



# CITY OF MORRO BAY PLANNING COMMISSION AGENDA

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

**Regular Meeting - Tuesday, October 6, 2015  
Veteran's Memorial Building – 6:00 P.M.  
209 Surf Street, Morro Bay, CA**

Chairperson Robert Tefft

Commissioner Gerald Luhr  
Commissioner Richard Sadowski

Vice-Chair Katherine Sorenson  
Commissioner Michael Lucas

ESTABLISH QUORUM AND CALL TO ORDER  
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE  
PLANNING COMMISSIONER ANNOUNCEMENTS

## PUBLIC COMMENT PERIOD

Members of the audience wishing to address the Commission on matters not on the agenda may do so at this time. In a continual attempt to make the public process open to members of the public, the City also invites public comment before each agenda item. Commission hearings often involve highly emotional issues. It is important that all participants conduct themselves with courtesy, dignity and respect. All persons who wish to present comments must observe the following rules to increase the effectiveness of the Public Comment Period:

- When recognized by the Chair, please come forward to the podium and state your name and address for the record. Commission meetings are audio and video recorded and this information is voluntary and desired for the preparation of minutes.
- Comments are to be limited to three minutes so keep your comments brief and to the point.
- All remarks shall be addressed to the Commission, as a whole, and not to any individual member thereof. Conversation or debate between a speaker at the podium and a member of the audience is not permitted.
- The Commission 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 Commission to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in Commission 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 Community Development at (805) 772-6264. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. There are devices for the hearing impaired available upon request at the staff's table.

## PRESENTATIONS

Informational presentations are made to the Commission by individuals, groups or organizations, which are of a civic nature and relate to public planning issues that warrant a longer time than Public Comment will provide. Based on the presentation received, any Planning Commissioner may declare the matter as a future agenda item in accordance with the General Rules and Procedures. Presentations should normally be limited to 15-20 minutes.

A. CONSENT CALENDAR

- A-1 Approval of amended Planning Commission Resolution No. 34-15 with added findings and condition of approval for Burger King Restaurant at 781 Quintana; continued from the 9/15/2015 Planning Commission meeting.  
**Staff Recommendation:** Approve Planning Commission Resolution No. 34-15
- A-2 Current and Advanced Planning Processing List  
**Staff Recommendation:** Receive and file.

B. PUBLIC HEARINGS

Public testimony given for Public Hearing items will adhere to the rules noted above under the Public Comment Period. In addition, speak about the proposal and not about individuals, focusing testimony on the important parts of the proposal; not repeating points made by others.

- B-1** **Case No.:** #UP0-359 *(continued from the 3-3-15 Planning Commission hearing)*  
**Site Location:** 725 Embarcadero, Morro Bay, CA  
**Proposal:** Concept Plan approval of Conditional use permit for construction of new gangway, dock, and seven (7) boat slips which will be 6 private month-to-month rentals and 1 public slip controlled by the Harbor Dept.  
**CEQA Determination:** Mitigated Negative Declaration, State Clearinghouse #2015011002  
**Staff Recommendation:** Continue the Project to a date uncertain  
**Staff Contact:** Cindy Jacinth, Associate Planner, (805) 772-6577
- B-2** **Case No.:** CP0-419, UP0-383 *(continued from the 8-18-15 Planning Commission hearing)*  
**Site Location:** 3420 Toro Lane, Morro Bay, CA  
**Project Description:** Continued review from the 8-18-15 Planning Commission meeting of a proposal to grade for and construct a 1,538 square-foot dwelling and a 579 square-foot garage on a vacant 10,019 square-foot beach front parcel. Plans also show a 242.4 square-foot patio area. The proposed lot coverage is 21.2%. The project site is located in a Single Family Residential (R-1) zone with an S.2.A Overlay which limits the height of the structure to a maximum of 17 feet. The site contains areas of environmentally sensitive habitat and is subject to development standards for coastal bluff properties. This project is located in the Coastal Commission Appeals Jurisdiction.  
**CEQA Determination:** The Community Development Director determined the project qualifies for a Mitigated Negative Declaration of Environmental Impact (MND). Mitigation is recommended to reduce any environmental impacts to a less than significant level.  
**Staff Recommendation:** Adopt the Mitigated Negative Declaration and conditionally approve the project.  
**Staff Contact:** Whitney McIlvaine, Contract Planner, (805) 772-6211
- B-3** **Case No.:** #CP0-410 & UP0-369 *(continued from the 9-1-15 Planning Commission hearing)*  
**Site Location:** 289 Main Street  
**Proposal:** Coastal Development Permit & Conditional Use Permit to construct a 2,882sf single family residence with 503sf basement and 520sf garage on a vacant lot. This project is located inside the Coastal Commission appeals jurisdiction.  
**CEQA Determination:** Categorically exempt, Class 3  
**Staff Recommendation:** Conditionally approve  
**Staff Contact:** Cindy Jacinth, Associate Planner, (805) 772-6577
- B-4** **Case No.:** UP0-428  
**Site Location:** 300 Shasta Ave., Morro Bay, CA  
**Proposal:** The applicant proposes to add a 930 sq. ft. second-story addition to an existing 1,859 sq. ft. nonconforming residence. The existing single-story residence is considered nonconforming

because it has a 10-foot front yard setback where 20 feet is required. The project is located outside of the Coastal Commission Appeals Jurisdiction.

**CEQA Determination:** Categorically exempt, Section 15301, Class 1

**Staff Recommendation:** Conditionally approve

**Staff Contact:** Whitney McIlvaine, Contract Planner, (805) 772-6211

**B-5 Case Number:** N/A

**Site Location:** Vacant Mindoro Street lot, West side of Highway 1 abutting the HWY 1 right of way. APN: 065-113-066

**Proposal:** Planning Commission review of General Plan conformance in association with City property disposal/sale. The City has listed the subject property for sale and prior to any property sale, California Government Code Section 65402 requires the Planning Commission to review and report on the property disposition as to conformity with the City's General Plan.

**CEQA Determination:** Exempt Per Section 15061(b)(3)

**Staff Recommendation:** Continue item to a date uncertain to allow staff time to prepare a site evaluation taking into consideration lot size and easement locations.

**Staff Contact:** Scot Graham, Community Development Manager, [\(805\) 772-6291](tel:8057726291)

C. UNFINISHED BUSINESS - NONE

D. NEW BUSINESS - NONE

E. PLANNING COMMISSIONER COMMENTS

F. COMMUNITY DEVELOPMENT MANAGER COMMENTS

G. ADJOURNMENT

Adjourn to the regular Planning Commission meeting at the Veteran's Memorial Building, 209 Surf Street, on October 20, 2015 at 6:00 p.m.

**PLANNING COMMISSION MEETING PROCEDURES**

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 the Community Development Department, 955 Shasta Avenue, for any revisions, or call the department at 772-6261 for further information.

Written testimony is encouraged so it can be distributed in the Agenda packet to the Commission. Material submitted by the public for Commission review prior to a scheduled hearing should be received by the Planning Division at the Community Development Department, 955 Shasta Avenue, no later than 5:00 P.M. the Tuesday (eight days) prior to the scheduled public hearing. Written testimony provided after the Agenda packet is published will be distributed to the Commission but there may not be enough time to fully consider the information. Mail should be directed to the Community Development Department, Planning Division.

Materials related to an item on this Agenda are available for public inspection during normal business hours in the Community Development Department, at Mill's/ASAP, 495 Morro Bay Boulevard, or the Morro Bay Library, 695 Harbor, Morro Bay, CA 93442. Materials related to an item on this Agenda submitted to the Planning Commission after publication of the Agenda packet are available for inspection at the Community Development Department during normal business hours or at the scheduled meeting.

This Agenda may be found on the Internet at: [www.morro-bay.ca.us/planningcommission](http://www.morro-bay.ca.us/planningcommission) or you can subscribe to Notify Me for email notification when the Agenda is posted on the City's website. To subscribe, go to [www.morro-bay.ca.us/notifyme](http://www.morro-bay.ca.us/notifyme) and follow the instructions.

The Brown Act forbids the Commission from taking action or discussing any item not appearing on the agenda, including those items raised at Public Comment. In response to Public Comment, the Commission is limited to:

1. Responding to statements made or questions posed by members of the public; or
2. Requesting staff to report back on a matter at a subsequent meeting; or

3. Directing staff to place the item on a future agenda. (Government Code Section 54954.2(a))

Commission meetings are conducted under the authority of the Chair who may modify the procedures outlined below. The Chair will announce each item. Thereafter, the hearing will be conducted as follows:

1. The Planning Division staff will present the staff report and recommendation on the proposal being heard and respond to questions from Commissioners.
2. The Chair will open the public hearing by first asking the project applicant/agent to present any points necessary for the Commission, as well as the public, to fully understand the proposal.
3. The Chair will then ask other interested persons to come to the podium to present testimony either in support of or in opposition to the proposal.
4. Finally, the Chair may invite the applicant/agent back to the podium to respond to the public testimony. Thereafter, the Chair will close the public testimony portion of the hearing and limit further discussion to the Commission and staff prior to the Commission taking action on a decision.

**APPEALS**

If you are dissatisfied with an approval or denial of a project, you have the right to appeal this decision to the City Council up to 10 calendar days after the date of action. Pursuant to Government Code §65009, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Commission, at, or prior to, the public hearing. The appeal form is available at the Community Development Department and on the City’s web site. If legitimate coastal resource issues related to our Local Coastal Program are raised in the appeal, there is no fee if the subject property is located within the Coastal Appeal Area. If the property is located outside the Coastal Appeal Area, the fee is \$263 flat fee. If a fee is required, the appeal will not be considered complete if the fee is not paid. If the City decides in the appellant’s favor then the fee will be refunded.

City Council decisions may also be appealed to the California Coastal Commission pursuant to the Coastal Act Section 30603 for those projects that are in their appeals jurisdiction. Exhaustion of appeals at the City is required prior to appealing the matter to the California Coastal Commission. The appeal to the City Council must be made to the City and the appeal to the California Coastal Commission must be made directly to the California Coastal Commission Office. These regulations provide the California Coastal Commission 10 working days following the expiration of the City appeal period to appeal the decision. This means that no construction permit shall be issued until both the City and Coastal Commission appeal period have expired without an appeal being filed. The Coastal Commission’s Santa Cruz Office at (831) 427-4863 may be contacted for further information on appeal procedures.

## RESOLUTION NO. PC 34-15

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION  
APPROVING MODIFICATION (A00-028) TO EXISTING COASTAL DEVELOPMENT  
PERMIT (CDP 69-84) AND CONDITIONAL USE PERMIT (CUP 28-84) FOR  
MODIFICATIONS TO AN EXISTING RESTAURANT TO INCLUDE DEMOLITION OF  
THE DRIVE-THROUGH CANOPY, FAÇADE CHANGES, AND PARKING LOT  
IMPROVEMENTS AT 781 QUINTANA ROAD

**WHEREAS**, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on September 15, 2015, for the purpose of considering Permit Modification #A00-028 and;

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

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

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

**Section 1: Findings.** Based upon all the evidence, the Commission makes the following findings:

**California Environmental Quality Act (CEQA)**

1. That for purposes of the California Environmental Quality Act, Permit No. A00-028 qualifies for a categorical exemption per Section 15301, Class 1 for the minor alteration of existing private structures involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.
2. None of the Categorical Exemption exceptions, noted under 15300.2, apply to the project.

**Findings for Approval:**

1. As required in Morro Bay Municipal Code Section 17.58.120, the project as proposed is found to be consistent with the requirements as set forth in the Certified Local Coastal Program.
2. The project is an allowable use in its zoning district and is also in accordance with the certified Local Coastal Program and the General Plan for the City of Morro Bay.
3. The establishment, maintenance, or operation of the use applied for will, under the circumstances of the particular case, will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use in that the project will be consistent with all applicable zoning requirements.

4. The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City since the project is consistent with all applicable City regulations.
5. *The free standing blade wall structure located 5 feet from the south-side entryway is found to be an architectural element of the building and not a free standing sign, which utilizes consistent colors, materials, and architectural style to that of the overall building.*
6. *Use of the blade wall is consistent with architecture of the site and surrounding commercial area, but may not be an appropriate architectural component for commercial development in other areas of Morro Bay, like the downtown.*

**Items in bold italics added by the Planning Commission at the September 15, 2015 Planning Commission meeting.**

**Section 2.** Action. The Planning Commission does hereby approve Permit Modification No. A00-028 subject to the following conditions:

**STANDARD CONDITIONS**

1. This permit is granted for the land described in the staff report dated September 15, 2015, for the project depicted on plans dated August 18, 2015 on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows: Site development, including all buildings and other features, shall be located and designed substantially as shown on plans, unless otherwise specified herein.
2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this approval and is diligently pursued thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Said extensions may be granted by the 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. Applicant understands and acknowledges that City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the 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. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code (MBMC), 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.
8. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.
9. Landscaping: *The Applicant shall provide additional landscaping to include three new trees at the following locations: at the northwest corner of the lot between the drive-through lane and Quintana Road, adjacent to the monument sign located near Quintana Road on the south side of the property, and within the eastern side of the landscaped area across the parking lot from the south entry to the building.*

*Items in bold italics added by the Planning Commission at the September 15, 2015 Planning Commission meeting.*

#### **BUILDING CONDITIONS**

1. Prior to construction, the applicant shall submit a complete application to the Building Department and obtain the required Building Permit.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 15TH day of SEPTEMBER, 2015 on the following vote:

AYES: Lucas, Sadowski, Sorenson, Tefft

NOES: Luhr

ABSENT: None

ABSTAIN: None

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Chairperson Tefft

ATTEST

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Scot Graham, Planning Secretary

The foregoing resolution was passed and adopted this 15TH day of SEPTEMBER, 2015.



City of Morro Bay  
 Community Development Department  
 Current & Advanced Project Tracking Sheet

This tracking sheet shows the status of the work being processed by the Planning & Building Divisions  
 New Planning items or items recently updated are highlighted in yellow. Building items highlighted in green are pending action from the applicant.  
 Approved projects are deleted on next version of log.

Agenda No: A-2  
 Meeting Date: October 6, 2015

#	Applicant/ Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
<b>Hearing or Action Ready</b>										
1	Reddell	310 Trinidad	6/1/15	CP0-479 & UP0-431	<b>Admin Coastal Development Permit &amp; Minor Use Permit for new SFR on a vacant lot</b>	JG - Under initial review. Sent back for corrections and need an MUP. MUP applied for on 9-8-15. Noticed 9/29/15		PN- Conditionally approved with comments - 6/12/15		jg
2	Burger King	781 Quintana	8/13/15	A00-028	<b>Amendment to CUP 28-84 and CDP 69-84 to allow building façade changes and dining room.</b>	PC 9/15/15, 2 findings and 1 condition added to Reso. No. 34-15. Approval is on consent calendar for PC meeting on 10/6/15				jg
3	Frye	3420 Toro Lane	1/13/14	CP0-419 & UP0-383	<b>Coastal Development Permit and Conditional Use Permit for New 2,209sf SFR and 551sf garage w/ approx. 300 sf of decking on vacant lot.</b>	WM. Revising MND. MND complete and routed to State Clearinghouse on 6-6-15. hearing on August 18, 2015. Continued to October 2015	BC-disapproved- need geologic and engineering geology report.FD/TP Approve2/24/14	RPS conditionally approved per memo of 7/20/14		wm
4	Hough	289 Main	10/16/13	CP0-410 & UP0-369	<b>CDP and CUP to construct a 2,578sf single family home on vacant lot</b>	CJ- under review. Met with Applicant's representative 11-21-13. Met w/ Applicant representative 3-3-14 regarding bluff determination per LCP maps. Letter sent 4-1-14 re completeness and bluff standards. CJ. Visited site to review project 10-24-14. Concurrent request sent re bluff to Coastal Commission 10-27-14. Discussed project with Coastal staff 11-18-14 with referral to CCC Geologist 1-2015. Met w/ Coastal geologist 2-12-15 on site. Resubmittal received and review complete for PC hearing. Continued to 10-6-15 hearing.	BC- conditionally approved. TP-Disapprove 12/6/13.	BCR: Conditionally approved: ECP and sewer video required per memo of 10/28/13. Began resubmittal review 3/18/15		cj

#	Applicant/ Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
5	Redican	725 Embarcadero Rd.	6/26/13	UP0-359	<b>Use Permit for seven boat slips and gangway</b>	Under review. Incomplete letter sent 7-23-13. Resubmittal received on October 1, 2013. Additional info requested and resubmittal received 12-2-13. Incomplete letter sent 12-30. Meeting with Applicant on 2-13-14. Emailed Applicant 2-26-14 to clarify eelgrass study requirements for environmental review. Info hold letter sent 9-2-14. Resubmitted 10-28-14. Initial Study/MND complete & routed to State Clearinghouse 1-2-15. Anticipate 2-17-15 PC hearing. Comments received from Coastal Commission regarding eelgrass mitigation. Dock revision in progress. Project continued to 3-17-15 mtg to ensure legal noticing. Applicant submitted revised dock plans based on Coastal Commission feedback re: MND. Supplemental info sent to Coastal on 5/12/15. Applicant consulting with Coastal staff regarding MND environmental 7-2015. CJ. Requested continuance 10-1-15. CJ	Bldg -- Review complete, applicant to obtain building permit prior to construction. Disapproved 4/21/14TP-Disapprove 11/19/13.	PW requirements will be addressed with Building Permit review	Harbor conditions: 1. one slip to be reserved for public use; 2. southern-most end tie to remain vacant in order to not encroach on neighboring lease site. Note-water lease line will need to be extended out to accommodate slips. EE 12/16/13	cj
6	Schmidt	300 Shasta	7/30/15	UP0-428	<b>Conditional Use Permit - Remodel 1st floor and add second floor addition (929 sf) to existing SFR.</b>	WM Review complete. Scheduled for PC hearing 10/6				
<b>30 -Day Review, Incomplete or Additional Submittal Review</b>										
7	Garcia	500 Kings	8/20/15	CP0-487	<b>New 2,434 sf SFR with 672 sf garage and 228 sf of decking</b>	WM Under initial Review. New SFR with common driveway		PN- Conditionally Approved - 9/14/2015		
8	Strassel	976 Ridgeway	8/14/15	UP0-429	<b>CUP for 735 sf addition to upper level of SFR, adding 126 sf of balcony to existing deck area</b>	Under Initial Review		PN- Conditionally Approved - 9/1/2015		jg
9	Black Hill Villas	485 South Bay Blvd	8/7/15	A00-027	<b>Precise Plan CUP modification to reflect Coastal Commission approved changes to CDP</b>	Precise Plan requires modification for City approvals to be consistent with Coastal Commission approvals.. Under review.				
10	SLCUSD	235 Atascadero	7/20/15	CP0-485 / UP0-427	<b>CDP &amp; CUP for new pool and student services building at Morro Bay High School</b>	Under initial review. Incomplete letter sent. Resubmitted 9-10-15				cj
11	DeGarimore	1001 Front St.	7/14/15	A00-026	<b>Amendment to CUP to modify project description to remove proposed new awning.</b>	Letter sent to applicant 9-9-15 regarding public access requirements. In process.				

