

City of Morro Bay

City Council Agenda

Mission Statement

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

**REGULAR MEETING
DECEMBER 11, 2012**

**CLOSED SESSION
CITY HALL CONFERENCE ROOM - 3:00 P.M.
595 HARBOR ST., MORRO BAY, CA**

CS-1 GOVERNMENT CODE SECTION 54956.8; PROPERTY TRANSACTIONS

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

- **Property: Lease Site 110W-112W; 1185 Embarcadero**
Negotiating Parties: George Leage (GAFCO) and City of Morro Bay
Negotiations: Lease Terms and Conditions
- **Property: Lease Site 122-123/122W-123W; 1205 Embarcadero**
Negotiating Parties: Troy & Heather Leage (Harbor Hut) and City of Morro Bay
Negotiations: Lease Terms and Conditions
- **Property: Lease Site 124-128/124W-128W & 113W; 1215 Embarcadero**
Negotiating Parties: MMBS, LLC and City of Morro Bay
Negotiations: Lease Terms and Conditions
- **Property: Lease Site 129W-131W; 1231 Embarcadero**
Negotiating Parties: Morro Bay Fish Company Inc. and City of Morro Bay
Negotiations: Lease Terms and Conditions
- **Property: Lease Site 50-51/50W-51W; 451 Embarcadero**
Negotiating Parties: Reg Whibley and City of Morro Bay
Negotiations: Lease Terms and Conditions
- **Property: 1320 Main Street**
Negotiating Parties: M. Lemos and City of Morro Bay
Negotiations: Voluntary Purchase and Sale

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

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

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

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

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

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

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (805) 772-6205. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A. CONSENT CALENDAR

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

A-1 ANNUAL REPORT ON UNFUNDED LIABILITIES IN VACATION AND SICK LEAVE ACCRUALS; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Informational item only.

A-2 DELAYED PROJECT STATUS REPORT; (ADMINISTRATION)

RECOMMENDATION: Informational item only.

A-3 RESOLUTION NO. 58-12 ESTABLISHING TRANSACTION OFFICERS FOR DOING BUSINESS WITH RABOBANK; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 58-12.

A-4 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA AMENDING THE COUNCIL POLICIES AND PROCEDURES MANUAL REGARDING ELECTRONIC MAIL (EMAIL), THE PUBLIC RECORDS ACT AND THE BROWN ACT; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution 64-12.

A-5 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA APPROVING AMENDMENT #4 TO THE LEASE AGREEMENT FOR LEASE SITES 124-128/124W-128W AND 113W LOCATED AT 1215 EMBARCADERO; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution 60-12.

A-6 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA APPROVING AMENDMENT #3 TO THE LEASE AGREEMENT FOR LEASE SITES 110W-112W AND 20' OF THE EASTERLY PORTION OF LEASE SITE 111.5W LOCATED AT 1185 EMBARCADERO; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution 61-12.

A-7 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY CALIFORNIA APPROVING AMENDMENT #3 TO THE LEASE AGREEMENT FOR LEASE SITES 122-123/122W-123W LOCATED AT 1205 EMBARCADERO; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution 62-12.

A-8 APPROVAL OF ASSIGNMENT OF THE LEASE AGREEMENT FOR LEASE SITE 129W-131W FROM THE MORRO BAY FISH COMPANY TO CENTRAL COAST SEAFOOD; (HARBOR)

RECOMMENDATION: Adopt Resolution 63-12 Approving the Assignment of the Lease Agreement.

A-9 A PROCLAMATION DECLARING DECEMBER 20TH "HOMELESS PERSONS' MEMORIAL DAY"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 PUBLIC HEARING PURSUANT TO RESOLUTION 57-12 REGARDING CITY'S INTENTION TO SELL THE CITY-OWNED PROPERTY AT 1320 MAIN STREET JUST SOUTH OF HIGHWAY ONE IN MORRO BAY, CALIFORNIA; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution No. 65-12.

B-2 UP0-342; 901-915 EMBARCADERO; A REQUEST FOR A CONDITIONAL USE PERMIT FOR A CONCEPT PLAN TO MAKE VARIOUS IMPROVEMENTS TO AN EXISTING FACILITY, ADD DOCKAGE; TO APPROVE AND CERTIFY A MITIGATED NEGATIVE DECLARATION ON THE PROJECT; (PUBLIC SERVICES)

RECOMMENDATION: Approve and certify the Mitigated Negative Declaration and approve the Conditional Use Permit for the Concept Plan as recommended by the Planning Commission at their regular meeting of November 7, 2012.

C. UNFINISHED BUSINESS - None

D. NEW BUSINESS - None

E. DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6205 FOR FURTHER INFORMATION.

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

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

**CITY OF MORRO BAY
SCHEDULE OF UNFUNDED LIABILITIES
AS OF 11/27/2012**

<u>DEPT</u>	<u>SICK</u>		<u>VACATION</u>	
	<u>HOURS</u>	<u>DOLLARS</u>	<u>HOURS</u>	<u>DOLLARS</u>
Administration	1,846.2800	112,910.88	925.2100	45,916.07
Legal	1,014.6850	67,934.92	366.9000	24,571.72
Finance	3,596.0750	127,952.21	1,673.5500	58,174.82
Police	6,940.6395	273,455.48	1,975.8297	72,902.45
Communications	992.5495	25,562.00	248.3620	6,344.18
Fire	7,062.8496	175,472.22	2,810.5900	65,707.80
Public Services	1,617.6300	60,405.29	909.7900	38,910.25
Water	1,842.1260	48,380.28	1,006.7020	26,418.98
Sewer Collections	877.9100	20,728.04	475.6500	11,459.30
WWTP	1,220.1424	41,783.9100	731.7835	23,635.63
Recreation & Parks	1,972.3350	72,056.30	1,098.1400	39,798.65
Cons. Maintenance	2,067.9100	52,146.78	864.1600	22,444.77
Harbor	1,143.3400	46,432.58	544.7100	19,288.91
Total	<u>32,194.4720</u>	<u>\$ 1,125,220.89</u>	<u>13,631.3772</u>	<u>\$ 455,573.53</u>



AGENDA NO: A-2

MEETING DATE: 12/11/12

Staff Report

TO: Honorable Mayor and City Council

DATE: December 6, 2012

FROM: Andrea K. Lueker, City Manager

SUBJECT: Delayed Project Status Report

RECOMMENDATION

Staff recommends the City Council review this informational item.

FISCAL IMPACT

Not applicable.

BACKGROUND

The City Council, at their August 28, 2012 meeting passed Resolution No. 45-12 (attached) which directed, among other items, a Delayed Project Status Report to appear each quarter on the Consent Calendar. The report was to list the following items:

1. Project name
2. Brief description of the project
3. Name of the Department responsible
4. Brief explanation for the delay
5. Revised completion date.

Staff produced the first report in early fall and at that time, instead of including just the list of delayed projects, included all Capital Projects, Measure Q Projects and Maintenance Projects over \$25,000 to allow the City Council and the public a full view of the projects budgeted for Fiscal Year 2012/13. As requested, staff is providing a similar report for this quarter as well.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

City of Morro Bay - Project Status Report

Last updated: 12/6/12

Project Name	Department	Project Description	Project Status	Delay Description	Original Start Date	Revised Start Date	Projected Completion Date
Capital Projects							
Fire Station #63, Phase II	PS	Construction of offices and living quarters	Construction is 90% complete. dedication scheduled for 12/8/12	Initial delay was due to Compliance with FEMA funding requirements. Current delay due to office furniture not being shipped until 12/14 with a tentative install date of 12/21.	10/1/09	8/1/11	12/26/12
Nutmeg Tank	PS	Construction of water tank	Environmental review/county permitting	n/a	6/30/13		
Desal Upgrade/Energy Recovery	PS	Replacement and upgrade of product water pumps, Tanks and Electric Upgrades	Project out to bid. Bids due 12/10/12. Award is anticipated at the 1/8/13 City Council meeting.	n/a	4/30/13		7/30/13
Blanca Pipeline	PS	Project not economically feasible - deleted	Withdrawn - Reviewing Alternatives	n/a			
Brackish Water Reverse Osmosis	PS	Installation of gauges to measure CFS water flow	Complete	n/a	12/31/12		
Chorro Creek Stream Gauges	PS	Force main and gravity sewer trunk line replacement.	Permitting	n/a	8/30/13		
Lift Station 3	PS	Reconstruction of WWV lift station	In progress	NPDES permitting resolved.	8/1/12	n/a	2/28/13
Lift Station 2	PS	Upgrade or replace Jointly owned Sewer Main	Substantially complete. City Council acceptance tentatively scheduled for the 1/8/13 City Council meeting.	n/a	1/1/12	4/1/12	10/30/12
North Main St. Trunk Line	PS	Re-sliding and New Doors.	WWTP Delay	Project requires mods the Joint Powers Agreement to proceed	n/a	unknown	unknown
Hydro Building (Collections Shed)	PS	Repair sections of Sewer Main in the Lower Quintana Area.	Complete	n/a	2/1/12	n/a	5/30/12
Section 6 Rehabilitation	PS	Structural repair of portions of T-pier including piles.	Staff currently in conversation with Coastal staff on permit application and waiver requirements	Employee death, consultant illness, staff time committed to other capital projects, Harbor staffing reductions.			8/1/13
North-T Pier	Harbor	Scheduled audit of gross sales reporting on leases	Underway	n/a			7/1/13
Least Site Audits	Harbor	Replacement of failed metal roof	Complete	n/a			
Replace Storage yard metal roof	Harbor						
Measure Q Projects							
Streets-curbs, gutters, potholes	R/P	3rd party + in-house staff to fill potholes. No. Morro Bay to south	Andros and Parey completed. Yerba Buena 400 block by 1/15/13. Las Tunas berm improvement by 1/15/13	Rain delays and resource availability.	10/1/12		Ongoing until funding is exhausted
Streets - Pavement Mgt Plan	PS	Continuation of paving per the PMP	Change Order signed - work to continue	Rain delays to complete remaining striping and markings.	10/1/12		12/30/12
Storm Water Management Plan	PS	Repair and replacement of storm drains systems	Storm Drain replacement work complete 10/31/12 at Surf Street outlet.	Continuing Projects as Resources are available	n/a	n/a	n/a

RESOLUTION NO. 45-12

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA, DIRECTING A TIMELINE FOR
COMPLETION OF CAPITAL PROJECTS APPROVED BY COUNCIL**

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

WHEREAS, the City Council on an annual basis funds a variety of large and small capital projects, Measure Q projects and large maintenance projects (in excess of \$25,000); and

WHEREAS, the desire of the City Council and the citizens is to see City projects move forward in a timely manner; and

WHEREAS, the community expects the City to move swiftly in implementing capital projects; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that estimated completion dates for capital projects will be included on the Schedule for Capital Projects page, in the Schedule of Measure Q Budget Requests page(s) and/or the Schedule of Proposed Maintenance Projects in excess of \$25,000 page in the Annual Budget document, indicating when the City will begin work on the capital, Measure Q and major maintenance project(s); and

BE IT FURTHER RESOLVED that included in the staff report at the time the funding is approved for each capital, Measure Q or maintenance project in excess of \$25,000, staff will include a timeline for project completion; and

BE IT FURTHER RESOLVED that a Delayed Project Status Report will be generated by the City Manager's office each quarter and appear on the consent calendar of the City Council agenda at the first meeting of each quarter, and contain the following information:

1. Project name;
2. Brief description of the project (unless the name is self-explanatory);
3. Name of the department head responsible for the project;
4. Brief explanation for the delay; and
5. Revised completion date.

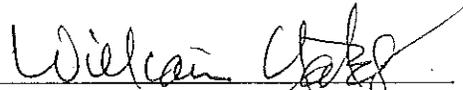
The Delayed Project Status Report will include projects from all funds, and will remain on the Delayed Project Status Report until they are completed or cancelled.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 28th of August 2012, by the following vote:

AYES: Borchard, Johnson, Leage, Smukler, Yates

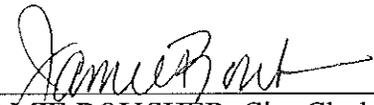
NOES: None

ABSENT: None



WILLIAM YATES, Mayor

ATTEST:



JAMIE BOUCHER, City Clerk



AGENDA NO: A-3

MEETING DATE: 12/11/2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** November 19, 2012
FROM: Susan Slayton, Administrative Services Director/City Treasurer
SUBJECT: Resolution No. 58-12 Establishing Transaction Officers for Doing
 Business with Rabobank

RECOMMENDATION:

Council to approve Resolution No. 58-12.

FISCAL IMPACT:

None

SUMMARY:

The City of Morro Bay has an established relationship with Rabobank for its primary banking operations. With the June primary elections, transaction officers changed, and now need to be updated. This Resolution meets that need.

DISCUSSION:

Rabobank requires a corporate Resolution, with Rabobank specifically named in the Resolution, establishing authorized transaction officers for the City of Morro Bay. With the June primary election, there has been a change to the existing list of officers. The new list of transaction officers is:

Jamie L. Irons	Mayor
Andrea Lueker	City Manager
Susan Slayton	Administrative Services Director/City Treasurer
Laurie Goforth	Human Resources Analyst
Cristie Brazzi	Senior Accounting Technician
Bonnie Johnson	Accounting Technician

Resolution No. 58-12 will satisfy Rabobank's requirement.

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

RESOLUTION NO. 58-12

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MORRO BAY, CALIFORNIA,
ESTABLISHING TRANSACTION OFFICERS
FOR DOING BUSINESS WITH RABOBANK**

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

WHEREAS, the City of Morro Bay has an ongoing banking relationship with Rabobank, a Dutch corporation, for its primary banking needs; and

WHEREAS, Rabobank requires a corporate Resolution that establishes transaction officers.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the following individuals are designated as transaction officers for doing business with Rabobank:

Jamie L. Irons	Mayor
Andrea Lueker	City Manager
Susan Slayton	Administrative Services Director/City Treasurer
Laurie Goforth	Human Resources Analyst
Cristie Brazzi	Senior Accounting Technician
Bonnie Johnson	Accounting Technician

PASSED AND ADOPTED by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 11th day of December 2012, by the following vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, Mayor

JAMIE BOUCHER, City Clerk

RESOLUTION NO. 64-12

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AMENDING THE COUNCIL POLICIES AND PROCEDURES MANUAL
REGARDING ELECTRONIC MAIL (EMAIL), THE PUBLIC RECORDS ACT
AND THE BROWN ACT**

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

WHEREAS, the Council Policies and Procedures Manual for the City of Morro Bay is a combination of City Council actions, policies, references, and information regarding the City Council; and

WHEREAS, to ensure that all Councilmembers are familiar with and understand the City of Morro Bay's philosophies and policies regarding serving on the City Council, the City of Morro Bay adopted Resolution 46-02 and its Council Policies and Procedures Manual on August 12, 2002; and

WHEREAS, the current law regarding many open government issues has been complicated by changing technologies and means of communication; and

WHEREAS, in order to remain current on the law the City desires to amend Section 4.5 to the Council Policies and Procedures Manual in regard to Electronic Mail, the Public Records Act and the Brown Act, as follows:

4.5 ELECTRONIC MAIL (EMAIL), THE PUBLIC RECORDS ACT AND THE BROWN ACT

City email is no less a part of "official city business" than any other written correspondence, and there is no expectation of privacy for city email messages. Good judgment and common sense should therefore prevail at all times regarding its appropriate use.

City email is subject to disclosure under the Public Records Act and is subject to the requirements of the Brown Act. While the Brown Act does not prohibit the use of email to make individual contacts between Members of the Council, or the public or staff, great care should be taken to avoid the use of email to contact a majority of the Council, either individually or serially, "in a connected plan to engage in collective deliberation on public business."

City email should not be used in any case where a record of any event, occurrence or statement is required or intended to be retained by the City in the ordinary course of business. City emails ~~is~~are intended to fulfill the same general function as ordinary daily verbal communications among City Council and City staff and ~~is~~are considered “transitory” documents (work-in-progress), and therefore are not subject to records retention requirements. For file management and storage purposes, City email messages should only be retained for as long as needed. In most instances this means deleting messages as you have read them, and shortly after you have sent them. (Reso. 42-05), (part)

If an email message, including any attachments thereto, is considered an official city record, such emails should be printed as a hard copy and filed in accordance with the city’s records retention policy. Generally, the sender of the email should be the person responsible for printing and filing it accordingly, but persons responsible for a particular program or project file shall be responsible for retaining all e-mail they send or receive related to that program or project. (Reso. 42-05), (part)

It is the responsibility of individual City Council Members, employees and their department heads to determine if email is an official city record that must be retained in accordance with the city’s record retention policy. The city attorney will assist you in making such a determination. You should keep in mind, however, that preliminary drafts, notes or interagency or intra-agency memoranda that are not retained by the city in the ordinary course of business are generally not considered to be official city records subject to disclosure. City Council Members and ~~E~~employees are encouraged to delete documents that are not otherwise required to be kept by law or whose preservation is not necessary or convenient to the discharge of your duties or the conduct of the city’s business. (Reso. 42-05), (part)

Periodically, the city receives requests for inspection or production of documents pursuant to the Public Records Act, as well as demands by subpoena or court order for such documents. In the event such a request or demand is made for e-mail, the City Council Members or employees having control over such e-mail, once they become aware of the request or demand, shall use their best efforts, by any reasonable means available, to temporarily preserve any e-mail that is in existence until it is determined whether such e-mail is subject to preservation, public inspection or disclosure. The city clerk shall be contacted regarding any such emails within the City Council member or employee’s control. (Reso. 42-05), (part)

~~The City does not provide Council Members with a City email address or computer. Therefore, the computers and email address are the personal property of each Councilmember. As such, all email communications and information on a Council members computer shall not be considered public records nor subject to the Public Records Act. (Reso. 42-05), (part)~~

NOW, THEREFORE, be it resolved that the City Council of the City of Morro Bay does hereby amend Section 4.5 to the Council Policies and Procedures Manual to reflect the above amendments.

PASSED AND ADOPTED by the City Council, City of Morro Bay at a regular meeting thereof held on the 11th day of December, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

JAMIE BOUCHER, City Clerk

RESOLUTION NO. 60-12

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING AMENDMENT #4 TO THE LEASE AGREEMENT
FOR LEASE SITES 124-128/124W-128W AND 113W LOCATED AT 1215 EMBARCADERO**

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

WHEREAS, the City of Morro Bay is the Lessor of certain property on the Morro Bay waterfront described as Lease Sites 124-128/124W-128W and 113W; and

WHEREAS, MMBS, LLC, is the Lessee of said property; and

WHEREAS, on November 15, 2012 the Tenant obtained Coastal Development Permit (CDP) 3-08-025-A1 from the Coastal Commission to renovate and redevelop three existing commercial businesses and related boating facilities spanning 22 lease sites including demolition of floating docks, the “Thai Boat” restaurant, “Virg’s Tackle Shop”, shed, and ancillary structures; and construction of a two-story commercial visitor serving mixed use structure (Virg’s), new commercial boating finger slips (Virg’s and Harbor Hut), new marine fuel tanks, new restaurant/fish market expansion (GAFCO), side-tie dock and live bait receiver bins (Virg’s), ancillary structures (e.g., pilings, framing, stairs, gangways, etc.), and public access improvements, including 8’ wide public floating dock, gangways, ADA compatible lift, rooftop deck, and outdoor seating area; and

WHEREAS, Coastal Development Permit (CDP) 3-08-025-A1 requires that the conditions of the CDP be recorded against both the underlying lease sites and properties, and requires that the lease be modified in order to incorporate the permit conditions into the City lease agreement; and

WHEREAS, the City and the Lessors have reached an agreement in order to comply with Coastal Development Permit (CDP) 3-08-025-A1.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that Amendment #4 for Lease Sites 124-128/124W-128W and 113W is hereby approved and that the Mayor is hereby authorized to execute the attached lease amendment.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11th day of December, 2012, by the following vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

JAMIE BOUCHER, City Clerk

**AMENDMENT #3 TO LEASE AGREEMENT FOR
LEASE SITES 124-128/124W-128W AND 113W**

This Amendment is made and entered into as of this _____ day of _____, 2012 by and between the City of Morro Bay, a municipal corporation of the State of California, (hereinafter "CITY") and MMBS, LLC (hereinafter "TENANT") to amend that certain ground lease for Lease Sites 124-128/124W-128W and 113W dated October 19, 2010, Amendment #1 dated May 24, 2011, Amendment #2 dated December 26, 2011, and Amendment #3 dated July 10, 2012 (hereinafter "Lease").

WHEREAS, on November 15, 2012 the TENANT obtained an Amended Coastal Development Permit (CDP) 3-08-025-A1 from the Coastal Commission to renovate and redevelop three existing commercial business and related boating facilities spanning 22 lease sites including demolition of floating docks, the "Thai Boat" restaurant, "Virg's Tackle Shop", shed, and ancillary structures, and construction of a two-story commercial visitor serving mixed use structure (Virg's), new commercial boating finger slips (Virg's and Harbor Hut), new marine fuel tanks, new restaurant/fish market expansion (GAFCO), side-tie dock and live bait receiver bins (Virg's), ancillary structures (e.g., pilings, framing, stairs, gangways, etc.), and public access improvements, including 8' wide public floating dock, gangways, ADA compatible lift, rooftop deck, and outdoor seating area; and

WHEREAS, Amended CDP 3-08-025-A1 requires that the conditions of Amended CDP 3-08-025-A1 be included as conditions of the Lease and prohibit the deletion or amendment of the portion of the Lease consisting of the conditions of the CDP without the approval of the Executive Director of the Coastal Commission. Additionally, Amended CDP 3-08-025-A1 requires the CITY to agree to include the conditions of Amended CDP 3-08-025-A1 in any future lease on the Lease Parcel.

NOW THEREFORE, CITY and TENANT mutually agree to amend said Lease as follows:

Lease Restriction. In consideration of the issuance of the Amended Coastal Development Permit (CDP) 3-08-025-A1, TENANT and CITY agree that all of the terms and conditions of Amended CDP 3-08-025-A1 (Attached as Exhibit A) are conditions of the Lease. TENANT and CITY agree not to modify or amend any portion of the Lease consisting of the conditions of the Amended CDP or that would contradict the terms and conditions of Amended CDP 3-08-025-A1 without the prior written approval of the Executive Director of the Coastal Commission. TENANT and CITY also agree to include the conditions of Amended CDP 3-08-025-A1 in any future lease on the Lease Parcel.

All other terms and conditions of the Lease and Amendments thereto shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto hereby execute this Amendment.

CITY OF MORRO BAY

TENANT

Jamie L. Irons, Mayor

Bob Fowler

APPROVED AS TO FORM:

Robert Schultz, City Attorney

ATTEST:

Jamie Boucher, City Clerk

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV

Exhibit A



NOTICE OF INTENT TO ISSUE AMENDED COASTAL DEVELOPMENT PERMIT

CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 1 of 11

Please note: this is NOT a coastal development permit

The coastal development permit (CDP) for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. The sole purpose of this notice of intent (NOI) is to inform the permittee(s) of the steps necessary to obtain a valid and effective CDP. In order for the CDP to be effective, Commission staff must issue the CDP, and the permittee(s) must sign and return a copy of the CDP to the Commission. Commission staff cannot issue the CDP until each of the "prior to issuance" (PTI) conditions have been fulfilled (all of the conditions, including the PTI conditions, for this CDP are identified later in this notice).

Unless otherwise specified, the Commission's approval of this CDP is valid for two years from the date of the approval at the Commission hearing. To prevent expiration of the CDP, the permittee(s) must fulfill the PTI conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below (unless otherwise specified). The permittee(s) may also apply for an extension of the CDP pursuant to California Code of Regulations, Title 14, Section 13169.

CDP 3-08-025-A1

CDP 3-08-025 was approved by the California Coastal Commission on June 10, 2009 and amended on November 15, 2012 to modify the lease and deed restriction requirements in order to incorporate the permit conditions into the City's lease agreement. CDP 3-08-025 provides for the renovation and redevelopment of three existing commercial business and related boating facilities spanning 22 lease sites including demolition of floating docks, the "Thai Boat" restaurant, "Virg's Tackle Shop", shed, and ancillary structures, and construction of a two-story commercial visitor-serving mixed use structure (Virg's), new commercial boating finger slips (Virg's and Harbor Hut), new marine fuel tanks, new restaurant/fish market expansion (GAFCO), side-tie dock and live bait receiver bins (Virg's), ancillary structures (e.g., pilings, framing, stairs, gangways, etc.), and public access improvements, including 8' wide public floating dock, gangways, ADA compatible lift, rooftop deck, and outdoor seating area located along the Morro Bay Embarcadero (lease sites 110-113, 122-128, 110W-113W, 115W, 122W-128W) at 1185-1215 Embarcadero Road (APN 066-351-012, 013, 014, 015, 016, 018, 019, 020, 028, 029, 039) adjacent to and over Morro Bay in the City of Morro Bay, San Luis Obispo County. (all as more specifically described in the Commission's CDP file 3-08-025). CDP 3-08-025 is subject to certain terms and conditions, including the standard and special conditions beginning on page 2 of this NOI.

NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 2 of 11

If you have any questions regarding this notice, including regarding how to fulfill the PTI conditions, please contact Stephanie Rexing in the Central Coast District Office at the address and phone number above.



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 3 of 11

NOI issued

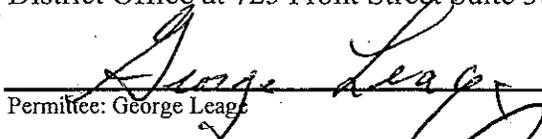
By my signature below, this notice of intent to issue a CDP is issued on behalf of the California Coastal Commission on November 30, 2012.



Madeline Cavalieri, Central Coastal District Manager for Charles Lester, Executive Director

Acknowledgement

The undersigned permittee(s) acknowledge receipt of this notice and fully understand its contents, including all conditions imposed. Please sign and return a copy of this notice to the Central Coast District Office at 725 Front Street Suite 300, Santa Cruz, CA 95060.

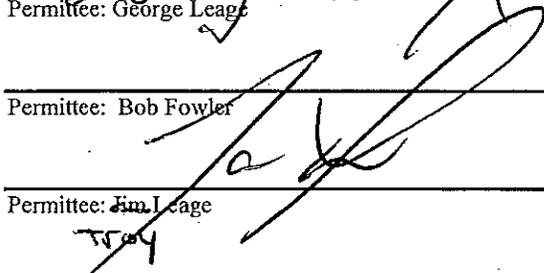


Permittee: George Leage

12/4/12
Date

Permittee: Bob Fowler

Date



Permittee: Jim Leage

12-3-12
Date

Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 3 of 11

NOI Issued

By my signature below, this notice of intent to issue a CDP is issued on behalf of the California Coastal Commission on November 30, 2012.



Madeline Cavalieri, Central Coastal District Manager for Charles Lester, Executive Director

Acknowledgement

The undersigned permittee(s) acknowledge receipt of this notice and fully understand its contents, including all conditions imposed. Please sign and return a copy of this notice to the Central Coast District Office at 725 Front Street Suite 300, Santa Cruz, CA 95060.

Permittee: George Leage

Date

Permittee: Bob Fowler

Date

12-3-12

Permittee: Jim Leage

Date

Standard Conditions

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



California Coastal Commission

NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 4 of 11

B. Special Conditions

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two full size sets of Revised Final Plans to the Executive Director for review and approval. The Revised Final Plans shall be in substantial conformance with the plans submitted to the Coastal Commission (dated received in the Commission's Central Coast District Office May 27, 2008, and titled Site Plans, Elevations, and Roof Plans prepared by C.P. Parker Architect, Shoreline Engineering, and Maul Associates) except that they shall be revised and supplemented to comply with the following requirements:
 - a. **Virg's Tackle Shop/Thai Boat Restaurant Design.** The design and appearance of this component of the project shall be modified to reflect a working dock, nautical/maritime theme (i.e., simple and utilitarian lines and materials, including use of board and bats, corrugated metal, brick, etc.). The plans shall clearly identify all measures that will be applied to ensure such design aesthetic is achieved, including with respect to all structures and all other project elements within the public view (e.g., walkways, paved areas, railings, benches, tables, chairs, lighting, signs, landscaping, etc.). At a minimum, the plans shall clearly identify all structural elements, materials, and finishes (including through site plans and elevations, materials palettes and representative photos, product brochures, etc.).
 - b. **Virg's Tackle Shop/Thai Boat Restaurant Public View Deck.** The wind screen shall be moved to the perimeter of the deck, and shall be frosted or partially-frosted plexiglass or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or plexiglass shall not be installed. Three benches oriented to Morro Bay and Morro Rock and for general public use shall be installed.
 - c. **Great American Fish Company Public View Deck.** The wind screen shall be frosted or partially-frosted plexiglass or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or plexiglass shall not be installed. Tables and chairs shall not interfere with through public pedestrian access from the municipal T-Pier, and shall be appropriately sited and spaced to ensure adequate public access maneuverability and space for viewing, including at the perimeter of the deck.
 - d. **Floating Dock and Public Access Ramps/Gangways.** The plans shall clearly identify the location, dimensions, and materials associated with all floating docks and all associated public access ramps, gangways, and ADA lifts, including a new connection from the City's municipal south T-Pier onto the floating dock fronting the Great American Fish Company. Structural pilings for the expanded floating dock shall be placed in approximately the same location/orientation as the existing piles wherever possible and shall be placed as far apart as practicable to minimize the number of necessary pilings and prevent impacts to existing and potential eelgrass habitat.
 - e. **Slips.** Final plans shall illustrate the location, dimension, and orientation of all boat slips (including one-sided slip areas along docks as well as two-sided slips), including(including one-



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 5 of 11

sided slip areas along docks as well as two-sided slips), including identifying all support structures (i.e., pilings, bracing, etc.) and all connections to the floating dock and land based development. All reference points such as the lease site boundaries, location of revetment, waterline, etc. shall be shown and highlighted.

- f. **Railings.** All railings shall be designed to be unobtrusive and to maximize through views (e.g., vertical railings spaced sufficiently apart, cable railings, etc.) while maintaining pedestrian safety.
- g. **Lighting.** The location, type, and wattage of all light fixtures (including catalog sheets for each fixture) shall be illustrated. All exterior lighting shall be designed and located so that only the intended area is illuminated and off-site glare is prevented. All lighting shall be cutoff style fixtures that are directed downward to prevent glare on adjacent and surrounding areas (i.e., Morro Bay), and shall be limited to the maximum extent feasible while still providing for public safety. Lights shall have solid sides and reflectors to further reduce lighting impacts, and shall be placed on a switch or timer to turn them off when not needed during the late evening.
- h. **Non-Native and Invasive Plant Species Prohibited.** Plans shall identify all plant materials to be used for landscape purposes, and all irrigation systems designed to maintain site landscaping. Landscaped areas shall consist only of native plants of local stock that are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the property. Plans shall include provisions to ensure that all site landscaping is maintained in its approved state in perpetuity.
- i. **Public Access Park.** The plans shall identify in site plan view the pocket park and related park amenities (e.g., benches, landscaping, interpretive signing, etc.) to be installed in the location of the to-be-demolished Thai Boat restaurant (Lease Site 128). See Special Condition 2(c) below for a list of required elements.
- j. **Eelgrass Mapping.** All existing eelgrass beds shall be avoided as much as possible. The plans shall identify in site plan view all existing eelgrass beds in the project area, all such existing eelgrass beds that will be shaded due to the project (including by docks and boats in slip locations), and all new eelgrass bed areas being created (including by moving docks and boat slips from current locations and by replanting) as part of the project.

The Permittee shall undertake development in accordance with the approved Revised Final Plans.

- 2. **Public Access Management Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of a public access management plan (Public Access Plan) to the Executive Director for review and approval. The Public Access Plan shall clearly describe the manner in which general public access associated with the approved project is to be



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 6 of 11

provided and managed, with the objective of maximizing public access to the public access areas of the site (including all walkways along the inland side of the development (the Harborwalk), all floating docks and access thereto (i.e., gangways and ADA lift, etc.), the walkway and deck area at the Great American Fish Company next to the T-pier, the walkway adjacent to and the breezeway through Virg's, the stairway and elevator access at Virg's, the view deck area at Virg's, and the park at lease site 128) and all related areas and public access amenities (i.e., restrooms, bench seating, etc.) described in this special condition. The Public Access Plan shall be substantially in conformance with the plans submitted to the Coastal Commission (and referenced in Special Condition 1 above), and shall at a minimum include the following:

- a. **Clear Depiction of Public Access Areas and Amenities.** All public access areas and amenities, including all of the areas and amenities described above, shall be clearly identified as such on the Public Access Plan (including with hatching and closed polygons so that it is clear what areas are available for public access use).
- b. **Floating Dock.** All parameters for use for the floating dock shall be clearly identified. The floating dock shall be publicly available for general public pedestrian access and transient boat use (and not as a long-term residential or live-aboard docking area) for general public and/or commercial fishing use, and shall be clearly integrated into the overall development (including integrating docking use with overall commercial operations of the site).
- c. **Amenities.** Public access amenities (such as benches, table and chairs, bicycle racks, trash and recycling receptacles, etc.) shall be provided, including at a minimum seating areas within the public view deck at the Great American Fish Company (i.e., tables and chairs); benches within the public view deck at Virg's (3 benches), at the park at lease site 128 (1 bench), and at appropriate locations along the Harborwalk lateral pedestrian accessway; and bike rack parking for at least six bicycles in the vicinity of Virg's and at other locations (i.e., Harbor Hut or GAFCO) where it is appropriate.
- d. **Public Access Signs/Materials.** The Public Access Plan shall identify all signs and any other project elements that will be used to facilitate, manage, and provide public access to the approved project, including identification of all public education/interpretation features that will be provided on the site (educational displays, interpretive signage, etc.). Sign details showing the location, materials, design, and text of all public access signs shall be provided. The signs shall be designed so as to provide clear information without impacting public views and site character. At a minimum, public access directional signs shall be placed at each gangway or lift entry point from the Harborwalk pedestrian trail, at the intersection of the Harborwalk trail and the park at lease site 128, at enough locations along the floating dock as to ensure public use parameters are known, at the entry to the south T-Pier and at the gangways from the T-Pier to the public view deck (at Great American Fish Company) and floating dock, and at the breezeway and each ground-floor entrance to the public view deck at Virg's. The public view decks shall be conspicuously signed and available for public use, and any tables on the public view decks shall include signs on them indicating that the public may use the tables for free without any purchase.



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 7 of 11

At a minimum, appropriate (to Morro Bay issues, information, and history) public access interpretive signs shall be placed at each of the public view decks, and at at least one location on the floating docks. Public access signage shall acknowledge the participants in the design and provision of the public access components, including the City of Morro Bay and the California Coastal Commission.

- e. **No Public Access Disruption.** Development and uses within the public access areas that disrupt and/or degrade public access (including areas set aside for private uses, barriers to public access (furniture, planters, temporary structures, private use signs, fences, barriers, ropes, etc.)) shall be prohibited. The public use areas shall be maintained consistent with the approved Public Access Plan and in a manner that maximizes public use and enjoyment.
- f. **Public Access Use Hours.** All public access areas and amenities shall be available to the general public free of charge during at least daylight hours (i.e., one hour before sunrise to one hour after sunset), and during at least all non-daylight hours when the retail components of the approved project are open.
- g. **Public Access Areas and Amenities Maintained.** The public access components of the project shall be maintained in their approved state in perpetuity.

The Permittee shall undertake development in accordance with the approved Public Access Plan, which shall govern all general public access to the site pursuant to this coastal development permit.

- 3. **Eelgrass Monitoring Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of an eelgrass monitoring plan (EMP) to the Executive Director for review and approval. The EMP shall, at a minimum, provide for the following:
 - a. **Eelgrass Protection.** All eelgrass beds in the project area (those unaffected by the project and those created by the project – see Special Condition 1(j)) shall be identified in site plan view, and shall be protected as eelgrass habitat in perpetuity.
 - b. **Annual Monitoring.** Annual monitoring by a qualified biologist experienced with eelgrass shall be conducted to monitor the health and extent of eelgrass beds in the project area. A monitoring report shall be submitted to the Executive Director for review and approval on an annual basis with the first report due one-month following completion of the floating dock component of the project, and subsequent reports due at one year increments after that. All annual reports shall at a minimum include a site plan and written description of the status of eelgrass beds in the project area, including quantifying the amount of new eelgrass coverage observed within the eelgrass beds in the project area. If any annual report identifies a reduction in eelgrass coverage as compared to then existing eelgrass coverage at the time of permit approval (see Special Condition 1j), then the report shall identify remedial measures to offset such reduction within the eelgrass beds in the project area. Annual reporting shall continue for at least three years or until



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 8 of 11

all eelgrass beds to be protected pursuant to the EMP are supporting eelgrass as documented in two consecutive annual reports, whichever is later.

The Permittee shall undertake development in accordance with the approved Eelgrass Monitoring Plan.

4. **Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of a Construction Plan to the Executive Director for review and approval. The Construction Plan shall, at a minimum, include the following:
 - a. **Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on public access and Morro Bay resources, including by using inland areas for staging and storing construction equipment and materials as feasible.
 - b. **Construction Methods.** The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from bay and public recreational use areas (including using unobtrusive fencing (or equivalent measures) to delineate construction areas).
 - c. **Construction BMPs.** The Construction Plan shall also identify the type and location of all erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following: (a) silt fences, straw wattles, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging to the bay; (b) equipment washing, refueling, and/or servicing shall take place at least 50 feet from the bay. All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site; (c) the construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site); and (d) all erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.
 - d. **Construction Site Documents.** The Construction Plan shall provide that copies of the signed coastal development permit and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 9 of 11

- e. **Construction Coordinator.** The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
- f. **Construction and Pile Driving Noise Level Restrictions.** Underwater noise generated by pile driving activities shall not exceed an accumulated 187 dB SEL as measured 5 meters from the source. At no time shall peak dB SEL rise above 206 at 10 meters from the source. If construction noise exceeds the above thresholds, then alternative methods of pile driving (including, but not limited to, vibratory pile driving, press-in pile placement, drilling, dewatered isolation casings, etc.) or other sound mitigation measures (including, but not limited to sound shielding and other noise attenuation devices) shall be used as necessary to achieve the required dB threshold levels. Hydroacoustical monitoring shall be performed to ensure that underwater noise generated by pile driving activities does not exceed the limits specified above. The Applicants shall consult with the U.S. Fish and Wildlife Service and NOAA fisheries to develop a monitoring program that meets this objective. The Applicants shall submit a hydroacoustical monitoring plan for the review and approval of the Executive Director, prior to the commencement of pile driving activities.
- g. **Notification.** The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

The Permittee shall undertake construction in accordance with the approved Construction Plan.

- 5. **Other Agency Approval.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and/or authorizations for the approved project have been granted by the Morro Bay Harbor District, the California State Lands Commission, the U.S. Army Corps of Engineers, and the U.S. Coast Guard. Any changes to the approved project required by these agencies shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.
- 6. **Boat Slip Parameters.** All boat slips and side-tie docks shall be used for commercial and recreational fishing vessels, commercial passenger vessels, and commercial service vessels only. The



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 10 of 11

use of the docks and slips for long-term private residential, live-aboard, and/or recreational vessels is prohibited.

7. **Timing of Development.** Construction of the floating dock, bait receivers, and boat slips shall commence no later than 2 years from approval of this coastal development permit (i.e., by June 10, 2011). All public access areas and amenities associated with the floating docks shall be constructed and open for public use at the same time as the floating docks. All public access areas and amenities associated with the Great American Fish Company improvements shall be constructed and open for public use no later than four years from approval of this coastal development permit (i.e., by June 10, 2013), or concurrent with construction and use of associated development, whichever comes first. Construction associated with the Virg's Sportfishing and Thai Boat restaurant relocation, and pocket park improvements shall commence no later than 5 years from approval of this coastal development permit (i.e., by June 10, 2014). For purposes of this condition, "associated development" shall mean development at the same general location, where the locations are broken down by (a) development at and immediately adjacent to the Great American Fish Company, (b) development at and immediately adjacent to Virg's, and (c) all other development (including fuel tank installation and park improvements at and immediately adjacent to lease site 128). All deadlines in this condition may be extended for good cause by the Executive Director provided any extension beyond five years from approval of this coastal development permit (i.e., beyond June 10, 2014) shall require a Coastal Commission-approved amendment to this coastal development permit.
8. **Incorporation of City Conditions.** All conditions of approval imposed on the project by the City of Morro Bay are incorporated as conditions of this approval. Any of the incorporated City conditions requiring materials to be submitted to the City and/or otherwise requiring City approval (such as Development Director approval), shall also require the same materials to be submitted to, and/or the same approvals granted by, the Executive Director under the same review and approval criteria as specified in the City conditions. For future condition compliance tracking purposes, such incorporated City conditions shall be considered subsections of this Special Condition 8. To the extent any such incorporated City conditions conflict with these conditions (i.e., standard conditions 1 through 5, and special conditions 1 through 9, and 10), such conflicts shall be resolved in favor of these conditions
9. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, and the interaction of same; (ii) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 11 of 11

injury or damage due to such hazards; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the property owner.

10. **Lease Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director for review and approval evidence demonstrating that its lease for the property on which the approved development will take place ("Leased Parcel") has been amended to: (1) include the conditions of this permit as conditions of the lease; and (2) prohibit deletion or amendment of the portion of the lease consisting of the conditions of this permit without the approval of the Executive Director. Further, the Permittee shall submit for Executive Director review and approval evidence that the City of Morro Bay has agreed to include the conditions of this permit in any future leases on the Leased Parcel.



RESOLUTION NO. 61-12

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING AMENDMENT #3 TO THE LEASE AGREEMENT
FOR LEASE SITES 110W-112W AND 20' OF THE EASTERLY PORTION
OF LEASE SITE 111.5W LOCATED AT 1185 EMBARCADERO**

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

WHEREAS, the City of Morro Bay is the Lessor of certain property on the Morro Bay waterfront described as Lease Sites 110W-112W and 20' of the easterly portion of Lease Site 111.5W; and

WHEREAS, George Leage, dba Great American Fish Company, Inc. are the Lessees of said property; and

WHEREAS, on November 15, 2012 the Tenant obtained Coastal Development Permit (CDP) 3-08-025-A1 from the Coastal Commission to renovate and redevelop three existing commercial businesses and related boating facilities spanning 22 lease sites including demolition of floating docks, the "Thai Boat" restaurant, "Virg's Tackle Shop", shed, and ancillary structures; and construction of a two-story commercial visitor serving mixed use structure (Virg's), new commercial boating finger slips (Virg's and Harbor Hut), new marine fuel tanks, new restaurant/fish market expansion (GAFCO), side-tie dock and live bait receiver bins (Virg's), ancillary structures (e.g., pilings, framing, stairs, gangways, etc.), and public access improvements, including 8' wide public floating dock, gangways, ADA compatible lift, rooftop deck, and outdoor seating area; and

WHEREAS, Coastal Development Permit (CDP) 3-08-025-A1 requires that the conditions of the CDP be recorded against both the underlying lease sites and properties, and requires that the lease be modified in order to incorporate the permit conditions into the City lease agreement; and

WHEREAS, the City and the Lessors have reached an agreement in order to comply with Coastal Development Permit (CDP) 3-08-025-A1.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that Amendment #3 for Lease Sites 110W-112W and 20' of the easterly portion of Lease Site 111.5W is hereby approved and that the Mayor is hereby authorized to execute the attached lease amendment.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11th day of December, 2012, by the following vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

JAMIE BOUCHER, City Clerk

**AMENDMENT #3 TO LEASE AGREEMENT FOR
LEASE SITES 110W-112W AND 20' OF THE
EASTERLY PORTION OF LEASE SITE 111.5W**

This Amendment is made and entered into as of this _____ day of _____, 2012 by and between the City of Morro Bay, a municipal corporation of the State of California, (hereinafter "CITY") and George Leage, dba Great American Fish Company (hereinafter "TENANT") to amend that certain ground lease for Lease Sites 110W-112W and 20' of the easterly portion of Lease Site 111.5W dated July 1, 2005, Amendment #1 dated December 13, 2011 and Amendment #2 dated February 14, 2012 (hereinafter "Lease").

WHEREAS, on November 15, 2012 the TENANT obtained an Amended Coastal Development Permit (CDP) 3-08-025-A1 from the Coastal Commission to renovate and redevelop three existing commercial business and related boating facilities spanning 22 lease sites including demolition of floating docks, the "Thai Boat" restaurant, "Virg's Tackle Shop", shed, and ancillary structures, and construction of a two-story commercial visitor serving mixed use structure (Virg's), new commercial boating finger slips (Virg's and Harbor Hut), new marine fuel tanks, new restaurant/fish market expansion (GAFCO), side-tie dock and live bait receiver bins (Virg's), ancillary structures (e.g., pilings, framing, stairs, gangways, etc.), and public access improvements, including 8' wide public floating dock, gangways, ADA compatible lift, rooftop deck, and outdoor seating area; and

WHEREAS, Amended CDP 3-08-025-A1 requires that the conditions of Amended CDP 3-08-025-A1 be included as conditions of the Lease and prohibit the deletion or amendment of the portion of the Lease consisting of the conditions of the CDP without the approval of the Executive Director of the Coastal Commission. Additionally, Amended CDP 3-08-025-A1 requires the CITY to agree to include the conditions of Amended CDP 3-08-025-A1 in any future lease on the Lease Parcel.

NOW THEREFORE, CITY and TENANT mutually agree to amend said Lease as follows:

Lease Restriction. In consideration of the issuance of the Amended Coastal Development Permit (CDP) 3-08-025-A1, TENANT and CITY agree that all of the terms and conditions of Amended CDP 3-08-025-A1 (Attached as Exhibit A) are conditions of the Lease. TENANT and CITY agree not to modify or amend any portion of the Lease consisting of the conditions of the Amended CDP or that would contradict the terms and conditions of Amended CDP 3-08-025-A1 without the prior written approval of the Executive Director of the Coastal Commission. TENANT and CITY also agree to include the conditions of Amended CDP 3-08-025-A1 in any future lease on the Lease Parcel.

All other terms and conditions of the Lease and Amendments thereto shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto hereby execute this Amendment.

CITY OF MORRO BAY

TENANT

Jamie L. Irons, Mayor

George Leage

APPROVED AS TO FORM:

Robert Schultz, City Attorney

ATTEST:

Jamie Boucher, City Clerk

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV

Exhibit A



NOTICE OF INTENT TO ISSUE AMENDED COASTAL DEVELOPMENT PERMIT

CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 1 of 11

Please note: this is NOT a coastal development permit

The coastal development permit (CDP) for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. The sole purpose of this notice of intent (NOI) is to inform the permittee(s) of the steps necessary to obtain a valid and effective CDP. In order for the CDP to be effective, Commission staff must issue the CDP, and the permittee(s) must sign and return a copy of the CDP to the Commission. Commission staff cannot issue the CDP until each of the "prior to issuance" (PTI) conditions have been fulfilled (all of the conditions, including the PTI conditions, for this CDP are identified later in this notice).

Unless otherwise specified, the Commission's approval of this CDP is valid for two years from the date of the approval at the Commission hearing. To prevent expiration of the CDP, the permittee(s) must fulfill the PTI conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below (unless otherwise specified). The permittee(s) may also apply for an extension of the CDP pursuant to California Code of Regulations, Title 14, Section 13169.

CDP 3-08-025-A1

CDP 3-08-025 was approved by the California Coastal Commission on June 10, 2009 and amended on November 15, 2012 to modify the lease and deed restriction requirements in order to incorporate the permit conditions into the City's lease agreement. CDP 3-08-025 provides for the renovation and redevelopment of three existing commercial business and related boating facilities spanning 22 lease sites including demolition of floating docks, the "Thai Boat" restaurant, "Virg's Tackle Shop", shed, and ancillary structures, and construction of a two-story commercial visitor-serving mixed use structure (Virg's), new commercial boating finger slips (Virg's and Harbor Hut), new marine fuel tanks, new restaurant/fish market expansion (GAFCO), side-tie dock and live bait receiver bins (Virg's), ancillary structures (e.g., pilings, framing, stairs, gangways, etc.), and public access improvements, including 8' wide public floating dock, gangways, ADA compatible lift, rooftop deck, and outdoor seating area located along the Morro Bay Embarcadero (lease sites 110-113, 122-128, 110W-113W, 115W, 122W-128W) at 1185-1215 Embarcadero Road (APN 066-351-012, 013, 014, 015, 016, 018, 019, 020, 028, 029, 039) adjacent to and over Morro Bay in the City of Morro Bay, San Luis Obispo County. (all as more specifically described in the Commission's CDP file 3-08-025). CDP 3-08-025 is subject to certain terms and conditions, including the standard and special conditions beginning on page 2 of this NOI.

NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 2 of 11

If you have any questions regarding this notice, including regarding how to fulfill the PTI conditions, please contact Stephanie Rexing in the Central Coast District Office at the address and phone number above.



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 3 of 11

NOI issued

By my signature below, this notice of intent to issue a CDP is issued on behalf of the California Coastal Commission on November 30, 2012.

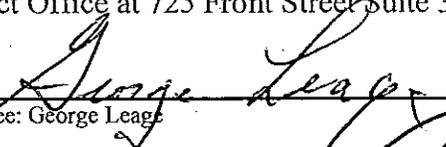


Madeline Cavalieri, Central Coastal District Manager for Charles Lester, Executive Director

Acknowledgement

The undersigned permittee(s) acknowledge receipt of this notice and fully understand its contents, including all conditions imposed. Please sign and return a copy of this notice to the Central Coast District Office at 725 Front Street Suite 300, Santa Cruz, CA 95060.

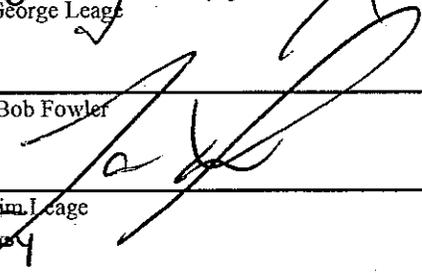
Permittee: George Leage



Date

12/4/12

Permittee: Bob Fowler



Date

Permittee: Jim Leage

7/04

Date

12-3-12

Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 3 of 11

NOI Issued

By my signature below, this notice of intent to issue a CDP is issued on behalf of the California Coastal Commission on November 30, 2012.



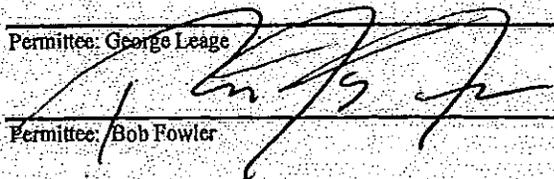
Madeline Cavalieri, Central Coastal District Manager for Charles Lester, Executive Director

Acknowledgement

The undersigned permittee(s) acknowledge receipt of this notice and fully understand its contents, including all conditions imposed. Please sign and return a copy of this notice to the Central Coast District Office at 725 Front Street Suite 300, Santa Cruz, CA 95060.

