this Section 6.07 by providing written notice to CITY within one hundred eighty (180) days following damage or destruction as described herein. Such termination shall be effective on the last day of the calendar month following the month in which TENANT provides its notice.

(3) If TENANT fails to commence or complete repair and restoration as required by Section 6.06, CITY shall have all rights and remedies with respect to TENANT's default, including but not limited to termination of this Lease pursuant to Article 11.

(4) If this Lease is terminated as a result of damage or destruction, then any insurance proceeds received with respect to the improvements shall be applied or distributed in the following order:

(a) first, to the demolition of the improvements and removal of all demolition debris; then

(b) to any accrued and unpaid Rent as of the effective date of the termination; then

(c) to each Lender under a Leasehold Encumbrance, in order of lien priority, an amount not to exceed the amount due under such Leasehold Encumbrance; then

(d) to CITY, an amount equal to the present value, as of the date of termination, of the total Minimum Rent for the remainder of the Term; then

(e) the remaining proceeds, if any, to TENANT.

Section 6.08 Destruction Due to Risk Not Covered by Insurance.

Notwithstanding anything to the contrary in Section 6.06 of tbis Lease, TENANT shall have the right to terminate this Lease at any time if the improvements on the Premises are damaged or destroyed by a casualty for which TENANT is not required under this Lease to carry insurance and the cost to repair or restore such improvements exceeds fifty percent (50%) of the fair market value of all the improvements on the Premises immediately prior to the damage or destruction.

Article 7 INDEMNITY AND INSURANCE

Section 7.01 Indemnity Agreement.

(1) TENANT shall indemnify and hold CITY, and the property of CITY (including the Premises and any improvements now or hereafter on the Premises), and the CITY'S officers, officials, employees and volunteers harmless from any and all liability, claims, loss, damages, and expenses, including attorney fees and litigation expenses, resulting from TENANT'S occupation and use of the Premises or any negligent act or omission of the TENANT or any of

its subtenants, employees, contractors or anyone for whom TENANT may be liable, specifically including, without limitation, any liability, claim, loss, damage, or expense arising by reason of:

(a) The death or injury of any person, including TENANT or any person who is an employee or agent of TENANT, or by reason of the damage to or destruction of any property, including property owned by TENANT or by any person who is an employee or agent of TENANT, from any cause whatever while such person or property is in or on the Premises or in any way connected with the Premises or with any of the improvements or personal property on the Premises;

(b) The death or injury of any person, including TENANT or any person who is an employee or agent of TENANT, or by reason of the damage to or destruction of any property, including property owned by TENANT or any person who is an employee or agent of TENANT, caused or allegedly caused by either (i) the condition of the Premises or any improvement placed on the Premises by TENANT, or (ii) any act or omission on the Premises by TENANT or any person in, on, or about the Premises with or without the permission and consent of TENANT;

(c) Any work performed on the Premises or materials furnished to the Premises at the instance or request of TENANT or any person or entity acting for or on behalf of TENANT;

(d) TENANT'S failure to perform any provision of this Lease or to comply with any Legal Requirement imposed on TENANT or the Premises.

(2) TENANT'S obligations pursuant to this Section to indemnify and hold harmless do not extend to any liability, claim, loss, damage or expense arising from CITY'S active negligence or willful misconduct.

Section 7.02 Liability Insurance.

During the term of this Lease, TENANT shall maintain at its cost Commercial General Liability insurance with coverages at least as broad as ISO Forms labeled "City of Morro Bay Insurance requirements for Lessees", Certificate of Insurance – City of Morro Bay", and "Additional Insureds – Managers or Lessors of Premises" attached hereto as Exhibit B and made a part hereof as may be updated or changed from time to time at the sole discretion of the CITY, insuring against claims for bodily injury (including death), property damage, contractual liability, personal injury and advertising injury occurring on the Premises or from operations located in any part of the Premises. Such insurance shall afford protection in amounts no less than One Million Dollars ($1,000,000) per occurrence for bodily injury, personal injury and property

damage, provided that if insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Premises or the general aggregate limit shall be twice the occurrence limit stated in this Section. All liability insurance carried by TENANT hereunder shall name CITY, its officers, officials, employees and volunteers as additional insureds, and shall be primary insurance with respect to such additional insureds. TENANT shall include all its subtenants as insureds under TENANT's liability policies or shall furnish separate certificates and endorsements for each subtenant. All coverages for subtenants shall comply with all requirements of this Article Seven.

Section 7.03 Worker's Compensation.

TENANT shall maintain at TENANT'S own expense and keep in full force and effect during the term of this Lease, Worker's Compensation Insurance as provided by law. Said insurance shall contain a waiver of subrogation rights against CITY. TENANT shall also maintain employer's liability insurance with minimum coverage of $1,000,000 per accident for bodily injury or disease.

Section 7.04 Property Insurance.

TENANT shall, at its cost, at all times during the term of this Lease keep all improvements and other structures on the Premises, as well as any and all additions, improvements and betterments thereto, insured for one hundred percent (100%) of their full replacement cost with no co-insurance provision against loss or destruction by the perils covered by "all risk" (excluding earthquake) property damage insurance policies. Any loss payable under such insurance shall be payable to TENANT, CITY, and any Lender under a Leasehold Encumbrance pursuant to Article 5 of this Lease, as their interests may appear, and such proceeds shall be used and applied in the manner required by Article 6 of this Lease.

Section 7.05 Additional Coverage.

TENANT shall also maintain, at its expense, the insurance described in this Section 7.05.

(1) If TENANT has (or is required by any Legal Requirement to have) a liquor license and is selling or distributing alcoholic beverages on the Premises, then TENANT shall maintain liquor liability coverage in appropriate amounts. TENANT shall require any subtenant who has (or is required by any Legal Requirement to have) a liquor license and who is selling or distributing alcoholic beverages on the Premises, to maintain such coverage.

(2) TENANT shall maintain "all risk" (excluding earthquake) property damage insurance covering TENANT's personal property located at the Premises, in amounts not less than the full

replacement value of such personal property. CITY shall have no interest in the proceeds of such insurance.

(3) TENANT shall, at TENANT's own expense, obtain and maintain any additional insurance coverages that CITY may reasonably require. As illustration only and not as a limitation, in appropriate circumstances such additional insurance may include increased general liability limits, business interruption coverage, business automobile liability, boiler and machinery insurance and/or builder's risk insurance. However, TENANT shall not be required to maintain additional coverages that are in excess of those typically maintained by similarly situated tenants in the Morro Bay area.

Section 7.06 **General Requirements.**

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Except as specifically provided to the contrary, all the insurance required pursuant to this Article Seven shall be subject to the requirements of this Section 7.06.

(1) Maintenance of proper insurance coverage is a material element of this Lease and failure to maintain or renew coverage or to provide evidence of coverage and/or renewal may be treated by the CITY as a material breach of contract. TENANT shall forward the CITY specifications and forms to TENANT'S insurance agent for compliance.

(2) CITY may at any time require TENANT to increase the minimum coverage limits for insurance required by this Lease, but every such increase shall be reasonable under the circumstances.

(3) All policies shall be issued by insurance companies authorized to issue such insurance in California, with an A.M. Best's rating of no less than A:VII.

(4) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, officials, employees and volunteers; or the TENANT shall provide a financial guarantee satisfactory to CITY guaranteeing payment of losses and related investigations, claim administration and defense expenses.

(5) Each insurance policy required by this Lease shall be endorsed to state that coverage shall not be cancelled or reduced, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to CITY.

(6) TENANT shall furnish CITY with certificates and amendatory endorsements effecting the coverage required by this Lease. The endorsements shall be on forms provided by CITY or on other than CITY's forms, provided those endorsements or policies conform to the

requirements. All certificates and endorsements are to be received and approved by CITY before use of the Premises, and promptly following any renewal or replacement. CITY reserves the right at any time to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

(7) TENANT's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, or volunteers shall be excess of TENANT's insurance and shall not contribute with it.

Section 7.07 No Subrogation.

TENANT agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, TENANT shall look solely to its insurance for recovery. TENANT hereby grants to the CITY, on behalf of any insurer providing insurance to either TENANT or CITY with respect to TENANT'S occupancy of the Premises, a waiver of any rights to subrogation which any such insurer of said TENANT may acquire against the CITY by virtue of the payment of any loss under such insurance. Each insurance policy required under this Lease including those insuring TENANT against claims, expense, or liability for injury to persons or property shall provide that the insurer shall not acquire by subrogation any right to recovery which TENANT has expressly waived in writing prior to the occurrence of the loss.

Section 7.08 TENANT'S Waiver.

TENANT hereby waives any right of recovery against CITY for each claim, expense, liability, or business interruption, or other loss, except where caused by CITY'S active negligence or willful misconduct. TENANT agrees that to the extent that TENANT fails to acquire insurance, TENANT shall not have any claim against CITY for any loss that results from a risk or peril that would have been included in such insurance.

Section 7.09 Insurance Not a Limit.

The insurance requirements of this Article Seven are independent of, and do not limit or modify, TENANT'S indemnification and other obligations pursuant to this Lease.

Article 8 TAXES AND FEES

Section 8.01 TENANT to Pay Taxes.

TENANT shall pay, before delinquency, all taxes and assessments levied upon or assessed to TENANT on the Premises by reason of this Lease or of any equipment, appliances, improvement, or other development of any nature whatsoever, erected, installed, or maintained by TENANT or by reason of the business or other activity of TENANT upon or in connection with the Premises. TENANT shall pay all possessory interest taxes applicable to the Premises.

Section 8.02 TENANT to Pay License and Permit Fees.

TENANT shall pay any fees imposed by law for licenses or permits for any business or activities including construction by TENANT upon the Premises.

Section 8.03 Utilities.

TENANT shall pay, or cause to be paid, and hold CITY and the property of CITY, including the Premises, free and harmless from all charges for the furnishing of gas, water, electricity, telephone service, and for other public utilities to the Premises during the term of this Lease and for the removal of garbage and rubbish from the Premises during the term of this Lease.

Article 9 CONDEMNATION

Section 9.01 Total Condemnation.

If title and possession to all of the Premises is permanently taken for any public or quasi-public use under any statute, or by the right of eminent domain, then this Lease shall terminate on the date that possession of the Premises is taken, and both CITY and TENANT shall thereafter be released from all obligations, including Rent, all of which shall be prorated to the date of termination, except those specified in Section 9.02 of this Lease.

Section 9.02 Condemnation Award.

Any compensation or damages awarded or payable because of the permanent taking of all or any portion of the Premises by eminent domain shall be allocated between CITY and TENANT as follows:

(1) All compensation or damages awarded or payable for the taking by eminent domain of any land that is part of the Premises shall be paid to and be the sole property of CITY free and

clear of any claim of TENANT or any person claiming rights to the Premises through or under TENANT.

(2) All compensation or damages awarded or payable which is specifically attributed by the taking party to the "good will" of TENANT'S business shall be paid to and be the sole property of TENANT.

(3) All compensation or damages awarded or payable because of any improvements constructed or located on the portion of the Premises taken by eminent domain where only a portion of the Premises is taken by eminent domain, and TENANT is not entitled to or does not terminate this Lease, shall be applied in the manner specified in Section 9.04 toward the replacement of such improvements with equivalent new improvements on the remaining portions of the Premises.

(4) All compensation or damages awarded or payable because of any improvements constructed or located on the portion of the Premises taken by eminent domain where this Lease is terminated because of the taking by eminent domain, whether all or only a portion of the Premises is taken by eminent domain, shall be allocated between CITY and TENANT as follows:

(a) That percentage of the compensation or damages awarded or payable because of the improvements that equals the percentage of the full term of this Lease that has, at the time of the taking, not expired shall belong to and be the sole property of TENANT.

(b) That percentage of the compensation or damages awarded or payable because of the improvements that equals the percentage of the full term of this Lease that has, at the time of the taking, expired shall belong to and be the sole property of CITY.

(c) The term "time of taking" as used in this Section shall mean 12:01 a.m. of the date that the agency or entity exercising the eminent domain power, takes, title, or the date that it takes physical possession of the portion of the Premises, whichever shall first occur.

(5) Any severance damages awarded or payable because only a portion of the Premises is taken by eminent domain shall be the sole and separate property of CITY.

Section 9.03 Termination for Partial Taking.

Should, during the term of this Lease, title and possession of only a portion of the Premises be taken for any public or quasi-public use under any statute, or by right of eminent domain, TENANT may, at TENANT'S option, terminate this Lease by serving written notice of termination on CITY within ninety (90) days after TENANT has been deprived of actual

physical possession of the portion of the Premises taken for such public use. This Lease shall terminate on the first day of the calendar month following the calendar month in which the notice of termination described in this section is served on CITY. On termination of this Lease pursuant to this Article, all subleases and subtenancies in or on the Premises or any portion of the Premises created by TENANT under this Lease shall also terminate and the Premises shall be delivered to CITY free and clear of all such subleases and subtenancies, provided, however, that CITY may, at CITY'S option, by mailing written notice to a subtenant allow any subtenant to attorn to CITY and continue such subtenant's occupancy on the Premises as a TENANT of CITY. On termination of this Lease pursuant to this section, however, both CITY and TENANT shall be released from all obligations under this Lease, except those specified in Section 9.02 of this Lease.

Section 9.04 Rent Abatement for Partial Taking.

Should, during the term of this Lease, title and possession of only a portion of the Premises be taken under the power of eminent domain by any public or quasi-public agency or entity and TENANT does not terminate this Lease, then this Lease shall terminate as to the portion of the Premises taken under eminent domain on the date actual physical possession of the portion taken by eminent domain is taken by the agency or entity exercising the eminent domain power. Furthermore, the Rent payable under this Lease shall, as of that time be reduced in the same proportion of the Premises taken by eminent domain bears to the full value of the Premises at that time; provided however, that TENANT shall make a good faith effort to replace any improvements or facilities with equivalent new facilities on the remaining portion of the Premises and do all other acts at TENANT'S own cost and expense required by the eminent domain taking to make the remaining portion of the Premises fit for the use specified in this Lease.

Section 9.05 Conveyance in Lieu of Eminent Domain.

A voluntary conveyance by CITY, with the consent of TENANT, of title to all or a portion of the Premises to a public or quasi-public agency or entity in lieu of and under threat by such agency or entity to take the same by eminent domain proceedings shall be considered a taking of title to all or such portion of the Premises under the power of eminent domain subject to the provisions of this Article.

Section 9.06 Temporary Taking.

If the possession of the Premises or any portion thereof should be taken under the power of eminent domain by any public or quasi-public agency or entity for a limited period not extending beyond the term of this Lease, then this Lease shall not terminate (except as provided in this Section 9.06) and TENANT shall continue to perform all its obligations hereunder, except only to the extent that TENANT is prevented from performing such obligations by reason of such taking. TENANT shall be entitled to receive the entire amount of compensation or damages awarded because of such temporary taking. If a temporary taking extends for more than thirty-six (36) months, then TENANT shall have the right to terminate this Lease, and TENANT shall be entitled to receive, out of the compensation or damages awarded because of such temporary taking, the amount that is attributable to the period of time up until the effective date of TENANT'S termination of this Lease.

Article 10 ASSIGNMENT AND SUBLEASING

Section 10.01 No Assignment Without CITY'S Consent.

Except as provided in this Article 10, TENANT shall not assign or otherwise transfer this Lease, any right or interest in this Lease, or any right or interest in the Premises or any of the improvements that may now or hereafter be constructed or installed on the Premises without the express written consent of CITY evidenced by resolution first had and obtained. Any assignment or transfer by TENANT without the prior written consent of CITY, whether it be voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of CITY, terminate this Lease. A consent by CITY to one assignment shall not be deemed to be a consent to any subsequent assignment of this Lease by TENANT. CITY shall not unreasonably nor arbitrarily withhold its approval to the assignment or transfer of this Lease to an assignee who is financially reliable and qualified to conduct the business for which this Lease was granted. It is mutually agreed that the TENANT'S qualifications are a part of the consideration for granting of this Lease and said party does hereby agree to maintain active control and supervision of the operation conducted on the Premises.

Section 10.02 Change of Ownership as Assignment.

For purposes of this Article 10, the following transactions will be deemed to be assignments or transfers:

(1) If TENANT is a partnership or limited liability company:

(a) A change in ownership effected voluntarily, involuntarily, or by operation of law, within a twelve-month (12-month) period, of twenty-five percent (25%) or more of the partners or members or twenty-five percent (25%) or more of the partnership or membership interests; or

(b) The dissolution of the partnership or limited liability company without its immediate reconstitution.

(2) If TENANT is a closely held corporation (i.e., one whose stock is not publicly held and not traded through an exchange or over the counter):

(a) The sale or other transfer, within a twelve-month (12-month) period, of more than an aggregate of twenty-five percent (25%) of the voting shares of TENANT (other than to immediate family members by reason of gift or death); or

(b) The dissolution, merger, consolidation, or other reorganization of TENANT.

Section 10.03 Application for Assignment.

A condition of an assignment shall be that TENANT shall file with the CITY an application to assign the leasehold prepared by the prospective assignee. Concurrently with filing the application, TENANT shall pay a reasonable fee associated with the cost pf processing said application, in cash or certified or cashier's check to enable CITY adequately to investigate the proposed assignee's qualifications as a permitted assignee. CITY shall not be required to account for the use of the sum paid. If the proposed assignee's net worth on the date of assignment is not sufficient to reasonably guarantee successful operation of the Premises in compliance with all applicable CITY, County, State and federal requirements, CITY may withhold approval of the assignment or condition it upon TENANT'S guarantee of such assignee's obligations hereunder for such period as CITY deems advisable. Net worth shall mean the amount by which the total of all assets shall exceed the total of all liabilities as determined in accordance with general accepted accounting principles as approved by CITY'S auditor, or other authorized representative or agent.

Section 10.04 Probate Transfer of Assignment.

If TENANT is an individual, nothing herein contained will prevent the transfer of this Lease by will, or by operation of law under the intestacy provisions of the California Probate Code as it may be amended from time to time. Probate sale of the leasehold interest will not be permitted without the consent of the CITY, evidenced by resolution, first had and obtained.

Section 10.05 No Sublease Without CITY'S Consent.

TENANT shall not sublease the whole nor any part of the Premises, or license, permit, or otherwise allow any other person (the employees of TENANT excepted) to occupy or use the Premises, or any portion thereof, without the prior written consent of CITY's Harbor Director, or any future successor to the duties of the City's Harbor Director. A consent to one subletting, occupation, licensing or use shall not be deemed to be a consent to any subsequent subletting, occupation, licensing or use by another person. Any sublease or license without CITY'S written consent shall be void, and shall at CITY'S option, terminate this Lease. CITY shall not unreasonably nor arbitrarily withhold its consent to sublet to one who is qualified and financially reliable. CITY'S consent to any occupation, use, or licensing shall be in CITY'S sole and absolute discretion. Notwithstanding any provisions herein to the contrary, the terms "assignment," "subletting," "occupation," or "use," shall not be construed or interpreted to mean or include the temporary, short term renting or leasing of boat slips, motel, hotel, or apartment accommodations on the premises.

Section 10.06 Subtenant Subject to Lease Terms.

Any and all subleases shall be expressly made subject to all the terms, covenants, and conditions of this Lease. In no event shall the term of any sublease extend beyond the term of this Lease. Subject to Section 10.09, termination of this Lease prior to the expiration of this Lease term shall also terminate any and all subleases. A breach of the terms of this Lease by a subtenant shall constitute a breach on the part of TENANT and shall subject both the subtenant and TENANT to all the remedies provided to CITY herein and by law. Failure by any subtenant to report Gross Sales or to pay Percentage Rent due from subtenant shall constitute a breach of this lease. TENANT hereby agrees to and does guarantee payment of such Percentage Rent due by a subtenant under the terms of this lease.

Section 10.07 Consent Form Agreement.

Prior to any consent by CITY to any sublease hereof, TENANT shall cause to be executed between TENANT and any subtenant an agreement making the CITY a third party beneficiary, in a form acceptable to CITY, whereby the subtenant agrees to be bound by all of the terms, covenants and conditions of this Lease. Further, it is agreed by TENANT that any default by the subtenant of any of the terms, covenants and conditions of this Lease shall be deemed to be violations by TENANT of this Lease and that all remedies of CITY for such violation, including termination of this Lease, shall immediately be enforceable by CITY against

TENANT. TENANT shall apply any and all monies received from any subtenant first to the payment of obligations of the subtenant to CITY.

Section 10.08 TENANT and Guarantor Remain Liable.

Prior to approval by CITY to any sublease hereof, TENANT shall agree to be primarily and jointly and severally liable to CITY for all obligations due CITY by any subtenant, including the payment of rents, and TENANT shall agree that CITY may proceed directly against TENANT for any obligation owing CITY by the subtenant. If this Lease is guaranteed, neither the sublease nor CITY'S approval thereof shall release the guarantor from its obligations pursuant to the guaranty.

Section 10.09 Nondisturbance.

On the terms set forth below, CITY may enter into agreements with subtenants providing that in the event of any termination of this Lease prior to the expiration date, CITY will not terminate or otherwise disturb the rights of the subtenant under such sublease, but will instead honor such sublease as if such agreement had been entered into directly between Landlord and such subtenant, conditioned upon such subtenant's agreement to attorn to Landlord and full performance of all obligations under the sublease in question ("Non-Disturbance Agreement"). CITY agrees to execute a Non-Disturbance Agreement in connection with a particular sublease provided that Tenant provides CITY with a copy of the sublease, and the Non-Disturbance Agreement is customary in form and substance and otherwise reasonably acceptable to CITY.

Article 11 DEFAULT AND TERMINATION

Section 11.01 Abandonment by TENANT.

Should TENANT breach this Lease and abandon all or any part of the Premises prior to the scheduled expiration of the term of this Lease, CITY may continue this Lease in effect by not terminating TENANT'S right to possession of the Premises, in which event CITY shall be entitled to enforce all CITY'S rights and remedies under this Lease including the right to recover the Rent specified in this Lease as it becomes due under this Lease.

Section 11.02 Termination for Breach by TENANT.

All covenants and agreements contained in this Lease are declared to be conditions to this Lease and to the term hereby demised to TENANT. Should TENANT fail to perform any covenant, condition, or agreement contained in this Lease, except for payment of any Rent or

other monetary amount due, and such failure is not cured within thirty (30) days after written notice thereof is served on TENANT, then CITY may terminate this Lease immediately, and in the event of such termination, TENANT shall have no further rights hereunder and TENANT shall thereupon forthwith remove from the Premises and shall have no further right or claim thereto and CITY shall immediately thereupon have the right to re-enter and take possession of the Premises, subject only to appropriate legal process.

Section 11.03 Termination for Failure to Pay Rent.

If any payment of Rent is not made as herein provided and such failure to pay is not cured within three (3) days after written notice thereof is served on the TENANT, CITY shall have the option to immediately terminate this Lease; and in the event of such termination, TENANT shall have no further right or claim thereto and CITY shall immediately thereupon have the right to re-enter and take possession of the Premises, subject only to appropriate legal process.

Section 11.04 Lender May Cure Default.

CITY shall afford the Lender under any Leasehold Encumbrance of record with CITY the right to cure any default by TENANT of the covenants, conditions, or agreements hereof, as provided in Article 5 of this Lease.

Section 11.05 Attorneys' Fees.

In the event the CITY finds it necessary to retain an attorney in connection with the default by the TENANT or enforcement of any of the terms, conditions, and covenants of this Lease, even though litigation is not instituted, TENANT shall pay to CITY its reasonable attorneys' fees. Non-payment of attorneys' fees by TENANT within three (3) days after written notice is served on TENANT shall give rise to an independent legal action by CITY to collect same. If CITY is successful in such legal action, CITY shall also be entitled to attorney fees and costs for the collection action. To the extent that CITY is represented by the City Attorney, a reasonable sum for such attorneys' services will be included as attorneys' fees.

Section 11.06 Damages for Breach.

Should TENANT default in the performance of any covenant, condition or agreement contained in this Lease and the default be incurable or not be cured within the time period set forth hereinabove, then CITY may terminate this Lease and:

(1) Bring an action to recover from TENANT:

(a) The worth at the time of award of the unpaid rent which had been earned at the time of termination of the Lease;

(b) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination of the Lease until the time of award exceeds the amount of rental loss that TENANT proves could have been reasonably avoided;

(c) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of rental loss that TENANT proves could be reasonably avoided; and

(d) Any other amount necessary to compensate CITY for all detriment proximately caused by TENANT'S failure to perform its obligations under this Lease; and

(2) Bring an action, in addition to or in lieu of the action described in subparagraph (1) of this Section, to re-enter and regain possession of the Premises in the manner provided by the laws of unlawful detainer of the State of California then in effect.

Section 11.07 Cumulative Remedies.

The remedies available to CITY in this Article shall not be exclusive but shall be cumulative with and in addition to all remedies now or hereafter allowed by law or elsewhere provided in this Lease.

Section 11.08 Waiver of Breach.

The waiver by CITY of any breach by TENANT of any of the provisions of this Lease shall not constitute a continuing waiver or a waiver of any subsequent breach by TENANT either of the same or a different provision of this Lease.

Section 11.09 Surrender of Premises.

On expiration or sooner termination of this Lease, TENANT shall surrender the Premises, and, subject to Section 4.04, all improvements in or on the Premises, and all facilities in any way appertaining to the Premises, to CITY in good, safe, and clean condition, reasonable wear and tear excepted.

Article 12 MISCELLANEOUS

Section 12.01 Attorneys' Fees.

Should any litigation be commenced between the parties to this Lease concerning the Premises, this Lease, or the rights and duties of either in relation thereto, the party, CITY or TENANT, prevailing in such litigation shall be entitled, in addition to such other relief as may be granted in the litigation, to a reasonable sum as and for its attorneys' fees in such litigation, which shall be determined by the court in such litigation or in a separate action brought for that purpose. The "prevailing" party shall mean the party who obtains substantially the relief sought by that party. To the extent that CITY is represented by the CITY Attorney, a reasonable sum for such attorneys' services will be included as attorneys' fees.

Section 12.02 Notices.

Any and all notice or demands by or from CITY to TENANT, or TENANT to CITY, shall be in writing. They shall be served either personally, or by registered or certified mail. Any notice or demand to CITY may be given to:

Harbor Director~~Business Manager~~
1275 Embarcadero
Morro Bay, California 93442

with a copy to:

City Manager of the City of Morro Bay
City Hall
595 Harbor Street
Morro Bay, CA 93442

Any notice or demand to TENANT may be given at:

Doug Redican
725 Embarcadero LLC
1427 Doral Ct.
San Luis Obispo, CA 93401

Such addresses may be changed by written notice by either party to the other party.

Section 12.03 Governing Law and Jurisdiction.

This Lease, and all matters relating to this Lease, shall be governed by the laws of the State of California in force at the time any need for interpretation of this Lease or any decision

concerning this Lease arises. CITY and TENANT consent to exclusive personal and subject matter jurisdiction in the Superior Court of the State of California in and for the county where the Premises are located, and each party waives any claim that such court is not a convenient forum. Each party hereby specifically waives the provisions of California Code of Civil Procedure Section 394, and any successor statute thereto.

Section 12.04 Binding on Successors.

Subject to the provisions herein relating to assignment and subletting each and all of the terms, conditions, and agreements herein contained shall be binding upon and inure to the benefit of the successors and assigns of any and all of the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.

Section 12.05 Partial Invalidity.

Should any provision of this Lease be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Lease shall remain in full force and effect unimpaired by the holding.

Section 12.06 Sole and Only Agreement.

This Lease, including all exhibits incorporated by reference, constitutes the sole and only agreement between CITY and TENANT respecting the Premises and the leasing of the Premises to TENANT. Any other agreements or representations respecting the Premises and their leasing to TENANT by CITY, which are not expressly set forth in this Lease, are null and void. The lease terms herein specified correctly set forth the obligations of CITY and TENANT as of the date of this Lease. No modification, amendment, or alteration of this Lease shall be valid unless it is in writing and signed by both parties.

Section 12.07 Modification.

This agreement shall not be modified except pursuant to a written agreement executed by the MAYOR and CITY CLERK pursuant to prior CITY Council approval. Notwithstanding CITY Council approval, no agreement shall become effective until such agreement is in fact executed by the MAYOR and CITY CLERK. TENANT understands that this agreement may not be modified by oral statements by any person representing the CITY including the MAYOR and CITY CLERK. TENANT specifically agrees not to rely on oral statements, purported oral waivers, or purported oral modifications and agrees not to rely upon purported written modifications unless they meet the requirements of this paragraph and are approved in

writing pursuant to formal City Council action and a subsequent written modification signed by the MAYOR and CITY CLERK. If the title of any person authorized to act for CITY under this Lease shall be changed during the term of this Lease, then the person who succeeds to substantially the same responsibilities with respect to the CITY shall have the authority to act for CITY under this Lease.

Section 12.08 Time of Essence.

Time is expressly declared to be the essence of this Lease.

Section 12.09 Memorandum of Lease for Recording.

CITY and TENANT shall, at the request of either at any time during the term of this Lease, execute a memorandum or "short form" of this Lease, which shall describe the parties, set forth a description of the leased premises, specify the term of this Lease, and incorporate this Lease by reference.

Article 13 SPECIAL PROVISIONS PECULIAR TO THIS LEASE SITE

The following provisions apply to this Lease site only:

Section 13.01 Public Restrooms

Restrooms completed per CUP #UP0-342 shall be made available to the public during business hours and TENANT shall maintain signage in prominent locations, which clearly identifies that the restrooms are available to the general public. In the case of a dispute over location and design of signage, the Harbor Director may designate two location for "public restroom" signs of a type and design to be determined by the CITY. Furthermore, said restrooms shall be made available after business hours to slipholders on TENANT'S Lease Site.

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Section 13.02 Construction of Waterside Improvements

CITY and TENANT agree that TENANT will construct water improvements to the Premises as outlined in CUP UP0-359 consisting of addition of up to seven (7) new vessel slips, with one reserved for public use, and associated access and gangway improvements, and valued at a minimum of $250,000. Failure to complete said improvements and to comply withi all conditions of said CUP as evidenced by a final building permit inspection as required by the City of Morro Bay, in addition to providing proof of expenses as evidenced by copies of invoices by the proscribed timeline shall be a material default of the Lease Agreement and subject to any remedies outlined in Article 11 herein, including termination of the Lease.

TENANT acknowledges that construction of TENANT'S proposed improvements of the premises as outlined in said CUP requires, but may not be limited to, obtaining a permit from the California Coastal Commission, a City Precise Plan, and a City Building Permit. It is the TENANT'S obligation to fully investigate the issues and costs in obtaining these permits. Failure to obtain any and all required permits and approvals for said improvement construction shall not be a reason for failure to comply with this section. TENANT further acknowledges that said CUP and construction of TENANT'S improvements may require repair or replacement of all of portions of the docks, existing buildings, revetments, access ways, sidewalks, drainage systems and other current improvements on the Premises to the standards of the City Engineer and TENANT agrees to meet these standards through review and revision of the final Building Plans prior to issuance of a Building Permit for the construction of improvements on the Premises.

TENANT further agrees to:

A. Obtain Precise Plan approval of CUP UP0-359 no later than July 1, 2015.

B. Commence construction of proposed slips no later than September 30, 2015.

C. Completion of all construction of proposed improvements no later than March 31, 2015.

During construction of improvements TENANT shall take all measures to:

A. Avoid any pollution of the atmosphere or littering of land or water by or originating in or about the Premises or caused by TENANT'S construction activities.

B. Keep the noise level on the Premises to a minimum so that persons in the neighborhood will be able to comfortably enjoy business and facilities in the area.

C. Prevent any pollutants, including but not limited to petroleum products, from entering Morro Bay waters.

D. Avoid negative impacts on surrounding businesses.

E. Prohibit storage of materials or equipment on public property and avoid parking or traffic delays or impairment without prior consent of CITY.

F. Keep the construction site in a slightly, orderly, and safe manner at all times.

EXECUTED on _____, 20___, at _____,
_____ County, California.

CITY OF MORRO BAY

725 Embarcadero LLC
a Limited Liability Company

_____
Jamie L. Irons, MAYOR

By: _____
Doug Redican, Manager

By: _____

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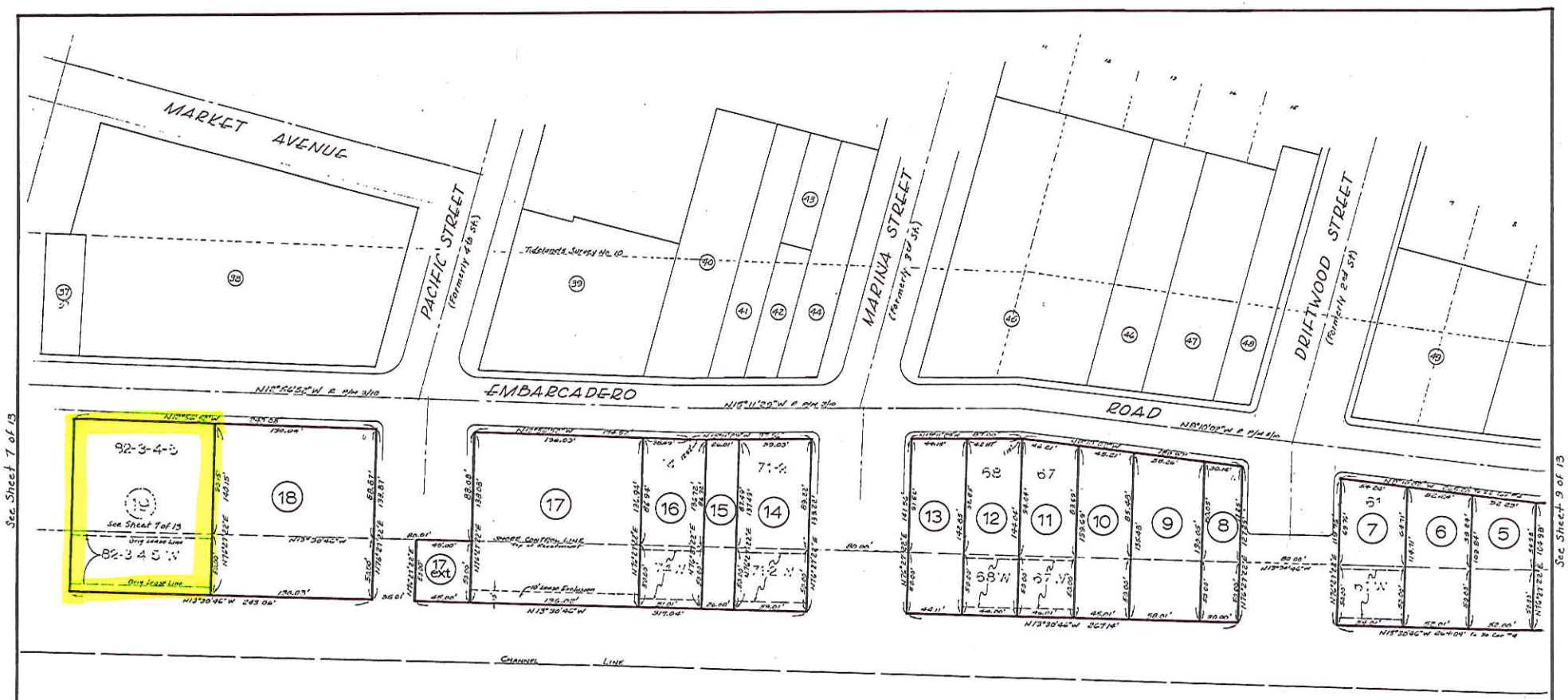
ATTEST:

_____
Jamie Boucher, CITY CLERK

EXHIBIT A

COPY OF PARCEL MAP



LEASE SITES MAP

CITY OF MORRO BAY, SAN LUIS OBISPO CO., CALIF.

Scale 1" = 50'

GARING, TAYLOR, & ASSOC., INC.

Arroyo Grande, California

Nov. '74

Feb. '75

EXHIBIT B

CITY OF MORRO BAY

595 Harbor St.
Morro Bay, CA 93442
(805) 772-6200
FAX (805) 772-7329

INSURANCE REQUIREMENTS FOR LESSEES
(NO AUTO RISKS)

Lessee shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Lessee's operation and use of the leased premises. The cost of such insurance shall be borne by the Lessee.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance (for lessees with employees).
3. Property insurance against all risks of loss to any tenant improvements or betterments.

Minimum Limits of Insurance

Lessee shall maintain limits no less than:

1.	General Liability:	**$1,000,000** per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2.	Employer's Liability:	**$1,000,000** per accident for bodily injury or disease.
3.	Property Insurance:	Full replacement cost with no coinsurance penalty provision.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Lessee shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The general liability policy is to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of ownership, maintenance or use of that part of the premises leased to the Lessee.
2. The Lessee's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

Verification of Coverage

Lessee shall furnish the City with original certificates and amendatory **endorsements** effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the City **before** use of City premises. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

Sub-lessee
Lessee shall include all sub-lessees as insureds under its policies or shall furnish separate certificates and endorsements for each sub-lessee. All coverages for sub-lessees shall be subject to all of the requirements stated herein.

Insurance\SpecC
Rev. 8/01

City of Morro Bay
Insurance Requirements for Lessees

Reproduction of Insurance Services Office, Inc. Form

INSURER: ISO Form CG 20 11 11 85 (Modified)
POLICY NUMBER: Commercial General Liability
ENDORSEMENT NUMBER:

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED -- MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

1. Designation of Premises (Part Leased to You):
2. Name of Person or Organization (Additional Insured): City of Morro Bay
3. Additional Premium:

(If no entry appears above, the information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:
1. Any "occurrence" which takes place after you cease to be a tenant in that premises.
2. Structural alterations, new construction or demolition operations performed by or on behalf of the person or organization shown in the schedule.

Modifications to ISO form CG 20 11 11 85:

1. The Insured scheduled above includes the Insured's elected or appointed officers, officials, employees and volunteers.
2. This insurance shall be primary as respects the Insured shown in the schedule above, or if excess, shall stand in an unbroken chain of coverage excess of the Named Insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the Insured scheduled above shall be in excess of this insurance and shall not be called upon to contribute with it.
3. The insurance afforded by this policy shall not be canceled except after thirty days prior written notice by certified mail return receipt requested has been given to the City.

_____
Signature-Authorized Representative

_____

_____
Address

CG 20 11 11 85 Insurance Services Office, Inc. Form (Modified)
Insurance\Form#3
Rev. 8/01

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RESOLUTION NO. 49-13

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING A FORTY-NINE YEAR LEASE AGREEMENT FOR
LEASE SITE 82-85/82W-85W BETWEEN THE CITY OF MORRO BAY AND
725 EMBARCADERO LLC, LOCATED AT 725 EMBARCADERO**

**T H E C I T Y C O U N C I L
City of Morro Bay, California**

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

WHEREAS, 725 Embarcadero LLC, Doug Redican, has been the lessee of Lease Site 82-85/82W-85WW since 2002 and is a tenant in good standing; and

WHEREAS, Mr. Redican is proposing redevelopment of said property consisting of the addition of vessel slips and associated facilities; and

WHEREAS, in accordance with the City's Master Lease Policy, the City and lessee have agreed to a new forty-nine year lease agreement for Lease Site 82-85/82W-85W, located at 725 Embarcadero.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the attached new Lease Agreement for Lease Site 82-85/82W-85W is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute said Lease Agreement.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of October, 2013 on the following vote:

AYES:
NOES:
ABSENT:

_____
Jamie L. Irons, Mayor

ATTEST:

_____
Jamie Boucher, City Clerk

AGENDA NO: B-1

MEETING DATE: October 8, 2013

Staff Report

TO: **Honorable Mayor and City Council** **DATE: October 2, 2013**

FROM: **Kathleen Wold, Planning Manager**

SUBJECT: **Appeal of the Planning Commission denial of CP0-246 for the demolition and reconstruction of a single family residence. (360 Cerrito Place, N. Turner, Appellant/Applicant)**

RECOMMENDATION

Staff recommends the City Council move to direct staff to notice the project for a full De Novo Public hearing at the Planning Commission level allowing for a full review of the current project as submitted and direct the applicant to pay $138 for the required noticing.

ALTERNATIVES

Alternative 1. The City Council may move to uphold the Planning Commission's decision to deny CP0-246 by denying the appeal subject to the findings made in Exhibit A.

Alternative 2. The City Council may move to grant the appeal thereby approving Coastal Development Permit CP0-246 subject to the Findings made in Exhibit "A-1" and Conditions of Approval in "B".

FISCAL IMPACT

There will be no impact to the general fund as the applicant has paid the necessary appeal fees which offset the cost of preparing the appeal staff report.

SUMMARY

On October 5, 2007 an Administrative Coastal Development Permit was issued to demolish the existing structure and construct a new 2,155 square foot single-family residence and associated 648 square foot garage. An appeal was filed on October 15, 2007. At the December 3, 2007 Planning Commission meeting, the Commission took public testimony and moved to continue the item to date uncertain giving specific direction to the applicant. During the last 6 years there has been no activity on the project by either the applicant or the appellant. Staff, in 2013, brought the project forward in

Prepared By: KW Dept Review: RL

City Manager Review: AL

City Attorney Review: _____

an attempt to clear the Planning Division's Project Tracking list of all inactive projects. Staff brought forward the project materials as originally submitted for action. It was not until after the project had been noticed for a hearing, that the applicant indicated her desire to resubmit new plans which would demonstrate modifications made to the project addressing the appellant's concerns.

Due to the lack of timely processing, in particular because this project had been continued for 6 years resulting in an entirely different Planning Commission having to take action without benefit of being involved with the first hearing; and because new plans have been submitted which were not part of the original approval or the first appeal hearing, staff is recommending to the City Council that the item be sent back down to the Planning Commission where a new Public Hearing would be held on CP0-246. As a De Novo hearing, the applicant would be allowed to submit new plans for consideration and the item would have a full review rather than a hearing just on the merits of the appeal issues.

BACKGROUND

CP0-246 has been in process with the City of Morro Bay since 2007. On October 5, 2007 an Administrative Coastal Development Permit was issued to demo the existing structure and construct a new 2,155 square foot single-family residence and associated 648 square foot garage. An appeal was filed by Berta and Wayne Parrish on October 15, 2007. This appeal was heard at Planning Commission on December 3, 2007. Staff's recommendation was to deny the appeal and conditionally approve the Coastal Development Permit. The Planning Commission did not take action but rather continued the appeal to a date uncertain in order to allow the item to be heard when all 5 Commission members were present as well as to be able to obtain more information regarding the lot line dispute from the City Attorney.

Subsequent to the December 3, 2007 public hearing, the project sat idle (approximately 6 years) until Planning staff reached out to the applicant. Staff has gradually, over the course of time, worked to remove all idle projects from the Planning Division's Project Tracking list. Staff noticed the item for a public hearing on April 3, 2013 based on the original plans and information contained in the project file. The City was notified by the applicant after the publication of the hearing notice that the applicant's plans in the file were no longer viable and new plans would be submitted. A request for a continuance from the applicant was received on May 14, 2013 for the May 15, 2013 hearing. The applicant indicated that the continuance would allow her to provide plans that would provide a clear picture of the project including placement of the house and establishment of property lines according to the Volbrecht survey. The Planning Commission opened the public hearing on May 15, 2013 and made the following motion:

> "Chairperson Grantham moved to continue the appeal for Coastal Development Permit #CP0-246 to the July 17, 2013 Planning Commission meeting with direction to revise the plans to reflect the Volbrecht Land Survey, show the edge of pavement line, and show that the setting of the house complies with all R-1 setbacks."

On July 2, 2013, new plans were submitted for staff's review but these plans did not reflect the Volbrecht land survey or show the edge of pavement. Because the submittal of the applicant did not meet all the required parameters, staff requested another continuance to the August 7, 2013 Planning Commission meeting. At the July 17, 2013 meeting the project was continued to August 21, 2013 in

lieu of August 7, 2013 to ensure a quorum would be present.

After meeting with the applicant and many emails between staff and the applicant's architect, revised new plans were submitted on August 20, 2013. These plans were received at such a late date (one day before) that there was not sufficient time for routing and review by staff. As the direction provided by the Planning Commission at their May 15th meeting had yet to be complied with, approximately three months later, the Planning Commission voted to deny the applicant's request for another continuance and granted the 2007 appeal filed by the Parrish's thereby denying the project.

Since staff's recommendation had been to continue the item to allow for full review of the newly submitted plans, there had been no findings prepared or presented to the Planning Commission for denial. Staff returned to the September 18, 2013 Planning Commission meeting with findings for denial of CP0-246 which Planning Commission subsequently adopted.

The applicant, Nicki Turner, then filed an appeal on August 29, 2013 of the Planning Commission's decision to grant the appeal.

DISCUSSION

The issue before the City is the applicant's appeal of the Planning Commission's denial of Coastal Development Permit CP0-246. The Planning Commission denied the permit based on the following findings:

> That a single family residence is an allowable use within the R-1 zone district. However, the project as proposed is not consistent with the certified Coastal Land Use program for the City of Morro Bay. The applicant failed to demonstrate that the design of the project is consistent with the character of the neighborhood as it pertains to orientation of the house on the lot, the size and design of the home.

The Planning Commission in their deliberations indicated that due to the length of time the project has been in process which would include the continuations given to the applicant since May 15, 2013, sufficient time had been granted to the applicant to bring forth project plans which demonstrated the project's compliance with Planning Commission's direction.

The difficulty in processing a project which has been inactive for such a long time is limiting the Planning Commission's review to only the issues brought up on appeal. The 2007 appeal requested relief as follows:

1. Overturn or postpone until Superior Court settles the 16" boundary dispute.
2. Amend to include sewer easement, removal of rooftop fire pit, and change site setback interpretation.
3. Overturn due to incompatibility in neighborhood character, more specifically that the size and mass of the proposed home and its modern design are not compatible with the neighborhood character of residences in the vicinity.

The applicant has indicated the following resolutions:

Issue One: The boundary dispute has been resolved and the applicant was directed to resubmit a site plan reflecting the Volbrecht survey.

Issue two: The sewer easement was settled as part of the court case.
The new plans indicate that the house has been redesigned to conform to R-1 setbacks.
There is no rooftop fire pit only a gas fire appliance (no open flame).

Issue Three: During the previous Planning Commission meeting held on December 3, 2007 there was discussion which indicated consensus that the house was well designed, and compatible with the neighborhood,

It is obvious from the administrative record that there have been miscommunications, excessive time delays and public hearings in which people want to discuss more than just the appeal issues as detailed on the Parrish's appeal submitted October 15, 2007. Both the applicant and the appellant have indicated that they do not feel that process has been fair and that conflicts between the two parties still exist. It is staff's recommendation that the Council not take action on the appeal but rather send the project back to the Planning Commission for review as a De Novo hearing. A De Novo hearing will allow the parties to flesh out all current issues and give an opportunity for the applicant to address these issues.

CONCLUSION

Staff recommends that the City Council direct staff to bring CP0-246 back to the Planning Commission and hold a De Novo hearing on the item. A De Novo hearing will provide the public as well as both the applicant and the appellant an opportunity to have a public hearing on the new submittal and to fully review the project without being limited to just the appeal issues.

EXHIBIT A-1
COASTAL DEVELOPMENT PERMIT
CASE NO. CP0-246
SITE LOCATION: 360 Cerrito Place

I. FINDINGS OF APPROVAL

The Director reviewed this Administrative Coastal Permit application and finds the following:

California Environmental Quality Act (CEQA)

A. That for purposes of the California Environmental Quality Act, Case Number CP0-246 is Categorically Exempt, Class 1, Section 15301 and Class 3, Section 15303.

Coastal Development Permit Findings

A. That the project is an allowable use in its zoning district and is also in accordance with the certified Coastal Land Use plan for the City of Morro Bay, and is in conformance with the coastal access policies of Chapter 3 of the California Coastal Act.

B. The major vegetation removal, as mitigated, will not significantly impact any threatened or endangered plant or animal habitat area because the project site does not currently provide significant habitat for endangered plants and animals.

C. Dangerous soil erosion or instability will not occur as a result of the tree removal because a soils report and erosion control plan will be required to address any potential soil erosion and instability resulting from the tree removal.

D. The tree removal will not adversely affect the scenic beauty or character of the surround neighborhood as the majority of the trees on site will remain and additional vegetation will be planted as a result of the proposed project.

EXHIBIT B
CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. Permit: This permit is granted for the land described on Assessor Parcel Number 066-223-004, referenced above, and all attachments thereto, and as shown on the attached exhibits, and on file with the Public Services Department. The locations of all buildings and other features shall be located and designed substantially as shown on the approved site plan.

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, 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: Any minor change may be approved by the Director. Any substantial change will require the filing of an application for an amendment.

4. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.

5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.

6. Compliance with Conditions: Compliance with and execution of all conditions listed hereon shall be necessary, unless otherwise specified, prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Planning and Building Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

7. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation.

8. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use plan and General Plan for the City of Morro Bay.

Planning Conditions:

9. Building Height Verification: Prior to either roof nail or framing inspection, a licensed surveyor shall submit a letter to the building inspector certifying that the height of the structure is in accordance with the approved plans and complies with the height requirement of **25 foot maximum above the average natural grade as accepted by the City Building Official**.

10. Grading and Drainage: Roof and driveway runoff shall be directed to the street in a non-erosive manner and not concentrate runoff onto adjacent properties. The Applicant may be required to submit a grading and/or drainage plan with calculations to demonstrate the proposed on-site drainage will handle the peak run-off from a 25-year storm. If deemed necessary by the Building Official, a grading and drainage plan shall be submitted by the Applicant for approval by the Public Works Division and City Engineer prior to issuance of a building permit.

11. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.

12. Average Natural Grade Calculation: Provide an average natural grade calculation for the building footprint and indicate the maximum height of the proposed residence above average natural grade of the building footprint.

13. 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. Monday through Friday and eight a.m. to seven p.m. on weekends, unless an exception is granted by the Director of Planning & Building pursuant to the terms of this regulation.

14. Tree Replacement:. Replacement trees for the Arbutus tree and Holly tree removed shall be replaced at a ratio of two five-gallon trees, or one 15-gallon tree for every tree removed. The replacement trees may be planted on the project site, on other privately held lands with the property owner's permission, or presented to the City to plant on public lands.

Engineering Conditions:

15. Show and dimension street Right of Way

16. Include the locations of the sewer lateral, water service, and water and sewer mains. Location of all utilities.
    a. Sewer Backwater Valve: A sewer backwater valve shall be installed on site to prevent a blockage or maintenance of the municipal sewer main from causing damage to the proposed project. (MBMC 14.24.070) Please indicate on the plans.
    b. Conduct a video inspection of the conditions of existing sewer lateral. Submit video to City collection system personnel. Repair or replace as required to prohibit inflow/infiltration.

17. Provide a standard erosion and sediment control plan: The Plan shall show control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or ecologically sensitive area.

18. Drainage: Route roof and paved surface storm water runoff to the street flowline. In residential projects, if conditions allow, roof and paved surface storm water runoff can be routed over the drive approach to reach the street flowline. Elsewhere, a 3" schedule 40 galvanized iron pipe, drainline, shall be installed from the property line connection to the street flowline and through curb. Show drainage method on the plans.

19. Add the following notes to the plans:

    a. No work shall occur within (or use of) the City's Right of Way without an encroachment permit. Encroachment permits are available at the City of Morro Bay Public Services Office located at 955 Shasta Ave. The Encroachment permit shall be issued concurrently with the building permit.

    b. Any damage, as a result of construction operations for this project, to City facilities, i.e. curb/berm, street, sewer line, water line, or any public improvements shall be repaired at no cost to the City of Morro Bay.

    c. Compaction of the driveway around the drip line of the 14" 3-prong Coral tree shall be based on the recommendations of a licensed arborist.

Attachment C

RECEIVED

AUG 29 2013

City of Morro Bay
Public Services Department

CITY OF MORRO BAY

Public Services Department
Planning Division

955 Shasta Avenue
Morro Bay, CA 93442
(805) 772-6577

APPEAL FORM

In CCC Appeals Jurisdiction?

☐ YES – *No Fee*
☑ NO – *Fee Paid:* ☑ Yes ☐ No

Chk# 656

Project Address being appealed: 360 Cerrito Place, Morro Bay, CA 93442

Appeal from the decision or action of (governing body or City officer):

☐ Administrative Decision ☒ Planning Commission ☐ City Council

Appeal of action or specific condition of approval:
I am appealing the action by the Planning Commission of CPO-246 being denied.

Permit number and type being appealed (ie. coastal permit, use permit, tentative subdivision):
CPO-246

Date decision or action rendered:
Approval of appelants to deny building project.

Grounds for the appeal (attach additional sheets as necessary):
The Planning Commission stated there was a lack of information and also denied my request for a continuance from Aug. 21, 2013 to Sept 4, 2013 to ensure the Commissioners had all the request for additional information supplied to them.

Requested relief or action:
My original project was approved with the condition of resolving a property line dispute only. The dispute has been resolved and the revised footprint reflecting said changes have been provided including additional requests not on original decision

Appellant (please print): Nicki R. Turner

Phone: 805-441-1662
702-496-4663

Address: 360 Cerrito Place, Morro Bay, CA 93442
Mailing: PO Box 725, Morro Bay, CA 93443

Appellant Signature: Nicki R. Turner **Date:** 8/30/2013

FOR OFFICE USE ONLY	
Accepted by:	Date appeal filed:
Appeal body:	Date of appeal hearing:

Attachment D

CATHY • NOVAK
consulting

RECEIVED
SEP 03 2013
City of Morro Bay
Public Services Department

September 30, 2013

Ms. Kathy Wold
City of Morro Bay Public Services Department
955 Shasta Street
Morro Bay, CA 93442

RE: Nicki Turner project at 360 Cerrito Place

Dear Kathy,

In preparation for the upcoming appeal hearing for the above mentioned project, I feel that it is important to consolidate a several year history of events including the court settlement, plan modifications to address the appellants concerns and other project related work requested by the City. Since all of this information is part of the record, I would respectfully request that staff include a discussion of this in the report to Council.

As you are aware, Ms. Turner's project was originally approved administratively in October 2007 and then was appealed. The appeal filed by the neighbors raised three issues and they were:

1. Overturn or postpone this appeal until after the Superior Court settles the boundary dispute.
2. Amend to include sewer easement, removal of rooftop fire pit and change side setback interpretation.
3. The request to overturn the approval due to incompatibility.

The appeal was heard by the Planning Commission on December 3, 2007 and continued to date uncertain in order for the two property owners to try and resolve a property boundary dispute (appeal item #1). The owners ultimately settled the dispute and the court action was withdrawn in January 2009.

In approximately November 2012 planning staff, Ms. Mary Reents, sent a letter to Ms. Turner's architect requesting action on Ms. Turner's part to contact staff within 30 days or staff would consider her application withdrawn. There were two significant problems with this letter. First, the letter was returned to the City as address unknown. Second, I believe that the appropriate action should have been to contact the appellants because the outstanding issue was the appeal of

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NOVAKCONSULTING@CHARTER.NET

the previously approved project. In any case, neither the appellants nor Ms. Turner contacted the City after the court case was settled for the boundary issue in 2009.

Ms. Turner met with City staff at the end of March 2013 and provided an explanation as to why her project had been placed on hold for some time. This meeting led to concurrence that the project would move forward and go to a Planning Commission meeting.

On May 15, the Commission had a public hearing on the appeal and Ms. Turner was directed to return with revised plans that "reflect the Volbrecht Survey and edge of pavement line" that was the outcome of the boundary dispute.

On May 28 the City sent a letter to Ms. Turner indicating action from the Commission meeting. However, Ms. Turner did not receive the letter until June 21 due to an incorrect address. Staff did communicate with Ms. Turner and her architect responded to the City's request with a revised set of plans on July 2 that reflected the Volbrecht Survey done in January 2008.

Another Commission public hearing was scheduled for July 17. At the meeting, staff recommended that the hearing be continued to the August 7 Commission meeting because staff did not feel that the plans adequately addressed what they were looking for with the Volbrecht survey and subsequently requested further modifications to the plans. The plans additionally needed the edge of pavement line as requested by staff.

Since there was no scheduled meeting for August 7, the hearing was then scheduled for August 21. The revised plans were submitted to the City on August 20 with edge of pavement and adjacent properties per the Volbrecht Survey based upon the request from Staff.

During the intervening time between the July 2 submission and the corrected plans on August 20, several key staff, the architect and Ms. Turner were on vacation at various times. This made it virtually impossible for the architect to follow up with staff to discuss the specifics and clarify how much of the surrounding area (from the Volbrecht Survey) needed to be included on the plans. It wasn't until August 9 that the architect was finally able to confirm with staff the requirements for the revised plans. Because of this late date, the architect was not able to submit the revised plans in time for the upcoming Commission meeting.

At the August 21 Commission meeting staff explained that the revised plans had been submitted to the City the day before but, staff did not have time to review the plans before the meeting. Staff additionally explained that there were difficulties in communicating to the architect the revisions that were necessary due to the vacation schedules and that staff was requesting that the Commission continue this item to the September 4 meeting. This additional time would allow staff to review the submittal and prepare a proper report to the Commission. Ms. Turner did not attend the August 21 meeting because she believed that the continuance was more of an administrative type decision and would then be prepared for the September 4 meeting. Needless to say, Ms. Turner was quite shocked that Commission did not grant Staff's request for the continuance and upheld the appeal without the benefit of further conversation on the revised plans and any discussion regarding the appeal points in particular, the neighborhood compatibility.

It was explained to the Commission on September 18 that there were several things beyond the control of Ms. Turner that led to the time delay in submitting the revised plans. In addition, Ms. Turner has addressed the City items as well as minor modifications to further respond to public comments and especially the items that were presented in the appeal.

The City doesn't have a history of denying projects that haven't had the opportunity to be fully vetted in a public hearing. Denying Ms. Turner's appeal and supporting the appellants appeal would certainly be a case where the project applicant has not been allowed a chance to complete the process. Furthermore, this would be a most unfortunate situation for all parties involved because there would be considerable time and money spent by Ms. Turner, the appellant and staff to return with the same project at a future hearing. By reviewing and considering the revised plans that have been in the City's possession since August 20 will prevent this from circling around the permitting process maze.

To this end, I believe it is important to once again respond to the original appeal points and also to provide a comparison between the original project and the most recent modifications.

As I mentioned above, the appeal was based upon three items. Below are the items and my responses as provided to the Commission during the September 18 meeting where the Commission was considering the findings for denial of the project.

1. Overturn or postpone this appeal until after the Superior Court settles the boundary dispute.

   In response, as indicated in the staff report, the court case was settled and the boundary dispute has been resolved so there is no further action on this item.

2. Amend to include sewer easement, removal of rooftop fire pit and change side setback interpretation.

   My response as follows:
   a. The sewer easement was settled as part of the court case.
   b. For the removal of rooftop fire pit. The appellant was asking for the removal of the fire pit because they believed it was a fire danger with open flames. The appellants have misconstrued the proposed plans for this from the beginning. An open flame fire pit has never been proposed. As a matter of fact the Fire Marshall has reviewed this and approved a gas log fireplace and no open flames as proposed.
   c. The code is clear as to the location of the setbacks for a corner lot and states it is irrespective of the direction in which the dwelling faces. I would say that it is inappropriate to "change" the interpretation of this code and especially for this house only.

3. The request to overturn the approval due to incompatibility.

   In response, the findings for denial in number B are based upon the fact that the house is not consistent with the LCP because Ms. Turner failed to demonstrate that the design of the house is consistent with the character of the neighborhood as it pertains to the orientation of the house on the lot, the size and design of the home.

   However, the previous Planning Commission discussed the neighborhood compatibility at the December 3, 2007 meeting. The minutes state, "During discussion there was consensus the house is well designed, compatible with the neighborhood, nothing should be higher than 25 feet and the Coral tree should be preserved." Since the Planning Commission did not discuss whether this proposed home is compatible or not, I would say that it shouldn't have been a part of the findings.

Furthermore, the staff report indicated that the project is inconsistent with the LCP in regards to the Volbrecht survey, showing the edge of pavement and ensuring that the house complies with the R-1 setbacks.

The plans submitted in July did in fact have the property boundaries based upon the Volbrecht survey but, staff requested additional information on the plans in order to verify the boundaries. Unfortunately it took several weeks because of vacations schedules and other constraints for the project architect and staff to discuss exactly what information needed to be on the plans. By this time there wasn't sufficient time for the architect to respond with updated plans to staff prior to the Commission meeting. I will also add that the revised plans that were submitted on August 20 also include the edge of pavement and comply with the R-1 setbacks.

The plans that the City currently has includes the following revisions:

1. Driveway has been relocated to ensure that the Coral tree remains healthy. The Coral tree has never been proposed for removal.
2. House had been reduced 29 sq. ft.
3. Garage has been reduced 208 sq. ft. By shortening the garage footprint, it will open the neighboring property view.
4. Building footprint originally had a 25% lot coveragbe and current plan has 21% lot coverage.
5. The front setback along the corner radius has been revised to meet the requirements.
6. The chimney will not be over 6 feet in width so; therefore the new home meets the height requirements.
7. Two trees are planned for removal that includes an 8" Arbutus and 6" Holly. These two trees are within the building footprint area however no other trees are proposed for removal.
8. There are no exceptions or variances requested for this project.

I believe the revised plans have addressed all of the original items in the appellants appeal with the possible exception of neighborhood compatibility. However this is a subjective comment that is not grounded by any facts other than to say the neighbors don't like the modern design. There have been previous comments on the design which include positive comments from the Commission at the December 2007 meeting and also importantly comments

contained within the 2007 staff report for the analysis of the appeal. Specifically those points are:

1. The lot coverage is well below the maximum 45 % threshold.
2. The alteration of the existing landforms on the site are minimized with limited number of trees requested for removal.
3. A comparatively small footprint of the proposed residence.
4. The neighborhood contained a mix of housing styles including new homes that are on similar size lots and have 36% lot coverage.
5. Other homes in the close vicinity that have modern designs.
6. A varied mix of old and redeveloped housing with no consistent design style.
7. It could be found that the proposed project would improve the visual quality and usability of the site.

Last, Ms. Turner's project has been reviewed by two separate Planning Commissions. Most recently, the Commission appeared to deny the project based more upon missing a deadline and also rejecting staff's request for a continuance, which I explained above, rather than a discussion of the merits of the project. The Commission did not review and deliberate on the revised plans but denied the project based upon the previous submittal.

This project is at a point in which it really doesn't make sense for Ms. Turner to start the process all over again. I believe that Ms. Turner has provided justifiable reasons and sufficient information that there were circumstances beyond her control and that only fair and equitable solution would be for the Council to review the revised plans at their hearing. All the information is present for the Council to make the appropriate findings for approval of this project.

Please let me know if you have any questions.

Sincerely,

Cathy Novak

Cathy Novak
Project Representative for Ms. Nicki Turner

Attachment E

AGENDA NO: B-1

MEETING DATE: May 15, 2013

Staff Report

TO: **Planning Commissioners** **DATE: May 9, 2013**

FROM: **Kathleen Wold, Planning Manager**

SUBJECT: ***Continued from the 12-3-07 Planning Commission meeting***
Appeal hearing of the Public Services Director's approval of CP0-246 permitting the Demolition of a 1,183 square foot home, removal of two trees and the construction of a new 2,155 square foot home

RECOMMENDATION:
CONDITIONALLY APPROVE THE PROJECT by adopting a motion including the following(s):

A. Adopt the Findings included as Exhibit "A" upholding the Public Services Director's approval

B. Approve Coastal Development Permit (#CP0-246) subject to the Conditions included as Exhibit "B" and the site development plans date stamped August 15, 2007.

APPELLANTS: Berta and Wayne Parrish

APPLICANT/AGENT Nicki Turner

LEGAL DESCRIPTION/SITE ADDRESS: APN: 066-223-004, Lot: Portion of Lot 5, Block: G, Tract: Cerrito Addition to the Town of Morro. 360 Cerrito Place

REGULATORY SETTING:
The function and duties of the Planning Commission as the appellant body are to review the appeal, administrative record and written correspondence received by staff and included in the staff report, and take one of the following actions:

A. Conduct a public hearing considering the concerns raised by the appellant, and uphold or deny the appeal; or
B. If new evidence comes to light at the hearing that was not previously reviewed by staff, remand the matter back to staff for further review and action.

The Planning Commission, under option A above, shall conduct a no de novo review in that the appellant body shall consider only the same application, plans and related materials that were the subject of the original decision.

Prepared By: KW **Dept Review:** _____

BACKGROUND:
On April 25, 1996, the owners of the properties located at 365 and 367 Shasta Avenue (365 Shasta Avenue is now known as 360 Cerrito Place) applied for a lot line adjustment to move the existing lot line 1.29 feet to the south. This lot line adjustment maintained the required minimum lot size for the corner lot (367 Shasta Avenue), while bringing the lot at 365 Shasta Avenue into closer compliance with City regulations. City Staff approved the lot line adjustment on May 28, 1996 and the lot line adjustment was recorded on June 26, 1996.

On August 8, 2007, the applicant applied for, and was granted administrative approval for the removal of two trees that were considered to be major vegetation because they were greater than six inches in diameter at four and one-half feet off of the ground. Staff went to the site to verify that the subject trees were not threatened or endangered species and that they were not providing habitat for threatened and endangered species. Subject to Resolution 39-07, staff permitted the applicant to remove two trees, which is consistent with A.7.c in the resolution that states, "Single family residential homes shall not require a Coastal Development Permit for the removal of less than three trees in any twelve (12) month period."

Finally, on August 15, 2007, the applicant applied for Coastal Development Permit approval for the demolition of a 1,183 square foot single-family residence, the subsequent construction of a 2,155 square foot single-family residence and attached 648 square foot garage, and the removal of two additional trees that qualify as major vegetations as a result of their trunk diameter. Staff reviewed and subsequently noticed the proposed development on September 24, 2007. The proposed project was issued Coastal Development Permit approval on October 5, 2007. The Director's decision to approve CP0-246 was appealed on October 15, 2007. A public hearing was held before the Planning Commission on December 3, 2007 at which the appeal issue was heard. It was the decision of the Planning Commission to continue the appeal hearing to a date uncertain to allow all five members to be present and to obtain more information from the City Attorney regarding the lot line dispute. It was later determined that as a private matter and not a civil matter, a formal opinion from the City Attorney was not necessary. The two parties reached a resolution through private attorneys.

ENVIRONMENTAL DETERMINATION:
CEQA Determination: The project is Categorically Exempt under the Class 1 exemption for demolition of a single-family residence and the Class 3 exemption for construction of a single-family residence. There are no known sensitive resources or other unique circumstances applicable to the site or its surroundings that would suggest this exemption ought not to be applied.

PROJECT DETAILS:.

Site Characteristics	
Site Area	7,007 square feet
Existing Use	Existing Single Family Residence
Terrain	Flat
Vegetation/Wildlife	Previously disturbed site, urban vegetation
Archaeological Resources	A Phase I Archeological Survey was completed at the site, and the Archaeologist found no evidence of prehistoric or early historic cultural resources

Project Compliance with R-1 setbacks		
Setbacks	**Required**	**Proposed**
Front Yard	20 feet	17 feet
Rear Yard	10 feet	11 feet 8 inches
Interior Side Yard	5 feet	5 feet
Exterior Side Yard	10 feet	18 feet
Lot Coverage	45% maximum	25%
Parking	2-car garage	2-car garage
Height	25 feet	24 feet 6 inches, chimney is over 25 feet and is over 6 feet in width.

ENVIRONMENTAL DETERMINATION

Pursuant to the California Environmental Quality Act the project is categorically exempt pursuant Section 15303, Class 3 for new construction or conversion of small structures. The exemption provides for gas and other utility extensions.

PROJECT DISCUSSION

This project was last heard at the December 3, 2007 Planning Commission meeting at which it was continued to a date uncertain. Continuing the project to a date uncertain provided time for the applicant and the appellant to resolve their lot line issues. It appears that these issues were resolved in 2008 when the Volbrecht survey was recorded and a compromise agreement was signed. However, no action was taken by the applicant to bring the matter back before the Commission. Due to the length of time this project has sat idle, Planning staff was instructed to send a letter to the applicant deeming the application withdrawn. However because the hearing that was continued was an appeal on the Director's approval it was decided that a formal action of either approval or denial of the appeal would be more appropriate.

Staff has considered the proposed project in light of the City's Zoning Ordinance, General Plan, Local Coastal Plan and Guidelines for Major Vegetation Removal, Replacement and Protection. The project has been conditioned to achieve compliance with these documents. In particular additional conditions have been added to ensure that the development meets the required setbacks and height limitations.

The project as proposed encroaches into the required front yard setback by three feet along the corner radius. In addition the maximum height in the R-1 district is 25 feet. Chimneys over six feet in width may not project above this height limitation without a Minor Use permit. If a Minor Use Permit is granted for the increase in height then all setbacks shall be increased by one foot for each foot by which the building including the chimney exceeds 25 feet. The plans submitted indicate that the chimney/building will exceed the 25 foot height limit by 1.5 feet. Therefore Planning condition #9 has been added to address this situation.

Based on the information submitted by both the Applicant and the Appellant which indicates that the lot line dispute has been resolved and that the project has been conditioned for compliance to the recorded record of survey as well as all City's regulation, Staff feels that the Commission should uphold the Public Service Director's decision to conditionally approve CP0-246.

PUBLIC NOTICE: Notice of this item was published in the San Luis Obispo Tribune newspaper on May 3, 2013 and all property owners of record within 300 feet of the subject site were notified of this evening's public hearing and invited to voice any concerns on this application.

CONCLUSION:
Based on the information submitted by both the applicant and the appellant which shows that their dispute over the shared lot line has been resolved, staff recommends that the Planning Commission uphold the Public Services Director conditional approval with modified conditions.

Exhibits:
Exhibit A – Findings
Exhibit B – Conditions of Approval
Exhibit C – Plans
Exhibit D – October 5, 2007 permit
Exhibit E – December 3, 2007 Planning Commission Staff Report
Exhibit F – December 3, 2007 Planning Commission minutes
Exhibit G – November 20, 2012 letter of indicating project had been withdrawn
Exhibit H - April 1, 2013 letter from applicant
Exhibit I- Record of Survey (Volbrecht)
Exhibit J – May 7, 2013 submittal from the appellant

EXHIBIT A:

FINDINGS

Project Description: CP0-246 permitting the Demolition of a 1,183 square foot home, removal of two trees and the construction of a 2,155 square foot home.

Coastal Development Permit Findings

A. That the project is an allowable use in its zoning district and is also in accordance with the certified Coastal Land Use plan for the City of Morro Bay, and is in conformance with the coastal access policies of Chapter 3 of the California Coastal Act.

B. That for purposes of the California Environmental Quality Act, Case Number CP0-246 is Categorically Exempt, Class 1, Section 15301 for removal of one single-family residence and Class 3, Section 15303 for construction of one single-family residence.

C. The major vegetation removal, as mitigated, will not significantly impact any threatened or endangered plant or animal habitat area because the project site does not currently provide significant habitat for endangered plants and animals and the trees to be removed are not threatened or endangered species.

D. Dangerous soil erosion or instability will not occur as a result of the tree removal because a soils report and erosion control plan will be required to address any potential soil erosion and instability resulting from the tree removal.

E. The tree removal will not adversely affect the scenic beauty or character of the surround neighborhood as the majority of the trees on site will remain and additional vegetation will be planted as a result of the proposed project.

EXHIBIT B:

CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. Permit: This permit is granted for the land described on Assessor Parcel Number 066-223-004, referenced above, and all attachments thereto, and as shown on the attached exhibits, and on file with the Public Services Department. The locations of all buildings and other features shall be located and designed substantially as shown on the approved site plan.

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, 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: Any minor change may be approved by the Director. Any substantial change will require the filing of an application for an amendment.

4. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.

5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.

6. Compliance with Conditions: Compliance with and execution of all conditions listed hereon shall be necessary, unless otherwise specified, prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Planning and Building Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the

discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

7. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation.

8. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use plan and General Plan for the City of Morro Bay.

PLANNING CONDITIONS:

9. Building Height Verification: Prior to either roof nail or framing inspection, a licensed surveyor shall submit a letter to the building inspector certifying that the height of the structure is in accordance with the approved plans and complies with the maximum height requirement of 25 foot including all chimneys over 6 feet in width.

10. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.

11. Average Natural Grade Calculation: Provide an average natural grade calculation for the building footprint and indicate the maximum height of the proposed residence above average natural grade of the building footprint.

12. 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. Monday through Friday and eight a.m. to seven p.m. on weekends, unless an exception is granted by the Director of Planning & Building pursuant to the terms of this regulation.

13. Tree Replacement:. Replacement trees for the Arbutus tree and Holly tree removed shall be replaced at a ratio of two five-gallon trees, or one 15-gallon tree for every tree removed. The replacement trees may be planted on the project site, on other privately

held lands with the property owner's permission, or presented to the City to plant on public lands.

14. Setbacks: The project shall comply with all setback requirements including a 20 foot front yard setback. The house design shall be modified or the house shall be relocated to accommodate a 20 foot front yard setback along Cerrito place.

ENGINEERING CONDITIONS:

15. Show and dimension street Right of Way in relation to the property lines along with monumentation of property as indicated on the Record of Survey 99 RS 64, Volbrecht.

16. Include the locations of the sewer lateral, water service, and water and sewer mains. Location of all utilities.
    a. Sewer Backwater Valve: A sewer backwater valve shall be installed on site to prevent a blockage or maintenance of the municipal sewer main from causing damage to the proposed project. (MBMC 14.24.070) Please indicate on the plans.
    b. Conduct a video inspection of the conditions of existing sewer lateral. Submit video to City collection system personnel. Repair or replace as required to prohibit inflow/infiltration.

17. Provide a standard erosion and sediment control plan: The Plan shall show control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or ecologically sensitive area.

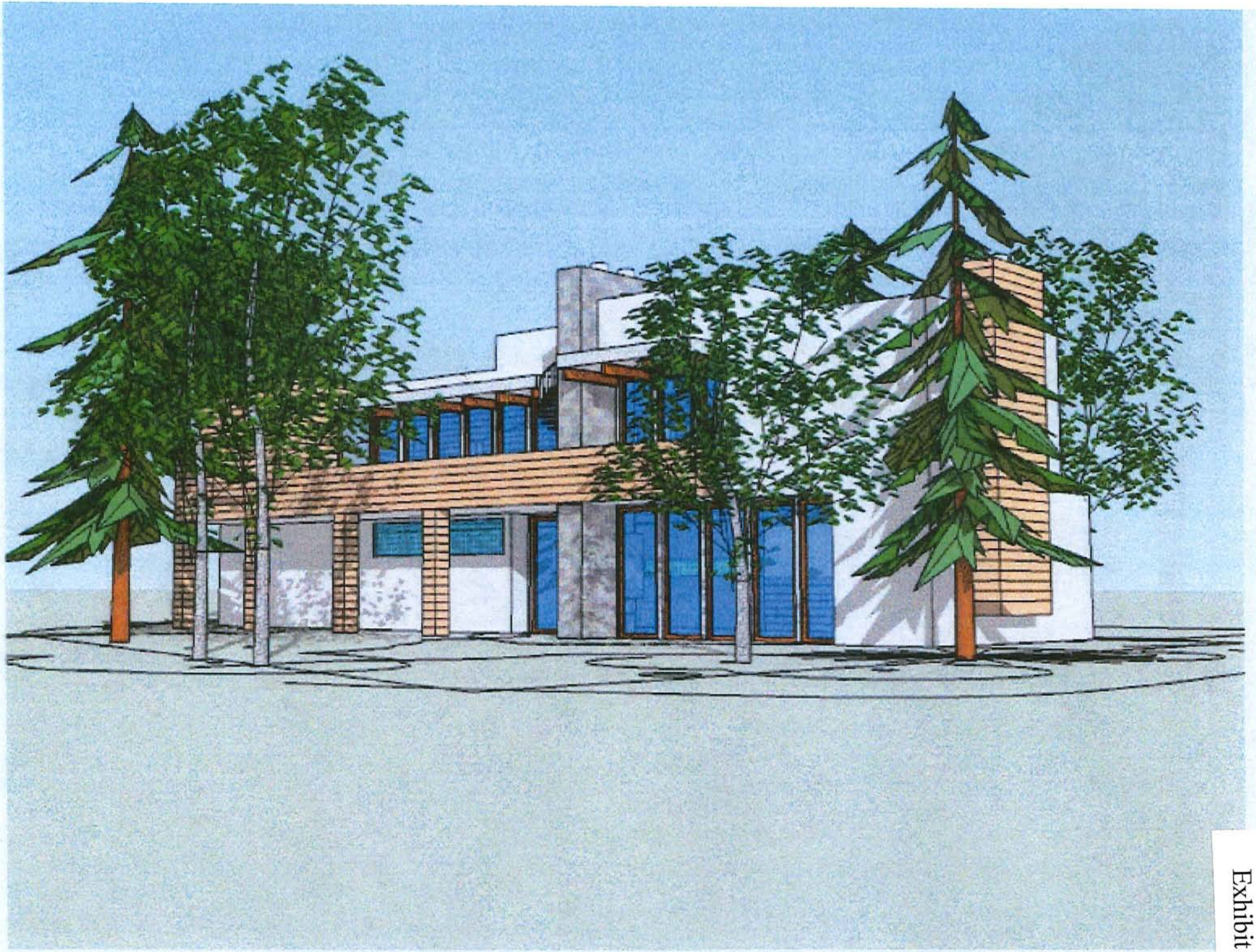
18. Drainage: Route roof and paved surface storm water runoff to the street flowline. In residential projects, if conditions allow, roof and paved surface storm water runoff can be routed over the drive approach to reach the street flowline. Elsewhere, a 3" schedule 40 galvanized iron pipe, drainline, shall be installed from the property line connection to the street flowline and through curb. Show drainage method on the plans.

19. Add the following notes to the plans:

    a. No work shall occur within (or use of) the City's Right of Way without an encroachment permit. Encroachment permits are available at the City of Morro Bay Public Services Office located at 955 Shasta Ave. The Encroachment permit shall be issued concurrently with the building permit.

b. Any damage, as a result of construction operations for this project, to City facilities, i.e. curb/berm, street, sewer line, water line, or any public improvements shall be repaired at no cost to the City of Morro Bay.

c. Compaction of the driveway around the drip line of the 14" 3-prong Coral tree shall be based on the recommendations of a licensed arborist.