#	Applicant/ Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
12	Verizon Wireless	1401 Quintana	6/12/15	CP0-483/UP0-421	<b>Coastal Development and Conditional Use Permits to construct unmanned telecommunications facility</b>	JG - Under Initial Review. Correction letter sent 7/31		PN- Conditionally approved per memo dated 7/8/15		jg
13	Tobin	326 Panay	6/11/15	UP0-425/ CP0-480	<b>New SFR in R-4 zone. AD0, CDP and MUP for 1486sf SFR and 446sf garage with setback variance request</b>	WM Under review.				wm
14	Gambriel	405 Atascadero Rd.	5/13/15	CP0-475 / UP0-417	<b>New construction of 10,000sf commercial retail on vacant lot</b>	WM. Under review. Will need Arch and Traffic reports.		PN-Plans Disapproved. Req. Stormwater determination form & plan update-8/25/15		wm
15	Verizon / Knight	702 Morro Bay Blvd	4/15/15	UP0-412 & CP0-466	<b>Conditional Use Permit &amp; Coastal Development permit for new Verizon antenna and cabinets, associated facilities</b>	JG. Under review. Correction letter sent.		ME- Conditionally approved per memo 4/22/2015		jg
16	AT&T	590 Morro Street	4/10/15	UP0-411 & CP0-465	<b>Conditional Use Permit &amp; Coastal Development permit to modify 2006 Planning permit approval for unmanned cell site</b>	WM. Incomplete letter sent 4/28/15. Change in agent.				wm
17	T-Mobile	1478 Quintana	1/30/15	UP0-403	<b>Minor Use Permit to Modify existing wireless telecommunication site at church</b>	JG - Under initial review. Correction letter sent 3/5/2015. JG		JW approved		jg
18	Volk	800 Quintana	1/29/15	CP0-461 & UP0-405	<b>CDP / CUP for Verizon wireless telecommunications facility</b>	CJ - under review. Incomplete letter sent 3-2-15. Revised RF report submitted 6-5-15. Requested RF clarification via email 7-9-15.		RPS approved		cj
19	Knight / Verizon	485 Piney Way	1/29/15	CP0-460 & UP0-402	<b>CDP /CUP for Verizon wireless telecommunications facility (panel antennas &amp; equipment cabinet)</b>	CJ - RF Compliance Report under review. Incomplete letter sent 3-2-15. Revised RF report submitted 6-5-15. Requested RF clarification via email 7-9-15.		ME conditionally approved per memo 2/3/15		cj
20	Chivens	431 Kern	1/6/15	CP0-456	<b>Admin Coastal Development Permit.</b> Demo existing structure. New 3,000+/- SF SFR. Development of 2nd home where previous CDP for 431 Kern approved 9-2014. WM	WM Permit issued 6/23/15.	2/23/15 FD Cond App TP	RPS has approved plans 2/23/15 pending submission of sewer video and ECP prior to Building Permit.		wm
21	Verizon / Knight	184 Main	11/19/14	UP0-394	<b>Conditional Use Permit for installation of new Wireless Facility/Verizon antennas on existing pole.</b>	Under Review. JG. Incomplete. Waiting on response from Tricia Knight. Wants to keep project open and figure out the parking situation or move location. 1/26. JG		RPS disapproved on 12/15/14 since proposed pole site will be removed during undergrounding project		jg
22	Leage	833 Embarcadero	9/15/14	UP0-389	<b>Demolish existing building. Reconstruct new 1 story building (retail/restaurant use) &amp; outdoor improvements</b>	Under review. Deemed incompleated. Letter sent 10-13-14. CJ Resubmittal received 2/17/15. Incomplete letter sent . Resubmittal received. Not compliant with view corridors requirements. Meeting with Applicant	BC- incomplete	RPS - Disapproved for plan corrections noted in memo of 10/14/14		cj

#	Applicant/ Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
23	Wordeman	2900 Alder	7/28/14	CP0-447	<b>Admin Coastal Dev. Permit for new construction of duplex in R-4 zone. Unit A: 1965 sf w/605 sf garage. Unit B: 1714 sf w/605 sf garage.</b>	Under Review. Correction letter sent 8-27-14. Resubmittal received 1-26-15. JG. Correction letter sent. Partial resubmittal rcv'd 2/23. Under Review. JG. Correction letter sent 1/30 JG. Resubmittal received 6/8/15. Under review. Correction letter sent	BC- conditionally approved.	PN-Disapproved for plan corrections per memo dated 6/12/15		jg
24	Sonic	1840 Main St.	8/14/13	UP0-364 & CP0-404	<b>Conditional Use Permit and Coastal Development Permit to develop Sonic restaurant.</b>	Under initial review. Comment letter sent 9/10/13. CJ. Spoke w/ applicant 10/3 re: traffic study. CJ. Public Works & Fire comments received & forwarded 10/8/13 to applicant. Comments from Cal Trans received 10/31 and forwarded to Applicant. Applicant requested meeting w/ City staff & Cal Trans to review project requirements. Had project meeting-discussed traffic study requirements on 11-21-13. Requested fee estimate from environmental consultant for CEQA purposes. CJ. Resubmitted 5/27. Environmental Review in process. Correction letter based on environmental review sent 8-6-14. Resubmittal received 1-23-15 and correction sent 2-23-15. Resubmittal received 5/8/15. Reviewing initial study for pending route to State Clearinghouse. Stormwater Control Plan also being reviewed.	Bldg -- Review complete, applicant to obtain building permit prior to construction.FD-Disapprove UPO 364/CPO 404 9/11/13.9/9/14 FD App TP. 2/10/15 FD Not App TP.	PN- Conditionally approved per memo dated 6/3/2015; RPS: Intial conditions provide by memos of 9/10/13 and 10/14. Met with Caltrans on 10/17.		cj
25	Perry	3202 Beachcomber	9/8/2011 & 10/25/2012	AD0-067 / CP0-381	<b>Variance.</b> Demo/Reconstruct. New home with basement in S2.A overlay. Variance approved for deck only; the issue of stories was resolved due to inconsistencies in Zoning Ordinance.	Variance approved at 8/15/12 PC meeting. Appealed by 3 parties to City Council. Appeal to be heard. City Attorney reviewing.Appeal in abeyance until coastal application complete. Incomplete letter for CDP sent 12/13/12. No response since 2012. Sent Intent to Deem Withdrawn Letter 9-2-14. JG. Applicant responded with Request for Meeting to keep CDP application open. SG.	Review complete, applicant to obtain building permit prior to construction.	No review since conditional approval of 6/11/12		

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26	LaPlante	3093 Beachcomber	11/3/11	CP0-365	<b>Coastal Development Permit for New SFR in appeals jurisdiction. Proposed SFR of 3,495sf w/ 500 sf garage on vacant land.</b>	SD-- Incomplete Letter 12/12/11. Letter sent 4/11/2012 requesting environmental study. MR-Met with Applicant and discussed potential impacts of project and CEQA information requested to complete MND. Project referred to env. consultant and Coastal. MND in process. Applicant revising bio report and snail study. Spoke w/ Applicant Representative 3-13-14. Snail study complete and sent to Dept of Fish and Wildlife for concurrence review. Spoke w/ env. consultant re environmental 4/7 CJ. Met with application 7-18-14 to request addendum to bio report in order to complete CEQA. Bluff determination and snowy plover report submitted 8-14-14. CJ. MND complete. Anticipate routing to State Clearinghouse on 9/18/14. Coastal Commission comment letter received 10-20-14. City responded to Coastal on 10-27. Applicant working to address comments. Discussed project with Coastal staff in meeting 11-18-14 and met with applicant 12/4/14 and 1/20/15. Received plans revisions and sent request for Coastal concurrence 9-2-15. CJ	Review complete, applicant to obtain building permit prior to construction.	No review since conditional approval of 11/20/12	Conditionally approved, per memo 9/22/15	cj
<b>Planning Commission Continued projects</b>										
27	Merrifield	1147 West St.	4/24/15	CP0- 469 & UP0-414	<b>Coastal Development and Conditional Use Permits to construct new SFR subject to bluff development stds.</b>	WM Phase 1 arch report req'd. Continued to a date uncertain		PN - Conditionally approved with comments-6/1/15		wm
28	Wright	1149 West St.	4/24/15	CP0-470 & UP0-415	<b>Coastal Development and Conditional Use Permits to construct new SFR subject to bluff development stds.</b>	WM Phase 1 arch report req'd. Continued to a date uncertain		PN - Conditionally approved with comments-6/1/15		wm
29	Seashell Estates, LLC	361 Sea Shell Cove	1/26/15	CP0-459/ UP0-401	<b>Coastal Development Permit/Conditional Use Permit for new SFR. Lot 4 of 1305 Teresa Subdivision</b>	Reviewing CC&R Design Guidelines. Deemed complete 3-2-15. Anticipate 4/21 PC hearing. Project continued to a date uncertain. CJ.	2/23/15 FD Cond App TP	BCR has for review 2/3/15		cj

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30	City of Morro Bay	End of Nutmeg	1/18/12	UP0-344	<b>Environmental documents for Nutmeg Tanks.</b> Permit number for tracking purposes only County issuing permit. Demo existing and replace with two larger reservoirs. City handling environmental review	KW--Environmental contracted out to SWCA estimated to be complete on 4/27/2012. SWCA submitted draft I.S. to City on May 1, 2012. MR-Reviewed MND and met with SWCA to make corrections. In contact with County Environmental Division for their review. MND received by SWCA on 10/7/12. MND out for public notice and 30 day review as of 11/19/12. 30 day review ends on 12/25/12. No comments received. Scheduled for 1/16/13 Planning Commission meeting and then to be referred back to SLO County. Planning Commission continued this item to address concerns regarding traffic generated from the removal of soil. In applicant's court, they are addressing issues brought up by neighbors during initial P.C. meeting. Project has been redesigned and will be going forward with concrete tanks. Modifications to the MND are in process. Neighborhood meeting conducted with Engineering on 9/27/2013. Revising project description and MND.	No review performed.	BCR- New design concept completed. Needs new MND for concrete tank, less truck trips. Neighborhood mtg held 9/27. Neighbors generally support new design that reduces truck trips by 80%. Concrete batch plant set up on site will further reduce impact. 5/5/14 - Cannon contract signed to finish permit phase. Construction will be delayed to FY15/16		?
<b>Environmental Review</b>										
31	City of Morro Bay	N/A		UP0-423	<b>MND for Chorro Creek Stream Gauges</b>	Applicant requesting meeting for week of 9/9/13. SWCA performing the environmental review. Received completed MND from Water Systems Consulting (WSC) on 4/1/15. Routed to State Clearinghouse for required 30 day review period. Tentative hearing 8/4/15.	No review performed.	MND complete. Cut permit checks to RWQCB and CDFW on 2/27/15		cj
<b>Grants</b>										
32	Coastal Conservancy, California Coastal Commission, California Ocean Protection Council	City-wide			<b>\$250,000 Grant Opportunity for funding for LCP update to address sea-level rise and climate change impacts.</b>	Application submitted July 15, 2013. Awaiting results. Agency requested additional information and submitted 10-7-13. Notice received application was successful for amount requested. City funded \$250,000. Staff in contact with CA Ocean Protection Council staff to commence grant contract.	No review performed.	N/A		
33	City of Morro Bay	City-wide			<b>Community Development Block Grant/HOME Program - Urban County Consortium</b>	Staff has ongoing responsibilities for contract management. 2012 contracts in progress. 2013 contracts in progress. City Council approval 6/10/14 for City participation in Urban County consortium for Fiscal Years 2015-2017. Needs Assessment Workshop scheduled for 9/11/14 in tandem with Cities of Atascadero and Paso Robles at Atascadero City Hall 5pm. Draft 2015 CDBG funding recommendation approved by Council 12/9/14.	No review performed.	N/R		

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34	City of Morro Bay	City-wide				Climate Action Plan - Implementation	Staff has ongoing responsibilities for implementation of Climate Action Plan as adopted by City Council January 2014. Staff coordinating activities with other Cities and County of SLO via APCD.				
Project requiring coordination with another jurisdiction											
35	City of Morro Bay	Outfall				Original jurisdiction CDP for the outfall and for the associated wells	Coastal staff is working with staff. Coastal letter received 4/29/2013. Discussed project with Coastal staff in meeting 11-18-14.	No review performed.	City provided response to CCC on 7/12/13. Per Qtrly Conference Call CCC will take 30days to respond		
36	City of Morro Bay Desal Plant	170 Atascadero				Project requires a Coastal Development Permit for upgrades at the Plant. Final action taken Sent to CCC but pursuant to their request the City has rescinded the action.	Waiting for outcome from the CDP application for the outfall. Discussed project with Coastal staff in meeting 11-18-14.	No review performed.	BCR- Phase 1 Maint and Repair project is underway. Desal plant start-up scheduled for 10/15/13. Phase 1 complete and finalized. Phase 2 on hold as of 7/22/14.		
Final Map Under Review											
37	Medina	3390	Main	10/7/11	Map	Final Map. Issues with ESH restoration. Applicant placed processing of final map on hold by proposing an amendment to the approved tentative map and coastal development permit. Applicant proposed administrative amendment. Elevated to PC, approved 1/4/12. Appealed, scheduled for 2/14/12 CC Meeting. Appeal upheld by City Council, and project with denied 2/14/12. map check returning for corrections on 3/9/12	SD--Meeting with applicant regarding ESH Area and Biological Study. MR- Received letters from biologist regarding revegetation on 9/2/12. Letter sent to biologist. Recent Submittal reviewed and memo sent to PW regarding deficiencies. Initial review shows resubmitted map does not meet the 50 foot ESH buffer setback requirement. Creek restoration required per Planning condition #4 prior to recordation of the final map.	No review performed.	DH - resubmitted map and Biological study on Dec 19th 2012. PW has completed their review. Received a letter from Medina's lawyer and preparing response. PW comments sent to RS to be included with his response letter. RS said to process map for CC. Letter being prepared to send to applicant to submit mylars for CC meeting.		sg/cj
Projects Continued Indefinitely, No Response to Date on Incomplete Letter or inactive											

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38	Maritime Museum Association (Larry Newland)	Embarcadero	11/21/05	UP0-092 & CP0-139	<b>Embarcadero-Maritime Museum (Larry Newland).</b> Submitted 11/21/05. Resubmitted 10/5/06, tentative CC for landowner consent 1/22/07 Landowner consent granted. Resubmitted 5/25/07. Resubmitted additional material on 9/30/09. Applicant working with City Staff regarding lease for subject site. Applicants enter into agreement with City Council on project. Applicant to provide revised site plan. Staff processing a "Summary Vacation (abandonment)" for a portion of Surf Street. Staff waiting on applicant's resubmittal. Meeting held with applicant 2/23/2011. Staff met with applicant 1/27/11 and reviewed new drawings, left meeting with applicant indicating they would be resubmitting new plans based on our discussions.	KW--Incomplete 12/15/05. Incomplete 3/7/07. Incomplete Letter sent 6/27/07. Met to discuss status 10/4/07 Incomplete 2/4/08. Met with applicants on 3/3/09 regarding inc. later. Met with applicants on 2/19/2010. Environmental documents being prepared. Meeting held with city staff and applicants on 2/3/2011. Sent Intent to Deem Withdrawn letter 9-2-14. JG.	Please route project to Building upon resubmittal.	An abandonment of Front street necessary. To be scheduled for CC mtg.		
39	James Maul	530, 532, Morro Ave 534	3/12/10	SP0-323 & UP0-282	<b>Parcel Map.</b> CDP & CUP for 3 townhomes. Resubmittal 11/8/10. Resubmittal did not address all issues identified in correction letter.	KW-Incomplete letter sent 4/20/10. Met with applicant 5/25/10. Letter sent to applicant/agent indicating the City's intent to terminate the application based on inactivity. City advised there will be a new applicant and to keep the application viable.MR: Received letter from applicant's rep 11/15/12 requesting project remain open. Called B. Elster for further information. Six month extension granted. Sent Intent to Deem Withdrawn Letter 8-28-14. Applicant requested to keep project open 9-25-14.	Please route project to Building upon resubmittal.	N/A		cj
<b>Projects going forward to Coastal Commission for review (Pending LCP Amendments) / State Department of Housing</b>										
40	City of Morro Bay	Citywide	10/16/13	A00-013	<b>Zoning Text Amendment - Second Unit</b>	Secondary Unit Ordinance Amendment. Ordinance 576 passed by City Council in 2012. 6-11-13 City Council direction to staff to bring back to Planning Commission for review of ordinance. At 10-16-13 PC meeting, Commission recommended changes to maximum unit size and tandem parking design where units over 900 sf and/or tandem parking design of second unit triggers a CUP process. Council accepted PC recommendation at 2-11-14 meeting and directed staff to bring back revised ordinance for a first reading and introduction. Item continued to 4/22/14 Council meeting to allow time for Coastal staff comment regarding proposed changes. Council approved Into and First Reading on 4/22/14. Final Adoption of Ord. 585 at 5/13/14 Council meeting. Ordinance to be sent as an LCP Amendment for certification by Coastal Commission.	No review performed.			wm

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41	City of Morro Bay	Citywide	2/1/13	Ordinance 556	<b>Wireless Amendment - LCP Amendment</b> CHAPTER 17.27 Amendment for "Antennas and Wireless Telecommunications Facilities" AND MODIFYING CHAPTER 17.12 TO INCORPORATE NEW DEFINITIONS, 17.24 to MODIFY primary district matrices to incorporate the text changes , 17.30 to eliminate section 17.30.030.F "antennas", 17.48 modify to eliminate section 17.48.340 "Satellite dish antennas".	Application for Wireless Amendment submitted to Coastal Commission 9-11-13. Received comments back from CCC 11-27-13, working on addressing issues.	No review preformed.	N/A		sg
<b>Projects Appealed or Forwarded to City Council</b>										
42	Central Coast Women For Fisheries	Coleman Drive/ Morro Rock	6/22/15	UP0-424	<b>CUP for placement of lifesize statue near Morro Rock.</b>	Review complete. Schedule for PC hearing on 9-1-15. Forwarded favorable recommendation to Council 9-1-15. Scheduled for Council hearing on 10-13-15.				cj
43	City of Morro Bay	Citywide	6/19/13	A00-015	<b>Sign Ordinance Update.</b> Text Amendment Modifying Section 17.68 "Signs"	Text Amendment Modifying Section 17.68 "Signs". Planning Commission placed the ordinance on hold pending additional work on definitions and temporary signs. 5/17/2010. PC made recommendations and forwarded to Council. Item heard at 5/24/11 City Council Meeting. Interim Urgency Ordinance approved to allow projecting signs. A report brought to PC on 2/7/2011. Workshops scheduled 9/29/11 & 10/6/11. -Workshop results going to City Council 12/13/11. Continued to 1/10/12 CC meeting. Staff Report to PC. Project went to 5/2/2012. Update due to City Council in June 2013. Draft Sign Ordinance reviewed by PC on 6/19/13. Continued to 7/3/13 PC meeting for further review. PC has reviewed Downtown, Embarcadero, and Quintana Districts as well as the Tourist-Oriented Directional Sign Plan. 8/21/13 Final Draft of Sign Ordinance approved at 9/4/13 PC meeting with recommendation to forward to City Council. Council directed staff to do further research with local businesses. First workshop held 11/14 with approx. 12 Quintana area businesses. Downtown workshop held March 2014, North Main business workshop held 4/28/14 and Embarcadero business workshop held 5/19/14. Result of sign workshops to be agendized for Planning Commission.	No review performed.	N/R		sg
<b>Projects in Building Plan Check</b>										
44	Sangren	675 Anchor	11/28/12	B-29813	SFR Addition	Requested corrections 1/9/13. CJ. Resubmittal received and under review (November 14, 2013). Denial letter sent 4/24/14 GN	BC- Returned for corrections 1/9/13.	N/A		
45	Eisemann	535 Atascadero	7/1/15	B-30547	SFR Alteration and addition of new bathroom			PN- Plans approved, owner will now add new sewer lateral. -7/13/15		
46	Eisemann	535 Atascadero	9/17/15	B-30659	Addition of Front Porch, deck & roof dormer			PN- Plans approved, 9/22/15		
47	Gannage	185 Azure Street	5/11/15	B-30465	SF Additon of 44sf , relocated new kitchen, remodel bathrooms, replace façade, doors, windows, roof & water heater.			PN- Plans approved - 7/10/15		

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48	Bernal	624 Bernardo	6/10/15	B-30520	SFR Addition of 732sf bed/bathroom			PN- Conditionally Approved, Req. Stormwater determination form - 8/26/15		
49	Wiseman	671 Bernardo	6/5/15	B-30429	SFR Interior Remodel	JG-2nd submittal under review. Approval 6/23. JG		JSW 2015-06-17 - second submittal denied, no changes made from 1st submittal JSW 2015-07-02 - Video Submitted; conditionally approved for final routing JSW 2015-07-09 - Plans approved		
50	LaPlante	3093 Beachcomber	11/3/11	B-29586	New SFR: 3,495sf w/ 500 sf garage on vacant land.	SD--Incomplete Letter 12/12/11. Phase 1 Arch Report required and Environmental Document. Incomplete letter sent 2/2012. Building Permit on hold until Planning process complete. CJ.	BC- Application on hold during planning process	DH- Provide SW mgmt, drainage rpt, EC per memo of 1/18/12.		
51	Barton	983 Carmel	8/31/15	B-30626	Bathroom remodel			PN- Conditionally approved per memo dated 9/8/15		
52	Diaz	365 Driftwood	8/14/15	B-30601	SFR Addition of 328sf upstairs to create Master bedroom and bathroom.	JG. Plans disapproved, incomplete.		PN-Plans Disapproved, for plan corrections & sewer video-9/1/15		
53	Leage	1205 Embarcadero	9/10/15	B-30651	686sf second story addition			PN- Approved 10/1/15, no memo.		
54	Fowler	1213 Embarcadero	9/11/14	B-30126	Phase 1-B Water Site Improvements	Requested correction 10-7-14 - Received resubmitted - applicant will need pre-construction eelgrass survey prior to issuance	BC- under review.	PN- Approved 5/2/15, no memo.		
55	PG&E	1290 Embarcadero	10/2/13	G-040	Soil Removal	CJ- Monitoring Well location partially in Coastal original jurisdiction. Coastal Commission processing consolidated permit. Waiver granted by Coastal 9-14-1491-W	BC- on hold pending planning process.	Memo of 11/29/13. CDP application should address soil revegetation		
56	Guldenbrein	481 Estero	9/22/15	B-30670	Remove & Replace 348sf sunroom to existing SFR			PN- Disapproved for plan correction, per memo 9/24/15		
57	Appleby	381 Fresno	7/31/14	B-30227	Carport& Storage Shed	Correction sent 8-7-14. WM. Will require a CUP prior to building. JG. Corrections sent 2/23 JG	BC-on hold pending Planning process.	RPS - No PW comments if street access is not required for storage bldg		
58	Decker	430 Fresno	6/8/15	B-30491	Convert existing laundry room into bathroom.			PN- Disapproved, needs sewer video & bwv 6/12/15		
59	Funk	672 Fresno	7/10/15	B-30558	SFR Addition	Corrections sent 7-27-15. CJ				
60	Reynolds	2509 Greenwood	6/25/15	B-30544	Demo burned down home & install new 26x46 manufactured house.	OK. JG. Noticed for CDP 8-3. Building plans approved.		PN- Conditionally Approved. Req. new sewer.-8/25/2015		
61	Monie	2577 Greenwood	5/18/15	B-30471	2-story Addition to SFR: 935sf			PN-Disapproved, needs sewer video & EC-6/8/15		