Permittee: George Leage

Date



Permittee: Bob Fowler

Date

12-3-12

Permittee: Jim Leage

Date

Standard Conditions

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



California Coastal Commission

NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 4 of 11

B. Special Conditions

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two full size sets of Revised Final Plans to the Executive Director for review and approval. The Revised Final Plans shall be in substantial conformance with the plans submitted to the Coastal Commission (dated received in the Commission's Central Coast District Office May 27, 2008, and titled Site Plans, Elevations, and Roof Plans prepared by C.P. Parker Architect, Shoreline Engineering, and Maul Associates) except that they shall be revised and supplemented to comply with the following requirements:
 - a. **Virg's Tackle Shop/Thai Boat Restaurant Design.** The design and appearance of this component of the project shall be modified to reflect a working dock, nautical/maritime theme (i.e., simple and utilitarian lines and materials, including use of board and bats, corrugated metal, brick, etc.). The plans shall clearly identify all measures that will be applied to ensure such design aesthetic is achieved, including with respect to all structures and all other project elements within the public view (e.g., walkways, paved areas, railings, benches, tables, chairs, lighting, signs, landscaping, etc.). At a minimum, the plans shall clearly identify all structural elements, materials, and finishes (including through site plans and elevations, materials palettes and representative photos, product brochures, etc.).
 - b. **Virg's Tackle Shop/Thai Boat Restaurant Public View Deck.** The wind screen shall be moved to the perimeter of the deck, and shall be frosted or partially-frosted plexiglass or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or plexiglass shall not be installed. Three benches oriented to Morro Bay and Morro Rock and for general public use shall be installed.
 - c. **Great American Fish Company Public View Deck.** The wind screen shall be frosted or partially-frosted plexiglass or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or plexiglass shall not be installed. Tables and chairs shall not interfere with through public pedestrian access from the municipal T-Pier, and shall be appropriately sited and spaced to ensure adequate public access maneuverability and space for viewing, including at the perimeter of the deck.
 - d. **Floating Dock and Public Access Ramps/Gangways.** The plans shall clearly identify the location, dimensions, and materials associated with all floating docks and all associated public access ramps, gangways, and ADA lifts, including a new connection from the City's municipal south T-Pier onto the floating dock fronting the Great American Fish Company. Structural pilings for the expanded floating dock shall be placed in approximately the same location/orientation as the existing piles wherever possible and shall be placed as far apart as practicable to minimize the number of necessary pilings and prevent impacts to existing and potential eelgrass habitat.
 - e. **Slips.** Final plans shall illustrate the location, dimension, and orientation of all boat slips (including one-sided slip areas along docks as well as two-sided slips), including(including one-



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 5 of 11

sided slip areas along docks as well as two-sided slips), including identifying all support structures (i.e., pilings, bracing, etc.) and all connections to the floating dock and land based development. All reference points such as the lease site boundaries, location of revetment, waterline, etc. shall be shown and highlighted.

- f. **Railings.** All railings shall be designed to be unobtrusive and to maximize through views (e.g., vertical railings spaced sufficiently apart, cable railings, etc.) while maintaining pedestrian safety.
- g. **Lighting.** The location, type, and wattage of all light fixtures (including catalog sheets for each fixture) shall be illustrated. All exterior lighting shall be designed and located so that only the intended area is illuminated and off-site glare is prevented. All lighting shall be cutoff style fixtures that are directed downward to prevent glare on adjacent and surrounding areas (i.e., Morro Bay), and shall be limited to the maximum extent feasible while still providing for public safety. Lights shall have solid sides and reflectors to further reduce lighting impacts, and shall be placed on a switch or timer to turn them off when not needed during the late evening.
- h. **Non-Native and Invasive Plant Species Prohibited.** Plans shall identify all plant materials to be used for landscape purposes, and all irrigation systems designed to maintain site landscaping. Landscaped areas shall consist only of native plants of local stock that are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the property. Plans shall include provisions to ensure that all site landscaping is maintained in its approved state in perpetuity.
- i. **Public Access Park.** The plans shall identify in site plan view the pocket park and related park amenities (e.g., benches, landscaping, interpretive signing, etc.) to be installed in the location of the to-be-demolished Thai Boat restaurant (Lease Site 128). See Special Condition 2(c) below for a list of required elements.
- j. **Eelgrass Mapping.** All existing eelgrass beds shall be avoided as much as possible. The plans shall identify in site plan view all existing eelgrass beds in the project area, all such existing eelgrass beds that will be shaded due to the project (including by docks and boats in slip locations), and all new eelgrass bed areas being created (including by moving docks and boat slips from current locations and by replanting) as part of the project.

The Permittee shall undertake development in accordance with the approved Revised Final Plans.

- 2. **Public Access Management Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of a public access management plan (Public Access Plan) to the Executive Director for review and approval. The Public Access Plan shall clearly describe the manner in which general public access associated with the approved project is to be



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 6 of 11

provided and managed, with the objective of maximizing public access to the public access areas of the site (including all walkways along the inland side of the development (the Harborwalk), all floating docks and access thereto (i.e., gangways and ADA lift, etc.), the walkway and deck area at the Great American Fish Company next to the T-pier, the walkway adjacent to and the breezeway through Virg's, the stairway and elevator access at Virg's, the view deck area at Virg's, and the park at lease site 128) and all related areas and public access amenities (i.e., restrooms, bench seating, etc.) described in this special condition. The Public Access Plan shall be substantially in conformance with the plans submitted to the Coastal Commission (and referenced in Special Condition 1 above), and shall at a minimum include the following:

- a. **Clear Depiction of Public Access Areas and Amenities.** All public access areas and amenities, including all of the areas and amenities described above, shall be clearly identified as such on the Public Access Plan (including with hatching and closed polygons so that it is clear what areas are available for public access use).
- b. **Floating Dock.** All parameters for use for the floating dock shall be clearly identified. The floating dock shall be publicly available for general public pedestrian access and transient boat use (and not as a long-term residential or live-aboard docking area) for general public and/or commercial fishing use, and shall be clearly integrated into the overall development (including integrating docking use with overall commercial operations of the site).
- c. **Amenities.** Public access amenities (such as benches, table and chairs, bicycle racks, trash and recycling receptacles, etc.) shall be provided, including at a minimum seating areas within the public view deck at the Great American Fish Company (i.e., tables and chairs); benches within the public view deck at Virg's (3 benches), at the park at lease site 128 (1 bench), and at appropriate locations along the Harborwalk lateral pedestrian accessway; and bike rack parking for at least six bicycles in the vicinity of Virg's and at other locations (i.e., Harbor Hut or GAFCO) where it is appropriate.
- d. **Public Access Signs/Materials.** The Public Access Plan shall identify all signs and any other project elements that will be used to facilitate, manage, and provide public access to the approved project, including identification of all public education/interpretation features that will be provided on the site (educational displays, interpretive signage, etc.). Sign details showing the location, materials, design, and text of all public access signs shall be provided. The signs shall be designed so as to provide clear information without impacting public views and site character. At a minimum, public access directional signs shall be placed at each gangway or lift entry point from the Harborwalk pedestrian trail, at the intersection of the Harborwalk trail and the park at lease site 128, at enough locations along the floating dock as to ensure public use parameters are known, at the entry to the south T-Pier and at the gangways from the T-Pier to the public view deck (at Great American Fish Company) and floating dock, and at the breezeway and each ground-floor entrance to the public view deck at Virg's. The public view decks shall be conspicuously signed and available for public use, and any tables on the public view decks shall include signs on them indicating that the public may use the tables for free without any purchase.



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 7 of 11

At a minimum, appropriate (to Morro Bay issues, information, and history) public access interpretive signs shall be placed at each of the public view decks, and at at least one location on the floating docks. Public access signage shall acknowledge the participants in the design and provision of the public access components, including the City of Morro Bay and the California Coastal Commission.

- e. **No Public Access Disruption.** Development and uses within the public access areas that disrupt and/or degrade public access (including areas set aside for private uses, barriers to public access (furniture, planters, temporary structures, private use signs, fences, barriers, ropes, etc.)) shall be prohibited. The public use areas shall be maintained consistent with the approved Public Access Plan and in a manner that maximizes public use and enjoyment.
- f. **Public Access Use Hours.** All public access areas and amenities shall be available to the general public free of charge during at least daylight hours (i.e., one hour before sunrise to one hour after sunset), and during at least all non-daylight hours when the retail components of the approved project are open.
- g. **Public Access Areas and Amenities Maintained.** The public access components of the project shall be maintained in their approved state in perpetuity.

The Permittee shall undertake development in accordance with the approved Public Access Plan, which shall govern all general public access to the site pursuant to this coastal development permit.

- 3. **Eelgrass Monitoring Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of an eelgrass monitoring plan (EMP) to the Executive Director for review and approval. The EMP shall, at a minimum, provide for the following:
 - a. **Eelgrass Protection.** All eelgrass beds in the project area (those unaffected by the project and those created by the project – see Special Condition 1(j)) shall be identified in site plan view, and shall be protected as eelgrass habitat in perpetuity.
 - b. **Annual Monitoring.** Annual monitoring by a qualified biologist experienced with eelgrass shall be conducted to monitor the health and extent of eelgrass beds in the project area. A monitoring report shall be submitted to the Executive Director for review and approval on an annual basis with the first report due one-month following completion of the floating dock component of the project, and subsequent reports due at one year increments after that. All annual reports shall at a minimum include a site plan and written description of the status of eelgrass beds in the project area, including quantifying the amount of new eelgrass coverage observed within the eelgrass beds in the project area. If any annual report identifies a reduction in eelgrass coverage as compared to then existing eelgrass coverage at the time of permit approval (see Special Condition 1j), then the report shall identify remedial measures to offset such reduction within the eelgrass beds in the project area. Annual reporting shall continue for at least three years or until



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 8 of 11

all eelgrass beds to be protected pursuant to the EMP are supporting eelgrass as documented in two consecutive annual reports, whichever is later.

The Permittee shall undertake development in accordance with the approved Eelgrass Monitoring Plan.

4. **Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of a Construction Plan to the Executive Director for review and approval. The Construction Plan shall, at a minimum, include the following:
 - a. **Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on public access and Morro Bay resources, including by using inland areas for staging and storing construction equipment and materials as feasible.
 - b. **Construction Methods.** The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from bay and public recreational use areas (including using unobtrusive fencing (or equivalent measures) to delineate construction areas).
 - c. **Construction BMPs.** The Construction Plan shall also identify the type and location of all erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following: (a) silt fences, straw wattles, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging to the bay; (b) equipment washing, refueling, and/or servicing shall take place at least 50 feet from the bay. All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site; (c) the construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site); and (d) all erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.
 - d. **Construction Site Documents.** The Construction Plan shall provide that copies of the signed coastal development permit and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 9 of 11

- e. **Construction Coordinator.** The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
- f. **Construction and Pile Driving Noise Level Restrictions.** Underwater noise generated by pile driving activities shall not exceed an accumulated 187 dB SEL as measured 5 meters from the source. At no time shall peak dB SEL rise above 206 at 10 meters from the source. If construction noise exceeds the above thresholds, then alternative methods of pile driving (including, but not limited to, vibratory pile driving, press-in pile placement, drilling, dewatered isolation casings, etc.) or other sound mitigation measures (including, but not limited to sound shielding and other noise attenuation devices) shall be used as necessary to achieve the required dB threshold levels. Hydroacoustical monitoring shall be performed to ensure that underwater noise generated by pile driving activities does not exceed the limits specified above. The Applicants shall consult with the U.S. Fish and Wildlife Service and NOAA fisheries to develop a monitoring program that meets this objective. The Applicants shall submit a hydroacoustical monitoring plan for the review and approval of the Executive Director, prior to the commencement of pile driving activities.
- g. **Notification.** The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

The Permittee shall undertake construction in accordance with the approved Construction Plan.

- 5. **Other Agency Approval.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and/or authorizations for the approved project have been granted by the Morro Bay Harbor District, the California State Lands Commission, the U.S. Army Corps of Engineers, and the U.S. Coast Guard. Any changes to the approved project required by these agencies shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.
- 6. **Boat Slip Parameters.** All boat slips and side-tie docks shall be used for commercial and recreational fishing vessels, commercial passenger vessels, and commercial service vessels only. The



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 10 of 11

use of the docks and slips for long-term private residential, live-aboard, and/or recreational vessels is prohibited.

7. **Timing of Development.** Construction of the floating dock, bait receivers, and boat slips shall commence no later than 2 years from approval of this coastal development permit (i.e., by June 10, 2011). All public access areas and amenities associated with the floating docks shall be constructed and open for public use at the same time as the floating docks. All public access areas and amenities associated with the Great American Fish Company improvements shall be constructed and open for public use no later than four years from approval of this coastal development permit (i.e., by June 10, 2013), or concurrent with construction and use of associated development, whichever comes first. Construction associated with the Virg's Sportfishing and Thai Boat restaurant relocation, and pocket park improvements shall commence no later than 5 years from approval of this coastal development permit (i.e., by June 10, 2014). For purposes of this condition, "associated development" shall mean development at the same general location, where the locations are broken down by (a) development at and immediately adjacent to the Great American Fish Company, (b) development at and immediately adjacent to Virg's, and (c) all other development (including fuel tank installation and park improvements at and immediately adjacent to lease site 128). All deadlines in this condition may be extended for good cause by the Executive Director provided any extension beyond five years from approval of this coastal development permit (i.e., beyond June 10, 2014) shall require a Coastal Commission-approved amendment to this coastal development permit.
8. **Incorporation of City Conditions.** All conditions of approval imposed on the project by the City of Morro Bay are incorporated as conditions of this approval. Any of the incorporated City conditions requiring materials to be submitted to the City and/or otherwise requiring City approval (such as Development Director approval), shall also require the same materials to be submitted to, and/or the same approvals granted by, the Executive Director under the same review and approval criteria as specified in the City conditions. For future condition compliance tracking purposes, such incorporated City conditions shall be considered subsections of this Special Condition 8. To the extent any such incorporated City conditions conflict with these conditions (i.e., standard conditions 1 through 5, and special conditions 1 through 9, and 10), such conflicts shall be resolved in favor of these conditions
9. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, and the interaction of same; (ii) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 11 of 11

injury or damage due to such hazards; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the property owner.

10. **Lease Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director for review and approval evidence demonstrating that its lease for the property on which the approved development will take place ("Leased Parcel") has been amended to: (1) include the conditions of this permit as conditions of the lease; and (2) prohibit deletion or amendment of the portion of the lease consisting of the conditions of this permit without the approval of the Executive Director. Further, the Permittee shall submit for Executive Director review and approval evidence that the City of Morro Bay has agreed to include the conditions of this permit in any future leases on the Leased Parcel.



RESOLUTION NO. 62-12

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING AMENDMENT #3 TO THE LEASE AGREEMENT
FOR LEASE SITES 122-123/122W-123W LOCATED AT 1205 EMBARCADERO**

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

WHEREAS, the City of Morro Bay is the Lessor of certain property on the Morro Bay waterfront described as Lease Sites 122-123/122W-123W; and

WHEREAS, Troy and Heather Leage, dba THMT, is the Lessee of said property; and

WHEREAS, on November 15, 2012 the Tenant obtained Coastal Development Permit (CDP) 3-08-025-A1 from the Coastal Commission to renovate and redevelop three existing commercial businesses and related boating facilities spanning 22 lease sites including demolition of floating docks, the “Thai Boat” restaurant, “Virg’s Tackle Shop”, shed, and ancillary structures; and construction of a two-story commercial visitor serving mixed use structure (Virg’s), new commercial boating finger slips (Virg’s and Harbor Hut), new marine fuel tanks, new restaurant/fish market expansion (GAFCO), side-tie dock and live bait receiver bins (Virg’s), ancillary structures (e.g., pilings, framing, stairs, gangways, etc.), and public access improvements, including 8’ wide public floating dock, gangways, ADA compatible lift, rooftop deck, and outdoor seating area; and

WHEREAS, Coastal Development Permit (CDP) 3-08-025-A1 requires that the conditions of the CDP be recorded against both the underlying lease sites and properties, and requires that the lease be modified in order to incorporate the permit conditions into the City lease agreement; and

WHEREAS, the City and the Lessors have reached an agreement in order to comply with Coastal Development Permit (CDP) 3-08-025-A1.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that Amendment #3 for Lease Sites 122-123/122W-123W is hereby approved and that the Mayor is hereby authorized to execute the attached lease amendment.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11th day of December, 2012, by the following vote:

AYES:

NOES:

ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

JAMIE BOUCHER, City Clerk

**AMENDMENT #3 TO LEASE AGREEMENT FOR
LEASE SITES 122-123/122W-123W**

This Amendment is made and entered into as of this _____ day of _____, 2012 by and between the City of Morro Bay, a municipal corporation of the State of California, (hereinafter "CITY") and Troy and Heather Leage, dba THMT (hereinafter "TENANT") to amend that certain ground lease for Lease Sites 122-123/122W-123W dated April 27, 1998, Amendment #1 dated April 13, 2009 and Amendment #2 dated May 22, 2012 (hereinafter "Lease").

WHEREAS, on November 15, 2012 the TENANT obtained an Amended Coastal Development Permit (CDP) 3-08-025-A1 from the Coastal Commission to renovate and redevelop three existing commercial business and related boating facilities spanning 22 lease sites including demolition of floating docks, the "Thai Boat" restaurant, "Virg's Tackle Shop", shed, and ancillary structures, and construction of a two-story commercial visitor serving mixed use structure (Virg's), new commercial boating finger slips (Virg's and Harbor Hut), new marine fuel tanks, new restaurant/fish market expansion (GAFCO), side-tie dock and live bait receiver bins (Virg's), ancillary structures (e.g., pilings, framing, stairs, gangways, etc.), and public access improvements, including 8' wide public floating dock, gangways, ADA compatible lift, rooftop deck, and outdoor seating area; and

WHEREAS, Amended CDP 3-08-025-A1 requires that the conditions of Amended CDP 3-08-025-A1 be included as conditions of the Lease and prohibit the deletion or amendment of the portion of the Lease consisting of the conditions of the CDP without the approval of the Executive Director of the Coastal Commission. Additionally, Amended CDP 3-08-025-A1 requires the CITY to agree to include the conditions of Amended CDP 3-08-025-A1 in any future lease on the Lease Parcel.

NOW THEREFORE, CITY and TENANT mutually agree to amend said Lease as follows:

Lease Restriction. In consideration of the issuance of the Amended Coastal Development Permit (CDP) 3-08-025-A1, TENANT and CITY agree that all of the terms and conditions of Amended CDP 3-08-025-A1 (Attached as Exhibit A) are conditions of the Lease. TENANT and CITY agree not to modify or amend any portion of the Lease consisting of the conditions of the Amended CDP or that would contradict the terms and conditions of Amended CDP 3-08-025-A1 without the prior written approval of the Executive Director of the Coastal Commission. TENANT and CITY also agree to include the conditions of Amended CDP 3-08-025-A1 in any future lease on the Lease Parcel.

All other terms and conditions of the Lease and Amendments thereto shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto hereby execute this Amendment.

CITY OF MORRO BAY

TENANT

Jamie L. Irons, Mayor

Troy Leage

APPROVED AS TO FORM:

Robert Schultz, City Attorney

Heather Leage

ATTEST:

Jamie Boucher, City Clerk

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV

Exhibit A



NOTICE OF INTENT TO ISSUE AMENDED COASTAL DEVELOPMENT PERMIT

CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 1 of 11

Please note: this is NOT a coastal development permit

The coastal development permit (CDP) for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. The sole purpose of this notice of intent (NOI) is to inform the permittee(s) of the steps necessary to obtain a valid and effective CDP. In order for the CDP to be effective, Commission staff must issue the CDP, and the permittee(s) must sign and return a copy of the CDP to the Commission. Commission staff cannot issue the CDP until each of the "prior to issuance" (PTI) conditions have been fulfilled (all of the conditions, including the PTI conditions, for this CDP are identified later in this notice).

Unless otherwise specified, the Commission's approval of this CDP is valid for two years from the date of the approval at the Commission hearing. To prevent expiration of the CDP, the permittee(s) must fulfill the PTI conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below (unless otherwise specified). The permittee(s) may also apply for an extension of the CDP pursuant to California Code of Regulations, Title 14, Section 13169.

CDP 3-08-025-A1

CDP 3-08-025 was approved by the California Coastal Commission on June 10, 2009 and amended on November 15, 2012 to modify the lease and deed restriction requirements in order to incorporate the permit conditions into the City's lease agreement. CDP 3-08-025 provides for the renovation and redevelopment of three existing commercial business and related boating facilities spanning 22 lease sites including demolition of floating docks, the "Thai Boat" restaurant, "Virg's Tackle Shop", shed, and ancillary structures, and construction of a two-story commercial visitor-serving mixed use structure (Virg's), new commercial boating finger slips (Virg's and Harbor Hut), new marine fuel tanks, new restaurant/fish market expansion (GAFCO), side-tie dock and live bait receiver bins (Virg's), ancillary structures (e.g., pilings, framing, stairs, gangways, etc.), and public access improvements, including 8' wide public floating dock, gangways, ADA compatible lift, rooftop deck, and outdoor seating area located along the Morro Bay Embarcadero (lease sites 110-113, 122-128, 110W-113W, 115W, 122W-128W) at 1185-1215 Embarcadero Road (APN 066-351-012, 013, 014, 015, 016, 018, 019, 020, 028, 029, 039) adjacent to and over Morro Bay in the City of Morro Bay, San Luis Obispo County. (all as more specifically described in the Commission's CDP file 3-08-025). CDP 3-08-025 is subject to certain terms and conditions, including the standard and special conditions beginning on page 2 of this NOI.

NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 2 of 11

If you have any questions regarding this notice, including regarding how to fulfill the PTI conditions, please contact Stephanie Rexing in the Central Coast District Office at the address and phone number above.



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 3 of 11

NOI issued

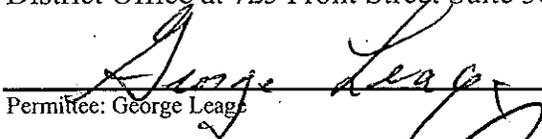
By my signature below, this notice of intent to issue a CDP is issued on behalf of the California Coastal Commission on November 30, 2012.



Madeline Cavalieri, Central Coastal District Manager for Charles Lester, Executive Director

Acknowledgement

The undersigned permittee(s) acknowledge receipt of this notice and fully understand its contents, including all conditions imposed. Please sign and return a copy of this notice to the Central Coast District Office at 725 Front Street Suite 300, Santa Cruz, CA 95060.

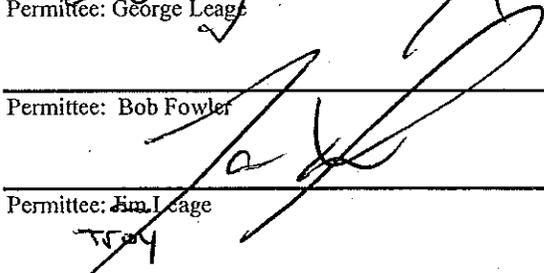


Permittee: George Leage

12/4/12
Date

Permittee: Bob Fowler

Date



Permittee: Jim Leage

12-3-12
Date

Standard Conditions

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 3 of 11

NOI issued

By my signature below, this notice of intent to issue a CDP is issued on behalf of the California Coastal Commission on November 30, 2012.



Madeline Cavalleri, Central Coastal District Manager for Charles Lester, Executive Director

Acknowledgement

The undersigned permittee(s) acknowledge receipt of this notice and fully understand its contents, including all conditions imposed. Please sign and return a copy of this notice to the Central Coast District Office at 725 Front Street Suite 300, Santa Cruz, CA 95060.

Permittee: George Leage

Date

Permittee: Bob Fowler

Date

12-3-12

Permittee: Jim Leage

Date

Standard Conditions

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



California Coastal Commission

NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 4 of 11

B. Special Conditions

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two full size sets of Revised Final Plans to the Executive Director for review and approval. The Revised Final Plans shall be in substantial conformance with the plans submitted to the Coastal Commission (dated received in the Commission's Central Coast District Office May 27, 2008, and titled Site Plans, Elevations, and Roof Plans prepared by C.P. Parker Architect, Shoreline Engineering, and Maul Associates) except that they shall be revised and supplemented to comply with the following requirements:
 - a. **Virg's Tackle Shop/Thai Boat Restaurant Design.** The design and appearance of this component of the project shall be modified to reflect a working dock, nautical/maritime theme (i.e., simple and utilitarian lines and materials, including use of board and bats, corrugated metal, brick, etc.). The plans shall clearly identify all measures that will be applied to ensure such design aesthetic is achieved, including with respect to all structures and all other project elements within the public view (e.g., walkways, paved areas, railings, benches, tables, chairs, lighting, signs, landscaping, etc.). At a minimum, the plans shall clearly identify all structural elements, materials, and finishes (including through site plans and elevations, materials palettes and representative photos, product brochures, etc.).
 - b. **Virg's Tackle Shop/Thai Boat Restaurant Public View Deck.** The wind screen shall be moved to the perimeter of the deck, and shall be frosted or partially-frosted plexiglass or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or plexiglass shall not be installed. Three benches oriented to Morro Bay and Morro Rock and for general public use shall be installed.
 - c. **Great American Fish Company Public View Deck.** The wind screen shall be frosted or partially-frosted plexiglass or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or plexiglass shall not be installed. Tables and chairs shall not interfere with through public pedestrian access from the municipal T-Pier, and shall be appropriately sited and spaced to ensure adequate public access maneuverability and space for viewing, including at the perimeter of the deck.
 - d. **Floating Dock and Public Access Ramps/Gangways.** The plans shall clearly identify the location, dimensions, and materials associated with all floating docks and all associated public access ramps, gangways, and ADA lifts, including a new connection from the City's municipal south T-Pier onto the floating dock fronting the Great American Fish Company. Structural pilings for the expanded floating dock shall be placed in approximately the same location/orientation as the existing piles wherever possible and shall be placed as far apart as practicable to minimize the number of necessary pilings and prevent impacts to existing and potential eelgrass habitat.
 - e. **Slips.** Final plans shall illustrate the location, dimension, and orientation of all boat slips (including one-sided slip areas along docks as well as two-sided slips), including(including one-



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 5 of 11

sided slip areas along docks as well as two-sided slips), including identifying all support structures (i.e., pilings, bracing, etc.) and all connections to the floating dock and land based development. All reference points such as the lease site boundaries, location of revetment, waterline, etc. shall be shown and highlighted.

- f. **Railings.** All railings shall be designed to be unobtrusive and to maximize through views (e.g., vertical railings spaced sufficiently apart, cable railings, etc.) while maintaining pedestrian safety.
- g. **Lighting.** The location, type, and wattage of all light fixtures (including catalog sheets for each fixture) shall be illustrated. All exterior lighting shall be designed and located so that only the intended area is illuminated and off-site glare is prevented. All lighting shall be cutoff style fixtures that are directed downward to prevent glare on adjacent and surrounding areas (i.e., Morro Bay), and shall be limited to the maximum extent feasible while still providing for public safety. Lights shall have solid sides and reflectors to further reduce lighting impacts, and shall be placed on a switch or timer to turn them off when not needed during the late evening.
- h. **Non-Native and Invasive Plant Species Prohibited.** Plans shall identify all plant materials to be used for landscape purposes, and all irrigation systems designed to maintain site landscaping. Landscaped areas shall consist only of native plants of local stock that are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the property. Plans shall include provisions to ensure that all site landscaping is maintained in its approved state in perpetuity.
- i. **Public Access Park.** The plans shall identify in site plan view the pocket park and related park amenities (e.g., benches, landscaping, interpretive signing, etc.) to be installed in the location of the to-be-demolished Thai Boat restaurant (Lease Site 128). See Special Condition 2(c) below for a list of required elements.
- j. **Eelgrass Mapping.** All existing eelgrass beds shall be avoided as much as possible. The plans shall identify in site plan view all existing eelgrass beds in the project area, all such existing eelgrass beds that will be shaded due to the project (including by docks and boats in slip locations), and all new eelgrass bed areas being created (including by moving docks and boat slips from current locations and by replanting) as part of the project.

The Permittee shall undertake development in accordance with the approved Revised Final Plans.

- 2. **Public Access Management Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of a public access management plan (Public Access Plan) to the Executive Director for review and approval. The Public Access Plan shall clearly describe the manner in which general public access associated with the approved project is to be



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 6 of 11

provided and managed, with the objective of maximizing public access to the public access areas of the site (including all walkways along the inland side of the development (the Harborwalk), all floating docks and access thereto (i.e., gangways and ADA lift, etc.), the walkway and deck area at the Great American Fish Company next to the T-pier, the walkway adjacent to and the breezeway through Virg's, the stairway and elevator access at Virg's, the view deck area at Virg's, and the park at lease site 128) and all related areas and public access amenities (i.e., restrooms, bench seating, etc.) described in this special condition. The Public Access Plan shall be substantially in conformance with the plans submitted to the Coastal Commission (and referenced in Special Condition 1 above), and shall at a minimum include the following:

- a. **Clear Depiction of Public Access Areas and Amenities.** All public access areas and amenities, including all of the areas and amenities described above, shall be clearly identified as such on the Public Access Plan (including with hatching and closed polygons so that it is clear what areas are available for public access use).
- b. **Floating Dock.** All parameters for use for the floating dock shall be clearly identified. The floating dock shall be publicly available for general public pedestrian access and transient boat use (and not as a long-term residential or live-aboard docking area) for general public and/or commercial fishing use, and shall be clearly integrated into the overall development (including integrating docking use with overall commercial operations of the site).
- c. **Amenities.** Public access amenities (such as benches, table and chairs, bicycle racks, trash and recycling receptacles, etc.) shall be provided, including at a minimum seating areas within the public view deck at the Great American Fish Company (i.e., tables and chairs); benches within the public view deck at Virg's (3 benches), at the park at lease site 128 (1 bench), and at appropriate locations along the Harborwalk lateral pedestrian accessway; and bike rack parking for at least six bicycles in the vicinity of Virg's and at other locations (i.e., Harbor Hut or GAFCO) where it is appropriate.
- d. **Public Access Signs/Materials.** The Public Access Plan shall identify all signs and any other project elements that will be used to facilitate, manage, and provide public access to the approved project, including identification of all public education/interpretation features that will be provided on the site (educational displays, interpretive signage, etc.). Sign details showing the location, materials, design, and text of all public access signs shall be provided. The signs shall be designed so as to provide clear information without impacting public views and site character. At a minimum, public access directional signs shall be placed at each gangway or lift entry point from the Harborwalk pedestrian trail, at the intersection of the Harborwalk trail and the park at lease site 128, at enough locations along the floating dock as to ensure public use parameters are known, at the entry to the south T-Pier and at the gangways from the T-Pier to the public view deck (at Great American Fish Company) and floating dock, and at the breezeway and each ground-floor entrance to the public view deck at Virg's. The public view decks shall be conspicuously signed and available for public use, and any tables on the public view decks shall include signs on them indicating that the public may use the tables for free without any purchase.



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 7 of 11

At a minimum, appropriate (to Morro Bay issues, information, and history) public access interpretive signs shall be placed at each of the public view decks, and at at least one location on the floating docks. Public access signage shall acknowledge the participants in the design and provision of the public access components, including the City of Morro Bay and the California Coastal Commission.

- e. **No Public Access Disruption.** Development and uses within the public access areas that disrupt and/or degrade public access (including areas set aside for private uses, barriers to public access (furniture, planters, temporary structures, private use signs, fences, barriers, ropes, etc.)) shall be prohibited. The public use areas shall be maintained consistent with the approved Public Access Plan and in a manner that maximizes public use and enjoyment.
- f. **Public Access Use Hours.** All public access areas and amenities shall be available to the general public free of charge during at least daylight hours (i.e., one hour before sunrise to one hour after sunset), and during at least all non-daylight hours when the retail components of the approved project are open.
- g. **Public Access Areas and Amenities Maintained.** The public access components of the project shall be maintained in their approved state in perpetuity.

The Permittee shall undertake development in accordance with the approved Public Access Plan, which shall govern all general public access to the site pursuant to this coastal development permit.

3. **Eelgrass Monitoring Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of an eelgrass monitoring plan (EMP) to the Executive Director for review and approval. The EMP shall, at a minimum, provide for the following:

- a. **Eelgrass Protection.** All eelgrass beds in the project area (those unaffected by the project and those created by the project – see Special Condition 1(j)) shall be identified in site plan view, and shall be protected as eelgrass habitat in perpetuity.
- b. **Annual Monitoring.** Annual monitoring by a qualified biologist experienced with eelgrass shall be conducted to monitor the health and extent of eelgrass beds in the project area. A monitoring report shall be submitted to the Executive Director for review and approval on an annual basis with the first report due one-month following completion of the floating dock component of the project, and subsequent reports due at one year increments after that. All annual reports shall at a minimum include a site plan and written description of the status of eelgrass beds in the project area, including quantifying the amount of new eelgrass coverage observed within the eelgrass beds in the project area. If any annual report identifies a reduction in eelgrass coverage as compared to then existing eelgrass coverage at the time of permit approval (see Special Condition 1j), then the report shall identify remedial measures to offset such reduction within the eelgrass beds in the project area. Annual reporting shall continue for at least three years or until



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 8 of 11

all eelgrass beds to be protected pursuant to the EMP are supporting eelgrass as documented in two consecutive annual reports, whichever is later.

The Permittee shall undertake development in accordance with the approved Eelgrass Monitoring Plan.

4. **Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of a Construction Plan to the Executive Director for review and approval. The Construction Plan shall, at a minimum, include the following:
 - a. **Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on public access and Morro Bay resources, including by using inland areas for staging and storing construction equipment and materials as feasible.
 - b. **Construction Methods.** The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from bay and public recreational use areas (including using unobtrusive fencing (or equivalent measures) to delineate construction areas).
 - c. **Construction BMPs.** The Construction Plan shall also identify the type and location of all erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following: (a) silt fences, straw wattles, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging to the bay; (b) equipment washing, refueling, and/or servicing shall take place at least 50 feet from the bay. All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site; (c) the construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site); and (d) all erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.
 - d. **Construction Site Documents.** The Construction Plan shall provide that copies of the signed coastal development permit and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 9 of 11

- e. **Construction Coordinator.** The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
- f. **Construction and Pile Driving Noise Level Restrictions.** Underwater noise generated by pile driving activities shall not exceed an accumulated 187 dB SEL as measured 5 meters from the source. At no time shall peak dB SEL rise above 206 at 10 meters from the source. If construction noise exceeds the above thresholds, then alternative methods of pile driving (including, but not limited to, vibratory pile driving, press-in pile placement, drilling, dewatered isolation casings, etc.) or other sound mitigation measures (including, but not limited to sound shielding and other noise attenuation devices) shall be used as necessary to achieve the required dB threshold levels. Hydroacoustical monitoring shall be performed to ensure that underwater noise generated by pile driving activities does not exceed the limits specified above. The Applicants shall consult with the U.S. Fish and Wildlife Service and NOAA fisheries to develop a monitoring program that meets this objective. The Applicants shall submit a hydroacoustical monitoring plan for the review and approval of the Executive Director, prior to the commencement of pile driving activities.
- g. **Notification.** The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

The Permittee shall undertake construction in accordance with the approved Construction Plan.

- 5. **Other Agency Approval.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and/or authorizations for the approved project have been granted by the Morro Bay Harbor District, the California State Lands Commission, the U.S. Army Corps of Engineers, and the U.S. Coast Guard. Any changes to the approved project required by these agencies shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.
- 6. **Boat Slip Parameters.** All boat slips and side-tie docks shall be used for commercial and recreational fishing vessels, commercial passenger vessels, and commercial service vessels only. The



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 10 of 11

use of the docks and slips for long-term private residential, live-aboard, and/or recreational vessels is prohibited.

7. **Timing of Development.** Construction of the floating dock, bait receivers, and boat slips shall commence no later than 2 years from approval of this coastal development permit (i.e., by June 10, 2011). All public access areas and amenities associated with the floating docks shall be constructed and open for public use at the same time as the floating docks. All public access areas and amenities associated with the Great American Fish Company improvements shall be constructed and open for public use no later than four years from approval of this coastal development permit (i.e., by June 10, 2013), or concurrent with construction and use of associated development, whichever comes first. Construction associated with the Virg's Sportfishing and Thai Boat restaurant relocation, and pocket park improvements shall commence no later than 5 years from approval of this coastal development permit (i.e., by June 10, 2014). For purposes of this condition, "associated development" shall mean development at the same general location, where the locations are broken down by (a) development at and immediately adjacent to the Great American Fish Company, (b) development at and immediately adjacent to Virg's, and (c) all other development (including fuel tank installation and park improvements at and immediately adjacent to lease site 128). All deadlines in this condition may be extended for good cause by the Executive Director provided any extension beyond five years from approval of this coastal development permit (i.e., beyond June 10, 2014) shall require a Coastal Commission-approved amendment to this coastal development permit.
8. **Incorporation of City Conditions.** All conditions of approval imposed on the project by the City of Morro Bay are incorporated as conditions of this approval. Any of the incorporated City conditions requiring materials to be submitted to the City and/or otherwise requiring City approval (such as Development Director approval), shall also require the same materials to be submitted to, and/or the same approvals granted by, the Executive Director under the same review and approval criteria as specified in the City conditions. For future condition compliance tracking purposes, such incorporated City conditions shall be considered subsections of this Special Condition 8. To the extent any such incorporated City conditions conflict with these conditions (i.e., standard conditions 1 through 5, and special conditions 1 through 9, and 10), such conflicts shall be resolved in favor of these conditions
9. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, and the interaction of same; (ii) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any



NOTICE OF INTENT TO ISSUE AMENDED CDP CDP 3-08-025-A1 (Virg's, Harbor Hut, Great American Fish Company)

NOI Issue Date: November 30, 2012

Page 11 of 11

injury or damage due to such hazards; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the property owner.

10. **Lease Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director for review and approval evidence demonstrating that its lease for the property on which the approved development will take place ("Leased Parcel") has been amended to: (1) include the conditions of this permit as conditions of the lease; and (2) prohibit deletion or amendment of the portion of the lease consisting of the conditions of this permit without the approval of the Executive Director. Further, the Permittee shall submit for Executive Director review and approval evidence that the City of Morro Bay has agreed to include the conditions of this permit in any future leases on the Leased Parcel.





AGENDA NO: A-8

MEETING DATE: December 11, 2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** December 4, 2012

FROM: Eric Endersby, Harbor Director

SUBJECT: Approval of Assignment of the Lease Agreement for Lease Site 129W-131W from the Morro Bay Fish Company to Central Coast Seafood

RECOMMENDATION

Staff recommends that City Council adopts Resolution No. 63-12 and approves assignment of Lease Site 129W-131W from Morro Bay Fish Company (MBFC) to Central Coast Seafood (CCS).

FISCAL IMPACT

None at this time. There is potential for positive fiscal impact directly and indirectly as seafood activity will likely increase across the docks in the future.

BACKGROUND

MBFC entered into a lease agreement for Lease Site 129W-131W in 2008. A relatively short term lease (4 years) was entered into, due to the uncertainties of the commercial fishing industry at the time as well as the condition of the overall national economy. An additional 2 years was added with Amendment #1 in 2009 for improvements to the site by MBFC. The current lease expiration is September 30, 2014.

In the spring of 2010, MBFC was in negotiation with CCS in Atascadero for CCS to purchase MBFC's assets and acquire the lease. However, a pending lawsuit over the ownership of MBFC was underway and the transaction was put on hold. The lawsuit was resolved this past summer and MBFC and CCS have continued to pursue the transaction.

In October this year, MBFC and CCS came to the Harbor Department and again proposed the assignment of the lease to CCS. A copy of their proposal letter is attached. At that time, CCS was desirous of a lease acquisition and negotiation of a new lease as one action, and staff brought the proposal to the November 13, 2012 Closed Session meeting for City Council direction. Council directed staff to work with both parties on an assignment and new lease.

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Since the November 13 Closed Session, staff have been negotiating on terms for a new long-term lease with CCS, but to date have not had sufficient time to bring negotiations to a conclusion. For various reasons, MBFC and CCS would like to conclude the sale and assignment of the lease prior to year's end, and as such are seeking assignment of the lease now, with negotiations for the new lease to continue with CCS. A copy of CCS's revised proposal letter is attached.

DISCUSSION

Lease Site 129W-131W is very important to the continued existence and vitality of the commercial fishing fleet both in Morro Bay and regionally. MBFC has been in good standing with the City in terms of operating the lease site, and in the short time that it has operated has expanded its operations and been an asset to the industry and City.

CCS is a wholly-owned and locally-managed subsidiary of Santa Monica Seafood, established in 1939 and one of the largest seafood companies in the southwest. Staff believes that in addition to continued satisfactory operation of the lease site by CCS, they and Santa Monica Seafood will be able to leverage a larger market capacity in addition to the stability that a larger company brings.

To date, CCS has provided all of the financial and other documents necessary for the assignment. Should Council approve the assignment, staff will continue to negotiate with CCS on a new, longer term lease for the site.

CONCLUSION

Central Coast Seafood is in the process of acquiring the assets of Morro Bay Fish Company, and both are requesting assignment of Lease Site 129W-131W to Central Coast Seafood. Staff recommends that City Council adopts Resolution No. 63-12 and approve the assignment of Lease Site 129W-131W from Morro Bay Fish Company to Central Coast Seafood.

RESOLUTION NO. 63-12

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVAL OF ASSIGNMENT OF THE LEASE AGREEMENT
FOR LEASE SITE 129W-131W
FROM THE MORRO BAY FISH COMPANY
TO CENTRAL COAST SEAFOOD**

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

WHEREAS, the City of Morro Bay is the lessor of certain property on the Morro Bay waterfront described as Lease Site 129W-131W; and

WHEREAS, Morro Bay Fish Company is the lessee of said property; and

WHEREAS, Morro Bay Fish Company has requested Council approval of assignment of the lease agreement for Lease Site 129W-131W to Central Coast Seafood; and

WHEREAS, Central Coast Seafood has provided background and financial information as required to the City; and

WHEREAS, the City cannot unreasonably withhold assignment approval.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the lease agreement for Lease Site 129W-131W is hereby assigned from the Morro Bay Fish Company to Central Coast Seafood and that the Mayor is hereby authorized to execute the assignment and assumption documents.

BE IT FURTHER RESOLVED, that this assignment is contingent upon City Attorney approval of the assignment and assumption documents.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 11th day of December, 2012 on the following vote:

AYES:
NOES:
ABSENT:

Jamie L. Irons, Mayor

ATTEST:

Jamie Boucher, City Clerk

<p>This document is recorded for the Benefit of the City of Morro Bay and is exempt from recording fees, pursuant to Government Code Sections 6103 and 27383.</p> <p>RECORDING REQUESTED BY: City of Morro Bay</p> <p>WHEN RECORDED MAIL TO: City of Morro Bay City Attorney 595 Harbor Street Morro Bay, CA 93442</p>	<p style="text-align: center;">Space above reserved for use of County Recorder</p>
--	--

ASSIGNMENT AND ASSUMPTION AGREEMENT

This assignment is made and entered into this ___ day of _____, 2012, by and between Morro Bay Fish Company, Inc., a California Corporation (hereinafter referred to as “Assignor”) and Central Coast Seafood, a California Corporation (hereinafter referred to as “Assignees”).

1. The City Council of Morro Bay has approved lease assignment; Assignor hereby assigns all rights, title and interest they have in the lease from the City of Morro Bay, known as Morro Bay Lease Site 129W-131W, under the Master Lease dated September 22, 2008, Amendment #1 approved April 13, 2009 and Resolution No. 60-10 Lease Site Maps.
2. Assignees acknowledge that the City of Morro Bay has leased the premises to Assignor under the Master Lease dated September 22, 2008. Assignee acknowledges that any assignment of the Master Lease is subject to prior approval by the City of Morro Bay City Council and is also subject to prior execution between Assignor and Assignees.
3. Assignees agree to comply with terms and conditions of the Master Lease dated September 22, 2008, and Amendment #1 approved April 13, 2009, and to assume all liabilities under the Master Lease, to defend, indemnify and hold the City free and harmless from and against, any and all claims, lawsuits, costs and expenses, including reasonable attorney’s fees and court costs arising from, or in any way related to, holding, using or operating the leased premises, and further agree to maintain liability insurance in the manner, form and amount required by the Master Lease dated September 22, 2008, with the City of Morro Bay included as an additional insured without the offset against the City’s insurance.

Assignor confirms to the City that he has no actual knowledge or reasonable cause to believe that any release of hazardous substance has come to be located on/or beneath the real property during the term of Assignor’s occupation of the lease that has not been reported pursuant to Health & Safety code #253597.

Dated: _____

Brett Cunningham, Morro Bay Fish Company, Inc.

Consent to Assignment & Assumptions of all liabilities under the Lease Agreement

Dated: _____

Giovanni Comin, Central Coast Seafood

The City of Morro Bay, Lessor named in the Master Lease, consents to the Assignment upon the conditions set forth above. The City also consents to the agreement by Assignees to assume, after _____, the payment of rent and performance of all duties and obligations including all percentage of gross sales rent as set forth in the Master Lease which has been approved by the Morro Bay City Council prior to this agreement.

City of Morro Bay

Dated: _____

By: Jamie L. Irons, Mayor
City of Morro Bay



December 3, 2012

Eric Endersby
Harbor Director
City of Morro Bay

Good Morning Eric. As we discussed Friday, Central Coast Seafood is in negotiations with Mr. Brett Cunningham to acquire Morro Bay Fish Company. We would like to have the city approve formal assignment of the lease for the Morro Bay Fish Company facility ASAP. It is our intention to close the escrow in 2012, at Mr. Cunningham's request.

As Mr. Cunningham's lease is set to expire in September of 2014, it is also our desire to continue negotiations on a lease extension for the site known as 129W-131W and the lease period increased an additional 10 years.

As Central Coast Seafood has done business with Mr. Cunningham since Morro Bay Fish Co acquired the lease site, it is our intention to continue to operate the facility in the same capacity. Per our discussion, for consideration of the increase in lease length, Central Coast Seafood will agree to do the following:

1. Honor all conditions of the existing lease with Mr. Cunningham
2. Invest in capital Improvement to the facility in the amount of \$40,000.00 as follows:
 - a. Repair or replacement of damaged Fender pilings in the first 2 years of the new lease
 - b. Repair or replace damaged dock decking in the first 4 years of the term
3. Continue to operate and maintain the city ice facility at its current standards.
4. Continue to meet all reporting requirements of the facility to the Dept of fish and Game and City of Morro Bay.

Please consider this document our formal notification for assignment and request for extension/new lease.

Thank you for your time and consideration.

Giovanni Comin
President
Central Coast Seafood



October 25, 2012

Eric Endersby
Harbor Director
City of Morro Bay

Thank you for your time yesterday. As discussed, MBFC Acquisition Corp, a newly formed California corporation and wholly-owned subsidiary of Central Coast Seafood Company ("Buyer") is in negotiations with Mr. Brett Cunningham to acquire all the assets of Morro Bay Fish Company, Inc. ("MBFC"), a California corporation wholly-owned by Mr. Cunningham. Shortly after the closing of this transaction, Buyer will change its legal name to Morro Bay Fish Company and intends to operate under such trade name.

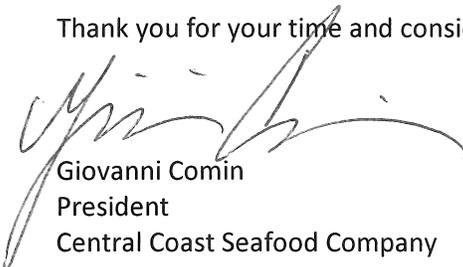
Buyer's ability to enter into a new lease with the City of Morro Bay for a 10-year period is a condition precedent to its agreement to acquire all the assets of MBFC. As MBFC's lease with the City is set to expire on September 30, 2014, it is our desire to have the lease for MBFC's site known as 129W-131W terminated by mutual agreement of both parties and for the City to enter into a new lease agreement with Buyer for a 10-year period.

As Central Coast Seafood has done business with Mr. Cunningham since MBFC acquired the subject lease site, it is our intention to continue to operate the facility in the same manner and capacity. In consideration of a new 10-year lease with Buyer, Central Coast Seafood will agree to do the following:

1. Honor all conditions included in the existing lease with MBFC.
2. Invest in capital Improvement to the facility in the amount of \$40,000, as follows:
 - a. Repair or replacement of damaged Fender pilings in the first 2 years of the new lease; and
 - b. Repair or replace damaged dock decking in the first 4 years of the lease term.
3. Continue to operate and maintain the city ice facility at its current standards.
4. Continue to meet all reporting requirements of the facility to the Dept of Fish & Game and the City of Morro Bay.

Please consider this letter our formal request for entering into a new, 10-year lease that would be, in reality, a transfer of the existing lease from MBFC to Central Coast Seafood.

Thank you for your time and consideration.



Giovanni Comin
President
Central Coast Seafood Company

**A PROCLAMATION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
DECLARING DECEMBER 20TH
“HOMELESS PERSONS’ MEMORIAL DAY”**

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

#

WHEREAS, difficult economic times and a limited amount of both rental and single-family housing has made it difficult for a number of Morro Bay residents to find adequate housing, and;

WHEREAS, the winter poses extreme hardship for unsheltered and inadequately housed low-income men, women and children in Morro Bay; and

WHEREAS, the spirit of the holiday season of giving provides an opportunity for affirmation and renewal regarding the commitment to end homelessness; and

WHEREAS, December 21st has been designated National Homeless Persons’ Memorial Day by the National Coalition for the Homeless and the National Health Care for the Homeless Council and is so recognized by cities, counties and states nationwide; and

WHEREAS, in this season of generosity and sharing, citizens of Morro Bay are encouraged to commit themselves to promoting compassion and concern for all brothers and sisters, especially those who are poor and homeless; and

WHEREAS, in remembering those who have died on the streets, the cause of ending homelessness is kept urgent as is the City’s collective commitment to preventing such deaths in the future;

NOW THEREFORE BE IT RESOLVED, by the Council of the City of Morro Bay, that we hereby declare December 20th as

HOMELESS PERSONS’ MEMORIAL DAY

In recognition of the people who have died homeless in and/or around Morro Bay and we hereby ask all citizens to take a moment of silence in remembrance and encourage our citizens to support all local efforts to eliminate homelessness in our community.

#

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the City of Morro Bay to be affixed this 11th day of December, 2012

JAMIE L. IRONS, MAYOR
City of Morro Bay, California#



AGENDA NO: B-1

MEETING DATE: 12/11/12

Staff Report

TO: Honorable Mayor and City Council

DATE: December 5, 2012

FROM: Robert Schultz, City Attorney

SUBJECT: Public Hearing Pursuant to Resolution 57-12 Regarding City's Intention to Sell the City-Owned Property at 1320 Main Street just south of Highway One in Morro Bay, California

RECOMMENDATION

Open the Public Hearing and approve Resolution 65-12 authorizing staff to sell the real property located at 1320 Main Street for the sum of \$8,462.

FISCAL IMPACT

The City expects to receive \$8,462.21 in net proceeds from this sale. This price meets the fair market standards set by law.

DISCUSSION

The City owns two parcels of vacant land at 1320 Main Street just south of Highway One. The real property covered by this intent to sell is only one of the parcels. The parcel is APN 068-168-023. It is a ±2069 square foot triangle parcel of vacant land immediately adjacent to the side walk, and is depicted in the attached map.

Due to the size and location of the parcel it is infeasible to develop; therefore the parcel has minimal value to anyone other than an adjacent property owner. The owner of the adjacent property has indicated that he is interested in purchasing the parcel (see attached letter). The City Council will need to make findings that there is no longer a need for this parcel of property by determining there is no foreseeable present or future use by the City for this parcel as it cannot be rented or leased due to its size and location.

Government Code section 37421 allows for the sale of any City-owned building and/or property by adoption of a Resolution of Intention to sell City property. Pursuant to Section 37421, at the November 13, 2012 meeting, the City Council adopted Resolution 57-12 indicating its intention to sell the vacant land at 1320 Main Street just south of Highway One. The parcel is APN 068-168-023.

Prepared By: RWS

Dept Review: RWS

City Manager Review: _____

City Attorney Review: _____

The purpose of this Public Hearing is to allow for any person to protest the proposed sale. The protest may be written and delivered to the Clerk of the legislative body or made orally at the meeting considering the final action. (Government Code section 37424.) If the City receives any protests, the City Council may overrule the protests by a four-fifths vote of its members, and may proceed with the sale.

CONCLUSION:

The attached Resolution makes the appropriate findings necessary and is the final step necessary to sell the City-owned real property located at 1320 Main Street in Morro Bay, California.