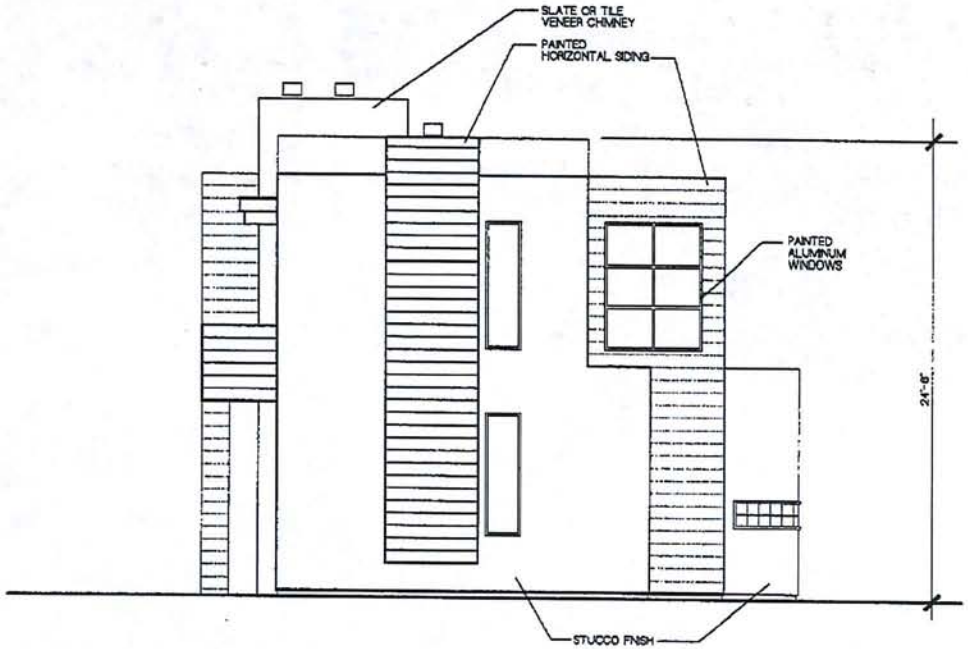
Fazio Residence – South Elevation

Exhibit C

Fazio Residence – West Elevation

SOUTH ELEVATION

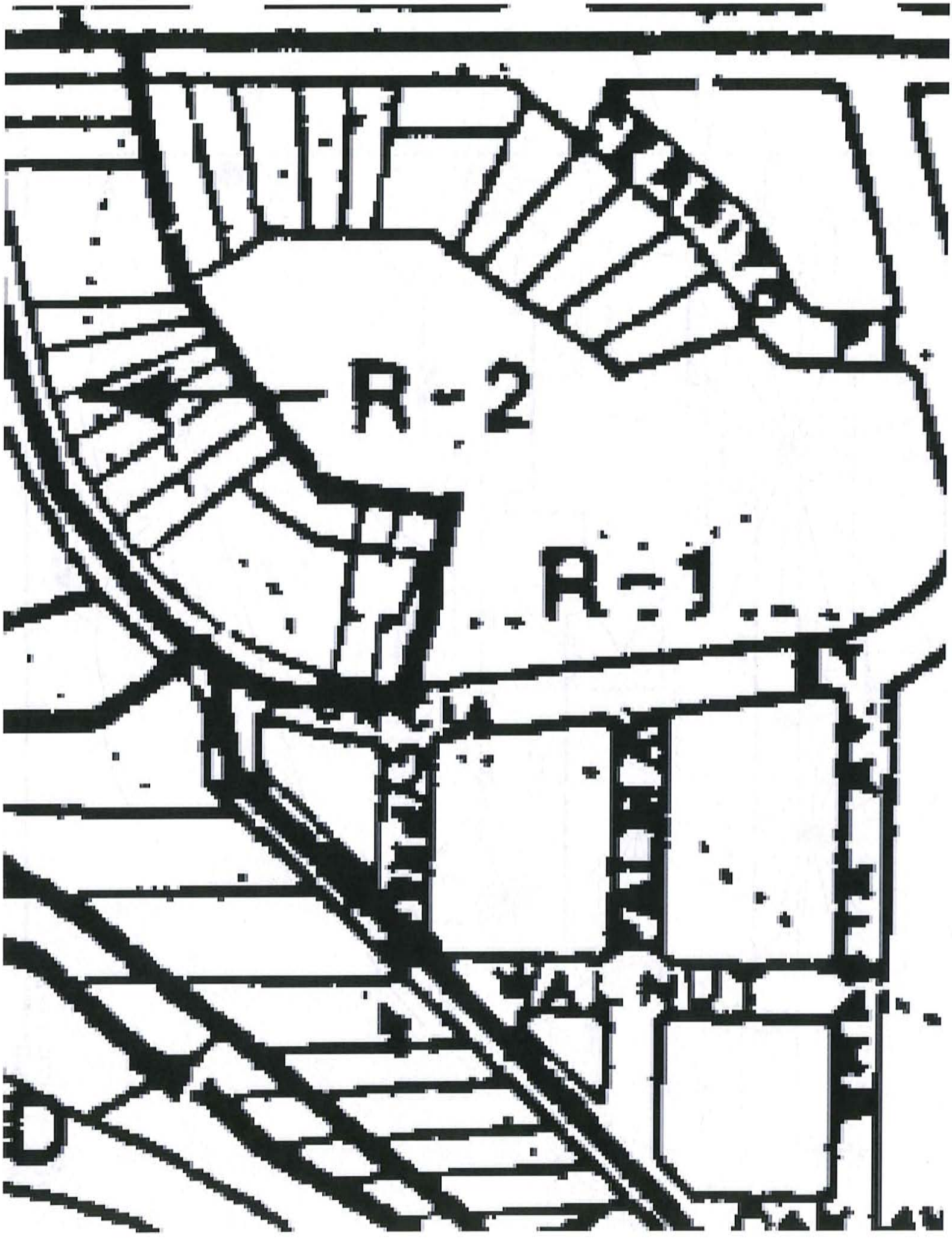
1/4" SCALE



EAST ELEVATION

1/4" SCALE

Fazio Residence – Southwest Elevation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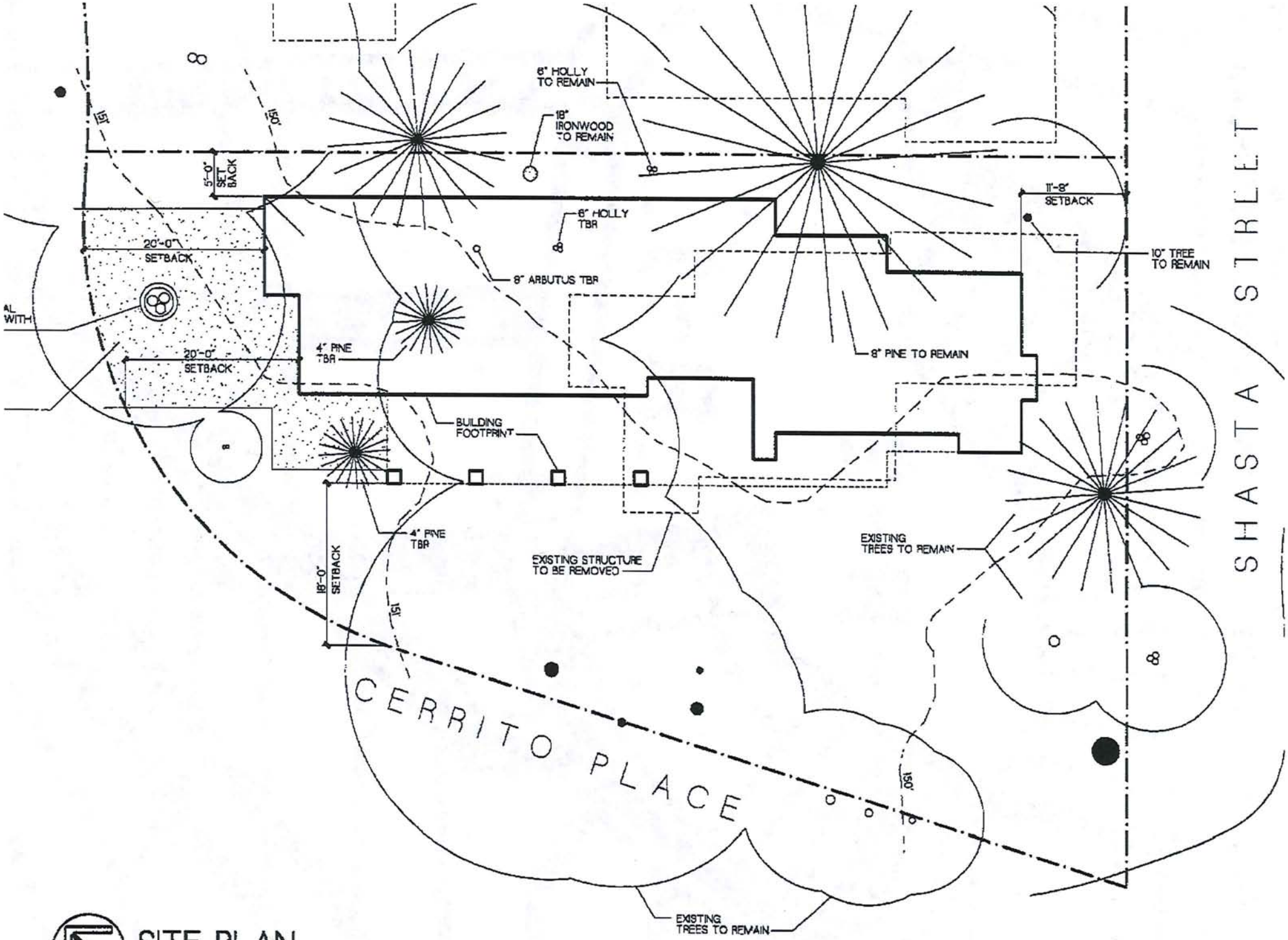
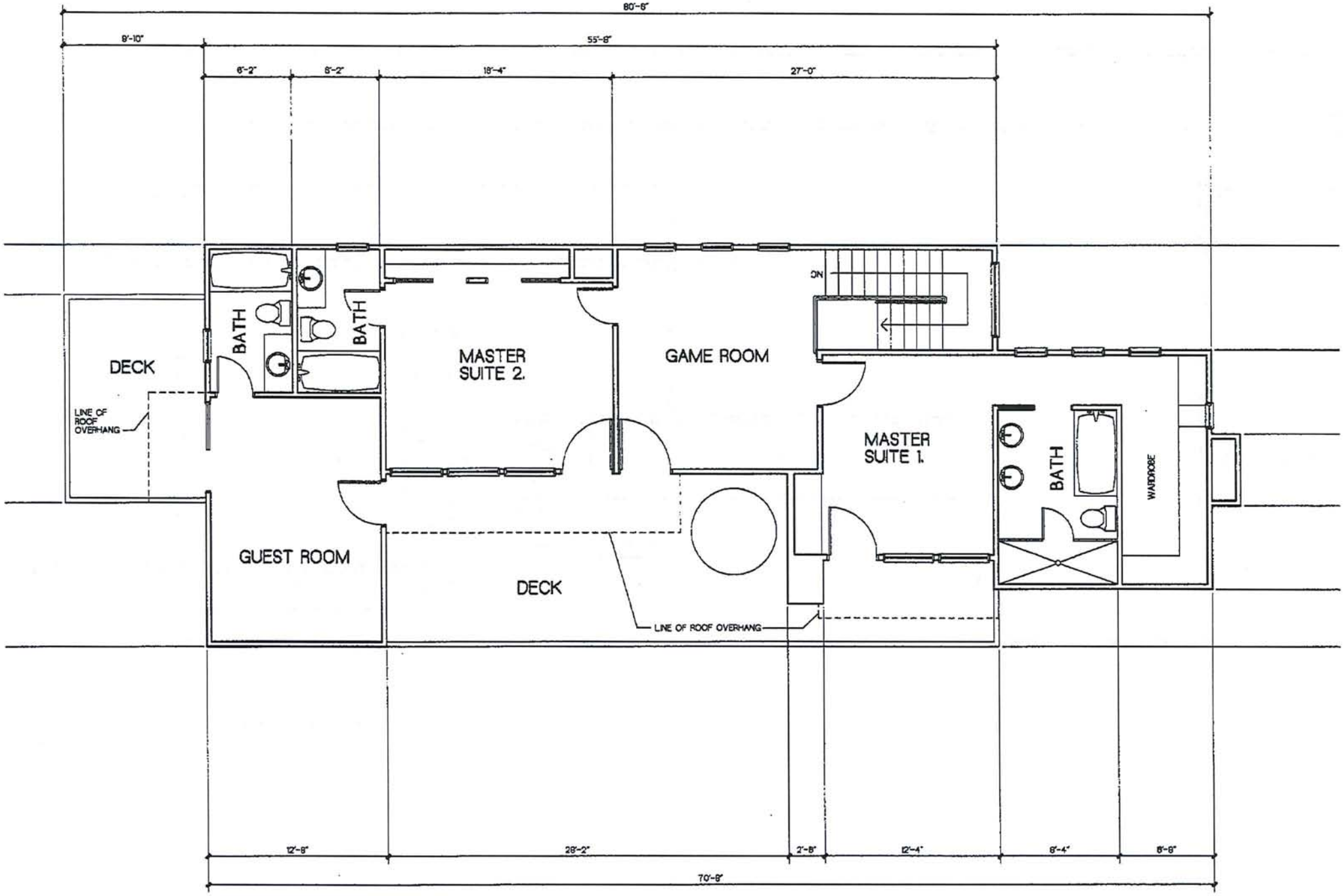


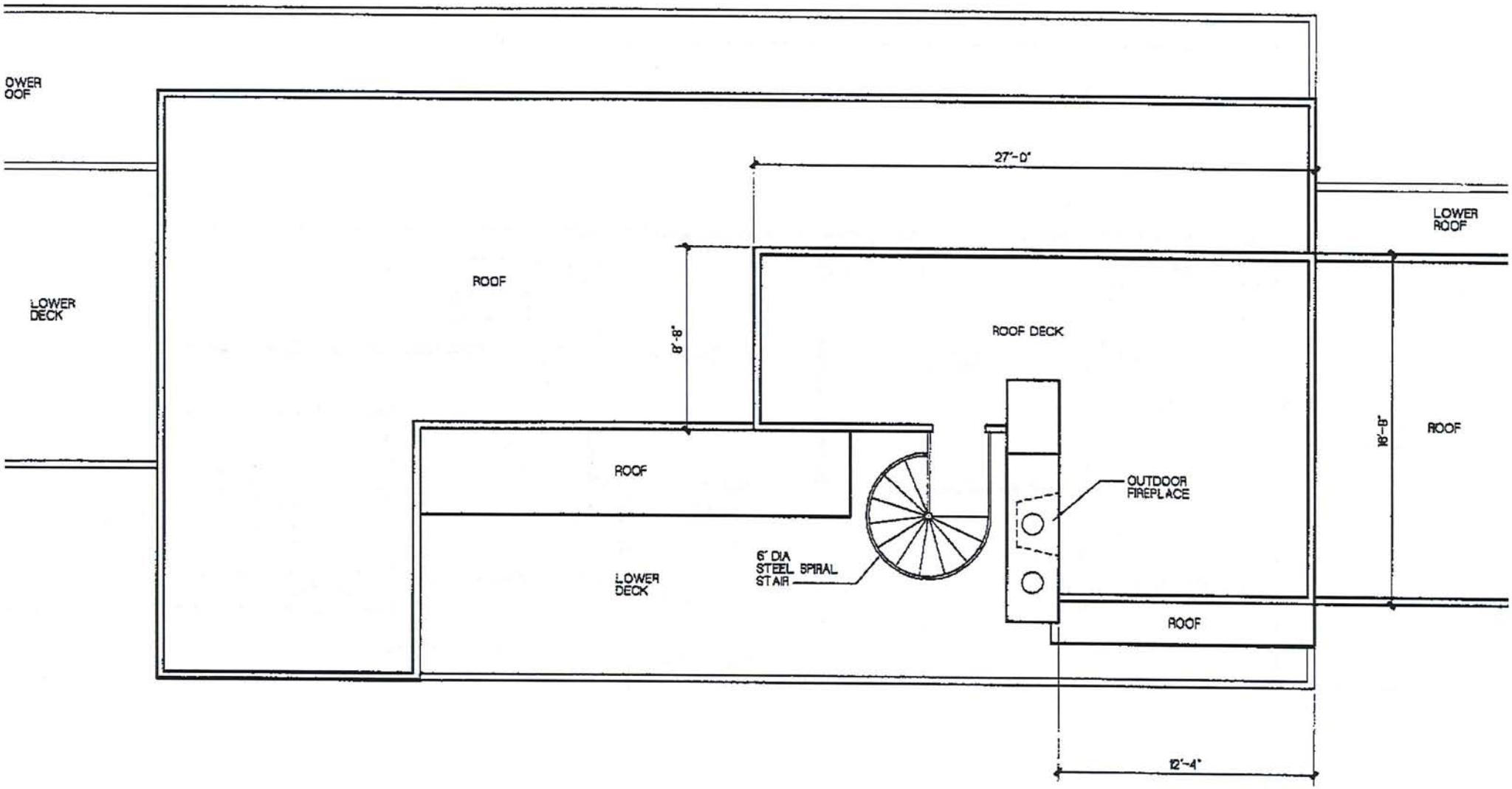
SITE PLAN

1/8" SCALE



SECOND FLOOR PLAN

1/4" SCALE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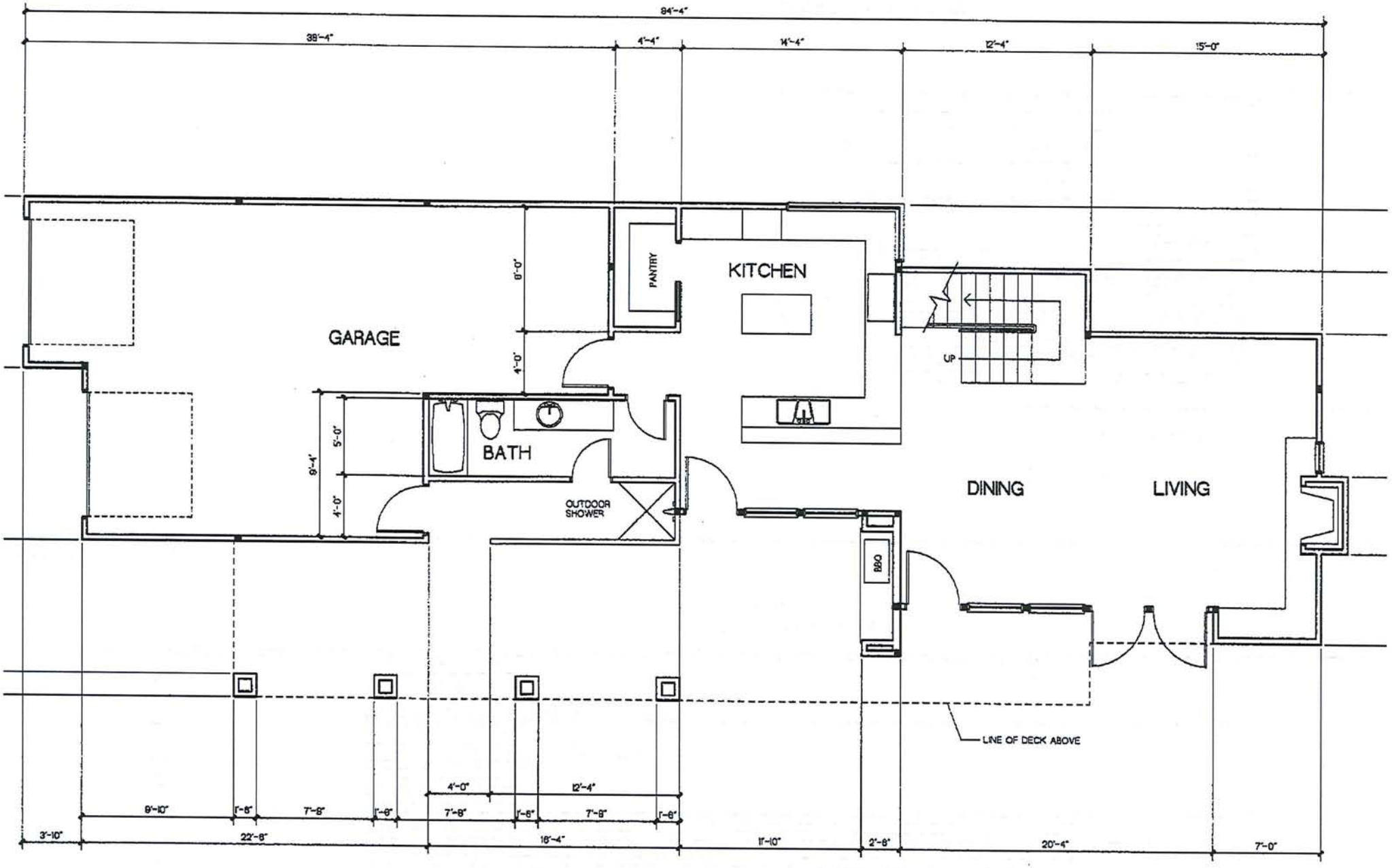
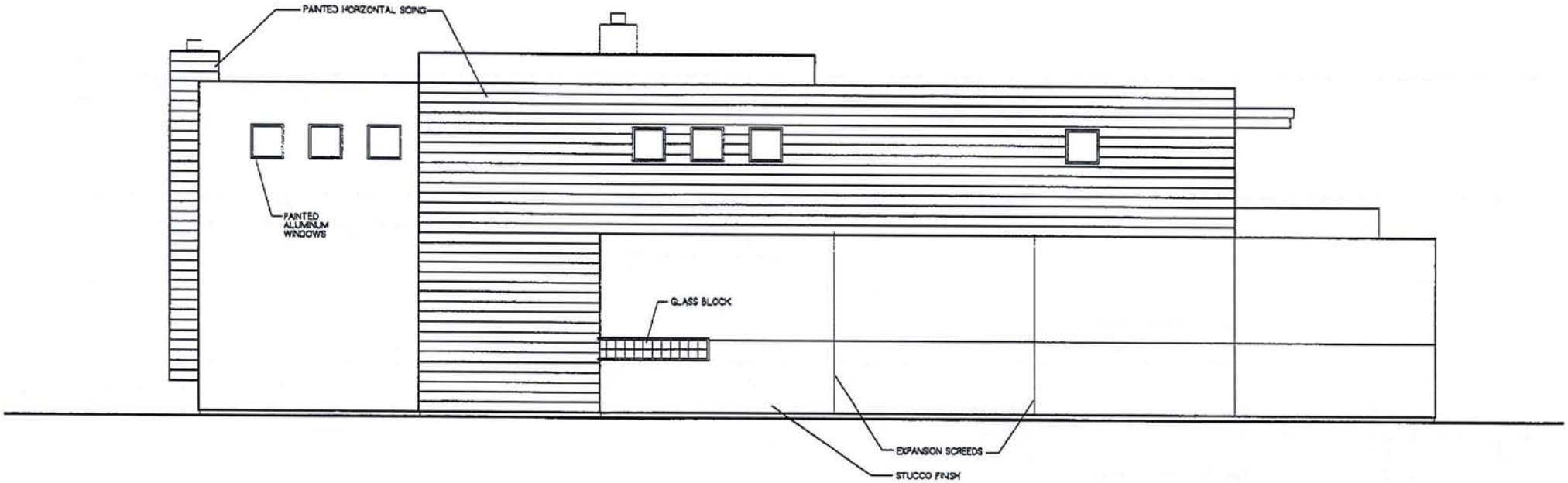


FIRST FLOOR PLAN

1/4" SCALE



ORTH ELEVATION
CALE

WEST ELEVATION
1/4" SCALE

Exhibit D

City of Morro Bay

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

October 5, 2007

Randy Dettmer, AIA
663 Hill Street
San Luis Obispo, CA 93405

Appealed

RE: 360 Cerrito Place, CPO-246

Dear Mr. Dettmer:

On October 5, 2007 the Director approved your request for an Administrative Coastal Development Permit for the demolition of a 1,183 square foot single-family residence and the subsequent construction of a 2,155 square foot single-family residence and associated 648 square foot garage, and the removal of two trees that qualify as major vegetation.

This action does not constitute a building permit. Any further processing of this project must be initiated by the applicant, subject to the applicable rules and regulations of the Morro Bay Municipal Code.

The Morro Bay Municipal Code provides for an appeal of the action by the Planning Commission within ten (10) days of adoption and anyone wishing to appeal may do so in writing by filing an appeal with the Public Services Department. There is a fee for processing appeals, which are not coastal permits within the appeals jurisdiction. Barring an appeal, your Coastal Development Permit will be effective October 16, 2007.

Sincerely,

Bruce Ambo, PUBLIC SERVICES DIRECTOR

By:

Rachel Grossman, Associate Planner

Enclosures: Permit, Findings, and Conditions of Approval

Appealed.

COASTAL DEVELOPMENT PERMIT

CASE NO: CPO-246

THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:

SITE ADDRESS: 360 Cerrito Place

APPLICANT: Joe and Nicki Fazio

APN: 066-223-004

LEGAL: LOT: PORTION OF LOT 5, BLOCK: G, TRACT: CERRITO ADDITION TO THE TOWN OF MORRO

DATE APPROVED: October 5, 2007

APPROVED BY: Director

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

CEQA DETERMINATION: CATEGORICALLY EXEMPT SECTION 15301, CLASS 1 AND SECTION 15303, CLASS 3

DESCRIPTION OF APPROVAL: Demolition of a 1,183 square foot single-family residence and the subsequent construction of a 2,155 square foot single-family residence and associated 648 square foot garage, and the removal of two trees that qualify as major vegetation.

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

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

IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: October 16, 2007

ATTEST: Rachel M Grossman **DATE: October 5, 2007**

Rachel Grossman, Associate Planner
FOR: Bruce Ambo, PUBLIC SERVICES DIRECTOR

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

City of Morro Bay

Appealed

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

PUBLIC SERVICES DEPARTMENT
PLANNING DIVISION
NOTICE OF FINAL ACTION ON COASTAL DEVELOPMENT PERMIT

NOTICE OF FINAL CITY ACTION
on Coastal Development Permit No. CPO-246

The following project is located in the Morro Bay Coastal Zone and a Coastal Permit Application has been acted on by the City.

Applicant: Joe and Nicki Fazio

Address: 3037 Sabine Hill Avenue, Henderson, NV 89052

Project Description: Demolition of a 1,183 square foot single-family residence and the subsequent construction of a 2,155 square foot single-family residence and associated 648 square foot garage, and the removal of two trees that qualify as major vegetation.

Project Location 360 Cerrito Place

APN No. 066-223-004 Lot Area: 7,007 sq. ft.

Zoning: R.1

LUP/General Plan: Low-Medium Density Residential

Filing Date: November 5, 2007 Action Date: October 5, 2007

Action By: DIRECTOR Action Taken: APPROVED WITH CONDITIONS

ATTACHMENTS: PERMIT, FINDINGS, IF ANY, AND CONDITIONS OF APPROVAL

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

☒ THIS SITE IS OUTSIDE OF THE COASTAL COMMISSION APPEAL JURISDICTION

COASTAL DEVELOPMENT PERMIT
CASE NO. CPO-246
SITE LOCATION: 360 Cerrito Place

I. FINDINGS OF APPROVAL

The Director reviewed this Administrative Coastal Permit application and finds the following:

A. That the project is an allowable use in its zoning district and is also in accordance with the certified Coastal Land Use plan for the City of Morro Bay, and is in conformance with the coastal access policies of Chapter 3 of the California Coastal Act.

B. That for purposes of the California Environmental Quality Act, Case Number CPO-246 is Categorically Exempt, Class 1, Section 15301 and Class 3, Section 15303.

C. The major vegetation removal, as mitigated, will not significantly impact any threatened or endangered plant or animal habitat area because the project site does not currently provide significant habitat for endangered plants and animals.

D. Dangerous soil erosion or instability will not occur as a result of the tree removal because a soils report and erosion control plan will be required to address any potential soil erosion and instability resulting from the tree removal.

E. The tree removal will not adversely affect the scenic beauty or character of the surround neighborhood as the majority of the trees on site will remain and additional vegetation will be planted as a result of the proposed project.

II. CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. Permit: This permit is granted for the land described on Assessor Parcel Number 066-223-004, referenced above, and all attachments thereto, and as shown on the attached exhibits, and on file with the Public Services Department. The locations of all buildings and other features shall be located and designed substantially as shown on the approved site plan.

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, 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: Any minor change may be approved by the Director. Any substantial change will require the filing of an application for an amendment.

4. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.

5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.

6. Compliance with Conditions: Compliance with and execution of all conditions listed hereon shall be necessary, unless otherwise specified, prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Planning and Building Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

7. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation.

8. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use plan and General Plan for the City of Morro Bay.

Planning Conditions:

9. Building Height Verification: Prior to either roof nail or framing inspection, a licensed surveyor shall submit a letter to the building inspector certifying that the height of the structure is in accordance with the approved plans and complies with the height requirement of **25 foot maximum above the average natural grade as accepted by the City Building Official**.

10. Grading and Drainage: Roof and driveway runoff shall be directed to the street in a non-erosive manner and not concentrate runoff onto adjacent properties. The Applicant may be required to submit a grading and/or drainage plan with calculations to demonstrate the proposed on-site drainage will handle the peak run-off from a 25-year storm. If deemed necessary by the Building Official, a grading and drainage plan shall be submitted by the Applicant for approval by the Public Works Division and City Engineer prior to issuance of a building permit.

11. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.

12. Average Natural Grade Calculation: Provide an average natural grade calculation for the building footprint and indicate the maximum height of the proposed residence above average natural grade of the building footprint.

13. 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. Monday through Friday and eight a.m. to seven p.m. on weekends, unless an exception is granted by the Director of Planning & Building pursuant to the terms of this regulation.

14. Tree Replacement:. Replacement trees for the Arbutus tree and Holly tree removed shall be replaced at a ratio of two five-gallon trees, or one 15-gallon tree for every tree removed. The replacement trees may be planted on the project site, on other privately held lands with the property owner's permission, or presented to the City to plant on public lands.

Engineering Conditions:

15. Show and dimension street Right of Way

16. Include the locations of the sewer lateral, water service, and water and sewer mains. Location of all utilities.
    a. Sewer Backwater Valve: A sewer backwater valve shall be installed on site to prevent a blockage or maintenance of the municipal sewer main from causing damage to the proposed project. (MBMC 14.24.070) Please indicate on the plans.
    b. Conduct a video inspection of the conditions of existing sewer lateral. Submit video to City collection system personnel. Repair or replace as required to prohibit inflow/infiltration.

17. Provide a standard erosion and sediment control plan: The Plan shall show control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or ecologically sensitive area.

18. Drainage: Route roof and paved surface storm water runoff to the street flowline. In residential projects, if conditions allow, roof and paved surface storm water runoff can be routed over the drive approach to reach the street flowline. Elsewhere, a 3" schedule 40 galvanized iron pipe, drainline, shall be installed from the property line connection to the street flowline and through curb. Show drainage method on the plans.

19. Add the following notes to the plans:

    a. No work shall occur within (or use of) the City's Right of Way without an encroachment permit. Encroachment permits are available at the City of Morro Bay Public Services Office located at 955 Shasta Ave. The Encroachment permit shall be issued concurrently with the building permit.

    b. Any damage, as a result of construction operations for this project, to City facilities, i.e. curb/berm, street, sewer line, water line, or any public improvements shall be repaired at no cost to the City of Morro Bay.

    c. Compaction of the driveway around the drip line of the 14" 3-prong Coral tree shall be based on the recommendations of a licensed arborist.

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Exhibit E

CITY OF MORRO BAY PLANNING COMMISSION

December 3, 2007

PROJECT SUMMARY
Appeal of a Demo/Rebuild Single-family Residence and remove two trees

FILE NUMBER:
CPO-246

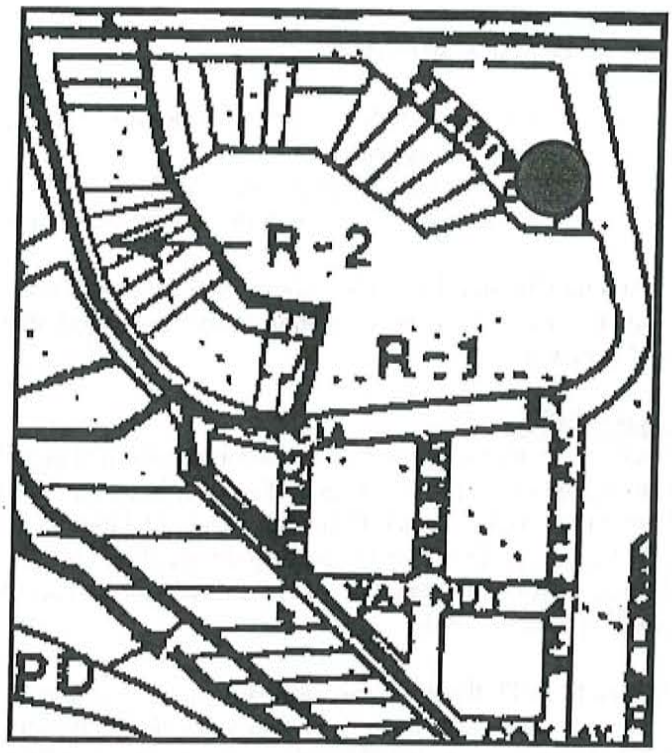
SITE ADDRESS:
360 Cerrito Place

LEGAL DESCRIPTION
APN: 066-223-004, Lot: Portion of Lot 5, Block: G, Tract: Cerrito Addition to the Town of Morro

APPELLANTS:
Berta and Wayne Parrish

APPLICANTS:
Joe and Nicki Fazio

EXHIBITS:
A. Findings
B. Conditions
C. Graphics/Plan Reductions
D. Appeal Form
E. Public Comments



Vicinity Map

ISSUE SUMMARY:
Staff issued a Coastal Development Permit on October 5, 2007 for the demolition of an existing 1,183 square foot house, subsequent construction of a 2,155 square foot house and attached 648 square foot garage, and removal of two trees that are considered major vegetation (because two trees have been previously removed within the last 12 month period) at the property located at 360 Cerrito Place. An appeal of this action was submitted on October 15, 2007, and the project is before the Planning Commission as the appellant body.

STAFF RECOMMENDATION
Deny the appeal and approve the Coastal Development Permit by adopting a motion including the following actions:

A. Adopt the Findings included as Exhibit "A";

B. Approve the Coastal Development subject to the Conditions included in Exhibit B and the site development plans dated August 15, 2007.

ENVIRONMENTAL DETERMINATION:
CEQA Determination: The project is Categorically Exempt under the Class 1 exemption for demolition of a single-family residence and the Class 3 exemption for construction of a single-family residence. There are no known sensitive resources or other unique circumstances applicable to the site or its surroundings that would suggest this exemption ought not be applied.

REGULATORY SETTING:
The function and duties of the Planning Commission as the appellant body are to review the appeal, administrative record and written correspondence received by staff and included in the staff report, and take one of the following actions:

A. Conduct a public hearing considering the concerns raised by the appellant, and uphold or deny the appeal; or
B. If new evidence comes to light at the hearing that was not previously reviewed by staff, remand the matter back to staff for further review and action.

The Planning Commission, under option A above, shall conduct a no de novo review in that the appellant body shall consider only the same application, plans and related materials that were the subject of the original decision.

BACKGROUND:
On April 25, 1996, the owners of the properties located at 365 and 367 Shasta Avenue (365 Shasta Avenue is now known as 360 Cerrito Place) applied for a lot line adjustment to move the existing lot line 1.29 feet to the south. This lot line adjustment maintained the required minimum lot size for the corner lot (367 Shasta Avenue), while bringing the lot at 365 Shasta Avenue into closer compliance with City regulations. City Staff approved the lot line adjustment on May 28, 1996 and the lot line adjustment was recorded on June 26, 1996.

On August 8, 2007, the applicant applied for, and was granted administrative approval for the removal of two trees that were considered to be major vegetation because they were greater than six inches in diameter at four and one-half feet off of the ground. Staff went to the site to verify that the subject trees were not threatened or endangered species and that they were not providing habitat for threatened and endangered species. Subject to Resolution 39-07, staff permitted the applicant to remove two trees, which is consistent with A.7.c in the resolution that states, "Single family residential homes shall not require a Coastal Development Permit for the removal of less than three trees in any twelve (12) month period."

Finally, on August 15, 2007, the applicant applied for Coastal Development Permit approval for the demolition of a 1,183 square foot single-family residence, the subsequent construction of a 2,155 square foot single-family residence and attached 648 square foot garage, and the removal of two additional trees that qualify as major vegetations as a result of their trunk diameter. Staff reviewed and subsequently noticed the proposed development on September 24, 2007. The proposed project was issued Coastal Development Permit approval on October 5, 2007. Staff's approval was appealed on October 15, 2007, and is now before the Planning Commission for further evaluation.

The following tables provide Zoning, General Plan and information about neighboring development.

Adjacent Zoning/Land Use			
North:	R-1, Single Family Residences	South	R-1, Single Family Residences
East:	R-1, Single Family Residences	West:	R-1, Single Family Residences

Site Characteristics	
	Portion of Lot 5
Site Area	7,007 square feet
Existing Use	Existing Single Family Residence
Terrain:	Flat
Vegetation/Wildlife	Previously disturbed site
Archaeological Resources	A Phase I Archeological Survey was completed at the site, and the Archaeologist found no evidence of prehistoric or early historic cultural resources

General Plan, Zoning Ordinance & Local Coastal Plan Designations	
General Plan/Coastal Plan Land Use Designation	Low/Medium Density Residential
Base Zone District	R-1, Single Family Residential
Zoning Overlay District	N/A
Special Treatment Area	N/A
Combining District	N/A
Specific Plan Area	N/A
Coastal Zone	Not Within Appeals Jurisdiction

The table below provides information regarding the R-1 zoning standards and the proposed project's compliance with these standards.

Setbacks	Required	Proposed
Front Yard	20 feet	20 feet
Rear Yard	10 feet	11 feet 8 inches
Interior Side Yard	5 feet	5 feet
Exterior Side Yard	10 feet	18 feet
Lot Coverage	45% maximum	25%
Parking	2-car garage	2-car garage
Height	25 feet	24 feet 6 inches

As illustrated in the above table, the proposed single-family residence is compliant with all R-1 zoning ordinance requirements and the applicant is requesting no variances or exceptions from City Standards.

PROJECT DISCUSSION

City Staff considered the proposed project in light of the City's Zoning Ordinance, General Plan, Local Coastal Plan and Guidelines for Major Vegetation Removal, Replacement and Protection. After thorough review of the proposed project (including review of the address file, record of survey, COC, submitted plans, consultation with Public Services staff members and field review) staff found the requested development consistent with the applicable City documents listed above and issued a Coastal Development Permit. This approval was subsequently appealed and the appellants concerns and staff's response to these concerns are presented below.

APPEAL ISSUES

The appellants concerns are presented in Exhibit D of this staff report, and summarized below.

1. Property Line Dispute: The appellants believe that the site plan submitted by the applicant is not consistent with the recorded lot lines and does not accurately depict the boundaries of the lots located at 365 Shasta Avenue and 360 Cerrito Place;
2. Sewer Line: Concerns were expressed regarding a shared sewer lateral;
3. Increased Review for large homes: The appellants believe that the proposed project should be subject to the heightened review currently required for homes in excess of 2,500 square feet;
4. Fire Hazard: The appellants are concerned that the roof top fire place is a fire hazard;
5. Neighborhood Compatibility: Concerns were expressed that the proposed project would not be compatible with the neighborhood; and
6. Setbacks: The appellants disagree with staff's interpretation of the front yard.

Staff will address each of these concerns in the analysis provided below.

ANALYSIS

The purpose of the analysis section is to specifically address the expressed concerns of the appellants. The analysis is divided into the same sections as the appeal issues section of the staff report to allow for ease of review.

1. Property Line Dispute: As presented in the background section of this staff report, a lot line adjustment was approved by the City and recorded in 1996. The lot line adjustment was done via Certificates of Compliance (COC), and the City has copies of the recorded COC. As a result of the appellants' expressed concerns regarding the lot boundary delineation, staff requested the record of survey (completed June 21, 2007) that the applicants utilized to establish the lot boundaries. After review of the COC and the survey completed June 21, 2007 by the City Engineer, Planning Manager and Associate Planner, staff determined that the applicants submitted lot boundaries appear to be consistent with the recorded lot boundaries, and thus, the site plan submitted by the applicants was deemed accurate by staff. As a side note, lot line disputes are generally a civil matter, and the City Attorney has directed staff to continue review and processing of the proposed project until such time that the appellants files an injunction. The appellants have not yet filed an injunction, so the City will continue to review and process the project per direction from the City Attorney.

2. Sewer Line: At this point in the process, the applicants have not submitted complete construction drawings, as these are not required until the building permit review commences. As such, Staff does not yet have complete information regarding the existing sewer lateral. As indicated in condition of approval number 17, when the applicants submit plans for their building permit they will be required to indicate the locations of the sewer lateral, water service, and water and sewer mains. Per the City Engineer, separate sewer laterals for the properties located at 367 Shasta Avenue and 360 Cerrito Place will be required prior to building permit issuance. In regards to concerns about the lack of a sewer easement, if a sewer easement is needed, that is also a civil matter that will need to be resolved between the applicants and appellants. The City of Morro Bay cannot mandate a property owner to grant an easement as a condition of approval of a Coastal Development Permit.

3. Increased Review for large homes: As indicated in the appeal form, the proposed project was deemed complete prior to the approval of the urgency ordinance requiring heightened review for homes larger than 2,500 square feet and thus does not apply to the proposed project. In addition, the urgency ordinance would not apply to the proposed structure if it were submitted today because the structure is not large enough to qualify for heightened review. The urgency ordinance requires Planning Commission review for residential units in excess of 2,500 square feet. This square footage includes all habitable living area, as well as any garage area in excess of 400 square feet. The proposed residence includes 2,155 square feet of habitable space, and 248 square feet of garage area in excess of 400 square feet. Per the specifications of the urgency

ordinance, the proposed residence has 2,403 square feet of qualifying space, which is below the 2,500 square foot threshold for heightened review.

4. Fire Hazard: Planning staff consults with the Fire Department when any concerns are raised regarding fire safety. Tom Prows, Fire Prevention Officer, was consulted regarding this project to determine if the proposed fireplace on the roof deck was considered a fire hazard. He stated that per Fire and Building Codes, the fireplace is permitted and he was not concerned that it would be a fire hazard. As a side note, the Air Pollution Control District (APCD) requires that this fireplace be a gas fireplace, and thus there would be no concerns with live embers being released from the fireplace.

5. Neighborhood Compatibility: The primary policy from the City's zoning ordinance addressing neighborhood character and visual resources is presented below. The three most pertinent standards to the proposed development are also included.

   17.48.190 Protection of Visual Resources and Compatible Design: New development shall protect and, where feasible, enhance the visual quality of the surrounding area. New development may be permitted only if the siting and design meet the following standards:

   B. Natural landform protection: alterations to natural landforms are minimized

   C. Compatibility: the development is visually compatible with the character of the surrounding area and any design themes adopted for that area by the City

   D. Visual quality: restores and enhances visual quality in visually degraded areas

   The subject lot currently has twelve trees (this does not include the two that were previously removed) that are considered major vegetation. As a component of the proposed project, two of these trees will be removed. The lot coverage of the proposed residence would be 25 percent (the percentage on the plans is inaccurate, as only a small portion of one of the decks counts as lot coverage). This is well below the maximum threshold of 45 percent permitted in the R-1 zone. The alteration of the existing natural landforms on the site are minimized with the limited number of trees requested for removal, and comparatively small footprint of the proposed residence

   The neighborhood within which the residence is proposed contains quite a mix of housing styles and types. Just west of the proposed residence (365 and 371 Cerrito Place) are two fairly new stucco homes on similar sized lots that have 36 percent lot coverage. Just south of these residences (385 Cerrito Place) is a modern residence with a hardy board exterior. At 380 Shasta Avenue lies a home with modern characteristics and a third story roof deck. One block away on Acacia, there are two modern homes that were constructed in 1989. In addition to these specific houses, a glance around the neighborhood illustrates a varied mix of old and redeveloped properties with no consistent design style. This eclectic neighborhood character would suggest that a wide range of housing styles, including modern design, could be considered visually compatible with character of the surrounding area.

   The project site is currently overgrown and in need of some landscaping maintenance and improvements or reconstruction of the existing residence. Like many of the recently redeveloped properties within the neighborhood, it could be found that the proposed project would improve the visual quality and usability of the site.

6. Setbacks: The final concern expressed by the appellant is the delineation of yards by staff (front, rear, etc.). Per the Zoning Ordinance a through lot is defined as *"a lot having frontage and potential access on two parallel or approximately parallel street."* In staff's opinion, the subject lot qualifies as a through lot. Furthermore, section 17.48.180, street to street R-1 lots, states that

On any existing east-west oriented R-1 lot whose front and rear yards are both adjacent to a public street, the western frontage shall be considered the front of the lot and the eastern frontage shall be considered the rear of the lot, unless otherwise determined by the Planning Commission.

Based upon this section of the code, staff has designated Cerrito Place as the front yard for the project site, and based required setbacks upon this designation. As stated in section 17.48.180, the Planning Commission does have the authority to determine an alternative location for the front yard, should they believe that another location would be more consistent with existing neighbor development, yet continue to provide safe access to the site. Though it would be feasible to make the garage accessible from Shasta Avenue, staff has safety concerns associated with this point of access to the site. Shasta receives more average daily trips then Cerrito Place, thus garage access off of Shasta Avenue would result in increased potential for traffic collisions. In addition, reorienting the yards would potentially only change the location of the garage and move the structure farther west. Yard reorientation alone does not address design issues or other express concerns voiced by the appellants.

PUBLIC NOTICE:
Notice of this item was posted at the site and published in the San Luis Obispo Telegram-Tribune newspaper on November 23, 2007 and all property owners of record and occupants within 100 feet of the subject site were notified of this evening's public hearing and invited to voice any concerns on this application.

CONCLUSION:
The appellants' expressed concerns regarding lot lines and sewer easements are civil matters, and staff research and available evidence indicate that the proposed project is consistent with recorded lot lines. As presented in the staff report, the project site is located within an eclectic neighborhood that lacks a consistent design style. As such, a variety of residential design styles would be suitable for the area, including modern design. The proposed project can be found consistent with the City's adopted Local Coastal Program and Major Vegetation Removal Guidelines, and for that reason, staff recommends that the Planning Commission deny the appeal and uphold staff's issuance of the Coastal Development Permit.

Report prepared by: Rachel Grossman, Associate Planner

EXHIBIT A:
FINDINGS

Coastal Development Permit Findings

A. That the project is an allowable use in its zoning district and is also in accordance with the certified Coastal Land Use plan for the City of Morro Bay, and is in conformance with the coastal access policies of Chapter 3 of the California Coastal Act.

B. That for purposes of the California Environmental Quality Act, Case Number CPO-246 is Categorically Exempt, Class 1, Section 15301 for removal of one single-family residence and Class 3, Section 15303 for construction of one single-family residence.

C. The major vegetation removal, as mitigated, will not significantly impact any threatened or endangered plant or animal habitat area because the project site does not currently provide significant habitat for endangered plants and animals and the trees to be removed are not threatened or endangered species.

D. Dangerous soil erosion or instability will not occur as a result of the tree removal because a soils report and erosion control plan will be required to address any potential soil erosion and instability resulting from the tree removal.

E. The tree removal will not adversely affect the scenic beauty or character of the surround neighborhood as the majority of the trees on site will remain and additional vegetation will be planted as a result of the proposed project.

EXHIBIT B:
CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. Permit: This permit is granted for the land described on Assessor Parcel Number 066-223-004, referenced above, and all attachments thereto, and as shown on the attached exhibits, and on file with the Public Services Department. The locations of all buildings and other features shall be located and designed substantially as shown on the approved site plan.

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, 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: Any minor change may be approved by the Director. Any substantial change will require the filing of an application for an amendment.

4. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.

5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.

6. Compliance with Conditions: Compliance with and execution of all conditions listed hereon shall be necessary, unless otherwise specified, prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Planning and Building Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

7. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation.

8. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use plan and General Plan for the City of Morro Bay.

PLANNING CONDITIONS:

9. Building Height Verification: Prior to either roof nail or framing inspection, a licensed surveyor shall submit a letter to the building inspector certifying that the height of the structure is in accordance with the approved plans and complies with the height requirement of **25 foot maximum above the average natural grade as accepted by the City Building Official**.

10. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.

11. Average Natural Grade Calculation: Provide an average natural grade calculation for the building footprint and indicate the maximum height of the proposed residence above average natural grade of the building footprint.

12. 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. Monday through Friday and eight a.m. to seven p.m. on weekends, unless an exception is granted by the Director of Planning & Building pursuant to the terms of this regulation.

13. Tree Replacement:. Replacement trees for the Arbutus tree and Holly tree removed shall be replaced at a ratio of two five-gallon trees, or one 15-gallon tree for every tree removed. The replacement trees may be planted on the project site, on other privately held lands with the property owner's permission, or presented to the City to plant on public lands.

ENGINEERING CONDITIONS:

14. Show and dimension street Right of Way

15. Include the locations of the sewer lateral, water service, and water and sewer mains. Location of all utilities.
    a. Sewer Backwater Valve: A sewer backwater valve shall be installed on site to prevent a blockage or maintenance of the municipal sewer main from causing damage to the proposed project. (MBMC 14.24.070) Please indicate on the plans.
    b. Conduct a video inspection of the conditions of existing sewer lateral. Submit video to City collection system personnel. Repair or replace as required to prohibit inflow/infiltration.

16. Provide a standard erosion and sediment control plan: The Plan shall show control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or ecologically sensitive area.

17. Drainage: Route roof and paved surface storm water runoff to the street flowline. In residential projects, if conditions allow, roof and paved surface storm water runoff can be routed over the drive approach to reach the street flowline. Elsewhere, a 3" schedule 40 galvanized iron pipe, drainline, shall be installed from the property line connection to the street flowline and through curb. Show drainage method on the plans.

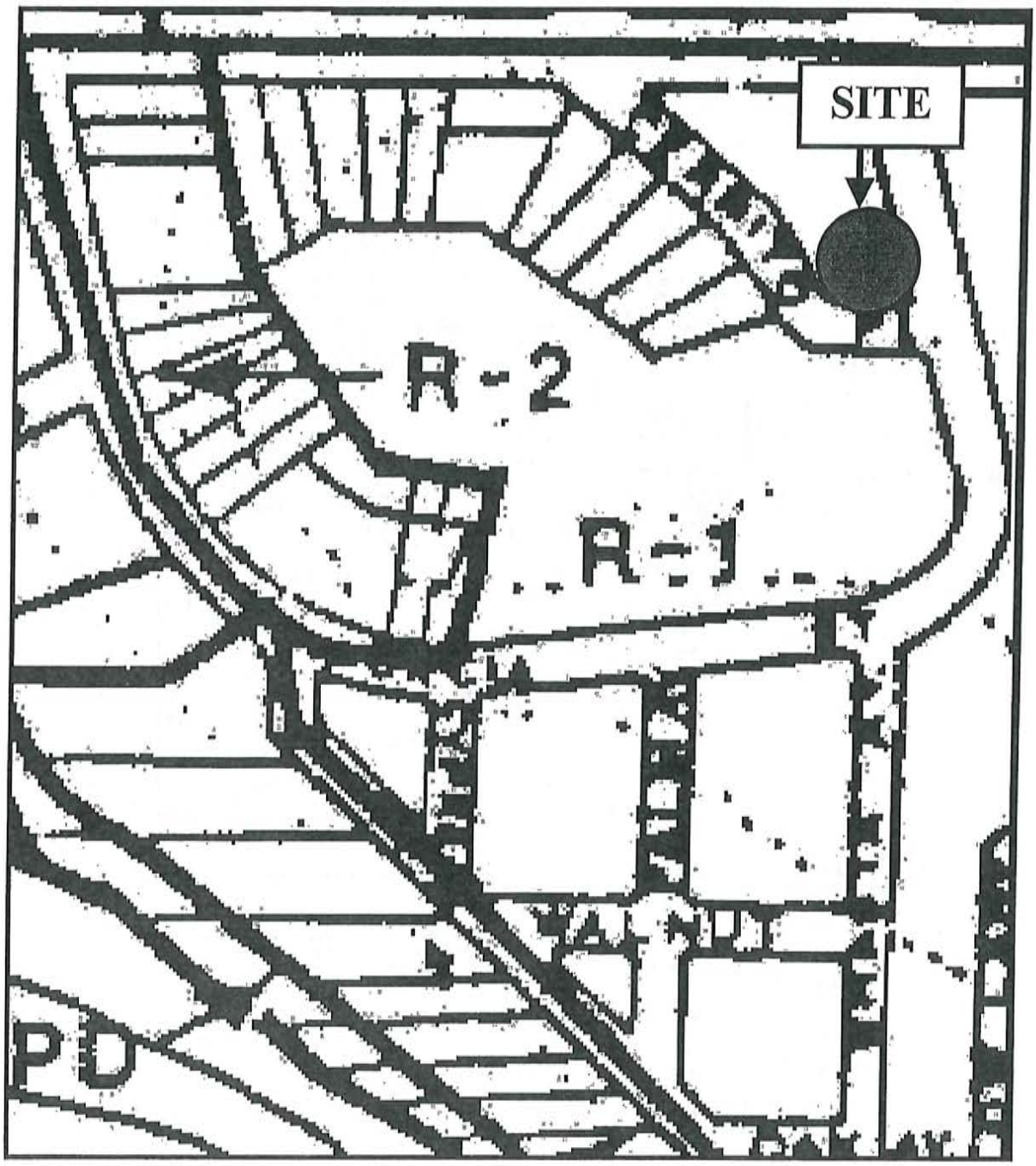
18. Add the following notes to the plans:

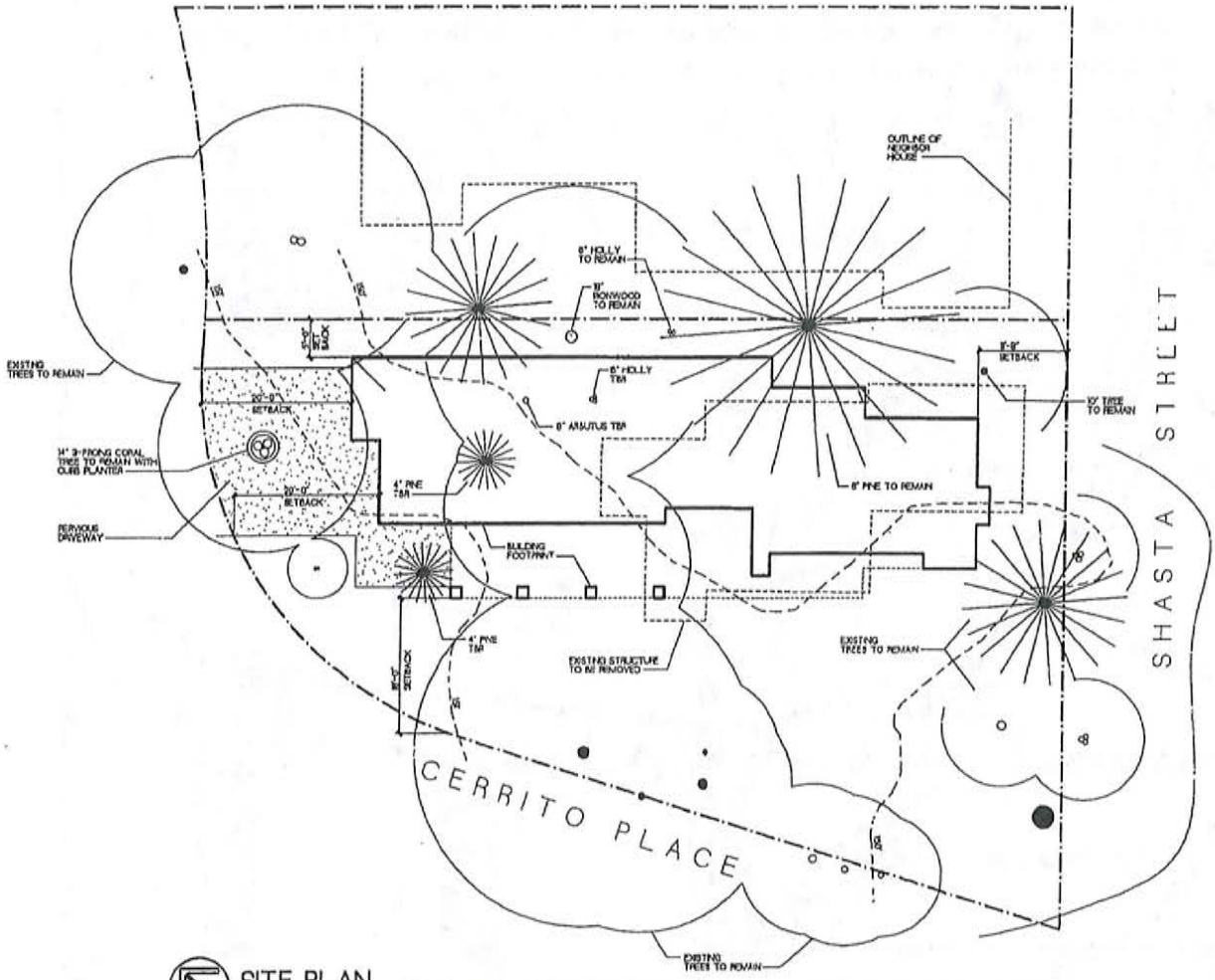
a. No work shall occur within (or use of) the City's Right of Way without an encroachment permit. Encroachment permits are available at the City of Morro Bay Public Services Office located at 955 Shasta Ave. The Encroachment permit shall be issued concurrently with the building permit.

b. Any damage, as a result of construction operations for this project, to City facilities, i.e. curb/berm, street, sewer line, water line, or any public improvements shall be repaired at no cost to the City of Morro Bay.

c. Compaction of the driveway around the drip line of the 14" 3-prong Coral tree shall be based on the recommendations of a licensed arborist.

EXHIBIT C:
GRAPHICS/PLAN REDUCTIONS





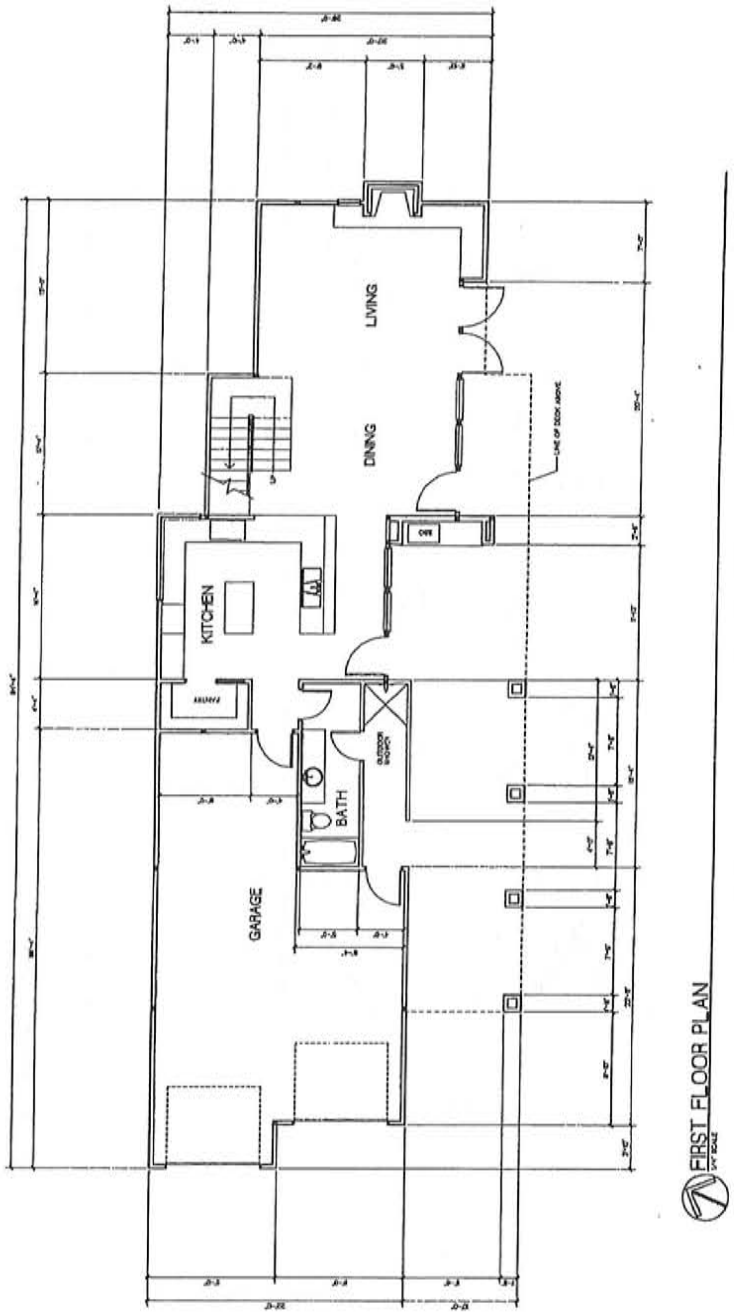
SITE PLAN
1/8" SCALE

PROJECT ADDRESS:	360 CERRITO PLACE, MORRO BAY, CA 93442	LOT COVERAGE	2298 SF FOOTPRINT (INCLUDING DECKS) / 7001 = 32%
APN:	066-223-004	OCCUPANCY GROUP:	R-3 (SINGLE FAMILY DWELLING)
LOT SIZE:	7,001 SF = .70 ACRE	CONSTRUCTION TYPE:	VN TYPE FIVE NON-RATED
BUILDING SQUARE FOOTAGE:			
FIRST FLOOR	898 SF		
SECOND FLOOR	1257 SF		
	2155 SF		
GARAGE	648 SF		
SECOND FLOOR DECKS	356 SF		
ROOF DECK	301 SF		

PROJECT DATA:

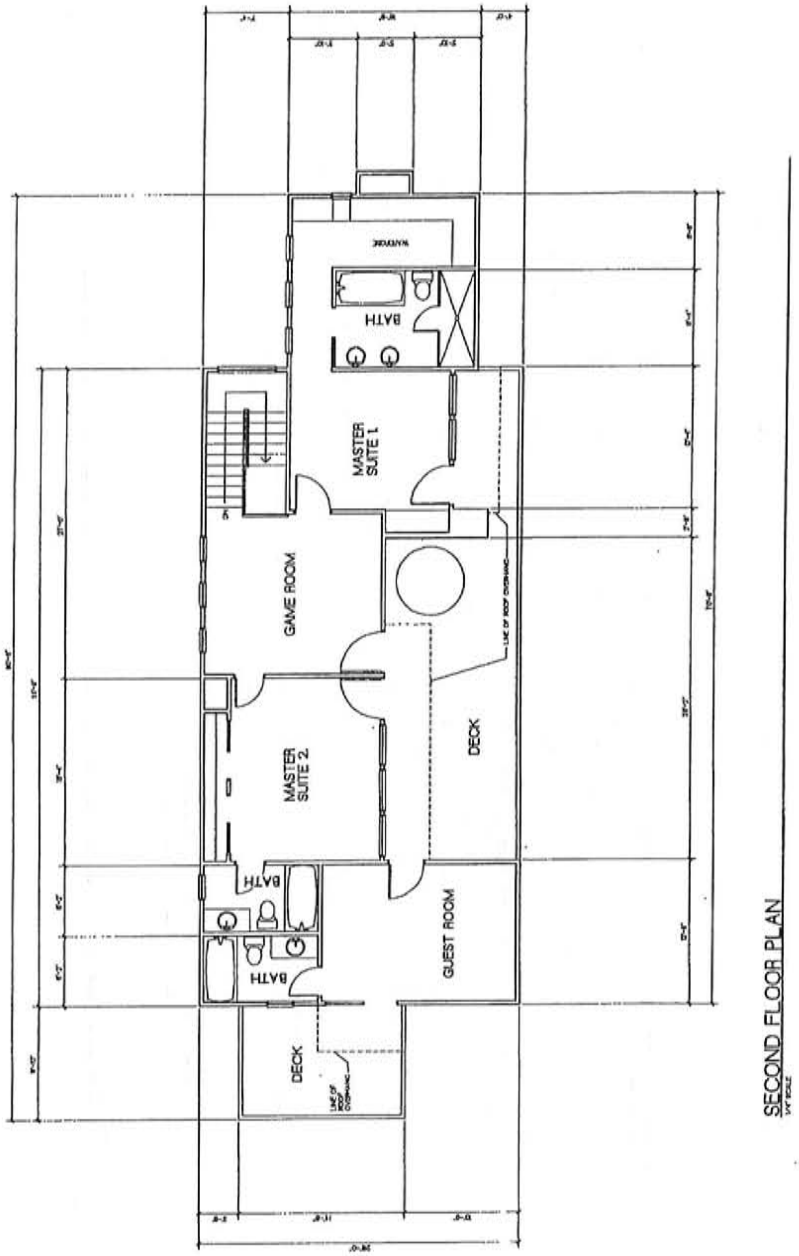
360 Cerrito Place

Site Plan



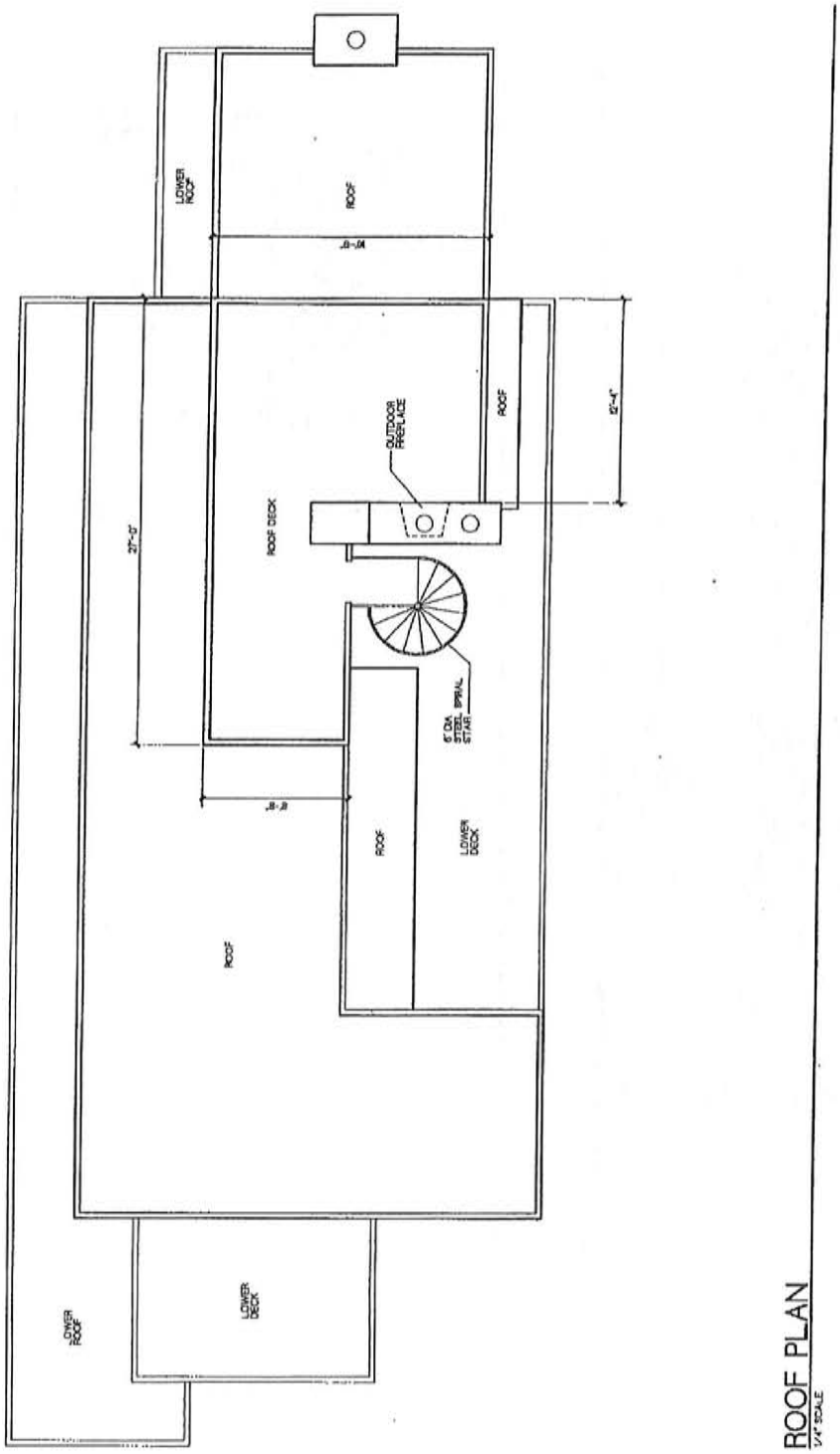
360 Cerrito Place

First Floor Plan



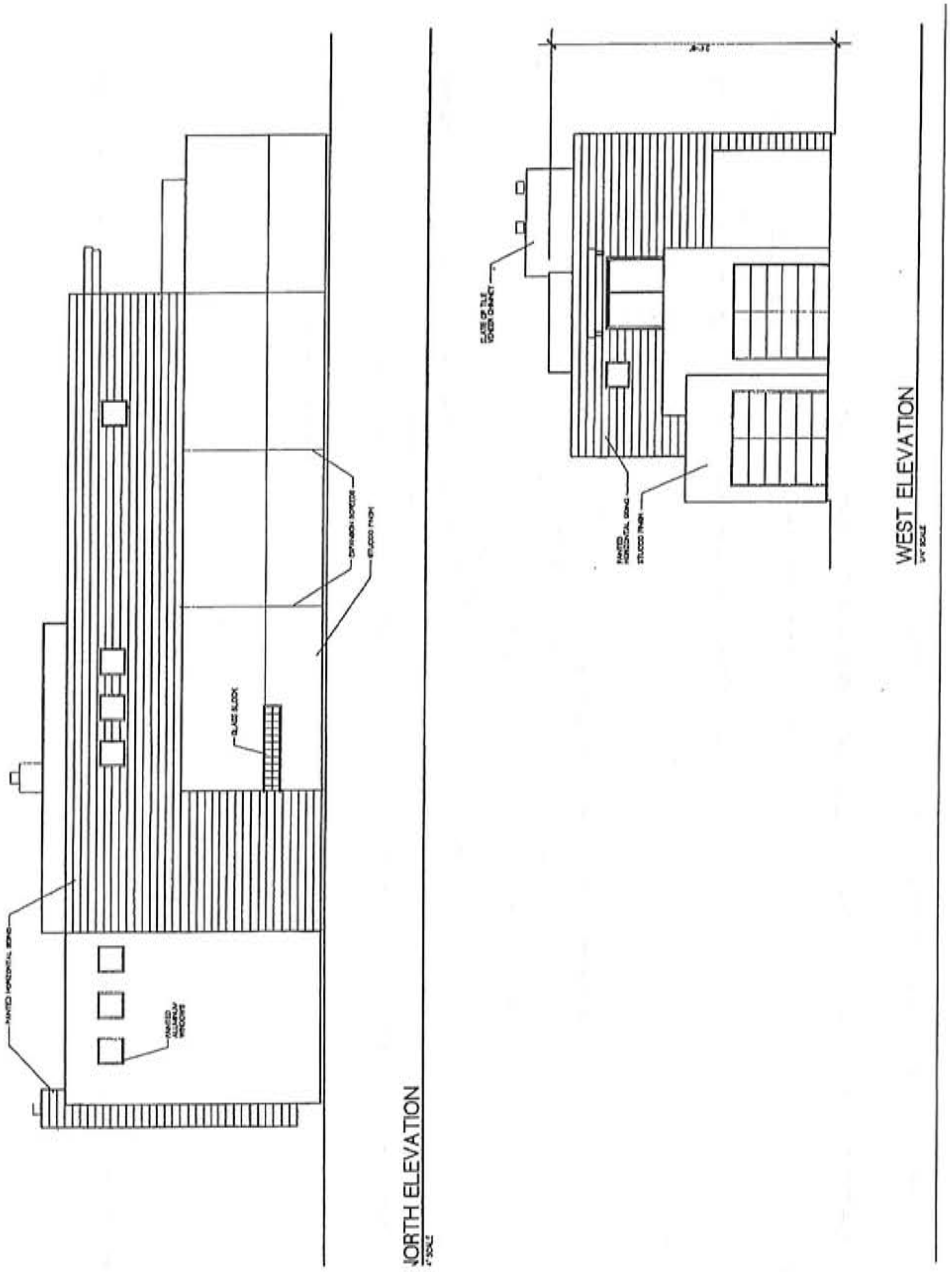
360 Cerrito Place

Second Floor Plan



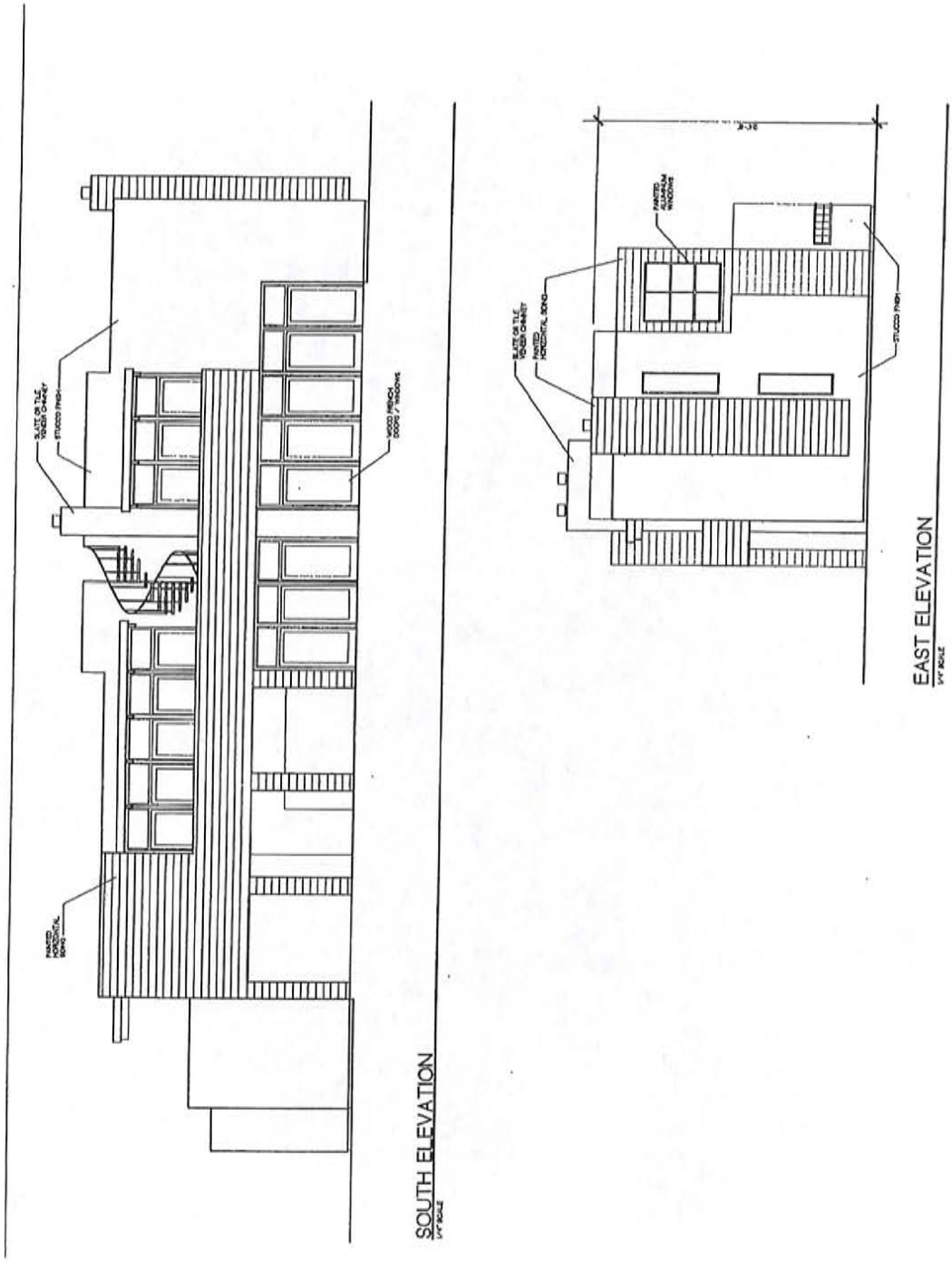
360 Cerrito Place

Roof Plan



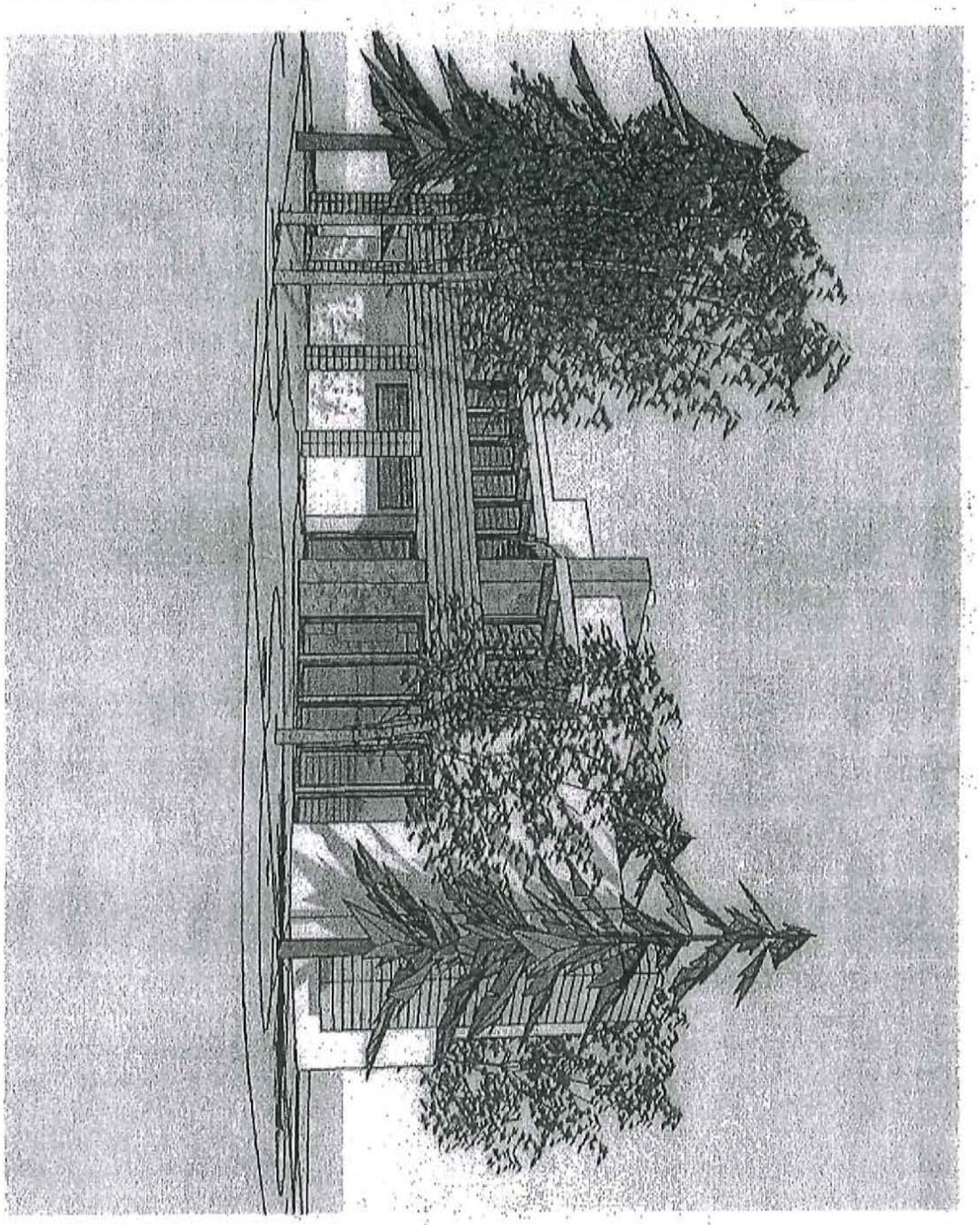
360 Cerrito Place

Elevations



360 Cerrito Place

Elevations

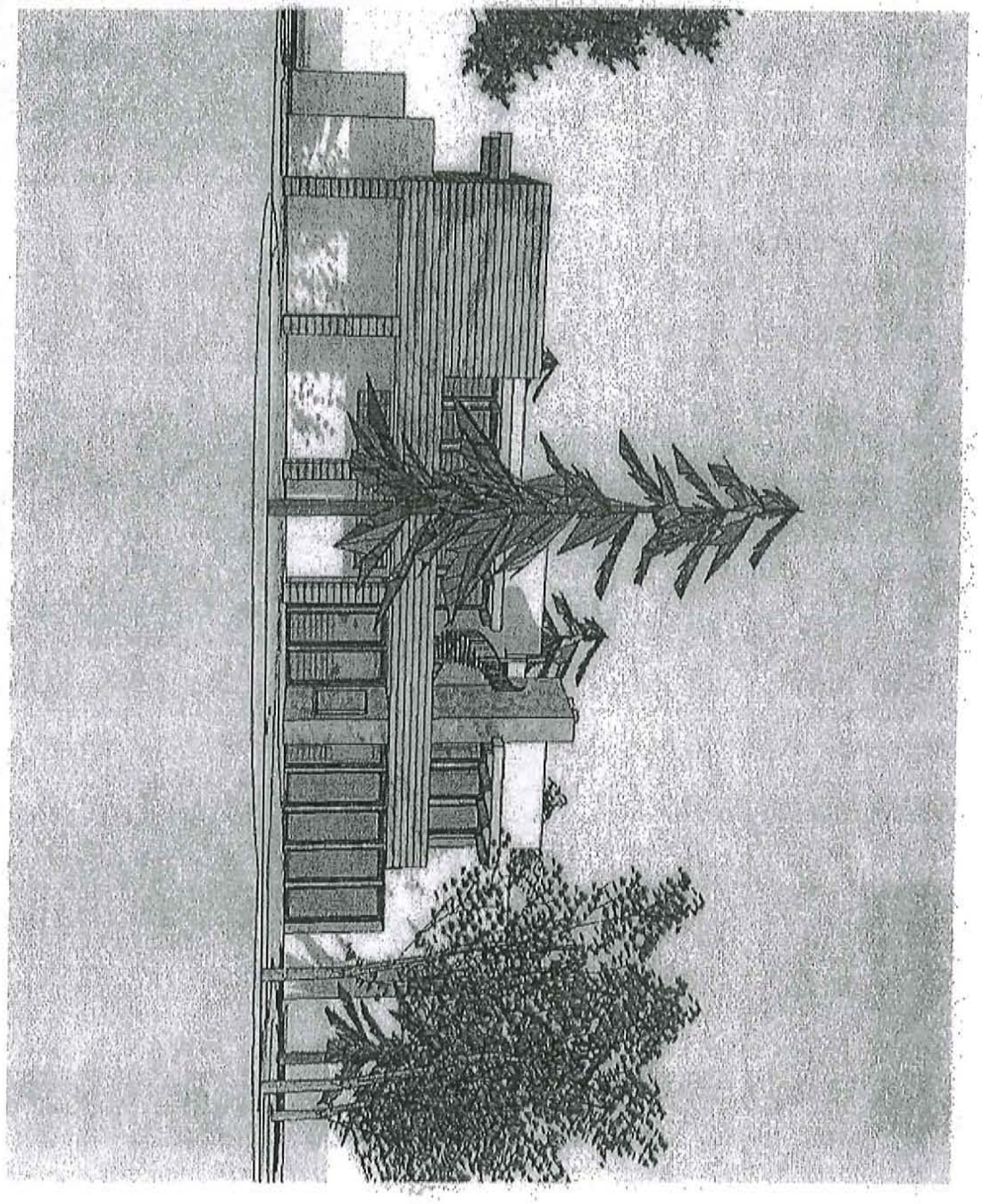


Fazio Residence – South Elevation
360 Cerrito Place, Morro Bay, CA

Dehlinger Architecture
553 Hill St. San Luis Obispo, CA 93405

360 Cerrito Place

Elevations

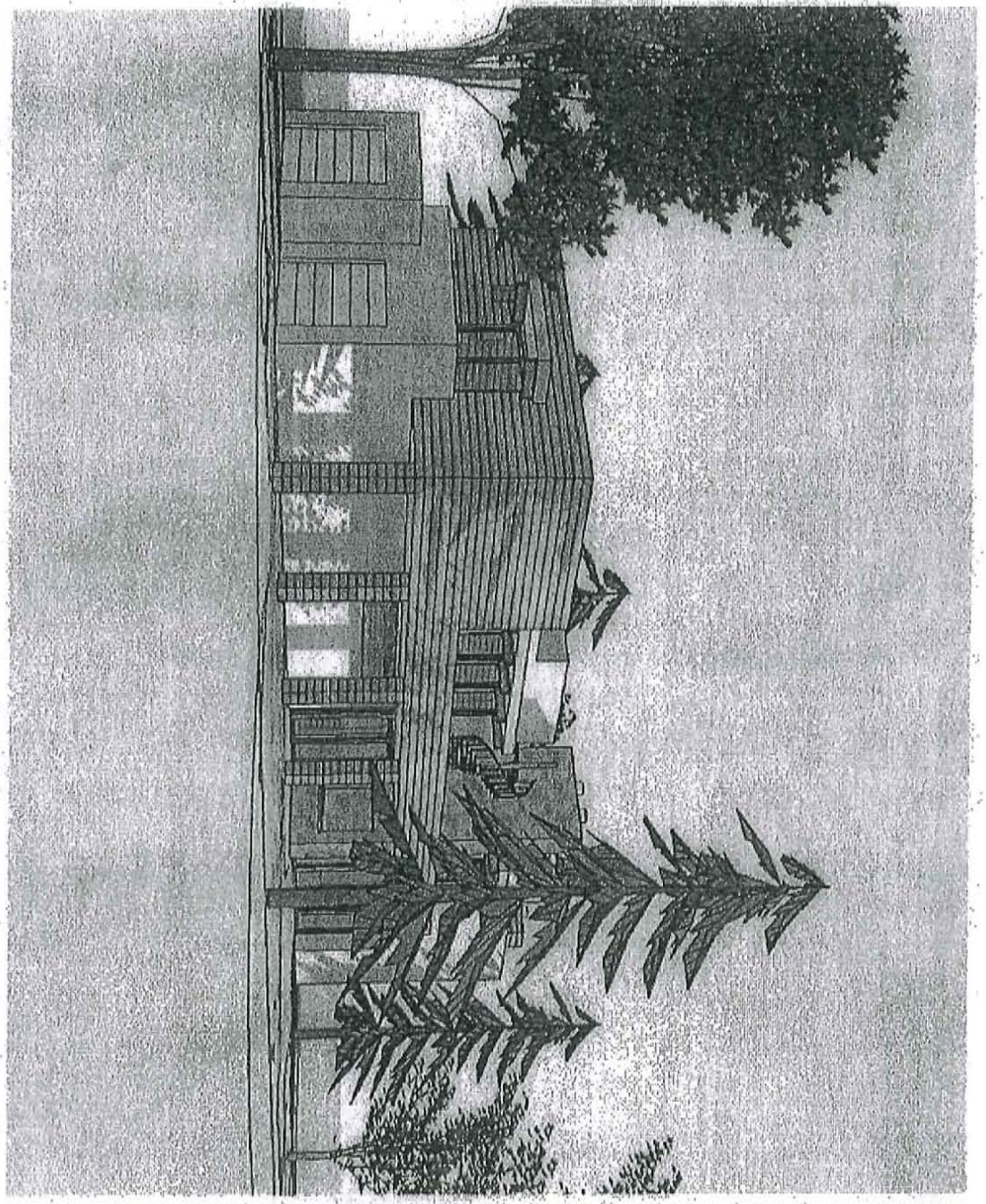


Fazio Residence – Southwest Elevation
360 Cerrito Place, Morro Bay, CA

Delmar Architecture
653 Hill St. San Luis Obispo, CA 93405

360 Cerrito Place

Elevations



Fazio Residence - West Elevation
360 Cerrito Place, Morro Bay, CA

Dellinger Architecture
663 Hill St. San Luis Obispo, CA 93405

360 Cerrito Place

Elevations

EXHIBIT D:
APPEAL FORM

CITY OF MORRO BAY
PUBLIC SERVICES DEPARTMENT
APPEAL FORM

APPEAL FROM THE DECISION OR ACTION OF (GOVERNING BODY OR CITY OFFICER):	
Administrative Action to grant Coastal Development permits to 360 Cerritos Place by planning director.	
APPEAL OF SPECIFIC DECISION OR ACTION:	
Approval of above.	
DATE DECISION OR ACTION RENDERED: Oct. 5, 2007	
APPELLANT (PLEASE PRINT): Berta + Wayne Parrish	
SIGNATURE: Berta Parrish +	
ADDRESS: 367 Shasta Avenue, Morro Bay	*TELEPHONE NUMBER:* 805. 772. 5118

GROUNDS FOR THE APPEAL (ATTACH SHEETS AS NECESSARY):
Refer to attached.

REQUESTED RELIEF OR ACTION:
1) Overturn or postpone until Superior Court settles the 16" boundary dispute.
2) Amend to include sewer easement, removal of rooftop firepit, and change side setback interpretation.
3) Overturn due to incompatability in neighborhood character.

FOR OFFICE USE ONLY	
DATE APPEAL FILED: 10/15/07	ACCEPTED BY: Mike Prater
APPEAL BODY: PC	
DATE OF APPEAL HEARING: 12/3/07	

S:\Planning\Samples & Stocks\Form\Appeal.doc

GROUNDS FOR THE APPEAL

We are appealing the administration action to grant a Coastal Development Permit to the applicant for 360 Cerrito Place. Our primary issues deal with maintaining the property line, sewer connection, and the established habitat and trees, as well as with health and safety risks for the house and property that we purchased in good faith in 2001.

The placement of the proposed 360 Cerrito Place house and its setbacks are entirely dependent on the applicant's ownership of a disputed boundary between our home at 367 Shasta Avenue and theirs. A Complaint to Quiet Title for Reformation of Deed, for Prescriptive Easement, and Injunction and for Declaratory Relief has been filed with the Superior Court of the state of California in and for the county of San Luis Obispo regarding a 1996 lot line adjustment of 16 inches, so each property could have its own water meter, an adjustment desired by the owner (who owned both houses) in order to sell them since Morro Bay was experiencing a water moratorium then.

We believe all permits to build should be postponed until this civil matter is resolved. Why create more problems down the road after the issue is legally resolved? Why put contractors and their employees at risk of future litigation? It is in everybody's best interest to delay the permit process until the civil matter is resolved. 1

Once sold to two separate owners, the two properties continued their historical shared use of the sewer; no sewer easement was officially delineated by the City of Morro Bay. A sewer easement for our adjacent property is also not included in this proposed plan; therefore, a health issue has been created. Obviously, a new residence should not be built upon the older sewer system and prevent us access to ours. 2

We realize this project was "deemed complete" before the Urgency Ordinance that might elevate it to higher review based on 2,803 square foot total structure, including a 648 square foot garage. But, since the very passage of such an ordinance indicates a concern of the City, this is a perfect opportunity to right a wrong before it happens, something that the City must be considered about to enact the Urgency Ordinance in the first place. 3

We are also concerned about the fire hazard since the house plans include an open third-story roof-deck with a firepit. The region around Cerrito Peak is notorious for its high winds that blow dry leaves from the surrounding trees everywhere. This is not a minor worry; it concerns the safety and peace of mind for the entire neighborhood. 4

The monumental and imposing features of home, plus the severe, modern design, are not compatible with the neighborhood character with residences in the vicinity, nor with the preserving the natural habitat in this unique and woodsy environment for the butterfly, bird, and animal life that use the trees and foliage. 5

We do not agree that the western facing portion of the lot (where the garages are planned) should be considered the front yard. We interpret the code as saying that the front yard is defined as the westerly aspect of Cerrito Place *only* if the lot is considered to be oriented with the front-to-back axis being east-to-west. Due to the configuration of the corner lot and the placement of the front of the house facing the houses that are immediately across the street on Cerrito Place, the front-to-back axis actually runs north to south. In this case, the proposed house would clearly violate front and rear yard setback standards for the R-1 zone.

As you can see, we have several grounds on which to appeal this administrative action for a CDP. Most importantly, and probably the one that will have the most troublesome ramifications if not addressed, is that all permits should be denied or postponed until a resolution to the civil matter is reached in the Superior Court.

EXHIBIT E:
PUBLIC COMMENT

RECEIVED
OCT 4 2007
City of Morro Bay
Public Services Department

October 1, 2007

Morro Bay Public Services Department
995 Shasta Avenue
Morro Bay, CA 93442

Dear Dept. Head, Planning Dept. Staff, Morro Bay City Council Members and Morro Bay Planning Commissioners:

My husband and I reside on Acacia, approximately one block from the 360 Cerrito Place location where a notice of pending coastal development permit is posted. The character of our neighborhood from mid-Acacia to the top of of the 300 block of Shasta Ave. has changed dramatically in the past year or two with a tri-level granny unit, a lot split development midway in the 300 block of Shasta and now the Cerrito Place proposal virtually on the crest of Shasta Avenue.

It seems that some issues and concerns to be carefully considered before granting any permit would be the square footage vs. lot size, the set back requirements on both Shasta and Cerrito Place, an unsettled boundary dispute with the neighbor, traffic safety on Shasta Ave. and Cerrito Place at the crest of the hill, just to mention a few.

Thank you for taking the time to carefully study the issues on the 360 Cerrito Place project.

Sincerely,
Joan Petersen
515 Acacia
Morro Bay, CA 93442

Public Services Dept.
Morro Bay, Ca.