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62	Jackson, Addis	2860 Greenwood	9/2/15	B-30639	Detached 160sf Guest cottage			PN-Disapproved, needs sewer video & EC-9/8/15		
62	Barbis	165 Hatteras	8/27/15	B-30623	93sf Addition to front exterior of SFR			PN- Conditionally approved -9/2/15		
63	Hurless	2265 Hemlock	8/27/15	B-30477	SFR Garage converted to 492sf apartment with new bedroom and bathroom.			PN- Disapproved needs sewer lateral video-		
64	Gonzalez	481 Java	10/6/13	B-30029	SFR Addition/ Remodel: add 578 sf living and 112 sf decking	WM. Expecting Admin Use Permit application for minor revision to approved design.	BC- on hold pending planning process.	PN-Disapproved, needs swr video & plan corrections. 9/24/15		
65	Najarian	2295 Juniper	5/5/15	B-30471	New SFR: 2,216sf living, 522sf garage, 121sf patio & entry, and permeable paver driveway.	Under review 7-2-15. WM		PN- Plans approved - 7/29/15		
66	Chivens	431 Kern		B30482	Demo Existing 625 S.F. Residence Construct 2,274 S.F. SFR & 550 S.F. Garage	Conditionally approved 7-16. WM	Returned for corrections June 23, 2014			
67	Dunn	445 Kings		B30646	Existing 140sf garage converted to bedroom w/gas fire place.			PN - Approved, 9/1/15		
68	Nisbet	570 Kings		B30600	New 2,317sf SFR w/ 583sf garage and separate detached 735sf 3-car garage.			PN-Disapproved for plan corrections per memo dated 8/31/15		
69	Tobin	315 Las Vegas	6/16/15	B-30524	New SFR	Waiting for CDP approval. JG. Building plans approved		PN- Disapproved, needs sewer video & corrections. 6/19/15		
70	Tobin	325 Las Vegas	6/16/15	B-30533	New SFR	Waiting for CDP approval. JG. Building plans approved		PN- Disapproved, needs sewer video & corrections. 6/19/15		
71	Banuelos	350 Las Vegas	8/19/15	B-30613	Demo 832sf SFR & 384sf non-conforming detached garage. Build new 1,600sf SRF & 484sf garage.			PN-Disapproved for plan corrections per memo dated 9/4/15		
72	Douglas	2587 Laurel	7/27/15	B-30352	Addendum to B-30074. Add 24 sq. ft., converting 1,020 sq. ft. to habitable space, add 120 sq. ft. porch, and 191 sq.ft. deck	Under Review. JG. Denial		PN 9/30/15 Approved as submitted. No memo		
73	Candy Fish Sushi	898 Main	2/23/15	B-30380	Demise wall to add inside seating in restaurant	Approved 2/26/15 JG				
74	Dyson	117 Main	8/18/14	B-30248	Covered Patio	Corrections. 9-5-14. WM.	BC-Returned for corrections 9/8/14.	NRR		
75	Boisclair	900 Main	8/5/15	B-30587	Commerical Interior Remodel, with new restrooms, removing existing driveway & street trees	Building plans approved 9/29/15. JG		PN- Disapproved, . 8/11/15		
76	Tobin	2500 Main	6/16/15	B-30534	New SFR	Waiting for CDP approval. JG. Building plans approved		PN- Disapproved, needs sewer video & corrections. 6/19/15		
77	Tobin	2540 Main	6/16/15	B-30535	New SFR	Waiting for CDP approval. JG. Building plans approved		PN- Disapproved, needs sewer video & corrections. 6/19/15		
78	Bernal	560 Monterey	6/12/15	B-30443	Addition of 158sf to existing SFR (includes roof & deck)	Approved. WM		PN- Approved 7/8/15, no memo.		
79	Meisterlin	315 Morro Bay Blvd.	9/12/14	B30275	Commercial Alteration-Handicap restroom	Approved 9/25/14. CJ.	BC-returned for corrections 10/2/14.	RPS returned for corrections per memo of		
80	Dennis	270 Piney	2/13/15	B-30383	New SFR	Under review 2/26 JG. Waiting for conditions of approval to be included in plan set. 3/5 JG Approved 3/17 JG. Building permit approval 6/25/15	Approved 7-16-15. CL	PN- Plans Approved- 7/22/15		

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81	Dennis	290 Piney	2/13/15	B-30382	New SFR	Under review 2/26 JG. Waiting for conditions of approval to be included in plan set. 3/5 JG Approved 3/17 JG		ME approved 4/16/2015		
82	St. Tim's	962 Piney	6/5/15	B-30470	Addition and interior remodel- 147sf	JG. Needs modification to existing planning permit. Adjustment AD0-023 approved, noticed 6/19.		PN- Conditionally Approved. New sewer req.-8/19/2015		
83	Humarian	781 Quintana	9/2/15	B-30470	Remodel exterior & interior w/ADA restrooms & parking lot upgrades.	Holding Building permit approval until approved on consent at 10/6/15 PC meeting		PN- Disapproved per memo 9/14/15		
82	Verizon	750 Radcliff	7/15/15	B-30562	Verizon Wireless fiber, trench and equipment			PN- Plans conditionally approved, Enrcoachment Permit req. -7/31/15		
83	Salin & Torino	845 Ridgeway	6/12/15	B-30156	Demo/Reconstruct SFR.	JG Under review. Approved.		PN- Plans conditionally approved, Special Enrcoachment Permit req. -7/21/15		
84	Holland	990 Ridgeway	5/20/15	B-30488	Addition of 222sf bed/bath, remodel of 726sf & demo of non-permitted garage.	Disapproved 5-21-15. WM		PN- Plans disapproved. Need lateral sewer video & plans update -7/6/15		
85	Frye	244 Shasta	5/7/13	B-29910	Garage to Second Unit conversion	KM - Needs to comply with or amend existing CDP. 2006 Planning permit modified to allow non-conforming structure. No activity since 2014 on this building permit.	BC- on hold pending planning process.	BCR-approved 5/13/13		
86	Lindsey	413 Shasta	1/14/15	B-30357	Demo / Reconstruct SFR.	Needs CDP. Under review. JG. Noticed 7/30. Building plans rcv'd 9/22/15. Under Review		PN- Plans disapproved. Req. plan corrections - 9/24/15		
87	Schmall	890 Shasta	9/29/15	B-30679	Remodel existing commerical space to expand on adjacent space.			PN- Plans Approved - 9/30/15		
88	Reddell	310 Trinidad	6/1/15	B-30508	New 1763sf SFR w/427sf garage & 150sf storage/deck.	JG. waiting on planning permit approval.		PN- Plans disapproved. Need lateral sewer video & plans update -9/14/15		
89	Barbis	166 Vashon	8/27/15	B-30623	186sf Addition to front exterior of SFR			PN- Plans disapproved for plan corrections - 9/30/15		
90	Turner	356 Yerba Buena	5/21/15	B-30490	SF Additon & Alteration addition of 2,026sf	Corrections sent 6-19-15 CJ.		PN- Plans disapproved. Needs plan update - 9/21/15		
<b>Projects &amp; Permits with Final Action</b>										
1	Whitaker	1170 Front St.	6/12/15	UP0-422	<b>Request for extension of UP0-120/AD0-024 for 6 unit hotel</b>	Waiting on letter of request for time extension before scheduling for PC. Scheduled for PC on 9/15. Conditionally approved 9/15/15				jg
2	Jordan	340 Tulare	7/10/15	UP0-426 & AD0-103	<b>CUP &amp; Parking Exception for 650 sf 2nd floor addition, remodel garage to provide covered enclosed parking with 1 tandem driveway space</b>	Under initial review. JG. Scheduled for PC on 9/15. Conditionally approved 9/15/15				jg
4	Boisclair	900 Main St.	4/24/15	UP0-416	<b>Business change. Combine 2 separate uses, bar &amp; restaurant</b>	JG. Under initial review. Correction letter sent 5/14. Resubmittal rcv'd 8/5/15. PC meeting 9/1. Approved.		PN- Conditionally Approved -8/11/15		jg



AGENDA NO: B-1

MEETING DATE: October 6, 2015

## Staff Report

**TO:** Planning Commissioners

**DATE:** October 1, 2015

**FROM:** Cindy Jacinth, Associate Planner

**SUBJECT:** Concept Plan approval for Conditional Use Permit (UP0-359) for construction of new gangway, dock, and seven (7) boat slips (6 private rentals and 1 public slip) at 725 Embarcadero, Rose's Landing. *(continued from the March 3, 2015 hearing)*

**RECOMMENDATION:**

*Continue the Public Hearing for Conditional Use Permit (#UP0-359) to a date uncertain.*

**REQUEST FOR CONTINUANCE:**

On October 1, 2015, the City received from the Applicant a request for continuance of the project. The request indicated that the Applicant would like to modify the project description to include additional improvements. In order to allow time for revised plans to be submitted and reviewed by City staff prior to public hearing, staff is recommending that the Planning Commission continue the hearing to a date uncertain. At such time that the revised project has been reviewed and is ready for public hearing, the project will be duly re-noticed.

**EXHIBITS:**

Exhibit A – Applicant's Request for Continuance emailed October 1, 2015

Prepared By: \_\_CJ\_\_

Department Review: \_\_\_\_\_

# EXHIBIT A

## Cindy Jacinth - 725 Embarcadero - Rose's Landing Docks- Request for Continuance

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**From:** Kim Prater <kprater@puglisisdesign.com>  
**To:** Cindy Jacinth <CJacinth@morro-bay.ca.us>, Scot Graham <SGraham@morro-bay...>  
**Date:** 10/1/2015 12:18 PM  
**Subject:** 725 Embarcadero - Rose's Landing Docks- Request for Continuance  
**CC:** Steve Puglisi <spuglisi@puglisisdesign.com>, Doug <dougredican@gmail.com>...  
**Attachments:** image001.jpg

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Cindy,

We are amending the project scope for this application. We request a Continuance for this item.

Sincerely,

**Kimberly Prater**  
Architect



**569 Higuera Street, Ste A ▪ San Luis Obispo ▪ CA 93401**

**phone 805.595.1962 ▪ fax 805.595.1980**



AGENDA NO: B-2

MEETING DATE: October 6, 2015

## Staff Report

TO: Planning Commissioners

DATE: October 6, 2015

FROM: Whitney McIlvaine, Contract Planner

SUBJECT: Coastal Development and Conditional Use Permit (CP0-419 & UP0-383)

Continued review from the August 18, 2015 Planning Commission meeting of a request to construct a single-family residence with an attached garage on a vacant coastal lot with designated environmentally sensitive habitat (ESH) at 3420 Toro Lane.

### RECOMMENDATION:

*CONDITIONALLY APPROVE THE PROJECT* by adopting Planning Commission Resolution 28-15 which includes findings for adoption of the Mitigated Negative Declaration and findings, conditions, and environmental mitigation measures for approval of the project.

### APPLICANTS/AGENT:

Greg and Jeanne Frye, Owners/Applicants  
Chris Parker, Architect  
Rachell Kovesdi, Agent

### LEGAL DESCRIPTION/APN:

065-091-022



### PROJECT DESCRIPTION:

The project proposes construction of a 1,580 square-foot single-story house with an attached 552 square-foot garage and approximately 240 square feet of open patio. Plans show a 50-foot ESH buffer from the coastal dune habitat and a 25-foot buffer from the edge of the stream corridor. Revisions to the plans reviewed at the August 18, 2015 meeting are discussed below.

### PREVIOUS REVIEW:

The staff report prepared for the August 18, 2015 Planning Commission meeting is available on the City website at <http://www.morro-bay.ca.us/DocumentCenter/View/8846>. Meeting minutes are available at <http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/2545>, and attached as Exhibit E. Commissioners and members of the public discussed coastal access, project architecture, site constraints shaping the resulting building envelope, and proposed grading. Plans submitted

Prepared By: WM

Department Review: SG

September 29, 2015 show revisions in response to Commission direction.

**RESPONSE TO PLANNING COMMISSION DIRECTION:**

At its meeting of August 18, 2015, the Planning Commission voted 4-0 (Commissioner Sorenson absent), to continue action to a date uncertain on the project with the following direction:

1. *Redesign the project to minimize the amount of excavation and removal of natural land form at the west end of the bluff.*

Revised plans show a reduction in the amount of excavation in this area of the site. Less grading is now proposed for the yard area beyond the patio. Previously the finish elevation of the yard area was proposed to range from 32 feet up to 35 feet. Current plans show the finish elevation at 34 to 35 feet. The retaining wall along the south property line now wraps around the west end of the patio instead of extending approximately 23 feet beyond the patio. Planning conditions 24 and 25 in the attached resolution address limitations on the extent of retaining walls and fencing in this area.

2. *Explore a common driveway configuration through the undeveloped Toro Lane right-of-way such that development on the adjacent lot to south (APN: 065-091-023) could share access. Please provide a conceptual plan of this shared access.*

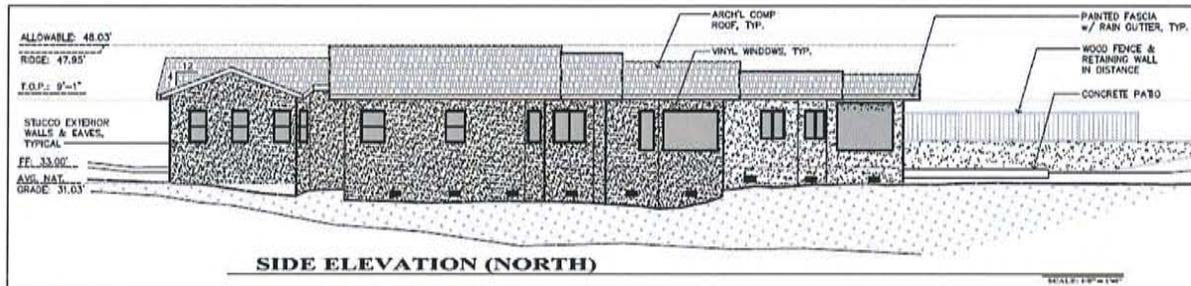
The applicants have responded that they are not interested in creating a common driveway because of concerns for safety and liability issues that can arise with sharing a common driveway. The other lot already has access from Yerba Buena. Also, parking is prohibited on common driveways which could complicate the design and location of the common area, especially without a development proposal for the adjacent lot. Development of the adjacent lot will require Planning Commission approval in the future. Staff recommend revisiting the common driveway idea at the time plans are being formulated for that project.

3. *Alter the architectural treatment to be more aesthetically distinctive and innovative and to relate more particularly to the project setting consistent with the City's Design Guidelines, especially in terms of the northerly façade. Provide more fully rendered elevations of the house.*

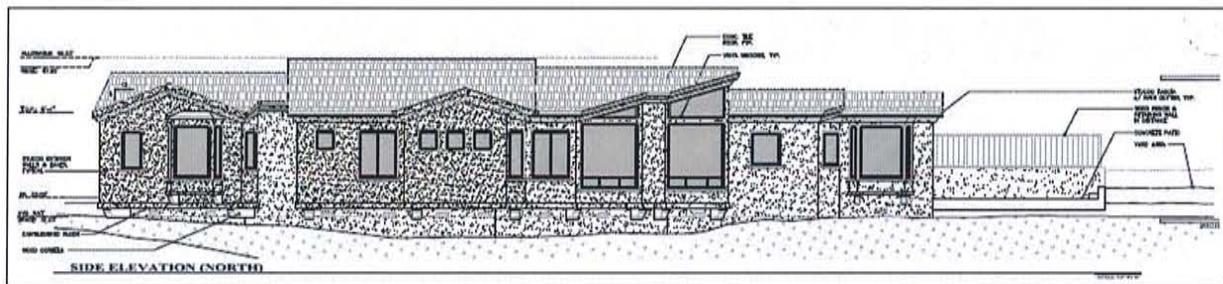
Revised plans show more fully developed design elements, including a slightly altered roof line utilizing concrete tiles rather asphalt shingles, a four-foot recess in the under floor foundation along the northern side of the building with decorative wooden corbels, and large picture windows with lower sliders and casement and awning windows in place of double hung windows. A precast concrete sill is proposed for the windows. A beveled stucco detail is proposed at the sides and top of windows and doors. Two bay windows are shown in the northerly elevation of the house that would accommodate a window seat in the office and in the dining area. Minor changes to the floor plan are shown at the main entry, in the master bath and in the kitchen layout. Revised plans are attached as Exhibit B. Previous plans are part of the August 18, 2015 staff report, included in the

Commissioners' packets and on line at <http://www.morro-bay.ca.us/DocumentCenter/View/8846>. A revised color board is attached as Exhibit C. Colored renderings are attached as Exhibit D.

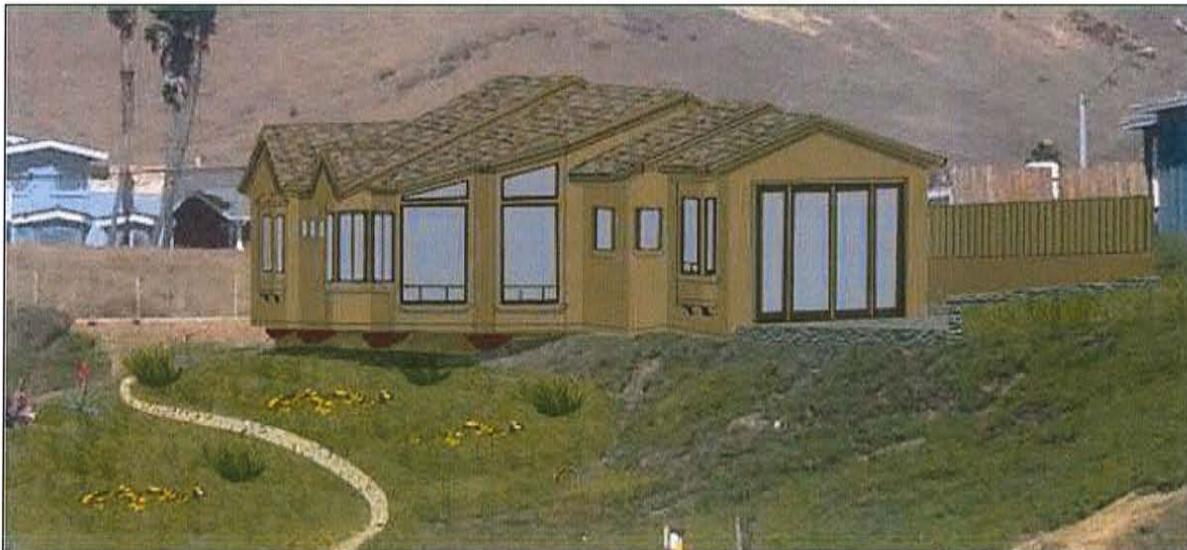
### Previous North Elevation



### Revised North Elevation



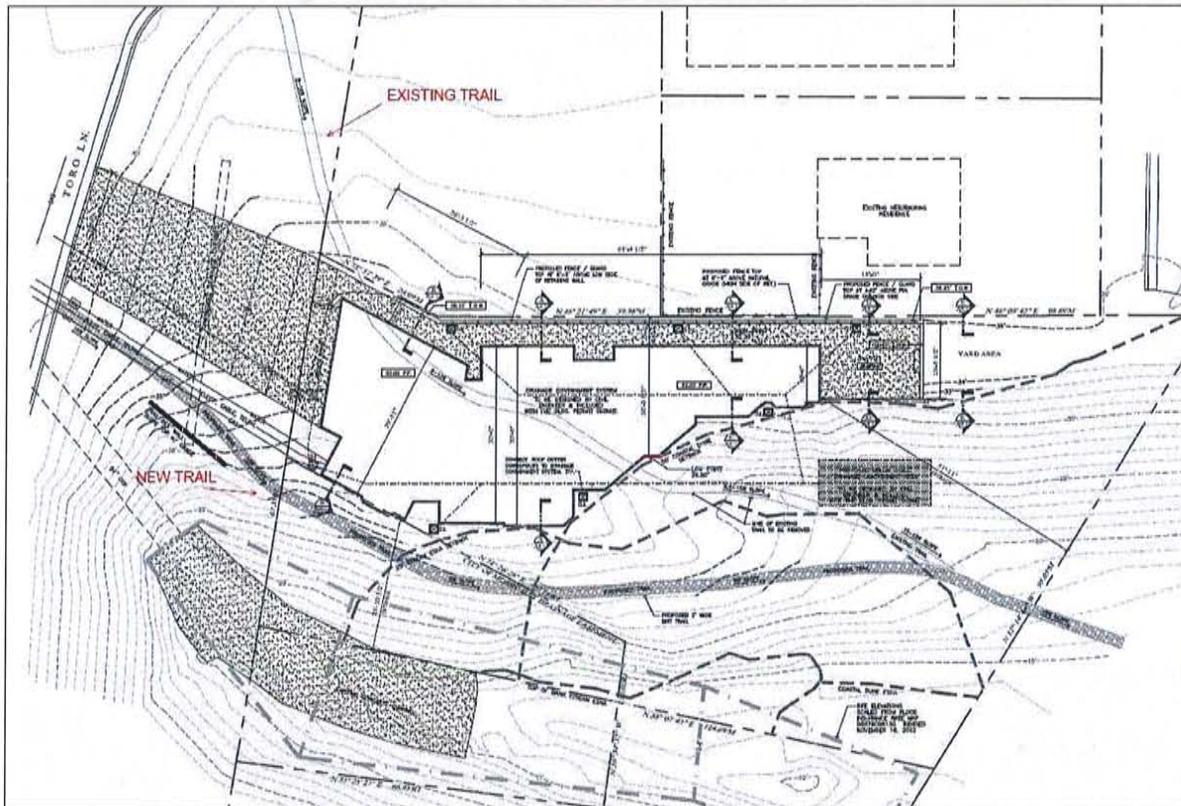
### Color Rendering of Revised Plans



4. Provide a conceptual plan showing the location of a re-routed public access trail through the

site and the adjacent undeveloped Toro Lane right-of-way with a link to the trail from the residence.