RESOLUTION NO. 65-12

**RESOLUTION APPROVING THE SALE OF CITY-OWNED PROPERTY LOCATED AT
1320 MAIN STREET IN MORRO BAY, CALIFORNIA**

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

WHEREAS, the City owns real property located at 1320 Main Street, just south of Highway One, in Morro Bay, California; and

WHEREAS, the real property located at the 1320 Main Street is a ±2069 square foot triangle parcel of vacant land immediately adjacent to the side walk, and is depicted in the attached map as APN 068-168-023; and

WHEREAS, the City has determined that the property located at 1320 Main has no potential to be developed as a City facility; and

WHEREAS, due to the size and location of the parcel at 1320 Main Street it is infeasible to develop; therefore the parcel has minimal value to anyone other than an adjacent property owner; and

WHEREAS, pursuant to Government Code section 37350, the City wishes to sell City-owned real properties located 1320 Main Street in Morro Bay, California for the common benefit of its citizens; and

WHEREAS, pursuant to Government Code section 37421, and Resolution 57-12, the City notified its citizens of its intention to sell City-owned properties located at 1320 Main Street, Morro Bay, California; and

WHEREAS, the City designated the real property at 1320 Main Street for sale at the Open Session Council Meeting on November 13, 2012 and held a public hearing on December 11, 2012, and after receiving no protests passed and adopted Resolution 65– 12; and

WHEREAS, the City has negotiated to sell the property for \$8,462.21.

NOW, THEREFORE, be it resolved that the City Council of the City of Morro Bay does hereby approve the sale of the City-owned real property located at 1320 Main Street, Morro Bay, California. APN 068-168-023 and authorize the City Manager to execute all documents associated with the sale.

PASSED AND ADOPTED by the City Council, City of Morro Bay at a regular meeting thereof held on the 11th day of December 2012, by the following vote:

AYES:

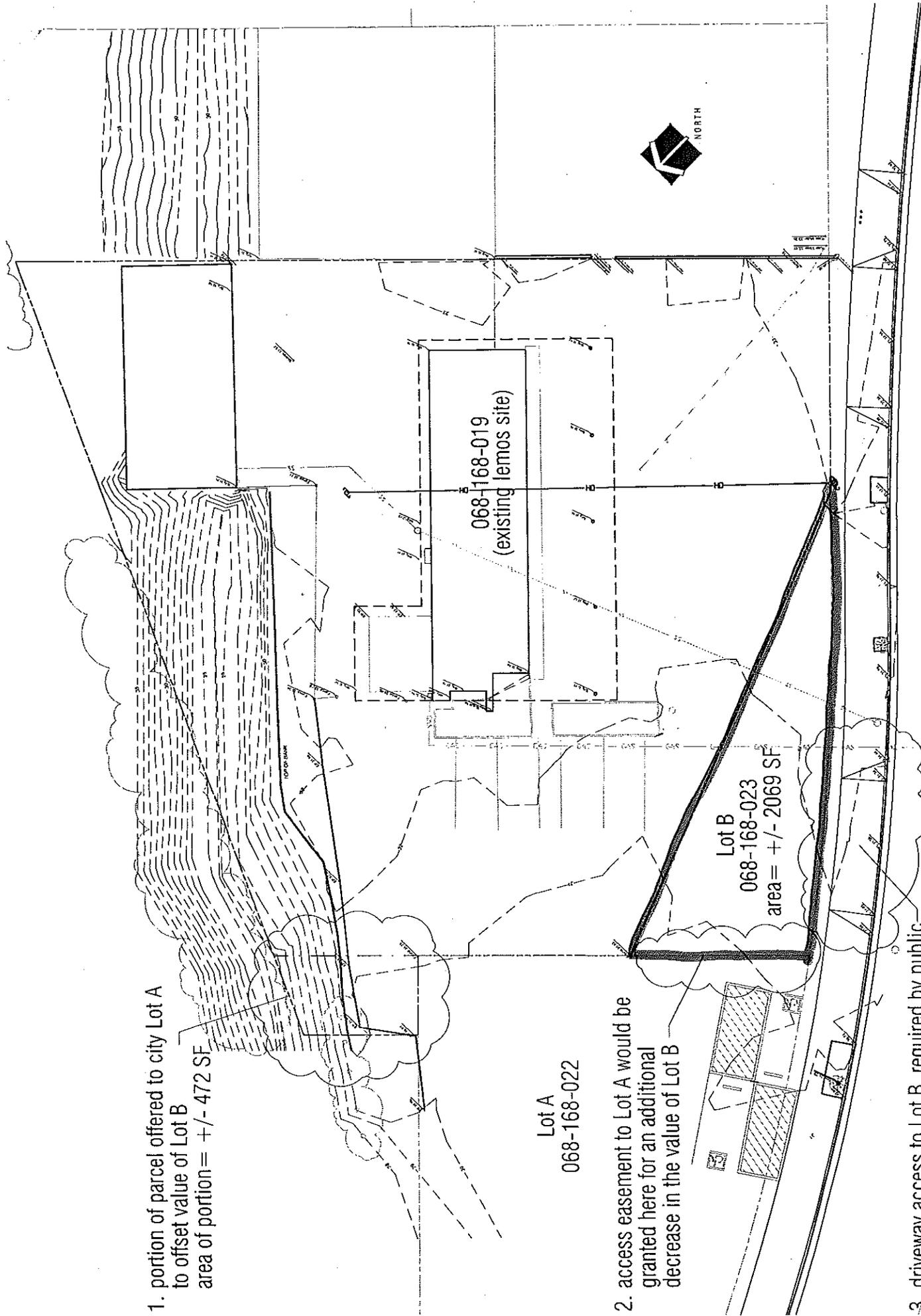
NOES:

ABSENT:

JAMIE L. IRONS, Mayor

ATTEST:

JAMIE BOUCHER, City Clerk



1. portion of parcel offered to city Lot A to offset value of Lot B area of portion = +/- 472 SF

Lot A
068-168-022

2. access easement to Lot A would be granted here for an additional decrease in the value of Lot B

Lot B
068-168-023
area = +/- 2069 SF

3. driveway access to Lot B, required by public works, to be upgraded to current driveway standards. estimated cost for demo & construction = \$15,000

Exhibit A

clinton m. iwanicha

architect

2456 hemlock avenue
morro bay, california 93442
ph. +805.459.2849 & +866.271.1155
www.iwanicha.com
email: cmiarchitect@gmail.com
license #: C30531

RECEIVED
City of Morro Bay

AUG 22 2012

Administration

date: August 22, 2012

to: William Yates, Mayor

27

from: Clinton m. Iwanicha, Architect

Mr. Yates,

I'm contacting you on behalf of my client Mike Lemos, the owner of Lemos Feed & Pet Supply located at 1320 main street in Morro Bay. Mike has been a local business owner in Morro Bay for 35 years and would like to continue that long standing presence in the city with a new proposed building at the location of the existing dated building that houses the current business. See enclosed images of the proposed new project for your reference.

A little background on where we stand for this proposed new project. We submitted a minor use permit application on June 01 but the project is lacking one crucial element to move forward as designed and that is access from the northern most existing driveway off of main street. The location of the Lemos site sits adjacent to two city parcels (refer to attached exhibit A). To the north is city owned lot A and between the Lemos project and Main street is a small parcel, city owned lot B, which has been used to access the site and the previous businesses at this location, for the past 50 years or more. In an early site meeting with Barry Rands, the city engineer, we discussed the need for an official access easement over lot B and he felt that the acquisition of this easement would be a simple process, especially since the previous owner had drafted a preliminary access easement with the city of Morro Bay that was never finalized. Shortly after submitting the Minor Use application, a letter from the planning and engineering staff stated that this easement could not be granted and the project as designed, would not work.

In attempt to solve this issue, we did meet with the city developmental staff and Rob Shultz, city attorney, on July 11, 2012 to discuss our options on obtaining an access easement over Lot B. The general opinion held by staff and the city attorney, was that it might be in the best interest of all involved, for the lot to be sold to Mike Lemos. Rob Shultz told us that an appraisal would be prepared for the lot value and presented to city council on a closed door meeting on August 14th for their consideration. This never transpired. So we appeal to you to directly on how my client could possibly come to an agreement with the city for either an access easement over Lot B or the purchase of this lot at fair market value, as discussed at our recent city staff meeting. If selling the lot is ultimately the desired option, we ask that you consider a list of three issues that may also affect the value of this lot, refer to attached Exhibit A for these items.

We look forward to working with you on bringing this new project to the city of Morro Bay.

sincerely,



Clinton M Iwanicha, Architect
ph. 805.459.2849

clinton m. iwanicha, architect
2456 hemlock ave, morro bay, california
phone 805.254.4051 fax 866.271.1151 e-mail: cmiarchitect@gmail.com



AGENDA NO: B-2 addendum

MEETING DATE: December 11, 2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** December 5, 2012

FROM: Mary Reents, Contract Planner

SUBJECT: UP0-342; 901-915 Embarcadero; a request for a Conditional Use Permit for a Concept Plan to make various improvements to an existing facility, add dockage; to approve and certify a Mitigated Negative Declaration on the project.

RECOMMENDATION:

Staff recommends that the City Council approve and certify the Mitigated Negative Declaration and approve the Conditional Use Permit for the Concept Plan as recommended by the Planning Commission at their regular meeting of November 7, 2012.

Staff recommends that the City Council make the following approvals:

1. Approve and certify the Mitigated Negative Declaration as amended by the Planning Commission at their November 7, 2012 meeting and approve the monitoring program that is attached to the Mitigated Negative Declaration.
2. Approve UP0-342 , including the 1) construction of a new retail unit , 2) remodel and enlarge two existing restrooms, 3) convert an existing glass court enclosed outdoor dining area to general public seating, 4) enlarge the existing harbor walkway and add a new harbor walkway and view deck, 5) install six floating docks and a gangway, 6) remove and replace an existing sidewalk to connect to an existing sidewalk, 7) restripe existing parking spaces and 8) construct two new posts to support an extension of the existing awning across the front of the building, as described in the Planning Commission Staff Report of the November 7, 2012 Planning Commission meeting, and as shown on the Concept Plan attached as Exhibit E of the Planning Commission Staff Report, and subject to the findings contained in Exhibit A and Conditions of Approval in Exhibit B.

FISCAL IMPACT:

The applicant has paid the required fees to pay for the processing of this application, including noticing fees, fees for preparation of the Mitigated Negative Declaration, and staff's time writing the necessary Planning Commission and City Council reports, preparing notices and attending the Planning Commission and City Council meetings. While the required fees do not result in 100 percent cost recovery, the fees are those prescribed in the approved master

Prepared By: RL

Dept Review: RL

City Manager Review: _____

City Attorney Review: _____

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

Embarcadero frontage. The proposed height of the structure will be consistent within existing structures in the area, including two-story buildings to the south and east. Based on the location and design of the proposed project, the project is consistent with the visual character of the area as seen from both land (mainland, Morro Rock, and sandspit) and water, and no significant impacts would occur. No mitigation measures are necessary.

- d. The existing structure includes exterior lighting. The proposed improvements would not create lighting or glare inconsistent with adjacent uses, provided standard measures are incorporated (see below). The following mitigation measures are recommended to ensure potential impacts will be less than significant.

Mitigation and Residual Impact:

AES Impact 1 Visibility of night lighting and daytime glare would adversely affect views resulting in a direct long-term impact.

AES/mm-1 Prior to issuance of precise plan, a comprehensive lighting plan shall be submitted for review and approval by the City. The lighting plan shall be prepared using guidance and best practices endorsed by the International Dark Sky Association. The lighting plan shall address all aspects of the lighting, including but not limited to all buildings, infrastructure, parking and driveways, paths, floating dock, safety, and signage. The lighting plan shall include the following at minimum:

- a) The location, type, and wattage of all light fixtures (including catalog sheets for each fixture) shall be illustrated.*
- b) All exterior lighting shall be designed and located so that only the intended area is illuminated and off-site glare is prevented.*
- c) All lighting shall be cutoff style fixtures that are directed downward to prevent glare on adjacent and surrounding areas (i.e., Morro Bay, sandspit), and shall be limited to the maximum extent feasible while still providing for public safety.*
- d) Lights shall have solid sides and reflectors to further reduce lighting impacts, and shall be placed on a switch or timer to turn them off when not needed during the late evening.*
- e) Boat dock lighting shall be designed to reduce brightness and prevent off-site glare.*
- f) Bright white-colored light shall not be used for exterior lighting.*
- g) ~~Any new signage visible from offsite shall not be internally luminated.~~¹*

AES/mm-2 Prior to issuance of a building permit, the applicant shall submit building plans and elevations for review and approval consistent with the following conditions:

- a) No highly reflective glazing or coatings shall be used on windows.*
- b) No highly reflective exterior materials such as chrome, bright stainless steel, or glossy tile shall be used on the portions of the development where visible from off-site locations.*

¹ Conditions A-F satisfactorily mitigate illumination, glare, or over-illumination of the site. Condition G to be eliminated, primarily because it unnecessarily restricts the type of signage on the site, per Planning Commission Action on November 7, 2012.

Excerpt from 11-7-2012 PC minutes approved 12-5-2012

B-2 **Case No.:** #UP0-342

Site Location: 901-915 Embarcadero

Proposal: The applicant is requesting a Conditional Use Permit to modify an existing commercial facility, which includes a proposal to increase the land lease and water leases and add the following improvements: 1) construct a new retail unit; 2) remodel and enlarge two existing restrooms 3) convert the existing glass court enclosed outdoor dining area to general public seating; 4) enlarge the existing harbor walkway and add a view deck; 5) install six floating docks and a gangway; 6) remove an existing aggregate sidewalk and replace with a concrete sidewalk to connect to an existing sidewalk; 7) modify existing parking spaces; and 8) construct two new posts to support an extension of the existing awning across the front of the building.

CEQA Determination: Mitigated Negative Declaration, State Clearinghouse #2012091063

Staff Recommendation: Conditionally approve Conditional Use Permit #UP0-342 and adopt Mitigated Negative Declaration

Staff Contact: Mary Reents, Contract Planner, (805) 772-6270

Wold presented the staff report.

Chairperson Grantham clarified the restrooms will be designated public restrooms. He stated concern about the maintenance of the restrooms, and wanted to ensure the City designates responsibility for the upkeep of the facility due to the potentially high use of the facility.

Commissioner Nagy asked for clarification regarding the allowable uses of the dock. Wold explained the parking code for vessels and stated the dock is approved for general boat docking, and not for commercial uses.

Wold stated Aesthetic Conditions A-F satisfactorily mitigate illumination, glare, or over-illumination of the site. She stated she would like Condition G to be eliminated, primarily because it unnecessarily restricts the type of signage on the site.

Commissioner Solu stated he received a letter from a concerned citizen regarding the proposed project.

Chairperson Grantham opened Public Comment period.

Cathy Novak, Applicant's representative, stated the building is not old enough to warrant complete demolition or major remodeling, hence the applicant has proposed a project to incorporate as many new amenities to the existing site as possible. The proposed plan is a concept plan; specific details will be presented to the Commission at a later time. Novak described the proposed additions and remodels associated with the project, and stated the project has been designed to enhance and support the visitor-serving uses along the waterfront and will generate additional revenues for the City.

Novak responded to questions from the general public regarding the following issues:

- Educational panels or signs explaining the "natural wonders" of the bay – Novak stated the City and Coastal Commission require new projects on the waterfront to post

educational signs along the harbor walk areas. The Applicant will work with the Coastal Commission to determine appropriate locations and content of the signs, and will then bring the proposals to the Planning Commission for review.

- Proposed posts supporting the awnings and whether they will obstruct the walkway – Novak clarified there would not be any interference with the pedestrians.
- Development extending into the channel itself – Novak stated the lease line will not go to the navigation channel, and since the docks are inside the new lease line, there will not be any interfere into the navigation channel.
- Mitigation for the fiberglass walkway does not address the shading of eel grass for the docks and boats in the surrounding area – Novak stated an eel grass study has been performed, and more studies will be performed during the different stages of construction and post-construction. She stated there is an ongoing mitigation program which will be enforced throughout the process.
- Novak explained the pile driving process and stated there will be an otter watcher which is a regular condition.
- Parking – Novak stated the City directed the Applicant to restripe Harbor Street to include compact spaces. She stated there are extra parking credits on the site because of the general public seating designation and because of the historical dock credits. The parking credits cannot be sold or transferred, and must remain with the land.

Novak clarified the approval process for the proposed project.

Novak addressed Chairperson Grantham's question regarding janitorial services on site, stating the services will continue after the remodel is completed. She stated the tables and chairs in the general seating area will be redone as part of the remodel project.

Chairperson Grantham closed Public Comment period.

Commissioner Fennacy stated he is in support of the project because it will enhance the area. He stated he has no concerns with the post and awning issues which were discussed by Novak.

Commissioner Solu further clarified the parking issue and explained how the parking credits were generated in the past. He expressed concern about the posts reducing the amount of walkable space, and suggested the applicant consider alternative designs.

Chairperson Grantham stated he is in support of the project, citing the new sidewalks and retail stores, remodeled restrooms, and new floating docks will enhance the area. He stated there is sufficient City benefit for the lease request.

Commissioner Nagy stated he is in support of the project. He expressed concern the posts would be a safety issue and suggested the applicant cantilever the awning instead of installing the posts.

Commissioner Napier stated she is in support of creating a cantilever.

Chairperson Grantham reopened Public Comment period.

Mark Allen, Applicant's project designer, stated his rationale for including the four posts in the design. He stated the posts support the canopy and incorporate the porch elements; the posts are consistent with the current theme of the building.

Smith Held, Applicant, stated the posts are not structural, but are intended be aesthetically pleasing.

Chairperson Grantham closed Public Comment period.

Commissioners Nagy, Solu, Napier, and Fennacy expressed support for the project.

MOTION: Chairperson Grantham moved to adopt the Mitigated Negative Declaration, including the monitoring program in Exhibit "D," with the elimination of Aesthetic Condition G, adopt the findings included as Exhibit "A" and approve the Conditional Use Permit #UP0-342, subject to the Conditions included as Exhibit "B."

The motion was seconded by Commissioner Fennacy and the motion passed unanimously. (5-0).



AGENDA NO: B-2

MEETING DATE: December 11, 2012

Staff Report

TO: Honorable Mayor and City Council **DATE:** December 5, 2012

FROM: Mary Reents, Contract Planner

SUBJECT: UP0-342; 901-915 Embarcadero; a request for a Conditional Use Permit for a Concept Plan to make various improvements to an existing facility, add dockage; to approve and certify a Mitigated Negative Declaration on the project

RECOMMENDATION

Staff recommends that the City Council approve and certify the Mitigated Negative Declaration and approve the Conditional Use Permit for the Concept Plan as recommended by the Planning Commission at their regular meeting of November 7, 2012.

Staff recommends that the City Council make the following approvals:

1. Approve and certify the Mitigated Negative Declaration and approve the monitoring program that is attached to the Mitigated Negative Declaration.
2. Approve UP0-342, including the 1) construction of a new retail unit; 2) remodel and enlarge two existing restrooms; 3) convert an existing glass court enclosed outdoor dining area to general public seating; 4) enlarge the existing harbor walkway and add a new harbor walkway and view deck; 5) install six floating docks and a gangway; 6) remove and replace an existing sidewalk to connect to an existing sidewalk; 7) restripe existing parking spaces; and, 8) construct two new posts to support an extension of the existing awning across the front of the building as described in the Planning Commission Staff Report of the November 7, 2012 Planning Commission meeting, and as shown on the Concept Plan attached as Exhibit E of the Planning Commission Staff Report, and subject to the findings contained in Exhibit A and Conditions of Approval in Exhibit B.

FISCAL IMPACT

The applicant has paid the required fees for the processing of this application, including noticing fees, fees for preparation of the Mitigated Negative Declaration, and staff's time writing the necessary Planning Commission and City Council reports, preparing notices and attending the Planning Commission and City Council meetings. While the required fees do not result in 100 percent cost recovery, the fees are those prescribed in the approved master fee schedule.

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

SUMMARY

At their November 7, 2012 meeting, the Planning Commission recommended approval and certification of the Mitigated Declaration and mitigation and monitoring program and is recommending to the City Council approval of the concept plan for the Held Harbor Center. The proposed project is summarized in the Planning Commission Staff Report that is included herein as Attachment A.

BACKGROUND

The existing Harbor Center is a new enough construction that it does not warrant demolition. However, the City requires renovation work on-site in order to renew the waterfront lease as per the City's Master Lease Policy. The lease will be up for renewal in a few years so the applicant is proposing a project to meet the City guidelines for a long term lease.

Also, the site previously had a single side-tie floating dock. This dock was condemned by the City and ultimately removed. This proposal would replace the previous dock with expanded uses. The expansion would increase the boat dockage in the bay.

The proposal is within the Waterfront Master Plan Planning Area 3: Embarcadero Visitor Area. This planning area encompasses the Embarcadero from Beach Street to South Street between the bluff and the waterfront. This portion of the Embarcadero contains the majority of the shopping and eating establishments as well as the most intense mix of pedestrian and automotive activity. It has what most visitors and residents consider a positive mix of shops, waterfront and pedestrian activity, combined with direct views of the bay, sand spit and Morro Rock. The Harbor Master Plan includes guidance for development of Area 3 including observation and information areas explaining the natural wonders of the bay; lateral access along the bay front of commercial retail buildings that connect to lateral access components of adjacent buildings and/or the stub street perpendicular to the building site; and preservation of scenic vistas at street ends, with pedestrian amenities, lighting, haul-out improvements to existing facilities, bluff stabilization and beautification plans. The proposed project contains all of the elements requested in Area 3 proposals, including observation areas and signage, lateral access consistent with adjacent portions of the existing lateral access, access to stub street and preservation of visibility of the bay, and upgrade of building front to enhance visitor experience in this portion of the Embarcadero.

Harbor Master Plan design guidelines have been established, and based on the guidelines, the project meets the following:

- Existing view corridors will remain and change of glassed-in corridor to a public walkway will increase pedestrian access
- Building heights are consistent with the existing facility and height limitations for a Planned Development may be allowed up to a maximum of 25 feet. The existing structure is 17.1 feet in height and the proposed additions are consistent with the existing building height.
- The building coverage shall be 70 percent of the land portion of the properties.

Existing lot coverage was over this amount at 77.8% and because of the requested new land lease areas and water lease areas, lot coverage, excluding the floating dock or gangway is reduced to 60.4%.

- The proposed additions and building changes will assist in continuing the fishing village atmosphere and would increase the physical and visual cohesiveness for the area.
- The project is consistent with area-wide design compatibility by adding to a continuous pedestrian linkage along the waterfront, and linking the proposed additions to the architectural character of the neighboring buildings.
- The project preserves and enhances existing viewsheds of the bay by providing additional opportunities to view the bay and makes a positive contribution to the working fishing village character and quality of the Embarcadero area.
- The project enhances water dependent uses by replacing lost dockage that can be used for general berthing.

DISCUSSION

The Planning Commission was concerned about the decorative posts that are needed to support the awning at the front of the building. The project's designer explained that the posts reflect the existing design and do not interfere with the required eight foot sidewalk. The Commissioners concurred with this assessment.

The Planning Commission has recommended conditions of approval for the project that include the mitigation measures contained in the Mitigated Negative Declaration as well as standard conditions of approval and specific conditions from the various Public Works Departments; these are contained in the attached Exhibit B.

CONCLUSION

The proposed project, as conditioned, would be consistent with all applicable development standards of the Zoning Ordinance, and applicable provisions of the General Plan and Local Coastal Plan, and Waterfront Master Plan. No modifications or exceptions to City development requirements are proposed.

Attachments:

- Exhibit A: Findings
- Exhibit B: Conditions of Approval
- Exhibit C: Planning Commission Staff Report
- Exhibit D: Project Plans

EXHIBIT A: FINDINGS

UP0-032 Harbor Center Project; 901-915 Embarcadero

Request for a Conditional Use Permit to modify and add to an existing structure which includes a proposal to 1) construct a new retail unit, 2) remodel and enlarge two existing restrooms, 3) convert an existing glass court enclosed outdoor dining area to general public seating, 4) enlarge the existing harbor walkway and add a new harbor walkway and view deck, 5) install six floating docks and a gangway, 6) remove and replace an existing sidewalk to connect to an existing sidewalk, 7) restripe existing parking spaces and 8) construct two new posts to support an extension of the existing awning across the front of the building.

California Environmental Quality Act (CEQA)

- A. That for purposes of the California Environmental Quality Act, Case No. CP0-320 is subject to a Mitigated Negative Declaration based upon potentially significant impacts to Aesthetics, Air Quality, Biological Resources, Hazards/Hazardous Materials and Noise. With the implementation of required conditions of approval included in the Mitigated Negative Declaration, the environmental impact of the proposed development will be less than significant.
- B. Changes have been incorporated into the project which avoid or substantially lessen the significant environmental effect, and have been included as conditions of approval, given herein as Exhibit B.

Conditional Use Permit Findings

- C. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working along the Embarcadero in that the proposed Harbor Center is a permitted use within the zoning district applicable to the project site and said structure, walkway, restroom, and dockage improvements comply with all applicable project conditions and City regulations.
- D. The project will not be injurious or detrimental to property and improvements along the Embarcadero and the general welfare of the City in that the proposed Harbor Center improvements will provide additional public benefit and is consistent with the character of the existing development.
- E. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the City in that the Harbor Center improvements are a permitted use within the zoning district applicable to the project site and said structure complies with all applicable project conditions and City regulations.

Waterfront Master Plan Findings

- F. The proposed project makes a positive contribution to the visual accessibility to Morro Bay and Morro Rock while increasing visitor serving and waterfront activities:
- a. As conditioned, meets the Waterfront plan height limit and maximum building coverage, bulk, and scale requirements in that the proposed project does not exceed the maximum height allowed and articulation breaks up the bulk and scale.
 - b. In the case of granting height greater than 17 feet for the proposed additions, the proposed project also provides significant public benefit pursuant to the Planned Development Overlay zone requirements in that the proposed project provides pedestrian access to the proposed bay front lateral access, two public American with Disabilities Act (ADA) compliant restrooms, establishes wider sidewalks to increase pedestrian circulation, creates a view corridor where no such corridor currently exists, adds landscaping, and redevelops land and water lease sites that currently have visually unappealing, aging structures or lack facilities.
 - c. The proposed project provides the amenities identified in the WaterFront Master Plan, facilitates pedestrian visual and physical access to the waterfront, and takes advantage of outward views and characteristics of the topography in that the design provides a wide public view corridor, public lateral access and pedestrian amenities.
 - d. The proposed project makes a positive contribution to the working fishing village character and quality of the Embarcadero area in that the new project will add to the pedestrian orientation while maintaining the commercial fishing character of the Embarcadero.
 - e. The design recognizes the pedestrian orientation of the Embarcadero and provides an interesting and varied frontage that will enhance the pedestrian experience in that the new building will open up to the passing pedestrians along the Harbor Walk and draws individual's attention to the natural beauty of the bay.
 - f. The project contains the elements of harmony, continuity, proportion, simplicity, and balance, and its appearance matches its function and the uses proposed in that the new structure will provide more horizontal and vertical articulation, and the public will be invited into the space via a new view corridor from the Harbor Walk and will be directed through the glassed in corridor to the Harbor Walk by access signage. The proposed project does not diminish, either directly or by cumulative impact of several similar projects, the use, enjoyment, or attractiveness of adjacent buildings and provides a visual and pedestrian transition to its immediate neighbor in that the existing and new construction of both the building additions, restrooms and new walkways is in keeping with the architectural style, massing, materials, scale, and use of its surroundings.

EXHIBIT B

CONDITIONS OF APPROVAL

UP0-032 Harbor Center Project; 901-915 Embarcadero

Request for a Conditional Use Permit to modify and add to an existing structure which includes a proposal to 1) construct a new retail unit, 2) remodel and enlarge two existing restrooms, 3) convert an existing glass court enclosed outdoor dining area to general public seating, 4) enlarge the existing harbor walkway and add a new harbor walkway and view deck, 5) install six floating docks and a gangway, 6) remove and replace an existing sidewalk to connect to an existing sidewalk, 7) restripe existing parking spaces and 8) construct two new posts to support an extension of the existing awning across the front of the building.

STANDARD CONDITIONS

1. Permit: This permit is granted for the land described in the staff report referenced above, and all attachments thereto, dated October 31, 2012, for the project depicted on the attached plans labeled "Exhibit E", dated October 31, 2012, on file with the Public Services Department, as modified by these conditions of approval.
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 Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Public Services Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants

failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.

6. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed herein shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
7. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities associated with the building improvements, including electrical, telephone and cable television shall be installed underground.
8. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. during the weekdays and eight a.m. and seven p.m. during the weekends, unless an exception is granted by the Building Official pursuant to the terms of this regulation.

FIRE CONDITIONS

9. Sprinkler Plans: The applicant must submit sprinkler plans, in accordance with NFPA 13, to Public Services Division for review.
10. Fire Protection for Wharves and Docks: Firefighting appliances and equipment shall be provided and maintained in an operable manner for all commercially operated marinas and dock facilities, as specified by ordinances of the City, and all installations shall be subject to the approval of the chief of the fire department (MBMC 14.52.060).
11. Fire Protection Equipment-Standpipes. Marinas and boatyards shall be equipped throughout with standpipe systems, in accordance with NFPA 303. Systems shall be provided with hose connections located such that no point on the marina pier or float system exceeds 150 feet from a standpipe hose connection (CFC 4502.2).
12. Knox Key Box: The applicant shall provide two exterior mounted boxes, one located on the Embarcadero frontage, the west side (waterside) of the structure, and one Knox Remote Electrical Power Shutdown Station (4506 series), to be located next to the Trash/Utility Room (south side) (CFC 506.1) A Knox Box application shall be obtained from the Morro Bay Fire Department and approved prior to occupancy.

BUILDING DIVISION CONDITIONS

13. Building Permit Application: Prior to construction, the applicant shall submit a complete application to the building department and obtain the required building permit.

PUBLIC WORKS CONDITIONS

None.

PLANNING DEPARTMENT

14. Lease Area: Prior to commencement of any activities within the proposed lease expansion area, the owner or designee shall obtain approval from the City to expand both the land and water leases, consistent with the proposal shown on Exhibit E, dated October 31, 2012.
15. Precise Plan: Upon approval of the City Council of the concept plan, a precise plan of development shall be submitted to the planning commission consistent with code section 17.040.030G.
16. Precise Plan Sheet: All conditions of approval, including the required MND mitigation measures shall be included in the precise plan, as a separate sheet attached to the plan set.
17. Environmental Fees: Within four days of certification of the Mitigated Negative Declaration, the applicant shall submit a check made payable to the County Clerk for the following fees: \$2,101.50 for the California Department of Fish and Wildlife, plus the \$50 County Clerk filing fee for the Notice of Completion, for a total of 2151.50. The City of Morro Bay shall file the Notice of Completion with the County Clerk to comply with state requirements.
18. Signage: The applicant shall provide a signage program, including coastal access signs, as part of the precise plan.
19. Architectural Design and Color Palette: The applicant shall submit a design for the awnings and new building addition, and a color palette for the overall project at the precise plan stage.

ENVIRONMENTAL CONDITIONS

20. Environmental Conditions: The applicant shall incorporate the environmental mitigation measures agreed upon to mitigate the project to a level of insignificance; these conditions are listed in the attached "Attachment A" following this condition. In addition, the applicant shall conduct the required monitoring as established for each mitigation measure and confirm compliance with these conditions to the satisfaction of the Environmental Coordinator.

Attachment “A”

SUMMARY OF REQUIRED MITIGATION MEASURES

Section: Aesthetics

Mitigation Measures

- AES/mm-1 Prior to issuance of precise plan, a comprehensive lighting plan shall be submitted for review and approval by the City. The lighting plan shall be prepared using guidance and best practices endorsed by the International Dark Sky Association. The lighting plan shall address all aspects of the lighting, including but not limited to all buildings, infrastructure, parking and driveways, paths, floating dock, safety, and signage. The lighting plan shall include the following at minimum:*
- a) The location, type, and wattage of all light fixtures (including catalog sheets for each fixture) shall be illustrated.*
 - b) All exterior lighting shall be designed and located so that only the intended area is illuminated and off-site glare is prevented.*
 - c) All lighting shall be cutoff style fixtures that are directed downward to prevent glare on adjacent and surrounding areas (i.e., Morro Bay, sandspit), and shall be limited to the maximum extent feasible while still providing for public safety.*
 - d) Lights shall have solid sides and reflectors to further reduce lighting impacts, and shall be placed on a switch or timer to turn them off when not needed during the late evening.*
 - e) Boat dock lighting shall be designed to reduce brightness and prevent off-site glare.*
 - f) Bright white-colored light shall not be used for exterior lighting.*
 - g) Any new signage visible from offsite shall not be internally luminated.*
- AES/mm-2 Prior to issuance of a building permit, the applicant shall submit building plans and elevations for review and approval consistent with the following conditions:*
- a) No highly reflective glazing or coatings shall be used on windows.*
 - b) No highly reflective exterior materials such as chrome, bright stainless steel, or glossy tile shall be used on the portions of the development where visible from off-site locations.*
 - c) All existing and newly installed windows shall be frosted, partially-frosted, or otherwise treated with visually permeable barriers that are designed to prevent bird strikes.*

Monitoring: The City of Morro Bay Planning Department will verify implementation of these design details through review and approval of the lighting plan and building plans prior to issuance of building permits for the project. The City will confirm compliance with these conditions by visual inspection, prior to operation of the project.

Section: Air Quality

Mitigation Measures

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

AQ/mm-1 Upon application for grading and building permits, the applicant shall submit plans including the following notes, and shall comply with the following standard mitigation measures for reducing diesel particulate matter (DPM) emissions from construction equipment as follows:

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

AQ/mm-2 Upon application for grading and building permits, the applicant shall submit plans including the following notes, and shall comply with the following standard mitigation measures for reducing fugitive dust emissions such that they do not exceed the APCD's 20 percent opacity limit (APCD Rule 401) and do not impact off-site areas prompting nuisance violations (APCD Rule 402) as follows:

- a) Reduce the amount of disturbed area where possible;*
- b) Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible;*
- c) All dirt stockpile areas should be sprayed daily as needed;*
- d) Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible, following completion of any soil disturbing activities;*
- e) Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating, non-invasive, grass seed and watered until vegetation is established;*
- f) All disturbed soil areas not subject to revegetation should be stabilized using approved chemical*

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

soil binders, jute netting, or other methods approved in advance by the APCD;

- g) All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.*
- h) Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;*
- i) All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with California Vehicle Code Section 23114;*
- j) Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site;*
- k) Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible;*
- l) All PM10 mitigation measures required shall be shown on grading and building plans; and*
- m) The contractor or builder shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20 percent opacity, and to prevent transport of dust off-site. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD Compliance Division prior to the start of any grading, earthwork or demolition.*

AQ/mm-3 Demolition of the existing onsite structures and/or infrastructure shall be conducted in compliance with applicable regulatory requirements, including the requirements stipulated in the National Emission Standard for Hazardous Air Pollutants (40 CFR 61, Subpart M – asbestos NESHP). These requirements include, but are not limited to, notification to the APCD, an asbestos survey conducted by a Certified Asbestos Inspector, and applicable removal and disposal requirements of identified asbestos containing materials.

Monitoring: Demolition plans and regulatory forms will be submitted to the APCD for review and approval, consistent with mitigation measures. The applicant will submit approval documentation from APCD to the City Environmental Coordinator. Monitoring or inspection shall occur as necessary to ensure all construction activities are conducted in compliance with the above measures. Measures also require that a person be appointed to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20 percent opacity, and to prevent transport of dust off-site. All potential violations, remediation actions, and correspondence with APCD will be documented and on file with the City Environmental Coordinator.

Section: Biological Resources

Mitigation Measures

BIO/mm-1 Prior to issuance of building permits, the applicant shall submit construction plans demonstrating the following:

- a. The new overhanging deck shall be constructed with grated material to allow sunlight to pass through to the water below.*

BIO/mm-2 Prior to issuance of building permits, the applicant shall submit an Eelgrass Monitoring Plan (EMP) to the City Environmental Coordinator for review and approval. The EMP shall, at a

minimum, provide the following:

- a. *Eelgrass Surveys. Pre- and post-construction surveys shall be performed to identify the location of any existing eelgrass and identify any impacts to existing eelgrass due to construction.*
- b. *Eelgrass Protection. All eelgrass beds identified in the project area shall be shown on a map in site plan view, and shall be protected as eelgrass habitat in perpetuity.*
- c. *Monitoring. A monitoring report shall be submitted to the City Environmental Coordinator for review and approval within three months of completion of construction. The report shall at a minimum include a site plan and written description of the status of eelgrass beds in the project area. If the report identifies a reduction in eelgrass coverage as compared to the existing eelgrass coverage at the time of the pre-construction survey, then the report shall identify remedial measure to offset such reduction within the eelgrass beds in the project area at a 1.2:1 basis. In such case, reporting shall continue on an annual basis for at least three years or until all such eelgrass beds are supporting eelgrass as documented in two consecutive annual reports, whichever is later.*

BIO/mm-3

Prior to issuance of building permits, the applicant shall submit documentation verifying that a U.S. Fish and Wildlife Service-approved biologist has been retained to monitor all construction within the water-lease areas. The applicant shall submit a Monitoring Plan that shall be prepared by the retained biological monitor. The Plan shall include, but not be limited to the following:

- a. *The monitor shall verify compliance with all BIO, GS, HAZ, and N mitigation measures, conditions of approval, and regulatory permit conditions (if applicable).*
- b. *Weekly monitoring reports shall be provided to the City, including a summary of the each day's activities, summary of any violations or inconsistencies with the mitigation measures/conditions of approval, any remediation actions undertaken by the applicant/construction manager, any verbal or written correspondence with regulatory agencies, and photo-documentation.*
- c. *In the event of a violation or inconsistency with a mitigation measure, conditional of approval, and/or regulatory permit condition the Plan shall include a process for emergency reporting in the event of a violation, including a chain-of-command.*
- d. *The Plan shall identify specific conditions when the biological monitor shall be allowed to stop work, such as observance of a marine mammal within 100 feet of the project area.*

BIO/mm-4

All work that disturbs the ocean floor (i.e., removal and installation of pilings) shall be monitored by a U.S. Fish and Wildlife Service-approved biologist to ensure that impacts to marine mammals are avoided. The approved biological monitor shall be present onsite during construction and shall have the authority to stop construction if any individuals of southern sea otter are seen within 100 feet of the project area. Construction will be allowed to resume after sighted otters have left the 100-foot radius of the project area. The species shall not be disturbed or forced from the project site by equipment, noise, or other disruptive activity. The monitor will have discretionary authority to temporarily halt the project if it is determined that the otter, or other marine mammal, could be affected by the project, even if the animal is beyond the 100-foot boundary. All construction crew employees shall be informed on the requirements of this condition.

BIO/mm-5

Power to the pile driver should be ramped up to allow marine wildlife to detect a lower sound level and depart the area before full power noise levels are produced.

BIO/mm-6

Prior to issuance of grading and building permits, the applicant shall either acquire all required regulatory permits and authorizations (i.e. U.S. Army Corps of Engineers, Regional Water Quality Control Board, California Department of Fish and Game), or submit documentation that such permits are not required.

Refer to mitigation measures GS/mm-1, HAZ/mm-1, HAZ/mm-2, HYD/mm-1, HYD/mm-2, and N/mm-1.

Monitoring: The retained biological monitor shall verify compliance with biological mitigation measures during construction, and submit monitoring reports to the City, pursuant to an approved Monitoring Plan. The City shall conduct spot-checks during construction.

Section: Cultural Resources

Mitigation Measure

CR/mm-1 In the event that intact and/or unique archaeological artifacts or historic or paleontological resources are encountered during grading, clearing, grubbing, and/or other construction activities associated with the proposed project involving ground disturbance, all work in the immediate vicinity of the find shall be stopped immediately, the onsite archaeological and Native American monitors shall be notified, and the resource shall be evaluated to ensure the discovery is adequately recorded, evaluated and, if significant, mitigated.

Monitoring: The City Planning Department will verify compliance with this measure.

Section: Geology/Soils

Mitigation Measure

GS/mm-1 Prior to issuance of grading and building permits, the applicant shall prepare a drainage and erosion control plan to reduce the potential for erosion and down-gradient sedimentation. Grading and construction plan shall include measures to prevent and avoid spills or spread of dangerous materials and clean-up procedures in the event of a spill, and measures to reduce rilling of any stockpiled soils. Monitoring or inspection of construction activities shall occur as needed to ensure compliance with the erosion control plan.

After implementation of these measures, residual impacts related to geology and soils would be less than significant.

Monitoring: Design plans shall be inspected and approved to ensure compliance. Monitoring or inspection of construction activities shall occur as needed to ensure compliance with design plans and the drainage and erosion control plan.

Section: Hazards/Hazardous Materials

Mitigation Measure

HAZ/mm-1 Prior to removal of the wood pilings, the applicant shall submit documentation to the City identifying if the wood is “treated wood waste”. In the event the pilings are treated wood waste, the applicant shall dispose of the material at a hazardous waste landfill or qualified solid waste landfill.

Monitoring: The City Environmental Coordinator shall verify receipt of required documentation. Monitoring or inspection shall occur as necessary to ensure development is proceedings consistent with the Construction Plan.

Section: Hydrology and Water Quality

Mitigation Measures

HYD/mm-1 Prior to issuance of grading and building permits, the applicant shall prepare a Construction Plan, which shall, at a minimum, include the following:

- a. Construction Areas. The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas*

where construction activities and/or staging area to take place shall be minimized to the maximum extent feasible in order to have the least impact on public access and Morro Bay resources, including by using inland areas for staging and storing construction equipment and materials as feasible.

- b. Construction Methods. The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from bay and public recreational use areas (including using unobtrusive fencing or equivalent measures to delineate construction areas).*
- c. Construction Best Management Practices (BMPs). The Construction Plan shall identify the type and location of all erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following: 1) silt fences, straw wattles, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging to the bay; 2) land side equipment washing, refueling, and/or servicing shall take place at least 50 feet from the bay, and all construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site; 3) the construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain, including exposed piles of soil and wastes; dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site); and 4) all erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of the day.*
- d. Construction Site Documents. Copies of all permits and the approved Construction Plan shall be maintained in a conspicuous location at the construction job site at all times, and copies shall be available for public review upon request. All persons involved with the construction shall be briefed on the content and meaning of all issued permits and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.*
- e. Construction Coordinator. The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquires and emergencies) and that their contact information (i.e., address, phone numbers, etc.) including at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints receive regarding the construction, and shall investigate complaints and take remedial action, if necessary with 24 hours of receipt of the complaint or inquiry.*

HYD/mm-2 Prior to issuance of building permits, the applicant shall submit plans including the following notes, which shall be implemented during installation of pilings. Pilings shall be constructed of steel and shall be implanted into the ocean floor with a pile driver or vibratory hammer, as opposed to jetting. The applicant shall comply with these conditions, as required or modified by the Coastal Commission.

- a. Material Containment. Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, wood preservatives, other chemicals, etc.) from entering the harbor or any other state waters. Where additional wood preservatives must be applied to cut wood surfaces, the materials, wherever feasible, shall be treated at an onshore location to preclude the possibility of spills into the harbor or other state waters. A designated staging area shall be used for refueling equipment and vehicles, mixing and storing materials, debris collection and disposal, and*

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

containing runoff from any materials that may be used or stockpiled during the project. A floating containment boom shall be placed around all active portions of a construction site where wood scraps or other floatable debris could enter the water. For any work on or beneath fixed decks, heavy-duty mesh containment netting shall be maintained below all work areas where construction discards or other material could fall in to the water. The floating boom and net shall be cleared daily or as often as necessary to prevent accumulation of debris. Contractors shall insure that work crews are carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills. Construction contracts shall contain appropriate penalty provisions, sufficient to offset the cost of retrieving or clean-up of foreign materials not properly contained.

- b. Piling Installation Procedures. The new pilings and piling sleeve shall be made from steel. Generally, the new pilings shall be installed according to the method that results in the least disturbance of bottom sediments. All piles will be driven into place with a vibratory hammer or piling hammer. If feasible, disturbed sediments shall be contained with a flexible skirt surrounding the driven pile. Construction barges shall be floating at all times and shall only operate at tides high enough so that the barge does not rest on the bottom of the bay.*
- c. Procedures for Concrete Work. If pile installation, or any other portion of the operations and maintenance program, requires the pouring of concrete in, adjacent to, or over the water, the following methods shall be employed to prevent uncured concrete from entering the harbor or other state waters:*
 - 1) Complete dewatering of the pour site, within a caisson or other barrier; the site to remain dewatered until the concrete is sufficiently cured to prevent any significant increases in the pH of adjacent waters; or,*
 - 2) The tremie method, which involves placement of the form in water, inserting a plastic pipe down to the bottom of the form, and pumping concrete into the form so that the water is displaced towards the top of the form. If this method is selected, the displaced waters shall be pumped off and collected in a holding tank. The collected waters shall then be tested for pH, in accordance with the following California Department of Fish and Game recommendations. If the pH is greater than 8.5, the water will be neutralized with sulfuric acid until the pH is between 8.5 and 6.5. This pH-balanced water can then be returned to the sea. However, any solids that settle out during the pH balancing process shall not be discharged to the marine environment.*
 - 3) In each case involving such concrete pours in or near the harbor or other state waters, a separate wash out area shall be provided for concrete trucks and for tools. The wash out area(s) shall be designed and located so that there will be no chance of concrete slurry or contaminated water runoff to the harbor or other state waters, nor into storm drains or gutters which empty into such bodies of water.*

Refer to mitigation measures GS/mm-1 and HAZ/mm-1.

Monitoring: The City shall assign a monitor or inspector to verify compliance with mitigation measures during and post-construction.

Section: Noise

Mitigation Measure

INITIAL STUDY AND CHECKLIST – Held Harbor Center

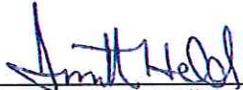
CASE NO.: UPO-342

DATE: September 19, 2012

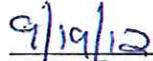
N/mm-1: Prior to issuance of grading and building permits, the applicant shall submit a Construction Plan, which shall include a pile driving or vibratory hammer plan and monitoring program designed to ensure that underwater noise generated by pile driving or vibratory hammer activities is minimized to the maximum extent feasible and does not exceed such limits: (1) an accumulated 187 dB SEL as measured 5 meters from the source; and (2) peak dB above 208 dB as measured 10 meters from the source. The plan shall provide for a hydro-acoustical monitor to ensure that underwater noise generated by pile driving activities does not exceed such limits. The plan shall also provide for additional acoustical best management practices to be applied if monitoring shows underwater noise above, such limits (including, but not limited to, alternative pile driving methods (press-in pile placement, drilling, dewatered isolation casings, etc.) and additional noise dampening measures (sound shielding and other noise attenuation devices).

Monitoring: The retained hydro-acoustical monitor shall verify compliance with noise mitigation measures during construction, and submit monitoring reports to the City, pursuant to approved Construction Plan and Monitoring Plan. The City shall conduct spot-checks during construction.