9/2/07

Mr. Bruce Ambo,

The exceptions to city ordinances in regard to building at 360 Cerrito Place amazes me. The house is way too big for the size of the property and, therefore, numerous violations of setbacks have been proposed. These exceptions should not be granted as this would blight the neighborhood as well as break faith with those who have lived by your regulations over the years. Our lot, at 380 Cerrito, has twenty foot setbacks on both streets which, at times, has been inconvenient, but a service to the neighborhood. The proposed set backs would be a trashing of the neighborhood.

In regard to the trees; we have seen instances where a stop work order was put on a location for 4 to 6 months because one extra small tree was knocked down in the process of lot preparation. Several trees at #360 were cut down beside the two allowed, with no proof that they were diseased.

This whole proposal, if granted, would be a terrible injustice and a blight on the neighborhood.

Sincerely yours,
Mary and Hal Powell

M. Powell

RECEIVED
OCT 4 2007
City of Morro Bay
Public Services Department

NOTICE OF PENDING COASTAL DEVELOPMENT PERMIT
360 CERRITO PLACE

You may have seen a Notice of Pending Coastal Development Permit at 360 Cerrito Place. This project has the following flaws that would adversely affect the neighborhood character and safety of Shasta and Olive Avenues and Cerrito Place:

- The size of the entire structure with a 648 sq. ft. garage is 2,803 sq. ft. with a long and large "footprint" for the lot size.
- The eleven-foot setback on Shasta Avenue, instead of the 20 feet requirement for other homes on Shasta.
- The high, austere, ultra-modern design with a roof deck and firepit does not fit the neighborhood character and intrudes on the privacy all nearby properties.
- An on-going boundary dispute with impending legal action should be resolved before a house is built upon the disputed piece of land.
- The permit states removal of two trees, but the site plan indicates that four trees are to be removed (TBR). Two trees (plus two supposedly diseased trees) have already been cut.
- If the southwestern elevation is the front (on Cerrito Place) then the depth setback is much too narrow at five feet and deprives solar access to the adjacent property.

RECEIVED
OCT 0 4 2007
City of Morro Bay
Public Services Department

Please consider submitting your concerns before the **5:00 p.m. Thursday, October 4th deadline** by sending a letter to or emailing the Morro Bay Public Services Department at 995 Shasta Avenue, Morro Bay, CA, 93442. You can also email the people below.

Planning Department Staff:
Bruce Ambo, Public Service: bambo@morro-bay.ca.us,
Rachel Grossman, Associate Planner, rgrossman@morro-bay.ca.us

Morro Bay City Council Members:
Janice Peters: flamingos@charter.net
Melody DeMerrit: DeMeritt04@yahoo.com
Rick Grantham: rgrantham1@charter.net
William Peirce: wpeirce@thegrid.net
Betty Winholtz: winholtz@sbcglobal.net

Planning Commissioners:
Nancy Johnson: nanj93442@yahoo.com
Gary Ream: tworeams@sbcglobal.net
Bill Woodson: billandkayw@charter.net
Michael Lucas: michael_a_lucas@sbcglobal.net
Gerald Luhr: luhr@charter.net

Anyone can submit a concern, not just those living within 100 feet of the property. So, consider asking your friends and neighbors to submit their concerns also. This edifice affects the entire Morro Heights area, especially those who walk Cerrito Place or hike Eagle Rock. Thank you.

Rachel Grossman - Notice of Pending Coastal Development, Quality of Life in Morro Bay, & Bringing Technology and Management Jobs to Morro Bay

From:
To: , , , , ,
Date: 10/4/2007 4:48 PM
Subject: Notice of Pending Coastal Development, Quality of Life in Morro Bay, & Bringing Technology and Management Jobs to Morro Bay

Dear Planning Department Staff, Morro Bay City Council Members, and Planning Commissioners:

Recently I became informed that a resident of the central valley has filed a plan with the city of Morro Bay seeking permission to develop a new structure at 360 Cerrito Place, Morro Bay CA 93442. Initially I was excited for them and welcomed their move to Morro Bay. As a former resident of Clovis, CA I understand how exciting it is to move here on a full-time basis.

My feeling of excitement for my new neighbor quickly faded after I actually looked at the plans for their new house. I was shocked when I realized just how large the proposed structure was to be, So large that it requires an exception from you folks to allow them to shrink the required 20 foot setback from Shasta Avenue to a mere eleven feet.

Before writing this e-mail I walked over to look at the lot as 360 Cerrito Place and tried to visualize the home in comparison to its surroundings. The analogy that I came up with was that this home will dominate the block that it is to be built on in the same way that the former World Trade Center Towers dominated the surrounding Office building in Lower Manhattan island, New York.

In the few years that I have lived here I have watched quietly as one person after another moves to Morro Bay, demolishes an older home, and then builds a massive structure on a lot that was never meant for such a large house. Each time this has happened, these new monster Mc'Mansions deprive neighbors of the precious views, views that brought all of us to Morro Bay for to begin with.

The neighbor to the north of the proposed white elephant at 360 Cerrito Place will see nothing to the south of their home but the massive wall that will tower over them. From walking the lot I can see how these people will actually be deprived on natural sunlight and will have to live in the shade? It looks like to me that these people will feel as if a Wal-Mart destroyed their beautiful environment, leaving them nothing but concrete and stucco to view out of their windows for the rest of their days.

In my heart of hearts I believe that property owners should have the right to develop their property as they see fit. Having said that, before I, or any of us, build any structure in a place as special as Morro Bay, we should be required to consider and respect our neighbors, our community, and the environment around us. I challenge each of you to find any evidence that any such consideration was given before this permit was applied for at 360 Cerrito Place.

Clearly this new structure will have a substantial negative impact on the surrounding neighborhood, not to mention the people who live near 360 Cerrito Place. Would it not be reasonable to suspend the granting of any permit until the property owner agrees to build a structure that is more appropriate to the size lot and the location where it is to be built?

In closing, for ZBen Insurance Services, LLC this issue involves more than the appearance

of the neighborhood. In 2008 we are to begin moving professional programming and management jobs to the Morro Bay. For us to be successful in recruiting skilled professional to this area, we must focus on quality of life as one of our recruiting tools. How successful will we be if we bring people here and they encounter the same sort of uncontrolled development commonly found in San Jose, Los Angeles, or Fresno?

We want our new employees to see Morro Bay the way that we do, a special and unique community, a good place to raise a family in beautiful and peaceful neighborhoods. We hope and trust that you who work in the Planning department, serve on the Morro Bay City Council, and labor as Planning Commissioners are willing to protect the integrity of Morro Bay as you encourage prudent residential and commercial development.

Thank you for listening to my comments. Please let me know if I may be of service in any way.

Rick Bennick
CEO

October 1, 2007

ould like to express my concern regarding the proposed demolition and new construction at 360 Cerrito Place, Morro Bay.

But first:

I am a resident of this neighborhood, which until quite recently was the 'gem' of the city. Living as I do on Main Street, I constantly witness the delight of tourists, as they walk, bicycle or drive by. They marvel at the views, the gardens, the turkeys, the Windmill house, Glady's House (such as it now is) the old Cannery, etc. They stop to chat or to take pictures. These folks (so important to our economic interests) are charmed by what they see. It would seem to me that preserving that charm is the sensible thing to do. I don't think Morro Cove inspires on quite the same level.

What they are seeing on south Main is Morro Bay's eclectic and historic charm at its best - as it has always been-...until 'eclectic' was usurped to mean a Big Box, smartly adorned with Variances granted for unfathomable reasons.

Presently, at 340 Shasta, there are two large houses in the final stages of construction. While they are shaped more like shoe boxes than hat boxes, they are never-the-less Boxes that do not in any imaginable manner, fit into the character of the neighborhood.

Which brings me to 360 Cerrito Place:

1. The destruction of coastal redwood and ironwood trees goes against the trumpeted City of Trees image; eliminates even more habitat for our birds (which we also market shamelessly to the tourists) -and with an intelligent, thoughtful, environmentally sensitive, architectural plan, would be completely unnecessary.

2. The size of the proposed dwelling, including garage, surpasses the 2500 sq. ft. limit - and therefore should require public review. Not only is the new structure incompatible with its surroundings, it also would deprive the neighbors of sunlight, air and privacy.

3. The proposed rooftop with firepit or fireplace would create a fire hazard. Given the wind activity, one spark endangers this entire neighborhood. Sans firepit, rooftop habitats also deserve serious scrutiny before being considered as appropriate anywhere in Morro Bay.

4. I believe there is a legal dispute regarding the lot line itself as well as pending Coastal Commission review. No permissions should be granted for any activity on this lot pending outcomes. Should the City place itself in jeopardy of a lawsuit because it allowed actions that might prove unlawful based on a Court ruling?

In recent months, it has been made clear that a significant number of Morro Bay residents have concerns with development that has had adverse impacts on the community they love. With all of this in mind, I hope that you will give serious oversight on this pending proposal for 360 Cerrito Place.

Thank you.

Anne Sidaris-Reeves

Anne Sidaris-Reeves
198 Main Street
Morro Bay, California 93442

RECEIVED
OCT 02 2007
Public Services Department

RECEIVED
OCT 0 2 2007
City of Morro Bay
Public Services Department

367 Shasta Avenue
Morro Bay, CA 93442
October 2, 2007

Bruce Ambo, Director
Morro Bay Public Services Department
995 Shasta Avenue
Morro Bay, CA 93442

Dear Mr. Ambo:

We are deeply disturbed by many aspects of the proposed project at 360 Cerritos Place as described in a Notice of Pending Coastal Development Permit and we wish to submit these concerns to you and to the City of Morro Bay.

1. The placement of the house and its setbacks are entirely dependent on the party's ownership of a disputed boundary between our home at 367 Shasta Avenue and theirs. A Complaint to Quiet Title for Reformation of Deed, for Prescriptive Easement, and Injunction and for Declaratory Relief has been filed with the Superior Court of the state of California in and for the county of San Luis Obispo regarding a certificate of compliance and a recorded (with the City of Morro Bay) map which shows the clear intentions of the previous owners. Logic and common sense dictate that a permit for development should be halted until this dispute is resolved.

2. Due to the party's previous marking of most of the trees for removal (without the necessary permits), we are skeptical of the tree removal request on the permit application. Also, even though the posting states two trees for removal, the site plan indicates that four trees are to be removed. This is in addition to four trees that were recently removed with a two-tree permit. The party stated that two other trees were diseased; however, a few weeks before the removals, an Arborist declared that all the trees were healthy.

3. We believe that a 2,155 square foot house with a 648 square foot garage should be considered a 2,803 square foot structure and undergo the same higher review process that a 2,500 square foot home requires.

4. The monumental and imposing features of height, length, and mass of this home, plus the severe, modern design, are not compatible with the neighborhood character with residences in the vicinity nor compatible with the unique and woodsy environment of Eagle Rock (as locals call it) or Cerrito Peak (as maps refer to it) that tourists and residents enjoy.

5. The setback between the two homes should be considered the depth (opposite the south facing front on Cerrito Place) and needs to be a minimum of six feet. Anything less, deprives us of solar access, especially threatening to three mature trees and other vegetation, and privacy due to the third-story roof deck with a firepit and entertainment area. Plus the firepit creates a fire hazard with the surrounding trees, dry leaves, and winds that we experience in this region of town.

6. Since the two houses were once part of the same property, they share a sewer system. Obviously, the party will get a new sewer line. But, they should not be allowed to build upon the older sewer system and prevent us access to ours. A sewer easement is not included in this proposed plan.

7. If the permit is approved as is, the brick walkway to our front door, which has been used by all previous owners since 1950, will be blocked. We will be unable to enter our house from Shasta Avenue -- our front side. Obviously, this is unacceptable.

In summary, the proposed project pushes the envelope on what is permitted within existing regulations and is inconsistent with the following components of City's General Plan and Local Coastal Plan:

- Goal 4: An aesthetically pleasing community that maintains the "small town, fishing village" image with new development that complements existing development and does not detract from the natural environment.

- 17.06.10: Establish development standards that maintain and enhance neighborhood appearance, neighborhood character, and quality of life, and do not allow new buildings and activities that are out of scale and character with surrounding uses and structures.

Thank you for seriously considering these significant shortcomings in the proposal as described in the posted Notice of Pending Coastal Development Permit. Due to pending legal action, we believe that all permits should be suspended until a resolution is reached.

Sincerely,

Berta Parrish & Wayne Parrish

Berta and Wayne Parrish

cc. Planning Commissioners
City Council Members

From: "Bill Peirce" <wpeirce@thegrid.net>
To: "Bob Hendrix" <bhendrix@morro-bay.ca.us>, "Bruce Ambo" <BAmbo@morro-bay....
Date: 10/2/2007 4:28 PM
Subject: Fw: Question re: Higher review for over 2500sf

----- Original Message -----
From: Perryspier@aol.com
To: flamingos@charter.net ; DeMeritt04@yahoo.com ; rgrantham1@charter.net ; wpeirce@thegrid.net ; winholtz@sbcglobal.net
Sent: Tuesday, October 02, 2007 9:30 AM
Subject: Question re: Higher review for over 2500sf

I'm befuddled on whether the higher review for new construction over 2500sf, is exclusive of the garage? The new construction seeking permit at 360-370 Cerritos Place has a 650+ square foot garage. I remember the City Council meeting saying something about a 400sf. garage to Rob Schutz. In other words, if a house is 2000 sf. but has a 700 sf. garage, does it escape the "higher review"?
Thank you so much for your time.
Sue Perry
Morro Bay

See what's new at AOL.com and Make AOL Your Homepage.

From: "Wayne Parrish" <blueowl@charter.net>
To: <bambo@morro-bay.ca.us>, <rgrossman@morro-bay.ca.us>, <nanj93442@yahoo.c...
Date: 10/2/2007 3:09 PM
Subject: Concerns re: Administrative Action on 360 Cerrito Place

Dear Mr. Ambo, Planning Commissioners, and City Council Members:

We are deeply disturbed by many aspects of the proposed project at 360 Cerritos Place as described in a Notice of Pending Coastal Development Permit and we wish to submit these concerns to you and to the City of Morro Bay.

1.. The placement of the house and its setbacks are entirely dependent on the party's ownership of a disputed boundary between our home at 367 Shasta Avenue and theirs. A Complaint to Quiet Title for Reformation of Deed, for Prescriptive Easement, and Injunction and for Declaratory Relief has been filed with the Superior Court of the state of California in and for the county of San Luis Obispo regarding a certificate of compliance and a recorded (with the City of Morro Bay) map which shows the clear intentions of the previous owners. Logic and common sense dictate that a permit for development should be halted until this dispute is resolved.

2.. Due to the party's previous marking of most of the trees for removal (without the necessary permits), we are skeptical of the tree removal request on the permit application. Also, even though the posting states two trees for removal, the site plan indicates that four trees are to be removed. This is in addition to four trees that were recently removed with a two-tree permit. The party stated that two other trees were diseased; however, a few weeks before the removals, an Arborist declared that all the trees were healthy.

3.. We believe that a 2,155 square foot house with a 648 square foot garage should be considered a 2,803 square foot structure and undergo the same higher review process that a 2,500 square foot home requires.

4.. The monumental and imposing features of height, length, and mass of this home, plus the severe, modern design, are not compatible with the neighborhood character with residences in the vicinity nor compatible with the unique and woodsy environment of Eagle Rock (as locals call it) or Cerrito Peak (as maps refer to it) that tourists and residents enjoy.

5.. The setback between the two homes should be considered the depth (opposite the south facing front on Cerrito Place) and needs to be a minimum of six feet. Anything less, deprives us of solar access, especially threatening to three mature trees and other vegetation, and privacy due to the third-story roof deck with a firepit and entertainment area. Plus the firepit creates a fire hazard with the surrounding trees, dry leaves, and winds that we experience in this region of town.

6.. Since the two houses were once part of the same property, they share a sewer system. Obviously, the party will get a new sewer line. But, they should not be allowed to build upon the older sewer system and prevent us access to ours. A sewer easement is not included in this proposed plan.

7.. If the permit is approved as is, the brick walkway to our front door, which has been used by all

previous owners since 1950, will be blocked. We will be unable to enter our house from Shasta Avenue -- our front side. Obviously, this is unacceptable.

In summary, the proposed project pushes the envelope on what is permitted within existing regulations and is inconsistent with the following components of City's General Plan and Local Coastal Plan:

a.. Goal 4: An aesthetically pleasing community that maintains the "small town, fishing village" image with new development that complements existing development and does not detract from the natural environment.

a.. 17.06.10: Establish development standards that maintain and enhance neighborhood appearance, neighborhood character, and quality of life, and do not allow new buildings and activities that are out of scale and character with surrounding uses and structures.

Thank you for seriously considering these significant shortcomings in the proposal as described in the posted Notice of Pending Coastal Development Permit. Due to pending legal action, we believe that all permits should be suspended until a resolution is reached.

Sincerely,

Berta and Wayne Parrish

367 Shasta Avenue

Morro Bay, CA 93442

From: Michael D Durick <mdurick@sbcglobal.net>
To: Rachel Grossman <rgrossman@morro-bay.ca.us>, Bruce Ambo <bambo@morro-bay...
Date: 10/2/2007 11:36 AM
Subject: 360 Cerrito Place

CC: Bill Woodson <billandkayw@charter.net>

It is my understanding that a Notice of Pending Coastal Development is posted on the subject property, although when I walked the area extensively this morning, I could see no such sign.

Please consider this email a comment regarding the pending issuance of such a permit.

This permit should not be granted for the following reasons:

1. There is a pending boundary dispute with the adjacent property.

2. The proposed structure is completely out of character for the existing established neighborhood.

3. The setbacks are inadequate and far less than required of the existing homes in the area and would grossly limit the sunlight available to the nearest neighbor.

4. There is a gross difference between the number of trees slated for removal on the permit,and what is specified in the site plan, and also evidence of premature removal of other trees.

At a minimum, this project needs the scrutiny of our Planning Commission.

Thank you,

Michael D. Durick
772 3632

From: amity perry <amityperry@sbcglobal.net>
To: <BAmbo@morro-bay.ca.us>, <RGrossman@morro-bay.ca.us>
Date: 10/2/2007 11:23 AM
Subject: 360 Cerrito Place

CC: GarryandNancy Johnson <nanj93442@yahoo.com>, 'Gary and Freddie Ream' <tw...

Dear Public Service Department,

I received your Notice of Pending Coastal Development Permit for 360 Cerrito Place in the mail. I have reviewed the plans and do not feel this modern home is in character with the neighborhood but will keep my comments to code issues.

There is currently a lot line adjustment dispute for 360 Cerrito Place. Depending on the legal outcome the minimum interior yard setback of 5 feet may not comply with the code. It could be approximately 3 feet. This is unacceptable. This issue needs to be resolved prior to any building!

It seems like what you now call the exterior yard (10 foot setback) use to be the front yard (entrance to Cerrito). The existing mailbox is currently fronting Cerrito in what you call the exterior yard. The existing garage is in what you call the rear yard on Shasta. On a lot like this, how do you determine where the front yard is? and can it be moved or was it moved?

This is an unusual lot as it has streets fronting three sides. Regardless, I am confused as to why the city would knowingly issue a notice of pending permit when there is a property line lawsuit. Thank you for your time.

Amity Perry
P.O. Box 1924
Morro Bay, CA 93442

From: Eugene Tubbesing <dag2bees@sbcglobal.net>
To: <rgrossman@morro-bay.ca.us>
Date: 10/1/2007 9:02 PM
Subject: CPO-246

Ref CPO-246

We have been notified of Pending Coastal Development Permit at 360 Cerrito Place. This project has the following flaws that would adversely affect the neighborhood character and safety of Shasta and Olive Avenues and Cerreto Place.

1 The size of the structure and a 648 sq. ft. garage is 2803 sq.ft. with a long large "footprint" for the lot size.

2. The eleven-setback on Shasta Avenue, instead of the 20 feet requirement for other homes on Shasta.

3 The high,austere, ultra modern design with roof deck and fire pit does not fit the neighborhood character and intrudes on the privacy of all nearby properties.

4 An on-going boundary dispute with impending legal action should be resolved before a house is built upon the disputed piece of land.

5 The permit states removal of two trees,but the site plan indicates that four trees are to be removed (TBR), Two trees(plus two supposedly diseased trees) have aleready have been cut.

6 If the southwesstern elevation is the front (on Cerrito Place) then the depth setback is much too narrow at five feet and deprives solar access to the adjacent property.

We have owned the proiperty at 372 Shasta Ave. since 1948 hope you will consider these points when you make your descision.

EuGene and Dorothy Tubbesing
1364 Revere Road
Freson, Ca 93720-1324

From: Dorothy Cutter <dorothycutter@sbcglobal.net>
To: Bruce Ambo <BAmbo@morro-bay.ca.us>
Date: 10/1/2007 1:03 PM
Subject: Re: Horrendous project proposed for 360 Cerrito Place

CC: <Perryspire@aol.com>, "Linda M. Stedjee" <lstedjee@charter.net>, "Bill W...

Hi! The lot line in dispute was established during a lot split by a former Morro Bay Planning Director. This lot line would give the developer at 360 Cerrito Place about a 1-1/2 foot side setback which is unacceptable and should have a public hearing. I know that this can be appealed but it seems that the planning department by refusing to accept what a previous planning director established is just being mean spirited at best and probably illegal . As a taxpayer, it makes me very unhappy that you may be making the city libel.

Dorothy Cutter

On Oct 1, 2007, at 12:10 PM, Bruce Ambo wrote:

> Hi Dorothy, Linda and Sue,
>
> I am sending along my response to these same questions the Mayor
> raised. In short, the Coastal Development Permit is appealable to
> the Planning Commission and ultimately the City Council this
> Friday, Oct. 5 (which begins the 10 day appeal period).
> Furthermore, the project is less than the 2500 sq. ft. threshold of
> the Urgency Ordinance recently adopted and wouldn't apply anyway
> because they were deemed complete before that effective date.
>
> Please let me know if you have any questions or would like
> additional information.
>
> Sincerely,
>
> Bruce Ambo, AICP
> Public Services Director
> City of Morro Bay
> 955 Shasta Ave.
> Morro Bay, CA 93442
> 805/772-6215
> Fax 805/772-6268
> BAmbo@Morro-Bay.ca.us
>
> From: "Bruce Ambo" <BAmbo@morro-bay.ca.us>
> Date: October 1, 2007 11:48:27 AM PDT
> To: "Janice Peters" <JPeters@charter.net>
> Cc: "Bob Hendrix" <BHendrix@morro-bay.ca.us>, "Rob Schultz"
> <RSchultz@morro-bay.ca.us>
> Subject: Re: Fw: Horrendous project proposed for 360 Cerrito Place
>
>
> Hi Janice -
>
> This project would not trigger a Planning Commission review because
> it is smaller than 2,500 sq. ft. (2,403 sq. ft. of living area and
> a 400 sq. ft. garage). Furthermore, if it was larger enough to

From: Dorothy Cutter <dorothycutter@sbcglobal.net>
To: Bruce Amboy Amboy <bambo@morro-bay.ca.us>, <rgrossman@morro-bay.ca.us>, ...
Date: 10/1/2007 10:21 AM
Subject: 360 Cerrito Place

Hi! It is my understanding that a Development Permit is being issued for the property at 360 Cerrito Place without a public hearing. This development has many problems and needs a public hearing. The things that need to be looked at are:

1. There is a disputed lot line that is unresolved. If this is not resolved, then there will be about 1-1/2 foot side setback. This is a variance and calls for a public hearing.

2. There has been some misrepresentation about the number of trees to be cut down. People in town feel very strongly about trees and this area in particular is one of our prettiest areas in town and enjoyed by many people.

3. There is also confusion about what is the front and what is the back of the property which affects whether there is a 20 or 10 foot setback. The adjoining houses face Shasta but this property feels it faces Cerrito Place which will change the character of the neighborhood.

4. The developers plan an open fire pit on the roof of the second floor. This is an area with wind and lots of trees that will blow down dry leaves and create a fire hazard for the entire neighborhood.

5. The large garage of 648 feet may be a subterfuge to get under the new 2500 guidelines. It will probably be partly residential in the future.

6. This is a very special neighborhood with eagle rock and Cerrito Peak and this development is out of character. Our General Plan cries out for developments like this to be scrutinized.

I would like to know why a permit is being issued without a public hearing considering all the problems.

Dorothy Cutter
Morro Bay, Ca. 93442
805-772-7232
805-772-8554 fax
http://www.dorothycutter.com
send to: dorothycutter@sbcglobal.net

From: <Perryspier@aol.com>
To: <RGrossman@morro-bay.ca.us>, <bambo@morro-bay.ca.us>
Date: 9/29/2007 4:03 PM
Subject: 370 Cerrito Place, tear-down, rebuild

CC: <nanj93442@yahoo.com>, <michael_a_lucas@sbcglobal.net>, <luhr@charter.ne...

Dear Planning Dept. and Planning Commissioners,
I'm writing to request the "higher review" for a housing permit for 360- or 370 Cerrito Place. This house is over the 2500 sf. if you consider that it has a way oversize garage of 680 sf. In light of the community's support of upcoming FAR ordinances, proper setbacks for streets and yards, setbacks for second story levels, etc. I believe the permit should be denied, and sent back for redesign.

1. The owners are in a lawsuit over the property line with the neighbor to the north. That set-back is only 5 feet, very inadequate for a "backyard". How can you give a permit when the lawsuit has not been decided?
2. The lot is a 3 sided corner lot, with 2 "street sides" on Cerrito Place, and one on Shasta. Please make all setbacks, including the Shasa side and the backyard, strickly to code, or what the code should be according to the General Plan requirements. And where is the city right-of-way boundary? Are the setbacks measured from there?
3. The house plans call for a second story larger than the ground floor, larger by far! The opposite of what a pleasing proportion is for 2 story houses. The larger second floor means no sunlight underneath for a vast area. I feel sorry for the neighbors. Then, it calls for a large roof deck on top of the second floor, with fireplace or firepit, which means living/lounging furniture and perhaps plants and umbrellas or cabanas.
These should be outlawed, as when Mr. Linker placed a large cabana on his 3rd floor roof deck on Olive St. He was informed he had to remove them "when they weren't in use". Well, how does anyone know if someone is inside a big 3-sided enclosed cabana! All of this second floor obstructs air flow, and viewsheds, and poses sunlight and privacy concerns for neighbors.
4. The owners wished to cut down all trees on the property, including ones in property line dispute with neighbor, and including ones in the city right of way. Several have been cut down, several more are to be removed if this permit is allowed, and several more won't be able to receive sun and water from the size and overhang of the house.
5. In short, the Coastal Commission guidelines, and the city's General Plan, and the upcoming FAR limitations, are all seeking to control bulk and scale, and make new development fit in with the neighborhood characteristics. And oversize garages can easily be converted to another room which might exceed the square footage allowed for the lot, either now, or under FAR limitations soon to be enacted.

This house is a extreme modern style for our "quaint" fishing village, set amidst woodsy Eucalyptus, and definitely doesn't fit into the neighborhood.
Please refuse a permit.
Sincerely,
Sue Perry
Morro Bay
5.

********** See what's new at http://www.aol.com

From: "Janice Peters" <flamingos@charter.net>
To: "Bruce Ambo" <BAmbo.MBPS.CMB@morro-bay.ca.us>
Date: 9/30/2007 3:09 AM
Subject: Fw: Horrendous project proposed for 360 Cerrito Place

CC: "Bob Hendrix" <BHendrix.FINANCE.CMB@morro-bay.ca.us>, "Rob Schultz" <RSc...
Will this one be going to the Planning commission for review?
Janice

----- Original Message -----
From: Linda Stedjee
To: Betty Winholtz ; Rick Grantham ; Melody Demerritt ; Janice Peters ; Bill Peirce ; gary ream ; nancy johnson ; mike lucas ; Erika Luhr ; Bill Woodson
Sent: Saturday, September 29, 2007 1:38 PM
Subject: Horrendous project proposed for 360 Cerrito Place

Hello,

I think that this morning's workshop discussion clearly demonstrates that the house proposed for 360 Cerrito Place is the kind of development that has spurred Morro Bay citizens to demand changes in our zoning law, and in the way building permits are handled here in Morro Bay. Following is a list of problems complied by owners of neighboring properties:

a.. The size of the entire structure with a 648 sq. ft. garage is 2,803 sq. ft. with a long and large "footprint" for the lot size.
b.. The eleven-foot setback on Shasta Avenue, instead of the 20 feet requirement for other homes on Shasta.
c.. The high, austere, ultra-modern design with a roof deck and firepit does not fit the neighborhood character and intrudes on the privacy all nearby properties.
d.. An on-going boundary dispute with impending legal action should be resolved before a house is built upon the disputed piece of land.
e.. The permit states removal of two trees, but the site plan indicates that four trees are to be removed (TBR). Two trees (plus two supposedly diseased trees) have already been cut.
f.. If the southwestern elevation is the front (on Cerrito Place) then the depth setback is much too narrow at five feet and deprives solar access to the adjacent property.

WHAT are the people who proposed this ridiculous project thinking? This is so outrageous that I cannot imagine how anyone could even consider granting them a building permit Clearly, this needs to be sent back to the drawing board for a MAJOR overhaul. And then, there is the apparent sneakiness with the trees. Cutting down two before the plan gets submitted, and then claiming you are only going to cut down two trees is, at best, sneaky, and at worst, well, you get the point. It would appear that we had all better keep an close eye on the people who came up with this piece of nonsense.

Linda Stedjee

WILSON & WILSON
ATTORNEYS AT LAW

960 TORO STREET
SAN LUIS OBISPO, CALIFORNIA 93401
(805) 546-8098
FACSIMILE (805) 781-3427

ANN BELL WILSON

DENTON J. WILSON

RECEIVED

SEP 01 2007

City of Morro Bay
Public Services Department

August 30, 2007

City of Morro Bay Planning Department
Attention: Rachel
955 Shasta Avenue
Morro Bay, CA 93442

Re: 360 Cerrito Place, Morro Bay

Dear Rachel:

As you might remember, this office represents Berta and Wayne Parrish who reside at 367 Shasta Avenue. It is my understanding that Joseph Fazio and Nickie Turner-Fazio recently applied through the Coastal Development Permit process to remove two trees on their property in addition to the two trees removed approximately two weeks ago.

The City has a copy of a listing and map of the unusual plants and trees located on 365 and 367 Shasta (now 367 Shasta and 360 Cerrito Place). Berta and Wayne Parrish, owners of the adjacent property at 367 Shasta, object to the removal of any further trees on two bases: 1) there is an ongoing boundary dispute between the two neighboring parcels which might affect ownership of the trees which the Fazios seek to be removed; and, 2) the removal of more trees will adversely affect the character of the surrounding neighborhood.

The boundary dispute was set forth in my previous letter of August 27, 2007. I do not have a copy of the Coastal Development Permit request and therefore I do not know the location of the subject trees. However, until the dispute is resolved and the final permits approved, it is respectfully requested that no permission be granted to remove any additional trees on this property.

A visit to the site will demonstrate that this is a uniquely wooded neighborhood. Allowing four trees to be destroyed, particularly these unusual species, will irreparably destroy the quality of the neighborhood. Moreover, denial

of the application will not lead to an inability to develop the property because a single family residence is already located on the lot. With attention to the City's stated policy to protect and preserve the existing major vegetation in Morro Bay, the owners of 360 Cerrito Place and their architect could design a remodel or a new structure which preserves the vegetation and character of the existing neighborhood.

Please do not hesitate to contact me if you have any questions.

Sincerely,

WILSON & WILSON

Ann Bell Wilson

ABW/kms
c: Clients
Charles Ogle, Esquire

AUG 2 8 2007

WILSON & WILSON
ATTORNEYS AT LAW

960 TORO STREET
SAN LUIS OBISPO, CALIFORNIA 93401
(805) 546-8098
FACSIMILE (805) 781-3427

ANN BELL WILSON

DENTON J. WILSON

August 27, 2007

Robert Schultz, Esquire
City of Morro Bay
955 Shasta Avenue
Morro Bay, CA 93442

Re: Wayne and Berta Parrish, 367 Shasta, Morro Bay
Joseph and Nicki Fazio, 360 Cerrito Place, Morro Bay

Dear Mr. Schultz:

This office represents Berta and Wayne Parrish who reside at 367 Shasta, Morro Bay. I understand that the current owners of the property located at 360 Cerrito, Morro Bay, submitted plans to demolish all or most of the existing structure and build another residence on the property.

Please be advised that a boundary dispute exists between my clients and Mr. and Mrs. Fazio. A lot line adjustment processed through the City of Morro Bay in 1996 was not reflected in the latest survey performed by Twin Cities Engineering. The Twin Cities survey was relied upon by the owners and architect for the new construction project at 360 Cerrito Place, including the required setbacks.

Mr. and Mrs. Fazio's position is that the boundary line runs through the brick walkway by which my clients access their front door. Obviously, this is not a position in which my client can or will acquiesce. The Parrishes have not yet filed a lawsuit and are still attempting to resolve this problem without litigation.

Therefore, it is respectfully requested that the City of Morro Bay hold the processing of all permits on the proposed new construction until the boundary dispute is fully resolved.

Please do not hesitate to give me a call if you have any further questions.

Sincerely,

WILSON & WILSON

Ann Bell Wilson

ABW/kms
c: Client
Charles Ogle, Esquire

Exhibit F

CITY OF MORRO BAY
PLANNING COMMISSION
SYNOPSIS MINUTES

(Complete audio- and videotapes of this meeting are available from the City upon request)

Veteran's Memorial Building — 209 Surf Street, Morro Bay
Regular Meeting, 6:00 p.m. — Monday, December 3, 2007

Chairperson Nancy Johnson
Vice-Chairperson Bill Woodson — Commissioner Michael Lucas
Commissioner Gerald Luhr — Commissioner Gary Ream
Michael Prater, Secretary

I. CALL MEETING TO ORDER
Johnson called the meeting to order at 6:02 p.m.

II. PLEDGE OF ALLEGIANCE
Lucas led the pledge.

III. ROLL CALL
Johnson asked that the record show Commissioners Ream and Woodson were on vacation.
Staff Present: Michael Prater, Rachel Grossman, Joan Drake

IV. ACCEPTANCE OF AGENDA
There was consensus to accept the agenda as printed.

V. DIRECTOR'S REPORT/WRITTEN COMMUNICATIONS – None

VI. PUBLIC COMMENT
Tom Laurie stated the Harborwalk project is the best thing that's happened to Morro Bay since sliced bread. He added lots of people are already using it, even before completion.

Joe Woods spoke in support of the CalTrans project and recommended the use of vandal-resistant and low-maintenance materials. He said he hoped CalTrans would eventually replace the fence on the west side with a block wall.

VII. CONSENT CALENDAR
A. Approval of minutes from hearing held on November 19, 2007
MOTION: Luhr, Lucas 2nd to approve the minutes as written. Vote: 3-0.

VIII. PRESENTATIONS
A. Highway 1 Transportation Enhancement Project
Prater stated the project may entail a Coastal Development Permit and could possibly come before the Commission. He introduced CalTrans landscape architect Laurie Cummings, who explained the $1 million budget would be used to replace 2 miles of fencing on the east side of the highway and add landscaping. She said it was strictly an enhancement project.

Commissioners had questions about the type of fencing and the maintenance program. Cummings replied safety issues required a chain link fence, but vinyl coating doubled the usable life. She said there was no irrigation at present, but might be in the future. Following a 3-year establishment plan, Morro Bay Beautiful will take over maintenance. Ken Dostalek of CalTrans said the design would be completed by August 2008; there would be a 1 year wait for funding; construction would begin in December 2010 and the project would be completed in 2014. Julie McGuigan of CalTrans said they were seeking public comment and cards were available at the back of the room or at the Planning Department.

IX. FUTURE AGENDA ITEMS

A. Pedestrian pathway and circulation plan.

B. Secondary unit design competition and consideration to waive development fees for secondary units.

C. More effective announcement of Planning Commission agendas.

D. Develop a specific list of items all project have on the plans before going to Planning Commission.

X. PUBLIC HEARINGS

A. Site Location: 461 Tulare Avenue in the R-1 zoning district. Applicant: June Fluegel. The applicant requests Conditional Use Permit approval to construct a 259 square foot addition to an existing nonconforming residence. This site is located outside of the appeals jurisdiction of the California Coastal Commission. (Recommended CEQA Determination: Categorical Exemption Class 1). Staff Recommendation: Conditionally approve the project.

Grossman presented the Staff Report. Johnson asked if there were questions of staff. Commissioners had questions about off-street parking and a typographical error of a setback.

Johnson opened the Public Hearing. Agent Mark Waechtler said a driveway is planned to account for lost space in the double car garage. In response to a question from Lucas, he said the new drive could be contiguous. Answering questions, designer Mark Dariz said the applicant has no intention of using the den area as a bedroom, the existing driveway could be widened and the hot water heater moved.

Hearing no other comments, Johnson closed the Public Hearing and asked for Commissioner comments. Commissioners agreed the hot water heater must be moved and the driveways should be contiguous. Luhr asked that pervious pavers be used for the driveway.

MOTION: Luhr, Lucas 2nd to conditionally approve the project by adopting the Findings included as Exhibit "A" subject to the Conditions included as Exhibit "B" and the site development plans dated October 31, 2007; and any additional parking area will have pervious paving. Vote: 3-0.

B. Site Location: 1140 Front Street in the C-VS/S.4 (SP) District. Applicant: Valerie Seymour. A request for a Conditional Use Permit to convert the interior space of the upper floor from two motel vacation rentals to a security unit and add a hot tub, storage shed, deck and fence behind the building. The new security unit would be 1,205 square feet. This site is located inside the Coastal Commission's Original Jurisdiction. (CEQA Determination: Categorical Exemption – Class 3). Staff Recommendation: Deny the project

Johnson and Luhr stated they had discussions with the applicants. Prater presented the Staff Report. Johnson asked if there were questions of staff. Answering a question from Luhr, Prater said the hot tub and fencing had been considered by a previous staff member and the applicant was told to submit for a minor use permit. Johnson clarified the shed and hot tub would not exceed the bluff line and parking regulations. Lucas clarified the Commission hadn't heard any similar projects in the recent past.

Johnson opened the Public Hearing. Applicant Valerie Seymour highlighted the history of the project and said the conversion didn't change parking demand. Agent Tom Laurie said the bluff is their commercial backyard and outlined plans for the shed, hot tub and fencing. Lucas clarified the location of the hot tub. Luhr clarified the fence is below the top of the ridge line. Johnson confirmed parking is only limited during the day.

Roger Ewing and Ray McKelligott spoke in favor of denial. Johnson closed the Public Hearing and asked for Commissioner comments.

Responding to Luhr, Prater stated the Beach Street Specific Plan requires a 50-50% split between commercial and residential. He said the 1205 square-foot caretaker unit meets that ratio and is similar to four other properties on West

and Scott streets. Prater said City Council discussed limiting caretaker units to 900 square feet, but that figure is not in effect. He said the hot tub requires an additional 5 feet of setback.

Lucas stated there were no drawings for the shed. Prater replied it was less than 120 square feet and didn't require a building permit. He said it was a planning issue because of the location on the bluff. Prater said if the Commission was going to approve the project, staff should be directed to come back with Findings.

There was consensus the space should remain a caretaker unit, not a long-term rental; parking was not a problem; and the hot tub needs to be moved 5 feet, landscaped and screened with fencing no higher than the ridge top.

MOTION: Lucas, Luhr 2nd to continue the item to the consent calendar of the January 7, 2008 meeting. Vote: 3-0.

C. Site Location: 360 Cerrito Place in the R-1 zoning district. Applicants: Joe and Nicki Fazio. Appellants: Berta and Wayne Parrish. The proposed project would demolish an existing 1,183 square foot single-family residence and remove two trees, and subsequently construct a 2,155 square foot single-family residence and an associated 648 square foot garage. This site is located outside of the appeals jurisdiction of the California Coastal Commission. (Recommended CEQA Determination: Categorical Exemption Class 1 and Class 3). Staff Recommendation: Deny the appeal and conditionally approve the project.

Grossman presented the Staff Report. Johnson asked if there were questions of staff. Lucas stated he had met with the appellants and clarified the driveway on Cerrito Place was approved by City staff. Luhr stated the lot wasn't staked and he believed it was paramount when there was a lot-line dispute. Grossman said the building department requires it before construction.

Johnson stated she had met with the appellant and opened the Public Hearing. Randy Dettmer, agent for the Applicants, outlined the project and showed slides of modern design homes in the immediate area of the project. Appellant Berta Parrish stated their five requests.

Roger Ewing, Dorothy Cutter, Bill Luffee, Gene Tubbesing, Richard Holman and Robby Lorber spoke in support of the appellant, primarily due to the lot-line dispute.

Johnson closed the Public Hearing and asked for Commissioner comments. Lucas asked what position the City Attorney was taking on the lot-line dispute. Grossman replied he directed staff to go forward unless an injunction was filed.

Commissioners expressed their concern about the boundary dispute and discussed possible solutions. Dettmer was asked to show the location of the water meters. The Commission also discussed the trees that had been, or were going to be, removed. Dettmer explained the trees were marked so an arborist would know which to examine; two trees with over 6-inch diameter trunks were removed with City permission, some smaller trees were removed, the Coral tree was thinned and two more trees will be removed during construction.

Johnson asked the appellant if moving the house 18 inches would alleviate their concerns. Parrish said it would alleviate their concerns about the setback, but added they would still need to settle the lot line and were not informed an injunction had to be filed to halt the process.

During discussion there was consensus the house is well designed, compatible with the neighborhood, nothing should be higher than 25 feet and the Coral tree should be preserved. Lucas preferred the driveway be on Shasta.

Johnson reopened the Public Hearing for appellant Wayne Parrish to comment. He summarized the history and stated the property line is his sole concern.

Commissioners preferred continuing the item until all five members were present and more information was obtained from the City Attorney.

MOTION: Lucas, Luhr 2nd to continue the item to a date to be determined. Vote: 3-0.

XI. OLD BUSINESS

A. Current Planning Processing List

Projects submitted for Administrative Approval (not single-family residential unless in MCR)

1. None

Commissioners established the December 17, 2007 agenda would include projects at 2740 Dogwood and 206 Main, plus discussion of Neighborhood Compatibility Standards.

XII. NEW BUSINESS – None

XIII. ADJOURNMENT

Johnson adjourned the meeting at 9:30 p.m. to the next regularly scheduled Planning Commission meeting at the Veterans Hall, 209 Surf Street, on Monday, December 17, 2007, at 6:00 p.m.

Nancy Johnson, Chairperson

ATTEST:

Michael Prater
Secretary

Exhibit G

City of Morro Bay

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

Returned to Sender - Address Unknown

FILE COPY

November 20, 2012

Mr. Randy Dettmer, AIA
663 Hill Street
San Luis Obispo, CA 93405

SUBJECT: INTENT TO DEEM APPLICATION WITHDRAWN
CP0-246, 360 Cerrito Place, Morro Bay, CA (Joe and Nikki Fazio Residence)

Dear Mr. Dettmer:

On December 3, 2007, the City Planning Commission voted unanimously to continue an appeal of the Administrative Coastal Development issued for 360 Cerrito Place to a date uncertain. It has now been approximately five years since the City has notified you of the Planning Commission's decision and we have not heard from you as to your intentions with this project. Unless we hear otherwise from you within 30 days from the date of this letter, we will assume that you are no longer interested in pursuing the project and we will deem it withdrawn.

If you would like us to keep the case file open and wish to continue processing the permit application, please call me directly at (805) 772-6270. We are happy to assist you in completing the application and processing your project to final action if you wish to continue.

Thank you for your cooperation and understanding regarding this matter.

Sincerely,

Mary B. Reents
Contract Planner

Exhibit H

April 2, 2013

RECEIVED

APR 1 2013

City of Morro Bay
Public Services Department

City of Morro Bay
955 Shasta Ave.
Morro Bay, CA 93442
Attn: Kathleen Wold, Planning Manager

RE: 360 Cerrito Place status

Dear Kathleen,

Thank you for our meeting last Tuesday, March 26, 2013. As I explained, our family put our building project on hold, due to several family situations. My father-in-law developed severe Alzheimer's over the course of the last 5 years. Until his recent death, we were his primary source of care-giving. Concurrently, our daughter finished high school, graduated, and just started her first year of college.

If my understanding at the conclusion of our meeting is correct, the intent of the planning department is to first, receive an updated status, and then calendar/agendize this project in the near future with city council/planning commission for administrative approval. That is also my intention at this time.

Per your request, I have attached a copy of the recorded statement for withdrawal of the lot line lawsuit filed by Mr. and Mrs. Parrish, therefore showing the lot line issues have been settled.

I appreciate your time and consideration in this matter and will wait to hear from you regarding this. My direct phone number is 702-496-4663.

Sincerely,

Nicki Turner

Nicki Turner

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Fees	14.00
Taxes	0.00
Others	0.00
PAID	$14.00

Ann Bell Wilson (107424)
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Attorneys for Plaintiffs
Wayne Parrish and Berta Parrish

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN LUIS OBISPO**

WAYNE PARRISH and BERTA PARRISH, **Plaintiffs** **v.** **JOSEPH M. FAZIO, AS TRUSTEE OF THE DNJ FAMILY TRUST DATED APRIL 10, 2003, NICKI TURNER-FAZIO, JOSEPH M. FAZIO, AND ALL PERSONS UNKNOWN, CLAIMING ANY LEGAL OR EQUITABLE RIGHT, TITLE, ESTATE, LIEN, OR INTEREST IN THE PROPERTY DESCRIBED IN THE COMPLAINT ADVERSE TO PLAINTIFFS' TITLE, OR ANY CLOUD ON PLAINTIFFS' TITLE THERETO, and DOES 1 through 50, inclusive,** **Defendants.**	**Case No. CV070369** **WITHDRAWAL OF NOTICE OF PENDING ACTION**

NOTICE IS HEREBY GIVEN that Wayne and Berta Parrish withdraw the Notice of Pending Action recorded in this action on October 1, 2007, as Document No. 2007065331 in the Office of the County Recorder of San Luis Obispo County, California, so that it does not (1) constitute constructive or actual notice of any of the matters contained, claimed, alleged, or contended in it or of any matters relating to this action; or (2) create any duty of inquiry in any person dealing with the affected property described in the notice after the date

of recordation of this notice of withdrawal.

The notice of pendency of action that is withdrawn concerned real property located in San Luis Obispo County, California, commonly known as 360 Cerrito Place, Morro Bay, California and is more particularly described as:

> Lot 5 in Block G of Cerrito Addition to the Town of Morro, in the City of Morro Bay, in the County of San Luis Obispo, State of California, according to Map filed for record March 14, 1888, in Book A, page 34 of Maps in the Office of the County Recorder of said County.
>
> EXCEPTING therefrom the Northwesterly 41.29 feet of said Lot 5.
> APN 066,223,004

DATED: January 2, 2009

WILSON & WILSON

Ann Bell Wilson, Attorneys for Plaintiffs
Wayne Parrish and Berta Parrish

State of California
County of San Luis Obispo } ss.

Upon this 2nd day of January 2009 before me, Karen M. Schmidt, Notary Public, personally appeared Ann Bell Wilson, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public in and for said County and State

KAREN M. SCHMIDT
Commission # 1719184
Notary Public - California
San Luis Obispo County
My Comm. Expires Feb 19, 2011

Attachment F

AGENDA ITEM: A- 1

DATE: May 29, 2013

ACTION: _____

SYNOPSIS MINUTES - MORRO BAY PLANNING COMMISSION
REGULAR MEETING – MAY 15, 2013
VETERANS MEMORIAL HALL – 6:00 P.M.

Chairperson Grantham called the meeting to order at 6:00 pm.

PRESENT:	Rick Grantham	Chairperson
	John Solu	Vice-Chairperson
	Michael Lucas	Commissioner
	Robert Tefft	Commissioner
	John Fennacy	Commissioner
STAFF:	Rob Livick	Public Services Director
	Kathleen Wold	Planning Manager
	Cindy Jacinth	Associate Planner

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS

PUBLIC COMMENT

Chairperson Grantham opened Public Comment period and hearing none, closed Public Comment period.

PRESENTATIONS – None.

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

CONSENT CALENDAR

A-1 Approval of minutes from Planning Commission meeting of April 3, 2013
Staff Recommendation: Approve minutes as submitted.

MOTION: Commissioner Solu moved to approve the Consent Calendar.

The motion was seconded by Chairperson Grantham and the motion passed (4-0), with Commissioner Fennacy abstaining.

A. PUBLIC HEARINGS

B-1 ***Continued from the December 3, 2007 Planning Commission meeting***
Case No.: Coastal Development Permit #CP0-246
Site Location: 360 Cerrito in the R-1 zoning district
Proposal: Appeal of Administrative Coastal Development Permit #CP0-246 approval for the demolition of an existing 1,183 square foot single-family residence and removal of two trees, and the subsequent construction of a 2,155 square foot single-family residence and an associated 648 square foot garage. This site is located outside of the appeals jurisdiction of the California Coastal Commission.
CEQA Determination: Categorically exempt, Class 1 and Class 3
Staff Recommendation: Deny the appeal and uphold the Director's conditional approval of the project.
Staff Contact: Kathleen Wold, Planning Manager, (805) 772-6211

Wold presented the staff report.

Wold stated the applicant is requesting a continuance to the July 17, 2013 Planning Commission meeting to allow time to address the issues the City outlined in the staff report and that were previously identified. The project has been continued since approximately 2007. Staff has been instructed by City management to bring the project to a close.

Commissioner Lucas asked staff if the Fire Chief allows rooftop fire pits in the City. Wold stated the 2007 project file did not identify the proposed fire pit as an issue.

Wold stated the City should either address the appellant's concerns as of 2007 or decide the applicant needs to reapply. The staff report presented tonight sought to address the issues that existed in 2007. If the Commission determines there are issues that need to be addressed again, Wold stated staff would recommend the Commission deny the project and send it back through or remand it back to the applicant to work with staff as an administrative approval.

Commissioner Lucas asked for clarification regarding the nature of the setbacks for the proposed development. Wold noted the Municipal Code states that lots oriented west to east (as this one is) must establish the west side as the front yard. Wold agreed to revisit the proposed plans to determine the orientation of the front yard and the associated setbacks.

Commissioner Solu asked Wold to further clarify her discussion of corner lots and required setbacks. Wold explained how the proposed site plan relates to the City's current code with regard to front, side, and rear yard setbacks.

Commissioner Tefft expressed concern that the proposed setbacks are too shallow and would thus create serious visibility issues at this corner.

Chairperson Grantham opened Public Comment period and, hearing none, closed Public Comment period.

MOTION: Chairperson Grantham moved to continue the appeal for Coastal Development Permit #CP0-246 to the July 17, 2013 Planning Commission meeting with direction to revise the plans to reflect the Volbrecht Land Survey, show the edge of pavement line, and show that the setting of the house complies with all R-1 setbacks.

The motion was seconded by Commission Fennacy.

Discussion of the motion:
Commissioner Solu noted the applicant will be installing story poles which should help them meet the conditions imposed by the City.

Commissioner Tefft stated it may be difficult for the applicant to determine the appropriate setback requirements for through-lots in R-1 zones as they are not defined by the City's code.

The motion passed (3-2), with Commissioners Lucas and Tefft dissenting.

B-2 ***Continued from April 3, 2013 meeting***
Case No.: Coastal Development Permit #CP0-383
Site Location: nearest address 499 Little Morro Creek Road
Proposal: Request to install a 29 foot wood pole in public right-of-way for purpose of installation of a solar-powered data collector unit for the Advanced Meter project. This site is located outside of the appeals jurisdiction of the California Coastal Commission.
CEQA Determination: Categorically exempt, Class 3
Staff Recommendation: Continue item to May 1, 2013.
Staff Contact: Cindy Jacinth, Associate Planner, (805) 772-6577

Jacinth presented the staff report for Items B-2 through B-4.

Commissioner Lucas asked for clarification from staff regarding whether a change in the radio frequency associated with the data collector units unit would be considered a minor or major modification to the permit. Wold stated the amount of radio frequency is not a land use issue, but the Commission could add a condition to the permit if the applicant decides to change the radio frequency.

Chairperson Grantham opened Public Comment period.

Timothy Mahoney, Applicant's Representative, stated the applicant does have a license with the Federal Communications Commission for a specific bandwidth and they stay within the limits for what they are licensed.

Commissioner Lucas asked Mahoney to clarify whether the applicant intends to change the number of times per day that the data collector is used. Mahoney stated the units will only be used four times per day.

Livick stated the City has imposed a condition on the project which will allow the City to co-locate water meter readings in the future if it decides to implement this infrastructure.

Attachment G

AGENDA NO: B-1

MEETING DATE: July 17, 2013

Memorandum

TO: PLANNING COMMISSIONERS

FROM: KATHLEEN WOLD, PLANNING MANAGER

DATE: July 12, 2013

SUBJECT: 360 Cerritos Place, Appeal hearing for Coastal Development Permit # CPO-246

Background

At their May 15, 2013 meeting the Planning Commission held a public hearing on the appeal of Coastal Development Permit #CP0-246. After consideration of the item it was the Commission's decision to continue the item to July 17, 2013 with the direction that the applicant was to submit new plans which reflect the Volbrecht land survey, show the edge of pavement line and show that show the house complies with all R-1 setbacks.

Staff received new plans submitted on July 2, 2013 however these plans did not reflect the Volbrecht lane survey or show the edge of pavement. Staff spoke with the applicant and the applicant's architect and indicated to them the deficiencies of the submittal. Staff recommends that the project being continued to the August 7, 2013 meeting to allow additional time for these corrections.

Recommendation

Staff recommends that the Planning Commission continue the public hearing for the appeal of Coastal Development Permit #CP0-246 to the August 7, 2013 meeting.

Attachment H

AGENDA ITEM: A- 1

DATE: August 21, 2013

ACTION: _____

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JULY 17, 2013
VETERANS MEMORIAL HALL – 6:00 P.M.

Chairperson Grantham called the meeting to order at 6:00 p.m.

PRESENT:	Rick Grantham	Chairperson
	John Solu	Vice-Chairperson
	John Fennacy	Commissioner
	Michael Lucas	Commissioner
	Robert Tefft	Commissioner
STAFF:	Rob Livick	Public Services Department
	Kathleen Wold	Planning Manager
	Cindy Jacinth	Associate Planner
	Erik Berg-Johansen	Planning Intern

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS

PUBLIC COMMENT

Chairperson Grantham opened Public Comment period.

Stan Trapp, Morro Bay business owner, asked staff to clarify whether it is the City's intention to eliminate window signs that advertise products or window signs that do not display a business name. He expressed concern that the proposed sign ordinance may negatively affect the character of businesses.

Chairperson Grantham closed Public Comment period.

Berg-Johansen addressed Trapp's comment. He stated the proposed ordinance prohibits advertising *brand names* in windows, but it does not prohibit businesses from advertising the *type* of business.

PRESENTATIONS – None.

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

CONSENT CALENDAR

None.

A. PUBLIC HEARINGS

B-1 **Public hearing continued from May 15, 2013.**
Case No.: Coastal Development Permit #CP0-246
Site Location: 360 Cerrito in the R-1 zoning district
Proposal: Appeal of Administrative Coastal Development Permit #CP0-246 approval for the demolition of an existing 1,183 square foot single-family residence and removal of two trees, and the subsequent construction of a 2,155 square foot single-family residence and an associated 648 square foot garage. This site is located outside of the appeals jurisdiction of the California Coastal Commission.
CEQA Determination: Categorically exempt, Class 1 and Class 3
Staff Recommendation: Continue the Public Hearing to August 7, 2013 to allow additional time for the applicant to comply with the Commission's previous direction.
Staff Contact: Kathleen Wold, Planning Manager, (805) 772-6211

Commissioner Tefft recused himself from the discussion as he owns property within 500 feet of the subject site.

Chairperson Grantham opened Public Comment period.

Berta Parish, resident of Morro Bay, asked the Commission to confirm the date of the appeal hearing for this item.

Chairperson Grantham closed Public Comment period.

Staff confirmed with the Commission there will be a quorum for a Planning Commission meeting on August 21, 2013.

MOTION: Chairperson Grantham moved to continue Coastal Development Permit #CP0-246 to the August 21, 2013 Planning Commission meeting. Any plans submitted for that meeting are to reflect the Volbrecht land survey that was previously approved by the Court and the Commission.

The motion was seconded by Commissioner Solu and the motion passed unanimously. (4-0).

Commissioner Tefft returned for discussion.

B-2 **Public hearing continued from July 3, 2013.**
Case No.: Zoning Text Amendment #A00-015 (continued originally from June 20, 2012 meeting)
Site Location: Citywide
Proposal: The City of Morro Bay is proposing a Municipal Code Amendment modifying Section 17.68 "Signs." Recommendations from the previous sign workshops, sign survey

Attachment I

RECEIVED
JUL 09 2013
City of Morro Bay
Public Services Department

FOR 8-7-13 PC Mtg.

July 9, 2013

Dear City of Morro Bay, the Planning Department, Planning Commissioners, and Concerned Neighbors/Citizens,

First I would like to introduce myself. My name is Nicki Turner and I am the owner of 360 Cerrito Place. I have recently returned to Morro Bay after caring for my father in law until his death and getting my daughter graduated from high school. I have lived in Henderson, Nevada for the last 20 years, although I grew up at the beach in Southern California and here on the Central Coast. My family has been on the central coast for over 50 years. In fact the Shell Shop in Morro Bay and I are the same age. My dream has always been to return here full time when able. During the course of my adult life I have been actively involved in charity work, civic activities, Vice President of my daughter's PTA, class room volunteer, officer of my Home Owner's Board, member of the architectural committee for my HOA, and volunteer work with seniors. I am a licensed realtor for over 19 years in Henderson, NV and now here in California. I am looking forward to being a positive contributing member of this community and have met so many wonderful people here over the years who have supported me in keeping my dream alive.

This Cerrito Place Family Home Project has been quite an undertaking. And a lot of life has occurred since the very first drawing of the proposed house I submitted to my architect. To put this time in prospective, my beautiful daughter, Danielle, was in sixth grade when we started this amazing journey. She will be starting her second year of college this August.

We are excited and blessed to be at this moment and look to the future of completing our family home. We believe that we have an awesome plan and have not just met minimum requirements.

We started and have continued this project with local seasoned and well educated contractors for our team like Randy Dettmer, Skip Touchon, and Michael Tutt, who all have excellent reputations in this community. We have strived, now for years, in exceeding in the areas of care, concern and respect not only for the building requirements of our family home, but also taking into consideration the feel and ambience of the neighborhood, of Cerrito Peak, Morro Bay, and the natural beauty of this place that we so appreciate.

As you are all aware a property line dispute has been settled. Not only have we made sure the proper information be re-submitted, the footprint has been reduced yet again at my personal request of my ever patient architect. This is to ensure an even smaller percentage of our property is used and a larger percentage of existing mature landscaping will remain. I have included pictures of all the beautiful and mature landscaping that will remain with this property. There also will be drought tolerant/city list preferred trees, plants and flowers added after construction to further enhance our home.

This journey could not be complete without thanking several people involved. Thank you to The City of Morro Bay, the planning department and all staff (we have gone through a few staff members) and all parties involved that helped us without compromise. A thank you goes out to all the people working on this who stayed the course and never were waived by petty gossip, outright lies and all the things that have followed our family property during this process. Second, to my patient, and talented architect Randy Dettmer for all the time he has given to this project. Third to Michael Tutt, my unbelievable and intelligent certified arborist. Mr. Tutt has worked with this property relentlessly and kept excited with me about the beauty of our trees and project.

This project is dedicated to:

- My Aunt Doris, an amazing author, my female warrior and hero who believed in this project long before we started. Her legacy was to allow our family to reside here.
- My father in law, Big Joe, who wanted nothing more than to finish his remaining golden years in Morro Bay. Sadly he did not make it. Yet for 7 years he kept the renderings of the new house with a picture of what would have been his room by his bed until his death.
- And last and most important of all, my beautiful daughter Danielle, who wished to go to Morro Bay High and Cuesta College. Her father and I promised she would finish the high school she started in and therefore she did not make it here either. She will be instrumental with her infinite art talents in designing the interior and helping me plant our many flowers.

In closing, thank you all for your time and consideration. I trust you will all make the right decisions based on the guidelines, actual facts, being fair, honest and not being swayed by popular demand or possible mistruths. A lot of time is required in public service and I so appreciate every minute that all of you have spent for our family.

Sincerely,

Nicki R. Turner

Nicki R. Turner

360 Cerrito Place

Pictures of Trees & Landscaping that will remain — Pages (1)

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JUL 09 2013

City of Morro Bay
Public Services Department

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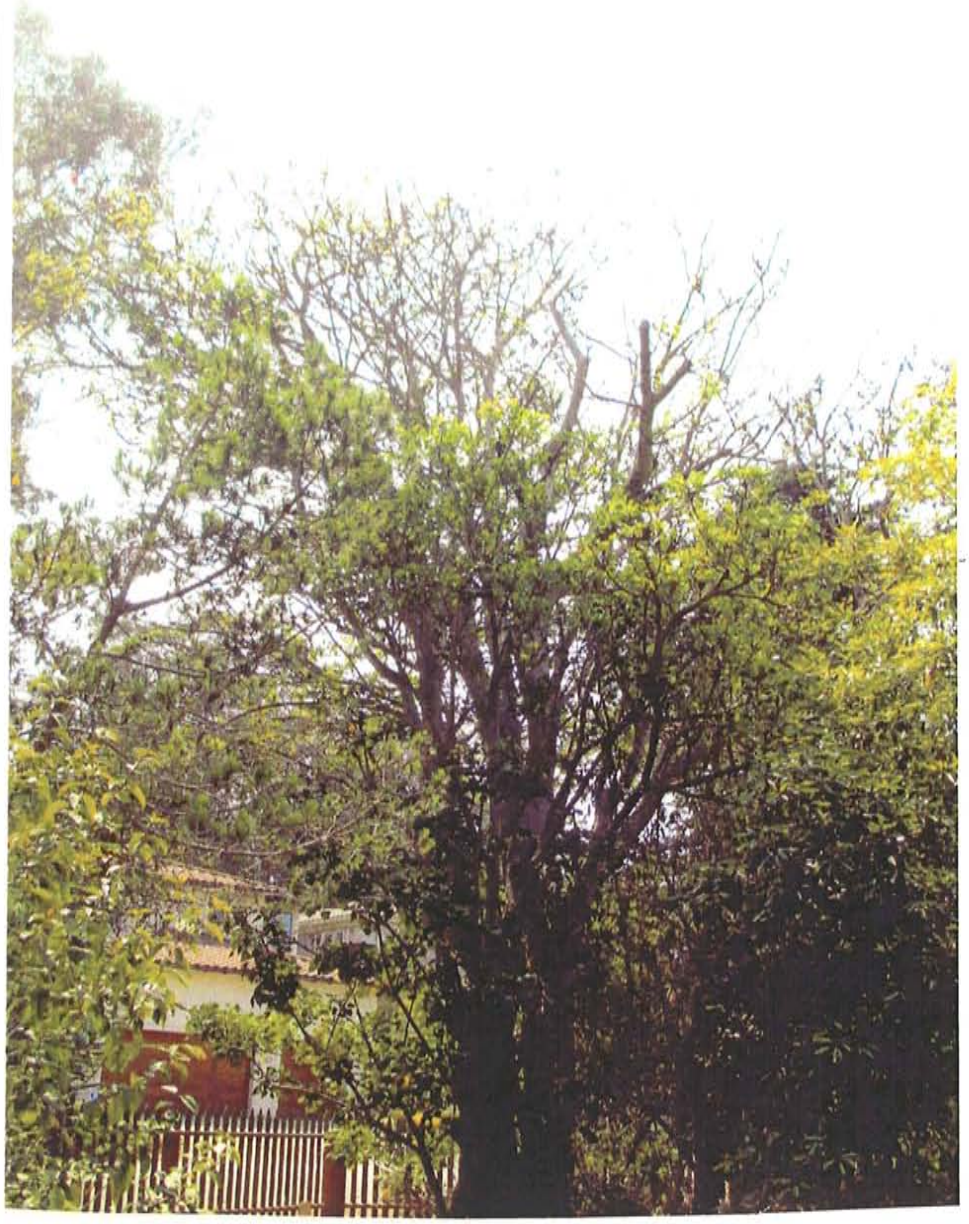

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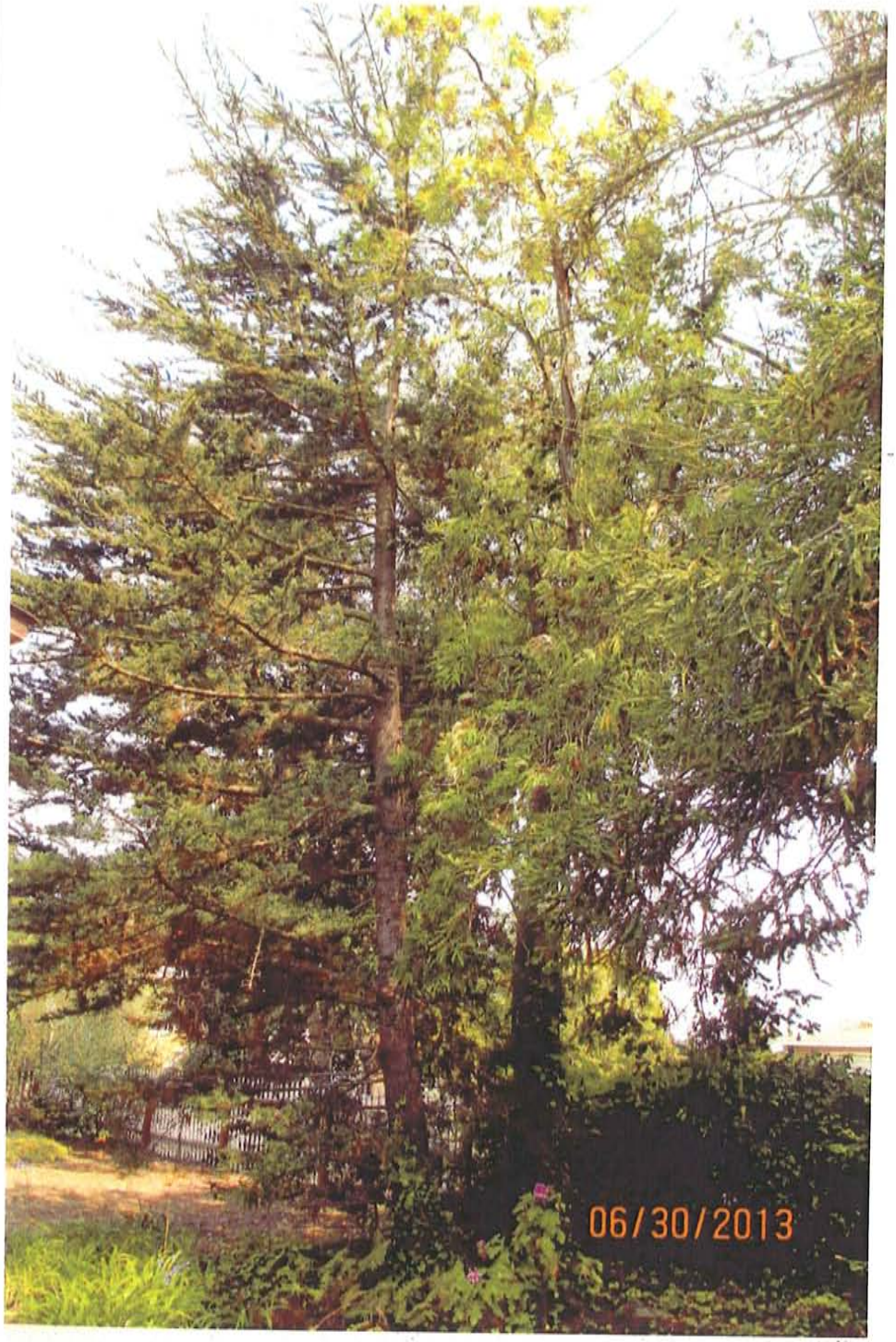
Public Services Department



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City of Morro Bay
Public Services Department

AGENDA NO: B-1

MEETING DATE: August 21, 2012

Memorandum

TO: PLANNING COMMISSION **DATE**: AUGUST 14, 2013

FROM: KATHLEEN WOLD, PLANNING MANAGER

SUBJECT: REQUEST FOR A CONTINUATION OF THE PUBLIC HEARING FOR THE APPEAL OF COASTAL DEVELOPMENT PERMIT #CP0-246.

BACKGROUND/DISCUSSION

At their May 15, 2013 meeting the Planning Commission held a public hearing on the appeal of Coastal Development Permit #CP0-246. After consideration of the item it was the Commission's decision to continue the item to July 17, 2013 with the direction that the applicant was to submit new plans which reflect the Volbrecht land survey, show the edge of pavement line and that the house complies with all R-1 setbacks.

Staff received new plans submitted on July 2, 2013 however these plans did not reflect the Volbrecht lane survey or show the edge of pavement. Staff spoke with the applicant and the applicant's architect and indicated to them the deficiencies of the submittal. The item was subsequently continued to the August 21, 2013 meeting. Once again we must request that this item be continued to allow additional time for the applicant to submit an adequate submittal and time for staff to review the submittal.

RECOMMENDATION

Staff recommends that the Planning Commission continue the public hearing for the appeal of Coastal Development Permit #CP0-246 to the September 4, 2013 meeting.

Prepared By: _____ **Dept Review:** _____

Attachment K

AGENDA ITEM: A-1

DATE: September 4, 2013

ACTION: _____

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – AUGUST 21, 2013
VETERANS MEMORIAL HALL – 6:00 P.M.

Chairperson Grantham called the meeting to order at 6:00 p.m.

PRESENT:	Rick Grantham	Chairperson
	John Solu	Vice-Chairperson
	John Fennacy	Commissioner
	Robert Tefft	Commissioner
ABSENT:	Michael Lucas	Commissioner
STAFF:	Rob Livick	Public Services Department
	Kathleen Wold	Planning Manager
	Cindy Jacinth	Associate Planner
	Erik Berg-Johansen	Planning Intern

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS

PUBLIC COMMENT

Chairperson Grantham opened Public Comment period.

Garry Hixon, resident of Morro Bay, praised the Planning Commission for their good work.

Craig Schmidt, CEO of the Morro Bay Chamber of Commerce, announced the Avocado and Margarita Festival will take place on September 14-15.

Chairperson Grantham closed Public Comment period.

PRESENTATIONS – None.

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

CONSENT CALENDAR

A-1 Approval of minutes from Planning Commission meeting of July 3 and July 17, 2013
Staff Recommendation: Approve minutes as submitted.

MOTION: Commissioner Fennacy moved to approve the minutes from the July 3, 2013 meeting.

Chairperson Grantham seconded and the motion passed. (4-0).

MOTION: Commissioner Fennacy moved to approve the minutes from the July 17, 2013 meeting.

Chairperson Grantham seconded and the motion passed. (4-0).

A. PUBLIC HEARINGS

B-1 **Public hearing continued from May 15, 2013.**
Case No.: Coastal Development Permit #CP0-246
Site Location: 360 Cerrito in the R-1 zoning district
Proposal: Appeal of Administrative Coastal Development Permit #CP0-246 approval for the demolition of an existing 1,183 square foot single-family residence and removal of two trees, and the subsequent construction of a 2,155 square foot single-family residence and an associated 648 square foot garage. This site is located outside of the appeals jurisdiction of the California Coastal Commission.
CEQA Determination: Categorically exempt, Class 1 and Class 3
Staff Recommendation: Continue the Public Hearing to September 4, 2013.
Staff Contact: Kathleen Wold, Planning Manager, (805) 772-6211
Commissioner Tefft recused himself from the discussion as he owns property within 500 feet of the subject site.

Wold presented the staff report.

Chairperson Grantham asked for clarification from Wold regarding why staff was unable to give proper attention to this project. Wold stated due to time frames for meeting material submittals, there was not sufficient time to route and review the items requested from the applicant so they will be brought to the next Planning Commission meeting.

Commissioner Fennacy confirmed with staff that the applicant's architect has provided all the necessary materials for review to present the item at the next meeting. Wold stated staff has explicitly stated what is needed from the applicant in order to move forward with review of the project. The revised plans have been received and are action ready for the September 4, 2013 Planning Commission meeting.

Chairperson Grantham opened Public Comment period.

Commissioner Tefft recused himself from the discussion due to the proximity of his residence to the project location.

Berta Parish, resident of Morro Bay, stated she disagreed with staff's recommendation to continue this item a third time. She asked if there is a limit to the number of continuances any project may be granted. She stated the applicant has already been allowed sufficient time to produce the materials requested by staff. Parish also stated the City has not granted equal consideration to her and her neighbors' requests as the applicant. She asked the Commission to uphold her 2007 appeal and deny the project. Parish would like the applicant to submit a new application that meets staff's recommendations.

Chairperson Grantham closed Public Comment period.

Wold stated Parish provided an accurate overview of the project. She stated there was an absence of activity for a long time on the applicant's behalf, and it continues to be a struggle to resolve the issues between the two property owners. Wold explained the differences between how the project was originally approved and what is being required by current City staff.

Livick stated he spoke with the project architect and expressed the need for the remaining items. He stated the architect indicated that he had revised the setbacks and has shown the road in relation to the property lines and will submit new plans.

Chairperson Grantham asked for clarification regarding the Volbrecht survey. Livick stated the area of the City where the project is located was originally shown on an 1888 map. Subsequent surveys continued a boundary error from a misread of the 1888 map that affected a few properties in this area. The boundary error needed to be corrected to the original descriptor. Agreement now exists between the two property owners on the true boundary of the property.

Commissioner Solu confirmed with staff that the applicant was directed to use the Volbrecht survey at the June 19, 2013 Planning Commission Meeting. Livick stated the applicant was to use the Volbrecht survey to show the revised boundaries on the site plan and in relationship to the existing features.

Commissioner Solu asked staff if the applicant submitted the required materials in a timely manner. Wold stated the architect used the Volbrecht survey but he did not reference the Volbrecht survey in the plans, other than a notation, so it was difficult for the public to understand the relationship of the existing features on the property. This deficiency stalled staff's review of the project.

Commissioner Fennacy expressed concern that the applicant has not voiced any concerns or provided reasons for the numerous delays. He stated he is inclined to grant the appeal and send the project back to the applicant to revise and resubmit their application.

Commissioner Solu stated he agreed with Commissioner Fennacy's comments.

Livick explained if the Commission decided to not grant the continuance and thereby upholding the appeal, the applicant will have to start over again by re-applying if they choose not to appeal to the City Council.

MOTION: Commissioner Fennacy moved to deny the request for a continuance and uphold the appeal of Coastal Development Permit #CP0-246.

Chairperson Grantham seconded and the motion passed. (3-0).

Commissioner Tefft rejoined the meeting.

B-2 **Public hearing continued from July 17, 2013.**
Case No.: Zoning Text Amendment #A00-015 (project originally noticed for a Public hearing on June 17, 2013 and subsequently continued to additional meetings).
Site Location: Citywide
Proposal: The City of Morro Bay is proposing a Municipal Code Amendment modifying Section 17.68 "Signs
CEQA Determination: To be determined.
Staff Recommendation: Review draft ordinance, take public testimony, and provide direction to staff.
Staff Contact: Erik Berg-Johansen, Planning Intern (805) 772-6291

Berg-Johansen presented the staff report, with specific attention given to the North Main District (Part I) and the Embarcadero District Tourism-Oriented Directional Sign Plan (Part II).

Chairperson Grantham opened Public Comment period.

Susan Stewart, Morro Bay business owner and President of the Morro Bay Chamber of Commerce, expressed concern about prohibiting brand-name advertising. She stated such signs can be helpful to consumers who may be looking for particular products, and it can be important to business owners to help them do business.

Amber Badertscher, Morro Bay business owner, stated she would like clarification regarding why the City is proposing to prohibit brand-name signs. She asked if brand-name advertising restrictions would apply to other locations, such as umbrellas. She also asked about the proposed regulations and fees for A-frame signs and the directional signs proposed along the Embarcadero.

Chairperson Grantham closed Public Comment period.

Part I: North Main District

Wold clarified the purpose of prohibiting brand-name signs is to ensure that the sign ordinance has vertical consistency with state and local regulations of the Coastal Act, Local Coastal Plan, and General Plan that are already in place.

Attachment L

AGENDA NO: B-1

MEETING DATE: September 18, 2013

MEMORANDUM

TO: PLANNING COMMISSIONERS

FROM: KATHLEEN WOLD, PLANNING MANAGER

DATE: SEPTEMBER 10, 2013

SUBJECT: 360 CERRITO PLACE COASTAL DEVELOPMENT PERMIT (#CP0-246)

Background

On August 21, 2013 the Planning Commission held a public hearing on Coastal Development Permit #CP0-246. During the hearing the Commission took public testimony to consider staff's request for granting a continuance. At that time the appellant spoke against granting a continuance and elaborated on the appeal issues. It was the decision of the Planning Commission to not grant the requested continuance but to take action on the appeal. This decision was based on the facts presented in the appeal, the materials submitted by the applicant and public testimony taken during the public hearing. It was the decision of the Planning Commission to deny the permit. However, because staff's recommendation was to continue the item there were no prepared findings for denial, therefore staff has prepared the follow findings for a denial.

Analysis:

The appellant's requested relief or action is as follows (as stated on the appeal form):

1. Overturn or postpone until Superior Court settles the 16" boundary dispute.
2. Amend to include sewer easement, removal of rooftop fire pit, and change site setback interpretation.
3. Overturn due to incompatibility in neighborhood character, more specifically that the size and mass of the proposed home and its modern design are not compatible with the neighborhood character of residences in the vicinity.

Appeal Issue 1: The boundary dispute has been resolved and the applicant was directed to resubmit a site plan reflecting the Volbrecht survey.

Appeal Issue 2: Issue two remained unresolved although the applicant was redesigning the home to address the R-1 setbacks. Satisfactory plans had not yet been submitted to the city as of the date the Planning Commission took action on August 21, 2013.

Appeal Issue 3: The size, mass and scale of the home in relation to the neighbor have not substantially changed since the original proposal. The City's General Plan identifies transitioning neighborhoods where older structures are being replaced by new and considerably larger homes as an area of concern where special consideration shall be given to ensure the livability of the residential environment and that the project is a fit within the established neighborhood. The Cerrito Place neighborhood fits the characterization of a neighborhood in transition where older homes are being replaced by new larger homes. While the home size proposed by the applicant is in keeping with many of the newer homes in the neighborhood it is an increase of approximately 1000 square feet over the existing older home. In addition the design of the home is modern and not consistent with the existing character of the neighborhood.

The applicant was instructed at the May 15, 2013 Planning Commission meeting to return to the July 17, 2013 Planning Commission meeting with revised plans that reflect 1) The Volbrecht Land Survey; 2) Show the edge of pavement line; and 3) Ensure that the residence complies with all R-1 setbacks. Without these items it was determined that a finding could not be made that the project as proposed was consistent with the City's Local Coastal Program/General Plan.

Over the course of the next several months the applicant submitted new plans, but each submittal was incomplete due to the omission of the Volbrecht land survey. Planning Commission granted additional time for the applicant to comply, however on August 21, 2013 the Planning Commission determined that sufficient time had elapsed (over 6 years) and that there was not sufficient information supplied by the applicant to make the necessary finding that the project was consistent with the City's Certified Coastal Land Use Program.

Recommendation

Make the following findings for denial of CP0-246 granting the appeal of Public Services Director's approval.

A. That for purposes of the California Environmental Quality Act, Case Number CP0-246 is Categorically Exempt, Class 1, Section 15301 for removal of one single-family residence and Class 3, Section 15303 for construction of one single-family residence.

B. That a single family residence is an allowable use within the R-1 zone district. However, the project as proposed is not consistent with the certified Coastal Land Use program for the City of Morro Bay. The applicant failed to demonstrate that the design of the project is consistent with the character of the neighborhood as it pertains to orientation of the house on the lot, the size and design of the home.

Attachment M

AGENDA ITEM: A-1

DATE: October 16, 2013

ACTION: _____

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – SEPTEMBER 18, 2013
VETERANS MEMORIAL HALL – 6:00 P.M.

Chairperson Grantham called the meeting to order at 6:00 p.m.

PRESENT:	Rick Grantham	Chairperson
	John Solu	Vice-Chairperson
	John Fennacy	Commissioner
	Michael Lucas	Commissioner
	Robert Tefft	Commissioner
STAFF:	Rob Livick	Public Services Department
	Kathleen Wold	Planning Manager
	Cindy Jacinth	Associate Planner

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS

PUBLIC COMMENT

PRESENTATIONS – None.

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

CONSENT CALENDAR

A-1 Approval of minutes from Planning Commission meeting of September 4, 2013
Staff Recommendation: Approve minutes as submitted.

B. PUBLIC HEARINGS

[THESE ARE DRAFT MINUTES. FULL MINUTES TO BE AVAILABLE AT THE 10/16/2013 PLANNING COMMISSION MEETING]

B-1 Case No.: Coastal Development Permit #CP0-246
Site Location: 360 Cerrito in the R-1 zoning district
Proposal: Make the necessary findings for upholding the Appeal of Administrative Coastal Development Permit #CP0-246 approval for the demolition of an existing 1,183

DRAFT

square foot single-family residence and removal of two trees, and the subsequent construction of a 2,155 square foot single-family residence and an associated 648 square foot garage. This site is located outside of the appeals jurisdiction of the California Coastal Commission.
CEQA Determination: Categorically exempt, Class 1 and Class 3
Staff Recommendation: Adopt findings for denial of the Planning Commission's decision made on August 21, 2013.
Staff Contact: Kathleen Wold, Planning Manager, (805) 772-6211

Wold presented the staff report.

MOTION: Commissioner Fennacy moved to adopt the following findings upholding the appeal of #CP0-246:

A. That for purpose of the California Environmental Quality Act, Case Number CP0-246 is Categorically Exempt, Class 1, Section 15301 for removal of one single-family residence and Class 3, Section 15303 for construction of one single-family residence.
B. That a single-family residence is an allowable use within the R-1 zone district. However, the project as proposed is not consistent with the certified Coastal Land Use program for the City of Morro Bay. The applicant failed to demonstrate that the design of the project is consistent with the character of the neighborhood as it pertains to the orientation of the house on the lot, the size and design of the home.

Commissioner Solu seconded and the motion passed unanimously. (4-0).

B-2 Case No.: A00-013 (Text Amendment)
Site Location: Citywide
Request: Zoning Text Amendment proposing to amend Section 17.48.320 (Secondary Units) modifying the section to be consistent with State regulations.
CEQA Determination: Mitigated Negative Declaration.
Staff Recommendation: Forward a favorable recommendation to the City Council to approve the proposed Zoning Text Amendment and adopt the Mitigated Negative Declaration.
Staff Contact: Kathleen Wold, Planning Manager (805) 772-6211
Berg-Johansen presented the staff report, with specific attention given to the North Main District (Part I) and the Embarcadero District Tourism-Oriented Directional Sign Plan (Part II).

UNFINISHED BUSINESS

C-1 Current and Advanced Planning Processing List
Staff Recommendation: Receive and file.
Upcoming Projects: Morro Creek Pedestrian Bike Bridge, Urban Forest Management Plan, 901 Embarcadero (Amendment to CUP & MND Adoption), Climate Action Plan, Coastal Commission LCP Assistance Grant Application,

NEW BUSINESS

AGENDA NO: B-2

MEETING DATE: October 8, 2013

Staff Report

TO: **Honorable Mayor and City Council** **DATE: September 30, 2013**

FROM: **Robert Livick, PE/PLS - Public Services Director/City Engineer**

SUBJECT: **Appeal of Administrative Decision Regarding Staff Authorization of a Fence on City Owned Property Adjacent to Chorro Creek Road in the Unincorporated area of San Luis Obispo County (Joseph Goodwin Appellant; Mike and Carrie Burton, Permitees)**

RECOMMENDATION

Uphold staff decision to allow the access onto City real property for the installation of a fence.

ALTERNATIVES

1. Approve the Appellant's request for revocation of the agreement allowing fence construction and order removal of the fence.

2. Require Permitee to install a gate for fire department access if required by Cal Fire/SLO County Fire.

FISCAL IMPACT

There is no direct fiscal impact as a result of this action.

SUMMARY

This item has come before City Council as the result of an appeal by Joseph Goodwin (Appealant) (APN 073-131-016) of a staff administrative decision to allow the installation of a fence by Carrie and Mike Burton (Permittee) (APN 073-131-018) along the Southerly side of property owned by the City (APN 073-131-017).

BACKGROUND

In 1998 the City of Morro Bay Granted a 20-foot wide easement over the staff portion of the City's 'flag lot" (Doc # 1998-079161) to the prior owners of the Permitee's property for the purpose of ingress and egress from said Permitee's property. Section 8 in the easement agreement states: *Grantee's use of the easement shall be exclusive. Notwithstanding the terms of this provision, Grantee reserves the right to use the Servient Tenement in a manner consistent with the Grantee's free use and enjoyment of the easement.*

Prepared By: RL Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

On July 16, 2004, the Permitee took ownership of the parcel of real property (018) where they now reside. The instrument that conveyed the property to the Permitee includes a legal description for the easement area over the staff portion of the City's flag lot (017). The description states in part: *A non-exclusive easement for ingress and egress and incidental purposes over the following parcel of land: …* The description goes on to describe the said staff portion of the City flag lot.

In July of this year, the Permittees contacted the City requesting permission to construct a fence on City owned real property outside the City limits. After consultation with the City Attorney's Office, staff selected the special encroachment agreement as the mechanism to grant that permission. The special encroachment agreement is a boilerplate document that is typically used for construction of nonstandard improvements in the right of way that benefit the adjoining property owner.

Staff worked with the Permitees to modify the special encroachment agreement document so that it addressed this situation, i.e. being real property outside the City limits. On August 27, 2013 the Public Services Director executed the agreement and returned it to the Burtons for their signatures and delivery to the San Luis Obispo Clerk Recorder's Office for recordation. The construction of the fence does not inhibit any City use of the property.