Plans show a re-routed trail to the north of the existing trail, both through the right-of way and through the project site. The two overlap near the western edge of the site. Planning Conditions 19-23 in the attached resolution address provisions for coastal access should the Commission decide coastal access is required as part of this project. Coastal access is further discussed below.



5. The Planning Commission also instructed staff to include conditions in a resolution for approval that address prohibition of shoreline protective devices and prohibition of trails through the ESH areas other than for public access and a link from the residence.

Please refer to Planning Conditions 18 and 23 in the attached resolution (Exhibit A).

### **Public Prescriptive Easement**

Staff is aware some members of the public believe the public has acquired a prescriptive right to use the existing trail across the property for access to the beach. Whether or not such right has been acquired is not yet known. Establishment of such a right is a fact-specific determination, ultimately made by a court and outside the purview of the Planning Commission's review of the project. However, given public interest in the potential for a prescriptive right determination, Coastal

Commission staff asked that the City provide information regarding historic use of the on-site trail and potential environmental impacts of providing an alternate trail through the ESH buffer. *Some Facts About Public Prescriptive Rights* is an educational summary of the issue prepared by the California Coastal Commission and attached as Exhibit F.

Several sources of information point to the trail's historic use. Aerial photos dating back to 1953 show beach access crossing the site. Some of these are included in a September 29, 2015 report prepared by Earth Systems Pacific in response to earlier Coastal Commission staff comments (<http://www.morro-bay.ca.us/DocumentCenter/View/8742>). In support of a prescriptive right determination, roughly 75 public use questionnaires were submitted to the City for consideration at the August 18, 2015 Planning Commission meeting. (These can be viewed on the City web page at <http://www.morro-bay.ca.us/index.aspx?NID=842> along with a summary of the questionnaires prepared by an interested Morro Bay resident.) Anecdotal evidence of trail use was also presented at the August 18, 2015 meeting.

Also in response to Coastal Commission staffs' request for information, Planning Commission Chairman Robert Tefft assembled the attached *Investigation as to Potential Prescriptive Easement* (Exhibit G). This document provides information on the project setting, describes nearby coastal-related facilities and coastal access routes, includes a summary of relevant regulatory background and agency authority, and addresses the relevance of a potential public prescriptive easement in reviewing the proposed project at 3420 Toro Lane. The document also outlines the basic criteria for determining prescriptive rights to use a property. The summary of the public use questionnaires is included in the document as Appendix B.

The Coastal Commission, with the help of the State Attorney General's Office, could decide to further research whether or not the prescriptive right criteria appear to be satisfied in this case. If research indicates the public use is substantial enough to create potential prescriptive rights, the Attorney General's Office has the authority to proceed with legal action. Legal action can also be initiated by members of the public or by the City of Morro Bay at the behest of the City Council.

Evaluation of whether or not to proceed with legal action will necessarily include consideration of the overall goal of protecting coastal access consistent with other stated goals of the Coastal Act, including conservation and protection of environmentally sensitive coastal resources, and whether loss of this access can be considered significant in light of the number and variety of available alternative coastal access points nearby. Any requirement to allow continued use of the existing trail would effectively preclude site development, given other constraints on the location and size of the building envelope, and would raise the question of a property taking. Coastal Commission staff have confirmed that a reasonably comparable on-site trail would satisfy the Coastal Act requirement for protection of access.

### **Coastal Access and Project Review**

Because the project is located seaward of the first public road, it is subject to the Public Access and Recreation policies of the Coastal Act, in addition to the City's LCP policies related to coastal access. For development between the nearest public road and the sea, the Planning Commission must make a specific finding regarding project conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The project before the Planning Commission is a request for a coastal development and conditional use permit to construct a single-family home on a vacant lot at 3420 Toro Lane. Whether or not to condition the project to include a coastal access trail is a legitimate consideration. The Coastal Act and the City's LCP encourage maximum protection of coastal access, but also recognize situations where access would not be necessary or would be in conflict with other goals such as resource conservation, public safety and the protection of private property rights.

Comments from Coastal Commission staff on the June 2015 Mitigated Negative Declaration recommended the City further analyze the feasibility and environmental impact of including a public access trail within the stream buffer, given Coastal Act and City policies related to coastal access, and because there are members of the public who have an interest in continued access through the site. Please note the City also received approximately 35 letters in support of the project which specifically recommend against the continued provision of an access trail through the site. Public comment can be viewed on the City website at <http://www.morro-bay.ca.us/index.aspx?NID=842>.

The staff report prepared for the August 18, 2015 Planning Commission meeting includes a discussion of LCP and Coastal Act policies related to coastal access and concludes that a trail through this site to the beach is not necessary. There are numerous alternative access points nearby, with varying degrees of convenience relative to this site. Two sites in particular have well developed coastal access— the North Point Stairs and the Morro Strand State Park. North Point Stairs are approximately 800 feet to the north and the entrance to Morro Strand is approximately 1,000 feet to the south. Between North Point and the south end of Morro Strand, including the trail at 3420 Toro Lane, there are 17 access routes to the beach. Furthermore, coastal access through this site would reduce the area available for re-vegetation and habitat restoration in the Environmentally Sensitive Habitat buffer areas.

In response to Planning Commission direction, project plans show a re-routed trail through the site. The applicants have stated they are willing to provide coastal access through their property. However, they have concerns regarding liability and ongoing responsibility for maintenance. Provision of coastal access is not required for project approval. If the applicant wishes to include a coastal access trail as part of the project description as shown on the September 29, 2015 plans, staff recommends the following conditions be applied to the project:

1. **Public Access Offer to Dedicate:** Prior to issuance of a building permit, the Applicant shall submit an offer to dedicate a public access easement through the project site to the satisfaction of the City Engineer and the Community Development Manager.
2. **Public Access Design:** Prior to issuance of a building permit, the Applicant shall submit a design for the construction of a public access trail through the project site and the adjacent Toro Lane right-of-way to the satisfaction of the City Engineer and the Community Development Manager.
3. **Construction of the Public Access:** Prior to issuance of final occupancy for the project, the Applicant shall construct all improvements necessary for the provision of public access through the site and in the adjacent Toro Lane right-of-way in accordance with the approved public access design.
4. **Trail Hours:** The beach access trail shall be open to the public from one hour before dawn until one hour after sunset.

At this time City of Morro Bay only has limited funds available to improve existing access ways, let alone acquire, improve and maintain new access ways. Findings and conditions in the attached resolution reflect staff recommendations if a coastal access trail remains part of the project description. Staff can provide amendments if a trail is no longer part of the project.

**ENVIRONMENTAL DETERMINATION:**

On June 6, 2015, the 30-day public review period began for a Mitigated Negative Declaration (MND) of Environmental Impact. The MND identifies potentially significant impacts primarily associated with aesthetics, biological resources, and geology/soils, and recommends mitigation measures that, if incorporated into the project, would reduce potential impacts to a less than significant level. The full text of the MND is available on line at <http://www.morro-bay.ca.us/DocumentCenter/View/7529>. A hard copy was previously provided to each Planning Commissioner. Attachment 1 to the resolution for approval lists project mitigation measures and monitoring requirements.

**PUBLIC COMMENT:**

In addition to public agency response to the MND, the City received written comments about the project from members of the public. Public comment is posted on the City website at <http://www.morro-bay.ca.us/DocumentCenter/View/8737>.

**PUBLIC NOTICE:**

Notice of a public hearing on this item was published in the San Luis Obispo Tribune newspaper and posted on site on September 25, 2015. All property owners of record and occupants within 500 feet

of the subject site were mailed notification of this evening's public hearing and invited to voice any concerns on this application.

**CONCLUSION:**

The project site is one of the last remaining vacant beachfront parcels in Morro Bay. As such, it has some notable constraints, including steep slopes, access through unimproved right-of-way, a drainage easement and intermittent stream corridor, coastal dune habitat and a flood zone boundary. The ESH and Special Treatment S.2A zoning overlays further restrict the site's developable area and project design. Public comment has been submitted both for and against coastal access through the site. Considerable effort has been made by the project applicant to address environmental concerns and design a project that addresses site constraints consistent with the Coastal Act and the City's Local Coastal Plan and Zoning Ordinance.

With the incorporation of conditions of approval and recommended environmental mitigation measures, staff recommends the Planning Commission approve the project as shown on plans dated September 29, 2015 by adopting Planning Commission Resolution 28-15 which includes the Findings for adoption of the Mitigated Negative Declaration and Findings, Mitigation Measures, and Conditions of Approval for the project.

**EXHIBITS:**

- Exhibit A – Planning Commission Resolution 28-15, with Attachment 1: *Mitigation Monitoring and Reporting Program*
- Exhibit B – Project Plan Reductions, dated September 29, 2015
- Exhibit C – Color Board
- Exhibit D - Colored Renderings
- Exhibit E – 9/18/15 meeting minutes
- Exhibit F - *Some Facts About Public Prescriptive Rights*
- Exhibit G – *Investigation as to Potential Prescriptive Easement*

Planning Commissioners' packets include full-size plans and the August 18, 2015 staff report and attachments. The MND was distributed at the August 4, 2015 Planning Commission meeting. Commissioners should bring their copy to the meeting.

**On the City of Morro Bay Web Page:**

Environmental Review (MND):

<http://www.morro-bay.ca.us/DocumentCenter/View/7529>

Public Comment:

<http://www.morro-bay.ca.us/DocumentCenter/View/8737>

Previous Coastal and USFWS 2014 comments:

<http://www.morro-bay.ca.us/DocumentCenter/View/8762>

Professional Studies and Reports:

GeoSolutions Soils Report:

<http://www.morro-bay.ca.us/DocumentCenter/View/8737>

2012 Biological Resources Report:

<http://www.morro-bay.ca.us/DocumentCenter/View/8739>

2013 Biological Resources Report:

<http://www.morro-bay.ca.us/DocumentCenter/View/8740>

2014 Biological Resources Assessment Addendum:

<http://www.morro-bay.ca.us/DocumentCenter/View/8741>

Earth Systems Pacific Response to Coastal Comments:

<http://www.morro-bay.ca.us/DocumentCenter/View/8742>

Earth Systems Pacific Revised Sea Wave Run-up Analysis:

<http://www.morro-bay.ca.us/DocumentCenter/View/8743>

Earth Systems Pacific Slope Stability Analysis:

<http://www.morro-bay.ca.us/DocumentCenter/View/8744>

Earth Systems Pacific Update of Geologic Bluff Study:

<http://www.morro-bay.ca.us/DocumentCenter/View/8745>



EXHIBIT A  
RESOLUTION NO. PC 28-15

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION ADOPTING A MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT AND APPROVING COASTAL DEVELOPMENT PERMIT (CP0-417) AND CONDITIONAL USE PERMIT (UP0-383) TO CONSTRUCT A NEW SINGLE-FAMILY DWELLING ON A VACANT BEACH FRONT PROPERTY WITH AN ENVIRONMENTALLY SENSITIVE HABITAT OVERLAY IN THE BLUFF SETBACK REVIEW AREA AND THE COASTAL APPEAL JURISDICTION AT 3420 TORO LANE

**WHEREAS**, the Planning Commission of the City of Morro Bay (the “City”) conducted a public hearing at the Morro Bay Veteran’s Hall, 209 Surf Street, Morro Bay, California, on October 6, 2015, for the purpose of considering Coastal Development Permit CP0-419 and Conditional Use Permit UP0-383 and the associated Mitigated Negative Declaration for construction of a new single-family home at 3420 Toro Lane, on a bluff review area property with an Environmentally Sensitive Habitat Overlay in the Coastal Commission appeal jurisdiction; and

**WHEREAS**, notice of the public hearing was provided at the time and in the manner required by law; and

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

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

**Section 1: Findings.** Based upon all the evidence, the Commission makes the following findings:

California Environmental Quality Act (CEQA) Finding

1. That for purposes of the California Environmental Quality Act, an Initial Study was prepared for the project which resulted in a Mitigated Negative Declaration. The Mitigated Negative Declaration was routed to the State Clearinghouse for the required 30 day review and all other legal noticing and review requirements have been met. The project applicants agreed to all mitigations. With the incorporation of these mitigations the project will have a less than significant impact on the environment.

Coastal Development Finding

1. As conditioned, the project is consistent with applicable provisions of the Local Coastal Program for construction of a new single-family residence and bluff development in the Atascadero State Beach Bluff Area.

Conditional Use Findings

1. As conditioned, the project is consistent with the General Plan and Local Coastal Program regarding the location of residential uses and development of property in coastal bluff setback review area.
2. As conditioned, the project will not be detrimental to the health, safety and welfare of persons residing or working in the neighborhood.

Reduced Buffer Area Finding

1. Consistent with the Coastal Land Plan Use (Policy 11.14) and the Environmentally Sensitive Habitat development standards in the City's Zoning Ordinance (subsection 17.40.040.D.6), the reduction in the stream corridor buffer area from 50 feet to 25 feet is reasonably necessary to allow development of the site and environmental mitigation is incorporated into the project description to require native habitat restoration landscaping in the buffer area.

Coastal Access Finding

1. The project is consistent with the public access and public recreation policies of Chapter 3 of the Coastal Act because it includes a beach access trail through the project site.

**Section 2. Action.** The Planning Commission does hereby adopt the June, 2015 Mitigated Negative Declaration and approve Coastal Development Permit CP0-419 and Conditional Use Permit UPO-383 for property located at 3420 Toro Lane subject to the following conditions:

**STANDARD CONDITIONS**

1. This permit is granted for the land described in the staff report dated October 6, 2015, for the project at 3420 Toro Lane as depicted on plans received by the City on September 29, 2015, as part of Coastal Development Permit CP0-419 and Conditional Use Permit UP0-383, on file with the Community Development Department, as modified by these conditions of approval, and more specifically described as follows: Site development, including all buildings and other features, shall be located and designed substantially as shown on plans, unless otherwise specified herein.
2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this Resolution 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. Any extension may be granted by the City's Community Development Manager (the "Manager"), upon finding the project complies with all applicable provisions of the Morro Bay Municipal Code (the "MBMC"), General Plan and certified 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 Community Development Manager. Any changes to this approved permit determined, by the Manager, not to be minor 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, the City, 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 MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan for the City.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicant's failure to comply with conditions of approval. Applicant understands and acknowledges the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Manager or as authorized by the Planning Commission. Failure to comply with any of these conditions shall render this entitlement, at the discretion of the Manager, null and void. Continuation of the use without a valid entitlement will constitute a violation of the MBMC and is a misdemeanor.
7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan of the City.

### **PLANNING CONDITIONS**

1. Construction Hours: Pursuant to MBMC subsection 9.28.030.I, Construction or Repairing of Buildings, the erection (including excavating), demolition, alteration or repair of any building or general land grading and contour activity using equipment in such a manner as to be plainly audible at a distance of fifty feet from the building other than between the hours of seven a.m. and seven p.m. on

- weekdays and eight a.m. and seven p.m. on weekends except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Community Development Department, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues.
2. Dust Control: That prior to issuance of a grading permit, a method of control to prevent dust and wind blow earth problems shall be submitted for review and approval by the Building Official.
  3. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.
  4. Exterior Materials: Building color and materials shall be as shown on plans approved by the Planning Commission and specifically called out on the plans submitted for a Building Permit to the satisfaction of the Community Development Manager.
  5. Boundaries and Setbacks: The property owner is responsible for verification of lot boundaries. Prior to requesting foundation inspection, a licensed land surveyor shall verify lot boundaries and building setbacks to the satisfaction of the Community Development Manager. A copy of the surveyor's *Form Certification* based on a boundary survey shall be submitted to the Building Inspector with the request for foundation inspection.
  6. Building Height Verification: Prior to foundation inspection, a licensed land surveyor shall measure and inspect the forms and submit a letter to the Community Development Manager certifying that the tops of the forms are in compliance with the finish floor elevations as shown on approved plans. Prior to either roof nail or framing inspection, a licensed surveyor shall submit a letter to the Building Inspector certifying that the height of the structures is in accordance with the approved plans.
  7. Maximum Building Height: Building height shall comply with the maximum building height standards in the S-2.AOverlay, which are 14 feet for flat roofs and roof deck sills, and 17 feet for roofs with a minimum pitch of 4 in 12. Height shall be measured from the average natural grade beneath the building footprint.
  8. Stream Corridor Buffer: The minimum buffer area for the stream corridor shall be 25 feet from the top of bank as delineated on the project site plan.
  9. Coastal Dune Buffer: The minimum buffer area for the coastal dune habitat shall be 50 feet as delineated on the project site plan.

10. ESH Easement: Consistent with Land Use Element Policy LU-61, the property owners shall dedicate a permanent easement over portions of the property determined to be sensitive habitat. This will include the stream corridor and the coastal dune area as shown on the project site plan and in the Addendum to Biological Resources Assessment (KMA 2014) together with the approved buffer areas.
11. Geologic Reports: The applicant shall comply with all recommendations contained in the geologic reports, prepared for this property by Earth Systems Pacific (June/September 2002, September, 2013 Update).
12. Slope Stability Analysis: The applicant shall comply with all recommendations contained in the slope stability analysis prepared for this property by Earth Systems Pacific (March 5, 2015).
13. Soils Engineering Report: The applicant shall comply with all recommendations contained in the soils engineering report prepared for this property by GeoSolutions (August, 2014).
14. Utility Undergrounding: Prior to final occupancy clearance, the applicant shall install all utility distribution and service lines to the site underground.
15. Landscaping: Project landscaping shall include native and drought tolerant plants consistent with the Habitat Restoration and Enhancement Plan (as required by Biological mitigation measure 4 in the *Mitigation, Monitoring and Reporting Program* approved by the Community Development Manager). Landscaping shall be designed to minimize ecological and geological disturbances. Only plant materials recognized for their drought tolerance or erosion controlling properties shall be authorized on bluffs or bluff tops.
16. ESH Fencing: Prior to final occupancy clearance, low open fencing shall be provided at the ESH buffer boundary to ensure residential activities do not occur within the buffer area to the satisfaction of the Community Development Manager.
17. HVAC Location: Any HVAC system shall be located under the roof lines or on the ground outside of required setbacks and not visible from the public right of way to the satisfaction of the Community Development Manager.
18. Shoreline Protective Structures Prohibited: Shoreline protective structures that protect the approved development (including but not limited to seawalls, revetments, retaining walls, tie backs, caissons other than for structural foundation purposes, piers, groins, etc.) shall be prohibited. Prior to issuance of a building permit, the Applicant shall record acknowledgement of this condition on behalf of itself and all successors and assigns in a manner and form acceptable to the City.

19. Public Access Offer to Dedicate: Prior to issuance of a building permit, the Applicant shall submit an offer to dedicate a public access trail through the project site to the satisfaction of the City Engineer and the Community Development Manager.
20. Public Access Design: Prior to issuance of a building permit, the Applicant shall submit a design for the construction of a public access trail through the project site and the adjacent Toro Lane right-of-way to the satisfaction of the City Engineer and the Community Development Manager.
21. Construction of the Public Access: Prior to issuance of final occupancy for the project, the Applicant shall construct all improvements necessary for the provision of public access through the site in and the adjacent Toro Lane right-of-way accordance with the approved public access design.
22. Trail Hours: The beach access trail shall be open to the public from one hour before dawn until one hour after sunset.
23. Limitation on Trail Area: Trails through the ESH areas other than for public access and a link from the residence shall be prohibited.
24. Retaining Wall: There shall be no retaining wall or fence past the western edge of the patio.
25. Fence Height: The maximum fence height adjacent to the patio shall not exceed the minimum height required by the Building Code.

### **ENVIRONMENTAL CONDITIONS**

1. The applicant shall comply with the environmental mitigation measures as detailed in the Mitigation Monitoring and Reporting Program which is attached hereto as Attachment 1.