Acceptance of Mitigation Measures by Project Sponsor:



Applicant



Date

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
Aesthetics (AES)				
<p><i>Prior to issuance of precise plan, a comprehensive lighting plan shall be submitted for review and approval by the City. The lighting plan shall be prepared using guidance and best practices endorsed by the International Dark Sky Association. The lighting plan shall address all aspects of the lighting, including but not limited to all buildings, infrastructure, parking and driveways, paths, floating dock, safety, and signage. The lighting plan shall include the following at minimum:</i></p>	<p>Prepare plan; include measures on construction plans; implement during construction</p>	<p>City of Morro Bay Environmental Coordinator</p>	<p>Plan review and visual inspection</p>	<p>Prior to issuance of building permit verified prior to operation</p>
<p><i>a. The location, type, and wattage of all light fixtures (including catalog sheets for each fixture) shall be illustrated.</i></p>				
<p><i>b. All exterior lighting shall be designed and located so that only the intended area is illuminated and off-site glare is prevented.</i></p>				
<p><i>c. All lighting shall be cutoff style fixtures that are directed downward to prevent glare on adjacent and surrounding areas (i.e., Morro Bay, sandspit), and shall be limited to the maximum extent feasible while still providing for public safety.</i></p>				
<p><i>d. Lights shall have solid sides and reflectors to further reduce lighting impacts, and shall be placed on a switch or timer to turn them off when not needed during the late evening.</i></p>				
<p><i>e. Boat dock lighting shall be designed to reduce brightness and prevent off-site glare.</i></p>				
<p><i>f. Bright white-colored light shall not be used for exterior lighting.</i></p>				
<p><i>g. Any new signage visible from offsite shall not be internally illuminated.</i></p>				

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
<p>Prior to issuance of a building permit, the applicant shall submit building plans and elevations for review and approval consistent with the following conditions:</p> <ul style="list-style-type: none"> a. No highly reflective glazing or coatings shall be used on windows. b. No highly reflective exterior materials such as chrome, bright stainless steel, or glossy tile shall be used on the portions of the development where visible from off-site locations. c. All existing and newly installed windows shall be frosted, partially-frosted, or otherwise treated with visually permeable barriers that are designed to prevent bird strikes. 	<p>Prepare plan; include measures on construction plans; implement during construction</p>	<p>City of Morro Bay Environmental Coordinator</p>	<p>Plan review and visual inspection</p>	<p>Prior to issuance of building permit verified prior to operation</p>
Air Quality (AQ)				
<p>Upon application for grading and building permits, the applicant shall submit plans including the following notes, and shall comply with the following standard mitigation measures for reducing diesel particulate matter (DPM) emissions from construction equipment as follows:</p> <ul style="list-style-type: none"> a) Maintain all construction equipment in proper tune according to manufacturer's specifications; b) Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road); c) Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State off-Road Regulation; d) Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road 	<p>Include measure on construction plans, implement during construction</p>	<p>City of Morro Bay Environmental Coordinator; Construction Contractor</p>	<p>Review and approve plans; monitor during construction, document compliance, potential violations, and remediation actions</p>	<p>Prior to issuance of grading and building permits, verified periodically during construction</p>

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
<p><i>heavy-duty diesel engines, and comply with the State On-Road Regulation;</i></p> <p><i>e) Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NOx exempt area fleets) may be eligible by proving alternative compliance;</i></p> <p><i>f) All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5-minute idling limit;</i></p> <p><i>g) Excessive diesel idling within 1,000 feet of sensitive receptors is not permitted;</i></p> <p><i>h) Electrify equipment when feasible;</i></p> <p><i>i) Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and,</i></p> <p><i>j) Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.</i></p>	<p>Include measure on construction plans, implement during construction</p>	<p>City of Morro Bay Environmental Coordinator; Construction Contractor</p>	<p>Review and approve plans; monitor during construction, document compliance, and remediation actions</p>	<p>Prior to issuance of grading and building permits; verified periodically during construction</p>
<p><i>Upon application for grading and building permits, the applicant shall submit plans including the following notes, and shall comply with the following standard mitigation measures for reducing fugitive dust emissions such that they do not exceed the APCD's 20 percent opacity limit (APCD Rule 401) and do not impact off-site areas prompting nuisance violations (APCD Rule 402) as follows:</i></p> <p><i>a) Reduce the amount of disturbed area where possible;</i></p> <p><i>b) Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. increased watering frequency would be</i></p>				

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
<p>required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible;</p> <p>c) All dirt stockpile areas should be sprayed daily as needed;</p> <p>d) Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible, following completion of any soil disturbing activities;</p> <p>e) Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating, non-invasive, grass seed and watered until vegetation is established;</p> <p>f) All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;</p> <p>g) All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.</p> <p>h) Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;</p> <p>i) All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with California Vehicle Code Section 23114;</p> <p>j) Install wheel washers where vehicles enter and exit</p>				

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
<p>unpaved roads onto streets, or wash off trucks and equipment leaving the site;</p> <p>k) Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible;</p> <p>l) All PM₁₀ mitigation measures required shall be shown on grading and building plans; and</p> <p>m) The contractor or builder shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20 percent opacity, and to prevent transport of dust off-site. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD Compliance Division prior to the start of any grading, earthwork or demolition.</p>				
<p>Demolition of the existing onsite structures and/or infrastructure shall be conducted in compliance with applicable regulatory requirements, including the requirements stipulated in the National Emission Standard for Hazardous Air Pollutants (40 CFR 61, Subpart M – asbestos NESHAP). These requirements include, but are not limited to, notification to the APCD, an asbestos survey conducted by a Certified Asbestos Inspector, and applicable removal and disposal requirements of identified asbestos containing materials.</p>	<p>Submit results of survey, APCD notice, and proof of compliance with asbestos NESHAP by ACPD; include measure on construction plans; implement during construction</p>	<p>City of Morro Bay Environmental Coordinator; Construction Contractor</p>	<p>Review and approval of plans; monitor during demolition, document compliance</p>	<p>Prior to demolition; implementation verified during demolition and disposal of materials</p>

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
Biological Resources (BIO)				
<p>Prior to issuance of building permits, the applicant shall submit construction plans demonstrating the following:</p> <p>a. The new overhanging deck shall be constructed with grouted material to allow sunlight to pass through to the water below.</p>	<p>Include measures on construction plans; implement during construction</p>	<p>City of Morro Bay Environmental Coordinator; Construction Contractor</p>	<p>Review and approval of plans; visual inspection</p>	<p>Prior to issuance of building permits, verified prior to operation</p>
<p>Prior to issuance of building permits, the applicant shall submit an Eelgrass Monitoring Plan (EMP) to the City Environmental Coordinator for review and approval. The EMP shall, at a minimum, provide the following:</p> <p>a. Eelgrass Surveys. Pre- and post-construction surveys shall be performed to identify the location of any existing eelgrass and identify any impacts to existing eelgrass due to construction.</p> <p>b. Eelgrass Protection. All eelgrass beds identified in the project area shall be shown on a map in site plan view, and shall be protected as eelgrass habitat in perpetuity.</p>	<p>Submit Eelgrass Monitoring Plan; implement during and following construction</p>	<p>City of Morro Bay Environmental Coordinator; assigned biological monitor or inspector</p>	<p>Review and approval of EMP; monitor during and following construction; document compliance, potential violations, and remediation actions</p>	<p>Prior to issuance of building permit; verify compliance during construction; annual monitoring for three years (minimum)</p>
<p>c. Monitoring. A monitoring report shall be submitted to the City Environmental Coordinator for review and approval within three months of completion of construction. The report shall at a minimum include a site plan and written description of the status of eelgrass beds in the project area. If the report identifies a reduction in eelgrass coverage as compared to the existing eelgrass coverage at the time of the pre-construction survey, then the report shall identify remedial measure to offset such reduction within the eelgrass beds in the project area at a 1.2:1 basis. In such case, reporting shall continue on an annual basis for at least three years</p>				

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
<p>or until all such eelgrass beds are supporting eelgrass as documented in two consecutive annual reports, whichever is later.</p> <p>Prior to issuance of building permits, the applicant shall submit documentation verifying that a U.S. Fish and Wildlife Service-approved biologist has been retained to monitor all construction within the water-lease areas. The applicant shall submit a Monitoring Plan that shall be prepared by the retained biological monitor. The Plan shall include, but not be limited to the following:</p> <ol style="list-style-type: none"> The monitor shall verify compliance with all BIO, GS, HYD, and N mitigation measures, conditions of approval, and regulatory permit conditions (if applicable). Weekly monitoring reports shall be provided to the City, including a summary of the each day's activities, summary of any violations or inconsistencies with the mitigation measures/conditions of approval, any remediation actions undertaken by the applicant/construction manager, any verbal or written correspondence with regulatory agencies, and photo-documentation. In the event of a violation or inconsistency with a mitigation measure, conditional of approval, and/or regulatory permit condition the Plan shall include a process for emergency reporting in the event of a violation, including a chain-of-command. The Plan shall identify specific conditions when the biological monitor shall be allowed to stop work, such as observance of a marine mammal within 100 feet of the project area. 	<p>Submit documentation verifying qualified monitor; implement prior to and during construction</p>	<p>City of Morro Bay Environmental Coordinator; assigned biological monitor or inspector</p>	<p>Review and approve plan; monitor and document compliance, potential violations, and remediation actions</p>	<p>Prior to issuance of building permit; verify compliance during construction</p>

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
<p><i>All work that disturbs the ocean floor (i.e., removal and installation of pilings) shall be monitored by a U.S. Fish and Wildlife Service-approved biologist to ensure that impacts to marine mammals are avoided. The approved biological monitor shall be present onsite during construction and shall have the authority to stop construction if any individuals of southern sea otter are seen within 100 feet of the project area. Construction will be allowed to resume after sighted otters have left the 100-foot radius of the project area. The species shall not be disturbed or forced from the project site by equipment, noise, or other disruptive activity. The monitor will have discretionary authority to temporarily halt the project if it is determined that the otter, or other marine mammal, could be affected by the project, even if the animal is beyond the 100-foot boundary. All construction crew employees shall be informed on the requirements of this condition.</i></p>	<p>Conduct monitoring in compliance with mitigation and monitoring plan</p>	<p>City of Morro Bay Environmental Coordinator; assigned biological monitor or inspector</p>	<p>Monitor and document compliance, potential violations, and remediation actions</p>	<p>Verify compliance during construction</p>
<p><i>Power to the pile driver should be ramped up to allow marine wildlife to detect a lower sound level and depart the area before full power noise levels are produced.</i></p>	<p>Conduct monitoring in compliance with mitigation and monitoring plan</p>	<p>City of Morro Bay Environmental Coordinator; assigned biological monitor or inspector</p>	<p>Monitor and document compliance, potential violations, and remediation actions</p>	<p>Verify compliance during construction</p>
<p><i>Prior to issuance of grading and building permits, the applicant shall either acquire all required regulatory permits and authorizations (i.e., U.S. Army Corps of Engineers, Regional Water Quality Control Board, California Department of Fish and Game), or submit documentation that such permits are not required.</i></p>	<p>Submit required permits, approvals, and authorizations</p>	<p>City of Morro Bay Environmental Coordinator</p>	<p>Review and approve submitted documentation</p>	<p>Prior to issuance of grading and building permits</p>

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
Cultural Resources (CR)				
<p><i>In the event that intact and/or unique archaeological artifacts or historic or paleontological resources are encountered during grading, clearing, grubbing, and/or other construction activities associated with the proposed project involving ground disturbance, all work in the immediate vicinity of the find shall be stopped immediately, the onsite archaeological and Native American monitors shall be notified, and the resource shall be evaluated to ensure the discovery is adequately recorded, evaluated and, if significant, mitigated.</i></p>	<p>Include measure on construction plans, implement during construction</p>	<p>City of Morro Bay Environmental Coordinator; Construction Contractor</p>	<p>Review and approval of plans</p>	<p>Prior to and during construction</p>
Geology and Soils (GS)				
<p><i>Prior to issuance of grading and building permits, the applicant shall prepare a drainage and erosion control plan to reduce the potential for erosion and down-gradient sedimentation. Grading and construction plan shall include measures to prevent and avoid spills or spread of dangerous materials and clean-up procedures in the event of a spill, and measures to reduce rilling of any stockpiled soils. Monitoring or inspection of construction activities shall occur as needed to ensure compliance with the erosion control plan.</i></p>	<p>Include measure on construction plans, implement during construction</p>	<p>City of Morro Bay Public Services Department and Environmental Coordinator; Construction Contractor</p>	<p>Review and approval of plans; monitor during construction</p>	<p>Prior to issuance of grading and building permits; during construction</p>
Hazardous Materials (HAZ)				
<p><i>Prior to removal of the wood pilings, the applicant shall submit documentation to the City identifying if the wood is "treated wood waste". In the event the pilings are treated wood waste, the applicant shall dispose of the material at a hazardous waste landfill or qualified solid</i></p>	<p>Include measure on construction plans, implement during construction</p>	<p>City of Morro Bay Environmental Coordinator; Construction Contractor</p>	<p>Review and approval of plans; verify and approve documentation</p>	<p>Prior to and during construction</p>

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
waste landfill.				
Hydrology (HYD)				
<p>Prior to issuance of grading and building permits, the applicant shall prepare a Construction Plan, which shall, at a minimum, include the following:</p> <ol style="list-style-type: none"> Construction Areas. The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas where construction activities and/or staging area to take place shall be minimized to the maximum extent feasible in order to have the least impact on public access and Morro Bay resources, including by using inland areas for staging and storing construction equipment and materials as feasible. Construction Methods. The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from bay and public recreational use areas (including using unobtrusive fencing or equivalent measures to delineate construction areas). Construction Best Management Practices (BMPs). The Construction Plan shall identify the type and location of all erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following: 1) silt fences, straw wattles, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from 	<p>Include measure on construction plans; implement during construction</p>	<p>City of Morro Bay Public Services Department and Environmental Coordinator; Contractor</p>	<p>Review and approval of plans; inspect during construction</p>	<p>Prior to issuance of grading and building permits; implementation verified by visual inspection</p>

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
<p>discharging to the bay; 2) land side equipment washing, refueling, and/or servicing shall take place at least 50 feet from the bay, and all construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site; 3) the construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain, including exposed piles of soil and wastes; dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site); and 4) all erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of the day.</p> <p>d. Construction Site Documents. Copies of all permits and the approved Construction Plan shall be maintained in a conspicuous location at the construction job site at all times, and copies shall be available for public review upon request. All persons involved with the construction shall be briefed on the content and meaning of all issued permits and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.</p> <p>e. Construction Coordinator. The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies) and that their contact information (i.e., address, phone</p>				

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
<p>numbers, etc) including at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints receive regarding the construction, and shall investigate complaints and take remedial action, if necessary with 24 hours of receipt of the complaint or inquiry.</p>				
<p>Prior to issuance of building permits, the applicant shall submit plans including the following notes, which shall be implemented during installation of pilings. Pilings shall be constructed of steel and shall be implanted into the ocean floor with a pile driver or vibratory hammer, as opposed to jetting. The applicant shall comply with these conditions, as required or modified by the Coastal Commission.</p> <p>a. Material Containment. Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, wood preservatives, other chemicals, etc.) from entering the harbor or any other state waters. Where additional wood preservatives must be applied to cut wood surfaces, the materials, wherever feasible, shall be treated at an onshore location to preclude the possibility of spills into the harbor or other state waters. A designated staging area shall be used for refueling</p>	<p>Include measure on construction plans; implement during construction</p>	<p>City of Morro Bay Public Services Department and Environmental Coordinator; Construction Contractor</p>	<p>Review and approval of plans; inspect during construction</p>	<p>Prior to issuance of building permit; implementation verified by visual inspection</p>

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
<p>equipment and vehicles, mixing and storing materials, debris collection and disposal, and containing runoff from any materials that may be used or stockpiled during the project. A floating containment boom shall be placed around all active portions of a construction site where wood scraps or other floatable debris could enter the water. For any work on or beneath fixed decks, heavy-duty mesh containment netting shall be maintained below all work areas where construction discards or other material could fall in to the water. The floating boom and net shall be cleared daily or as often as necessary to prevent accumulation of debris. Contractors shall insure that work crews are carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills. Construction contracts shall contain appropriate penalty provisions, sufficient to offset the cost of retrieving or clean-up of foreign materials not properly contained.</p> <p>b. Piling Installation Procedures. The new pilings and piling sleeve shall be made from steel. Generally, the new pilings shall be installed according to the method that results in the least disturbance of bottom sediments. All piles will be driven into place with a vibratory hammer or piling hammer. If feasible, disturbed sediments shall be contained with a flexible skirt surrounding the driven pile. Construction barges shall be floating at all times and shall only operate at tides high enough so that the barge does not rest on the bottom of the bay.</p> <p>c. Procedures for Concrete Work. If pile installation, or any other portion of the operations and</p>				

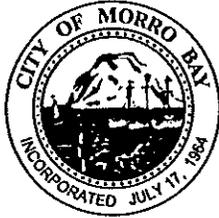
Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
<p><i>maintenance program, requires the pouring of concrete in, adjacent to, or over the water, the following methods shall be employed to prevent uncured concrete from entering the harbor or other state waters:</i></p> <ol style="list-style-type: none"> <i>1) Complete dewatering of the pour site, within a caisson or other barrier; the site to remain dewatered until the concrete is sufficiently cured to prevent any significant increases in the pH of adjacent waters; or,</i> <i>2) The tremie method, which involves placement of the form in water, inserting a plastic pipe down to the bottom of the form, and pumping concrete into the form so that the water is displaced towards the top of the form. If this method is selected, the displaced waters shall be pumped off and collected in a holding tank. The collected waters shall then be tested for pH, in accordance with the following California Department of Fish and Game recommendations. If the pH is greater than 8.5, the water will be neutralized with sulfuric acid until the pH is between 8.5 and 6.5. This pH-balanced water can then be returned to the sea. However, any solids that settle out during the pH balancing process shall not be discharged to the marine environment.</i> <i>3) In each case involving such concrete pours in or near the harbor or other state waters, a separate wash out area shall be provided for concrete trucks and for tools. The wash out area(s) shall be designed and located so that there will be no chance of concrete slurry or contaminated water</i> 				

Mitigation Monitoring and Reporting Plan

Requirements of Measure	Responsibilities	Party Responsible for Verification	Method of Verification	Verification Timing
<p>runoff to the harbor or other state waters, nor into storm drains or gutters which empty into such bodies of water.</p>				
<p>Noise (N)</p>				
<p>Prior to issuance of grading and building permits, the applicant shall submit a Construction Plan, which shall include a pile driving or vibratory hammer plan and monitoring program designed to ensure that underwater noise generated by pile driving or vibratory hammer activities is minimized to the maximum extent feasible and does not exceed such limits: (1) an accumulated 187 dB SEL as measured 5 meters from the source; and (2) peak dB above 208 dB as measured 10 meters from the source. The plan shall provide for a hydro-acoustical monitor to ensure that underwater noise generated by pile driving activities does not exceed such limits. The plan shall also provide for additional acoustical best management practices to be applied if monitoring shows underwater noise above, such limits (including, but not limited to, alternative pile driving methods (press-in pile placement, drilling, dewatered isolation casings, etc.) and additional noise dampening measures (sound shielding and other noise attenuation devices).</p>	<p>Submit Construction Plan; implement during construction</p>	<p>City of Morro Bay Public Services Department and Environmental Coordinator; Contractor; noise monitor</p>	<p>Review and approval of plans; inspect during construction</p>	<p>Prior to issuance of grading and building permits; implemented by noise monitor</p>

EXHIBIT C



AGENDA NO:

MEETING DATE: November 7, 2012

Staff Report

TO: Planning Commissioners

DATE: October 31, 2012

FROM: Mary Reents, Contract Planner

SUBJECT: UP0-342; 901-915 Embarcadero

RECOMMENDATION:

Staff recommends that the Planning Commission Conditionally Approve the UPO-342 Concept Plan, subject to the findings contained in Exhibit A and the Conditions of Approval in Exhibit B.

PROJECT DESCRIPTION:

The applicant (Held Family Trust) is requesting a Conditional Use Permit for their concept plan to modify and add to an existing structure which includes a proposal to 1) construct a new retail unit, 2) remodel and enlarge two existing restrooms, 3) convert an existing glass court enclosed outdoor dining area to general public seating, 4) enlarge the existing harbor walkway and add a new harbor walkway and view deck, 5) install six floating docks and a gangway, 6) remove and replace an existing sidewalk to connect to an existing sidewalk, 7) restripe existing parking spaces and 8) construct two new posts to support an extension of the existing awning across the front of the building. The concept plan application also includes expansion of the land and water leases, but this requires separate City Council approval. Concept plans are found in Exhibit E and visual simulations of the proposed building improvements are shown on Exhibit F.

The proposed project is located on the west side Embarcadero Road, directly northwest of Harbor Street, within the City of Morro Bay. The project is within the Waterfront/Harbor zone with a Planned Development Overlay (WF PD/S.4). Surrounding land uses include visitor serving and retail land uses to the south, north, and east, and Morro Bay to the west. The project site is currently developed by the Hofbrau restaurant, indoor and outdoor seating areas, Poppy retail shop, restrooms, public walkway and view deck, and parking area.

The project will result in the disturbance of approximately 7,642 sf (0.17 acre) including approximately 802 sf (building), 640 sf (walkway), and up to 6,200 sf for sidewalk removal and replacement. No cut or fill is proposed.

Prepared By: _____

Department Review: _____

LEGAL DESCRIPTION

APN(S) 066-322-001; City Lease Sites #93-95 and 93W-95W
ZONING Waterfront/Harbor with a Planned Development overlay (W-F/H, PD/S.4)
GENERAL PLAN Mixed Uses (Harbor)

APPLICANT: Smith Held
PO Box 225
Cayucos, CA 93430

AGENTS: Cathy Novak
PO Box 296
Morro Bay, CA 93442

Lease Areas

The proposal includes increasing an existing 6,210 square foot land lease by 93 sf, resulting in a total land lease area of 6,303 sf and increasing an existing 4,502 sf water lease by 4,310 sf, resulting in a total water lease area of 8,812 sf. The land lease line adjustment is proposed to incorporate a portion of the existing building on the southern side, which was originally constructed outside the lease boundaries.

The existing water lease would be extended to a point where the new dock head float would be within the current boundaries. In order to provide for additional berthing space, the applicant is proposing a lease line adjustment of 44 feet west of the existing lease line to accommodate the finger-style slips. This lease line adjustment would be inside the dedicated navigation channel by six feet. Additionally, the southern lease line would be adjusted with a triangle shaped area approximately 5 feet on the west side to approximately 3 feet on the east side.

Existing Land Structure Improvements

The existing structure is primarily one-story, 17.1 feet in height, 6,481-square feet in area (6,252-sf main story, 229-sf upper storage area), including the Hofbrau restaurant, Crills II and Poppy retail stores, and seating areas. The existing walkway is 556 sf. The proposed modifications and additional construction would result in a total floor area of 8,868 sf (8,639-sf main floor, 229-sf upper floor), and total walkway area of 1,196 sf.

The proposal includes the following actions: 1) construct a new 590-square foot (sf) retail unit; 2) remodel (ADA) and enlarge two existing restrooms by 212 sf; 3) convert the existing 132-sf glass

court enclosed outdoor dining area to general public seating; 4) enlarge the existing harbor walkway by 640 sf and add a new harbor walkway and view deck; 5) install six floating docks (1,488 sf) and a gangway; 6) remove an existing aggregate sidewalk and replace with a concrete sidewalk to connect to an existing sidewalk; 7) re-stripe seven existing parking spaces to provide five compact, two regular spaces; and 8) construct two new posts to support an extension of the existing awning across the front of the building.

Restrooms

There are two existing restrooms on-site. However, they are limited to Harbor Center patrons only. The two new unisex restrooms will meet ADA standards and will be open to the general public. A private shower with a security gate is also proposed and will be limited to boaters berthing at the site. An addition of 216 square feet is proposed to construct the two restrooms and shower area.

Walkway

The current site has a walkway on the bay side; however, it is only 5 feet 3 inches in width for the portion adjacent to the existing outdoor dining area and it is not consistent with the existing Harbor Walk. The proposed project will add nearly three feet in this area to widen the walkway to match other areas of the Harbor Walk. Approximately 32 square feet of the northern section of the existing outdoor dining area will be removed to allow for a wider access on the Harbor Walk in this location. Additionally, a new approximately 14' by 12' deck section will be constructed augmenting the existing public view deck area located in the mid-section of the site.

BUILDING CHARACTERISTICS		
	EXISTING	PROPOSED
<i>Total Land Lease</i>	<i>6,210 sf</i>	<i>6,303 sf</i>
<i>Water Lease</i>	<i>4,502 sf</i>	<i>8,812 sf</i>
<i>Total Land and Water Lease</i>	<i>10,712 sf</i>	<i>15,115 sf</i>
BUILDING		
Existing First Floor Building	6,252 sf	6,252 sf
Proposed Retail Addition		590 sf
Approx Hallway and Restroom Addition		212 sf
Upper Floor Storage	229	229
Total Building		7,283 sf
Existing Porches	358 sf	358 sf
Walkways		
Existing Walkway to Remain	556 sf	556 sf
Proposed new walkway		640 sf
Total Walkways		1,196 sf

Total Building Footprint including Walkways		8,868 sf
Sidewalk Removal/Replacement	6,200 sf	6,200 sf
Outdoor Dining behind windscreen) to be reduced	344 sf	284 sf
Glass Court Seating	132 sf	132 sf
Floating Dock		1,448 sf
Lot Coverage (excludes floating dock or gangway) includes increased lease site	77.8%	60.4%
Building Height	17.1 ft	17.1 ft (new addition 15.2ft)

The Harbor Walk will continue northward approximately 11 feet in width connecting to the adjacent lease site and walkway. The new walkway will be ADA compliant and also provide an ADA compliant connection to the adjacent site. The proposed walkway will be constructed of fiberglass grating material that will allow for light to penetrate for the Eelgrass below.

Marine-Related Improvements

The proposed marine related improvements include the construction of a head float approximately 8 by 80 feet with three finger style slips (two 4 by 40 feet and one 5 by 40 feet) and the installation of six steel main pilings and two bumper piles. Four steel piles will be set at the end of each finger dock and three piles adjacent to Harbor Walk. The two bumper piles will be set between the finger docks on the west side. The pilings and docks will be constructed using a barge and crane. The applicant proposes to drive the piles by using a vibratory hammer or a convention piling hammer that is designed to ensure that underwater noise generated by pile driving activities is minimized to the maximum extent feasible and does not exceed (1) an accumulated 187 dB SEL as measured 5 meters from the source; and (2) peak dB above 208 dB as measured 10 meters from the source. Five existing wood pilings near the existing Harbor Walk are proposed for removal. In addition, there will be a four foot by 33 ½-foot gangway installed to access the new docks. The proposed gangway entrance will have a 48 by 60-inch landing and a locked security gate.

The applicant proposes to use the new dockage for general berthing; no commercial sport fishing uses are proposed at this time.

Parking

There are currently seven parking spaces along Harbor Street; however, one parking space is located in the red zone and is also part way into the ADA curb return. The project as proposed will retain these existing spaces but restripe the parking spaces and achieve the following per City request:

- Provide seven parking spaces
- Provide two spaces at 10' by 20'
- Modify five spaces to be compact at 9'x18'

- Provide wheel stops two feet from the curb to prevent cars from encroaching into the sidewalk.

Awning and Windscreen

The existing windscreen on the bay side of the outdoor dining area will remain in place. The windscreen material will be frosted, partially frosted or another visually permeable barrier design in order to minimize bird strikes.

Two new posts are proposed in front of the existing Crills II building. These posts will be used to support an extension of the existing awning across the front of the building. The awning addition will tie the architecture together in the front and result in a better overall design.

The project will result in the disturbance of approximately 7,642 sf (0.17 acre) including approximately 802 sf (building), 640 sf (walkway), and up to 6,200 sf for sidewalk removal and replacement. No cut or fill is proposed.

Signage

Coastal Access signs are proposed to be mounted at each end of the new walkway as well as the entrance from the walkway between the buildings. These signs would be consistent with several previously approved projects on the Embarcadero by the City and Coastal Commission.

BACKGROUND:

The existing Harbor Center is a new enough construction that it does not warrant demolition. However, the City requires renovation work on-site in order to renew the waterfront lease as per the City's Master Lease Policy. The lease will be up for renewal in a few years so the applicant is proposing a project to meet the City guidelines for a long term lease.

Also, the site previously had a single side-tie floating dock. This dock was condemned by the City and ultimately removed. This proposal would replace the previous dock with expanded uses. The expansion would increase the boat dockage in the bay.

The proposal is within the Waterfront Master Plan and is within Planning Area 3: Embarcadero Visitor Area. This area encompasses the Embarcadero from Beach Street to South Street between the bluff and the waterfront. This portion of the Embarcadero contains the majority of the shopping and eating establishments as well as the most intense mix of pedestrian and automotive activity. It has what most visitors and residents consider a positive mix of shops, waterfront and pedestrian activity, combined with direct views of the bay, sand spit and Morro Rock. The Harbor Master Plan includes guidance for development of Area 3, including observation and information areas explaining the natural wonders of the bay, lateral access along the bay front of commercial retail buildings that connect to lateral access components of adjacent buildings and or the stub street perpendicular to the building site, preservation of scenic vistas at street ends, with pedestrian

amenities, lighting, haul-out improvements to existing facilities, bluff stabilization and beautification plans. The proposed project contains all of the elements requested in Area 3 proposals, including observation areas and signage, lateral access and connection to the Harbor Walk designed in consistency with adjacent portions of the Harbor Walk, access to stub street and preservation of visibility of the bay, and upgrade of building front to enhance visitor experience in this portion of the Embarcadero.

Harbor Master Plan design guidelines have been established, and based on the guidelines, the project meets the following:

- Existing view corridors will remain and change of glassed in corridor to a public walkway will increase pedestrian access
- Building heights are consistent with the existing facility and height limitations for a Planned Development may be allowed up to a maximum of 25 feet. The existing structure is 17.1 feet in height and the proposed additions are consistent with the existing building heights.
- The building coverage shall be 70 percent of the land portion of the properties. Existing lot coverage was over this amount at 77.8% and because of the requested new land lease areas and water lease areas, lot coverage, excluding the floating dock or gangway is reduced to 60.4%.
- The proposed additions and building changes will assist in continuing the fishing village atmosphere and would increase the physical and visual cohesiveness for the area.
- The project is consistent with area wide design compatibility by adding to a continuous pedestrian linkage along the waterfront, and linking the proposed additions to the architectural character of the neighboring buildings.
- The project preserves and enhances existing viewsheds of the bay by providing additional opportunities to view the bay and makes a positive contribution to the working fishing village character and quality of the Embarcadero area.
- The project enhances water dependent uses by replacing lost dockage that can be used for general berthing. The project is not replacing dockage for sport fishing uses; however, the project is not within Measure D guidelines and sport fishing is an allowed use south of Beach Street.

ENVIRONMENTAL DETERMINATION:

A Mitigated Negative Declaration (MND) was prepared pursuant to the California Environmental Quality Act. The MND was submitted to the California State Clearinghouse for public and agency review on September 24, 2012, and the public review period ended on October 24, 2012. No comments were received by the California State Clearinghouse from noticed agencies and no written comments have been received to date from the public on the MND. The environmental impacts identified in the MND that were mitigated to insignificance with the mitigation measures incorporated into the project by the applicant were Aesthetics, Air Quality, Biological Resources, Cultural Resources, Hazards/Hazardous Materials and Noise. Exhibit C attached is a copy of the initial study. Background reports are available for public review at the Public Works Department, 955 Harbor Street, Morro Bay, CA 93442.

COASTAL DEVELOPMENT PERMIT:

The project is within original jurisdiction of the California Coastal Commission. A Coastal Development Permit would be required prior to issuance of a building permit for this project.

PROJECT SETTING AND DESCRIPTION:

The proposed project is located on the Embarcadero, on the west side of Embarcadero Road, directly northwest of Harbor Street, within the City of Morro Bay Surrounding land uses include visitor serving and retail land uses to the south, north, and east, and the Bay to the west. The project site is currently developed by the Hofbrau restaurant, indoor and outdoor seating areas, Poppy retail shop, restrooms, public walkway and view deck, and parking area.

<u>Site Characteristics</u>	
Existing Use	Hofbrau restaurant, Poppy (retail), Crills II, restrooms, public walkway, view deck and parking area
Terrain	Flat; developed
Vegetation/Wildlife	Landscaping
Archaeological Resources	None known
Access	Restaurant entrance is from Embarcadero Road via existing parking lot

<u>General Plan, Zoning Ordinance & Local Coastal Plan Designations</u>	
General Plan/Coastal Plan Land Use Designation	Mixed Uses, Harbor
Base Zoning District	Harbor/Waterfront
Zoning Overlay District	Planned Development Overlay
Special Treatment Area	n/a
Combining District	n/a
Specific Plan Area	n/a
Coastal Zone	Yes, Original Jurisdiction; Coastal Commission responsible for Coastal Development Permit

ANALYSIS:

Lease Areas: The proposed expansion of the lease area is under discussion with the City. The proposed expansion of the lease areas are provided as information only at this point and any approvals with regard to uses on or within the proposed land and water lease expansion areas would be conditioned upon obtaining the necessary lease agreements with the City.

Proposed Uses: The proposed uses are consistent with the existing uses; the intent is to upgrade the existing facilities consistent with upgrades along the Embarcadero. The proposed walkway improvements upgrade the walkways to be consistent with the remainder of the Harbor Walk. The new walkway section ties into the existing Harbor Walk on the north. The proposed retail space is adjacent to the walkway addition and would serve as an attraction to visitors along the Harbor Walk and would visually tie in the existing uses along the harbor front. These improvements are consistent with the vision for the harbor front.

In addition, the proposal for walkway improvements, restroom improvements, signage and increased visitor access are consistent with increasing visitor serving uses mandated under the California Coastal Act. The proposal provides for public restrooms instead of the current private restrooms, provides the existing glassed in seating area for public access and seating, and signage would direct the public to the new walkways and the Harbor Walk.

The requests for two new posts in front of the existing Crills II building to support the extension of the awning across the front of the building will also add to the visual continuity of the buildings and aid in providing the visual upgrades and overall architectural design that will improve the public's enjoyment of the Embarcadero area.

Parking: A parking analysis has been conducted to determine if the proposed improvements require additional parking or in lieu fees. The attached table, Exhibit C, provides a comparison of the allocated parking to the existing businesses on the project site and the parking requirements for the proposed project. To summarize, the applicant will have a credit of 4.5 parking spaces after implementation of the project.

Consistency with Waterfront Master Plan

Based on the review of background data given above, the project appears consistent with General Plan, Local Coastal Plan and Waterfront Master Plan goals, policies and implementation measures. The proposed improvements will increase the visitor's enjoyment of the Harbor Walk, the waterfront and Embarcadero experience.

PUBLIC NOTICE:

Notice of this item was published in the San Luis Obispo Telegram-Tribune newspaper on October 26, 2012, and all property owners of record within 300 feet of the project site were notified on this evening's public hearing and invited to voice any concerns on this application.

CONCLUSION:

The proposed project, as conditioned, would be consistent with all applicable development standards of the Zoning Ordinance, and applicable provisions of the General Plan and Local Coastal Plan, and Waterfront Master Plan. No modifications or exceptions to City development requirements are proposed.

RECOMMENDATION:

Staff recommends that the Planning Commission make the following approvals:

1. Approve and certify the Mitigated Negative Declaration and approve the monitoring program that is attached to the Mitigated Negative Declaration (Exhibit D).
2. Recommend that the City Council Approve UP0-342, which is a Conditional Use Permit for their concept plan to modify and add to an existing structure which includes a proposal to 1) construct a new retail unit, 2) remodel and enlarge two existing restrooms, 3) convert an existing glass court enclosed outdoor dining area to general public seating, 4) enlarge the existing harbor walkway and add a new harbor walkway and view deck, 5) install six floating docks and a gangway, 6) remove and replace an existing sidewalk to connect to an existing sidewalk, 7) restripe existing parking spaces and 8) construct two new posts to support an extension of the existing awning across the front of the building.

If approved, the land and water lease expansion that is part of the concept plan will require separate action by the City Council to amend lease site boundaries.

Report prepared by: Mary Reents, Contract Planner

Attachments:

1. Findings-Exhibit A
2. Conditions of Approval-Exhibit B
3. Mitigated Negative Declaration-Exhibit C
4. Parking Analysis-Exhibit D
5. Development Plans-Exhibit E
6. Visual Simulations-Exhibit F

EXHIBIT A: FINDINGS

UP0-032 Harbor Center Project; 901-915 Embarcadero

Request for a Conditional Use Permit to modify and add to an existing structure which includes a proposal to 1) construct a new retail unit, 2) remodel and enlarge two existing restrooms, 3) convert an existing glass court enclosed outdoor dining area to general public seating, 4) enlarge the existing harbor walkway and add a new harbor walkway and view deck, 5) install six floating docks and a gangway, 6) remove and replace an existing sidewalk to connect to an existing sidewalk, 7) restripe existing parking spaces and 8) construct two new posts to support an extension of the existing awning across the front of the building.

California Environmental Quality Act (CEQA)

- A. That for purposes of the California Environmental Quality Act, Case No. CP0-320 is subject to a Mitigated Negative Declaration based upon potentially significant impacts to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Hazards/Hazardous Materials and Noise. With the implementation of required conditions of approval included in the Mitigated Negative Declaration, the environmental impact of the proposed development will be less than significant.
- B. Changes have been incorporated into the project which avoid or substantially lessen the significant environmental effect, and have been included as conditions of approval, given herein as Exhibit B.

Conditional Use Permit Findings

- C. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working along the Embarcadero in that the proposed Harbor Center is a permitted use within the zoning district applicable to the project site and said structure, walkway, restroom, and dockage improvements comply with all applicable project conditions and City regulations.
- D. The project will not be injurious or detrimental to property and improvements along the Embarcadero and the general welfare of the City in that the proposed Harbor Center improvements will provide additional public benefit and is consistent with the character of the existing development.
- E. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the City in that the Harbor Center improvements are a permitted use within the zoning district applicable to the project site and said structure complies with all applicable project conditions and City regulations.

Waterfront Master Plan Findings

- F. The proposed project makes a positive contribution to the visual accessibility to the bay and rock while increasing visitor serving and waterfront activities:
- a. As conditioned, meets the Waterfront plan height limit and maximum building coverage, bulk, and scale requirements in that the proposed project does not exceed the maximum height allowed and articulation breaks up the bulk and scale.
 - b. In the case of granting height greater than 17 feet for the proposed additions, the proposed project also provides significant public benefit pursuant to the Planned Development Overlay zone requirements in that the proposed project provides pedestrian access to the proposed bay front lateral access, two public American with Disabilities Act (ADA) compliant restrooms, establishes wider sidewalks to increase pedestrian circulation, creates a view corridor where no such corridor currently exists, adds landscaping, and redevelops land and water lease sites that currently have visually unappealing, aging structures or lack facilities.
 - c. The proposed project provides the amenities identified in the WaterFront Master Plan, facilitates pedestrian visual and physical access to the waterfront, and takes advantage of outward views and characteristics of the topography in that the design provides a wide public view corridor, public lateral access and pedestrian amenities.
 - d. The proposed project makes a positive contribution to the working fishing village character and quality of the Embarcadero area in that the new project will add to the pedestrian orientation while maintaining the commercial fishing character of the Embarcadero.
 - e. The design recognizes the pedestrian orientation of the Embarcadero and provides an interesting and varied frontage that will enhance the pedestrian experience in that the new building will open up to the passing pedestrians along the Harbor Walk and draws individual's attention to the natural beauty of the bay.
 - f. The project contains the elements of harmony, continuity, proportion, simplicity, and balance, and its appearance matches its function and the uses proposed in that the new structure will provide more horizontal and vertical articulation, and the public will be invited into the space via a new view corridor from the Harbor Walk and will be directed through the glassed in corridor to the Harbor Walk by access signage. The proposed project does not diminish, either directly or by cumulative impact of several similar projects, the use, enjoyment, or attractiveness of adjacent buildings and provides a visual and pedestrian transition to its immediate neighbor in that the existing and new construction of both the building additions, restrooms and new walkways is in keeping with the architectural style, massing, materials, scale, and use of its surroundings.

EXHIBIT B

CONDITIONS OF APPROVAL

UP0-032 Harbor Center Project; 901-915 Embarcadero

Request for a Conditional Use Permit to modify and add to an existing structure which includes a proposal to 1) construct a new retail unit, 2) remodel and enlarge two existing restrooms, 3) convert an existing glass court enclosed outdoor dining area to general public seating, 4) enlarge the existing harbor walkway and add a new harbor walkway and view deck, 5) install six floating docks and a gangway, 6) remove and replace an existing sidewalk to connect to an existing sidewalk, 7) restripe existing parking spaces and 8) construct two new posts to support an extension of the existing awning across the front of the building.

STANDARD CONDITIONS

1. **Permit:** This permit is granted for the land described in the staff report referenced above, and all attachments thereto, dated October 31, 2012, for the project depicted on the attached plans labeled "Exhibit E", dated October 31, 2012, on file with the Public Services Department, as modified by these conditions of approval.
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 Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. **Changes:** Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Public Services Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. **Compliance with the Law:** (a) All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
5. **Hold Harmless:** The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim,

action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.

6. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed herein shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
7. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities associated with the building improvements, including electrical, telephone and cable television shall be installed underground.
8. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. during the weekdays and eight a.m. and seven p.m. during the weekends, unless an exception is granted by the Building Official pursuant to the terms of this regulation.

FIRE CONDITIONS

9. Sprinkler Plans: The applicant must submit sprinkler plans, in accordance with NFPA 13, to Public Services Division for review.
10. Fire Protection for Wharves and Docks: Firefighting appliances and equipment shall be provided and maintained in an operable manner for all commercially operated marinas and dock facilities, as specified by ordinances of the City, and all installations shall be subject to the approval of the chief of the fire department (MBMC 14.52.060).
11. Fire Protection Equipment-Standpipes. Marinas and boatyards shall be equipped throughout with standpipe systems, in accordance with NFPA 303. Systems shall be provided with hose connections located such that no point on the marina pier or float system exceeds 150 feet from a standpipe hose connection (CFC 4502.2).
12. Knox Key Box: The applicant shall provide two exterior mounted boxes, one located on the Embarcadero frontage, the west side (waterside) of the structure, and one Knox Remote Electrical Power Shutdown Station (4506 series), to be located next to the Trash/Utility Room (south side) (CFC 506.1) A Knox Box application shall be obtained from the Morro Bay Fire Department and approved prior to occupancy.

BUILDING DIVISION CONDITIONS

13. **Building Permit Application:** Prior to construction, the applicant shall submit a complete application to the building department and obtain the required building permit.

PUBLIC WORKS CONDITIONS

None.

PLANNING DEPARTMENT

14. **Lease Area:** Prior to commencement of any activities within the proposed lease expansion area, the owner or designee shall obtain approval from the City to expand both the land and water leases, consistent with the proposal shown on Exhibit E, dated October 31, 2012.
15. **Precise Plan:** Upon approval of the City Council of the concept plan, a precise plan of development shall be submitted to the planning commission consistent with code section 17.040.030G.
16. **Precise Plan Sheet:** All conditions of approval, including the required MND mitigation measures shall be included in the precise plan, as a separate sheet attached to the plan set.
17. **Environmental Fees:** Within four days of certification of the Mitigated Negative Declaration, the applicant shall submit a check made payable to the County Clerk for the following fees: \$2,101.50 for the California Department of Fish and Wildlife, plus the \$50 County Clerk filing fee for the Notice of Completion, for a total of 2151.50. The City of Morro Bay shall file the Notice of Completion with the County Clerk to comply with state requirements.
18. **Signage:** The applicant shall provide a signage program, including coastal access signs, as part of the precise plan.
19. **Architectural Design and Color Palette:** The applicant shall submit a design for the awnings and new building addition, and a color palette for the overall project at the precise plan stage.

ENVIRONMENTAL CONDITIONS

20. **Conditions:** The applicant shall incorporate the environmental mitigation measures agreed upon to mitigate the project to a level of insignificance; these conditions are listed in the attached "Attachment A" following this condition. In addition, the applicant shall conduct the required monitoring as established for each mitigation measure and confirm compliance with these conditions to the satisfaction of the Environmental Coordinator.

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

P u b l i c N o t i c e o f A v a i l a b i l i t y
D o c u m e n t T y p e : M i t i g a t e d N e g a t i v e D e c l a r a t i o n

CEQA: CALIFORNIA ENVIRONMENTAL QUALITY ACT
CITY OF MORRO BAY
SEPTEMBER 2012

The City has determined that the following proposal qualifies for a

Negative Declaration Mitigated Negative Declaration.

PROJECT TITLE: Held Harbor Center Conditional Use Permit

PROJECT LOCATION: 901-915 Embarcadero Road, immediately northwest of the intersection of Harbor Street and Embarcadero Road, within the City of Morro Bay.

CITY: Morro Bay **COUNTY:** San Luis Obispo

CASE NO.: UPO-342

PROJECT DESCRIPTION: The Held Family Trust (applicant) proposes modifications and additions to an existing structure, which includes a proposal to 1) increase an existing 6,210-square foot (sf) land lease by 93 sf, resulting in a total land lease area of 6,303 sf and 2) increase an existing 4,502 sf water lease by 4,310 sf, resulting in a total water lease area of 8,812 sf. The project site is located on City lease sites #93-95 and 93W-95W, within the Waterfront/Harbor zone, Planned Development overlay (APN # 066-322-001).

The existing structure is primarily one-story, 17 feet in height, 6,481-square feet in area (6,252-sf main story, 229-sf upper storage area), including the Hofbrau restaurant, Crills II and Poppy retail stores, and seating areas. The existing walkway is 556 sf. The proposed modifications and additional construction would result in a total floor area of 8,868 sf (8,639-sf main floor, 229-sf upper floor), and total walkway area of 1,196 sf. The proposal includes the following actions: 1) construct a new 590-square foot (sf) retail unit; 2) remodel (ADA) and enlarge two existing restrooms by 212 sf; 3) convert the existing 132-sf glass court enclosed outdoor dining area to general public seating; 4) enlarge the existing harbor walkway by 640 sf and add a new harbor walkway and view deck; 5) install six floating docks (1,488 sf) and a gangway; 6) remove an existing aggregate sidewalk and replace with a concrete sidewalk to connect to an existing sidewalk; 7) re-stripe seven existing parking spaces to provide five compact, two regular spaces; and 8) construct two new posts to support an extension of the existing awning across the front of the building.

The proposed marine related improvements include the construction of a head float approximately 8 by 80 feet with three finger style slips (two 4 by 40 feet and one 5 by 40 feet) and the installation of six steel main pilings and two bumper piles. Four steel piles will be set at the end of each finger dock and three piles adjacent to Harbor Walk. The two bumper piles will be set between the finger docks on the west side. The pilings and docks will be constructed using a barge and crane. The

applicant proposes to drive the piles by using a vibratory hammer or a convention piling hammer that is designed to ensure that underwater noise generated by pile driving activities is minimized to the maximum extent feasible and does not exceed (1) an accumulated 187 dB SEL as measured 5 meters from the source; and (2) peak dB above 208 dB as measured 10 meters from the source. Five existing wood pilings near the existing Harbor Walk are proposed for removal. In addition, there will be a four foot by 33 ½-foot gangway installed to access the new docks. The proposed gangway entrance will have a 48 by 60-inch landing and a locked security gate.

The project will result in the disturbance of approximately 7,642 sf (0.17 acre) including approximately 802 sf (building), 640 sf (walkway), and up to 6,200 sf for sidewalk removal and replacement. No cut or fill is proposed.

The proposed project is located on the west side Embarcadero Road, directly northwest of Harbor Street, within the City of Morro Bay. The project is within the Waterfront/Harbor zone with a Planned Development Overlay (WF PD/S.4). Surrounding land uses include visitor serving and retail land uses to the south, north, and east, and Morro Bay to the west. The project site is currently developed by the Hofbrau restaurant, indoor and outdoor seating areas, Poppy retail shop, restrooms, public walkway and view deck, and parking area.

LEAD AGENCY: City of Morro Bay

CONTACT PERSON: Mary B. Reents

TELEPHONE: (805) 772-6211

ADDRESS WHERE DOCUMENT MAY BE OBTAINED:

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

PUBLIC REVIEW PERIOD: Begins: September 27 to October 27, 2012.

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

Mary Reents, Contract Planner
Signature

EXHIBIT C

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

DRAFT MITIGATED NEGATIVE DECLARATION

CEQA: CALIFORNIA ENVIRONMENTAL QUALITY ACT

CITY OF MORRO BAY
955 Shasta Avenue
Morro Bay, California 93442
805-772-6210

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

CASE NO.: UPO-342

PROJECT TITLE: Held Harbor Center

PROJECT LOCATION: 901-915 Embarcadero Road, immediately west of the intersection of Harbor Street and Embarcadero Road, within the City of Morro Bay.

APPLICANT / PROJECT SPONSOR:

Applicant:

Held Family Trust
P.O. Box 225
Cayucos, CA 93430
T 805.995.2773

Applicant's Representative:

Cathy Novak
P.O. Box 296
Morro Bay, CA 93443
T 805.772.6205

PROJECT DESCRIPTION: The Held Family Trust (applicant) proposes modifications and additions to an existing structure, which includes a proposal to 1) increase an existing 6,210-square foot (sf) land lease by 93 sf, resulting in a total land lease area of 6,303 sf and 2) increase an existing 4,502 sf water lease by 4,310 sf, resulting in a total water lease area of 8,812 sf. The project site is located on City lease sites #93-95 and 93W-95W, within the Waterfront/Harbor zone, Planned Development overlay (APN # 066-322-001).

The existing structure is primarily one-story, 17 feet in height, 6,481-square feet in area (6,252-sf main story, 229-sf upper storage area), including the Hofbrau restaurant, Crills II and Poppy retail stores, and seating areas. The existing walkway is 556 sf. The proposed modifications and

additional construction would result in a total floor area of 8,868 sf (8,639-sf main floor, 229-sf upper floor), and total walkway area of 1,196 sf. The proposal includes the following actions: 1) construct a new 590-square foot (sf) retail unit; 2) remodel (ADA) and enlarge two existing restrooms by 212 sf; 3) convert the existing 132-sf glass court enclosed outdoor dining area to general public seating; 4) enlarge the existing harbor walkway by 640 sf and add a new harbor walkway and view deck; 5) install six floating docks (1,488 sf) and a gangway; 6) remove an existing aggregate sidewalk and replace with a concrete sidewalk to connect to an existing sidewalk; 7) re-stripe seven existing parking spaces to provide five compact, two regular spaces; and 8) construct two new posts to support an extension of the existing awning across the front of the building.

The proposed marine related improvements include the construction of a head float approximately 8 by 80 feet with three finger style slips (two 4 by 40 feet and one 5 by 40 feet) and the installation of six steel main pilings and two bumper piles. Four steel piles will be set at the end of each finger dock and three piles adjacent to Harbor Walk. The two bumper piles will be set between the finger docks on the west side. The pilings and docks will be constructed using a barge and crane. The applicant proposes to drive the piles by using a vibratory hammer or a convention piling hammer that is designed to ensure that underwater noise generated by pile driving activities is minimized to the maximum extent feasible and does not exceed (1) an accumulated 187 dB SEL as measured 5 meters from the source; and (2) peak dB above 208 dB as measured 10 meters from the source. Five existing wood pilings near the existing Harbor Walk are proposed for removal. In addition, there will be a four foot by 33 ½-foot gangway installed to access the new docks. The proposed gangway entrance will have a 48 by 60-inch landing and a locked security gate.

The project will result in the disturbance of approximately 7,642 sf (0.17 acre) including approximately 802 sf (building), 640 sf (walkway), and up to 6,200 sf for sidewalk removal and replacement. No cut or fill is proposed.

The proposed project is located on the west side Embarcadero Road, directly northwest of Harbor Street, within the City of Morro Bay. The project is within the Waterfront/Harbor zone with a Planned Development Overlay (WF PD/S.4). Surrounding land uses include visitor serving and retail land uses to the south, north, and east, and Morro Bay to the west. The project site is currently developed by the Hofbrau restaurant, indoor and outdoor seating areas, Poppy retail shop, restrooms, public walkway and view deck, and parking area.

FINDINGS OF THE: Environmental Coordinator

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



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

INITIAL STUDY AND CHECKLIST

I. PROJECT INFORMATION

Project Title:	<u>Held Harbor Center</u>		
Case Number:	<u>UPO-342</u>		
LEAD AGENCY:	<u>City of Morro Bay</u>	Phone:	<u>(805) 772-6261</u>
	<u>955 Shasta Ave</u>	Fax:	<u>(805) 772-6268</u>
	<u>Morro Bay, CA 93442</u>		
Project Sponsor:	<u>Held Family Trust</u>	Phone:	<u>(805) 995-2773</u>
	<u>P.O. Box 225</u>	Fax:	
	<u>Cayucos, CA 93430</u>		
Project Landowner:	<u>City of Morro Bay (State Grant)</u>	Phone:	<u>(805) 772-6205</u>
	<u>901 Embarcadero Road</u>	Fax:	
	<u>Morro Bay, CA 93442</u>		
Project Agent:	<u>Cathy Novak</u>	Phone:	<u>(805) 772-9499</u>
	<u>P.O. Box 296</u>	Fax:	
	<u>Morro Bay, CA 93443</u>		

Project Description:

The Held Family Trust (applicant) proposes modifications and additions to an existing structure, which includes a proposal to 1) increase an existing 6,210-square foot (sf) land lease by 93 sf, resulting in a total land lease area of 6,303 sf and 2) increase an existing 4,502 sf water lease by 4,310 sf, resulting in a total water lease area of 8,812 sf. The project site is located on City lease sites #93-95 and 93W-95W, within the Waterfront/Harbor zone, Planned Development overlay (APN # 066-322-001).

The existing structure is primarily one-story, 17 feet in height, 6,481-square feet in area (6,252-sf main story, 229-sf upper storage area), including the Hofbrau restaurant, Crills II and Poppy retail stores, and seating areas. The existing walkway is 556 sf. The proposed modifications and additional construction would result in a total floor area of 8,868 sf (8,639-sf main floor, 229-sf upper floor), and total walkway area of 1,196 sf. The proposal includes the following actions: 1) construct a new 590-square foot (sf) retail unit; 2) remodel (ADA) and enlarge two existing restrooms by 212 sf; 3) convert the existing 132-sf glass court enclosed outdoor dining area to general public seating; 4) enlarge the existing harbor walkway by 640 sf and add a new harbor walkway and view deck; 5) install six floating docks (1,488 sf) and a gangway; 6) remove an existing aggregate sidewalk and replace with a concrete sidewalk to connect to an existing sidewalk; 7) re-

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

stripe seven existing parking spaces to provide five compact, two regular spaces; and 8) construct two new posts to support an extension of the existing awning across the front of the building.

The proposed marine related improvements include the construction of a head float approximately 8 by 80 feet with three finger style slips (two 4 by 40 feet and one 5 by 40 feet) and the installation of six steel main pilings and two bumper piles. Four steel piles will be set at the end of each finger dock and three piles adjacent to Harbor Walk. The two bumper piles will be set between the finger docks on the west side. The pilings and docks will be constructed using a barge and crane. The applicant proposes to drive the piles by using a vibratory hammer or a convention piling hammer that is designed to ensure that underwater noise generated by pile driving activities is minimized to the maximum extent feasible and does not exceed (1) an accumulated 187 dB SEL as measured 5 meters from the source; and (2) peak dB above 208 dB as measured 10 meters from the source. Five existing wood pilings near the existing Harbor Walk are proposed for removal. In addition, there will be a four foot by 33 ½-foot gangway installed to access the new docks. The proposed gangway entrance will have a 48 by 60-inch landing and a locked security gate.

The project will result in the disturbance of approximately 7,642 sf (0.17 acre) including approximately 802 sf (building), 640 sf (walkway), and up to 6,200 sf for sidewalk removal and replacement. No cut or fill is proposed.

The proposed project is located on the west side Embarcadero Road, directly northwest of Harbor Street, within the City of Morro Bay. The project is within Waterfront/Harbor zone with a Planned Development Overlay (WF PD/S.4). Surrounding land uses include visitor serving and retail land uses to the south, north, and east, and Morro Bay to the west. The project site is currently developed by the Hofbrau restaurant, indoor and outdoor seating areas, Poppy retail shop, restrooms, public walkway and view deck, and parking area.