Prior to the approval of the special encroachment agreement, the adjacent property owner and ultimate appellant, requested notification of any City action regarding the issuance of a special encroachment agreement. On August 28, 2013, the City notified the Appellant that the City did issue a special encroachment agreement for the construction of a fence on said City property. Verbally upon issuance of the special encroachment agreement, and in writing on August 29, 2013, the City advised the Permittee not to begin construction of the fence due to the potential for an appeal of the administrative decision to the City Council. Nevertheless, on August 29, 2013 the Permittee began construction of the fence in question.

DISCUSSION

Staff is providing a brief statement capturing the essence of each of the appeal issues followed by a response to the appeal issue. For the complete text of the appellant's appeal issues, please refer to the attached appeal.

Summary and Analysis of Appeal Issues

1. *Exhibit A of the Special Encroachment Agreement is misleading regarding the position of an existing fence.*

   There is an existing fence in the approximate position shown on the Special Encroachment Agreement Exhibit A. The fence exists along the Southerly side of the flag portion of the City parcel (017) and extends to a point across the access road from the Southwesterly corner of the Permitee's property where there is a gate, then the fence continues around the City parcel.

2. *Permitees have no right to block access road*
   It is unclear from the evidence presented by the appellant what rights they have to use the "access road". It is clear that this access road is owned by the City of Morro Bay and that the permitee has access and incidental purpose rights. It is not clear that the appellants have ever formalized their access rights to use the "access road". The appellant states that they have an "implied" easement for the use of the road. An implied easement is a legitimate easement type but in order to be enforced it must be adjudicated. The decision on whether an implied easement exists is beyond the purview of the City Council and needs to be granted by the Court.

3. *Fence has no legitimate purpose*
   The Permitees have indicated that the fence is for security and their full enjoyment of the access easement.

4. *The Access Road in question is a fire access road to the appellant's property*
   The appellant has provided a site plan that indicates that the road is required for fire access to the appellant's property, but the appellant has not provided evidence for Cal Fire that their access has been impeded through the construction of the fence.

5. *That there is an implied easement for the access road*
   See item 2

6. *The City has not processed the Appellant's utility easement*
   The Appellant is currently working with staff on the easement.

7. *The fence was not constructed in accordance with the Special Encroachment Agreement*
   Based on field observations, it is staff's opinion that the fence was constructed in substantial conformance with the approved special encroachment agreement.

8. *The fence does not address wildlife access*
   The City of Morro Bay does not have permitting authority outside the City limits. It is the responsibility of the Permitee to ensure that they have met all the County permitting requirements.

The City has received additional correspondence from the Appellant regarding access to the garbage and propane facilities and they are also attached.

CONCLUSION

The Permittee requested of the City, permission to install a fence along an easement that they have a well-established right to use for access. The City made an administrative decision to allow the installation of the fence. The Appellant appealed that administrative decision for a number of reasons, but all relate to their assertion regarding implied or perhaps prescriptive easement rights. Staff has found nothing on record that granted the Appellant any rights to the

staff portion of the City's "Flag Lot" and therefore recommend that the City Council deny the appeal and uphold staff's decision to authorize the installation of a fence on a City owned parcel.

ATTACHMENTS

1. Vicinity Map
2. Special Encroachment Agreement SPE-110
3. Doc # 1998-079161 – Easement Agreement
4. Appeal Form with Exhibits
5. Miscellaneous Correspondence
6. Site Photos Taken 10-3-2013

ATTACHMENT 1

Google Earth Pro

feet 700

meters 200

Recording Requested by:
Michael and Carrie Burton
459 Chorro Creek Road
Morro Bay, CA 93442

When recorded return to:
City of Morro Bay
Public Works Depart.
955 Shasta Avenue
Morro Bay CA 93442

CITY OF MORRO BAY

State of California

SPECIAL ENCROACHMENT PERMIT AGREEMENT

NO. SPE-110

1. Applicant, hereinafter referred to as PERMITTEE, wishes to construct a structure on City property shown in Exhibit "A" and described as:

LOTS 4 AND 5 OF MANFORD BROWN LITTLE RANCHES, IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF, RECORDED MARCH 18, 1927 IN BOOK 3, PAGE 90 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

Parcel 1 of 2515 O.R. 933 A.P.N. 073-131-017 City of Morro Bay
Parcel 2 of 2514 O.R. 933 A.P.N. 073-131-017 City of Morro Bay

2. The property referred to herein is situated in the County of San Luis Obispo, State of California, and is more particularly described as Lot(s) 4 & 5, Book 3 page 90 of Manford Brown Little Ranches, in the County of San Luis Obispo, State of California, as shown on a map thereof recorded August 29, 1983, in Volume/Book 2515 of Page 933, San Luis Obispo County Records and further designated as A.P.N. 017-131-017 in the office of the San Luis Obispo County Assessor.

(If the property is described by metes and bounds, attach a copy of the description, taken from a recorded agreement, deed or a policy of title insurance.)

3. In consideration of PERMITTEE agreement to the following, City grants PERMITTEE the right to construct said structure.

(a) PERMITTEE, as an express and material term of the City's issuance of this permit, agrees to indemnify and hold harmless the City, its officers, employees and agents from any and all claims, demands causes of action, losses or other liabilities for damage, whether to person or property, whatsoever arising out of or related to the permitted encroachment. PERMITTEE further agrees to indemnify and hold harmless the City, its officers, employees and agents for any injury to persons or property occasioned by reason of or arising out of the acts omissions of PERMITTEE, his/her/its agents, employees, contractors and subcontractors and/or any other person or entity performing work authorized by this permit. It is the intent of this condition that PERMITTEE shall be responsible for all liability for design and construction of the improvements installed or work done pursuant to this Permit and the City, its officers, employees and agents shall not be liable for any negligence, whether active or passive in nature, including but not limited to approving, reviewing, of inspecting any work or construction arising from this Permit. Specifically excluded from this material term to indemnify the City is any dispute that may arise between the City, Roandoak of God and the PERMITEE.

(b) PERMITTEE, as an express and material term of City's issuance of this Permit, agrees to defend, at its sole expense, the City, its officers, employees and agents from and against any and all claims, demands, causes of action, losses or other liabilities for any damage, whether to person or property, whatsoever arising out of or related to the permitted encroachment. PERMITTEE's duty to defend shall apply to the City, its officers, employees and agents for any injury to person or property arising out of the acts or omissions of PERMITTEE, his/her/its agents, employees, contractors and subcontractors and/or any other person or entity performing work authorized by this permit. Specifically excluded from this material term to defend the City is any dispute that may arise between the City, Roandoak of God and the PERMITEE.

(c) PERMITTEE agrees to maintain said structure in a safe condition. In the event PERMITTEE fails to maintain said structure in a safe condition or fails to immediately remove any obstruction or correct an existing unsafe condition on said structure, PERMITTEE agrees and understands that City may, at its option, repair said structure or remove the structure. PERMITTEE further agrees to pay City the cost of such removal or repair including collection costs and Attorneys fee costs, if any.

(d) PERMITTEE agrees to construct PERMITTEE structure in such a way as not to unduly interfere with access to existing City utilities.

(e) PERMITTEE agrees that in the event of any controversy, claim or dispute arising out of or relating to this Permit or violation of any covenant contained herein, the prevailing party shall be entitled to receive from losing party reasonable expenses, including attorney's fees and costs.

(f) PERMITTEE agrees that the Director of Public Services or City Engineer may, either at the time of the issuance of this permit or any time thereafter prescribe such additional conditions as he/she may deem necessary for the protection of the City property or to ensure public safety.

5. PERMITTEE agrees that City may revoke this agreement at any time, if necessary for any City purpose, and further agrees that any and all costs associated in the proper removal of structure and restoration of property shall be borne by the PERMITTEE.

6. This agreement binds the heirs, successors, and assigns of the parties and the parties consent to the recording of this document.

Signed this _____ day of _____ 20____

PERMITTEE(S) OF RECORD

Signature: _____
Print/Type Name: Michael Burton
Tel. No. (805) 771-8188

Address: 459 Chorro Creek Road
Morro Bay, Ca. 93442

Signature: _____
Print/Type Name: Carrie Burton
Tel. No. (805) 771-8188

Address: 459 Chorro Creek Road
Morro Bay, Ca. 93442

State of California
County of _____

On _____ before me, _____, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature_____(Seal)

State of California
County of _____

On _____ before me, _____, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature_____(Seal)

PERMISSION IS HEREBY GRANTED the PERMITTEE to erect and maintain structure(s) at the subject location in accordance with the approved plans and specifications submitted therefore, and also subject to the terms and conditions contained in this agreement.

Date: August 27, 2013

CITY OF MORRO BAY
Public Services Department

By: _____
Rob Livick
Public Services Director

STATE OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO
CITY OF MORRO BAY

On Rob Livick before me, Jamie Boucher, City Clerk for the City of Morro Bay personally appeared Rob Livick who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature _____ (Seal)

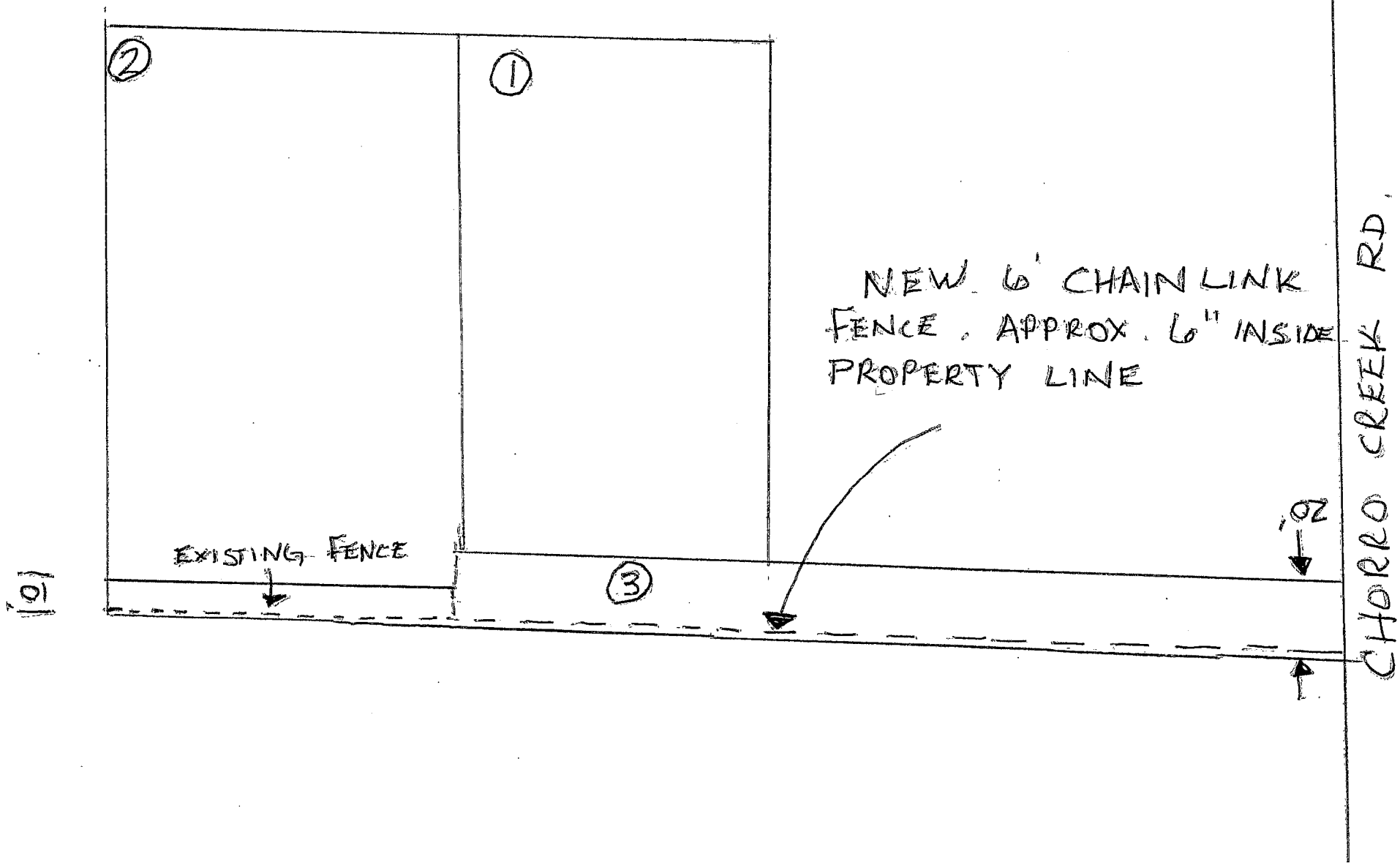
ATTACHMENT 2

Exhibit "A"

① BURTONS APN 073-131-018

② CITY APN 073-131-017

③ CITY APN 073-131-017



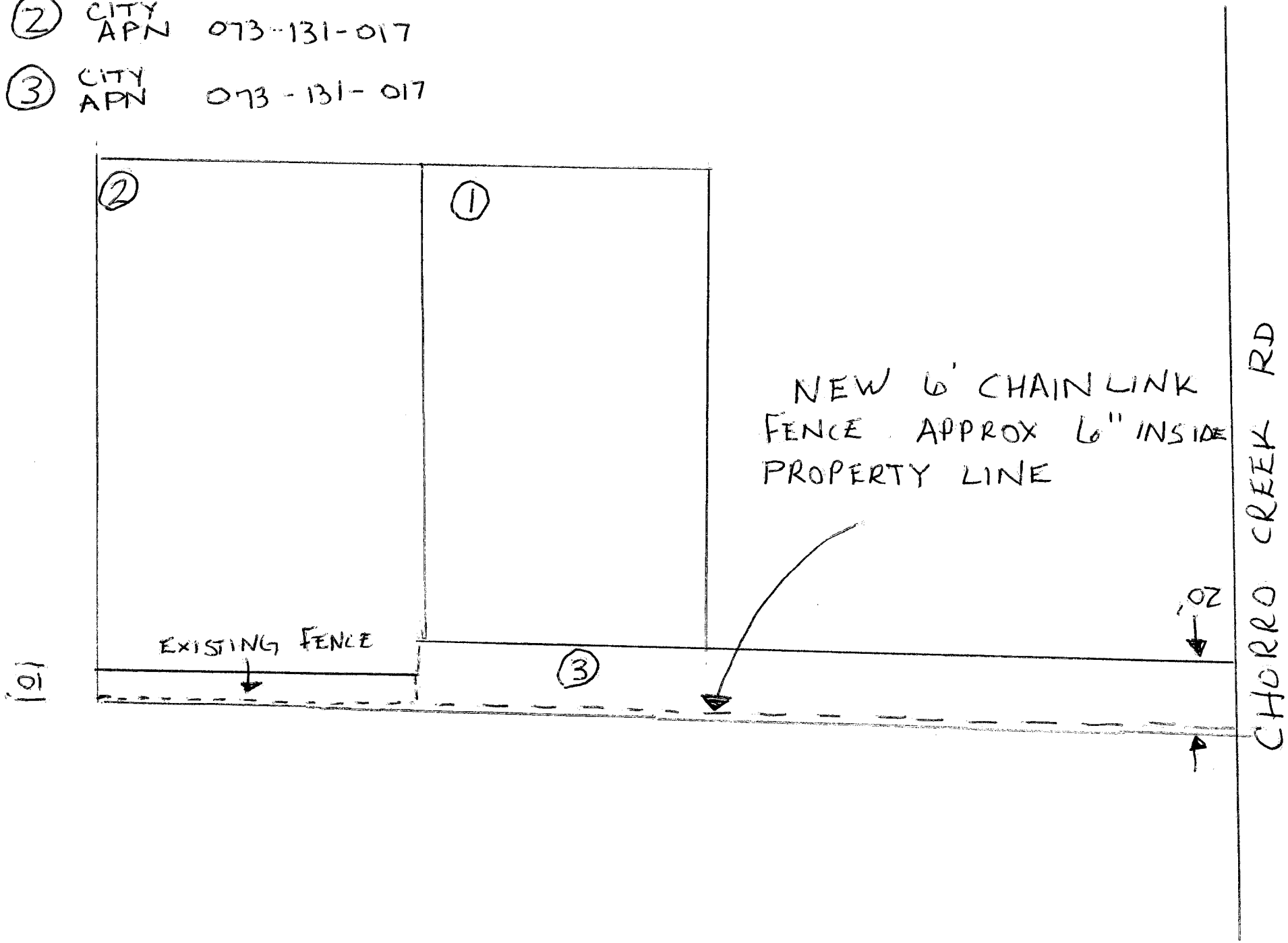
ATTACHMENT 2

Exhibit "A"

① BURTONS APN 073-131-018

② CITY APN 073-131-017

③ CITY APN 073-131-017



1998

RECORDING REQUESTED BY
FIDELITY NATIONAL TITLE

(Recording requested by) and when recorded return to:

CITY OF MORRO BAY
595 Harbor Street
Morro Bay, CA 93442
805/772-6261

Doc No: 1998-079161

Rpt No: 00099007

Official Records
San Luis Obispo Co.
Julie L. Rodewald
Recorder
Nov 25, 1998
Time: 16:07

[6]

RF -1	22.00
TOTAL	22.00

SPACE ABOVE THIS LINE FOR RECORDER'S USE

079161

EASEMENT AGREEMENT

This Agreement is entered into on November 23, 1998 by and between The City of Morro Bay, hereinafter referred to as "Grantor," and Federal National Mortgage Association, hereinafter referred to as "Grantee."

1. Grantor is the owner of certain real property situated in the County of San Luis Obispo, State of California, (hereafter referred to as the "Servient Tenement") and more particularly described as follows: A.P.N. 073-131-017 by deed recorded August 29, 1983 in Book 2515, Page 933 of Official Records.

2. Grantee is the owner of certain real property situated in the County of San Luis Obispo, State of California, (hereafter referred to as the "Dominant Tenement"), and more particularly described as follows: A.P.N. 073-131-018.

3. Grantee desires to acquire certain rights in the Servient Tenement.

4. In consideration for the sum of ten dollars ($10.00) payable by Grantee to Grantor, Grantor grants to Grantee an easement, subject to the terms of this Agreement.

5. This easement is appurtenant to the Dominant Tenement.

6. The easement granted in this Agreement is an easement for ingress and egress over and across Parcel 2 of the Servient Tenement as attached to this Easement

1998 0791161

Agreement. This easement shall be used solely for road purposes by Grantee and Grantee's heirs and assigns. For purposes of this Agreement "ingress and egress" means use for and by moving vehicular traffic for any purpose connected with the use of the Dominant Tenement. This right of ingress and egress does not include parking. No parking shall be permitted on the Servient Tenement.

7. The easement granted in this Agreement shall be for and will continue for so long as it is used for the purposes described above.

8. Grantee's use of the easement granted in this Agreement shall be exclusive. Notwithstanding the terms of this provision, Grantor reserves the right to use the Servient Tenement in a manner consistent with Grantee's free use and enjoyment of the easement.

9. Grantee and Grantee's heirs and assigns shall maintain the easement in good repair, at Grantee's sole cost and expense.

10. The Grantee and Grantee's heirs shall defend, indemnify and save harmless Grantor, its officers, agents and employees from any and all claims, demands, damages, costs, expenses, or liability occasioned by the performance and attempted performance of these provisions hereof, or in any way arising out of or related to this Agreement, including, but not limited to, inverse condemnation, equitable relief or any wrongful act or any negligent act or omission to act on the part of the Grantee or Grantee's heirs, agents, employees, or independent contractors directly responsible to the Grantee or Grantee's heirs, providing further that the foregoing shall apply to any wrongful acts, or any activity or passively negligent acts or omission to Grantee's agents, employees or independent contractors. Nothing contained in the foregoing indemnity provisions shall be construed to require the Grantee to indemnify the City against any responsibility or liability in contravention of Section 2782 of the Civil Code.

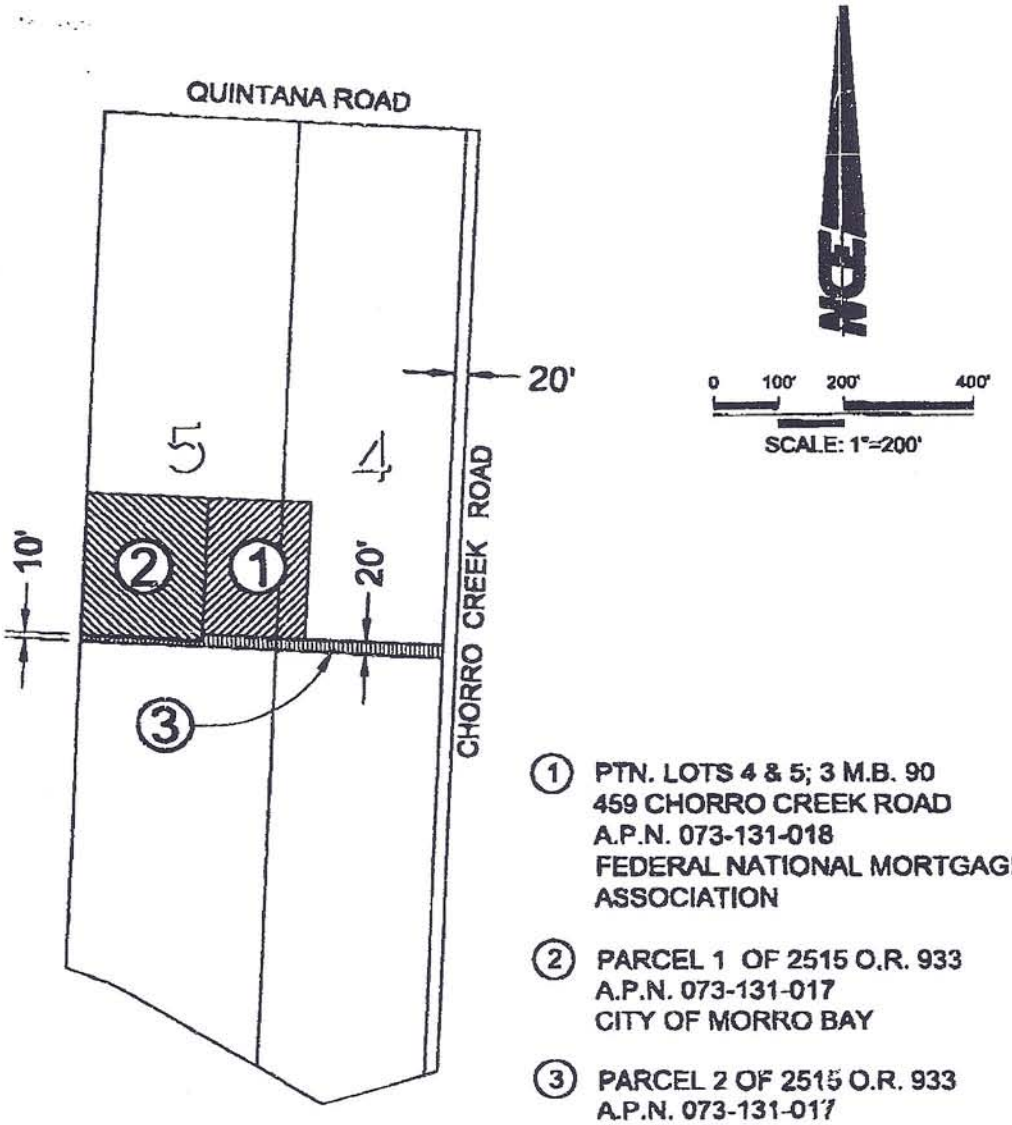
1998
0791161

11. If any legal action or proceeding arising out of or relating to this Agreement is brought by either party to this Agreement, the prevailing party shall be entitled to receive from the other party, in addition to any other relief that may be granted, the reasonable attorneys' fees, costs and expenses incurred in the action or proceeding by the prevailing party.

12. This Agreement constitutes the entire agreement between Grantor and Grantee relating to the above easement. Any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by the Grantor and Grantee.

City of Morro Bay, Grantor

Jerry Sattler
Vice President
Federal National Mortgage Association, Grantee



① PTN. LOTS 4 & 5; 3 M.B. 90
459 CHORRO CREEK ROAD
A.P.N. 073-131-018
FEDERAL NATIONAL MORTGAGE ASSOCIATION

② PARCEL 1 OF 2515 O.R. 933
A.P.N. 073-131-017
CITY OF MORRO BAY

③ PARCEL 2 OF 2515 O.R. 933
A.P.N. 073-131-017
CITY OF MORRO BAY

1998-0079161

1998

0791161

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN LUIS OBISPO)

On November 23, 1998, before me, Bridgett Bauer, City Clerk for the City of Morro Bay, personally appeared Cathy Novak, Mayor for the City of Morro Bay, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Bridgett Bauer

Bridgett Bauer, City Clerk
City of Morro Bay, California

CITY OF MORRO BAY INCORPORATED JULY 17 1963

1998 0791 61

ALL-PURPOSE ACKNOWLEDGMENT

State of ~~California~~ TEXAS
County of Dallas } ss.

On 11-24-98 (DATE) before me, Stacey Parker (NOTARY), Jerry Sattler

personally appeared _____ SIGNER(S)

☒ personally known to me - OR- ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

STACEY PARKER
Notary Public, State of Texas
My Commission Expires 06-25-02

WITNESS my hand and official seal.

_____
NOTARY'S SIGNATURE

OPTIONAL INFORMATION

The information below is not required by law. However, it could prevent fraudulent attachment of this acknowledgment to an unauthorized document.

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

☐ INDIVIDUAL
☐ CORPORATE OFFICER

_____ TITLE(S)

☐ PARTNER(S)
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____ TITLE OR TYPE OF DOCUMENT

_____ NUMBER OF PAGES

_____ DATE OF DOCUMENT

_____ OTHER

APA 1/94 VALLEY-SIERRA, 800-362-3369

END OF DOCUMENT

ATTACHMENT 4

RECEIVED

SEP 05 2013

City of Morro Bay
Public Services Department

CITY OF MORRO BAY

Public Services Department
Planning Division

955 Shasta Avenue
Morro Bay, CA 93442
(805) 772-6577

APPEAL FORM

In CCC Appeals Jurisdiction?

☐ YES – *No Fee*
☐ NO – *Fee Paid:* ☐Yes ☐No

Project Address being appealed: Parcel 1 of 2515 O.R. 933 APN 073-131-017; Parcel 2 of 2514 933 APN 073-131-017

Appeal from the decision or action of (governing body or City officer):

■ Administrative Decision ☐ Planning Commission ☐ City Council

Appeal of action or specific condition of approval:

Appeal of issuance of encroachment permit to Mike Burton and Carrie Burton to obstruct the fire access road by building a fence, which blocks access between Parcels 1 and 2 belonging to Roandoak of God

Permit number and type being appealed (ie. coastal permit, use permit, tentative subdivision):
No. SPE-110 Special Encroachment Permit

Date decision or action rendered: August 28, 2013

Grounds for the appeal (attach additional sheets as necessary):

See attachment

Requested relief or action:

Revocation of permit and immediate removal of fence; recovery of attorney fees and costs; restoration of roadway with remediation of postholes.

Appellant (please print):	Phone:
Joseph Goodwin	805-440-2217

Address:
445 Chorro Creek Road

Appellant Signature: _____ **Date:** Sept 5 2013

FOR OFFICE USE ONLY

Accepted by:	Date appeal filed:
Appeal body:	Date of appeal hearing:

ATTACHMENT TO APPEAL
PERMIT NUMBER SPE-110

1. EXHIBIT A which is attached to the permit is false and misleading in that it shows the proposed fence as an extension of an existing fence. In actuality, the existing fence is on the other side of the street from the proposed fencing. Please see photographs attached hereto as Exhibit 1, and the accompanying declaration of Stuart McElhinney. These photographs were taken from the property of the appellant, as well as from Chorro Creek Road, and were taken on Thursday, August 29, and Friday, August 30, 2013. It is clear that the only fence on the south side of the easement road is the new fencing placed by the Permittee. Attached hereto as Exhibit 2 is a true and correct copy of a Google Earth photograph of the subject properties, with markings added as indicated.

2. Permittees have no right to block this access road. The deed under which they took title to their property granted them a **"NON-EXCLUSIVE EASEMENT"** across the property owned by the City of Morro Bay. A true and correct copy of the deed, recorded on or about July 16, 2004, is attached hereto as Exhibit 3. This road has been consistently designated as a shared access road for the parcels adjacent to it according to all county maps, and including permits issued by the county for construction on the Roandoak of God property. See the "Reactivation of Previous Permit" attached hereto as Exhibit 4.

3. This fence serves no legitimate purpose. The Permittees' property is already fully fenced. There is no function for this fence that benefits Permittees, other than preventing Appellant easy access to Parcel 2 of his property, and also to deny Appellant access to his fire hydrants and water tanks, and to deny access to the garbage collectors and propane delivery servicers. These are not legitimate purposes. Because of the installation of the fence last week, garbage collection on September 3, 2013, was only possible due to the dry conditions of the ground. Unless and until the fence is removed, Appellant will be forced to keep the garbage receptacle in the front visitors' parking lot. Since access to Appellant's Parcel 2 has been compromised by the fence, there is essentially no place for visitors to park and easily walk to the main building. The building now has issues with accessibility, solely due to the construction of the fence.
In fact, Permittees left a large gap in the fence between the initial post near Chorro Creek Road and the first section of chain link. This gap is used by Permittee to make the wide turns needed by Permittee to move his construction vehicles on and off his residential property where they are currently being stored. Permittee is trespassing onto both Parcel 1 and Parcel 2 of Appellant's property in order to make the turns. This gap clearly illustrates the lack of legitimate purpose for the fence.

4. In the permitting process for Appellant's upgrade of the Roandoak of God property, in 2006, and in 2009, this road is designated as a fire access road, and this fence completely blocks that access. There is no other guaranteed access, as the only other road to the residential area of the property is narrow and is frequently blocked by delivery trucks. True and correct copies of the documents referred to in this paragraph are attached hereto as Exhibit 5.

5. At the time the property was given to the City of Morro Bay by the Ashursts, in 1983, residents of Roandoak habitually used the access road for ingress and egress to the property, and to access the adjacent Parcel 2. The access road was also habitually used for other services, such as trash collection and propane delivery. When the current Presiding Apostle, Joseph Goodwin, began rehabilitating and cleaning the property in 2002-2003, thousands of pounds of scrap metal and trash were removed from the property via this road. In addition to its designation as a fire access road by CAL FIRE, and under the county permitting process, habitual use of the roadway has continued, openly and unabated, in the same manner from the date of the gift, until access was blocked by the Permittees on August 29 and 30, 2013. California law provides that an easement may be created by implication, when the grantor of property seeks to continue habitual use of the granted tenement. California Civil Code § 1104 provides:

> *A transfer of real property passes all easements attached thereto*, and creates in favor thereof an easement to use other real property of the person whose estate is transferred in the same manner and to the same extent as such property was obviously and permanently used by the person whose estate is transferred, for the benefit thereof, at the time when the transfer was agreed upon or completed. (Emphasis added)

The Ashurst transfer of the property on which the access road lies to the City of Morro Bay in 1983 was made, the adjacent parcels had been using the access road in an open and obvious manner since at least 1965, to the personal knowledge of Appellant, and its use continued uninterrupted and unabated until the installation of the Permittees' fence last week. Although Permittees have attempted through various maneuvers to assert ownership of the easement exclusive of Appellant, they lived with the daily use of the road for more than 5 years without giving notice of their assertions and without objections, until they recorded a "Notice of Consent to Use" on or about April 25, 2013, nearly 9 years after they purchased their property and the non-exclusive easement conveyed to them by their predecessor.

In *Muzzi v. Bel Air Mart,* 171 Cal. App. 4th 456 (2009), the court reviewed the elements of an implied easement, at p. 467:

> "An easement will be implied when, at the time of conveyance of property, the following conditions exist: 1) the owner of property conveys or transfers a portion of that property to another; 2) the owner's prior existing use of the property was of a nature that the parties must have intended or believed that the use would continue; meaning that the existing use must either have been known to the grantor and the grantee, or have been so obviously and apparently permanent that the parties should have known of the use; and 3) the easement is reasonably necessary to the use and benefit of the quasi-dominant tenement." (Tusher v. Gabrielsen (1998) 68 Cal.App.4th 131, 141 [80 Cal.Rptr.2d 126]; see also Civ. Code, § 1104.) "An implied easement is `based on the theory that whenever someone conveys property, he includes or intends to include in

> the conveyance whatever is necessary for its beneficial use and enjoyment and to retain whatever is necessary for the use and enjoyment of the land retained.' [Citation.]" (Larsson v. Grabach (2004) 121 Cal.App.4th 1147, 1152 [18 Cal.Rptr.3d 136].

Although the Appellate Court in *Muzzi* did not find facts to support an implied easement in that case, in this matter the facts clearly do support an implied easement for use of the access road by the Appellant: The prior use dates back more than 40 years; the prior uses continued for over 8 years without Permittees' objection; the use was obvious and apparent; the use by Appellant is necessary to the beneficial use of his property. The City of Morro Bay has now created conflicting rights to the road, allowing it to be fenced, yet being obligated, as set forth in Paragraph 6, below, to allow Roandoak of God a utility easement across the road. In addition, Robert Ashurst clearly transferred the road to the City subject to its then-current and since continuous use as a point of access for the Roandoak property.

6. The City of Morro Bay entered into an Agreement with Appellant on November 9, 2010, under the terms of which Appellant was granted an easement across the access road from Appellant's Parcel 1 to Appellant's Parcel 2. No deed of easement was provided to Appellant, although a demand therefor was made on or about May 29, 2013, by Appellant's attorney. Appellant's professional consultant, Cathy Novak, was told by City Attorney Shultz that he would sign a deed of easement if one were provided by Appellant. However, any such easement is now blocked by the fence, which is already largely constructed across the road, as of August 30, 2013. Thus, despite having a prior right to a so-called "utility easement," access has been terminated by Permittees' construction.

7. EXHIBIT A to the Permit shows the intended fence to be installed "about 6 inches" inside the property line. However, it appears that this fence has been constructed exactly on the property line, which means that it apparently encroaches onto the Appellant's property, and also, that it does not comply with the terms of the Permit. No survey was done, either before or after installation of the fence, and, therefore, the actual placement cannot be verified. However, from the existing pins, it does not appear that there is any setback from the property line whatsoever. For this reason, also, this permit should be revoked, and Permittee required to remove the encroachment and repair the roadway to its original condition. Despite the lack of accurate survey information, it would appear that this fence reduces the access to below 20', which makes it out of compliance with fire access regulations for a two-way residential fire access road.

8. Permittees' fence was installed without addressing the issue of access by wildlife across the adjacent properties, and the fence in fact acts as a barrier to endangered red foxes and wild turkeys.

9. In summary, Appellant seeks to have this permit revoked, and to have the Permittees remove the fence and restore the access road for the following reasons:

a. Permittees have wrongfully asserted an "exclusive easement" to the road, which is belied by their deed; the historic, ongoing, and open use of the road; and the granting of a utility easement across the road by the City.

b. Permittees misstated the conditions along the road, in that they failed to disclose that their residential property was already fully enclosed by fencing; they mistakenly provided a diagram showing existing fence along the access road, which did not in fact exist; and they failed to comply with their own diagram by apparently placing the fencing on, rather than 6 inches inside, the property line, thereby encroaching on Appellant's property without right or permission.

c. The access road has been historically and consistently treated as a necessary access way for public safety for Appellant's property. It now appears to be less than the legally required 20 feet in width for emergency access, not only to Appellant's property, but also to Permittees' property. It was considered an access way by the County building department, as well as by CAL FIRE. Appellant's water tanks and fire hydrant were placed under the direction of CAL FIRE in reliance upon that access way, but are no longer accessible, due to the fence.

d. This fence serves no legitimate purpose for Permittees, and imposes a substantial burden on Appellant.

EXHIBIT 1

DECLARATION OF STUART MCELHINNEY

I, Stuart McElhinney, declare under penalty of perjury that the following is true of my own knowledge, and that if called as a witness, I could competently testify thereto:

1. The pictures accompanying this Declaration were taken by me on August 29 and August 30, 2013, and accurately represent the properties as they appeared on those dates.

2. The pictures were taken from property belonging to Roandoak of God and from the public road known as Chorro Creek Road.

3. The photograph marked "View 1" depicts the subject access road prior to the construction of the disputed fence. The view is from Parcel 1 of Roandoak of God, looking in an easterly direction.

4. The photograph marked "View 2" depicts the subject access road, prior to construction of the fence, taken from Chorro Creek Road, looking in a westerly direction. The yellow cord used by the Permittees for the fence line can be seen in the lower portion of the photograph. The existing fence surrounding the Permittees' property can be clearly seen in the background, on the right side of the photograph.

5. "View 3" depicts the markers and sign put up by Permittees to obstruct the access road. Again, the yellow cord is visible at the extreme edge of the road bed. The main building of Roandoak of God is visible in the background.

6. "View 4" depicts the westerly termination of the construction site, with the Burtons' property and their existing fence line in the background. It is clear from this photograph that no fence exists on the southern side of the access road prior to the construction of the new fence. This photograph was taken from the Roandoak of God property, facing north.

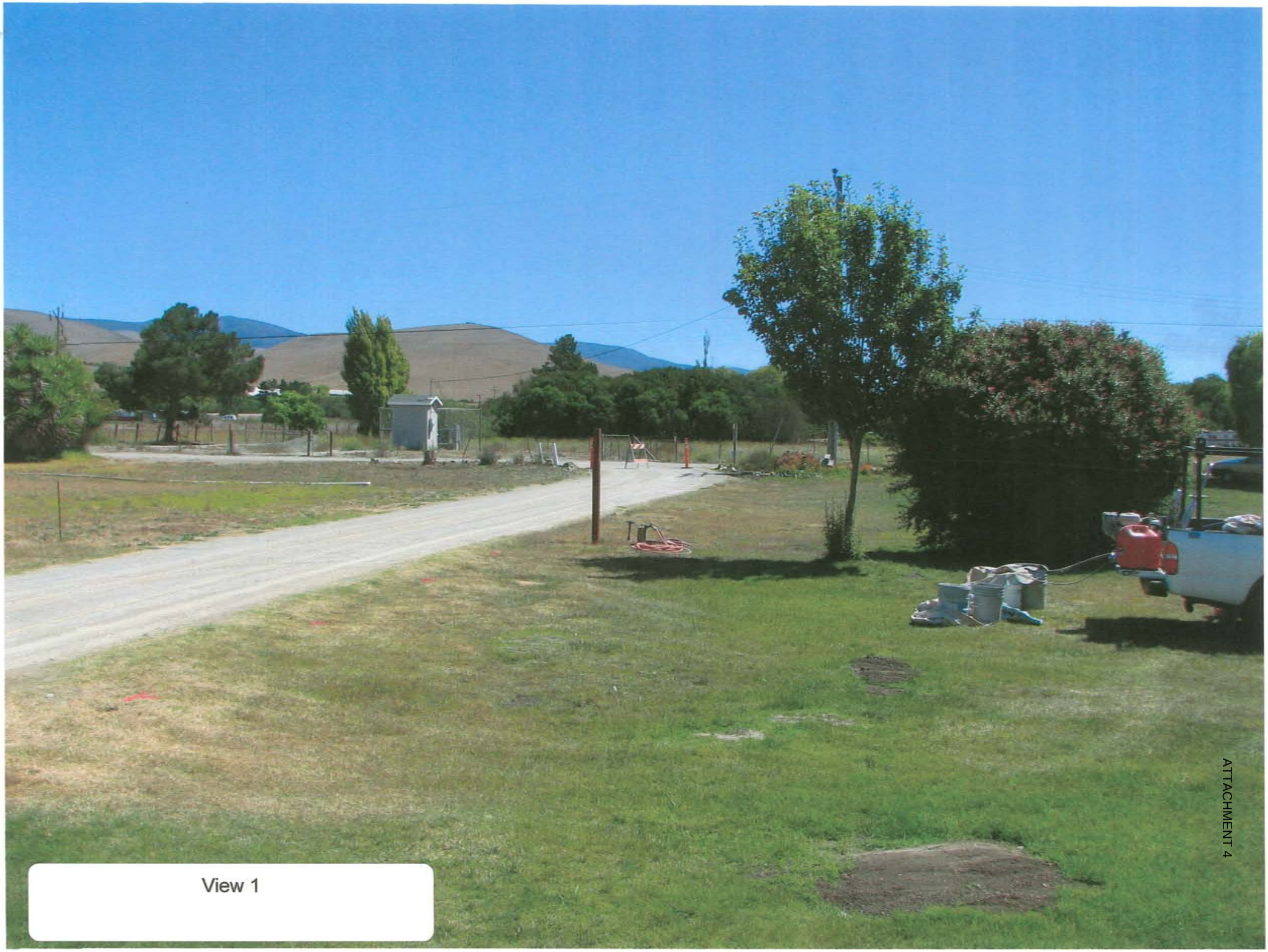
7. "View 5" depicts a construction worker standing on Appellant's property, without permission, guiding the drill which was used to make post holes. The yellow marking cord is visible in this picture, pushed out of the way by the worker.

8. "View 6" depicts the drilling of holes, which appear to be at best on the property line. Again, the worker appears to be standing on Roandoak of God property, also without permission of the Appellant.

9. "View 7" depicts the completed fence, butting up to Appellant's property. In this view, it can be seen that the fence completely obstruct access from the fire access road to Appellant's existing emergency fire hydrant and water storage tanks. The hydrant is clearly visible in this photograph, which was taken from Appellant's property, looking in a generally westerly direction.

Executed on September 5, 2013, at Morro Bay, California.

Stuart McElhinney



View 1

ATTACHMENT 4

View 2

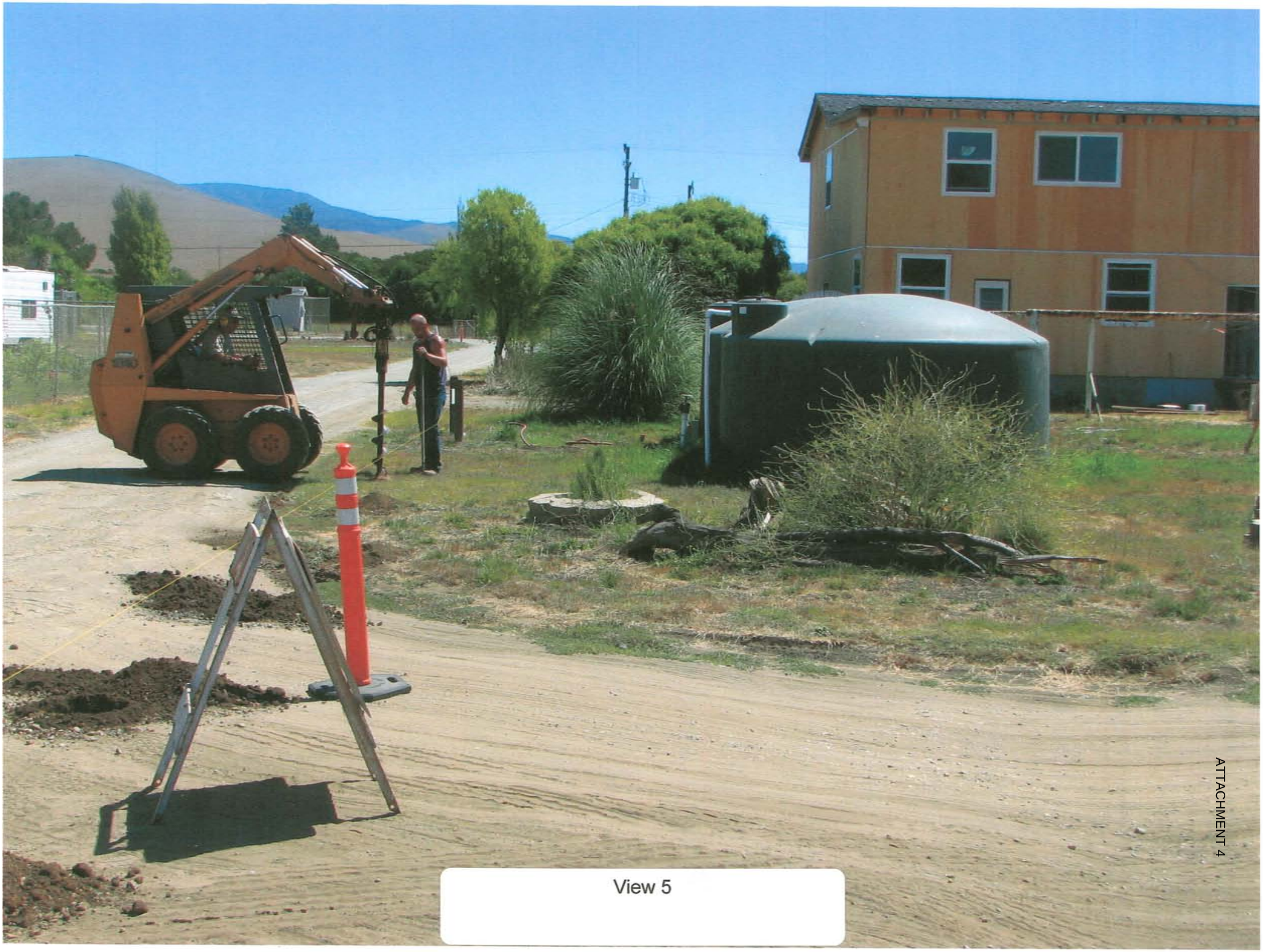
ATTACHMENT 4

View 3

ATTACHMENT 4

View 4

ATTACHMENT 4

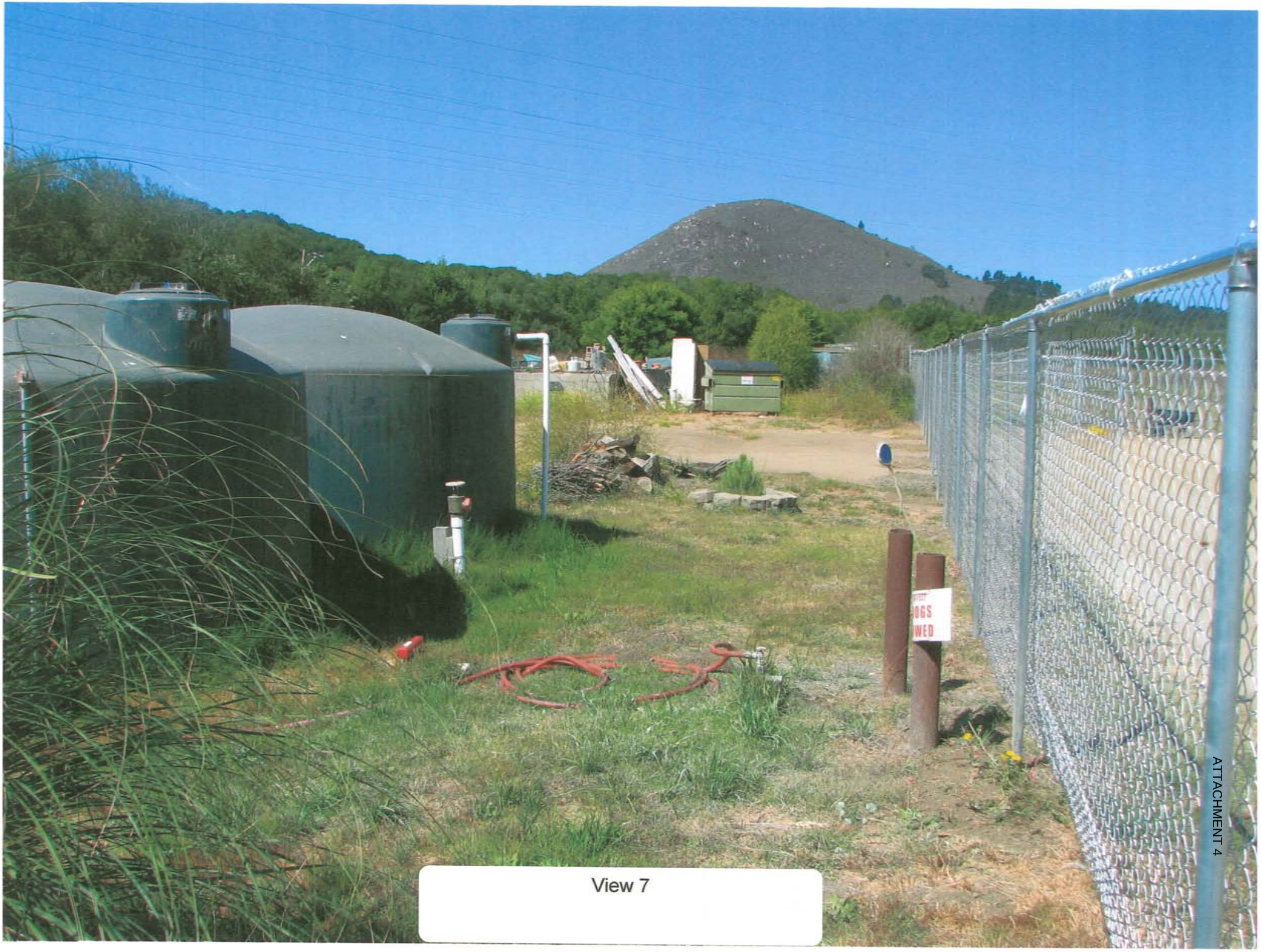


View 5

ATTACHMENT 4

View 6

ATTACHMENT 4



View 7

ATTACHMENT 4

EXHIBIT 2

— = Existing fence (prior to 8/27/13)
xxx = Fence shown on Exhibit A to permit – did not exist prior to 8/27/13

ooo = New fence
8/29 + 30/2013: All on or over property line

EXHIBIT 3

ATTACHMENT 4

RECORDING REQUESTED BY
CHICAGO TITLE COMPANY
AND WHEN RECORDED MAIL TO

MIKE BURTON
401 San Joaquin
Morro Bay, CA 93442

JULIE RODEWALD
San Luis Obispo County – Clerk/Recorder

NR
7/16/2004
8:00 AM

Recorded at the request of
Chicago Title Company

DOC#: 2004062475

Titles: 1 Pages: 2

Fees	10.00
Taxes	715.00
Others	10.00
PAID	$735.00

Escrow No. 278938 - BA
Order No. 278938 - REB

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

APN#073-131-018

SURVEY MONUMENT FEE $10.00

THE UNDERSIGNED GRANTOR(S) DECLARE(S)
DOCUMENTARY TRANSFER TAX IS 715.00
[X] unincorporated area [X] ~~City of Morro Bay~~
[X] computed on the full value of the interest or property conveyed, or is
[ ] computed on the full value less the value of liens or encumbrances remaining at time of sale, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
Annette LeDuc, a single woman

FILED	FEE PAID	EXEMPT	OUT OF STATE

hereby GRANT(S) to
MIKE BURTON and CARRIE BURTON, husband and wife as joint tenants

the following described real property in the ~~City of Morro Bay~~
County of San Luis Obispo, State of California:
LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

Dated May 27, 2004

ANNETTE LE DUC

STATE OF CALIFORNIA
COUNTY OF San Luis Obispo } SS.
On JUNE 01, 2004 before me,
the undersigned
a Notary Public in and for said County and State, personally appeared
ANNETTE LE DUC

~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person~~(s)~~ whose name~~(s)~~ is~~/are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she ~~/they~~ executed the same in ~~his~~/her ~~/their~~ authorized capacity~~(ies)~~, and that by ~~his~~/her ~~/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary

12/12/06
Date My Commission Expires

MARIA CARRILLO
COMM. #1384350
NOTARY PUBLIC - CALIFORNIA
SAN LUIS OBISPO COUNTY
My Comm. Expires Dec 12, 2006

FOR NOTARY SEAL OR STAMP

MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE: IF NO PARTY SO SHOWN, MAIL AS DIRECTED ABOVE
same as return address shown above
Name | Street Address | City, State & Zip

GD1 –05/30/97bk

Escrow No. 278938 -BA

LEGAL DESCRIPTION EXHIBIT

PARCEL 1:

That portion of Lots 4 and 5 of Manford Brown Little Ranches, in the County of San Luis Obispo, State of California, according to map recorded March 18, 1927 in Book 3 at page 90 of Maps, in the Office of the County Recorder of said County, described as follows:

Beginning at a point, South 3° 01′ West 617.42 feet; thence South 86° 59′ East, 187.84 feet from the Northwest corner of said Lot 5, the Point of Beginning; thence South 3° 01′ West, 222 feet; thence South 86° 59′ East, 160 feet; thence North 3° 01′ East 222 feet; thence North 86° 59′ West 160 feet to the Point of Beginning.

PARCEL 2:

A non-exclusive easement for ingress and egress and incidental purposes over the following parcel of land:

That portion of Lots 4 and 5 of Manford Brown Little Ranches, in the County of San Luis Obispo, State of California, according to map recorded March 18, 1927 in Book 3 at page 90 of Maps, in the Office of the County Recorder of said County, described as follows:

Beginning at a point from the Northeast corner of said Lot 4, which bears South 3° 01′ West, 857.05 feet and North 86° 59′ West 20 feet; thence North 3° 01′ East 20 feet along the road right of way along the East line of Lot 4; thence North 86° 59′ West, 375.66 feet to a point of intersection of the East line of property recorded to Robert N. Ashurst, September 26, 1960 in Book 1085 at page 447 of Official Records; thence South 3° 01′ West, 10 feet along said property line to the Southeast corner of this property; thence North 86° 59′ West 187.84 feet to intersect with the West line of Lot 5 of Manford Brown Little Ranches; thence South 3° 01′ West 10 feet along said line of Lot 5; thence South 86° 59′ East 563.50 feet to the Point of Beginning.

Said easement is appurtenant to and for the benefit of the heirs and successors in interest of Parcel 1 described herein.

PARCEL 3:

A non-exclusive easement for ingress and egress and incidental purposes over the following parcel of land:

That portion of Lot 4 of Manford Brown Little Ranches, in the County of San Luis Obispo, State of California, according to map recorded March 18, 1927 in Book 3 at page 90 of Maps, in the Office of the County Recorder of said County, described as follows:

A 20 foot wide strip along the East line of said Lot 4, extending Northerly from a point which bears South 3° 01′ West 857.05 feet from the Northeast corner of said Lot 4 to the San Luis Obispo and Cambria Public Road.

Assessor's Parcel No. 073-131-018

END OF DOCUMENT

EXHIBIT 4

ATTACHMENT 4

CDF-San Luis Obispo County / Pismo Beach Fire Department
Fire and Life Safety Inspection Form

Business Name: Chorro Creek Ranch	**Business License:**	**Date:** 10/9/06
Property Address: 455 Chorro Creek Rd	**Contact:** Joseph Goodwin (805) 440-2217	**Inspector:** Chad Britton
City: Morro Bay		**Fire Station:** Cayucos Sta. 11
Phone: (805) 772-5815		**Inspector's Phone:**
Note:		

OK	Needs Correction	Code Requirement
		EXTERIOR
☑		Access Road Unobstructed. (CFC 901.4.2)
☑		Fire-Protection Equipment and Fire Hydrants must be unobstructed and marked with a blue reflector. (CFC 901.4.3)
☑		Address and Unit numbers clearly marked. (CFC 901.4.4)
☑		Street and road signs must be marked with approved signs. (CFC 901.4.5)
☑		Fire Hydrants must be in working order. (CFC 903.4.1.2)
☐	Correction	Knox Box is Required (CFC 902.4) ✓ with Prevention 543-4244 (2123)
		EXIT WAYS
☑		Door must swing out when 50 or more people. Maximum 30 lbs. force. (CFC 1207.2)
☑		Exit doors must be openable from the inside without a key and special knowledge. Front door must have a sign which says "THIS DOOR MUST REMAIN UNLOCKED DURING BUSINESS HOURS" if uses a dead bolt. (CFC 1207.3)
☐	Fix/Repair	Panic Hardware must be installed for occupancies over 50 people. (CFC 1207.4)
☑		Exit Signs must be illuminated internally or externally. (CFC 1212.3)
☐	Fix/Repair	Occupancy Load Sign for occupancies over 50 people. (CFC 2501.16.1)
		FIRE EXTINGUISHERS
☐	~~Fix/Repair~~	Provide 2A 10BC every 75 feet of travel and 3000 sq. ft. (CFC 1002.1)
☑		Provide additional extinguisher(s). T-19 Sec. 567
☐	~~Fix/Repair~~	Provide a K extinguisher within 30 feet of kitchen. (CFC 1005.2.7)
☐	~~Fix/Repair~~	Mount extinguishers 3.5 to 5 feet above floor. (Title 19 563.7)
☐	~~Fix/Repair~~	Post a sign indicating location when not clearly visible.(CFC 1001.7.3)
		ELECTRICAL
☐	~~Fix/Repair~~	Extension Cords can not be used in lieu of fixed wiring. (CFC 8506.1)
☐	~~Fix/Repair~~	Replace cover plates over electrical outlets. (CFC 8504)
☑		Maintain a 30 inch clearance around electrical panels. (CFC 8509.2)
☐	~~Fix/Repair~~	Doors into electrical panel room must have a sign "ELECTRICAL ROOM" unless clearly evident. (CFC 8509.3)
		FIRE SEPARATIONS
☑		Maintain or repair interior fire-resistive walls and/or ceilings.(CFC 1112)
☐	N/A	Fire rated doors and openings shall be maintained as required. (CFC 1111.2.1)
☑		Remove wedges or any other approved means used to hold self-closing fire rated doors open. (CFC 111.2.2)
☐	N/A	Sliding and rolling fire doors shall be tested annually by the owner and a written record maintained.(CFC 1111.2.4)
		FIRE PROTECTION INSTALLATION
☐	N/A	Sprinkler and standpipe control valves shall be accessible and properly identified.(CFC1001.7.1)
☐	N/A	Sprinkler control valves shall be secured in open position. (CFC 1001.5)
☐	N/A	Replace damaged, corroded, or painted sprinkler heads. (CFC 1001.5.1)
☐	N/A	Storage shall be a minimum of 18 inches below sprinkler heads (36" for high pile storage). (CFC 1103.3.2.2)
☐	N/A	Provide spare sprinkler heads (6 minimum) and sprinkler wrench. (CFC1001.5)
☐	N/A	Sprinkler systems and standpipe systems shall be tested every 5 years with written records provided. (CFC 1001.5.2)
☐	N/A	Fire department connections shall be equipped with approved plugs and caps. (CFC 1001.5.1)
☐	N/A	Automatic fire alarm systems shall be maintained in operable condition with written records provided. (CFC 1001.5.1)
☐	N/A	Hood and duct fire extinguishing system shall be properly serviced every 6 months and after use. (CFC 1005.2.8)
☑		Clean grease filters and other exhaust hood and duct system appurtenances as necessary and keep a written record of maintenance. (CFC 1005.2.8)
☐	~~Fix/Repair~~	Smoke detectors shall be provided in dwelling units and sleeping rooms. (CFC 1006.2.9.3.2)
		GENERAL HOUSEKEEPING
☑		Oily rags and similar materials shall be stored in approved containers. (CFC 1103.2.1.3)
☑		Trash containers must be noncombustible with lids if exceed 40 gallons. (CFC 1103.2.1.4.1)
☑		Dumpsters shall not be stored n buildings or within 5 feet of unprotected combustible walls, openings, or roof eaves. (CFC 1103.2.2)
☑		Cut or uncut weeds, grass and other vegetation shall be removed when determined to be a fire hazard. (CFC 1103.2.4)
		STORAGE

	Correction	
		EXTERIOR ATTACHMENT 4
☑		Access Road Unobstructed. (CFC 901.4.2)
☑		Fire-Protection Equipment and Fire Hydrants must be unobstructed and marked with a blue reflector. (CFC 901.4.3)
☑		Address and Unit numbers clearly marked. (CFC 901.4.4)
☑		Street and road signs must be marked with approved signs. (CFC 901.4.5)
☑		Fire Hydrants must be in working order. (CFC 903.4.1.2)
☐	Correction	Knox Box is Required (CFC 902.4) ✓ with Prevention 543-4244 (2123)
		EXIT WAYS
☑		Door must swing out when 50 or more people. Maximum 30 lbs. force. (CFC 1207.2)
☑		Exit doors must be openable from the inside without a key and special knowledge. Front door must have a sign which says "THIS DOOR MUST REMAIN UNLOCKED DURING BUSINESS HOURS" if uses a dead bolt. (CFC 1207.3)
☐	Fix/Repair	Panic Hardware must be installed for occupancies over 50 people. (CFC 1207.4)
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		FIRE EXTINGUISHERS
☐	~~Fix/Repair~~	Provide 2A 10BC every 75 feet of travel and 3000 sq. ft. (CFC 1002.1)
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☐	~~Fix/Repair~~	Provide a K extinguisher within 30 feet of kitchen. (CFC 1005.2.7)
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☐	~~Fix/Repair~~	Replace cover plates over electrical outlets. (CFC 8504)
☑		Maintain a 30 inch clearance around electrical panels. (CFC 8509.2)
☐	~~Fix/Repair~~	Doors into electrical panel room must have a sign "ELECTRICAL ROOM" unless clearly evident. (CFC 8509.3)
		FIRE SEPARATIONS
☑		Maintain or repair interior fire-resistive walls and/or ceilings.(CFC 1112)
☐	N/A	Fire rated doors and openings shall be maintained as required. (CFC 1111.2.1)
☑		Remove wedges or any other approved means used to hold self-closing fire rated doors open. (CFC 111.2.2)
☐	N/A	Sliding and rolling fire doors shall be tested annually by the owner and a written record maintained.(CFC 1111.2.4)
		FIRE PROTECTION INSTALLATION
☐	N/A	Sprinkler and standpipe control valves shall be accessible and properly identified.(CFC1001.7.1)
☐	N/A	Sprinkler control valves shall be secured in open position. (CFC 1001.5)
☐	N/A	Replace damaged, corroded, or painted sprinkler heads. (CFC 1001.5.1)
☐	N/A	Storage shall be a minimum of 18 inches below sprinkler heads (36" for high pile storage). (CFC 1103.3.2.2)
☐	N/A	Provide spare sprinkler heads (6 minimum) and sprinkler wrench. (CFC1001.5)
☐	N/A	Sprinkler systems and standpipe systems shall be tested every 5 years with written records provided. (CFC 1001.5.2)
☐	N/A	Fire department connections shall be equipped with approved plugs and caps. (CFC 1001.5.1)
☐	N/A	Automatic fire alarm systems shall be maintained in operable condition with written records provided. (CFC 1001.5.1)
☐	N/A	Hood and duct fire extinguishing system shall be properly serviced every 6 months and after use. (CFC 1005.2.8)
☑		Clean grease filters and other exhaust hood and duct system appurtenances as necessary and keep a written record of maintenance. (CFC 1005.2.8)
☐	~~Fix/Repair~~	Smoke detectors shall be provided in dwelling units and sleeping rooms. (CFC 1006.2.9.3.2)
		GENERAL HOUSEKEEPING
☑		Oily rags and similar materials shall be stored in approved containers. (CFC 1103.2.1.3)
☑		Trash containers must be noncombustible with lids if exceed 40 gallons. (CFC 1103.2.1.4.1)
☑		Dumpsters shall not be stored n buildings or within 5 feet of unprotected combustible walls, openings, or roof eaves. (CFC 1103.2.2)
☑		Cut or uncut weeds, grass and other vegetation shall be removed when determined to be a fire hazard. (CFC 1103.2.4)
		STORAGE
☑		Attics and concealed spaces used for storage of combustible materials must be protected with fire resistive construction and fire assemblies. (CFC 1103.3.2.5)
☑		Reduce combustible storage height to at least 2 feet below ceiling in non-sprinklered buildings. (CFC 1103.2.2)
☑		Combustible storage is not permitted in electrical equipment, mechanical or boiler rooms. (CFC 1103.3.2.4)
☐	Fix/Repair	Provide clearance between heat producing appliances and combustible materials. (CFC 1107.1)
☑		Compressed gas cylinders shall be adequately secured to prevent falling or being knocked over. (CFC 7401.6.4)
☑		Indoor storage of flammable and combustible liquids shall be in approved cabinets and conspicuously labeled in red letters on contrasting background "FLAMMABLE-KEEP FIRE AWAY" (CFC 7902.5.9.3)
☑		Storage under exit stairway is not allowed. (CFC 1210.3)

Comments: Please maintain all smoke detectors in working condition at all times. Service Fire Extinguishers once a year.

The deficiencies noted above are to be corrected immediately. A reinspection to insure compliance will occur on or about 2 weeks. Failure to comply may result in legal action.

C Britton / FC — Inspector/Title

Daniel L. [illegible] — Received By/Title

Kitchen Mgr

repro 1748 CFC-California Fire Code 2001 CBC-California Building Code 2001 Title 19-Calif Code of Regulations

STANDARD 4
ACCESS ROADS AND DRIVEWAYS

SCOPE:
The purpose for access to residential and commercial parcels is to allow emergency evacuation for occupants and for emergency vehicles to safely approach a building/parcel as closely as practical in order to deploy hoses, ladders and other equipment necessary for fire control and rescue operations. (CFC 503, LUO, PRC 4290/4291)

DEFINITIONS:

PRIVATE ACCESS ROAD(S): Must be constructed to CAL FIRE/San Luis Obispo County Fire and San Luis Obispo County Department of Public Works Standards when serving more than one parcel; when providing access to any industrial or commercial occupancy, or vehicular access to a single parcel with more than two buildings or four or more dwelling units. (PRC 4290/4291)

CFC: California Fire Code current edition

PRC: Public Resources Code

LUO: Land Use Ordinance of San Luis Obispo County

ACCESS ROAD STANDARDS
All road design criteria will meet the San Luis Obispo County Department of Public Works Public Improvement Standards. Standard construction drawing exhibits can be located on line at:

RESIDENTIAL

The road must be named and properly signed according to San Luis Obispo County Planning and Building.

The access road must be a minimum of 24 feet in width for two way traffic and shall be constructed to SLO County Public Works Standards. (2) 10- foot driving lanes and (2) - 2 foot shoulders.

The access road must be a minimum of 10 feet in width for one way traffic (only allowed in limited circumstances).

Parking is only allowed where an additional 8 feet of width is added to each side of the road that will require parking.

"No Parking - Fire Lane" signs may be required. Sign design & locations shall be approved by the fire department prior to installation.

Access road must be able to maintain a 95% compaction.

All roads must have an all-weather surface...

CAL FIRE – SAN LUIS OBISPO
RESIDENTIAL FIRE SAFETY PLAN

Date: **December 4, 2009**

Project Numbers: **PMT2008-01821** **This permit was issued to satisfy the requirements of expired permit #84981**	Project Location: **445 Chorro Creek Road**
Project City: **Morro Bay Fringe Area**	Cross Street: **Quintana Road**
Owner Name: **Joseph Goodwin representing "Roandoak of God"**	Owner Address: **same for mailing**
City, State, Zip:	Owner Phone(s): **(805) 440-2217**
Agent Name:	Agent Address:
City, State, Zip:	Agent Phone(s):

Project Notes: **This fire safety plan sets forth fire/life safety requirements for the building located at 445 Chorro Creek Road, Morro Bay. The original permit(s) have expired and new permit number(s) have been reissued. The original fire safety plan was issued on July 13, 1990. Not all the requirements of the original fire safety plan have been met.**

1. **The County Planning & Building Department has designated this structure as an R-3 occupancy (single family residence). An R-3 occupancy allows up to 16 residents.**

2. **Residential fire sprinklers were not required at the time of the original permit, however, CAL FIRE recommends the installation of an NFPA 13D sprinkler system. Should the applicant add more than 1,000 square feet to this building or remodel 50% or more of the structure, or request a change in occupancy type, fire sprinklers will be required. A change in occupancy type may require an NFPA 13 or NFPA 13R sprinkler system.**

3. **If the structure is served by a well, then all the requirements relative to a water storage tank apply as listed below. If the structure is served by a municipal water system, then all the requirements relative to a fire hydrant apply as listed below.**

4. **The exterior grounds of the structure shall be maintained, and not pose a fire hazard including but not limited to weed abatement, removal of combustible materials, paints or flammable liquids stored in metal lockers, trash or discarded items removed from the site, vehicles parked in designated areas and not impeding fire fighting operations (as per the California Fire Code, Public Resources Code, and Health and Safety Code).**

5. **Residents are not authorized to live in trailers, tents, or temporary structures on the property site.**

6. **All electrical wiring shall be up to code. No extension cords shall be used as permanent wiring.**

7. **All exits and windows shall meet the requirements of the California Building and Fire Code.**

8. **All heating systems, stoves, and fire places shall meet the requirements of the California Building and Mechanical Code.**

9. **Burn permits may be required for any burning on the property. Consult the fire department prior to any door yard burning, agricultural burning, or recreational or cooking fires.**

10. **Any new construction on-site is subject to the permitting process and fire department review. Such new construction is subject to a minimum 30 foot sideyard property setback, and wildland urban interface construction methods and materials.**

11. **Additionally, the applicant must comply with all the items checked below. Note: water supply is determined by number (3) above.**

The following **checked** items are required to be completed prior to final inspection of this project. When you have completed each item checked, initial and date that they are completed. When all items checked are completed please call for a fire department final inspection, **(805) 543-4244, extension #2220.** Inspections will be

completed on the following Tuesday for South County areas and Thursday for North County areas. Please have your County issued permit card on site and visible.

This project is located approximately **10 to 15** minutes from the closest Cal Fire/San Luis Obispo County Fire Station. The project **is** located in State Responsibility Area for wildland fires. It is designated as a **Moderate** Fire Severity Zone. This project is required to comply with all fire safety rules and regulations including the California Fire Code, the Public Resources Code and any standards referenced therein.

The following standards are required:	**Done**
☐ 30-foot building setback from property line required for parcels 1 acre in size or larger **Note: All setbacks are subject to County Planning Department approval.	
☐ A fire sprinkler system is required for this project per local Fire Code.	
☐ Fire alarm bell must be installed and working at final inspection.	
☐ Spare sprinkler heads (2 of each type) & a sprinkler wrench shall be included in red box mounted in garage or near riser.	
☒ A water storage tank is required that gravity feeds a residential fire connection	
☒ **10000** gallons of **minimum** water storage is required for fire protection ** **Note:** If a residential sprinkler system is installed, the water storage capacity shall be calculated by an approved Fire Protection Engineer (FPE).	
☒ Automatic Fill, Sight Gauge & Venting System required	
☒ Minimum 4-inch plumbing: Schedule 40 PVC or Iron Pipe	
☒ System gravity drain required	
☒ Fire connection shall be located on the approach to the structure(s)	
☒ Fire connection must be located not less than 50 feet & no more than 150 feet from the structure	
☒ Fire connection must be located 10-12 feet from the edge of the driveway/road & 24-36" above finished grade	
☒ Fire connection outlet valve must be a 2-1/2" brass National Standard male thread with brass or plastic cap. The outlet must face toward the driveway at a 90° angle.	
☒ If fire connection has less than 20 psi, then the word "DRAFT" will be clearly and permanently marked on the fire connection	
☒ Must maintain a 3 foot clear space around the circumference of the connection at all times	
☒ Blue dot reflector must be located near fire connection, visible to approaching vehicles	
☒ A fire hydrant is required that can deliver **1000** gallons per minute for 2 hours.	
☒ Must submit a completed CDF Community Water System Verification Form	
☒ Must have two 2 1/2" outlets and one 4" outlet with National Standard threads	
☒ Must be located within 8 feet of the roadway	
☒ Place a blue dot road reflector on roadway, just off center, on the side of the hydrant	
☒ Hydrant must be located within **250** feet of the residence.	
☒ Must maintain a 3 foot clear space around the circumference of the hydrant at all times	
☒ A 20-foot wide access road is required	
☒ All weather surface capable of supporting 20 tons	✓
☒ 10 feet of fuel modification is required on both sides of road	
☒ Must provide an unobstructed vertical clearance of not less than 13'6"	
☒ Where road exceeds a 12% grade, it must be a nonskid surface	
☒ If road exceeds a 16% grade, it must be certified by an engineer	
☒ Road must be named & posted using the County standard signage	
☒ Driveway must be **16** feet wide	✓
☒ All weather surface capable of supporting 20 tons	
☒ Where driveway exceeds a 12% grade, it must be a nonskid surface	
☒ If driveway exceeds a 16% grade, it must be certified by an engineer	
☒ 10 feet of fuel modification is required on both sides of the driveway	
☒ Must provide an unobstructed vertical clearance of not less than 13'6"	
☒ Driveways exceeding 300 feet require a fire engine turnaround within 50 feet of the residence/structure	
☐ Driveways exceeding 800 feet require a turnout(s) at midpoint and no more than 400 feet apart (**Exception**: 16' wide driveways)	
☐ Bridge is required to support a fire engine load weight of 20 tons	
☐ Bridge must have a sign indicating load & vertical clearance limits at entrances	
☐ One-lane bridge: minimum 10', turnouts at both ends, one-way signs, clear visibility	

☐ Gate entrance shall be 2 feet wider than width of traffic lane & located 30 feet from roadway.	
☐ Center line of lane turning radius must be at least 25 feet	
☐ Electric gates shall be maintained operational at all times and shall provide Fire Department emergency access via a "Knox" switch. A Knox application must be requested from the Prevention Bureau. Manual gates may be secured by a padlock.	
☒ **100** feet of vegetation clearance is required for defensible space	✓
☒ Maintain a fire clearance of 30 feet around all buildings & structures	
☒ Within the area of 30'-100' from structures, additional fire reduction measures shall be required.	
☒ Remove limbs located within 10 feet of chimney & trim dead/dying limbs that overhang the roof. Leaves, needles, or dead growth shall be removed from the roof	
☒ Minimum separation from buildings & property lines for LPG above ground tanks is: 10 feet for 125-500 gallon container; 25 feet for 501-2,000 gallon container	
☒ Maintain a minimum vegetation clearance of 10 feet around LPG tanks or containers	
☒ A Class **C** non-combustible roof is required that meets all requirements of Chapter 7A of the 2007 California Building Code.	
☐ This project must meet all requirements of Chapter 7A of the 2007 California Building Code for Fire-Resistance-Rated Construction. Please contact the SLO County Planning & Building Dept. for more information at (805) 781-5600.	
☐ Each residence requires separate address numbers, assigned by the SLO County Planning Dept. Please contact (805) 781-5157 for more information.	
☒ Highly visible permanent address numbers shall be placed at the driveway entrance and on directional signs at each T or Y intersection (minimum 6" letter/number height, 1/2 inch stroke). Reflectorized numbers are highly recommended!	
☒ Highly visible address numbers shall be placed on the residence(s). (Minimum 6" letter/number height with 1/2 inch stroke).	
☒ Smoke detectors are required in all sleeping areas & in hallways leading to sleeping areas.	
Comments: Should the Building Department redisignate the occupancy type to a different classification, such as an R-1, R-2, R-3.1, R-4, or I, different standards may apply including type of exiting, change in fire sprinkler type allowed, fire alarms, and annual fire department interior inspections of the building.	

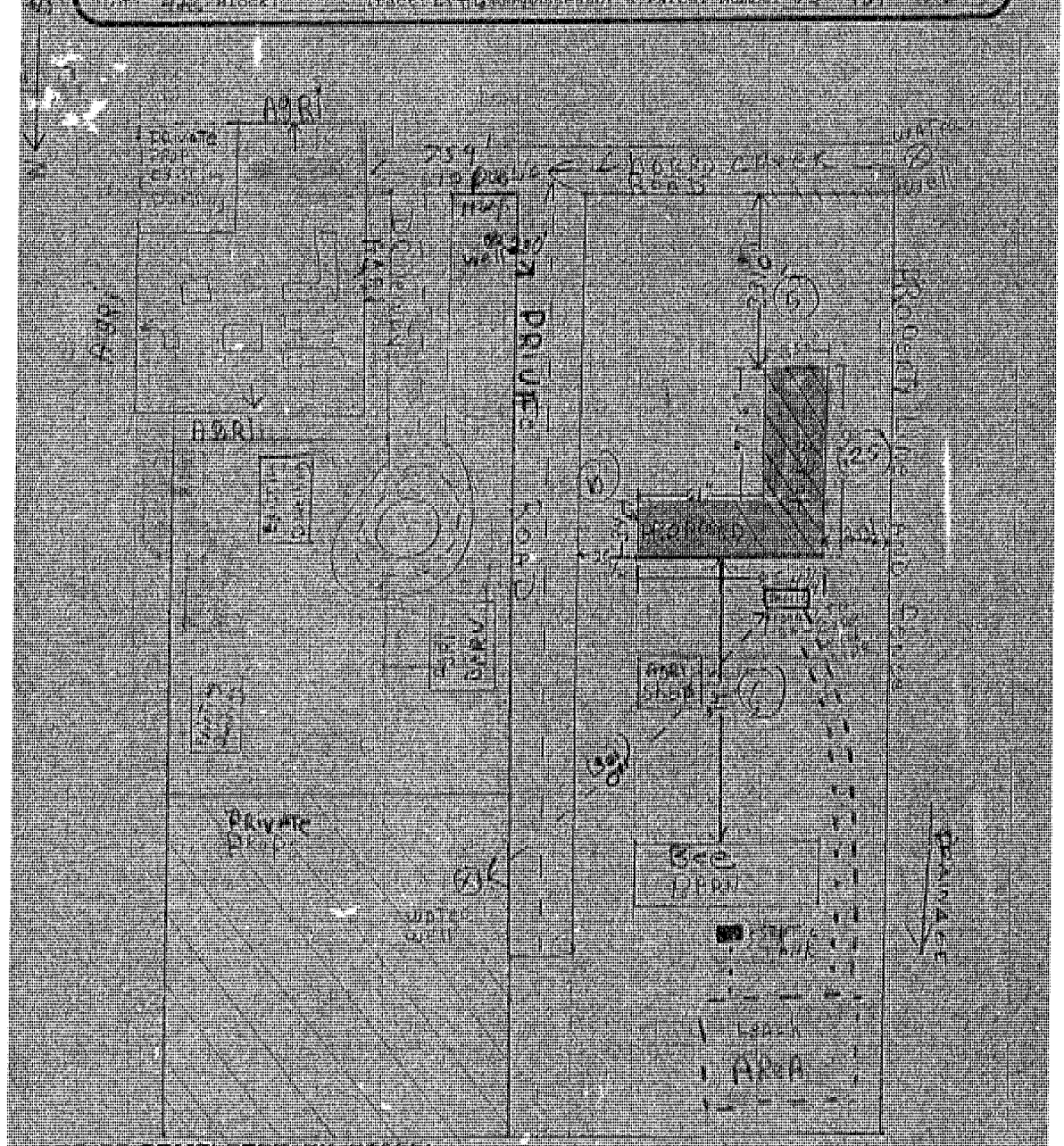
When all of the fire safety requirements have been completed, please call the Fire Prevention Bureau at (805) 543-4244, extension #2220 to arrange for your final inspection. Visit our website at www.calfireslo.org for more information.

Chad S. Zrelak

Chad Zrelak
Fire Captain

EXHIBIT 5

ATTACHMENT 4



TO BE COMPLETED BY STAFF:

ZONING REVIEW: REACTIVATION OF PREVIOUS PERMIT # 23919

Project: QFK

Zone: A-1 Map No.: 12-T-26

Parking: 3 spaces required.

County Road system: No. EX.

Road Improvement Fund: NO

Coastal Zone: In X Out

Urban area: Rural area: MORRO BAY

CUP var., dept. review No. NO

Parcel Map No.:

Tract Map No.:

Water source: Well X Comm. Water

APIDP zone:

☐ Fire Department Review

☐ Health Department Review

☐ County Engineer Review

☐ Business License Required

☐ Architectural Review

By: Date:

SITE REVIEW

☐ Percolation test required ☐ By R.C.E.

☐ Soils suitability test

☐ Engineer Foundation

☐ Grading Permit

☐ Retaining Well

By: Date:

CITY OF MORRO BAY
PUBLIC SERVICES DEPARTMENT
955 SHASTA AVENUE ◆ MORRO BAY, CA 93442
805-772-6261

August 28, 2013

This notice was sent Certified Mail, Regular Mail and via email

Cathy Novak
Cathy Novak Consulting
PO Box 296
Morro Bay, CA 93443

RE: Burton Special Encroachment Permit

Dear Cathy,

On August 27, 2013 the City of Morro Bay did approve a special encroachment agreement for the Burtons to construct a chain link fence on City property off Chorro Creek Road. This administrative permit allows construction immediately, but is revocable. You have 10 days to appeal this administrative decision with the City Clerk to the City Council

Should you have any questions please contact Rob Livick at 772-6261.

Sincerely,

Rob Livick, PE/PLS
Public Services Director/City Engineer

C: Andrea Lueker, Robert Schultz, Joseph Goodwin PO Box 311, Morro Bay CA

s:\planning\projects\chorro creek road - outside city\459 chorro ck\notice of sp en agree chorro creek rd property fence.docx

CITY OF MORRO BAY
PUBLIC SERVICES DEPARTMENT
955 SHASTA AVENUE ◆ MORRO BAY, CA 93442
805-772-6261

August 29, 2013

This notice was sent Certified Mail, Regular Mail and via email

Carrie and Mike Burton
459 Chorro Creek Road
Morro Bay, CA 93442

RE: Special Encroachment Permit Agreement SPE-110

Dear Carrie and Mike,

On August 27, 2013 the City of Morro Bay did approve a special encroachment agreement for the Burtons to construct a chain link fence on City property off Chorro Creek Road. This administrative permit allows construction immediately, but is revocable. We have allowed a10 days appeal period, and have served notice to those parties that have requested notification of this administrative decision.

Staff recommends that you hold off on construction of your fence improvements until after the appeal period has ended on September 6, 2013. Then you would know with certainty that the City would not order removal of the fence, due to the appeal. If the administrative decision is appealed to City Council, staff has no way of knowing what the Council's decision may be and you could be at some financial risk, if the Council does order recession of the Special Encroachment Agreement and not allow the fence to be constructed on City owned property.

Thank you in advance for your understanding in this issue.

Should you have any questions please contact Rob Livick at 772-6261.

Sincerely,

Rob Livick, PE/PLS
Public Services Director/City Engineer

C: Andrea Lueker, Robert Schultz

s:\planning\projects\chorro creek road - outside city\459 chorro ck\sp en agree chorro creek rd property fence appeal warning.docx

DELTA LIQUID ENERGY

Joseph Goodwin, Director
Chorro Creek Training Center
Morro Bay, CA 93442

Dear Sir,

In reference to the propane account located at 445 Chorro Creek Rd. Morro Bay, CA.

The "Propane Sales and Service Agreement" which you signed contains several elements that require observation and adherence to so that we may continue to safely service this location. Article number 6, "Consumer herby consents to allow Company full access to and at any time enter Consumer's property for the purpose of filling, servicing, exchanging, or removing Company owned equipment".
It has come to our attention that a new perimeter fence has been installed on or near your property. A distance of 140ft. has been measured from the current termination of the fence to the tank fill valve. At this distance we will no longer be able to effectively service this account as weather and road conditions change.
I can only authorize that our commercial delivery trucks stay on designated and maintained road ways with sufficient clearance, engineering and road base to support their weight.
Managing a hazardous materials vehicle over lawns, landscaping or uncontrolled dirt parking areas specifically during inclement weather is illadvised and potentially dangerous.
Please contact me with regard to resolving this issue.
I will look forward to speaking with you,
Sincerely,
T. Mack,
Manager,
Delta Liquid Energy, Paso Robles CA.
805-239-0616

Rob Livick - Fwd: Propane tank access

From: Carrie Burton <carriemikeburton@aol.com>
To: <RLivick@morro-bay.ca.us>
Date: 10/1/2013 9:40 AM
Subject: Fwd: Propane tank access

FYI- Not that this matters but the VP clarified the letter they sent. Goodwin has options and he can get propane now its dry and the truck can get to it.

The easement is not an all weather road anyway, he should put one in across his grass.
The garbage company wont deal with him. Cal Fire has no issues.

Carrie

-----Original Message-----
From: Robert Jacobs <robertj2@deltaliquidenergy.com>
To: carriemikeburton <carriemikeburton@aol.com>
Cc: Troy Mack <troym@deltaliquidenergy.com>
Sent: Tue, Oct 1, 2013 9:10 am
Subject: Propane tank access

Mrs. Burton - Please note that we are unable to deliver to the propane tank located on Mr. Goodwin's property throughout the rainy/wet season. I would recommend one of the following options:

1. An all weather road providing access from Chorro Creek Road to the propane tank.

2. Relocating the propane tank within seventy five (75) feet of a safe location for the propane truck to park on solid ground.
(please note that this option could only be accomplished during dry weather)

3. Install a thirty six inch (36") wide gate in the existing chain link fence in a manner that would provide access from the easement.
Delta Liquid Energy would be provided with the gate combination.

If you have any further questions, feel free to contact me.

--
Robert Jacobs
Vice President, Retail Operations
DELTA LIQUID ENERGY
Tel: 805-239-0616 Fax: 805-239-1327

CATHY • NOVAK
consulting

September 13, 2013

Mr. Rob Livick & Mr. Rob Schultz
City of Morro Bay Public Services Department & City Attorney
955 Shasta Street
Morro Bay, CA 93442

RE: Request for immediate removal of the fence on the City's Chorro Creek Road property

Dear Rob and Rob,

This letter is to respectfully request immediate removal of the fence constructed on the City property located on Chorro Creek Road. Mr. Goodwin has been notified by the garbage company and the propane delivery service that this newly constructed fence has substantially impaired access to his property to service these utilities.

As indicated in previous communications and the appeal filed, this all-weather access road has been traditionally used for decades to provide services to Mr. Goodwin's property. However with the installation of this fence, two of the important fundamental services are now at risk.

Mr. Goodwin has approximately 1 ½ weeks of propane supply left in his tank and this will need to be filled otherwise, his health and safety will be put at risk without having the proper heating, cooking and personal hygiene necessary for daily living which is supplied from the propane tank.

In addition the garbage service has been temporary relocated to the front of the property but, there isn't sufficient room for the bins to remain there permanently. This temporary situation must be changed regularly because of the limitations that have been created by this fence and access to his property. This fence has also diminished the use of his property in that the parking for his house must be reconfigured almost on a daily basis to provide access to the house and to arrange for the garbage service among other things.

