



# CITY OF MORRO BAY CITY COUNCIL AGENDA

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*The City of Morro Bay provides essential public services and infrastructure to maintain a safe, clean and healthy place for residents and visitors to live, work and play.*

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## **Regular Meeting - Tuesday, January 8, 2019 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  
RECOGNITION  
CLOSED SESSION REPORT  
MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS  
CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS  
PRESENTATIONS

- Measure Q Report Presentation by CFAC Chair Spagnola

### PUBLIC COMMENT PERIOD

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 city of residence 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.

### A. CONSENT AGENDA

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion. The public will also be provided an opportunity to comment on consent agenda items.

A-1 APPROVAL OF MINUTES FOR THE NOVEMBER 13, 2018 SPECIAL CITY COUNCIL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-2 APPROVAL OF MINUTES FOR THE NOVEMBER 13, 2018 CITY COUNCIL MEETING;  
(ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-3 APPROVAL OF MINUTES FOR THE NOVEMBER 29, 2018 CITY COUNCIL SPECIAL  
MEETING AND CLOSED SESSION; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-4 APPOINTMENT OF MAYOR PRO TEMPORE AND APPOINTMENT OF  
REPRESENTATIVES ON DISCRETIONARY BOARDS, COUNCIL LIAISON  
ASSIGNMENTS AND COUNCIL SUB-COMMITTEES; (MAYOR)

**RECOMMENDATION: Appoint Council Member Davis as Mayor Pro Tempore as well as appoint representatives to serve on the various County or Regional Discretionary Boards, Council Liaison Assignments and Sub-Committees for calendar year 2019 as shown on the attached appointment list.**

- A-5 RECEIVE THE CITIZEN'S ADVISORY FINANCE COMMITTEE (CFAC) REPORT ON  
FY 2017/18 MEASURE Q TRANSACTIONS AND OTHER ACTIVITIES DURING THE  
YEAR; (FINANCE)

**RECOMMENDATION: Receive the Citizen's Advisory Finance Committee (CFAC) Report on FY 2017/18 Measure Q transactions and other activities during the past year.**

- A-6 ADOPTION OF RESOLUTION NO. 02-19 APPROVING A NEW MASTER LEASE  
AGREEMENT BETWEEN THE CITY OF MORRO BAY AND FLYING DUTCHMAN  
ENTERPRISES, INC. (STAN VAN BEURDEN) FOR LEASE SITE 96/96W, LOCATED  
AT 945 EMBARCADERO, AND COMMONLY KNOWN AS "HOUSE OF JUJU";  
(HARBOR)

**RECOMMENDATION: City Council adopt Resolution No. 02-19, approving a new Master Lease Agreement for Lease Site 96/96W, as proposed.**

- A-7 ADOPTION OF RESOLUTION NO. 03-19 AUTHORIZING THE MAYOR TO EXECUTE  
DOCUMENTS NECESSARY FOR A NEW LOAN FOR THE LEASE AGREEMENT AT  
LEASE SITE 122-123/122W-123W AND EXTENSION OF 122W-123W AND  
ACCEPTING A DEED OF TRUST RELATED THERETO FOR IMPROVEMENTS TO  
THE LEASED PROPERTY (THMT, INC, HARBOR HUT AT 1205 EMBARCADERO);  
(HARBOR)

**RECOMMENDATION: City Council adopt Resolution No. 03-19 authorizing the Mayor to execute documents necessary: for a new loan regarding the leasehold interest at Lease Site 122-123/122W-123W, for an extension of the lease for 122W-123W for improvements to the leased property subject to approval of the City Attorney and Harbor Director, and to accept a deed of trust related thereto.**

- A-8 ADOPTION OF RESOLUTION NO. 04-19 ESTABLISHING THE 2019 CITY COUNCIL  
MEETING CALENDAR AS WELL AS THE GOALS, WORK PLAN AND BUDGET  
DEVELOPMENT SCHEDULES; (ADMINISTRATION)

**RECOMMENDATION: City Council review the proposed Council meeting calendar and schedules and adopt Resolution No. 04-19 approving the 2019 City Council Meeting Calendar and Goals, Work Plan and Budget Development Schedules.**

**B. PUBLIC HEARINGS**

- B-1 ADOPTION OF RESOLUTION NO. 01-19 REGARDING THE APPEAL OF THE PLANNING COMMISSION'S DENIAL OF THE APPEAL OF THE ADMINISTRATIVE COASTAL DEVELOPMENT PERMIT NO. CP0-575 FOR THE CONSTRUCTION OF AN ATTACHED ACCESSORY DWELLING UNIT WITHIN THE EXISTING GARAGE AND THE REMOVAL OF A NONCONFORMING SHED AT 2575 GREENWOOD AVENUE. THE PARCEL IS LOCATED WITHIN THE R-1/S.2 SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT AND OUTSIDE OF THE COASTAL COMMISSION APPEAL JURISDICTION; (COMMUNITY DEVELOPMENT)

**RECOMMENDATION: City Council deny the appeal and uphold the Planning Commission's denial of the appeal of the Director's approval of Administrative Coastal Development Permit No. CP0-575 for the Accessory Dwelling Unit at 2575 Greenwood by adopting City Council Resolution No. 01-19 (Exhibit A) with the associated Findings and Conditions of approval.**

**C. BUSINESS ITEMS**

- C-1 AUTHORIZATION FOR ATTENDANCE AT THE C-MANC ANNUAL WASHINGTON, D.C., "WASHINGTON WEEK" MEETINGS AND FOR SUPPORT OF FUNDING FOR THE WATER RECLAMATION FACILITY; (HARBOR/CITY MANAGER)

**RECOMMENDATION: City Council:**

- 1) Authorize a two-person delegation (the Mayor and Harbor Director) to attend the California Marine Affairs and Navigation Conference (C-MANC) 2019 "Washington Week" meetings in Washington, D.C. These meetings are slated for the week of March 4<sup>th</sup>, 2019; and,
  - 2) Authorize the City Manager and Public Works Director to travel to Washington D.C. and meet, alongside the Mayor when appropriate, with Morro Bay's legislative delegation and relevant federal agencies representatives in support of the Water Reclamation Facility (WRF) funding and permitting. The travel would coincide with the annual (C-MANC) 2019 meetings in Washington, D.C.
- C-2 DISCUSSION AND DIRECTION REGARDING RESOLUTION NO. 27-18 PLEDGING TO FOLLOW BEST PRACTICES OF CIVILITY AND CIVIL DISCOURSE; (ADMINISTRATION)

**RECOMMENDATION: Council review Resolution No. 27-18 and affirm its commitment to following best practices of civility and civil discourse in all of its meetings.**

- C-3 ADVISORY BODY FINANCIAL REVIEW OF THE WATER RECLAMATION FACILITY (WRF) PROGRAM; (CITY MANAGER)

**RECOMMENDATION: City Council revise the Citizens Finance Advisory Committee (CFAC) roles and responsibilities to include review of the financial aspects of the Water Reclamation Facility (WRF) program, relieve the Water Reclamation Facility Citizens Advisory Committee (WRFCAC) of that responsibility, while maintaining the WRFCAC role of reviewing, and providing an opportunity for community input on, and the technical components of the WRF.**

C-4 ADOPTION OF RESOLUTION NO 05-19 REVISING THE CITY OF MORRO BAY EMERGENCY MANAGEMENT PLAN AND INTRODUCTION AND FIRST READING OF ORDINANCE 619 RENAMING AND AMENDING CHAPTER 8.08 OF THE MORRO BAY MUNICIPAL CODE RELATING TO THE EMERGENCY SERVICES ORGANIZATION; (FIRE)

**RECOMMENDATION: City Council (in the following order):**

- 1) **Discuss and adopt Resolution No. 05-19 revising the City of Morro Bay Emergency Management Plan (EMP), formally known as the Multi-Hazard Emergency Response Plan (MERP); and**
- 2) **Discuss and introduce, for first reading by title only and with further reading waived, Ordinance 619, an Ordinance of the City Council of the City of Morro Bay, California Renaming Chapter 8.08 of Title 8 of the Morro Bay Municipal Code as “Emergency Services Organization,” and Amending Chapter 8.08, to Provide for Consistency with a Revised City of Morro Bay Emergency Management Plan.**

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, January 22, 2019 at 6:00 p.m.** at the Veteran’s Memorial Hall located at 209 Surf Street, Morro Bay, California.

**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 REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.**

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
STAFF:	Scott Collins	City Manager
	Joseph Pannone	City Attorney
	Jennifer Callaway	Finance Director
	Lori Kudzma	Deputy City Clerk

#### ESTABLISH QUORUM AND CALL TO ORDER

<https://youtu.be/SfL3FvclzQY?t=21>

Mayor Irons called the meeting to order at 4:30 p.m. with all members present.

#### PUBLIC COMMENT FOR ITEMS ON THE AGENDA

Mayor Irons opened public comment for items on the agenda.

<https://youtu.be/SfL3FvclzQY?t=61>

Joan Solu, representing the Historical Society of Morro Bay, spoke regarding funding for the Franklin Riley Park. Ms. Solu also spoke as a resident regarding the Visitor Center/trolley item to be heard at the regular meeting and cautioned the Council about entering into a short-term lease at the aquarium location.

Mayor Irons closed public comment.

#### SPECIAL MEETING AGENDA ITEMS:

I. ADOPTION OF RESOLUTION NO. 89-18 APPROVING THE RISK MANAGEMENT RESERVE FUND POLICY

<https://youtu.be/SfL3FvclzQY?t=283>

Finance Director Callaway presented the report and answered questions from the Council. There was Council discussion about reducing both the minimum level and target level.

MOTION: Council Member Headding moved adoption of Resolution No. 89-18, rescinding Resolution No. 32-15 and establishing the Risk Management Reserve Fund Policy with a minimum level of \$350,000 and maximum target of \$500,000. The motion was seconded by Council Member Davis and carried 5-0.

II. RECEIVE REPORT AND PROVIDE FEEDBACK ON THE FISCAL EMERGENCY PLAN MITIGATION MEASURES

<https://youtu.be/SfL3FvclzQY?t=1517>

Finance Director Callaway presented the report and answered questions from the Council.

Council suggested edits that will be brought back in December. Edits included:

- Edits to #4 of the mitigation measures – specifically, removing “one-time” and adding “on-going” to operating cost review.
- Adding a 7<sup>th</sup> action item to list – specifically triggering the next level Fiscal Resiliency Plan.
- Target reduction to be outlined – language to be added to the next draft.
- Edits to trigger #5 to include declining revenue in 2 of the 3 identified major revenue sources over two quarters.

III. FISCAL YEAR 2018/19 GENERAL FUND ALLOCATION FOR PUBLIC/TOURISM IMPROVEMENTS

<https://youtu.be/SfL3FvclzQY?t=2628>

City Manager Collins presented the report and answered questions from the Council. There was Council discussion regarding the importance of drought tolerant plants. There was also discussion regarding a public process for the design plans for the Franklin Riley park.

MOTION: Council Member Headding moved approval of lighting in the amount of \$16,752. The motion was seconded by Council Member Davis and carried 5-0.

MOTION: Council Member Headding moved approval of \$1,000 for roundabout improvements. The motion was seconded by Council Member McPherson and carried 5-0.

MOTION: Council Member McPherson moved approval of \$2,000 for the Franklin Riley Park beautification plan of the Historical Society. The motion was seconded by Council Member Davis and carried 4-1, with Mayor Irons voting no.

ADJOURN

The meeting adjourned at 5:40 p.m.

Recorded by:

Lori M. Kudzma  
Deputy City Clerk

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Headding	Council Member
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
STAFF:	Scott Collins	City Manager
	Joseph Pannone	City Attorney
	Jennifer Callaway	Finance Director
	Steve Knuckles	Fire Chief
	Jody Cox	Police Chief
	Eric Endersby	Harbor Director
	Scot Graham	Community Development Director
	Rob Livick	Public Works Director
	Lori Kudzma	Deputy City Clerk

#### ESTABLISH QUORUM AND CALL TO ORDER

<https://youtu.be/fSUohgqWRbA?t=48>

Mayor Irons called the meeting to order at 6:03 p.m., with all members present.

#### MOMENT OF SILENCE

#### PLEDGE OF ALLEGIANCE

RECOGNITION - None

CLOSED SESSION REPORT – No closed session meeting was held.

#### MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

<https://youtu.be/fSUohgqWRbA?t=181>

A proclamation was presented to City Attorney Joe Pannone, declaring November 13, 2018 as Joe Pannone Day.

<https://youtu.be/fSUohgqWRbA?t=788>

#### CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS

<https://youtu.be/fSUohgqWRbA?t=1329>

#### PRESENTATIONS

- Service Pin Presentation

<https://youtu.be/fSUohgqWRbA?t=1546>

The following employees were recognized for their years of service:

Lori Stilts, 10 years, Harbor Department  
Karen Sweeney, 15 years, Recreation  
Eric Endersby, 25 years, Harbor Department  
Robert Victor, 10 years, Public Works Department  
Patrick Bernard, 15 years, Public Works Department  
Michael Talmadge., 15 years, Fire Department  
Robert Hufstetler, 20 years, Police Department

There was Council consensus to move Item C-1 prior to the public hearing for item B-1.

<https://youtu.be/fSUohgqWRbA?t=1900>

PUBLIC COMMENT PERIOD

<https://youtu.be/fSUohggWRbA?t=1961>

Mayor Irons opened public comment.

Walter Heath gave a Morro Bay in Bloom update.

Aaron Ochs, Save Morro Bay, spoke regarding counting the protest votes.

Helio Day Spring, owner of Natural Healing Center, spoke regarding their annual turkey give away and invited visitors to their business in Grover Beach.

Meredith Bates shared questions regarding Item C-2.

Teddy Lavette, Morro Bay, expressed appreciation for time, patience and good will concerning the sewer plant.

Erica Crawford shared information about the Main Street Market, Saturday, November 17<sup>th</sup> 2-5pm and the 4 MB North Morro Bay Focus Group would be meeting November 14<sup>th</sup> 8:30 – 9:30 am. Ms. Crawford also encouraged participation in the way finding survey online.

Bill Martony spoke regarding the pipeline easement. Mr. Martony also spoke regarding the aquarium.

Bob Keller urged the Council to keep moving forward on the WRF project to keep costs low. Mr. Keller also thanked Mayor Irons and Council Member Makowetski for their service.

Mayor Irons closed public comment.

Mayor Irons asked City Attorney Pannone for legal clarification regarding counting and validating protests. City Attorney Pannone discussed the difference between a ballot vs. a prop 218 protest and explained what the process would be to validate a protest.

A. CONSENT AGENDA

<https://youtu.be/fSUohggWRbA?t=3425>

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion. The public will also be provided an opportunity to comment on consent agenda items.

A-1 APPROVAL OF MINUTES FOR THE SEPTEMBER 25, 2018 CITY COUNCIL MEETING;  
(ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE OCTOBER 23, 2018 CITY COUNCIL SPECIAL  
CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF AMENDMENT NO. 4 TO THE LEGAL SERVICES AGREEMENT WITH  
ALESHIRE & WYNDER, LLP, TO APPOINT CHRIS NEUMEYER AS CITY ATTORNEY;  
(CITY MANAGER)

RECOMMENDATION: City Council approval of Amendment No. 4 to the legal services agreement with Aleshire & Wynder, LLP, to appoint Chris Neumeyer as City Attorney, effective January 1, 2019.

- A-4 ADOPTION OF RESOLUTION NO. 88-18 RESCINDING RESOLUTION NO. 62-17 AND COMMITTING TO UPDATE THE CITY'S GENERAL PLAN AND LOCAL COASTAL PLAN BY SUMMER OF 2019; (MAYOR)

RECOMMENDATION: Adopt Resolution No. 88-18.

- A-5 APPROVAL OF CITIZENS FINANCE ADVISORY COMMITTEE AND PUBLIC WORKS ADVISORY BOARD MEMBER'S REQUEST FOR AN EXCUSED ABSENCE; (CITY CLERK)

RECOMMENDATION: City Council consider the request submitted by Citizens Finance Advisory Committee (CFAC) and Public Works Advisory Board (PWAB) Member, John Erwin, to excuse his absence from regular meetings through January 2019 to attend FEMA Training and during his 90-day deployment to North Carolina.

- A-6 APPROVAL OF AMENDMENT NO. 2 TO PAVEMENT MANAGEMENT PROJECT CONTRACT NO. MB-2017-ST01 FOR FY 2018/19 PAVEMENT MANAGEMENT PROJECT; (PUBLIC WORKS)

RECOMMENDATION: City Council:

1. Approve Amendment No. 2, in the amount of \$701,259.44, as an additional option period to the City Council awarded Indefinite Delivery, Indefinite Quantity (IDIQ) contract to Pavement Coatings Co and one or more work orders not exceeding that aggregate amount, plus the contingency described in 2., below; and
2. Authorize a 5-percent contingency for the project in the amount of \$35,063 to be used to account for differences in material quantities; and
3. Authorize the Public Works Director to execute Amendment No. 2.

- A-7 ADOPTION OF RESOLUTION NO. 90-18 AMENDING RESOLUTION NO. 02-18 ESTABLISHING THE 2018 CITY COUNCIL MEETING CALENDAR; (CITY CLERK)

RECOMMENDATION: Adopt Resolution No. 90-18

MOTION: Council Member Makowetski moved approval of all items on consent. The motion was seconded by Council Member Davis and carried 5-0.

- C-1 APPROVAL OF JOINING MONTEREY BAY COMMUNITY POWER AUTHORITY (MBCPA) AND FIRST READING OF COMMUNITY CHOICE ENERGY ORDINANCE; (CITY MANAGER)

<https://youtu.be/fSUohgqWRbA?t=3472>

City Manager Collins introduced the item. Chris Read, City of San Luis Obispo Sustainability Manger gave the report. Mr. Collins and Mr. Read both answered questions from the Council.

Public Comment:

Eric Veinm, Chair of SLO Climate Coalition, spoke in support of Morro Bay joining the MBCPA.

Nick Andre, Co-Chair of SLO County Progressives, spoke in support of Morro Bay joining the Monterey Bay Community Power Authority.

Tony Pastore, Morro Bay, spoke in support of Morro Bay joining the Monterey Bay Community Power Authority.

Walter Heath inquired as to how this compares to the wind farm.

MOTION: Mayor Irons moved approval of recommendations 1, 2, 3 and 5.

1. Receive and file the Financial Update memo (Attachment A); and
2. Introduce, by first reading by title only with further reading waived, Ordinance No. 618, "An Ordinance of the City Council of the City of Morro Bay, California, Repealing the Existing Community Choice Aggregation Ordinance (Ordinance No. 616) and Authorizing the Implementation of a Community Choice Aggregation Program By Participating in Monterey Bay Community Power Authority's Community Choice Aggregation Program" (Attachment B); and
3. Adopt a Resolution No. 91-18, "A Resolution of the City Council of the City of Morro Bay, California, Requesting Membership In The Monterey Bay Community Power Authority (MBCPA) and Authorizing the City Manager to Execute the Joint Powers Authority Agreement as amended with MBCPA" (Attachment C); and
5. Direct staff to negotiate a Memorandum of Understanding with City of San Luis Obispo (SLO) staff to provide a collaborative and fair strategy for MBCPA representation and return to Council for final approval.

The motion was seconded by Council Member Davis.

City Manager Collins requested a modification to recommendation #3 to include parties to be added to exhibit B of Attachment C. Mr. Collins also requested edits to Resolution No. 91-18 to allow for the Mayor or City Manager to sign the JPA agreement.

AMENDED MOTION: Mayor Irons amended his motion to include edits to recommendation #3: parties listed by City Manager to be added to Exhibit B and modifying the resolution to authorize the Mayor and/or City Manager to execute the JPA agreement. The amendment was seconded by Council Member Davis and carried 5-0.

The Council took a brief recess at 8:14 p.m.

The Council reconvened at 8:26 p.m., with all members present.

**B. PUBLIC HEARINGS**

<https://youtu.be/fSUohgqWRbA?t=8739>

B-1 CONTINUANCE OF APPEAL OF PLANNING COMMISSION APPROVAL ON AUGUST 7, 2018 OF THE CONDITIONAL USE PERMIT (UP0-470), TENTATIVE VESTING MAP #2859 (S00-127) AND MITIGATED NEGATIVE DECLARATION FOR THE SITE AT 2783 CORAL AVE TO ALLOW A 6-PARCEL SUBDIVISION ON A .99 ACRES SITE WITHIN THE CLOISTERS SUBDIVISION.

NOTE: THROUGH A RECENT ACTION BY THE CALIFORNIA COASTAL COMMISSION, THE APPLICANT IS NOW REQUIRED TO APPLY FOR AN IMMATERIAL AMENDMENT TO THE ORIGINAL CDP AND AS SUCH THE CITY OF MORRO BAY WILL VOID CDP-530.; (COMMUNITY DEVELOPMENT)

Planner Nancy Hubbard gave the report and, along with Community Development Director Graham, answered questions from the Council.

Mayor Irons invited the Appellant to speak.

Dawn Beattie expressed confusion on the recommendation to deny the appeal as the Applicant and Cloisters ARC agreed a new design be created. Steve Stevens, continued on behalf of the Appellant regarding the expectation of a revised submittal from the Applicant. Mr. Stevens also spoke regarding the new information received from the Coastal Commission. Mr. Stevens requested Council allow the discussions to be continued with the Applicant in good faith.

Mayor Irons invited the Applicant to speak.

Kevin Huber, Morro Bay Ventures, stated they have complied with every recommendation that has been requested. Relied upon representation of the named Attorney-in-Fact for the Cloisters and processed plans accordingly. As an accommodation to the Appellant, prepared a revised site plan. Mr. Huber stated the plan is consistent with City and Cloister requirements. Mr. Huber respectfully requested the Council deny the appeal and uphold the decision of the Planning Commission.

The Council made inquiries of staff.

Mayor Irons opened public comment.

Kerrigan Mahan stated he was not aware of a letter from the Coastal Commission. Mr. Mahan expressed concern that the plan is not compatible with the Cloisters.

Mayor Irons closed public comment.

MOTION: Council Member Heading moved adoption of Resolution No. 87-18, making the necessary findings to deny the appeal and uphold the Planning Commission (PC) approval of Conditional Use Permit (UP0-470), Tentative Vesting Map # 2859 (S00-127) and Mitigated Negative Declaration (MND) for the site at 2783 Coral Ave to allow a 6-parcel subdivision on a .99-acre site within the Cloisters Subdivision (Project). The motion was seconded by Council Member McPherson and carried 5-0.

## C. BUSINESS ITEMS

Item C-1 was heard prior to Item B-1

### C-2 ONEWATER PLAN APPROVAL; (PUBLIC WORKS) <https://youtu.be/fSUohgqWRbA?t=12166>

Public Works Director Livick introduced the item. Eric Casares, Carollo Engineers, gave a presentation and answered questions from the Council.

Mayor Irons opened Public Comment.

Bob Keller spoke in support of the recommendation.

There was Council discussion regarding bringing the resolution back with implementation guidelines.

MOTION: Council Member Heading moved 1) approval of the One Water Plan and 2) incorporate the OneWater Capital Improvement Program into the City's annual budget and 3) use the recommendations for water supply options section of the Plan as guidance in the consideration, development and implementation regarding the composition of the City's future water supply

5

portfolio and 4) staff bring back an appropriate resolution on consent as a guideline for implementation. The motion was seconded by Council Member McPherson and carried 5-0.

There was clarification the resolution would be brought back at the next meeting.

- C-3 CITY COUNCIL INPUT AND DIRECTION ON HARBOR DEPARTMENT LEASE MANAGEMENT POLICY DOCUMENT UPDATE PROPOSED TIMELINE AND USE OF A FACILITATOR FOR THE UPDATE PROCESS; (HARBOR)

<https://youtu.be/fSUohggWRbA?t=14735>

Harbor Director Endersby gave the report and answered questions from the Council.

Public Comment: None.

There was Council consensus for Marty Lomeli to be the facilitator.

There was also Council consensus that sub-committee involvement was not necessary.

- C-4 DIRECTION REGARDING POTENTIAL REUSE OF SOON TO BE DECOMMISSIONED TROLLEY AS A MOBILE VISITOR CENTER; (CITY MANAGER/PUBLIC WORKS)

<https://youtu.be/fSUohggWRbA?t=16211>

City Manager Collins gave the report and answered questions from the Council.

Mayor Irons opened Public Comment.

Erica Crawford, Morro Bay Chamber, spoke regarding the possibility of moving the Visitor's Center and looks forward to future discussion.

There was Council discussion regarding the trolley.

MOTION: Council Member McPherson moved to continue the meeting past 11:00 p.m. The motion was seconded by Mayor Irons and failed 2-3, with Council Members Heading, Davis and Makowetski voting no.

MOTION: Council Member McPherson moved to go past 11:00 p.m. to a time certain of 11:10 p.m. The motion was seconded by Council Member Heading and failed 2-3, with Mayor Irons and Council Members Davis and Makowetski voting no.

MOTION: Mayor Irons moved to go past 11:00 p.m. to 11:30 p.m. The motion was seconded by Council Member Heading and failed 2-3 with Council Members Davis, Makowetski and McPherson voting no.

Items C-4 and C-5 were not concluded and will be brought back to a future meeting. The meeting was adjourned at 11:02 p.m.

Recorded by:

Lori M. Kudzma  
Deputy City Clerk

MINUTES - MORRO BAY CITY COUNCIL  
SPECIAL MEETING & CLOSED SESSION  
NOVEMBER 29, 2018  
VETERAN'S MEMORIAL HALL – 4:30 P.M.

AGENDA NO: A-3  
MEETING DATE: January 8, 2019

PRESENT:	Jamie Irons	Mayor
	Robert Davis	Council Member
	John Heading	Council Member
	Matt Makowetski	Council Member
	Marlys McPherson	Council Member
STAFF:	Scott Collins	City Manager
	Joseph Pannone	City Attorney
	Jennifer Callaway	Finance Director
	Eric Endersby	Harbor Director
	Rob Livick	Public Works Director
	Lori Kudzma	Deputy City Clerk

ESTABLISH QUORUM AND CALL TO ORDER

<https://youtu.be/vbGqohM6cbA?t=15>

Mayor Irons called the meeting to order at 4:30 p.m. with all members present.

PUBLIC COMMENT FOR ITEMS ON THE AGENDA

<https://youtu.be/vbGqohM6cbA?t=47>

Mayor Irons opened public comment for items on the agenda.

John Weiss congratulated John Heading and applauded the item to count the 218 protest votes and is hopeful it will bring closure.

Aaron Ochs, Save Morro Bay, spoke regarding Item V on the agenda. Mr. Ochs believes the votes should all be validated.

Carole Truesdale invited all to join the Caroling Cops. Ms. Truesdale read a statement regarding transparency and concerns not being heard about the WRF project.

Barbara Doerr spoke regarding Item IV and urged the Council not to approve the Community Benefit Agreement, or to make edits to the agreement, including eliminating the exclusivity clause.

Mayor Irons closed public comment.

SPECIAL MEETING AGENDA ITEMS:

- I. ADOPTION OF RESOLUTION NO. 94-18 TERMINATING THE CENTRAL COAST COMMUNITY ENERGY JOINT POWERS AGREEMENT AND APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE RELATED TERMINATION AGREEMENT;  
(CITY MANAGER)  
<https://youtu.be/vbGqohM6cbA?t=726>

City Manager Collins gave the report and answered questions from the Council.

MOTION: Council Member McPherson moved to adopt Resolution No. 94-18 terminating the Central Coast Community Energy (CCCE) Joint Powers Agreement (JPA) and approving and authorizing the Mayor to execute related termination agreement. The motion was seconded by Council Member Makowetski and carried 5-0.

- II. FISCAL YEAR 2018/19 FIRST QUARTER BUDGET PERFORMANCE AND STATUS REPORT – THREE MONTHS ENDING SEPTEMBER 30, 2018 AND CONSIDERATION OF PROPOSED JOB RECLASSIFICATIONS AND UTILITY DIVISION REORGANIZATION; (FINANCE)  
<https://youtu.be/vbGqohM6cbA?t=1017>

City Manager Collins introduced the item. Finance Director Callaway gave the budget performance and status report and answered questions from the Council.

City Manager Collins went over the proposed reclassifications presented in the report and answered questions from the Council.

There was Council discussion regarding the Fire Admin Tech position and whether it needs to be a separate classification. City Manager Collins agreed to more analysis and to bring back during the budget process.

MOTION: Council Member Headding moved to authorize budget adjustments as recommended in the attached first quarter budget performance report of the staff report by adopting Resolution No. 95-18 authorizing staff to proceed with the first quarter budget adjustments and approve proposed job descriptions and adopt Resolution No. 96-18 amending the fiscal year 2018/19 salary schedule, excluding the fire position and for staff to re-look at that and bring that back at a later date. (Mayor Irons clarified that was the Fire Admin Tech position.) The motion was seconded by Council Member McPherson and carried 5-0.

- III. FIRST QUARTER INVESTMENT REPORT (PERIOD ENDING SEPTEMBER 30, 2018) FOR FISCAL YEAR 2018/19; (FINANCE)  
<https://youtu.be/vbGqohM6cbA?t=5040>

Finance Director Callaway gave the report and answered questions from the Council.

The report was received and filed.

- IV. APPROVAL OF COMMUNITY BENEFIT AGREEMENT BETWEEN CITY OF MORRO BAY AND CASTLE WIND, LLC AND AUTHORIZE RESCISSION OF THE MEMORANDUM OF COOPERATION WITH TRIDENT WINDS, LLC; (HARBOR)  
<https://youtu.be/vbGqohM6cbA?t=5216>

City Manager Collins introduced the item. Harbor Director Endersby gave the report and answered questions from the Council.

Alla Weinstein, CEO Castle Wind LLC, spoke regarding the project and the lengthy process. Ms. Weinstein encouraged City input during the process.

MOTION: Council Member Headding moved approval of the Community Benefit Agreement between the City of Morro Bay and Castle Wind, LLC, and authorize rescission of memorandum of cooperation with Trident Winds, LLC. The motion was seconded by Mayor Irons and carried 5-0.

Council Member Headding reminded all that the BOEM meeting would be held in the San Luis Obispo County Chambers December 13<sup>th</sup> from 5:00 - 8:00 p.m.

V. DISCUSSION AND DIRECTION REGARDING VERIFICATION AND TABULATION OF ALL PURPORTED PROPOSITION 218 WRITTEN PROTESTS RELATED TO 2018 WRF WATER AND SEWER SURCHARGE; (ADMINISTRATION)  
<https://youtu.be/vbGqohM6cbA?t=7692>

City Manager Collins gave the report and answered questions from the Council.

City Attorney Pannone was asked to clarify the difference between 'verify and tabulate' versus 'validate'.

City Attorney explained the process has been completed, this would not be a validation. We would only be checking the documents to see if they would have met requirements.

There was Council discussion regarding the need to go through the verification process to give the community closure and initiate the healing process.

MOTION: Council Member Headding moved approval of the staff report as presented. Council Member McPherson asked if the intent was to approve the recommendations in the staff report and Council Member Headding confirmed. The motion was seconded by Council Member McPherson and carried 5-0.

The Council made closing remarks.

Mayor Irons read the title of the closed session items and announced the Council would recess and then reconvene for Closed Session at 595 Harbor Street.

<https://youtu.be/vbGqohM6cbA?t=9356>

The Council recessed at 7:08 p.m.

The Council reconvened at 595 Harbor Street at 7:25 p.m., with all members present.

Mayor Irons read the closed session items.

Mayor Irons opened public comment for items on the agenda; seeing none, the public comment period was closed.

CS-1 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: One Matter

CS-2 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9.: One Matter

**RECONVENE IN OPEN SESSION**

The City Council reconvened in Open Session. The Council did not take any reportable action pursuant to the Brown Act.

**ADJOURN**

The meeting adjourned at 7:53 p.m.

Recorded by:

Lori M. Kudzma  
Deputy City Clerk

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AGENDA NO: A-4  
MEETING DATE: January 8, 2019

# Council Report

**TO: City Council** **DATE: January 2, 2019**  
**FROM: John Heading, Mayor**  
**SUBJECT: Appointment of Mayor Pro Tempore and Appointment of Representatives on Discretionary Boards, Council Liaison Assignments and Council Sub-Committees**

## RECOMMENDATION

Appoint Council Member Davis as Mayor Pro Tempore as well as appoint representatives to serve on the various County or Regional Discretionary Boards, Council Liaison Assignments and Sub-Committees for calendar year 2019 as shown on the attached appointment list.

## DISCUSSION

The City Council Policies and Procedures Section 6.1 states:

“Annually the Mayor shall make appointments to a variety of County and/or regional committees and boards. One member of the Council shall serve as a voting representative and one member shall serve as alternate. To the best of their ability, Voting Delegates shall reflect the majority view of the Council as a whole, rather than their own personal opinions.”

Consistent with Council Policies and Procedures Section 6.1, the Mayor may seek input from City Council regarding appointments to County and/or Regional Boards, but ultimately, the Mayor is responsible for the appointment of these positions. Attached for your review is a list of the proposed City Council Discretionary Appointments.

The City Council Policies and Procedures Section 6.2.1 states:

“The City Council shall assign a Council liaison to each of the following advisory bodies: Recreation & Parks Commission, Harbor Advisory Board, Public Works Advisory Board, the Citizens Finance Advisory Committee, the Planning Commission and Tourism Business Improvement District Advisory Board. Council liaisons will also be appointed to the special purpose advisory bodies.

The purpose of the liaison assignment is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the Council’s familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, members should either attend advisory body meetings or watch the meeting broadcasts and maintain communication

Prepared By: JHeading/DS Dept Review: \_\_\_\_\_  
City Manager Review: SC City Attorney Review: CFN

with the advisory body on a regular basis.

Council Members should be sensitive to the fact they are not participating members of the advisory body, but are there rather to create a linkage between the City Council and the advisory body. In interacting with advisory bodies, Council Members are to reflect the views of the Council as a body. Being an advisory body liaison bestows no special right with respect to advisory body business.”

Pursuant to City Council Policies and Procedures Section 6.2.1, the City Council shall assign Council Liaisons to the Advisory Bodies, including the General Plan Advisory Committee and Water Reclamation Facility Citizens Advisory Committee. Attached for your review is a list of the proposed City Council Liaisons.

The City Council Policies and Procedures Section 3.13 states:

“From time to time it may be desirable for the City Council may vote to appoint a sub-committee of the whole to address a particular issue. That is especially the case if the issue requires additional work or research. Per the Brown Act, sub-committees must consist of less than a quorum of the body and serve for a limited purpose and time. Therefore, the City Council sub-committees may consist of two members. Sub-committees shall report back to the full Council for discussion before any formal action can be taken on the pertinent issue. Establishing a subcommittee requires the body to define the purpose, parameters, and duration of the sub-committee. The City Clerk will keep the list of sub-committees and defined description as a record with Council liaison assignments for review annually.”

Attached for your review is the list of board appointments, liaison assignments and previously established Council sub-committees. Thank you for the cooperative work on these assignments.

#### **ATTACHMENT**

1. Proposed City Council Discretionary Appointments, Liaison Assignments and Council Sub-Committees for 2019.

## CITY COUNCIL DISCRETIONARY APPOINTMENTS (2019)

INTEGRATED WASTE MANAGEMENT AUTHORITY (meets the 2<sup>nd</sup> Wednesday of every other odd numbered month; 130pm; Board of Supervisors Chambers, SLO Government Center)

Jeff Heller	Designee
Dawn Addis	Alternate

COUNTY WATER RESOURCES ADVISORY COMMITTEE (meets the 1<sup>st</sup> Wednesday of the month; 1:30-3:30pm; City County Library Room, 995 Palm, SLO)

Marlys McPherson	Delegate
City Manager (or their designee)	Alternate

SAN LUIS OBISPO REGIONAL TRANSIT AUTHORITY (SLORTA) &

SAN LUIS OBISPO AREA COORDINATING COUNCIL (SLOCOG) (RTA meets the 1<sup>st</sup> Wednesday of every other odd numbered month; 8:30am; Board of Supervisors Chambers, SLO County Government Center) (COG meets the 1<sup>st</sup> Wednesday of every other odd numbered month; at conclusion of RTA meeting; Board of Supervisors Chambers, SLO County Government Center)

Red Davis	Delegate
John Headding	Alternate

CMC CITIZENS' ADVISORY COMMITTEE (1-year term) (meets the 3<sup>rd</sup> Friday of every other month; 1-2pm; at CMC)

Council to appoint Citizen	Member
----------------------------	--------

AIR POLLUTION CONTROL DISTRICT (meets the 4<sup>th</sup> Wednesday of every other odd numbered month; 9am; Board of Supervisors Chambers, SLO County Government Center)

John Headding	Member
Red Davis	Alternate

COMMUNITY ACTION PARTNERSHIP OF SAN LUIS OBISPO COUNTY, INC.

(formerly EOC) - (3-year term) (meets the 3<sup>rd</sup> Thursday of every month; 5pm; CAPSLO Board Room, 1030 Southwood, SLO). Morro Bay rotated off the Board in 2014. Los Osos CSD is the coastal city representative for 2017-19. The next opportunity to cycle back in, at CAPSLO's request, will be in 2020.

ECONOMIC VITALITY CORPORATION (meets the 3<sup>rd</sup> Wednesday of every month; 4-5:30pm; Cannon & Assoc, 1050 Southwood, SLO)

Dawn Addis	Liaison
John Headding	Alternate

NATIONAL ESTUARY PROGRAM (Executive Committee meets quarterly; 2<sup>nd</sup> Wednesday of the month in February, May, August and November; 4-6pm)

Jeff Heller	Member
Marlys McPherson	Alternate

CITY SELECTION COMMITTEE (as needed)

John Headding (Mayor)	Member
Mayor Pro Tem	Alternate

LEGISLATIVE DELEGATE (as needed)

John Headding (Mayor)	Member
Mayor Pro Tem	Alternate

SAN LUIS OBISPO COUNTY HOUSING TRUST FUND

City Manager or designee (Community Development) Member

HOMELESS SERVICES OVERSIGHT COMMITTEE (meets the 3<sup>rd</sup> Wednesday of odd numbered months; 1-3pm; SLO Vets Building Lounge Room, 801 Grand, SLO)

Red Davis Member  
Marlys McPherson Alternate

**CITY COUNCIL LIAISON ASSIGNMENTS (2019)**

PLANNING COMMISSION (meets 1<sup>st</sup> and 3<sup>rd</sup> Tuesday of every month; 6:00pm; Vets Hall)

John Headding Liaison

HARBOR ADVISORY BOARD (meets the 1<sup>st</sup> Thursday of every month; 6:00pm; Vets Hall)

Marlys McPherson Liaison

RECREATION AND PARKS COMMISSION (meets the 3<sup>rd</sup> Thursday of the month; 6:00pm; Vets Hall)

Dawn Addis Liaison

PUBLIC WORKS ADVISORY BOARD (meets the 3<sup>rd</sup> Wednesday of the month; 5:30pm; Vets Hall)

Dawn Addis Liaison

MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT BOARD (meets the 3<sup>rd</sup> Thursday of every month; 9:00am; Vets Hall) AND SAN LUIS OBISPO COUNTY TOURISM MARKETING DISTRICT ADVISORY COMMITTEE (meets semi-annually on the first Thursday of May and December at Embassy Suites, 333 Madonna Rd., SLO)

Red Davis Liaison

CITIZENS OVERSIGHT / FINANCE COMMITTEE (meets the 3<sup>rd</sup> Tuesday of every month; 3:30pm; Vets Hall)

Marlys McPherson Liaison

WATER RECLAMATION FACILITY CITIZEN ADVISORY COMMITTEE (meets the 1<sup>st</sup> Tuesday of every month, as needed, at 3pm; Vets Hall)

Jeff Heller Liaison

GENERAL PLAN ADVISORY BOARD COMMITTEE (meets the third Thursday of the month at 4pm; Vets Hall)

Red Davis Liaison

**CITY COUNCIL SUB-COMMITTEES (2019)**

COUNCIL SUBCOMMITTEE ON EMPLOYEE GRIEVANCES (meets as needed)

John Headding Member  
Dawn Addis Member

WATER RECLAMATION FACILITY / JPA SUB-COMMITTEE

John Headding Member  
Marlys McPherson Member

MORRO BAY POWER PLANT

Red Davis Member  
John Headding Member

AQUARIUM

Dawn Addis Member  
John Headding Member

CHEVRON PROPERTY

Red Davis Member  
John Headding Member

U.S. COAST GUARD

Marlys McPherson Member  
Dawn Addis Member

ESTERO BAY ALLIANCE OF CARE ("EBAC")

Marlys McPherson Member  
Red Davis Member

CANNABIS REGULATIONS

Red Davis Member  
Marlys McPherson Member

VACATION RENTAL POLICY COMMUNITY INPUT

John Headding Member  
Marlys McPherson Member

HARBOR LEASE POLICY REVIEW

Marlys McPherson Member  
Red Davis Member

BOEM INTERAGENCY TASK FORCE MEMBER ON WIND ENERGY

John Headding Member  
Red Davis Alternate

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AGENDA NO: A-5

MEETING DATE: January 8, 2019

## Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** December 26, 2018

**FROM:** Jennifer Callaway, Finance Director

**SUBJECT:** Receive the Citizen's Advisory Finance Committee (CFAC) Report on FY 2017/18 Measure Q transactions and other activities during the year.

### **RECOMMENDATION**

Receive the Citizen's Advisory Finance Committee (CFAC) Report on FY 2017/18 Measure Q transactions and other activities during the past year.

### **FISCAL IMPACT**

There is no fiscal impact associated with this recommendation.

### **BACKGROUND**

The Citizen's Finance Advisory Committee (CFAC) meets monthly to provide citizen input to the City Council and staff, regarding financial policy or process issues, including audits, financial budgets, contract expenditures and financial reports. In addition, the Committee's role is to help promote citizen participation with, and understanding of, governmental financial information and processes, such as the financial documents, audits, and budgets, as well as the financial condition of the City.

In accordance with these duties as outlined in the City of Morro Bay Advisory Boards Handbook and By-Laws, CFAC met in December to discuss the FY 2017/18 Measure Q transactions and activities for FY 2017/18. Committee Chair Barbara Spagnola has prepared an update for the City Council included as Attachment 1 and will be presenting this report to the City Council.

### **CONCLUSION**

The CFAC Committee has provided valuable input to staff and we look forward to continuing to partner with the committee to accomplish the committee's duties as outlined in the Advisory Board Bylaws.