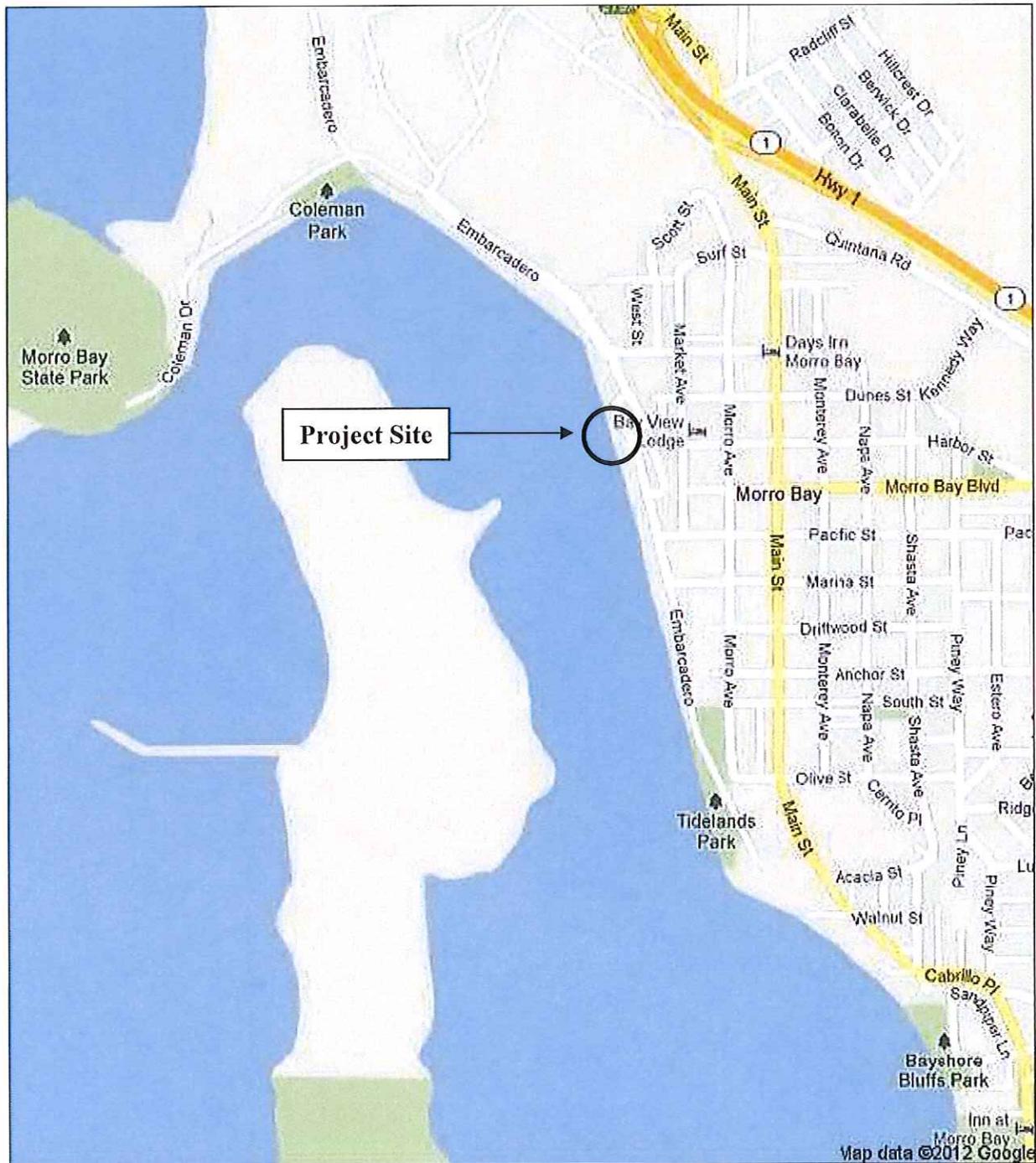
Project Location:	901-915 Embarcadero Road, immediately north west of the intersection of Harbor Street and Embarcadero Road, within the City of Morro Bay
Assessor Parcel Number(s)	066-322-001
General Plan Designation:	Mixed Uses (Harbor)
Zoning Designation:	Waterfront (WF) and Harbor (H)
Overlay:	Planned Development S.4, Design Criteria

Surrounding Zoning and Land Uses	
North	Waterfront (WF); restaurant, small public park area
South	Waterfront (WF); public parking, retail shops
West	Harbor (H); Morro Bay, docks
East	Visitor-Serving Commercial (C-VS); retail shops

Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)

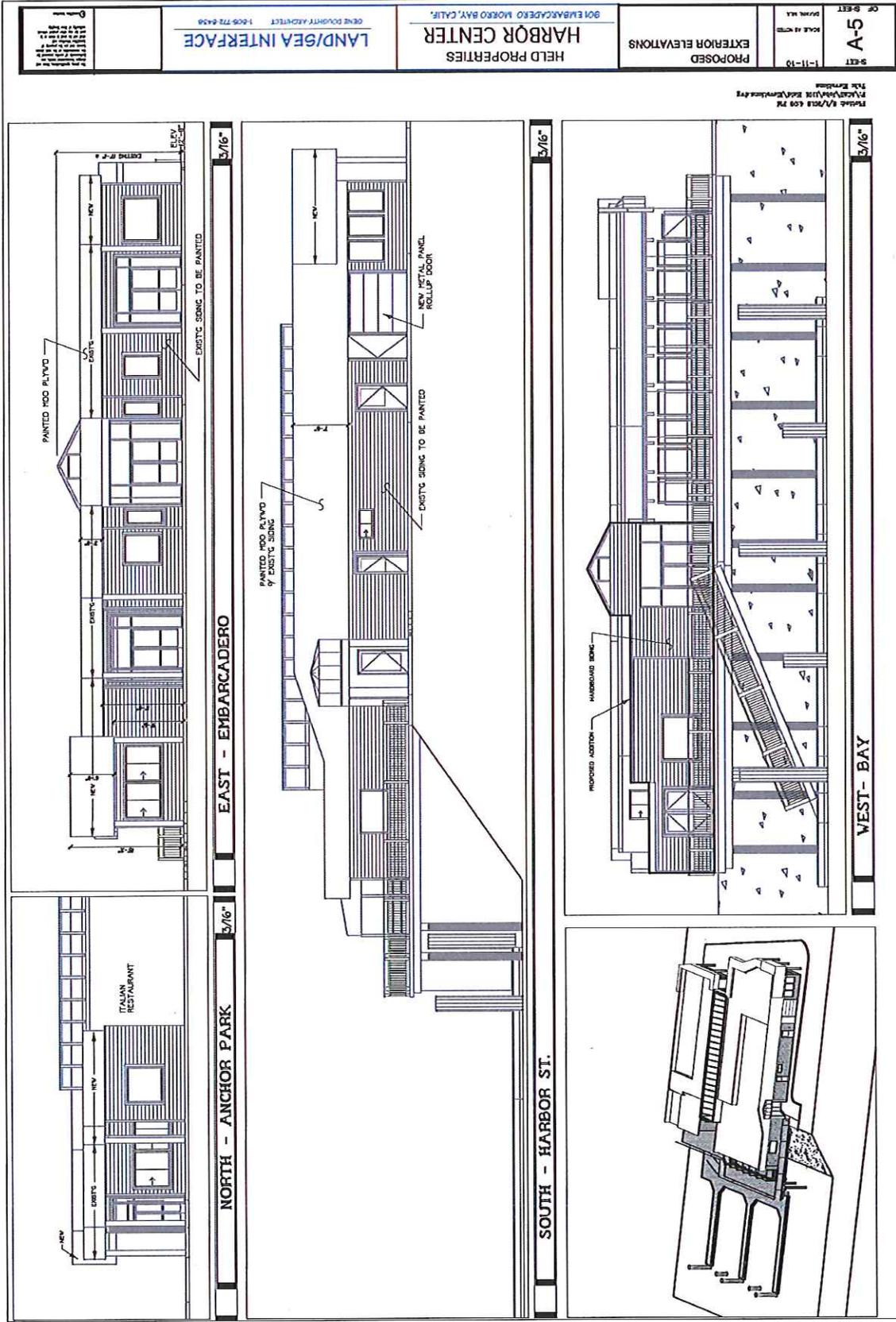
California Coastal Commission: Coastal Development Permit

VICINITY MAP



INITIAL STUDY AND CHECKLIST - Held Harbor Center
CASE NO.: UPO-342
DATE: September 19, 2012

ELEVATIONS



PROPOSED EXTERIOR ELEVATIONS SCALE: AS NOTED DATE: 11-11-10 SHEET: A-5 OF 5	HELD PROPERTIES HARBOR CENTER 901 EMBARCADERO MORRO BAY, CALIF.	LAND/SEA INTERFACE GENE SOUGHTT ARCHITECT 1-805-773-8458
	TITLE BLOCK PROJECT NO. SHEET NO. DATE DRAWN BY CHECKED BY APPROVED BY	

II. ENVIRONMENTAL SETTING AND IMPACTS

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

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

Environmental Setting: The project site is located on the edge of the bay, on the west side of the Embarcadero immediately northwest of Harbor Street. The existing structure, walkway, and pier posts are located within a 6,210-sf land lease and 4,502-sf water lease. The project site includes a 93-sf expansion of the existing land lease, which would encompass a portion of the building not currently within the lease area, and a 4,310-sf expansion of the water lease, which would extend from the shoreline into the bay, to accommodate three boat slips and a gangway.

The portion of the project site on land is zoned Waterfront (WF) and the portion of the project site on water is zoned Harbor (H). The stated purpose of the WF district is "to provide for the continued mixture of visitor-serving commercial and recreational and harbor-dependent land uses in appropriate waterfront areas..." Within the "WF" district, uses listed in Section 17.24.120 Visitor Serving Commercial, are allowable provided a Conditional Use Permit (CUP) is secured (Zoning Ordinance Section 17.24.170). Among those uses are motel, restaurant, marine related shops, and specialty retail boutiques, consistent with the existing and proposed uses. In addition, there are General Plan and Local Coastal Plan policies that promote the existing and proposed use of the site for visitor serving commercial and recreational uses. The intent of the H zone is primarily for harbor and navigable ways designations for those uses that need water in order to function, or as an accessory use to a land base/shore facility. The existing structure includes the Hofbrau restaurant, and Crills II and Poppy retail shops. Indoor and outdoor seating is provided, in addition to a wooden walkway along the building. A small parking area is located adjacent to the structure (to the south), and an adjacent restaurant and small park are located to the north. Retail and commercial uses are located to the east along the Embarcadero. Other land uses in the immediate area include similar restaurants, shops, walkways, viewing platforms, and access to boat slips. The policy followed for other land uses along the Embarcadero is being applied for this project, and continues to allow the extension of structures over the water for land based uses not directly related to or in need of the water; however, new encroachment would need to meet the intent of the H zone.

Sensitive resources within and adjacent to the project site includes an approximately 129-sf patch of eelgrass (*Zostera marina*) located within the area proposed for the boardwalk extension and floating dock, and a 151-sf strip immediately offshore to the north of the project site. The remaining area proposed for the existing and expanded water lease could be considered potential habitat for eelgrass. Eelgrass is not an endangered species; however this species is recognized as a Special Aquatic Site per Clean Air Act Section 404(b)(1) guidelines, and is protected under the federal "no-net loss" policy for wetlands. As discussed further in Section 4 Biological Resources, eelgrass and other sea grass ecosystems are protected due to their important role in the lifecycles of other species.

Surrounding Land Use			
North:	Waterfront (WF); restaurant, small public park area	East:	Visitor-Serving Commercial (C-VS); retail shops
South:	Waterfront (WF); public parking, retail shops	West:	Harbor (H); Morro Bay, docks

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

Determination: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measure that are imposed upon the proposed project, nothing further is required.

Signature

Date

Printed Name

For

III. ENVIRONMENTAL CHECKLIST

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

Environmental Discussion:

The visual resources of an area comprise the features of its built and natural land forms, vegetation, water surfaces and landscape. Landscape features, naturally occurring or otherwise, form the overall impression of the area. The proposed project is located on the Embarcadero, a strip of land supporting various visitor-serving commercial, retail, and recreational uses along the edge of Morro Bay. Other uses within the bay itself include private and commercial boating, touring, and fishing operations, and boat docks. Important scenic resources (scenic vistas) in the areas include Morro Rock, the bay, and the sandspit.

The existing structure is clearly visible from Embarcadero Road, Harbor Street, the sandspit, and from within the bay. As seen from Embarcadero Road and Harbor Street, the existing structure obscures views of the bay, the sandspit, and Morro Rock; however, clear views of these scenic resources are available from viewing areas to the north and south of the structure, and the public walkway along the west side of the structure.

Impact Discussion:

- a. A substantial adverse impact to a scenic vista would occur if the project would significantly degrade the scenic landscape as viewed from public roads or areas. As noted above, the existing structure obscures views of the bay, sandspit, and lower portion of Morro Rock. The current height of the structure is 11 feet, with the exception of a peak at 17 feet, 1 inch. The proposed improvements would increase the height of the structure to 15 feet 2 inches, and 14 feet (along portions of the structure), and the peak would remain. This additional height would block a greater area of Morro Rock as seen from public roadways and sidewalks; however, due to existing development on and offsite, this change would not be readily noticeable in the long-term. The proposed project includes improved public walkways, sidewalks, boardwalks, and viewing areas that would expand scenic viewing opportunities for the public. Therefore, overall, the project would not have a substantial adverse effect on a scenic vista, and no mitigation measures are necessary.
- b. State Route 1 (SR-1) is an Officially Designated State Scenic Highway through Morro Bay. The project site is approximately 0.5 west of SR-1, and is not visible from the highway due to existing development and topography. In addition, based on the location of the project site, the existing structure and proposed improvements do not block views of Morro Rock as seen from SR-1. Therefore, potential impacts are less than significant, and no mitigation measures are necessary.
- c. The existing and proposed uses, and architectural style, and compatible with the surrounding area. The applicant proposes to construct two new posts in front of the existing retail building at the southern side of the land lease on the Embarcadero side to be used to support an extension of the existing awning across the front of the building. The awning will tie the existing architectural building design together across the

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

Embarcadero frontage. The proposed height of the structure will be consistent within existing structures in the area, including two-story buildings to the south and east. Based on the location and design of the proposed project, the project is consistent with the visual character of the area as seen from both land (mainland, Morro Rock, and sandspit) and water, and no significant impacts would occur. No mitigation measures are necessary.

- d. The existing structure includes exterior lighting. The proposed improvements would not create lighting or glare inconsistent with adjacent uses, provided standard measures are incorporated (see below). The following mitigation measures are recommended to ensure potential impacts will be less than significant.

Mitigation and Residual Impact:

AES Impact 1 Visibility of night lighting and daytime glare would adversely affect views resulting in a direct long-term impact.

AES/mm-1 Prior to issuance of precise plan, a comprehensive lighting plan shall be submitted for review and approval by the City. The lighting plan shall be prepared using guidance and best practices endorsed by the International Dark Sky Association. The lighting plan shall address all aspects of the lighting, including but not limited to all buildings, infrastructure, parking and driveways, paths, floating dock, safety, and signage. The lighting plan shall include the following at minimum:

- a) The location, type, and wattage of all light fixtures (including catalog sheets for each fixture) shall be illustrated.*
- b) All exterior lighting shall be designed and located so that only the intended area is illuminated and off-site glare is prevented.*
- c) All lighting shall be cutoff style fixtures that are directed downward to prevent glare on adjacent and surrounding areas (i.e., Morro Bay, sandspit), and shall be limited to the maximum extent feasible while still providing for public safety.*
- d) Lights shall have solid sides and reflectors to further reduce lighting impacts, and shall be placed on a switch or timer to turn them off when not needed during the late evening.*
- e) Boat dock lighting shall be designed to reduce brightness and prevent off-site glare.*
- f) Bright white-colored light shall not be used for exterior lighting.*
- g) Any new signage visible from offsite shall not be internally luminated.*

AES/mm-2 Prior to issuance of a building permit, the applicant shall submit building plans and elevations for review and approval consistent with the following conditions:

- a) No highly reflective glazing or coatings shall be used on windows.*
- b) No highly reflective exterior materials such as chrome, bright stainless steel, or glossy tile shall be used on the portions of the development where visible from off-site locations.*
- c) All existing and newly installed windows shall be frosted, partially-frosted, or otherwise treated with visually permeable barriers that are designed to prevent bird strikes.*

After implementation of these measures, residual impacts would be less than significant.

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

Monitoring:

The City of Morro Bay Planning Department will verify implementation of these design details through review and approval of the lighting plan and building plans prior to issuance of building permits for the project. The City will confirm compliance with these conditions by visual inspection, prior to operation of the project.

<p>2. AGRICULTURAL RESOURCES:</p> <p>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocol adopted by the California Air Resources Board.</p> <p>Would the project:</p>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>a. Convert prime farmland, unique farmland, or farmland of statewide importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?</p>				X
<p>b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?</p>				X
<p>c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?</p>				X
<p>d. Result in the loss of forest land or conversion of forest land to non-forest use?</p>				X
<p>e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?</p>				X

Environmental Discussion:

The City of Morro Bay contains a relatively limited area devoted to agricultural uses within the city limits. The Chorro and Morro Valleys, within and adjacent to the city, support intensive agricultural activity. No agricultural areas are located within 0.5 mile of the project site.

Impact Discussion:

- a. The project site is classified as Urban and Built Up Land by the Department of Conservation’s Farmland Monitoring and Mapping Program. No Farmland would be converted; no impacts would result.

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

- b. The project site is within the Waterfront and Harbor (Planned Development) zone, and is not subject to a Williamson Act contract. The proposed use would not conflict with any existing zoning and no impacts would result.
- c. The project location does not consist of forest land or timberland; no impacts would result.
- d. The project location does not consist of forest land or timberland; no impacts would result.
- e. The project would not result in any changes to the environment that would impact existing agricultural uses in the region. The project would continue to be served by City water supplies, which are considered sufficient to adequately meet project-related demands, and construction and long-term operation of the project is not expected to cause any significant impacts on regional agricultural uses. No impact would occur.

Mitigation and Residual Impact:

The project is not expected to result in any potentially significant impacts to agricultural resources and no mitigation measures are necessary.

Monitoring.

None required.

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

Environmental Setting:

The San Luis Obispo County Air Pollution Control District (SLOAPCD) has developed the CEQA Air Quality Handbook (2009) to evaluate project specific impacts and help determine if air quality mitigation measures are needed, or if potentially significant impacts could result. The APCD has also prepared a Clean Air Plan to evaluate long-term emissions, cumulative effects, and establish countywide programs to reach acceptable air quality levels.

The project would result in the disturbance of approximately 0.17 acre of soils. The project also includes remodeling of an existing structure, the creation of an additional 590 sf of retail space, and the construction of an approximately 1,488-sf floating dock and gangway. These project activities would result in the creation of

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

construction dust and short-term construction vehicle emissions (Construction Emissions). The project would generate a negligible amount of long-term trips due to existing retail uses within and in the immediate vicinity of the project site.

Impact Discussion:

- a. The proposed development is consistent with the goals and policies of SLOAPCD’s CEQA Handbook and Clean Air Plan. The project consists of redevelopment of an existing use to accommodate additional retail services, public access opportunities, and provision for boating uses within an urban area primarily dedicated to retail, commercial, visitor service, and recreational uses. The project is consistent with SLOAPCD policies encouraging mixed development in urban areas, and limiting vehicle miles traveled to minimize air pollutants generated by transportation-related sources. Therefore, potential impacts are less than significant.
- b. **Construction Emissions.** Construction emissions that would result from the proposed project were calculated using Urbemis 2007 Version 9.2.4, pursuant to the CEQA Handbook. Construction emissions (winter) are estimated in Table 1 Construction Emissions, below.

For construction projects expected to be completed in less than one quarter (90 days), exceedance of the 137 lb/day threshold requires Standard Mitigation Measures. Estimated construction emissions are not expected to exceed the APCD thresholds requiring mitigation. Any potential impacts would be further minimized by implementation of the City’s standard dust control measures.

In addition to the construction air quality thresholds defined above, there are a number of special conditions, local regulations or state and federal rules that apply to construction activities. These conditions must be addressed in proposed construction activity and are summarized below.

Table 1. Construction Emissions

	ROG	NO _x	CO	PM ₁₀	PM ₁₀ (Exhaust)	PM _{2.5} (Exhaust)	CO ₂
Winter (lbs/day)	9.23	52.31	31.70	1.82	3.24	0.38	4,493.77
Threshold (lbs/day)*	137		n/a	n/a	7		n/a
Mitigation Required	No		n/a	n/a	No		n/a

*Source: County of San Luis Obispo, APCD CEQA Air Quality Handbook, 2009

Sensitive Receptors

The proximity of sensitive individuals (receptors) to a construction site constitutes a special condition and may require a more comprehensive evaluation of toxic diesel PM impacts and more aggressive implementation of mitigation measures described below in the diesel idling section (if deemed necessary by the SLOAPCD). Areas where sensitive receptors are most likely to spend time include schools, parks and playgrounds, day care centers, nursing homes, hospitals, and residential dwelling units. The types of construction projects that typically require a more comprehensive evaluation include large-scale, long-term projects that occur within 1,000 feet of a sensitive receptor locations.

Permits

Portable equipment and engines 50 horsepower (hp) or greater, used during construction activities will require California statewide portable equipment registration (issued by the Air Resources Board) or an Air District permit.

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

Operational Emissions. The APCD has set thresholds for ozone precursor emissions, diesel particulate matter (DPM), fugitive particulate matter emissions (dust), and carbon monoxide emissions (CO). Ozone precursor emissions are measured as combined ROG and NOx emissions. DPM is seldom emitted from individual projects in quantities which lead to local or regional air quality attainment violations. DPM is, however, a toxic air contaminant and carcinogen, and exposure to DPM may lead to increased cancer risk and respiratory problems. Certain industrial and commercial projects may emit substantial quantities of DPM through the use of stationary and mobile on-site diesel-powered equipment as well diesel trucks and other vehicles that serve the project.

Projects which emit more than 25 lbs/day or 25 tons/year of fugitive particulate matter need to implement permanent dust control measures to mitigate the emissions below these thresholds or provide suitable off-site mitigation approved by the APCD. Any land uses or activities can result in dust emissions that exceed the APCD significance thresholds, cause violations of an air quality standard, or create a nuisance impact in violation of APCD Rule 402, Nuisance. In all cases where such impacts are predicted, appropriate fugitive dust mitigation measures shall be implemented.

Carbon monoxide is a colorless, odorless, tasteless gas emitted during combustion of carbon-based fuels. While few land use projects result in high emissions of CO, this pollutant is of particular concern when emitted into partially or completely enclosed spaces such as parking structures and garages. Projects that emit more than 550 lbs/day of CO and occur in a confined or semi-confined space (e.g., parking garage or enclosed indoor stadium) must be modeled to determine their significance. In confined or semi-confined spaces where vehicle activity occurs, CO modeling is required. If modeling shows the potential to violate the State CO air quality standard, mitigation or project redesign is required to reduce CO concentrations to a level below the health-based standard.

Operational emissions that would result from the proposed additional 590-sf retail use were calculated using Urbemis 2007 Version 9.2.4, pursuant to the CEQA Handbook. Operational emissions are estimated as follows (unmitigated):

Table 2. Area Source and Operational Emissions

	ROG	NO _x	CO	PM ₁₀	CO ₂
Winter (lbs/day)	0.11	0.13	1.03	0.12	63.17
Threshold (lbs/day)*	25		550	25	n/a
Mitigation Required	No		No	No	n/a
Annual (tons/yr)	0.02	0.02	0.17	0.02	11.95
Threshold (tons/yr)*	25		n/a	25	n/a
Mitigation Required	No		n/a	No	n/a

*Source: County of San Luis Obispo, APCD CEQA Air Quality Handbook, 2009

In general, projects that do not exceed APCD thresholds for ozone precursor emissions or dust do not require mitigation for long-term operational effects on air quality. APCD’s recommended levels of mitigation for these pollutants are shown in Table 3 below. The recommended standard air quality mitigation measures have been separated according to land use (i.e., residential, commercial and industrial), measure type (i.e., site design, energy efficiency and transportation) and pollutant reduced (i.e., ozone, particulate, DPM, and GHGs). Any project generating 25 lbs/day or more of ROG + NOx or PM10 should select the applicable number of mitigation measure as outlined in Table 3-5 of the SLOAPCD CEQA Air Quality Handbook.

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

Based on the CEQA Air Quality Handbook, the project would result in less than 25 pounds per day (lbs/day) of operational pollutants, which is below thresholds warranting any mitigation. The project is consistent with the general level of development anticipated and projected in the Clean Air Plan. Therefore, no significant long-term air quality effects are expected to occur and no mitigation measures are required.

Table 3. SLOAPCD Mitigation Threshold Guide

Combined ROG+NO _x or PM ₁₀ Emissions (lbs/day)	Mitigation Measures Recommended	
	Residential, Commercial or Industrial	Off-Site Mitigation
< 25	None	None
25 – 29	8	*
30 – 34	14	*
35 – 50	18	*
≥ 50	All Feasible	*
≥ 25 ton/yr	All Feasible	Yes

* Will be dependent on the effectiveness of the mitigation measures, location of project and high vehicle dependent development. Examples of projects potentially subject to off-site mitigation include: rural subdivisions, drive-through applications, commercial development located far from urban core.

Source: County of San Luis Obispo, APCD CEQA Air Quality Handbook, 2009

San Luis Obispo County is currently designated as non-attainment under the state standard for ozone. As noted above, the project would not result in the generation of emissions exceeding identified thresholds; therefore, the project’s contribution would not be cumulatively considerable, and impacts would be less than significant.

- c. The project is located within close proximity to sensitive receptors, including parks and recreational uses within 1,000 feet of the proposed development. The project would create short-term fugitive dust and diesel particulate matter (DPM) during construction activities, with the potential to constitute a nuisance. After implementation of standard dust control and DPM measures, impacts would be less than significant.

The underlying soil consists of fill material, therefore it is very unlikely for naturally occurring asbestos (NOA) to be encountered during earthmoving activities. The existing structure proposed for the remodel could include asbestos containing materials (ACM). Mitigation measures have been proposed to minimize the potential for exposure to ACM. Therefore, this potential impact can be mitigated to less than significant.

- d. The proposed use would not create objectionable odors, other than minimal effects potentially associated with short-term construction activities. Impacts would be less than significant.

Mitigation and Residual Impact:

AQ Impact 1 Construction activities associated with development of the proposed project would result in short-term emissions of DPM.

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

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

AQ Impact 2 **Construction activities associated with development of the proposed project could generate dust that could be a nuisance to adjacent sensitive receptors.**

- AQ/mm-2* *Upon application for grading and building permits, the applicant shall submit plans including the following notes, and shall comply with the following standard mitigation measures for reducing fugitive dust emissions such that they do not exceed the APCD's 20 percent opacity limit (APCD Rule 401) and do not impact off-site areas prompting nuisance violations (APCD Rule 402) as follows:*
- a) Reduce the amount of disturbed area where possible;*
 - b) Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible;*
 - c) All dirt stockpile areas should be sprayed daily as needed;*
 - d) Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible, following completion of any soil disturbing activities;*

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

- e) *Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating, non-invasive, grass seed and watered until vegetation is established;*
- f) *All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;*
- g) *All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.*
- h) *Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;*
- i) *All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with California Vehicle Code Section 23114;*
- j) *Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site;*
- k) *Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible;*
- l) *All PM₁₀ mitigation measures required shall be shown on grading and building plans; and*
- m) *The contractor or builder shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20 percent opacity, and to prevent transport of dust off-site. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD Compliance Division prior to the start of any grading, earthwork or demolition.*

AQ Impact 3

Remodeling activities associated with the proposed project could result in hazards associated with the presence of Asbestos Containing Materials.

AQ/mm-3

Demolition of the existing onsite structures and/or infrastructure shall be conducted in compliance with applicable regulatory requirements, including the requirements stipulated in the National Emission Standard for Hazardous Air Pollutants (40 CFR 61, Subpart M – asbestos NESHAP). These requirements include, but are not limited to, notification to the APCD, an asbestos survey conducted by a Certified Asbestos Inspector, and applicable removal and disposal requirements of identified asbestos containing materials.

With implementation of these measures, air quality impacts would be less than significant.

Monitoring:

Demolition plans and regulatory forms will be submitted to the APCD for review and approval, consistent with mitigation measures. The applicant will submit approval documentation from APCD to the City Environmental Coordinator. Monitoring or inspection shall occur as necessary to ensure all construction activities are conducted in compliance with the above measures. Measures also require that a person be appointed to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

emissions below 20 percent opacity, and to prevent transport of dust off-site. All potential violations, remediation actions, and correspondence with APCD will be documented and on file with the City Environmental Coordinator.

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

Environmental Setting:

The project site is located adjacent to Morro Bay. In addition to being a significant hydrological and ecological resource (estuarine and marine wetland), the bay provides habitat for various aquatic and terrestrial species in the area.

A search of the California Natural Diversity Database (CNDDDB) indicates the potential for 61 sensitive plant and animal species to occur within the Morro Bay South Quadrangle. Out of these species, the following plants and animals are either documented within a mile north, south, and west of the project site: California seablithe, Blochman's dudleya, San Joaquin spearscale, Miles' milk-vetch, salt marsh birds-beak, Jones' layia, pallid bat, Morro Bay blue butterfly, tidewater goby, monarch butterfly, sandy beach tiger beetle, and California clapper rail. These species generally occur within undeveloped areas along the bay and on the sandspit. In addition to these species, the project area supports habitat for a variety of marine mammals, fish, and migratory birds. The project site is currently developed, and does not support habitat conditions for these species, with the exception of tidewater goby, marine mammals (i.e., otters, seals, sea lions), and migratory birds.

Based on the *Eelgrass (Zostera marina) and [Green Algae] Caulerpa taxifolia Survey* (Tenere Environmental, August 31, 2011) conducted for the project, an approximately 129-sf patch of eelgrass (*Zostera marina*) was located

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

within the area proposed for the boardwalk extension and floating dock, and a 151-sf strip of eelgrass was noted immediately offshore to the north of the project site. No invasive green algae was observed. The remaining area proposed for the existing and expanded water lease could be considered potential habitat for eelgrass. Eelgrass is not an endangered species; however this species is recognized as a Special Aquatic Site per Clean Air Act Section 404(b)(1) guidelines, and is protected under the federal “no-net loss” policy for wetlands. The results of the survey are incorporated in to the discussion below.

Impact Discussion:

- a. Implementation of the proposed project has the potential to result in adverse effects to special status species along the shore and within the bay, including eelgrass, marine mammals, and migratory birds. Based on the location of the project, implementation of erosion control and best management practices are required to avoid significant indirect impacts to special status species within the bay.

Eelgrass. Eelgrass beds are known to occur in the general area, and are considered a Special Aquatic Site (SAS) by the U.S. Army Corps of Engineers, California Department of Fish and Game, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service (NMFS). Eelgrass habitat is regulated under Section 404 of the Clean Water Act (CWA), and is also considered Essential Fish Habitat by NMFS. The 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) set the Essential Fish Habitat (EFH) provisions to identify and protect important habitats of federally managed marine species. Surveys are required to map the extent and location of eelgrass in projects that may affect eelgrass.

The observed patch of eelgrass observed in the area of the proposed new floating dock and boardwalk expansion may be a relatively recent patch, if shading by the former sportfishing dock and boats using the dock prevented eelgrass from occurring in this area. If so, constructing docks and removing them in this area has created a transitory habitat for eelgrass, where docks have suppressed eelgrass, but when they have been removed, has allowed eelgrass to grow.

Based on the survey, the single 129-sf patch of eelgrass beneath the northern portion of the proposed boardwalk expansion and floating dock could be impacted by shading from the boardwalk and dock. The narrow strip of eelgrass immediately offshore to the north should be less affected by shading or not affected from the new dock or boats using the new dock. Although no eelgrass was present underneath the remaining boardwalk expansion and new dock area, this remaining area could be considered potential habitat for eelgrass (323 sf), based on being shallow in depth, similar to where the eelgrass patches nearby were present. On this basis, this potential habitat for eelgrass could also be affected by shading from the new construction. Shading effects from the boardwalk expansion could be mitigated by constructing the overhanging deck of grating material to allow sunlight to pass through.

Marine Mammals. Potential impacts to marine mammals in the bay will be limited to the construction phase. Sediment and pollutant discharge, and the generation of noise from construction equipment may be temporarily disruptive. These activities would be limited to daytime hours only. The disturbance of animals listed under the Endangered Species Act (ESA) and Marine Mammal Protection Act may constitute harassment. Harassment of such animal species without the proper incidental take permit (pursuant to Sections 7 and 10 of the ESA and consultation with the National Marine Fisheries Service). Implementation of mitigation measures, including avoidance of marine mammals and monitoring during activities conducted within the bay, is recommended to avoid disturbance of special-status species. During operation, conditions within and adjacent to the bay will be similar to surrounding uses, and no long-term significant impact would occur.

Migratory Birds. Migratory birds are protected under the Migratory Bird Treaty Act of 1918. The project site does not support conditions considered suitable for migratory bird nesting; however, birds may be present or forage within the project area. Avoidance of all bird species is recommended during construction. During operation, conditions within and adjacent to the bay will be similar to surrounding uses, and no long-term significant impact would occur.

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

- b. As noted above (a), implementation of the project has the potential to impact eelgrass, a SAS. In addition, construction of the project would include the use of heavy equipment and machinery adjacent to Morro Bay. These activities may result in pollutant discharges, including sediment, oils, and fuels entering the bay, and indirectly impacting terrestrial and aquatic species.

In addition to modified design to allow for sunlight through the floating dock (see above), prior to construction, the applicant will prepare a final grading plan including temporary and permanent soil stabilization and erosion control measures, and a spill prevention control and countermeasure plan to avoid the potential for accidental leak or release of oils, fuels, and other materials. These best management practices would mitigate potential impacts resulting from pollutant discharges into Morro Bay, and impacts after implementation would be considered less than significant.

- c. The project site is located adjacent to and within estuarine and marine wetland areas, including the navigable waters of Morro Bay. No dredge or fill of wetland areas is proposed; the five existing pilings would be removed, and four steel piles will be set at the end of each proposed floating finger dock. Construction will include the use of a barge and crane to avoid the placement of equipment within the bay. As noted above (b), mitigation and best management practices would be incorporated into the project to avoid potential impacts to the bay. The applicant is responsible for obtaining any additional permits from the U.S. Army Corps of Engineers and Regional Water Quality Control Board for actions within navigable waters of the U.S. Based on implementation of recommended mitigation measures, impacts would be less than significant.
- d. Please refer to (b) above, which addresses potential impacts to marine mammals and migratory birds. Based on implementation of mitigation measures, potential impacts would be less than significant.
- e. The project site is located within and adjacent to Morro Bay. Portions of the bay are located within designated Environmental Sensitive Habitat Area (ESHA) overlays, which apply to areas that support environmentally-significant habitats, such as wetlands, riparian areas, and special-status species habitat. The project site is not located within an ESHA overlay, because the site is developed and adjacent to a section of Morro Bay that is dredged for maintenance of the harbor. Although the site is not specifically designated as an ESHA, potentially significant in-direct effects are considered in this Initial Study (refer to a, b, and c above), such as pollutant discharges that may migrate from the site into sensitive habitats (ESHAs). The project is consistent with the City's General Plan and Local Coastal Program, and would not conflict with any local policies or ordinances protecting biological resources. Impacts would be less than significant.
- f. The project site is not subject to any adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan. Impacts would be less than significant.

Mitigation and Residual Impact:

BIO Impact 1 Construction of the proposed overhanging deck/boardwalk would block sunlight and reduce eelgrass populations within the project site.

BIO/mm-1 *Prior to issuance of building permits, the applicant shall submit construction plans demonstrating the following:*

- a. *The new overhanging deck shall be constructed with grated material to allow sunlight to pass through to the water below.*

BIO/mm-2 *Prior to issuance of building permits, the applicant shall submit an Eelgrass Monitoring Plan (EMP) to the City Environmental Coordinator for review and approval. The EMP shall, at a minimum, provide the following:*

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

- a. *Eelgrass Surveys.* Pre- and post-construction surveys shall be performed to identify the location of any existing eelgrass and identify any impacts to existing eelgrass due to construction.
- b. *Eelgrass Protection.* All eelgrass beds identified in the project area shall be shown on a map in site plan view, and shall be protected as eelgrass habitat in perpetuity.
- c. *Monitoring.* A monitoring report shall be submitted to the City Environmental Coordinator for review and approval within three months of completion of construction. The report shall at a minimum include a site plan and written description of the status of eelgrass beds in the project area. If the report identifies a reduction in eelgrass coverage as compared to the existing eelgrass coverage at the time of the pre-construction survey, then the report shall identify remedial measure to offset such reduction within the eelgrass beds in the project area at a 1.2:1 basis. In such case, reporting shall continue on an annual basis for at least three years or until all such eelgrass beds are supporting eelgrass as documented in two consecutive annual reports, whichever is later.

BIO Impact 2 **Construction activities may disrupt special status species including marine mammals and migratory birds due to noise and increased equipment activity.**

BIO/mm-3 *Prior to issuance of building permits, the applicant shall submit documentation verifying that a U.S. Fish and Wildlife Service-approved biologist has been retained to monitor all construction within the water-lease areas. The applicant shall submit a Monitoring Plan that shall be prepared by the retained biological monitor. The Plan shall include, but not be limited to the following:*

- a. *The monitor shall verify compliance with all BIO, GS, HYD, and N mitigation measures, conditions of approval, and regulatory permit conditions (if applicable).*
- b. *Weekly monitoring reports shall be provided to the City, including a summary of the each day's activities, summary of any violations or inconsistencies with the mitigation measures/conditions of approval, any remediation actions undertaken by the applicant/construction manager, any verbal or written correspondence with regulatory agencies, and photo-documentation.*
- c. *In the event of a violation or inconsistency with a mitigation measure, conditional of approval, and/or regulatory permit condition the Plan shall include a process for emergency reporting in the event of a violation, including a chain-of-command.*
- e. *The Plan shall identify specific conditions when the biological monitor shall be allowed to stop work, such as observance of a marine mammal within 100 feet of the project area.*

BIO/mm-4 *All work that disturbs the ocean floor (i.e., removal and installation of pilings) shall be monitored by a U.S. Fish and Wildlife Service-approved biologist to ensure that impacts to marine mammals are avoided. The approved biological monitor shall be present onsite during construction and shall have the authority to stop construction if any individuals of southern sea otter are seen within 100 feet of the project area. Construction will be allowed to resume after sighted otters have left the 100-foot radius of the project area. The species shall not be disturbed or forced from the project site by equipment, noise, or other disruptive activity. The monitor will have discretionary authority to temporarily halt the project if it is determined that the otter, or other marine mammal, could be affected by the project, even if the animal is beyond the 100-foot boundary. All construction crew employees shall be informed on the requirements of this condition.*

BIO/mm-5 *Power to the pile driver should be ramped up to allow marine wildlife to detect a lower sound level and depart the area before full power noise levels are produced.*

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

BIO Impact 3 Construction of the project may result in accidental release of pollutants within the bay, including sediments, oils, waste, and fuels, which would degrade state and federally-protected waters.

BIO/mm-6 Prior to issuance of grading and building permits, the applicant shall either acquire all required regulatory permits and authorizations (i.e. U.S. Army Corps of Engineers, Regional Water Quality Control Board, California Department of Fish and Game), or submit documentation that such permits are not required.

Refer to mitigation measures GS/mm-1, HAZ/mm-1, HAZ/mm-2, HYD/mm-1, HYD/mm-2, and N/mm-1.

After implementation of these measures, residual impacts to biological resources would be less than significant.

Monitoring:

The retained biological monitor shall verify compliance with biological mitigation measures during construction, and submit monitoring reports to the City, pursuant to an approved Monitoring Plan. The City shall conduct spot-checks during construction.

5. CULTURAL RESOURCES		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:					
a.	Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5?			X	
b.	Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?			X	
c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X	
d.	Disturb any human remains, including those interred outside of formal cemeteries?			X	

Environmental Setting:

The project site is located in an area historically occupied by the Obispeno Chumash, and is considered by some to include the southern boundary of the Playano Salinan people. During prehistoric times, the areas surrounding the Morro Bay inlet and estuary were rich in terrestrial, littoral, and estuarine resources, which directly correlate to the high frequency of prehistoric cultural sites identified in the Morro Bay region. Several locations along the coast are designated Archaeologically Sensitive (AS) by the city.

Based on review of archaeological records kept on file with the City Public Services Department, significant archaeological and historical resources are present on native soils within the City. The project site is located on fill material, which has not been shown to contain significant archaeological or historical resources.

Impact Discussion:

- a. The project site does not include any resources included on a local register of historical resources, and does not contain any building, structure or other object that is historically significant to California’s history or cultural heritage as defined by CEQA Section 15064.5. No historic resources are located onsite; therefore impacts are less than significant.

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

- b. No archaeological resources were documented by the records search, and based on the location of the project site, no further investigations are recommended. Based on the lack of evidence indicating the presence of significant resources, potential impacts would be less than significant.
- c. No unique paleontological or geographic resources are known to exist at the project site. Based on the location of the project site and limited area of disturbance, significant paleontological discovery is unlikely; therefore, impacts are less than significant.
- d. Based on the location of the project site, discovery of human remains is unlikely. Health and Safety Code Section 7050.5 requires construction to cease if in situ cultural resources are encountered until the County Coroner has been notified and necessary findings as to origin and disposition of the remains can be made pursuant to Public Resources Code Section 5097.98. Construction must halt in the area of the discovery, the area must be protected, and consultation and treatment must occur as prescribed by law. Based on results of the study and compliance with existing regulations, impacts would be less than significant.

Mitigation and Residual Impact:

The project is not expected to result in any potentially significant impacts to cultural resources. Due to the cultural sensitivity of the region, the City requires the following standard mitigation measure, in the event of subsurface, significant, cultural resource discovery.

CR/mm-1 In the event that intact and/or unique archaeological artifacts or historic or paleontological resources are encountered during grading, clearing, grubbing, and/or other construction activities associated with the proposed project involving ground disturbance, all work in the immediate vicinity of the find shall be stopped immediately, the onsite archaeological and Native American monitors shall be notified, and the resource shall be evaluated to ensure the discovery is adequately recorded, evaluated and, if significant, mitigated.

Monitoring:

The City Planning Department will verify compliance with this measure.

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

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			X	
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X

Environmental Setting:

The proposed project is located within the Coast Range Geomorphic Province of California located between the Pacific Ocean and the Sacramento-San Joaquin Valley. The Coast Ranges trend northwesterly along the California coast for approximately 600 miles between Santa Maria, California and the Oregon border. Onsite soils at the project location consist of fill material. Based on the Natural Resources Conservation Service (NRCS), the soils are mapped as 192 Psamments and Fluvents, occasionally flooded and Water. Based on the project location adjacent to the bay, the site may be subject to ground shaking and liquefaction, similar to existing conditions. No unique geologic features exist on the site.

Impact Discussion:

- a. The Southern Coast Ranges Province is one of the most complex geologic provinces in the state, characterized by a number of sub-parallel structural blocks bounded by several on- and off-shore faults. There are no official maps of Alquist-Priolo Earthquake Fault Zones in or near the city of Morro Bay, and the site is not within a State Earthquake Fault Zone. The closest active fault to the project site is the Los Osos Fault, six miles to the south. The closest mapped fault to the site (regardless of activity) is the Cambria Fault; two splays of this fault are mapped approximately 500 feet to the north, and 400 feet to the southwest.

The project site is located in a region of generally high seismicity, and has the potential to experience strong ground shaking from earthquakes on regional and/or local causative faults. Based on the location of known faults, the potential for surface fault rupture is low.

Liquefaction occurs when saturated, cohesionless soils lose strength due to earthquake shaking. The presence of loose, poorly graded, fine sand material that is saturated by groundwater within an area known to be subjected to high intensity earth quakes and long-duration ground motion are the key factors that indicate potentially liquefiable areas and conditions that could lead to liquefaction. The potential for seismically induced liquefaction is high.

The site is nearly level, and is not subject to landslide hazards.

The proposed project is primarily an expansion and remodel of an existing use. The applicant is required to comply with the City Building Code and California Building code, which include standard measures for site preparation, grading, protection of completed cut slopes, and management of drainage, which would mitigate potential geologic hazards to less than significant.

- b. Erosion potential at the project site is a concern due to the close proximity of the bay. Erosive factors are influenced by factors such as plant cover, grade and length of slope, management practices, and climate. Implementation of recommended mitigation measures would reduce potential impacts to less than significant.
- c. Refer to a., above. Impacts would be less than significant with implementation of recommended mitigation.
- d. Refer to a. above.

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

- e. The project does not include the construction of an onsite septic system; therefore, no impacts would occur.

Mitigation and Residual Impact:

GS Impact 1 Soils disturbed during construction would be subject to erosion from stormwater runoff.

GS/mm-1 Prior to issuance of grading and building permits, the applicant shall prepare a drainage and erosion control plan to reduce the potential for erosion and down-gradient sedimentation. Grading and construction plan shall include measures to prevent and avoid spills or spread of dangerous materials and clean-up procedures in the event of a spill, and measures to reduce rilling of any stockpiled soils. Monitoring or inspection of construction activities shall occur as needed to ensure compliance with the erosion control plan.

After implementation of these measures, residual impacts related to geology and soils would be less than significant.

Monitoring:

Design plans shall be inspected and approved to ensure compliance. Monitoring or inspection of construction activities shall occur as needed to ensure compliance with design plans and the drainage and erosion control plan.

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

Environmental Setting:

In California, the main sources of Greenhouse Gases (GHGs) are from the transportation and energy sectors. According to the California San Luis Obispo County Annual Resource Summary Report (2010), approximately 40 percent of GHG emissions result from transportation and 23.5 percent result from commercial/industrial uses (County of San Luis Obispo, 2010). GHGs remain in the atmosphere for periods ranging from decades to centuries; the main GHGs emitted by human activities include CO₂, methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆).

A warming trend of approximately 1.0 to 1.7 degrees Fahrenheit occurred during the 20th Century. It is generally agreed that human activity has been increasing the concentration of GHGs in the atmosphere, mostly CO₂ from the combustion of coal, oil and gas (NCDC, 2008). The effect of each GHG on climate change is measured as a combination of the volume or mass of its emissions, and the potential of a gas or aerosol to trap heat in the atmosphere (global warming potential), and is expressed as a function of how much warming would be caused by the same mass of CO₂.

The potential effects on future climate change on California resources include increases of air temperature, sea level rise, reduced water resources and changed flood hydrology, changed forest composition and productivity, increased wild fires, changed habitats and ecosystems, changed crop yields and increased irrigation demands, and increased smog and public health issues.

Impact Discussion:

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

- a. Carbon dioxide (CO₂) is the most dominant greenhouse gas, making up approximately 84 percent of total GHGs by volume. Based on emission estimates calculated with URBEMIS 2007 (refer to Section 3, Air Quality, above), development of the project would generate approximately 4,493 lbs/day of CO₂ during construction and 11.95 tons per year during operation (above existing uses). Based on the County's recently adopted GHG thresholds (1,150 metric tons/year) (SLOAPCD, 2012), the proposed project would not generate GHG emissions exceeding identified thresholds, primarily because it is a remodel of an existing use. Therefore, potential impacts would be less than significant.
- b. The proposed project is consistent with the goals and policies of the City of Morro Bay General Plan, County of San Luis Obispo Conservation and Open Space Element, SLOAPCD's CEQA Handbook, Clean Air Plan, and GHG Thresholds and Supporting Evidence document. Impacts would be less than significant.

Mitigation and Residual Impact:

The project is not expected to result in any potentially significant impacts related to greenhouse gas emissions, and no mitigation measures are necessary.

Monitoring:

None required.

8. HAZARDS/HAZARDOUS MATERIALS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			X	
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?		X		
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?			X	
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment?				X
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?			X	
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?			X	
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?			X	

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

h. Expose people or structures to a significant risk of loss, injury or death involving wild land fires, including where wild lands are adjacent to urbanized areas or where residences are intermixed with wildlands?			X	
--	--	--	---	--

Environmental Setting:

Based on review of the City of Morro Bay General Plan and Local Coastal Plan, and the California Department of Toxic Substances Control Cortese List and EnviroStar databases, there is no evidence that hazardous materials were ever used, stored or spilled on the project site at any time in the past, and there are no oil wells, tanks or related structures located on the property. In general, the project does not include the use of hazardous materials or present hazards that would threaten construction workers, residents, the public, or the environment. However, risks related to hazardous materials and their release into the environment could occur during the construction stage of the project (i.e., asbestos exposure). Sensitive uses/resources that could be impacted by hazards resulting from the proposed project include adjacent uses and Morro Bay.

Impact Discussion:

- a. The project does not propose the routine transport, use or disposal of hazardous materials. Construction materials, including fuels and oils, may be transported during construction, in compliance with existing regulations. Associated hazard to the public or the environment would be less than significant.
- b. Risks related to hazardous materials and their release into the environment could occur during the construction phase of the project. Although a limited amount of hazardous materials would be present at the project site (namely oil and gas for construction equipment and vehicles) during normal construction conditions, hazardous materials would not pose a substantial risk. However, there is the potential for spills to occur at the project site, which would potentially affect sensitive areas, such as Morro Bay. Mitigation is recommended to avoid the potential for incidental exposure; therefore, potential impacts would be less than significant. In addition, removal of the existing treated wood pilings would require special treatment and disposal, subject to exiting California Department of Toxic Substance Control regulations.

Remodeling activities could also cause potential impacts associated with handling, demolition, and disposal of asbestos containing materials. Compliance with standard asbestos regulatory requirements (refer to AQ/mm-3 above), preparation of a Spill Prevention Control and Countermeasure Plan, and compliance with solid waste disposal requirements are recommended to reduce impacts to less than significant.

- c. The project would not be located within 0.25 mile of a school and does not propose to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste. Impacts would be less than significant.
- d. The project site is not located on a known hazardous materials site. No impacts would occur.
- e. The project site is not located within an airport land use plan or within two miles of a public airport. No impacts would occur.
- f. The project site is not located within the vicinity of a private airstrip. No impacts would occur.
- g. Based on the location of the project site, construction of the proposed project would not conflict with any regional evacuation or emergency response plan.
- h. The project is proposed within an urban setting, and is not in a high fire risk area. The project site is served by the City Fire Department. The applicant would comply with standard practices during construction to minimize the potential for incidental fires, including inspection of equipment. The project would not expose people or structures to a significant risk of fire, and impacts would be less than significant.

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

Mitigation and Residual Impact:

HAZ Impact 1 Development associated with the proposed project has the potential to result in the accidental release of hazardous materials into sensitive areas within and adjacent to the project site.

HAZ/mm-1 Prior to removal of the wood pilings, the applicant shall submit documentation to the City identifying if the wood is “treated wood waste”. In the event the pilings are treated wood waste, the applicant shall dispose of the material at a hazardous waste landfill or qualified solid waste landfill.

Implement HYD/mm-1.

With implementation of this mitigation measure, impacts related to hazards and hazardous materials would be less than significant.

Monitoring:

The City Environmental Coordinator shall verify receipt of required documentation. Monitoring or inspection shall occur as necessary to ensure development is proceedings consistent with the Construction Plan.

9. HYDROLOGY/WATER QUALITY Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Violate any water quality standards or waste discharge requirements?		X		
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c. Substantially alter the existing drainage pattern on the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off-site?			X	
d. Substantially alter the existing drainage pattern on the site or area, including through the alteration of the course of a stream or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?			X	
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?			X	
f. Otherwise substantially degrade water quality?		X		
g. Place housing within a 100-year flood hazard area as mapped on a federal flood hazard boundary or flood insurance rate map or other flood hazard delineation map?				
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

i.	Expose people or structures to a significant risk or loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j.	Inundation by seiche, tsunami, or mudflow?				X

Environmental Setting:

The project site is located adjacent to and within Morro Bay. The project site is not located within a 100-year flood zone designation. Based on FEMA’s Flood Insurance Rate Map, the project site is within Flood Zone X (0.2 percent annual chance flood).