GOVERNMENTAL & COMMUNITY RELATIONS • PLANNING
CELL 805.441.7581 • PHONE & FAX 805.772.9499
POST OFFICE BOX 296 • MORRO BAY, CA 93443
NOVAKCONSULTING@CHARTER.NET

When the City issued the special encroachment permit I believe that it was recommended to the Burton's that they wait until the appeal period expired prior to constructing the fence. The Burton's blatantly disregarded this and installed the fence within a couple of days of obtaining the permit. Due to the significant nature of the impacts I am, on behalf of Mr. Goodwin, respectfully requesting that the City take action on one of the following options:

1. Immediately revoke the special encroachment permit #SPE-110 and require the removal of the fence without delay so that the utility services to Mr. Goodwin's property can resume.
2. Require immediate removal of the fence and delay any further construction on this until which time Mr. Goodwin has had the ability to pursue his appeal before all governmental and/or judicial bodies that have jurisdiction in this area.

Since this is a time sensitive matter, I would respectfully ask that the City take action on this forthwith and also to provide a response to this request. Thank you for your time and consideration in this matter. Please let me know if you have any questions.

Regards,

Cathy Novak

Cathy Novak

cc: Mr. Joseph Goodwin
McElhinney & McElhinney
Mayor Irons & Council Members
Ms. Andrea Lueker, City Manager

2yd
CARDBOARD RECYCLABLE ITEMS ONLY

ABSOLUTELY
NO DOGS
ALLOWED
Except service dogs
459
PRIVATE
DRIVE

AGENDA NO: B-3

MEETING DATE: October 8, 2013

Staff Report

TO: **Honorable Mayor and City Council** **DATE: October 1, 2013**

FROM: **Kathleen Wold, Planning Manager**
Erik Berg-Johansen, Planning Intern

SUBJECT: **Zoning Text Amendment A00-015 Draft Sign Ordinance (Municipal Code Section 17.68)**

RECOMMENDATION

Staff recommends that the City Council:

1. Open the public hearing and receive testimony; and

2. Direct staff to prepare an environmental document based on the draft Sign Ordinance as forwarded by the Planning Commission on September 4, 2013 and return with the environmental document and the draft Sign Ordinance for the first reading on December 10, 2013.

ALTERNATIVES

1. Review the draft Sign Ordinance and return to Planning Commission to make additional changes based on public testimony and Council direction.

2. Take no action to change the Sign Ordinance and direct staff to not pursue a Zoning Text Amendment.

FISCAL IMPACT

Costs associated with a drafting of an amended Sign Ordinance are as follows:

- Environmental—staff's time to prepare a Negative Declaration.
- Noticing Costs—noticing the draft Sign Ordinance environmental review and the Public hearing for adoption.
- Staff time—staff costs, including time to process the project through to the Coastal Commission, is estimated to be approximately 400 staff hours. Staff members involved include Planning staff, Public Services Director, City Attorney, and Administrative Support staff.

Prepared By: KW, EB Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

BACKGROUND

Since 2004, the City of Morro Bay has recognized the need for the City's Sign Ordinance (Section 17.68) to better address the business community's sign needs. An updated Sign Ordinance was included in the City's comprehensive Local Coastal Program update in 2004; however this update was never certified by the California Coastal Commission. Without a certified new Sign Ordinance, the City continues to operate under the Sign Ordinance adopted in 1999.

At the April 12, 2010 City Council meeting, a status report on the A-Frame Sign Ordinance was presented to the Council for direction. The Council directed staff to bring forward to the Planning Commission, a Sign Ordinance amendment incorporating the Sign Ordinance drafted for the 2004 Zoning Ordinance and new A-frame sign regulations.

Staff worked on the amendment and presented the Sign Ordinance amendment to the Planning Commission at the regularly scheduled meeting on May 17, 2010. During the meeting, public testimony was received and the Ordinance was discussed by the Commission. The ultimate outcome of the meeting was to continue the item to a date uncertain with direction given to staff to hold a workshop on the Ordinance to ensure that there was sufficient public input. A workshop was subsequently held on February 16, 2011. As a result of this workshop, the Planning Commission moved to forward the draft Sign Ordinance including regulations for A-Frame signs that would include the following:

- One A-frame sign per business per frontage during business hours only;
- A-frame or feather sign to be allowed;
- Fee shall be waived thru June 2012 for A-frame signs; thereafter, it would be set at $40 as a one-time permit fee;
- Allow for provisions for directional pole signage as brought forward by Craig Schmidt of the Chamber of Commerce to be included in this Ordinance;
- Corrections of the projection signs section from 12 to 24 inches; and,
- Vacation rentals under the Real Estate section.

At the April 19, 2011, City Council meeting an item was brought forth by Mayor Yates and Councilmember Borchard concerning the enforcement of the code prohibiting A-frame signs. At this meeting, the Council directed staff to enforce the Sign Ordinance prohibiting A-frame signs and on May 3, 2011 a letter was sent to all businesses within Morro Bay detailing that A-frame signs are prohibited and describing the process by which the City will be enforcing the Ordinance.

On May 24, 2011, the City Council adopted an Interim Urgency Ordinance establishing interim rules regulating the approval process and construction of projecting signs pending completion of studies and the preparation of an update to the City's Zoning Code.

In order to flesh out and specifically identify the community's issues with the current sign program, the City held workshops and conducted sign surveys. The City held two Sign Ordinance workshops facilitated by Chuck Anders, one on September 29, 2011 and the other on October 6, 2011. In addition, the City utilized Survey Monkey to allow citizens that were not present at the workshops to have input in the process via the internet. These community outreach efforts were conducted in an attempt to hear from all the stakeholders early in the process. The outcome of these efforts was that the community did not want the 2004 draft Ordinance but instead wanted a new Ordinance based on four distinct commercial areas with sign regulations crafted to address the issues and constraints particular to each district.

At the May 2, 2012 Planning Commission meeting, Commissioners directed staff to bring back four different zone maps and one overall map to see all the commercial areas. In addition, a basic outline of the Zoning Ordinance with headings only and definitions and graphics was requested.

At the May 26, 2012 Planning Commission meeting, the Commissioners reviewed the preliminary sign option spreadsheet, sign definitions and the district maps showing the boundaries of the four commercial districts. The Commission directed staff to bring back:

1. Further detail on sign area ratio and percentages;
2. Photos of sign types for internal and external illuminated signs; and
3. A matrix comparison in a column format to include comparisons to Pismo Beach, all poll results and staff recommendations; and Shopping center definitions.

At the June 26, 2012 meeting, the Planning Commissioners reviewed the signs for the Quintana zone district. The Commission made decisions regarding what signs should be allowed, restricted and which ones needed further review.

Due to staffing issues, there was a period of inactivity in late 2012; however, since January 2013, Planning staff has diligently worked on preparing a comprehensive new draft Sign Ordinance.

As part of a Cal Poly Master's project, Planning Intern Erik Berg-Johansen completed extensive research on signs and sign ordinances. The older draft Ordinance, scholarly journals, community outreach and interviews (both primary and secondary), photos and computer generated graphics were referenced throughout the process. It should also be noted that a survey regarding the draft Sign Ordinance was mailed to every registered business owner in the City. Perhaps more important were the multiple meetings with the Morro Bay Chamber of Commerce and Planning staff. The purpose of these meetings was to discuss all research and background information on the Sign Ordinance, and then make appropriate additions and edits. Because the new draft Ordinance is now based on sign districts instead of zoning districts, the new draft is completely reorganized.

DISCUSSION

The draft Sign Ordinance dated September, 2013 represents two years of work. Staff has held

numerous public workshops, conducted sign surveys, conducted background research and presented a working draft to the Planning Commission in a series of public hearings to allow for detailed public comment. The draft Ordinance was discussed at five public hearings occurring between June and September of 2013. In comparison with the City's current Sign Ordinance, the following is a list of important changes contained within the September, 2013 draft Sign Ordinance:

1. Has been designed to address four different commercial zones, North Main Street, Quintana, Downtown and the Embarcadero.
2. Designates signage criteria for lodging and industrial uses exclusive of the four commercial zones.
3. Contains new methodology on how maximum sign size is calculated. In the 2013 draft, the size of the sign is based on the square footage of the building façade as opposed to the old method that utilized linear footage.
4. Has also been reformatted to contain a matrix format which is user friendly as all information for the zone district is contained on one sheet.
5. Uses customized graphics to communicate regulations and explains how sign area calculations work.
6. Eliminates the reduction in allowed sign area based on the use of different types of signs.
7. Provides for a Tourist Oriented Directional Sign Program along the Embarcadero with the goal to facilitate pedestrian traffic throughout the length of the Embarcadero.
8. Provides for Master Sign Programs to establish criteria for multi-tenant properties.

Table 1 on the following page summarizes some of the major differences between the code the City is currently operating under and the draft code that is being reviewed by City Council.

Table 1: Differences between Current Code and Draft Code		
	Current Code	**Draft Code**
Sign Districts	No Districts; the same code is applied to all businesses	Four Districts (Embarcadero, Downtown, Quintana, North Main). Signs are regulated differently in each district. In addition, there are separate regulations for lodging establishments and businesses located in industrial zones.
Allowable sign area calculations	Based on the linear measurement of "building frontage" (e.g. 1 sq. ft. signage for every 1 linear ft. of building frontage)	Based on the measurement of a building's façade, or face (e.g. 15% of façade).
Prohibited Signs	Roof, flashing/moving, home occupation, bench, noise making, vehicle displays, billboards, tire stacks, illuminated with red/green/yellow within view of signalized intersection, A-frame, moving/rotating, constructed of cloth/canvas/paper, on fences	All included in current code (except A-frame/sidewalk) with the addition of: banners/streamers/pennants, digital signs, emission producing, inflatable, signs that display lodging rates, signs with obscenities, signs that obstruct exits/ventilation, person or animal, advertising brand names, snipe, on public bus shelters.
Sidewalk (A-frame) Signs	Prohibited city wide	Prohibited only in Embarcadero District, and allowed in all other districts with the acquisition of a special permit.
Graphics	No Graphics	Graphics showing: different sign types, method of calculating allowable sign area, sign measurements, sign district boundaries, and illustrations of select definitions.
Formatting	Entire code in block paragraph form.	Part of code in block paragraph form, and part of code in a user-friendly table format.
Master Sign Program	Not Included	Required for properties occupied with three or more non-residential occupants, or for projects involving construction or renovation of more than 25,000 square feet of space.
Amortization	Amortization schedule adopted in 1972 required that all non-conforming signs be documented and addressed by March of 1973. Policy was never enforced. Non-conforming signs shall be removed or made to conform when sign is taken down for any reason (including maintenance).	No amortization schedule. Non-conforming signs shall be removed or made to conform when a new business opens or the type of business changes. Signs shall also be removed or repaired if they are not property maintained (see Section 17.68.030 B, c. Sign Maintenance).
Exception Permits	Exceptions granted if the commission finds that the sign will not be contrary to the purposes of this chapter.	No exception permits. Exceptions to the provisions of the code may only be granted by the Planning Commission during the review of a submitted Master Sign Program or Variance.
Sign Bonuses	No Bonuses	Bonuses granted for implementation of signs that were found to have high aesthetic quality (such as projecting signs). Bonuses vary by district.

As mentioned, the draft sign Ordinance has appeared on the Planning Commission's agenda five times during the past four months. The primary topics covered during the Planning Commission meetings are as follows:

- **Allowable sign area.** The Commissioners reviewed numerous graphical representations of signs in relation to their facade. Computer generated graphics, as well as examples from local Morro Bay businesses were analyzed and discussed during meetings. Detailed discussions regarding the appropriate allowable sign area (percent of façade) were carried out for each sign district. To further facilitate these decisions, staff and the Commissioners considered the functionality, aesthetic character, primary modes of transportation, location, common types of businesses, and the scale of buildings associated with each individual sign district.

- **Amortization.** While the idea of an amortization schedule was originally proposed, the Commissioners agreed that an amortization schedule be omitted from the Ordinance. The Commissioners suggested that amortization schedules are difficult (and costly) to enforce, and have the potential to create unfair conditions among business owners. Further, the Commissioners (as well as members of the public) commented that an amortization schedule could lead to removal of historical signs that are important to the community.

  It was ultimately decided that a nonconforming sign shall be removed for only three reasons: 1) the sign has not been properly maintained; 2) a business moves out and a new business occupies the property; and 3) the type of business or use changes with which a nonconforming sign is associated. See Section 17.68.030 B (page 9) of the draft Ordinance for additional details.

- **Monument, architectural, and pole signs.** The City's Local Coastal Plan (LCP) states that monument type signs be encouraged through the Sign Ordinance. In accordance with the LCP**,** the Commission worked to create an Ordinance that promotes the use of these sign types.

  On the other hand, the City's LCP states that pole signs be discouraged throughout the City. In respect to the LCP, the Commissioners decided to maintain that a Conditional Use Permit be required for all pole sign proposals. Staff would like to work with the Council to further extend the conditions of approval for pole signs to ensure that future pole signs protect views, fit with the community's character, and are safely legible to drivers travelling on Highway 1.

- **Sidewalk (A-frame) signs.** Discussions regarding safety, ADA compliance, sidewalk widths, sidewalk sign content, and sidewalk sign design took place at multiple meetings. In response to public comment and survey results, the Commission agreed to allow sidewalk signs in the Quintana, North Main, and Downtown districts.

The Commission decided to support staff's recommendation to continue a sidewalk sign prohibition in the Embarcadero District. Staff and Commissioners agreed that sidewalk signs are not appropriate in the Embarcadero District for the following reasons: 1) the sidewalks are narrow; sidewalk signs create safety issues and congestion of pedestrian movement; and 2) the Embarcadero Tourism-Oriented Directional Sign Plan has been designed to allow off-premise business advertising in lieu of the proposed sidewalk sign prohibition in this district.

- **Master Sign Program.** Both staff and the Planning Commission agreed that a Master Sign Program be established to ensure that fairness and aesthetics are considered for multi-tenant properties (with three or more lease spaces) and larger buildings (with a façade exceeding 3,000 square feet). Implementation of such a program will allow for additional review by the Planning Commission on a case-by-case basis, and could prove to be especially important for multi-tenant properties that deserve an exception for unique circumstances.

Public comment was taken during each Planning Commission meeting in regards to the draft Ordinance and Embarcadero District TODSP. Public comment was focused on the following issues:

- **Sidewalk (A-frame) signs**. There was some disagreement among the public on this issue, however the majority of comment supported allowing sidewalk signs.

- **Feather type signs**. One member of the public commented that her business on Quintana Road is not visible from the primary right-of-way. She utilizes a feather type sign, and disagrees with the current draft's prohibition of this sign type.

- **Illumination**. This topic was brought up multiple times for different reasons. Many of the concerns were addressed by staff and changes were made to the draft Ordinance, such as changing the draft Ordinance to allow OPEN signs to remain illuminated during the daytime. While many of the issues have been resolved, staff recommends that illumination standards be carefully reviewed by the City Council to ensure that the regulations are consistent with the City's goals and policies.

- **Signs advertising brand names**. The current draft Ordinance prohibits any sign that advertises a brand name or logo that is not directly related to the subject business. This regulation, for example, would prohibit a restaurant from posting a neon Budweiser sign in their window. Staff originally proposed this regulation to promote positive changes in aesthetics and community character through the prohibition of excessive brand advertising.

All public comment regarding this issue was in disagreement with the proposed prohibition of brand advertisement signs. In response to public comment staff has devised a change that will allow (but limit) signs that advertise a brand name. See the section below titled "Recommendations from the Public and Staff" for an alternative to brand name sign prohibition.

- **Tourism-Oriented Directional Sign Plan.** The majority of public comment regarding this proposal supported the plan. However, one business owner believed that it was unfair for the plan to only encompass the Embarcadero Sign District and not other districts such as the Downtown. Another business owner commented that the proposed signs are unappealing, and recommended that kiosk-type structures be installed instead.

The materials presented to Council include the draft 2013 Sign Ordinance as amended by the Planning Commission, the tourist oriented directional sign program and application, minutes from all five of the Planning Commission meetings and the results from the sign workshop held on September 29, 2011.

Once the City Council has determined that the draft document is finalized, staff will work on the required environmental document. Once complete, the Negative Declaration will be forwarded to the State Clearinghouse for the required thirty day review. The project will be scheduled for the first reading after completion of the public review period for the environmental document. Staff anticipates that the project will be ready for adoption in December. In addition, once the draft Ordinance has been finalized, staff will forward it to the Coastal Commission for comment.

Changes to the Draft Ordinance:

Since the final Planning Commission meeting, staff has reviewed the Ordinance for clarity and consistency. Minor language and organizational changes that do not affect the regulations or content approved by the Planning Commission were completed by staff and are reflected in the draft Ordinance included as an attachment to this report. Finally, any changes that were discussed and recommended by the Planning Commission at the final meeting on September 4, 2013 are included in the most recent draft Ordinance.

Recommendations from the Public and Staff:

Comments from the public have been submitted to the Planning Department since the draft Ordinance was recommended by Planning Commission. Some of these comments also stimulated discussion among staff in regards to certain issues. The following comments from the public and staff have the Planning Department's approval; it is recommended that these changes be integrated into the draft Ordinance.

Clarification of information regarding illegal signs (page 10):

2. Illegal Signs. Any sign shall be regarded as an illegal sign if:

a. It is constructed subsequent to the date of adoption of this Chapter in violation of any provision of this Chapter, this Title, or any other federal, state, or local law, including, but not limited to the zoning clearance and sign permits set forth in paragraph 17.68.100, or

b. It was constructed prior to the date of adoption of this Chapter in violation of any applicable federal, state, or city ordinance in effect at the time of construction, or

c. It was constructed prior to the date of adoption of this Chapter without all zoning clearances and/or permits required by applicable federal, state, or city ordinance in effect at the time of construction first having been obtained.

The Public Services Director shall order that such illegal sign be altered, repaired, reconstructed, demolished or removed, as may be appropriate, to abate such condition or the Director may initiate proceedings to abate the sign as a public nuisance under the provisions of the Business and Professional Code (Sections 5499.1 to 5499.16). Any work required to be done shall be completed within ten days of the date of such order, unless otherwise specified in writing.

Added regulation to strengthen the enforcement program (page 10):

b. ***Business License Renewal.*** Business owners shall submit evidence of sign permits for all non-exempt signs on their premises as a condition of renewal of their business license. Failure to submit evidence of sign permits shall result in denial of the renewal request.

Change in regulation to acknowledge a unique scenario in regards to architectural/monument signs (pages 10 and 12):

e. If one architectural sign proposed, sign shall count towards allowable signage for the *Primary Façade*. If a second architectural sign is proposed, sign shall count towards nearest secondary façade. ***If structure has only one (primary) façade, all permitted architectural signs shall count towards allowable signage for the Primary Facade.***

e. If one monument sign proposed, sign shall count towards allowable signage for the *Primary Façade*. If a second monument sign is proposed, sign shall count towards nearest secondary façade. ***If structure has only one (primary) façade, all permitted monument signs shall count towards allowable signage for the Primary Facade.***

Remove prohibition of "Signs Advertising Brand Names" (page 16) and include a statement allowing these signs in Section 17.68.030 D:

> **Signs Advertising Brand Names.** Allow signs for services, products and brands as window signs only to a maximum of 25 percent of window area.

Change to "Definitions" to specify that parapets count as part of the façade and that mansard roofs do not count as part of the façade (pages 35 and 36):

> **Primary Façade**. The face of a building or tenant lease site that incorporates the main entrance to the business and that faces a primary street, as determined by the business owner. ***For purposes of allowable sign area calculations, the façade shall incorporate the face of the building and if applicable, the parapet. Mansard roofs shall NOT be considered as part of building facades.***
>
> **Secondary Façade.** The face of a building or tenant lease site that serves as a secondary entrance and/or advertising space to the primary façade, as determined by the business owner. ***For purposes of allowable sign area calculations, the façade shall incorporate the face of the building and if applicable, the parapet. Mansard roofs shall NOT be considered as part of building facades.***

Exempt businesses in industrial zones from the Master Sign Program (page 31):

B. Applicability

6. Businesses located in industrial zones shall be exempt from the Master Sign Program.

Add definition and associated graphic for "Parapet" (page 35):

> **Parapet.** Vertical upward extension of an exterior wall at the edge of the roof or building structure.

Change definition and associated graphic for "Mansard" (page 35):

Mansard. A double-sloped roof with the lower sloped section steeper than the upper slope section.

<u>CONCLUSION:</u>

The newly proposed draft Sign Ordinance incorporates knowledge gained from community outreach, interviews, meetings, review of other sign ordinances in California, direction from Planning Commission meetings, and research on commercial signs. Staff recommends that the Council review the entirety of the new draft Ordinance and direct staff to proceed with the environmental review based on the draft Sign Ordinance dated September 2013.

ATTACHMENTS:

A. Draft Sign Ordinance, September 2013
B. Embarcadero District Tourism-Oriented Directional Sign Plan, Revised September 2013
C. Draft Directional Sign Permit Application
D. Planning Commission Minutes from June 19, 2013, July 3, 2013, July 17, 2013, August 21, 2013, and September 4, 2013 meetings
E. Sign Workshop Results, September 29, 2011.

ATTACHMENT A

Chapter 17.68 Sign Regulations

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17.68.010 Purpose

The purpose of this Chapter is to regulate signs so that they express and enhance the character and environment of the City of Morro Bay and its community. These regulations recognize the importance of business activity to the economic vitality of the City. Specifically, these regulations are intended to:

1. Encourage communications which aid in the identification of businesses and activities.
2. Preserve and enhance the aesthetic character of the City.
3. Restrict signs that overload the public's capacity to receive information or that violate privacy.
4. Prohibit signs which increase the probability of automobile accidents.
5. Provide distinct regulations for different districts and lodging establishments.

Morro Bay's General Plan states, "The commercial areas of Morro Bay are composed of a variety of commercial uses as well as motels and some residential uses. These areas inclu Downtown, the Embarcadero, Quintana Road, and North Main Street. Each has its own special character and function." This Chapter provides different sign regulations for each individual district as defined by the General Plan, as well as a custom set of regulations for lodging establishments. It must be noted that *sign districts* as defined by this Chapter are different than the *zone districts* as defined by Morro Bay's Municipal Code.

This Chapter is also consistent with the City's Local Coastal Land Use Plan. Chapter XIII of the City's Coastal Land Use Plan includes the following provisions under Policy 12.05:

a. Require monument and surface mounted signs and discourage roof mounted and pole signs;
b. Require that view protection and the nighttime characteristics of the sign be mandatory considerations of any sign installation;
c. Prohibit billboards;
d. Reduce allowable height and size where they interfere with views to and along State Highway One.
e. Develop and adopt sign criteria for signs appropriate for Morro Bay's commercial districts.

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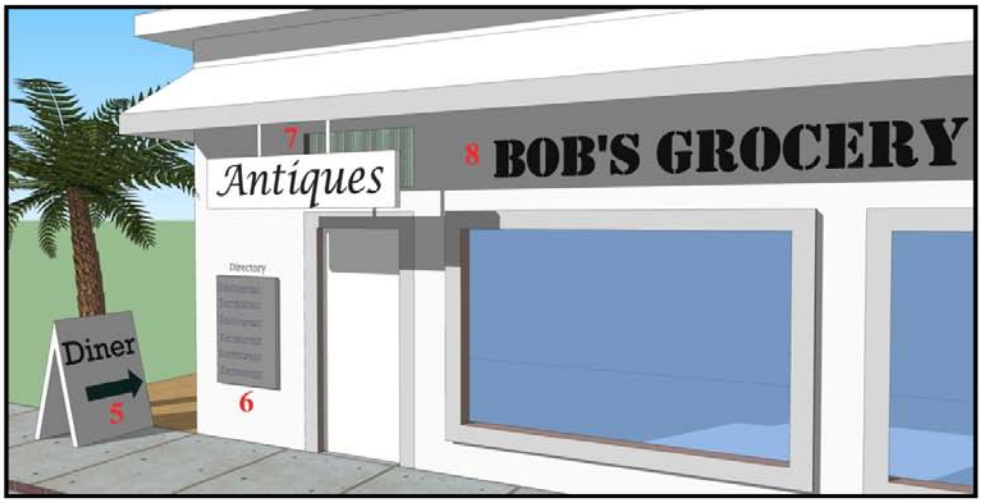
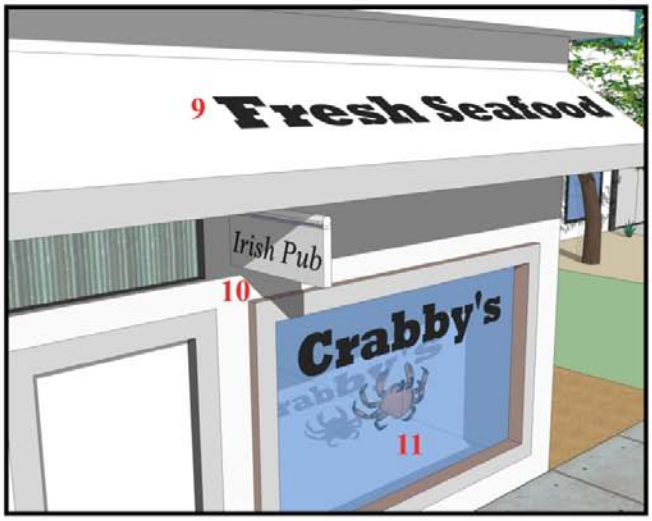
17.68.020 Commercial Signs and Calculations

Figure 17.021: Sign Types





1 Roof Sign
2 Wall Sign
3 Monument Sign (externally illum.)
4 Pole Sign
5 A-frame Sign
6 Directory Sign
7 Suspended (Hanging) Sign
8 Wall Sign (Channel Letters)
9 Awning Sign
10 Projecting (Pub) Sign
11 Window Sign

a. **<u>Sign Types</u>**

1. **Attraction Board** means a device used to display information regarding conveniences and services offered by facilities providing temporary accommodation.

2. **Architectural Signs.** Freestanding signs situated on two (2) or more supporting structures.

3. **Awning and Canopy Signs**. Signs painted on awnings, canopies, arcades, umbrellas or similar attachments or structures. Sign area for awning and canopy signs is calculated as the area within a single continuous enclosure around only the copy area of the lettering or logo of the sign.

4. **Banners**. A temporary sign of fabric, plastic, paper or other light pliable material not enclosed in a rigid frame, and which is suspended, mounted, or attached to buildings or poles at two ends or continuously across its longest side so as to allow movements of the sign by atmospheric conditions.

5. **Changeable Copy sign** means a sign designed so that characters, letters or illustrations can be changed or rearranged without substantially altering the face or the surface of the sign.

6. **Directory Sign**. A collection of signs which list names of individual businesses located in a single building, courtyard, or property.

7. **Dock Sign.** Any sign that is placed on a floating dock structure or gangway.

8. **Externally Illuminated Signs.** A sign that is illuminated by a light source not attached to the sign.

9. **Fence Signs**. Signs on fences or free-standing walls, not part of a building.

10. **Hanging (Suspended) Signs.** A sign that hangs parallel to the building's façade.

11. **Internally Illuminated Signs.** A sign which radiates light from any internal source or is backlit.

12. **Marquee Sign.** A projecting sign that is part of a permanent entryway or canopy and traditionally associated with theaters. A marquee may include a projecting vertical sign extending above the cornice line of a building. See "Projecting Signs" below.

13. **Monument Signs.** A sign erected on the ground or on a monument base designed as an architectural unit (and not attached to a building). Monument signs shall not interfere with safety sight angles on corners and at driveways.

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14. **Pole Signs.** A freestanding sign erected on top of a pole (and not attached to a building) that is taller than 8 feet.

15. **Projecting Signs (Pub Signs)**. Signs under canopies or covers in conjunction with pedestrian walkways, or signs projecting from the building wall.

16. **Roof Signs.** Signs erected upon, over or above the roof of a building or structure, or any sign affixed to the wall of a building so that it projects above the eave line of a roof.

17. **Shopping Center Identification Signs.** A sign structure located in front of a shopping center that advertises the name of the center and associated businesses.

18. **Sidewalk Signs**. Signs not permanently attached to the ground or any other permanent supporting structure. These signs are sometimes referred to as A-frame signs. Where permitted, sidewalk signs are subject to special regulations and permits.

19. **Snipe Sign**. An off-site sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences or to other objects.

20. **Temporary Sign**. A sign or advertising display designed or intended to be displayed for a short period of time.

21. **Wall Signs (Surface**). Wall surface signs include any sign attached to, erected against or painted upon the wall of a building or structure, the face of which is in a single plane parallel to the plane of the wall. Wall signs also include signs on a false or mansard roof.

22. **Window sign** means any sign placed inside or upon a window facing the outside and which is intended to be seen from the exterior.

b. **<u>Determining Computable Sign Area</u>**

1. Single-faced Signs. The sign face on a single plane and viewable from only one side of the plane shall be measured as the entire area within a single continuous perimeter composed of squares or rectangles that enclose the extreme limits of all sign elements including, but not limited to, sign structures or borders, written copy, logos, symbols, illustrations, and color.

2. Double-faced Signs. Double-faced signs with sign faces that are parallel (back-to-back) and a distance of less than three feet apart, or sign faces that have an interior angle of 45 degrees or less, shall be counted as a single sign with only one face measured in calculating sign area. Where the faces are not equal in size, the larger sign face shall be used as the basis for calculating sign area.

3. Multi-faced Signs. The sign area of signs with three or more sign faces, or signs with two sign faces with a distance greater than three feet apart or an interior angle greater than 45 degrees, shall be calculated as the sum of all the sign faces.

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4. Three-dimensional Signs. Signs that consist of, or have attached to them, one or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture, or statue-like trademarks), shall have a sign area of the sum of two adjacent sides or sign faces.

Allowable sign area and sign types are designated by *District*. See Figure 17.031 to determine what district your business is located in. If your business is located on or near the border of a district, please contact the Morro Bay Planning Department.

For Lodging Establishments see section 17.68.080
For businesses located in Industrial Zones see section 17.68.090

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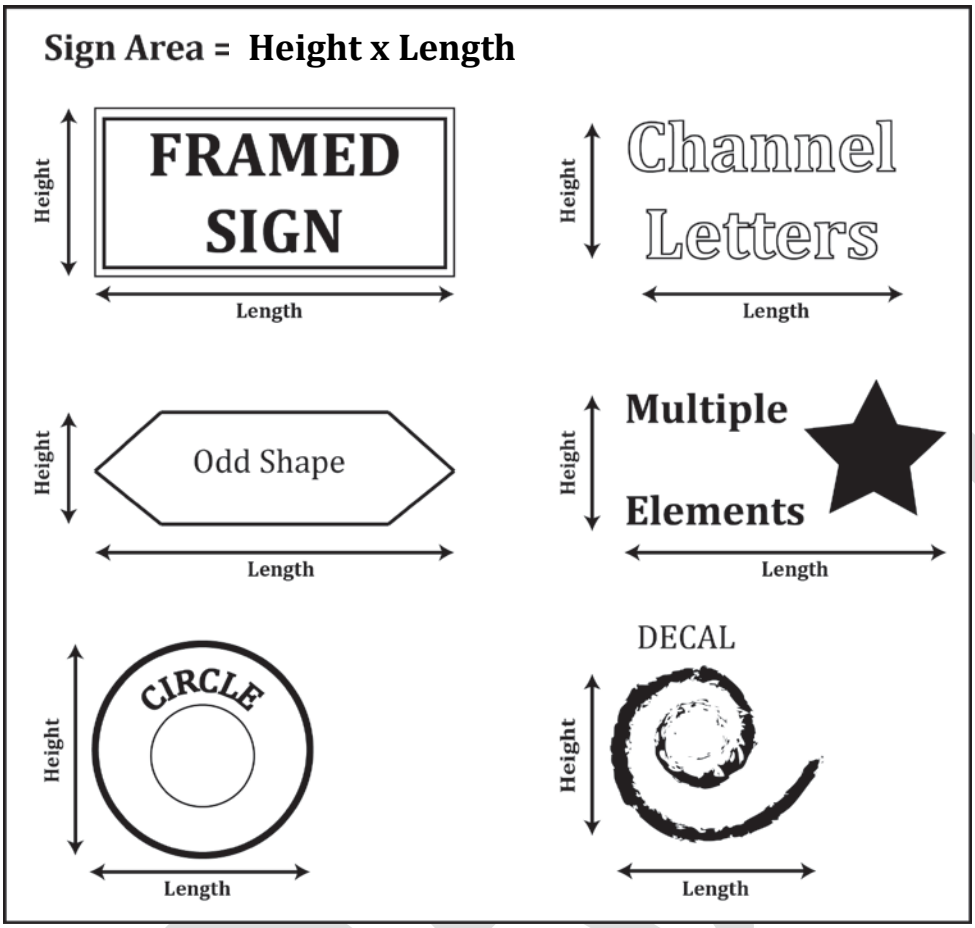
Figure 17.023: Measurement of Sign Area



Three-Dimensional Signs

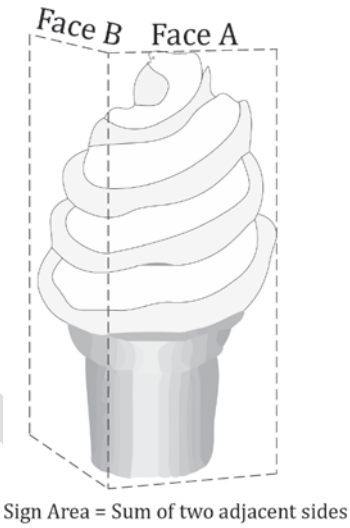
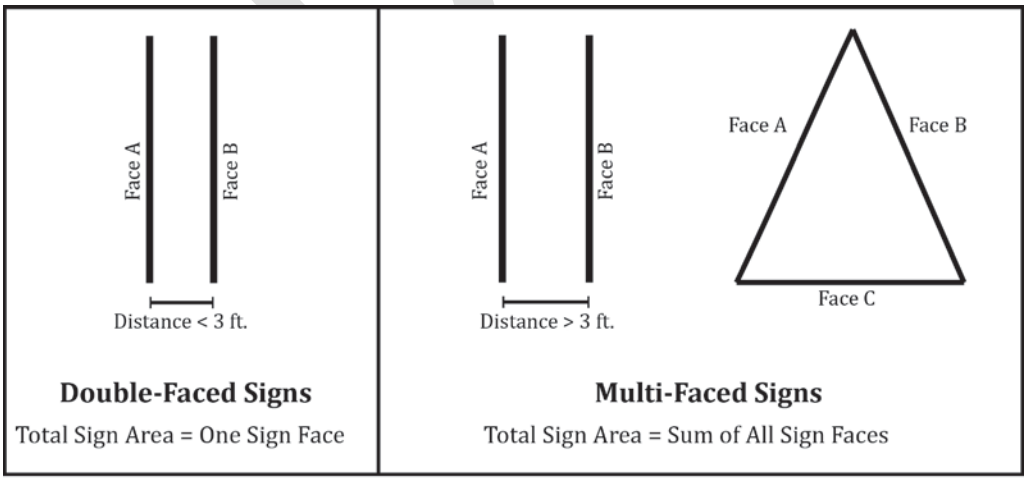


Figure 17.024: Measurement of Double and Multi-Faced Signs



c. **<u>Computation of Facades</u>**

"Façade" = (Façade Length x Facade Height)

*For the purposes of this Ordinance, "Facade Height" shall not include the roof

*For definitions of "Façade Length and Façade Height" see Section 17.68.120.

Figure 17.025: Single-Tenant Façade Calculation

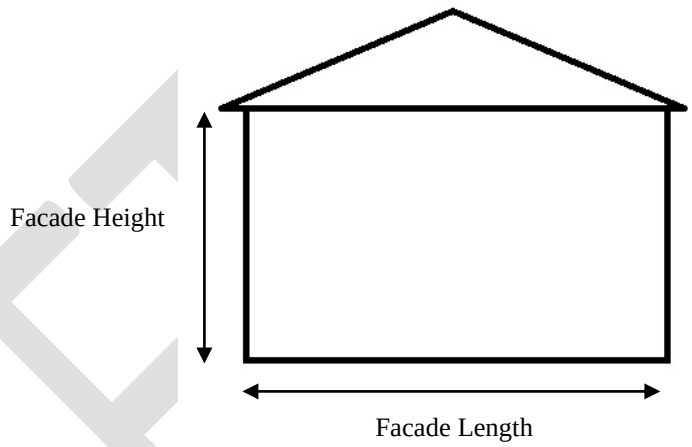


Figure 17.026: Multi-Tenant Façade Calculation Example #1

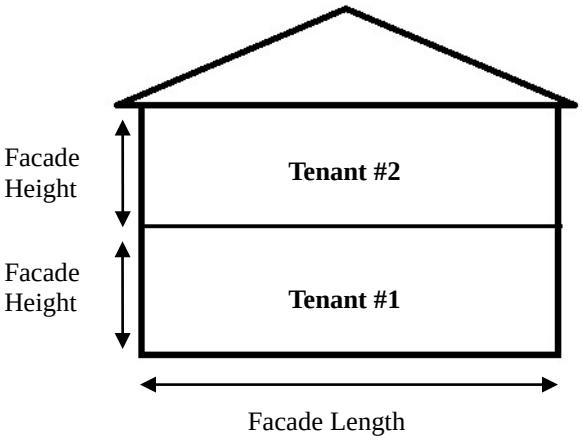
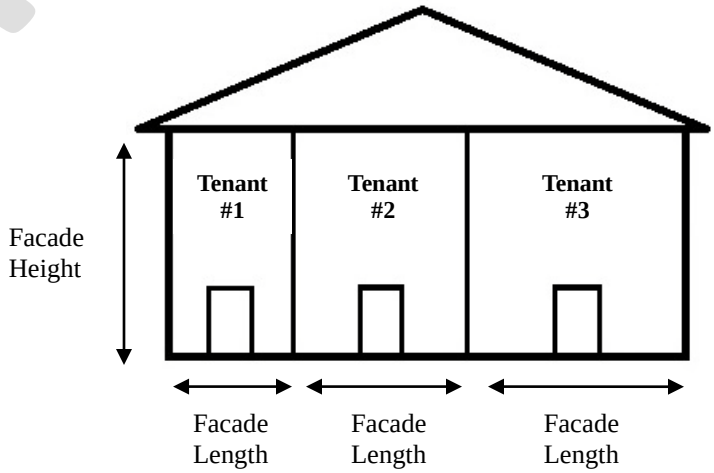


Figure 17.027: Multi-Tenant Façade Calculation Example #2



17.68.030 Standards for All Districts and Zones

The following principles and regulations apply to all areas within the City. No area in the City is exempt from the provisions listed in the following section. See other applicable commercial sign standards by following these steps: (1) Determine appropriate sign district (using Figure 17.031) (2) View table that applies to the appropriate district (Sections.17.68.040-17.68.070). For Lodging Establishments see Section 17.68.080.

A. <u>Construction, Maintenance, Abandonment and Removal</u>

1. **Construction and Maintenance**
   a. Unless exempt, signs and supporting structures shall be installed in accordance with the Building Code.
   b. All signs, together with all supporting structures, shall be maintained in the following manner:
      i. Signs shall be kept free of rust, dirt and chipped, cracked or peeling paint.
      ii. All hanging, dangling, torn or frayed parts of signs shall be promptly repaired and graffiti and unauthorized attachments shall be removed.
      iii. Burned-out illumination shall be replaced immediately.
      iv. Sign areas shall be kept free and clear of all noxious substances, rubbish, and weeds.
   c. If a sign is removed from its supporting structure for longer than 60 days, the supporting structure shall be removed.
   d. Any sign deemed unsafe by a Building Official shall be removed or fixed within 3 days of written notice.
   e. Every sign, including those signs for which no permit is required, together with all supports braces, guys and anchors shall be maintained in a safe, presentable and good structural condition at all times. The display surfaces of all signs shall be kept neatly painted, posted or otherwise maintained at all times. The owner of property on which the sign is located shall be responsible for the condition of the area in the vicinity of the sign, and shall be required to keep this area clear, sanitary and free from noxious or offensive substances, rubbish and flammable waste materials.

2. **Abandonment.** The following signs shall be presumed to be abandoned:
   a. **Located on Property**. Any sign which is located on property that becomes vacant and is unoccupied for a period of 60 days or longer.
   b. **Unrelated to Property**. Any sign which was erected for an occupant or business unrelated to the present occupant or business.
   c. **Time, Event or Purpose Sign**. Any sign which pertains to a time, event or purpose which no longer exists.
   d. **Exceptions**
      i. **Temporarily Suspended Business**. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of 60 days or more.

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3. **Removal.** Abandoned signs are found to be a public nuisance due to their misleading and distracting nature and due to their contributing to visual blight, detrimental to surrounding areas and the community generally. An abandoned sign face is prohibited and shall be removed by the property owner.

B. <u>Provisions for Nonconforming and Illegal Signs</u>

1. **Existing Nonconforming Signs**. Signs existing at the time of adoption of this Title, that do not comply with the provisions of this Chapter but that were legally erected pursuant to applicable state and city ordinances in effect at the time of construction, but which do not comply with the provision of this Chapter shall be regarded as nonconforming signs, subject to the following:

   a. **Use Change**. Whenever the type of business or use changes with which a nonconforming sign is associated, the nonconforming sign associated with business shall be removed or otherwise made to conform to the provisions of this Chapter. An example of a change in use is a traveler-serving amenity (such as a gas station or convenient store) becoming a resident-serving amenity (such as a furniture or clothes store).

   b. **Change of Business.** Whenever a business leaves a location and new business occupies a property, the nonconforming sign associated with the previous business shall be removed or otherwise made to conform to the provision of this Chapter.

   c. **Sign Maintenance.** When a nonconforming sign becomes deteriorated or dilapidated to the extent of over fifty percent (50%) of the physical value it would have if it had been maintained in good repair, it must be removed within sixty (60) days after receiving notice from the Public Services Department.

      i. If an ill-maintained sign cannot be adequately valued and assessed, the Public Services Director may require that such sign be removed or repaired.

   d. **Limited Expansion**. A nonconforming sign may not be expanded, extended, reconstructed, or altered in any way in its location or orientation to enable it to be read or viewed from a different direction than its original position, except in the following cases:

      i. Changes in sign face, copy, graphic design or color are permitted provided that such sign not be removed.

   e. **Other Requirements**. Nonconforming signs are also subject to the provisions of Chapter 17.56: Nonconforming Uses and Structures.

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2. **Illegal Signs**. Whenever a sign is found to be erected or maintained in violation of any provision of this Chapter, this Title, or any other Federal, State, or local law, and such sign is not a nonconforming sign (e.g. it was a legal sign under the sign regulations in effect prior to adoption of the ordinance codified in this Chapter), the Public Services Director shall order that such sign be altered, repaired, reconstructed, demolished or removed, as may be appropriate, to abate such condition or the Director may initiate proceedings to abate the sign as a public nuisance under the provisions of the Business and Professional Code (Sections 5499.1 to 5499.16). Any work required to be done shall be completed within ten days of the date of such order, unless otherwise specified in writing.

    a. An illegal sign that conforms to the provisions of this Chapter may become legalized if the owner submits a sign permit application within five days of illegal sign notification. If said sign permit is granted the sign may remain in its current state.

C. <u>General Sign Standards (Commercial and Non-Commercial)</u>

1. **Architectural Signs.**
    a. Maximum Height: 8 feet (from the ground to top of sign).
    b. Shall be supported by two (2) or more posts or beams.
    c. Minimum Setbacks: One foot from setback line.
    d. Sign faces: Maximum of two sign faces permitted.
    e. If one architectural sign proposed, sign shall count towards allowable signage for the *Primary Façade.* If a second architectural sign is proposed, sign shall count towards nearest secondary façade.
    f. Landscaping. Signs shall be placed in a landscaped planter or berm. As a condition of any sign permit for a monument sign, additional landscaping of the site may be required to better integrate sign appearance with the site.

2. **Awning and Canopy Signs**.
    a. Maximum Height. 25 feet above a sidewalk or public right-of-way
    b. Sign copy and/or logos may not extend beyond the area of the awning or canopy.

3. **Clearance from Utilities**. Signs and their supporting structures shall maintain clearance and not interfere with electrical conductors, communications equipment or lines, surface and underground facilities and conduits for water, sewage, gas, electricity and communications equipment or lines. Signs shall not be placed in public utility easements unless express written permission from the affected public utility is obtained.

4. **Community Promotional Display Programs**. Community promotion signs advertising, directing or informing pedestrian of community events and services not related to or located on the site shall be permitted on private property in all commercial districts, and on public land with the granting of an encroachment permit.

5. **Dock Signs.** Any sign placed on a dock shall not in any way impede the right-of-way for pedestrians or watercraft. A dock sign may only be placed on docks or gangways owned

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by the subject property.

6. **Drainage**. The roofs of canopies or marquees exceeding 25 square feet shall be drained to prevent dripping or flow onto public sidewalks or streets and shall be connected to an approved disposal source of adequate conductors.

7. **Encroachment into Public Street or Sidewalk**. For signs projecting over a public street or sidewalk refer to "Title 14: Buildings and Construction" within the City's municipal code.

8. **Equipment Signs**. Signs, not more than eight square feet in sign area, incorporated into displays, machinery, or equipment by a manufacturer, distributor, or vendor that identify or advertise only the product or service dispensed by the machine or equipment, such as signs customarily fixed to automated teller machines (ATMs), gasoline pumps, menu boards, and umbrellas. If a vending machine is visible from the street, the sign area shall be included in the total sign area allowed for the use.

9. **Hanging (Suspended) Signs**.
   a. Bottom of sign must maintain a minimum clearance of 8 feet above the public right-of-way or sidewalk.
   b. Shall not be internally illuminated.

10. **Illumination**. Signs with any type of illumination are subject to all of the following standards:
    a. All lighting is subject to necessary electrical permits.
    b. All newly fabricated signs shall incorporate light-emitting diodes (LEDs) or an equally energy efficient light source.
    c. Illuminated signs that are larger than 10 square feet in area shall not be switched ON during daylight hours. All newly fabricated signs larger than 10 square feet in area shall incorporate an automatic on/off switch.
    d. All illuminated signs shall be turned off at 10 PM or at the time the business closes.
    e. External lighting shall be properly shielded to prevent glare upon an adjacent public right-of-way or adjacent property.
    f. Illumination shall be constant in intensity and color and shall not consist of flashing, animated or changing lights.
    g. Illumination shall not be distracting to pedestrians, motorists, or neighboring property.
    h. No sign shall emit or reflect light exceeding ten foot-candle power at ten feet from the face of the sign.

11. **Marquee Signs.** Marquee signs may not project above the marquee face.
    a. Removable copy may be changed on the face of permitted sign without securing a sign permit.

12. **Materials**. All signs shall be made of substantial materials that are not subject to rapid deterioration, as determined by the Public Services Director.

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13. **Monument Signs**
    a. Maximum Height. 5 feet
    b. Minimum Setbacks: One foot from setback line.
    c. Sign faces: Maximum of two sign faces permitted.
    d. Number of signs: Maximum of two monument signs per business.
    e. If one monument sign proposed, sign shall count towards allowable signage for the *Primary Façade.* If a second monument sign is proposed, sign shall count towards nearest secondary façade.
    f. Landscaping. Signs shall be placed in a landscaped planter or berm. As a condition of any sign permit for a monument sign, additional landscaping of the site may be required to better integrate sign appearance with the site.

14. **Pole Signs**
    a. Landscaping. Pole signs shall be placed within a landscaped planter with at least 28 square feet of planting area. As a condition of any sign permit for a pole sign, additional landscaping of the property may be required where needed to better integrate sign appearance with the site through scale and softening effects.
    b. Maximum Height. 15 feet;
    c. Pole signs shall count towards allowable signage for the *Primary Façade.*
    d. Subject to Conditional Use Permit and shall meet the following conditions:
        i. Business is traveler-serving.
        ii. Proposed sign does not degrade or block scenic views (professional viewshed study may be required).
        iii. If oriented towards Highway 1, sign shall be legible from a distance that will allow drivers to comprehend information and safely exit the highway (professional engineering study may be required).
        iv. Sign design shall be compatible with neighborhood character, and shall not degrade the overall aesthetic quality of the subject property and surrounding area.

15. **Projecting (Pub) Signs**.
    a. Minimum Height. 8 feet above a sidewalk or other public right-of-way.
    b. Maximum Height. 20 ft. above a sidewalk or other public right-of-way, but not above an eave or roof.
    c. Shall not be internally illuminated.

16. **Roof Signs.** The top of the sign may not extend above the maximum building height for the zone in which the business is located.

17. **Sign Orientation**. No sign, other than a projecting sign, shall be permitted that is so oriented as to be viewed primarily across an adjacent private property line. All signs must be visible directly from a public right-of-way, other public open space or parking lot or courtyard on the same site as the sign, without view lines extending over private property different from that on which the sign is located.

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18. **Substitution of Sign Message**. The owner of a permitted sign may substitute a non-commercial message for a commercial message or a commercial message for a non-commercial message.

19. **Wall Surface Signs** ("Wall" Signs). Wall signs are subject to the standards in the following table. No wall surface sign may cover wholly or partially any required wall opening.

WALL (SURFACE) SIGN STANDARDS	
Minimum Horizontal and Vertical Separation Between Signs	3 ft.
Maximum Projection from Surface of Building	12 in
Minimum Vertical Separation Between Sign and Roof Line	1 ft. (8 inches on a mansard roof)
Maximum Height	20 ft. above a sidewalk or public right-of-way.

D. <u>Exempt Signs</u>

The following signs are exempt in ALL districts and do not count towards total allowable sign area:

1. **Announcement Signs**. One sign, not exceeding 16 square feet in area and 6 feet in height, per street frontage on real property where construction, structural alteration or repair is to take place, or is taking place, which contains information regarding the purpose for which the building is intended and the individuals connected with the project, including names of architects, engineers, contractors, developers, finances and tenants. Announcement signs are exempt only for the duration of the construction of the building and shall be removed prior to issuance of a certificate of occupancy.

2. **Automatic Teller Signs.** Any business owning one or more ATM machines is allowed one (1) single-sided automatic teller sign.
   a. Maximum area. 3 square feet.

3. **Businesses Outside of Defined Districts.** In the case a business does not exist within any of the sign districts as defined by this Chapter, the business shall conform to the regulations of the sign district it best fits in, as determined by the Public Services Director.

4. **Change of Business Signs**. A temporary attachment or covering of wood, plastic, or canvas over a permanent sign indicating a change of ownership or activity may be displayed no longer than 30 days following the change of ownership or activity for which the sign is intended, or up to 90 days following issuance of a building permit. The sign shall be no larger than the previously permitted permanent sign.

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5. **Civic Event Signs**. One temporary sign announcing a campaign drive or event of a civic, public, quasi-public, philanthropic, educational or religious organization is allowed.
   a. Maximum Sign Area. 32 square feet.
   b. Maximum Time Period. Shall not be displayed for a period exceeding thirty calendar days previous to such event. An establishment shall not display such signs more than 60 days each year. Such signs shall be removed immediately after the event.

6. **Fence Signs**. One fence sign allowed per property to advertise community and non-profit events. Such signs shall not be displayed for a period exceeding thirty calendar days previous to such event. An establishment shall not display such signs more than 60 days each year. Such signs shall be removed immediately after the event.

7. **Flags**. Flags and insignia of any government, except when incorporated into a commercial sign, are permitted.

8. **Garage Sale Signs**. One unlighted sign is permitted for garage sales, provided such sign does not exceed four square feet in area and is displayed on the property where such sale shall take place only on the day of the sale.

9. **Mobile Home Parks**. A mobile home park may be allowed one externally illuminated or non-illuminated identification sign, not to exceed the equivalent of one square foot of sign area per ten linear feet of frontage on each right-of-way upon which it takes vehicular access. No sign shall have a surface area of greater than 30 square feet, a height of 8 feet, or be erected at right angles to the right-of-way.

10. **Mobile Vendor (Non-permanent Vendor) Signs**. Signs fixed to mobile vending carts that identify or advertise the name, product, or service provided by the vendor. Each mobile vending cart is limited to a maximum sign area of eight square feet.

11. **Murals.** Artwork painted on buildings; such artwork shall not include logos, text, or graphics that intentionally advertise a business, as determined by the Public Services Director.

12. **Off-Site Directional Sign**. One off-site sign not to exceed 36 square feet, providing direction to real estate available for sale or lease, during daylight hours only. Permission from the property owners of the site where the sign is placed is required.

13. **Official Government Signs and Legal Notices**. Official notices issued by a court, public body or office and posted in the performance of a public duty; notices posted by a utility or other quasi-public agent in the performance of a public duty; historical markers erected by a governmental body; identification information; directional signs erected by government bodies; or other signs required or authorized by law.

14. **Parking and Directional Signs**. On-site parking and directional signs, not exceeding eight square feet in sign area and five feet in height, that do not include any advertising messages or symbols.

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15. **Political Campaign Signs**. Political campaign signs not to exceed sixty-four square feet in area per site and shall be permitted only on private property;

16. **Public Restroom and Public Access Signs.** One on-site public restroom sign not exceeding 3 square feet and one on-site public access sign not exceeding 4 square feet.

17. **Real Estate and "Open House" Signs**. Signs conveying information about the sale, rental, or lease of a property and the identification of the person **or** firm (agent) handling such sale, lease or rental, provided they comply with the following standards. Real estate and open house signs are exempt only during the period for which the property is offered for sale or lease.

18. **Restaurant Menu Boards.** Restaurants with a valid business license are allowed one (1) menu board per entrance with a maximum of two (2) menu boards.
    a. Maximum area. 4 square feet.
    b. Menu boards shall be securely placed on a building face.
    c. Menu boards shall not in any way obstruct or block a door, window, or exit.
    d. Menu boards shall consist solely of the restaurant's current menu.

19. **Sidewalk Signs.** Subject to a special *Sidewalk Sign Permit.* Sidewalk signs proposed to be placed within the public right-of-way require a *Sidewalk Sign Encroachment Permit* in addition to a general *Sidewalk Sign Permit.*

20. **Subdivision Signs.** One sign per frontage, advertising the sale of a subdivision may be displayed on the site of the subdivision upon approval of a final map and initiation of construction for a period of one year. The display period may be extended with written approval of the Public Services Director for a reasonable period of time, not to exceed one year at any one time.

21. **Shopping Center Identification Signs**. A shopping center with four (4) or more tenants is allowed one Identification Sign per major street frontage.
    a. Minimum Height. 6 ft.
    b. Maximum Height. 8 ft.
    c. Sign shall include name of shopping center and spaces for a maximum of 8 tenants.
    d. The sign(s) shall incorporate the design theme of the existing shopping center.
    e. The sign(s) are subject to approval of a Master Sign Program.

22. **Special Private Event Displays**. A temporary sign may be erected on the premises of an establishment having a special event provided that such sign shall not be displayed for a period exceeding thirty calendar days previous to such event. An establishment shall not display such signs more than 60 days each year. Such signs shall be removed immediately after the event.

23. **Temporary New Business Signs.** One temporary sign not exceeding 30 square feet for new businesses is allowed. A temporary sign may remain erected for a maximum of 30

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days unless the Public Services Director grants an extension.

24. **Temporary "Sale" Signs.** One temporary sign not exceeding 10 square feet in area signifying a sale or specials is allowed. No business may display temporary sale signs for more than 90 days during any calendar year.

E. <u>Prohibited Signs</u>

The following signs are prohibited in ALL districts:

1. **Animated and Moving Signs**. Signs that incorporate, in any manner, any flashing, moving, rotating, pulsating or intermittent lighting, with the exception of approved time and temperature displays and barber poles.

2. **Banners, Streamers, or Pennants**. Signs, banners, pennants, valances or any other advertising display constructed of cloth, canvas, light fabric, paper, cardboard, wallboard or other light materials except for awnings and temporary signs as provided for in this Chapter.

3. **Billboards**. Off premises outdoor advertising signs.

4. **Digital Signs.** Any electronic sign that resembles a television screen or video monitor, or that can be altered or changed from a remote location.

5. **Emissions.** Signs that produce noise or sounds in excess of 40 decibels, excluding voice units at drive-through facilities, and signs that emit visible smoke, vapor, particles, or odor.

6. **Home Occupation Signs**. See Section 17.48.260 of the Morro Bay, California, Code of Ordinance.

7. **Inflatable Signs.** Three-dimensional signs that are made of flexible material that is designed to be filled with gas or air.

8. **Lodging Rates.** Any sign or surface that displays lodging rates.

9. **Obscenities**. Signs that depict, describe, or relate to "specified sexual activities" or "specified anatomical areas."

10. **Obstruction to Exits**. Signs that obstruct any fire escape, required exit, window or door opening intended as a means of egress.

11. **Obstruction to Ventilation**. Signs that interfere with any opening required for ventilation.

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12. **Persons or Animal Signs.** Signs that use humans or animals to display signs or act as signs.

13. **Signs Advertising Brand Names.** Any sign that advertises a brand name or logo (except the brand name or logo directly related to the business) is prohibited. Example: Grocery stores may use signs to advertise that they sell "cereal," but may not use signs to display the names of brands that make the cereal.

14. **Signs Creating Traffic Hazards**. Signs located in such a manner as to constitute a traffic hazard or obstruct the view of any authorized traffic sign or signal device, or signs that may be confused with any authorized traffic sign, signal, or device; or that makes use of the words "stop", "look", "danger", or any other word, phrase, symbol, or character that interferes with, misleads, or confuses vehicular drivers.

15. **Snipe Signs.** Off-premise signs advertising a business or service. All commercial signs shall be on property owned or leased by the business owner.

16. **Signs on Public Bus Shelters or Benches**. Signs located on bus shelters, benches, or similar structures provided for the use of passengers along the route of a bus, not including plaques containing the names of persons or organizations which have made gifts or donations of such street furniture.

17. **Tire Stacks.** Signs placed on stacked tires.

18. **Vehicle Displays**. Signs placed or displayed on vehicles parked in a conspicuous location to be used for on-site or off-site advertising, with the exception of signs advertising such vehicles for sale and vehicle identification signs in locations where sale of vehicles is permitted.

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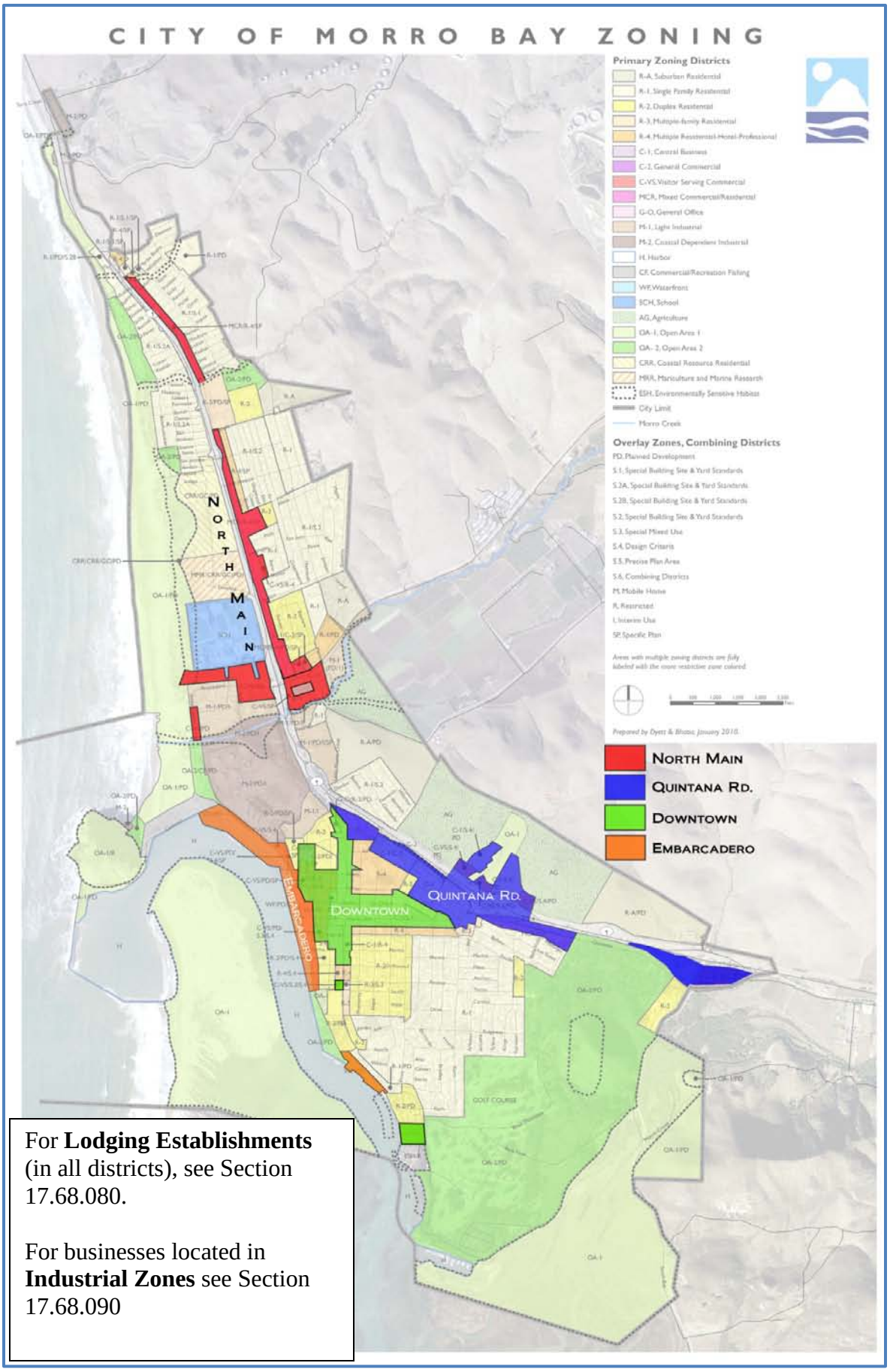
Figure 17.031: Sign District Map



For **Lodging Establishments** (in all districts), see Section 17.68.080.

For businesses located in **Industrial Zones** see Section 17.68.090

17.68.040 Embarcadero District

Purpose. The Embarcadero District is home to many of the tourist-serving businesses in Morro Bay. The Embarcadero District contains a dense collection of restaurants, hotels, bars, museums, gift shops, and recreation-based businesses. The sign regulations for this district are intended to maintain the unique, beach town character of Morro Bay's waterfront. The Embarcadero District is dominated by pedestrians; the code promotes small scale signs and projecting type signs that are oriented towards pedestrians and bicyclists. With the prohibition of window signs and pole signs, the code also aims to maximize views of the bay from the street and walkways.

The following chart displays all allowable sign types and specifications for businesses located in the Embarcadero District.

IMPORTANT NOTES

- **See Chapter 17.68.100 for MASTER SIGN PROGRAM if property has three or more tenants or includes a building with a facade exceeding 3,000 square feet.**
- **If a business is near the edge of a district, please consult Planning Staff to confirm appropriate district designation.**
- **If a sign type does not appear in the following table it is prohibited in this district.**
- **Signs advertising BRAND NAMES are prohibited in all districts.**
- **Signs that describe offered products or services COUNT towards total allowed signage.**
- **If illumination or lighting of ANY kind is proposed on or around signs, see Section 17.68.030, C-10.**

Projecting Sign Bonus: All businesses are entitled to one (1) "free" projecting sign per frontage. The proposal of a projecting sign *must be reported in the sign permit application*, but will not count towards the total allowable signage for the business.

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Embarcadero District				
Sign Type	**Total # of Signs Allowed**	**Sign Area Allowed**	**Max. Sign Area per Sign (sq. ft)**	**Additional Regulations**
Awning and Canopy	1 per frontage (choose one type) *window signs: 1 per window*	10% of primary facade, 5% of secondary façades*	--	See Section 17.68.030, C-2
Roof			--	See Section 17.68.030, C-16
Wall (Surface) **			--	See Section 17.68.030, C-19
Hanging (Suspended)			--	See Section 17.68.030, C-9
Window			20% of window area	--
Monument (Freestanding)	1 per frontage		25	See Section 17.68.030, C-13
Projecting (Pub)	2 per frontage (30 ft. of spacing between required)		8	See Section 17.68.030, C-15
Dock	1 per business		16	See Section 17.68.030, C-5
Bonuses				
Projecting (Pub)	PLUS (+) 8 sq. ft.		8	
Wall (Surface)	PLUS (+) 4 sq. ft. for **Individual Lettering**		--	
Window	PLUS (+) 3 sq. ft. for **Individual Lettering**		20% of window area	

*** Primary facades shall contain maximum signage equal to 10% of facade area, and secondary facades shall contain maximum signage equal to 5% of façade area (extra allowable sign area granted for secondary facades cannot be implemented on the primary façade, and vice versa).**

****One wall sign signifying the entrance to a business and not exceeding 3 square feet in area may be implemented in conjunction with all other sign types. Such signs must be placed above the main entrance and shall count towards total allowable signage.**

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17.68.050 Downtown District

Purpose. The Downtown District houses a combination of resident-serving and tourist-serving businesses. While there are many restaurants, gift shops and galleries, the district also contains banks, shopping markets, offices, and service-based businesses such as automobile repair shops. The sign regulations for this district are intended to preserve the small-town character that residents, tourists, and business owners enjoy. The code is designed to eliminate excessive signage while promoting pedestrian-oriented signs.

The following chart displays all allowable sign types and specifications for businesses located in the Downtown District.

IMPORTANT NOTES

- **See Chapter 17.68.100 for MASTER SIGN PROGRAM if property has three or more tenants or includes a building with a facade exceeding 3,000 square feet.**
- **If a business is near the edge of a district, please consult Planning Staff to confirm appropriate district designation.**
- **If a sign type does not appear in the following table it is prohibited in this district.**
- **Signs advertising BRAND NAMES are prohibited in all districts.**
- **Signs that describe offered products or services COUNT towards total allowed signage.**
- **If illumination or lighting of ANY kind is proposed on or around signs, see Section 17.68.030, C-10.**

Sidewalk Signs. *See draft Sidewalk Sign Application / Encroachment Permit.*

Projecting Sign Bonus: All businesses are entitled to one (1) "free" projecting sign per frontage. The proposal of a projecting sign *must be reported in the sign permit application*, but will not count towards the total allowable signage for the business. The bonus 8 sq. ft. can be applied to the placement of a larger projecting sign (e.g. after the bonus is applied 16 sq. ft. projecting sign counts towards 8 sq. ft. of allowable area).

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Downtown District				
Sign Type	**Total # of Signs Allowed**	**Sign Area Allowed**	**Max. Sign Area per Sign (sq. ft)**	**Additional Regulations**
Awning and Canopy	1 per frontage (choose one type); *window signs: 1 per window*	15% of primary facade, 15% of secondary façades*	--	See Section 17.68.030, C-2
Marquee			--	See Section 17.68.030, C-11
Wall (Surface) **			--	See Section 17.68.030, C-19
Window			30% of window area	--
Hanging (Suspended)	1 per frontage		--	See Section 17.68.030, C-9
Monument (Freestanding)	1 per frontage		25	See Section 17.68.030, C-13
Projecting (Pub)	2 per frontage (30 ft. of spacing between required)		16	See Section 17.68.030, C-15
Bonuses				
Projecting (Pub)	PLUS (+) 8 sq. ft.		16	
Wall (Surface)	PLUS (+) 10 sq. ft. for **Individual Lettering**		--	
Window	PLUS (+) 5 sq. ft. for **Individual Lettering**		30% of window area	
Sidewalk Sign	See Sidewalk Sign specifications			

*** Primary facades shall contain maximum signage equal to 15% of facade area, and secondary facades shall contain maximum signage equal to 15% of façade area (extra allowable sign area granted for secondary facades cannot be implemented on the primary façade, and vice versa).**

****One wall sign signifying the entrance to a business and not exceeding 3 square feet in area may be implemented in conjunction with all other sign types. Such signs must be placed above the main entrance and shall count towards total allowable signage.**

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17.68.060 Quintana Road District

Purpose. The Quintana Road District contains many of the City's larger commercial buildings, strip malls, and gas stations. Due to the existence of large parking lots and the adjacent Highway 1, this district is auto-oriented. The sign regulations for this zone focus on allowing large-scale commercial and industrial businesses adequate signs that are proportionate to the associated structures. The regulations also promote motorist safety by requiring that signs are clear and legible from the road.

IMPORTANT NOTES

- **See Chapter 17.68.100 for MASTER SIGN PROGRAM if property has three or more tenants or includes a building with a facade exceeding 3,000 square feet.**
- **If a business is near the edge of a district, please consult Planning Staff to confirm appropriate district designation.**
- **If a sign type does not appear in the following table it is prohibited in this district.**
- **Signs advertising BRAND NAMES are prohibited in all districts.**
- **Signs that describe offered products or services COUNT towards total allowed signage.**
- **If illumination or lighting of ANY kind is proposed on or around signs, see Section 17.68.030, C-10.**

Sidewalk Signs. *See draft Sidewalk Sign Application / Encroachment Permit.*

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Quintana Road District				
Sign Type	**Total # of Signs Allowed**	**Sign Area Allowed***	**Max. Sign Area per Sign (sq. ft)**	**Additional Regulations**
Awning and Canopy	1 per frontage (choose one type) *window signs: 1 per window*	15% of primary facade, 15% of secondary façades*	--	See Section 17.68.030, C-2
Marquee			--	See Section 17.68.030, C-11
Wall (Surface)			--	See Section 17.68.030, C-19
Window			30% of window	
Architectural (Freestanding)	1 per driveway entrance (choose one)		25	See Section 17.68.030, C-1
Monument (Freestanding)			40	See Section 17.68.030, C-13
Pole (Freestanding)	1 per property		--	Conditional Use Permit See Section 17.68.030, C-14
Projecting (Pub)	1 per frontage		16	See Section 17.68.030, C-15
Bonuses				
Architectural and Monument	PLUS (+) 20 sq. ft. for businesses with **facade set back more than 30 ft. from edge of public ROW**		40	
Wall (Surface)	PLUS (+) 10 sq. ft. for **Individual Lettering**		--	
Window	PLUS (+) 5 sq. ft. for **Individual Lettering**		30% of window	
Sidewalk Sign	See Sidewalk Sign Specifications			

*** Primary facades shall contain maximum signage equal to 15% of facade area, and secondary facades shall contain maximum signage equal to 15% of façade area (extra allowable sign area granted for secondary facades cannot be implemented on the primary façade, and vice versa).**

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17.68.070 North Main District

Purpose. The North Main District is composed of industrial, commercial, and mixed use zones. While pedestrian and bicycle activity is present, this district is auto-oriented. The regulations for this district promote signs that are appealing to pedestrians, bicyclists, and automobiles.

The regulations for this district also intend to increase the aesthetic quality of signs that are visible from Highway 1.

IMPORTANT NOTES

- **See Chapter 17.68.100 for MASTER SIGN PROGRAM if property has three or more tenants or includes a building with a facade exceeding 3,000 square feet.**
- **If a business is near the edge of a district, please consult Planning Staff to confirm appropriate district designation.**
- **If a sign type does not appear in the following table it is prohibited in this district.**
- **Signs advertising BRAND NAMES are prohibited in all districts.**
- **Signs that describe offered products or services COUNT towards total allowed signage.**
- **If illumination or lighting of ANY kind is proposed on or around signs, see Section 17.68.030, C-10.**

Sidewalk Signs. *See draft Sidewalk Sign Application / Encroachment Permit.*

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North Main District				
Sign Type	**Total # of Signs Allowed**	**Sign Area Allowed**	**Max. Sign Area per Sign (sq. ft)**	**Additional Regulations**
Awning and Canopy	1 per frontage (choose one type) *window signs: 1 per window*	15% of primary facade, 15% of secondary façades	--	See Section 17.68.030, C-2
Marquee			--	See Section 17.68.030, C-11
Wall (Surface)			--	See Section 17.68.030, C-19
Window			30% of window	
Architectural (Freestanding)	1 per driveway entrance (choose one)		40	See Section 17.68.030, C-1
Monument (Freestanding)			40	See Section 17.68.030, C-13
Pole (Freestanding)	1 per property		--	Conditional Use Permit See Section 17.68.030, C-14
Projecting (Pub)	1 per frontage		16	See Section 17.68.030, C-15
Bonuses				
Architectural and Monument	PLUS (+) 20 sq. ft. for businesses with **facade set back more than 30 ft. from edge of public ROW**		40	
Wall (Surface)	PLUS (+) 20 sq. ft. for **Individual Lettering**		--	
Window	PLUS (+) 10 sq. ft. for **Individual Lettering**		30% of window	
Sidewalk	See Sidewalk Sign Specifications			

*** Primary facades shall contain maximum signage equal to 15% of facade area, and secondary facades shall contain maximum signage equal to 15% of façade area (extra allowable sign area granted for secondary facades cannot be implemented on the primary façade, and vice versa).**

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17.68.080 Lodging Establishments

Purpose. The following regulations apply to lodging establishments in ALL districts. Lodging establishments in the City are located in both residential and commercial zones, and have unique requirements that do not coincide with the signage needs of other types of businesses. The regulations in this section are intended to promote signs that attract potential customers and that are also appealing to both residents and tourists

1. **Attraction Boards for Hotels. Motels and Bed and Breakfast Establishments**. An attached or detached attraction board, not to exceed five square feet in sign area, is allowed, provided it is included within the calculation of the maximum allowable sign area for a hotel, motel, or bed and breakfast establishment. Advertisement of current rates is prohibited.

IMPORTANT NOTES

- **See Chapter 17.68.100 for MASTER SIGN PROGRAM if property has three or more tenants or includes a building with a facade exceeding 3,000 square feet.**
- **If a business is near the edge of a district, please consult Planning Staff to confirm appropriate district designation.**
- **If a sign type does not appear in the following table it is prohibited in this district.**
- **Signs advertising BRAND NAMES are prohibited in all districts.**
- **Signs that describe offered products or services COUNT towards total allowed signage.**
- **If illumination or lighting of ANY kind is proposed on or around signs, see Section 17.68.030, C-10.**

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Lodging Establishments				
Sign Type	**Total # of Signs Allowed**	**Sign Area Allowed***	**Max. Sign Area per Sign (sq. ft)**	**Additional Regulations**
Attraction Boards	1 per business	15% of primary facade, 10% of secondary facades	5	Cannot display rates.
Awning and Canopy	1 per frontage (choose one)		--	See Section 17.68.030, C-2
Wall (Surface)			--	See Section 17.68.030, C-19
Architectural (Freestanding)	1 per driveway entrance (choose one)		25	See Section 17.68.030, C-1
Monument (Freestanding)			25	See Section 17.68.030, C-13
Projecting (Pub)	1 per frontage		16	See Section 17.68.030, C-15
Bonuses				
Wall (Surface)	PLUS (+) 4 sq. ft. for **Individual Lettering**		--	
Sidewalk	See Sidewalk Sign Specifications; NOT allowed in Embarcadero District			

*** Primary facades shall contain maximum signage equal to 15% of facade area, and secondary facades shall contain maximum signage equal to 10% of façade area (extra allowable sign area granted for secondary facades cannot be implemented on the primary façade, and vice versa).**

Additional Illumination Standards:

- Signs that are within or adjacent to residential zones shall not be illuminated after 10 PM regardless if business is open or closed ("Open" and "Vacancy/No Vacancy" signs are exempt from this regulation, and may remain illuminated during business hours).

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17.68.090 Industrial Zones

Purpose. The following regulations apply to businesses located in industrial zones in ALL districts. Industrial businesses have unique requirements that do not coincide with the signage needs of other types of businesses.

IMPORTANT NOTES

- **See Chapter 17.68.100 for MASTER SIGN PROGRAM if property has three or more tenants or includes a building with a facade exceeding 3,000 square feet.**
- **If a business is near the edge of a district, please consult Planning Staff to confirm appropriate district designation.**
- **If a sign type does not appear in the following table it is prohibited in this district.**
- **Signs advertising BRAND NAMES are prohibited in all districts.**
- **Signs that describe offered products or services COUNT towards total allowed signage.**
- **If illumination or lighting of ANY kind is proposed on or around signs, see Section 17.68.030, C-10.**

Industrial Zones				
Sign Type	**Total # of Signs Allowed**	**Sign Area Allowed***	**Max. Sign Area per Sign (sq. ft)**	**Additional Regulations**
Awning and Canopy	1 per frontage (choose one)	10% of primary facade, 5% of secondary facades	--	See Section 17.68.030, C-2
Wall (Surface)			--	See Section 17.68.030, C-19
Bonuses				
Wall (Surface)	PLUS (+) 8 sq. ft. for **Individual Lettering**		--	

*** Primary facades shall contain maximum signage equal to 10% of facade area, and secondary facades shall contain maximum signage equal to 5% of façade area (extra allowable sign area granted for secondary facades cannot be implemented on the primary façade, and vice versa).**

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17.68.100 Sign Permits

A. **Zoning Clearance or Sign Permit Required**

1. **Authority**. No sign, other than an exempt sign, shall be erected or altered, without first obtaining a zoning clearance or sign permit from the Public Services Director. The Director may attach reasonable conditions on the approval of the sign permit to help ensure compliance with this Chapter. These conditions may require the removal, modification or relocation of existing signs where the proposed sign(s) would be located on sites where existing signs are nonconforming.

2. **Application Requirements**. Applications for a sign permit shall be made in writing upon forms furnished by the Public Services Director, accompanied by the required fee and plans drawn to scale and with all of the following information. Where the scale and scope of the sign proposal so warrants, the Director may waive some of the informational requirements listed below provided all information necessary for adequate review of the proposal is submitted.

   a. The proposed design, dimensions, copy, color, lighting methods and location of the sign on the site, including the dimensions of the sign's supporting members, and details of all connections, guy lines, supports and footings, and materials to be used.
   b. The maximum and minimum height of the sign.
   c. The location of off-street parking facilities, including entries and exits where directional signs are proposed.
   d. The size and dimension of all signs existing on the site.
   e. The location and horizontal frontage of any building(s) on the property, both existing and proposed.
   f. Photographs of all existing signage and the building faces or sites where signage is proposed.
   g. Any other information deemed necessary by the Public Services Director.

B. **Required Findings. In approving a sign permit, the Director must find that:**

1. Signs on all proposed buildings or new additions to existing buildings are designed as an integral part of the total building design.

2. The location of the proposed sign and the design of its visual elements (lettering, words, figures, colors, decorative motifs, spacing and proportions) are legible under normal viewing conditions that prevail where the sign is to be installed.

3. Review of signs at city entryways as defined in the Scenic Highway Element of the General Plan shall also be subject to the following provisions:

   a. Sign area, height and location of signs shall be designed so as not to interfere with

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view corridors as defined and specified in the General Plan/Local Coastal Plan.

b. Freestanding signs shall not exceed eight feet in height except within one hundred feet of Highway 1 or Highway 41. Where feasible, all freestanding signs within or along city entryways shall be placed within a landscaped planter.

17.68.110 Master Sign Program

A. **Purpose.** Master Sign Programs establish criteria for multi-tenant properties that ensure signage is uncluttered, consistent, and fairly distributed between tenants.

B. **Applicability.**

1. Any site having three (3) or more non-residential occupants shall submit a master sign program to be reviewed and approved by the decision-making authority for the use (e.g. the Public Services Director or the Planning Commission).

2. Any site having three or fewer non-residential occupants may submit a master sign program to be reviewed and approved by the decision-making authority.

3. Projects involving construction or renovation of more than 25,000 square feet of space in the commercial and mixed use zoning districts shall submit a master sign program which must be approved prior to issuance of any occupancy permit.

4. Properties subject to a MSP that do not have one shall establish a MSP when a current tenant proposes the installation of a new sign.

5. Nonconforming signs shall be amortized when a tenant closes their business and a new tenant moves in. All new signs shall conform to the approved Master Sign Program.

C. **Application Requirements.** Applications for approval of a master sign program shall be submitted to the Public Services Director and shall include the following:

1. Master Sign Program. A Master Sign Program, drawn to scale, delineating the site proposed to be included within the signing program and the location of all proposed signs.

2. Drawings and Sketches. Drawings and/or sketches indicating the exterior surface details of all buildings on the site on which wall signs, directory signs, ground signs or projecting signs are proposed. Illuminated sign locations and illumination methods shall also be specified.

3. Photographs of all existing signage and the building faces or sites where signage is proposed.

4. Statement for Modifications. A statement of the reasons for any requested modifications

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to the regulations or standards of this Chapter.

5. Sign Standards. A written program specifying sign standards, including color, size, construction details, placement, and necessity for City review for distribution to future tenants.

6. Directory Sign. A directory sign not exceeding 12 feet in area shall be integrated into the site design and placed on the primary frontage or entryway. The sign shall have space to advertise the names of businesses associated with the MSP.

7. Public Access Sign. If a property includes a public access way, this access shall be indicated with a sign (minimum 3 square feet) on the primary building façade.

D. **Allowable Modifications**. A Master Sign Program may provide for additional sign area and other deviations from the standards of this Chapter, provided that the Master Sign Program is consistent with the provisions of all Sections in this Chapter.

E. **Required Findings**. In approving a Master Sign Program, the decision-making authority shall find that all of the following are met:

1. The proposed signs are compatible in style and character with any building to which the sign is to be attached, any surrounding structures, and any adjoining signage on the site;

2. Future tenants will be provided adequate opportunities to construct, erect or maintain a sign for identification;

3. All current and future tenants shall be granted adequate advertisement space on the property's primary frontage; and

4. Directional signage, required directory sign, and building addressing is adequate for pedestrian and vehicular circulation and emergency vehicle access.

F. **Conditions of Approval**. The Planning Commission may attach any reasonable conditions necessary to carry out the intent of the Master Sign Program requirement, while still permitting each sign user opportunities for effective identification and communication.

G. **Administrative Approval of Signs Consistent with Master Sign Program**. Following approval of a Master Sign Program, the Public Services Director is authorized to issue building permits or other permits, as deemed necessary, to install signs that conform to an approved Master Sign Program. Minor modifications of individual sign area may be approved, provided the maximum allowed by an approved Master Sign Program is not exceeded.

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17.68.120 Appeals

A. **Persons Who May Appeal**. Except as provided for elsewhere in this Title, appeals may be made by the following persons, in the following instances:

   1. Local Appeals**.** Appeals to the Planning Commission or City Council may be filed by the applicant, by the owner of property, or by any other person aggrieved by a decision that is subject to appeal under the provisions of this Title.

B. **Final Decision Required**. Unless otherwise specified by Federal or State law, an appeal must be brought and a final decision rendered by the hearing body before the matter may be appealed to a court of law.

C. **Time Limits.** Unless otherwise specified in State or Federal law, all appeals shall be filed within 10 days of the date of action.

D. **Proceedings Stayed by Appeal**. The timely filing of an appeal shall stay all proceedings in the matter appealed, including, but not limited to, the issuance of City building permits and business licenses.

E. **Appeals of Director Decisions**. A decision of the Public Services Director on any application may be appealed to the Planning Commission by filing a written appeal with the Planning Department. The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal.

F. **Appeals of Planning Commission Decisions**. Decisions of the Planning Commission may be appealed to the City Council by filing a written appeal with the City Clerk. The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal.

G. **Transmission of Record**. The Director, or in the case of appeals to the City Council, the City Clerk, shall schedule the appeal for consideration by the authorized appellate body within 60 days of the date the appeal was filed. The Public Services Director shall forward the appeal, the Notice of Action, and all other documents that constitute the record to the appellate body. The Director also shall prepare a staff report that responds to the issues raised by the appeal and may include a recommendation for action.

H. **Appellate Body Action**. The appellate body shall review the appeal, the administrative record, and any written correspondence submitted after the appeal has been filed, and may take one of the following actions:

   1. Conduct a public hearing and decide on the action; or

   2. Remand the matter to the decision-making body or official to cure a deficiency in the record or the proceedings.

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I. **No "De Novo" Review**. At an appeal or review, the appellate body shall consider only the same application, plans, and related project materials that were the subject of the original decision.

J. **Appellate Body Decision**. The appellate body shall render its decision within 60 days of the date the hearing is closed unless State law requires a shorter deadline. An action to grant an appeal shall require a majority vote of the appellate body members. A tie vote shall have the effect of rejecting the appeal.

K. **Standards of Review.** When reviewing any decision on appeal, the appellate body shall use the same standards for decision-making required for the original decision. The appellate body may adopt the same decision and findings as were originally approved.

17.68.130 Definitions

Abandoned Sign. A sign that no longer applies to a business space, building, or site, due to lack of a valid business license, change of business name, or for any other reason that renders the sign not applicable to the premises involved.

Billboard (Outdoor-off-site freestanding sign). A sign placed for the purpose of advertising products or services that are not produced, stored or sold on the property or any other subject no related to the property or use of the property, upon which the sign is located.

Building Mounted Sign. Any sign mounted or erected on or against any building or façade and includes all walls signs, awning and canopy signs and projecting signs.

Business Sign. Any interior or exterior sign which is intended to identify the name or portions of the business name and which is viewable from any exterior area open to the public.

Canopy shall refer to an ornamental roof like structure upon which a sign may be attached or otherwise affixed which is usually located over gasoline pumps.

Construction Sign. A sign displayed by a contractor, subcontractor, or architect on a project site whenever a building permit has been issued for construction, alteration, or repair of a structure and when work is in progress on site pursuant to such permit.

Building frontage. The linear measurement in feet of the property line directly fronting on a public street, or other public right-of-way to which such sign is oriented, excluding California State Highway One.

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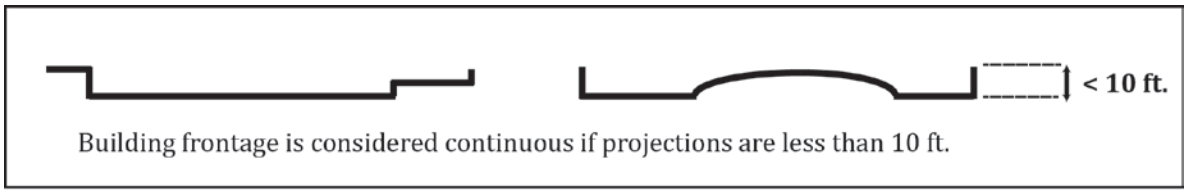


Height of a sign means the greatest vertical distance measured from the ground level directly beneath the sign to the top of the sign or from the nearest property line fronting on a public street, whichever is lower.