### **ATTACHMENT**

1. CFAC Presentation

Prepared By:   JC  

Dept Review:           

City Manager Review:   SC  

City Attorney Review:   CN



# **Citizens Oversight Committee**

**(Acting as the Citizens Finance Advisory Committee)**

## **Agenda**

- Summarize Citizen Finance Advisory Committee's (CFAC) review of all Measure Q previous fiscal year transactions (July 2017-June 2018)
- Report other CFAC activities during past year and recommendations



# Citizens Oversight Committee

## Measure Q Overview

- Committee met Dec 2018 to review and discuss all Measure Q fiscal year unaudited transactions (2017-2018)
  - Chairperson: Barbara Spagnola
  - Members: Dawn Addis, Bart Beckman, David Betonte, John Erwin, Walter Heath and John Martin
- Measure Q Financial Summary
  - Tax revenue from Measure Q for the fiscal year was \$ 1,062,895
  - Total expenditures for the fiscal year were \$ 952,397
  - Carryover Measure Q fund balance is \$184,055 of June 30 2018
    - Debt service reserve is \$ 38,586
    - Unassigned amount is \$ 145,469



# Citizens Oversight Committee

## Measure Q Total Spending 2017-2018

- Fire Department: \$ 402,732
  - Vacation relief person and OT to maintain 4 personnel per shift - \$ 256,174
  - Fire Station debt service - \$ 83,194
  - Purchase of fire safety equipment - \$ 63,364
- Police Department: \$ 23,489
  - Standby pay - \$ 8,889
  - Payment to SLO Sheriff - \$ 14,600



# Citizens Oversight Committee

## Measure Q Total Spending 2017-2018

- Street Maintenance: \$ 526,176
  - Pavement Management Plan - \$ 487,352
  - Street maintenance equipment rental - \$24,159
  - ADA sidewalk repairs - \$14,665
    - NOTE: CFAC preference is Measure Q funds should not be used for ADA compliance. This expenditure was not included in Measure Q budget, was incurred due to a timing issue.
- Storm Drains: \$0



# Citizens Oversight Committee

## Measure Q Recommendations

- CFAC approved unaudited Measure Q transactions during the fiscal year 2017-2018
- Carryover and unallocated cash
  - CFAC defers recommendation for the unassigned fund balance of \$ 145,469 until midyear 2018-19 budget review
- Continue progress on the funding categories identified in the 2006 Measure Q ballot initiative



# Citizens Oversight Committee (Acting as CFAC)

- Summary of other CFAC accomplishments
  - Detailed review and recommendations of the City's 2017-2018 CAFR
  - Review and discussion of all quarterly budget reports with feedback provided to City Finance staff
  - Review of quarterly investment reports
  - Assistance with testing of OpenGov portal for citizen access to budget reporting
  - Subcommittee work on public friendly budget documents and budget calendar
  - Miscellaneous oversight and recommendations
    - Implementation of PO system
    - Purchase of fire engine
    - Fiscal emergency plan
    - Paydown of fire station loan
    - Shorten CFAC member term from 6 years to 4 to aid in recruitment



# Citizens Oversight Committee (Acting as CFAC)

- Upcoming activities
  - Welcome and transition new members to CFAC
  - Continue Measure Q oversight
  - Comprehensive Annual Financial Report (CAFR) review
  - Enhance public friendly budget reporting
  - Participation in midyear budget process
- Any questions for CFAC members ?
- Thank You



AGENDA NO: A-6

MEETING DATE: January 8, 2019

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** December 18, 2018

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** Adoption of Resolution No. 02-19 Approving a New Master Lease Agreement Between the City of Morro Bay and Flying Dutchman Enterprises, Inc. (Stan Van Beurden) for Lease Site 96/96W, Located at 945 Embarcadero, and Commonly Known as “House of JuJu”

## RECOMMENDATION

Staff recommend the City Council adopt Resolution No. 02-19, approving a new Master Lease Agreement for Lease Site 96/96W, as proposed.

## ALTERNATIVES

Council may elect not to approve Resolution No. 98-18 for the new Master Lease Agreement (MLA) as-proposed, and direct staff accordingly.

## FISCAL IMPACT

Under this proposal, revenues to the Harbor Fund should increase approximately 6% with the new rent structure and additional seating from the completion of the redevelopment project.

## BACKGROUND

The current short-term lease for this site expires in 2020, with an amendment that stipulated completion of a site redevelopment project. This is the City’s smallest lease site, and it is currently operating as the “House of JuJu” restaurant.

Following a Request for Proposals (RFP) process in 2009, Mr. Van Beurden was awarded a lease of the subject site after a review panel process evaluated several proposals. His winning proposal consisted of a moderate initial remodel of the existing building, followed by a complete demolition and remodel some time later, including addition of slips to the water lease. The initial lease granted to the tenant was 3 ½ years, and it was predicated on the tenant obtaining concept level approval of his project before a longer-term lease could be negotiated.

However, after starting construction of the initial, small remodel, it was discovered the entire building required a near complete remodel that, if completed, would not justify the complete tear-down later as planned. In 2010, the tenant was granted Amendment #1 to the lease which acknowledged a more thorough initial remodel and longer short-term lease was warranted. As a result, Amendment #1 added seven years to the lease term, which currently expires in July, 2020.

Given the initial investment of approximately \$250,000 for the original remodel, in addition to the difficulties the tenant experienced in coming up with a viable boat slip project on this small lease site, the tenant proposed a new project in the spring of 2013. The most significant component of

Prepared By: <u>EE</u>	Dept Review: <u>EE</u>
City Manager Review: <u>SC</u>	City Attorney Review: <u>CN</u>

that new proposal was the abandonment of a portion of Lease Site 96W so the adjoining tenant to the south on Lease Site 93-95/93W-95W (Harbor Center/Smith Held) could build out the slips in that area and adjoin them to the proposed slips in 93W-95W. At the March 12, 2013 City Council meeting, Council approved the new lease for Lease Site 93-95/93W-95W with Held that incorporated him taking over the water portion of 96W in question.

On March 27, 2018, the City Council granted approval of a Conditional Use Permit (CUP) for the completion of the final redevelopment elements of the project on 96/96W, consisting of conversion of the existing rear interior storage area to accommodate dining room and counter/employee expansion of approximately 435 square feet (which includes an outdoor public counter), addition of an enclosure area on the north side of the building to accommodate the site's trash dumpsters, which are currently on the Harborwalk decking, public access improvements along the northwest and west side of the building including better connectivity to the adjacent Anchor Memorial Park and lease site to the south, replacement of existing wood Harborwalk decking with fiberglass grating, and structural piling and revetment repairs deemed necessary in an engineer's analysis.

Over the past several months, staff and Mr. Van Beurden have negotiated a new MLA for the Lease Site to enable completion of the redevelopment, including taking negotiations to the Council in closed session for input and direction.

## **DISCUSSION**

The proposed new MLA with Flying Dutchman Enterprises (*not* the Dutchman's Seafood House restaurant, but also on the Embarcadero), included with this staff report as Attachment #1 and based on the City's standard lease template, contains the following significant highlights:

1. Section 1.01 Term: 35-year lease term commencing when the tenant is eligible to receive the Certificate of Occupancy after completion of the project, currently proposed for spring of 2020 with a March 31 deadline, with a total minimum investment of \$637,000.
2. Section 2.01 Annual Minimum Rent: annual minimum rent of \$13,500/year, and subject to standard annual CPI adjustments and five-year reappraisals. Minimum annual rent will be based on the higher of 8% of the appraised value of the property or 75% of the average last five years of total rent paid. No minimum rent concessions are proposed.
3. Section 2.04 Percentage Rent: standard 3% for all restaurant sales and 5% for all beer and wine sales. No percent rent concessions are proposed.
4. Section 3.01 Permitted Uses: permitted uses will be consistent with the property entitlements, namely, a restaurant.
5. Section 13.01 Tenant's Obligation to Redevelop Site: memorialization of the approved CUP for completion of the Lease Site redevelopment, including timeline performance parameters and minimum investment (expenditure) requirements for the project. The next step in the permitting process is issuance of building permits as all other permitting is completed.

Mr. Van Beurden is proposing to begin the final redevelopment next fall in October, as he will be unable to complete the construction drawings, engineering and get permits issued in time to complete the project this winter, the slow season and best time for such projects. In addition, with all the projects currently underway or shortly to begin on the waterfront, Mr. Van Beurden feels another construction site on the waterfront would be counterproductive to

the overall economic scene. Staff agree with that assessment.

**CONCLUSION**

Flying Dutchman Enterprises/Stam Van Beurden has operated the Lease Site as master leaseholder since 2010 and is proposing to complete the site redevelopment as-proposed and subsequently revised as originally envisioned in the RFP process, and is currently a lessee in good standing with regard to ownership and operation of the Lease Site.

The redevelopment will complete a significant upgrade to the Lease Site, bringing it up to more modern code standards and creating enhanced public benefits, while increasing revenues for the City. As such, staff recommend the City Council approve Resolution No. 02-19, included with this staff report as Attachment #2, approving a new MLA for the Lease Site, as-proposed.

**ATTACHMENTS**

1. New Master Lease Agreement for Lease Site 96/96W.
2. Resolution No. 02-19.

**LEASE**

by and between

the CITY OF MORRO BAY

("CITY")

and

FLYING DUTCHMAN ENTERPRISES

("TENANT")

TABLE OF CONTENTS

Article 1	FIXED TERM.....	2
	Section 1.01    Term.....	2
	Section 1.02    No Extensions.....	2
	Section 1.03    Hold Over.....	2
	Section 1.04    Replacement.....	3
Article 2	RENT.....	3
	Section 2.01    Annual Minimum Rent.....	3
	Section 2.02    CPI Adjustment to Annual Minimum Rent.....	3
	Section 2.03    Calculation of New Minimum Rent.....	4
	Section 2.04    Percentage Rent.....	5
	Section 2.05    Reimbursements.....	8
	Section 2.06    Penalty and Interest.....	8
Article 3	USE OF PREMISES.....	8
	Section 3.01    Permitted Uses.....	8
	Section 3.02    Unauthorized Use.....	8
	Section 3.03    Operation of Business - Hours of Operation.....	9
	Section 3.04    Competition.....	9
	Section 3.05    Hazardous Materials.....	10
	Section 3.06    Tidelands Trust.....	11
	Section 3.07    Compliance with Law.....	11
	Section 3.08    Waste or Nuisance.....	11
	Section 3.09    Use by CITY.....	12
Article 4	CONSTRUCTION, ALTERATION AND REPAIRS.....	12
	Section 4.01    Construction Approval.....	12
	Section 4.02    Construction Bond.....	12

	Section 4.03	Mechanics' Liens.....	13
	Section 4.04	Ownership of Improvements.....	14
Article 5	LEASEHOLD MORTGAGES .....		14
Article 6	REPAIRS, MAINTENANCE AND RESTORATION .....		14
	Section 6.01	Maintenance by TENANT.....	14
	Section 6.02	Seawalls and Revetment. ....	15
	Section 6.03	Legal Requirements. ....	15
	Section 6.04	Failure to Repair. ....	15
	Section 6.05	Inspection by CITY.....	15
	Section 6.06	TENANT'S Duty to Restore Premises.....	16
	Section 6.07	Termination of Lease for Destruction.....	16
	Section 6.08	Destruction Due to Risk Not Covered by Insurance.....	17
Article 7	INDEMNITY AND INSURANCE .....		18
	Section 7.01	Indemnity Agreement. ....	18
	Section 7.02	Liability Insurance. ....	19
	Section 7.03	Worker's Compensation.....	19
	Section 7.04	Property Insurance. ....	19
	Section 7.05	Additional Coverage.....	20
	Section 7.06	General Requirements.....	20
	Section 7.07	No Subrogation.....	21
	Section 7.08	TENANT'S Waiver.....	21
	Section 7.09	Insurance Not a Limit. ....	22
Article 8	TAXES AND FEES.....		22
	Section 8.01	TENANT to Pay Taxes.....	22
	Section 8.02	TENANT to Pay License and Permit Fees. ....	22
	Section 8.03	Utilities.....	22

Article 9	CONDEMNATION.....	22
	Section 9.01 Total Condemnation.....	22
	Section 9.02 Condemnation Award.....	23
	Section 9.03 Termination for Partial Taking.....	24
	Section 9.04 Rent Abatement for Partial Taking.....	24
	Section 9.05 Conveyance in Lieu of Eminent Domain.....	25
	Section 9.06 Temporary Taking.....	25
Article 10	ASSIGNMENT AND SUBLEASING .....	25
	Section 10.01 No Assignment Without CITY'S Consent.....	25
	Section 10.02 Change of Ownership as Assignment.....	26
	Section 10.03 Application for Assignment.....	26
	Section 10.04 Probate Transfer of Assignment.....	27
	Section 10.05 No Sublease Without CITY'S Consent.....	27
	Section 10.06 Subtenant Subject to Lease Terms.....	27
	Section 10.07 Consent Form Agreement.....	28
	Section 10.08 TENANT and Guarantor Remain Liable.....	28
	Section 10.09 Nondisturbance.....	28
Article 11	DEFAULT AND TERMINATION.....	28
	Section 11.01 Abandonment by TENANT.....	28
	Section 11.02 Termination for Breach by TENANT.....	29
	Section 11.03 Termination for Failure to Pay Rent.....	29
	Section 11.04 Lender May Cure Default.....	29
	Section 11.05 Attorneys' Fees.....	29
	Section 11.06 Damages for Breach.....	30
	Section 11.07 Cumulative Remedies.....	30
	Section 11.08 Waiver of Breach.....	30
	Section 11.09 Surrender of Premises.....	31

Article 12	MISCELLANEOUS .....	31
	Section 12.01 Notices .....	31
	Section 12.02 Governing Law and Jurisdiction.....	31
	Section 12.03 Binding on Successors.....	32
	Section 12.04 Partial Invalidity.....	32
	Section 12.05 Sole and Only Agreement.....	32
	Section 12.06 Modification.....	32
	Section 12.07 Time of Essence.....	33
	Section 12.08 Memorandum of Lease for Recording .....	33
Article 13	SPECIAL PROVISIONS PECULIAR TO THIS LEASE SITE .....	33
	Section 13.01 TENANT’S Obligation to Redevelop Site .....	33

## **L E A S E**

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 The Flying Dutchman Enterprises, a California corporation, herein called TENANT (CITY and TENANT are sometimes collectively referred to as the Parties and individually as the Party).

### **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 on July 17, 1964, CITY, 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, 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 CITY 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 96/96W

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 35 years, commencing on the first day of the complete calendar month following TENANT'S ability to obtain a Certificate of Occupancy for the Project, as defined in Section 13.01 (the "Commencement Date"). The term of this Lease shall terminate without notice on the thirty-fifth (35<sup>th</sup>) annual anniversary after the Commencement Date, unless sooner terminated as herein provided. Within five days after the Commencement Date, the Parties agree to sign a Commencement/Termination Date Memo, substantially similar to Exhibit C, attached hereto.

### **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 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.**

If TENANT holds the demised Premises after the expiration of the term of this Lease with the consent of the CITY, express or implied, then 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 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, 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 \$13,500 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, then 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, 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 of the Commencement Date year (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 – Long Beach – Anaheim, 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 the 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 after 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, then 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 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, or paid monthly at the option of TENANT. 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 the following for all TENANT'S Gross Sales as hereinafter defined: (i) three percent (3%) for all restaurant sales and (ii) five percent (5%) for all beer and wine sales, 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, then 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 the audit, if the audit discloses 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 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, then 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, then 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, then 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 No. UPO-448, as it may be amended from time to time, and for no other purpose. At the Commencement Date, such uses include restaurant and beer/wine sales.

**Section 3.02 Unauthorized Use.**

TENANT agrees to allow only those uses authorized in Section 3.01, hereinabove and 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, then 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, then 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, then 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 be in force (collectively, "Legal Requirements") 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, then it is understood 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 CITY'S 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 CITY'S City Engineer for approval. TENANT shall file with the 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. If TENANT fails 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, then 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 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, then 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 CITY.

**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 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 after 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 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 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, then 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 this 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 not caused by the fault of TENANT or CITY and 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 harmless 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 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.**

Except as specifically provided to the contrary, all the insurance required pursuant to this Article 7 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.**

If, during the term of this Lease, title and possession of only a portion of the Premises is taken for any public or quasi-public use under any statute, or by right of eminent domain, then 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.**

If, during the term of this Lease, title and possession of only a portion of the Premises is 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 is 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 corporation 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 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 of 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, then 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, then 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 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; provided, 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.**

If TENANT breaches this Lease and abandons all or any part of the Premises prior to the scheduled expiration of the term of this Lease, then 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. If TENANT fails 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, then 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 reasonable 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, then CITY shall also be entitled to reasonable attorney's fees and costs for the collection action.

**Section 11.06 Damages for Breach.**

If TENANT defaults 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 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  
City of Morro Bay  
1275 Embarcadero  
Morro Bay, California 93442

with a copy to:

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

Any notice or demand to TENANT may be given at:

The Flying Dutchman Enterprises  
Attn: Stan Van Beurden  
PO Box 1027  
Morro Bay, CA 93443

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

**Section 12.02 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 12.03 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 12.04 Partial Invalidity.**

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

**Section 12.05 Sole and Only Agreement.**

Subject to the provisions of the second paragraph of Section 1.04, (i) 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 and (ii) 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 terms and conditions 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 12.06 Modification.**

This Lease 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 this Lease 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 CITY shall have the authority to act for CITY under this Lease.

**Section 12.07 Time of Essence.**

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

**Section 12.08 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 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 TENANT'S Obligation to Redevelop Site**

CITY and TENANT agree TENANT will construct improvements to the Premises as outlined in Conditional Use Permit No. UP0-448 (CUP) consisting of conversion of the existing rear interior storage area to accommodate dining room and counter/employee expansion, addition of an enclosure area on the north side of the building to accommodate the trash dumpsters needed for the Premises, public access improvements along the northwest and west side of the building, including better connectivity to the adjacent Anchor Memorial Park and Premises to the south, replacement of the existing wood Harborwalk decking with fiberglass grating and necessary structural piling and revetment repairs (Project) and coupled with TENANT'S initial site redevelopment completed since 2009, collectively valued at a minimum of \$637,000 of hard construction costs. Failure to complete the Project and to comply with all conditions of the CUP, as evidenced by a final building permit inspection as required by CITY in its governmental capacity, in addition to providing proof of expenses as evidenced by copies of invoices by the proscribed timeline shall be a material default of this Lease and subject to any remedies outlined in Article 11 herein, including termination of the Lease.

TENANT acknowledges construction of the Project on the Premises as outlined in the 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 TENANT'S obligation to

fully investigate the issues and costs in obtaining those approvals. Failure to obtain any and all required permits and approvals for the Project shall not be a reason for failure to comply with this section. TENANT further acknowledges the CUP and construction of the Project 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 those 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. In addition to complying with the bonding requirements set forth in Section 4.02, provide evidence of conditional or other financing necessary for completion of the Project, as-approved by the Harbor Director, Finance Director and City Attorney, no later than June 1, 2019.
- B. File a complete application for construction drawings and plans to obtain a Building Permit for the Project no later than June 1, 2019.
- C. Obtain Building Permits for the Project no later than August 31, 2019.
- D. Commence construction of the Project no later than October 1, 2019. Commencement shall mean when the TENANT has incurred at least \$50,000 of hard construction costs for actual work satisfactorily completed for the Project on the site pursuant to the approved Building Permit.
- E. Completion construction of all components of the Project no later than March 31, 2020. Completion shall mean when the Project is entitled to be issued a final Certificate of Occupancy.

During construction of the Project, 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

THE FLYING DUTCHMAN ENTERPRISES,  
a California Corporation

\_\_\_\_\_  
John Heading, MAYOR

By: \_\_\_\_\_  
Stan Van Beurden, President and Sole  
Shareholder

ATTEST:

\_\_\_\_\_  
Dana Swanson, CITY CLERK

APPROVED AS TO FORM:  
Aleshire & Wynder, LLP

\_\_\_\_\_  
Joseph W. Pannone, Partner

EXHIBIT A  
COPY OF PARCEL MAP

(immediately behind this page)

DRAFT

# EXHIBIT "A"

## EMBARCADERO ROAD



N28°29'02"W 93.15'

PARCEL 25  
3 PM 10

PREVIOUSLY ADJUSTED PER  
MORRO BAY CITY COUNCIL  
RESOLUTION #42-13

### LEGEND

- 1" IRON PIPE "RCE 11727"  
SHOWN ON 3 PM 10
- SHORE CONTROL LINE  
PER 3 PM 10

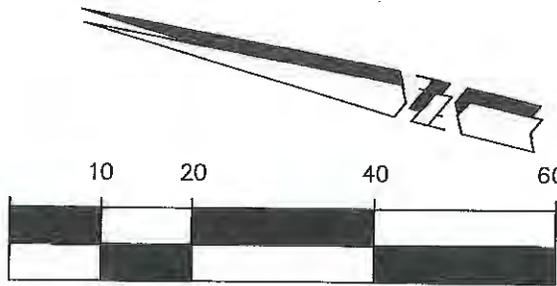
**LAND LEASE  
SITE 96**

PARCEL 26  
3 PM 10

**LAND LEASE  
SITES 93, 94 & 95**

**WATER  
LEASE  
SITE 96W**

SHORE CONTROL LINE



FORMER LEASE LINE

GRAPHIC SCALE IN FEET

FORMERLY  
PTN. 06W

FORMER WATER LEASE LINE

N13°30'46"W 93.79'M

FORMER LEASE LINE

PREVIOUSLY ADJUSTED PER  
MORRO BAY CITY COUNCIL  
RESOLUTION #42-13

**WATER LEASE  
SITES  
93W, 94W & 95W**

N13°30'46"W 135.07'

81.09'

**HARBOR ST**

N74°47'53"E 175.13'

50.02'

44.02'

N:\2011\11-097-901-915-Embarcadero-Morro\_Box\dwg\1-lease\_Sites\_93-95-93W-95W\_REVISED.dwg 8.5X11 portrait Nov 07 2013 10:23am richardson



MICHAEL B. STANTON, PLS 5702  
3563 SUELDO ST. UNIT Q  
SAN LUIS OBISPO, CA 93401  
805-594-1960

**EXHIBIT "A"**  
**REVISION TO LEASE SITE MAP**  
**LEASE SITES 93W-95W AND**  
**96W**

JOB NO. 11-097



# 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.

City of Morro Bay  
Insurance Requirements for Lessees

***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 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.

City of Morro Bay  
Insurance Requirements for Lessees

***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

01181.0024/526018.1

Spec C

EXHIBIT C

COMMENCEMENT/TERMINATION DATE MEMO

[CITY LETTERHEAD]

The Parties have signed that certain Lease Agreement, dated \_\_\_\_\_, 20\_\_, (the “Lease”). Pursuant to Section 1.01 of the Lease the Parties agreed to sign a memo, substantially similar to this memo, within 5 days after the Commencement Date as defined in the Lease. The Commencement Date of the Lease is \_\_\_\_\_, 201\_\_. The Lease terminates as of \_\_\_\_\_, 20\_\_, unless terminated earlier as provided in the Lease.

CITY OF MORRO BAY

FLYING DUTCHMAN ENTERPRISES, INC.

\_\_\_\_\_  
Mayor

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Stan Van Beurden, President

Dated: \_\_\_\_\_

**RESOLUTION NO. 02-19**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
APPROVING A 35-YEAR MASTER LEASE AGREEMENT FOR  
LEASE SITE 96/96W BETWEEN THE CITY OF MORRO BAY AND  
FLYING DUTCHMAN ENTERPRISES, LOCATED AT 945 EMBARCADERO**

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

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

**WHEREAS**, Flying Dutchman Enterprises, Inc. (Stan Van Beurden) has been the lessee of Lease Site 96/96WW since February 2010 following a Request for Proposals process to redevelop the site, and is a tenant in good standing; and

**WHEREAS**, Flying Dutchman Enterprises was granted Consent of Landowner approval for the proposed lease site redevelopment project consisting of a significant building renovation and expansion, public access improvements including the Harborwalk, structural improvements and better enclosure of the site's trash dumpsters; and

**WHEREAS**, Flying Dutchman Enterprises has obtained all necessary approvals from the Planning Commission and City Council for their proposed redevelopment project; and

**WHEREAS**, in accordance with the City's Master Lease Policy, the City and lessee have agreed to a new 35-year lease agreement for Lease Site 96/96W located at 945 Embarcadero.

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

1. The attached new Master Lease Agreement for Lease Site 96/96W is hereby approved.
2. The Mayor is hereby authorized to execute said Master Lease Agreement.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8<sup>th</sup> day of January, 2019 on the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
John Headding, Mayor

ATTEST:

\_\_\_\_\_  
Dana Swanson, City Clerk



AGENDA NO: A-7

MEETING DATE: January 8, 2019

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** December 18, 2018

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** Adoption of Resolution No. 03-19 Authorizing the Mayor to Execute Documents Necessary for a New Loan for the Lease Agreement at Lease Site 122-123/122W-123W and Extension of 122W-123W and Accepting a Deed of Trust Related Thereto for Improvements to the Leased Property (THMT, Inc, Harbor Hut at 1205 Embarcadero)

## RECOMMENDATION

Staff recommend the City Council adopt Resolution No. 03-19 authorizing the Mayor to execute documents necessary: for a new loan regarding the leasehold interest at Lease Site 122-123/122W-123W, for an extension of the lease for 122W-123W for improvements to the leased property subject to approval of the City Attorney and Harbor Director, and to accept a deed of trust related thereto.

## ALTERNATIVES

Council may elect not to approve Resolution No. 03-19 for the proposed new loan, and direct staff accordingly.

## FISCAL IMPACT

There is no direct fiscal impact to this action. If the loan is secured and the improvements contemplated are completed (new dock and slip space), a modest undetermined positive fiscal impact will occur to the Harbor Fund due to slightly increased percentage in rental income from the dock/slip rents.

## BACKGROUND

At the June 26, 2018 City Council meeting, THMT, Inc (Troy and Heather Leage) and Council approved a new 32-year lease agreement for Lease Site 122-123/122W-123W, and extension of the lease for 122W-123W located at 1205 Embarcadero, which includes the requirement for the development of the water lease site. The project includes new commercial docks, slips and associated structures. Public benefit improvements of the project, when combined with the improvements already completed on the Great American Fish Company and Morro Bay Landing lease sites, include public access to the combined eight-foot wide "headfloat" dock to span the distance from the North T-Pier through Morro Bay Landing, gangways, ADA compatible access, and THMT's fair share contribution requirement of \$45,543 towards the HarborWalk improvements fronting the lease site that were constructed by the City approximately five years ago.

Prepared By: EE

Dept Review: EE

City Manager Review: SC

City Attorney Review: \_\_\_\_\_

**DISCUSSION**

THMT, Inc is requesting City Council approval of a Deed of Trust with Pacific Premier Bank against the leasehold interest in the amount of \$450,000, which will generate capital for the required leasehold development and public benefits. The Harbor Department Lease Management Policy stipulates the City will not approve financing related to the lease site, unless such financing is for sole investment upon the lease site or for City requested public improvements. Resolution No. 03-19 will authorize the Mayor to allow THMT, Inc. to encumber the leasehold with a deed of trust.

**CONCLUSION**

Staff recommends the City Council adopt Resolution No. 03-19 authorizing the Mayor to execute all necessary documents, as approved by the City Attorney and Harbor Director, for the loan to THMT, Inc. from Pacific Premier Bank to enable completion of the dock/slip project as-required in the THMT lease.

**ATTACHMENTS**

1. Resolution No. 03-19

**RESOLUTION NO. 03-19**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
CONDITIONALLY AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS  
NECESSARY FOR A NEW LOAN FOR THE LEASE AGREEMENT AT LEASE SITE  
122-123/122W-123W AND EXTENSION OF 122W-123W WITH THMT, INC LOCATED  
AT 1205 EMBARCADERO ROAD, MORRO BAY AND ACCEPTING A DEED OF  
TRUST RELATED THERETO**

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

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

**WHEREAS**, THMT, Inc (Troy and Heather Leage) since 2009 has been the lessee of Lease Site 122-123/122W-123W, and Extension of 122W-123W, located at 1205 Embarcadero Road, Morro Bay ("Lease Agreement") and is a tenant in good standing; and

**WHEREAS**, THMT, Inc is preparing to complete improvements to the site as-required in the Lease Agreement consisting of new docks/slips, significant structural repairs and improvements ("improvements"), and has contributed its fair share costs of the HarborWalk; and

**WHEREAS**, THMT, Inc's lender, Pacific Premier Bank, is requesting approval of a deed of trust to secure the Financing in the amount of \$450,000 using the lease as security in order to complete the required improvements.

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

1. The Mayor is hereby authorized to execute, as necessary, any and all documents, as approved by the City Attorney and Harbor Director, necessary to consummate the loan and deed of trust desired by THMT, Inc., for completion of the improvements.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of January 2019 on the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
John Heading, Mayor

ATTEST:

\_\_\_\_\_  
Dana Swanson, City Clerk

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AGENDA NO: A-8

MEETING DATE: January 8, 2019

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** January 5, 2018

**FROM:** Scott Collins, City Manager

**SUBJECT:** Adoption of Resolution No. 04-19 Establishing the 2019 City Council Meeting Calendar as well as the Goals, Work Plan and Budget Development Schedules

## **RECOMMENDATION**

Staff recommends the City Council review the proposed Council meeting calendar and schedules and adopt Resolution No. 04-19 approving the 2019 City Council Meeting Calendar and Goals, Work Plan and Budget Development Schedules.

## **ALTERNATIVES**

The Council may alter the proposed meeting calendar and schedules.

## **FISCAL IMPACT**

None

## **BACKGROUND**

### ***Strategic Planning Framework and Budget Process***

In order to provide an orderly process for strategic planning that includes budget forecasting, conduct broad public engagement to establish City goals and annual objectives, and to tie the objectives to the annual budget process, on October 9, 2018, the City Council adopted Resolution No. 83-18 updating the City's Strategic Planning and Budgeting Framework ("SPF").

The City's SPF states the City:

- Will annually produce a 10-year budget forecast
- In years following a presidential election, the Council will review and update the City's 4-year Goals.
- Every other Jan/Feb following an election, the new Council will approve 2-year fiscal year objectives forming a fiscal year work plan for the City.
- Each year the City Council approves a 1-year budget that is tied to the fiscal year work plan.

This approach allows City Council to make considerable efforts to not only link strategic objectives with the budget, but also establish a long-term fiscal sustainability plan with the 10-year budget forecast. As a result, the budget process is informed by community and Council goals and consideration of the City's long-term financial position. This is critical, particularly as the City addresses the impending CalPERS increases and looks at economic development opportunities and revenue sources.

Prepared By: <u>SC</u>	Dept Review: _____
City Manager Review: <u>SC</u>	City Attorney Review: <u>CN</u>

### ***Strategic Planning and Budget Calendar***

Over the past several years, City Council has adopted an annual calendar that incorporates the strategic planning and budget discussions in a methodical way to link those efforts. Adoption of a calendar by resolution informed the community of the planned dates for important work on the City's goals and objectives, adoption of the budget, and more.

With regard to the budget process, the calendar provides several budget study sessions to provide City Council with an overall financial picture for the City and allow for review of each department's proposed budgets and consideration of adjustments, as necessary, to balance the budget. Council then has two regular meetings in June to formally consider and adopt the annual budget prior to year-end.

### ***2019 Meeting Calendar***

A Council meeting schedule which includes proposed regular meetings, as well as proposed special meetings and study sessions (known as of the date of this report) is provided for in Exhibit A to Resolution No. 04-19.

## **DISCUSSION**

### ***Strategic Goals/Objectives***

Staff recommends that City Council, along with City executive staff and the community, convene a community forum to take place in late February (date to be determined) with the stated purpose of reviewing the existing objectives to determine their feasibility and applicability for 2019. The forum will be an opportunity for the Morro Bay community, City Council, and staff to review the existing goals and objectives and consider new ones within the context of expectations and constraints, ensure work plans align with existing resources, and prioritize City efforts in 2019 accordingly. City staff further recommends the forum be facilitated by a third-party professional. Facilitated discussions, when executed well, allow for robust conversation, and full participation of City Council and staff. Staff is in the process of identifying interested potential facilitators in the region. It is anticipated, though not guaranteed, the facilitator would review all recent work on City goals and objectives and meet individually with City Council Members in advance of the retreat to understand their perspectives on the objectives.

Community input is critical to the process of establishing objectives that meet the needs of Morro Bay. Thus, the community is encouraged to review the existing goals and objectives, submit new ones they see fit for Morro Bay moving forward, attend the community forum, and provide input to help shape the goals and objectives for 2019. Staff is developing a simple survey that community members can use to provide their input on the goals and objectives, in lieu of, or in addition to attending the forum. Once the survey is ready to launch (sometime in mid-January), staff will encourage input in a variety of methods (website, social media, press release, etc.). Staff will also request input from the various City advisory boards. Following the forum, the Council, would formally consider adoption of 2019 goals and objectives at a subsequent regular Council meeting(s), allowing for more community engagement in the process.

Exhibit B of Resolution No. 04-19 includes the proposed goal setting schedule for calendar year 2019. This schedule identifies the study sessions and Council meetings at which the City's goals and annual objectives will be developed, discussed and adopted.

### ***Budget Calendar***

Exhibit B also includes the FY19/20 Budget calendar. That calendar lays out the projected schedule for the staff development, public briefing, Citizens Finance Advisory Committee consideration, Council modification, and eventual Council approval of the FY19/20 City Budget. Staff is recommending that Council hold their study session meetings on back-to-back days in May, leaving an optional meeting date open for two weeks later in case there are unanswered questions and the Council requires further deliberation. Council would reserve the two regularly scheduled Council meeting dates in June to formally adopt the FY19/20 Budget.

### **CONCLUSION**

The City's Strategic Planning Framework, along the with schedules for Council meetings, goal setting and budget development lay out the process for thoughtful, disciplined, open, transparent and responsive conduct of the people's business.

Staff recommends Council adopt Resolution No. 04-19 that includes the City Council's Meeting Calendar, as well as Goals, Work Plan and Budget Development Schedules for calendar year 2019.

### **ATTACHMENTS**

1. Resolution No. 04-19 with Exhibits A, B
2. Strategic Planning Policy Resolution No. 83-18

**RESOLUTION NO. 04-19**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
ADOPTING THE 2019 CITY COUNCIL MEETING CALENDAR  
AND GOALS, WORK PLAN AND BUDGET DEVELOPMENT SCHEDULES**

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

**WHEREAS**, the City Council adopts an annual calendar providing for the orderly course of business and to provide transparency and accountability to the public; and

**WHEREAS**, the City Council adopts a schedule for the development of goals and annual objectives, advisory board work plans, and the annual budget; and

**WHEREAS**, the City Council adopts annual objectives that aim to meet the adopted four-year goals; and

**WHEREAS**, annual objectives inform the work conducted by the City staff; and

**WHEREAS**, in order to provide for a more orderly and functional system for addressing annual objectives, it is appropriate for staff to prepare annual work plans to meet said objectives; and

**WHEREAS**, it is appropriate for the City Council to provide a structure for the adoption of annual work plans.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, California, the 2019 City Council Meeting Calendar is adopted, as set forth in to Exhibit A, and the Goals, Work Plan and Budget Development schedules is adopted, as set forth in Exhibit B.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on this 8<sup>th</sup> day of January 2019 on the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
JOHN HEADDING, Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON, City Clerk

## 2019 Meeting Calendar

**January 7**

Closed Session @ 4:00pm

**January 8**

Regular Meeting

**January 22**

Regular Meeting

**January 24**

Special Meeting @ 4:00pm  
(Advisory Board Interviews)

**February 13 (Wednesday)**

Regular Meeting

**February 21**

Special Meeting – TBD  
(Harassment Prevention Training)

**February 25**

Special Meeting – TBD  
(AB 1234 Ethics Training)

**February 26**

Budget Forecast Study Session  
Regular Meeting

**March 12**

Regular Meeting

**March 26**

Regular Meeting

**April 9**

Regular Meeting

**April 23**

Regular Meeting

**May 14**

Budget Study Session #1  
Regular Meeting

**May 15**

Budget Study Session #2

**May 28**

Budget Study Session #3 (if needed)  
Regular Meeting

**June 11**

Regular Meeting

**June 25**

Regular Meeting

**July 9**

Regular Meeting

**July 23**

BREAK

**August 13**

Regular Meeting

**August 27**

Regular Meeting

**September 10**

Regular Meeting

**September 24**

Regular Meeting

**October 8**

Regular Meeting

**October 22**

Regular Meeting

**November 12**

Regular Meeting

**November 26**

BREAK

**December 10**

Regular Meeting

**December 24**

BREAK

## Goals, Work Plan and Budget Development Schedules

### Goals and Objectives Calendar

- Jan 14 – Feb 22      Community Outreach
- Feb 28 or Mar 1      Community Goals Forum
- Mar 12      Goals Discussion and Approval at Council Meeting
- Mar 26      Goals Discussion and Approval at Council Meeting (if necessary)

### Budget Calendar

- Feb 19      Mid-Year Budget Presentation to CFAC
- Feb 26      10-Year Forecast Study Session to Council
- Feb 26      Mid-year Budget Presentation to Council
- Feb 28      Finance provides labor numbers / outline to Departments
- Mar 1-22      Departments develop internal budgets
- Mar 19      CFAC Budget Update
- Mar 26      Department budgets due to Finance
- April 1-5      Budget Team Meetings
- Apr 8-12      City Manager / Executive Team Budget Meetings
- Apr 15-19      City Manager / Finance finalize draft budget letter
- Apr 16      Draft Proposed Budget Presentation to CFAC
- Apr 23      City Manager delivers draft proposed budget to Council
- May 14      FY 2017-18 3<sup>rd</sup> Quarter Report (if needed)
- May 14      Budget Study Session #1
- May 15      Budget Study Session #2
- May 28      Budget Study Session #3 (if required)
- Jun 11      Budget Approved at Council Meeting
- Jun 25      Backup date for Budget Approval

### Legend

- Council Meetings
- Council Study Sessions
- Joint or Advisory Board Meetings
- Internal Staff Actions

**RESOLUTION NO. 83-18**

**RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF MORRO BAY, CALIFORNIA,  
RESCINDING RESOLUTION NO. 72-15 AND  
ESTABLISHING THE STRATEGIC PLANNING FRAMEWORK POLICY**

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

**WHEREAS**, at the August 11, 2015, City of Morro Bay regular City Council meeting, the Council unanimously approved the Strategic Planning and Budgeting Framework concept presented and directed staff to develop a Strategic Planning Framework policy to be adopted at a future meeting; and

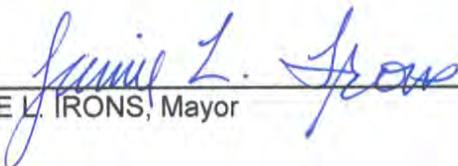
**WHEREAS**, in accordance with City Council direction, staff prepared a Strategic Planning Framework procedure, which was adopted by City Council via Resolution No. 72-15; and

**WHEREAS**, it is recommended that City Council revise the Strategic Planning Framework, to include a component for community outreach, to ensure broad public engagement in the development of the City's goals and objectives.

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Morro Bay, hereby rescinds Resolution No. 72-15 and establishes the Strategic Planning Framework Policy as defined in the attached Exhibit A.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 9<sup>th</sup> day of October 2018, by the following vote:

AYES: Irons, Davis, Headding, Makowetski, McPherson  
NOES: None  
ABSENT: None

  
\_\_\_\_\_  
JAMIE L. IRONS, Mayor

ATTEST:

  
\_\_\_\_\_  
DANA SWANSON, City Clerk



## WHITE PAPER

### Strategic Planning Framework

Revised October 9, 2018

#### I. PURPOSE

The purpose of this paper is to describe the City of Morro Bay Strategic Planning framework. This framework, to be adopted by the City Council, provides direction on annual, biennial and quadrennial planning and budgeting tasks and processes the City will follow.

#### II. OVERVIEW

The City has many plans, including a General Plan (GP), Local Coastal Plan (LCP), Economic Development Strategic Plan (EDSP - under development in 2015/16), Parking Management Plan and other particular plans. Those plans are essential to provide long-term guidance for the City. And, in particular, the GP/LCP provides strategic direction not only in land-use but in many other areas.

However, the City also needs a regular process to set more general goals, and to identify specific, measurable objectives to reach those goals. This process must also ensure those objectives are considered in the annual budgeting process.

This Strategic Planning Framework does that. In general, the City Council will set / refine broad goals every four years. Every two years the Council will identify specific objectives associated with each goal for staff to complete. Every year during the budget process, those objectives will be budgeted against.

In addition to this Strategic Planning Framework, the City is developing fresh Vision, Values and Mission statements that should inform all of our planning efforts, and goal / objective setting in particular.

#### III. DEFINITIONS

The following definitions are important to understand the City's Strategic Planning Process:

- **City Mission Statement** – The Mission Statement is a Council-approved statement that describes the basic / essential tasks the City must provide, and a statement toward the purpose of executing these tasks. The mission statement is focused on the purpose of the City Government, not the broader community. The City mission statement might begin something like: "The City of Morro Bay provides Public Safety, Recreation, and other key municipal services in order to . . . ."
- **Community Vision and Values Statements.** Community vision and values are also Council-approved, semi-permanent statements, developed with significant community

input, that describe what we want our community to be (Vision) and what ideals our community considers of essential importance (values).

- **City Core Tasks.** Core tasks are functions that we should always be doing well and they should be addressed in our City mission statement. A core task might be: “Maintain City Infrastructure”, or “Provide Public Safety”.
- **City Goals.** Goals are broad projects we want to accomplish over a long-term (4-6 year) period, usually because they are big enough and broad enough they can’t be accomplished in a year or two. An example of a goal is: “Improve Streets”.
- **City Objectives.** Biennial objectives are specific, discreet, medium-term (1-2 year) projects that support a more general goal, are feasible and achievable if appropriately resourced, and can be directly budgeted against. An example of an Objective related to the Goal “Improve Streets” could be: “Repave 10% of streets in FY16/17 and FY 17/18”.

#### IV. PROCESS

Following is a written description of the City’s Strategic Planning Framework depicted below in figure 1.

- The process begins in December of each election year with the seating of a new Council.
- The new Council begins a planning process to set biennial budget objectives for the upcoming two budget years.
- Following elections, the City will advertise in December upcoming community outreach and engagement opportunities.
- This objective-setting planning process normally occurs in January and February with two-year objectives set by the last Council meeting in February.
- In years following an election, in January through mid-February, staff will provide numerous opportunities for the community to engage in the process and to provide input in a number of ways, including community forum(s).
- In years following an election, City Council will host a public retreat in late-February/early March to review community input gathered through the outreach opportunities and develop goals (following Presidential elections as described below) and objectives (following a non-Presidential election). Council will formally adopt the goals/objectives typically by late March/early April.
- Council-approved objectives are then used by staff and Council to develop the annual budget in March – May of each year.
- Every four years (Presidential election years) the new Council also reviews and updates the City’s Goals. The City should work to ensure goals are items in which real improvement is needed and achievable. Generally, goals should not be “maintain,” but should be “improve.” Any new Council could, of course, resolve to deviate from this Strategic Planning Framework and modify City goals outside of the specified four-year window. However, for organizational efficiency and community stability, the City should strive to keep goals for at least four years, using biennial objective setting and annual budgeting to affect change and adjust priorities.



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- On a semi-annual basis, normally in the fall of each year, staff updates the Council on the status of the two-year budget objectives in an Annual Goals Update report and special Council Meeting.
- In March – May each year, the staff and Council develop a 1-year budget for the upcoming fiscal year: July 1 to June 30 of the following year. The two 1-year budgets every 2-year goal/objective period provide the Council ample opportunity to reallocate resources to achieve, or “weight” specific City Goals and Objectives.
- This entire process is underpinned and informed by a continuing 10-year budget forecast process that is updated annually in Jan – Feb. Every other year the 10-year forecast is updated by an external professional consultant. In the off years it is updated internally by staff.