Impact Discussion:

- a. The project site is adjacent to and within Morro Bay. As discussed in Section 4 (Biological Resources), Section 6 (Geology and Soils), and Section 8 (Hazards / Hazardous Materials), construction of the project may result in erosion and down-gradient sedimentation or the accidental release of fuels, oils, or other materials, which may discharge into the bay. The project does not include a new parking area or additional sources of potentially polluted stormwater runoff beyond existing conditions. Mitigation is recommended to address these potential impacts and avoid discharge into surface waters.
- b. The proposed project would not require the use of additional City water supplies, because it consists of a remodel of existing uses, and no significant additional water use is anticipated. Potential impacts are less than significant.
- c. Implementation of the project would expand the existing approximately 6,252-square foot developed area to approximately 8,868 square feet, which would not substantially alter the existing drainage pattern on the site or area result in a significant increase in surface water runoff. Stormwater would continue to sheetflow off the project site and into the bay. No significant impacts would occur.
- d. Refer to c., above. The project would not increase runoff which would result in flooding on- or off-site. Impacts would be less than significant.
- e. Refer to c., above. The project would contribute additional runoff; however, the increase would be minimal due to the size of the project. No increase in capacity or additional sources of runoff would be placed within the existing storm water drainage system. Potential impacts would be less than significant.
- f. Refer to a. above. In addition, there is a potential that the existing wood pilings are treated with creosote, a hydrocarbon product that has negative water quality impacts. Removal of these pilings may stir up settled metals, or other pollutants on the bay floor. Mitigation is recommended to protect water quality to the maximum extent feasible, and reduce potential impacts to less than significant.
- g. The project location is not within FEMA’s 100-year flood hazard area. No impacts would occur.
- h. The project location is not within the FEMA 100-year flood hazard area, and would not redirect or impede any flood flows. No impact would occur.
- i. The project does not place structures or people in a high flood hazard area and is not within an area that would be affected by a levee or dam failure. No impact would occur.
- j. The project is located in an area potentially affected by tsunami. The project would not increase this risk beyond existing use of the site, and visitors would continue to implement existing emergency evacuation plans, similar to existing conditions. Therefore, potential impacts would be less than significant.

Mitigation and Residual Impact:

HYD Impact 1: **Construction of the project has the potential to result in pollutant discharge within the waters of Morro Bay.**

HYD/mm-1 *Prior to issuance of grading and building permits, the applicant shall prepare a Construction Plan, which shall, at a minimum, include the following:*

- a. *Construction Areas. The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas where construction activities and/or staging area to take place shall be minimized to the maximum extent feasible in order to have the least impact on public access and Morro Bay resources, including by using inland areas for staging and storing construction equipment and materials as feasible.*
- b. *Construction Methods. The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from bay and public recreational use areas (including using unobtrusive fencing or equivalent measures to delineate construction areas).*
- c. *Construction Best Management Practices (BMPs). The Construction Plan shall identify the type and location of all erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following: 1) silt fences, straw wattles, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging to the bay; 2) land side equipment washing, refueling, and/or servicing shall take place at least 50 feet from the bay, and all construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site; 3) the construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain, including exposed piles of soil and wastes; dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site); and 4) all erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of the day.*
- d. *Construction Site Documents. Copies of all permits and the approved Construction Plan shall be maintained in a conspicuous location at the construction job site at all times, and copies shall be available for public review upon request. All persons involved with the construction shall be briefed on the content and meaning of all issued permits and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.*
- e. *Construction Coordinator. The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies) and that their contact information (i.e., address, phone numbers, etc.) including at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the*

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

construction, and shall investigate complaints and take remedial action, if necessary with 24 hours of receipt of the complaint or inquiry.

HYD/mm-2

Prior to issuance of building permits, the applicant shall submit plans including the following notes, which shall be implemented during installation of pilings. Pilings shall be constructed of steel and shall be implanted into the ocean floor with a pile driver or vibratory hammer, as opposed to jetting. The applicant shall comply with these conditions, as required or modified by the Coastal Commission.

- a. *Material Containment. Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, wood preservatives, other chemicals, etc.) from entering the harbor or any other state waters. Where additional wood preservatives must be applied to cut wood surfaces, the materials, wherever feasible, shall be treated at an onshore location to preclude the possibility of spills into the harbor or other state waters. A designated staging area shall be used for refueling equipment and vehicles, mixing and storing materials, debris collection and disposal, and containing runoff from any materials that may be used or stockpiled during the project. A floating containment boom shall be placed around all active portions of a construction site where wood scraps or other floatable debris could enter the water. For any work on or beneath fixed decks, heavy-duty mesh containment netting shall be maintained below all work areas where construction discards or other material could fall in to the water. The floating boom and net shall be cleared daily or as often as necessary to prevent accumulation of debris. Contractors shall insure that work crews are carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills. Construction contracts shall contain appropriate penalty provisions, sufficient to offset the cost of retrieving or clean-up of foreign materials not properly contained.*
- b. *Piling Installation Procedures. The new pilings and piling sleeve shall be made from steel. Generally, the new pilings shall be installed according to the method that results in the least disturbance of bottom sediments. All piles will be driven into place with a vibratory hammer or piling hammer. If feasible, disturbed sediments shall be contained with a flexible skirt surrounding the driven pile. Construction barges shall be floating at all times and shall only operate at tides high enough so that the barge does not rest on the bottom of the bay.*
- c. *Procedures for Concrete Work. If pile installation, or any other portion of the operations and maintenance program, requires the pouring of concrete in, adjacent to, or over the water, the following methods shall be employed to prevent uncured concrete from entering the harbor or other state waters:*
 - 1) *Complete dewatering of the pour site, within a caisson or other barrier; the site to remain dewatered until the concrete is sufficiently cured to prevent any significant increases in the pH of adjacent waters; or,*
 - 2) *The tremie method, which involves placement of the form in water, inserting a plastic pipe down to the bottom of the form, and pumping concrete into the form so that the water is displaced towards the top of the form. If this method is selected, the displaced waters shall be pumped off and collected in a holding tank. The collected waters shall then be tested for pH, in accordance with the following California Department of Fish and Game recommendations. If the pH is greater than 8.5, the water will be neutralized with sulfuric acid until the pH is between 8.5 and 6.5. This pH-balanced water can then be returned to the sea. However, any solids that settle out during the pH balancing process shall not be discharged to the marine environment.*

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

- 3) *In each case involving such concrete pours in or near the harbor or other state waters, a separate wash out area shall be provided for concrete trucks and for tools. The wash out area(s) shall be designed and located so that there will be no chance of concrete slurry or contaminated water runoff to the harbor or other state waters, nor into storm drains or gutters which empty into such bodies of water.*

Refer to mitigation measures GS/mm-1 and HAZ/mm-1.

After implementation of these measures, residual impacts to hydrology and water quality would be less than significant.

Monitoring:

The City shall assign a monitor or inspector to verify compliance with mitigation measures during construction.

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

Environmental Setting:

The proposed project is located on the west side Embarcadero Road, directly northwest of Harbor Street, within the City of Morro Bay. The project is within Waterfront/Harbor zone with a Planned Development Overlay. Surrounding land uses include visitor serving and retail land uses to the south, north, and east, and Morro Bay to the west. The project site is currently developed by the Hofbrau restaurant, indoor and outdoor seating areas, Poppy and Crills II retail shops, restrooms, public walkway and view deck, and parking area.

Impact Discussion:

- a. The proposed project consists of the remodel and expansion of an existing use, and would not divide an existing community; therefore, impacts would be less than significant.
- b. The proposed project is an allowed use, subject to securing a Conditional Use Permit pursuant to Municipal Code Sections 17.24.170 (Zoning Ordinance, Primary Districts, Waterfront (WF) district) and 17.24.170 (Zoning Ordinance, Primary Districts, Harbor and navigable ways (H) district). The proposed project does not conflict with any of the expressed goals, policies, and objectives of the Local Coastal Program and would further many, including but not limited to, the following:

Visitor-Serving Policy 2.03. Consistent with LUP Policy 7.06A, the Embarcadero...shall be considered a mixed commercial fishing and visitor-serving recreational use area. With regard to the siting of new developments, priority shall be given for coastal-dependent uses located on the west side of the Embarcadero.

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

Visitor-Serving Policy 2.05. Future demands of the tourist industry shall be provided for when considering new development in Mixed Use Areas A and C and in the Embarcadero.

Shoreline Access and Recreation Policy 1.20. Each application for new development or lease which would result in an increase in intensity of use, change of use, or expansion of an existing structure seaward or an increase in height shall include a physical provision for continuous lateral access along the bayfront portion of the parcel.

In addition, the project is consistent with the Design Standards identified in the *Waterfront Master Plan* (1996), including standards specific to view corridors, building heights, sidewalk connections, and general design treatment (building character). Impacts to specific resources, including aesthetics, air quality, water quality, and noise, may also have an effect on land uses in the immediate area. These issues are addressed in each appropriate section of this Initial Study, and all impacts can be mitigated to less than significant. Therefore, any land use impacts would be less than significant.

- c. There are no habitat conservation plans or natural community conservation plans that apply to the project site. No impacts would occur.

Mitigation and Residual Impact:

The project is not expected to result in any potentially significant impacts to land use and planning. Recommended mitigation measures addressing environmental effects that may also affect land use, and potential use conflicts, include: *AES/mm-1, AES/mm-2, AQ/mm-1, AQ/mm-2, AQ/mm-3, HYD/mm-1, HYD/mm-2, and N/mm-1.*

Monitoring:

Compliance will be verified by the City through review of project plans and onsite inspection.

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

Environmental Setting:

The area of proposed development is located in an area that does not contain significant amounts of any known mineral resources.

Impact Discussion:

- a. The project is not located in an area of known mineral resources. Impacts would be less than significant.
- b. The project site is not designated on any local or regional plan as a locally-important mineral resource recovery site. No impacts would occur.

Mitigation and Residual Impact:

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

The project is not expected to result in any potentially significant impacts to mineral resources and no mitigation measures are necessary.

Monitoring:

None required.

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

Environmental Setting:

The City of Morro Bay Noise Element does not identify commercial or retail uses as noise sensitive. Parks, including Anchor Park located to the immediate north, are considered noise sensitive. The acceptable maximum level of noise exposure (from a stationary use) for noise sensitive uses is 70 decibels.

Impact Discussion:

- a. Construction activities associated with the proposed project would generate increased noise levels due to the use of heavy construction equipment and vehicles. Development of the proposed project would likely expose surrounding areas to noise levels that exceed those established in the Noise Element. This effect would be short-term, however, and would be limited to daytime hours pursuant to City policy. Short-term construction impacts would be less than significant.

The proposed uses would not generate additional sources of noise not currently experienced along the Embarcadero, including visitor-use and boat motors.

- b. The proposed project would result in some groundborne vibration and noise during the short-term construction phase. These potential impacts would be short-term and limited to daytime hours consistent with City policy. Mitigation is recommended to reduce the effects of vibration at the source (i.e. piling installation), including onsite monitoring during construction. Based on implementation of identified mitigation, potential noise impacts would be less than significant.
- c. Implementation of the project would not generate noise levels exceeding existing conditions, because no new noise-generating uses are proposed. The boat docks would be located adjacent to existing docks in the area, and use would not significantly increase the ambient noise level, which is currently affected by boat use in the bay. The impact would be less than significant.
- d. The project would create temporary increased in noise levels in the project vicinity above those existing without the project due to construction activities (refer to a. and b., above). However, potential increased

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

would not differ from those typically associated with similar development projects, and activities would be conducted in compliance with existing City policy and recommended mitigation; therefore, potential impacts would be less than significant.

Mitigation and Residual Impact:

N Impact 1 Construction of the project, including installation of new pilings, would generate noise and vibration potentially affecting surrounding uses and aquatic resources.

N/mm-1: Prior to issuance of grading and building permits, the applicant shall submit a Construction Plan, which shall include a pile driving or vibratory hammer plan and monitoring program designed to ensure that underwater noise generated by pile driving or vibratory hammer activities is minimized to the maximum extent feasible and does not exceed such limits: (1) an accumulated 187 dB SEL as measured 5 meters from the source; and (2) peak dB above 208 dB as measured 10 meters from the source. The plan shall provide for a hydro-acoustical monitor to ensure that underwater noise generated by pile driving activities does not exceed such limits. The plan shall also provide for additional acoustical best management practices to be applied if monitoring shows underwater noise above, such limits (including, but not limited to, alternative pile driving methods (press-in pile placement, drilling, dewatered isolation casings, etc.) and additional noise dampening measures (sound shielding and other noise attenuation devices).

After implementation of these measures, residual noise impacts would be less than significant.

Monitoring:

The retained hydro-acoustical monitor shall verify compliance with noise mitigation measures during construction, and submit monitoring reports to the City, pursuant to approved Construction Plan and Monitoring Plan. The City shall conduct spot-checks during construction.

13. POPULATION AND HOUSING		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:					
a.	Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
b.	Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c.	Induce substantial growth in an area either directly (for example, by proposing new homes and businesses) or indirectly (e.g. through extension of roads or other infrastructure)?			X	

Environmental Setting:

The City of Morro Bay has a population of 10,234 based on data from the 2010 Census. The population has remained relatively constant over the last decade, down approximately 1.1 percent from 10,350 in 2000 (California Department of Finance, Table E-4).

The San Luis Obispo County Council of Governments (SLOCOG) allocates housing production goals for the County and incorporated cities based on their fair share of the region’s population and employment, which is outlined in the SLOCOG 2008 Regional Housing Needs Plan. The Plan designated a Regional Housing Needs Allocation (RHNA) of 180 of the total 4,885 housing units to the City of Morro Bay over the 2007-2014 planning

period (SLOCOG 2008). The City’s 2009 Housing Element showed the city’s capacity to accommodate all 180 allocated units, and a remaining surplus of lands suitable to develop as many as 400 additional units.

Impact Discussion:

- a. Implementation of the project would have no effect on existing housing, and would not displace any people. No impacts would result.
- b. Refer to a., above. No impacts would result.
- c. The project proposes redevelopment of an existing use, and would not induce growth in the area either directly or indirectly. Impacts would be less than significant.

Mitigation and Residual Impact:

The project is not expected to result in any potentially significant impacts to population or housing and no mitigation measures are necessary.

Monitoring:

None required.

14. PUBLIC SERVICES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project result in a substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:				
a. Fire protection?			X	
b. Police protection?			X	
c. Schools?				X
d. Parks or other recreational facilities?				X
e. Other governmental services?				X

Environmental Setting:

According to the California Department of Finance, the city of Morro Bay’s population in 2010 was 10,234 and San Luis Obispo County’s population was 269,637. SLOCOG published a Long Range Socio-Economic Projections Report in May 2009, updating population projections in the county after accounting in the dramatic downturn in the economy and adjusting population projections accordingly. The report projects the city population to grow by 8.1 percent to 11,190 by 2030 (County growth was estimated to reach 18.1 percent) (City of Morro Bay, 2009).

The city of Morro Bay is served by the Morro Bay Police and Fire Departments and the San Luis Coastal Unified School District. The project site is located in a Medium Fire Hazard Zone and 15 Minute Emergency Response Zone on the County of San Luis Obispo safety maps.

There are two schools within the city, Del Mar Elementary School and Morro Bay High School. The San Luis Coastal Unified School District is operating at acceptable capacities at all grade levels. Elementary schools are currently operating at approximately 82.5 percent capacity, and serving 3,409 students. Middle schools serve approximately 1,071 students and are operating at 69.1 percent capacity. High schools within the district are the closest to reaching their capacity levels, and currently serve approximately 2,493 students at 93.4 percent capacity

(County of San Luis Obispo 2010). High school capacity levels have been designated a Level of Severity II, which means enrollment projections are estimated to reach school capacity with five years.

Impact Discussion:

- a. The proposed project would not result in additional demand for public services or utilities. During construction, there would be a potential demand for fire protection or police services in the unlikely event an incident occurs that requires emergency response. The project would have no effect on schools, parks, or other services.
- b. Refer to a., above. Impacts would be less than significant.
- c. Refer to a., above. No impact would occur.
- d. Recreational facilities are discussed in Section 15, below. No impact would occur.
- e. The proposed project is not expected to result in any significant adverse impacts on any other governmental services within the city or San Luis Obispo County. No impact would occur.

Mitigation and Residual Impact:

The project is not expected to result in any potentially significant impacts to public utilities and no mitigation measures are necessary.

Monitoring:

None required.

15. RECREATION Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?			X	

Environmental Setting:

The city of Morro Bay manages 13 city parks, and also offers three state parks and a significant number of open space and recreational opportunities associated with more than 10 miles of ocean shoreline within the city limits, over 95 percent of which is open to lateral coastal access. Approximately 90 percent of the lands abutting the Pacific Ocean in Morro Bay are publicly owned (City of Morro Bay, 1982). The proposed project is located adjacent to Anchor Park, a small pocket park adjacent to the bay. Recreational activities in the bay include boating, kayaking, surfing, stand up paddling, birdwatching, and sight-seeing.

Impact Discussion:

- a. Construction and implementation of the project would have a beneficial effect on existing or future recreational opportunities, because the project includes an expanded public walkway and boat docks. No adverse impact would occur.

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

- b. Refer to a. above. Impacts associated with development of the project are addressed in each appropriate resource section. Construction of the project would generate noise and may degrade water quality, which could have an adverse effect on recreational activities in the bay. These issues are addressed in the Initial Study, and identified mitigation would address potential impacts to recreation. Therefore, potential impacts would be less than significant.

Mitigation and Residual Impact:

The project is not expected to result in any potentially significant impacts to recreational facilities and no mitigation measures are necessary.

Monitoring:

None required.

14 TRANSPORTATION/CIRCULATION Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, street, highway and freeways, pedestrian and bicycle path, and mass transit?			X	
b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the country congestion management agency for designated roads or highways?			X	
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?			X	
d. Substantially increase hazards due to a design feature (e.g. limited sight visibility, sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?			X	
e. Result in inadequate emergency access?			X	
f. Conflicts with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities or otherwise decrease the performance or safety of such facilities?			X	

Environmental Setting:

The project site is located on Embarcadero Road, and is directly accessed from Embarcadero Road and Harbor Street. Alternative routes to the Embarcadero include Beach Street, Pacific Street, and Marina Street. During construction, equipment, trucks, and other vehicles would access the project site from this location. Onsite parking may be reduced during the construction period. Although the project includes an additional retail unit, based on the existing uses onsite and in the vicinity, this additional use is not anticipated to generate additional traffic trips.

Impact Discussion:

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

- a. Based on the nature of the project, it would not conflict with any applicable plan, ordinance, or policy related to transportation or circulation. The project includes an improved sidewalk and public walkway, which would improve pedestrian circulation in the immediate area. Long-term, operational trips would be similar to existing conditions. Therefore, potential impacts would be less than significant.
- b. Refer to a., above. The project would not conflict with any congestion management program.
- c. The project would not have any effect on area flight patterns. No change in air traffic patterns would result from the proposed project, and impacts would be less than significant.
- d. No hazardous design features are present, and no changes to the existing access are proposed. No impact would occur.
- e. The project site would continue to be accessible from Embarcadero Road, and would not result in inadequate emergency access from any on-site or adjacent location during construction and operation. No impact would occur.
- f. The project would not conflict with any adopted plans, policies, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities. No impact would occur.

Mitigation and Residual Impact:

Potential transportation and circulation impacts would be less than significant, and no mitigation is necessary.

Monitoring:

None required.

17. UTILITIES & SERVICE SYSTEMS Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e. Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

f.	Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?			X	
g.	Comply with federal, state, and local statutes and regulations related to solid waste?			X	

Environmental Setting:

The City receives water from a variety of sources: groundwater from the Morro Creek and Chorro Creek underflows, converted water through the City’s desalination facility, and state water via the Chorro Valley pipeline. The desalination facility also treats brackish water from the Morro Creek underflow for nitrate removal. The desalination facility provides water when the State Water Project pipeline undergoes annual maintenance. The City has an allocation from the State Water Project, including a drought buffer amount, as shown in Table 4, below.

Table 4. City of Morro Bay State Water Project Allocation (acre feet/year)

Water Service Amount	Buffer	Total Reserved	Minimum Allocation	Average Allocation	Maximum Allocation
1,313	2,290	3,603	216	1,313	1,313

*Source: County of San Luis Obispo, Annual Resource Summary Report 2009-2010

Water use in the city has remained relatively steady over the past 10 years (as has the city’s population), ranging from 1,317 afy in 2009-2010 at its lowest, to 1,475 afy in 2003-2004 at the highest.

Table 5. City of Morro Bay Total Water Use (acre feet/year)

1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2007-2008	2008-2009	2009-2010
1,372	1,417	1,437	1,423	1,475	1,400	1,384	1,420	1,369	1,317

*Source: County of San Luis Obispo, Annual Resource Summary Report 2009-2010

Based on information provided by the city for preparation of the County Resource Management System’s 2009-2010 Annual Resources Summary Report, per capita water use in 2009-2010 was approximately 111 gallons per capita per day (gpc/d). Based on Morro Bay’s previous reductions and current low usage, the City expects to be able to comply with state requirements for the reduction of per capita water use by 5 percent by 2020 (County of San Luis Obispo 2010). The city’s water rates are relatively high (the second highest rates in the county), with an average single family unit paying \$27.58 per month for approximately 5,236 gallons per month of water. This equates to a little more than \$0.005/gallon.

The city shares a wastewater treatment plant with the Cayucos Sanitary District, located in Morro Bay near the Morro Bay power plant. The wastewater treatment plant currently has one of the few secondary treatment waivers in the state, which allows the plant to dispose of primary-treated sewage through an outfall to the ocean. The waiver is being phased out over the next several years, as the plant is upgraded to provide tertiary treatment. At that level of treatment, the wastewater effluent could be recycled to augment the city’s water supply.

As of 2010, the city’s sewer treatment facility was operating at approximately 85 percent capacity (County of San Luis Obispo 2010). Average daily dry weather flows for 2010 were 1.19 million gallons per day (mgd), and peak daily dry weather flow was 1.75 mgd. The facility’s current daily capacity is 2.06 mgd (Bruce Keogh, personal communication, November 4, 2011). Wet weather flows are much higher (averaged approximately 2.6 mgd in 2010

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

and peaked at approximately 6.0 mgd). However, the system has sufficient detention capacity to hold these additional flow amounts and release flows consistent with the 2.06 mgd biological capacity. The city and Cayucos are in the process of upgrading the facility, and the expansion is expected to be completed in January 2014. After the expansion, the facilities capacity would be approximately 1.5 mgd, a reduced capacity that has been adjusted to account for new population and flow projections for both communities over a 20 year planning period (Bruce Keogh, personal communication, November 4, 2011). Additional information can be found in the Facility Master Plan, and specifically the Facility Master Plan – July 2010 Amendment 2, which are located on the City’s website, at <http://www.morro-bay.ca.us/index.aspx?NID=352>.

The city contracts with Morro Bay Garbage Service to provide residential and commercial garbage, recycling, and green waste collection services for Morro Bay. All of the city’s waste is taken to Cold Canyon Landfill. Cold Canyon is located approximately five miles south of the city of San Luis Obispo on State Route 227. Total capacity at the landfill is 10.9 million cubic yards, and the County is currently conducting environmental review for a proposal to expand the existing facility and services. Currently, about 75 percent of the landfill’s capacity is filled.

Impact Discussion:

- a. The project would continue to be served by existing City wastewater collection and treatment facilities, and would not include an onsite system. Therefore, there would be no impact.
- b. The project would continue to utilize City water resources and the City’s existing wastewater collection and treatment system and facility. Both services have sufficient capacity to meet the minimal anticipated increased capacity and demand resulting from the proposed project. The proposed restroom remodel would meet ADA standards. Impacts would be less than significant.
- c. The project would utilize the City’s existing stormwater drainage system, and would not require or result in the construction of new storm water drainage facilities or expansion of existing facilities. Impacts would be less than significant.
- d. The City’s existing water supplies are considered adequate to meet any additional demand generated by development of the proposed project and no new or expanded entitlements would be required. Impacts would be less than significant.
- e. The project would continue to be served by the City’s wastewater collection and treatment facility. The facility is expected to have sufficient capacity to meet additional capacity produced by the project, and impacts would be less than significant.
- f. The proposed project’s impact on capacity at Cold Canyon Landfill, and any approved hazardous materials landfill (for the treated wood pilings), would be minimal. The landfill is expected to be able to meet the additional demand and impacts would be less than significant.
- g. The project would comply with all applicable federal, state, and local statutes and regulations related to solid waste; impacts would be less than significant.

Mitigation and Residual Impact:

The project is not expected to result in any potentially significant impacts to utilities or service systems and no mitigation measures are necessary.

Monitoring:

None required.

IV. INFORMATION SOURCES:

A. City / County / Federal Departments Consulted:

County of San Luis Obispo

B. General Plan

x	Land Use Element	x	Conservation Element
x	Circulation Element	x	Noise Element
x	Seismic Safety/Safety Element	x	Local Coastal Plan and Maps
x	Zoning Ordinance		

C. Other Sources of Information

x	Field Work / Site Visit	x	Flood Control Maps
x	Calculations	x	Zoning Maps
x	Project Plans / Description	x	Soils Maps / Reports
	Traffic Study	x	Plant Maps
x	Records	x	Archeological Maps
x	Grading Plans	x	Other: County of San Luis Obispo Air Pollution Control District, CEQA Air Quality Handbook, adopted December 2009
x	Elevations /Architectural Renderings		
x	Published Geological Maps		
	Topographic Maps		
x	AG Preserve Maps		

D. References

California Department of Conservation, Division of Land Resource Protection. 2008. *Farmland Monitoring and Mapping Program – San Luis Obispo County Important Farmland Map 2008.*

California Department of Toxic Substances Control. Envirostor. <
<http://www.envirostor.dtsc.ca.gov/public/>>. Accessed April 27, 2012.

California Natural Diversity Data Base (CNDDB). 2012. Morro Bay South USGS 7.5- minute quadrangle overlays. California Department of Fish and Game. Sacramento, California.

City of Morro Bay. 1982. *Proposed Land Use Plan of the Local Coastal Program.*

City of Morro Bay. 1988. *City of Morro Bay General Plan – Visual Resource and Scenic Highway Element.*

City of Morro Bay. 1988. *Circulation Element.*

City of Morro Bay. 1996. *Waterfront Master Plan.*

City of Morro Bay. 2009. *Housing Element.*

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

County of San Luis Obispo, Resource Management System. 2010. *2009-2010 Annual Resource Summary Report, San Luis Obispo County General Plan.*

Department of Finance. 2011. Table E-4, Population Estimates, 2001-2010. Available at: <http://www.dof.ca.gov/research/demographic/reports/estimates/e-4/2001-10/view.php>. Accessed on: November 2, 2011.

Keogh, Bruce. November 4, 2011. Wastewater Division Manager. City of Morro Bay Public Services Department, Wastewater Treatment Plant Operations. Personal Communication.

National Oceanic and Atmospheric Administration National Marine Fisheries Service (NMFS). 2005. Endangered and Threatened Species; Designation of Critical Habitat for Seven Evolutionarily Significant Units of Pacific Salmon and Steelhead in California; Final Rule. Federal Register Vol. 70, No. 170:52488-52627.

Natural Resources Conservation Service, Web Soil Survey. < websoilsurvey.nrcs.usda.gov/ >. Accessed August 21, 2012.

Novak, Cathy. 2012. Harbor Center Project Description.

Tenera Environmental. 2011. Eelgrass (*Zostera marina*) and *Caulerpa taxifolia* Survey 901-915 and 945 Embarcadero, Morro Bay, CA. August 31, 2011.

United States Department of Agriculture, Soil Conservation Service. 1984. *Soil Survey of San Luis Obispo, California, Coastal Part.*

V. MANDATORY FINDINGS OF SIGNIFICANCE (Section 15065)

A project may have a significant effect on the environment and thereby require a focused or full environmental impact report to be prepared for the project where any of the following conditions occur (CEQA Sec. 15065):

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>Potential to degrade:</i> Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?		X		
<i>Cumulative:</i> Does the project have impacts that are individually limited but cumulatively considerable? (Cumulatively considerable means that incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
<i>Substantial adverse:</i> Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?			X	

Impact Discussion:

Potential to Degrade. The proposed project would not substantially degrade or threaten the quality of the environment, habitat or populations of any fish or wildlife species, or important examples of California history or prehistory. Potential adverse effects to the environment associated with development of the project includes impacts to eelgrass, marine mammals, and migratory birds, and the potential contamination, disturbance, runoff, or sedimentation into Morro Bay. Mitigation measures have been proposed to prevent potential impacts and avoid long-term adverse effects. Refer to Sections 4 (Biological Resources), 6 (Geology and Soils), 8 (Hazards and Hazardous Materials), 9 (Hydrology and Water Quality), and 12 (Noise) for additional information.

Cumulative. Project-specific impacts, when considered along with, or in combination with, other impacts, do not rise to a level of significance. Project impacts are limited and no substantial cumulative impacts resulting from other projects were identified.

Substantial Adverse. The project does not have environmental effects that could cause substantial adverse effects on human beings, either directly or indirectly. Project impacts are limited and standard mitigation measures would be incorporated that would reduce any potential impacts to a less than significant level.

Mitigation and Residual Impacts:

Section: Biological Resources

Mitigation Measures: Refer to mitigation measures BIO/mm-1, BIO/mm-2, BIO/mm-3, BIO/mm-4, BIO/mm-5, BIO/mm-6, GS/mm-1, HAZ/mm-1, HYD/mm-1, HYD/mm-2, and N/mm-1.

INITIAL STUDY AND CHECKLIST – Held Harbor Center

CASE NO.: UPO-342

DATE: September 19, 2012

Monitoring: The retained biological monitor shall verify compliance with biological mitigation measures during construction, and submit monitoring reports to the City, pursuant to an approved Monitoring Plan. The City shall conduct spot-checks during construction.

Section: Geology and Soils

Mitigation Measure: Refer to GS/mm-1.

Monitoring: Design plans shall be inspected and approved to ensure compliance. Monitoring or inspection of construction activities shall occur as needed to ensure compliance with design plans and the drainage and erosion control plan.

Section: Hazards and Hazardous Materials

Mitigation Measures: Refer to HAZ/mm-1 and HYD/mm-1.

Monitoring: The City Environmental Coordinator shall verify receipt of required documentation. Monitoring or inspection shall occur as necessary to ensure development is proceeding consistent with the Construction Plan.

Section: Hydrology and Water Quality

Mitigation Measure: Refer to GS/mm-1, HAZ/mm-1, HYD/mm-1, and HYD/mm-2.

Monitoring: The City shall assign a monitor or inspector to verify compliance with mitigation measures during construction and post-construction.

Section: Noise

Mitigation Measures: Refer to N/mm-1.

Monitoring: The retained hydro-acoustical monitor shall verify compliance with noise mitigation measures during construction, and submit monitoring reports to the City, pursuant to approved Construction Plan and Monitoring Plan. The City shall conduct spot-checks during construction.

VI. DETERMINATION

On the basis of this initial evaluation:

The Public Services Director has found that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

The Public Services Director has found that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

The Public Services Director has found that the proposed project **MAY** have limited and specific significant effect on the environment, and a **FOCUSED ENVIRONMENTAL IMPACT REPORT** is required.

The Public Services Director has found that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

With Public Hearing

Without Public Hearing

Previous Document : _____

Project Evaluator : _____

Signature

Initial Study Date

Printed Name

On behalf of Rob Livick, Public Services Director

Lead Agency

VII Attachments

Attachment A – Summary of Mitigation Measures

INITIAL STUDY AND CHECKLIST – Held Harbor Center
CASE NO.: UPO-342
DATE: September 19, 2012

VII. ATTACHMENTS

EXHIBIT D

PARKING ANALYSIS

901 Embarcadero

Area	Use	Parking/sf	Req'd parking
EXISTING			
Crillis II	Retail	1 per 300	4.46
Poppy	Retail	1 per 300	4.88
Total Retail			9.34
Hofbrau:			
Inside	Restaurant	1 per 60	17.38
Outdoor dining and behind wind screen	Restaurant	125 sq. ft. none required/ 1 per 120	1.8
Enclosed dining - glass court	Restaurant	One per use/ 1 per 60	2.2
Total restaurant			21.38
Previous parking from CUP 24-86			
Dock Parking (Includes Sport Fishing)			
			1.5
			8.5
Total existing parking			40.72 spaces

PROPOSED

Crillis II	Retail	1 per 300	4.46
Poppy	Retail	1 per 300	4.88
New Unit	Retail	1 per 300	1.97
Total Retail		1 per 300	11.31
Hofbrau:			
Inside	Restaurant	1 per 60	17.38
Outdoor dining behind wind screen	Restaurant	125 sq. ft. none required/ 1 per 60	1
(Glass Court parking spaces deleted from proposed because will change to general public seating and no parking required)			
Total restaurant			18.78
Total Docks	Docks	1 per 35 in. ft. tie down area	6.86
Total required parking			36.95 spaces

Credits: Reduction in outdoor dining areas gained .8 space; reduction in dock usage and no sportfishing dockage gained 1.5 spaces and change of glass court gained 2.2 spaces, equalling 4.5 spaces. Note also that the project is credited with a parking ratio of 1 space for every 6.5 feet of boat length. The San Mateo boat was historically moored at the site and was 46 feet long; the parking credit is 7 spaces.

Note that the 1997 rule for calculating commercial parking use is different than current rule.

HARBOR CENTER CONCEPT PLAN

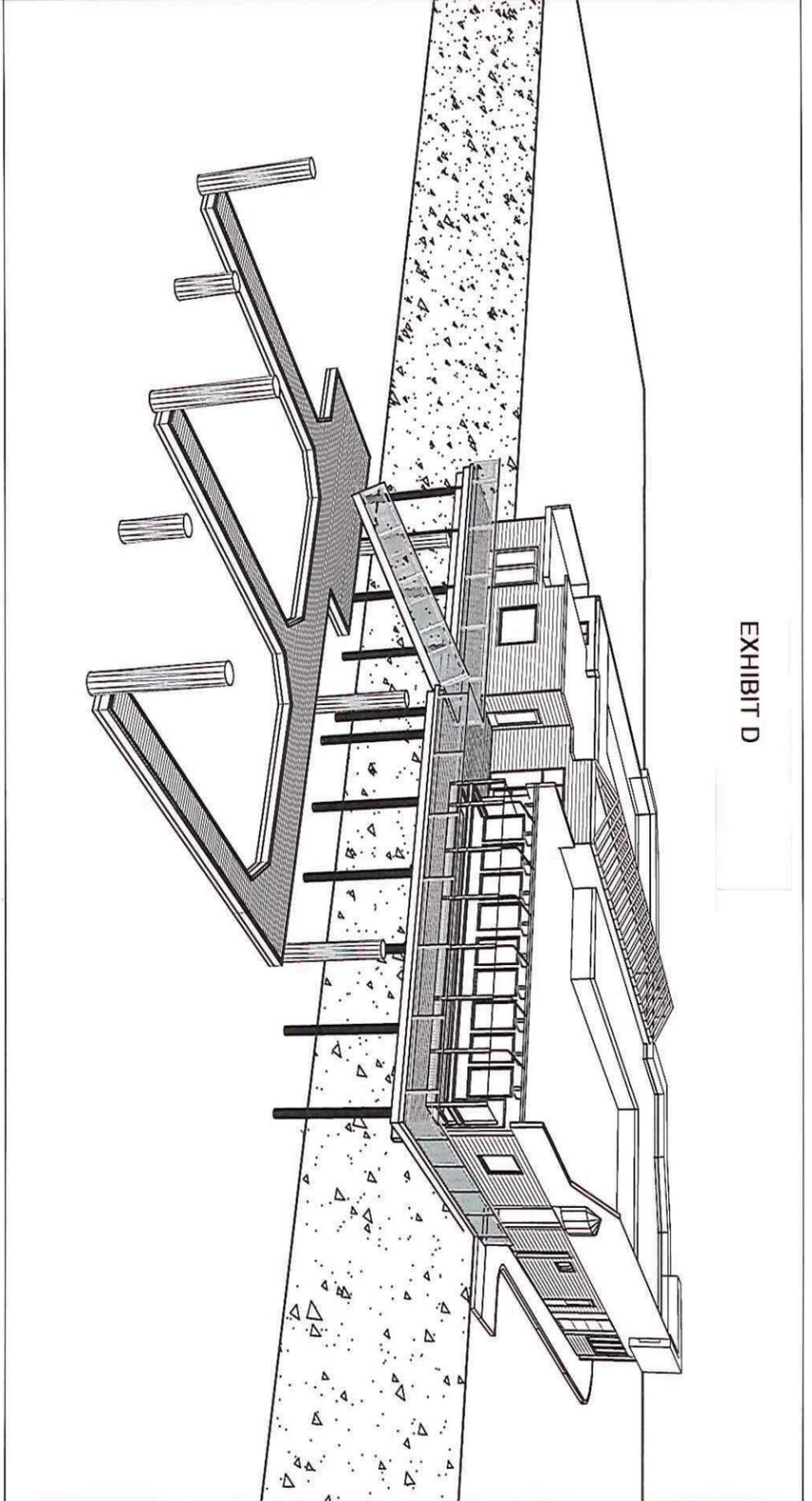
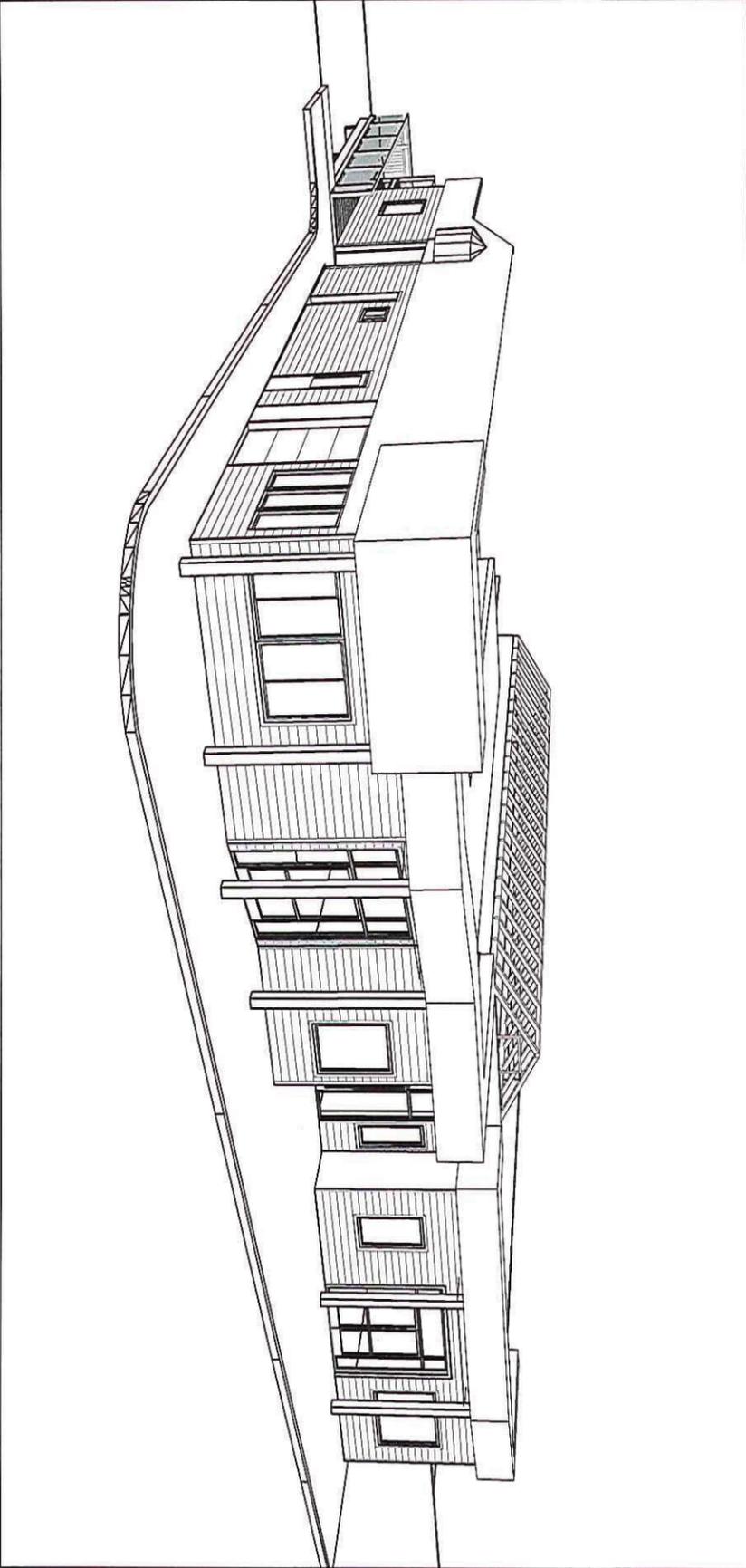


EXHIBIT D

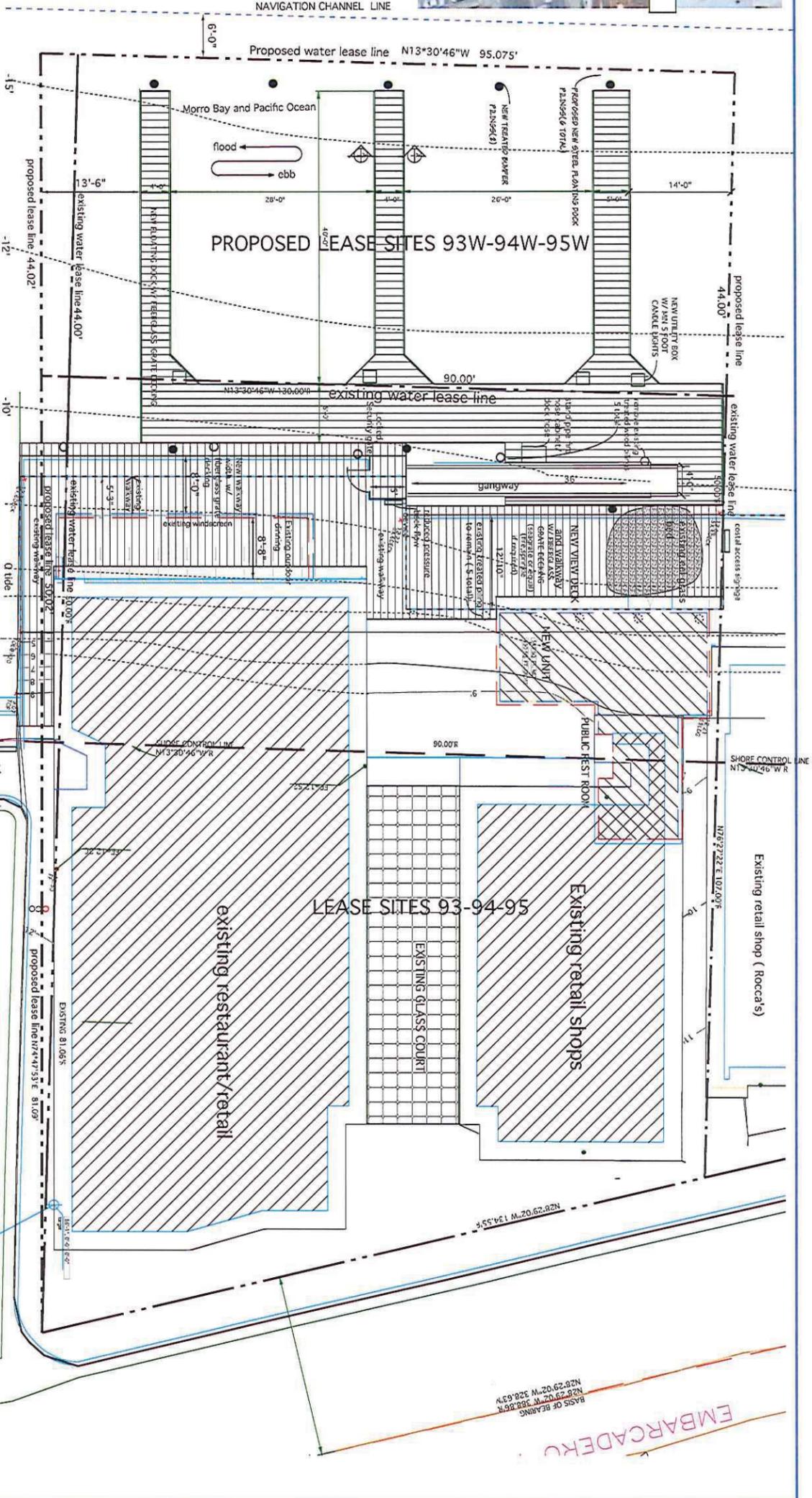
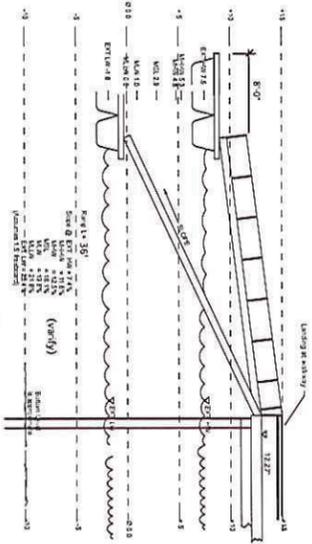
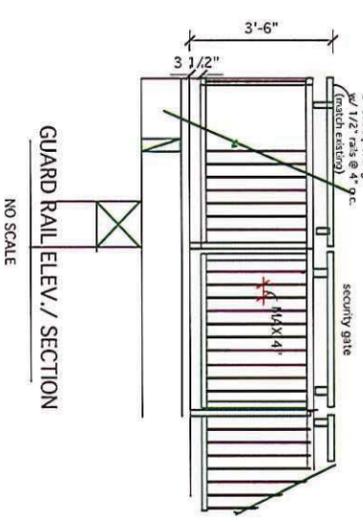
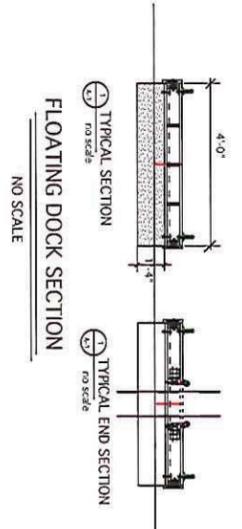
<p>REQUIRED PARKING:</p> <p>CALLS 1 1200 SF GROSS 1 1000 SF GROSS NEW UNIT 617 SF GROSS</p> <p>HARBORAU</p> <p>NET DINING AREA 1037 SF 60 NET DINING AREA 1682 RESTAURANT (NET) 244 SF 120 (BEHIND VAD SCREEN) 159 SF (817 125 SF NO PARKING REQUIRED)</p> <p>TOTAL HARBORAU 0 1812 CLASS COURT PUBLIC SEATING 0 TE DOWN AREA 248 LN FT 35 MARINA (NON-LINE BOARD) TOTAL PARKING 3123 REQUIRED PARKING 3780</p>	<p>PROJECT DATA</p> <p>OWNER: CITY OF MORRO BAY LEASE HOLDER: HELD FAMILY TRUST CONTRACT: CA 15438 ADDRESS: 901 EMBARCADERO MORRO BAY, CA 94138 805-772-8436</p> <p>JOB ADDRESS: 901 EMBARCADERO LEASE DATES: 5/1/2012 TO 5/1/14 5/1/14 TO 5/1/16 5/1/16 TO 5/1/18</p> <p>LOT SIZE: 1.42 AC EXISTING: 1.42 AC VAD USE: 1.42 AC TOTAL: 1.42 AC</p> <p>ZONING: FIRST WORKSHP EXISTING: 1.42 AC PROPOSED: 1.42 AC</p> <p>PROPOSED SECOND FLOOR STORAGE: 214 SF PROPOSED TOTAL BUILDING: 17,433 SF PROPOSED BUILDING FOOTPRINT: 8,888 SF EXISTING WALKWAY TO BEYOND: 556 SF PROPOSED NEW WALKWAY: 1,418 SF OUTDOOR DINING: 495 SF PROPOSED FLOATING DOCK: 1,180 SF</p>	<p>TABLE OF CONTENTS</p> <p>T-1 PROJECT DATA</p> <p>A-1 PROPOSED DOCK, PUBLIC WALKWAY & WATER LEASE SITE</p> <p>A-2 PROPOSED PLOT PLAN</p> <p>A-3 PROPOSED FLOOR PLAN</p> <p>A-4 PROPOSED FLOOR AREA PLANS</p> <p>A-5 PROPOSED EXTERIOR ELEVATIONS</p> <p>EX-1 EXISTING FLOOR PLAN</p>	<p>PROJECT LOCATION</p> <p>PACIFIC OCEAN</p> <p>MORRO ROCK</p> <p>MORRO BAY STATE PARK</p> <p>VAQUITA MAP</p> <p>MORRO AVENUE</p> <p>KERN AVENUE</p> <p>CITY OF MORRO</p> <p>DOWNTOWN MORRO BAY</p>	
--	--	---	--	--

Plotted: 5/8/2012 4:13 PM
 F:\ACAD\Jobs\1101 Held\ConceptPlanCoverSht.dwg
 Tab: Coversht T-1

SHEET	1-11-10	PROJECT DATA TABLE OF CONTENTS	<p>HELD PROPERTIES HARBOR CENTER 901 EMBARCADERO MORRO BAY, CALIF.</p>	<p>LAND/SEA INTERFACE GENE DOUGHTY-ARCHITECT 1-805-772-8436</p>	<p>The plans, specifications, notes and details hereon prepared, are the property of Land/Sea Interface and shall not be used in whole or in part for any other project without the written consent of Land/Sea Interface.</p>
-------	---------	-----------------------------------	---	---	--



VICINITY AERIAL MAP
NO SCALE



PROPOSED WATER LEASE SITE IMPROVEMENTS



1/8" = 1'-0"

NOTE: SEE A-2 FOR PARKING

SHEET	11-9-1111-14-11 11-17-1111-23-12 1-26-12 4-11-12 5-7-12
SCALE: AS NOTED	
DRAWN: GO	

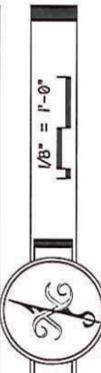
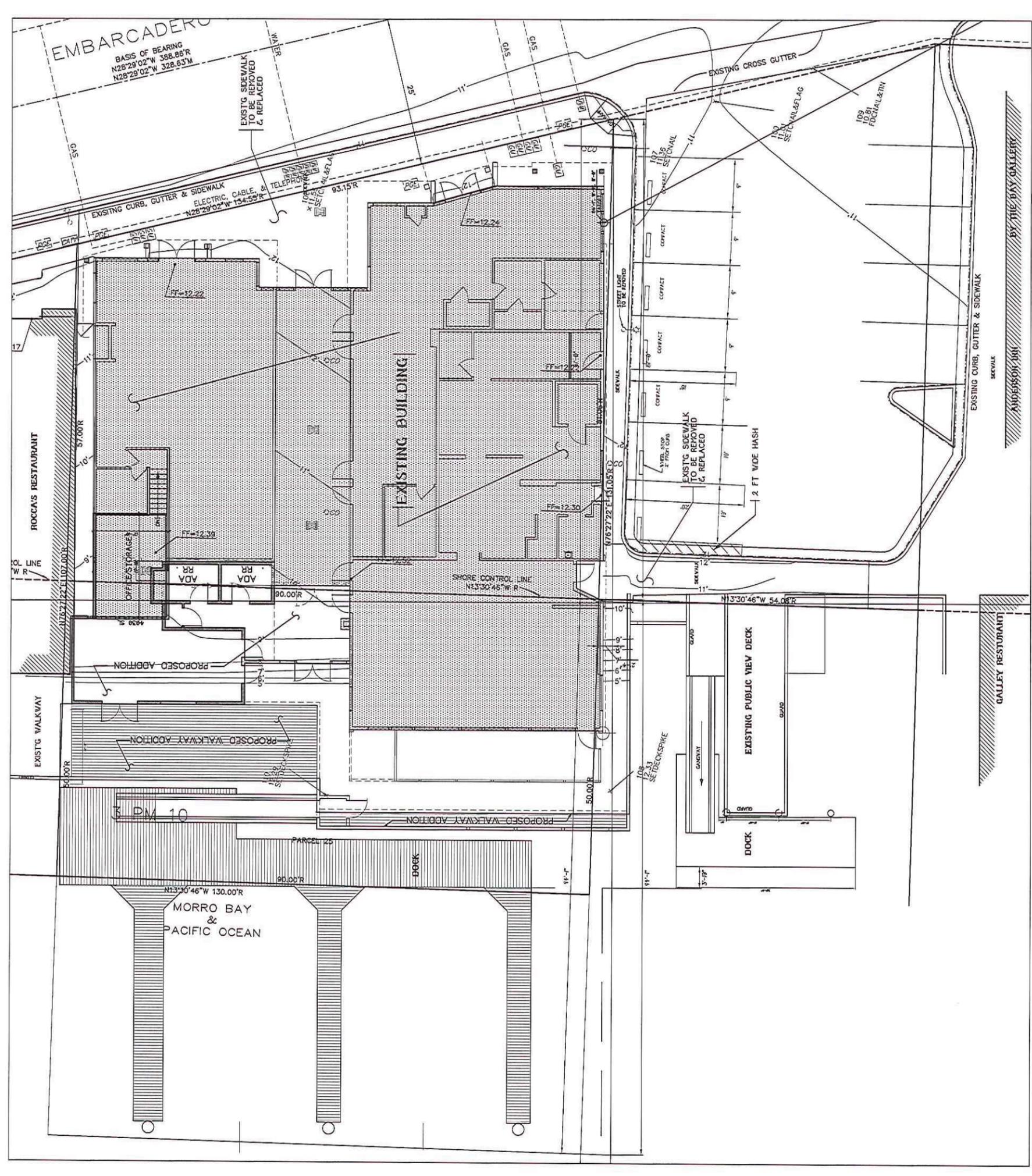
1101	WATER LEASE SITE IMPROVEMENTS
------	-------------------------------

HELD PROPERTIES HARBOR CENTER 901 EMBARCADERO MORRO BAY, CALIF.
--

LAND/SEA INTERFACE GENE DOUGHTY-ARCHITECT 1-805-772-8436
--

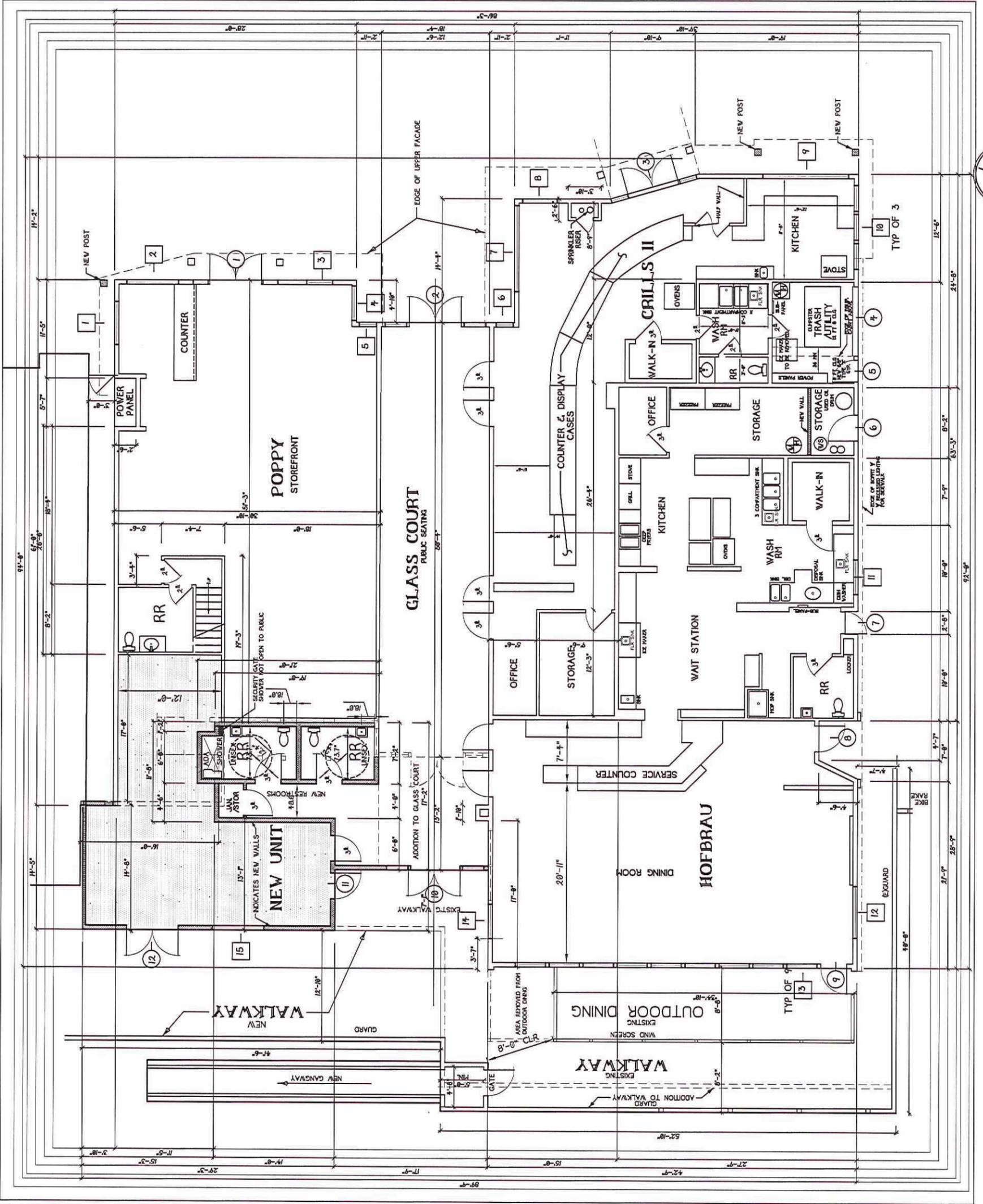
The plan, specifications, notes and drawings are prepared by the architect and are not to be construed as a contract. The architect is not responsible for the accuracy of the information provided by the client. The architect is not responsible for the accuracy of the information provided by the client. The architect is not responsible for the accuracy of the information provided by the client.