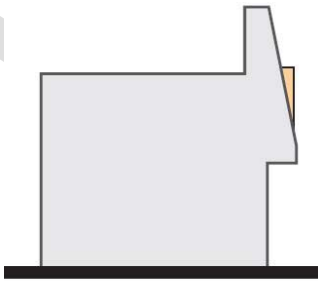
Illegal Sign. An unpermitted sign that is found to be erected or maintained in violation of any provision of this Chapter, this Title, or any other Federal, State, or local law.

Façade Length. The length of the building face or tenant lease site (see page 6 of this Chapter for a graphical representation).

Façade Height. The height of the building face or tenant lease site (see page 6 of this Chapter for a graphical representation).

Master Sign Plan. A coordinated program of all signs, including exempt and temporary signs for a business, or businesses if applicable, located on a development site. The sign program shall include, but not be limited to, indications of the locations, dimensions, colors, letter styles and sign types of all signs to be installed on a site.

Mansard. A roof-like façade comparable to an exterior building wall.



Nonconforming Sign. Any previously approved and permitted sign that existed prior to a change in the municipal code that prohibits such sign. A nonconforming sign is different than an illegal sign (see definition above for "Illegal Sign").

Open House Sign. An open house sign advertises that a house is open for view as part of the sale or exchange of the property.

Primary Façade. The face of a building or tenant lease site that incorporates the main entrance to the business and that faces a primary street, as determined by the business owner.

Real Estate Sign. A sign identifying that a property is for sale, lease, exchange, or rent. The purpose of this sign is to help owners in the sale of their property by providing information on

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the location of the property to potential buyers without impairing the appearance of the community.

Secondary Façade. The face of a building or tenant lease site that serves as a secondary entrance and/or advertising space to the primary façade, as determined by the business owner.

Signs. Any object, structure, symbol, emblem, logo, or display, or any combination thereof, which is intended to or does identify, attract attention to, advertise, or communicate information of any kind to the public. See also Chapter 17.68: Signs.

Sign Area. The entire area of a sign calculated for maximum sign area purposes, pursuant to Chapter 17.68:

Sign Face. The surface or surfaces used for the display of a sign message as seen from any one direction.

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ATTACHMENT B

CITY OF MORRO BAY, CALIFORNIA

Embarcadero District Tourism-Oriented Directional Sign Plan

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Prepared by
City of Morro Bay Planning Division
July 2013

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I. Introduction

This section outlines the background, purpose, and characteristics associated with the City of Morro Bay Tourism-Oriented Directional Sign Plan.

Background

The Embarcadero District Tourism-Oriented Directional Sign Plan (TODSP) and the City of Morro Bay 2013 Sign Ordinance Update have been prepared simultaneously; this plan was designed to work in harmony with the goals and standards presented in the new draft sign ordinance. This project includes the Tourism-Oriented Directional Sign Plan and a supplementary background report (that serves as supporting document for the decisions made during the formation of the Plan). As the background report details, community outreach and discussions at public meetings have revealed that the Chamber of Commerce, City Staff, and business owners support business directional signs, and believe that they will be a beneficial asset to the City of Morro Bay.

Furthermore, it has been determined that there is insufficient space within the public right-of-way to accommodate sidewalk (A-frame) signs along the Embarcadero; the Commissioners have decided to continue prohibition of sidewalk signs in this district. This plan was developed to allow additional off-premise advertisement space for business owners in lieu of a continued sidewalk sign.

Purpose

The purpose of this Plan is to promote tourism and increase the vitality and economic success of businesses in Morro Bay's Embarcadero District by encouraging visitors to explore its entire commercial core. The proposed signs are designed to make tourists aware of all businesses existing along the Embarcadero, including businesses on both sides of the street and those that lease a space within a multi-tenant building. The directional signs will be especially beneficial for businesses that lack a frontage along the Embarcadero's primary right-of-way.

Project Characteristics

This TODSP is the product of extensive research, community outreach, and discussion among City staff. The primary goals of the project are as follows:

1. Increase the vitality of all businesses in the Embarcadero district.
2. Propose aesthetically pleasing signs that match the community's character.
3. Use international symbology on signs to accommodate non-English speakers.
4. Propose placement of directional at critical points to facilitate traffic throughout the length of the Embarcadero.
5. Design signs in a manner that decreases implementation costs.

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Figure 1.1: Business Directional Sign

Directional Signage

Cities have made use of different types of directional signage. "Business directional signs" can be differentiated from traditional tourism-oriented directional signs for a number of reasons[1]. First, business directional signs portray more specific information about individual businesses. For example, a traditional directional sign might state, "Commercial District This Way." A business directional sign, on the other hand, could display an individual business name – "Crabby's Seafood Restaurant." Figures 1.1 and 1.2 are examples of business directional signs existing in Healdsburg, CA.

Figure 1.2: Business Directional Sign

Furthermore, business directional signs rely on the creativity of business owners. Use of a template will be required, but the majority of the sign's area will be designed by business owners. The design may include the business name, a logo, and artwork. Each structure will also have spaces reserved for advertisement of community events.

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[1]**Traditional Tourism-Oriented Directional Signs**

Tourism-oriented directional signs are traditionally (and most commonly) used to help tourists navigate through cities. These signs can be used to guide tourists towards areas of interest such as beaches, downtown commercial districts, parks, and sites with historic significance. They can also be used for safety purposes, pointing towards hospitals and police stations, or making drivers aware of designated emergency evacuation routes.

II. Proposal

Each directional sign station will be composed of three main components:

1. A permanent **sign structure** constructed by the City or partnership organization.
2. A directory **map** of the Embarcadero.
3. Multiple **business directional signs** attached to the sign structures.

Sign Locations

Five (5) locations for sign placement are proposed along the Embarcadero:

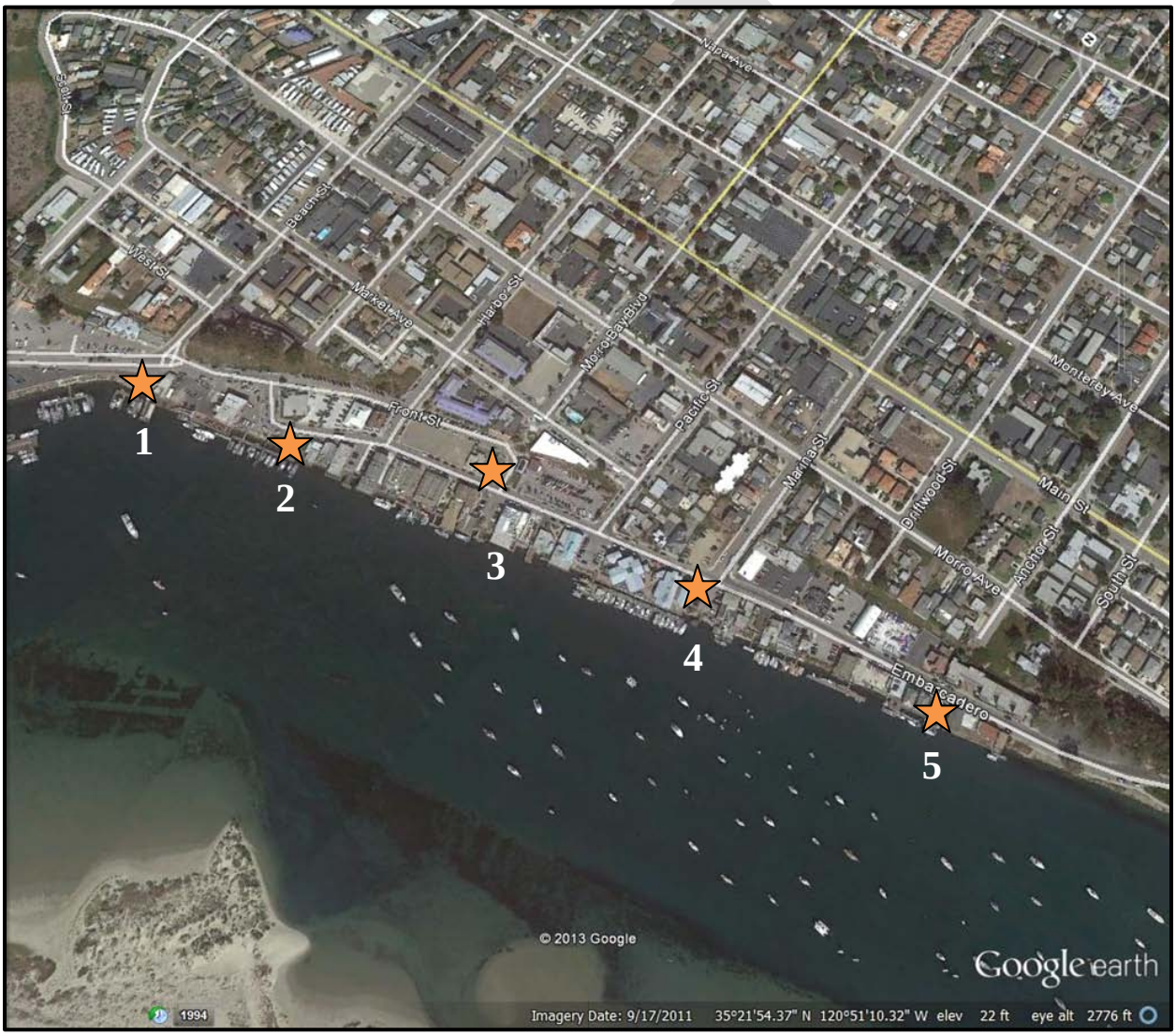

Figure 2.1: Sign Structure Locations

On the west side of the Beach Street and Embarcadero intersection. This site was chosen because a directional sign could serve as a gateway to the new pedestrian walkway (Harbor Walk) that leads to the north end of the Embarcadero. In addition, there is a large parking lot across the street that attracts arriving tourists.

In Anchor Park. This site was chosen because it is the last key tourist gathering area point before the Embarcadero makes a sharp turn to the east before heading north. Staff and the Commissioners agree that many tourists turn around at this point because they are unaware that more restaurants and shops exist on the far north end of the Embarcadero. The directional signage associated with structure is intended to make tourists aware of businesses on the north end.

In Centennial Parkway at the intersection of Front Street and Embarcadero. This location was chosen because the park (and the public bathroom within the park) attracts tourists and provides a gathering space around the proposed sign structure. Furthermore, the land is owned by the City and construction will not require consent from a landowner.

On the NW corner of the Marina Road and Embarcadero intersection. This site was chosen due to the high amount of pedestrian traffic and high concentration of businesses. Businesses in the southern section of the Embarcadero District will be featured here.

In Mariner Memorial Park. This site was chosen because it is a visitor-serving public space located at the south end of the Embarcadero. The park provides bay views, benches, and educational signs for tourists; adding directional signs will further enhance the park's value to tourists.

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Sign Structure

Implementation of this plan will also require the construction of a sign structure. The aluminum business directional signs will be attached to the structure. To reduce the cost of implementation it is recommended that a simple steel pole be used as the base sign structure. However, other more attractive designs should be considered and discussed before a final decision is made.

Furthermore, the proposed business directional signs will require additional structural supports that will allow the placement of each individual directional sign. The sturdy aluminum signs shall be attached using screws in each corner (see Figure 2.2). It is recommended that the signs be made of .08 gauge aluminum, which is what STOP signs and most other road signs are made of (a local sign company was consulted about sign materials). Due to the simplicity of the design, it is proposed that the City of Morro Bay use this method to attach the business directional signs. Using this method of attachment will also make changing the signs relatively quick and easy. Safety should also be considered when designing the sign structure. The structure shall be void of sharp edges that could injure passing pedestrians or bicyclists.

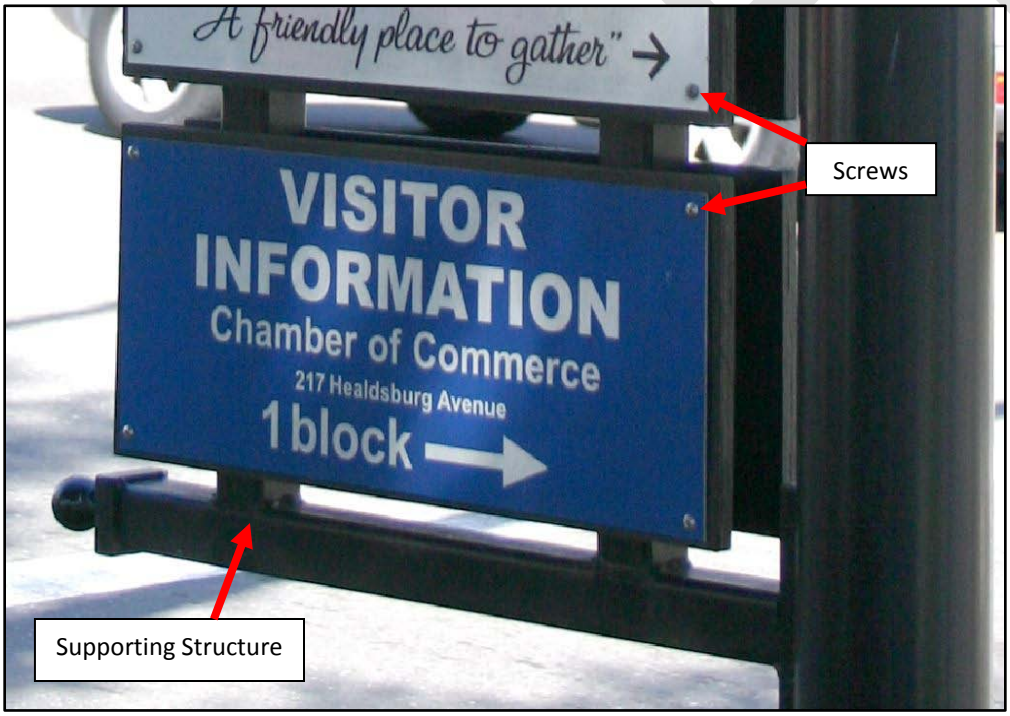

Figure 2.2: Sign Structure in Healdsburg, CA

Directory Map

Each directional sign station will include a **directory map** of the Embarcadero district that allows readers to pinpoint their current location. This map will indicate public parking areas, public bathrooms, beach access points, landmarks, historical sites and other areas of interest such as viewpoints and ocean access points. The map will also dedicate a number to each commercial building along the Embarcadero. Businesses will be listed in an index next to the corresponding building number in which they are located.

The directory map will also identify that the City's Downtown District is within walking distance from the Embarcadero, and that various attractions such as restaurants, retail stores, and lodging establishments are abundant in this District as well. The directory maps will be situated on a glass-protected plaque near the base of the proposed sign structures. See Figure 2.3 below for a directory map example.

Figure 2.3: Example Directory Map

Business Directional Signs

Figures 2.4 and 2.5 (on the next page) are graphical models of how business directional signs will look. The design template includes a space for business owners to create a custom graphic that includes their business name and logo. The template includes two additional spaces where a directional arrow (with accompanying text) and an international symbol can be placed. The arrow is designed to guide tourists towards the business. In addition to the arrow applicants may incorporate the building number (as designated by the directory map index) into the design of their sign. The international symbol is designed to signify the "type" of business. For example, a knife and fork symbol indicates that the business serves food, and a martini glass indicates that the business is a bar or pub that primarily serves alcoholic beverages.

The proposed business directional signs are designed to:

- Clearly convey business information while allowing for creativity and individuality.
- Include design features that fit local character while also increasing aesthetic qualities of the streetscape.
- Convey information to non-English speaking tourists.
- Guide tourists towards businesses they would have otherwise passed by.
- Permit off-premise advertisement that will reduce a need for A-frame sign use.

Eligibility - The following criteria will be applied to be eligible for a directional sign:

- Business is located within the Embarcadero District.
- Business is open on weekends (Friday-Sunday).
- The business is tourist-oriented. The following business types meet this description: Clothing and shoe stores, surf shops, restaurants, cafes, pubs, bars, wine shops, hotels/motels, wine tasting rooms, art galleries, museums, gift shops, and recreation/entertainment-based businesses (such as kayak rental shops or
charter sportfishing businesses).

Placement – The following standards will be applied for placement of directional signs:

- Applicants may choose which sign structure they wish to be featured on (space permitting).
- If a desired structure is at full capacity, the applicant may elect to be placed on a waiting list. When a spot opens up they shall be notified by the City or partner organization.
- 50% of each sign structure shall be reserved for businesses within the designated "zone" for each structure. This will ensure that at least 50% of featured businesses on sign structures are located within the vicinity of the closest structure.

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Figure 2.4: Business Directional Sign Example #1

Figure 2.5: Business Directional Sign Example #2

III. Implementation

The following are recommendations to be considered when a sign program approved and adopted. These standards should be reviewed and critiqued by decision-making bodies before final implementation of a directional sign program.

Application and Fees

Any business owner interested in a directional sign for their business must submit a completed application to the City of Morro Bay Planning Division. Applications will be reviewed by Planning Staff. If an application meets the criteria, the sign application shall be approved, and a permit will be issued. If there are no spaces available on the sign structure, submitted applications will be put on a waiting list. The following fees apply to businesses directional signs:

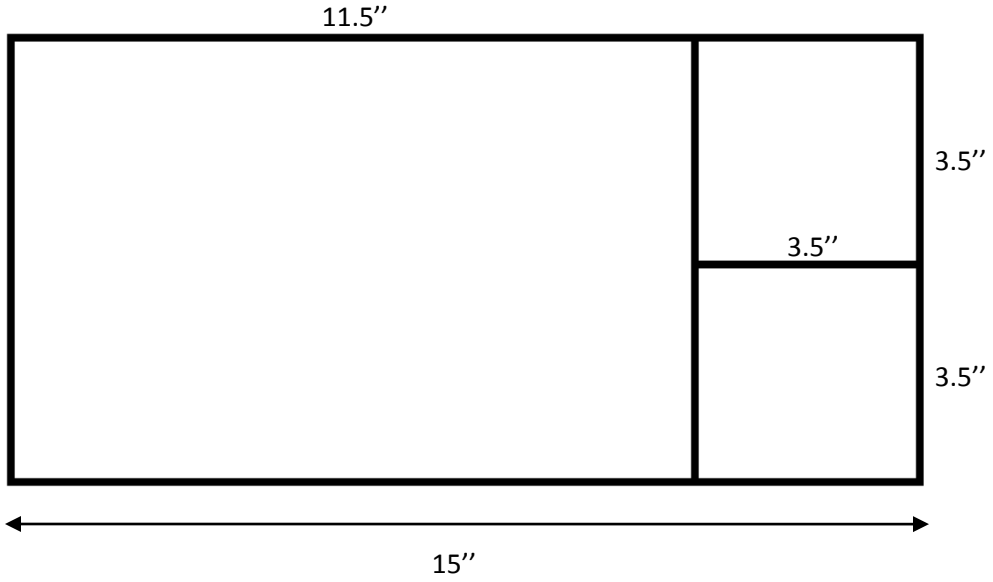
- $125 processing fee for sign review

Enforced Standards

- Each business is entitled to one (1), two-sided directional business sign.

- Signs shall have the following exact dimensions:
    - **Entire Sign: 7 inches tall x 15 inches long**
        - Square in top right corner for business type symbol: 3.5 inches x 3.5 inches
        - Square in bottom right corner for directional arrow: 3.5 inches x 3.5 inches
        - Area for business name and logo: 7 inches tall x 11.5 inches long

Figure 3.1: Business Directional Sign Dimensions



- Signs shall be fabricated from .08 gauge aluminum. Four drill holes (one in each corner) shall be installed at specified locations.

- Signs shall NOT include phone numbers, website addresses, obscene language/graphics, or brand names/logos (besides the brand name and logo of the applying business).

- The City shall remove illegal signs (signs that were not approved) from the sign structures immediately.

- If a business closes or moves out of the Embarcadero District, the directional sign shall be removed by the owner within 10 days of their last operational day. If such sign is not removed during this 10 day period, the City or partner organization may remove the sign.

- If a business moves to another location within the Embarcadero District a new application and fee payment shall be submitted.

Installation

- Once approved the sign shall be installed by the applicant; the City shall designate which sign structure and where on that sign structure the sign shall be placed.
- Fabricated signs shall be installed within 10 days after issuance of the permit.

Maintenance

The City, partnership organization, or other organization approved by the City shall complete maintenance duties associated with directional signs. Expected maintenance duties are as follows:

- Monthly routine cleaning of the directory sign, sign structure, and business directional signs to prevent rust, corrosion and deterioration.
- Complete a monthly check to insure that all approved signs are in place and that no illegal signs have been mounted.
- Report and/or repair damaged or vandalized signs.

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ATTACHMENT C

CITY OF
MORRO BAY

EMBARCADERO BUSINESS DIRECTIONAL SIGN PERMIT APPLICATION

Public Services Department
Planning Division

955 Shasta Avenue
Morro Bay, CA 93442
(805) 772-6577

For Department Use Only:

Case No.: _____

Fees Paid: ☐ **$ 125**

Property Owner	Name:	Daytime Phone:
	Address:	

I/We, the undersigned owner(s) of record of the fee interest in the above noted land for which an application for a permit, is being requested, do certify that 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 certify that I am the legal owner of record and that under penalty of perjury under the laws of the State of California that the foregoing is true and correct.I authorize the following person(s) to act as my agent in processing this sign permit:

_____

Signature: _____ Date: _____

Applicant/Agent	Name:	Daytime Phone:
	Address:	

PROJECT INFORMATION	
Business Name:	
Type of Business:	
Project Address:	
Assessor Parcel Number:	
Sign Company Name:	
Applicant/Agent Signature:	Date:

GUIDELINES FOR BUSINESS DIRECTIONAL SIGNS

Business Directional Signs are intended to provide information to tourists about businesses on the Embarcadero. The signs allow advertisement at an offsite location.

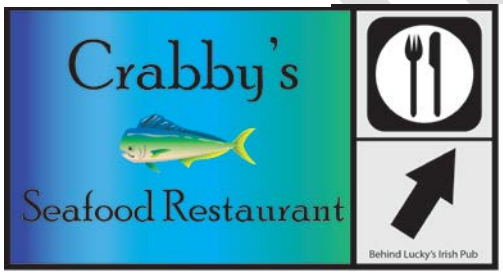
General Standards:
1. One (two-sided) business directional sign per business is allowed.
2. Does not count towards allowable on-premise signage.
3. Permits are void at the time a business closes or changes name.
4. If a business moves to another location within the Embarcadero District, the previously approved sign may be moved to the appropriate sign structure (if space permits). The City SHALL be notified before a sign is moved; the City shall designate the appropriate structure.
5. If sign modification is required (e.g. business changes name) a new application and fee payment shall be submitted to the City.

Physical appearance:
1. Size: 7 inches tall x 15 inches long
2. Material: .08 grade aluminum
3. Signs SHALL be fabricated by a professional sign company.
4. Reflective letters or coloring is prohibited.

Placement / Removal:
1. Shall be placed by the Applicant on the appropriate structure (as designated by the City).
2. Signs shall be placed within 10 days after permit is issued.
3. Signs shall be removed at time a business closes. If not removed by applicant within 10 days of last operational day the City may remove the sign.

Content:
1. Signs shall include ONLY the following: name of business and/or logo, directional arrow with associated text, and international symbol representing the type of business
2. Building # (as shown on Embarcadero Directory Map) may be included in the lower right square.
3. Shall not advertise brand names, specific products, or specials.
4. Shall not display explicit or misleading content.

Figure 1: Sign Examples



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APPLICATION SUBMITTAL REQUIREMENTS

Information on this checklist must be submitted for your project to be accepted for processing, review, and action. **An application not containing the necessary information as shown on the checklist will be deemed incomplete and placed on hold.** Check each box to indicate that you have provided the appropriate information. The following shall be submitted with this application:

☐ 1. Paper or plastic model sign made to appear **exaclty** as final product (and to actual scale of proposed sign). This illustration should be printed by the sign company.

☐ 2. Supplementary information from sign company showing specifications of requested sign (color of proposed sign including color number, dimenstions, and material).

DO NOT HAVE A METAL SIGN FABRICATED UNTIL THIS APPLICATION IS APPROVED BY THE CITY OF MORRO BAY PUBLIC SERVICES DEPARTMENT

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ATTACHMENT D

AGENDA ITEM: A- 1

DATE: July 3, 2013

ACTION: APPROVED

SYNOPSIS MINUTES - MORRO BAY PLANNING COMMISSION
REGULAR MEETING – June 19, 2013
VETERANS MEMORIAL HALL – 6:00 P.M.

Chairperson Grantham called the meeting to order at 6:00 p.m.

PRESENT:	Rick Grantham	Chairperson
	John Solu	Vice-Chairperson
	Michael Lucas	Commissioner
	Robert Tefft	Commissioner
ABSENT:	John Fennacy	Commissioner
STAFF:	Kathleen Wold	Planning Manager
	Erik Berg-Johansen	Planning Intern
	Katie Mineo	Assistant Planner

ESTABLISH QUORUM AND CALL TO ORDER

Chairperson Grantham noted Commissioner Fennacy was absent.

MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS

PUBLIC COMMENT

Chairperson Grantham opened Public Comment period, and hearing none, closed Public Comment period.

PRESENTATIONS – None.

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

A. CONSENT CALENDAR

A-1 Approval of minutes from Planning Commission meeting of May 29, 2013
Staff Recommendation: Approve minutes as submitted.

MOTION: Chairperson Grantham moved to approve the Consent Calendar.

Commissioner Lucas seconded and the motion passed (4-0), with Commissioner Solu sustaining as he was not at the May 29, 2013 meeting.

B. PUBLIC HEARINGS

B-1 Public hearing continued from June 20, 2012.
Case No.: Zoning Text Amendment #A00-015 (continued originally from June 20, 2012 meeting)
Site Location: Citywide
Proposal: The City of Morro Bay is proposing a Municipal Code Amendment modifying Section 17.68 "Signs." Recommendations from the previous sign workshops, sign survey results, previous work for the 2004 Planning Commission report and direction from City Council (2012) will be presented at the June 19, 2013 meeting. The Planning Commission will review these items, take public testimony and provide direction to staff.
CEQA Determination: To be determined.
Staff Recommendation: Review draft ordinance, take public testimony, and provide direction to staff.
Staff Contact: Erik Berg-Johansen & Katie Mineo, (805) 772-6291

Berg-Johansen presented the staff report. Staff has decided to present the proposed ordinance one district at a time, so the district presented at this meeting was the Embarcadero.

Commissioner Solu asked if the feedback from the previous two workshops has been included in the proposed ordinance. Berg-Johansen confirmed he incorporated past research and feedback in the proposed ordinance.

Commissioner Lucas asked Berg-Johansen to briefly summarize the workshops. Berg-Johansen stated similar questions were asked at the workshops that were asked on the survey distributed for the update. Workshop participants also had questions about the four different sign districts and how they were determined.

Berg-Johansen noted the draft ordinance presented tonight has not yet been disseminated to the public.

Commissioner Tefft asked Berg-Johansen if many non-business owners were involved in the previous public outreach process. Berg-Johansen stated very few non-business owners attended the meetings, indicating that it was not worthwhile to send hard copies of the survey to every resident in the City, thus it was only sent to business owners.

Wold added some of the feedback from the original workshop in 2012 was whether or not the one square foot per foot of building frontage is equitable. She stated the public would like to see better quality signs, that are more aesthetic, more equitable, and more in relationship to the building. The existing ordinance is being amended to reflect this feedback, and the proposed ordinance states allowable signage shall be calculated based on façade size, and not on the length of the building.

Commissioner Solu asked how window signs would be affected by the proposed ordinance. Berg-Johansen stated the proposed ordinance does not allow window signs so that views of the bay from the Embarcadero are not obstructed.

Commissioner Solu asked for clarification regarding how dock signs are treated in the proposed ordinance. Berg-Johansen stated one dock sign is allowed per property, and noted the Master Sign Program (MSP) will be discussed later in the presentation. The MSP would be applied to buildings with four or more lease sites.

Commissioner Tefft asked for clarification regarding how pub *(projecting)* signs are treated in the proposed ordinance, specifically he asked if only one pub sign is allowed per business, and if it must be approved through the MSP. Berg-Johansen stated many of the businesses along the Embarcadero will be subject to the MSP which would have to be approved by the Planning Commission before being implemented. Wold further clarified the MSP is intended to remove the City as a regulator, and thus grant responsibility to the master lease holder to decide which businesses' signs occupy the façade. The City's responsibility, then, would be to review the MSP. She stated the MSP is also intended to remove blight and reduce competition. Wold and Berg-Johansen stated the MSP is designed to address the issue of inequitable sign area on building facades. Berg-Johansen stated a MSP would be required to be implemented any time a new tenant moves into a building so that new business owners will be incorporated into a plan that will provide them adequate signage.

Commissioner Lucas asked staff if the proposed ordinance addresses multiple facades or just the façade fronting the street. Wold clarified this issue is addressed with the MSP which tries to accommodate the needs of all business owners along the Embarcadero. She stated the goal of the MSP is to get foot traffic off the street and into the rear of the building.

Commissioner Lucas clarified with staff that the signs associated with public restrooms as required by the City are exempt from the calculated allowable sign area.

Commissioner Solu asked how the proposed ordinance addresses the issue of new businesses sharing space with an existing business. Berg-Johansen stated the proposed MSP only applies to buildings with four or more tenants. Wold further clarified the new business would need to negotiate with the existing business to utilize some of their allowable sign area as there is a maximum allowable sign area.

Wold stated the City intends to leave legal nonconforming signs as they are, and as tenants turn over, the signs will be required to be updated so that they are in compliance with the code. This way, the master lease holder will be encouraged to develop a thoughtful and creative sign program. Wold stated the proposed MSP applies to buildings with four or more lease sites but this may be changed upon the Commissioners' request.

Wold clarified issues arise when the businesses facing the harbor have difficulty acquiring signage along the Embarcadero. Wold stated it is this issue that the proposed ordinance aims to address.

Commissioner Tefft asked for clarification regarding how allowable signage is calculated, and whether it depends on *building* façade or *business* façade. Berg-Johansen clarified signage is calculated based on business façade.

Commissioner Solu asked Berg-Johansen to clarify the discussion of allowable signage for buildings with multiple facades. Berg-Johansen explained this is calculated based on different percentages for the primary, secondary, and/or tertiary facades. Berg-Johansen then explained how the proposed ordinance applies to larger buildings in the City.

Chairperson Grantham asked Berg-Johansen if he addresses such matters as temporary signs, change of business, change of ownership, change of location in the proposed ordinance. Berg-Johansen stated the proposed ordinance does not address temporary signs but the other topics *are* discussed.

Chairperson Grantham suggested hiring a part-time compliance officer until the proposed ordinance is adopted so that businesses in the City begin to conform to the existing ordinance. He stated the proposed ordinance will not succeed without an instrument for compliance. He also stated he would like to see a simplified ordinance.

Chairperson Grantham opened Public Comment period.

Liz Bedmoor, resident of Morro Bay, stated she would like to see A-frame signs allowed in other districts aside from Downtown, as other districts in the City are struggling as well. Specifically, she would like to see signs allowed in north Morro Bay and in the Quintana districts.

Craig Schmidt, CEO of the Morro Bay Chamber of Commerce, commended staff on the work they have done to update the sign ordinance. He stated he shared Bedmoor's concerns regarding A-frame signs in north Morro Bay.

Susan Stewart, business owner in Morro Bay, expressed appreciation for Berg-Johansen's work. She stated she supports the idea of hiring someone to enforce the existing sign ordinance in the City. She stated most noncompliance in the City is due to a lack of understanding, and education would help solve the issue.

Chairperson Grantham asked if there was once a blanket encroachment permit for the City that removed liability from the City. Wold stated there was once such a permit. Grantham further stated any business that had A-frame signs was required to have a binder on their insurance policy.

Commissioner Tefft asked for clarification of the definition of "nonpermitted" signs according to the proposed ordinance. Berg-Johansen explained the difference between unpermitted and nonconforming signs. Tefft suggested reviewing the definition of nonconforming signs on page 31 of the proposed ordinance.

Commissioner Tefft asked for clarification regarding the prohibition on brand names, as discussed in the proposed ordinance. Wold stated the City would like to see signs that advertise

local businesses versus signs that advertise *products*. Tefft would like this section of the proposed ordinance "fleshed out" more.

Commissioner Solu asked staff about the Tourism Sign Program and stated he would like it to be implemented at the same time the proposed ordinance is implemented. Wold clarified the Tourism Sign Program is a component of the proposed sign ordinance and they will both be implemented at the same time.

Commissioner Lucas offered the following comments:

- He stated he was concerned about how the allowable signage for businesses with multiple facades is calculated. He stated he does not favor the idea of limiting the square footage of signs, but instead favors the idea of calculating signage proportionally (based on a percentage of the façade area).
- He stated he was concerned about the lack of incorporation of window signs in the proposed ordinance, and he would like the window sign section of the ordinance reexamined.

Commissioner Tefft offered the following comments:

- He stated the total allowable signage for buildings with multiple facades should be increased because some buildings are accessible from all sides.
- He stated a section should be added to the proposed ordinance for "Exempt Signs."
- Regarding A-frame signs, he stated the City should impose standards as to what the sign will be like in order to be consistent with the results of the survey that mention the quality of signs.
- He suggested giving business owners with unpermitted signs 30 days to comply with the sign ordinance before requiring them to remove the unpermitted sign.
- He stated the amortization schedule should not be based on the material of the sign but on the value of the sign. He also stated he would like the schedule to start when the sign was erected.
- He stated the proposed ordinance should strive to better guide pedestrians to the lateral access ways along the Embarcadero.
- Regarding enforcement, he stated he would like to enlist the public to report "illegal" signs.

Commissioner Solu offered the following comments:

- He stated he would also like to see window signs better addressed in the proposed ordinance.
- Regarding amortization, he suggested revisiting this section as there may be some conflicts with the proposed schedule in the other districts.
- He stated he was concerned about the proposed maximum sign area allowed for business along the Embarcadero and that a 65 foot maximum is too small. He suggested calculating the allowable sign area solely on on percentages.

- He stated the Tourism Sign Program must go "hand-in-hand" with the adoption of the proposed sign ordinance.

Chairperson Grantham offered the following comment:

- Regarding the proposed amortization schedule, he stated there are too many variables involved for the City to be able to determine the value of signs.

Commissioner Lucas offered the following suggestions:

- He also stated he does not agree with the previous suggestion to enlist the public to report unpermitted signs.
- He stated he is pleased that different districts have been established to address the different problems.
- Regarding prohibited signs, he stated he was pleased this section was added to the proposed ordinance.
- He expressed support for the project and noted he would like to primarily discuss with staff window signs and allowable square footage.

Wold clarified with Commissioners the direction provided to staff for the next Planning Commission meeting:

- Allowable sign area should be calculated based on a percentage of the façade (so that the sign area is equitable) versus linear footage of the building, and perhaps adjust percentages so that it is larger for larger facades and smaller for smaller facades. If a building is demised, each business is responsible for the façade that they lease (so that sign area is not double-counted).
- Remove the 65 square foot maximum allowable sign area.
- Berg-Johansen will provide graphics at the next meeting with examples of signs from the community of various façade percentages.
- Examine a two-tiered system where there is a certain percentage of sign area granted by right, but if a higher quality of signage is proposed, greater sign area is allowed.
- A specific section discussing "Exempt Signs" will be included in the proposed ordinance.
- Staff will clarify the allowable façade percentage for buildings with *multiple facades* versus the allowable façade percentage for buildings with *multiple tenants*.

Wold stated the intent of the proposed sign ordinance, and the MSP specifically, is to address the goals of the community: to make the ordinance simple for the public to understand; and to make the ordinance more equitable.

Wold stated the City is not required to amortize signs in the City—the Commission has the option to decide whether or not they would like to enforce this.

Chairperson Grantham asked if menu signs and drive-thru signs compute into the allowable sign area. Wold clarified menu signs are not incorporated into the allowable sign area.

Commissioner Tefft noted signage on facades facing residential development, especially when the signs are illuminated, should be addressed. Berg-Johansen stated there is language in the ordinance which states illuminated signs shall be turned off at the time of close or at 10 pm, but this can be amended if desired by the Commission.

Chairperson Grantham confirmed with staff that off-site and movable signage will be addressed in the proposed ordinance.

The district to be discussed at the next meeting will be the Downtown/Old Town District.

MOTION: Commissioner Solu moved to continue Zoning Text Amendment #A00-015 to the July 3, 2013 Planning Commission meeting.

The motion was seconded by Chairperson Grantham and the motion passed unanimously. (4-0).

UNFINISHED BUSINESS

C-1 Current and Advanced Planning Processing List
Staff Recommendation: Receive and file.
Upcoming Projects: To be determined.

Wold reviewed the Work Program with Commissioners.

Wold stated upcoming projects include the continued update to the sign ordinance, various advanced planning projects, and a grant application for funds to update the Local Coastal Plan.

NEW BUSINESS

None.

DECLARATION OF FUTURE AGENDA ITEMS

None.

ADJOURNMENT
The meeting adjourned at 7:53 pm to the next regularly scheduled Planning Commission meeting at the Veteran's Hall, 209 Surf Street, on Wednesday, July 3, 2013 at 6:00 pm.

_____
Rick Grantham, Chairperson

ATTEST:

_____
Kathleen Wold, Secretary

AGENDA ITEM:	A- 1
DATE:	August 21, 2013
ACTION:	APPROVED

SYNOPSIS MINUTES - MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JULY 3, 2013
VETERANS MEMORIAL HALL – 6:00 P.M.

Chairperson Grantham called the meeting to order at 6:00 p.m.

PRESENT:	Rick Grantham	Chairperson
	John Solu	Vice-Chairperson
	John Fennacy	Commissioner
	Michael Lucas	Commissioner
	Robert Tefft	Commissioner
STAFF:	Rob Livick	Public Services Director
	Cindy Jacinth	Associate Planner
	Erik Berg-Johansen	Planning Intern

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS

PUBLIC COMMENT

Chairperson Grantham opened Public Comment period.

Susan Stewart, resident of Morro Bay, spoke in favor of amending the zoning code to better regulate new businesses, keep the downtown core strong, and promote pedestrian activity. She expressed concern about losing retail to residential conversions. She supports keeping key areas of Main Street and Morro Bay Boulevard designated for restaurants and retail businesses.

Chairperson Grantham closed Public Comment period.

PRESENTATIONS – None.

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

CONSENT CALENDAR

A-1 Approval of minutes from Planning Commission meeting of June 19, 2013
Staff Recommendation: Approve minutes as submitted.

MOTION: Commissioner Solu moved to approve the Consent Calendar.

Chairperson Grantham seconded and the motion passed (4-0), with Commissioner Tefft abstaining as he was not in attendance.

A. PUBLIC HEARINGS

B-1 **Public hearing continued from June 19, 2013.**
Case No.: Zoning Text Amendment #A00-015 (continued originally from June 20, 2012 meeting)
Site Location: Citywide
Proposal: The City of Morro Bay is proposing a Municipal Code Amendment modifying Section 17.68 "Signs." Recommendations from the previous sign workshops, sign survey results, previous work for the 2004 Planning Commission report and direction from City Council (2012) will be presented at the June 19, 2013 meeting. The Planning Commission will review these items, take public testimony and provide direction to staff.
CEQA Determination: To be determined.
Staff Recommendation: Review draft ordinance, take public testimony, and provide direction to staff.
Staff Contact: Erik Berg-Johansen, Planning Intern (805) 772-6291

Berg-Johansen presented the staff report. The presentation was organized into two parts:
Part I: Continued Items from the 6-19-13 Planning Commission Meeting
Part II: Sign Discussion for the Downtown District

Chairperson Grantham opened Public Comment period.

Susan Stewart, resident of Morro Bay, made the following comments:

1. She would like clarification regarding what type of illuminated signs are regulated under the proposed sign ordinance. Stewart noted several businesses keep their open signs turned on during the day to alert the public that they are open.
2. She encouraged the Commission to visit her shop to see the sidewalk sign she is currently using. She noted the dimensions of her sign and the adjacent sidewalk and stated there is sufficient space for the sign.
3. Stewart stated she would like to see iconic signs, such as the one found at the Shell Shop, remain as they are.

Berg-Johansen addressed Stewart's comment regarding illumination. He stated the proposed ordinance could be amended to only regulate illuminated signs over a certain size. Berg-Johansen stated the purpose of the clause to turn off illuminated signs during the day is to conserve energy. Jacinth noted "Open" signs are not considered signs as they convey information and do not advertise a business.

Livick addressed Stewart's comment regarding A-frame signs. He stated any "off-premise" sign, whether it is an A-frame sign or a pole sign, would be treated the same way under the City's standards.
Chairperson Grantham closed Public Comment period.

PART I

Commissioners and staff discussed how signs that advertise products would be regulated under the proposed ordinance. Staff clarified that signs advertising specific products, produced by companies other than their own, would not be allowed.

Commissioner Fennacy made the following comments:

1. Regarding amortization, he stated he favors a simplified amortization schedule or no schedule at all since the Local Coastal Plan does not mandate an amortization schedule.
2. He stated he is in favor of window signs, but would like to limit window signs to a certain percentage of the window.
3. Regarding the Master Sign Program (MSP), he stated he favors the decrease from four to three tenants and giving the Director discretion when reviewing MSP applications.

Chairperson Grantham noted for the record that Commissioner Tefft had joined the meeting.

Commissioner Lucas made the following comments:

1. He noted neon signs are not defined in the proposed ordinance. Lucas suggested staff consider what sort of message these signs portray and consider whether or not the City wants to encourage them.
2. He asked for clarification regarding how the City will calculate allowable sign area on facades with more than one business, or where the façade is divided between commercial and residential. Berg-Johansen stated each tenant would only be able to calculate allowable sign area based on their portion of the façade.
3. Lucas asked staff to clarify how hotels with residential units would be treated under the proposed ordinance. Berg-Johansen stated this is an issue that will be considered in the next draft of the ordinance. Berg-Johansen also noted a table will be created for lodging establishments in all zones.
4. Regarding A-frame signs, Lucas stated he is in favor of considering sidewalk width when approving or denying the signs. Livick noted an encroachment permit will be necessary to erect A-frame signs if the sign code is amended to allow them.

Commissioner Lucas and Livick discussed the requirements for other items in the public right of way along the Embarcadero and how they affect pedestrian activity.

Chairperson Grantham confirmed with Livick that Livick is the chief enforcement officer for signs. Grantham asked Livick what percentage of A-frame sign users have insurance policies as required by the City. Livick stated the City currently prohibits A-frame signs so no A-frame users have such insurance policies.

Commissioner Tefft made the following comments:

1. He clarified with staff the purpose of the amortization table is for permitted nonconforming signs. The amortization schedule would not apply to non-permitted or

illegal signs. Tefft stated it would be practical to eliminate the amortization schedule from the proposed ordinance.

2. He commented on the terminology of the proposed ordinance. Specifically, he suggested the definition for directional and community promotional display signs be separated, and he suggested clarifying the definition of snipe signs.
3. Tefft stated there should be a provision for certain types of illuminated signs.
4. He suggested A-frame signs should instead be called "sidewalk signs" or "portable signs" to encourage people to be more creative. He also agreed sidewalk width should be considered.
5. He stated window signs should be allowed on the Embarcadero.

Commissioner Solu made the following comments:

1. He stated he does not favor the proposed amortization schedule. He instead favors *maintaining* existing nonconforming signs.
2. Regarding off-premise signs, Solu agreed a four foot minimum width should be required for such signs but expressed concern that this minimum distance may not always be observed by business owners. Livick explained how the four foot minimum for off-premise signs would be regulated.

Livick stated the existing amortization schedule does not work and is difficult to enforce. He stated maintenance may be the most appropriate way to approach amortization. He also stated the proposed amortization schedule may be amended so that is based on change of use or major remodel rather than change of ownership. Solu agreed with Livick's comments.

Commissioner Solu asked staff where public announcement signs, such as bird nesting signs, would fall in the proposed ordinance. Livick stated such regulatory, informational, or educational signs do not typically require a permit. Livick stated the intent of the sign ordinance is to regulate advertising signs, and not regulatory signs.

Solu stated window signs along the Embarcadero should be allowed. Jacinth clarified the importance of developing an ordinance that maintains vertical consistency with the Coastal Commission.

Chairperson Grantham expressed concern that there may not be sufficient space on the City's sidewalks to allow A-frame signs. He stated four feet is tight.

Commissioner Fennacy echoed Solu's comment regarding abandoning the proposed amortization schedule. He also stated he favors allowing A-frame signs as long as they do not restrict sidewalk passage.

Chairperson Grantham suggested the City could require a certain amount of clearance in front of a business in order to allow an A-frame sign at that location.

Grantham asked Commissioners to discuss the potential for accommodating A-frame signs. All Commissioners agreed the sidewalks are too congested to accommodate A-frame signs on the Embarcadero. Fennacy stated he did not want to see businesses affected by a lack of advertising

opportunities and stated he would like to provide alternative options if A-frame signs are prohibited. Lucas stated eight feet may be an appropriate width if such signs are allowed.

Livick explained City Council passed an emergency ordinance for pub signs (projecting signs) to be approved administratively. This is an effective way to provide advertising information at the pedestrian level while not encumbering the sidewalk.

Lucas stated nonconforming signs should be addressed when the building is remodeled or reconstructed, and not when there is a change of tenancy.

Chairperson Grantham called for a five minute break.

Fennacy made the following comments:

1. Regarding multi-sided buildings, he stated he would like to see a single percentage used for all sides of the building.
2. Regarding window signs, Fennacy stated they are necessary on the Embarcadero. He stated some businesses should be allowed a greater percentage depending on the size of the window.

Jacinth stated many buildings along the Embarcadero do have multiple facades and it is important to remember that signs facing the water are factored into the total signage. She stated window signs would also factor into the total signage.

Commissioner Lucas stated he favors the simplicity of calculating allowable signage of buildings with multiple sides with the same percentage. Regarding window signs, he stated individual letters are the nicest type of window sign and perhaps these should not be included in the total allowable signage.

Commissioner Tefft suggested allowing business owners to designate the primary, secondary, and tertiary sides of their building. Regarding window signs on the Embarcadero, Tefft stated they are seen from a close distance and, therefore, a relatively low percentage of window area would be appropriate.

Commissioner Solu agreed that business owners should be able to decide which side of their building is the primary, secondary, or tertiary side. Regarding window signs, he stated determining an allowable percentage of window area would be an appropriate way to address the issue.

Chairperson Grantham also agreed that business owners should be able to decide how to classify the various sides of their building.

Grantham stated 20 percent would be an appropriate percentage for window signs on the Embarcadero.
Commissioner Fennacy stated 25 percent would be appropriate. He also stated it is the Commission's job to be subjective so he supports letting the business owner decide.

Commissioner Tefft stated he favors a smaller window area on the Embarcadero, such as 10 percent.

Commissioner Solu stated he favors between 10 and 20 percent of allowable area for window signs on the Embarcadero.

PART II

The Commission concluded their discussion of the Embarcadero District and proceeded to discuss signs in the Downtown District. The discussion was organized by topic:

A-frame Signs

Commissioner Fennacy stated he is in favor of A-frame signs as long as there is a minimum passable space, such as four feet.

Chairperson Grantham asked staff if the existing ordinance includes language that regulates the location of A-frame signs. Livick stated such signs are not allowed under the existing ordinance so there is no language regulating their location. Livick stated he favors signs being placed against the building as they would be out of the way. Livick stated staff will consider developing a plan view detail illustrating where these signs should be placed along the right of way so as to maximize public safety.

The Commission and staff discussed the appropriate minimum passable space for A-frame signs in the Downtown District. Livick stated four feet is the legal minimum passable space required on sidewalks pursuant to ADA guidelines. The Commission agreed only one A-frame sign per business would be allowed under the proposed ordinance, and decided A-frame signs that are not placed on the property would be called “off-premise” signs. The Commission also agreed that A-frame signs should only be placed on the property to which it belongs.

Commissioner Solu stated he does not support the erection of A-frame signs.

Commissioner Lucas stated he is in favor of allowing A-frame signs as they encourage pedestrian traffic.

Commissioner Tefft suggested writing standards into the updated sign code which would regulate the aesthetic qualities of A-frame signs. Tefft continued to discuss with staff the possibility of regulating aesthetics.

Livick stated, under the proposed ordinance, sidewalk signs are not factored into the total allowable sign area. They would be considered “bonus” signs.

Commissioner Lucas clarified with staff the sidewalk signs would not be displayed when the business is not in operation.

Window Signs

The Commission agreed 30 percent is an appropriate area of a building's window for window signs.

Murals

Chairperson Grantham stated if a mural advertises a business it is considered a sign.

Commissioners Fennacy, Tefft, and Solu agreed murals are an artistic piece and should not be considered signs.

Commissioner Tefft suggested murals should not illustrate a logo or business name as a prominent feature.

Commissioner Lucas stated he does not believe anything with letters should be considered a mural. A mural is considered a graphic.

Chairperson Grantham confirmed murals will not be considered signs and discretion will be left to City staff to determine whether a proposed mural is appropriate for the location.

Façade Percentages

Commissioner Fennacy stated 15 to 20 percent of the building facade for all facades would be an appropriate amount of signage.

Commissioner Lucas stated 10 to 15 percent of the building façade would be appropriate, but would support the granting of a higher percentage to businesses depending on the location of the entry to the building.

Commissioner Tefft clarified with staff that the projecting sign at The Bike Shop is included in the total allowable sign area for the building. The projecting sign would be a bonus under the proposed ordinance.

Jacinth explained to the Commission that under the current ordinance, businesses are allowed a 2:1 ratio for each linear foot of building frontage if only one type of sign is proposed, but if more than one type of sign is proposed, the allowable sign area ratio drops to 1:1. With this explanation, Tefft stated he favors a 10 percent allowance.

Commissioner Solu stated 10 percent for the primary façade and five percent for the secondary façade would be an appropriate allowance.

Chairperson Grantham stated he favors allowing 15 percent of the building façade for signs.

Commissioner Lucas stated he would like business owners to come forward and express whether they think the proposed percentages are fair or too restrictive.

The Commission agreed 15 percent for all facades is an appropriate percentage.

Commissioner Fennacy discussed the issue of when a business has two primary facades and how determining one facade as the primary façade may be detrimental to their business when different percentages are established for different sides of the building. To address this issue, Tefft suggested that the sign on the secondary façade could be 10 percent of the façade area, but it may not be larger than the sign on the primary façade. The Commission supported this suggestion.

The Commission agreed that if a business owner selected an awning sign, they would also be allowed to erect a surface sign near the entrance to the business.

Pole Signs

Commissioner Tefft stated he favors providing business owners with a variety of sign types.

Berg-Johansen stated staff does not recommend pole signs in the Downtown District.

Commissioners Solu, Lucas, and Tefft stated they do not favor pole signs in the Downtown District. Tefft suggested staff add another sign type, such as an "architectural sign," that is greater than eight feet tall but is not considered a "traditional" pole sign.

Commissioner Fennacy stated he favors allowing pole signs in the Downtown District.

Commissioner Lucas asked for clarification from staff whether existing pole signs would be grandfathered in. Berg-Johansen clarified that once a new business occupies the building, the nonconforming pole sign would need to be removed.

The Commission agreed they would like to encourage monument signs rather than pole signs.

Commissioner Tefft noted the proposed ordinance offers a 10 square foot bonus for individual lettering on wall signs, and asked staff whether they would consider offering the same bonus for window signs. The Commission agreed they would like to offer this bonus for business owners that "want to be creative."

The Commission decided to discuss signs in the Quintana District at the next Planning Commission meeting.

MOTION: Chairperson Grantham moved to continue Zoning Text Amendment #A00-015 to the July 17, 2013 Planning Commission meeting.

UNFINISHED BUSINESS

C-1 Current and Advanced Planning Processing List
Staff Recommendation: Receive and file.
Upcoming Projects: To be determined.

Livick reviewed the Work Program with Commissioners.

NEW BUSINESS

None.

DECLARATION OF FUTURE AGENDA ITEMS

Staff stated the 360 Cerrito project will be discussed at the next Planning Commission meeting.

ADJOURNMENT
The meeting adjourned at 8:18 pm to the next regularly scheduled Planning Commission meeting at the Veteran's Hall, 209 Surf Street, on Wednesday, July 17, 2013 at 6:00 pm.

_____
Rick Grantham, Chairperson

ATTEST:

_____
Rob Livick, Secretary

AGENDA ITEM:	A- 1
DATE:	August 21, 2013
ACTION:	APPROVED

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JULY 17, 2013
VETERANS MEMORIAL HALL – 6:00 P.M.

Chairperson Grantham called the meeting to order at 6:00 p.m.

PRESENT:	Rick Grantham	Chairperson
	John Solu	Vice-Chairperson
	John Fennacy	Commissioner
	Michael Lucas	Commissioner
	Robert Tefft	Commissioner
STAFF:	Rob Livick	Public Services Department
	Kathleen Wold	Planning Manager
	Cindy Jacinth	Associate Planner
	Erik Berg-Johansen	Planning Intern

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS

PUBLIC COMMENT

Chairperson Grantham opened Public Comment period.

Stan Trapp, Morro Bay business owner, asked staff to clarify whether it is the City's intention to eliminate window signs that advertise products or window signs that do not display a business name. He expressed concern that the proposed sign ordinance may negatively affect the character of businesses.

Chairperson Grantham closed Public Comment period.

Berg-Johansen addressed Trapp's comment. He stated the proposed ordinance prohibits advertising *brand names* in windows, but it does not prohibit businesses from advertising the *type* of business.

PRESENTATIONS – None.

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

CONSENT CALENDAR

None.

A. PUBLIC HEARINGS

B-1 **Public hearing continued from May 15, 2013.**
Case No.: Coastal Development Permit #CP0-246
Site Location: 360 Cerrito in the R-1 zoning district
Proposal: Appeal of Administrative Coastal Development Permit #CP0-246 approval for the demolition of an existing 1,183 square foot single-family residence and removal of two trees, and the subsequent construction of a 2,155 square foot single-family residence and an associated 648 square foot garage. This site is located outside of the appeals jurisdiction of the California Coastal Commission.
CEQA Determination: Categorically exempt, Class 1 and Class 3
Staff Recommendation: Continue the Public Hearing to August 7, 2013 to allow additional time for the applicant to comply with the Commission's previous direction.
Staff Contact: Kathleen Wold, Planning Manager, (805) 772-6211

Commissioner Tefft recused himself from the discussion as he owns property within 500 feet of the subject site.

Chairperson Grantham opened Public Comment period.

Berta Parish, resident of Morro Bay, asked the Commission to confirm the date of the appeal hearing for this item.

Chairperson Grantham closed Public Comment period.

Staff confirmed with the Commission there will be a quorum for a Planning Commission meeting on August 21, 2013.

MOTION: Chairperson Grantham moved to continue Coastal Development Permit #CP0-246 to the August 21, 2013 Planning Commission meeting. Any plans submitted for that meeting are to reflect the Volbrecht land survey that was previously approved by the Court and the Commission.

The motion was seconded by Commissioner Solu and the motion passed unanimously. (4-0).

Commissioner Tefft returned for discussion.

B-2 **Public hearing continued from July 3, 2013.**
Case No.: Zoning Text Amendment #A00-015 (continued originally from June 20, 2012 meeting)
Site Location: Citywide
Proposal: The City of Morro Bay is proposing a Municipal Code Amendment modifying Section 17.68 "Signs." Recommendations from the previous sign workshops, sign survey

results, previous work for the 2004 Planning Commission report and direction from City Council (2012) will be presented at the June 19, 2013 meeting. The Planning Commission will review these items, take public testimony and provide direction to staff.
CEQA Determination: To be determined.
Staff Recommendation: Review draft ordinance, take public testimony, and provide direction to staff.
Staff Contact: Erik Berg-Johansen, Planning Intern (805) 772-6291

Berg-Johansen presented the staff report, with specific attention to the Quintana District.

Chairperson Grantham opened Public Comment period.

Amber Badertscher, Morro Bay business owner, explained how it is difficult for the public to see her business from the street. She would like to see fair representation for small business and for the Quintana District.

John Weiss, Morro Bay business owner, expressed concern that neon "Open" signs would be not be allowed to be turned on during daylight hours under the proposed ordinance. He stated he would like to know if there is an exception for these signs. He also stated he is concerned about how public notices (e.g. for community events) in windows would be regulated as many business owners post window signs of this kind. Weiss hopes there is an appeal process for business owners to recommend adjustments to the proposed ordinance.

Chairperson Grantham closed Public Comment period.

Chairperson Grantham discussed the existing condition of signs along Quintana. He noted there are only a few signs north of the traffic circle that are disproportionate to the building. He also stated he is sympathetic to Weiss's comment regarding "Open" signs and agreed they should be illuminated during business hours. Lastly, he acknowledged Badertscher's comment regarding signage for small businesses and stated the Commission will develop a fair approach to advertising businesses that are not visible from the street.

Commissioner Fennacy asked staff to clarify how "Open" signs would be treated under the proposed ordinance. Berg-Johansen stated that only illuminated signs *larger than 10 square feet in area* shall not be turned on during the day, indicating that conventional neon "Open" signs *would* be allowed to be turned on during the day.

Commissioner Fennacy asked staff if businesses would still be able to apply for Sign Exception permits. Wold clarified the purpose of the ordinance update is to make the sign ordinance fair for all types of businesses and easy for the public to understand. Sign Exception permits should be reserved only for properties that are unique or different. Fennacy supported Wold's explanation and noted how important signage is along Quintana.

Commissioner Fennacy asked staff to clarify whether the proposed ordinance will reflect the discussion from the previous meeting regarding allowing equal façade percentages on all sides of a building. Livick stated staff may have missed this comment as the minutes were not yet

completed from the July 3, 2013 meeting. He stated those comments will be incorporated when the minutes become available.
Commissioner Fennacy would like to see façade percentages increased in the Quintana District and consistent with the other districts. He stated businesses should be allowed to install equal amounts of signage on primary *and* secondary facades.

Commissioner Lucas stated he agreed with Fennacy's comments. Lucas also suggested staff consider the distance of the building from the street when determining appropriate façade percentages.

Commissioner Lucas asked staff how the Master Sign Program (MSP) would be applied in this zone. Wold stated there are many small businesses in shopping centers along Quintana that cannot afford to install larger pole or monument signs, so although the ordinance allows them in their zone, they are too cost prohibitive. Lucas and Wold agreed there needs to be more flexibility in the proposed ordinance so that it is easier for smaller businesses to be appropriately advertised.

Commissioner Tefft stated he agreed with Wold's statement regarding providing more flexibility in the proposed ordinance. He stated monument signs may be more effective than increasing façade percentages.

Commissioner Tefft clarified with staff that taller pole signs are prohibited within 200 feet of the right-of-way of Highway 1. He also asked staff to review the criteria for pole signs in the proposed ordinance and re-examine what is appropriate in the Quintana District.

Wold further explained the proposed ordinance could be revised to require that architectural or monument signs shall be placed a certain number of feet away from each other in order to avoid clutter.

Tefft suggested allowing one monument sign per entryway for shopping centers, especially for shopping centers with varying topography.

Commissioner Solu suggested creating a separate section in the proposed ordinance for shopping centers, as has been done for lodging establishments.

Commissioner Solu asked staff to clarify how the allowable area for surface signs is calculated under the existing ordinance. Staff clarified one square foot of signage is allowed per linear foot of frontage when more than one sign proposed.

Commissioner Fennacy made the following comments:

- He stated he favors the idea of allowing one monument sign per entry to a shopping center but stated he is concerned about the associated cost. He stated something "creative" could be done about this.
- He suggested utilizing rights-of-way or city properties for additional signage for business owners in the north Quintana area.
- He stated he would like to increase façade percentages to 20 percent for all sides.

- He recommends dividing architectural and monument signs into separate categories.

Wold clarified with Fennacy that he would like to allow only the primary and secondary facades 20 percent. Fennacy stated more than one architectural sign should be allowed per entry to shopping centers.

Commissioner Fennacy clarified with staff that 20 percent of façade area may be too excessive, and that 15 percent or less would be adequate.

Chairperson Grantham stated he would like to discuss time limits on “Sale” signs.

Wold clarified that the purpose of the Master Sign Program is to make the sign permit application process simpler and easier for applicants.

Commissioner Tefft agreed with Solu that shopping centers should be treated differently than individual businesses. He stated he would like the definition of the term “shopping center” to include that it is not related to ownership.

Staff and the Commission discussed how to distinguish a shopping center. Wold stated the designation is based on the associated zone district. Tefft clarified the designation is also based on the number of occupants.

Commissioner Solu suggested moving the architectural sign to the bonus section of the proposed ordinance.

Wold asked the Commission for direction on how to classify public artwork and murals. Staff clarified art, as defined in the proposed ordinance, is not a sign and thus not affected by the proposed sign ordinance. Tefft stated he would like to add the following to the definition of public art:

1. There should not be any logos in the artwork.
2. There should be a limitation on the size of the plaque.

Chairperson Grantham called for a five minute break.

Berg-Johansen continued to present the staff report, with specific attention to the Tourism-Oriented Sign Plan.

Chairperson Grantham stated he would like staff to include public safety as one of the objectives of the Tourism-Oriented Sign Plan.

Chairperson Grantham opened Public Comment period.

Craig Schmidt, Morro Bay Chamber of Commerce, stated both Alternatives 2 and 3 should be considered for adoption in the Downtown and Embarcadero Districts. Both alternatives were successful and self-sustaining in Healdsburg, CA.

Chairperson Grantham closed Public Comment period.

Commissioner Tefft suggested combining the first two alternatives to create an additional alternative which would call for directional signs with the ability to change the copy.

Commissioner Tefft stated he favors revising Alternative 3 so that is more oriented toward the pedestrian by making the signs lower and making the individual signs smaller and closer together. Regarding the three locations for the directional signs, he stated all three should be on the water side as that is where the majority of people walk. He also suggested installing directional signs near Giovanni's to encourage pedestrians to continue around the curve. He favors installing numerous smaller signs rather than a few larger ones.

Commissioner Solu agreed with Tefft regarding combining the first two alternatives to create an additional alternative as business along the Embarcadero change often. He also expressed concern about the maintenance of the signs. Berg-Johansen stated the City would maintain the signs. Livick stated, however, from a budgetary standpoint, the City would want to partner with another agency to have them maintain the signs. Livick suggested the City could impose a maintenance fee to be paid by business owners to offset the maintenance costs.

Commissioner Fennacy stated he favors Alternatives 2 and 3, and would like to see a hybrid of both.

Commissioner Lucas stated he would like to see improved linkages, flow, indication of pedestrian infrastructure, and indication of restaurants along the Embarcadero. He stated he would like to see Alternatives 1 and 3 combined in some way.

Chairperson Grantham asked staff to consider installing a pedestal sign with a directory of all businesses along the Embarcadero.

Livick suggested a way in which the directional sign could include a map of the Embarcadero as well as a directory of businesses.

Commissioner Tefft stated he would like to see the directory include retail establishments as well as points of interest.

Commissioner Fennacy discussed the benefits of the directory sign.

Commissioner Lucas stated the City should be aware of ADA regulations when installing the signs.

Livick stated a directional sign would be installed at the base of the Centennial Stairway.

MOTION: Commissioner Solu moved to continue Zoning Text Amendment #A00-015 to the August 21, 2013 Planning Commission meeting.

The motion was seconded by Commissioner Fennacy and the motion passed unanimously. (5-0).

UNFINISHED BUSINESS

C-1 Current and Advanced Planning Processing List
Staff Recommendation: Receive and file.
Upcoming Projects: To be determined.

Wold reviewed the Work Program with the Commission.

NEW BUSINESS

None.

DECLARATION OF FUTURE AGENDA ITEMS

None.

ADJOURNMENT
The meeting adjourned at 7:35 pm to the next regularly scheduled Planning Commission meeting at the Veteran's Hall, 209 Surf Street, on Wednesday, August 21, 2013 at 6:00 pm.

_____
Rick Grantham, Chairperson

ATTEST:

_____
Rob Livick, Secretary

AGENDA ITEM:	A-1
DATE:	September 4, 2013
ACTION:	APPROVED

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – AUGUST 21, 2013
VETERANS MEMORIAL HALL – 6:00 P.M.

Chairperson Grantham called the meeting to order at 6:00 p.m.

PRESENT:	Rick Grantham	Chairperson
	John Solu	Vice-Chairperson
	John Fennacy	Commissioner
	Robert Tefft	Commissioner
ABSENT:	Michael Lucas	Commissioner
STAFF:	Rob Livick	Public Services Department
	Kathleen Wold	Planning Manager
	Cindy Jacinth	Associate Planner
	Erik Berg-Johansen	Planning Intern

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS

PUBLIC COMMENT

Chairperson Grantham opened Public Comment period.

Garry Hixon, resident of Morro Bay, praised the Planning Commission for their good work.

Craig Schmidt, CEO of the Morro Bay Chamber of Commerce, announced the Avocado and Margarita Festival will take place on September 14-15.

Chairperson Grantham closed Public Comment period.

PRESENTATIONS – None.

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

CONSENT CALENDAR

A-1 Approval of minutes from Planning Commission meeting of July 3 and July 17, 2013
Staff Recommendation: Approve minutes as submitted.

MOTION: Commissioner Fennacy moved to approve the minutes from the July 3, 2013 meeting.

Chairperson Grantham seconded and the motion passed. (4-0).

MOTION: Commissioner Fennacy moved to approve the minutes from the July 17, 2013 meeting.

Chairperson Grantham seconded and the motion passed. (4-0).

A. PUBLIC HEARINGS

B-1 **Public hearing continued from May 15, 2013.**
Case No.: Coastal Development Permit #CP0-246
Site Location: 360 Cerrito in the R-1 zoning district
Proposal: Appeal of Administrative Coastal Development Permit #CP0-246 approval for the demolition of an existing 1,183 square foot single-family residence and removal of two trees, and the subsequent construction of a 2,155 square foot single-family residence and an associated 648 square foot garage. This site is located outside of the appeals jurisdiction of the California Coastal Commission.
CEQA Determination: Categorically exempt, Class 1 and Class 3
Staff Recommendation: Continue the Public Hearing to September 4, 2013.
Staff Contact: Kathleen Wold, Planning Manager, (805) 772-6211
Commissioner Tefft recused himself from the discussion as he owns property within 500 feet of the subject site.

Wold presented the staff report.

Chairperson Grantham asked for clarification from Wold regarding why staff was unable to give proper attention to this project. Wold stated due to time frames for meeting material submittals, there was not sufficient time to route and review the items requested from the applicant so they will be brought to the next Planning Commission meeting.

Commissioner Fennacy confirmed with staff that the applicant's architect has provided all the necessary materials for review to present the item at the next meeting. Wold stated staff has explicitly stated what is needed from the applicant in order to move forward with review of the project. The revised plans have been received and are action ready for the September 4, 2013 Planning Commission meeting.

Chairperson Grantham opened Public Comment period.

Commissioner Tefft recused himself from the discussion due to the proximity of his residence to the project location.

Berta Parish, resident of Morro Bay, stated she disagreed with staff's recommendation to continue this item a third time. She asked if there is a limit to the number of continuances any project may be granted. She stated the applicant has already been allowed sufficient time to produce the materials requested by staff. Parish also stated the City has not granted equal consideration to her and her neighbors' requests as the applicant. She asked the Commission to uphold her 2007 appeal and deny the project. Parish would like the applicant to submit a new application that meets staff's recommendations.

Chairperson Grantham closed Public Comment period.

Wold stated Parish provided an accurate overview of the project. She stated there was an absence of activity for a long time on the applicant's behalf, and it continues to be a struggle to resolve the issues between the two property owners. Wold explained the differences between how the project was originally approved and what is being required by current City staff.

Livick stated he spoke with the project architect and expressed the need for the remaining items. He stated the architect indicated that he had revised the setbacks and has shown the road in relation to the property lines and will submit new plans.

Chairperson Grantham asked for clarification regarding the Volbrecht survey. Livick stated the area of the City where the project is located was originally shown on an 1888 map. Subsequent surveys continued a boundary error from a misread of the 1888 map that affected a few properties in this area. The boundary error needed to be corrected to the original descriptor. Agreement now exists between the two property owners on the true boundary of the property.

Commissioner Solu confirmed with staff that the applicant was directed to use the Volbrecht survey at the June 19, 2013 Planning Commission Meeting. Livick stated the applicant was to use the Volbrecht survey to show the revised boundaries on the site plan and in relationship to the existing features.

Commissioner Solu asked staff if the applicant submitted the required materials in a timely manner. Wold stated the architect used the Volbrecht survey but he did not reference the Volbrecht survey in the plans, other than a notation, so it was difficult for the public to understand the relationship of the existing features on the property. This deficiency stalled staff's review of the project.

Commissioner Fennacy expressed concern that the applicant has not voiced any concerns or provided reasons for the numerous delays. He stated he is inclined to grant the appeal and send the project back to the applicant to revise and resubmit their application.

Commissioner Solu stated he agreed with Commissioner Fennacy's comments.

Livick explained if the Commission decided to not grant the continuance and thereby upholding the appeal, the applicant will have to start over again by re-applying if they choose not to appeal to the City Council.

MOTION: Commissioner Fennacy moved to deny the request for a continuance and uphold the appeal of Coastal Development Permit #CP0-246.

Chairperson Grantham seconded and the motion passed. (3-0).

Commissioner Tefft rejoined the meeting.

B-2 **Public hearing continued from July 17, 2013.**
Case No.: Zoning Text Amendment #A00-015 (project originally noticed for a Public hearing on June 17, 2013 and subsequently continued to additional meetings).
Site Location: Citywide
Proposal: The City of Morro Bay is proposing a Municipal Code Amendment modifying Section 17.68 "Signs
CEQA Determination: To be determined.
Staff Recommendation: Review draft ordinance, take public testimony, and provide direction to staff.
Staff Contact: Erik Berg-Johansen, Planning Intern (805) 772-6291

Berg-Johansen presented the staff report, with specific attention given to the North Main District (Part I) and the Embarcadero District Tourism-Oriented Directional Sign Plan (Part II).

Chairperson Grantham opened Public Comment period.

Susan Stewart, Morro Bay business owner and President of the Morro Bay Chamber of Commerce, expressed concern about prohibiting brand-name advertising. She stated such signs can be helpful to consumers who may be looking for particular products, and it can be important to business owners to help them do business.

Amber Badertscher, Morro Bay business owner, stated she would like clarification regarding why the City is proposing to prohibit brand-name signs. She asked if brand-name advertising restrictions would apply to other locations, such as umbrellas. She also asked about the proposed regulations and fees for A-frame signs and the directional signs proposed along the Embarcadero.

Chairperson Grantham closed Public Comment period.

Part I: North Main District

Wold clarified the purpose of prohibiting brand-name signs is to ensure that the sign ordinance has vertical consistency with state and local regulations of the Coastal Act, Local Coastal Plan, and General Plan that are already in place.

Berg-Johansen addressed Badertscher's comment regarding A-frame signs and stated the purpose of requiring a permit for such signs is to regulate design and decrease blight in the streetscape. Regarding the Embarcadero District Tourism-Oriented Directional Sign Plan, Berg-Johansen stated these signs will be "tested" along the Embarcadero because of the high concentration of businesses there, and will be implemented in other areas of the City if the project is successful.

Commissioner Fennacy asked for clarification regarding the costs associated with A-frame signs. Livick explained that because A-frame signs are placed in the public right-of-way, it requires an encroachment permit which takes staff time to process. He stated it would not be a revenue-generating fee.

Commissioner Tefft suggested requiring a minimum allowable sign size because a business with an unusually small façade might not be able to erect an effective sign, so he suggested a floor instead.

Commissioner Fennacy stated there is an opportunity for businesses in North Main to draw customers from the highway, so percentages there are important. He expressed support for the proposed allowable signage in the North Main District.

Chairperson Grantham agreed that signage in this area needs to be large enough so that it can be seen at high speeds from the highway.

Commissioner Solu agreed that large signs are important in this area. He stated he supports the recommended allowable signage in this District.

Wold explained it is important to make the signs large enough in this area so that cars on the highway have enough time to safely exit the highway. She suggested staff could present this issue in a more concrete sense at the next Planning Commission meeting.

Commissioner Tefft asked for clarification regarding how monument signs and architectural signs are calculated in terms of primary and secondary building facades. Berg-Johansen stated if such signs are directly in front of building, they would count toward the primary façade. He stated he would clarify this in the proposed ordinance.

Chairperson Grantham asked staff to address the issue of brand-name signs on surfaces not attached to the building. Wold stated staff is not intending to prohibit business owners from marketing certain products but there are certain considerations that will need to be made regarding total allowable signage.

Commissioner Fennacy stated he would like to see more business owners attending the next Planning Commission meeting to provide comment on the sign ordinance update.

Commissioner Tefft stated it is important to regulate free advertising in the City as it may become a problem.

Part II: Embarcadero District Tourism-Oriented Directional Sign Plan

Berg-Johansen continued to present the staff report, with specific attention to the Tourism-Oriented Directional Sign Plan.

Chairperson Grantham asked if there are enough spaces for all business owners along the Embarcadero. Berg-Johansen explained there are about 85 existing businesses and the City would try to accommodate all of them by installing 18 signs on each structure.

Commissioner Tefft asked if business owners could apply to install more than one sign if space permits. Berg-Johansen stated he would incorporate Tefft's comment into the proposed sign ordinance. Berg-Johansen stated the empty sign spaces could be used to advertise City events. Commissioner Tefft suggested using a material other than steel in this area due to the coastal weather. Staff explained the sign materials would be chosen carefully so that the signs are durable and remain aesthetically pleasing.

Chairperson Grantham clarified with staff that there would be a one-time fee to install a directional sign, rather than a yearly fee.

Berg-Johansen stated it would cost business owners between $75-100 to manufacture each sign.

Commissioner Solu stated he would like to address the issue of nonconforming signs with regard to ownership change at the next Planning Commission meeting. Livick explained existing nonconforming signs were legal at the time they were permitted. Those signs can remain until they are in such poor condition that they can no longer be repaired, at which time they must be replaced. Wold clarified a sign only falls under the category of "legal nonconforming" if it has been permitted by the City. Illegal nonconforming signs are those which never had a permit.

Commissioner Tefft asked staff how the City intends to implement an enforcement program for illegal signs. Wold stated staff is in the process of developing a procedure to document all non-permitted signs in the City, and will then go forward with enforcement procedures.

MOTION: Commissioner Solu moved to continue Zoning Text Amendment #A00-015 to the September 4, 2013 Planning Commission meeting.

Chairperson Grantham seconded and the motion passed. (4-0).

B-3 **Case No.:** Time Extension for #UP0-120 and #AD0-024.
Site Location: 1170 Front Street
Proposal: Concept Plan approved in December 2006 for a 6 unit motel and manager's unit and subterranean parking lot. A Minor Amendment was approved to convert manager's unit to a guest unit.
CEQA Determination: Mitigated Negative Declaration adopted.
Staff Recommendation: Grant time extension for one year.
Staff Contact: Cindy Jacinth, Associate Planner, (805) 772-6577

Wold presented the staff report and stated the request for extension has been withdrawn, therefore, no action is necessary for this item.

UNFINISHED BUSINESS

C-1 Current and Advanced Planning Processing List
Staff Recommendation: Receive and file.
Upcoming Projects: To be determined.

Wold reviewed the Work Program with the Commission.

NEW BUSINESS

None.

DECLARATION OF FUTURE AGENDA ITEMS

None.

ADJOURNMENT
The meeting adjourned at 7:37 pm to the next regularly scheduled Planning Commission meeting at the Veteran's Hall, 209 Surf Street, on Wednesday, September 4, 2013 at 6:00 pm.

_____
Rick Grantham, Chairperson

ATTEST:

_____
Rob Livick, Secretary

AGENDA ITEM:	A- 1
DATE:	September 18, 2013
ACTION:	

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – SEPTEMBER 4, 2013
VETERANS MEMORIAL HALL – 6:00 PM

Chairperson Grantham called the meeting to order at 6:00 p.m.

PRESENT:	Rick Grantham	Chairperson
	John Solu	Vice-Chairperson
	John Fennacy	Commissioner
	Michael Lucas	Commissioner
	Robert Tefft	Commissioner
STAFF:	Rob Livick	Public Services Department
	Kathleen Wold	Planning Manager
	Erik Berg-Johansen	Planning Intern

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS

Chairperson Grantham announced the City will be hosting a Thanksgiving Day dinner from 1 pm to 3 pm at the Morro Bay Community Center.

Commissioner Fennacy announced the Morro Bay Margarita and Avocado festival will be held on September 14-15, 2013.

Commissioner Lucas announced the Commissioners now have City email addresses, which are listed on the City's webpage, and he directed the public to use the new email addresses when contacting the Commission.

PUBLIC COMMENT

Chairperson Grantham opened Public Comment period.

Gary Hixon, Morro Bay resident, complimented the Commission for their good work at the meetings.

Nikki Turner, Morro Bay resident, explained why she has been unable to attend previous Planning Commission meetings regarding the project located at 360 Cerrito Place. She also stated there were discrepancies in the information that was presented at the last hearing; she

stated she has always submitted the materials requested of her, and has never asked for an exception on her home project. Turner asked the Commission to review all of the information for the September 18, 2013 Planning Commission meeting.

Michael Tott, Los Osos resident, stated he constructed the fence on Tuner's property (360 Cerrito Place) according to the Volbrecht survey, therefore, it became the benchmark for Turner's project. Tott stated the lot line discrepancy has been resolved.

Chairperson Grantham closed Public Comment period.

PRESENTATIONS

None.

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

CONSENT CALENDAR

A-1 Approval of minutes from Planning Commission meeting of August 21, 2013
Staff Recommendation: Approve minutes as submitted.

MOTION: Commissioner Fennacy moved to approve the Consent Calendar.

Commissioner Tefft noted one correction on p. 5 of the minutes. Instead of "Commissioner Tefft suggested requiring a minimum sign size," Tefft stated he would like the minutes to read "…minimum *allowable* sign size." His intention was that a business with an unusually small façade might not be able to erect an effective sign, so he suggested a minimum instead.

Chairperson Grantham seconded and the motion passed (4-0), with Commissioner Lucas abstaining.

A. PUBLIC HEARINGS

B-1 **Public hearing continued from August 21, 2013.**
Case No.: Zoning Text Amendment #A00-015 (project originally noticed for a Public Hearing on June 17, 2013 and subsequently continued to additional meetings).
Site Location: Citywide
Proposal: The City of Morro Bay is proposing a Municipal Code Amendment modifying Section 17.68 "Signs
CEQA Determination: To be determined.
Staff Recommendation: Review draft ordinance, take public testimony, and provide direction to staff.
Staff Contact: Erik Berg-Johansen, Planning Intern (805) 772-6291

Berg-Johansen presented the staff report.

Chairperson Grantham opened Public Comment period.

John Elliott, Morro Bay business owner, asked staff why the following signs are prohibited under the proposed ordinance: barber poles (rotating signs), digital signs, signs advertising brand names, vehicle displays, and A-frame signs. He also stated sidewalks are wide enough in the downtown area to erect A-frame signs.

Kim van Nordstrand, Morro Bay business owner, stated business owners along the Embarcadero will probably want more flexibility than what is proposed regarding the placement of signs on the Embarcadero. She stated the City should ask Embarcadero business owners for their input regarding signage in the Embarcadero District. Nordstrand also suggested installing a kiosk on the Embarcadero, with a map on one side and a directory on the other.

Chairperson Grantham closed Public Comment period.

Berg-Johansen addressed Elliott's concerns:

- Barber poles – An exception could be made for barber poles if desired by the Commission, but under the proposed ordinance, they would be prohibited if they are indeed moving.
- Digital signs – These signs would be prohibited if the proposed ordinance passes. Berg-Johansen explained the intention is to maintain the "small-town feel" of the City. He suggested making an exception for such signs on public buildings, though, because they are helpful for tourists.
- Brand names – Berg-Johansen encouraged the Commission to discuss this issue in more detail. He suggested regulating brand name signs more stringently, but not prohibiting them outright.
- Vehicle displays – Such signs are not allowed to be erected in front of businesses, but he clarified delivery vehicles with logos would be allowed under the proposed ordinance.
- A-frame signs – Under the proposed ordinance, these signs would be allowed in the Downtown District but not along the Embarcadero.

Chairperson Grantham responded to Nordstrand's comment regarding public input and stated City staff and the Commission have provided many opportunities (in the form of public hearings and online surveys) for the public to provide their opinion regarding the proposed ordinance.

Commissioner Solu seconded Grantham's comment. He also asked staff if the existing barber poles would be allowed to remain under the proposed ordinance. Wold clarified barber poles are exempted under the proposed ordinance, so it is not an issue. Other examples of code exemptions are "Main Street" clocks and time and temperature signs on bank buildings.

Commissioner Solu asked staff for clarification regarding how the City is regulating the size and content of the digital sign at the Visitor Center. Wold explained the City only intends to regulate larger street, sidewalk, and directional signs, and the City generally does not regulate signs that are difficult to see from the car, such as the one on display at the Visitor Center. She stated live

feed content is difficult to regulate because it changes so quickly, but she said she would investigate the sign at the Visitor Center.

Commissioner Tefft expressed concern that there is no mechanism for an exception or a conditional use permit in the proposed ordinance that would allow business owners to install a sign that happens to not fit into any of the proposed categories. Wold clarified the purpose of the ordinance update is to simplify the ordinance and make it more user-friendly so that such exceptions would not be necessary. She stated, however, applicants are always allowed to request a variance, but the sign must meet certain standards in order for the application to be approved.

Commissioner Fennacy complimented Craig Schmidt for doing a great job at informing the business community about the various ways they have been able to provide input during the update process. Grantham and Lucas seconded Fennacy's comment.

Commissioner Tefft suggested removing the section regarding lodging establishments because the character of each of the districts in the City is so distinctive that it should preclude the fact that it is a lodging establishment. He stated there are different provisions that need to be made for lodging establishments in different areas of the City, and those provisions should be included in the section for the respective districts where the establishment is located.

Commissioner Solu stated it is important to include language regulating lodging establishment signs so as to prevent price wars and because lodging is the only industry in the City that has 24-hour service.

Commissioner Fennacy stated it is important to remain consistent and linear with State regulations, otherwise the City may run into problems when the proposed ordinance is brought before City Council and the Coastal Commission. He stated lodging is generally treated distinctly in other municipalities, so the City should consider including this section in order to be linear with the state.

Commissioner Lucas seconded Tefft's comment regarding locational differences between lodging establishment signs. Wold clarified the separate lodging section was developed because not all motels are located in commercial districts; some motels are in residential districts where the signs need to be regulated more strictly, so they are a somewhat special use that needs more attention. Wold stated it may be redundant to include language regarding lodging establishments in each district, but it may be more user-friendly to do so.

Commissioner Solu stated if any districts are to be consolidated, it should be the North Main and Quintana Districts because they are so similar. Lucas seconded Solu's comment.

Livick stated keeping the lodging establishment table as a separate section may be more effective if language is added which states *architectural* and *pole signs* may be allowed only if they are allowed in their base district. On the other hand, it may be beneficial to move lodging establishment sign regulations to separate zones because it would be easier to make changes when necessary.

MOTION: Commissioner Fennacy moved to approve the draft Zoning Text Amendment #A00-015 and forward it to City Council.

Chairperson Grantham seconded the motion.

Commissioner Tefft asked staff for clarification regarding the definition of attraction boards. Berg-Johansen clarified they are used to display services and amenities offered by a hotel. Tefft suggested expanding the definition of attraction signs to encompasses restaurants, theaters, churches, and other establishments in the City, and not just hotels.

The motion passed (3-2), with Commissioners Solu and Tefft dissenting.

UNFINISHED BUSINESS

C-1 Current and Advanced Planning Processing List
Staff Recommendation: Receive and file.
Upcoming Projects: To be determined.

Wold reviewed the Work Program with the Commission.

NEW BUSINESS

None.

DECLARATION OF FUTURE AGENDA ITEMS

None.

ADJOURNMENT
The meeting adjourned at 7:03 pm to the next regularly scheduled Planning Commission meeting at the Veteran's Hall, 209 Surf Street, on Wednesday, September 18, 2013 at 6:00 pm.

_____
Rick Grantham, Chairperson

ATTEST:

_____
Rob Livick, Secretary

Sign Workshop

September 29, 2011

Welcome and Introductions

- City Staff
  - Andrea Leuker, City Manager
  - Rob Livick, Public Services Director
  - Kathleen Wold, Planning Manager
  - Sierra Davis, Assistant Planner
- Workshop Facilitator
  - Chuck Anders

Purpose of Sign Ordinance

Purpose of the sign ordinance is to regulate signs as an information system which expresses the character and environment or the city and its community. It is further intended that these regulations recognize the importance of business activity to the economic vitality of the city.

Constraints

- The Sign Ordinance shall be incompliance with:
  - General Plan
  - Local Coastal Plan

Existing Code

- Contained within the Municipal Code,
  - Title 17, Zoning Ordinance
  - Chapter 17.68, Signs
- Chapter 17.68 contains 18 sections and multiple subsections.

Our Goals

What are your goals and objectives for the sign ordinance?

Timeline of Sign Ordinance

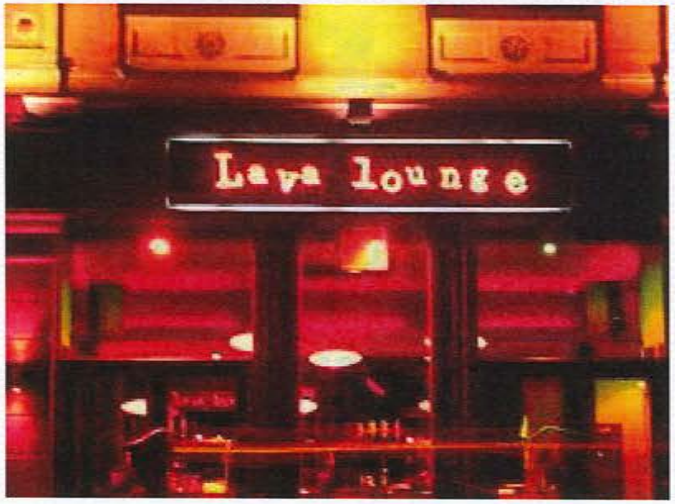
- Council directed staff to separate the sign ordinance from 2005 Zoning Ordinance and update and process separately.
- April 12, 2010 – City Council Directed staff to forward 2005 Ordinance to Planning Commission for review and forward recommendation to City Council
- May 11, 2011 – Planning Commission recommended that staff conduct public workshops to evaluate the sign ordinance.
- Sign Ordinance workshop conducted September 29 and October 6, 2011.