**Transition Plan for the Morro Bay  
Strategic Planning and Budgeting Framework**



Elections – Nov of even years, new Council seated in early January



Biennial Planning – Every other year in Jan and Feb Council updates 2-year objectives. every 4<sup>th</sup> year Council also updates 4-year goals.



Annual Budgeting – Every year in May and Jun Council updates approves a 1-year budget.

**Overview.** Beginning in December 2016 the City of Morro Bay executes a 4-2-1 Strategic Planning and Budgeting process.

- Following each election, the new council meets in Jan / Feb to establish 2-year objectives supporting each existing City Goal.
- Every four years this process begins in December and includes renewal of the City’s goals.
- The staff then uses the new objectives to inform creation of the City’s annual budget.
- The entire process is underpinned by a 10-year budget forecast that is professionally (externally) updated every other year and internally updated every year.

Figure 1 – Strategic Planning and Budgeting Framework

**V. SUMMARY**

This Strategic Planning and Budgeting Framework is intended to complement the City’s broader and more specific plans, including the General Plan, Local Coastal Plan, Economic Development Strategic Plan and other land-use and issue-specific plans.

The above mentioned plans coupled with this Goals and Objectives process should serve, taken as a whole, as the City's strategic plan. Following full implementation of the ongoing GP/LCP rewrites in 2017, and 10-year Economic Development Strategic Plan in 2016, the City could consider if an additional, formal, 10-year strategic plan is required.

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AGENDA NO: B-1

MEETING DATE: January 8, 2019

## Staff Report

**TO:** Honorable Mayor and City Council **DATE:** December 13, 2018

**FROM:** Scot Graham, Community Development Director

**SUBJECT:** Adoption of Resolution No. 01-19 regarding the appeal of the Planning Commission's denial of the appeal of the Administrative Coastal Development Permit No. CP0-575 for the construction of an attached Accessory Dwelling Unit within the existing garage and the removal of a nonconforming shed at 2575 Greenwood Avenue. The parcel is located within the R-1/S.2 Single-Family Residential Zoning District and outside of the Coastal Commission Appeal Jurisdiction.

### **RECOMMENDATION**

Staff recommends the City Council deny the appeal and uphold the Planning Commission's denial of the appeal of the Director's approval of Administrative Coastal Development Permit No. CP0-575 for the Accessory Dwelling Unit at 2575 Greenwood by adopting City Council Resolution No. 01-19 (Exhibit A) with the associated Findings and Conditions of approval.

### **ALTERNATIVES**

1. The City Council could move to uphold the appeal and remand the project back to the PC with direction on desired changes.
2. The City Council could uphold the appeal and approve the project based on a revision to the plans previously approved by Planning Commission.

**APPELLANTS:** Kay Milligan and Judy Johnston

**APPLICANTS:** Dan and Dina Krull

**APN:** 068-249-038

**FISCAL IMPACT:** The Appellant's have paid the \$250 appeal fee. The appeal fee does not cover staff time necessary to process the appeal application. Overall cost to the City is based on the time necessary to evaluate the appeal, prepare the staff report, prepare notification materials for the hearing and attend the Council meeting.

### **SUMMARY:**

#### **Planning Commission Action:**

An Administrative Coastal Development Permit (part of Exhibit C) was issued on August 6, 2018, for the construction/conversion of the existing garage to a new 386-sq. ft. attached

Prepared By:     JG    

Dept Review:     SG    

City Manager Review:     SC    

City Attorney Review:     CN

Accessory Dwelling Unit and the removal of a nonconforming shed on a 4,595-sq. ft. parcel at 2575 Greenwood Avenue. An appeal of that action was denied by the Planning Commission at the October 16, 2018 Planning Commission hearing, upholding the Director's approval of CP0-575. An appeal of the Planning Commission's decision was received by the City on October 25, 2018 (Exhibit B). Appeals of Planning Commission actions are conducted as public hearings before the City Council.

**PROJECT SETTING:**

The project is located in the North Morro Bay neighborhood, designated as Planning Area 1 in the Local Coastal Plan. The parcel at 2575 Greenwood Avenue is located to the east of Highway 1 and North Main Street, south of San Joaquin Street, and north of Avalon Street. The parcel is the only through lot located with frontage on Greenwood Avenue, as well as on the stub end of Pico Street.





Adjacent Zoning/Land Use			
<b>North:</b>	R-1/S.2 Single-Family Residential	<b>South:</b>	R-1/S.2 Single-Family Residential
<b>East:</b>	R-1/S.2 Single-Family Residential	<b>West:</b>	R-1 Single-Family Residential

Site Characteristics	
<b>Site Area</b>	4,595 sq. ft.
<b>Existing Use</b>	Single-Family Residential
<b>Terrain</b>	Virtually Level and Developed
<b>Vegetation/Wildlife</b>	Ornamental Landscaping
<b>Archaeological Resources</b>	N/A
<b>Access</b>	Greenwood Avenue and Pico Street

General Plan, Zoning Ordinance, & Local Coastal Plan Designations	
<b>General Plan/Coastal Plan Land Use Designation</b>	Medium Density Residential
<b>Base Zone District</b>	R-1
<b>Zoning Overlay District</b>	n/a
<b>Special Treatment Area</b>	S.2

<b>Combining District</b>	n/a
<b>Specific Plan Area</b>	n/a
<b>Coastal Zone</b>	Located Outside of the Coastal Appeal Jurisdiction

**DISCUSSION:**

Staff considered the proposed project in light of the City’s Zoning Ordinance, General Plan, and Local Coastal Plan as well as State Law (SB 1069 and AB 2299), as it relates to Accessory Dwelling Units and found the requested development consistent with the applicable City documents and State law listed above and issued a Coastal Development Permit on August 6, 2018.

On August 15, 2018, that approval was appealed to the Planning Commission to “*deny all approvals of this action*” and require “*a fence all the way across [the rear property line] and use access to [two] parking [spaces] in the front of the house.....*” At the October 16, 2018, Planning Commission meeting, the Commissioners voted 3-2 to deny the appeal and uphold the Director’s approval of the Coastal Development Permit for the creation of the Accessory Dwelling Unit. The Planning Commission’s decision included revision of Public Works condition 3 to include language that reads “***The “No Parking Sign” shall include added verbiage that references applicable vehicle code sections to the satisfaction of the Community Development Director and the Police Chief.***” The staff report associated with the appeal to the Planning Commission is attached below as part of Exhibit C.

On December 18, 2018 the Community Development Department received a response to this appeal which includes a write-up from the Applicants and owners of 2575 Greenwood as well as a letter from a neighbor. That response has been included as Exhibit D.

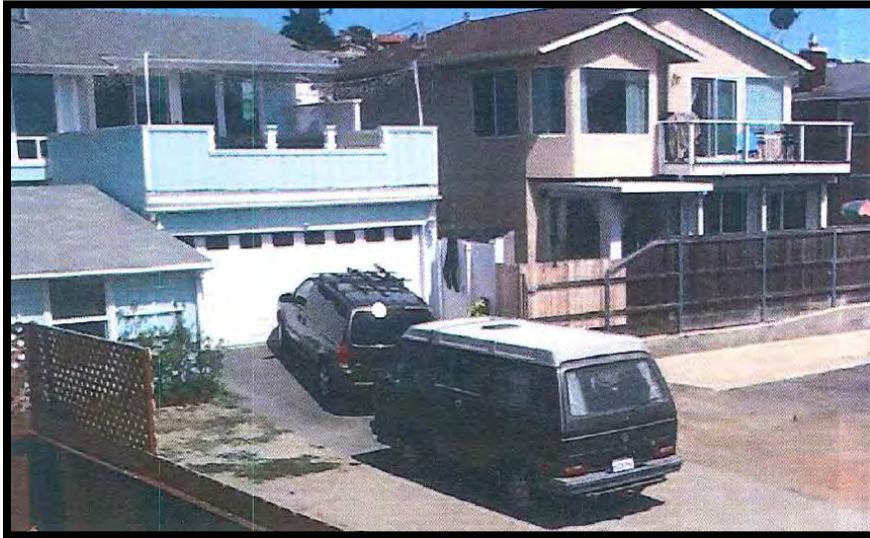
**THE APPEAL ISSUES:**

The Appellants’ grounds for appeal of the Planning Commission’s decision are presented below in italics, followed by staff’s response to each appeal item.

Appellants Kay Mulligan and Judy Johnston base their appeal of the project on the following grounds (see Exhibit B for all appeal documents received):

**Access, Safety, and Parking:**

*“Parking continues to be a problem, blocking neighbor’s garage/driveway.” The Appellants’ requested relief and/or action: “a fence (be) installed all the way across (the rear property line that) will discourage illegal parking in the back.”*



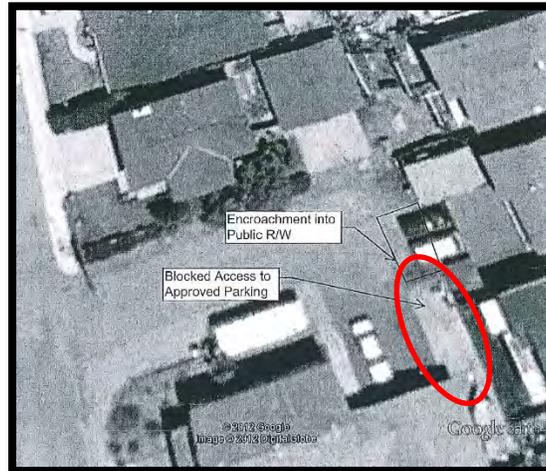
**Staff Response:**

The Appellants assert, as evidenced via photos as seen below and included in Exhibit B, the approval will exacerbate an already unsafe parking situation on Pico Street. Photos provided show parked vehicles associated with the subject parcel regularly impeding ingress and egress to the Appellants' driveways, both of which are accessed via the stub end of Pico Street.

Staff has observed the parking situation noted in the appeal. The project has, therefore, been specifically conditioned to mitigate for that problem. The Conditions of Approval associated with Coastal Development Permit No. CP0-575 (part of Exhibit C) require the existing driveway approach on Pico Street be removed and a traffic barrier with a no parking sign be erected at the edge of the rear property line in the public right-of-way (see, Public Works Condition No. 3, below, with Planning Commission added language shown in bold and italics). The project has also been conditioned to require all parking shall occur only in a manner that is consistent with all applicable Sections of the Morro Bay Municipal Code and the California Motor Vehicles Code (see, Planning Condition No. 8, below).

Public Works Condition No. 3: Barricade: Due to Pico Street ending, a metal beam barricade (with no parking sign) is required in front of the proposed fence. ***The "No Parking Sign" shall include added verbiage that references applicable vehicle code sections to the satisfaction of the Community Development Director and the Police Chief.***

Planning Condition No. 8: Parking: Parking shall occur only within designated onsite parking spaces or within the Public Right-Of-Way in a manner that is consistent with all applicable Sections of the Morro Bay Municipal Code and the California Motor Vehicles Code and shall not block or impede ingress or egress to any other parcel or otherwise create an unsafe situation.



### **CONCLUSION**

The Appellants are requesting the City Council overturn the Planning Commission's denial of the appeal of the Director's approval of Coastal Development Permit No. UP0-575 and ultimately deny the approval of an Accessory Dwelling Unit at 2575 Greenwood Avenue. Staff recommendation based on review and analysis of the appeal and policies set forth in the City's General Plan, Local Coastal Plan, and Zoning Ordinance and State Law is to deny the appeal and uphold the Planning Commission's denial of the Director's approval of Coastal Development Permit No. CP0-575 by approving City Council Resolution No. 01-19.

### **ATTACHMENTS**

- A: City Council Resolution No. 01-19
- B: Appeal Received from Appellants Dated 10/25/2018
- C: Planning Commission Packet from the 10/16/2018 Hearing
- D: Response to the Appeal Submitted by the Applicants

**RESOLUTION NO. 01-19**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
DENYING THE APPEAL OF THE PLANNING COMMISSION ACTION,  
WHICH DENIED THE APPEAL OF THE DIRECTOR'S APPROVAL OF  
COASTAL DEVELOPMENT PERMIT (CP0-575) TO ALLOW FOR THE  
CREATION OF AN ACCESSORY DWELLING UNIT AT 2575  
GREENWOOD AVENUE**

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

**WHEREAS**, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on October 16, 2018, for the purpose of considering a timely filed appeal of the Director's decision to issue a Coastal Development Permit (CP0-575) ("the Project"); and

**WHEREAS**, on October 16, 2018, the Planning Commission of the City of Morro Bay adopted Resolution 31-18 denying the appeal and upholding Director's approval of Coastal Development Permit (CP0-575); and

**WHEREAS**, on October 25, 2018, an appeal of the Planning Commission denial was timely filed with the City of Morro Bay by Judy Johnston and Kay Milligan, specifically requesting the City Council overturn the Planning Commission's denial and deny the project; and

**WHEREAS**, the City Council conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on January 8, 2018, to consider that appeal of the Planning Commission's decision, located in an area outside of the appeals jurisdiction of the California Coastal Commission; and

**WHEREAS**, notices of the public hearings were made at the time and in the manner required by law; and

**WHEREAS**, the City Council has duly considered all evidence, including the decision made by the Planning Commission, the testimony of the Appellants, the testimony of the property owners, and the evaluation, staff report and attachments and recommendations by staff, presented at said hearing.

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

**Section 1: Findings upholding the Planning Commission Denial of the Appeal**

- A. The Coastal Development Permit for Project CP0-575 was approved in a manner consistent with the City's General Plan, Local Coastal Program and Zoning Ordinance as well as relevant State laws.
- B. The revision to Public Works Condition 3, added by the Planning Commission at the October 16, 2018, meeting, which includes a requirement for signage that prohibits parking at the dead end of Pico, was thoroughly discussed.
- C. As conditioned, the project will not create a hazardous parking situation.
- D. There are sufficient legal remedies if applicable parking requirements are not followed.

**Section 2: Findings.** Based upon all the written and oral testimony and evidence presented to the Council at and for the above public hearing, the City Council makes the following findings:

California Environmental Quality Act (CEQA) Finding

- 1. Pursuant to the California Environmental Quality Act, the project is categorically exempt under Section 15303, Class 3 for a new Accessory Dwelling Unit in an urbanized residential area. Additionally, none of the exceptions found in CEQA Section 15300.2 apply to this project.

Coastal Development Permit Finding

- 2. The project is the construction of a second dwelling unit in a residential zone, which is consistent with the City's General Plan, Local Coastal Plan, and Zoning Ordinance. Specifically, the permit is an Administrative Coastal Development Permit for the construction of a new attached 386-sq. ft. Accessory Dwelling Unit within the existing garage. The project is located within the R-1/S.2 Residential Zoning District and outside of the Coastal Commission Appeal Jurisdiction.

**Section 3. Action.** The City Council does hereby deny the appeal filed by Kay Mulligan and Judy Johnson on October 25, 2018, and approve Coastal Development Permit No. CP0-575 for property located at 2575 Greenwood Avenue subject to the following conditions:

**STANDARD CONDITIONS**

- 1. 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 (MBMC), General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.

2. Changes: Any minor change may be approved by the Community Development Director. Any substantial change will require the filing of an application for an amendment to this permit.
3. 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, including, but not limited to, applicable vehicle parking requirements.
4. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicant's failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
5. 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.
6. 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.
7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code and shall be consistent with all programs and policies contained in the certified Coastal Land Use plan and General Plan for the City of Morro Bay.

#### **PLANNING CONDITIONS:**

1. CEQA Exemption: If the applicant elects to post the Categorical Exemption with the County Clerk's Office, then a required fee of \$50 fee shall be made payable to "County of San Luis Obispo" and delivered to the County Clerk along with the Categorical Exemption form attached to the coastal development permit. That filing has the effect of starting a 35-day statute of limitations period for challenges to the decision in place of the 180-day period otherwise in effect.
2. Construction Hours: Construction Hours: Pursuant to section MBMC 9.28.030.I, Construction or Repairing of Buildings. The erection (including excavating), demolition, alteration or repair of any building or general land grading and contour activity using

equipment in such a manner as to be plainly audible at a distance of fifty feet from the building other than between the hours of seven a.m. and seven p.m. on weekdays and eight a.m. and seven p.m. on weekends except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the community development department, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues.

3. Parking During Construction: Parking shall occur in a manner consistent with the MBMC and the California Motor Vehicle Code and shall not, at any time, block any portion of any driveway on any other parcel in the vicinity.
4. Dust Control: That prior to issuance of any grading permit, a method of control to prevent dust and windblown earth problems shall be submitted for review and approval by the Building Official.
5. Boundaries and Setbacks: The property owner is responsible for verification of lot boundaries. Storage containers or other equipment shall not encroach into the required setback areas consistent with the zoning district.
6. 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.
7. Driveway Removal: The existing driveway located at the western edge of the parcel shall be removed up to the property line; to be shown on submitted building plans.
8. Parking: Parking shall occur only within designated onsite parking spaces or within the Public Right-Of-Way in a manner that is consistent with all applicable Sections of the MBMC and the California Motor Vehicles Code and shall not block or impede ingress or egress to any other parcel or otherwise create an unsafe situation.
9. Driveway Gate: The gate across the driveway shown on approved plans, dated July 19,2018, shall be removed and shall not be included on plans submitted upon building permit application.

### **BUILDING CONDITIONS:**

#### **PRIOR TO ISSUANCE OF A BUILDING PERMIT:**

1. Building permit plans shall be submitted by a California licensed architect or engineer when required by the Business & Professions Code, except when otherwise approved by the Chief Building Official.
2. The owner shall designate on the building permit application a registered design professional who shall act as the Registered Design Professional in Responsible Charge. The Registered Design Professional in Responsible Charge shall be

responsible for reviewing and coordinating submittal documents prepared by others including phased and staggered submittal items, for compatibility with design of the building.

3. The owner shall comply with the City's Structural Observation Program. The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer of record or architect responsible for the structural design, to perform structural observation. Observed deficiencies shall be reported in writing to the owner's representative, special inspector, contractor and the building official. The structural observer shall submit to the building official a written statement that the site visits have been made and identify any reported deficiencies that, to the best of the structural observer's knowledge, have not been resolved.
4. The owner shall comply with the City's Special Inspection Program. Special inspections will be required by Section 1704 of the California Building Code. All Special Inspectors shall first be approved by the Building Official to work in the jurisdiction. All field reports shall be provided to the City Building Inspector when requested at specified increments in order for the construction to proceed. All final reports from Special Inspectors shall be provided to the Building Official when they are complete and prior to final inspection.
5. Mitigation measures for natural occurring asbestos require approval from San Luis Obispo County Air Pollution Control District.
6. A soils investigation performed by a qualified professional shall be required for this project. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability; details shall be provided. Alternatively, submit a completed City of Morro Bay soils report waiver request.
9. BUILDING PERMIT APPLICATION. To apply for building permits submit three (3) sets of construction plans to the Building Division.
10. The Title sheet of the plans shall include:
  - a. Street address, lot, block, track and Assessor Parcel Number.
  - b. Description of use.
  - c. Type of construction.
  - d. Height of the building.
  - e. Floor area of the building(s).
  - f. Vicinity map.

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

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

**B. CONDITIONS TO BE MET DURING CONSTRUCTION:**

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

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

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

**FIRE DEPARTMENT CONDITIONS:**

1. Fire Safety during Construction and Demolition shall be in accordance with 2016 California Fire Code (CFC), Chapter 33. That chapter prescribes minimum safeguards for construction, alteration and demolition operations to provide reasonable safety to life and property from fire during such operations.

2. Carbon monoxide alarms in new dwellings and sleeping units. An approved carbon monoxide alarm shall be installed in dwellings having a fossil fuel-burning heater or appliance, fireplace or an attached garage. Carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions. (CFC R315.2)
3. Address identification. All new and existing single family residence and ADU's shall have their own approved address numbers or building numbers placed in a position to be plainly legible from the street or road fronting the property (CFC 505). Provide approved address numbers 4 inches high with ½ inch stroke in contrasting numbers.

### **PUBLIC WORKS CONDITIONS:**

1. Stormwater Management: The City has adopted Low Impact Development (LID) and Post Construction requirements to protect water quality and control runoff flow from new and redevelopment projects. The requirements can be found in the Stormwater management guidance manual on the City's website [www.morro-bay.ca.us/EZmanual](http://www.morro-bay.ca.us/EZmanual) Projects with more than 2,500sf of new or redeveloped impervious area are subject to these requirements. All proposed projects must complete the "SFR Performance Requirement Determination Form" to prove compliance.
2. Driveway Approach: A driveway approach is required for all proposed driveways off both Pico and Greenwood. Proposed uncovered cobble 1-car parking spaces off Greenwood Avenue (Major Collector street) requires installation of B-6 driveway approach with sidewalk. Proposed uncovered parking space off Pico Street requires driveway. If permeable pavers are to be used, then a modified driveway approach with a 12" wide PCC grade beam should be constructed to stabilize the front edge of the pavers. An encroachment permit is required for any work within the Right of Way.
3. Barricade: Due to Pico Street ending, a metal beam barricade (with no parking sign) is required in front of the proposed fence. ***The "No Parking Sign" shall include added verbiage that references applicable California Vehicle Code sections to the satisfaction of the Community Development Director and the Police Chief.***
4. Mailbox: Existing mailbox located within proposed uncovered cobble 1-car parking space, will need to be relocated. Install per US Postal requirements.
5. Utilities: Show all existing and proposed locations of the sewer lateral and sewer main. Include sizes where appropriate. Note the location of all overhead utilities and construction underground service entrances per the CBC.
6. Sewer Lateral: Perform a video inspection of the lateral and submit to Public Works via flash drive or DVD, prior to building plan approval. Lateral shall be repaired as necessary and all repairs shall be noted on approved set of plans. Our records indicate two possible sewer lateral connections to the sewer mainline.

7. Sewer Backwater Valve: Indicate and label sewer backwater valve on plan. 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).
8. Erosion and Sediment Control Plan: For small projects less than one acre and less than 15% slope, provide a standard erosion and sediment control plan. The Plan shall show control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or ecologically sensitive area.
9. Grading and Drainage: Indicate on plans the existing and updated contours, drainage patterns, spot elevations, finish floor elevation and all existing and proposed drainage pipes and structures.
10. Encroachment Permits: A standard encroachment permit shall be required for the proposed driveway and barricade; the driveway shall comply with B-9 (Driveway Ramps: Size & Location). A sewer encroachment permit shall be required for any repairs or installation of a sewer lateral within the City right-of-way or within a utility easement. If a construction dumpster is used, the dumpster location shall be on private property, unless allowed by an encroachment permit within the City right-of-way.

Add the following Notes to the Plans:

1. 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.
2. No work shall occur within (or use of) the City's Right-of-Way without an encroachment permit. Encroachment permits are available at the City of Morro Bay Public Works Office located at 955 Shasta Ave. The Encroachment permit shall be issued concurrently with the building permit.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on this 8<sup>th</sup> day of January, 2019 on the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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John Heading, Mayor

ATTEST

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DANA SWANSON, City Clerk



# CITY OF MORRO BAY

## APPEAL FORM

Public Services Department  
Planning Division

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

RECEIVED

OCT 25 2018

City of Morro Bay  
Community Development Dept.

### In CCC Appeals Jurisdiction?

YES - No Fee  
 NO - Fee Paid:  Yes  No

Project Address being appealed:

2575 Greenwood Ave 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:

Parking spaces

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

CPD-575

Date decision or action rendered:

October 16<sup>th</sup>, 2018

Grounds for the appeal (attach additional sheets as necessary):

Parking continues to be a problem, blocking neighbors garage/driveway.  
\*Photos attached

Requested relief or action:

A fence installed all the way across will discourage illegal parking in the back

Appellant (please print):

Judy Johnston  
Kay Milligan

Phone:

Address:

Morro Bay, Ca 93442  
Morro Bay, Ca 93442

Appellant Signature:

Date: 10-25-2018

### FOR OFFICE USE ONLY

Accepted by:

Date appeal filed:

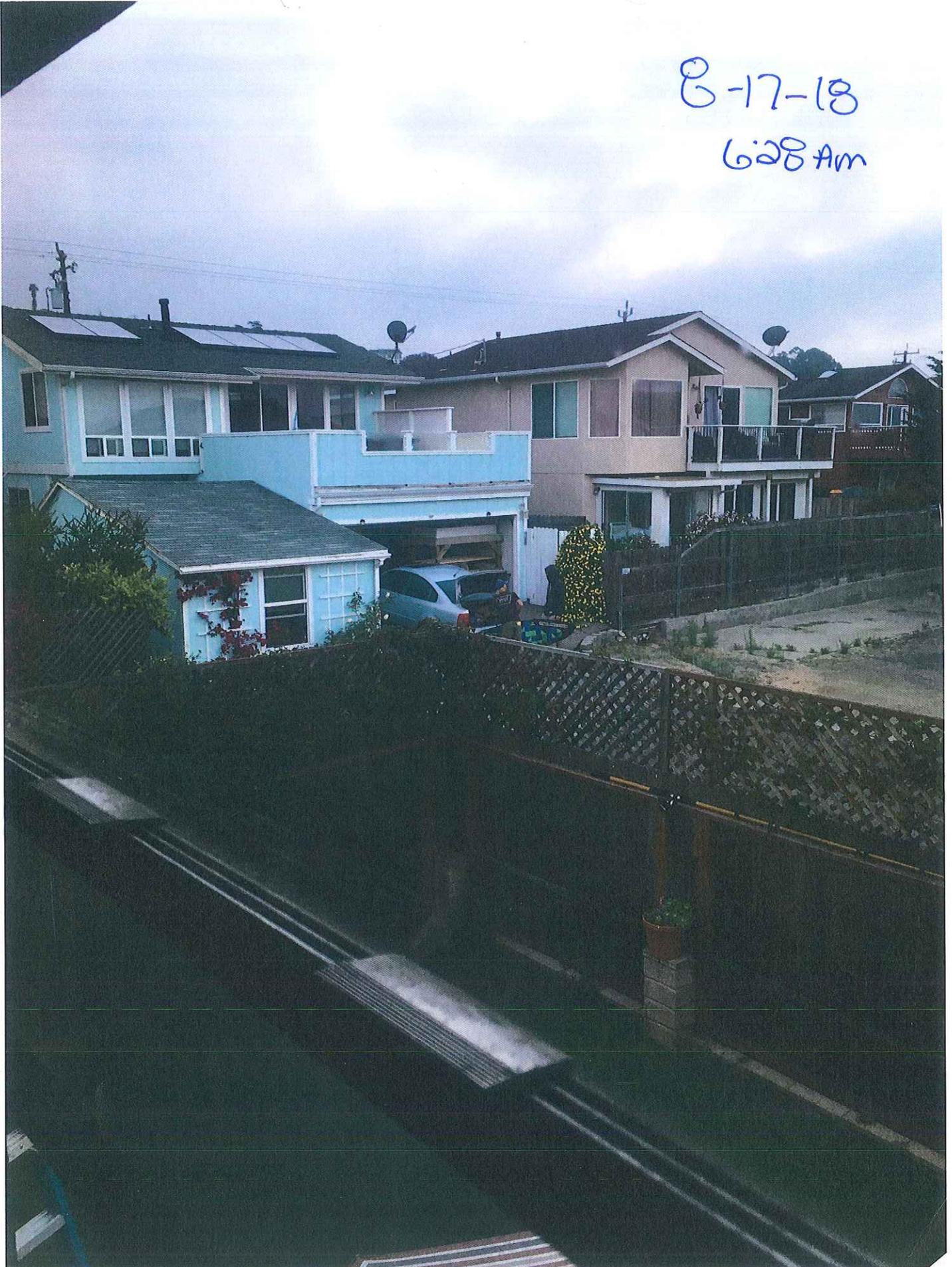
Appeal body:

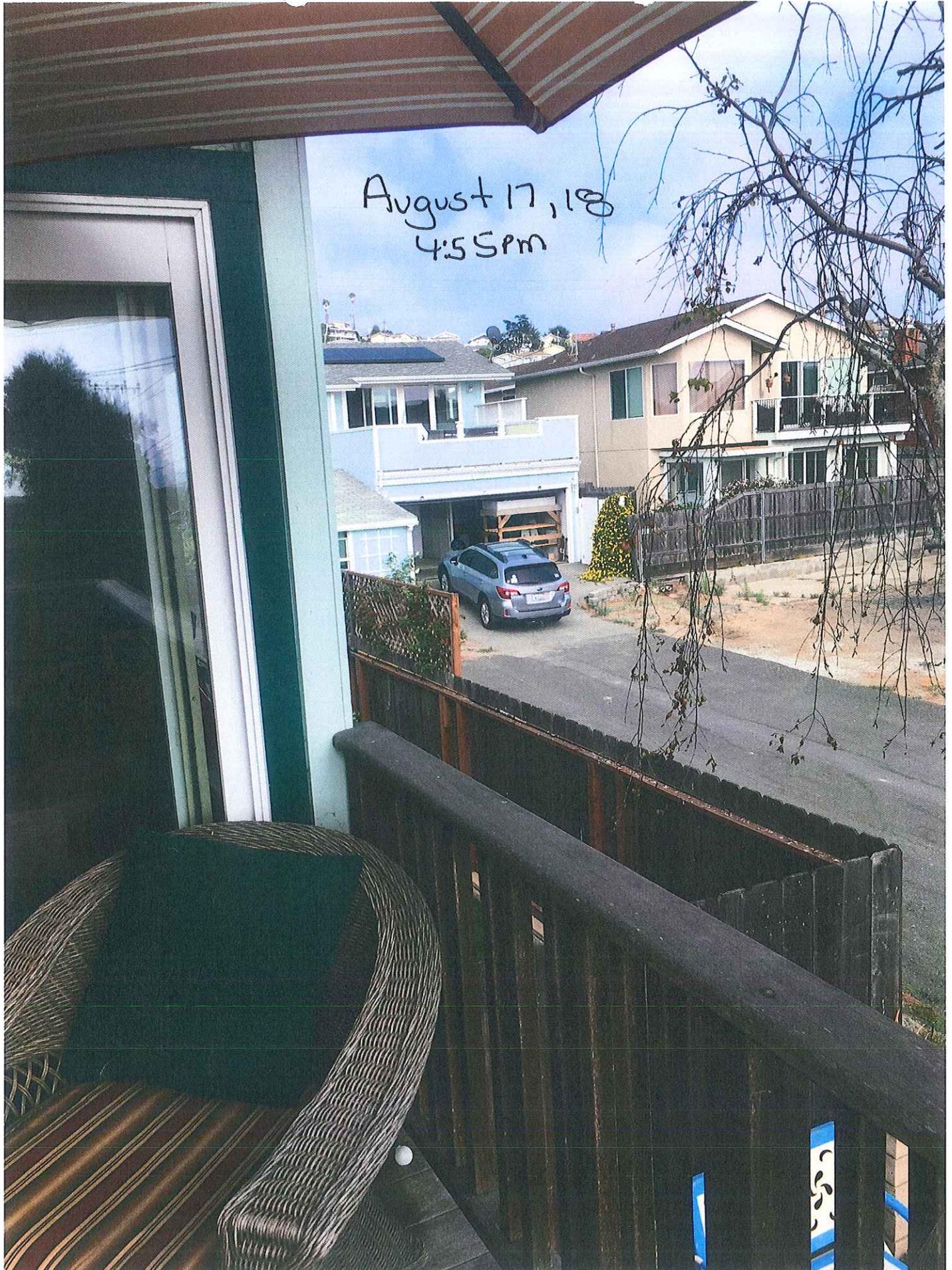
Date of appeal hearing:

August 14<sup>th</sup>  
4:52 PM



8-17-18  
6:28 AM

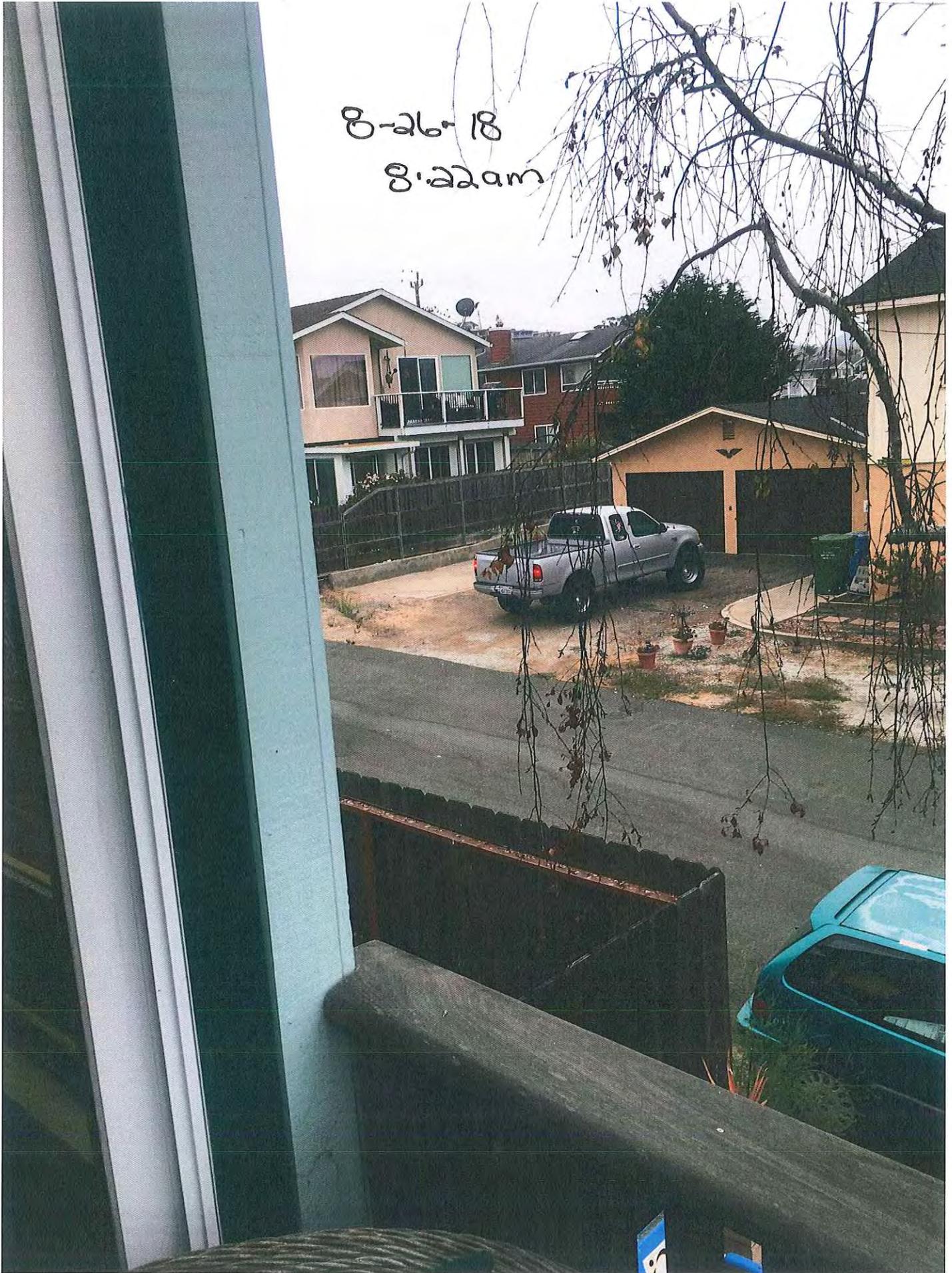




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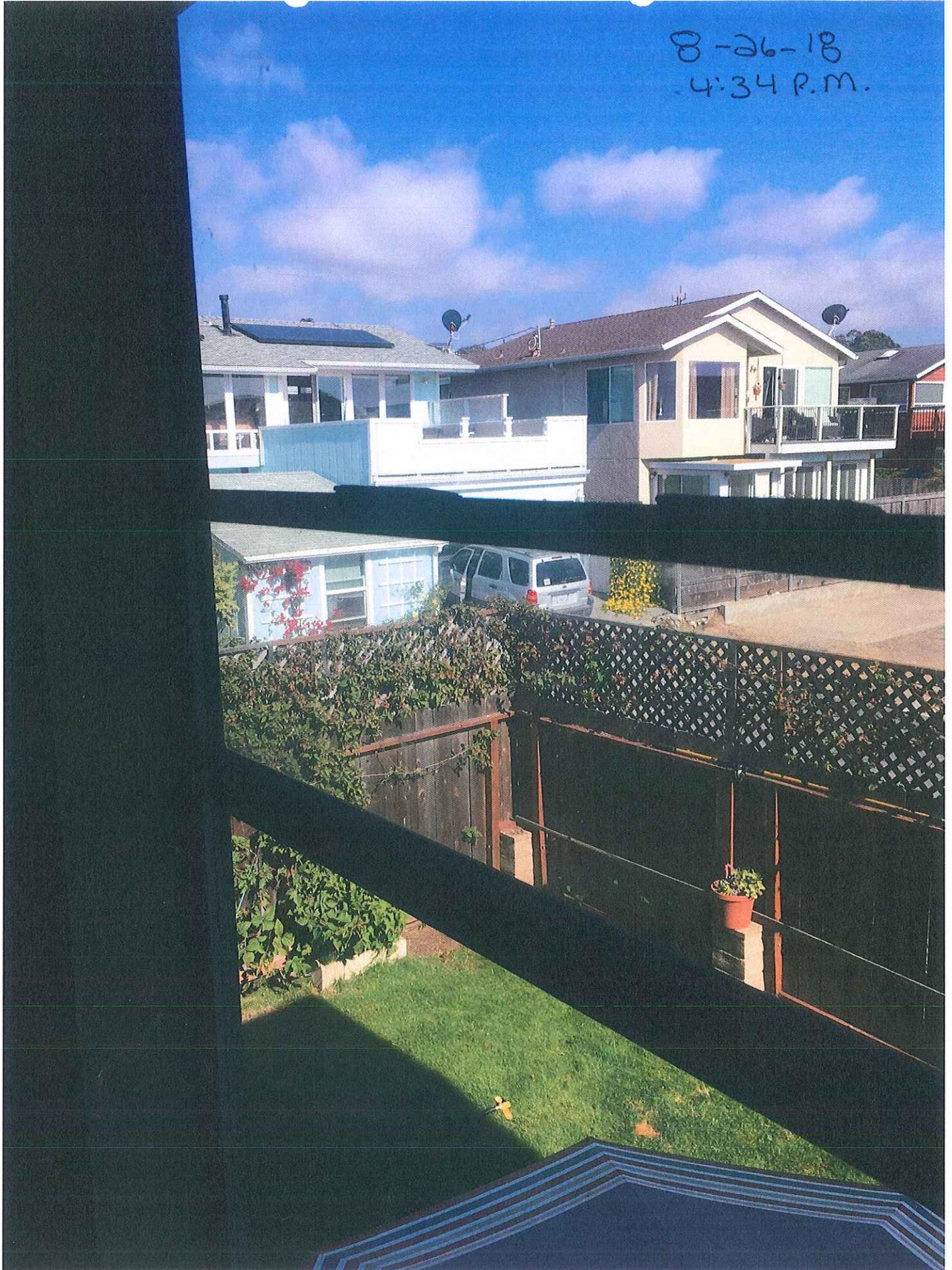
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8:22am



August 26  
11:39 AM



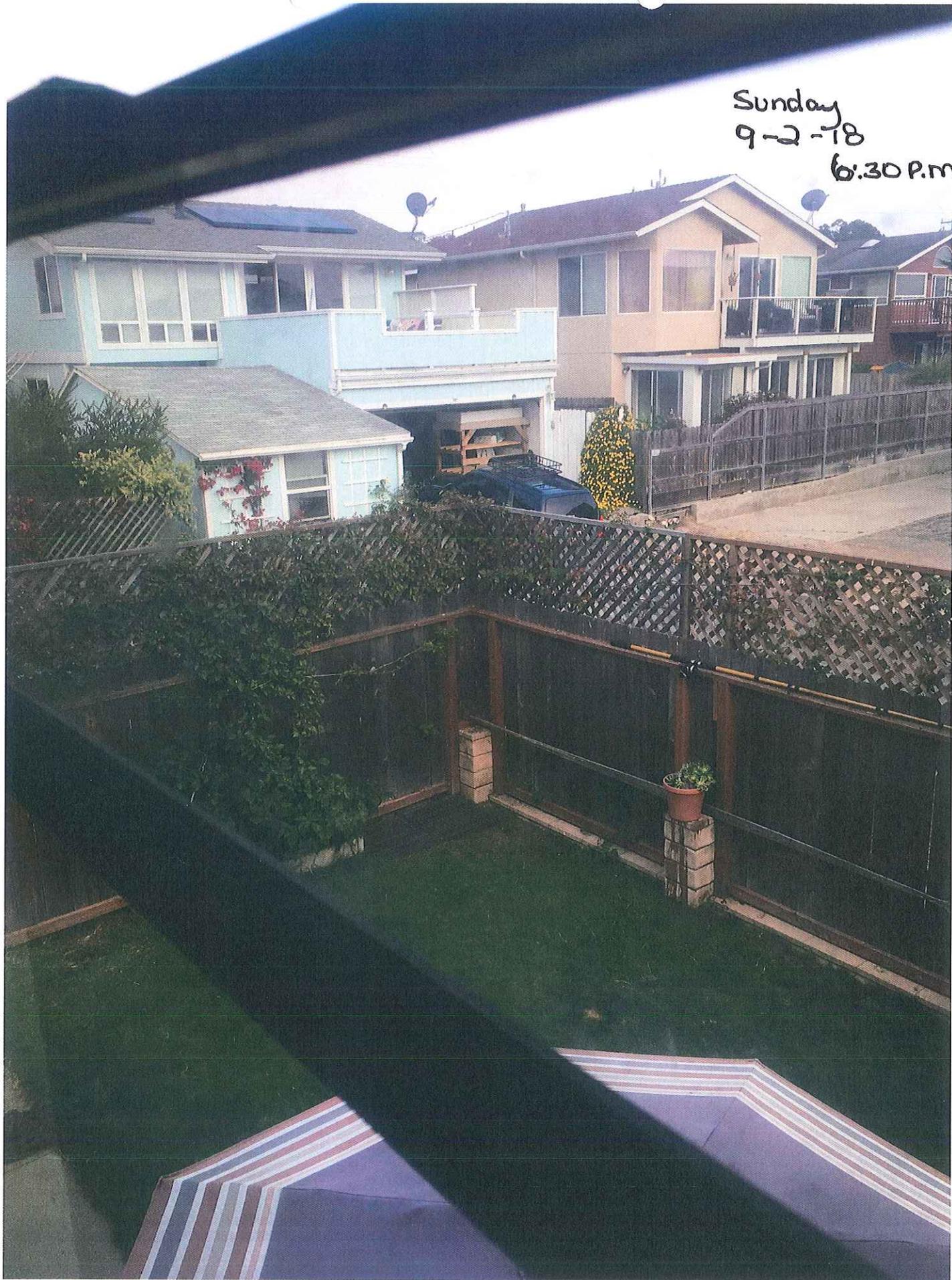
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8-31-18 6:56 AM



Sunday  
9-2-18  
6:30 P.M



Sunday 9-2-18  
7:12 p.m.