### **PUBLIC WORKS CONDITIONS**

1. The project shall provide frontage improvements as noted below and must include Low Impact Development (LID) Performance Requirements as required by the Storm Water Management Guidance- EZ Manual, March 6, 2014 amendment to the City Standard Drawings and Specifications.

The following comments shall be addressed with the building permit submittal:

2. Stormwater: Since the project is  $\geq 2,500$ sf of impervious area provide a Stormwater Performance Requirement #1 Certification, prepared by a Registered Civil Engineer. Since there is no potential for downstream flooding, the project is

exempt from the requirements of Performance Measure #5.

3. Erosion and sediment control: Provide a standard erosion and sediment control plan. The Plan shall show control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or ecologically sensitive area.
4. Frontage improvements:
  - a. City standard driveway approach and a concrete curb and gutter are required. A street tree is required.
  - b. All standard improvements (e.g. driveway approach) in the City right of way per City Engineering Standards require a Standard Encroachment Permit.
  - c. Non-standard improvements in the right of way (e.g. retaining wall) shall require a Special Encroachment Permit.
5. Utilities:
  - a. Include the locations of all proposed utilities, gas, sewer, water etc. Indicate on the plans if the sewer lateral is proposed or existing. If the existing sewer lateral is going to be used the following must be completed:
    - i. Conduct a video inspection of the conditions of existing sewer lateral prior to building permit issuance. Submit a DVD to City Public Services Department. Repair or replace as required to prohibit inflow/infiltration.
  - b. Sewer Backwater Valve: A sewer backwater valve shall be installed on site to prevent a blockage or maintenance of the municipal sewer main from causing damage to the proposed project. (MBMC 14.07.030) Indicate on the plans.

Add the following Notes to the Plans:

1. Any damage to City facilities, i.e. curb/berm, street, sewer line, water line, or any public improvements shall be repaired at no cost to the City of Morro Bay.

### **BUILDING CONDITIONS**

1. Building Permit: Prior to construction, the applicant shall submit a complete Building Permit Application and obtain the required Permit.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 6<sup>th</sup> day of October, 2015 on the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

---

Chairperson Robert Tefft

ATTEST

---

Scot Graham, Community Development Manager

The foregoing resolution was passed and adopted this 6<sup>th</sup> day of October, 2015.

## Attachment 1 to Resolution PC 28-15

### Mitigation Monitoring and Reporting Program

#### AESTHETICS:

**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 a building permit, 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, recreation areas, safety, and signage. The lighting plan shall include the following at minimum:*

- a) The point source of all exterior lighting shall be shielded from offsite views.*
- b) Light trespass from exterior lights shall be minimized by directing light downward and utilizing cut-off fixtures or shields.*
- c) Lumination from exterior lights shall be the lowest level allowed by public safety standards.*
- d) Exterior lighting shall be designed to not focus illumination onto exterior walls.*
- e) Bright white-colored light shall not be used for exterior lighting.*
- f) Any signage visible from offsite shall not be internally illuminated.*

*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.*

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

#### Monitoring:

The City of Morro Bay would 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.

#### AIR QUALITY

**AQ Impact 1**      **Construction activities associated with development of the proposed project would result in short-term emissions of DPM, potentially affecting sensitive receptors.**

*AQ/mm-1*

*Prior to issuance of grading and construction 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:*

- 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*

*Prior to issuance of grading and construction permits, the applicant shall include the following notes on applicable grading and construction plans, 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 shall be used whenever possible;*
- c) *All dirt stockpile areas shall be sprayed 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) *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;*
- f) *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.*

- g) *Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;*
- h) *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;*
- i) *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;*
- j) *All PM<sub>10</sub> mitigation measures required shall be shown on grading and building plans; and*
- k) *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. The name and telephone number of such persons shall be provided to the APCD Compliance Division and listed on the approved building plans prior to the start of any grading, earthwork or demolition.*

**AQ Impact 3                      Construction activities associated with development of the proposed project could generate dust that could be a nuisance to adjacent sensitive receptors.**

*AQ/mm-3                      Prior to issuance of a grading permit, the applicant shall submit a geologic evaluation that determines if naturally occurring asbestos (NOA) is present within the area that will be disturbed. If NOA is not present, an exemption request shall be filed with the District. If NOA is found at the site, the applicant shall comply with all requirements outlined in the Asbestos ATCM. This may include development of an Asbestos Dust Mitigation Plan and an Asbestos Health and Safety Program for approval by the APCD.*

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

**Monitoring:**

Copies of regulatory forms will be submitted to the APCD for review and approval, consistent with existing regulations. The applicant is required to submit approval documentation from APCD to the City Community Development Director/Planning Manager. 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 Community Development Director.

**BIOLOGICAL RESOURCES**

**BIO Impact 1                      Development of the project could indirectly affect the natural drainage feature to the north of the site, coastal and shoreline habitat to the west, and special-status species and wildlife in the proximity.**

*BIO/mm-1                      Prior to issuance of construction permits, the applicant shall submit documentation verifying designation of a qualified environmental monitor for all biological resources measures to ensure compliance with Conditions of Approval and mitigation measures. The monitor shall be responsible for: (1) ensuring that procedures for verifying compliance with environmental mitigations are followed; (2) lines of communication and reporting methods; (3) compliance reporting; (4) construction crew training regarding environmentally sensitive areas; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. Monitoring shall be at a frequency and*

*duration determined by the affected natural resource agencies, which may include the U.S. Army Corps of Engineers, California Department of Fish and Wildlife, Regional Water Quality Control Board, California Coastal Commission, U.S. Fish and Wildlife Service, and the City of Morro Bay.*

*BIO/mm-2 Prior to the initiation of construction, the environmental monitor shall conduct environmental awareness training for construction personnel. The environmental awareness training shall include discussions of sensitive habitats and animal species in the immediate area. Topics of discussion shall include: general provisions and protections afforded by the Endangered Species Act; measures implemented to protect special-status species; review of the project boundaries and special conditions; the monitor's role in project activities; lines of communications; and procedures to be implemented in the event a special-status species is observed in the work area.*

*BIO/mm-3 Prior to the initiation of construction, the applicant's contractors and the environmental monitor shall coordinate the placement of project delineation fencing throughout the work areas. The environmental monitor shall field fit the placement of the project delineation fencing to minimize impacts to sensitive resources. The project delineation fencing shall remain in place and functional throughout the duration of the project. During construction, no project related work activities shall occur outside of the delineated work area.*

*BIO/mm-4 Prior to issuance of grading and construction permits, the applicant shall submit a Habitat Restoration and Enhancement Plan prepared by a qualified restoration ecologist for the review and approval by the City Community Development Manager. The plan shall be implemented concurrent with or immediately following construction. The plan shall include, but not be limited to the following measures, pursuant to the Biological Resources Assessment (KMA December 2013 and KMA Addendum 2014):*

- a. Prior to any construction activities, a construction buffer shall be demarcated with highly visible construction fencing or staking for the benefit of contractors and equipment operators.*
- b. Restoration of surface contours through minor grading and seeding native vegetation may be required to reduce the erosion potential and provide temporary cover during and after construction.*
- c. Non-native and invasive plant species shall not be permitted in the approved buffer areas. For a list of noxious weeds and appropriate plant materials, please refer to the following sources: the California Invasive Plant Council website at [www.cal-ipc.org](http://www.cal-ipc.org) and the County of San Luis Obispo's approved landscape plant list. Substitutions may be allowed, but shall be approved by a qualified botanist.*
- d. The ESH buffer areas shall utilize native species characteristic of the coastal scrub and coastal grassland habitat. Landscaping around the house and to the east and south shall utilize drought tolerant, non-invasive species.*
- e. As part of any building permit application, a sediment and erosion control plan shall be submitted that specifically seeks to protect the drainage and protected native habitat adjacent to the construction site. Erosion control measures shall be implemented to prevent runoff from the site. Silt fencing, straw bales, and/or sand bags shall be used as well as other methods to prevent erosion and sedimentation of the drainage channel. The plan shall specify locations and types of erosion and sediment control structures and materials that would be used on-site during construction activities. Biotechnical approaches using native vegetation shall be used as feasible. The plan shall also describe how any and all pollutants originating from construction equipment would be collected and disposed.*
- f. Current Best Management Practices (commonly referred to as BMPs) shall be utilized to minimize impacts to the drainage feature and native habitat areas onsite. Washing of concrete, paint, or equipment shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Washing of equipment, tools, roads, etc. shall not be allowed in any location where the tainted water could affect the drainage and adjacent beach's sensitive biological resources.*

- g. *Identification of areas to be seeded or planted following weed abatement, planting and weed control methodologies, measures to protect plantings during the establishment period, irrigation methods and timing (which shall not result in erosion or down-gradient sedimentation).*
- h. *The plan shall be monitored for two years following initial site preparation, planting, and seeding.*
- i. *Annual monitoring reports shall be submitted to the City Community Development Manager, and shall include written explanation of adherence to the plan, any necessary remediation or maintenance actions, and photo-documentation.*

**BIO Impact 2      Development of the project could adversely affect nesting birds onsite or in the proximity.**

*BIO/mm-5      Prior to ground disturbance, to minimize impacts to nesting bird species, including special status species and species protected by the Migratory Bird Treaty Act, initial site grading shall be limited to outside the nesting season and focused during the time period between September 1 and February 1 as feasible. If initial site disturbance cannot be conducted during this time period, a pre-construction survey for active bird nests onsite shall be conducted by a qualified biologist. Surveys shall be conducted within two weeks prior to any construction activities. If no active nests are located, ground disturbing/construction activities can proceed. If active nests are located, then all construction work shall be conducted outside a non-disturbance buffer zone to be developed by the qualified biologist based on the species (i.e., 50 feet for common species and upwards of 250 feet for special status species), slope aspect and surrounding vegetation. No direct disturbance to nests shall occur until the young are no longer reliant on the nest site as determined by the project biologist. The biologist shall conduct monitoring of the nest until all young have fledged.*

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

**Monitoring:**

The City shall verify required elements on plans and compliance in the field. The City shall review and approve plans and monitoring reports.

**CULTURAL RESOURCES**

**CR Impact 1      Ground disturbance associated with the construction of the residence and all associated facilities may result in the inadvertent discovery of previously undocumented archaeological resources.**

*CR/mm-1      A qualified archaeologist and a Salinan or Chumash Native American who is culturally affiliated to the project area, as approved by the City, shall be on site to monitor grading, trenching and related site preparation. The name and contact information of the monitoring archaeologist shall be included on the cover sheet of the building plans. Prior to a request for foundation inspection, the applicant shall submit a report prepared by the monitoring archaeologist summarizing the dates and times of monitoring and observations regarding the presence or absence of cultural material during grading operations.*

*CR/mm-2      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 monitor shall be notified, and the resource shall be evaluated to ensure the discovery is adequately recorded, evaluated and, if significant, mitigated.*

*CR/mm-3* Prior to any grading or construction, contractors involved in grading and grubbing activities shall receive training from a City-approved qualified archaeologist knowledgeable in local tribes. At a minimum, the training shall address the following:

- a) Review of the types of archaeological artifacts that may be uncovered.
- b) Provide examples of common archaeological artifacts to examine.
- c) Review what makes an archaeological resource significant to archaeologists and local Native Americans.
- d) Describe procedures for notifying involved or interested parties in case of a new discovery.
- e) Describe reporting requirements and responsibilities of construction personnel.
- f) Review procedures that shall be used to record, evaluate, and mitigate new discoveries.
- g) Describe procedures that would be followed in the case of discovery of disturbed or intact human burials and burial-associated artifacts.

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

**Monitoring:**

The City Community Development Director shall verify compliance with this measure.

**GEOLOGY/SOILS**

**GS Impact 1** Development associated with the proposed project places structures and people in an area subject to geologic hazards including seismic groundshaking, and risks associated with slope stability.

*GS/mm-1* Upon application for grading and construction permits, all mitigation measures identified in the September 13, 2002 Geologic Report and September, 2013 Update prepared by Earth Systems Pacific shall be incorporated into the project. These measures shall be included on all grading and building plans. These include the following:

- a. The Certified Engineering Geologist of record shall provide an engineering geologist's written certification of adequacy of the proposed site development for its intended use.
- b. A Certified Engineering Geologist shall review, approve and stamp construction plans including all plans for building foundations and excavation.
- c. The Certified Engineering Geologist shall inspect work on-site and verify that building construction, including all foundation work, has been performed in a manner consistent with the intent of the plan review and engineering geology report.
- d. Before final inspection and/or issuance of occupancy permits, should the services of the Certified Engineering Geologist be terminated the applicant shall submit a transfer of responsibility statement to the Planning Division from the new Certified Engineering Geologist pursuant to the Uniform Building Code.

*GS/mm-2* Concurrent with submittal of construction plans, the applicant shall submit a Soils Report, prepared by a California Registered Geologist or Soils Engineer, a Geology Report, prepared by a

*California Registered Geologist, and a Slope Stability Report, prepared by a California Registered Engineering Geologist. The Soils Report shall address soils engineering and compaction requirements, slope stability issues, drainage locations with respect to walls, finish floor elevations, drain materials, and shall contain recommendations regarding foundation design, retaining wall design, and paving sections, where applicable, for the project. The soils report shall be reviewed and approved by the City Engineer.*

GS/mm-3

*Prior to issuance of grading and construction permits, the applicant shall prepare a drainage and erosion control plan to reduce the potential for erosion and down-gradient sedimentation both during construction and for the life of the project. 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. Monitoring or inspection of construction activities by the City Building Inspector 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 by the City Engineer to ensure compliance with the requirements of the Geologic Report. Erosion control plans shall be submitted to the City Community Development Department for review and approval, in consultation with the City Engineer. Monitoring or inspection of construction activities by the City Building Inspector shall occur as needed to ensure compliance with design plans and the drainage and erosion control plan.

**HAZARDS AND HAZARDOUS MATERIALS**

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

HAZ/mm-1

*Prior to construction, the applicant shall prepare a drainage and erosion control plan which also specifically addresses hazardous materials to be used during construction and operation, and identifies procedures for storage, distribution, and spill response for review and approval by the City Community Development Department. The plan shall identify hazardous materials to be used during construction and operation, and shall identify procedures for storage, distribution, and spill response. Equipment refueling shall be done in non-sensitive areas and such that spills can be easily and quickly contained and cleaned up without entering any existing stormwater drainage system or creek. The plan shall include procedures in the event of accidents or spills, identification of and contact information for immediate response personnel, and means to limit public access and exposure. Any necessary remedial work shall be done immediately to avoid surface or ground water contamination. The plan shall be implemented by the construction contractor, and verified by the City Building Inspector.*

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

**Monitoring:**

The applicant shall be responsible for implementing the approved drainage and erosion control including spill prevention control and response measures. The City Building Inspector shall conduct periodic inspections to verify compliance.

## **HYDROLOGY AND WATER QUALITY**

**HWQ Impact 1**      **The project would increase impervious surfaces at the project site, which would increase the total volume of storm water runoff and could contribute to erosion, siltation and flooding risks.**

*HWQ/mm-1*      *Prior to issuance of grading permits, the applicant shall submit a final grading and drainage plan for review and approval by the City Engineer and California Department of Transportation (Caltrans). The drainage plan shall demonstrate that additional runoff resulting from the project would not compromise the existing culvert under Toro Lane, and would avoid scour under the culvert structure and concrete portion of the channel.*

*HWQ/mm-2*      *Prior to issuance of grading permits, final plans shall clarify if any work will occur within the easement for the culvert and drainage channel and obtain any encroachment permit deemed necessary by the City Engineer.*

*HWQ/mm-3*      *Prior to issuance of grading and building permits, the applicant shall submit construction plans incorporating Low Impact Development (LID) planning principles, to the maximum extent feasible, consistent with the City of Morro Bay "Stormwater Management Guidance Manual for Low Impact Development and Post-Construction Requirements" to the satisfaction of the Public Works Director.*

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

### **Monitoring:**

Monitoring shall occur as necessary to ensure development is proceeding consistent with the final grading and drainage plan. The City shall verify receipt of a copy of the Caltrans-issued Encroachment Permit.

## **NOISE**

**N Impact 1**      **The proposed project places structures and people in an area subject to excessive noise levels associated with traffic along State Route 1.**

*N/mm-1*      *Prior to issuance of building permits, the applicant shall submit plans incorporating noise mitigation measures, including, but not limited to:*

- a. location of all vents and other roof and wall penetrations on walls and roofs facing away from the noise source (on the north, west and east elevations whenever possible)*
- b. use of bends and insulation in ventilation systems*
- c. use of closable dampers*
- d. Sound Transmission Class rated wall, door and window materials*
- e. use of acoustical sealant on all windows and other openings as appropriate.*

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

### **Monitoring:**

Monitoring shall occur as necessary to ensure development is proceeding consistent with the mitigation measures and that all exterior and interior noise levels are consistent with levels established in the Noise Element prior to occupancy.

**Acceptance of Mitigation Measures by Project Sponsor:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

## LOW-IMPACT DEVELOPMENT

HABITAT RESTORATION AND ENHANCEMENT AS PER BIOLOGY REPORT  
 NON-INVASIVE DROUGHT TOLERANT PLANTS  
 VEGETATED SWALES  
 AMEND SOILS  
 CATCH BASINS  
 CONSTRUCTION BEST MANAGEMENT PRACTICES (BMP)

## GREEN MEASURES

ENERGY STAR APPLIANCES  
 TANKLESS WATER HEATER  
 HIGH EFFICIENCY FAU  
 LOW E GLAZING  
 SHIELDED LOW INTENSITY EXT. LIGHTING  
 TITLE 24 ENERGY COMPLIANCE  
 LOW & NO-VOC FINISHES

## BLDG. CODES

2013 CALIFORNIA BUILDING CODE  
 2013 CALIFORNIA RESIDENTIAL CODE  
 2013 CALIFORNIA PLUMBING CODE  
 2013 CALIFORNIA MECHANICAL CODE  
 2013 CALIFORNIA ELECTRIC CODE  
 2013 CALIFORNIA ENERGY CODE  
 CALIFORNIA GREEN BUILDING CODE  
 2013 CALIFORNIA FIRE CODE  
 CALIFORNIA REFERENCE STANDARDS CODE

## STORMWATER

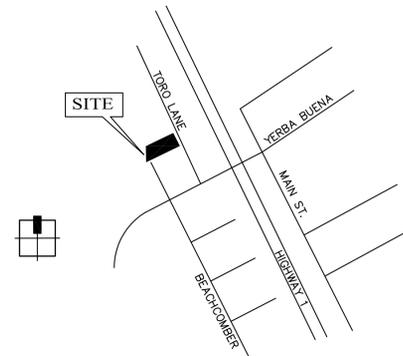
### APPENDIX A

#### SFR PERFORMANCE REQUIREMENT DETERMINATION FORM

The following form shall be completed for all SFR development and redevelopment projects. Projects that are exempt from performance requirements are required to complete Section 1 & 2 only.