Signs

Flag Signs

Banner Sign

Signs

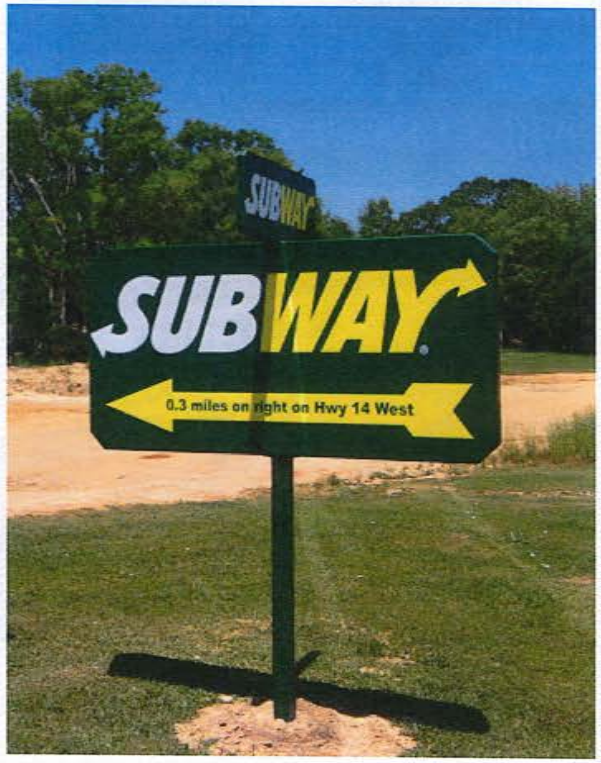


Illuminated/Neon Signs

A-Frame Sign

Signs

Wall Sign



Off-Premise Sign

Signs

Pole Sign

Marquee/Changeable Copy Sign

Signs

Awning Sign

Pub/Projecting Sign

ATTACHMENT

Morro Bay Sign Ordinance Workshop

Thursday

September 29, 2011

ATTACHMENT 3

Morro Bay Sign Ordinance Workshop

Meeting Facilitator

Chuck Anders
Strategic Initiatives

Morro Bay Sign Ordinance Workshop

- Understand Sign Ordinance and Issues
- Get opinions on key issues
- Evaluate alternatives

Workshop Guidelines

- Be positive and respectful of others
- Listen – avoid side conversations
- Silence cell phones – take calls outside
- Stay on topic / Be concise
- Raise hand to speak
- Always “Us” (avoid judging others)

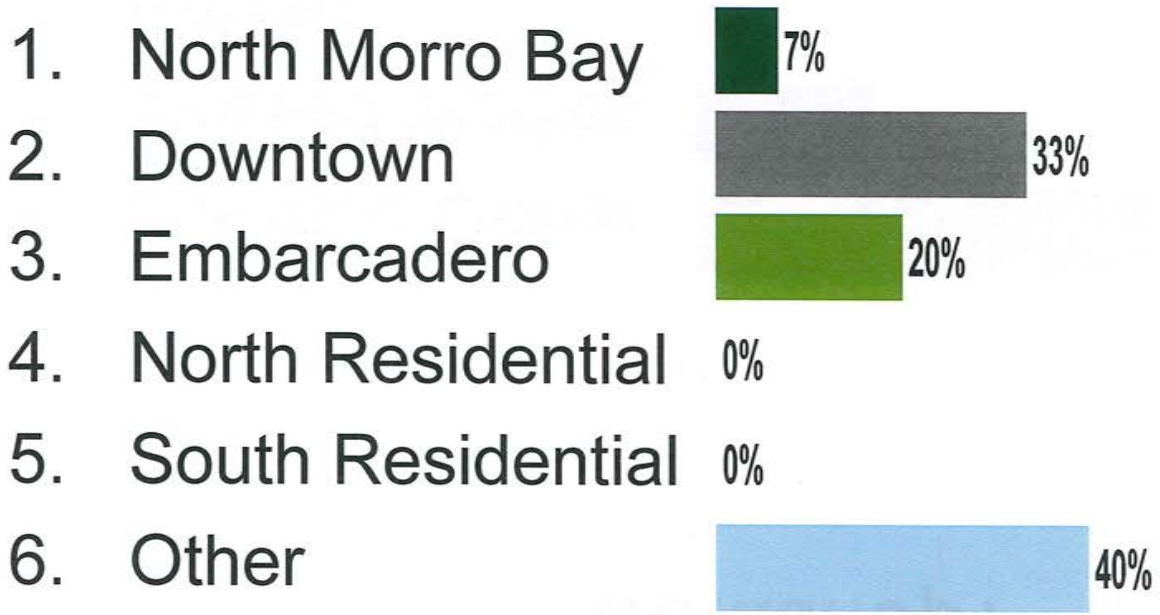
Who's Here?

What is your gender?

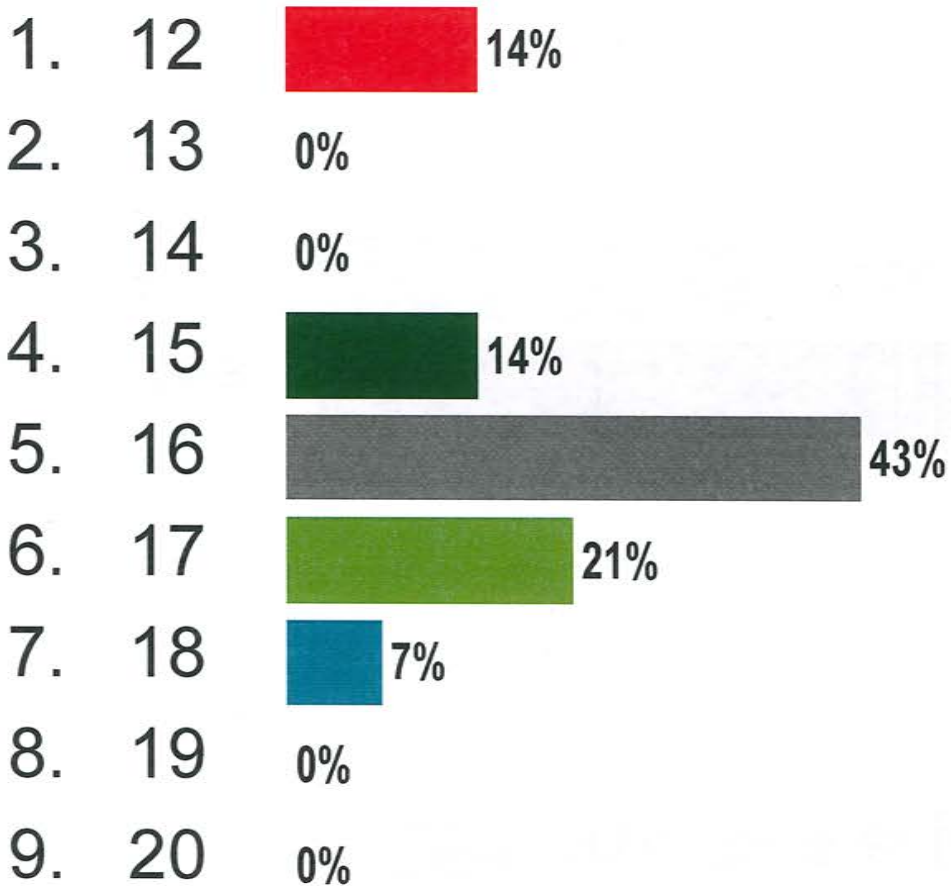
Are you a Morro Bay resident?

Which best describes your role in this workshop?

What geographic area of Morro Bay do you represent?

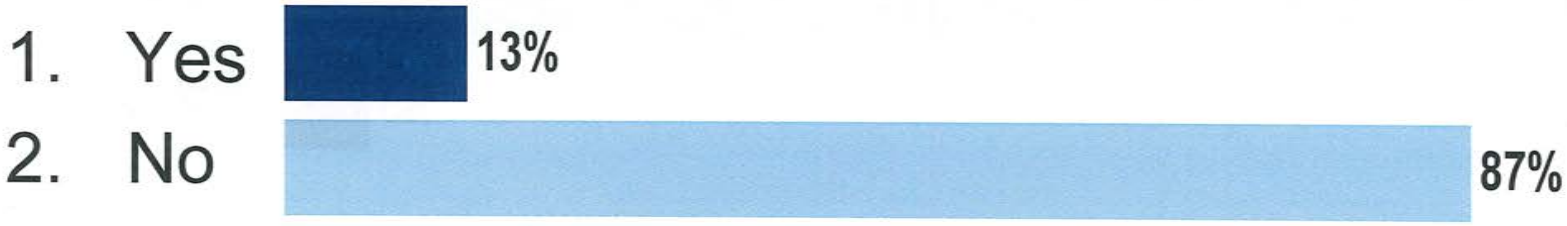


How many times did the people in the white shirts pass the basketball?



Did you see a gorilla?

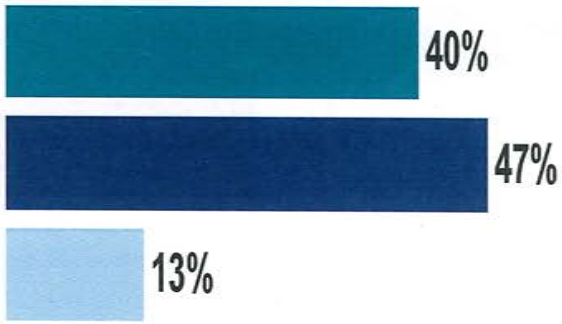
Is the existing sign ordinance working for you?



Are you happy with how the signs in Morro Bay look right now?

Do you feel that you have enough signage?

1. Yes
2. No
3. Not applicable



Do you want uniformity in the appearance of signs and businesses throughout the community?

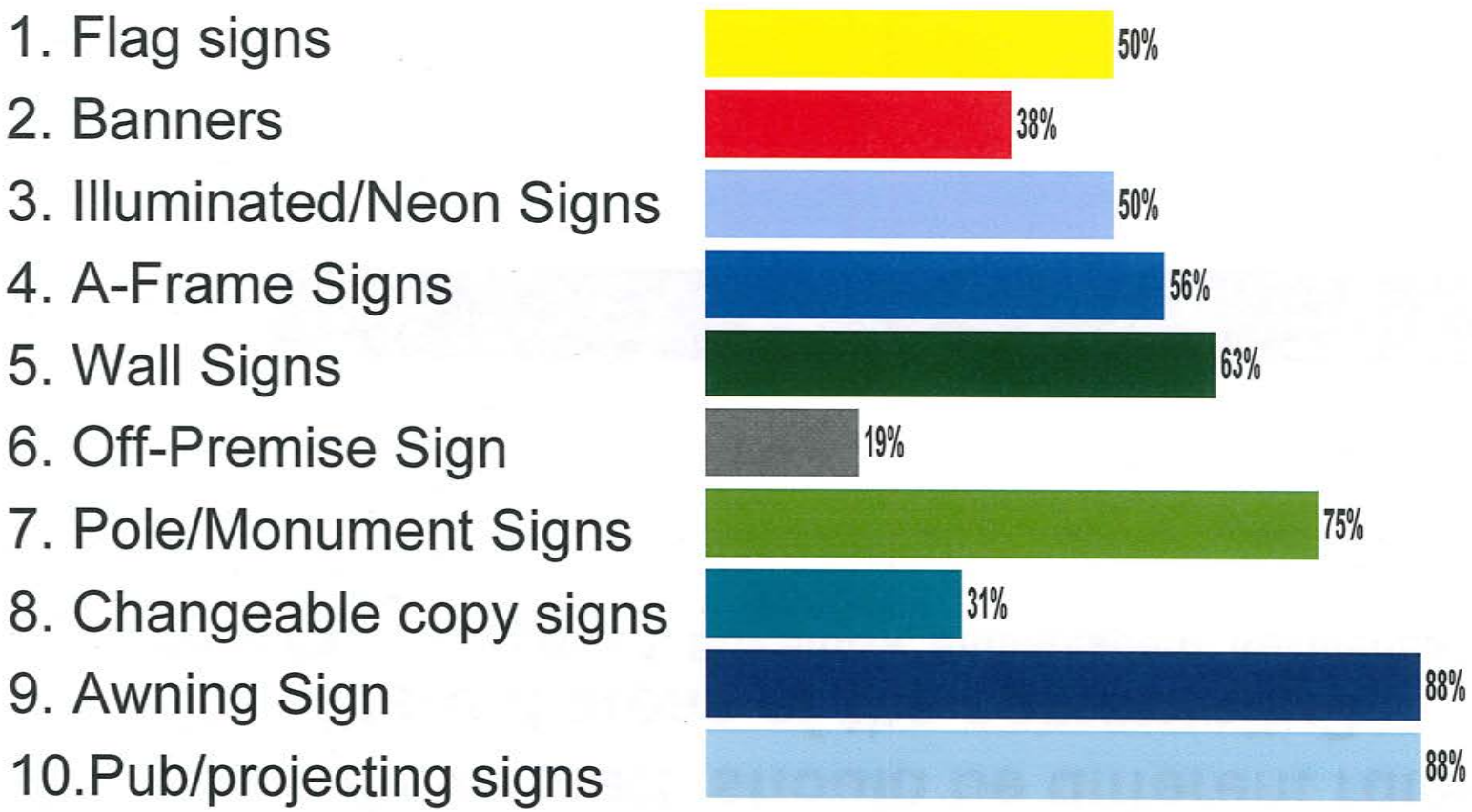
Do you believe there should be different rules for different areas of the community?

(No. Morro Bay – along Hwy 1, Downtown, Embarcadero, Residential)

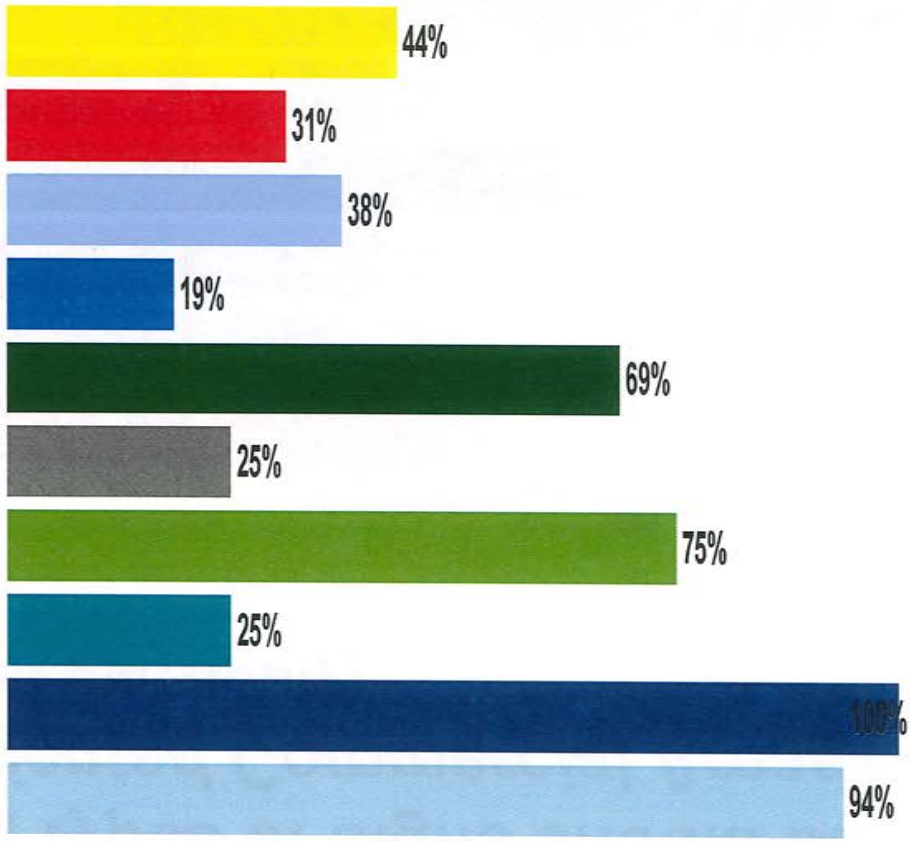
1. Yes

2. No 0%

Which of the following types of signs should be allowed in the *Downtown Area*?
(select all that apply)

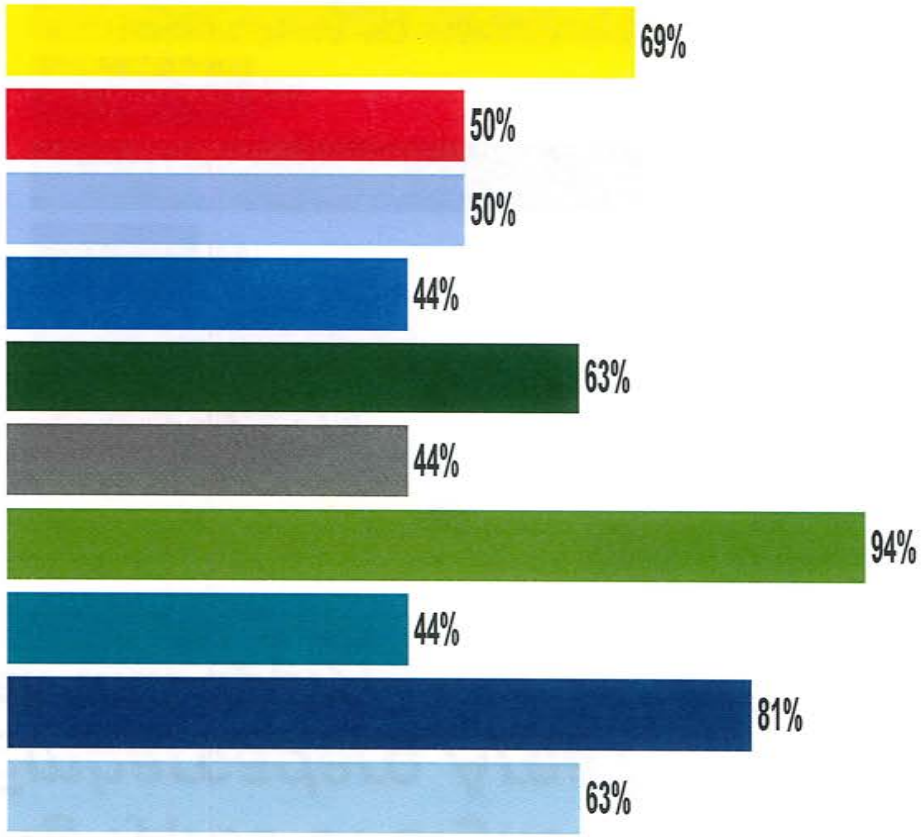


Which of the following types of signs should be allowed in *Embarcadero Area*?
(select all that apply)

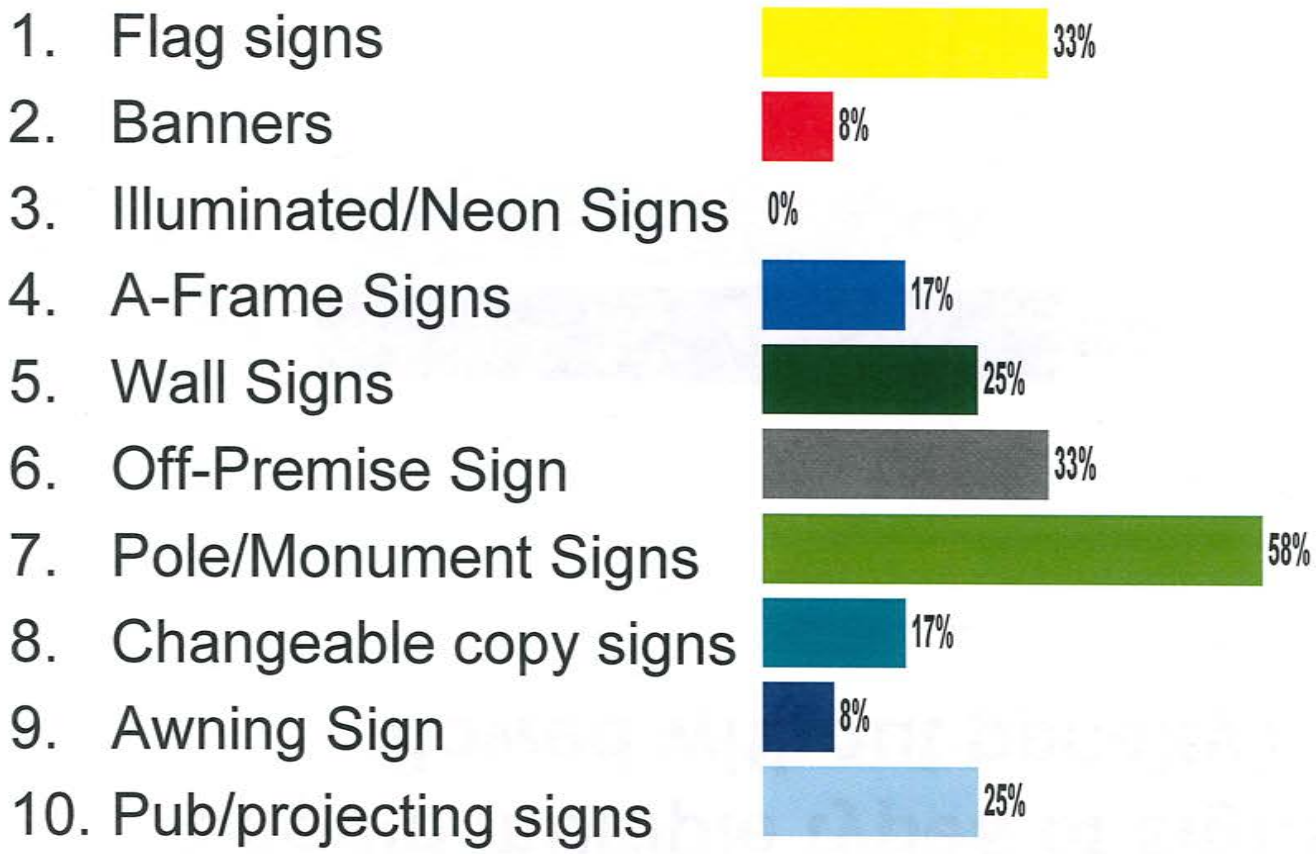


Which of the following types of signs should be allowed in ***Highway-Oriented Commercial Areas***?

(select all that apply)



Which of the following types of signs should be allowed in *Residential Areas*?
(select all that apply)



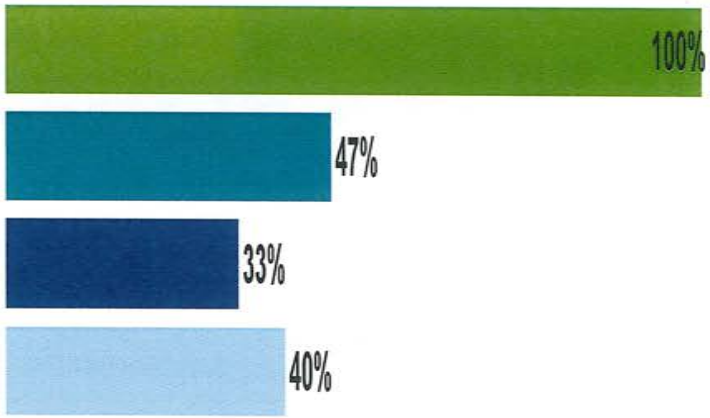
Should multiple types of signs be allowed without penalty?

Do you consider murals to be signs?

Should signage in residential areas be allowed for:

(select all that apply)

1. Real Estate
2. Vacation Rental
3. Allowed home occupations
4. Other



Should businesses be guaranteed a minimum size sign regardless of frontage size?

Should there be special allowances?

1. Yes

2. No 0%

Are you satisfied with the current rules for reader boards?

Are sign materials important?

ATTACHMENT 4

Morro Bay Sign Ordinance Workshop - Poll

SurveyMonkey

1. Did you find the workshop materials, referenced in http://morro-bay.ca.us/index.aspx?nid=708, helpful?

	Response Percent	Response Count
Yes	40.0%	2
No	40.0%	2
I attended the workshop	20.0%	1
answered question		5
skipped question		0

2. Please provide the following information. Contact information will not be distributed. The contact information will only be used should we need to contact you for clarification of your responses.

	Response Percent	Response Count
Name:	100.0%	5
Company:	80.0%	4
City/Town:	100.0%	5
Email Address:	80.0%	4
Phone Number:	80.0%	4
answered question		5
skipped question		0

3. What is your gender?

	Response Percent	Response Count
Male	**60.0%**	**3**
Female	40.0%	2
	answered question	**5**
	skipped question	**0**

4. Are you a Morro Bay resident?

	Response Percent	Response Count
Yes	40.0%	2
No	**60.0%**	**3**
	answered question	**5**
	skipped question	**0**

5. What geographic area of Morro Bay do you represent?

	Response Percent	Response Count
North Morro Bay	0.0%	0
Downtown	0.0%	0
Embarcadero	40.0%	2
North Residential	0.0%	0
South Residential	0.0%	0
Other (please specify)	**60.0%**	**3**
	answered question	**5**
	skipped question	**0**

6. Which best describes your role?

	Response Percent	Response Count
Business Owner	**80.0%**	**4**
Salaried Worker	0.0%	0
Retired	20.0%	1
Other (please specify)	0.0%	0
	answered question	**5**
	skipped question	**0**

7. Is the existing sign ordinance working for you?

	Response Percent	Response Count
Yes	40.0%	2
No	**60.0%**	**3**
	answered question	**5**
	skipped question	**0**

8. Are you happy with how the signs in Morro Bay look right now?

	Response Percent	Response Count
Yes	20.0%	1
No	**80.0%**	**4**
	answered question	**5**
	skipped question	**0**

9. Do you feel that you have enough signage?

	Response Percent	Response Count
Yes	20.0%	1
No	**80.0%**	**4**
N/A	0.0%	0
	answered question	**5**
	skipped question	**0**

10. Do you want uniformity in the appearance of signs and businesses throughout the community?

	Response Percent	Response Count
Yes	60.0%	3
No	40.0%	2
answered question		5
skipped question		0

11. Do you believe there should be different rules for different areas of the community? (No. Morro Bay – along Hwy 1, Downtown, Embarcadero, Residential)

	Response Percent	Response Count
Yes	60.0%	3
No	40.0%	2
answered question		5
skipped question		0

12. Which of the following types of signs should be allowed in the Downtown Area? (select all that apply)

	Response Percent	Response Count
Flag signs	60.0%	3
Banners	40.0%	2
Illuminated/Neon Signs	60.0%	3
A-Frame Signs	40.0%	2
Wall Signs	80.0%	4
Off-Premise Sign	0.0%	0
Pole/Monument Signs	40.0%	2
Changeable copy signs	80.0%	4
Awning Sign	80.0%	4
Pub/projecting signs	**100.0%**	**5**
Other (please specify)	0.0%	0
	answered question	**5**
	skipped question	**0**

13. Which of the following types of signs should be allowed in Embarcadero Area? (select all that apply)

	Response Percent	Response Count
Flag signs	60.0%	3
Banners	40.0%	2
Illuminated/Neon Signs	60.0%	3
A-Frame Signs	0.0%	0
Wall Signs	80.0%	4
Off-Premise Sign	0.0%	0
Pole/Monument Signs	40.0%	2
Changeable copy signs	40.0%	2
Awning Sign	80.0%	4
Pub/projecting signs	**100.0%**	**5**
Other (please specify)	20.0%	1
	answered question	**5**
	skipped question	**0**

14. Which of the following types of signs should be allowed in Highway-Oriented Commercial Areas? (select all that apply)

	Response Percent	Response Count
Flag signs	80.0%	4
Banners	60.0%	3
Illuminated/Neon Signs	80.0%	4
A-Frame Signs	20.0%	1
Wall Signs	80.0%	4
Off-Premise Sign	60.0%	3
Pole/Monument Signs	80.0%	4
Changeable copy signs	60.0%	3
Awning Sign	40.0%	2
Pub/projecting sign	**100.0%**	**5**
Other (please specify)	0.0%	0
	answered question	**5**
	skipped question	**0**

15. Which of the following types of signs should be allowed in Residential Areas? (select all that apply)

	Response Percent	Response Count
Flag signs	20.0%	1
Banners	0.0%	0
Illuminated/Neon Signs	20.0%	1
A-Frame Signs	20.0%	1
Wall Signs	20.0%	1
Off-Premise Sign	40.0%	2
Pole/Monument Signs	20.0%	1
Changeable copy signs	0.0%	0
Awning Sign	**60.0%**	**3**
Pub/projecting signs	**60.0%**	**3**
No signs	0.0%	0
Other (please specify)	20.0%	1
	answered question	**5**
	skipped question	**0**

16. Should multiple types of signs be allowed without penalty? Current regulations apply a reduction in sign area of 50% if multiple sign types are uses; e.g. wall sign plus a monument sign.

	Response Percent	Response Count
Yes	40.0%	2
No	**60.0%**	**3**
	answered question	**5**
	skipped question	**0**

17. Do you consider murals to be signs?

	Response Percent	Response Count
Yes	0.0%	0
No	**100.0%**	**5**
	answered question	**5**
	skipped question	**0**

18. Should signage in residential areas be allowed for: (select all that apply)

	Response Percent	Response Count
Real Estate	**80.0%**	**4**
Vacation Rental	**80.0%**	**4**
Allowed home occupations	60.0%	3
Other (please specify)	40.0%	2
	answered question	**5**
	skipped question	**0**

19. Should businesses be guaranteed a minimum size sign regardless of frontage size?

	Response Percent	Response Count
Yes	80.0%	4
No	20.0%	1
answered question		5
skipped question		0

20. Should there be special allowances or exceptions?

	Response Percent	Response Count
Yes	80.0%	4
No	20.0%	1
answered question		5
skipped question		0

21. Are you satisfied with the current rules for reader or changeable message boards? Current code limits the language on such boards for hotel/motels to: a. Winter rate (excluding amount); b. Vacancy; c. Credit cards; d. TV; e. Pool; f. Air conditioning; g. Continental Breakfast; h. Any other information as approved by the Director.

	Response Percent	Response Count
Yes	80.0%	4
No	20.0%	1
answered question		5
skipped question		0

22. Are sign materials important?

	Response Percent	Response Count
Yes	100.0%	5
No	0.0%	0
Why?		5
answered question		5
skipped question		0

23. Please provide us any additional comments or provide explanation to a question as needed.

	Response Count
	5
answered question	5
skipped question	0

Preliminary Sign Program

Downtown Area

General Sign Area Calculations: 2 square feet for each 1 foot of linear building frontage. *This represents a 100% increase in signage allowed when utilizing multiple types of signage.*
A Frame Signs: Not Allowed.
Awning Signs: Allowed.
Banners as a Permanent Signage: Not Allowed.
Dock Signs: Not Allowed.
Flag: Not Allowed, see pub signs.
Gateway Signs: Concept would be to allow a type of sign at the entrance at Morro Bay Blvd to announce the downtown area.
Illuminated, Internally: Not Allowed.
Illuminated, Externally: Allowed.
Marquee Signs: Allowed for theatres, nightclubs, conference facilities.
Monument Signs: Allowed, externally illuminated only.
Off Premise Signs: Not Allowed, except for community business directory kiosks and City Directional Signs.
Pole Signs: Not Allowed.
Pub Signs: Allowed, non illuminated or externally illuminated. Can be utilized to note open or closed and capture visitor business.
Wall Signs: Allowed Downtown with exterior illuminated (such as gooseneck or non-illuminated)
Window Signs: Allowed for relocating businesses with the permission of property owner for a period not to exceed 30 days.
Time limits for nonconforming signs: Remove Section 17.68.155.

Embarcadero Area

General Sign Area Calculations: 2 square feet for each 1 foot of linear building frontage for single tenant buildings. *In addition to the 2 square feet allowed all Multi tenant buildings shall be allowed to have one 16 square foot in size sign facing the Embarcadero identifying the building such as "Marina Square".*
A Frame Signs: Not Allowed.
Awning Signs: Allowed.
Banners as a Permanent Signage: Not Allowed.
Dock Signs: Entrances to dock facilities shall be allowed signage to advertise businesses being run from the dock such as commercial fishing and tourist cruises.
Flag: Not Allowed, see pub signs.
Gateway Signs: Concept would be to allow a type of sign at the entrance to the Embarcadero to identify the area.
Illuminated, Internally: Not Allowed.
Illuminated, Externally: Allowed.

Marquee Signs: Allowed for theatres, nightclubs, conference facilities.
Monument Signs: Allowed externally illuminated, only.
Off Premise Signs: Not Allowed except for community business directory kiosks and City Directional Signs.
Pole Signs: Not Allowed.
Pub Signs: Allowed, non illuminated or externally illuminated Can be utilized to note open or closed and capture visitor business.
Wall Signs: Allowed Embarcadero with exterior illuminated (such as gooseneck or non-illuminated).
Window Signs: Allowed for relocating businesses with the permission of property owner for a period not to exceed 30 days.
Time limits for nonconforming signs: Remove Section 17.68.155.

North Morro Bay

General Sign Area Calculations: 2 square feet for each 1 foot of linear building frontage.
A Frame Signs: Not Allowed.
Awning Signs: Allowed.
Banners as a Permanent Signage: Not Allowed.
Dock Signs: Not Allowed.
Flag: Not Allowed, see pub signs.
Gateway Signs: Concept would be to allow a gateway type of sign at the entrance to North Morro Bay.
Illuminated, Internally: Allowed.
Illuminated, Externally: Allowed.
Marquee Signs: Allowed for theatres, nightclubs, conference facilities.
Monument Signs: Allowed internally or externally illuminated.
Off Premise Signs: Not Allowed except for community business directory kiosks and City Directional Signs.
Pole Signs: Allowed.
Pub Signs: Allowed, non illuminated or externally illuminated. Can be utilized to note open or closed and capture visitor business.
Wall Signs: Allowed.
Window Signs: Allowed for relocating businesses with the permission of property owner for a period not to exceed 30 days.
Time limits for nonconforming signs: Remove Section 17.68.155.

ATTACHMENT 6

Morro Bay Sign Ordinance Workshop

Thursday
October 6, 2011

Morro Bay Sign Ordinance Workshop

Meeting Facilitator

Chuck Anders
Strategic Initiatives

Morro Bay Sign Ordinance Workshop

- Review results from first workshop
- Review and discuss preliminary sign ordinance concepts
- Next steps

Workshop Guidelines

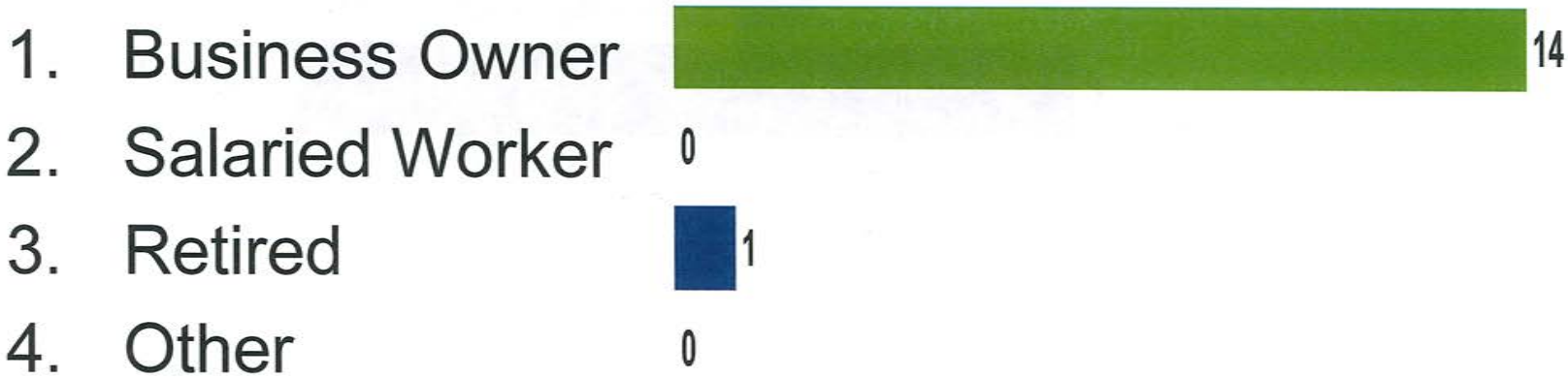
- Be positive and respectful of others
- Listen - avoid side conversations
- Silence cell phones - take calls outside
- Stay on topic / Be concise
- Raise hand to speak
- Always "Us" (avoid judging others)

Who’s Here?

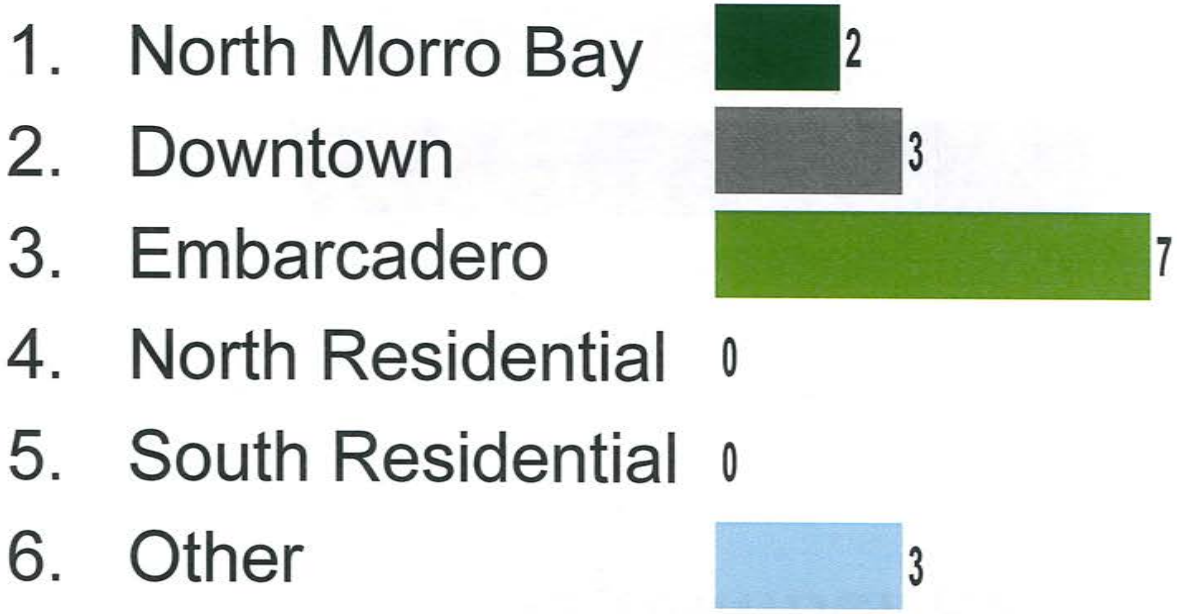
What is your gender?

Are you a Morro Bay resident?

Which best describes your role in this workshop?



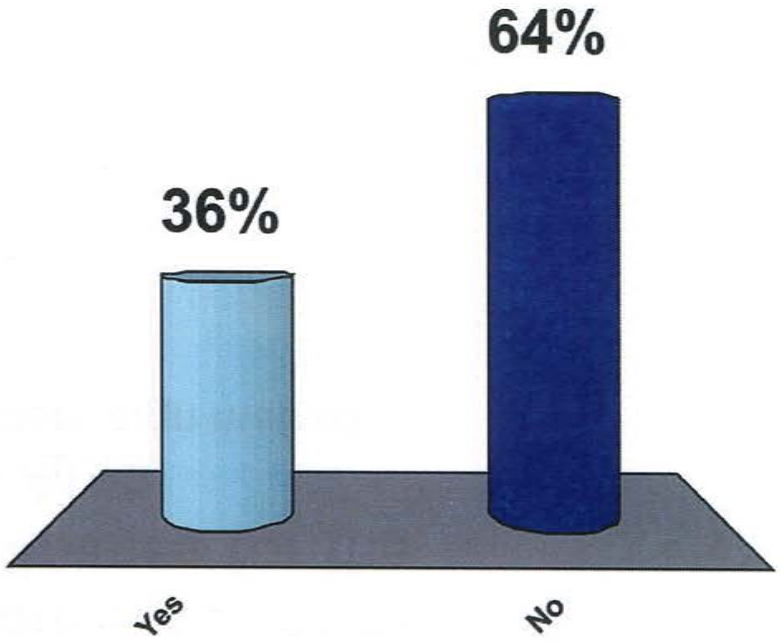
What geographic area of Morro Bay do you represent?



Did you attend the first workshop on September 29th?

Is a distinction between internal or external illumination important?

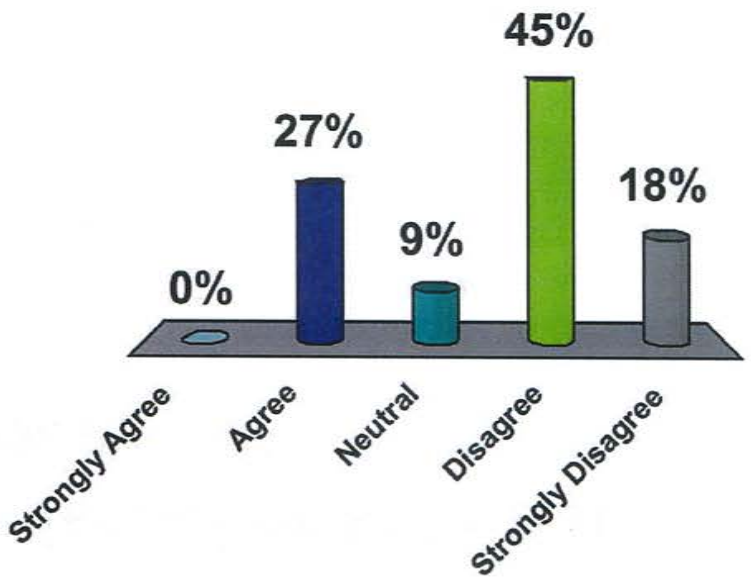
1. Yes
2. No



To what extent to you support or oppose the preliminary sign ordinance for the <u>Downtown Area</u>

(as presented in preliminary sign matrix)

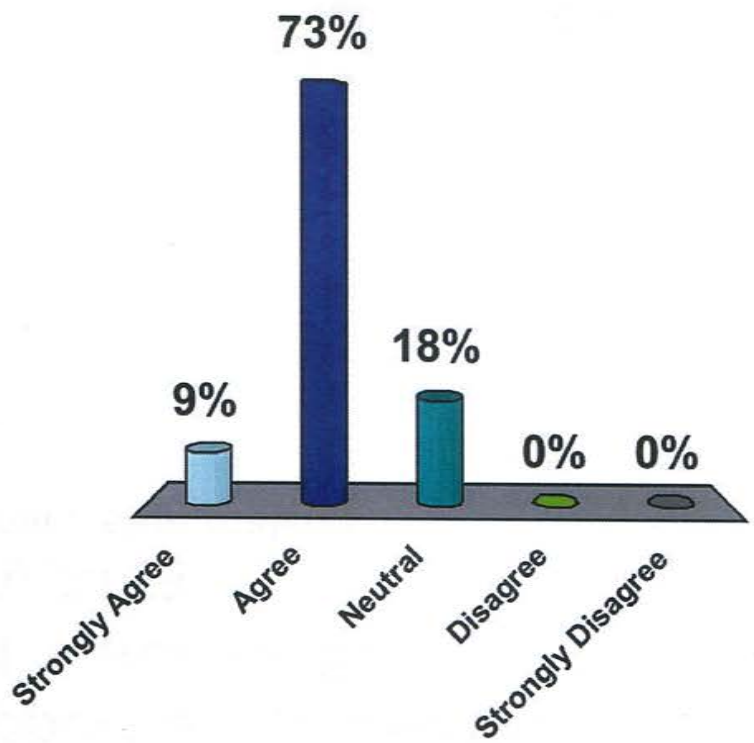
1. Strongly Agree
2. Agree
3. Neutral
4. Disagree
5. Strongly Disagree



To what extent to you support or oppose the preliminary sign ordinance for the <u>Downtown Area</u>

(allow sidewalk signs and no difference between internal & external illumination)

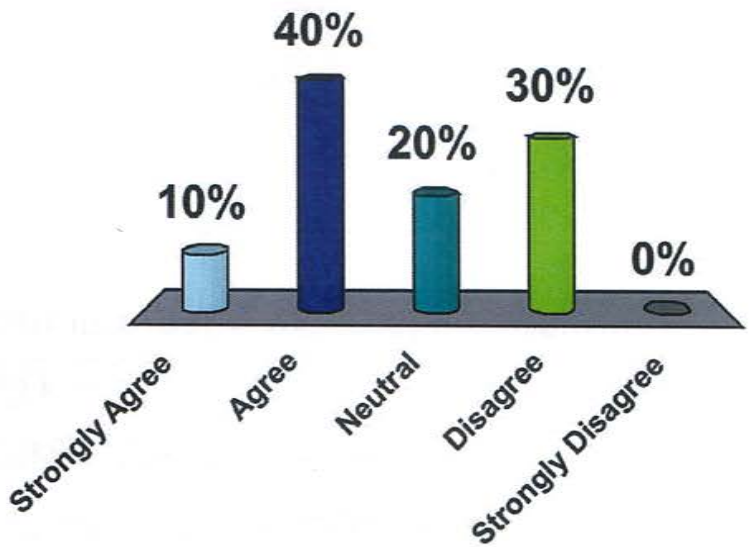
1. Strongly Agree
2. Agree
3. Neutral
4. Disagree
5. Strongly Disagree



To what extent to you support or oppose the preliminary sign ordinance for the <u>Embarcadero Area</u>

(as presented in preliminary sign matrix)

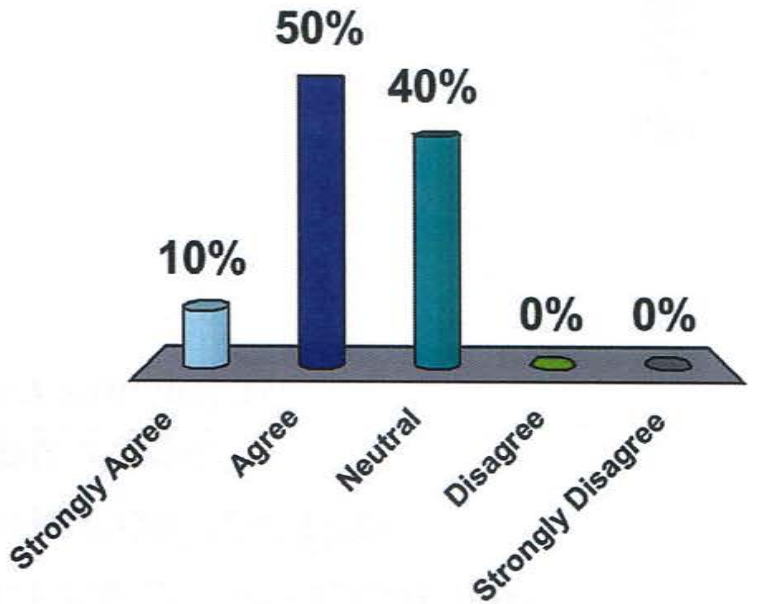
1. Strongly Agree
2. Agree
3. Neutral
4. Disagree
5. Strongly Disagree



To what extent to you support or oppose the preliminary sign ordinance for the <u>Embarcadero Area</u>

(allow internal illumination)

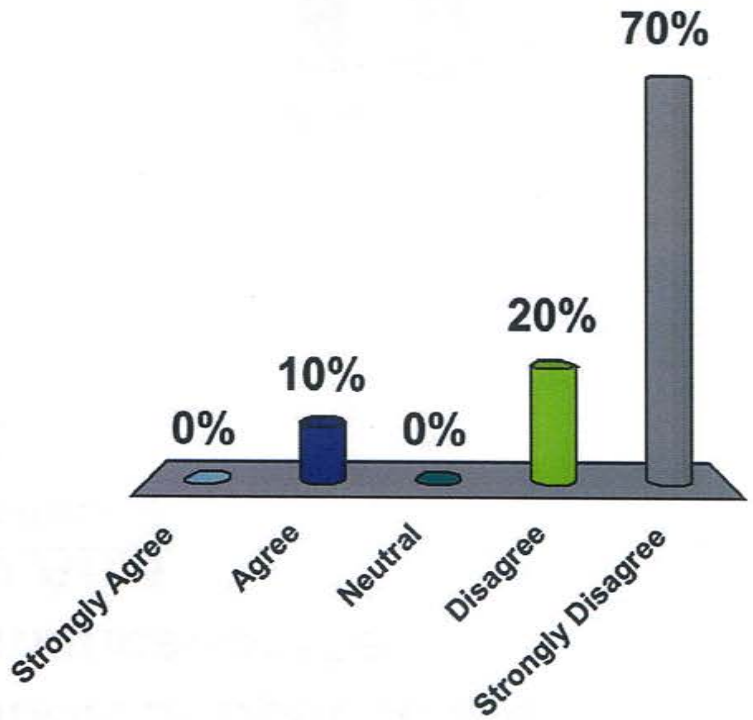
1. Strongly Agree
2. Agree
3. Neutral
4. Disagree
5. Strongly Disagree



To what extent to you support or oppose the preliminary sign ordinance for the <u>North Morro Bay Area</u>

(as presented in preliminary sign matrix)

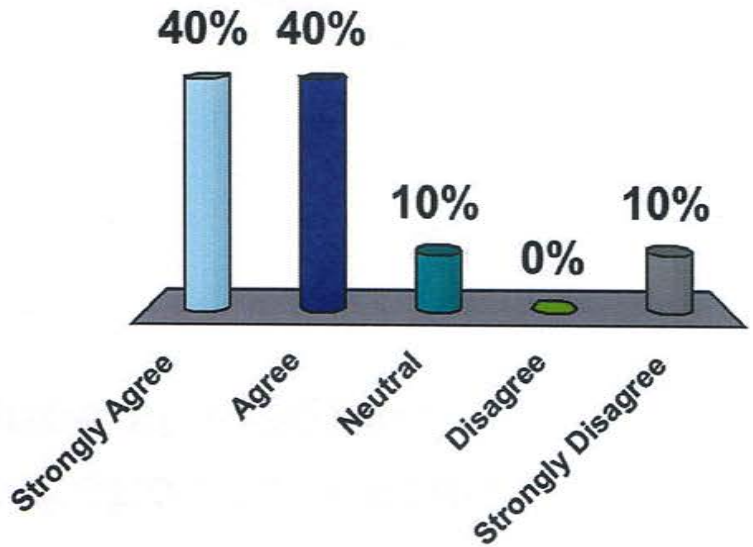
1. Strongly Agree
2. Agree
3. Neutral
4. Disagree
5. Strongly Disagree



To what extent to you support or oppose the preliminary sign ordinance for the <u>North Morro Bay Area</u>

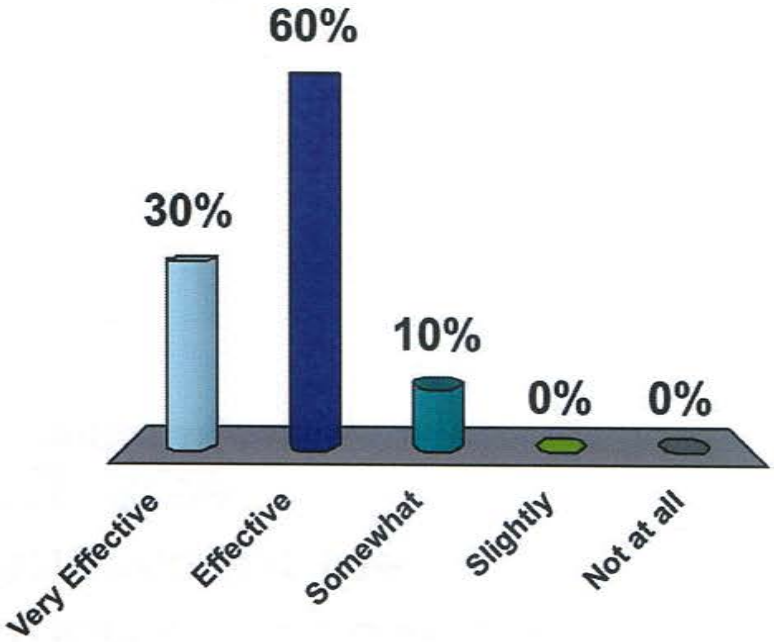
(allow flag, sidewalk and banner signs)

1. Strongly Agree
2. Agree
3. Neutral
4. Disagree
5. Strongly Disagree



How effective was this workshop to discuss alternative sign ordinance strategies?

1. Very Effective
2. Effective
3. Somewhat
4. Slightly
5. Not at all



ATTACHMENT 7

City Sign Ordinance Survey
Results Overview

zoomerang

Date: 11/21/2011 12:14 PM PST
Responses: Completes
Filter: No filter applied

1. What best describes your location?

Downtown	32	35%
Embarcadero	24	26%
North Morro Bay/Quintana	19	21%
Other, please specify	16	18%
Total	91	100%

2. Did you attend any of the City's Sign Ordinance Workshops?

Yes, I attended the September 29th workshop,	6	6%
Yes, I attended the October 6th workshop.	3	3%
I attended both	9	10%
I did not attend either one	75	81%
Total	93	100%

3. With regards to business signage in the Downtown area, which of the following signs would you approve? (Check all that apply)

A Frame Signs	39	43%
Awning Signs	69	76%
Banners as a Permanent Signage	30	33%
Flag	49	54%
Gateway Signs: Concept would be to allow a type of sign at the entrance at Morro Bay Blvd to announce the downtown area.	55	60%
Illuminated, Internally	63	69%
Illuminated,	56	62%

Externally			
Marquee Signs: For theatres, nightclubs, conference facilities.		63	69%
Monument Signs		47	52%
Off Premise Signs		26	29%
Pole Signs		38	42%
Pub Signs		52	57%
Wall Signs		65	71%
Window Signs		76	84%

4. With regards to business signage in the Embarcadero area, which of the following signs would you approve? (Check all that apply)

A Frame Signs		32	36%
Awning Signs		69	78%
Banners as a Permanent Signage		29	33%
Dock Signs		59	66%
Flag		49	55%
Gateway Signs: Concept would be to allow a type of sign at the entrance at Morro Bay Blvd to announce the downtown area.		50	56%
Illuminated, Internally		65	73%
Illuminated, Externally		57	64%
Marquee Signs: For theatres, nightclubs, conference facilities.		49	55%
Monument Signs		42	47%
Off Premise Signs		28	31%
Pole Signs		43	48%
Pub Signs		49	55%
Wall Signs		61	69%
Window Signs		74	83%

5. With regards to business signage in the North Morro Bay/Quintana area, which of the following signs would you approve? (Check all that apply)

A Frame Signs	54	61%
Awning Signs	71	80%
Banners as a Permanent Signage	37	42%
Flag	56	63%
Gateway Signs: Concept would be to allow a type of sign at the entrance at Morro Bay Blvd to announce the downtown area.	55	62%
Illuminated, Internally	66	74%
Illuminated, Externally	61	69%
Marquee Signs: For theatres, nightclubs, conference facilities.	60	67%
Monument Signs	50	56%
Off Premise Signs	37	42%
Pole Signs	52	58%
Pub Signs	53	60%
Wall Signs	69	78%
Window Signs	76	85%

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City Sign Ordinance Survey

Results Overview

zoomerang

Date: 11/21/2011 12:16 PM PST
Responses: Completes
Filter: No filter applied

6. Comments

#	Response
1	Many businesses do not have street frontage and need to be able to alert the public to their existance. Perhaps limiting the number of total signs a business can have...wall, window, a-frame, flage...maybe four would be an alternative and keep the clutter down.
2	As a business owner, decisions made regarding signage was not thought through. A frames are effective, now permits need to be applied for and enforced.
3	The current signage policy put forth by the city has resulted in a 30% loss of business and our customers tell us they can't find us. We are hidden away from the street and need more options for additional signage including lighting around the sidewalks and building structures. Our customers tell us it is very dark on the Embarcadero and any lights will make it more night friendly and comfortable for tourists to come out at night. If it is true that 60% of tourism dollars are spent after 6pm, then we should collectively concentrate on a Morro Bay at Night program including more lighting throughout the shopping and dining locations.
4	Local businesses need all the help they can get and should be able to put in signage. I would also support creative signs that are artsy in appearance, as an example the sign at the Sea Shanty in Cayucos is teriffic.
5	All these surveys, etc....as well as meaningless meetings are generally a waste of time. Most merchants, politicians, activists are only interested in their own personal agenda.
6	stop tring to clean up the town by getting rid of businesses do the work the city is paid to do like trim trees fix sidewalks fire prevention along the highway look at the huge sandwich sign on the harbor hut what are you guys thinking
7	Getting rid of the A-frame signs and moving the newsstands has greatly improved the appearance of the Embarcadero area. A uniform sign policy is important. Good job.
8	I don't care for all the sandwich signs that crowd the sidewalks. Makes it look trashy and cluttered.
9	What kind of sign is not as important as how they look, clean, neat, professional, informative, SAFE to people walking by, off sidewalks. Consideration for MOVING/ remodeling/new
10	do a better job removing all banner signs at your deadline. Some businesses removed there signs but jack was done with other business refused. The guy who walked around warning people didn't do his job.
11	The three areas are unique and warrant individual consideration. One size does not fit all. While not a marketing plan, they can tell a story and can make or break a business.
12	I love the charm of Morro Bay and do not want to see your business closes due to poor exposure due to signage. Some controls are needed but i think the next step will a survey stating what colors and sytles of fonts on the signs will be acceptable light at night in a business area is always a good idea, the the merchant can afford the pg&e bill. Jennifer Smith, Harvey's HOney Huts [we put lights in our units for events that go into the night!
13	Businesses today need any way they can to advertise within reason. If it doesn't distract drivers or affect public safety then they should be able to be creative.
14	Don't know what a Pub Sign is.
15	Without business's profiting there is no infrastructure moneys to run the city. bottom line.
16	Against A-frame signs anywhere...they add clutter, fall over in the wind and become a liability. Against flags and banners because they fade and tatter so quickly and look very tacky.
17	Aren't there more important subjects to address other than signs?
18	lower taxes, too many bureaucrats, support smaller government
19	for people that have more than one address they should be sllowed more than one sign
20	Downtown and Embarcardero should be the only areas which A frames are not permitted.
21	I was going to write a lot of stuff here but decided not to. Because it does not matter anyway. You already have your minds made up.
22	Signs must always be in good taste and represent the business appropriately.
	Role of government is not to micro manage people trying to survive in business. If a business owner has "bad signage" it

23	probably means he/she is a poor business person. They will fail...they don't need the help of a technocrat with some ordinance that has never run a business telling them what sign is appropriate for their business. Oh... how far we have come in this country thinking that it is every bodies "RIGHT" to tell someone how WE (the all important ONE) don't like their sign). If you don't like their sign don't frequent their business...put them out of business and the sign will come down.
24	Without cluttering our city, the businesses need to be visible to the traffic. An attractive sign is the best way to be visible – Specially in a non-traffic area as Quintana road.
25	The Embarcadero doesn't need signage that impedes foot traffic, while north Morro Bay needs all the help it can get. Morro Bay downtown could use flags and lights
26	In regards to illuminated signs both internal and external I feel there should be a limit to the number of signs allowed for display.
27	A frame signs stop foot traffic and have been found to disturb drivers enough to cause more accidents in an area. We have limited walk paths as it is. These signs are not standardized and makes an area look like junk.
28	i think the city has bigger issues to worry about then telling business what signage they can use. I understand cleaning things up but In this economy its very tough.
29	Signage should always be determined by individual circumstances. Such as the businesses location to visibility and need for external advertising to enhance foot traffic etc. etc.
30	I only know that not having my a frame with the arrow pointing to Morro Bay Wine Seller has hurt. I can only imagaine how it hurts down town area. they pay for the signs and what ever works for them they be able to choose the two that works the best.
31	I am a visitor to Morro Bay and pretty much like it the way it is.
32	get a real issue
33	As a business in this economical time, we should be allowed to have signs of all kinds to let people know we are here. We pay all the taxes, and the city doesn't look any better without the signs. Maybe this is not the best of times to try and "clean up the city" by banning struggling businesses from free advertisement. Speaking from a hotels point of view, when we are slow, so are the stores and restaurants, so, we need to try and get people who are here already to spend money. If the people that are here, don't know of the sale we are running, or that we are even here, because they don't see a sign, how are they going to spend? Please let us have signs again. They don't make the town look dumpy, they actually give it more character. thank you for listening.
34	I love signs. They are information and add to the excitement of the town. Not all businesses are front and center. I feel the signs add action to the town. We also need to have a sign at the freeway exits that indicates DOWNTOWN HARBOR BEACHES other wise how would a guy know we have anything going on or that there is even a town here. Thanks for your time and good luck making everyone happy ;)

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City Sign Ordinance Survey
Cross Tab Report

zoomerang

Date: 11/21/2011 12:29 PM PST
Responses: Completes
Filter: No filter applied

With regards to business signage in the Downtown area, which of the following signs would you approve? (Check all that apply)

	Total*	What best describes your location?			
		Downtown	Embarcadero	North Morro Bay/Quintana	**Other, please specify**
	91	32	24	18	15
A Frame Signs	38 41.8%	13 40.6%	8 33.3%	10 55.6%	7 46.7%
Awning Signs	68 74.7%	24 75.0%	18 75.0%	13 72.2%	13 86.7%
Banners as a Permanent Signage	29 31.9%	9 28.1%	8 33.3%	6 33.3%	6 40.0%
Flag	48 52.7%	12 37.5%	17 70.8%	13 72.2%	6 40.0%
Gateway Signs: Concept would be to allow a type of sign at the entrance at Morro Bay Blvd to announce the downtown area.	54 59.3%	20 62.5%	13 54.2%	11 61.1%	10 66.7%
Illuminated, Internally	61 67.0%	22 68.8%	18 75.0%	13 72.2%	8 53.3%
Illuminated, Externally	54 59.3%	21 65.6%	14 58.3%	12 66.7%	7 46.7%
Marquee Signs: For theatres, nightclubs, conference facilities.	61 67.0%	18 56.3%	16 66.7%	14 77.8%	13 86.7%
Monument Signs	46 50.5%	19 59.4%	10 41.7%	11 61.1%	6 40.0%
Off Premise Signs	25 27.5%	6 18.8%	10 41.7%	6 33.3%	3 20.0%
Pole Signs	36 39.6%	13 40.6%	11 45.8%	9 50.0%	3 20.0%
Pub Signs	50 54.9%	15 46.9%	14 58.3%	14 77.8%	7 46.7%
Wall Signs	63 69.2%	23 71.9%	17 70.8%	14 77.8%	9 60.0%
Window Signs	74 81.3%	26 81.3%	19 79.2%	16 88.9%	13 86.7%

City Sign Ordinance Survey
Cross Tab Report

zoomerang

Date: 11/21/2011 1:03 PM PST
Responses: Completes
Filter: No filter applied

With regards to business signage in the Embarcadero area, which of the following signs would you approve? (Check all that apply)

	Total*	What best describes your location?			
		Downtown	Embarcadero	North Morro Bay/Quintana	Other, please specify
	89	31	24	17	15
A Frame Signs	31 34.8%	8 25.8%	8 33.3%	9 52.9%	6 40.0%
Awning Signs	68 76.4%	21 67.7%	19 79.2%	15 88.2%	13 86.7%
Banners as a Permanent Signage	28 31.5%	10 32.3%	7 29.2%	4 23.5%	7 46.7%
Dock Signs	58 65.2%	20 64.5%	13 54.2%	14 82.4%	11 73.3%
Flag	48 53.9%	13 41.9%	17 70.8%	13 76.5%	5 33.3%
Gateway Signs: Concept would be to allow a type of sign at the entrance at Morro Bay Blvd to announce the downtown area.	49 55.1%	17 54.8%	12 50.0%	10 58.8%	10 66.7%
Illuminated, Internally	63 70.8%	23 74.2%	18 75.0%	13 76.5%	9 60.0%
Illuminated, Externally	55 61.8%	20 64.5%	14 58.3%	14 82.4%	7 46.7%
Marquee Signs: For theatres, nightclubs, conference facilities.	47 52.8%	15 48.4%	12 50.0%	11 64.7%	9 60.0%
Monument Signs	41 46.1%	17 54.8%	10 41.7%	9 52.9%	5 33.3%
Off Premise Signs	27 30.3%	9 29.0%	8 33.3%	7 41.2%	3 20.0%
Pole Signs	41 46.1%	15 48.4%	11 45.8%	11 64.7%	4 26.7%
Pub Signs	47 52.8%	13 41.9%	12 50.0%	14 82.4%	8 53.3%
Wall Signs	59 66.3%	20 64.5%	18 75.0%	13 76.5%	8 53.3%
Window Signs	72 80.9%	25 80.6%	18 75.0%	17 100.0%	12 80.0%

City Sign Ordinance Survey
Cross Tab Report

zoomerang

Date: 11/21/2011 1:14 PM PST
Responses: Completes
Filter: No filter applied

With regards to business signage in the North Morro Bay/Quintana area, which of the following signs would you approve? (Check all that apply)

	Total*	What best describes your location?			
		Downtown	Embarcadero	North Morro Bay/Quintana	Other, please specify
	89	30	23	19	15
A Frame Signs	52 58.4%	17 56.7%	12 52.2%	12 63.2%	11 73.3%
Awning Signs	69 77.5%	24 80.0%	18 78.3%	14 73.7%	13 86.7%
Banners as a Permanent Signage	36 40.4%	12 40.0%	8 34.8%	8 42.1%	8 53.3%
Flag	55 61.8%	16 53.3%	17 73.9%	14 73.7%	8 53.3%
Gateway Signs: Concept would be to allow a type of sign at the entrance at Morro Bay Blvd to announce the downtown area.	54 60.7%	21 70.0%	14 60.9%	10 52.6%	9 60.0%
Illuminated, Internally	64 71.9%	22 73.3%	19 82.6%	14 73.7%	9 60.0%
Illuminated, Externally	59 66.3%	22 73.3%	16 69.6%	13 68.4%	8 53.3%
Marquee Signs: For theatres, nightclubs, conference facilities.	58 65.2%	21 70.0%	16 69.6%	12 63.2%	9 60.0%
Monument Signs	49 55.1%	20 66.7%	12 52.2%	9 47.4%	8 53.3%
Off Premise Signs	36 40.4%	15 50.0%	11 47.8%	7 36.8%	3 20.0%
Pole Signs	50 56.2%	15 50.0%	14 60.9%	14 73.7%	7 46.7%
Pub Signs	51 57.3%	16 53.3%	14 60.9%	14 73.7%	7 46.7%
Wall Signs	67 75.3%	23 76.7%	19 82.6%	14 73.7%	11 73.3%
Window Signs	74 83.1%	24 80.0%	19 82.6%	19 100.0%	12 80.0%

*Total = The number of respondents for the entire survey who answered the Row question and, if a filter is applied, meet the filter criteria.

AGENDA NO: C-1

MEETING DATE: October 8, 2013

Staff Report

TO: **Honorable Mayor and City Council** **DATE: October 4, 2013**

FROM: **Rob Livick, PE/PLS - Public Services Director/City Engineer**

SUBJECT: **Status Report of a Major Maintenance & Repair Plan (MMRP) for the Existing Wastewater Treatment Plant**

RECOMMENDATION

Staff recommends that this report be received and filed.

ALTERNATIVES

As no action is requested, there are no recommended alternatives.

FISCAL IMPACT

No fiscal impact at this time as a result of this report. Fiscal impact is addressed through the budget process.

DISCUSSION

This staff report is intended to provide an update on the development of the MMRP for the WWTP. At the February 14, JPA meeting the Council and District Board approved of the development of an MMRP and made the following motion:

- Direct staff to prepare a time sensitive and prioritized MMRP for the WWTP with an anticipated rolling 2 year budget;
- That the JPA solicit proposals from a qualified firm, or firms, to provide technical advice and analysis on an as needed basis as determined by Morro Bay's Public Services Director and Cayucos Sanitary District Manager;
- And that the Morro Bay Public Services Director and Cayucos Sanitary District Manager report back to the JPA on a semi-annual basis on the progress and costs associated with the MMRP.

Development of a MMRP will assist the City and District in projecting the budgeting of expenditures required to keep the current plant operating in compliance with regulatory requirements.

Staff's primary focus has continued to be on the next fiscal year and the projects contained within the FY 13/14 WWTP budget that was adopted by both the City and District. The adopted budget contains $1.04M in funding for MMRP projects presented during the budget hearing at the JPA meeting. Staff is currently working on developing and refining an

Prepared by: __RL/BK/RS__ Dept. Review: RL__

City Manager Review:_AL__

City Attorney's Review:_____

implementation schedule for the projects funded in the FY 13/14 budget. An outline of the desired repair time frames and key project milestones has been identified and the schedule will be finalized after peer review with our technical support team. We anticipate finalizing this schedule by October.

Staff has continued to conduct detailed discussions with various equipment representatives to further refine the types of equipment that will best suit the site specific parameters of the existing plant. Progress on three of the MMRP projects includes:

A. Influent Screens: Staff has continued to assess various procurement options for the purchase and installation of influent screens at the headworks. Staff has prepared procurement timelines for 3 options; the use of a negotiated specialty equipment procurement would be the most advantageous approach so the City Attorney is reviewing a 1993 Attorney General opinion to determine if this option is feasible for a General Law City. Staff has therefore opted to focus current efforts on using a standard Public Works Construction Contract bid package. Equipment evaluation has continued to be centered on a review of the various influent screen types and has included tours of various treatment facilities to observe equipment in the field and get feedback from the operations staff. Discussions have also continued on various options for removing the screened debris from the lower level of the headworks once they are removed from the waste stream. Staff expects to conduct a peer review of the MMRP and complete an equipment evaluation review panel to preselect a short list of qualified equipment vendors this month

B. Chlorine Contact Repairs: Staff is continuing to assess various procurement options for the purchase and installation of the required equipment for the chlorine contact tank. Staff is working with the various vendors on the chlorine tank project to identify the preferred equipment and to develop a strategy for implementing the repairs. During the repair period, the tank will have to be bypassed and plant staff is continuing to work on a strategy for maintaining disinfection and dechlorination during the repair process. This will require the use of temporary tanks to bypass the existing tank in order to keep the plant within regulatory compliance.

C. Digester 2 Cleaning and Repairs: Staff has begun initiating the operational changes required to take the digester off-line prior to cleaning. Digester #2 is now off-line and staff has been able to pump down the contents of the digester to a level where the contractor can complete the cleaning of the digester. The contractor has specialized equipment and pumps that allow them to pump the remaining rags and debris within the digester. The contractor is schedule to arrive on October 14th to complete the cleaning process which is schedule to take approximately one week to complete. Staff has a contract amendment in progress for the non-destructive testing (NDT) of the digester once the cleaning process is complete. The NDT of the digester is scheduled to begin October 21st.

CONCLUSION

Staff will continue to bring a status report on the development of the MMRP at City Council meetings on a monthly basis.

AGENDA NO:	**C-2**
MEETING DATE:	**09/10/2013**

Staff Report

TO: **Honorable Mayor and City Council** **DATE: 10/8/2013**

FROM: **Andrea K. Lueker, City Manager**

SUBJECT: **Water Reclamation Facility (WRF) Project Status and Discussion**

RECOMMENDATION
Discuss in open session, the progress to date on the Water Reclamation Facility (WRF) and provide direction to staff as necessary.

ALTERNATIVES
Not applicable at this time.

FISCAL IMPACT
Not applicable at this time.

SUMMARY
Staff provides this report as a monthly update to the progress made to date on the new WRF project.

BACKGROUND
With the denial of the permit for the WWTP project in its current location, the City has embarked on a process for a WRF. This staff report provides a review of what has occurred to date as well as provides the City Council an opportunity for open discussion on the WRF project.

DISCUSSION
Below is a brief review of dates, status and accomplishments on the WRF facility project. Note the bolded information has been added since your last review.

Date	Action
01/03/13	Special City Council meeting – City Adopted Resolution No. 07-13 recommending denial of the WWTP project.
01/08/13	WWTP Project denied by the California Coastal Commission (CCC).
01/08/13	January JPA not held due to CCC meeting.
01/24/13	City Staff, Morro Bay JPA Sub-Committee, Cayucos SD representatives, staff

Prepared By: _____ **Dept Review:**_____

City Manager Review: _____

City Attorney Review: _____

	and attorney meet and discuss strategy and moving forward.
02/14/13	February JPA meeting held, “Discussion and Consideration of Next Steps for the WWTP Upgrade Project” was on the agenda and discussed.
02/26/13	City Council meeting - draft schedule/project timeline presented to City Council.
	City Council directed staff to prepare an RFP for a project manager.
03/11/13	City Council goal session, WRF established as Essential City Goal.
03/14/13	City Council goal session, WRF established as Essential City Goal.
03/14/13	March JPA meeting held, “Status Report on the Discussion with RWQCB Staff Renewal Process for the WWTP NPDES Permit No. CA0047881” and “Verbal Report by the City and District on the Progress of the future WWTP” were on the agenda and discussed.
03/18/13	RFP issued.
03/26/13	City Council meeting - City Council approves citizens to serve on the RFP selection committee.
03/27/13	Announcement placed on City website, etc. regarding citizen selection committee application period.
04/05/13	Citizen selection committee deadline.
04/09/13	City Council meeting - appointment of 5 citizens for the RFP selection committee at City Council meeting.
04/10/13	Addendum to RFP issued, re: selection committee
04/11/13	April JPA meeting held, “Verbal Report by the City and District on the Progress of the future WWTP” and Discussion and Approval to Terminate the Consultant Services Agreements with Delzeit; Dudek, McCabe and Company; and Montgomery Watson Harza (MWH)” were on the agenda and discussed.
04/15/13	RFP due.
04/16/13	Study Session on WRF facility announced for April 29, 2013
04/23/13	City Council meeting –reaffirmation of 5 members of citizen selection committee.
04/25/13	Quarterly Meeting with California Coastal Commission staff, WRF discussion and status report on the meeting agenda.
04/25/13	Initial meeting with Selection Committee for the RFP for Planning Services for the WRF.
04/29/13	WRF Study Session at Veteran’s Hall.
05/02/13	Interviews to recommend the individual/team for the WRF project manage
05/09/13	May JPA meeting held, “Verbal Report by the City and District on the Progress of the future WWTP” was on the agenda and discussed.
05/14/13	City Council meeting – Approval of John F. Rickenbach, Consulting as the Preliminary Planning Consultant for the WRF project.
05/14/13	City Council meeting – Approval of John F. Rickenbach, Consulting as the Preliminary Planning Consultant for the WRF project
05/15/13	Public Services staff continues to work with John F. Rickenbach, Consulting to finalize the consultant contract.

05/28/13	Closed Session Item scheduled to discuss Righetti appraisal.
06/13/13	JPA Meeting – Cayucos Veteran's Hall
06/24/13	Kick-off Meeting with John Rickenbach and team members
06/24/13-06/28/13	Work with Rickenbach to determine updated schedule pursuant to the scope of work in the RFP. Determination of Stakeholder groups/individuals
07/03/13	Tentative Schedule from Rickenbach for the New WRF posted online and available.
07/03/13	Working with Coastal Commission staff to finalize date for quarterly meeting/teleconference.
07/11/13	July JPA Meeting Cancelled.
07/18/13	Quarterly Coastal Commission/City of Morro Bay meeting, Rickenbach Team participated in review and discussion of the status of the WRF project.
07/19/13	WSC Report entitled Conceptual Wastewater Treatment Alternatives Technical Memorandum commissioned by the Cayucos Sanitary District (CSD) released on the CSD website and delivered to the City. Report located at the following address: www.cayucossd.org/documents/Conceptual%20WW%20Treatment%20AltTM_CSD.pdf
07/24/13-07/25/13	Stakeholder Interviews conducted by Rickenbach team
08/08/13	August JPA Meeting Cancelled
08/15/13	Community Workshop #1 held at MB Veteran's Hall
Week of 8/19/13	Workshop Summary posted on City's website Comments Form available on City's website for additional comments on the workshop and/or project.
09/12/13	September JPA Meeting held
09/16/13	Biosolids and Treatment Options Workshop at MB Veteran's Hall
09/27/13	**October 2013 JPA Meeting cancelled**
Mid-October	**Quarterly Coastal Commission/City of Morro Bay Meeting – date TBD**
10/29/13	**Release of Public Draft – Options Report**
11/5/13	**Second Public Workshop – Presentation of Options Report for Public Feedback**
11/12/13	**Presentation of Options Report to City Council**

CONCLUSION

City Council, since the denial of the WWTP permit in January, has made measured and deliberate progress in the WRF project, as outlined above.

AGENDA NO: D-1
MEETING DATE: 10/8/2013

Staff Report

TO: **Mayor and City Council** **DATE: October 2, 2013**

FROM: **Andrea K. Lueker, City Manager**

SUBJECT: **Consideration and Direction Regarding the Expansion of the United States Coast Guard (USCG) Facilities in Morro Bay**

RECOMMENDATION

Staff recommends the City Council review the attached documentation and provide direction regarding the USCG's request to enter into a long term lease agreement with the City of Morro Bay for expansion of USCG facilities in Morro Bay

ALTERNATIVES

Alternative 1 – Schedule this item for a Closed Session discussion under "Real Property Negotiations" for further review.
Alternative 2 – Inform the USCG the City of Morro Bay is not interested in this location for future expansion of Coast Guard Facilities.
Alternative 3 – Inform the USCG the City of Morro Bay is interested in expansion of facilities, but not this this area.

FISCAL IMPACT

This fiscal impact is unknown at this time.

SUMMARY

In February 2013, representatives from the United States Coast Guard Shore Infrastructure Logistic Center contacted staff regarding expansion of their existing facilities in Morro Bay. USCG representatives (Chief of Planning, Real Estate staffer and a planner) conducted a site visit in Spring, 2013 and looked at various sites in the harbor area, including:

1. The parking lot just north of the Dynegy Intake Building;
2. Coleman Park area; and
3. City operated Dynegy parking lot east of the Embarcadero.

Following the site visit, the City provided a number of documents to the USCG planning staff

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

including the Waterfront Master Plan, Northern Waterfront Implementation Plan, Concept C, the Morro Bay Harbor Walk plans and aerial photos for their review. After receiving and reviewing the documents, USCG staff sent a correspondence (attached) to the City of Morro Bay on September 3, 2013 requesting a specific area, near Coleman Park, to be used for expansion of their facilities. This staff report is intended to provide a very brief review of the issue, with staff awaiting specific direction from the City Council to perform further work.

BACKGROUND

The USCG has had a presence in Morro Bay for a number of years. In the early 1990's, there was discussion that the Coast Guard might reduce or eliminate their presence, which of course, was a significant concern. The City became heavily involved in discussions with the Coast Guard Officials in Washington D.C. and as a result, not only did the Coast Guard presence remain in Morro Bay, but over the years their presence has increased, resulting in Coast Guard Cutter's being replaced by Coast Guard Roll-Over boats. Since that time, there have been several discussions about possible expansion of Coast Guard facilities as well as discussions of a joint Coast Guard/Harbor Patrol Facility. The joint venture discussions have occurred intermittently, but as of this date, there has been no further pursuit of that project. In February, 2013, Coast Guard officials contacted the City regarding expansion of Coast Guard Facilities in Morro Bay. A site visit was held in spring 2013 after which, in September 2013, the Coast Guard requested the City of Morro Bay consider a long term lease for a City-owned parcel near Coleman Park/Mother Beach in Morro Bay.

DISCUSSION

Future Facilities

The United States Coast Guard has assessed their Morro Bay Station and determined the need for expansion. After review of City documents, they are attempting to pursue securing the land use rights of a 1.3 acre site on northwest corner of the Embarcadero, just before Coleman Park, identified as APN : 066-467-013 (note: the correct APN number for the parcel the USCG is interested in is 066-461-013). The plan is to construct two buildings to support existing Coast Guard services in the City of Morro Bay. The structure labeled CG Boat Maintenance Bay in the attached correspondence from the USCG has a footprint of approximately 2,500 sq. ft. and will include a boat maintenance bay for their 29' Response Boats, repair shops, storage and administrative space. The second building, labeled as CG New Building has a footprint of approximately 1,200 sq. ft., is one story and will house USCG station functions and administrative space. When additional funds become available, the USCG plans to expand Building 1 by adding a second story.

According to Coast Guard staff, following the timeline for this expansion is critical with the need for an in-place land use agreement between the USCG and the City of Morro Bay as a pre-requisite for the USCG being able to move forward the pre-construction efforts which include:

1. Design documents;
2. National Environmental Policy Act (NEPA); and
3. California Coastal Commission (CCC) Consistency determination.

Until the NEPA and CCC determination are completed, all proposals are pre-decisional. The Coast

Guard, as expected, is anticipating a long-term presence in Morro Bay and is in the need of an extended lease with a minimum term of 50 years.

Existing Facilities

The USCG is currently housed in a 3-story facility adjacent to the Harbor Department/Harbor Patrol. The existing facility is essentially a long-term lease with the City of Morro Bay, comprised of a series of 50 one year leases that ultimately expire in 2039. The existing facility was built in the early 1990's and included space for the Coast Guard; this coincided with the Coast Guard Cutters being replaced with Coast Guard Station Morro Bay and the eventual addition of the current Roll-Over Boats. During the recent site visit from USCG Real Estate and Planning staff, City staff discussed the possibility of expansion of the existing USCG building and the potential inclusion of a new Harbor Facility within that expanded facility or adjacent to, but unfortunately due to the safety requirements for USCG facilities after 9/11, such a joint venture is not feasible.

Staff also discussed the process for moving forward on the proposed expansion and USCG staff indicated that there are several ways to acquire the use of the property; the first is the City working with the USCG to enter into a long-term lease. Also briefly discussed was the process of eminent domain of the property, and while according to USCG staff this is not an often used option, it is possible. A third option briefly discussed was the use of an alternative choice of property for the expansion; however, during the site visit, the property identified in the proposal became vital due to the view corridor to the harbor entrance as well as proximity to the existing facilities.

CONCLUSION

The USCG desires to move forward with an expansion of their facility in Morro Bay and has identified and submitted a proposal to the City of Morro Bay for consideration. The purpose of this staff report is to briefly introduce the concept and proposal and determine the direction the City Council is interested in pursuing regarding the proposal. Those alternatives for direction are provided above and are as follows: schedule this item for a Closed Session discussion under "Real Property Negotiations" for further review; inform the USCG the City of Morro Bay is not interested in this location for future expansion of the Coast Guard Facilities; or, inform the USCG the City of Morro Bay is interested in expansion of facilities, but not in this area.

U.S. Department of Homeland Security
United States Coast Guard

Commanding Officer
United States Coast Guard
Civil Engineering Unit Oakland

Chief, Planning/Real Property
1301 Clay Street, Suite 700N
Oakland, CA 94612-5203
Phone: (510) 637-5537
Email: kim.vankapel@uscg.mil

11000

September 3, 2013

RECEIVED
City of Morro Bay
SEP 10 2013
Administration

City of Morro Bay, City Manager
Attn: Ms. Andrea Lueker
595 Harbor Street
Morro Bay, CA 93442

Dear Ms. Lueker,

Thanks for your patience as we assess our Coast Guard (CG) Station Morro Bay facility needs and how best to address them with available funds. Based on our in-house 2009 planning document and your revised Northern Waterfront Implementation Plan (Feb. 2009), we would like to pursue the site identified in your Plan and shown on the enclosed plan and elevation drawings (Enclosure 1). The CG will construct two buildings here in support of CG Station Morro Bay. The CG is interested in securing land use rights to 1.3 acres; Lot APN: 066-467-013.

Enclosure 1 depicts our site plan and building elevation drawings. These drawings are for your review and consideration. The plans identify the location of two new structures to be located at the northwest corner on the waterfront just before Coleman Park. This location is consistent with the City of Morro Bay Harbor Development Plan. These buildings will be located on lot (APN: 066-467-013) 35040R804 Parcels 3, 4, and 5 as identified on the Morro Bay Harborwalk Construction Plan (Sep. 2006) with the boundary between the road on the north side and the bike path on the south side. Per the CG Physical Security and Force Protection Program, we will install an 8 ft high ornamental fence similar to Ameristar Fence 'Montage Commercial Fence', enclosure 2, along the perimeter of the property boundary.

The structure labeled CG Boat Maintenance Bay has a footprint of about 2,500 sq ft. It will include a boat maintenance bay for the 29 foot Response Boats, repair shops, storage and administrative space. The second structure labeled CG New Building 1 has a footprint of about 1,200 sq ft. Building 1 is a two-story building and will house CG Station functions and administrative space.

When additional funds become available we plan to extend Building 1 by adding a two-story structure, with a 1,500 sq ft footprint, at one end doubling its capacity. The other areas will be used for parking, lay-down area for equipment or storage of a 47 foot Motor Life Boat.

The construction of these structures puts the CG in good stead to reduce our existing facility space deficiency. Our approved space requirement for this CG station, in total, is approximately 14,000 square feet. With the construction of these two buildings, we will gain a total of approximately 7,500 sq ft, not enough to meet our full station requirement needs. With this in mind, the CG will continue to use the existing facilities.

We hope this site design and use of the area is mutually beneficial and aesthetically balanced with the City of Morro Bay's waterfront development goals. We also want to ensure that you have adequate information to move forward with your immediate review process and obtain CA Coastal Commission consent.

Our timeline is critical; an in-place land use agreement between the CG and the city of Morro Bay is a pre-requisite before the CG can proceed with pre-construction efforts and construction award. Pre-construction efforts include design documents, National Environmental Policy Act (NEPA) evaluation, and CA Coastal Commission consistency determination. Until the NEPA process is completed and the CA Coastal Commission has provided a consistency determination, all proposals are pre-decisional. We anticipate a long-term presence and the need for an extended lease with a minimum term of 50 years.

In closing, we look forward to working with the City of Morro Bay as we move forward with this project allowing the CG to have a continued presence in Morro Bay. We welcome your feedback. If you should have any questions or concerns, please contact Kim Van Kapel, our lead planner at (510) 637-5537 or kim.vankapel@uscg.mil.