9-3-18

8:39 AM



9/4/18  
7:28 am



9/6/18  
6:35 Am



View from the front porch of the house. Camera by automatic Garage Camera Motion



9/7/18

10:25 AM





9:54 am  
9-11-18

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9/11/18  
1:39 pm



9/14/18

12:13 P.M.



9/15 / 18

10:31 Am



9/17/18

9:17 am



9-17-18  
6:50 AM

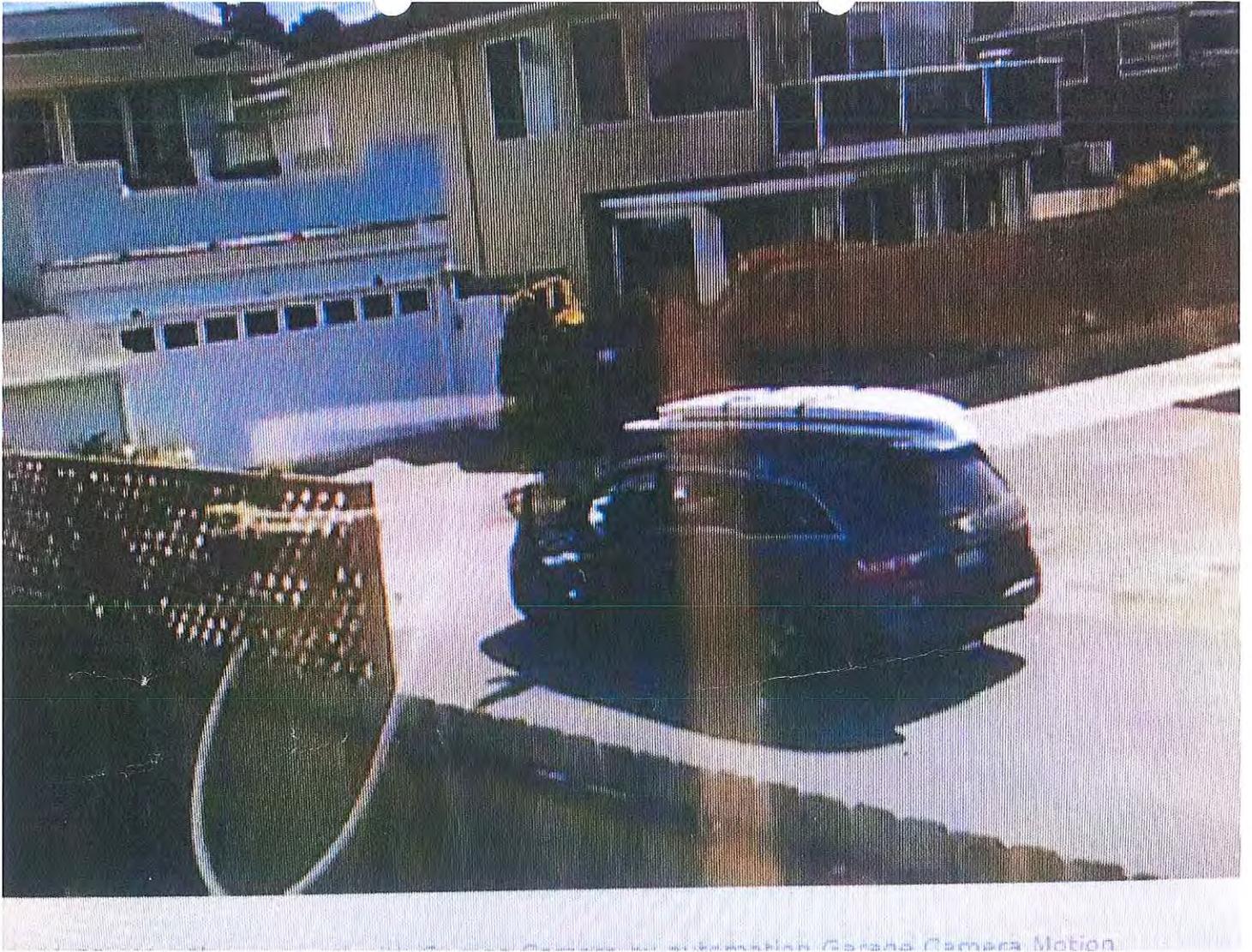


9/21/18

6:42 am



7:29 9-21-18



9/21/18

11:22 am



9/24

8:45



9/24

9:13



9/28/18

9:06 Am

◀ Older Clip 2 of 362 Newer ▶ ▶▶



Today 8:12 AM - Clip produced with Garage Camera by automatic Garage Camera Monitor

- Delete This Clip
- Take Picture
- Capture Clip
- Email Clip
- Save As...

avoid

10/9/18 8:12am

◀ Older Clip 2 of 362 Newer ▶▶

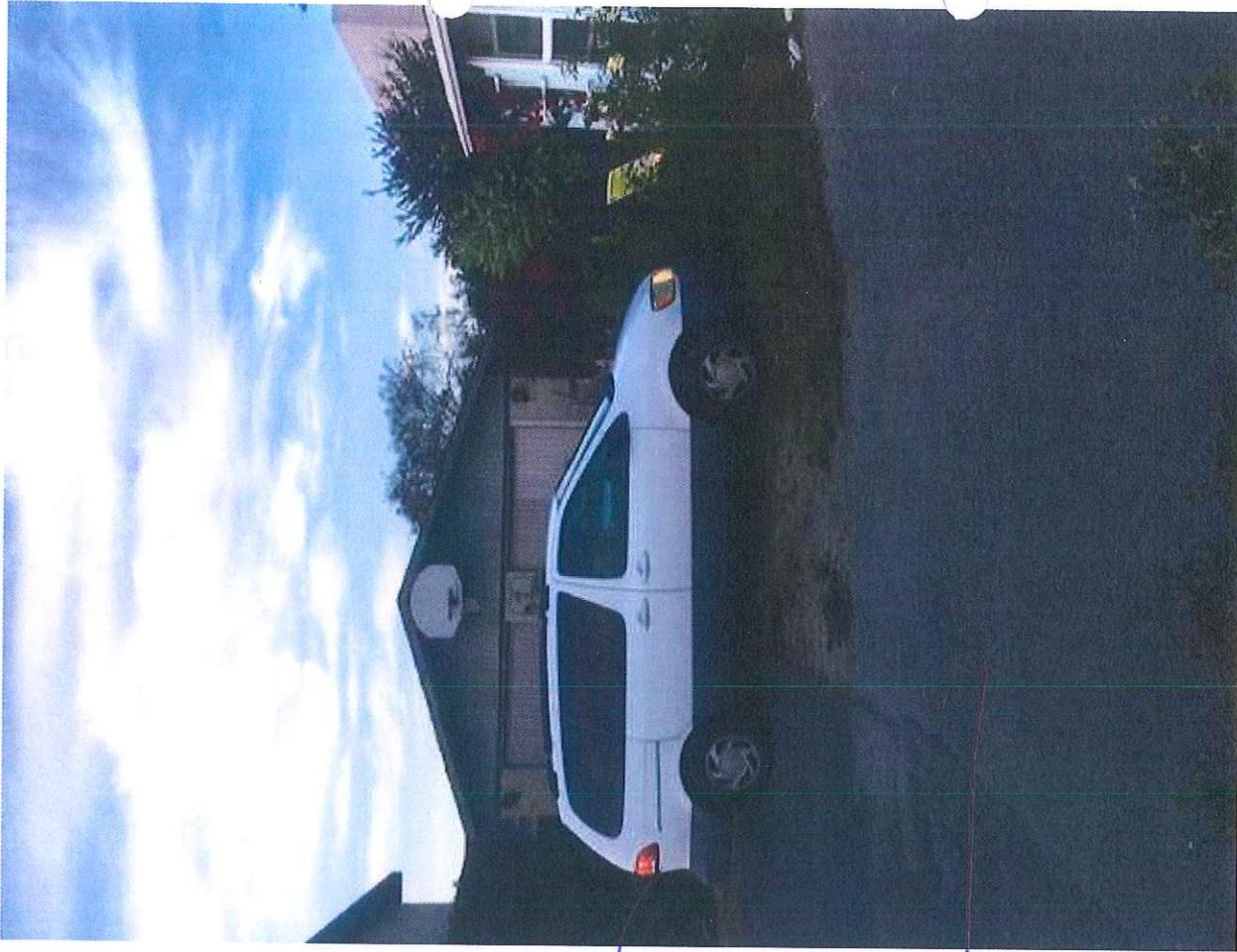


Taken 8:12 AM - Clip captured with Garage Camera by Watchdog Garage Camera Monitor

avoid

10/9/18

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Where they  
will park if  
you approve  
the driveway/pavers

Where they  
park now  
(see picture)



Where the pavers  
are suppose to go



where they park  
daily - will be  
blocking my  
driveway



AGENDA NO: B-2

MEETING DATE: October 16, 2018

## Staff Report

**TO:** Planning Commissioners **DATE:** October 7, 2018

**FROM:** Joan Gargiulo, Assistant Planner

**SUBJECT:** Appeal of Administrative Coastal Development Permit No. CP0-575 for the construction of an attached Accessory Dwelling Unit within the existing garage and the removal of a nonconforming shed at 2575 Greenwood Avenue. The parcel is located within the R-1/S.2 Single-Family Residential Zoning District and outside of the Coastal Commission Appeal Jurisdiction.

### **RECOMMENDATION**

Staff recommends the Planning Commission deny the appeal and uphold the approval of Administrative Coastal Development Permit No. CP0-575 for the Accessory Dwelling Unit at 2575 Greenwood by adopting Planning Commission Resolution No. 31-18 for site development plans dated July 19, 2018 and with the associated Findings and Conditions of approval including an added condition prohibiting a gate across the driveway(s).

**APPELLANTS:** Kay Milligan and Judy Johnston

**APPLICANTS:** Dan and Dina Krull

**LEGAL DESCRIPTION/APN:** 068-249-038

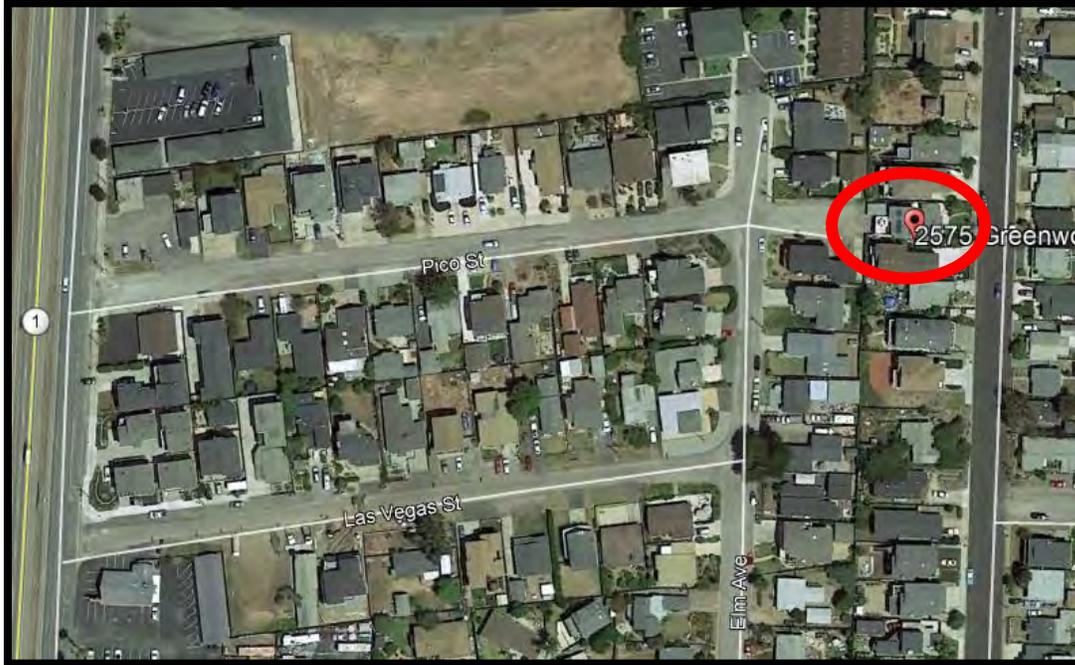
### **SUMMARY:**

An Administrative Coastal Development Permit (Exhibit C) was issued on August 6, 2018 for the construction of a new 386 sq. ft. attached Accessory Dwelling Unit within the existing garage space and the removal of a nonconforming shed on a 4,595 sq. ft. parcel at 2575 Greenwood Avenue. An appeal of this action was submitted on August 15, 2018 (Exhibit B) and the project is before the Planning Commission as the appellant body.

### **PROJECT SETTING:**

The project is located in the North Morro Bay neighborhood, designated as Planning Area 1 in the Local Coastal Plan. The parcel at 2575 Greenwood Avenue is located to the east of Highway 1 and North Main Street, south of San Joaquin

Street, and north of Avalon Street. The parcel is the only through lot located with frontage on Greenwood avenue as well as on the stub end of Pico Street.



Adjacent Zoning/Land Use			
<b>North:</b>	R-1/S.2 Single-Family Residential	<b>South</b> :	R-1/S.2 Single-Family Residential
<b>East:</b>	R-1/S.2 Single-Family Residential	<b>West:</b>	R-1 Single-Family Residential

Site Characteristics	
<b>Site Area</b>	4,595 sq. ft.
<b>Existing Use</b>	Single-Family Residential
<b>Terrain</b>	Virtually Level and Developed
<b>Vegetation/Wildlife</b>	Ornamental Landscaping
<b>Archaeological Resources</b>	N/A
<b>Access</b>	Greenwood Avenue and Pico Street

General Plan, Zoning Ordinance, & Local Coastal Plan Designations	
<b>General Plan/Coastal Plan Land Use Designation</b>	Medium Density Residential
<b>Base Zone District</b>	R-1
<b>Zoning Overlay District</b>	n/a
<b>Special Treatment Area</b>	S.2
<b>Combining District</b>	n/a
<b>Specific Plan Area</b>	n/a
<b>Coastal Zone</b>	Located Outside of the Coastal Appeal Jurisdiction

**DISCUSSION:**

Staff considered the proposed project in light of the City’s Zoning Ordinance, General Plan, and Local Coastal Plan as well as State Law (SB 1069 and AB 2299) as it relates to Accessory Dwelling Units and found the requested development consistent with the applicable City documents and State law listed above and issued a Coastal Development Permit on August 6, 2018. On August 15, 2018, this approval was subsequently appealed to the Planning Commission to “*deny all approvals of this action*” and require “*a fence all the way across [the rear property*

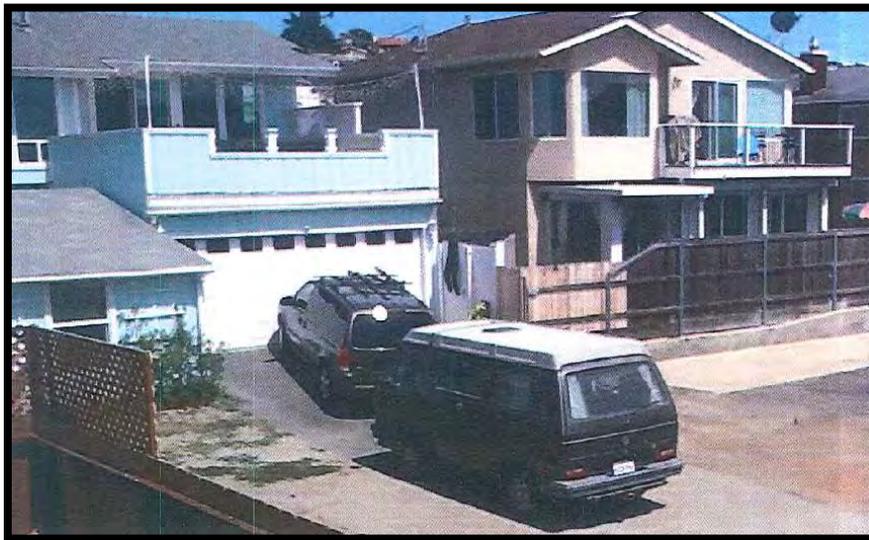
*line] and use access to [two] parking [spaces] in the front of the house....We believe that the only real resolution after six years of noncompliance would be to seal up the back of the home with a fence to vehicles and park in the two designated spots at their address on Greenwood like everyone else.”* The Appellant’s grounds for appeal (summarized below in italics) and staff’s response to said appeal is presented below.

**APPEAL ISSUES:**

Appellants Kay Mulligan and Judy Johnston base their appeal of the project on the following grounds (see Exhibit B for all appeal documents received):

**1. Fire and Safety:**

*“We believe the proposed driveway will be a safety hazard in blocking our cars in, getting into and out of our existing driveway.”* The Appellant’s assert, as evidenced via photos as seen below and included in exhibit B, that the approval will exacerbate an already unsafe parking situation on Pico Street. Photos provided show parked vehicles associated with the subject parcel regularly impeding ingress and egress from the Appellant’s driveways, both of which are accessed via the stub end of Pico Street.



**Staff Response:**

Staff has observed the parking situation noted in the appeal. The project has therefore been specifically conditioned to mitigate for this problem. The Conditions of Approval associated with Coastal Development Permit No. CP0-575 (Exhibit B) require that the existing driveway approach on Pico Street be removed and a traffic

barrier with a no parking sign be erected at the edge of the rear property line in the public right-of-way (see Public Works Condition No. 3 verbiage below). The project has also been conditioned to require that all parking shall occur only in a manner that is consistent with all applicable Sections of the Morro Bay Municipal Code and the California Motor Vehicles Code (see Planning Condition No. 8 verbiage below).

Public Works Condition No. 3: Barricade: Due to Pico Street ending, a metal beam barricade (with no parking sign) is required in front of the proposed fence.

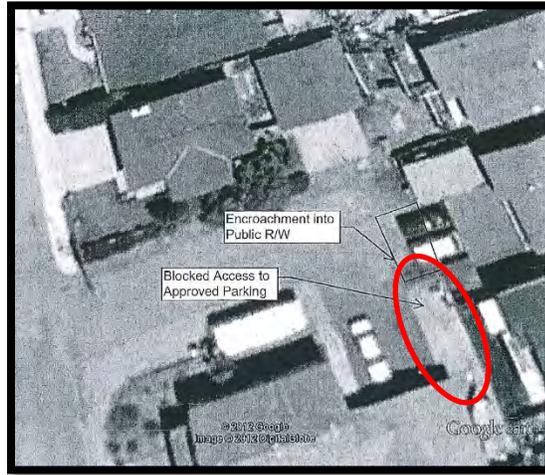
Planning Condition No. 8: Parking: Parking shall occur only within designated onsite parking spaces or within the Public Right-Of-Way in a manner that is consistent with all applicable Sections of the Morro Bay Municipal Code and the California Motor Vehicles Code and shall not block or impede ingress or egress to any other parcel or otherwise create an unsafe situation.

**2. Parking:**

*“Use of proposed parking in [rear] on a straight-up one lane road, how are they going to back out?” Current parking habits regularly block an approved parking space along the rear property line of 2590 Elm Street. Appellant Johnston also requests that parking should not be allowed in the right-of-way along her exterior side-yard. She states that “I should not have to have parking 5 feet from my bedroom window!”*

**Staff Response:**

As seen in the images below, the City approved parking space located along the fence line adjacent to Ms. Johnston’s driveway (the concrete pad shown in the image below to the right and circled in red in the image below to the left) is regularly blocked by vehicles parking at the subject parcel. Please see response to appeal issue #1 with regard to conditions of approval added to mitigate for parking issues. On occasion, vehicles associated with the subject parcel, park perpendicular to the property line abutting Pico, which can serve to impede access to approved parking at Ms. Johnston’s residence. Coastal Development Permit No. CP0-575 includes a condition of approval that requires the removal of the existing driveway and the installation of a no parking sign at this location. There is sufficient back-up turning radius to allow for a vehicle parked in the newly designated parking area to back out and exit Pico Avenue in a forward motion. With regard to parking along the exterior side-yard, parking is allowed within the public right-of-way.



### **3. Drainage:**

*Appellant Johnston has issue with past City approvals that required drainage to be channeled to the street, stating "this changed drainage to erode the driveway" and caused water to pool in her driveway and parking area.*

### **Staff Response:**

This matter has been previously addressed by the City Engineer in 2012. Coastal Development Permit No. CP0-575 for the creation of an Accessory Dwelling Unit within the existing garage and the demolition of the existing shed will not increase the impervious area onsite. Removal of the existing driveway approach to the satisfaction of the City Engineer will improve the drainage situation on site.

### **4. Trash Cans:**

*"I should not have to have 9 trash cans in front of my house." The Appellant requests that the trash cans utilized by all residential occupants of the subject parcel be put out on the Greenwood Avenue frontage of the lot and not be allowed to be placed on the Elm Street right-of-way.*

### **Staff Response:**

The Morro Bay Municipal Code requires refuse containers to be placed in areas at the curbline where they will be readily accessible for collection (MBMC Section 8.16.160). The trash cans are being placed within the public right-of-way, not on private property, and thus are in an allowable location on refuse collection days.

## **CONCLUSION**

The Appellants are requesting that Planning Commission overturn approval of Coastal Development Permit No. UP0-575 and deny the approval of an Accessory Dwelling Unit at 2575 Greenwood Avenue. Staff recommendation based on review and analysis of the appeal and policies set forth in the City's General Plan, Local Coastal Plan, and Zoning Ordinance and State Law is to deny the appeal and uphold the Director's approval of Coastal Development Permit No. CP0-575 with the added Condition of Approval to prohibit a gate across the driveway in Planning Commission Resolution No. 31-18.

## **EXHIBITS**

A: Planning Commission Resolution 31-18

B: Appeal Received from Appellants Dated 8/15/2018

C: Administrative Coastal Development Permit No. CP0-575 with Associated Plan Set

## RESOLUTION NO. PC 31-18

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION DENYING THE APPEAL OF THE APPROVAL OF ADMINISTRATIVE COASTAL DEVELOPMENT PERMIT (CP0-575) FOR THE CONSTRUCTION OF A 386 SQ. FT. ACCESSORY DWELLING UNIT WITHIN THE EXISTING GARAGE SPACE AND THE DEMOLITION OF THE NONCONFORMING SHED AT 2575 GREENWOOD AVENUE

**WHEREAS**, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on October 16, 2018, for the purpose of considering an appeal filed against Coastal Development Permit #CP0-575; and

**WHEREAS**, notices of said public hearing were made at the time and in the manner required by law; and

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

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

### **Section 1: Findings upholding the Administrative Approval**

A. Administrative Coastal Development Permit No. CPO-575 was approved in a manner consistent with the City's General Plan, Local Coastal Program and Zoning Ordinance.

B. The appeal raises no issues as it relates to project compliance with the City's General Plan, Local Coastal Program and Zoning Ordinance.

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

#### California Environmental Quality Act (CEQA) Finding

1. Pursuant to the California Environmental Quality Act, the project is categorically exempt under Section 15303, Class 3 for a new Accessory Dwelling Unit in an urbanized residential area. Additionally, none of the

exceptions found in CEQA Section 15300.2 apply to this project.

### Coastal Development Permit Finding

2. The project is the construction of a second dwelling unit in a residential zone which is consistent with the City's General Plan, Local Coastal Plan, and Zoning Ordinance. Specifically, the permit is an Administrative Coastal Development Permit for the construction of a new attached 386 sq. ft. Accessory Dwelling Unit within the existing garage. The project is located within the R-1/S.2 Residential Zoning District and outside of the Coastal Commission Appeal Jurisdiction.

**Section 3. Action.** The Planning Commission does hereby deny the appeal Filed by Kay Mulligan and Judy Johnson on August 15, 2018 and approve Coastal Development Permit No. CP0-575 for property located at 2575 Greenwood Avenue subject to the following conditions:

### STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report dated October 7, 2018, for the project at 2575 Greenwood Avenue (APN:068-249-038) depicted on plans dated July 19, 2018, as part of Administrative Coastal Development Permit CP0-575 on file with the Community Development Department, as modified by these conditions of approval, and more specifically described as follows: Site development, including all buildings and other features, shall be located and designed substantially as shown on plans, unless otherwise specified herein.
2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this 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 Community Development 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 applicant's failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: Compliance with and execution of all conditions listed hereon shall be necessary, unless otherwise specified, prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the 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:**

1. CEQA Exemption: If the applicant elects to post the Categorical Exemption with the County Clerk's Office then a required fee of \$50 fee shall be made payable to "County of San Luis Obispo" and delivered to the County Clerk along with the Categorical Exemption form attached to the coastal development permit. This filing has the effect of starting a 35-day statute of limitations period for challenges to the decision in place of the 180-day period otherwise in effect.
2. Construction Hours: Construction Hours: Pursuant to section 9.28.030.I, Construction or Repairing of Buildings. The erection (including excavating), demolition, alteration or repair of any building or general land grading and contour activity using equipment in such a manner as to be plainly audible at a distance of fifty feet from the building other than between the hours of seven a.m. and seven p.m. on weekdays and eight a.m. and seven p.m. on weekends except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the community development department, which permit may be granted for a period not to exceed three days or less

while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues.

3. Parking During Construction: Parking shall occur in a manner consistent with the Morro Bay Municipal Code and the California Motor Vehicle Code and shall not, at any time, block any portion of any driveway on any other parcel in the vicinity.
4. Dust Control: That prior to issuance of any grading permit, a method of control to prevent dust and windblown earth problems shall be submitted for review and approval by the Building Official.
5. Boundaries and Setbacks: The property owner is responsible for verification of lot boundaries. Storage containers or other equipment shall not encroach into the required setback areas consistent with the zoning district.
6. 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.
7. Driveway Removal: The existing driveway located at the western edge of the parcel shall be removed up to the property line; to be shown on submitted building plans.
8. Parking: Parking shall occur only within designated onsite parking spaces or within the Public Right-Of-Way in a manner that is consistent with all applicable Sections of the Morro Bay Municipal Code and the California Motor Vehicles Code and shall not block or impede ingress or egress to any other parcel or otherwise create an unsafe situation.
9. Driveway Gate: The gate across the driveway shown on approved plans dated July 19, 2018 shall be removed and shall not be included on plans submitted upon building permit application.

### **BUILDING CONDITIONS:**

#### **PRIOR TO ISSUANCE OF A BUILDING PERMIT:**

1. Building permit plans shall be submitted by a California licensed architect or engineer when required by the Business & Professions Code, except when otherwise approved by the Chief Building Official.
2. The owner shall designate on the building permit application a registered design professional who shall act as the Registered Design Professional in Responsible Charge. The Registered Design Professional in Responsible Charge shall be responsible for reviewing and coordinating submittal documents prepared by others including phased and staggered submittal items, for compatibility with design of the building.

3. The owner shall comply with the City's Structural Observation Program. The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer of record or architect responsible for the structural design, to perform structural observation. Observed deficiencies shall be reported in writing to the owner's representative, special inspector, contractor and the building official. The structural observer shall submit to the building official a written statement that the site visits have been made and identify any reported deficiencies that, to the best of the structural observer's knowledge, have not been resolved.
4. The owner shall comply with the City's Special Inspection Program. Special inspections will be required by Section 1704 of the California Building Code. All Special Inspectors shall first be approved by the Building Official to work in the jurisdiction. All field reports shall be provided to the City Building Inspector when requested at specified increments in order for the construction to proceed. All final reports from Special Inspectors shall be provided to the Building Official when they are complete and prior to final inspection.
5. Mitigation measures for natural occurring asbestos require approval from San Luis Obispo County Air Pollution Control District.
6. A soils investigation performed by a qualified professional shall be required for this project. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability; details shall be provided. Alternatively, submit a completed City of Morro Bay soils report waiver request.
9. **BUILDING PERMIT APPLICATION.** To apply for building permits submit three (3) sets of construction plans to the Building Division.
10. The Title sheet of the plans shall include:
  - a. Street address, lot, block, track and Assessor Parcel Number.
  - b. Description of use.
  - c. Type of construction.
  - d. Height of the building.
  - e. Floor area of the building(s).
  - f. Vicinity map.

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

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

**B. CONDITIONS TO BE MET DURING CONSTRUCTION:**

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

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

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

**FIRE DEPARTMENT CONDITIONS:**

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

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

2. Carbon monoxide alarms in new dwellings and sleeping units. An approved carbon monoxide alarm shall be installed in dwellings having a fossil fuel-burning heater or appliance, fireplace or an attached garage. Carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions. (CRC R315.2)
3. Address identification. All new and existing single family residence and ADU's shall have their own approved address numbers or building numbers placed in a position to be plainly legible from the street or road fronting the property (CFC 505). Provide approved address numbers 4 inches high with ½ inch stroke in contrasting numbers.

### **PUBLIC WORKS CONDITIONS:**

1. Stormwater Management: The City has adopted Low Impact Development (LID) and Post Construction requirements to protect water quality and control runoff flow from new and redevelopment projects. The requirements can be found in the Stormwater management guidance manual on the City's website [www.morro-bay.ca.us/EZmanual](http://www.morro-bay.ca.us/EZmanual). Projects with more than 2,500sf of new or redeveloped impervious area are subject to these requirements. All proposed projects must complete the "SFR Performance Requirement Determination Form" to prove compliance.
2. Driveway Approach: A driveway approach is required for all proposed driveways off both Pico and Greenwood. Proposed uncovered cobble 1-car parking spaces off Greenwood Avenue (Major Collector street) requires installation of B-6 driveway approach with sidewalk. Proposed uncovered parking space off Pico Street requires driveway. If permeable pavers are to be used, a modified driveway approach with a 12" wide PCC grade beam should be constructed to stabilize the front edge of the pavers. An encroachment permit is required for any work within the Right of Way.
3. Barricade: Due to Pico Street ending, a metal beam barricade (with no parking sign) is required in front of the proposed fence.
4. Mailbox: Existing mailbox located within proposed uncovered cobble 1-car parking space, will need to be relocated. Install per US Postal requirements.
5. Utilities: Show all existing and proposed locations of the sewer lateral and sewer main. Include sizes where appropriate. Note the location of all

overhead utilities and construction underground service entrances per the CBC.

6. Sewer Lateral: Perform a video inspection of the lateral and submit to Public Works via flash drive or DVD, prior to building plan approval. Lateral shall be repaired as necessary and all repairs shall be noted on approved set of plans. Our records indicate two possible sewer lateral connections to the sewer mainline.
7. Sewer Backwater Valve: Indicate and label sewer backwater valve on plan. 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).
8. Erosion and Sediment Control Plan: For small projects less than one acre and less than 15% slope, provide a standard erosion and sediment control plan. The Plan shall show control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or ecologically sensitive area.
9. Grading and Drainage: Indicate on plans the existing and updated contours, drainage patterns, spot elevations, finish floor elevation and all existing and proposed drainage pipes and structures.
10. Encroachment Permits: A standard encroachment permit shall be required for the proposed driveway and barricade; the driveway shall comply with B-9 (Driveway Ramps: Size & Location). A sewer encroachment permit shall be required for any repairs or installation of a sewer lateral within the City right-of-way or within a utility easement. If a construction dumpster is used, the dumpster location shall be on private property, unless allowed by an encroachment permit within the City right-of-way.

Add the following Notes to the Plans:

1. 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.
1. No work shall occur within (or use of) the City's Right of Way without an encroachment permit. Encroachment permits are available at the City of Morro Bay Public Works Office located at 955 Shasta Ave. The Encroachment permit shall be issued concurrently with the building permit.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 16th day of October 2018 on a motion by \_\_\_\_\_ and seconded by \_\_\_\_\_ on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Chairperson Gerald Luhr

ATTEST

\_\_\_\_\_  
Scot Graham, Community Development Director

The foregoing resolution was passed and adopted this 16th day of October, 2018.

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CITY OF MORRO BAY

City of Morro Bay  
 Community Development Dept.

APPEAL FORM

Community Development Department  
 Planning Division

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

In CCC Appeals Jurisdiction?

YES - No Fee  
 NO - Fee Paid:  Yes  No

Project Address being appealed: <u>2575 Greenwood Ave Morro Bay, Ca 93442</u>	
Appeal from the decision or action of (governing body or City officer): <input checked="" type="checkbox"/> Administrative Decision <input type="checkbox"/> Planning Commission <input type="checkbox"/> City Council	
Appeal of action or specific condition of approval: <u>all</u>	
Permit number and type being appealed (ie. coastal permit, use permit, tentative subdivision): <u>CPD-575 + UPD-521</u>	
Date decision or action rendered: <u>August 6, 2018</u>	
Grounds for the appeal (attach additional sheets as necessary): <u>- please see attached photo + letters</u> <u>Fire + Safety</u> <u>Public Work conditions</u> <u>Storm water management</u> <u>Driveway</u> <u>Erosion and sediment grading + drainage</u> <u>Encroachment permits</u> <u>Utilities</u> <u>Property lines</u>	
Requested relief or action: <u>① To not issue permit as is</u> <u>Need to put a fence all the way across + use access to parking in front of the house (2 spots instead of 1)</u>	
Appellant (please print): <u>Kay Milligan</u> <u>Judy Johnston</u>	Phone: _____
Address: <u>Morro Bay, Ca 93442</u> <u>Morro Bay, Ca 93442</u>	
Appellant Signature: _____	Date: <u>8-15-18</u>

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

City of Morro Bay  
Community Development Dept.

August 15, 2018

Attn: Joan Gargiulo, Assistant Planner  
Re: Permit No. CPO-575

As per our conversation with you and Rob Livick on 8/13/18, we are writing to you about Permit # CPO-575, a Coastal Development Permit located at 2575 Greenwood Avenue in Morro bay , Ca. We are appealing this permit for multiple reasons outlined below.

We believe the proposed driveway will be a safety hazard in blocking our cars in, getting into or out of our existing driveway (see pictures), and also believe that the water draining from the homes on Greenwood would also pose a problem. We have documented and taken pictures over the the last six years concerning the parking, drainage, and compliance with the existing permit the city has issued for a garage and driveway approach in 2012 for the same residence (see pictures).

We have tried to resolve the issues related to the problems associated with the permit issued in 2012 concerning said driveway approach, parking, drainage and access to our approved driveway. We have talked to the City, the Krulls and their guests that park there, to no avail. The new permit would seem to just make matters worse. We believe the only real solution after six years of non compliance would to seal up the back of the home with a fence to vehicles and park in two designated spots at their address on Greenwood like everyone else.

We look forward to talking with you in the future about our concerns with the proposed permit and resolving the existing issues we have with the last six years of non compliance from your 2012 permit issued. Thank you for your cooperation.

Sincerely,

Clay Kearney and Kay Milligan

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Judith Johnston 8/14/2018

Concerns = Judith Johnston (home owner) here 40 years

### I Fire + Safety

① We have to be able to get out of GARAGES for emergency since 2012 ongoing blocking of PARKING many complaints to city + Police!

Discussed with Rob Bivick

→ (this is because there are no PARKING places on Pico Ave + only one side of Elm — see photos #1 #2)

(Compounded by low income housing = makes their people park extra/leaking cars on Street ∴ therefore our street sweeper can never get in 2 years!)

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### II Public Works

1) DRAINAGE (Storm waste m/g)  
- when the lot was cut in two + 2 homes put in they made a new property line.  
- so 3 pipes drain into street see photo

illegal → 2012 bldg. 1/2 ton Earth hauled in + regraded rd. — said it would be removed — then allowed to stay.

8)9) — this changed DRAINAGE to erode Driveway also allowing Earth Buildup from open pipes. — many complaints to city to fix problem — see photo

### ② Driveway Approach

— again you are going to allow them to build on city right of way



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10) Encroachment

By opening DEAD ENDS  
↓

SET BACK LAWS = They in essence  
Have 2 Front YARDS.  
Both opening to the Street

∴ SET BACK LAWS should apply  
why should they be the only  
House in M.B. to have 5' set back  
to the street FACING OCEAN (NOT  
RIGHT)

11.) Use of proposed parking in Back

- STRAIGHT UP A ONE LANE ROAD
- how ARE they going to BACK out?
- we ALREADY have trouble backing out of GARAGE because to Built up street to their CAR port/PATIO.

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# Building Questions

- We were told no new construction
- The "Garage" was ALWAYS a patio then converted (was it permitted. or did they just put a Garage Door up)
- is too low<sup>m</sup> Height for an Apartment unit.

# General

- NO ADDRESS ON elm Ave.
- over 100ft AWAY from their lot
- yet access to house + new Apartment unit
- compounds already dire parking situation.

Devalue - 2012 when you allowed them to open  
 Dead end street { 2575 Greenwood ↑ \$40,000  
 from Willow { 2590 Elm ↓ 20,000  
 2600 Elm ↓ 20,000

their improvements bring our properties down!

Property Lines = are not the same on a corner lot (mine)  
 which you now say as for a lot next lot  
 (house to house)  
 i believe i should not have to have parking  
 5ft from my Bedroom window!

JUDITH JOHNSON 8/10/2018  
2590 Elm Ave

- 2575 Greenwood  
Put all TRASH CAN <sup>100ft</sup> DOWN DEPARTMENT  
TO PUT IN FRONT OF MY HOUSE  
ON Elm Ave.

- new unit will also

- I should not have to have  
9 TRASH CANS IN FRONT OF  
my house  
(compounding all problem)

- I Request that it be  
written into the plan  
that they put their  
TRASH IN FRONT OF THEIR  
address on Greenwood

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JUDITH JOHNSON 8/10/2018

- I Request that  
PART of this plan  
include

- 2575 Greenwood  
& New unit

- Put all TRASH CANS  
on these street

- AS it stands they put  
All TRASH CAN IN FRONT OF  
my house on Elm Ave  
& new unit will too

- I should not have to have  
9 TRASH CANS IN FRONT OF MY HOUSE.  
(thus compounding problems)

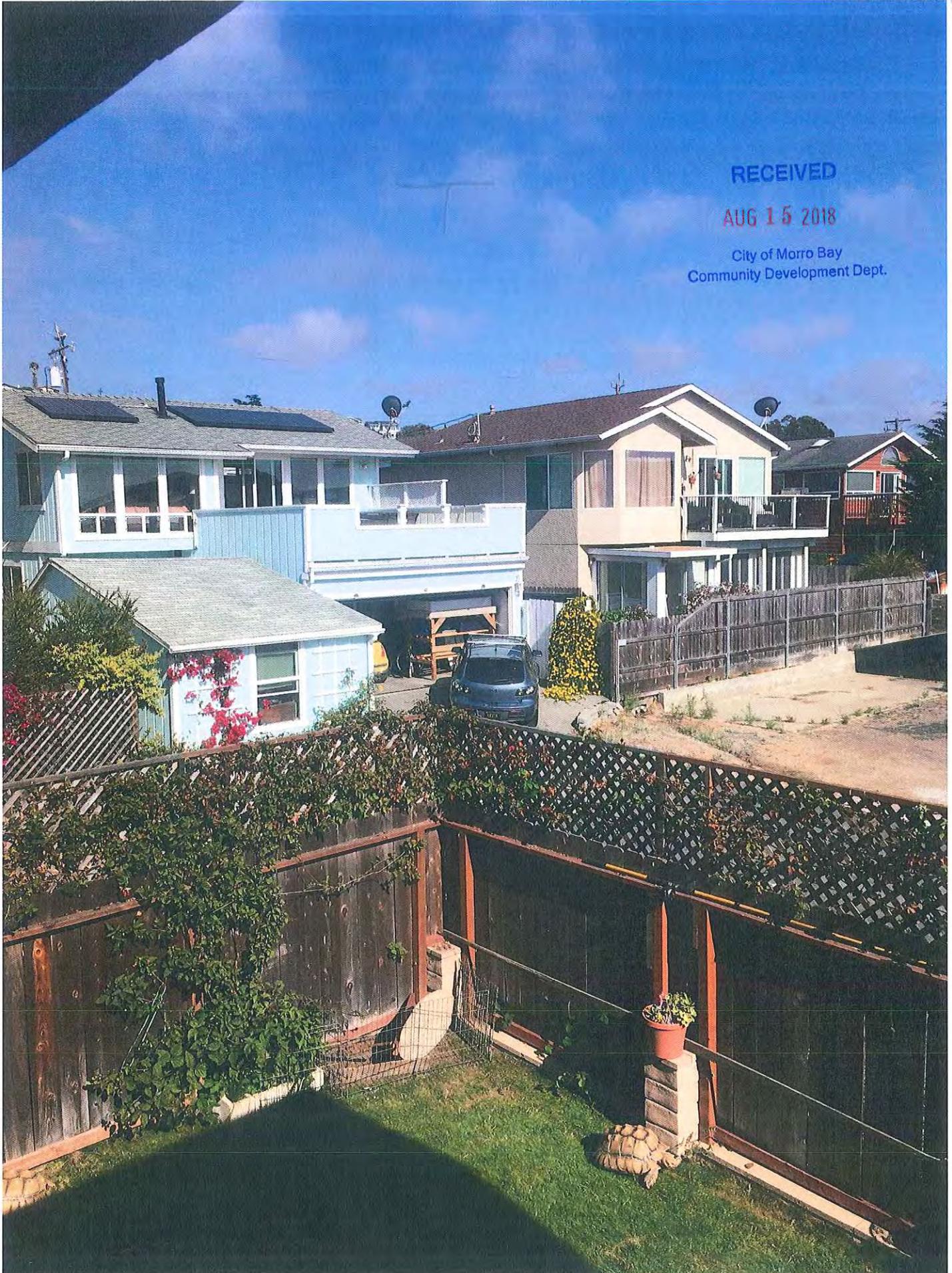
please make this a condition  
of permit.