Section 1: General Information	
Project name	FRYE RESIDENCE
Project Address	3420 TORO LN
Assessor's Parcel Number(s)	065-091-022
Name of Applicant	GREG & JENNIE FRYE
Applicant email address:	gryfne@gmail.com
Applicant phone:	(805) 235-6503
Project Type (e.g. single-family residential, commercial, etc.)	SINGLE-FAMILY RESIDENCE
Section 2: Area Information (ft <sup>2</sup> )	
Total Project Area	SITE: 10,019 SQ. FT.
Total Existing Impervious surface area	NONE
Proposed Gross Impervious Area (list only the surface areas that are being created or replaced)	
a. Rooftops	2124.7 SQ. FT.
b. Driveways	581.6 SQ. FT.
c. Patios	<PART OF B.>
d. Parking Lots	
e. Other	
Total Gross Impervious Area	2,706.3 SQ. FT.
If Gross Impervious Area <2,500 ft <sup>2</sup> , write "EXEMPT". Otherwise continue to Sec. 3	
Section 3: PR Determination	
Net Impervious Area (from page 7)	2,706.3 SQ. FT.
Performance Requirements (from Flow Chart)	#1 & #5

## VICINITY MAP



## PROJECT INFO.

APN: 065-091-022  
 ZONING: R-1 / S.2.A / ESH  
 PROPOSED NEW RESIDENCE:  
 CONDITIONED SPACE: 1,569 SQ. FT.  
 GARAGE: 552 SQ. FT.  
 COVERED ENTRY: 17 SQ. FT.  
 OPEN PATIO: 242.4 SQ. FT.  
 PORTION OF DRIVEWAY & CONC. FLATWORK ON PROPERTY: 581.6 SQ. FT.  
 PORTION OF DRIVEWAY IN RIGHT-OF-WAY: 1,056 SQ. FT.  
 LOT SIZE: 10,019 SQ. FT.  
 PROPOSED LOT COVERAGE: (2,138 SQ. FT.) 21.3%  
 [HOUSE, GARAGE, & COVERED ENTRY]  
 PROPOSED IMPERVIOUS SURFACES: 2,948.7 SQ. FT.  
 [WITHIN PROPERTY - HOUSE, GARAGE, COVERED ENTRY, OPEN PATIO, DRIVEWAY & CONCRETE FLATWORK]  
 OCCUPANCY: R-3 SFR  
 CONSTRUCTION TYPE: TYPE V, SPRINKLED  
 A.N.G. OF BUILDING PAD: 31.03'  
 ALLOWED ROOF HEIGHT: > 4:12 SLOPE 48.03'  
 ALLOWED ROOF HEIGHT: < 4:12 SLOPE 45.03'  
 PROPOSED ROOF HEIGHT: > 4:12 SLOPE 47.95'

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**C. P. PARKER ARCHITECT**

CHRISTOPHER P. PARKER ARCHITECT  
 630 QUINTANA RD. #330  
 MORRO BAY, CA 93442-1962  
 (805) 772-5700

STAMPS



CONSULTANTS  
**MBS LAND SURVEYS**  
 MICHAEL B. STANTON PLS 5702  
 3563 SUELDO ST., UNIT Q  
 SAN LUIS OBISPO, CA 93401  
 (805) 594-1960

**EARTH SYSTEMS PACIFIC**  
 4378 SANTA FE ROAD  
 SAN LUIS OBISPO, CA 93401  
 (805) 544-3276

**KMA KEVIN MERK ASSOCIATES, LLC**  
 P.O. BOX 318  
 SAN LUIS OBISPO, CA 93406

PROJECT

**FRYE RESIDENCE**

3420 TORO LANE  
 MORRO BAY, CA 93442

DRAWING PHASE  
**CONSTRUCTION DOCUMENTS**

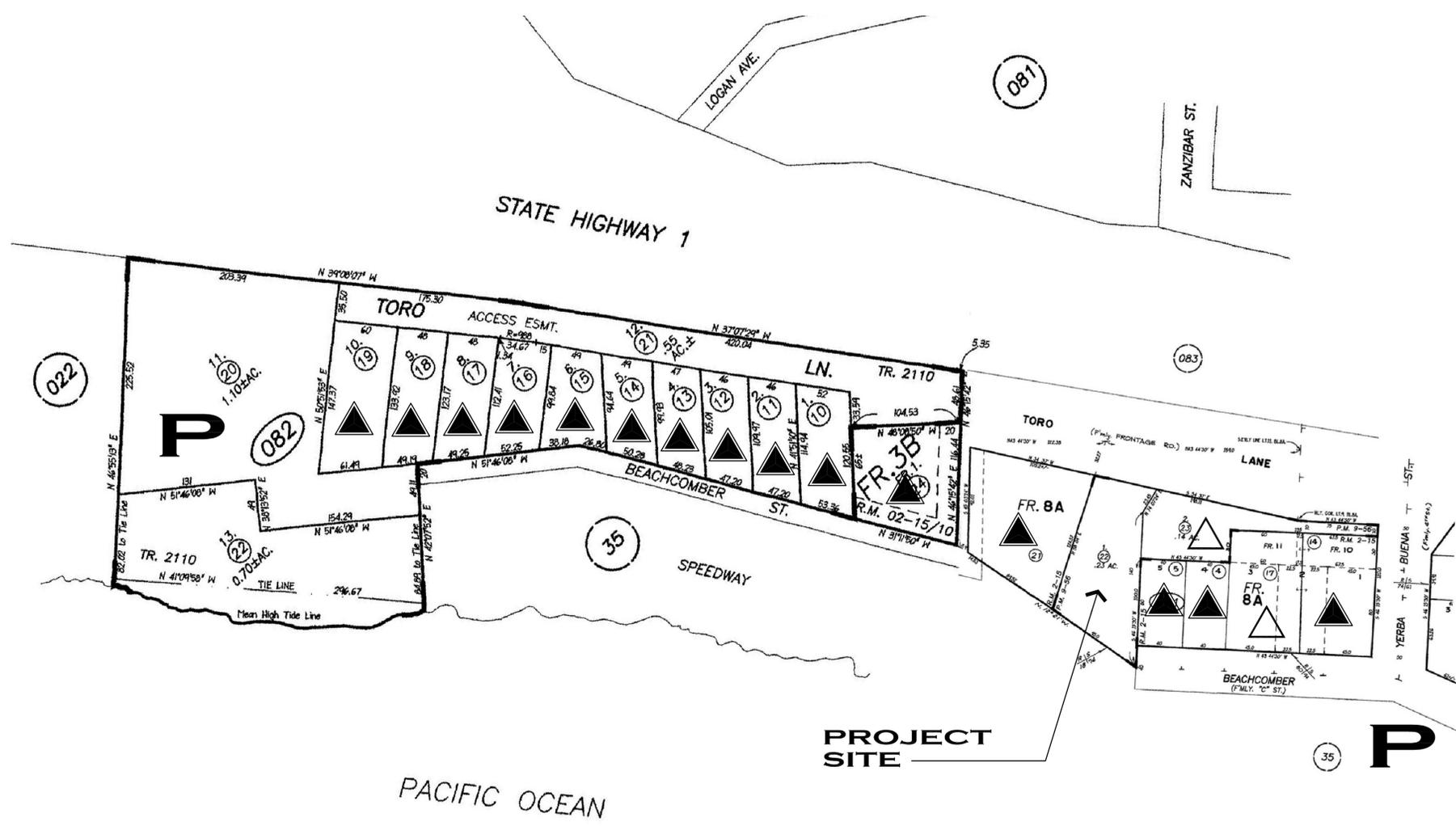
Project No.	14-112
Drawn By	CPP
Dwg. Date	09/14/15
Updated	-
Scale	AS NOTED

REVISIONS  
 SHEET TITLE

**PROJECT INFO.**

SHEET NO.

**A1.1**



### LEGEND

- ▲ EXISTING SFR
- △ VACANT PARCEL
- P PUBLIC LANDS & ACCESS POINT

NEIGHBORHOOD DATA (FROM PUBLIC RECORDS)  
 15 EXISTING SINGLE FAMILY RESIDENCES (SFR)  
 3 VACANT LOTS, INCLUDING THE PROPOSED RESIDENCE

15 SFR	AREA	LOT COVERAGE
AVERAGE SF (HI/LOW)	2,463 SF	28.89%

## SHEET INDEX

A1.1	PROJECT INFORMATION
A1.2	SITE PLAN
A1.3	GRADING PLAN
A2.1	FLOOR PLAN
A3.1	ELEVATIONS
A4.1	SECTIONS

## NEIGHBORHOOD COMPATIBILITY



SCALE: NONE

**C. P. PARKER ARCHITECT**

CHRISTOPHER P. PARKER ARCHITECT  
 630 QUINTANA RD. #330 MORRO BAY, CA. 93442-1962  
 (805) 772-5700

STAMPS



CONSULTANTS

**MBS LAND SURVEYS**  
 MICHAEL B. STANTON PLS 5702  
 3563 SUELDO ST., UNIT Q  
 SAN LUIS OBISPO, CA 93401  
 (805) 594-1960

**EARTH SYSTEMS PACIFIC**  
 4378 SANTA FE ROAD  
 SAN LUIS OBISPO, CA 93401  
 (805) 544-3276

**KMA KEVIN MERK ASSOCIATES, LLC**  
 P.O. BOX 318  
 SAN LUIS OBISPO, CA 93406

PROJECT

**FRYE RESIDENCE**

3420 TORO LANE  
 MORRO BAY, CA  
 93442

DRAWING PHASE

**CONSTRUCTION DOCUMENTS**

Project No.	14-112
Drawn By	CPP
Dwg. Date	09/14/15
Updated	-
Scale	AS NOTED

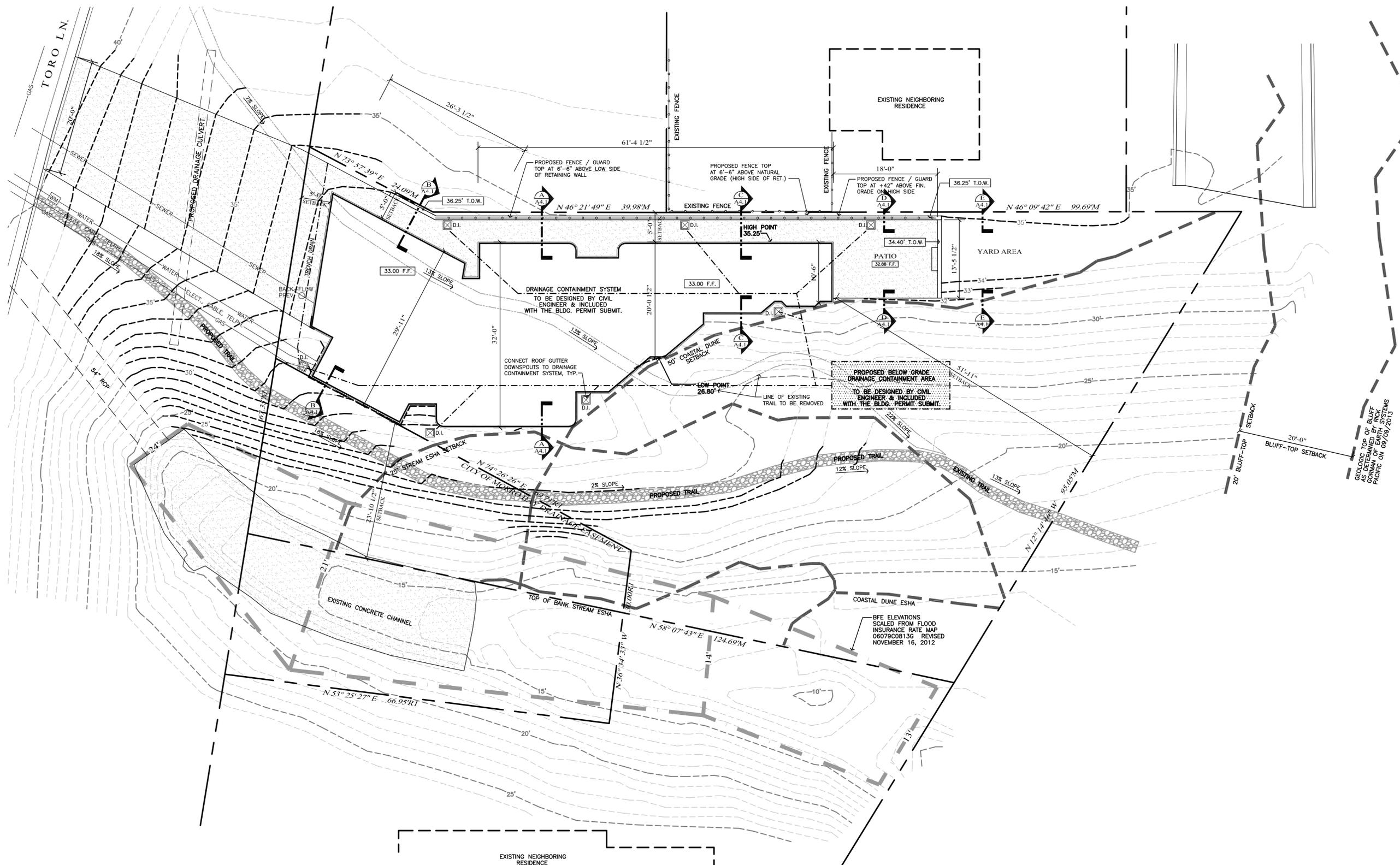
REVISIONS

SHEET TITLE

**SITE PLAN**

SHEET NO.

**A1.2**



**SITE PLAN**

SCALE: 1/8" = 1'-0"

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**C. P. PARKER ARCHITECT**

CHRISTOPHER P. PARKER ARCHITECT  
 630 GUINTANA RD. #330  
 MORRO BAY, CA. 93442-1962  
 (805) 772-5700

STAMPS



CONSULTANTS

**MBS LAND SURVEYS**

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

**EARTH SYSTEMS PACIFIC**

4378 SANTA FE ROAD  
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**KMA**

KEVIN MERK ASSOCIATES, LLC  
 P.O. BOX 318  
 SAN LUIS OBISPO, CA 93406

PROJECT

**FRYE RESIDENCE**

3420 TORO LANE  
 MORRO BAY, CA  
 93442

DRAWING PHASE

**CONSTRUCTION DOCUMENTS**

Project No.	14-112
Drawn By	CPP
Dwg. Date	09/14/15
Updated	-
Scale	AS NOTED

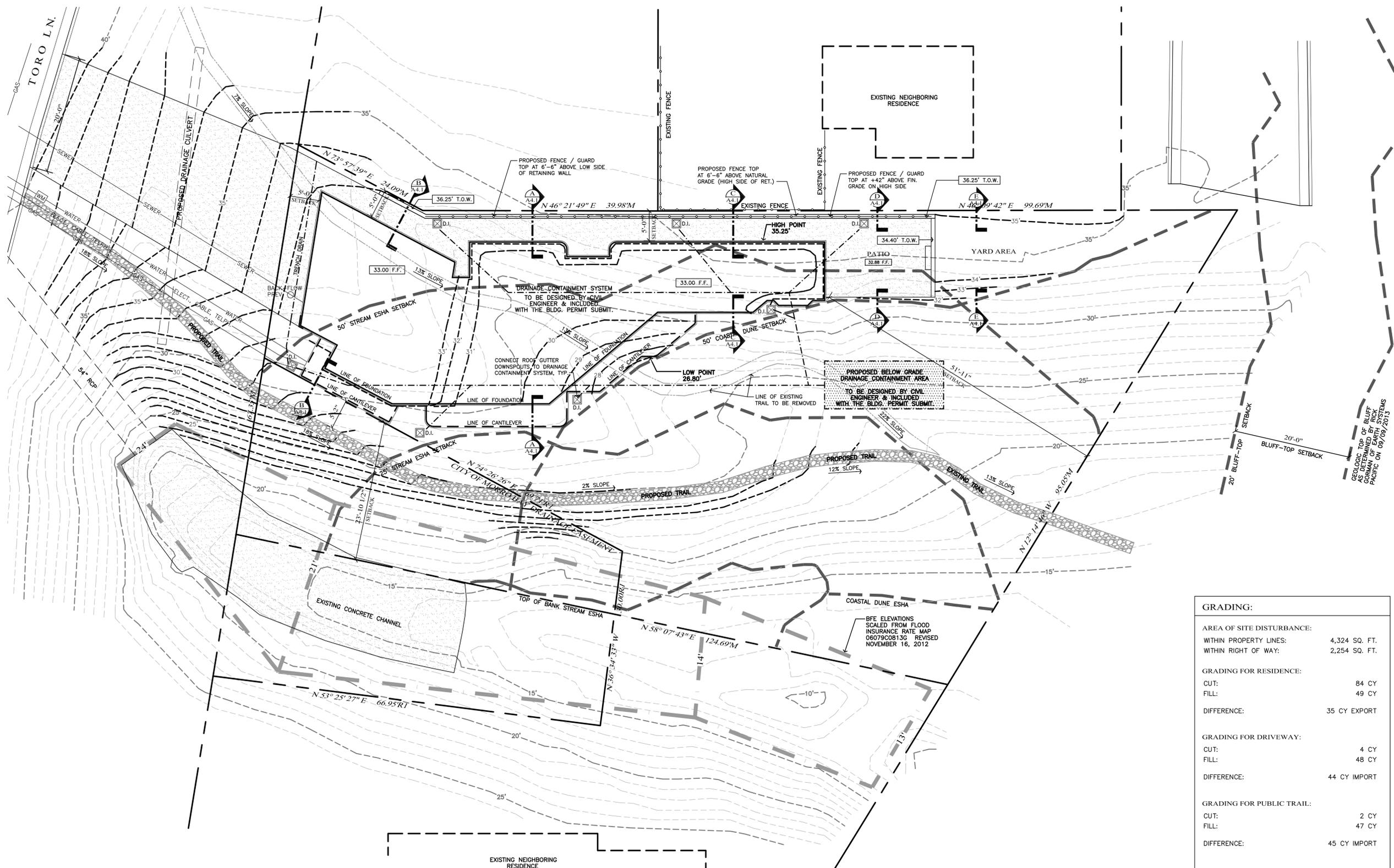
REVISIONS

SHEET TITLE

**GRADING PLAN**

SHEET NO.

**A1.3**



GRADING:	
AREA OF SITE DISTURBANCE:	
WITHIN PROPERTY LINES:	4,324 SQ. FT.
WITHIN RIGHT OF WAY:	2,254 SQ. FT.
GRADING FOR RESIDENCE:	
CUT:	84 CY
FILL:	49 CY
DIFFERENCE:	35 CY EXPORT
GRADING FOR DRIVEWAY:	
CUT:	4 CY
FILL:	48 CY
DIFFERENCE:	44 CY IMPORT
GRADING FOR PUBLIC TRAIL:	
CUT:	2 CY
FILL:	47 CY
DIFFERENCE:	45 CY IMPORT
PROJECT TOTALS:	
DIFFERENCE:	54 CY IMPORT

**GRADING PLAN**

SCALE: 1/8" = 1'-0"

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**C. P. PARKER**  
 ARCHITECT

CHRISTOPHER P. PARKER  
 ARCHITECT  
 630 QUINTANA RD. #330  
 MORRO BAY, CA.  
 93442-1962  
 (805) 772-5700

STAMPS



CONSULTANTS

**MBS**  
 LAND SURVEYS  
 MICHAEL B. STANTON PLS 5702  
 3563 SUELDO ST., UNIT Q  
 SAN LUIS OBISPO, CA 93401  
 (805) 594-1960

**EARTH SYSTEMS PACIFIC**  
 4378 SANTA FE ROAD  
 SAN LUIS OBISPO, CA 93401  
 (805) 544-3276

**KMA**  
 KEVIN MERK ASSOCIATES, LLC  
 P.O. BOX 318  
 SAN LUIS OBISPO, CA 93406

PROJECT

**FRYE RESIDENCE**

3420 TORO LANE  
 MORRO BAY, CA  
 93442

DRAWING PHASE

**CONSTRUCTION**  
**DOCUMENTS**

Project No.	14-112
Drawn By	CPP
Dwg. Date	09/14/15
Updated	-
Scale	AS NOTED

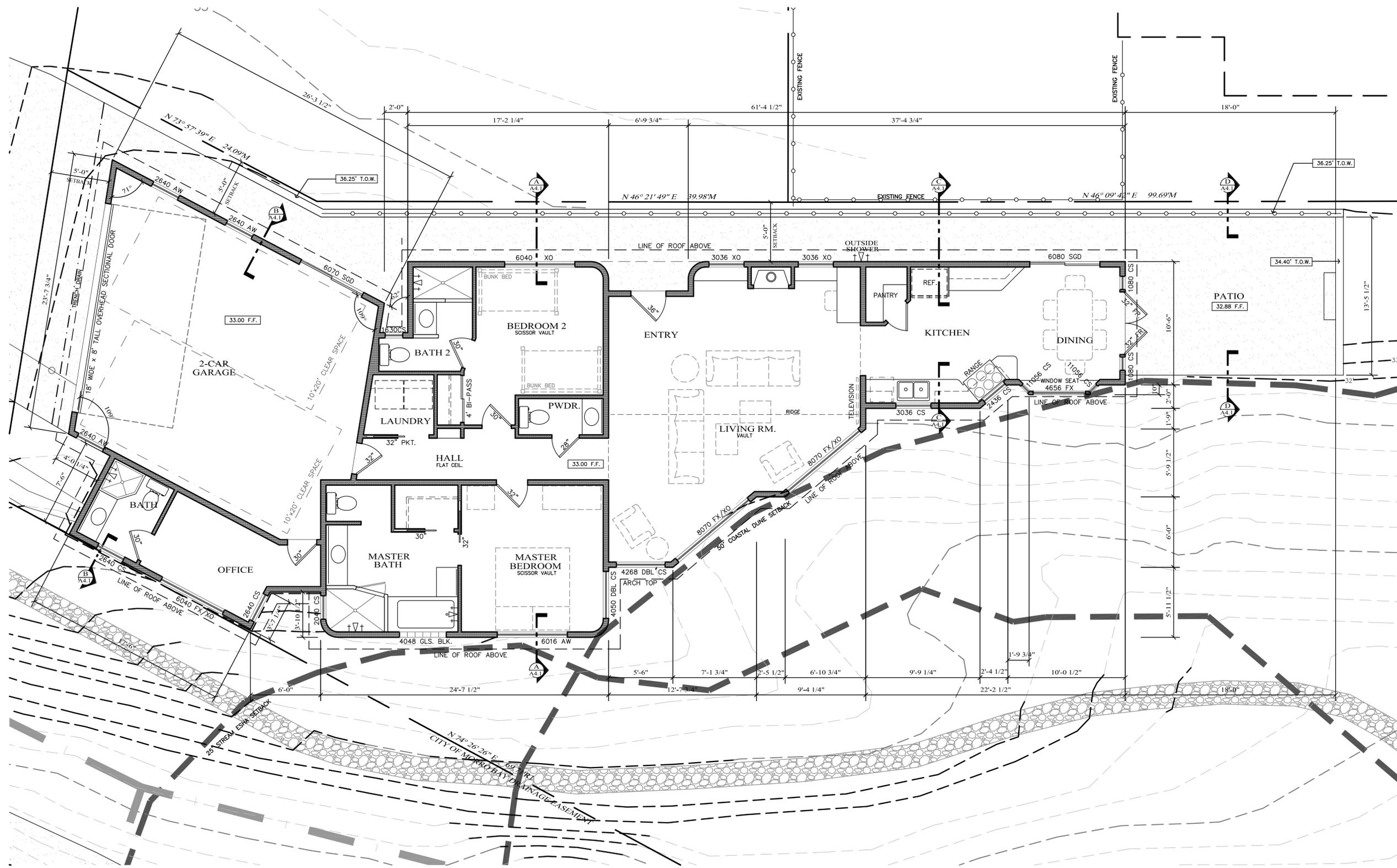
REVISIONS

SHEET TITLE

**FLOOR PLAN**

SHEET NO.