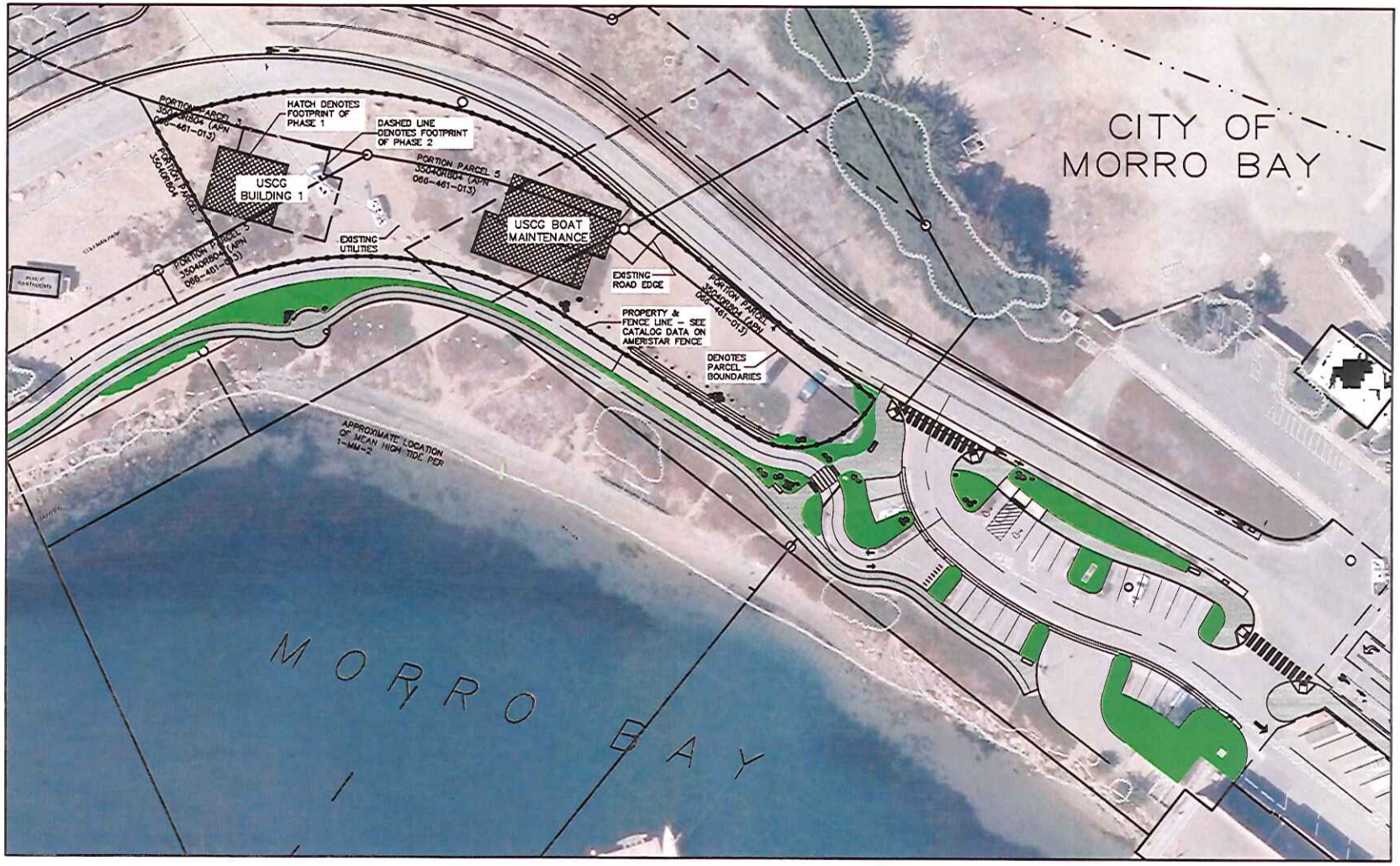
Sincerely,

K. L. BROWN LT

K. L. BROWN, LT
Lieutenant, U.S. Coast Guard
Chief, Planning and Real Property
Civil Engineering Unit Oakland
By direction

Enclosures: (1) Enclosure #1; Site Plan and Building Elevation Drawings
(2) Enclosure #2; Ameristar Fence, Montage Commercial Brochure

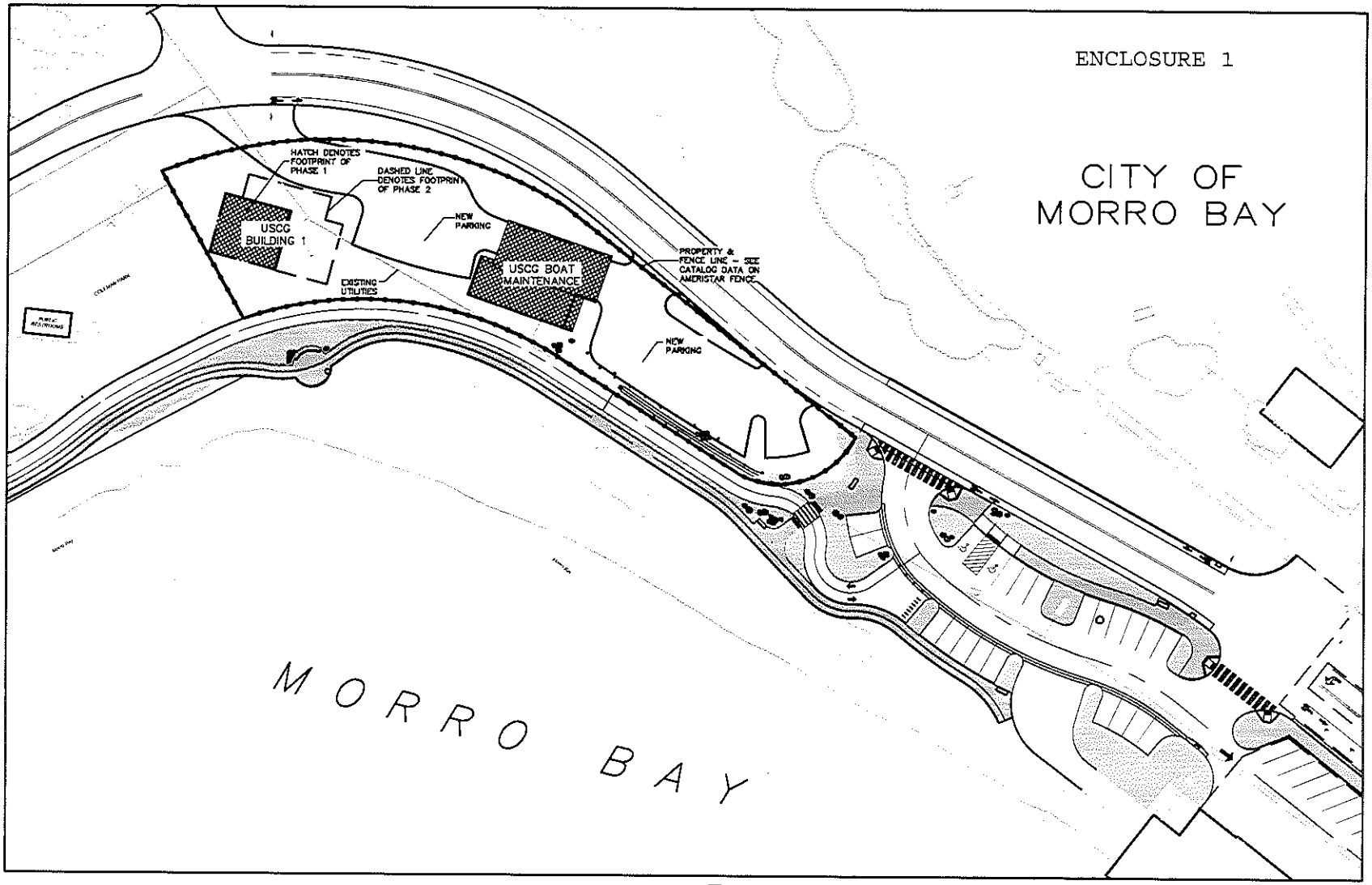
Copy: CGD ELEVEN (dx)
CG CEU Oakland (RED B)
CG SECTOR LOS ANGELES- LONG BEACH
CG STATION MORRO BAY



SITE PLAN
SCALE: NONE

ENCLOSURE 1

ENCLOSURE 1



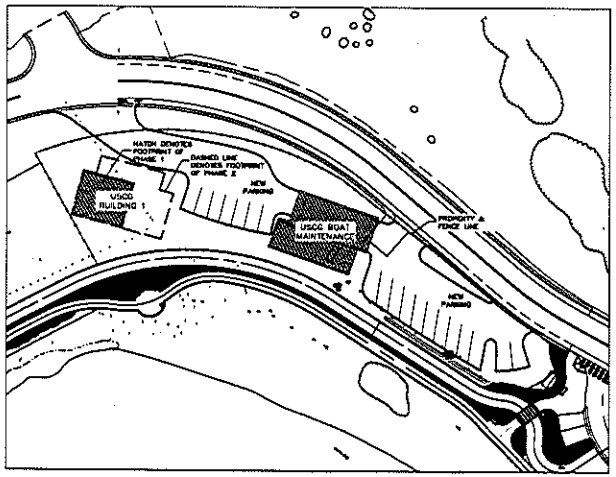
SITE PLAN
SCALE: NONE

USCG STATION MORRO BAY

BUILDING 1 - Phase 1

(approx. 1,200 SF Footprint)

ENCLOSURE 1



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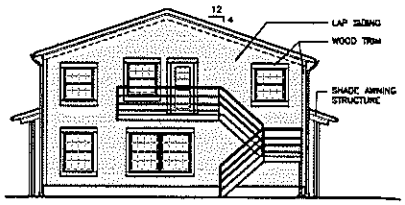
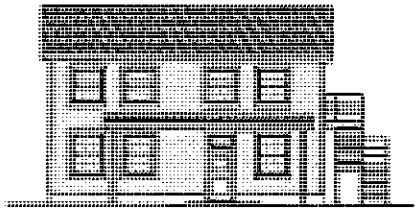
SCALE: NONE



SOUTH ELEVATION
SCALE: NONE

EAST ELEVATION
SCALE: NONE

NORTH ELEVATION
SCALE: NONE



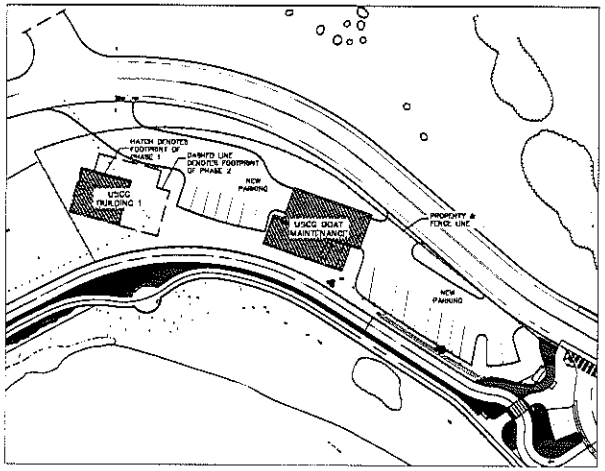
WEST ELEVATION
SCALE: NONE

ENCLOSURE 1

USCG STATION MORRO BAY

BUILDING 1 - Phase 2

(approx. 1,500 SF addition)



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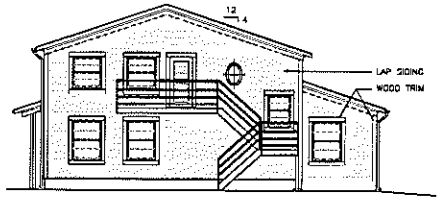
SCALE: NONE



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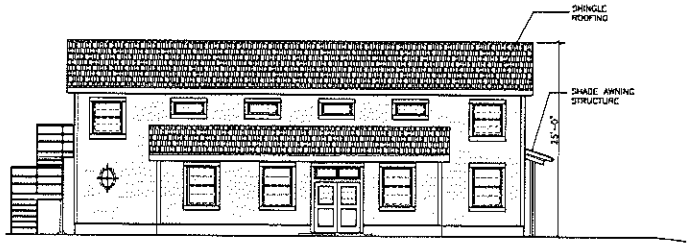

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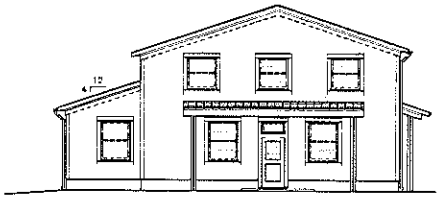

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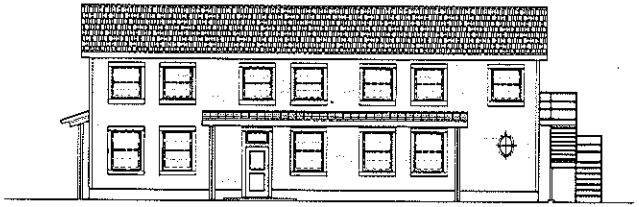


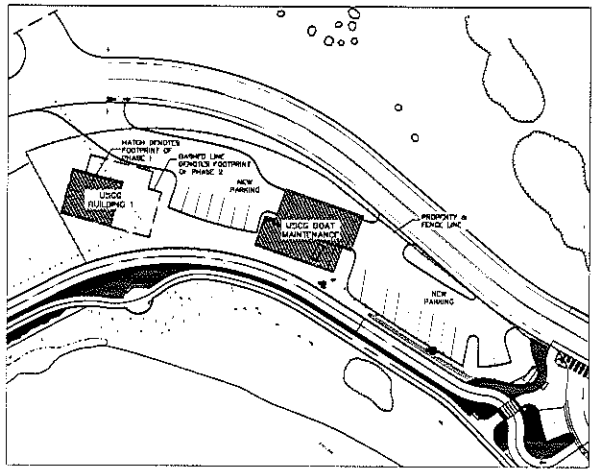
WEST ELEVATION
SCALE: NONE

ENCLOSURE 1

USCG STATION MORRO BAY

BOAT MAINTENANCE FACILITY

(approx. 2,500 SF Footprint)



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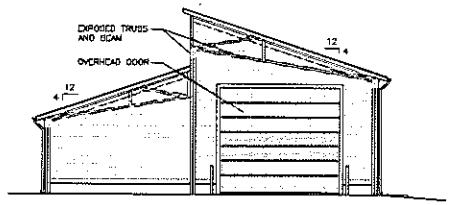

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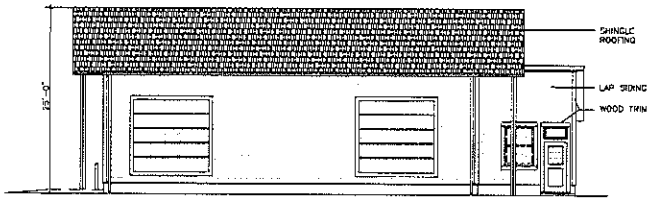

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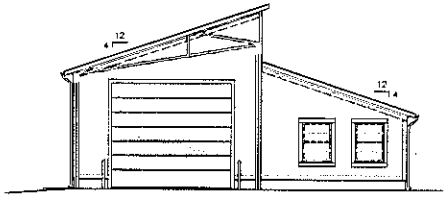

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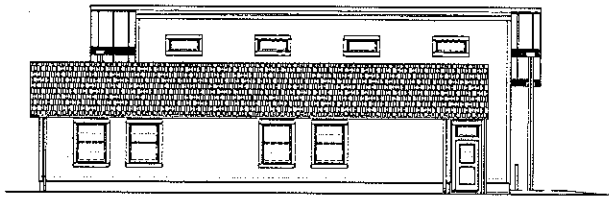

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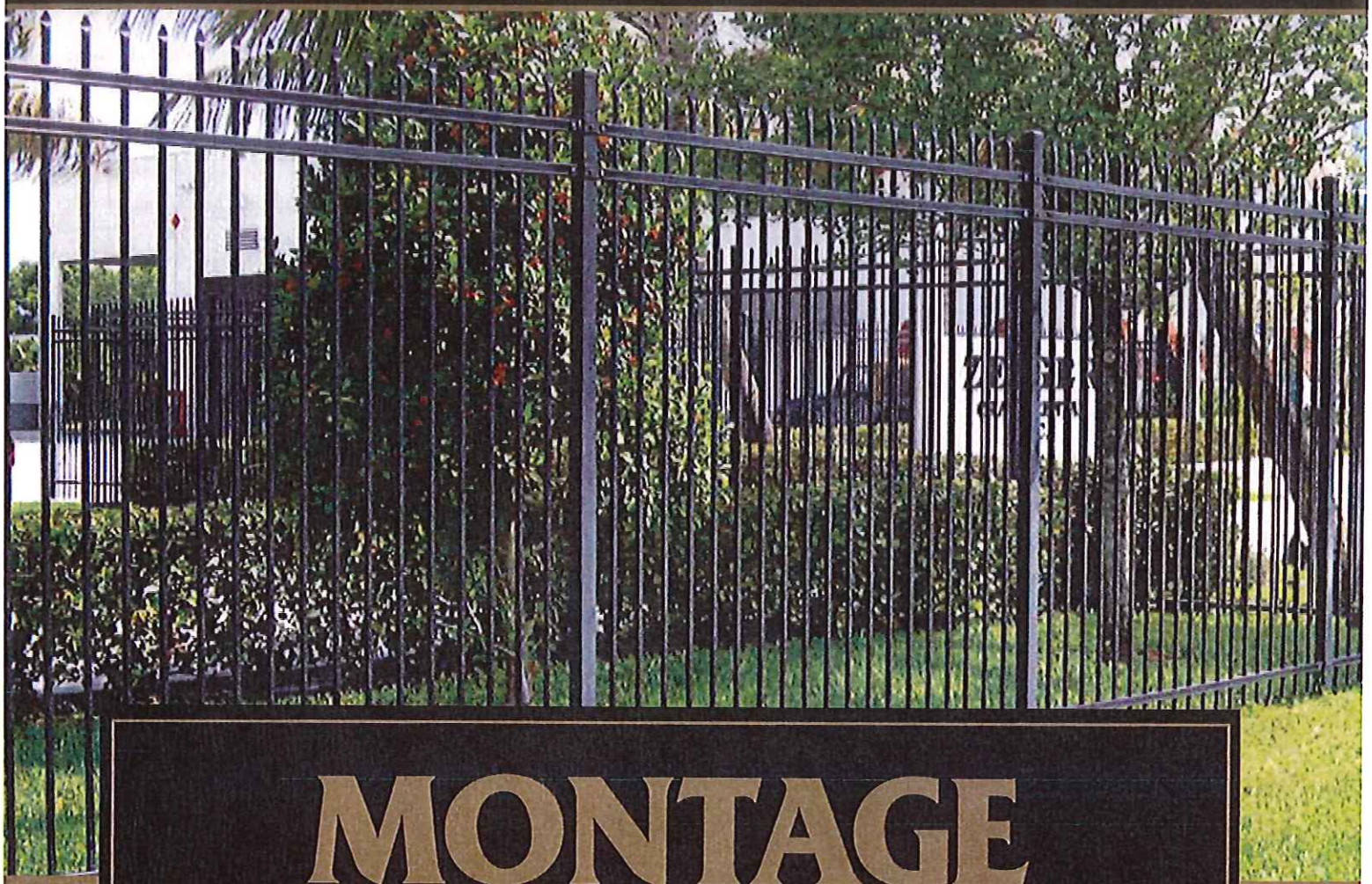

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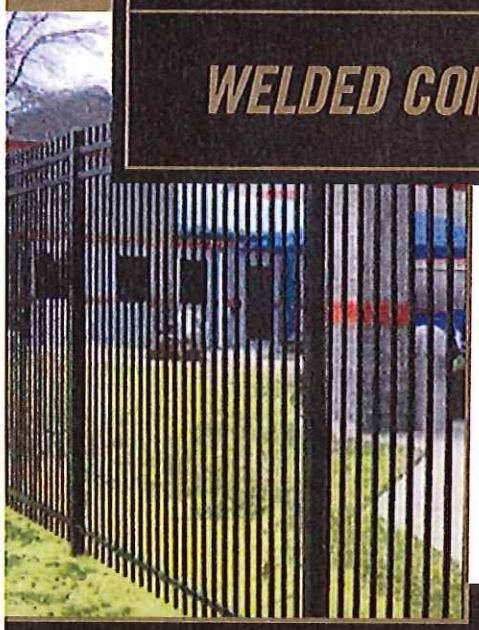

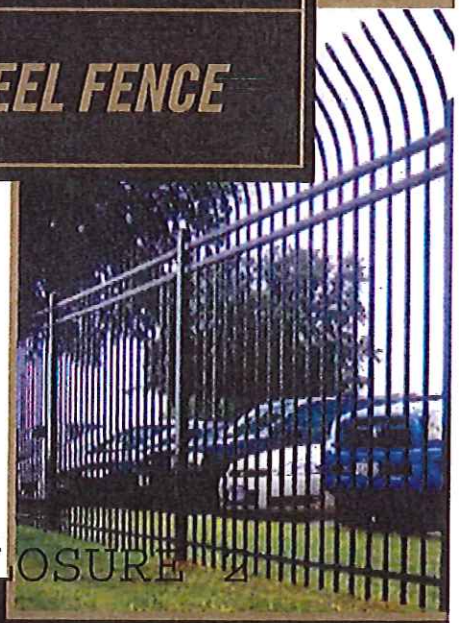

ENCLOSURE 4

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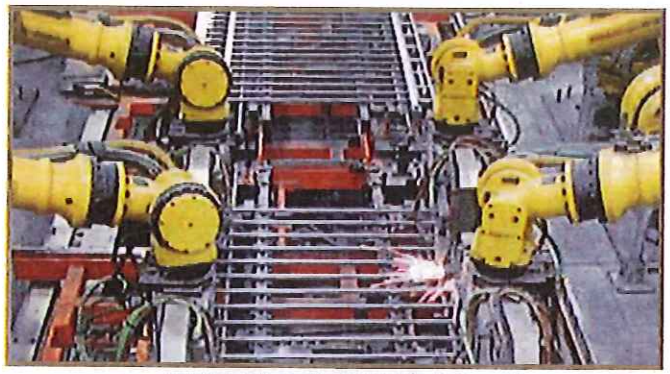
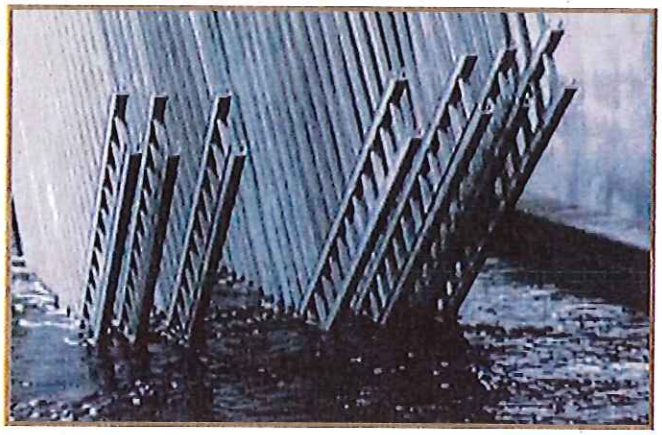


ENCLOSURE 2



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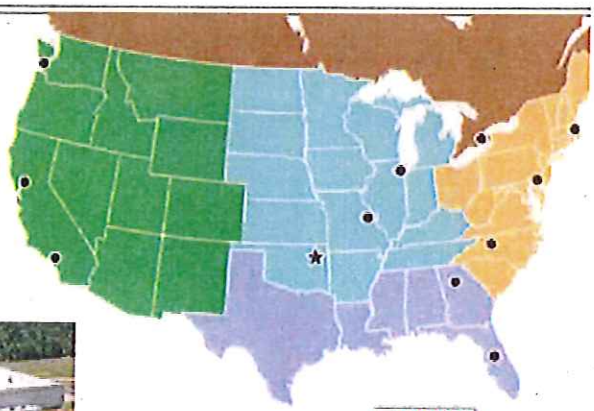

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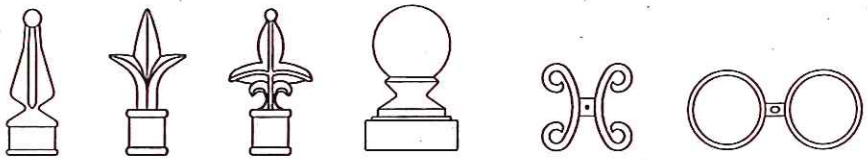
- *ESTATE® STEEL ENTRY GATES*
- *TRANSPORT® CANTILEVER GATES*
- *PASSPORT® ROLL GATES*

COLOR OPTIONS

BLACK BRONZE

ADORNMENTS



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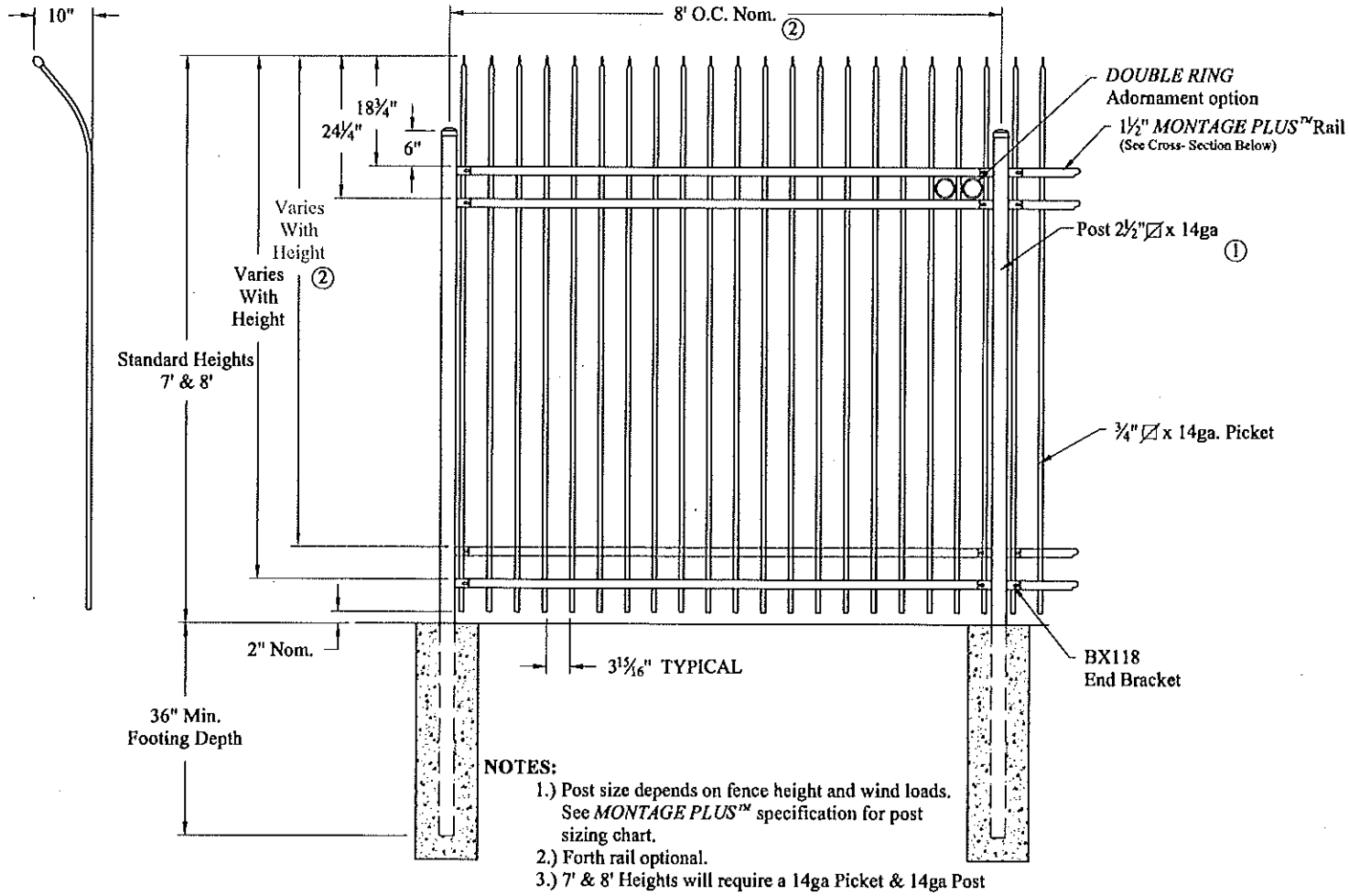
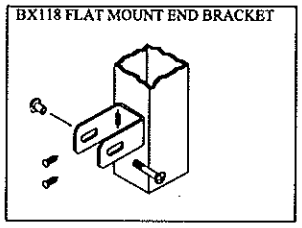
ENCLOSURE 2



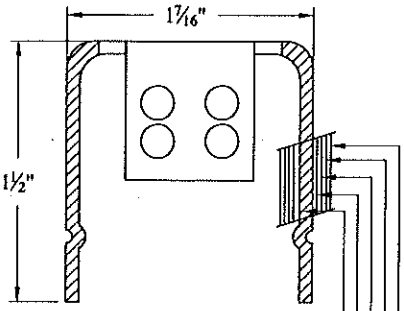
NOTES:

1.) Post size depends on fence height and wind loads. See *MONTAGE PLUS™* specification for post sizing chart.
2.) Forth rail optional.
3.) 7' & 8' Heights will require a 14ga Picket & 14ga Post

BX118 FLAT MOUNT END BRACKET



MONTAGE PLUS™ RAIL



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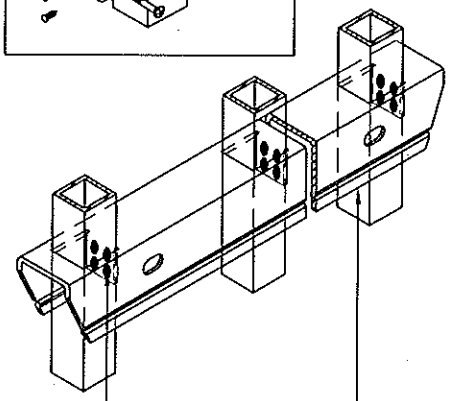
- Epoxy Primer
- Acrylic Topcoat



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1RHSO

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CK: ME	Date 6/28/10		REV: e

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AGENDA NO: D-2

MEETING DATE: October 8, 2013

Staff Report

TO: **Honorable Mayor and City Council** **DATE: October 2, 2013**

FROM: **Eric Endersby, Harbor Director**

SUBJECT: **Approval of Consent of Landowner Agreement for Lease Site 86/86W at 801 Embarcadero (Embarcadero Grill, Caldwell) to File an Application for Lease Site Improvements and Allow Staff to Enter Into Lease Negotiations**

RECOMMENDATION

Staff recommends Council consider the three alternatives and provide direction; staff is recommending either Alternative A or Alternative B.

ALTERNATIVES

A. Provide any preliminary consideration and/or comments concerning the Leaseholder's proposed project "Site Plan A" and direct the City Manager to execute the Consent of Landowner Agreement (attached) with the Leaseholder, and authorize staff to begin lease negotiations with the Leaseholder for his proposed development at the beginning of the Planning review process.

B. Provide any preliminary consideration and/or comments concerning the Leaseholder's proposed project "Site Plan B" and direct the City Manager to execute the Consent of Landowner Agreement (attached) with the Leaseholder, and authorize staff to begin lease negotiations with the Leaseholder for his proposed development at the beginning of the Planning review process.

C. Reject Leaseholder's proposed projects and direct staff to work with Leaseholder on a new submittal.

FISCAL IMPACT

There is no fiscal impact at this time. Positive fiscal impact will be expected if the proposed project is approved and built and increased revenues are realized with a new modern lease format that includes percent-of-gross sales requirements.

SUMMARY

Prepared By: _____ **Dept Review:**_____

City Manager Review: _____

City Attorney Review: _____

The owner of Lease Site 86/86W, Burt Caldwell, is proposing a lease site redevelopment project as outlined in this staff report and attachments. Per Council policy, staff is seeking Council and public review and approval of the proposal via a Consent of Landowner Agreement before Mr. Caldwell submits the project to the Planning Division. If approved, Planning will process the proposal and negotiations for a new Master Lease will take place concurrently.

BACKGROUND

Lease Site 86/86W is a 50-year Pipkin lease that expires in September 2018. This lease site is within the last five years of its lease term, and pursuant to the Lease Management Policy the tenant has submitted a written proposal for a redevelopment project.

In September, 2012, Council directed staff to work with the existing tenant for a proposal on a lease site redevelopment and new lease. At that time, the tenant was given a December deadline for submittal of a proposal to staff, which he complied with. At the June 11, 2013 City Council meeting, that proposal, which involved a joint redevelopment project with the tenant at the neighboring lease site to the north, was heard by Council. Council moved to direct the two tenants to resubmit separate proposals for their respective lease sites, and for said tenants to consider mutual benefits and public use opportunities as they saw fit. That motion was approved.

DISCUSSION

The tenant of 86/86W has submitted a new proposal for Council's consideration that consists of the following major elements:

- Elimination of the entire second story of the building, demolition and rebuilding of the eastern half of the building, and remodeling the remaining western half. When built, the new building will house a restaurant and themed pub including limited on-site brewing and ancillary sales.
- Roof-top view deck on western portion, including an elevator.
- 8-foot sidewalk setbacks, and opening-up of a 12-foot wide public seating and promenade area between tenant's building and the lease site building to the north.
- Addition of a 10-foot wide bay-side Harborwalk access.
- Options for either two parallel parking spaces (tenant's Site Plan A) or for additional promenade and landscaping area (tenant's Site Plan B) in the location where the current sub-standard parking spaces are on the lease site.

Staff has met several times with Mr. Caldwell and his agent, and believes that the proposed project is a good mix of utilizing the available space while bringing additional public benefits to include widened sidewalks, the Harborwalk, more open space and better views, and a view deck. While this site is of "normal" depth east-to-west, it is only 52-feet wide, limiting the size and scope of possible redevelopments. Although not proposed at this time, the tenant has allowed for the addition of a new side-tie dock in his design and intends to pursue that option in the future.

Although not confirmed by staff, the tenant has reported that their research indicates that the site has

sufficient historical parking credits for both of their redevelopment options (A or B) that affect the existing on-site (sub-standard) parking spaces. However, if either alterative is chosen the parking calculations will be vetted through the Planning review process and handled accordingly.

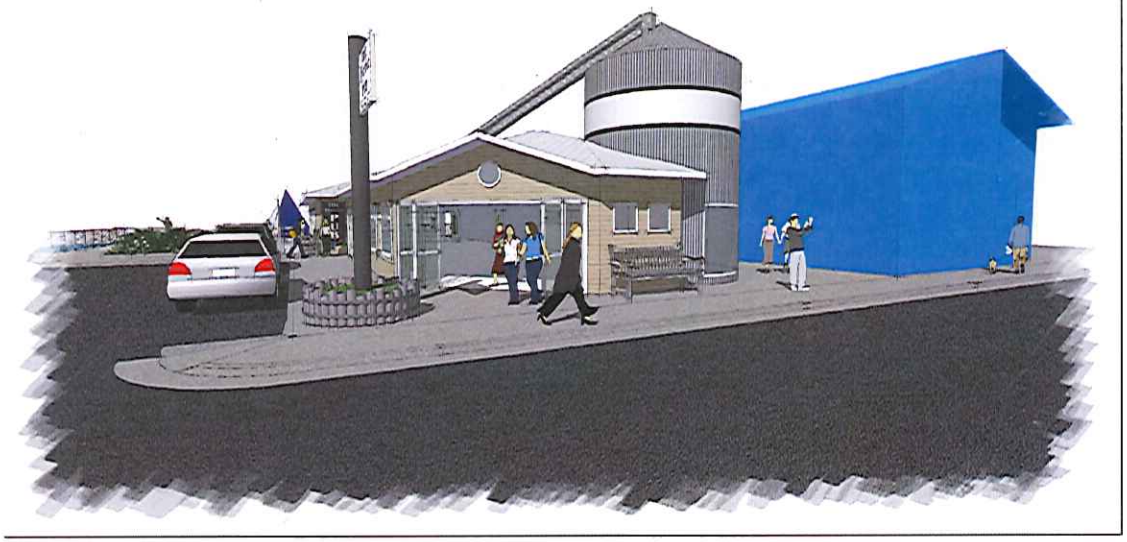
CONCLUSION

Staff is seeking Council approval to continue to work with the Leaseholder on Lease Site 86/86W, Burt Caldwell, on his proposed redevelopment proposal by entering into a Consent of Landowner Agreement for his proposed project and authorizing staff to begin negotiations on a new long term lease agreement.

A REMODEL FOR:

EMBARCADERO GRILL & LIBERTINE PUB

MORRO BAY, CA



BUILDING SUMMARY

(FOR MORE DETAIL REFER TO SHEET A0.02)

PROPOSED USE:	RESTAURANT / PUB
EXISTING USE:	RESTAURANT / PUB
CONSTRUCTION TYPE:	TYPE VB, FIRE SPRINKLERED (DESIGN BY OTHERS)
NUMBER OF STORIES:	1 STORY
BUILDING HGT CALCS:	MAX SILO HEIGHT 25'-0" MAX BUILDING HEIGHT 18'-0"
OCCUPANCY GROUP(S):	M, A-3, R-3, S-2 (BASEMENT)
BUILDING AREA:	
1ST FLOOR:	4,631 SQ.FT.
ROOF DECK:	1,159 SQ.FT.
TOTAL:	5,549 SQ.FT.

SITE SUMMARY

LEGAL DESCRIPTION:	601 EMBARCADERO MORRO BAY, CA 93442	
APN:	066-362-046	
LOCAL ZONING:	WF, WATERFRONT	
OVERLAY ZONING:	PD, PLANNED DEVELOPMENT / S-4, DESIGN CRITERIA	
ADJACENT USE:	NORTH	COMMERCIAL/RETAIL
	SOUTH	MORRO BAY BLVD. / COMMERCIAL
	EAST	EMBARCADERO RD.
	WEST	OCEAN
PROPOSED USE:	RESTAURANT / PUB	
EXISTING USE:	RESTAURANT / PUB	
* BICYCLE PARKING SPACES PROVIDED:	10 SPACES	

DIRECTORY

OWNER: BURT CALDWELL
194 COUNTRY CLUB DRIVE
SAN LUIS OBISPO, CA 93401
TEL: (805) 441-1867
FAX: (805) 782-9618
EMAIL: burtcaldwell@yahoo.com

ARCHITECT: MW ARCHITECTS
225 PRADO ROAD, SUITE G
SAN LUIS OBISPO, CA 93401
TEL: (805) 544-4334
FAX: (805) 544-4330
REP: WAYNE STUART
EMAIL: waynes@mwa.tv

PROJECT DESCRIPTION

THIS IS A REMODEL OF THE EXISTING EMBARCADERO GRILL RESTAURANT & LIBERTINE PUB BUILDING AT 601 EMBARCADERO ROAD IN MORRO BAY, CA. THE TWO STORY BUILDING WILL BE BROUGHT DOWN TO A SINGLE STORY WITH Z EXISTING EXTERIOR WALLS TO REMAIN IN TACT AND A NEW ROOF DECK EATING AREA. SMALL ELEVATOR TO BASEMENT AREA TO BE REMOVED AND REPLACED WITH NEW ADA ACCESSIBLE ONE FROM 1ST FLOOR TO DECK, AND NEW ADA ACCESSIBLE RESTROOMS TO BE ADDED.

AGENCIES

MORRO BAY BUILDING DEPT.
595 HARBOR STREET
MORRO BAY, CA 93442
(805) 772-6261

MORRO BAY CITY FIRE DEPT.
715 HARBOR STREET
MORRO BAY, CA 93442
(805) 772-6262

CITY POLICE DEPARTMENT
850 MORRO BAY BLVD.
MORRO BAY, CA 93442
(805) 772-6225

CITY PUBLIC WORKS
595 HARBOR STREET
MORRO BAY, CA 93442
(805) 772-6261

PACIFIC GAS & ELECTRIC
496 S. HIGUERA
SAN LUIS OBISPO, CA 93401
(805) 543-1171

CHARTER COMMUNICATIONS
270 BRIDGE STREET
SAN LUIS OBISPO, CA 93401
(805) 489-2653

THE GAS COMPANY
750 INDUSTRIAL WAY
SAN LUIS OBISPO, CA 93401
(805) 427-2566

UNDERGROUND SERVICE
800-642-2444

SHEET INDEX

DP1	TITLE SHEET
DP2	SITE PLAN W
DP2.1	SITE PLAN N
DP3	FLOOR PLANS
DP4	EXTERIOR ELEVATIONS
DP5	EXTERIOR PRESPECTIVES

TOTAL: 6 SHEETS

VICINITY MAP

MW ARCHITECTS

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JOB TITLE
A REMODEL FOR:
EMBARCADERO GRILL
601 EMBARCADERO RD.
MORRO BAY, CA

SHEET TITLE
TITLE SHEET

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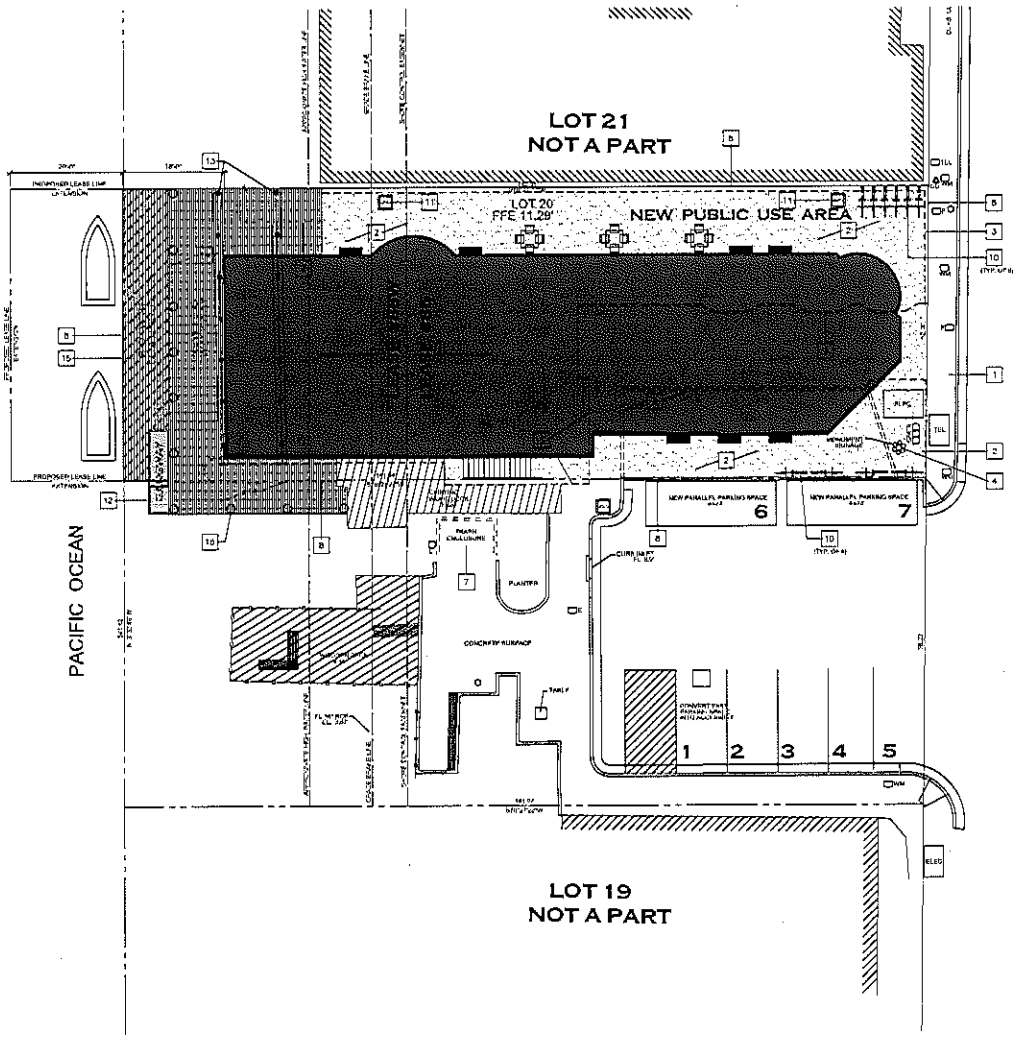
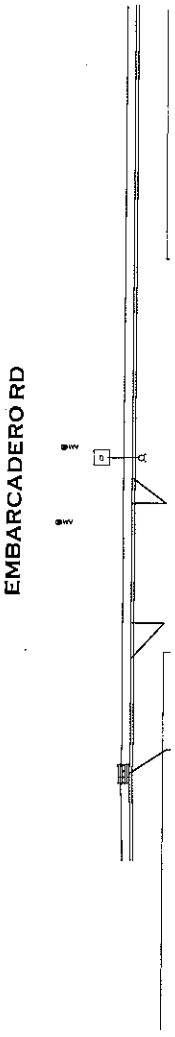
REVISIONS

JOB NUMBER	SHEET NUMBER
13437	DP1
DATE 10.01.13	
APPL. NO. –	



SITE PLAN 'A'



SCALE: 1" = 10'

REF
N

REFERENCE NOTES

1. EXISTING PARK & SIDEWALK
2. NEW HARDSCAPE
3. EXISTING BUILDING TO BE DEMOLISHED
4. EXISTING MONUMENT SIGNAGE TO BE REMODELED
5. EXISTING PARKING TO BE REMOVED
6. EXISTING FIRE HYDRANT
7. EXISTING TRASH ENCLOSURE TO REMAIN
8. EXISTING LEASE LINE
9. VISUAL CORNER CLEARANCE PER CITY STANDARDS
10. NEW BICYCLE PARKING
11. NEW TRASH/RECYCLING RECEPTACLES
12. NEW GANGWAY TO FLOATING DOCK
13. EXISTING PILES AND SUPPORT BEAMS TO REMAIN
14. NEW 5' WALKWAY ALONG WATER W/ METAL GRATING
15. NEW 8' WIDE FLOATING DOCK W/ DEL GRASS LIGHT PENETRATIONS
16. NEW PILES TO SUPPORT NEW DECK

SITE LIGHTING REQUIREMENTS

A. ALL EXTERIOR LIGHTING FIXTURES SHALL BE SHIELDED AND DIRECTED DOWNWARD BUT THE IMPLEMENT FULLY COMPLIES DIRECT WARM ON PATH, AND SHALL BE RUGGED AND WHELDED ACCORDINGLY.

B. THE AMOUNT OF LIGHT STANDARDS SHALL BE NO MORE THAN DETERMINED ABSOLUTELY NECESSARY FOR THE SPECIFIC APPLICATION.

C. LIGHT INTENSITY SHALL BE NO MORE THAN DETERMINED NECESSARY FOR SAFETY PURPOSES.

D. LIGHT SOURCES SHALL BE OF INFRARED EFFICIENT OPTIONS (F.O. HIGH-PRESSURE METAL HALIDE, ETC.).

E. NONGLARE LIGHTING SHALL BE USED THROUGHOUT THE PROPOSED PROJECT.

F. ANY PERIMETER LIGHTING SHALL BE ADDRESSED SUCH THAT LIGHTS ARE NOT VISIBLE AT A DISTANCE OF 30 FEET.

MW ARCHITECTS

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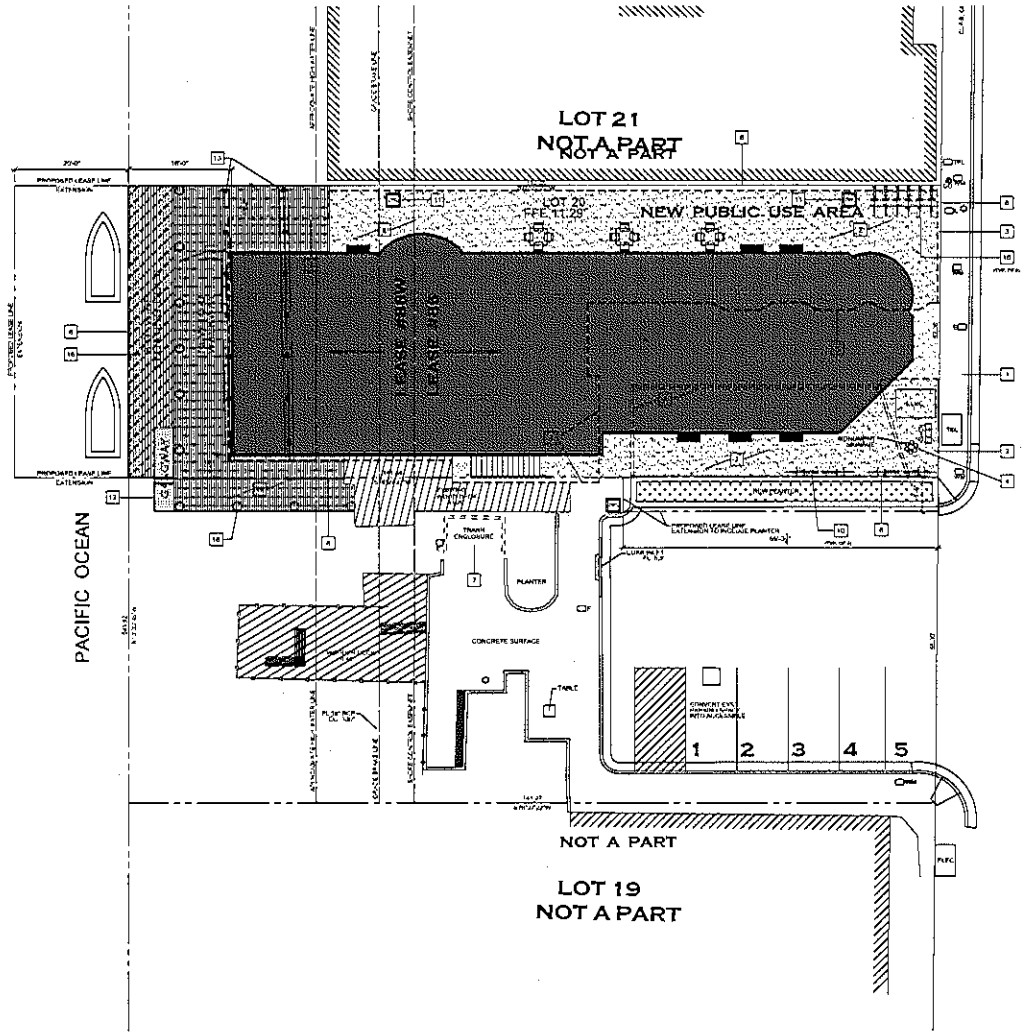
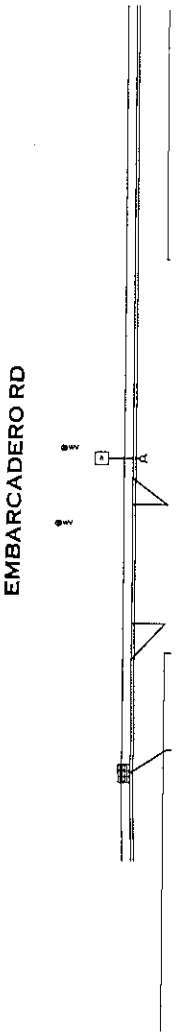
PROJECT
ALTERATIONS FOR
EMBARCADERO GRILL
651 EMBARCADERO RD.
MORRO BAY, CA

SHEET TITLE
SITE PLAN 'A'

JOB NUMBER
1307
DATE
10.01.13
SHEET NUMBER
DP2



SITE PLAN 'B'



REFERENCE NOTES

1. EXISTING PUBLIC SIDEWALK
2. NEW HARDSCAPE
3. EXISTING BUILDING TO BE DEMOLISHED
4. EXISTING MONUMENT SIGNAGE TO BE REMODELED
5. EXISTING PARKING TO BE REMOVED
6. EXISTING FIRE HYDRANT
7. EXISTING TRASH ENCLOSURE TO REMAIN
8. EXISTING LEASE LINE
9. VISUAL CORNER CLEARANCE PER CITY STANDARDS
10. NEW BICYCLE PARKING
11. NEW TRASH/RECYCLING RECEPTICALS
12. NEW GANGWAY TO FLOATING DOCK
13. EXISTING PILES AND SUPPORT BEAMS TO REMAIN
14. NEW 'H' WALKWAY ALONG WATER W/ METAL GRATING
15. NEW 'H' WIDE FLOATING DOCK W/ FEL GRASS LIGHT PENETRATION
16. NEW PILES TO SUPPORT NEW DECK

SITE LIGHTING REQUIREMENTS

A. ALL EXTERIOR LIGHTING PROPOSED SHALL BE INSTALLED AND DIRECTED DOWNWARD INTO THE DEVELOPMENT, FULLY CUT-ON UNDER GLARE OR FEEL AND SHALL BE REDUCED AND SHIELDED, ACCORDINGLY.

B. THE HEIGHT OF LIGHT STANDARDS SHALL BE NO HIGHER THAN DETERMINED ABSOLUTELY NECESSARY FOR ITS SPECIFIC APPLICATION.

C. LIGHT INTENSITY SHALL BE NO MORE THAN DETERMINED NECESSARY FOR SAFETY PURPOSES.

D. LIGHT SOURCES SHALL BE OF ENERGY EFFICIENT DESIGN (F.G. AIRBUS/AIRPORT, METAL HALIDE, ETC.).

E. REGULATE LIGHTING SHALL BE USED THROUGHOUT THE PROPOSED PROJECT.

F. ANY SECURITY LIGHTING SHALL BE REMOVED SUCH THAT LIGHTS ARE NOT VISIBLE AT A DISTANCE OF 20 FEET.

REF
N

0 5' 10' 20'
SCALE: 1" = 10'

MW ARCHITECTS

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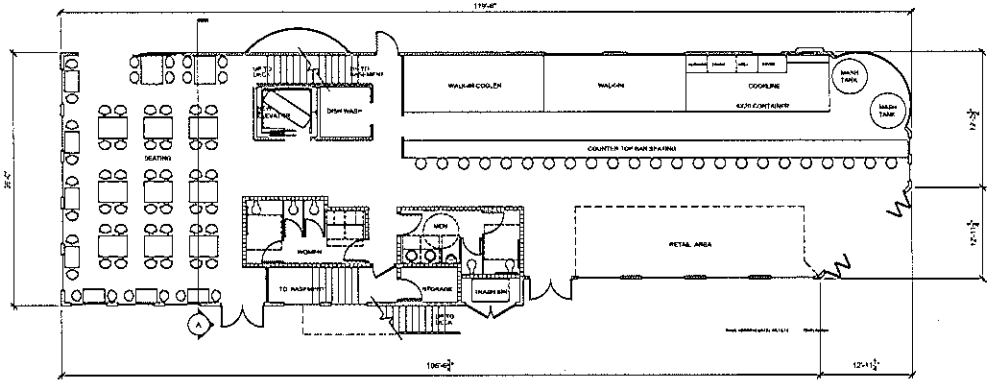
A REMODEL FOR:
EMBARCADERO GRILL
801 EMBARCADERO RD.
MORRO BAY, CA

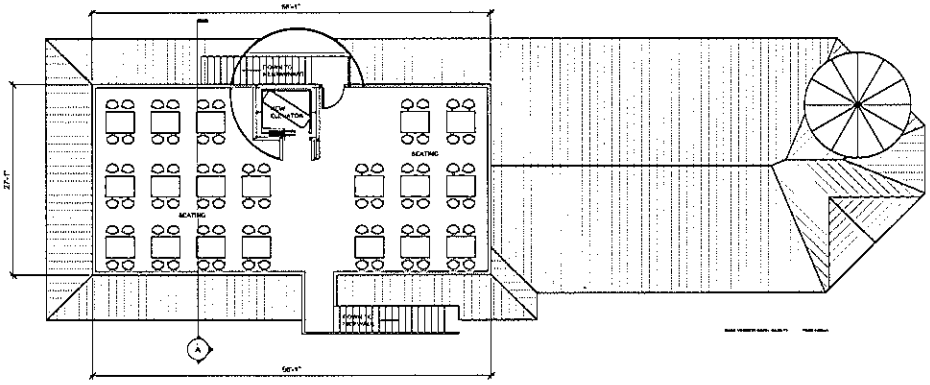
SITE PLAN 'B'

REVISIONS:

JOB NUMBER: 13437
DATE: 10.01.13
APPL. NO.:
SHEET NUMBER: DP2.1



1ST FLOOR



OUTDOOR ROOF DECK

FLOOR PLAN

SCALE: 1/8" = 1'-0"

REF NORTH

MW ARCHITECTS

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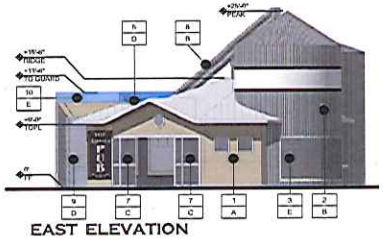
A REMODEL FOR:
EMBARCADERO GRILL
601 EMBARCADERO RD.
MORRO BAY, CA

FLOOR PLAN

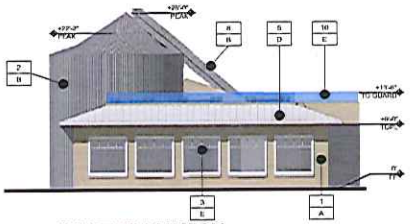
REVISIONS

JOB NUMBER: 13437
DATE: 10.01.13
APPR. BY:

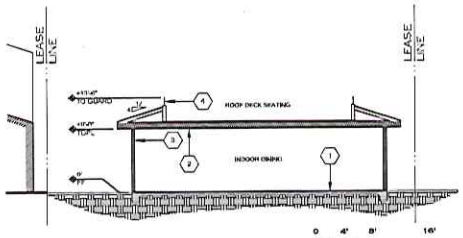
SHEET NUMBER: DP3



EAST ELEVATION



WEST ELEVATION

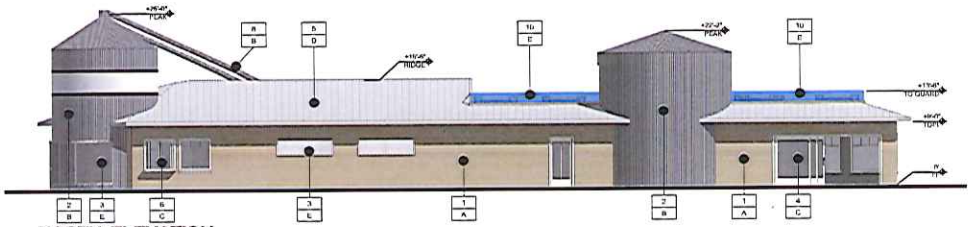


SCALE: 1/8" = 1'-0"

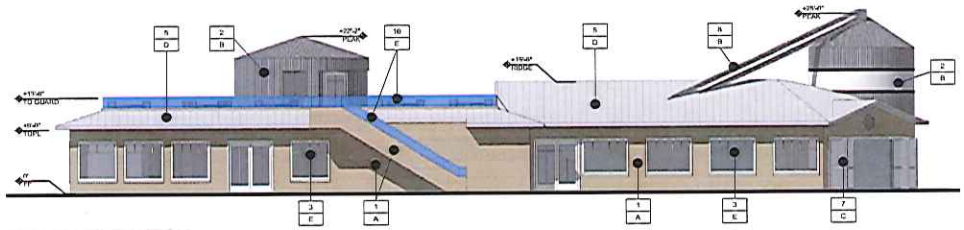
SECTION

SECTION NOTES

1. FOUNDATION (DIAGRAMMATIC)
2. PRE-ENGINEERED TRUSS
3. WALL FRAMING
4. GLASS GUARDRAIL ABOVE WALL



NORTH ELEVATION



SOUTH ELEVATION

EXTERIOR ELEVATIONS

0 4' 8' 16'

SCALE: 1/8" = 1'-0"

MATERIAL AND COLOR DESIGNATIONS

MATERIAL DESIGNATION
COLOR DESIGNATION

MATERIAL DESIGNATIONS

1. HORIZONTAL HARDIE BOARD SIDING
2. SILO W/CORRUGATED METAL SIDING
3. GLAZING
4. SLIDING PATIO DOOR
5. PANEL METAL ROOFING
6. WALK UP WINDOW
7. BI-FOLDING ENTRY DOOR
8. FALSE DRAIN ELEVATOR
9. EXTERIOR STAIRS
10. GLASS GUARDRAIL

COLOR DESIGNATIONS

A. TAN
B. NATURAL ALUMINUM
C. WHITE
D. LIGHT GRAY
E. FACTORY FINISH

GENERAL NOTES

LIGHTING

1. ALL LIGHTING SHALL HAVE CUT OFF HOOD TO PREVENT SPILL OVER LIGHT INTO ADJACENT PROPERTIES.
2. WALL MOUNTED LIGHTING SHALL BE PLACED AS TO ILLUMINATE PARKING SPACES AND WALKWAYS.
3. PLAZAS AND PUBLIC OUTDOOR AREAS SHALL HAVE LIGHTING FIXTURES THAT ARE CONGRUENT TO AND COMPLIMENT ARCHITECTURAL DETAILS ON BUILDINGS.
4. FLOURESCENT LIGHTING PLACED IN SOFFITS SHALL ILLUMINATE ENTRY WAY AREAS.
5. SIGNAGE SHALL BE ILLUMINATED WITHBACK LIGHTING

SIGNAGE

1. ALL MONUMENT SIGNAGE SHALL BE LOW PROFILE AND NO MORE THAN FOUR FEET IN HEIGHT. BUILDING OR OTHER SIGNAGE SHALL NOT BE "BACKLIT"
2. ALL SIGNAGE SHALL BE PROPERLY ILLUMINATED FOR NIGHT VISIBILITY.
3. ALL SIGNAGE IS SCHEMATIC AND ARE INTENDED TO SHOW LOCATIONS ONLY. A SEPARATE SIGN APPLICATION WILL ADDRESS SIGNAGE FOR ENTIRE PROJECT.

MW ARCHITECTS

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A REMODEL FOR:
EMBARCADERO GRILL
801 EMBARCADERO RD.
MORRO BAY, CA

EXTERIOR ELEVATIONS

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REVISIONS
- -

JOB NUMBER 13437
DATE 10.01.13
APPL. NO. -
SHEET NUMBER DP4

SOUTH EAST PERSPECTIVE

SOUTH WEST PERSPECTIVE

NORTH EAST PERSPECTIVE

NORTH WEST PERSPECTIVE

EXTERIOR PERSPECTIVES

MW ARCHITECTS

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A REMODEL FOR:
EMBARCADERO GRILL
801 EMBARCADERO RD.
MORRO BAY, CA

EXTERIOR PERSPECTIVES

REVISIONS

JOB NUMBER 13437

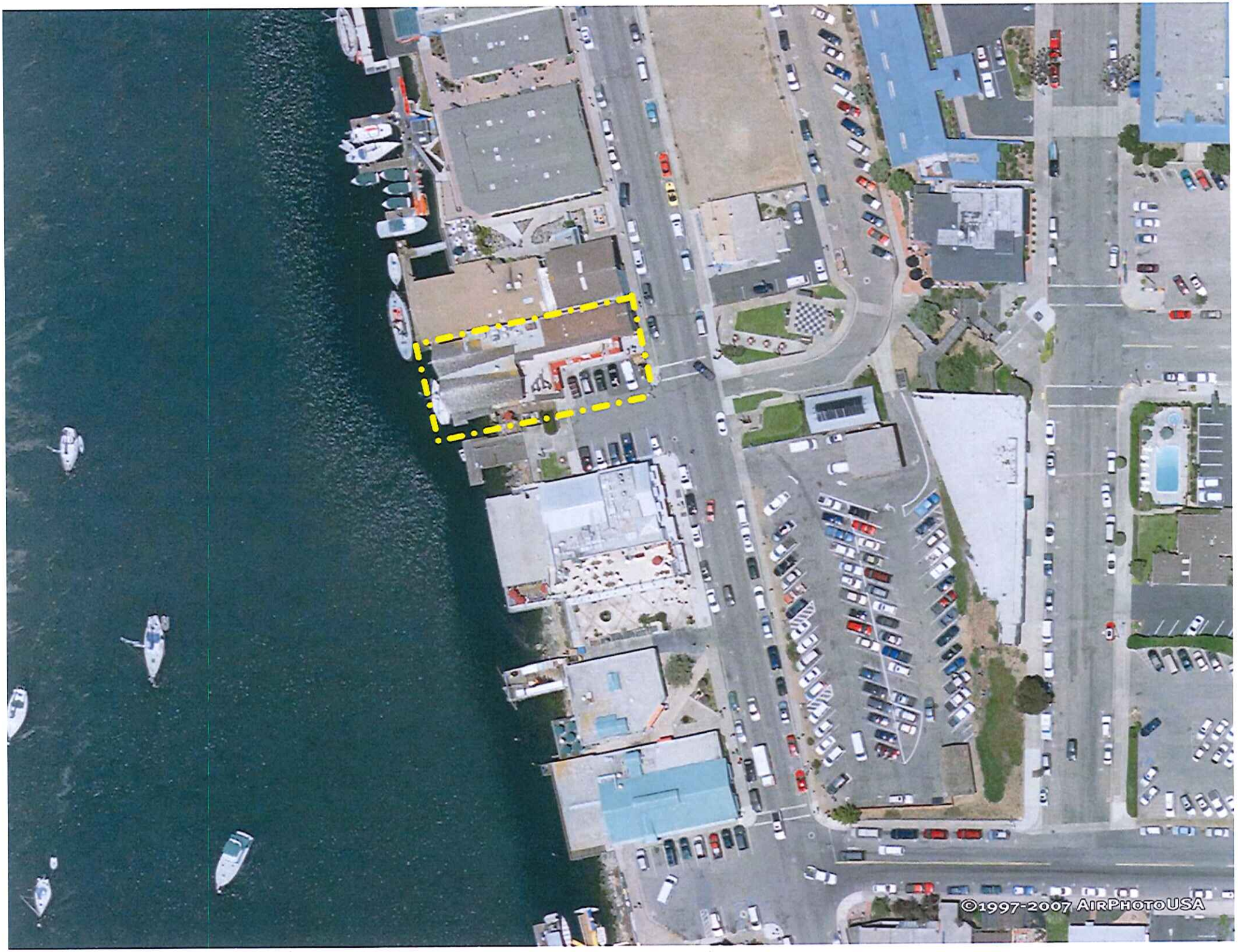
DATE 10.01.13

APPL. NO. -

SHEET NUMBER DP5

STOP

PUB
OFF THE HOOK
STOP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City of Morro Bay
Tidelands Trust Grant Properties
Consent of Landowner Form

Consent For:

Redevelopment of Lease Site 86/86W by Tenant, Burt Caldwell, 801 Embarcadero LLC, commonly known as Embarcadero Grill, as proposed in attached site plan and negotiation of new lease.

Site Location: Lease Site 86/86W, 801 Embarcadero, Morro Bay, CA 93442

Property Owner: City of Morro Bay Telephone: 805-772-6254

Address: 595 Harbor St. City: Morro Bay State: CA Zip: 93442

Applicant: Burt Caldwell, 801 Embarcadero LLC Telephone: 805-441-1867

Address: 1342 Garden Street City: San Luis Obispo State: CA Zip: 93401

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:

1. **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.

Andrea Lueker, City Manager **Date**

AGENDA NO: D-3

MEETING DATE: October 8, 2013

Staff Report

TO: **Honorable Mayor and City Council** **DATE: October 3, 2013**

FROM: **Robert Schultz, City Attorney**
Rob Livick, Public Services Director

SUBJECT: **Approval of Resolution 48-13 Designating $399,000 in Parking In-Lieu Funds for Revisions to the Parking In-Lieu Map and Improvements to the City-Owned Front Street and Triangle Parking Lot Adjacent to the Dynegy Power Plant, and Review and Discussion regarding the City Parking Management Plan**

RECOMMENDATION

Staff requests that Council adopt Resolution No. 48-13.

ALTERNATIVES

Direct staff to use the Parking In-Lieu Funds for a different project.

FISCAL IMPACT

Adequate funds exist in the Parking In-Lieu Fund for revisions to the Parking In-Lieu Map and for improvements to be made to the Front Street and Triangle Parking lot adjacent to the Dynegy Power Plant.

SUMMARY

The Parking In-Lieu Fund was established in 1989 to provide increased business opportunities along the community's waterfront. Rather than providing on-site parking, owners were allowed the option of paying to the City a fee per required on-site parking space, thereby increasing the amount of area that could be developed for business purposes. Monies accumulated in the Fund are to be used solely for the purposes of improving public parking availability as the Municipal Code specifically states that Parking In-Lieu fees shall be used for planning, design, acquisition or lease of land and development/redevelopment of public parking facilities.

Subject to the provisions of Government Code 66000 et. seq. accumulated monies must be obligated to specific tasks within five years of collection or be returned to the contributor(s). Over the years,

Prepared By: ___*RWS*___ **Dept Review:**_____

City Manager Review: __AL___

City Attorney Review: __*RWS*___

the City Council has had numerous discussions and designated various projects for the use of Parking In-Lieu Funds. Government Code section 66001(d) also requires the City to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the Parking In-Lieu fee and the purpose for which it is charged. Currently, no cash has been on hand for five or more years, so the City is not facing imminent refunding requirements pursuant to Government Code section 66000 et. seq.

DISCUSSION

In 1989, the City adopted an Ordinance outlining the Parking In-Lieu program. Morro Bay Municipal Code Section 17.44 requires various levels of off-street parking on the site of any new development based on the proposed uses. The Parking In-Lieu Program allows developers to maximize commercial use of their property, however the developer must pay a fee per space that the development is deficient in off-street parking. The City is then required to use the Parking In-Lieu funds collected to acquire or lease lands, or develop new parking facilities within the Parking Management Plan area.

Parking In-Lieu Fees were established, codified as Morro Bay Municipal Code Section 17.44.020 A.7, as a means through which public parking can be provided where it is unfeasible to provide such parking as part of on-site development projects.

Over the years, the City Council has had numerous discussions and designated various projects for the use of Parking in-Lieu Funds. These projects have established over 200 new parking spaces within the Parking Management Plan Area.

In December 2012, as part of the Amendments to the November 15, 2004 Agreement to Lease and Agreement Regarding Power Plant Modernization, Dynegy Morro Bay LLC agreed to dedicate to the City the triangle-shaped property adjacent to the Embarcadero. Staff is working with Dynegy to finalize the Dedication Agreement.

On August 13, 2013, City Council directed staff to proceed with an interim use permit, revisions to the parking in lieu map, and improvements to the triangle parking lot. In addition, Council asked staff to bring back an update on the proposed improvements and cost estimate.

By adopting Resolution 48-13, and thereby designating funds for revisions to the Parking In Lieu Map and for improvements to be made to the Front Street and Triangle Parking lot adjacent to the Dynegy Power Plant, the City will be in compliance with Government Code 66001(d).

During agenda review of this item, Mayor Irons stated that he wanted the Parking Management Plan to be attached to this Staff Report. Therefore, the Executive Summary from the Parking Management Plan along with applicable excerpts are attached for your review and discussion. The entire Parking Management Plan is on line at http://www.morro-bay.ca.us/DocumentCenter/Index/123 .

CONCLUSION

Staff recommends Council review and approve Resolution 48-13.

RESOLUTION NO. 48-13

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
DESIGNATING $399,000 IN PARKING IN-LIEU FUNDS
FOR REVISIONS TO THE PARKING IN-LIEU MAP AND IMPROVEMENTS
TO THE CITY-OWNED FRONT STREET AND TRIANGLE
PARKING LOT ADJACENT TO THE EMBARCADERO**

T H E C I T Y C O U N C I L
City of Morro Bay, California

WHEREAS, In-Lieu Parking Fees were established, codified as Morro Bay Municipal Code Section 17.44.020 A7, as a means through which public parking can be provided where it is unfeasible to provide such parking as part of on-site development projects; and

WHEREAS, Morro Bay Municipal Code Section 17.44.020A.7.b states that monies accumulated in the Parking In-Lieu Fund shall be used for planning, design, acquisition or lease of land and development/redevelopment of public parking facilities; and

WHEREAS, on December 5, 2012, as part of the Amendments to the November 15, 2004 Agreement to Lease and Agreement Regarding Power Plant Modernization, Dynegy Morro Bay LLC agreed to dedicate to the City the triangle-shaped property adjacent to the Embarcadero; and

WHEREAS, on August 13, 2013, City Council directed staff to proceed with an interim use permit, revisions to the parking in lieu map, and minor temporary improvements to the triangle parking lot adjacent to the Embarcadero; and

WHEREAS, monies accumulated in said Parking In-Lieu Fund are to be used for designated public parking tasks, and revisions to the Parking In-Lieu map and improvements to the City-owned triangle parking lot adjacent to the Embarcadero is a good and valuable use of Parking In-Lieu Funds.

NOW, THEREFORE, BE IT RESOLVED, by the City Council, City of Morro Bay, California that improvements to the City-owned triangle parking lot adjacent to the Embarcadero are hereby designated as a Parking In-Lieu Fund project in the amount of $399,000.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of October, 2013 by the following vote:

AYES:
NOES:

_____
JAMIE L. IRONS, MAYOR

ATTEST:

_____
JAMIE BOUCHER, CITY CLERK

ATTACHMENT 1

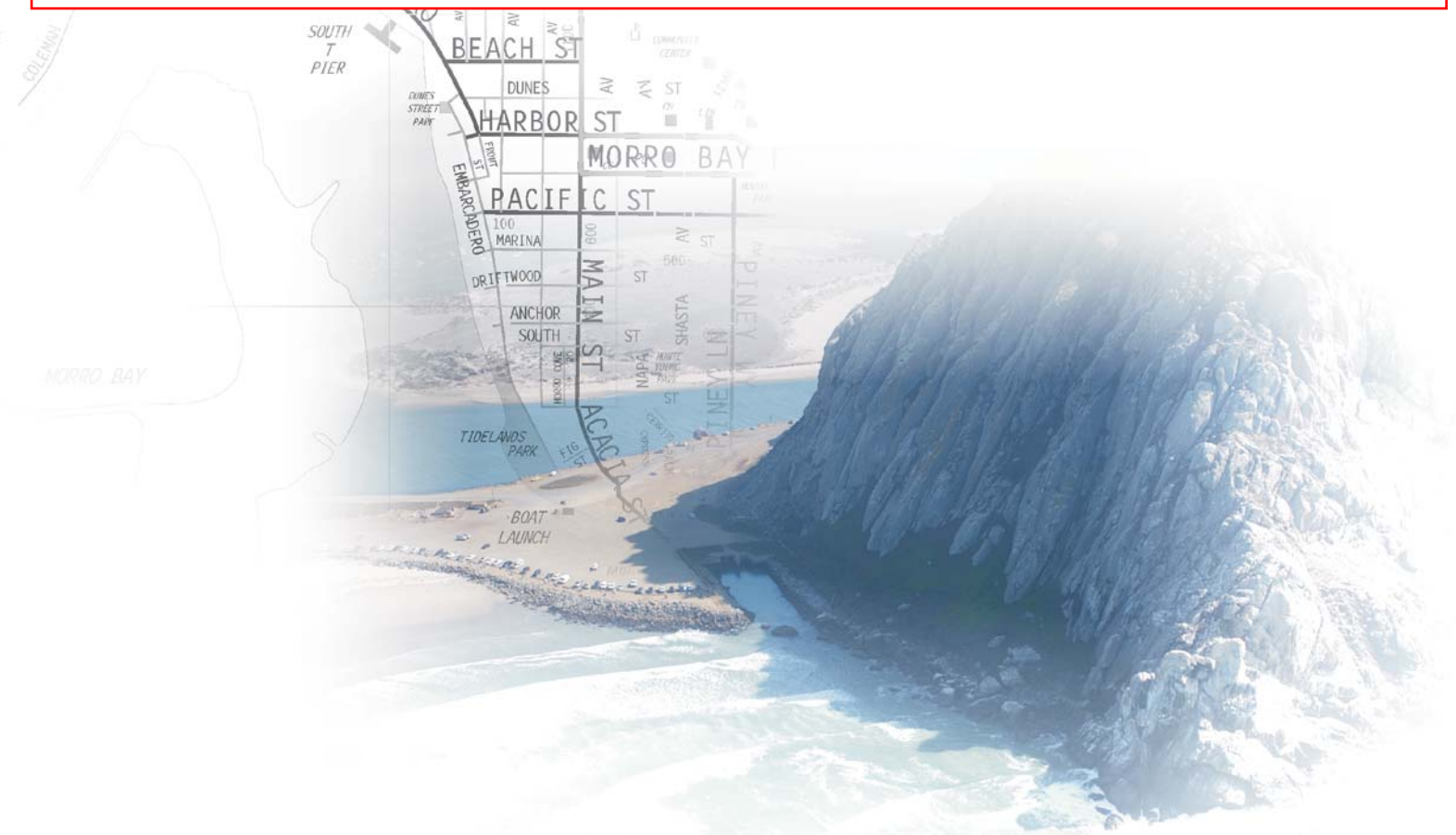
FINAL
October 2007

06-1028

Parking Management Plan

City of Morro Bay, CA

For the complete Parking Management Plan go to http://www.morro-bay.ca.us/DocumentCenter/Index/123



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The Plan concludes with a Financial Plan identifying 1.) Various local, state and federal funding sources, potentially available to implement the Action Plan, 2.) Order-of-magnitude cost estimates for the various components of the Action Plan (not precise design level costs) and 3.) A potential 6-year timeline for implementing the Action Plan.

PREFACE

The preparation of this report was commissioned by the City of Morro Bay Public Services Department at the authorization of the City Council. As expressed in the Request for Proposal for this document, its intended purpose is to be multi-faceted:

- Determine whether there is a current or projected shortage of parking, and if so, to what extent;
- Formulate alternatives for addressing parking needs, supply and demand utilization strategies;
- Educate the community on the cost of parking; and
- Develop a parking management plan for efficiently and effectively utilizing parking resources in a small coastal community where land values are at a premium.

This plan has been prepared by TPG Consulting, Inc. on behalf of the City of Morro Bay Public Services Department. For additional information contact the City of Morro Bay Public Services Department at 955 Shasta Avenue, Morro Bay, CA, 93442, telephone (805) 772-6215.

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City of Morro Bay
PARKING MANAGEMENT PLAN

***Final:* October 2007**

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EXECUTIVE SUMMARY

The Morro Bay Parking Management Plan ("Plan"), prepared by TPG Consulting, Inc. covers a Study Area Boundary, as defined by the City, consisting of 42-blocks of the downtown (above the bluff) and Embarcadero (below the bluff) areas. The Plan was commissioned by the City of Morro Bay Public Services Department, for the purposes of:

- Determining whether there is a current or projected shortage of parking, and if so, to what extent;
- Formulating alternatives for addressing parking needs, supply and demand utilization strategies;
- Educating the community on the cost of parking;
- Developing a parking management plan for efficiently and effectively utilizing parking resources in a small coastal community where land values are at a premium.

The Plan begins with an inventory or examination of existing conditions, including: tabulation of the 2,453 available parking spaces within the Study Area by block supported by recent in-the field surveys of both on and off-street spaces, and public and private parking lots; existing parking regulations, existing land use, current posted parking time limitations, existing public transit, and existing signage.

Next, a Parking Demand Survey and a Duration Survey was conducted within a Demand Survey Boundary, as defined by the City, over two separate survey periods: *Weekday,* (a Tuesday preceding the Memorial Day weekend) and Weekend, (the Saturday of Memorial Day weekend--considered by the City to begin the "peak season" period.) The purpose of the demand and duration surveys was to gain understanding of weekday non-peak vs. weekend peak season parking utilization profiles and turn-over rates. The weekday and weekend demand and duration surveys were conducted over a 6-hour time period from Noon until 6:00 p.m. Demand within the Downtown and Embarcadero Areas is determined in the Plan by dividing the total "available" (empty) spaces by the total inventory of spaces in each one-hour interval during the 6-hour survey period. The resulting percentages are stratified by block and hour as follows:

75-85% Demand = Utilization acceptable. No parking supply shortage; 25% or more of spaces available in that block in that hour.

86-100% Demand = Utilization warning. Emerging "hot spot" of parking supply shortage; 15% or less or less of spaces were available or empty in that block in that hour.

100%+ Demand = Utilization unacceptable. Immediate supply shortage; no available spaces in that block in that hour; over 100% represents illegal parking in areas not designated for parking.

The Plan's analysis of the Demand and Duration Surveys demonstrates that overall parking supplies are adequate within the Study Area, but that some blocks within downtown and Embarcadero are approaching or exceeding maximum utilization (86%-

100%+.) However, the Plan shows that these instances of critical demand occur only in a very few, isolated blocks and only for very short duration time periods (for only about a 1 hour interval.) Said differently, critical demand is definitely not an area-wide concern covering large numbers of blocks, either for the downtown or for the Embarcadero, nor is there any critical demand experienced in any block that exceeds more than a 1 hour interval. Importantly the demand survey also shows that while there are these few isolated blocks experiencing critical demand for short time periods, there are also public parking spaces with less than and up to 85% utilization in areas that are only 1-4 blocks away from those blocks experiencing the short duration critical demand.

Based upon these conclusions, the Plan goes on to explore current parking standards and a range of observations that would possibly explain the demand and turn-over profiles, including such factors as: availability and extent of information (including signage, maps, print or electronic literature) about where the available parking is located, quality of pedestrian connections between parking and destinations, time-limited parking restrictions, and availability of regulatory incentives or flexibility to adjust parking requirements (or "standards"; i.e. the required number of spaces per some criteria.) The Plan also explores a variety of plans or ordinances that are either currently proposed or adopted in the City or that are being utilized effectively in similar beach or tourist oriented communities that bear on good parking management. Based upon the compilation of this information, the Plan then assesses a range of alternative courses of action that might be appropriate for the City to consider undertaking as a means to more effectively manage its current parking supplies.

Following the identification of the range of alternatives, the City sought, through a public workshop held in November, 2006, community and staff input on a range of "Actions" (referred to as "tools in the tool-box") the City could or should consider undertaking as needed to implement components of the recommended alternatives which were considered to be reasonable and feasible.

The Action Plan recommended in the Plan, and described more fully there, consists of the following components or "tools" available to the City to be undertaken individually or in combinations, at the direction of City Council and as financing will allow:

1. *Enhance Signage Program*
2. *Public Information*
3. *Shared Parking*
4. *Employee Parking*
5. *Expand/Enhance Trolley Service*
6. *Delivery Truck Parking*
7. *Angled Parking*
8. *Pedestrian Enhancements*
9. *lteration of Time Limits*
10. *Public & Private-Public Partnership Parking*
11. *In-Lieu Fee Parking*
12. *Green Parking*

actions, as described in the next chapter, which better manage the City's current plentiful parking supply, and which thereby enable reductions in the required number of spaces; one example being proposed new provisions in the Draft Zoning Ordinance related to shared parking.

Public Parking and/or Private-Public Partnerships for Parking

As noted earlier (see Table 1) approximately 73% of the City of Morro Bay's parking supply is provided through public parking—either on-street or public off-street lots. This is commendable. The City could consider taking an even more proactive stance in this regard for example, by adopting a policy authorizing City acquisition/lease of strategically located undeveloped parcels for the purpose of utilizing them for surface parking lots on an interim basis until market demands make more intense development of the land is feasible or desirable. An example of this opportunity might be the vacant lot at Harbor Street and Embarcadero (Blue Sail property). The City could also enter into partnerships with private development entities (e.g. with potential future convention center or Dynegy Energy Plant (formerly Duke Energy Plant)) to gain additional public parking through shared parking or dedicated parking arrangements.

Charging for Parking (meters or permits)

Many cities elect to charge for parking either through individual parking space meters or parking permits paid for in advance. Under the correct circumstances, pay-for-parking systems can create a revenue stream that can be utilized to fund enforcement efforts or provide additional parking. In certain circumstances it could be argued that charging for parking in selected locations is a technique used to discourage parking by certain users, such as employees.

Charging for parking was considered for use in the study area for Morro Bay, however, it was determined to be ineffectual as a component of the parking management strategy for several reasons. First, as has been discussed in prior chapters, the most critical demands for parking in Morro Bay occur for very brief periods (over 1 hour periods mid-day) and in very limited locations (the core blocks within the Embarcadero). When utilized in areas of relatively low critical needs such as these, metered or paid parking can create the unintended consequence of actually deterring needed commerce. Second, pay-for-parking may not off-set the costs associated with the acquisition and maintenance of devices and equipment, or related personnel and operational resources, and as such, with only limited utilization could have negative impacts on the City budget.

Grandfathering Practice

Currently the City of Morro Bay utilizes a common planning practice called "grandfathering". This term describes the status accorded certain properties, uses, and activities that legally exist prior to the date of adoption of the zoning ordinance or [amended] provisions of the zoning ordinance. [Davidson, Michael and Dolnick, December 1999].

'Grandfathering' is a commonly used tool that allows a city to retain some flexibility in how it wants to consider re-use proposals for existing land uses and buildings and, as such, can have a

10. Public & Private-Public Partnership Parking

A. Develop a policy to authorize City acquisition of strategically located properties within the downtown upon which to provide surface public parking on an interim basis until future development.
B. Encourage partnerships with private development entities downtown to gain additional public parking through shared parking or dedicated parking arrangements.
C. Utilize opportunities specific to the Embarcadero to form public-private partnerships with such as with potential future convention center or with Dynegy Energy Plant (formerly Duke Energy Plant) to gain additional parking facilities for shared public and private use.
D. Disallow "reserved" private use parking lots to encourage joint use.

11. In-Lieu Fee Parking

A. Retain the current In-Lieu Fee but continue to periodically review and adjust the amount as deemed necessary based upon relevant market factors, but reduce the burden of the in-lieu fee by lowering the number of spaces a developer must provide by:

    1. Implementing new parking requirements in Draft Zoning Ordinance.
    2. Encourage more shared parking options
    3. Provide credit for on-street parking in front of proposed project sites. Additional credit can be given for development of additional on-street parking proximate to the project site.

B. Enlarge the in-lieu parking district to include areas of potential new downtown business development or redevelopment (consistent with current general plan) coterminous with the Study Area Boundary utilized in this Plan.

12. Green Parking

A. In areas where over-flow parking or environmental protections may be beneficial, allow utilization of impervious materials and engineering solutions that reduce storm water runoff.
B. Identify potential locations where green parking lots could be provided in lieu of conventional parking lots.