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*This was yesterday*

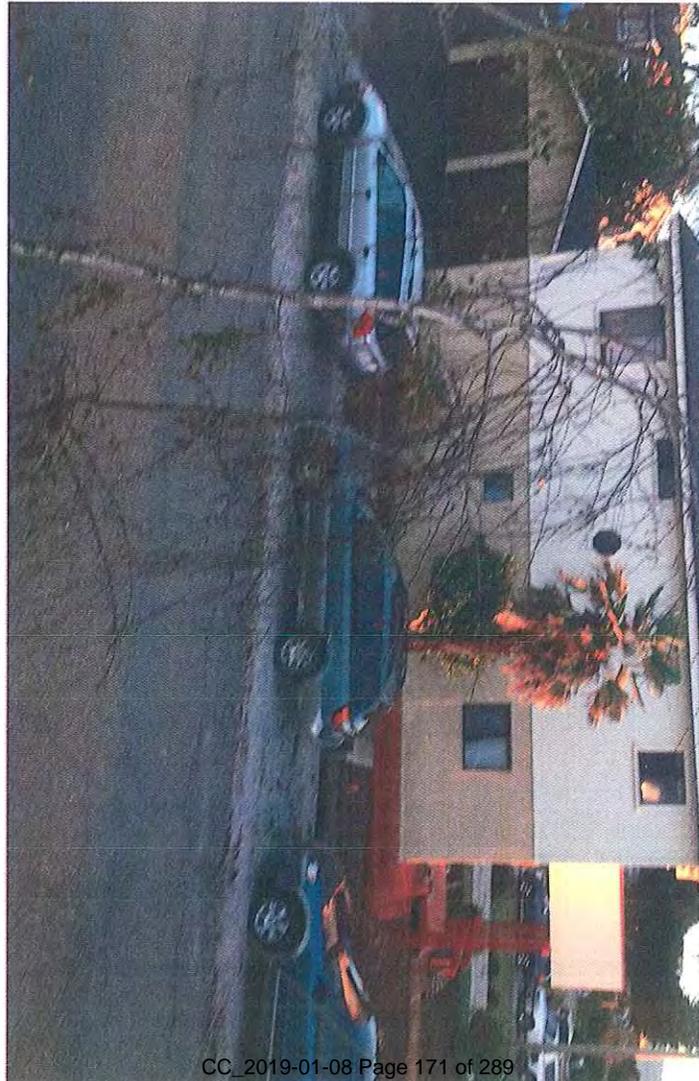
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3/9/2017

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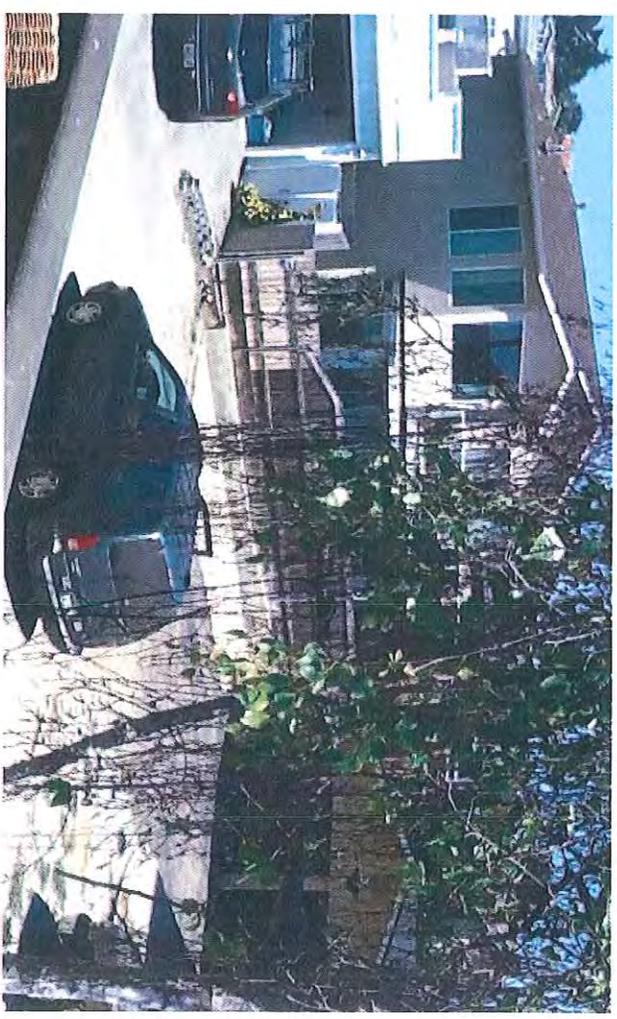
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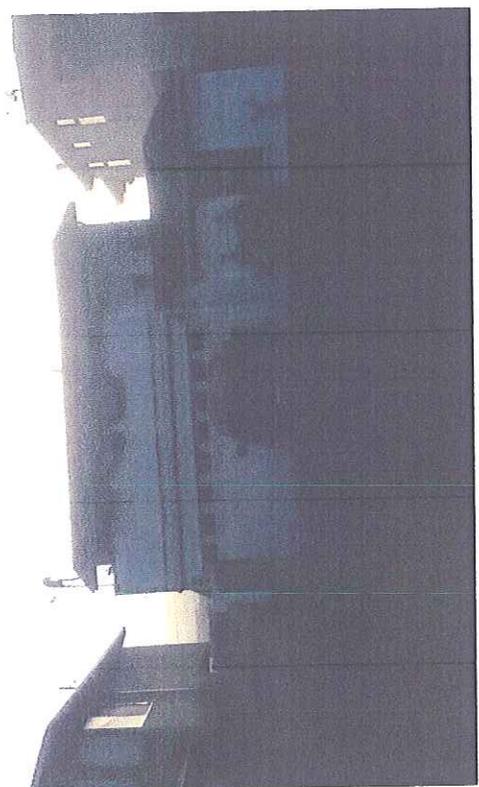
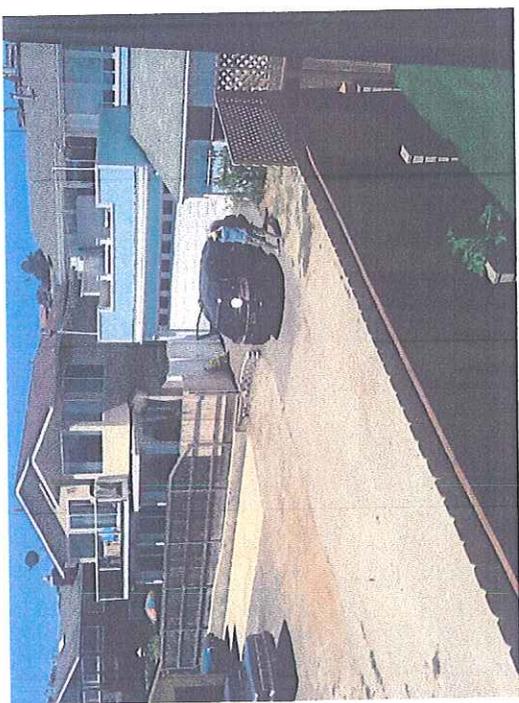
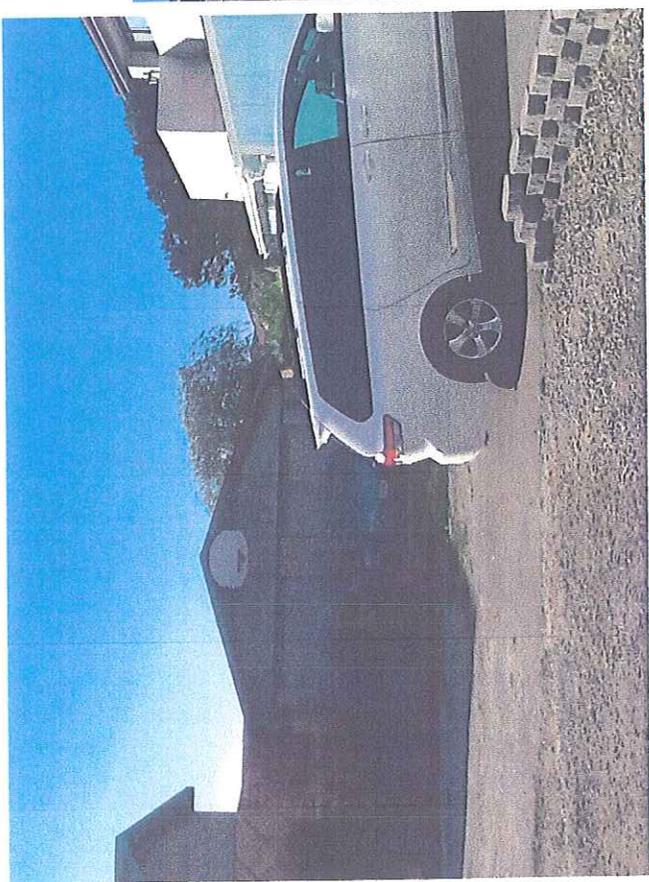


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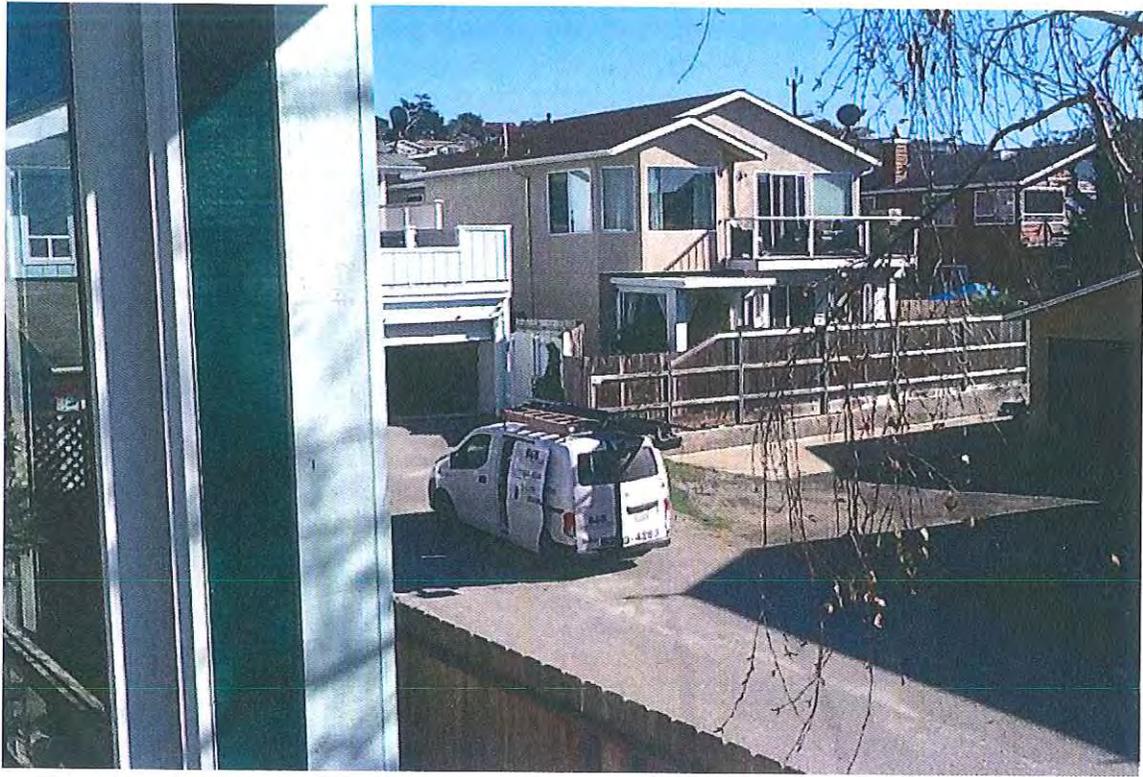


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Kay Milligan <kayam1957@gmail.com>

(no subject)  
1 message

Clay Kearney <broncos8307@hotmail.com>  
To: "kayam1957@gmail.com" <kayam1957@gmail.com>

Mon, Aug 13, 2018 at 12:51 PM



Sent from my iPad

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Sent from my iPad

Clay Kearney <broncos8307@hotmail.com>  
 To: "kayam1957@gmail.com" <kayam1957@gmail.com>

Mon, Aug 13, 2018 at 12:52 PM



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Email - (no subject)

3/9/2017

Sent from my iPad



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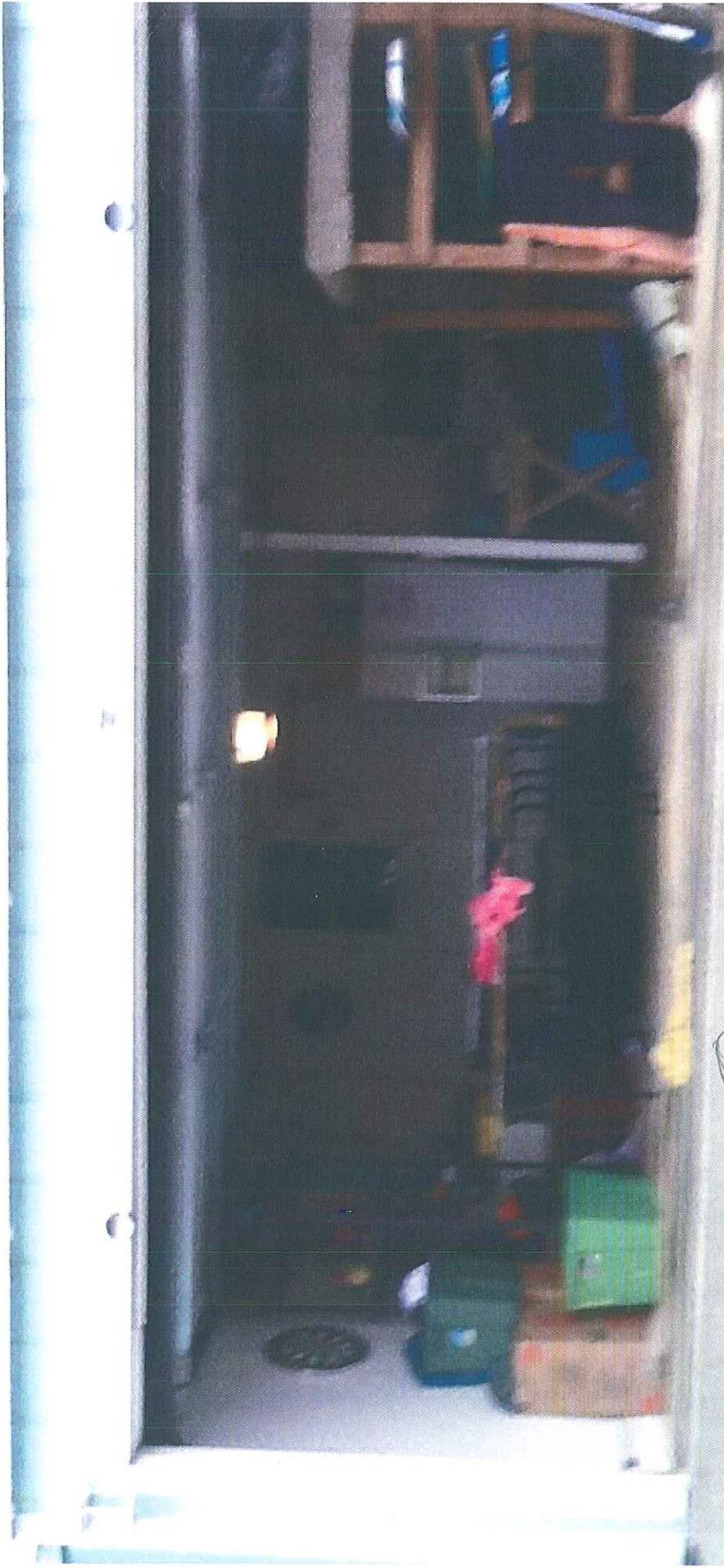
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High enough?

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Google earth



2575 Greenwood Avenue, Morro Bay  
Encroachment into Right of Way and Blocking Access

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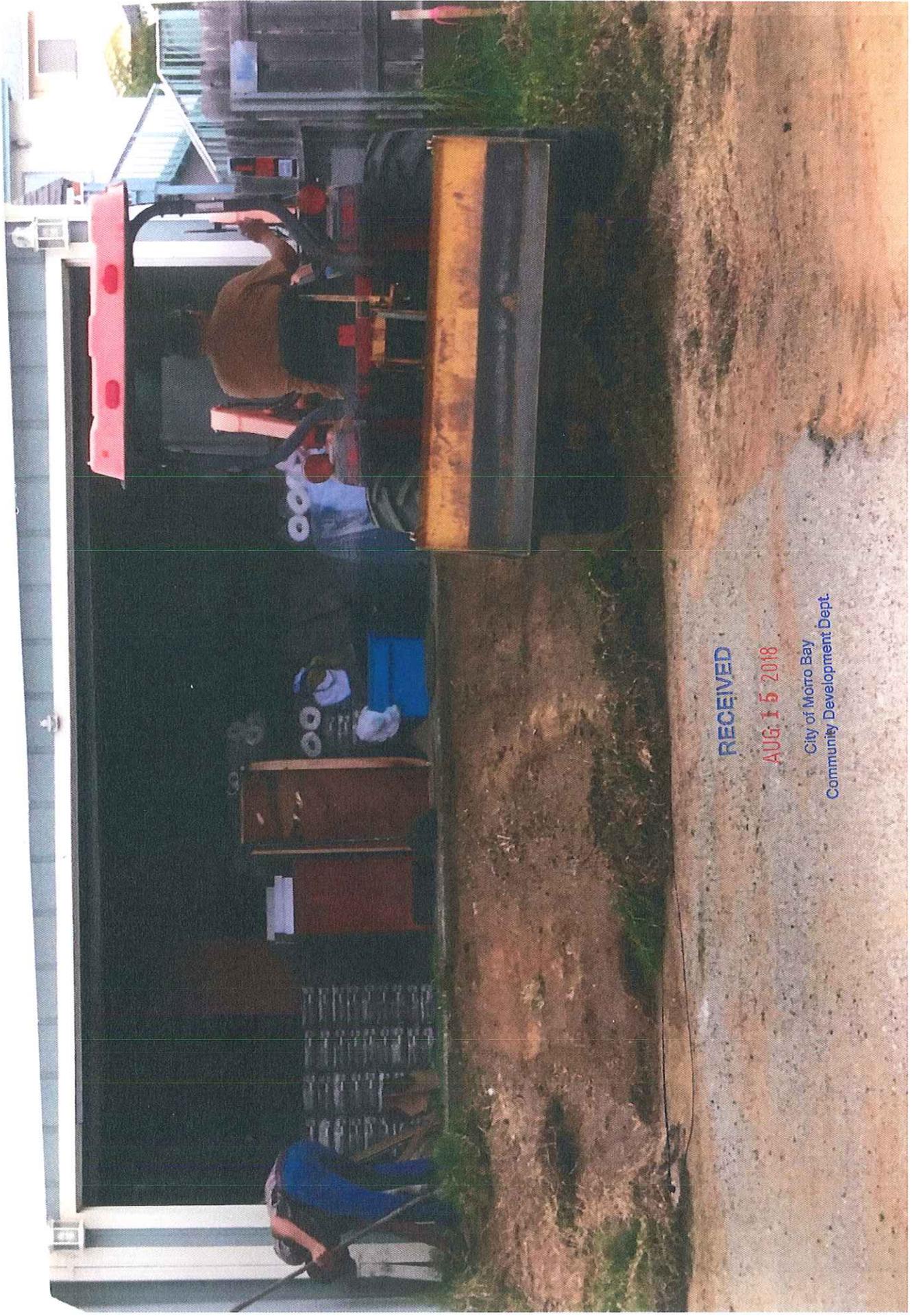
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Community Development Dept



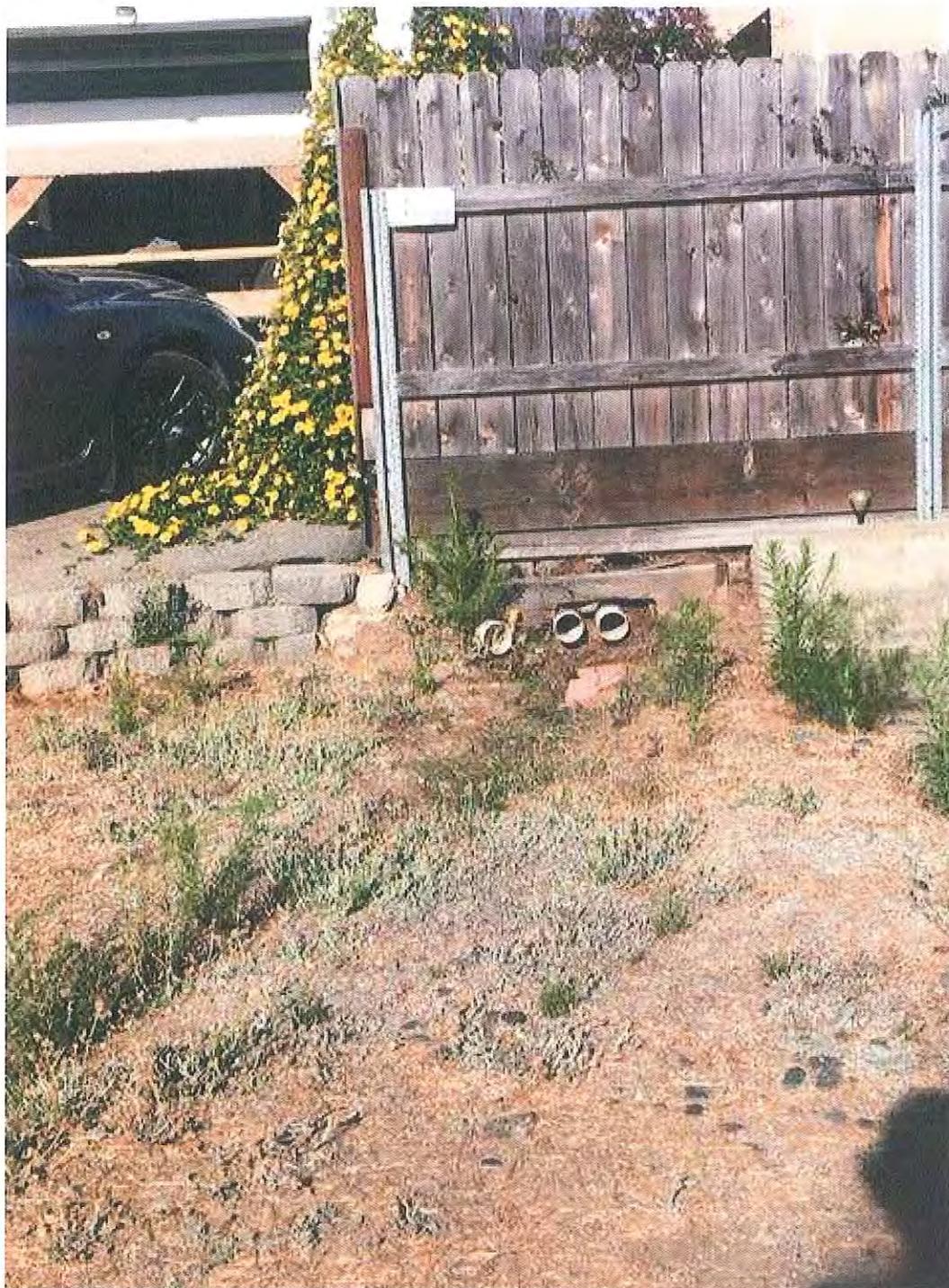
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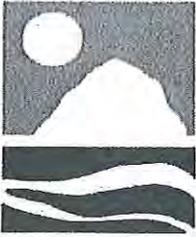
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City of Morro Bay  
Community Development Dept.

MORRO - bay . CA . US /

Sept 4 2012



CITY OF MORRO BAY  
PUBLIC SERVICES DEPARTMENT  
955 SHASTA AVENUE ♦ MORRO BAY, CA 93442  
805-772-6261

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Community Development Dept.

WARNING OF ADMINISTRATIVE CITATION  
MORRO BAY MUNICIPAL CODE  
ORDINANCE # 530 SECTION 1.03.030

September 4, 2012

KRULL, DAN & DINA, ET AL  
2575 GREENWOOD AVE  
MORRO BAY, CA, 93442- 1544

RE: Unauthorized Driveway Approach Encroachment – Pico Street Right of Way

On March 30, 2012 the City of Morro Bay sent you a warning of administrative citation for an unauthorized driveway encroachment and associated fill placed into the Public Right of Way (Pico Street) adjacent to your property located at 2575 Greenwood Ave, Morro Bay, Ca. APN 068-247-018. The encroachment blocks access to an existing approved parking space on an adjacent property and inhibits drainage from adjoining properties. You continue to be in violation of Morro Bay Municipal Code chapter 12.04 Streets and Sidewalks. It is unlawful for any improvements within the Public Right of Way to be in violation of this section of the Morro Bay Municipal Code. Parking is prohibited in accordance with California Vehicle Code section 22500: (e) *In front of a public or private driveway...*

You are hereby ordered to remove said encroachment or make the necessary modifications to the approach such that it does not interfere with access or drainage; within 10 days of receiving this order. Prior to any work within the Public Right of Way, be it removal or modification of the driveway approach, an Encroachment Permit issued by the City's Public Services Department is required. Failure to comply with the above mentioned conditions can result in an Administrative citation; the first offense is \$100, second \$200, and third \$500. Each day that compliance is not achieved is a separate violation. **Additionally, if the encroachment is not removed within 10 days following receipt of this notice, the City may, without any additional warning remove the encroachment and bill you for the costs incurred.**

Should you have any questions or wish to apply for an encroachment permit, please contact Damaris Hanson, Engineering Technician at 772-6265.

Thank you for your cooperation,

Rob Livick, PE/PLS  
Public Services Director/City Engineer

C: Rob Schultz, Damaris Hanson, Brian Cowen, Bryan Millard

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City of Morro Bay  
Community Development Dept.

City of Morro Bay – Building inspector

Nov 3, 2011

RE:

2590 Elm Ave

Morro Bay -----Family home for more than 30 years.

- I. My first complaint in 2006 was when you changed the lot lines for the house directly behind me. A very strange configuration that would allow the new property to drain into the street even though it now flooded my back yard, which never flooded in 30 years prior.  
See diagram....
  
- II. I was told there was no recourse and their contractor put cement blocks up to block the water, which only served to build up a berm of weeds and soil at the fence line..  
SEE PHOTO....
  
- III. Then in August the new owner built access to his patio / quasi Garage (no sides or doors). His Garage was always in the front of house and to my knowledge still is. I consulted your office and was told they could not grade in the street with out a permit. As photos show this was not the case. They brought in dirt and grade a nice drive in the street. What are you going to do about that.....?????

I made an official complaint in August 10, 2011 and was told it would be looked into.... I called a couple of times but no resolution and never a word in written form about this complaint...??????????. Copy of this complaint inclosed

I was told natural grade of the road----wrong it was a dead end Flat road for 30 years I have pictures to show this is true. The run off from new lot lines built it up.

After no response from your office the situation has gotten worst with the new owner orienting his house to this side. His drive way, his visitors now block driveway entrances on both side. All neighbors are concerned about the rising problems, but of course we new this would happen and still we have no response from your office. What Gives?????

955 Shasta Ave.  
Morro Bay, CA 93442  
(805) 772-6211



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

August 6, 2018

Dan and Dina Krull  
2575 Greenwood Avenue  
Morro Bay, CA 933442

Subject: Coastal Development Permit #CP0-575 at 2575 Greenwood Avenue

**Description:**

Administrative Coastal Development Permit for the construction of a new 386 sq. ft. attached Accessory Dwelling Unit within the existing two-car garage and the removal of a nonconforming shed on a 4,595 sq. ft. parcel at 2575 Greenwood Avenue. The proposed project is located within the R-1/S.2 Single-Family Residential Zoning District and outside of the Coastal Commission Appeal Jurisdiction.

Dear Mr. and Mrs. Krull:

The City of Morro Bay Community Development Department conditionally approved your request. This action does not constitute a building permit. Any further processing of this project must be initiated by the applicant, subject to the applicable rules and regulations of the Morro Bay Municipal Code. ***Please be advised that you must return the enclosed Acceptance of Conditions form, signed, to this department or the action is null and void.***

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

Please also find enclosed the Notice of Exemption for your project. The City of Morro Bay no longer files notices of exemptions. You may file the Notice of Exemption with the County Clerk's office located in the County Government Building in San Luis Obispo. The filing Fee is \$50.00 and the County requires the original Notice of Exemption and at least one copy.

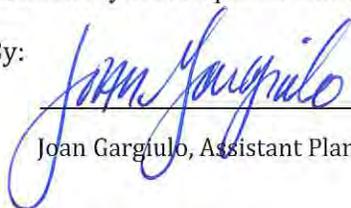
Section 15062 (d) of The California Environmental Quality Act (CEQA) provides:

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

Sincerely,

Scot Graham  
Community Development Director

By:

  
Joan Gargiulo, Assistant Planner



CITY OF MORRO BAY  
COMMUNITY DEVELOPMENT DEPARTMENT

Coastal Development Permit

This approval is based upon the attached findings and is valid only if the attached conditions are met and only after the applicable appeal period. Failure to comply with the conditions of this permit shall, at the discretion of the Community Development Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void.

CASE NO: CP0-575

**THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:**

SITE ADDRESS: 2575 Greenwood Avenue

APPLICANT: Dan and Dina Krull

APN/LEGAL: 068-249-038

DATE APPROVED: August 6, 2018

APPROVED BY: Community Development Director

CEQA DETERMINATION: Categorical Exemption, Class 3, CEQA Guidelines Section 15303(a)

DESCRIPTION  
OF APPROVAL:

Administrative Coastal Development Permit for the construction of a new 386 sq. ft. attached Accessory Dwelling Unit within the existing two-car garage and the removal of a nonconforming shed on a 4,595 sq. ft. parcel at 2575 Greenwood Avenue. The proposed project is located within the R-1/S.2 Single-Family Residential Zoning District and outside of the Coastal Commission Appeal Jurisdiction.

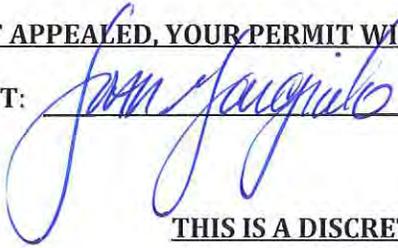
Please see reverse for Permit Effective Date.

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

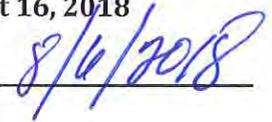
**YOUR PROPERTY IS LOCATED IN THE COASTAL COMMISSION APPEALS JURISDICTION:** THE FOLLOWING COASTAL COMMISSION APPEAL PERIOD APPLIES TO YOUR PROJECT: This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. The applicant or any aggrieved person may appeal this decision to the Coastal Commission within TEN (10) *Working days* following Commission receipt of this notice and after expiration of the City of Morro Bay appeal period. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, Ste. 300, Santa Cruz, CA 95060, Phone: 415-427-4863. If you have any questions, please call the City of Morro Bay Community Development Department, 772-6264.

**IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: Thursday, August 16, 2018**

ATTEST:



DATE:



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



CITY OF MORRO BAY  
COMMUNITY DEVELOPMENT DEPARTMENT  
NOTICE OF FINAL ACTION ON COASTAL DEVELOPMENT  
PERMIT

DATE OF NOTICE: 8/6/2018

NOTICE OF FINAL CITY ACTION on Coastal Development Permit No. CP0-575

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

Applicant: Dan and Dina Krull

Address: 2575 Greenwood Avenue, Morro Bay, CA 93442

Project Description:  
Administrative Coastal Development Permit for the construction of a new 386 sq. ft. attached Accessory Dwelling Unit within the existing two-car garage and the removal of a nonconforming shed on a 4,595 sq. ft. parcel at 2575 Greenwood Avenue. The proposed project is located within the R-1/S.2 Single-Family Residential Zoning District and outside of the Coastal Commission Appeal Jurisdiction

Project Location: 2575 Greenwood Avenue, Morro Bay, CA 93442

APN: 068-249-038

Zoning: R-1/S.2

Land Use Plan/General Plan: Moderate Density Residential

Lot Area: 4,595 square-feet

Filing Date: 4/11/2018

Approval Body: Community Development Director

Action Taken: Approve with conditions

Action Date: 8/6/2018

THIS SITE IS OUTSIDE OF THE COASTAL COMMISSION APPEAL JURISDICTION

This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. The applicant or any aggrieved person may appeal this decision to the Coastal Commission within TEN (10) working days following Commission receipt of this notice. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, #300, Santa Cruz, CA 95060, 531-427-4863.

APPLICANT'S ACCEPTANCE  
OF  
CONDITIONS OF APPROVAL

CASE NO. CP0-575  
SITE LOCATION: 2575 GREENWOOD AVENUE, MORRO BAY  
APPLICANT NAME: DAN AND DINA KRULL  
APPROVAL BODY: COMMUNITY DEVELOPMENT DIRECTOR  
DATE OF ACTION: 8/6/2018

I (WE), \_\_\_\_\_ the undersigned, have read and  
(*APPLICANT'S NAME - PLEASE PRINT*)

reviewed the conditions of approval imposed by the Approval Body in its action  
approving Case Number: CP0-575

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

\_\_\_\_\_  
APPLICANT'S SIGNATURE DATE

\_\_\_\_\_  
APPLICANT'S SIGNATURE DATE

# CITY OF MORRO BAY

## NOTICE OF EXEMPTION

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

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

**FROM:** City of Morro Bay  
Community Development Department  
955 Shasta Avenue  
Morro Bay, CA 93442

**Project Title:** Construction of an Accessory Dwelling Unit

**Project Location - Specific:** 2575 Greenwood Avenue, Morro Bay (APN 068-249-038)

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

**Description**

**of Project:** Administrative Coastal Development Permit for the construction of a new 386 sq. ft. attache Accessory Dwelling Unit within the existing two-car garage and the removal of a nonconforming shed on 4,595 sq. ft. parcel at 2575 Greenwood Avenue. The proposed project is located within the R-1/S.2 Single Family Residential Zoning District and outside of the Coastal Commission Appeal Jurisdiction

**Name of Public Agency Approving the Project:** CITY OF MORRO BAY, 955 SHASTA AVE, MORRO BAY, CA 93442  
jgargiulo@morrobayca.gov

**Name of Person or Agency Carrying Out Project:** D. and D. Krull, 2575 Greenwood, Morro Bay., CA 93442  
Dan.m.krull@gmail.com

**Exempt Status: (Check One)**

Reasons why project is exempt: New ADU in a residential zoning district

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Categorical Exemption:  
Type and Section Number: 15303, Class 3(a)
- Statuary Exemption Code No. \_\_\_\_\_

**Lead Agency:** City of Morro Bay, 955 Shasta Ave, Morro Bay, CA 93442

**Contact Person:** Joan Gargiulo, Assistant Planner Telephone: 805-772-6270

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

**Certification:**

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

Signature:  Title: Assistant Planner Date: 8/6/2018

CP0-5475  
2575 Greenwood Avenue

**COASTAL DEVELOPMENT PERMIT  
CASE NO. CP0-575  
SITE LOCATION: 2575 GREENWOOD AVENUE, MORRO BAY**

**I. FINDINGS OF APPROVAL**

The Community Development Director has reviewed this Coastal Development Permit and application and finds the following:

California Environmental Quality Act (CEQA)

1. The project is exempt from the California Environmental Quality Act, under Class 3, Section 15303(a) for the construction of a second dwelling unit in a residential zone in an urbanized area. Additionally, none of the Categorical Exemption exception, noted under Section 15300.2 apply to the project.

Coastal Development Permit findings

2. That the project is the construction of a second dwelling unit in a residential zone which is consistent with the City's General Plan, Local Coastal Plan, and Zoning Ordinance. Specifically, the permit is an Administrative Coastal Development Permit for the construction of a new attached 386 sq. ft. Accessory Dwelling Unit within the existing garage. The project is located within the R-1/S.2 Residential Zoning District and outside of the Coastal Commission Appeal Jurisdiction.

**II. CONDITIONS OF APPROVAL**

**STANDARD CONDITIONS:**

1. Permit: This permit is granted for the land described on Assessor Parcel Number 068-249-038 for the construction of an Accessory Dwelling Unit as depicted on plans dated July 19, 2018, and on file with the Community Development Department, as modified by these conditions of approval. Site development, including all buildings and other features, shall be located and designed substantially as shown on plans, unless otherwise specified herein.
2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this 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 Community Development Director. Any substantial change will require the filing of an application for an amendment.

CP0-5475

2575 Greenwood Avenue

4. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicant's failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: Compliance with and execution of all conditions listed hereon shall be necessary, unless otherwise specified, prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the 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:**

1. CEQA Exemption: If the applicant elects to post the Categorical Exemption with the County Clerk's Office then a required fee of \$50 fee shall be made payable to "County of San Luis Obispo" and delivered to the County Clerk along with the Categorical Exemption form attached to the coastal development permit. This filing has the effect of starting a 35-day statute of limitations period for challenges to the decision in place of the 180-day period otherwise in effect.
2. Construction Hours: Construction Hours: Pursuant to section 9.28.030.I, Construction or Repairing of Buildings. The erection (including excavating), demolition, alteration or repair of any building or general land grading and contour activity using equipment in such a manner as to be plainly audible at a distance of fifty feet from the building other than between the hours of seven a.m. and seven p.m. on weekdays and eight a.m. and seven p.m. on weekends except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the community development department, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues.

CP0-5475  
2575 Greenwood Avenue

3. Parking During Construction: Parking shall occur in a manner consistent with the Morro Bay Municipal Code and the California Motor Vehicle Code and shall not, at any time, block any portion of any driveway on any other parcel in the vicinity.
4. Dust Control: That prior to issuance of any grading permit, a method of control to prevent dust and windblown earth problems shall be submitted for review and approval by the Building Official.
5. Boundaries and Setbacks: The property owner is responsible for verification of lot boundaries. Storage containers or other equipment shall not encroach into the required setback areas consistent with the zoning district.
6. 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.
7. Driveway Removal: The existing driveway located at the western edge of the parcel shall be removed up to the property line; to be shown on submitted building plans.
8. Parking: Parking shall occur only within designated onsite parking spaces or within the Public Right-Of-Way in a manner that is consistent with all applicable Sections of the Morro Bay Municipal Code and the California Motor Vehicles Code and shall not block or impede ingress or egress to any other parcel or otherwise create an unsafe situation.

### **BUILDING CONDITIONS:**

#### **PRIOR TO ISSUANCE OF A BUILDING PERMIT:**

1. Building permit plans shall be submitted by a California licensed architect or engineer when required by the Business & Professions Code, except when otherwise approved by the Chief Building Official.
2. The owner shall designate on the building permit application a registered design professional who shall act as the Registered Design Professional in Responsible Charge. The Registered Design Professional in Responsible Charge shall be responsible for reviewing and coordinating submittal documents prepared by others including phased and staggered submittal items, for compatibility with design of the building.
3. The owner shall comply with the City's Structural Observation Program. The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer of record or architect responsible for the structural design, to perform structural observation. Observed deficiencies shall be reported in writing to the owner's representative, special inspector, contractor and the building official. The structural observer shall submit to the building official a written statement that the site visits have been made and identify any reported deficiencies that, to the best of the structural observer's knowledge, have not been resolved.

CP0-5475  
2575 Greenwood Avenue

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

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

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

**B. CONDITIONS TO BE MET DURING CONSTRUCTION:**

1. **SITE MAINTENANCE.** During construction, the site shall be maintained so as to not infringe on neighboring property, such as debris and dust.
2. **ARCHAEOLOGICAL MATERIALS.** In the event unforeseen archaeological resources are unearthed during any construction activities, all grading and or excavation shall cease in the immediate area and the find left untouched. The

CP0-5475  
2575 Greenwood Avenue

Building Official shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, Native American, or paleontologist, whichever is appropriate. The qualified professional shall evaluate the find and make reservations related to the preservation or disposition of artifacts in accordance with applicable laws and ordinances. If discovered archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the Building Official shall notify to county coroner. If human remains are found to be of ancient age and of archaeological and spiritual significance, the Building Official shall notify the Native American Heritage Commission. The developer shall be liable for costs associated with the professional investigation.

3. A licensed surveyor or engineer shall verify pad elevations, setbacks, prior to foundation inspection, and/or building height prior to framing inspection when determined necessary by the Planning Division.

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

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

**FIRE DEPARTMENT CONDITIONS:**

1. Fire Safety during Construction and Demolition shall be in accordance with 2016 California Fire Code, Chapter 33. This chapter prescribes minimum safeguards for construction, alteration and demolition operations to provide reasonable safety to life and property from fire during such operations.
2. Carbon monoxide alarms in new dwellings and sleeping units. An approved carbon monoxide alarm shall be installed in dwellings having a fossil fuel-burning heater or appliance, fireplace or an attached garage. Carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions. (CRC R315.2)
3. Address identification. All new and existing single family residence and ADU's shall have their own approved address numbers or building numbers placed in a position to be plainly legible from the street or road fronting the property (CFC 505). Provide approved address numbers 4 inches high with ½ inch stroke in contrasting numbers.

**PUBLIC WORKS CONDITIONS:**

1. Stormwater Management: The City has adopted Low Impact Development (LID)

CP0-5475  
2575 Greenwood Avenue

and Post Construction requirements to protect water quality and control runoff flow from new and redevelopment projects. The requirements can be found in the Stormwater management guidance manual on the City's website [www.morrobay.ca.us/EZmanual](http://www.morrobay.ca.us/EZmanual). Projects with more than 2,500sf of new or redeveloped impervious area are subject to these requirements. All proposed projects must complete the "SFR Performance Requirement Determination Form" to prove compliance.

2. Driveway Approach: A driveway approach is required for all proposed driveways off both Pico and Greenwood. Proposed uncovered cobble 1-car parking spaces off Greenwood Avenue (Major Collector street) requires installation of B-6 driveway approach with sidewalk. Proposed uncovered parking space off Pico Street requires driveway. If permeable pavers are to be used, a modified driveway approach with a 12" wide PCC grade beam should be constructed to stabilize the front edge of the pavers. An encroachment permit is required for any work within the Right of Way.
3. Barricade: Due to Pico Street ending, a metal beam barricade (with no parking sign) is required in front of the proposed fence.
4. Mailbox: Existing mailbox located within proposed uncovered cobble 1-car parking space, will need to be relocated. Install per US Postal requirements.
5. Utilities: Show all existing and proposed locations of the sewer lateral and sewer main. Include sizes where appropriate. Note the location of all overhead utilities and construction underground service entrances per the CBC.
6. Sewer Lateral: Perform a video inspection of the lateral and submit to Public Works via flash drive or DVD, prior to building plan approval. Lateral shall be repaired as necessary and all repairs shall be noted on approved set of plans. Our records indicate two possible sewer lateral connections to the sewer mainline.
7. Sewer Backwater Valve: Indicate and label sewer backwater valve on plan. 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).
8. Erosion and Sediment Control Plan: For small projects less than one acre and less than 15% slope, provide a standard erosion and sediment control plan. The Plan shall show control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or ecologically sensitive area.
9. Grading and Drainage: Indicate on plans the existing and updated contours, drainage patterns, spot elevations, finish floor elevation and all existing and proposed drainage pipes and structures.

CP0-5475  
2575 Greenwood Avenue

10. Encroachment Permits: A standard encroachment permit shall be required for the proposed driveway and barricade; the driveway shall comply with B-9 (Driveway Ramps: Size & Location). A sewer encroachment permit shall be required for any repairs or installation of a sewer lateral within the City right-of-way or within a utility easement. If a construction dumpster is used, the dumpster location shall be on private property, unless allowed by an encroachment permit within the City right-of-way.

Add the following Notes to the Plans:

1. 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.
2. No work shall occur within (or use of) the City's Right of Way without an encroachment permit. Encroachment permits are available at the City of Morro Bay Public Works Office located at 955 Shasta Ave. The Encroachment permit shall be issued concurrently with the building permit.

**PROJECT DESCRIPTION**

THE PROPOSED PROJECT IS THE CONVERSION OF AN EXISTING 2-CAR GARAGE IN A 395 SF ACCESSORY DWELLING UNIT ON AN EXISTING SINGLE FAMILY LOT IN THE R-1/S.2 ZONE.