**A2.1**



**FLOOR PLAN**

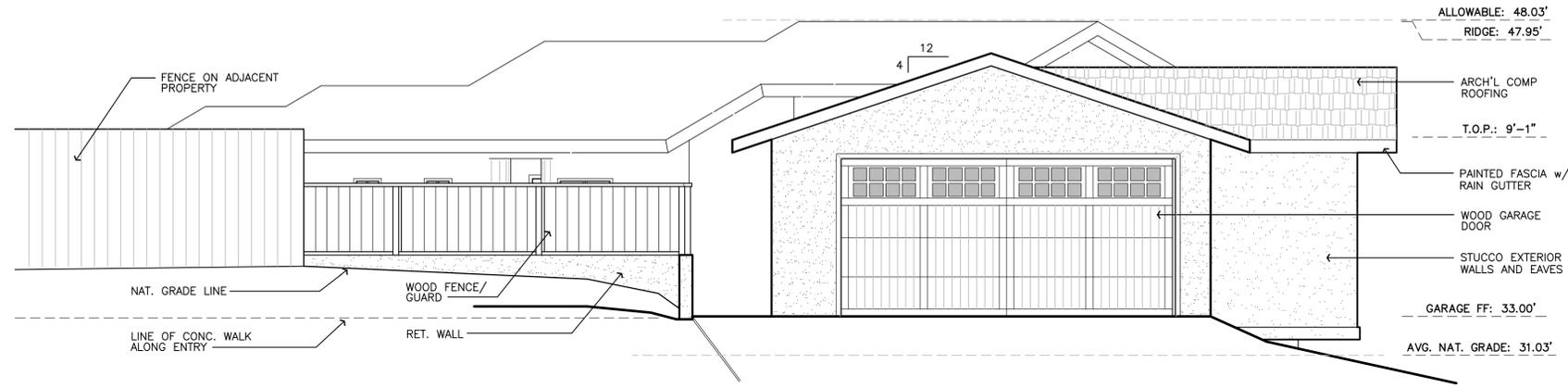
SCALE: 1/4" = 1'-0"

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**C. P. PARKER ARCHITECT**

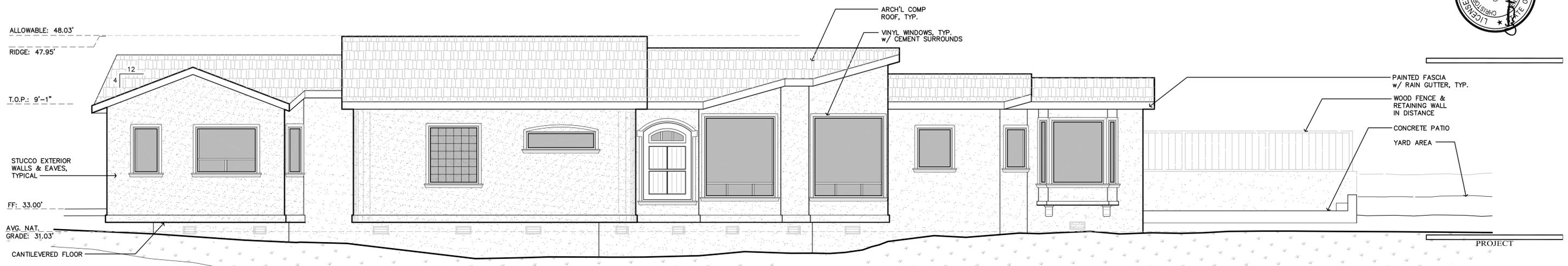
CHRISTOPHER P. PARKER ARCHITECT  
 630 QUINTANA RD. #330  
 MORRO BAY, CA 93442-1962  
 (805) 772-5700

STAMPS



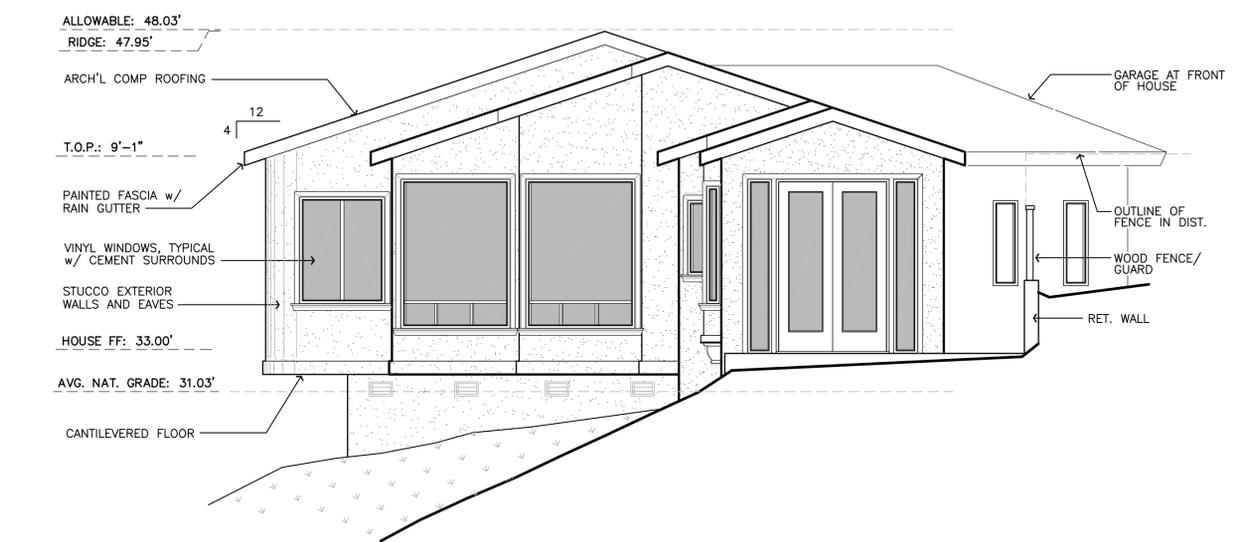
**FRONT ELEVATION (EAST)**

SCALE: 1/4" = 1'-0"



**SIDE ELEVATION (NORTH)**

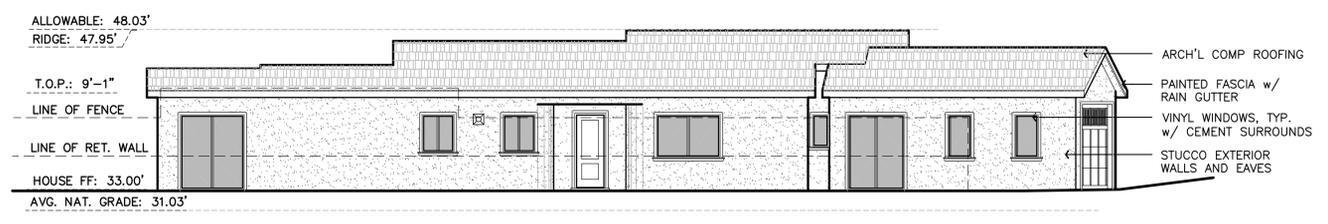
SCALE: 1/4" = 1'-0"



**REAR ELEVATION (WEST)**

SCALE: 1/4" = 1'-0"

**EXTERIOR LIGHTING REQUIREMENTS**  
 ALL EXTERIOR LIGHTING SHALL BE OF HIGH EFFICACY, OR ON A PHOTOCELL & MOTION SENSOR  
 EXTERIOR LIGHTING IS TO BE DOWNWARD FACING AND SHIELDED TO NOT ALLOW THE BULB TO BE VISIBLE FROM NEIGHBORING PROPERTIES, OR PUBLIC SPACES



**SIDE ELEVATION (SOUTH)**

SCALE: 1/8" = 1'-0"

**FRYE RESIDENCE**

3420 TORO LANE  
 MORRO BAY, CA 93442

DRAWING PHASE

**CONSTRUCTION DOCUMENTS**

Project No.	14-112
Drawn By	CPP
Dwg. Date	09/14/15
Updated	-
Scale	AS NOTED

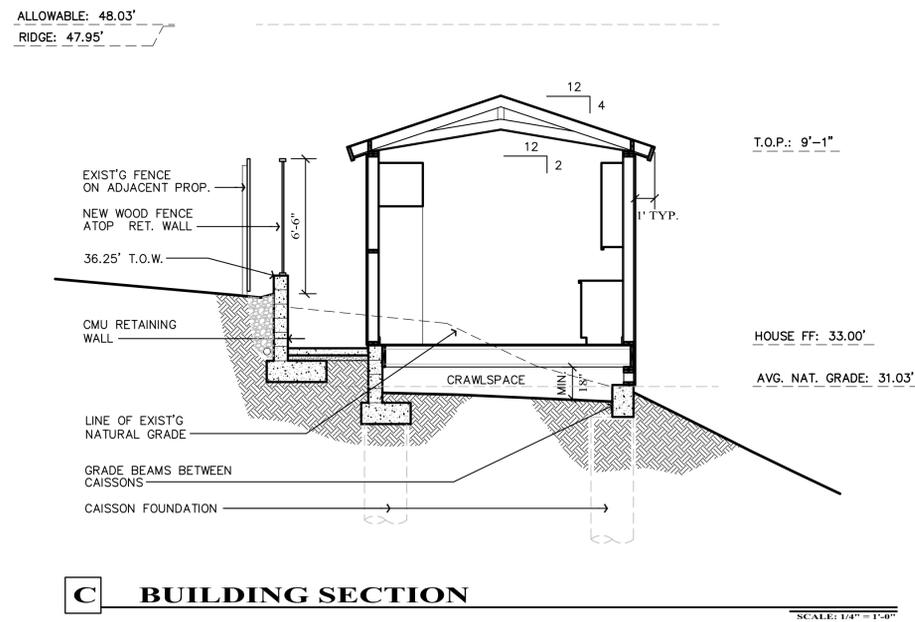
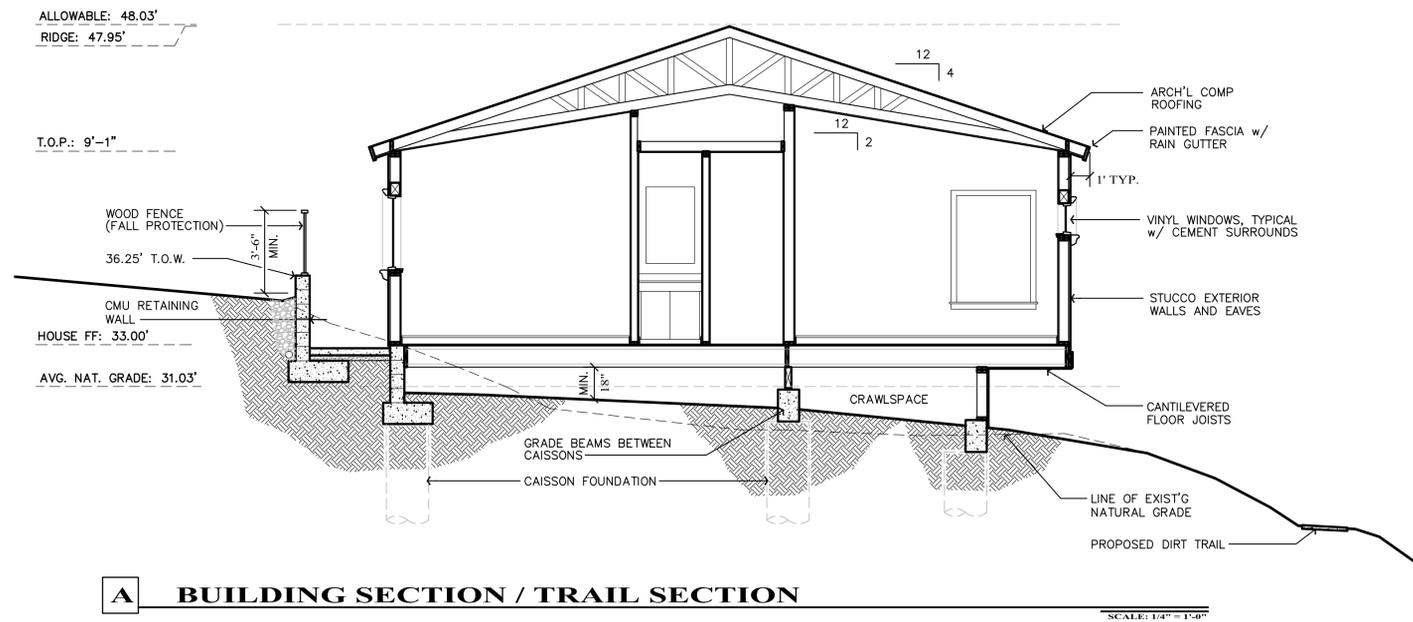
REVISIONS

SHEET TITLE

**ELEVATIONS**

SHEET NO.

**A3.1**



**C. P. PARKER ARCHITECT**

CHRISTOPHER P. PARKER ARCHITECT  
 630 QUINTANA RD. #330 MORRO BAY, CA 93442-1922  
 (805) 772-5700

STAMPS



CONSULTANTS

**MBS LAND SURVEYS**

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

**EARTH SYSTEMS PACIFIC**

4378 SANTA FE ROAD  
 SAN LUIS OBISPO, CA 93401  
 (805) 544-3276

**KMA**

KEVIN MERK ASSOCIATES, LLC  
 P.O. BOX 318 SAN LUIS OBISPO, CA 93406

PROJECT

**FRYE RESIDENCE**

3420 TORO LANE MORRO BAY, CA 93442

DRAWING PHASE

**CONSTRUCTION DOCUMENTS**

Project No.	14-112
Drawn By	CPP
Dwg. Date	09/14/15
Updated	-
Scale	AS NOTED

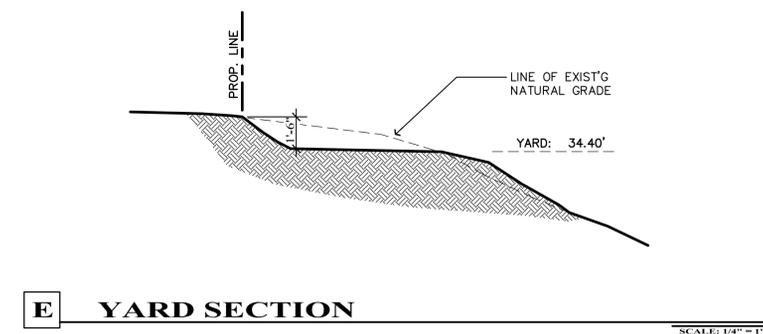
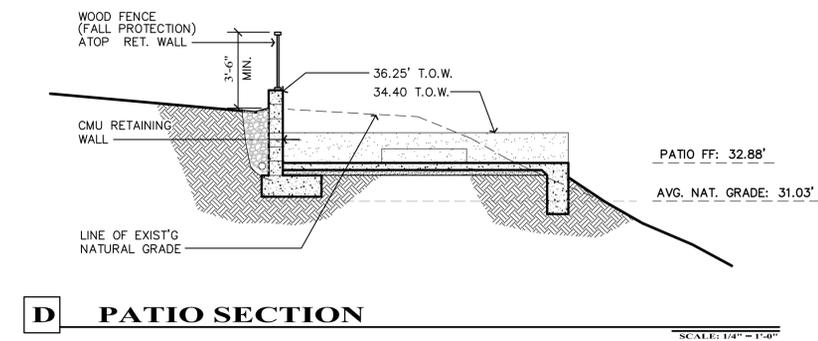
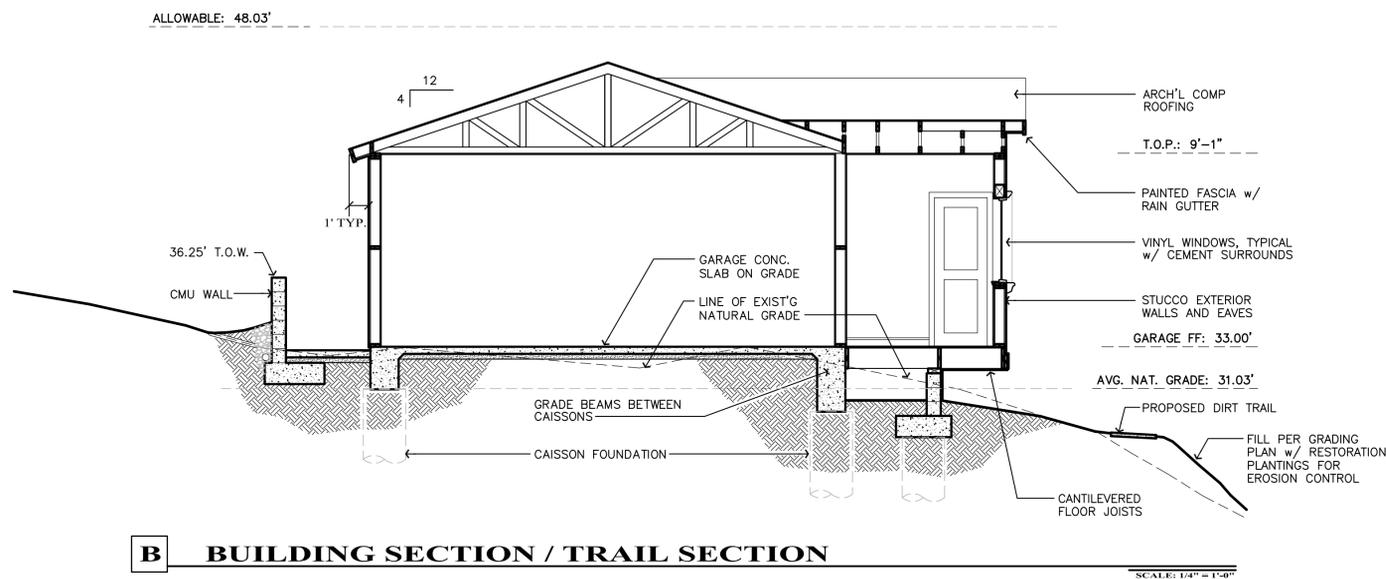
REVISIONS

SHEET TITLE

**SECTIONS**

SHEET NO.