P:\ACAD\Job\1101 Held\Proposed\Plan.dwg
Plotted: 5/8/2012 4:14 PM



1/8" = 1'-0"

PROPOSED PLOT PLAN



PROPOSED FLOOR PLAN W/ EXISTING TENANT IMPROVEMENTS
3/16" = 1'-0"

O-EXTERIOR DOOR SCHEDULE

MARK #	DESCRIPTION	TYPE	SIZE	REMARKS
1	DBL 3x7 1/2	E	3x7 1/2	MTL STOREFRONT W/ 24" HI TRANSOMS
2	DBL 3x7 1/2	E	3x7 1/2	MTL STOREFRONT W/ 24" HI TRANSOMS
3	DBL 3x7 1/2	E	3x7 1/2	MTL STOREFRONT W/ 24" HI TRANSOMS
4	MTL	P	6x7 1/2	MTL ROLL-UP
5	MTL	P	3x7 1/2	MTL
6	WD W/ TOP LITE	E	3x7 1/2	MTL PICTURE
7	WD W/ TOP LITE	E	3x7 1/2	MTL PICTURE
8	MTL W/ FULL LITE	E	3x7 1/2	MTL PICTURE
9	WD SC	E	3x7 1/2	MTL PICTURE
10	DBL 3x7 1/2	P	3x7 1/2	MTL STOREFRONT
11	3x7 1/2	P	3x7 1/2	2x SIDELITES W/ 24" HI TRANSOMS SALVAGE EXISTG
12	DBL 3x7 1/2	P	3x7 1/2	MTL W/ FULL LITE
13	DBL 3x7 1/2	P	3x7 1/2	MTL W/ FULL LITE
14				
14				

DRAWINGS TO SCALE FOR ONLY 36X24 PLOTS

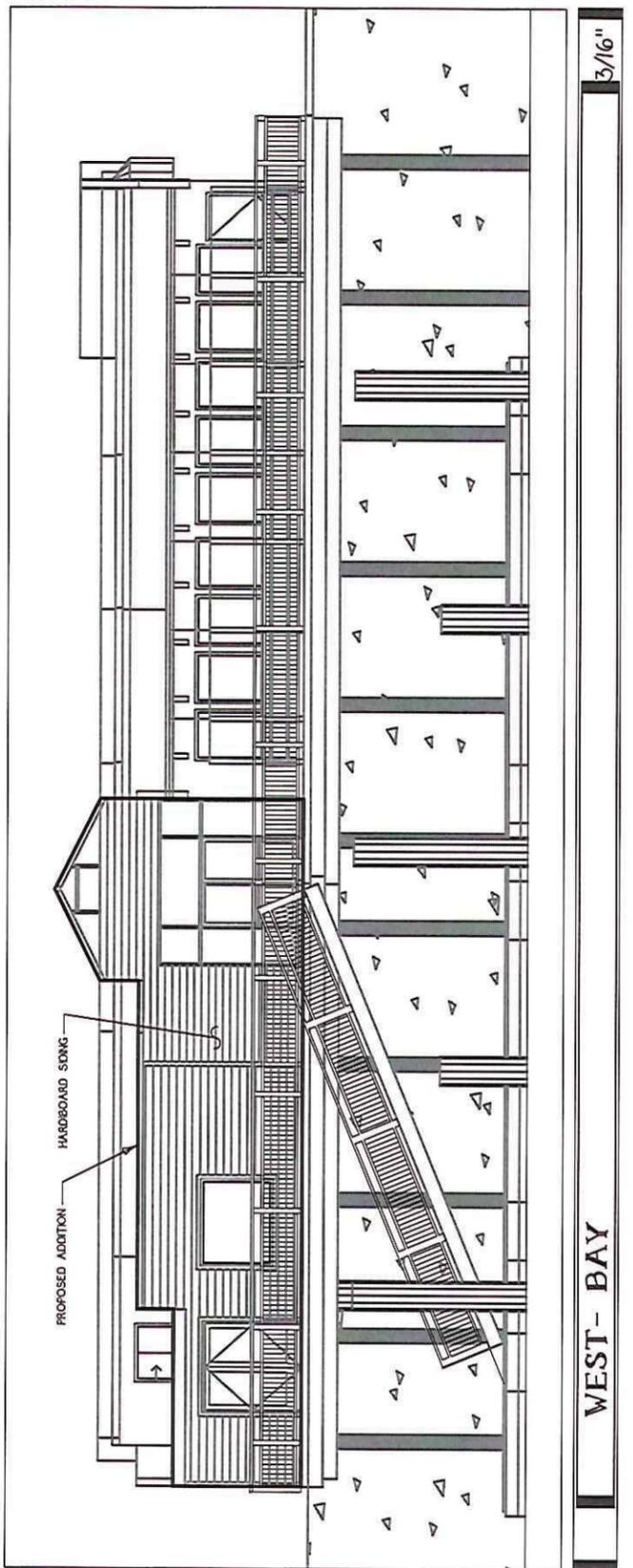
O-EXTERIOR WINDOW SCHEDULE

MARK #	DESCRIPTION	TYPE	SIZE	REMARKS
1	5050	E	5050	MTL PICTURE
2	6050	E	6050	MTL PICTURE
3	3050	E	3050	MTL PICTURE
4	4050	E	4050	MTL PICTURE
5	2050	E	2050	MTL PICTURE
6	2050	E	2050	MTL PICTURE
7	2-5050	E	2-5050	MTL SLIDERS
8	4050	E	4050	MTL PICTURE
9	2-5050	E	2-5050	MTL SLIDERS
10	3-3050s	E	3-3050s	MTL SLIDERS
11	3020	E	3020	MTL SLIDER
12	6050	E	6050	MTL STACKED
13	9-3050	E	9-3050	WD PICTURE
14	4050	E	4050	WD PICTURE
15	6050	E	6050	MTL PICTURE

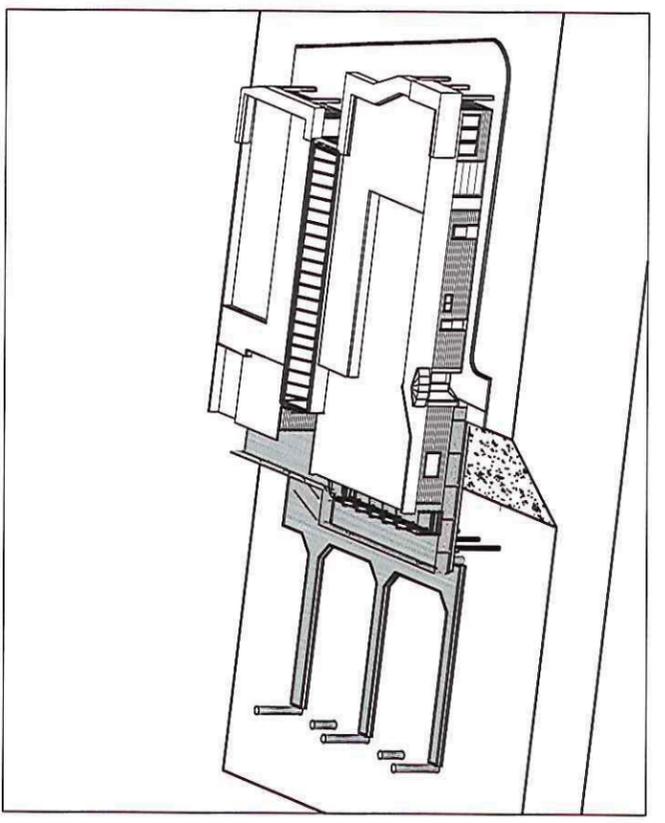
DRAWINGS TO SCALE FOR CUSTOMER DESKS, MONS, ROPE-TEST, CTB

PLOTTER: PDF995

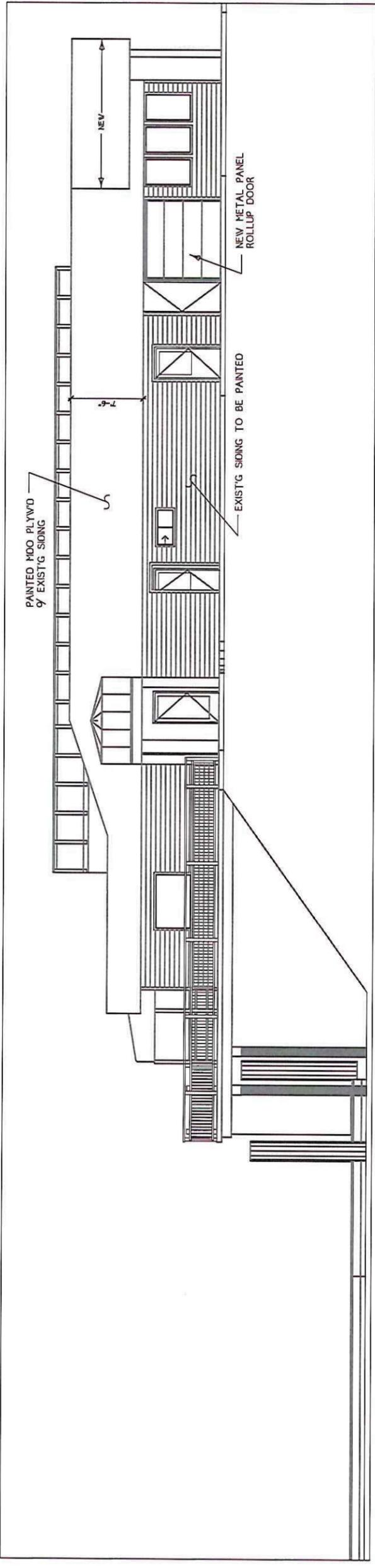
Printed: 5/1/2012 4:03 PM
P:\ACAD\Jobs\1101 Held\ Elevations.dwg
Tab: Elevations



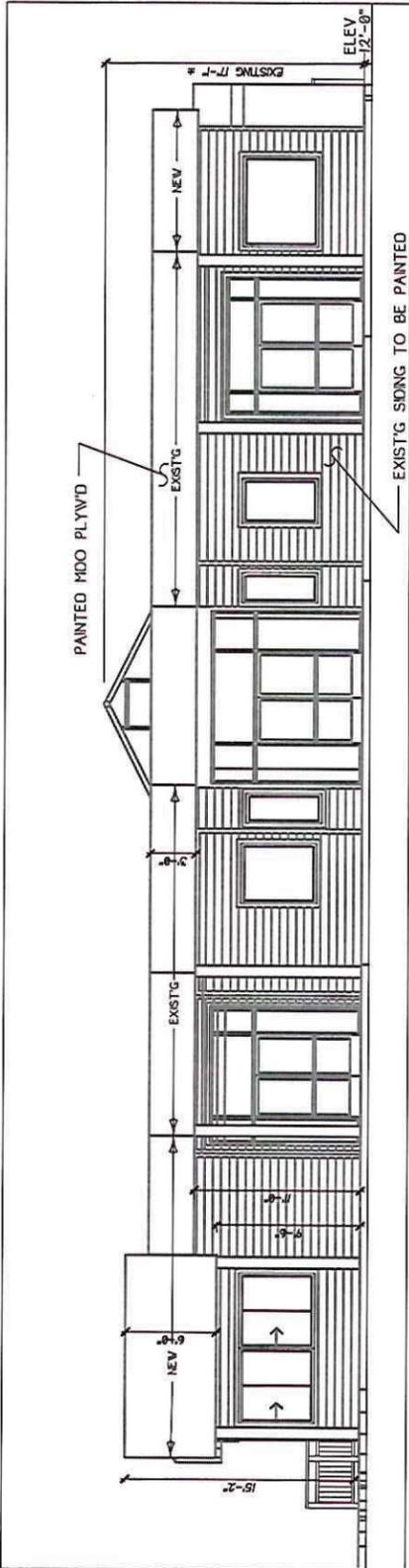
WEST - BAY



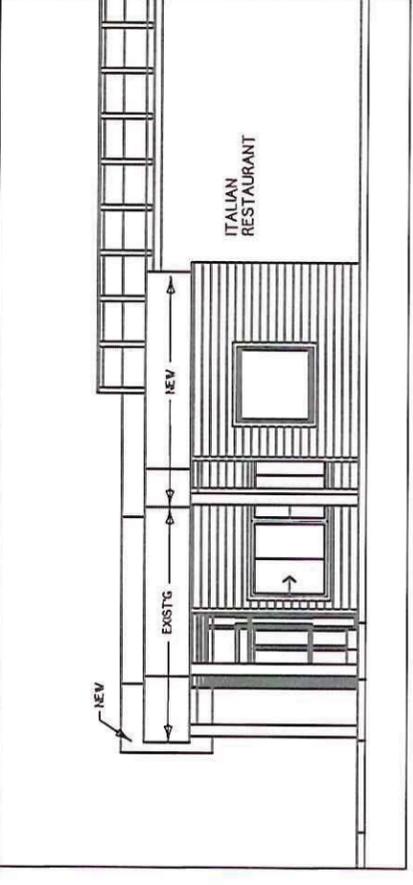
SOUTH - HARBOR ST.



EAST - EMBARCADERO

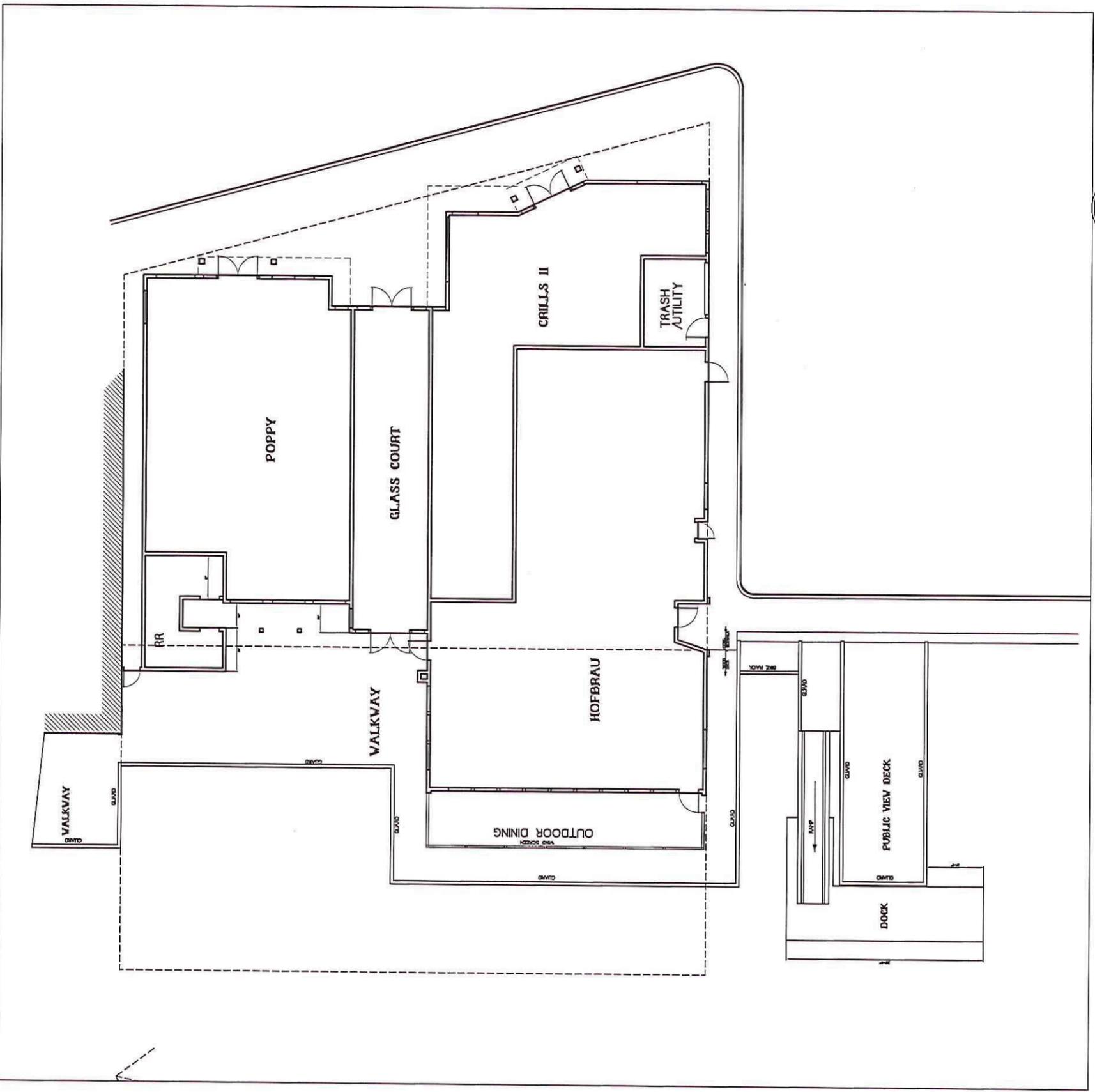


NORTH - ANCHOR PARK



ITALIAN RESTAURANT

Printed: 6/8/2012 4:19 PM
P:\ACAD\Job\1101_Held\Plot\Existing.dwg



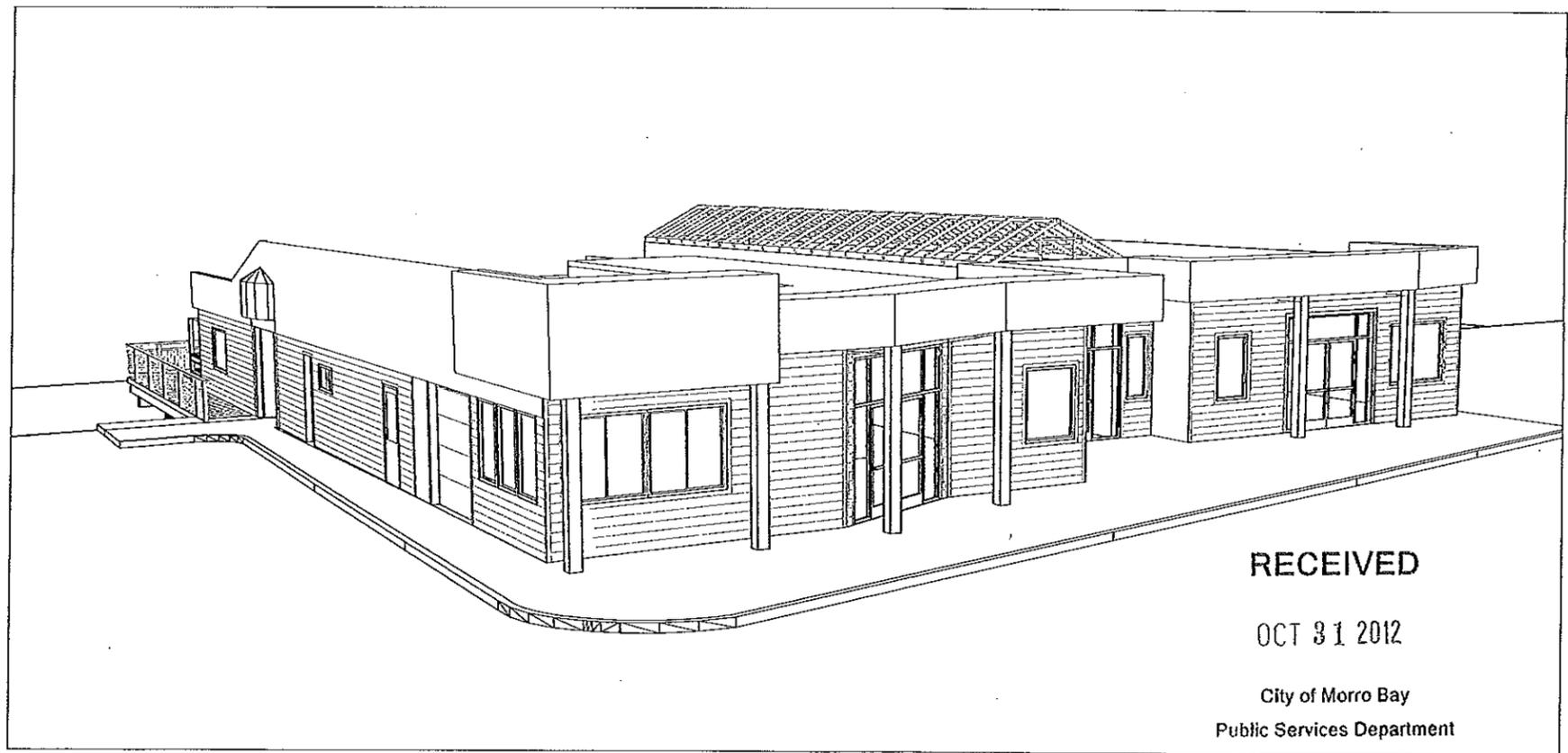
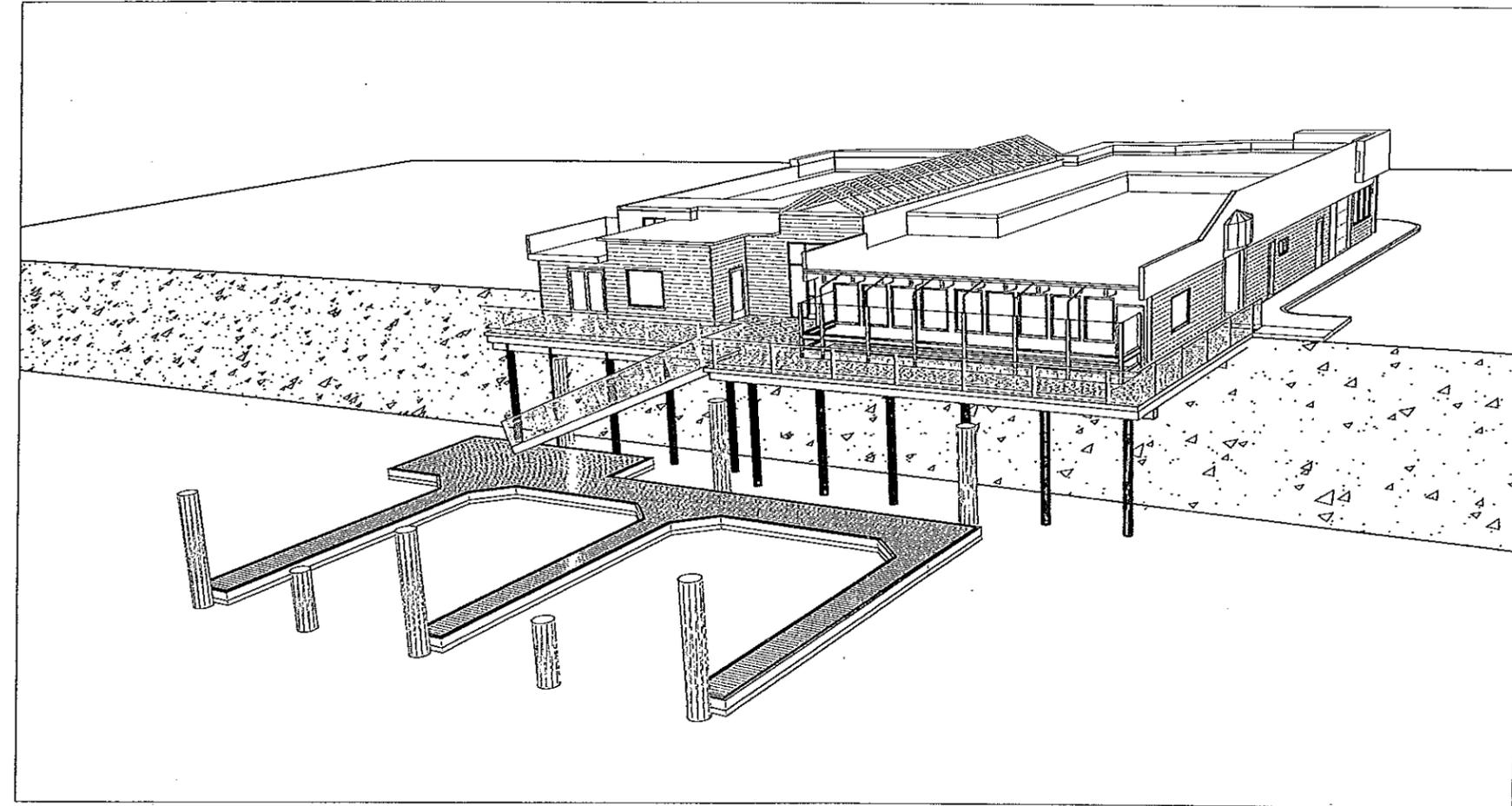
1/8" = 1'-0"

EXISTING PLOT PLAN

DRAWINGS TO SCALE FOR ONLY 36x24 PLOTS

PLOTTER: PDFWR5

PLOT STYLE TABLE: MONochrome-TEST.ctb



RECEIVED

OCT 31 2012

City of Morro Bay
Public Services Department

HARBOR CENTER CONCEPT PLAN

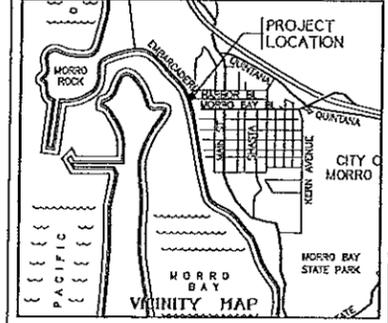
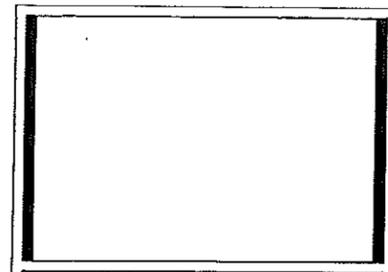
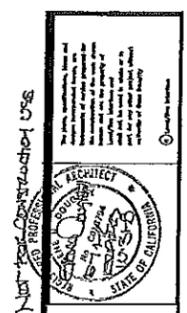


TABLE OF CONTENTS	
I-1	PROJECT DATA
A-1	PROPOSED DOCK, PUBLIC WALKWAY & WATER LEASE SITE
A-2	PROPOSED PLOT PLAN
A-3	PROPOSED FLOOR PLAN
A-4	PROPOSED FLOOR AREA PLANS
A-5	PROPOSED EXTERIOR ELEVATIONS
EX-1	EXISTING FLOOR PLAN

PROJECT DATA		
OWNER	CITY OF MORRO BAY	
LEASE HOLDER	HELD FAMILY TRUST	
	PO BOX 225	
	CAYUCOS, CA 93924	
	805-775-2113	
JOB ADDRESS	101-102 EMBARCADERO	
	MORRO BAY	
LEASE SITES	1A, 13A, 14, 15A, 15A, 2 & 15A	
APN	844-022-028	
LOT SIZE	EXISTING	PROPOSED
LAND LEASE	6,249 SF	6,249 SF
WATER LEASE	1,632 SF	1,632 SF
TOTAL	7,881 SF	7,881 SF
ZONING	VFPO-24M	
EXISTING FIRST FLOOR BUILDING	6,252 SF	
PROPOSED ADDITION	492 SF	
EXISTING SECOND FLOOR STORAGE	224 SF	
PROPOSED TOTAL BUILDING	7,168 SF	
FOOTPRINTS	558 SF	
PROPOSED BUILDING FOOTPRINT	8,269 SF	
EXISTING WALKWAY TO EDHUN	256 SF	
PROPOSED NEW WALKWAY	118 SF	
TOTAL PROPOSED WALKWAY	374 SF	
OUTDOOR DINING	289 SF	
PROPOSED FLOATING DOCK	1,103 SF	
REQUIRED PARKING:	PARKING PER SF	REQUIRED PARKING
CELLS #	1,363 SF GROSS	363
POPPY	1,678 SF GROSS	4,161
NEW UNIT	614 SF GROSS	360
		2,05
HOFBRAU	NET DINING AREA	
RISDE DINING (RESTAURANT ONLY)	1,039 SF	69
OUTDOOR DINING (BEHIND WIND SCREEN) 159 SF	284 SF	120
OST (25 SF NO PARKING REQUIRED)		13
TOTAL HOFBRAU		182
GLASS COURT PUBLIC SEAT'G	0	0
TE DOWN AREA		
MARINA (NON-LINE ABOARD)	218 LN FT	35
		6,86
	TOTAL PARKING	37,23
	REQUIRED PARKING	37,03

Plotted: 5/17/2012 4:13 PM
F:\ACAD\Jobs\1101_Hold\ConceptPlanCoverShk.dwg
Tab: CoverTab T-1

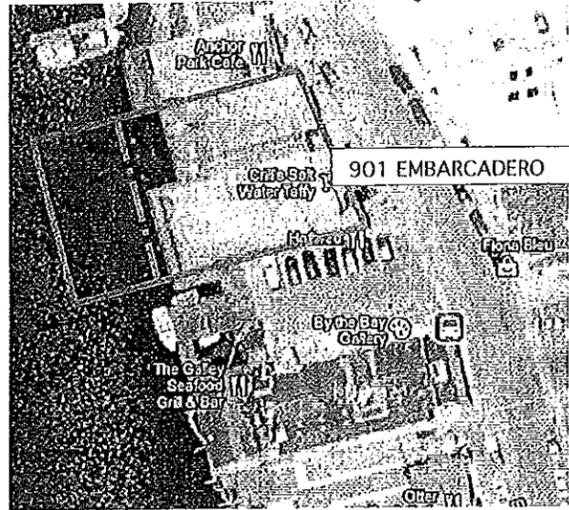


LAND/SEA INTERFACE
GENE DOUGHTY-ARCHITECT 1-805-772-9436

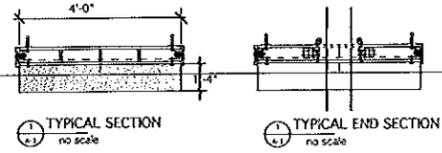
HELD PROPERTIES
HARBOR CENTER
901 EMBARCADERO MORRO BAY, CALIF.

PROJECT DATA
TABLE OF CONTENTS

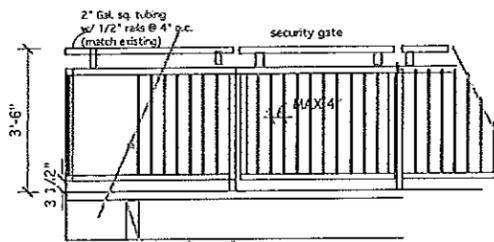
SHEET T-1 OF SHEET
SCALE AS NOTED
DRAWN: MAA



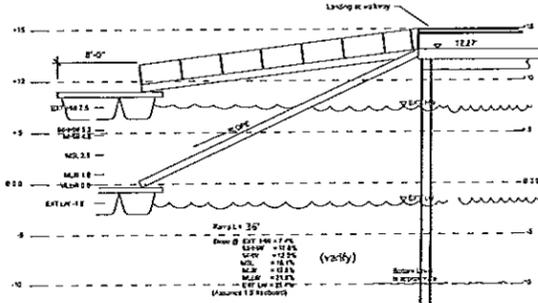
VICINITY AERIAL MAP
NO SCALE



TYPICAL SECTION
TYPICAL END SECTION
FLOATING DOCK SECTION
NO SCALE

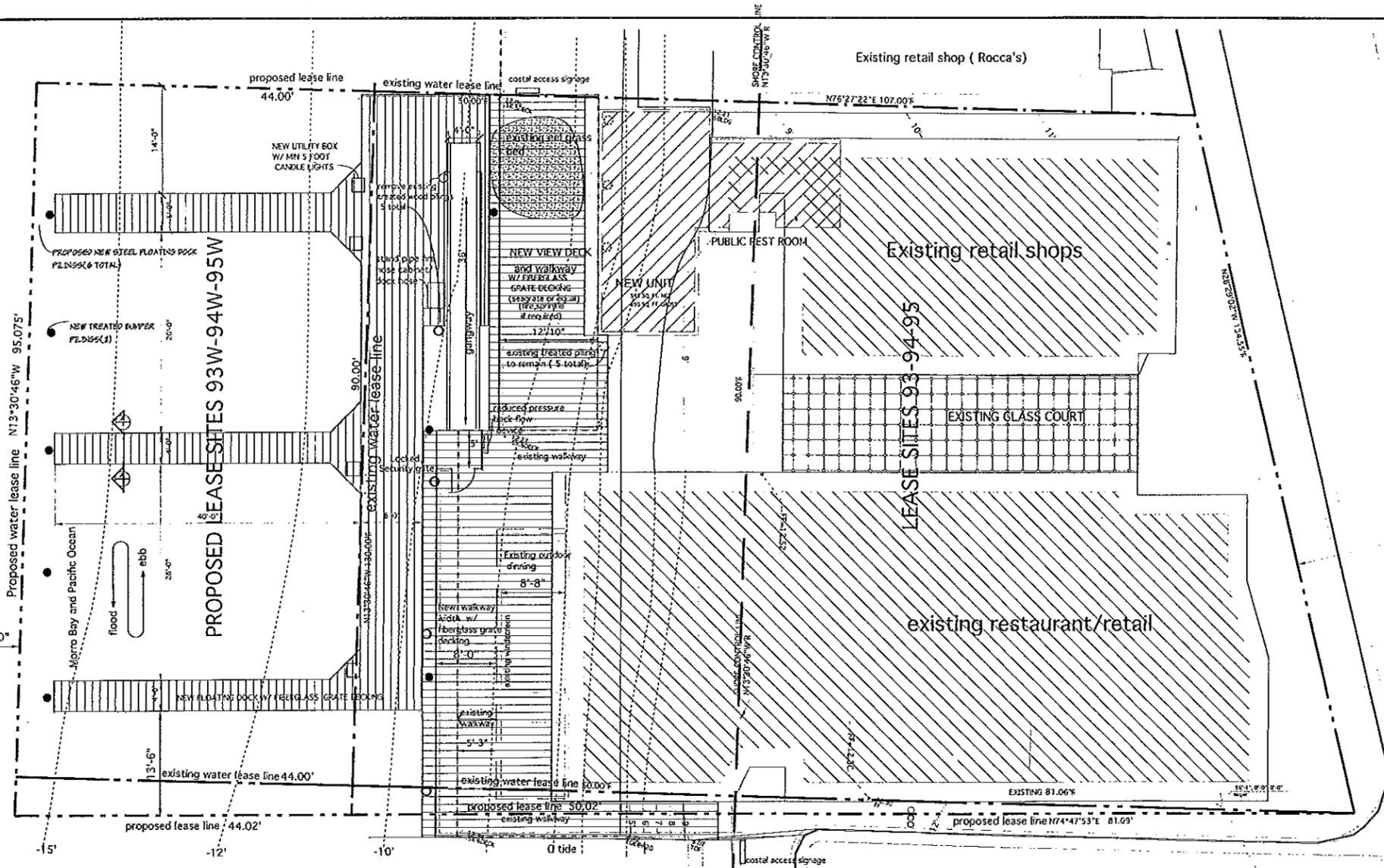


GUARD RAIL ELEV./ SECTION
NO SCALE



GANGWAY ELEV./ SECTION
NO SCALE

NAVIGATION CHANNEL LINE



CITY OWNED PUBLIC VIEW DECK AND TIE UP DOCK

NOTE: SEE A-2 FOR PARKING

PROPOSED WATER LEASE SITE IMPROVEMENTS

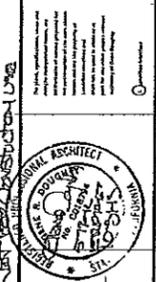


1/8" = 1'-0"

RECEIVED
OCT 31 2012

City of Morro Bay
Public Services Department

TRUE NORTH



LAND/SEA INTERFACE
GENE DOUGHTY-ARCHITECT
1-805-772-8436

HELD PROPERTIES
HARBOR CENTER
901 EMBARCADERO MORRO BAY, CALIF.

WATER LEASE SITE
IMPROVEMENTS

1101

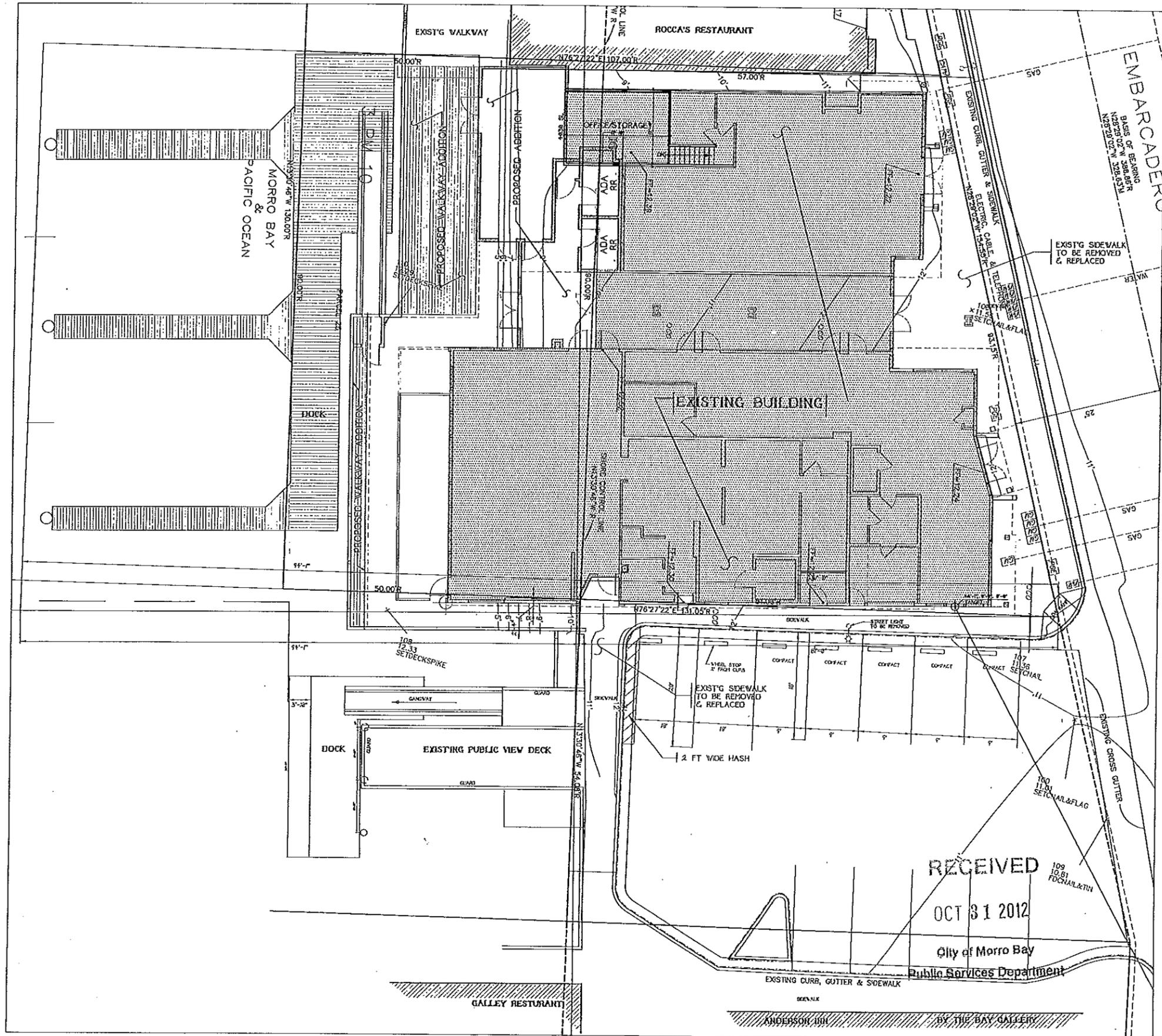
11/11/11 11:24:12
11/27/11 11:25:12
4/11/12
5/7/12
SCALE: AS NOTED
DRAWN: GP

SHEET A-1 OF SHEET

DRAWINGS TO SCALE FOR ONLY 34x24 PLOTS

PLOTTER: PDF915

PLOT STYLE TABLE MONOCROME-TEST.CTB



PROPOSED PLOT PLAN



1/8" = 1'-0"

PROPOSED SITE PLAN

1-11-10

SCALE: AS NOTED

DRAWN: MJA

A-2

OF SHEET

HELD PROPERTIES
HARBOR CENTER

901 EMBARCADERO MORRO BAY, CALIF.

LAND/SEA INTERFACE

GENE DOUGHTY-ARCHITECT 1-805-772-6436



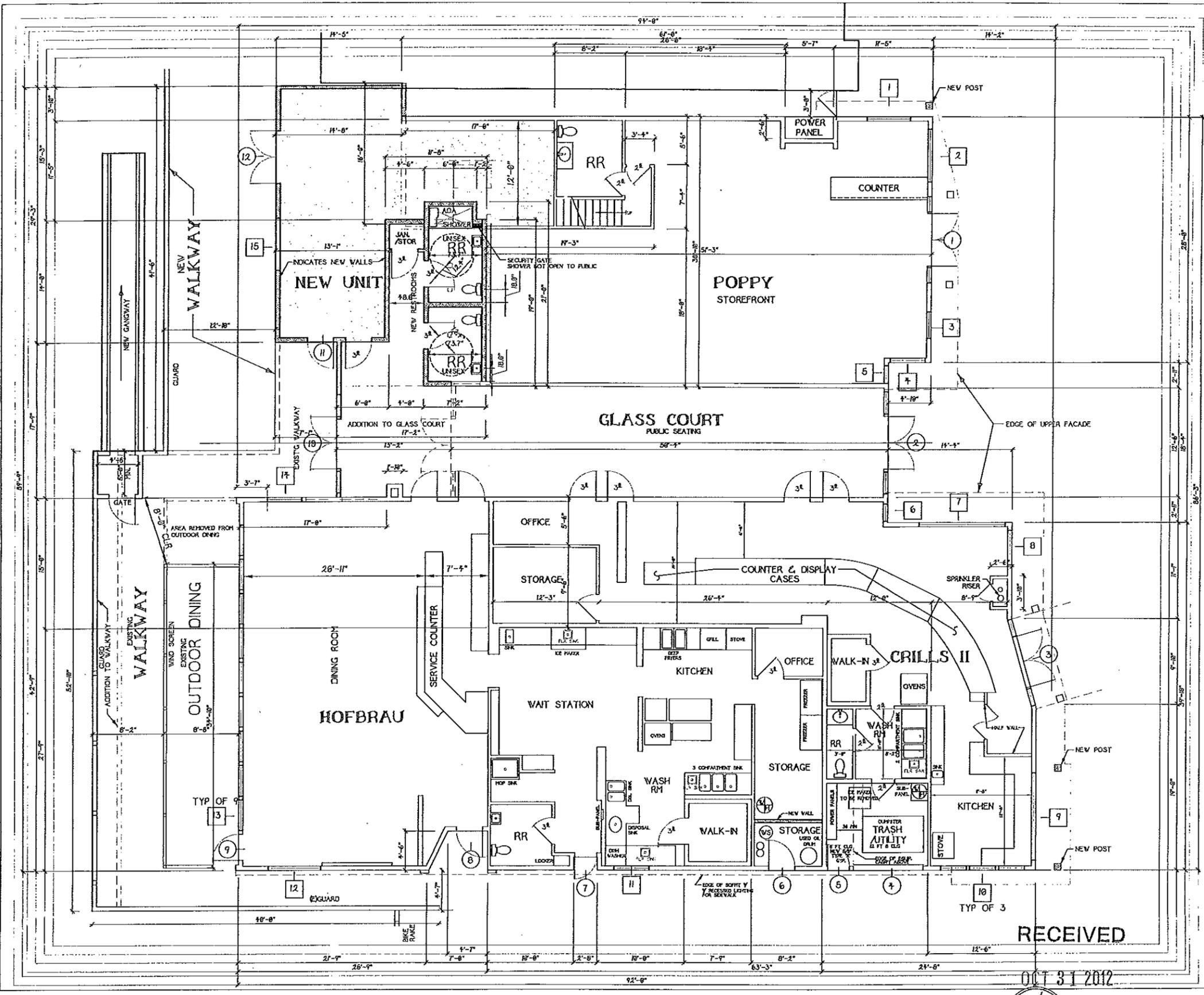
Plotted: 5/9/2012 4:14 PM
 P:\A\CD\Jobs\1101_Hold\ProposedSitePlan.dwg
 SHEET 1-11-10

EXTERIOR WINDOW SCHEDULE

MARK #	DESCRIPTION	SIZE	TYPE	REMARKS
1	E	5050	MTL PICTURE	
2	E	6050	MTL PICTURE	
3	E	3050	MTL PICTURE	
4	E	4050	MTL PICTURE	
5	E	2050	MTL PICTURE	
6	E	2050	MTL PICTURE	
7	E	2-5050	MTL SLIDERS	
8	E	4050	MTL PICTURE	
9	E	2-5050	MTL SLIDERS	
10	E	3-3050s	MTL PICTURE	
11	E	3020	MTL SLIDER	
12	E	6010 SL	9'6" x 10'0" PICTURE	
13	E	9-3050	VD PICTURE	
14	E	4050	VD PICTURE	
15	P	6050	MTL PICTURE	

EXTERIOR DOOR SCHEDULE

MARK #	DESCRIPTION	SIZE	TYPE	REMARKS
1	E	DBL 3'x7'	MTL STOREFRONT	2" SIDELITES w/ 2" HI TRANSOMS
2	E	DBL 3'x7'	MTL STOREFRONT	2" SIDELITES w/ 2" HI TRANSOMS
3	E	DBL 3'x7'	MTL STOREFRONT	2" SIDELITES w/ 2" HI TRANSOMS
4	P	6'x7'	MTL ROLL-UP	
5	P	2'	MTL	
6	E	3'	VD w/ TOP LITE	
7	E	2'	VD w/ TOP LITE	
8	E	3'	MTL w/ FULL LITE	
9	E	3'	VD SC	
10	P	DBL 3'x7'	MTL STOREFRONT	2" SIDELITES w/ 2" HI TRANSOMS SALVAGE EXIST'G
11	P	3'	MTL w/ FULL LITE	
12	P	DBL 3'	MTL w/ FULL LITE	
13				
14				
15				



PROPOSED FLOOR PLAN w/ EXISTING TENANT IMPROVEMENTS

OCT 31 2012
 3/16" = 1'-0"
 Public Services Department

Plotted: 5/9/2012 4:16 PM
 F:\CAD\Jobs\1101_Held\Proposed\FloorPlan.dwg

SHEET 1-11-10

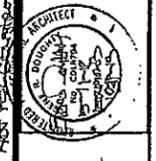
SCALE: AS NOTED

DRAWN: M.A.

PROPOSED & EXISTING FLOOR PLANS

HELD PROPERTIES
HARBOR CENTER
 901 EMBARCADERO MORRO BAY, CALIF.