# 2575 GREENWOOD AVENUE - ACCESSORY DWELLING UNIT

**PROJECT STATISTICS**

**PROJECT ADDRESS:** 2575 GREENWOOD AVENUE  
 MORRO BAY, CA 93442  
**APN:** 068-249-038  
**LOT SIZE:** 4,595 SF  
**ZONING:** R-1/S.2  
**CURRENT SITE USE:** SINGLE-FAMILY RESIDENCE

**SETBACKS:**  
**REQUIRED PER MUNICIPAL CODE: 17.40.050 (S-OVERLAY ZONE)**  
 FRONT: 15'-0"  
 REAR: 5 FEET  
 SIDE: 10% OF LOT WIDTH, TO MAX OF 5 FEET

**EXISTING SETBACKS:**  
 FRONT: 15'-0"  
 REAR: 2.92 FEET  
 SIDE: 2'-11.5" (HOUSE & SHED)

**PROPOSED SETBACKS:**  
 FRONT: 15'-0"  
 REAR: 5.68 FEET  
 SIDE: 4.42 FEET (ADU) & 4.08 FEET (GARAGE)

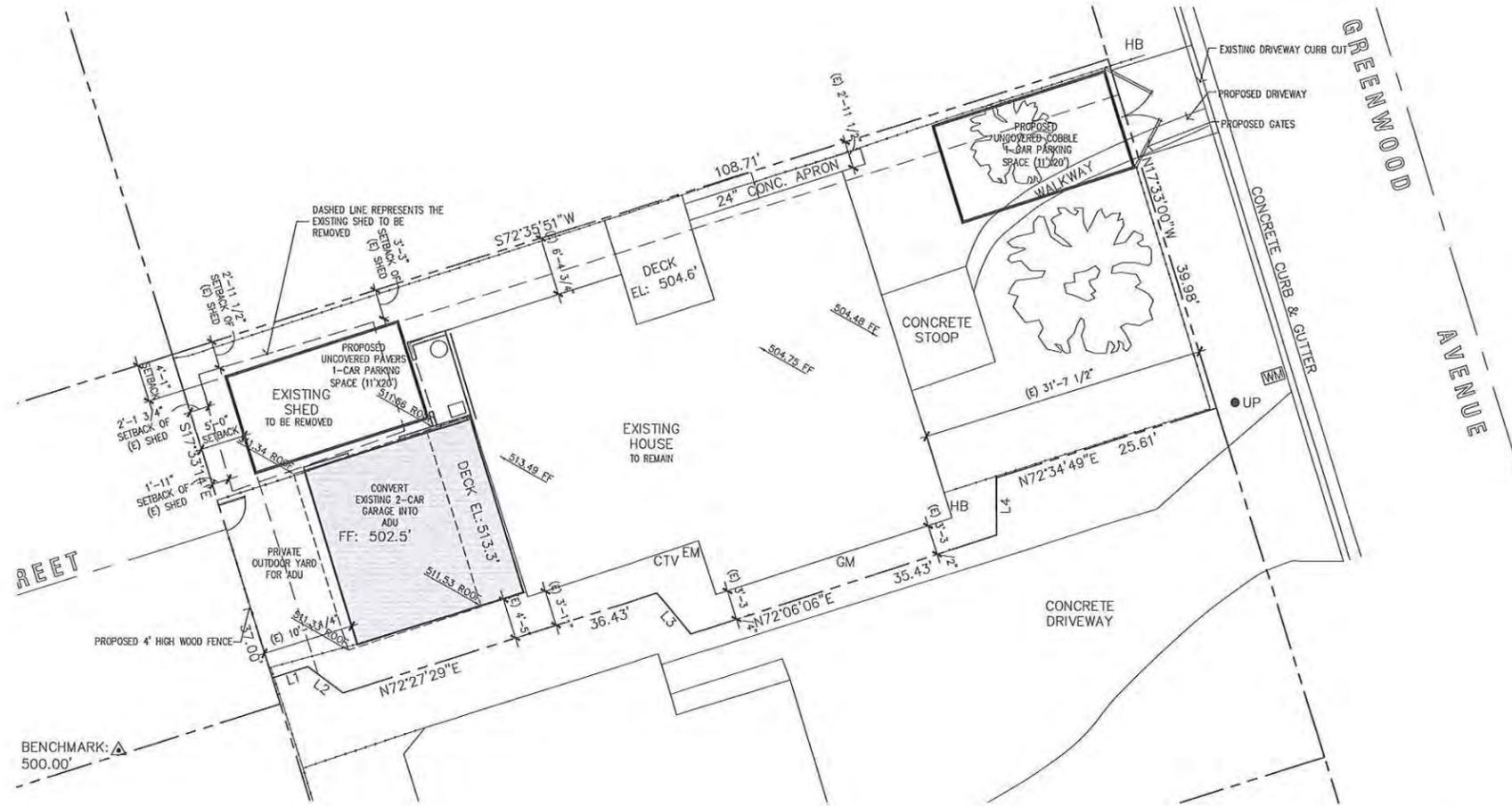
**ALLOWABLE HEIGHT**  
 MAX ALLOWABLE HEIGHT: 25'-0"  
 EXISTING HEIGHT: RESIDENCE +/-22'-8.5"  
 PROPOSED HEIGHT: RESIDENCE +/-22'-8.5"  
 EXISTING HEIGHT: DECK RAILING +/-15'-8"  
 PROPOSED HEIGHT: DECK RAILING +/-13'-6"

**FLOOR AREAS:**  
 EXISTING GROUND FLOOR RESIDENCE = 1,601 SF  
 EXISTING SECOND FLOOR RESIDENCE = 627 SF  
 TOTAL EXISTING RESIDENCE = 2,228 SF  
 EXISTING 2-CAR GARAGE = 386 SF  
 EXISTING UNCOVERED DECK = 379 SF  
 EXISTING SHED TO BE REMOVED = 261 SF

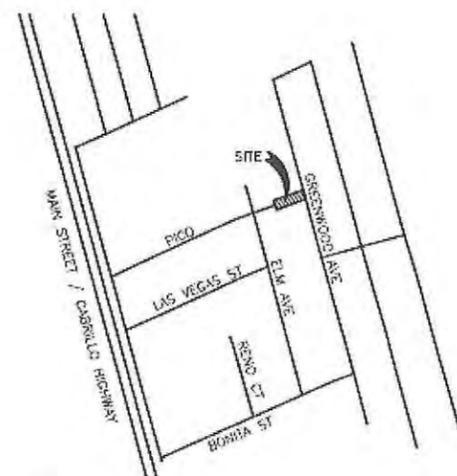
PROPOSED ACCESSORY DWELLING UNIT = 386 SF

**SITE COVERAGE:**  
**EXISTING**  
 RESIDENCE 1,641 SF  
 GARAGE (2-CAR) 386 SF  
 SHED 261 SF  
 TOTAL 2,288/4,595 (49.8%)

**PROPOSED**  
 RESIDENCE 1,641 SF  
 ADU 386 SF  
 TOTAL 2,027/4,595 (44.1%)

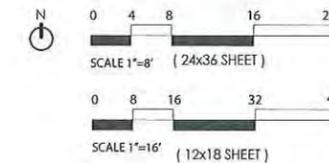


ARCHITECTURAL SITE PLAN



VICINITY MAP

City of Morro Bay  
 Administrative Approval  
 Project #(s) CPO-575  
 Approved as Submitted  
 Approved with Changes  
 Approval Date: 8/16/2018  
 Planner: [Signature]



**PROJECT INFORMATION**

**OWNER:**  
 DAN AND DINA KRULL  
 2575 GREENWOOD AVENUE  
 MORRO BAY, CA 93442  
 PHONE: 805.712.8088

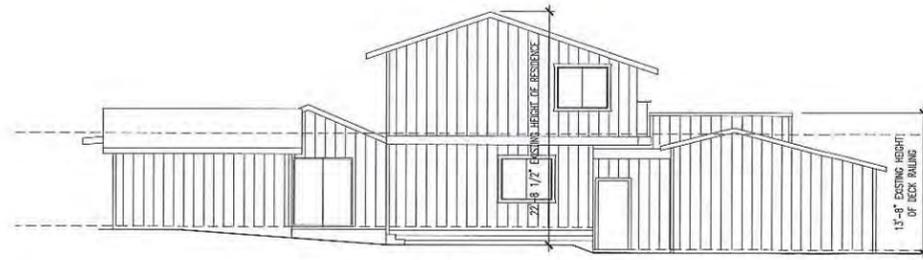
**ARCHITECT:**  
 RRM DESIGN GROUP  
 3765 S. HIGUERA STREET, STE. 102  
 SAN LUIS OBISPO, CA 93401  
 CONTACT: DARIN CABRAL  
 PHONE: 805.543.1794

**SHEET INDEX**

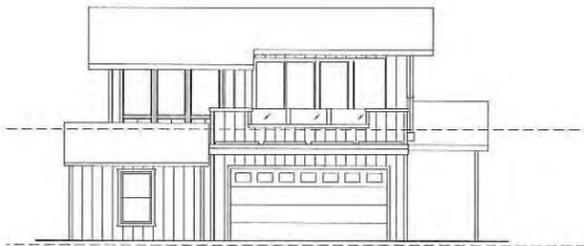
- P1 COVER SHEET & SITE PLAN
- P2 FLOOR PLANS & ELEVATIONS



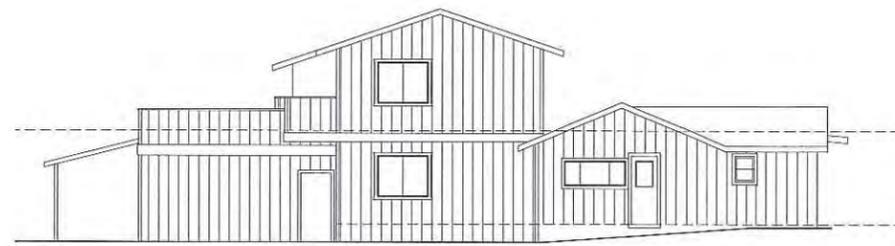
EXISTING FRONT ELEVATION



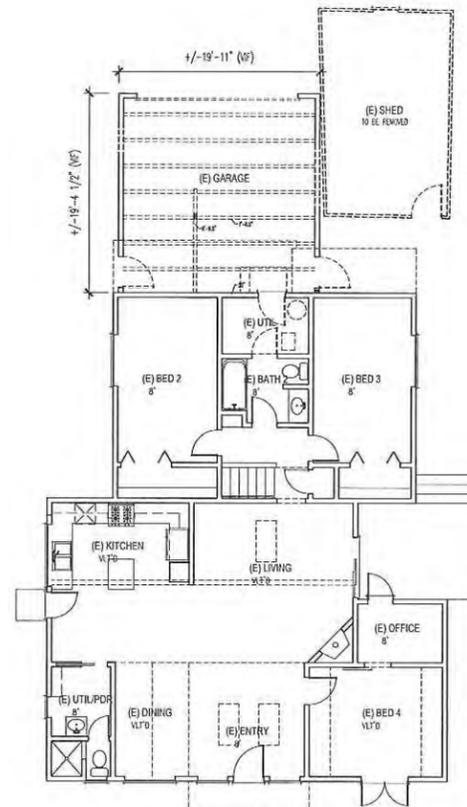
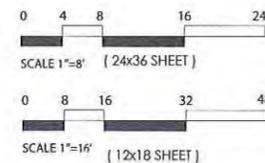
EXISTING RIGHT ELEVATION



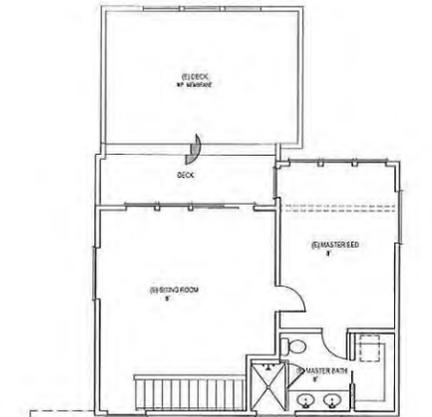
EXISTING REAR ELEVATION



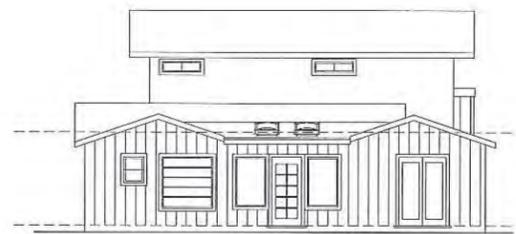
EXISTING LEFT ELEVATION



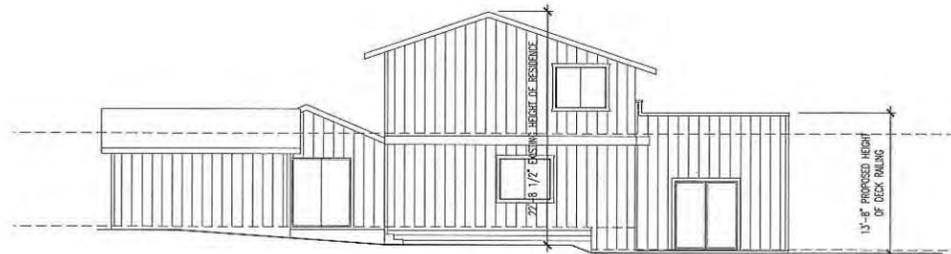
EXISTING LOWER FLOOR PLAN



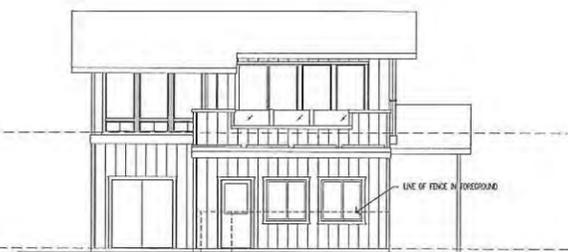
EXISTING UPPER FLOOR PLAN



PROPOSED FRONT ELEVATION



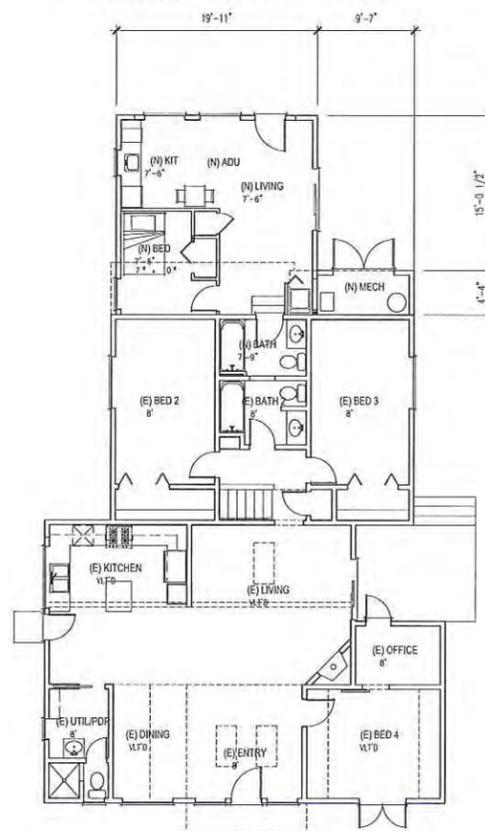
PROPOSED RIGHT ELEVATION



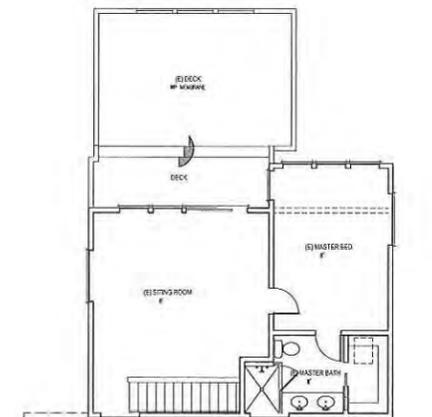
PROPOSED REAR ELEVATION



PROPOSED LEFT ELEVATION



PROPOSED LOWER FLOOR PLAN



PROPOSED UPPER FLOOR PLAN

# **2575 Greenwood Avenue - Proposed ADU**

## **Response to Appeal to City Council**

submitted by Dan and Dina Krull  
owners 2575 Greenwood

December 18, 2018

On October 25, 2018, Kay Mulligan and Judy Johnson submitted an appeal to the City Council of Morro Bay regarding the proposed Accessory Dwelling Unit on 2575 Greenwood Ave.

The reasons for the appeal were stated as

- Parking Spaces
- Blocking neighbors' driveways and garage
- Illegal parking

### **Response**

In 2011, Dan and Dina Krull bought the home on 2575 Greenwood Avenue in part due to its street-to-street uniqueness. At the time of purchase, the home had access from Pico Street to a two-car carport, which was later enclosed into a garage by city permit. However, access to the permitted garage has been a source of tension, not so much with the appellants Kay and Judy, but with Clay Kearney, who resides at the Mulligan residence. Clay has told neighbors that they must get his permission to park on the Pico right-of-way. This attitude of ownership toward public space has been the source of numerous heated discussions.

#### **Parking Spaces:**

The Krull's assumption is that the appeal claims there are insufficient parking spaces to adequately facilitate the proposed accessory dwelling unit.

The ADU plan provides two off-street parking spots to replace parking currently provided by the existing two-car garage which will be turned into

living space, so there will be no change in the amount of on-street parking in city right-of-way. Additionally, Kay's property currently has two two-car driveways, a two-car garage and approximately 120 feet of city right-of-way parking. Judy's property has a two-car garage, a two-car driveway, an off-street RV parking space and 150 feet of city right-of-way parking. This is almost three times the amount of parking found at any other home on Pico Street.

#### Blocking driveways and garages/ Illegal parking:

As depicted in the photos attached to Kay and Judy's appeal, cars approach our garage to load and unload groceries, sports equipment, etc. (as seen by open trunks and attended vehicles). Cars are usually in the garage approach for a few minutes to load, then removed. Any overnight or longer-term parking occurs on the city right-of-way.

Many of the photos submitted are not vehicles owned by the Krulls or their guests. Judy does not reside in Morro Bay on a continual basis and has rented her home to various groups with multiple vehicles. In Judy's absence, her home is overseen by Kay and her housemate Clay.

One photo, in particular, submitted in the appeal is a white van that is parked blocking Kay's side driveway. This is in fact her own van that is parked in this position. The appeal submits photos that are not depicting what Pico Street looks like the majority of the time. Rarely are there any cars parked on the Pico right-of-way.

As mentioned at the Morro Bay Planning Commission meeting regarding this appeal, if there is unlawful parking, it is a law enforcement issue. From our perspective, Clay's frustration and desire to control public right-of-way is the motivator of this appeal.

The numerous photos submitted with the appeal are a result of a permanent surveillance camera directed toward the Krull's driveway and bedroom. This is concerning since we have two 17-year old daughters at home and feel uncomfortable with Clay, (who resides in Kay's home) and the constant videoing.

When family and friends approach the garage, they do not perceive their vehicles as blocking Kay or Judy's driveway in any significant way. As seen by the following photo, even when cars are parked in the Pico Street approach to the garage, it is shown that neighbors are still able to access their driveways/garages.



The Krulls believe the proposed ADU would serve to help the garage-approach situation by removing the approach, installing a fence, barricade, and clear signage regarding parking. Additionally, the proposed parking space which replaces the existing shed will remove the temptation to park cars where they could be perceived to block driveway or garage access.

Thank you for your time and consideration, The Krulls

RECEIVED

DEC 18 2018

City of Morro Bay  
Community Development Dept.

November 5, 2018

Appeal of CPO: 575

Located at 2575 Greenwood Avenue

To: City Council of Morro Bay

From: Ann Parks-Council

My family purchased the house located at \_\_\_\_\_ in 1963 and we have enjoyed being a part of the neighborhood. One of the joys for our family has been to see all the wonderful improvements in the neighborhood over the decades.

Under the ownership of Dan and Dina Krull the home at 2575 Greenwood has been developed and improved. Our house is across the street and faces their property and we especially appreciate the landscaping and improvements they have done to their front lawn.

Both Dan and Dina Krull have been especially helpful to our family and are wonderful neighbors. Their loyalty and commitment to the neighborhood is steadfast. Their judgment and execution of past improvement projects of their property has been excellent.

We believe that the proposed project will improve our neighborhood and our family is in complete support of their project.

Very truly yours,

Ann Parks-Council

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AGENDA NO: C-1

MEETING DATE: January 8, 2019

# Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** December 19, 2018

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** Authorization for Attendance at the C-MANC Annual Washington, D.C.,  
"Washington Week" Meetings and for Support of Funding for the Water  
Reclamation Facility

## **RECOMMENDATION**

Staff recommends the City Council:

- 1) Authorize a two-person delegation (the Mayor and Harbor Director) to attend the California Marine Affairs and Navigation Conference (C-MANC) 2019 "Washington Week" meetings in Washington, D.C. These meetings are slated for the week of March 4<sup>th</sup>, 2019; and,
- 2) Authorize the City Manager and Public Works Director to travel to Washington D.C. and meet, alongside the Mayor when appropriate, with Morro Bay's legislative delegation and relevant federal agencies representatives in support of the Water Reclamation Facility (WRF) funding and permitting. The travel would coincide with the annual (C-MANC) 2019 meetings in Washington, D.C.

## **ALTERNATIVES**

Do not approve authorization for the "Washington Week" C-MANC delegation.

## **FISCAL IMPACT**

The total hard costs for airfare, hotel, and monetary contribution to the Golden State Reception for the "Washington Week" meetings are estimated at \$6,000-\$8,000 for two persons, not including approximately \$2,000 in staff time in preparatory meeting attendance, grant preparation, and travel/meeting logistics. Staff expenses for the Mayor and Harbor Director will be assumed by the Harbor Fund.

The Harbor Department will be applying for a grant for up to \$8,000 from the Central Coast Joint Cable Fisheries Liaison Committee which, if granted, will be used for reimbursement of actual travel, attendance and associated costs of attendance for the two-person delegation. Last year's actual costs for a two-person delegation, including the Golden State Reception contribution, were approximately \$7,000.

The City was successful in obtaining the Cable Committee Grants for many years, and staff is confident this year will be no different. If we are not successful in obtaining the grant, however, staff will come back to Council for a budget adjustment and/or change in itinerary, as those funds are not currently budgeted.

Prepared By: EE

Dept Review: EE

City Manager Review: SC

City Attorney Review: \_\_\_\_\_

The trip costs for the City Manager and Public Works Director are expected to be funded equally between the Water and Wastewater Enterprise funds. It is estimated that airfare, hotel and meals will cost approximately \$6,000 - \$8,000 in combined total for the City Manager and Public Works Director's expenses. There will be no General Funds expended for this trip.

Estimated Travel Costs and Funding Source		
	Estimated Cost	Funding Source
C-MANC "Washington Week" - Mayor Irons and Director Endersby	\$6,000 - \$8,000	Paid from Harbor Enterprise Fund with anticipated reimbursement from Central Coast Joint Cable Fisheries Liaison Grant
WRF Funding and Permitting - City Manager Collins and Director Livick	\$6,000 - \$8,000	Paid from Water and Wastewater Enterprise Funds

**BACKGROUND/DISCUSSION**

***C-MANC "Washington Week" Meetings:***

The City of Morro Bay is a long-standing member of C-MANC, and for the past ~25 years, has sent representatives to the "Washington Week" meetings to remind Congress of the importance of dredging projects, commercial fishing and other coastal-related legislation in California and nation-wide. This year like last, we are proposing authorization for a delegation of up to three-persons, as this team may be necessary and has proven effective in strategically attending meetings and making contacts focused on both C-MANC-related issues and issues related to the WRF and WRF funding.

The annual "Washington Week" proceedings are the City's most effective way for face-to-face meetings with our representatives and others to stress the critical need to fund navigational and entrance dredging and other Federal priorities of the City. In addition to the C-MANC group meetings and forums with such entities as Office of Management and Budget, Environmental Protection Agency, U.S. Fish and Wildlife, Council on Environmental Quality, Army Corps of Engineers, U.S. Coast Guard, Department of Transportation, National Oceanic and Atmospheric Administration and Congressional members, additional one-on-one meetings with the Morro Bay delegation are scheduled with key Congressional representatives, regulators and agencies. C-MANC members also host the "Golden State Reception," attended by over 200 elected and appointed Washington officials, for a "meet and greet" gathering, where agencies can meet with representatives and staffers of various levels to discuss their issues and concerns in a less formal setting.

For the current Federal fiscal year, C-MANC, the City of Morro Bay and the Army Corps recommended and were successful in obtaining funding sufficient to dredge the entirety of Morro Bay's channels and harbor entrance. Because of these efforts working with the Corps at all levels, all of our channels were recently dredged, and the Corps' dredge ship *YAQUINA* will be here again this spring to dredge our entrance.

***WRF Funding and Permitting:***

On July 19, 2017, the U.S. Environmental Protection Agency (EPA) invited the City of Morro Bay to apply for an \$82 million Water Infrastructure Finance and Innovation Act (WIFIA) loan. The Water Infrastructure Finance and Innovation Act (WIFIA) program accelerates investment in our nation's water infrastructure by providing long-term, low-cost supplemental loans for regionally and nationally significant projects. The City submitted a letter of interest to EPA in April 2017 and was one of twelve

selected from a group of 43 projects that represent large and small communities from across the United States based on the project description to recycle wastewater to help supplement the City water supply; reduce reliance on imported water; improve groundwater quality with the addition of highly treated water; and move a critical piece of infrastructure to reduce flood risk. The City officially submitted its application for the WIFIA loan on July 13, 2018, for approximately \$61.7M.

In discussing the WIFIA program, former EPA Administrator Scott Pruitt said, “Rebuilding America’s infrastructure is a critical pillar of the President’s agenda. These large-scale projects will improve water quality for 20 million Americans, especially those communities that need it the most – such as rural and urban communities.”

Securing this federal subsidy, and other potential funding sources, for the proposed WRF Project is a critical effort to making the project more affordable for the Morro By Community. The total costs for the proposed WRF project are budgeted at \$126M to relocate that critical infrastructure away from coastal hazards, while providing a more resilient and local water supply for the community. The Public Works Director, City Manager and Mayor (when available) will meet with the US-EPA and the WIFIA staff, USDA and their infrastructure funding staff along with the US Bureau of Reclamation in pursuit of a WaterSmart grant that could potentially fund 25-percent or up to \$20M of the total project cost. The WaterSmart grant will additionally require congressional authorization so keeping the proposed WRF Project in front of our legislative delegation is imperative. As such, Morro Bay representatives will meet with our Congressional representatives to discuss this matter.

## **CONCLUSION**

It is critically important for the California C-MANC delegation to maintain its many relationships in Washington and a seat at the D.C. table, in addition to bringing a unified voice to D.C. of the importance of all of California’s ports and harbors, large and small, to the national economy and security.

Staff is therefore recommending approval of City Council authorization to send a delegation of up to two-persons to C-MANC’s “Washington Week” proceedings this coming March. Staff will be applying for Cable Committee grant funding in January when the grant cycle is open to cover the trip’s costs for two-persons, and is supplying “in-kind” City staff time as its share; therefore, no direct fiscal impacts are anticipated, provided the grant is approved. Staff is further recommending approval for the City Manager and Public Works Director to travel with the delegation in support of the WRF project. Staff recommends funding the City Manager’s and Public Works Director’s expenses out of the Water and Wastewater Funds.

Finally, staff will bring an informational item to Council, likely the second meeting in February, discussing the D.C. agenda, final cost estimates and status of the Cable grant and draft letters to our Congressional representatives, the US Army Corps of Engineers, the Bureau of Reclamation, US Environmental Protection Agency and to seek Council input, if any, on the trip.

## **ATTACHMENTS**

None.

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policy adopted by Resolution No. 27-18 in May 2018 (Attachment 3).

As each new Council is seated, staff recommends the Code of Civil Discourse be reviewed and affirmed, and/or updated, as the Council deems appropriate. Based on the direction provided at this meeting, staff will work to incorporate key themes into the instructions for Public Comment that are provided on page 1 of each City Council and Planning Commission agenda.

### **CONCLUSION**

Staff recommends the Council review the current Resolution No. 27-18 and SLO County Code of Civility and either affirm the current adopted policy or provide input as to desired changes to be brought forward for adoption as a consent item on January 22, 2019.

### **ATTACHMENTS**

1. Resolution No. 70-15 adopted November 2015
2. SLO County Code of Civility approved by various SLO County agencies and signed June 21, 2018
3. Resolution No. 27-18 adopted May 2018

**RESOLUTION NO. 70-15**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
PLEDGING TO FOLLOW BEST PRACTICES OF CIVILITY AND CIVIL DISCOURSE  
IN ALL OF ITS MEETINGS**

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

**WHEREAS**, we, the Mayor, City Council Members, Commissioners, Appointees, and Staff of the City of Morro Bay, in order to ensure **civility** and **civil discourse** in all of our meetings, pledge our commitment to the following **best practices of civility and civil discourse**; and,

**WHEREAS**, we pledge our commitment to **respect** the right of all people to hold different opinions in all our meetings; and

**WHEREAS**, we pledge our commitment to **avoid rhetoric intended to humiliate, malign, or question the motivation** of those whose opinions are different from ours in all our meetings; and

**WHEREAS**, we pledge our commitment to **strive to understand** differing perspectives in all our meetings; and,

**WHEREAS**, we pledge our commitment to **choose words carefully** in all our meetings; and

**WHEREAS**, we pledge our commitment to **speak truthfully** without accusation, and avoid distortion in all our meetings; and

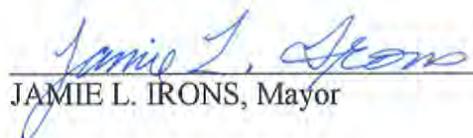
**WHEREAS**, we pledge our commitment **against violence and incivility** in all their forms whenever and wherever they occur in all our meetings; and

**WHEREAS**, we commit ourselves to build a civil political community in which each person is respected and spirited public and political debate is aimed at the betterment of the City of Morro Bay and its people and not the disparagement of those with whom we disagree.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council, City of Morro Bay, California, that the Mayor, City Council Members, Commissioners, Appointees, and Staff of the City of Morro Bay shall promote the use of and adherence to the principles of **civility** and **civil discourse** in conducting business with appointed and elected officials, staff, and citizens.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 10th day of November, 2015 on the following vote:

AYES: Irons, Johnson, Smukler  
NOES: None  
ABSENT: Headding, Makowetski

  
JAMIE L. IRONS, Mayor

ATTEST:

  
DANA SWANSON, City Clerk

# CODE OF CIVILITY

A healthy democracy respects the people's right to debate issues with passion. A healthy democracy not only tolerates disagreement but welcomes it in order to refine ideas and create policies that benefit the greater good.

The deterioration of civility across the country and within our community poses a threat to our democracy and our civic well-being. This deterioration:

- Compromises the integrity of a healthy, representative democracy
- Closes the door on depth of thought, reducing complex problems to harmful oversimplification
- Deters potential leaders from running for office or serving in government
- Poisons the civic well and discourages citizens from engaging on pressing community issues
- Casts the spotlight on poor behavior rather than shining a light on possible solutions
- Sets a poor example for our children

We have crafted this Code of Civility as a promise to each other, and to the people and institutions we serve, that we will always strive to conduct our debates - whether in person, online, or in written communication - in ways that allow for the widest range of opinions on ideas and policies, yet also respect the dignity, integrity and rights of those with whom we might disagree. With our individual and collective commitment to this code, we welcome our elected colleagues, the press and the public to hold us accountable.

In our deliberations we pledge to:

## Listen First

We will make an honest effort to understand views and reasoning of others by listening to understand, not listening to find fault, allowing thoughtful discussion to lead to the best possible outcomes.

## Respect Different Opinions

We will invite and consider different perspectives, allowing space for ideas to be expressed, opposed and clarified in a constructive manner.

## Be Courteous

We will treat all colleagues, staff and members of the public in a professional and courteous manner whether in person, online, or in written communication, especially when we disagree.

## Disagree Constructively

We will strive to advance solutions to community issues; when faced with disagreement, we do more than simply share our concerns with differing positions, we work to propose a course of action of mutual benefit.

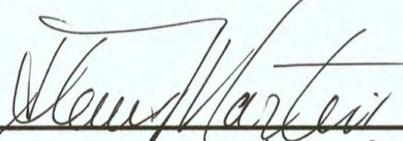
## Debate the Policy Not the Person

We will focus on the issues, and not personalize debate or use other tactics that divert attention from the issue.

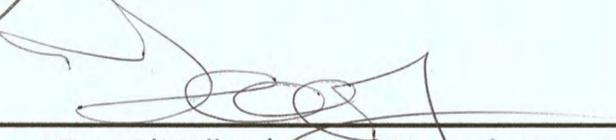


  
Mayor Jim Hill | City of Arroyo Grande

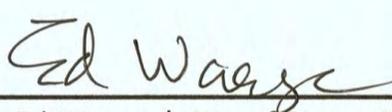


  
Mayor Steve Martin | City of Paso Robles



  
Mayor Tom O'Malley | City of Atascadero

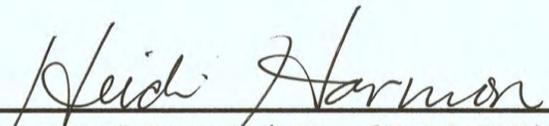


  
Mayor Ed Waage | City of Pismo Beach

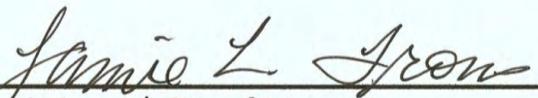


  
Mayor John Shoals | City of Grover Beach



  
Mayor Heidi Harmon | City of San Luis Obispo



  
Mayor Jamie Irons | City of Morro Bay



  
Chair John Peschong | San Luis Obispo County

RESOLUTION NO. 27-18

RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
PLEDGING TO FOLLOW BEST PRACTICES OF CIVILITY AND CIVIL DISCOURSE  
IN ALL OF ITS MEETINGS

THE CITY COUNCIL  
City of Morro Bay, California

**WHEREAS**, on November 10, 2015, the City Council adopted Resolution No. 70-15 pledging to follow best practices of civility and civil discourse in all of its meetings, principals developed by the League of Women Voters; and

**WHEREAS**, a healthy democracy respects the people's right to debate issues with passion; and not only tolerates disagreement but welcomes it; and

**WHEREAS**, Honest debate helps refine ideas and create policies that benefit the greater good;

**WHEREAS**, we, the Mayor, City Council Members, Commissioners, Appointees, and Staff of the City of Morro Bay, in order to ensure **civility** and **civil discourse** in all of our meetings, reaffirm and pledge our commitment to the following **best practices of civility** and **civil discourse**; and,

**WHEREAS**, we pledge our commitment to **listen first**, making an honest effort to understand views and reasoning of others by listening to understand, not listening to find fault, allowing thoughtful discussion to lead to the best possible outcomes; and

**WHEREAS**, we pledge our commitment to **respect different opinions**, by inviting and considering different perspectives, allowing space for ideas to be expressed, opposed and clarified in a constructive manner; and

**WHEREAS**, we pledge our commitment to **show courtesy**, by treating all colleagues, staff and members of the public in a professional and courteous manner whether in person, online, or in written communication, especially when we disagree; and

**WHEREAS**, we pledge our commitment to **avoid rhetoric intended to humiliate, malign, or question the motivation** of those whose opinions are different from ours in all our meetings; and

**WHEREAS**, we pledge our commitment to **speak truthfully** without accusation, and avoid distortion in all our meetings; and

**WHEREAS**, we pledge our commitment to **debate the policy not the person**, focusing on the issue, and not personalizing the debate or using other tactics that divert attention from the issue; and

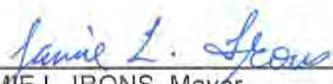
**WHEREAS**, we pledge our commitment **against violence** and **incivility** in all their forms whenever and wherever they occur in all our meetings; and

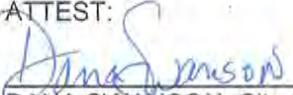
**WHEREAS**, we commit ourselves to build a civil political community in which each person is respected and spirited public and political debate is aimed at the betterment of the City of Morro Bay and its people and not the disparagement of those with whom we disagree.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council, City of Morro Bay, California, that the Mayor, City Council Members, Commissioners, Appointees, and Staff of the City of Morro Bay shall promote the use of and adherence to the principles of **civility** and **civil discourse** in conducting business with appointed and elected officials, staff, and citizens.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8th day of May 2018 on the following vote:

AYES: Irons, Davis, Heading, Makowetski, McPherson  
NOES: None  
ABSENT: None

  
\_\_\_\_\_  
JAMIE L. IRONS, Mayor

ATTEST:  
  
\_\_\_\_\_  
DANA SWANSON, City Clerk

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AGENDA NO: C-3

MEETING DATE: January 8, 2019

# Staff Report

**TO: Honorable Mayor and City Council**

**DATE: January 2, 2018**

**FROM: Scott Collins, City Manager**

**SUBJECT: Advisory Body Financial Review of the Water Reclamation Facility (WRF) Program**

## RECOMMENDATION

Staff recommends the City Council revise the Citizens Finance Advisory Committee (CFAC) roles and responsibilities to include review of the financial aspects of the Water Reclamation Facility (WRF) program, relieve the Water Reclamation Facility Citizens Advisory Committee (WRFCAC) of that responsibility, while maintaining the WRFCAC role of reviewing, and providing an opportunity for community input on, and the technical components of the WRF.

## ALTERNATIVES

- A. Do not revise the CFAC and WRFCAC roles and responsibilities.

## FISCAL IMPACT

Approval of this recommendation will not result in a fiscal impact to the City.

## BACKGROUND

At its November 27, 2018 meeting, City Council directed staff to bring back an item for Council discussion on separating the functions of the WRFCAC and CFAC so that financial aspects of the WRF would be brought to the CFAC and the WRFCAC would continue to deal with the technical issues of the WRF.

As Council is aware, the CFAC (“Committee”) is a standing advisory committee that was originally formed in 2006 to serve in the capacity of the Measure Q Citizens Oversight Committee. The Committee was established in accordance with the provisions of Morro Bay Municipal Code Section 3.22.120 as a result of the passage of Measure Q. In that capacity, the Committee ensures the Measure Q revenues are expended in accordance with Measure Q’s stated purpose. With the passage of time, however, the scope of the Committee has expanded to also provide citizen input to the City Council and staff regarding a wide range of financial policy or process issues, including audits, financial budgets, contract expenditures and financial reports. In addition, the Committee’s role is to help promote citizen participation with, and understanding of, governmental financial information and processes, such as the financial documents, audits, and budgets, as well as the financial condition of the City. The CFAC membership, 7 total members, includes individuals with expertise in financial matters, such as procurement, budgeting, accounting, investing and project controls.

The WRFCAC, originally named the WRF Technical Review Committee, was created in May 2014,

Prepared By: EE/DS

Dept Review: EE

City Manager Review: SC

City Attorney Review: CN

to inform the process of developing a new (“WRF”). It was renamed the WRFCAC in August 2014, and included 9 appointees (1 member from the Planning Commission, 1 member from the Public Works Advisory Commission, and 7 at large members) with an interest and knowledge in water resources and the development of a new WRF. In addition to providing a review of the technical issues of the WRF program, the WRFCAC serves as a vehicle to encourage community input on the WRF program. The WRFCAC is a special advisory body, as defined by the City of Morro Bay’s Advisory Bodies Handbook, as it provides input on a specific project, has a mission statement and goals with limited duration, and does not necessarily meet on a regular basis.

The mission of the WRFCAC was further clarified by the City Council at its January 23, 2018 meeting, with Council adopting the following mission statement:

“To advise and make recommendations to Council on matters relating to the development of a WRF as described in Resolution 34-14. Such advice is to be consistent with and intended to meet the community goals adopted by Council”

At that same meeting, Council discussed transferring financial responsibilities of the WRF from the WRFCAC to the CFAC at the appropriate time, but no action has been taken up to this point. Council also revised the WRFCAC membership to 7 appointments (1 member from the Planning Commission, 1 member from the Public Works Advisory Commission, and 5 at large members),

## **DISCUSSION**

The WRF will be the largest City capital project, in terms of scope and expense, and thus warrants having significant financial oversight from staff, Council and the community. The WRFCAC has served a vital role in reviewing WRF program issues, from project siting and technology to permitting, environmental impacts, contracting and water quality, among many other complex technical issues. The City and community have been served well by their review of staff and consultant analysis and provision of thoughtful recommendations to City Council, helping us get to this point on the program’s path. In addition, they have performed an important service in providing an opportunity for community input on the program.

As the WRF program begins to proceed from the planning phases into design and eventual construction phases, the focus shifts to financial stewardship of the overall WRF program. The WRFCAC has reviewed financial components of the WRF at a general level and performed ably in that regard. However, the CFAC may be better suited to take on the duty of reviewing the financial components of the WRF program at a granular and more comprehensive level moving forward to ensure the City achieves its aim to make the WRF as affordable as possible for the community. The CFAC committee, while originating as a Measure Q Oversight Committee, has increased responsibilities to include review of quarterly investment reports, City-wide quarterly budget performance reports, engagement with the City-wide operating and capital budgets as well as enhancing the City’s overall financial transparency and reporting. Over the past year, the Committee has worked with staff to improve financial transparency and presentation of financial reports that are easy to understand while providing the valuable information that the Council and community need. Review of the City’s WRF financial updates would mirror the content and analysis of the City’s quarterly budget updates the Committee has refined over the past year and the members are familiar and comfortable with. The refined formats aid in meeting the objective and the goal of the committee to provide advisory citizen input to the City Council for decision making purposes.

Review of the City’s WRF financial updates aligns well with these objectives and the overall technical financial expertise of the committee members. Transitioning the WRF financial updates to the CFAC corresponds well with the expanded duties of the committee (as per Council’s previous direction)

and would streamline the reporting function from a staff perspective in timing of reports and preparing reports for review by the Committee prior to City Council. This would also eliminate duplicative efforts, as the CFAC would review high level budget data for the WRF project during the quarterly updates. Keeping financial review with one committee affords consistency in review and presentation, facilitating enhanced dialogue, questions and conversation at the committee level.

This transition will allow the WRFAC to focus its time and energy on the remaining technical components of the project, such as reviewing the hydrogeological studies and permitting, among other items, which plays to the WRFAC members' backgrounds, expertise and strengths. Under this recommended scenario, there would be multiple layers of review of the WRF program, which will provide more opportunities for community input.

Therefore, in accordance with the direction provided by City Council at the November 27, 2018 meeting, staff recommends separating the duties of the two advisory committees, such that the CFAC reviews and makes recommendations to Council and staff on WRF financial matters, and WRFAC reviews and makes recommendations to Council and staff on WRF technical matters.

### **ATTACHMENTS**

None.

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AGENDA NO: C-4

MEETING DATE: January 8, 2019

# Staff Report

**TO:** Honorable Mayor and City Council                      **DATE:** January 3, 2019

**FROM:** Steven C. Knuckles, Fire Chief

**SUBJECT:** Adoption of Resolution No 05-19 revising the City of Morro Bay Emergency Management Plan and Introduction and First Reading of Ordinance 619 renaming and amending Chapter 8.08 of the Morro Bay Municipal Code relating to the Emergency Services Organization

## RECOMMENDATION

Staff recommends the City Council (in the following order):

- 1) Discuss and adopt Resolution No. 05-19 revising the City of Morro Bay Emergency Management Plan (EMP), formally known as the Multi-Hazard Emergency Response Plan (MERP); and
- 2) Discuss and introduce, for first reading by title only and with further reading waived, Ordinance 619, an Ordinance of the City Council of the City of Morro Bay, California Renaming Chapter 8.08 of Title 8 of the Morro Bay Municipal Code as “Emergency Services Organization,” and Amending Chapter 8.08, to Provide for Consistency with a Revised City Of Morro Bay Emergency Management Plan.

## FISCAL IMPACT

The adoption of the EMP will require the production of 26 copies to replace the City’s current emergency plan known as the MERP. Fire personnel will complete the project with PG&E grant funds with no additional cost to the General Fund.

## SUMMARY

The revised City of Morro Bay’s EMP, including the Hazard Specific Annexes, was developed using State Multiple Hazard Functional Planning guidelines and, as such, complies with State and Federal mandates. Compatibility with the San Luis Obispo County Emergency Management Plans was designed into the City of Morro Bay’s EMP. Common elements in the Plan include i) annual review and update of all plans, ii) regular field or tabletop exercises for all plans, iii) automatic Emergency Operations Center (EOC) activation trigger points, and iv) incident management using both the Standardized Emergency Management System (SEMS) and the National Incident Management System (NIMS) at the Emergency Operations Center (EOC) level and the Incident Command System (ICS) at the field response level.

The plan covers all emergencies and it is broken down into the following types of major events:

- A. Earthquake
- B. Hazardous Materials
- C. Multiple Casualty

Prepared By: <u>SK</u>	Dept Review: <u>SK</u>
City Manager Review: <u>SC</u>	City Attorney Review: <u>CFN</u>

- D. Flood
- E. Fire
- F. Tsunami
- G. Civil Disturbance
- H. Diablo Canyon Nuclear Power Plant
- I. Terrorism
- J. Adverse Weather

## **BACKGROUND**

The Fire Chief is required to review, maintain, and update the City's adopted EMP. The EMP Basic Plan (Part 1) sets objectives and policy for the City, which are used during disasters and other large-scale emergencies. This document was adopted by resolution and, therefore, changes to the EMP Basic Plan require City Council approval. The Morro Bay Fire Department is responsible for Emergency Management and Preparedness coordination and will revise Hazard Specific Annexes and related support materials, as appropriate. That Plan is tactical in nature (not policy), and therefore revisions do not require City Council approval.

To comply with the State Hazard Functional Planning guidelines, State mandates, Federal mandates, and San Luis Obispo County Emergency Management Plan, services from specialist Dave Mathe were utilized to compile and format our updated plan. Mr. Mathe is an adjunct faculty instructor at FEMA's Emergency Management Institute in Maryland and is certified as a Master Exercise Practitioner. Mr. Mathe is also an adjunct faculty member at California Specialized Training Institute and is certified as an Emergency Management Specialist through California Office of Emergency Services.

Mr. Mathe has instructed emergency management and leadership at the California Specialized Training Institute and at the Emergency Management Institute in Maryland. Mr. Mathe has assisted many cities and communities in our nation with their Local Hazard Mitigation Plans and Emergency Management Plans.

## **Purpose**

The City of Morro Bay's EMP describes the City of Morro Bay's policies and concepts for responding to major emergencies that could affect the health, safety, and property of the public within the City of Morro Bay. The objectives of the Basic Plan (Part 1) are to:

- Protect the public and property in the City of Morro Bay.
- Establish official City of Morro Bay policy for response to emergencies utilizing National Incident Management System (NIMS), the California Standardized Emergency Management System (SEMS), and the Incident Command System (ICS).
- Identify authorities and assign responsibilities for planning and response activities.
- Identify the scope of potential hazards which form a basis for planning.
- Identify other jurisdictions and organizations with which planning, and emergency response activities, should be coordinated.
- Establish the City's Emergency Services Organization that will lead the emergency response and recovery.
- Establish City policy for providing emergency information to the public.
- Outline pre-planned response actions that will be taken by City emergency personnel to mitigate the emergency's effects.
- Establish responsibilities for the maintenance of the overall City emergency preparedness program.
- Establish basic operational protocols and guidelines for activating and operating the City's Emergency Operations Center.

## Morro Bay's Emergency Management Plan Parts

- **Part 1 is the Basic Plan**, which serves as an overview for elements of response that are common to all types of emergencies. This is the official portion of the Plan that is reviewed and adopted by the City Council.
- **Part 2 Hazard Specific Annexes**, the hazard-specific plans that are used to implement the concepts and policies set forth in this Plan. Each Annex covers the response elements specific to the type of emergency addressed. (listed above)
- **Part 3 Resource Directory**, consists of support materials and references, and is a stand-alone document. The materials are intended to provide emergency personnel with information and data to support the City's emergency response efforts.
- **Part 4 Recovery Resource Directory and Plan**, consists of Recovery materials and references, and is a stand-alone document. The materials are intended to provide information and data to support the City's emergency recovery efforts.
- **Part 5 Emergency Operations Center Position Checklists**, consists of SEMS/NIMS Emergency Operations Center Position Checklists. The Checklists are intended to provide information to city Staff who are designated as Section Chief/Coordinators and their support staff.
- **Part 6 Debris Management**, consists of Debris Management materials and references, and is a stand-alone document. The materials are intended to provide information and data to support the City's Debris Management
- **Part 7 Shelter and Welfare**, consists of Shelter and Welfare materials and references, and is a stand-alone document. The materials are intended to provide information and data to support the needs of the City's emergency Care and Shelter efforts.
- **Part 8 Evacuation**, consists of preplanned zones, routes and supplies needed for a systematic evacuation. In addition, guidelines are intended to clarify and explain the legal authority that our City and public safety agencies may use to initiate, maintain, and enforce restrictions on the movement of persons and property.

## Operational Concepts

The City's response to emergencies will depend on the type and magnitude of the emergency; however, many elements of response are similar. Some of the basic elements of emergency response common to all types of emergencies include the following:

- Event Recognition
- Notification of Response Personnel
- Mobilization of Response Personnel
- Activation of Emergency Response Facilities and Resources
- Situation Reporting and Assessment
- Public Alerting and Information
- Protective Action Determination and Implementation
- Reentry and Recovery

Since emergency preparedness involves planning for worst-case events, the City must be prepared to respond promptly and effectively, and have provisions for mutual aid resources if the response effort requires resources beyond the City's capabilities. The hazard-specific annexes in Part 2 of this plan provide the detailed concepts of operations for each type of emergency addressed in the Basic Plan.

## **Standardized Emergency Management System (SEMS)**

Almost all major emergencies result in response by more than one jurisdiction. Therefore, in accordance with Senate Bill 1841, the City through the Basic Plan adopts the use of the SEMS to assure that program development is consistent with all levels of government. This system has been mandated by the California Legislature and must be complied with to be eligible for disaster funding.

SEMS incorporates the Incident Command System (ICS) at the field level of operations. SEMS is a modular emergency management system designed for incidents involving a multi-jurisdictional response. It provides effective direction and control of an emergency from the time of notification, through all its stages, until the situation de-escalates to a point where emergency resources are no longer needed. The purpose of SEMS is to facilitate the flow of emergency information and resources within and between agencies at all organizational levels, improve the process of coordination between responding agencies, and to provide for the rapid mobilization, deployment, use and tracking of resources during emergencies.

## **National Incident Management System (NIMS)**

The Federal Emergency Management Agency (FEMA) adopted the National Incident Management System (NIMS) as a standard to manage EOCs, establish uniform reporting forms, and to promote the use of common terminology. FEMA continues to require all local, state, and federal employees, including the private sector and non-governmental personnel that have a direct role in emergency management and response, to be trained in NIMS which includes the Incident Command System. This includes all emergency services related disciplines such as emergency medical services, hospitals, public health, fire service, law enforcement, public works/utilities, skilled support personnel, and other emergency management response, support, and volunteer personnel.

## **Emergency Operations Center(s) (EOC)**

The City's Emergency Operations Centers (EOC) provides a centralized location where emergency management coordination and decision making can be supported during a critical incident, major emergency, or disaster. When activated, the EOC provides support for several critical tasks related to communications, coordination, resource management, and executive leadership. The Community Center on Kennedy Way serves as our primary EOC and the Harbor Street Fire Station serves as our secondary EOC. Both EOCs have the supplies needed, secondary dispatch centers, and generator back up power. During large multi-day events, both EOCs can be utilized to maximize building assets.

## **Emergency Position Staffing**

The plan includes the Incident Management Organization Chart for various emergencies. The staffing and actual structure of the organization will vary based on the type and severity of an emergency. It outlines the City personnel that will be trained to fill various emergency positions. Each position has alternate personnel. Some personnel are cross-trained to fill several positions.

The Incident Management Organization at the EOC is headed by the Department Head identified as having the primary management role in an emergency. This individual will assume the role of Emergency Operations Center Director (EOC Director) and be responsible for all EOC functions. The City Manager, the Emergency Services Director, is the direct link between the City Council and the EOC Director relating to policy issues. The EOC Director has overall responsibility for the City's emergency management.

## **Continuity of Operations**

A major disaster could include death or injury of key government officials, partial or complete destruction of established seats of government, and the destruction of public and private records essential to

continued operations of government and industry. Law and order must be preserved, and government services maintained. The California Government Code 8643(b) and the Constitution of the State of California provide authority for the continuity and preservation of State and local government. Should, during any emergency, the normal seat of government be unusable, the seat of City government will be moved first to the Morro Bay Community Center and secondarily to the City of Atascadero. Should, for any emergency, the City's primary and secondary EOC's be unusable, an out of town EOC will be established at the San Luis Obispo County EOC.

Article 15 of the California Emergency Services Act provides the authority, as well as the procedures to be employed, to ensure continued function of government through the appointment of political positions, executives, and department heads should they be unable to serve in a locally declared state of emergency. In general, the act allows for the governing body to designate and appoint up to three standby officers for positions it deems necessary. For City Council Members, if a quorum cannot be met due to injury, illness, or death during a locally declared state of emergency in Morro Bay, temporary appointments will be made to create a full City Council of five (5) members. The following Tables delineates the lines of succession for the City of Morro Bay and is found in the Basic Plan.

SERVICE / DEPARTMENT	TITLE- POSITION
Policy Group	<ol style="list-style-type: none"> <li>1. Mayor and City Council Members</li> <li>2. Planning Commission Chair</li> <li>3. Public Works Advisory Board Chair</li> <li>4. Recreation and Parks Commission Chair</li> <li>5. Harbor Advisory Board Chair</li> <li>6. Planning Commission Vice-Chair</li> <li>7. Public Works Advisory Board Vice-Chair</li> <li>8. Recreation and Parks Commission Vice-Chair</li> <li>9. Harbor Advisory Board Vice-Chair</li> <li>10. Community Promotions Committee Vice-Chair</li> </ol>
City Manager / Director of Emergency Services	<ol style="list-style-type: none"> <li>1. City Manager</li> <li>2. Fire Chief</li> <li>3. Police Chief</li> </ol>
City Clerk	<ol style="list-style-type: none"> <li>1. City Clerk</li> <li>2. Deputy City Clerk</li> </ol>
Human Resources	<ol style="list-style-type: none"> <li>1. Personnel Officer</li> <li>2. Administration Technician</li> </ol>
Fire	<ol style="list-style-type: none"> <li>1. Fire Chief</li> <li>2. Fire Marshall</li> <li>3. Fire Captain</li> </ol>
Police	<ol style="list-style-type: none"> <li>1. Chief of Police</li> <li>2. Police Commander</li> <li>3. Police Sergeant</li> </ol>

## **Plan & Procedure Maintenance**

The EMP will be maintained and updated on a regular basis by the Fire Chief or his designated representative. The Fire Department will also be directly responsible for coordinating revisions of the hazard specific annexes, (*i.e.* Earthquake, Storm/Flood, Nuclear Power Plant, Hazardous Materials, Major Fire, Tsunami, and Civil Disturbance Emergency Plans). The department listed as having primary management authority for a given annex, shall be responsible for developing, maintaining, and updating that specific hazard annex on an annual basis. The plan will be reviewed by a committee appointed by the Disaster Council and a final copy forwarded to the Fire Chief.

## **Disaster Council**

Morro Bay Municipal Code (“MBMC”) Chapter 8.08.030 designates that a Disaster Council be created to oversee and coordinate disaster preparedness measures in the City. As proposed in the Ordinance, the Disaster Council is chaired by the City Manager, who is the Director of Emergency Services, membership includes the Fire Chief who is the Deputy Director of Emergency Services and one member from City Council. City staff and civic representatives can be appointed by the Director of Emergency Services with the advice and consent of the City Council.

MBMC Chapter 8.08.040 empowers the Disaster Council to develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements, ordinances, resolutions, rules and regulations necessary to implement such plans and agreements for the City. A meeting of the Disaster Council will be scheduled following the adoption of the EMP and ordinance changes.

## **Municipal Code Provisional Changes and Additions.**

Substantive changes and additions are needed in the MBMC to meet State and Federal requirements for the required definitions and provisions in the proposed EMP. The proposed changes and additions will meet the Federal and State requirements and, in addition, support the management components of our citywide and regional response to significant events. An amended Chapter 8.08, Emergency Services Organization, is proposed through Ordinance 619. Significant proposed changes include:

- 1) Expanding the definition of “emergency” to include terrorism, the express need for joint political subdivision action, and a sudden and severe energy crisis.
- 2) Revisions to the membership of the Morro Bay disaster council.
- 3) Renaming of positions, such as replacing “civil defense director” with “Director of Emergency Services.”
- 4) Adding new section 8.08.081 to incorporate standard response systems.
- 5) Adding new section 8.08.082 to provide for express City Council powers and duties.

## **CONCLUSION**

The Fire Department is currently working on a plan that will provide essential training and continuing education to the City’s employees regarding SEMS, NIMS, updating our training records, and conducting tabletop exercises which include activating the Emergency Operations Center for a simulated event. Activating the Emergency Operations Center for a simulated event will allow our staff the opportunity to practice their respective disciplines, identify our strengths, assist in modernizing the Emergency Operations Center, and prepare for an actual event.

Assessing our needs is a challenging process with advances in the information and technology field, government mandates, and the ever-present threat of a significant events. However, through training, review of the Incident Command System and Emergency Operations Center activations, we will be better prepared for the actual events, natural or manmade.

**ATTACHMENTS**

1. City of Morro Bay Resolution 05-19
2. City of Morro Bay Emergency Management, Part 1 Basic Plan
3. City of Morro Bay Ordinance No. 619

**RESOLUTION NO. 05-19**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
ADOPTING THE NOVEMBER 2018 REVISION OF THE MORRO BAY EMERGENCY  
MANAGEMENT PLAN (EMP), PART 1, BASIC PLAN, THE CALIFORNIA  
STANDARDIZED EMERGENCY MANAGEMENT SYSTEM (SEMS), AND FEDERAL  
NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)**

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

**WHEREAS**, the preservation of life and property is an inherent responsibility of local, state and federal governments; and

**WHEREAS**, no plan can prevent death and destruction, but good plans carried out by knowledgeable and well-trained personnel can and will minimize losses; and

**WHEREAS**, the City of Morro Bay has prepared an Emergency Management Plan (EMP) to ensure the most effective and economical allocation of resources for the maximum benefit and protection of the civilian population in time of emergency; and

**WHEREAS**, Part 1 of the Emergency Management Plan establishes the emergency organization, assigns tasks, specifies policies and general procedures, establishes emergency lines of Council member succession and provides for coordination for planning efforts of the various emergency staff and service elements; and

**WHEREAS**, the City of Morro Bay Emergency Management Plan establishes City policy and objectives for emergency management and response; and

**WHEREAS**, the City wants to assure the Emergency Management Plan reflects the City's use of the Federal National Incident Management System and State Standardized Emergency Management System as adopted by Resolution 31-06 on July 10, 2006; and

**WHEREAS**, the City desires to correct errors in the original plan and provide accurate updated data for compliance with state mandates, federal mandates, and San Luis Obispo County Emergency Management Plan to the City of Morro Bay Emergency Management Plan;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1.** That the above recitals are true and correct and incorporated herein by this reference.

**Section 2.** That the City of Morro Bay does hereby adopt the November 2018 revision of the City of Morro Bay Emergency Management Plan Part 1, California Standardized Emergency Management System, and Federal National Incident Management System (attached as an exhibit to this resolution).

**Section 3.** That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

**Section 4.** That this Resolution shall be effective immediately upon passage and adoption.

**PASSED, APPROVED AND ADOPTED** by the City Council, City of Morro Bay, California at a regular meeting thereof held on the 8<sup>th</sup> day of January 2019 by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JOHN HEADDING, Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON, City Clerk



## City of Morro Bay

# Comprehensive Emergency Management Plan

## Basic Plan

Developed for:

Steven C. Knuckles  
Fire Chief  
City of Morro Bay  
Fire Department  
Morro Bay, CA

Developed by:

David L. Mathe  
Emergency Leadership and  
Preparedness Advisor  
Nipomo, CA.

## PLAN ADOPTION

This is the official City of Morro Bay Comprehensive Emergency Management Plan for responding to various emergencies causing damage in the City of Morro Bay. The Plan's responsibilities and authorities are effective as indicated below.

### COMPREHENSIVE EMERGENCY MANAGEMENT PLAN

The Morro Bay Fire Department is responsible for Emergency Management and Preparedness coordination and will revise Hazard Specific Annexes and related Support Materials, as appropriate. This Plan is Tactical in nature not Policy, and as such revisions does not require City Council approval.

The plan covers all emergencies and it is broken down into the following types of major events:

- A. Earthquake
- B. Hazardous Materials
- C. Multiple Casualty
- D. Flood
- E. Fire
- F. Tsunami
- G. Civil Disturbance
- H. Diablo Canyon Nuclear Power Plant
- I. Terrorism
- J. Adverse Weather

The City of Morro Bay Comprehensive Emergency Management Plan, including the Hazard Specific Annexes, was developed using State Multiple Hazard Functional Planning guidelines, and as such, complies with state and federal mandates. Compatibility with the San Luis Obispo County Emergency Management Plans was designed into the City of Morro Bay Plan. Common elements in the Plan include an annual review and update of all plans, regular field or tabletop exercises for all plans, automatic Emergency Operations Center (EOC) activation trigger points, and incident management using both the Standardized Emergency Management System (SEMS) and the National Incident Management System (NIMS) at the Emergency Operations Center (EOC) level and the Incident Command System (ICS) at the field response level.

---

Steven C. Knuckles  
Fire Chief  
City of Morro Bay

**Date:**

**Basic Plan**

<b><u>Section</u></b>	<b><u>Page</u></b>
Plan Adoption	2
Table of Contents	3
<b><u>SECTION I – INTRODUCTION</u></b>	<b>5</b>
A. Purpose	5
B. Objectives	5
C. Plan Organization	6
Part 1 – Basic	6
Part 2 – Hazard-Specific Annexes	6
Part 3 – Resource Directory	7
Part 4 – Recovery Resource Directory and Plan	7
Part 5 – Emergency Operations Center Position Checklists	8
Part 6 – Debris Management	8
Part 7 – Shelter and Welfare	8
Part 8 – Evacuation	9
D. Persons with Functional and Access Needs	9
E. Plan Coordination	10
F. Emergency Preparedness	10
<b><u>SECTION II – CONCEPT OF OPERATIONS</u></b>	<b>11</b>
A. Basic Elements of Emergency Response	11
B. Mutual Aid Concepts	11
C. San Luis Obispo County Office of Emergency Management	12
<b><u>SECTION III – HAZARD IDENTIFICATION AND ANALYSIS</u></b>	<b>12</b>
A. Earthquake	12
B. Hazardous Materials	14
C. Multiple Casualty	15
D. Flood	15
E. Fire	16
F. Tsunami	17
G. Civil Disturbance	17
H. Diablo Canyon Power Plant	18
I. Terrorism	19
J. Adverse Weather	19
<b><u>SECTION IV – CONTINUITY OF OPERATIONS AND RECONSTITUTION OF GOVERNMENT</u></b>	<b>21</b>
A. Continuity of Operations	21
B. Reconstitution of Government	21
1. Lines of Succession	21
2. Temporary City Seat of Government and Emergency Operations Center	22
3. Vital Records	22

<b><u>SECTION V – EMERGENCY MANAGEMENT</u></b>	<b>23</b>
A. Incident Management System (NIMS and SEMS)	23
B. Incident Command System	23
C. Department Operating Center (DOC)	24
D. City of Morro Bay Emergency Organization	24
E. Responsibilities	25
1. Emergency Operations Center Director	25
2. Field Incident Commander (IC)	25
3. EOC Safety Officer and Security Officer	26
4. Public Information Officer	26
5. Liaison Officer	27
6. Policy Group	27
7. Operations Section	27
8. Plans and Intelligence Section	27
9. Logistics Section	28
10. Finance and Administration Section	28
Emergency Operations Center Position Assignments	29
<b><u>SECTION VI - PROGRAM MAINTENANCE</u></b>	<b>30</b>
A. Disaster Preparedness Committee	30
B. Plan and Procedure Maintenance	30
C. Emergency Resources Maintenance	30
D. Training	30
E. Revision Record	32
<b><u>SECTION VII– AUTHORITIES AND REFERENCES</u></b>	<b>33</b>
A. Authorities	33
1. Federal	33
2. State	33
3. Local	33
B. References	33
<b>EMERGENCY OPERATIONS CENTER POSITION FLOW CHART</b>	<b>35</b>

## **SECTION I - INTRODUCTION**

### **A. Purpose**

The purpose of the City of Morro Bay Emergency Management Plan (hereafter referred to as the "Plan") is to describe the City of Morro Bay policies and concepts for responding to major emergencies that could affect the health, safety, and property of the public within the City of Morro Bay.

### **B. Objectives**

The objectives of this Plan are to:

- Protect the public and property in the City of Morro Bay.
- Establish official City of Morro Bay policy for response to emergencies utilizing National Incident Management System (NIMS), the California Standardized Emergency Management System (SEMS), and the Incident Command System (ICS).
- Identify authorities and assign responsibilities for planning and response activities.
- Identify the scope of potential hazards which form a basis for planning.
- Identify other jurisdictions and organizations with which planning and emergency response activities should be coordinated.
- Establish the City of Morro Bay Emergency Organization that will lead the emergency response and recovery.
- Establish the City of Morro Bay policy for providing emergency information to the public.
- Outline pre-planned response actions that will be taken by the City of Morro Bay emergency personnel to mitigate the emergency's effects.
- Establish responsibilities for the maintenance of the overall City of Morro Bay emergency preparedness program.
- Establish basic operational protocols and guidelines for activating and operating the City of Morro Bay Emergency Operations Center.

### **C. Plan Organization**

The City of Morro Bay's Comprehensive Emergency Management Plan Basic Plan consists of eight parts.

An abstract of each part is provided below:

#### **Part 1 – Basic Plan**

The Basic Plan serves as an overview for elements of response that is common to all types of emergencies.

#### **Part 2 - Hazard-Specific Annexes**

The hazard-specific plans that are used to implement the concepts and policies set forth in this Plan. Each Annex covers the response elements specific to the type of emergency addressed. The annexes contained in Part 2 are as follows:

- Annex A. Earthquake
- Annex B. Hazardous Material
- Annex C. Multiple Casualty
- Annex D. Flood
- Annex E. Fire
- Annex F. Tsunami
- Annex G. Civil Disturbance
- Annex H. Diablo Canyon Nuclear Power Plant
- Annex I. Terrorism
- Annex J. Adverse Weather

### **Part 3 – Resource Directory**

#### City of Morro Bay Emergency Operations Center Resource Directory

The Resource Directory consists of support materials and references, and is a stand-alone document. The materials are intended to provide emergency personnel with information and data to support the City's emergency response efforts.

Resource Directory materials in Part 3 include:

1. City of Morro Bay Emergency Proclamations
2. City of Morro Bay Emergency Operations Center Communications and Messaging
3. City of Morro Bay Phone Directory (**Confidential Numbers-limited distribution**)
4. City of Morro Bay Reverse 911 Process
5. City of Morro Bay Faith Bases Organizations
6. Child Day Care Centers
7. ARES Activation
8. Senior Care Facilities
9. City of Morro Bay Police Volunteers
10. City of Morro Bay CERT activation process
11. City of Morro Bay Resources
12. Persons with Access and Function Needs
13. Emergency Alerting System (EAS)

Note: Parts 2 and 3, the Hazard Specific Annexes and Support Documents, are tactical contain information that changes frequently.

### **Part 4 – Recovery Resource Directory and Plan**

Part 4 of this Plan consists of Recovery materials and references, and is a stand-alone document. The materials are intended to provide information and data to support the City's emergency recovery efforts.

1. Concept of Operations
2. Recovery Operations Organization
3. Recovery Operations Responsibilities
4. Recovery Damage/Safety Assessment
5. Documentation
6. Disaster Assistance Process for Public Agencies
7. Hazard Mitigation – Planning and Prevention
8. After Action Reporting

### **Part 5 – Emergency Operations Center Position Checklists**

Part 5 of this Plan consists of SEMS/NIMS Emergency Operations Center Position Checklists. The Checklists are intended to provide information to city Staff who are designated as Section Chief/Coordinators and their support staff.

Position Checklists include:

1. Emergency Operations Center Staff
2. Command Staff
3. General Staff
4. Operations Section
5. Logistics Section
6. Finance and Administration
7. Plans and Intelligence

### **Part 6 – Debris Management**

Part 6 of this Plan consists of Debris Management materials and references, and is a stand-alone document. The materials are intended to provide information and data to support the City's Debris Management.

The Debris Management Plan Consists of the following elements:

1. Applicant Eligibility
2. Concept of Operations
3. Temporary Debris Storage and Reduction (TSDR) Sites
4. Debris Removal
5. Eligible Work
6. Debris Reduction Methods
7. Demolition of a Damaged Public Facility or Privately Owned Building
8. Temporary Debris Storage and Reduction Site Closeout Procedures
9. Debris Forecasting and Estimating
10. Debris Monitoring
11. Organization and Responsibilities
12. Administration and Logistics
13. Authorities, References and Regulations

### **Part 7 – Shelter and Welfare**

Part 7 of this Plan consists of Shelter and Welfare materials and references, and is a stand-alone document. The materials are intended to provide information and data to support the needs of the City's emergency Care and Shelter efforts.

The Care and Plan Directory consists of the following elements:

1. American Red Cross Activation Protocol
2. American Red Cross Shelters
3. Transportation Resources
4. Shelter Opening Checklist
5. Morro Bay Unified School District Telephone Numbers

#### **Part 8 – Evacuation**

Part 8 of this Plan consists of preplanned zones, routes and supplies needed for a systematic evacuation. In addition, guidelines are intended to clarify and explain the legal authority that our City and public safety agencies may use to initiate, maintain, and enforce restrictions on the movement of persons and property.

The Evacuation Plan Consists of the following elements:

1. City of Morro Bay Evacuation Zone Map
2. City of Morro Bay Evacuation and Repopulation Plan
3. California OES Legal Guidelines for Controlling Movement of People and Property

#### **D. Persons with Functional and Access Needs**

The Americans with Disabilities Act (ADA) of 1990 is incorporated into emergency preparedness plans. This law prohibits discrimination on the basis of disability. A best practice used to effectively address the needs of persons with disabilities or access and functional needs in emergency preparedness plans is establishing a process to pre-identify resources which may be used to fulfill requests from these individuals for reasonable accommodations they may need in emergency situations.

Functional Needs Support Services (FNSS) are defined as services that enable children and adults with or without disabilities who have access and functional needs to maintain their health, safety, and independence in a general population shelter. This may include personal assistance services (PAS), durable medical equipment (DME), consumable medical supplies (CMS), and reasonable modification to common practices, policies and procedures. Individuals requiring FNSS may have sensory, physical, mental health, cognitive and/or intellectual disabilities affecting their capability to function independently without assistance. Additionally, the elderly, women in the late stages of pregnancy, and individuals requiring communication assistance and bariatric support may also benefit from FNSS.

On July 22, 2004, Executive Order 13347 was issued (Individuals with Disabilities in Emergency Preparedness), directing the federal government to work together with state, local and tribal governments, as well as private organizations, to appropriately address the safety and security needs of people with disabilities.

The City of Morro Bay will make every effort to comply with Title II of the Americans with Disabilities Act (ADA) and other applicable laws related to emergency and disaster-related programs, services and activities for individuals with disabilities, access and functional needs.

### **E. Plan Coordination**

Almost all major emergencies result in response by more than one jurisdiction. The City of Morro Bay will ensure that program development is coordinated with surrounding jurisdictions. Response during an emergency must also be coordinated.

The following is a sample listing of jurisdictions where Plan development and response coordination is essential:

- Federal Emergency Management Agency (FEMA)
- Governor's Office of Emergency Services (CalOES)
- San Luis Obispo County Office of Emergency Services (OES)
- San Luis Obispo County Fire Department
- San Luis Obispo County Sheriff
- All Cities and Special Districts within San Luis Obispo County

### **F. Emergency Preparedness**

The preparedness phase involves activities undertaken in advance of an emergency. These activities develop operational capabilities and improve effective response to disasters. Disaster plans are developed and revised to guide disaster response and increase available resources. Planning activities include developing hazard analyses, training response personnel, and improving public information and communications systems.

Those identified in this plan, having either a primary or support mission relative to response and recovery, should prepare departmental Standard Operating Guidelines (SOGs) and checklists detailing personnel assignments, policies, notification rosters, and resource lists. Department personnel should be acquainted with these SOGs and checklists through periodic training in the activation and execution procedures.

Preparedness activities are part of the implementation of the Emergency Services Act (ESA), the Master Mutual Aid Agreement (MMAA), and the State Emergency Plan. This plan is considered in effect at all times to provide authorization to accomplish essential preparedness activities.

The receipt of a warning or the observation that a disaster is imminent or likely to occur soon will initiate increased readiness actions. Actions to be accomplished include, but are not necessarily limited to:

- Review and update of emergency plans, SOGs/EMPs/EOC Activation Plan.
- Dissemination of accurate and timely emergency public information.
- Accelerated training of permanent and volunteer staff.
- Inspection of critical facilities.
- Recruitment of additional staff and volunteers; as appropriate.
- Mobilization of resources.
- Testing warning and communications systems.

## **SECTION II - CONCEPTS OF OPERATION**

This section outlines the concepts under which the City of Morro Bay will respond to emergencies. How the City of Morro Bay responds to emergencies will depend on the type and magnitude of the situation, many elements of response are similar.

### **A. Basic Elements of Emergency Response**

Some of the basic elements of emergency response common to all types of emergencies include the following:

- Event Recognition
- Notification of Response Personnel
- Mobilization of Response Personnel
- Activation of Emergency Response Facilities and Resources
- Situation Reporting and Assessment
- Public Alerting and Information
- Protective Action Determination and Implementation
- Reentry and Recovery

Response to all emergencies involves the above elements. The type and magnitude of the emergency will determine the level of response necessary.

Some emergencies can be preceded with a buildup period lasting from hours to days, if recognized may provide advanced warning to the population groups which might be affected. In certain instances, all of the emergencies addressed in the Plan could be preceded by events that could be recognized as advance warning. These slow building events allow the emergency organizations and resources to be mobilized and prepare for emergency response. In other instances, emergencies can occur with little or no advance warning. This will require emergency organizations and resources to be mobilized just prior to or after the onset of the event.

Since Emergency Preparedness involves planning for worst-case events, the City of Morro Bay must be prepared to respond promptly and effectively and have a provision for mutual aid resources if the response effort requires resources beyond the City of Morro Bay capabilities.

The Hazard-Specific Annexes in Part 2 of this Plan provide the detailed concepts of operations for each type of emergency addressed in this Plan.

### **B. Mutual Aid Concepts**

It is the policy of the City of Morro Bay to utilize Mutual Aid as the primary means to increase personnel and resources for the City of Morro Bay Emergency Organization. Mutual Aid procedures should be consistent with the California Master Mutual Aid Agreement, California Law Enforcement Mutual Aid Plan, California Fire and Rescue Mutual Aid System, and the San Luis Obispo County Fire, Rescue Mutual Aid Plan, and South San Luis Obispo County Coastal Incident Response Plan.

Mutual Aid assistance may be provided by one or more of the following:

- California Master Mutual Aid Agreement
- California Fire and Rescue Emergency Plan
- California Law Enforcement Mutual Aid Plan
- Local Mutual Aid Agreements
- Medical/Health Mutual Aid Plan
- Public Works Mutual Aid Agreement and Plan
- Robert T. Stafford Disaster Relief and Emergency Assistance Act
- California Fire Assistance Agreement

Mutual Aid, like the Incident Command System, is provided under the direct control of the requesting jurisdiction and Public Works Mutual Aid Plan under the broad direction of the Incident Commander.

### **C. San Luis Obispo County Office of Emergency Services**

The Office of Emergency Services (OES) coordinates all requests for assistance from San Luis Obispo County (beyond mutual aid agreements established for fire, law, medical, or public works resources). To request assistance from San Luis Obispo County contact the Duty Officer at, 805.781.1144.

The American Red Cross works together with the Shelter and Welfare Branch to identify and establish evacuation and general population shelter sites. In most cases the Shelter and Welfare Branch provides a supporting role to the American Red Cross.

## **SECTION III - HAZARD IDENTIFICATION AND ANALYSIS**

This section provides a **general** overview of the potential threats presented by each of the types of emergencies listed in Part 1, Section I. A **detailed** hazard assessment for each type of emergency is presented in the hazard-specific annexes found in Part 2 of this Plan. Part 3, Support Materials is the Resource Directory for the Emergency Operations Center, Part 4, Recovery Resource Directory and Plan, Part 5 Emergency Operations Center Position Checklists, Part 6 Debris Management Plan, Part 7 Shelter and Welfare, and Part 8 Evacuation Plan. The content is intended to provide information to support the City's recovery and continuity efforts. Each Part of the Plan is intended to be stand-alone documents. Each the hazard annex examines the potential effects that could result if an emergency of that type were to occur.

### **A. Earthquake**

#### **Hazard Analysis**

##### **1. Situations**

Earthquakes are considered to be a threat to the city of Morro Bay due to a number of fault zones in the vicinity.

##### **2. Potential Threats – Fault Systems**

There are a number of active or potentially active fault systems throughout the region. Small earthquakes, in the range of about magnitude 2.0 – 2.7 and smaller, occur

occasionally throughout and near Morro Bay.

There are four (4) known seismically active faults that run through San Luis Obispo County. These include the San Andreas Fault, the Nacimiento- Rinconada Fault, the Hosgri Fault, and the San Simeon Fault. The San Andreas Fault capable of an 8.5 magnitude earthquake is the best known of these four and potentially poses the greatest threat. Increases along this fault between Parkfield and Cholame indicate that we are past due for a 5.5 to 7.4 Richter magnitude earthquake in this area. The 6.3 San Simeon Earthquake of December 2003 damaged the Morro Bay Headquarters fire station and caused two fatalities in Paso Robles.

### **3. Potential Range of Damage**

Potential emergencies or problems that may be triggered as a result of a light-to-heavy damage earthquake impacting the City include: building collapse (particularly un-reinforced masonry structures) causing need for rescue; mass injuries; hazardous materials releases; major fires; utility disruptions; major natural gas leaks; communication disruptions; need for evacuation; command and coordination problems; roadway and transportation system disruptions; and hospital/school disruptions to list a few.

The potential direct and indirect consequences of a major earthquake will severely stress the resources of the City and will require a high level of self- help, coordination and cooperation. Out-of-city assistance from other local, regional, state, federal and private agencies may be delayed by more than 72 hours, depending on the regional severity of the earthquake.

**For the purpose of this Plan, earthquakes will be divided into four categories as follows:**

**a. No Damage Earthquake** – Ground motion causes no damage (e.g., no deaths, 6 or less injured, no structural collapse, or no failure of communications, transportation, or utility systems).

**b. Light Damage Earthquake** – Ground motion causes isolated damage (e.g., 1 or more deaths, 6 or more injured, 1 or more structures suffering partial or complete collapse, or any failure of communications, transportation, or utility systems).

**c. Moderate Damage Earthquake** – Ground motion causes widespread damage (e.g., several deaths, several injuries, several structures suffering partial or complete collapse, or major failures of communication, transportation, or utility systems).

**d. Heavy Damage Earthquake** – Ground motion causes catastrophic damage (e.g., massive fatalities, massive injuries, massive structural collapse, or long term failure of communication, transportation, or utility systems).

**e. Aftershocks** “aftershocks” are common and may last for days, weeks, or months intermittently. These aftershocks are less intense but can be as damaging as the primary shock wave due to weakened structures.

The Richter scale is a method of rating earthquakes based on strength using an indirect measure of released energy. Each one-point increase, on the Richter scale, corresponds to a

10-fold increase in the amplitude of the seismic shock waves and a 32-fold increase in energy released. As an example an earthquake registering 7.0 on the Richter scale releases over 1,000 times more energy than an earthquake registering 6.0.

Liquefaction occurs when ground shaking causes loose, saturated soils to lose strength and act like viscous fluid. Liquefaction causes two types of ground failure: lateral spread and loss of bearing strength. Loss of bearing strength causes structures to collapse.

Unified Command will provide leadership of an Earthquake emergency with the Fire Chief or designee providing guidance to the Unified Command Staff.

## **B. Hazardous Materials**

### **Hazard Analysis**

#### **1. Potential Threats**

A hazardous material is any substance, natural or man-made, that may be harmful to life or to the environment. A hazardous materials incident is any emergency where these substances are involved. Hazardous materials incidents may occur at fixed facilities, along any air or land transportation route, and in unpredictable areas relatively inaccessible by ground transportation. The City contains two (2) major transportation arteries, Highway 1 and Highway 41, where thousands of tons of hazardous materials are transported annually through and into densely populated areas of the City. In 2001 an anhydrous ammonia leak at a fixed facility on Beach Street caused the evacuation of over 3,000 people in Morro Bay.

Pesticides and chemicals are stored at numerous sites around the City. Fixed facilities are found mainly in two areas: the Morro Bay Power Plant and the waterfront area. Air transportation of hazardous materials poses a small but still potential hazard. Hazardous waste is occasionally shipped along Highway 1, as an alternate to US 101 to a major dumpsite located in the Kettleman Hills near Highway 5.

#### **2. Potential Range of Impacts**

The vast majority of Hazardous Materials events may have little or no impact. However, Hazardous Materials events that are severe in nature may result in impacts ranging from evacuation to serious injuries to citizens and first responders.

The potential for a hazardous materials emergency exists primarily through transportation accidents of surface vehicles. Although the probability for a disastrous hazardous materials incident is low, the probability for extreme risk to life and property is high should such an emergency occur.

The City of Morro Bay Fire Department has the responsibility for emergency planning for hazardous materials incidents and for the coordination among hazardous materials emergency response agencies during an incident in the City.

Unified Command will provide leadership of a Hazardous Materials Incident emergency with the Fire Chief or designee providing guidance to the Unified Command Staff.

### **C. Multiple Casualty**

A Multiple Casualty Incident (MCI) is one which involves a sufficient number of injured persons to overwhelm the first responding medical resources. The incident may be a significant medical hazard to a large population (natural disaster, Hazardous Materials Incident, etc.), or involves evacuation of a medical facility (hospital, convalescent home, etc.).

Additionally, the Harbor Festival and other large public events, along with the seasonal dangerous surf conditions at the Harbor entrance dictate the need for a Multi-casualty Plan.

#### **Hazard Analysis**

##### **1. Potential Threats**

The potential for a Multiple Casualty Incident in the City of Morro Bay always exists.

##### **Surface Roadways**

US 1 and 41 are heavily traveled with trucks, private cars, and passenger buses.

##### **Air**

In addition to flights in and out of the municipal airport, commercial and private air traffic passes over the City of Morro Bay. Military aircraft utilizes Vandenberg Air Force Base.

As a result, the potential exists for a Multiple Casualty Incident that could quickly overrun the capabilities of the City of Morro Bay's fire departments.

##### **2. Potential Range of Impacts**

A Multiple Casualty Incident that occurs can result in considerable loss of life and property.

Unified Command will provide leadership of a Multiple Casualty Incident with the Fire Chief or designee providing guidance to the Unified Command Staff.

### **D. Flood**

#### **Hazard Analysis**

The National Weather Service's definition of a flash flood is a flood occurring in a watershed where the time of travel of the peak of flow from one end of the watershed to the other is less than six hours.

Several creek drainage systems, including Chorro Creek, the Morro/Little Morro Creek convergence, No-Name Creek, Alva Paul Creek, Toro Creek, and San Bernardo Creek flow into and/or near the City. Chorro Creek is the largest and runs along the southern boundary of the City near two mobile home parks. Morro Creek runs parallel to Highway 41. Little Morro Creek runs parallel to Little Morro Creek Road and combines with Morro Creek within the City near Main Street. No-Name Creek runs through the City along Island Street. Alva Paul runs through the city along Whidbey and Yerba Buena Streets. Toro Creek runs along the farthest northern boundary of the City. San Bernardo Creek runs under Highway 1 south of the City. As seen in the 1995 Floods, these creeks can present varying hazards during a flood and can block access to and egress from the City.

When rainfall and surface run-off from a storm exceeds a drainage system's capacity to adequately

channel and contain the water flooding may occur. Potential flood areas include: the South Bay Boulevard area between Highway 1 and State Park Road; the area between Highway 41/Atascadero Road and Radcliff Avenue; low-lying sections of Island Street and Beachcomber; Highway 1, at the northern City limits; and, Highway 1 south of the City limits. Other problems and hazards associated with flooding and inclement weather include utility disruptions, broken power lines lying on the ground, trees damaged and blown down, and transportation route disruptions.

### **1. Situations**

Typical rainfall amounts averages 17” per year over most of the City of Morro Bay. However, much higher amounts can be expected in the coastal area to the west of the City of Morro Bay. Winter rainfall season is generally from November to March

Several factors determine the severity of floods, including rainfall intensity and duration, surface permeability, and geographic characteristics of the watershed such as shape and slope. A large amount of rainfall in a short time can result in flash flood conditions, as can a dam failure, or other sudden spill.

### **2. Potential Threats**

When rainfall and surface run-off from a storm exceeds a drainage system's capacity to adequately channel and contain the water, flooding may occur. In addition to the threat of standing and running water, storms may pose other, more serious threats to the City of Morro Bay. Because of the largely unconsolidated nature of the sedimentary soils, washout of the materials on which bridges and roads are built on may be a major problem. River channel banks currently abut several roads. A slipping of hillsides may result in sections of roads being blocked or carried away. High winds often accompany winter storms and may cause significant damage to the community.

Unified Command will provide leadership of a Flood emergency with the Public Works Director or designee providing guidance to the Unified Command Staff.

## **E. Fire**

### **Hazard Analysis**

#### **1. Potential Threats**

The potential for a major fire in the City of Morro Bay of Morro Bay always exists. Residential, wildland-urban interface, industrial, and commercial areas, along with transportation fires are the primary areas of concern. The City of Morro Bay's geographic location within the Morro Bay Valley has a threat from a wildland fire. There are a number of areas in the community where homes and businesses are built closely together, providing difficult access and with very little defensible space. In addition, the construction of many of these buildings, often wood-frame with wood siding and combustible roofs, would offer significant fuel to a wind or topographically driven fire.

The City of Morro Bay has a limited number of older, un-reinforced masonry buildings and a large number of wood framed structures spread throughout the community. Typically these

buildings lack modern fire protection systems and given their construction type could pose challenges for the Fire Department. A significant number of very large buildings can be found in the commercial and industrial areas of the City of Morro Bay.

The area's most at risk for a wildfire event are the hillside homes of north Morro Bay, structures and vessels located on or adjacent to the waterfront areas of the City, the older businesses lining Morro Bay Boulevard, and the structures in and adjacent to the Morro Bay State Park.