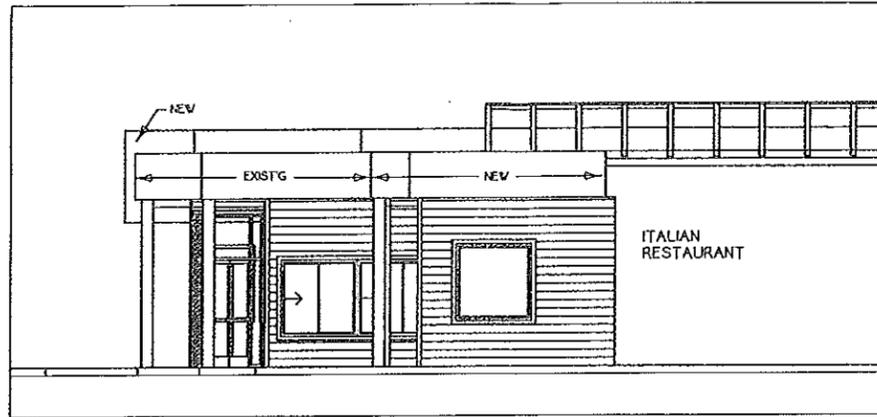
LAND/SEA INTERFACE
 GENE DOUGHTY-ARCHITECT
 1-805-772-8438



Held Properties - Architectural Users

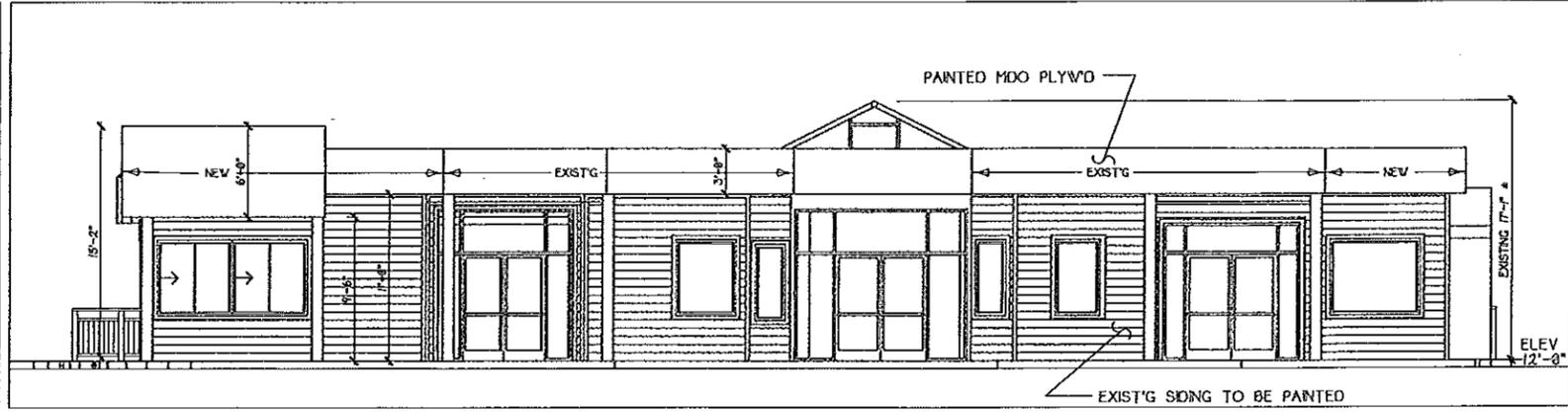
DRAWINGS TO SCALE FOR ONLY 3/16" PLOTTER TABLE MONOCHROME-TEST1.C78

PLOTTER: P05FYS



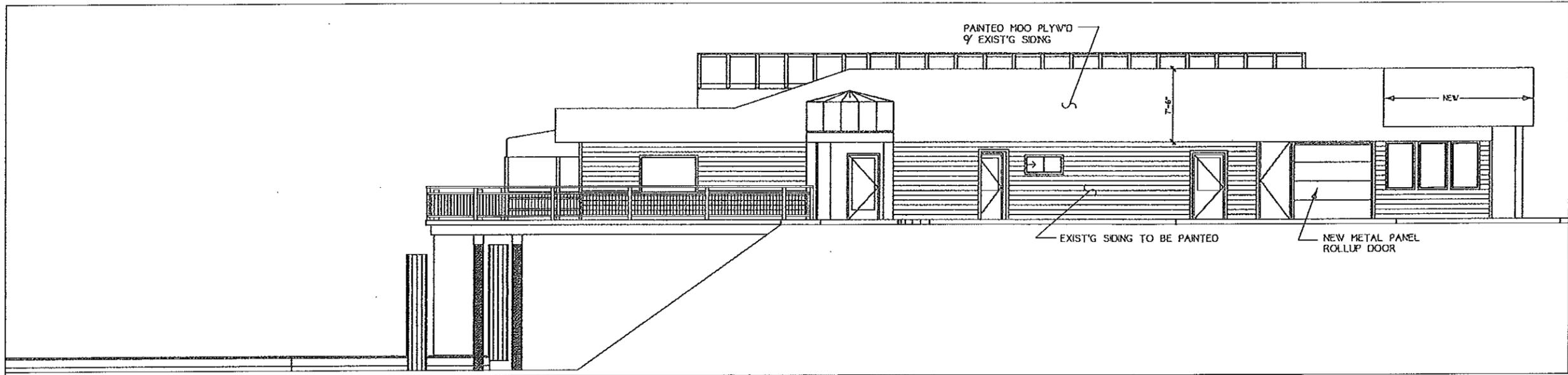
NORTH - ANCHOR PARK

3/16"



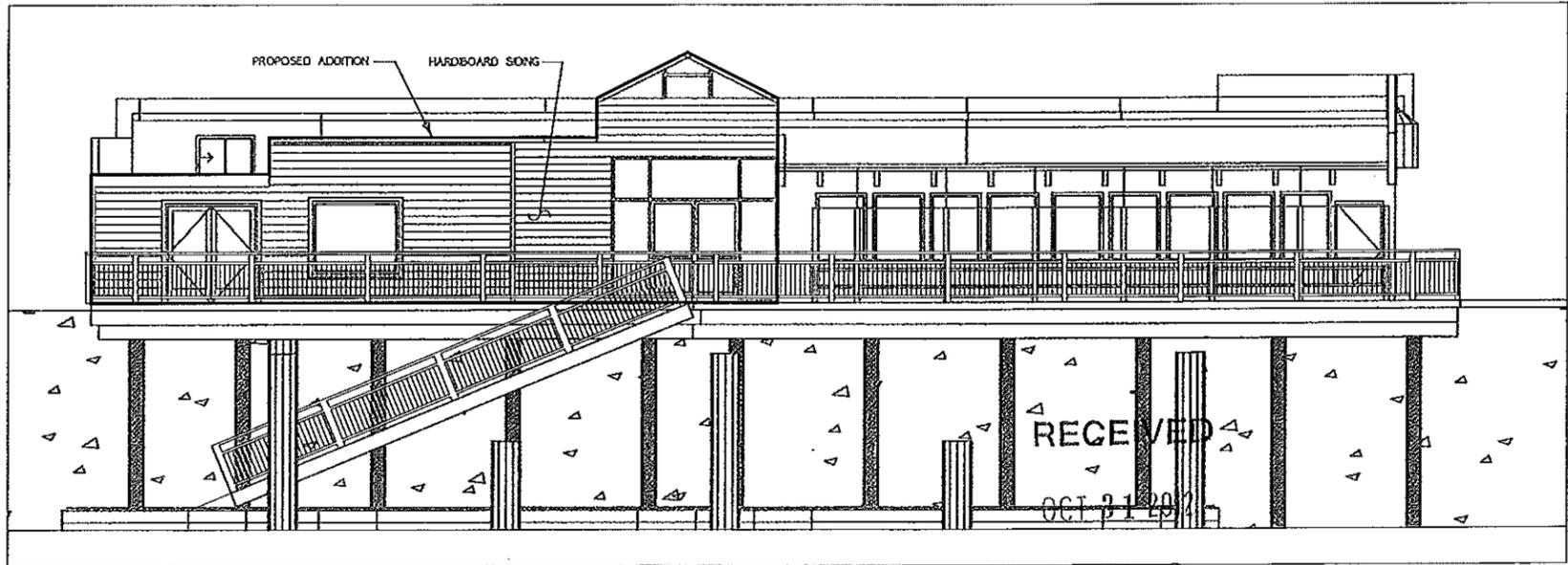
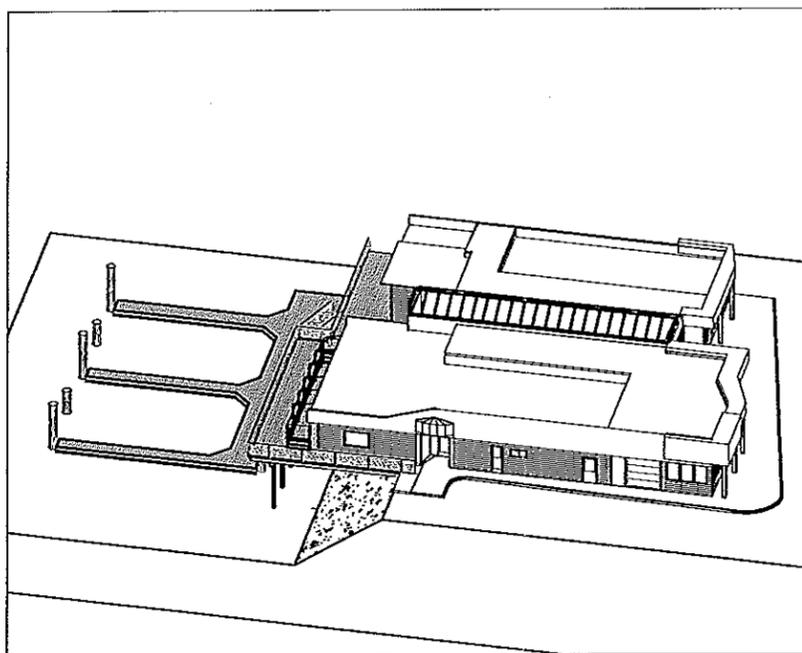
EAST - EMBARCADERO

3/16"



SOUTH - HARBOR ST.

3/16"



WEST - BAY

3/16"

RECEIVED

OCT 31 2012

City of Morro Bay

Public Services Department

Plotter: 6/1/2012 4:03 PM
F:\ACAD\Jobs\1101_Held\Drawings.dwg
Tab: Elevations

PROPOSED EXTERIOR ELEVATIONS

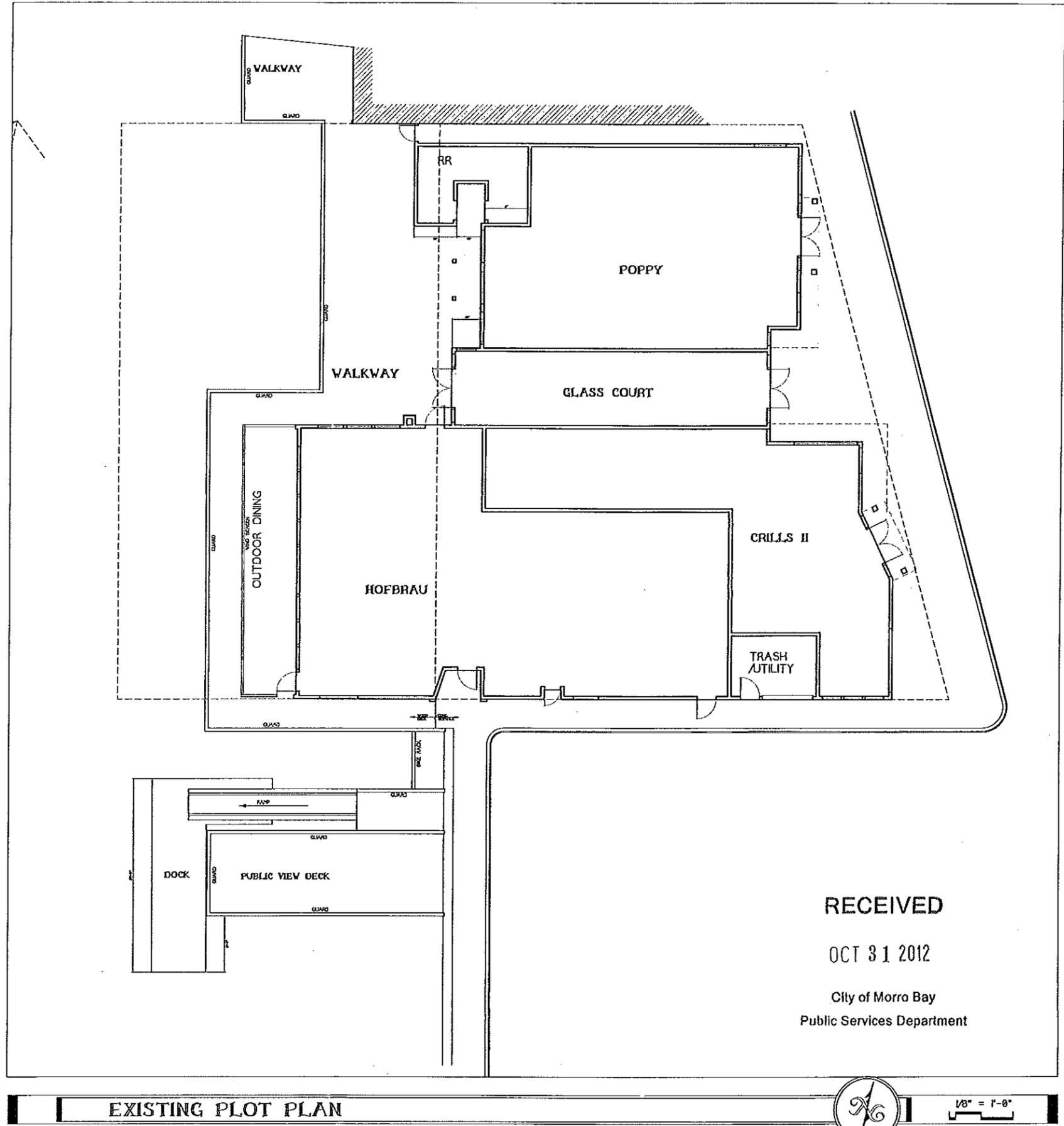
HELD PROPERTIES
HARBOR CENTER
901 EMBARCADERO MORRO BAY, CALIF.

LAND/SEA INTERFACE
GENE DOUGHTY-ARCHITECT
1-800-772-8436

1-11-10

SCALE: AS NOTED
DRAWN: MIA

SHEET A-5 OF SHEET



EXISTING PLOT PLAN

RECEIVED

OCT 31 2012

City of Morro Bay
Public Services Department



1/8" = 1'-0"

Plotted: 6/6/2012 4:49 PM
F:\ACAD\John\1101_Held\Plot\mshelisting.dwg

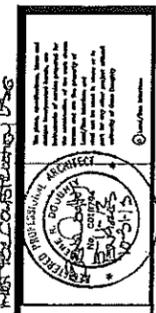
EXISTING
SITE PLAN

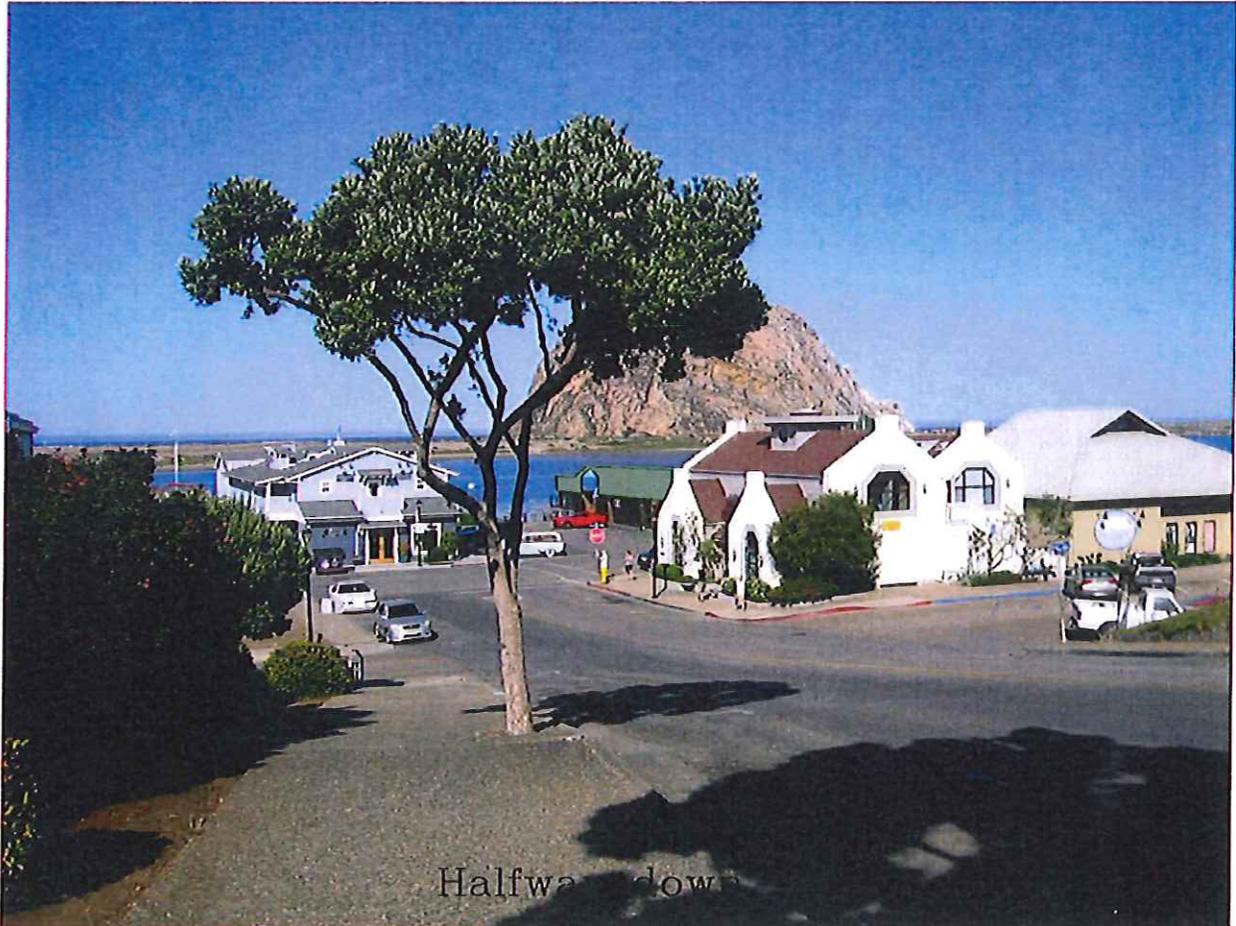
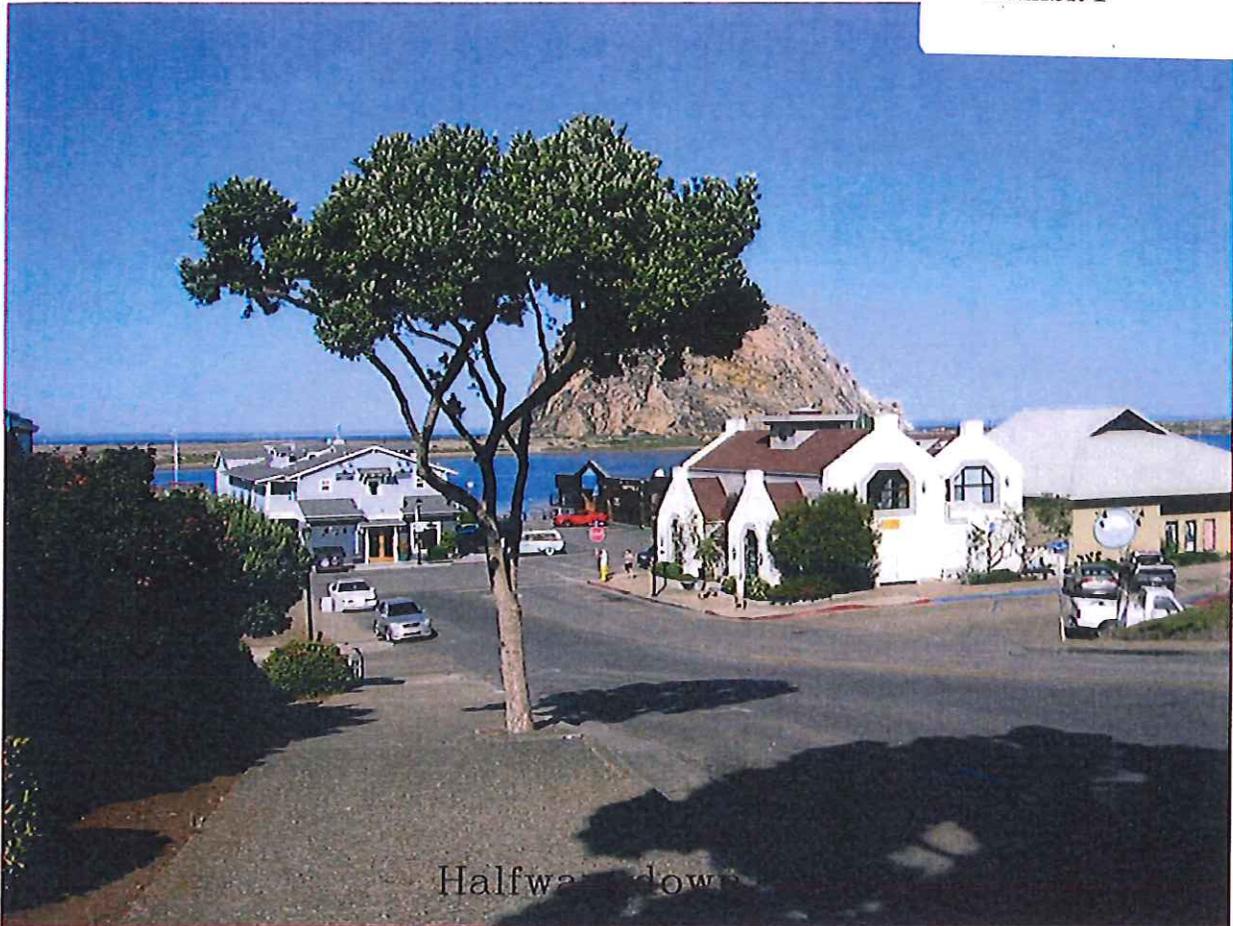
1-11-10
SCALE: AS NOTED
DRAWN: MJA

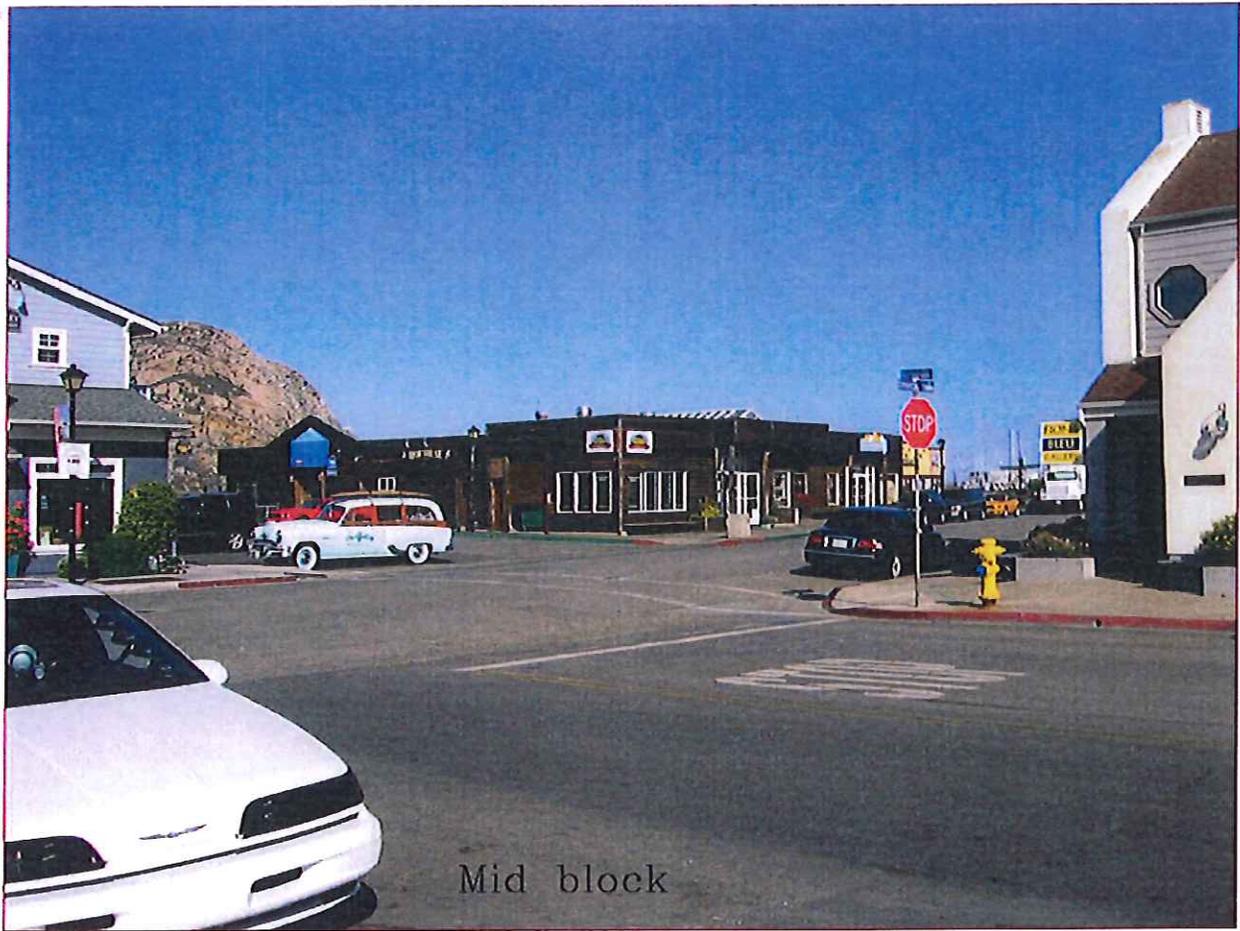
SHEET
EX-1
OF SHEET

HELD PROPERTIES
HARBOR CENTER
901 EMBARCADERO MORRO BAY, CALIF.

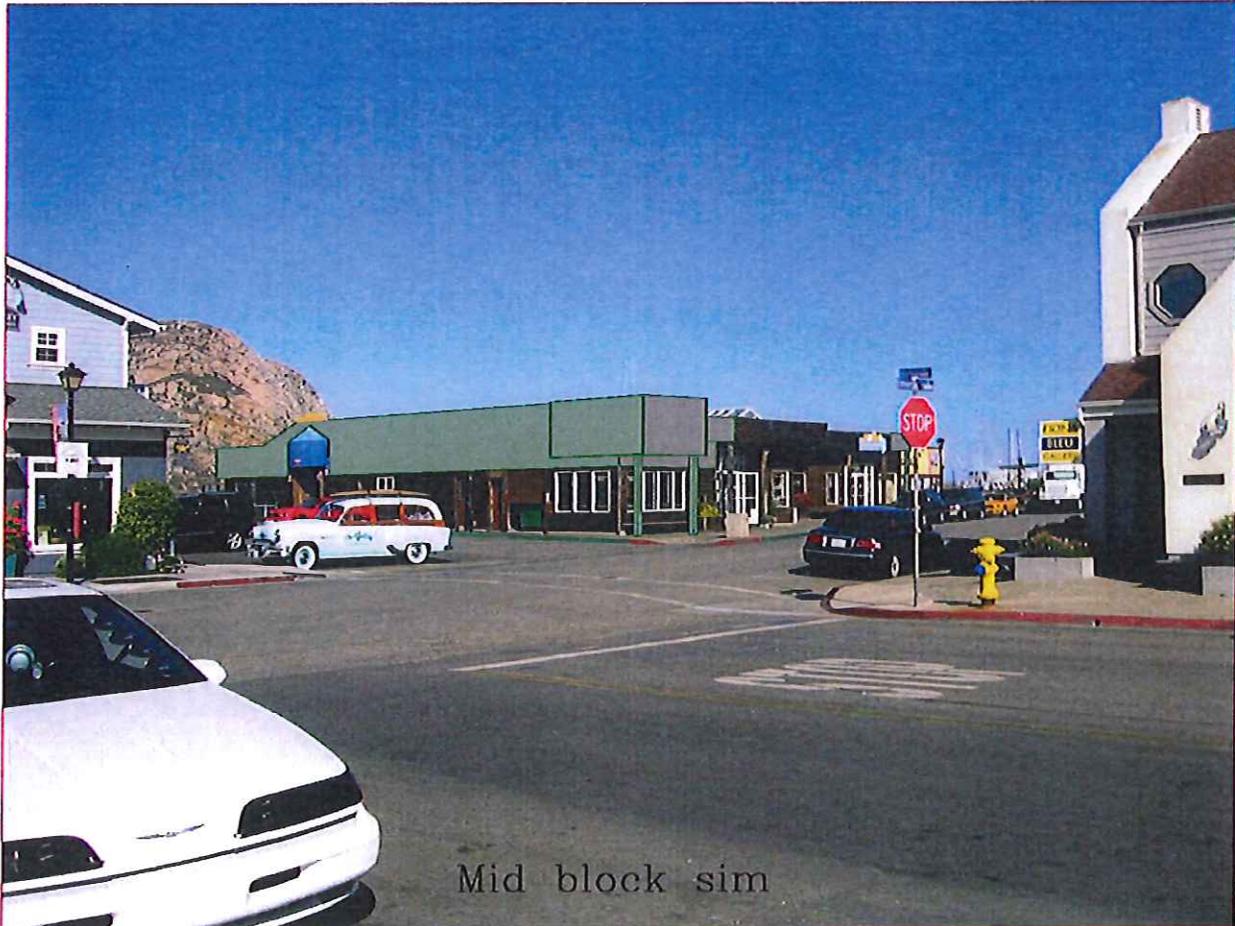
LAND/SEA INTERFACE
GENE DOUGHTY-ARCHITECT 1-805-772-8438



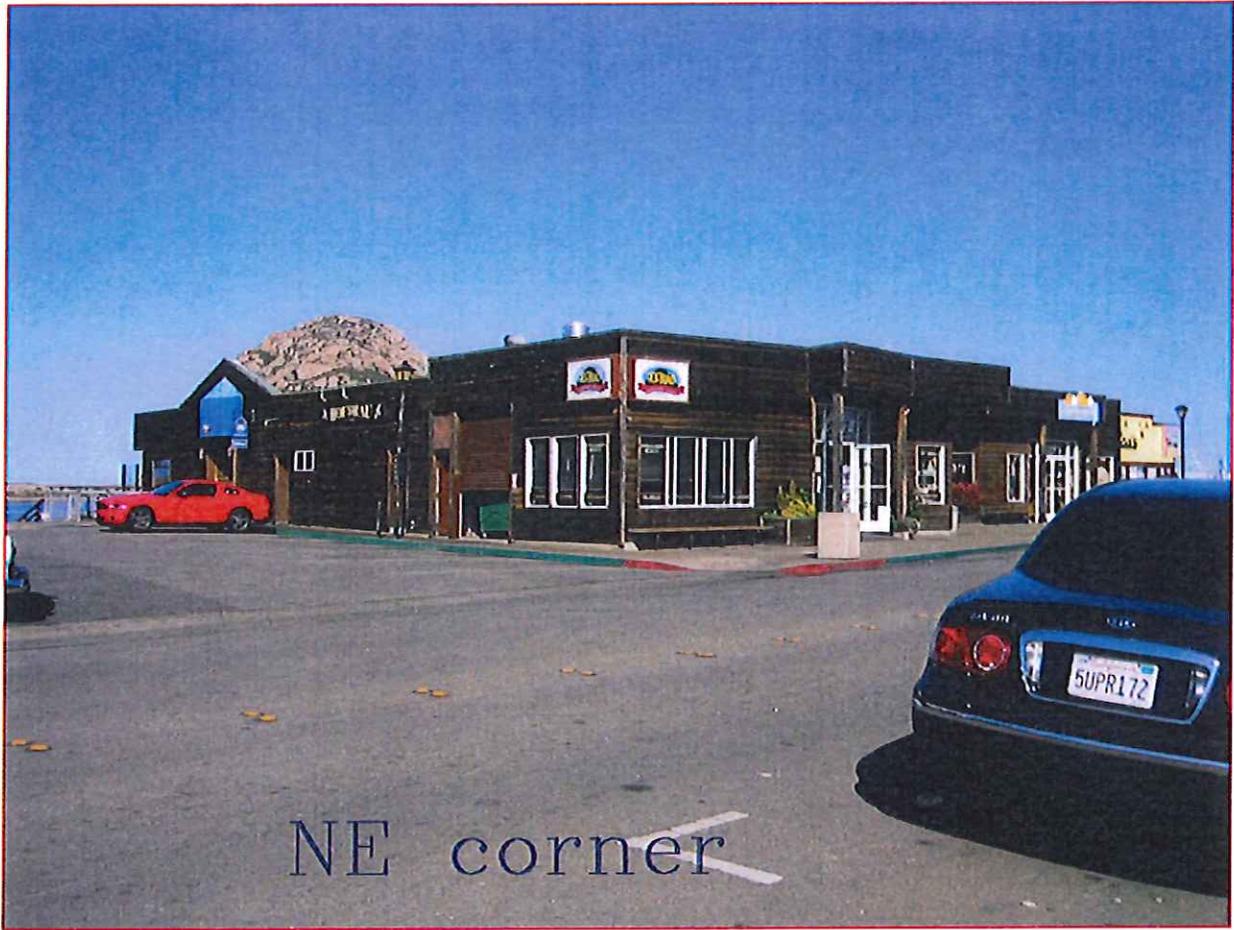




Mid block



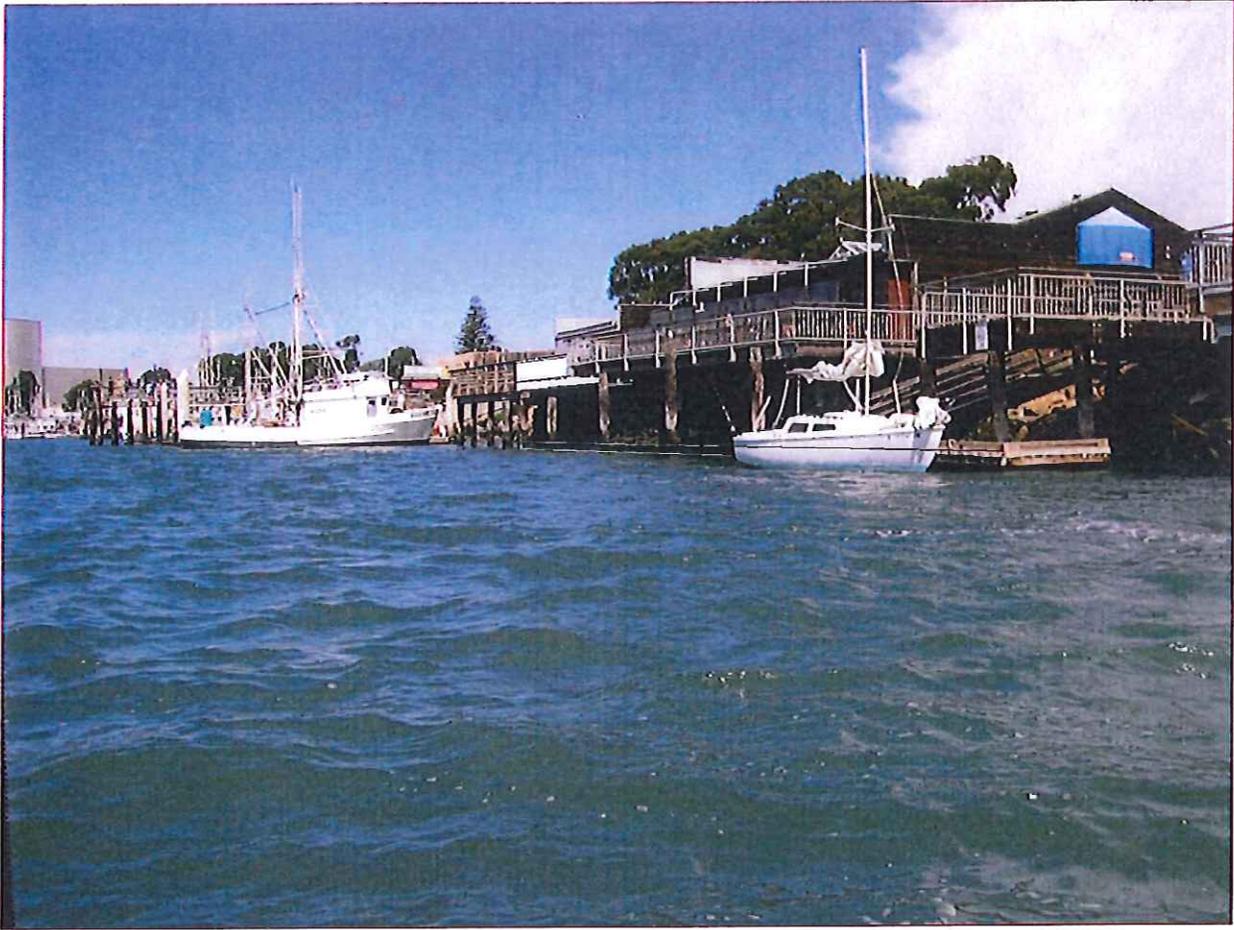
Mid block sim

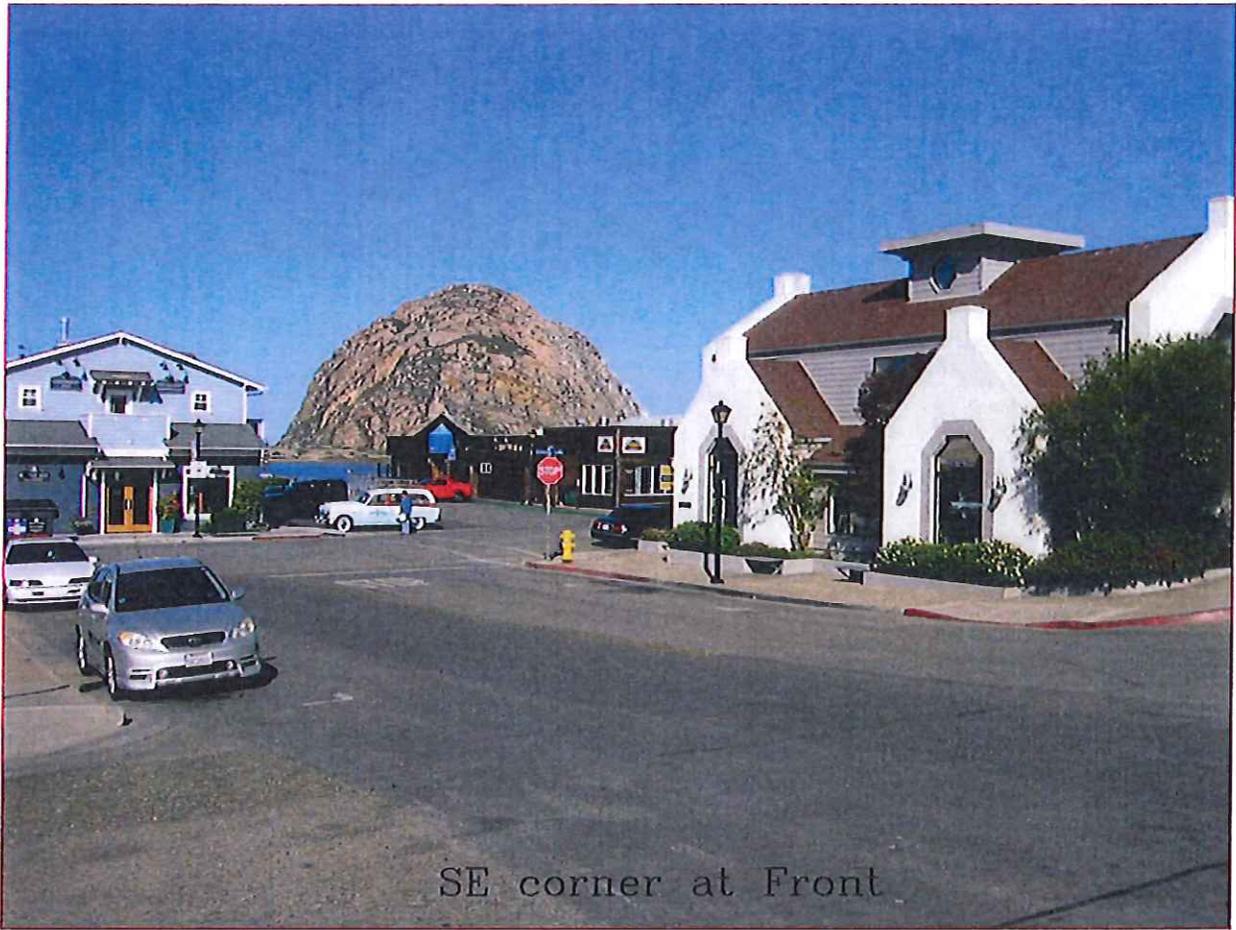


NE corner

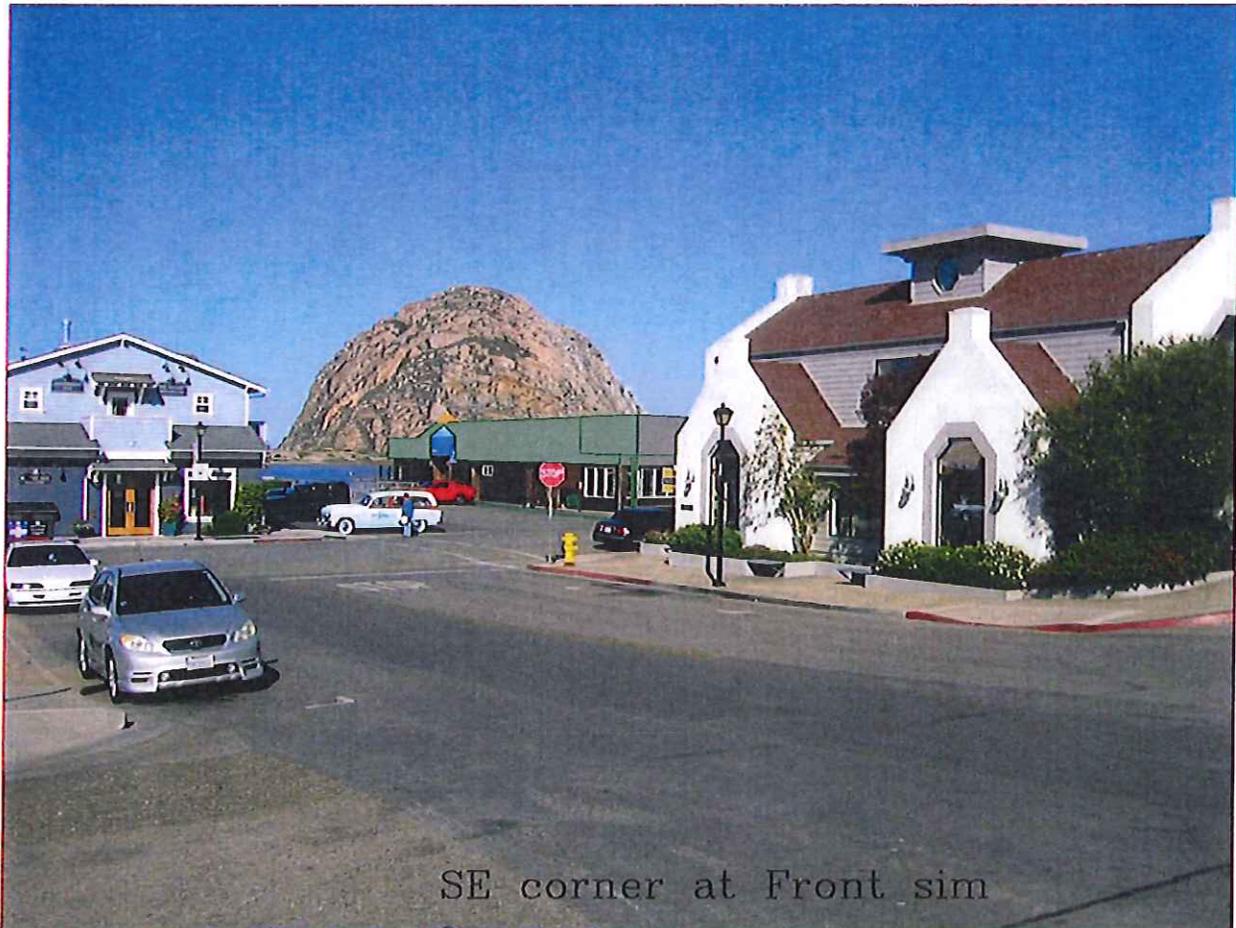


NE corner sim

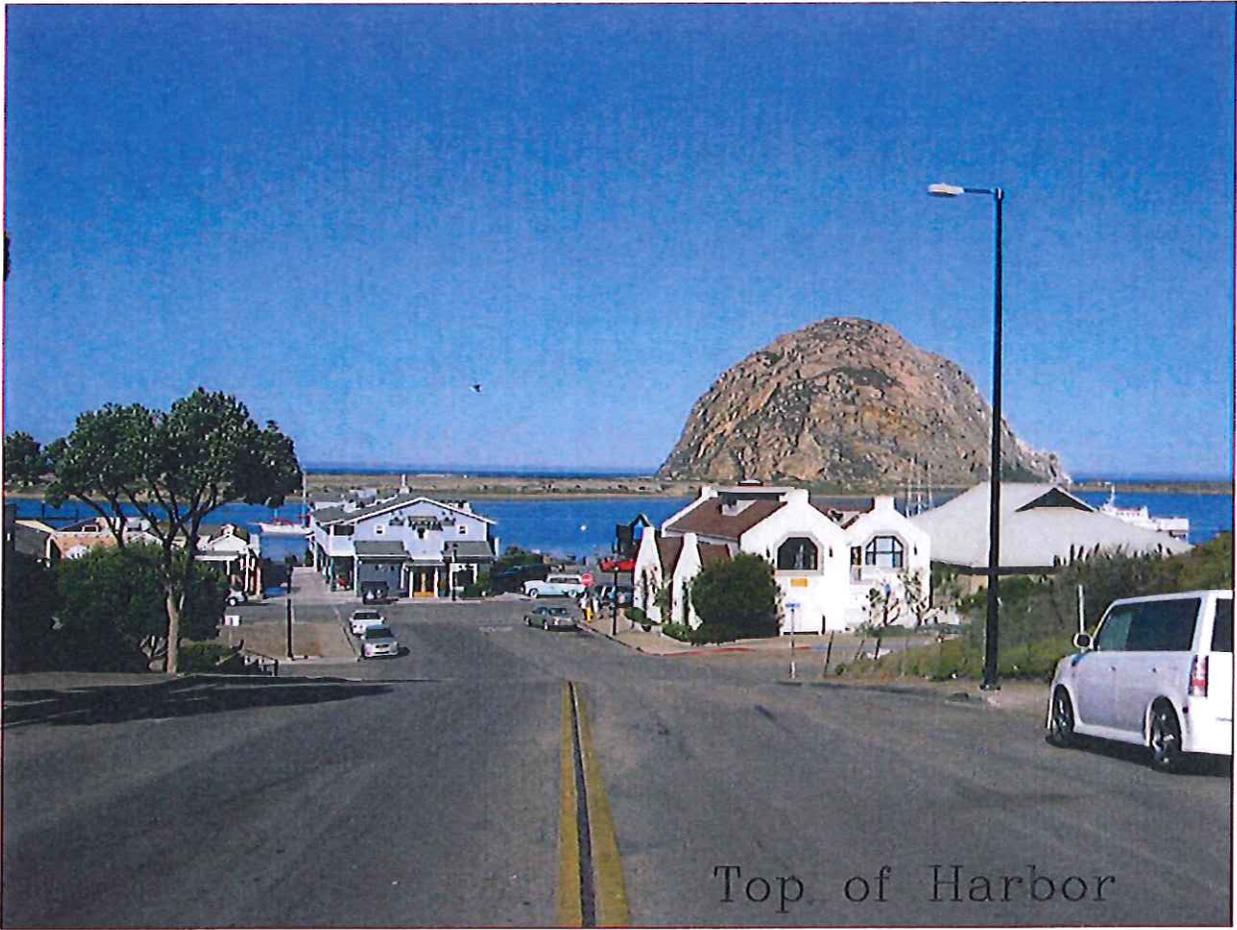




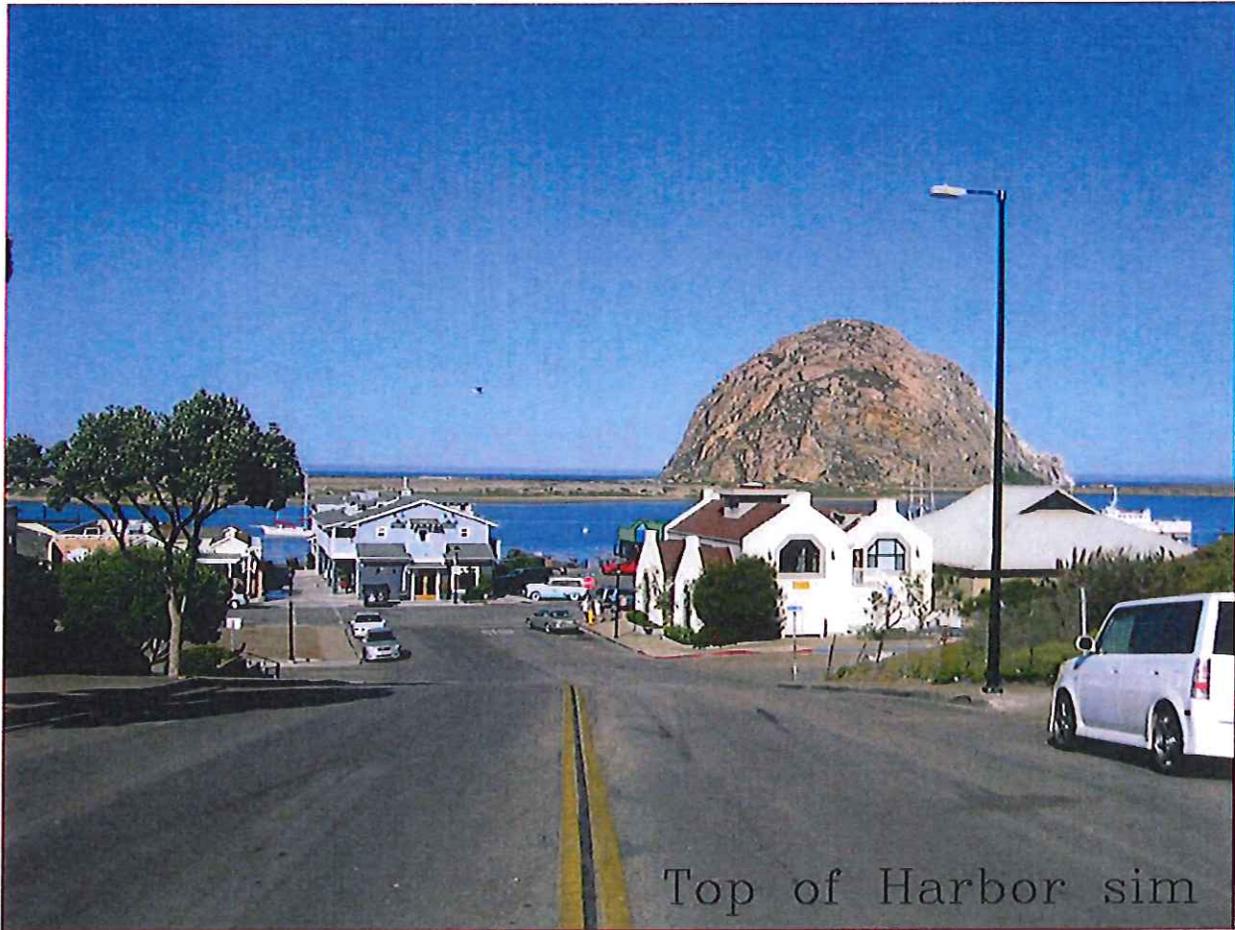
SE corner at Front



SE corner at Front sim



Top of Harbor



Top of Harbor sim

HARBOR CENTER 901-915 EMBARCADERO