As a result, the potential exists for a major fire that could quickly over-run the capabilities of both the City of Morro Bay's and other local government fire departments.

## **2. Potential Range of Impacts**

Major structure fires and wildland-urban interface fires could have a significant fiscal impact on the City of Morro Bay.

Unified Command will provide leadership of a Fire with the Fire Chief or designee providing guidance to the Unified Command Staff.

## **F. Tsunami**

A tsunami, or seismic sea wave, is a series of waves generated by seismic activity in or near the Pacific Ocean. They may be as far apart as one hour, and up to twenty feet high on this part of the coast. There is no way to determine in advance the amplitude or size of the waves. A small tsunami at one beach can be a giant a few miles away.

Tsunamis have done great damage to communities located on the California coast. A tsunami in 1964 killed 12 people in Crescent City and damaged piers and boats in Morro Bay. Damage in Morro Bay was caused as the bay emptied and filled every 15 minutes for over an hour. A 1960 tsunami killed 61 people in Hawaii; six hours after a warning had been issued. Sooner or later, tsunamis strike every coastline in the Pacific, and for this reason they pose a threat to the citizens and visitors of Morro Bay. Should such an emergency occur, the risk to life and property could be extreme.

Unified Command will provide leadership of a Fire with the Fire Chief or designee providing guidance to the Unified Command Staff.

## **G. Civil Disturbance**

Civil Disturbance is the spontaneous disruption of normal, orderly conduct and activities in urban, areas or outbreak of rioting or violence that is of a large nature is referred to as civil disturbance or disorder. Civil disorder is a demonstration of popular unrest that may manifest itself in acts of violence and destruction against property and human life.

High-density event-oriented populations occur at various times throughout the year. They are events that attract large numbers of persons such as; school events, parades, and festivals.

The Harbor Festival can host as many as 20,000 people at a time. Because of the myriad events that are available that weekend, virtually any type of audience can be expected to be in attendance at any

one time. The prospect of a large concentration of individuals who are of a mind set to cause a civil disorder is a real possibility.

### **Hazard Analysis**

#### **1. Potential Threats**

The threat to the public, law enforcement and safety personnel can be severe and bold in nature. Securing of essential facilities and services is necessary. Looting and fires can take place as a result of perceived or actual non-intervention by authorities.

#### **2. Potential Impacts**

Damage possibilities range from the loss of life, multiple casualties, significant property damage from fire and looting, or the loss of infrastructure (electric and water systems).

Looting and fires can take place as a result of perceived or actual non-intervention by authorities and could take place in both commercial and residential areas of the City of Morro Bay. The setting of fires is a common occurrence in these types of events. Major structure fires or conflagrations are a real threat as fire suppression efforts will often be hindered

Unified Command will provide leadership to a Civil Disturbance event with the Police Chief or designee providing guidance to the Unified Command Staff.

### **H. Diablo Canyon Power Plant**

The Diablo Canyon Diablo Canyon Power Plant is operated by the Pacific Gas and Electric Company (PG&E). The plant is located in San Luis Obispo County approximately 50 miles northwest of the City of Morro Bay. The plant consists of two nuclear power generating units. Both units are operational. Each unit is a pressurized water-type reactor having an electric power generating capacity in excess of 1,000 megawatts.

When any Nuclear Power Plant is operated, the potential for a radiological accident exists, though the probability of a serious accident is very low. The principal deterrent to an accident is prevention through conservative design, construction and operation, which assures that the integrity of the reactor system, is maintained. Protective systems are installed and are automatically activated to counteract the resulting effects when any part of the reactor system fails. Emergency planning is necessary to assure public safety in the unlikely event that reactor safety systems fail. The Nuclear Regulatory Commissions, working in concert with State and Local Agencies, are responsible for the development of the Diablo Canyon Power Plant Emergency Response Plan.

Protective actions are advised in the event that it is necessary to avoid or reduce a projected dose of radiation. A projected dose is an estimate of the potential radiation dose to affected individuals. Generally, protective actions will be either evacuation or sheltering in place. Federal and State guidance advises protective actions for the Protective Action Zone (PAZ) that lies entirely within San Luis Obispo County.

Protective actions for the City of Morro Bay are not anticipated during the plume phase of an incident. However, the city could be directly affected by protective actions taken in San Luis Obispo County including evacuation, and ingestion pathway exposure, covering food supplies,

interdiction and decontamination.

Unified Command will provide leadership for a Diablo Canyon Power Plant event with the Fire Chief or designee providing guidance to the Unified Command Staff.

## **I. Terrorism**

FEMA definition of Terrorism: Terrorism is the use of force or violence against persons or property in violation of the criminal laws of the United States for purposes of intimidation, coercion, or ransom.

The effects of terrorist activities can vary significantly, depending on the type, severity, scope, and duration of the activity. Terrorist activities may result in disruption of utility services, property damage, injuries and the loss of lives.

The possibility of a terrorist action, which might have an impact on the City, cannot be discounted. Terrorist actions may include biological, chemical, incendiary, explosive, nuclear/radiological, or electronic (such as software system) attacks.

## **Hazard Analysis**

### **1. Potential Threats**

The threat to law enforcement and safety personnel can be severe and bold in nature. Securing of essential facilities and services is necessary. Looting and fires can take place as a result of perceived or actual non-intervention by authorities.

### **2. Potential Range of Impacts**

Damage possibilities range from the loss of life and multiple casualties to significant property damage from fire and looting, or to the loss of infrastructure (electric and water systems) because of sabotage.

Looting and fires can take place as a result of perceived or actual non-intervention by authorities and could take place in both commercial and residential areas of the City of Morro Bay. The setting of fires is a common occurrence in these types of events. Major structure fires or conflagrations are a real threat as fire suppression efforts will often be hindered

Unified Command will provide leadership to a Terrorism event with the Police Chief or designee providing guidance to the Unified Command Staff.

## **J. Adverse Weather**

**Morro Bay is susceptible to the following Adverse Weather events in any given year:**

### **Coastal Erosion**

Coastal erosion is a natural geological process caused by currents, storms, earthquakes, winds, waves, tides, and the gradual movement of tectonic plates. It may take place slowly over thousands of years, or it may occur dramatically, as with landslides or severe storms.

It is important to note that coastal erosion occurs primarily during periods of intense wave action that coincides with high tides. Rates of erosion are reported as a yearly average. Local annual erosion rates range from three inches a year to over one foot. However, this pattern is not indicative of future annual changes.

**Coastal Storm:** Coastal storms usually do most of their damage on the coast, in the form of beach erosion and flooding. The winds originate from low-pressure systems offshore and circulate counterclockwise around the low. The duration of such a storm, the number of high tides through which it persists, can be the most significant measure of its destructiveness.

**Wind Storms:** Refers to any dangerous meteorological phenomena with the potential to cause damage, serious social disruption, or loss of human life. Severe windstorms pose a significant risk to life and property in the region by creating conditions that disrupt essential systems such as public utilities, telecommunications, and transportation routes. High winds can and do occasionally cause tornado-like damage to local homes and businesses. Severe windstorms can present a very destabilizing effect on the dry brush that covers local hillsides and urban wildland interface areas. High winds can have destructive impacts, especially to property trees, power lines, and other utility services.

**Severe Winter Storm:** A Severe Winter storms are a combination of High Winds and Heavy Rains. These events occur on a regular basis when two fronts combine to create the storm.

## Hazard Analysis

### 1. Potential Threats

Adverse Weather events may place the city piers, docks and commercial district in jeopardy. Single Family and Multi-Family residential units will also be in jeopardy during an Adverse Weather event. These events are of relatively short duration but nonetheless can create major recovery issues for the city. The risk of these events impacting Morro Bay is a concern as they occur on a frequent basis.

### 2. Range of Impacts

Adverse Weather events may impact housing, commercial, infrastructure and Tourism.

Unified Command will provide leadership for an Adverse Weather event with the Fire Chief or designee providing guidance to the Unified Command Staff.

## **SECTION IV – CONTINUITY OF OPERATIONS AND RECONSTITUTION OF GOVERNMENT**

### **A. Continuity of Operations**

A major disaster could include death or injury of key government officials, partial or complete destruction of established seats of government, and the destruction of public and private records essential to continued operations of government and industry. Law and order must be preserved and government services maintained. The California Government Code 8643(b) and the Constitution of the State of California provide authority for the continuity and preservation of State and local government.

Continuity of leadership and the government authority is particularly important with respect to emergency services, direction of emergency response operations, and management of recovery activities. Under California's concept of mutual aid, local officials remain in control of their jurisdiction's emergency operations while additional resources may be provided by others upon request. A key aspect of this control is to be able to communicate official requests, situation reports, and other emergency information throughout any disaster condition.

To ensure continuity of government (COG), seven elements must be addressed by government at all levels:

1. Succession to essential positions required in emergency management;
2. Pre-delegation of emergency authorities to key officials;
3. Emergency action steps provided in emergency plans and emergency action plans;
4. Emergency operations centers;
5. Alternate emergency operations centers;
6. Safeguarding vital records; and

Protection of government/industrial resources, facilities, and personnel

### **B. Reconstitution of Government**

In the aftermath of a major disaster, law and order must be preserved and essential government services must be maintained. To this end, it is particularly essential that local units of government continue to function.

#### **1. Lines of Succession**

Article 15 of the California Emergency Services Act provides the authority, as well as the procedures to be employed, to ensure continued function of government through the appointment of political positions, chief executives, and department heads should they be unable to serve in a locally declared state of emergency. In general the act allows for the governing body to designate and appoint up to three standby officers for positions it deems necessary. For City Council Members, if a quorum cannot be met due to injury, illness, or death during a locally declared state of emergency in Morro Bay, temporary appointments will be made to create a full City Council of five (5) members. The following Tables delineates the lines of succession for the City of Morro Bay.

**2. Temporary City Seat of Government and EOC**

Should, during any emergency situation, the normal seat of government be unusable, the seat of City government will be moved first to the Morro Bay Community Center and secondarily to the City of Atascadero.

Should, for any emergency situation, the city’s primary EOC be unusable a back-up or secondary EOC will be established at the Fire Department or the San Luis Obispo County EOC.

**3. Vital Records**

The City Clerk is responsible for the vital Records of the City of Morro Bay. These records are routinely stored in the Clerk’s office located at City Hall. Back-up data systems are stored off-site at a safe location.

**LINES OF SUCCESSION**

SERVICE / DEPARTMENT	TITLE- POSITION
Policy Group	1. Mayor and City Council Members 2. Planning Commission Chair 3. Public Works Advisory Board Chair 4. Recreation and Parks Commission Chair 5. Harbor Advisory Board Chair 6. Planning Commission Vice-Chair 7. Public Works Advisory Board Vice-Chair 8. Recreation and Parks Commission Vice-Chair 9. Harbor Advisory Board Vice-Chair 10. Community Promotions Committee Vice-Chair
City Manager / Director of Emergency Services	1. City Manager 2. Fire Chief 3. Police Chief
City Clerk	1. City Clerk 2. Deputy City Clerk
Human Resources	1. Personnel Officer 2. Administration Technician
Fire	1. Fire Chief 2. Fire Marshall 3. Fire Captain
Police	1. Chief of Police 2. Police Commander 3. Police Sergeant

SERVICE / DEPARTMENT	TITLE- POSITION
Harbor	1. Harbor Director 2. Patrol Supervisor 3. Harbor Business Coordinator
Finance	1. Finance Director 2. Budget/Accounting Manager 3. Senior Accounting Technician
Recreation	1. Recreation Services Division Coordinator 2. Sports Supervisor 3. Youth Services
Public Works	1. Public Works Director 2. City Engineer 3. Capital Project Manger
Information Systems	1. Information Systems Manager 2. Computer Technician

**SECTION V - EMERGENCY MANAGEMENT**

**A. Incident Management Systems (NIMS and SEMS)**

In an emergency, governmental response is an extraordinary extension of responsibility and action, coupled with the normal day-to-day activities associated with governing. Any emergency event of local consequence will more than likely overwhelm local government resources, requiring assistance from a multitude of agencies, initially from area mutual aid partners, then from the State and in major events the Federal Government. The Standardized Emergency Management System and the National Incident Management System have been adopted by the City of Morro Bay. These systems establish a state and nationwide standard response structure and basic protocols to be used by all agencies in both emergency response and recovery from a major event. Their authority and structure can be found in Title 21 of the California Code of Regulations the Homeland Security Act of 2002 and the Homeland Security Presidential Directive #5, 2004.

The intent of this system is a more coordinated effort of emergency management, first at the local level, then at the San Luis Obispo County level, then the state level, and when it is warranted at the national level.

**B. Incident Command System**

The Incident Command System (ICS) is a field-level emergency management system that consists of several components. When applied together, the following provide the basis for effective emergency management:

- Common terminology
- Modular organization

- Integrated communications
- Unified command structure
- Consolidated action plans
- Manageable span-of-control
- Comprehensive resource management

The modular aspect of The Incident Command System (ICS) establishes an emergency organization based on the resources needed to support all phases of an emergency. The organization's staff will be integrated from the top down. If a situation escalates, additional resources can be brought into the organization, and, likewise, when the situation de-escalates, resources can be released when they are no longer needed.

### **C. Department Operating Center (DOC)**

The Department Operating Center (DOC) staff coordinates with the EOC to support the overall City emergency response and recovery activities. The DOC supports the EOC and is a conduit from the field to the EOC, and may support field operations, as appropriate.

**NOTE:** Tactical on-scene response decisions are made at the field Incident Command level—**NOT** by members of the DOC staff.

The following DOC's support the EOC:

- Fire DOC
- Law Enforcement DOC
- Harbor DOC
- Public Works DOC

### **D. City of Morro Bay Emergency Organization**

The Emergency Operations Organizational Chart, at the end of this section, illustrates the City of Morro Bay's Incident Management Organization for various types of emergencies. The staffing and actual structure of the organization will vary based on the type and severity of an emergency.

Table V lists City personnel that will be trained to fill the emergency positions shown. Each position has an alternate. Some are cross-trained to fill several positions. The City of Morro Bay Emergency Operations Center is headed by the Emergency Operations Center Director. The Emergency Operations Center Director has overall responsibility for the City of Morro Bay Emergency Management. The City Manager is designated as the Director of Emergency Services. The Fire Chief is the Deputy Director of Emergency Services and is to provide policy guidance to the EOC and field Incident Commander(s).

The highest ranking on-duty Fire Officer or Police Officer will act as the field Incident Commander at the onset of an emergency. When the Emergency Operations Center is activated the Emergency Operations Center Director is supported by five functional groups.

The functional Emergency Operations Center groups are:

- Command Staff
- Operations Section
- Planning/Intelligence Section
- Logistics Section
- Finance/Administration Section

Except for Command, which includes the Emergency Operations Center Director and support staff, each of these groups is headed by a Section Coordinator. The Section Coordinators comprise the General Staff that is the management core under the Emergency Operations Center Director. The Section Coordinators may activate functions as needed to support Section operations.

### **E. Responsibilities**

This section outlines the general responsibilities of the functional Incident Management Organization groups.

#### **1. Director of Emergency Services**

The Director of Emergency Services has responsibility for coordinating all emergency operations. Depending on the type of emergency, personnel authorized to act in the capacity of Emergency Operations Center Director are as follows:

- City Manager
- Fire Chief
- Police Chief
- Economic Development Director/Assistant City Manager
- Public Works Director
- Finance Director
- City Administration
- Designated Fire and Police Personnel
- City Attorney

The Director of Emergency Services responsibilities include:

- Directing the Command Staff and General Staff.
- Developing and implementing strategic decisions including prioritizing multiple needs for resource allocation.
- Approving the order and release of resources.
- Activating Incident Command System elements.
- Ensuring planning meetings are conducted.
- Approving and authorizing implementation of Incident Action Plans.
- Determining information needs and informing the Command Staff.
- Reviewing and authorizing the release of information to the news media and public.
- Ensuring the general welfare and safety of the Emergency Operations Center

- personnel.
- Approving the Plan for demobilization and recovery.

## **2. Field Incident Commander (IC)**

The Incident Commander (IC) has responsibility for coordinating all field Emergency Operations. The Incident Commander (IC) must work in close accord with the Emergency Operations Center Director. Depending on the type of emergency, personnel authorized to act in the capacity of Incident Commander (IC) are as follows:

- Fire Chief
- Police Chief
- Public Works Director
- Designated Fire and Police Personnel

The Incident Commander's (IC) responsibilities include:

- Directing the operations in the field.
- Developing and implementing strategic decisions.
- Approving the order and release of resources.
- Activating Incident Command System elements.

## **3. Emergency Operations Center Safety and Security Officer/EWIC**

The Emergency Operations Center Safety and Security Officer is responsible for monitoring and assessing hazardous and unsafe situations and developing measures for assuring EOC personnel safety. The EOC Safety and Security Officer will make recommendations to the Director of Emergency Services to correct unsafe acts or conditions. The Safety and Security Officer may provide input in the development of Incident Action Plans regarding safe operations conduct. Additional responsibility includes the EMEC Coordinator for Diablo Canyon related event.

## **4. Public Information Officer**

The Public Information Officer is responsible for formulating and releasing information about the emergency to the news media and the general public.

In some situations, the Public Information Officer and Liaison Officer may be handled by one person. In large-scale emergency situations, additional staff may be required in order for this function to operate effectively.

The Public Information Officer/Liaison Officer's Function responsibilities include:

- Gathering and disseminating emergency information.
- Activating a Joint Information Center (JIC) at a location remote from the Emergency Operations Center.
- Obtain approval for the release of information.
- Coordinating the release of emergency information to the public and news media

- with other agencies.
- Responding to special requests for information.
- Providing information about the emergency to the Incident Management Organization.

### **5. Liaison Officer**

The Liaison Officer will be the primary contact for outside agencies. In large-scale emergency situations, additional staff may be required in order for this function to operate effectively.

- Identifying contacts and communication links with outside agencies and organizations.
- Providing information to and responding to requests from inter-agency and intra-agency contacts.

### **6. Policy Group**

Led by the Mayor, assisted by the City Manager, City Council, City Clerk and City Attorney, this group will provide legal and long-range policy as the emergency effects the overall operation of the City. Direction, from the Administration/Policy Group, to the Emergency Operations Center Director and to the field Incident Commanders must be updated on a regular basis.

### **7. Operations Section**

This section is headed by the Operations Section Coordinator, and is a member of the General staff. This section is responsible for the following operations:

- Providing and coordinating law enforcement services, including assisting other law enforcement agencies in traffic management.
- Providing and coordinating public works services, including providing and placing barricades and signs for traffic management activities.
- Providing and coordinating fire protection services.
- Providing and coordinating emergency medical services for the City.
- Establishing and managing staging areas.
- Ensuring the general welfare and safety of section personnel.
- Providing Care and Shelter for the City
- Providing Evacuation direction for the City

The Law Enforcement Branch, Fire and Rescue Branch, and Public Works Branch, are examples of functions that will operate under the direction of the Operations Section Coordinator.

### **8. Plans and Intelligence Section**

This section is led by the Plans and Intelligence Section Coordinator and is a member of the General staff. The Section is responsible for obtaining, evaluating, disseminating and using information concerning the developing status of the emergency. This information is needed to have an understanding of the current situation and develop appropriate courses of action to effectively manage the emergency response.

The Situation/Status Unit, Advance Plans Unit, GIS/Mapping Unit Documentation Unit, are examples of functions that will operate under the direction of the Plans and Intelligence Section Coordinator.

### **9. Logistics Section**

This section is led by the Logistics Section Coordinator and is a member of the General staff. The Logistics Section Coordinator, with assistance from several units, is responsible for providing logistical needs such as Facilities Unit, Communications/IT Unit, Transportation Unit, Supply Procurement Unit, and Personnel Unit. The Logistic Section Coordinator is also responsible for ensuring the general welfare and safety of section personnel.

The, Communications/IT Unit, Facilities Unit, and Supply Procurement Unit are examples of functions that will operate under the direction of the Logistics Section Coordinator.

### **10. Finance and Administration Section**

This section is led by the Finance and Administration Section Coordinator and is a member of the General staff; this section is responsible for all financial and cost aspects associated with the emergency. The Finance and Administration Section Coordinator manages and is assisted by three units: the Time Unit, Cost Accounting Unit, Compensation and Claims Unit. These are examples of functions that will be under the direction of the Finance/Administration Section Coordinator.

**EMERGENCY OPERATIONS CENTER POSITION ASSIGNMENTS**

The following section outlines position assignments for Incident Management Organization members. The assignments are made corresponding to position within the regular City of Morro Bay Emergency Management Organization Chart by position only. Members of the City of Morro Bay Emergency Management Organization that are As appointed to the Emergency Operations Center shall be made aware of their assignment and offered special training for their incident management function. These assignments are recommendations only. Any person familiar with the Incident Command System may be used to fill positions that are deficient on personnel, especially in the early stages of an incident.

<b>EOC POSITION</b>	<b>JOB TITLE</b>
<b>Director of Emergency Services</b>	<b>City Manager</b>
<b>Deputy Director of Emergency Services</b>	<b>Fire Chief</b> <i>Alternates: As appointed by Director of Emergency Services</i>
Public Information Officer	As appointed by Director of Emergency Services
Liaison Officer	As appointed by Director of Emergency Services
Legal Officer	City Attorney
EOC Safety	As appointed by Director of Emergency Services
<b>Operations Coordinator (Fire)</b>	<b>Fire Chief</b>
<b>Operations Coordinator (Law Enforcement)</b>	<b>Police Chief</b>
<b>Operations Coordinator (Natural Disaster)</b>	<b>Public Works Director</b>
Fire & Rescue Branch Director	Fire Representative
Law Enforcement Branch Director	Police Representative
Care & Shelter Branch Director	Recreation Representative
Harbor Branch	As appointed by Director of Emergency Services
Public Works Branch Director	Public Works
<b>Planning/Intelligence Coordinator</b>	As appointed by Director of Emergency Services
Situation/Status Unit Leader	As appointed by Director of Emergency Services
Advance Plans Unit Leader	As appointed by Director of Emergency Services
Documentation Unit Leader	Fire Administration
Damage Assessment	As appointed by Director of Emergency Services
GIS/Mapping Unit Leader	GIS
<b>Logistics Coordinator</b>	As appointed by Director of Emergency Services
Communications	Law Enforcement
IT Unit Leader	Information Systems
Transportation Unit Leader	As appointed by Director of Emergency Services
Facilities Unit Leader	As appointed by Director of Emergency Services
Supply/Procurement Unit Leader	Accounting
Personnel Unit	Human Resources
<b>Finance/Administration Coordinator</b>	<b>Finance Director</b> <i>Alternate: As appointed by Director of Emergency Services</i>
Time Unit Leader	Accounting
Compensation/Claims Unit Leader	Accounting
Cost Accounting Unit	Accounting

## **SECTION VI - PROGRAM MAINTENANCE**

### **A. Disaster Preparedness Committee**

Chapter 8.08.030 of the Morro Bay City Municipal Code designates that a Disaster Council be created to oversee and coordinate disaster preparedness measures in the City. The committee is chaired by the Mayor, membership includes the City Manager, who is the Director of Emergency Services, the Fire Chief who is the Deputy Director of Emergency Services and such chiefs of the emergency services that are provided for in a current emergency plan of the City of Morro Bay, as adopted pursuant to this Chapter.

Chapter 8.08.040 of the Morro Bay Municipal Code empowers the Disaster Council to develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and, regulations as necessary to implement such plans and agreements for the City.

### **B. Plan and Procedure Maintenance**

This Plan, in its entirety, will be reviewed, maintained, and updated on an annual basis by the Fire Chief or designee. The Basic Plan (Part 1) sets objectives and policy for the City and therefore changes require the approval of the City Council.

The Hazard Specific Annexes (Part 2), the City of Morro Bay Emergency Operations Center Resource Directory (Part 3), the Recovery (Plan Part 4), Emergency Operations Center Position Checklists (Part 5), Debris Management Plan (Part 6), Shelter and Welfare (Part 7, and Evacuation Plan (Part 8) are tactical and reference documents containing information that changes frequently. As such they do not require City Council Approval.

### **C. Emergency Resources Maintenance**

The Disaster Preparedness Committee shall direct City Departments to establish and maintain an Emergency Resources Directory (ERD) for the purposes of listing equipment, supplies, facilities, and communications systems for use in disaster situations. The Emergency Resources Directory shall contain vendor contacts, their phone numbers, and general information. The Emergency Resources Directory is located in City of Morro Bay Emergency Operations Center Resource Directory.

### **D. Training**

It is the policy of the City of Morro Bay to sponsor and coordinate an annual exercise on a particular component of the City of Morro Bay Emergency Management Plan. The Fire Department will develop and administer the drills or exercises. The primary purpose of these events will be to evaluate and improve the particular Emergency Response Plan that the event may be based on. The exercise or drill should be a no fault training and learning experience to all its participants.

All actions during the exercise will be observed and recorded by an evaluator group comprised of Emergency Management Subject Matter Experts. A "no fault" discussion and critique will follow the exercise. This critique will afford department players and the evaluator group with an opportunity to jointly comment on perceived strengths, and what needs improvements on the particular Emergency Response Plan exercised. A closed evaluator group meeting will follow the critique for the purpose of

recording on a consensus basis specific recommendations for Plan improvement. These recommendations will then be submitted to the Morro Bay Fire Department within 30 days after the actual exercise.

The Fire Department will also assist individual departments in developing training programs specific to both individuals and any position he or she may hold within the City of Morro Bay Emergency Management Organization.

The Fire Department will also be responsible for providing general training to the City Council and the employees as needs arise



## **SECTION VII - AUTHORITIES AND REFERENCES**

### **A. Authorities**

The following provides emergency authorities for conducting and/or supporting emergency operations:

#### **1. Federal**

- Robert T. Stafford Disaster Relief and Emergency Assistance
- Federal Disaster Relief Act
- Federal Civil Defense Act

#### **2. State**

- SEMS Regulations *California Code of Regulations (SEMS Guidelines)*.
- California Emergency Services Act
- California Emergency Plan
- California Disaster Assistance Act
- State Toxic Disaster Contingency Plan.
- California Health and Safety Code, (*Division 20, Chapter 6.5, Sections 25115 (defines "Extremely Hazardous Waste") and 25117 (defines "Hazardous Waste"), Chapter 6.95, Sections 25500 et seq. (Business and Area Plans relating to the handling and release or threatened release of hazardous material), (Section 114705 et seq., dealing with Control of Radioactive Contamination of the Environment)*).
- Orders and Regulations, which may be Selectively Promulgated by the Governor during a State of Emergency
- Orders and Regulations Promulgated by the Governor to Take Effect upon the Existence of a State of War Emergency
- California Master Mutual Aid Agreement

#### **3. Local**

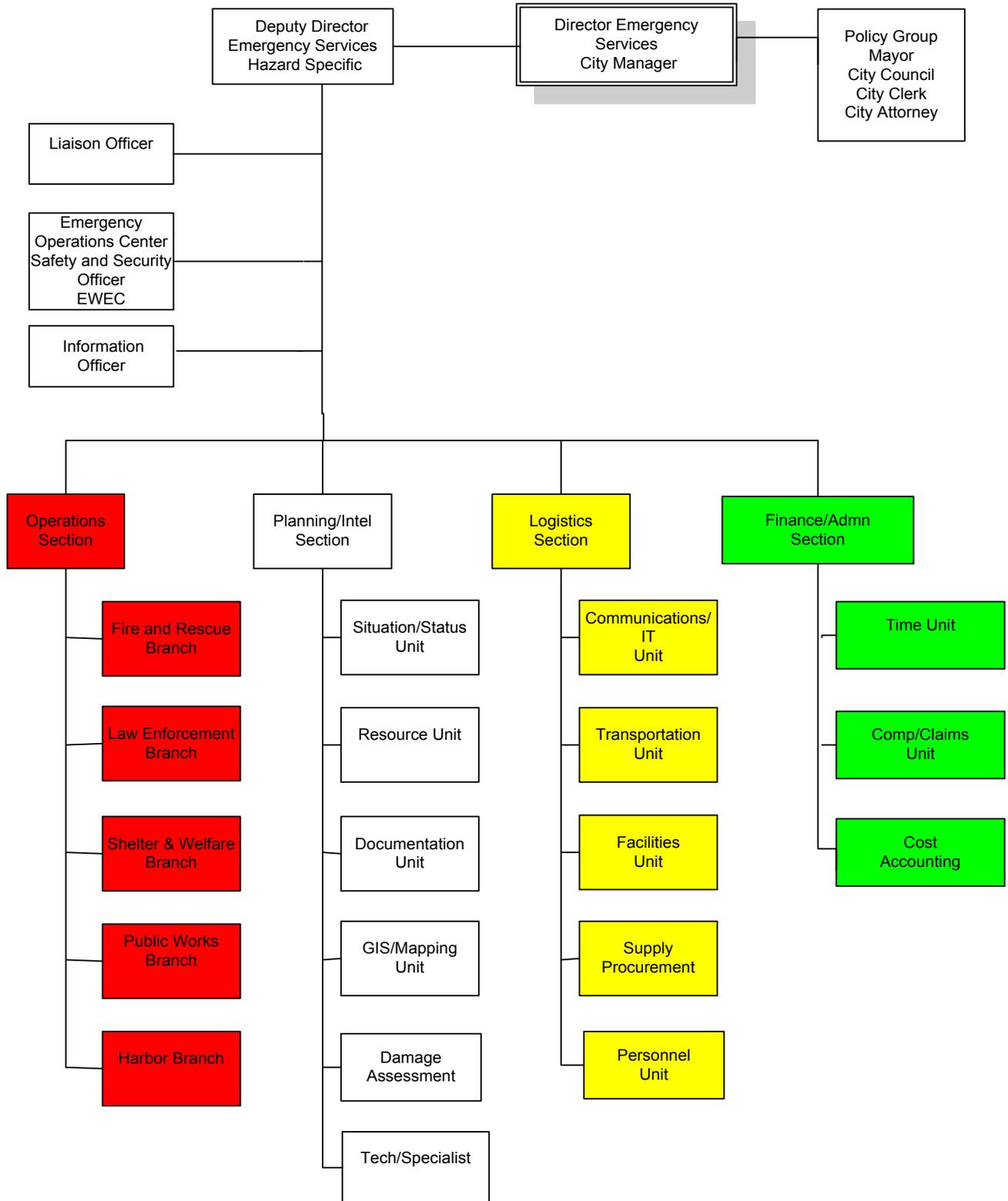
- City of Morro Bay Municipal Code Title 8 Health and Safety, Chapter 8.08 Civil Defense and Emergency Services
- San Luis Obispo County Code - Emergency Organization and Functions

### **B. References**

- California Emergency Plan, 2009
- California Emergency Resources Management Plan
- California Fire and Rescue Operations Plan
- California Law Enforcement Mutual Aid Plan
- California Master Mutual Aid Agreement
- California Emergency Medical Services Authority Multi- Causality Incident Guidelines
- City of Morro Bay, Fire Department Policies and Procedures Manual.
- City of Morro Bay, Multi-hazard Emergency Response Plan, 2002
- FIRESCOPE Field Operations Guide - ICS 420-1
- San Luis Obispo County Emergency Operations Plan, 2016
- San Luis Obispo County Earthquake Emergency Response Plan, San Luis Obispo County

Office of Emergency Services, 2015

- San Luis Obispo County Hazardous Materials Emergency Response Plan, San Luis Obispo County OES, 2013
- San Luis Obispo County/Cities Nuclear Power Plant Emergency Response Plan, 2014
- FEMA Developing and Maintaining Emergency Operations Plan, Comprehensive Preparedness Guide (CPG) 101, Version 2.0 November 2010
- San Luis Obispo County Tsunami Response Plan 2016
- San Luis Obispo County Disaster Response Plan
- Morro Bay Unified School District, Comprehensive Emergency Management Plan



**ORDINANCE NO. 619**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
RENAMING CHAPTER 8.08 OF TITLE 8 OF THE MORRO BAY MUNICIPAL CODE AS  
“EMERGENCY SERVICES ORGANIZATION,” AND AMENDING CHAPTER 8.08, TO  
PROVIDE CONSISTENCY WITH A REVISED CITY OF MORRO BAY EMERGENCY  
MANAGEMENT PLAN**

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

**WHEREAS**, the preservation of life and property is an inherent responsibility of local, state and federal governments; and

**WHEREAS**, no plan can prevent death and destruction, but good plans carried out by knowledgeable and well-trained personnel can and will minimize losses; and

**WHEREAS**, the City of Morro Bay previously adopted a Multi-Hazard Emergency Response Plan (MERP) to address and plan for emergencies; and

**WHEREAS**, the City wants to assure the MERP reflects the City’s use of the Federal National Incident Management System and State Standardized Emergency Management System as adopted by Resolution 31-06 on July 10, 2006; and

**WHEREAS**, the City desires to correct errors in the original plan and provide accurate updated data for compliance with state mandates, federal mandates, and San Luis Obispo County Emergency Management Plan to the City of Morro Bay Emergency Management Plan; and

**WHEREAS**, the City of Morro Bay adopted by resolution on January 8, 2019 an Emergency Management Plan (EMP) to replace the MERP, so as to ensure the most effective and economical allocation of resources for the maximum benefit and protection of the civilian population in time of emergency, and

**WHEREAS**, Part 1 of the Emergency Management Plan establishes the emergency organization, assigns tasks, specifies policies and general procedures, establishes emergency lines of Council member succession and provides for coordination for planning efforts of the various emergency staff and service elements, and

**WHEREAS**, the City of Morro Bay Emergency Management Plan establishes City policy and objectives for emergency management and response; and

**WHEREAS**, the City of Morro Bay by ordinance in 1980 (and as amended in 1987 and 1990) added Chapter 8.08 (“Civil Defense and Emergency Services”) to Title 8 (“Health and Safety”) of the Morro Bay Municipal Code; and

**WHEREAS**, the new EMP adopted by the City on January 8, 2019 requires substantive revisions to existing Chapter 8.08 (“Civil Defense and Emergency Services”) of the Morro Bay Municipal Code to provide for consistency and best practices, and as such the City Council desires to rename Chapter 8.08 as “Emergency Services Organization” and to amend that chapter;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. CHAPTER 8.08 (“CIVIL DEFENSE AND EMERGENCY SERVICES”) OF TITLE 8 (“HEALTH AND SAFETY”) OF THE MORRO BAY MUNICIPAL CODE IS HEREBY RENAMED “EMERGENCY SERVICES ORGANIZATION” AND AMENDED TO READ AS FOLLOWS (WITH NEW TEXT IN *BOLD ITALICS* AND DELETED TEXT IN STRIKETHROUGH):**

**“Chapter 8.08 - EMERGENCY SERVICES ORGANIZATION**

Sections:

**8.08.010 - Purposes.**

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within the city in the event of an emergency; the direction of the emergency organization; and the coordination of the emergency functions of this city with all other public agencies, corporations, organizations, and affected private persons.

**8.08.020 - Emergency defined.**

As used in this chapter, "emergency" means the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within the city caused by such conditions as accidents (transportation—industrial), civil disturbances, earthquakes, epidemics, fire, flood, nuclear incident, oil spill, pipeline incident, pollution (air—water), riot, storms, tsunami (tidal wave), and hazardous materials spill or other conditions, including conditions resulting from war or imminent threat of war *or terrorism*, which conditions are, or are likely to be, beyond the control of the services, personnel, equipment, and facilities of the city *requiring the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage which requires extraordinary measures beyond the authority vested in the California Public Utilities Commission.*

**8.08.030 - Disaster council - Membership.**

The *Morro Bay* disaster council is created and shall consist of the following:

- A. *The City Manager is the Director of Emergency Services, who is the chairperson;*
- B. *One member of the city council;*
- C. *The Deputy Director of Emergency Services, the Fire Chief, who will be the vice-chairperson;*
- D. *City Staff as provided for in the current emergency plan of the city adopted pursuant to the provisions of this chapter;*
- E. *Other representatives may include civic, business, labor, veteran, professional, or other organizations having an official emergency responsibility as may be appointed by the Director of Emergency Services with the advice and consent of the City Council.*

~~A. The city council, who shall determine emergency policy and declare a state of local emergency if deemed necessary;~~

~~B. The city administrator, who shall be the civil defense director and chairman of the disaster council;~~

~~C. The fire chief, who shall be the civil defense coordinator;~~

~~D. Such department heads as are provided for in a current emergency plan of this city, adopted pursuant to this chapter; and~~

~~E. Such representatives of civic, business, labor, veterans, professional or other organizations having an official emergency responsibility, as may be appointed by the civil defense director with the advice and consent of the city council.~~

**8.08.040 - Disaster council - Powers and duties.**

It shall be the duty of the *Morro Bay* disaster council and it is empowered to develop, and recommend the adoption by the city council of, emergency ~~and civil defense plans~~ and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The disaster council shall meet upon call of the *chairperson* ~~chairman~~ or, in his/her absence from the city or inability to call such a meeting, upon call of the acting *chairperson* ~~civil defense director~~.

**8.08.050 - *Director of Emergency Services, and Deputy Director of Emergency Services. Civil defense director and civil defense coordinator*—Offices created.**

- A. *There is created the office of Director of Emergency Services* ~~civil defense director~~. *The City Manager* ~~city administrator~~ *shall be the Director of Emergency Services* ~~civil defense coordinator and director of emergency services~~.

- ~~B. There is created the office of Deputy Director of Emergency Services, who shall be the Fire Chief. There is created the office of civil defense coordinator. The fire chief shall be the civil defense coordinator and deputy director of emergency services.~~
- C. There is created the office of acting *Director of Emergency Services* ~~civil defense director~~, who shall be appointed by the *Director of Emergency Services* ~~civil defense director~~ to serve in his/her absence.

**8.08.060 - Powers and duties of the *Director of Emergency Services* ~~civil defense director~~, and *Deputy Director of Emergency Service* ~~civil defense coordinator~~.**

- A. Director. The director is empowered to:
1. Request the city council to proclaim the existence or threatened existence of a "local emergency" if the city council is in session, or to issue such proclamation if the city council is not in session. Whenever a local emergency is proclaimed by the director, the city council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect;
  2. Request the Governor to proclaim a "state of emergency" when, in the opinion of the director, the locally available resources are inadequate to cope with the emergency;
  3. Control and direct the effort of the emergency organization of the city for the accomplishment of the purposes of this chapter;
  4. Direct cooperation between the coordination of services and staff of the emergency organization of the city, and resolve questions of authority and responsibility that may arise between them;
  5. Represent the city in all dealings with public or private agencies on matters pertaining to emergencies as defined in this chapter;
  6. In the event of the proclamation of a "local emergency" as provided in this section, the proclamation of a "state of emergency" by the Governor or the Director of the State Office of Emergency Services, or the existence of a "state of war emergency," the director is empowered:
    - a. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council;
    - b. To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the city for the fair value thereof and, if required immediately, to commandeer the same for public use;
    - c. To require emergency services of any city officer or employee and, in the event of the proclamation of a "state of emergency" in the county in which the city is located or the existence of a "state of war emergency," to command the aid of as many citizens of this

community as he/she deems necessary in the execution of his/her duties, such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster service workers;

- d. To requisition necessary personnel or material of any city department or agency;
- e. To execute all of his/her ordinary power as **City Manager** ~~city administrator~~, all of the special powers conferred upon him/her by this chapter or by resolution or emergency plan pursuant hereto adopted by the city council, and all powers conferred upon him/her by any statute, by any agreement approved by the city council, and by any other lawful authority; and
- f. ***In addition to the powers granted herein, the Director of Emergency Services shall have such powers incidental to the performance of duties as said director as shall be necessary to allow the director to carry out the emergency operations plan of the city.***

B. Order of Succession to Office. The **City Manager** ~~civil defense director~~ shall designate the order of succession to that office, to take effect in the event the director is unavailable to attend meetings and otherwise perform his/her duties during an emergency.

C. **Deputy Director of Emergency Services** ~~Civil Defense Coordinator~~. The **Deputy Director of Emergency Services** ~~civil defense coordinator~~ shall assist the **Director of Emergency Services** ~~civil defense director~~ in all respects, particularly in coordinating the activities of city staff members and volunteer members of the emergency organization. The **Deputy Director of Emergency Services** ~~civil defense coordinator~~ shall, under supervision of the **Director of Emergency Services** ~~civil defense director~~ and with the assistance of department heads, develop emergency plans and manage the emergency programs of the city, and shall have such other powers and duties as may be assigned by the **Director of Emergency Services** ~~civil defense director~~.

#### **8.08.070 - Emergency organization.**

All officers and employees of the city, ~~together with those volunteer forces enrolled to aid them during an emergency~~, and all groups, organizations, and persons who may by agreement or operation of law, including persons ***appealed to for*** ~~impressed into~~ service ***pursuant to*** ~~under~~ the provisions of Section 8.08.060, be charged with duties incident to the protection of life, ***environment*** and property in the city during such emergency, shall constitute the emergency organization of the city.

#### **8.08.080 - Emergency plan.**

The **Deputy Director of Emergency Services, at the direction of the Director of Emergency Services**, ~~disaster council~~ shall be responsible for the development ***and continual updating*** of the city of **Morro Bay** emergency ***operations*** plan. ~~The~~ ~~;~~ ~~which~~ plan shall provide for the effective mobilization of all of the resources of the city, both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war ***or terrorism*** emergency; and shall provide for the

organization, powers and duties, services, and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the City Council.

**8.08.081 - Standardized Emergency Management System (SEMS) and National Incident Management System (NIMS).**

*The City shall use SEMS and NIMS for coordinating all local emergencies. The basic framework of SEMS/NIMS incorporates the use of the incident command system, multi-agency or interagency coordination, the State's master mutual aid agreement, the operational area concept, and the operational area satellite information system.*

**8.08.082 - City Council - Powers and duties.**

*The City Council is empowered by this chapter to:*

- A. Proclaim the existence or threatened existence of a local emergency.*
- B. Ratify the existence of a local emergency within seven days of a declaration of local emergency made by the Director of Emergency Services while the city council was not in session.*
- C. Review the need for a continuing emergency declaration at regularly scheduled meetings at least every twenty-one (21) days until the emergency is terminated.*
- D. Issue a declaration terminating the local emergency once the situation resulting from the emergency conditions is within the control of the normal protective services, personnel, equipment, and facilities of the city.*

**8.08.090 - Expenditures.**

Any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the city.

**8.08.100 - Violation—Penalty.**

It is a misdemeanor, punishable as set forth in Title 1 of this code, for any person, during an emergency to:

- A. Willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him/her by virtue of this chapter;
- B. Do any act forbidden by any lawful rule or regulation pursuant to this chapter, if such act is of such a nature as to give, or be likely to give, assistance to the enemy or to imperil the lives or

property of inhabitants of the city, or to prevent, hinder, or delay the defense or protection thereof;

C. Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the state.”

**SECTION 2. SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

**SECTION 3. EFFECTIVE DATE.** This ordinance shall be in full force and effect thirty (30) days after its passage.

**SECTION 4. CERTIFICATION.** The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.

**INTRODUCED** at a regular meeting of the City Council held on the 8<sup>th</sup> day of January 2019, by motion of Council Member \_\_\_\_\_ and seconded by Council Member \_\_\_\_\_.

**PASSED AND ADOPTED** on the \_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JOHN HEADDING, Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
CHRIS F. NEUMEYER, City Attorney