**A4.1**

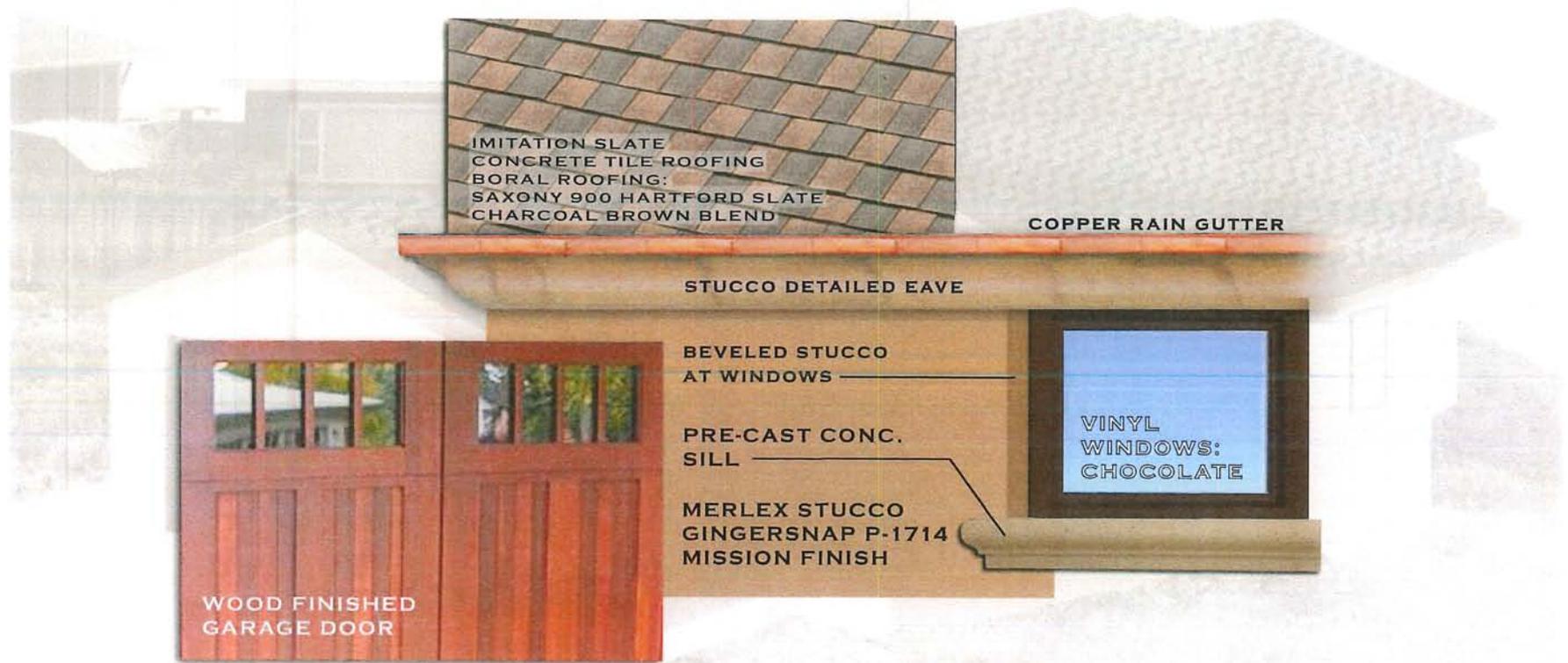


# EXHIBIT C

**FRYE RESIDENCE  
3420 TORO LANE**

**C.P. PARKER  
ARCHITECT**

## COLOR BOARD



IMITATION SLATE  
CONCRETE TILE ROOFING  
BORAL ROOFING:  
SAXONY 900 HARTFORD SLATE  
CHARCOAL BROWN BLEND

COPPER RAIN GUTTER

STUCCO DETAILED EAVE

WOOD FINISHED  
GARAGE DOOR

BEVELED STUCCO  
AT WINDOWS

PRE-CAST CONC.  
SILL

VINYL  
WINDOWS:  
CHOCOLATE

MERLEX STUCCO  
GINGERSNAP P-1714  
MISSION FINISH

**RECEIVED**

**SEP 29 2015**

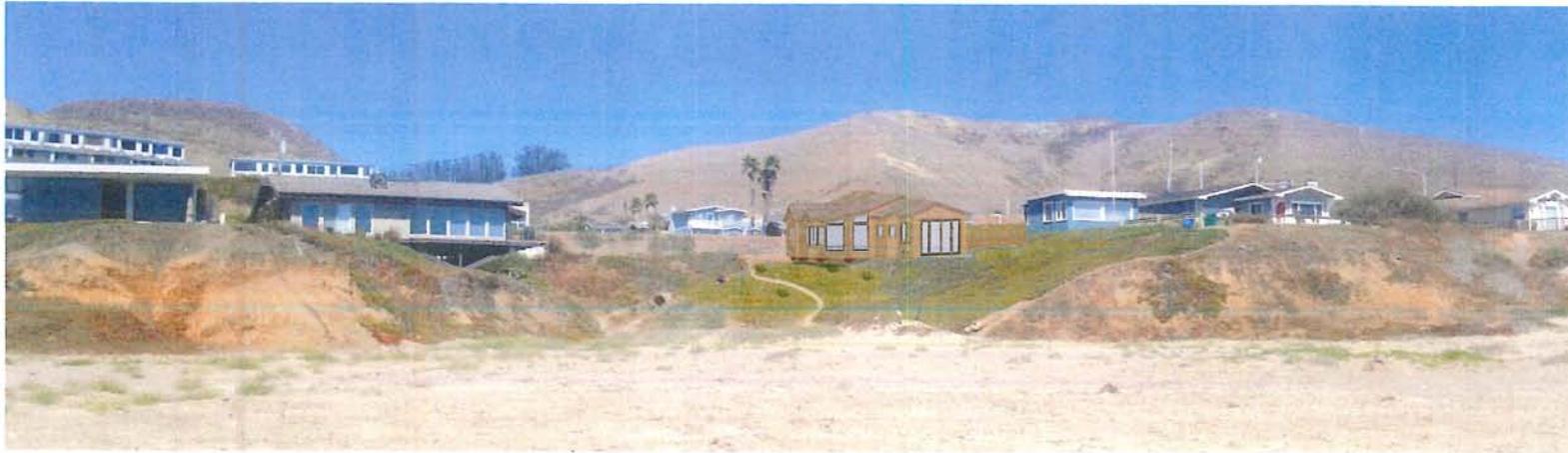
City of Morro Bay  
Community Development Dept.

EXHIBIT D

FRYE RESIDENCE  
3420 TORO LANE

C.P. PARKER  
ARCHITECT

VIEW FROM BEACH



RECEIVED

SEP 29 2015

City of Morro Bay  
Community Development Dept.

**FRYE RESIDENCE  
3420 TORO LANE**

**C.P. PARKER  
ARCHITECT**

VIEW FROM HIGHWAY 1



**RECEIVED**

**SEP 29 2015**

City of Morro Bay  
Community Development Dept.

**FRYE RESIDENCE  
3420 TORO LANE**

**C.P. PARKER  
ARCHITECT**

**VIEW FROM HIGHWAY 1**



**RECEIVED**

**SEP 29 2015**

City of Morro Bay  
Community Development Dept.

**FRYE RESIDENCE  
3420 TORO LANE**

**C.P. PARKER  
ARCHITECT**

VIEW FROM BEACH



**RECEIVED**

**SEP 29 2015**

City of Morro Bay  
Community Development Dept.

# EXHIBIT E

AGENDA ITEM: A-1

DATE: September 15, 2015

ACTION: \_\_\_\_\_

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – AUGUST 18, 2015  
VETERANS MEMORIAL BUILDING – 6:00 PM

PRESENT: Robert Tefft Chairperson  
Gerald Luhr Commissioner  
Richard Sadowski Commissioner  
Michael Lucas Commissioner

STAFF: Scot Graham Community Development Manager  
Whitney McIlvaine Contract Planner

ESTABLISH QUORUM AND CALL TO ORDER  
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE  
PLANNING COMMISSIONER ANNOUNCEMENTS

Commissioner Sadowski announced NOAA (National Oceanic and Atmospheric Administration) has moved the application for the Chumash Heritage National Marine Sanctuary to the second phase.

Commissioner Luhr announced there has been a rash of construction trailer theft in the area. He advised if anyone has any information, to please contact the Morro Bay Police Department.

Chairperson Tefft announced the GPAC Committee had their first meeting last week and are in the process of constituting a subcommittee for the RFP's which will be for the general contractors working on the plan.

## PUBLIC COMMENTS

Chairperson Tefft opened Public Comment period and seeing none, closed Public Comment period.

<https://youtu.be/uXKHfMLEvSI?t=5m6s>

## PRESENTATIONS – NONE

### A. CONSENT CALENDAR

<https://youtu.be/uXKHfMLEvSI?t=5m26s>

A-1 Approval of minutes from the Planning Commission meeting of June 16, 2015.  
**Staff Recommendation:** Approve minutes as submitted.

A-2 Current and Advanced Planning Processing List  
**Staff Recommendation:** Receive and file.

**MOTION:** Commissioner Luhr moved to approve the Consent Calendar. Commissioner Lucas seconded the motion and the motion passed unanimously (4-0).

<https://youtu.be/uXKHfMLEvSI?t=6m1s>

### B. PUBLIC HEARINGS

<https://youtu.be/uXKHfMLEvSI?t=6m19s>

# EXHIBIT E

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING –AUGUST 18, 2015

## **B-1 Case No.: CP0-419, UP0-383**

**Site Location:** 3420 Toro Lane, Morro Bay, CA

**Project Description:** The applicants propose to grade for and construct a 1,538 square-foot dwelling and a 579 square-foot garage, on a vacant 10,019 square-foot beach front parcel. Plans also show a 242.4 square-foot patio area. The proposed lot coverage is 21.2%. The project site is located in a Single Family Residential (R-1) zone with an S.2.A Overlay which limits the height of the structure to a maximum of 17 feet. The site contains areas of environmentally sensitive habitat and is subject to development standards for coastal bluff properties. This project is located in the Coastal Commission appeal jurisdiction.

**CEQA Determination:** The Community Development Director determined the project qualifies for a Mitigated Negative Declaration of Environmental Impact (MND). Mitigation is recommended to reduce any environmental impacts to a less than significant level.

**Staff Recommendation:** Adopt the Mitigated Negative Declaration and conditionally approve the project.

**Staff Contact:** Whitney McIlvaine, Contract Planner, (805) 772-6211

Chairperson Tefft opened Public Comment period.

<https://youtu.be/uXKHfMLEvSI?t=29m44s>

Rachel Kovesdi, agent for Greg and Jeanne Frye, presented her report to the Commission.

Brad Schnook, coach for county chapter Surf Rider Foundation, stated his concerns regarding the native sensitive habitat and the prescriptive easement.

Bill McClennan, resident, stated his comments regarding the beach access and his concerns with the retaining wall on the bluff.

Betty Winholtz, resident, stated the Fryes are the owners of an adjoining lot. She also brought up her concerns with the bluff on the north and asked how the fill was going to be held up. She noted the flooding issues would need to be addressed along with the right-of-way in front of the house and prescriptive rights.

Bill Martoni, resident, stated his concerns with the City's fee owned property and how it would be affected by the project. He also noted he understood the front of the house shouldn't be built on the bluff and should be looked at again.

Christopher Fala, resident, stated how he felt about the resistance to the Fryes project but is pleased the Fryes are improving the area with the native plants.

Andrew Wilke, surfer, stated he hasn't seen too many people using the beach access on the Frye's property. He also noted there are other beach access ways which could be used.

Greg Frye, applicant, stated they have taken the necessary steps in order to move forward with the project.

# EXHIBIT E

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING –AUGUST 18, 2015

Mike Frye, father of Greg Frye, stated the trail on the property is not very easy to access and he uses other beach access. He also noted the new plants would improve the property.

Melinda Yudi, resident, stated she sees a lot of weekenders using the access because when they cross the street this is the first access to the beach they see. She thinks the parking will eventually worsen as time goes on.

Rachel Kovesdi, agent, answered questions about who owned the two lots and clarified what type of plants would be used on the property. Rachel also answered questions about the setbacks and noted the Coastal Commission has been on site.

Chris Parker, architect, answered questions about the retaining walls.

Chairperson Tefft closed Public Comment period.

<https://youtu.be/uXKHfMLEvSI?t=1h16m22s>

Chairperson Tefft opened Public Comment period.

<https://youtu.be/uXKHfMLEvSI?t=2h14m42s>

Chris Parker, architect, answered questions from the Commission. Parker stated the house is already at the height limit. And part of the design was driven by the shape of the floor plan. He stated the reason for the excavation at the western end of the site was to get more usable yard space.

Betty Winholtz, resident, asked the Commission why the north side marking looks like the 25 foot setback is at the edge of the bluff stream.

Chairperson Tefft stated the ESH 25 foot setback starts at the stream bank, not at the top of the hill.

Chairperson Tefft closed Public Comment period.

<https://youtu.be/uXKHfMLEvSI?t=2h18m47s>

Chairperson Tefft opened Public Comment period.

<https://youtu.be/uXKHfMLEvSI?t=2h43m56s>

Rachel Kovesdi, agent, stated the applicants are not interested in modifying the home if it would require a variance. They would like to work with the Commission on moving forward with the project.

**MOTION:** Commissioner Luhr moved to continue Item B-1, CP0-419, UP0-383, to a date uncertain with the following directions. Commissioner Lucas seconded the motion. Motion passed (4-0).

<https://youtu.be/uXKHfMLEvSI?t=3h2m58s>

- Redesign the project to minimize the amount of excavation and removal of natural land form at the west end of the bluff.

# EXHIBIT E

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – AUGUST 18, 2015

- Explore a common driveway configuration through the undeveloped Toro Lane right-of-way such that development on the adjacent lot to south (APN: 065-091-023) could share access. Please provide a conceptual plan of this shared access.
- Alter the architectural treatment to be more aesthetically distinctive and innovative and to relate more particularly to the project setting consistent with the City's Design Guidelines, especially in terms of the northerly façade. Provide more fully rendered elevations of the house.
- Provide a conceptual plan showing the location of a re-routed public access trail through the site and the adjacent undeveloped Toro Lane right-of-way with a link to the trail from the residence. Note what erosion control, grading, and construction would be necessary to install the access. Provide cross section drawings every 20 feet, including two of the existing trail, one of which shows the transition from the existing trail to the new trail.

The Planning Commission also instructed staff to include conditions in a resolution for approval that address prohibition of shoreline protective devices and prohibition of trails through the ESH areas other than for public access and a link from the residence.

C. UNFINISHED BUSINESS - NONE

D. NEW BUSINESS - NONE

E. PLANNING COMMISSIONER COMMENTS

<https://youtu.be/uXKHfMLEvSI?t=3h3m56s>

Commissioner Lucas announced he was a speaker at the International Society for Environmental Ethics meeting. He noted they were fascinated with the applications Morro Bay was taking, specifically issues with the wastewater recycling plant.

Commissioner Lucas also announced he attended the California Climate Action Conference for Local Planners at Cal Poly. They discussed greenhouse gas emissions and climate action plans.

Commissioner Sadowski announced he attended the Special City Council Meeting which covered the Morro Bay Reclamation Facility. He stated his concerns on the limited technology which will be implemented at the facility. It would limit the City in obtaining funding and the City would be missing out on opportunities for new innovations and performance. He feels it would be a disservice to the community to limit ourselves with this type of technology.

F. COMMUNITY DEVELOPMENT MANAGER COMMENTS

<https://youtu.be/uXKHfMLEvSI?t=3h10m16s>

Graham presented a report on the definition for building height. Graham requested that the Commissioners agendaize an interpretation on the issue.

G. ADJOURNMENT

The meeting adjourned at 9:19 p.m. to the regular Planning Commission meeting at the Veteran's Memorial Building, 209 Surf Street, on September 1, 2015, at 6:00 p.m.

**CALIFORNIA COASTAL COMMISSION**

Coastal Public Access Program  
 725 FRONT STREET, SUITE 300  
 SANTA CRUZ, CA 95060  
 (831) 427-4875

**SOME FACTS ABOUT PUBLIC PRESCRIPTIVE RIGHTS****What is a public prescriptive right?**

- Prescriptive Rights refer to public rights that are acquired over private lands through use. Along the California coast the general public has historically used numerous coastal areas. Trails to the beach, informal parking areas, beaches, and blufftops have provided recreational opportunities for hiking, picnicking, fishing, swimming, surfing, diving, viewing and nature study. The public may have the right to use the property by permission of the owner or the public may acquire the right through use of the property without permission.
- A right of access acquired through *use* is, essentially, an easement over real property that comes into being without the explicit consent of the owner. The acquisition of such an easement is referred to as an "implied dedication", the right acquired is also referred to as a "public prescriptive easement". This term recognizes that the use must continue for the length of the "prescriptive period" before a public easement comes into being. In California the prescriptive period is five (5) years.

**The Commission's interest in prescriptive rights.**

- Under the California Coastal Act, Coastal Public Access Program, Public Resources Code Sections 30530-34, the Commission is required to prepare and implement a program in coordination with other federal, state, and local agencies, including the State Attorney General's Office, to maximize public access. The program includes a prescriptive rights element whereby the Coastal Commission researches and inventories the historic public use of areas with the potential for significant public access benefits. Where research indicates that the public use is substantial enough to create potential prescriptive rights, the Attorney General's Office has the authority to proceed with the legal action necessary to protect those use areas.
- On sites with coastal development permit proposals, where investigation shows that public use is substantial enough to create potential prescriptive rights, the Coastal Commission is required to protect those areas of use prior to approving a development project that would interfere with those rights. The California Coastal Act, Public Resources Code Section 30211, states:

*Development shall not interfere with the public's right of access to the sea where acquired through use, or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

**Investigating Potential Prescriptive Rights.**

- The Commission in conjunction with the State Attorney General's Office can investigate areas of potential prescriptive rights. The goal of a prescriptive rights investigation is to gather enough information about the subject property to accurately detail the property's history and use status. The initiation of a prescriptive rights investigation is not a judgement that a "prescriptive right" exists or probably exists. The outcome of the investigation will determine whether there is a sound factual basis for making a claim of prescriptive rights.

## SOME FACTS ABOUT PUBLIC PRESCRIPTIVE RIGHTS (cont'd.)

### **Basic Criteria for Determining Prescriptive Rights to Use a Property.**

- Basic criteria to determining a public prescriptive right include that the land has been used:
  - For the prescriptive period of five years as if it were public land - the use must be substantial rather than minimal - and continual, though it need not be continuous.
  - Without asking or receiving permission from the owner;
  - With the actual or presumed knowledge of the owner;
  - Without significant objection or bona fide attempts by the fee owner to prevent or halt such use.

### **Preventing Creation of Public Prescriptive Rights.**

- With regard to coastal properties (defined generally as being within 1000 yards of the sea, bay or estuary or between the mean high tide line and the nearest public road, whichever distance is less) presently being used by the public, since March 4, 1972, the landowners have had the power to prevent future creation of public rights by implied dedication. The landowner may do this by posting signs containing the language set forth in Civil Code Section 1008, "Right to pass by permission, and subject to control, of owner: Section 1008, Civil Code", and renewing the same, if they are removed, at least once a year; or by annually publishing such language in a newspaper of general circulation in the county in which the land is located. As another method to prevent creation of public rights by implied dedication, the landowner may record in the office of the recorder of the county in which the land is situated a notice of consent to public use as provided in Civil Code Section 813. Landowners should refer directly to the statutes for details.
- Public prescriptive rights existing prior to the effective date of the statute are not affected by this legislation.

### **The Public's Role in Preserving Prescriptive Rights.**

- A prescriptive rights investigation includes documentary searches, on-site inspections and questionnaires and interviews. The most important source of evidence is from persons familiar with the past and current uses of the property. The loss of historical access and recreational sites funnels a growing population into fewer and fewer areas and can reduce the range of uses as well. Prescriptive trails or sites may provide access to bluff tops, wide sandy beaches, remote coastal areas, rocky fishing sites, scuba entry points, intimate pocket beaches and more providing for a wide variety of coastal experiences. Participating in prescriptive rights investigations will help identify where these rights exist and protect them in perpetuity.

Completing the questionnaire is a way for you to assist in the preparation of a prescriptive rights study.

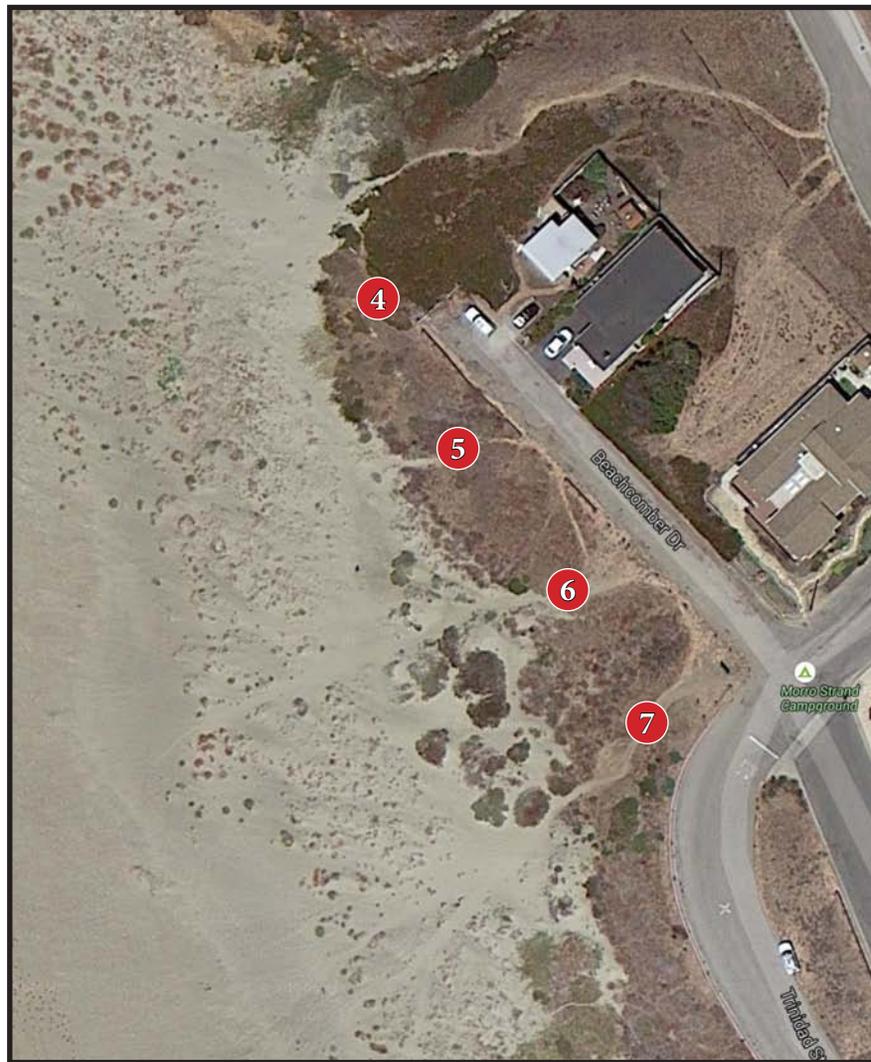
Questions regarding prescriptive rights and the Coastal Commission can be directed to Linda Locklin, 831-427-4875 or [llocklin@coastal.ca.gov](mailto:llocklin@coastal.ca.gov).

**Investigation as to Potential Prescriptive Easement  
Appendix A  
PHOTOGRAPHIC RECORD OF ALTERNATE BEACH ACCESS**

LOCATION OF AVAILABLE ALTERNATIVE BEACH ACCESS ROUTES: North Point and Beachcomber Areas

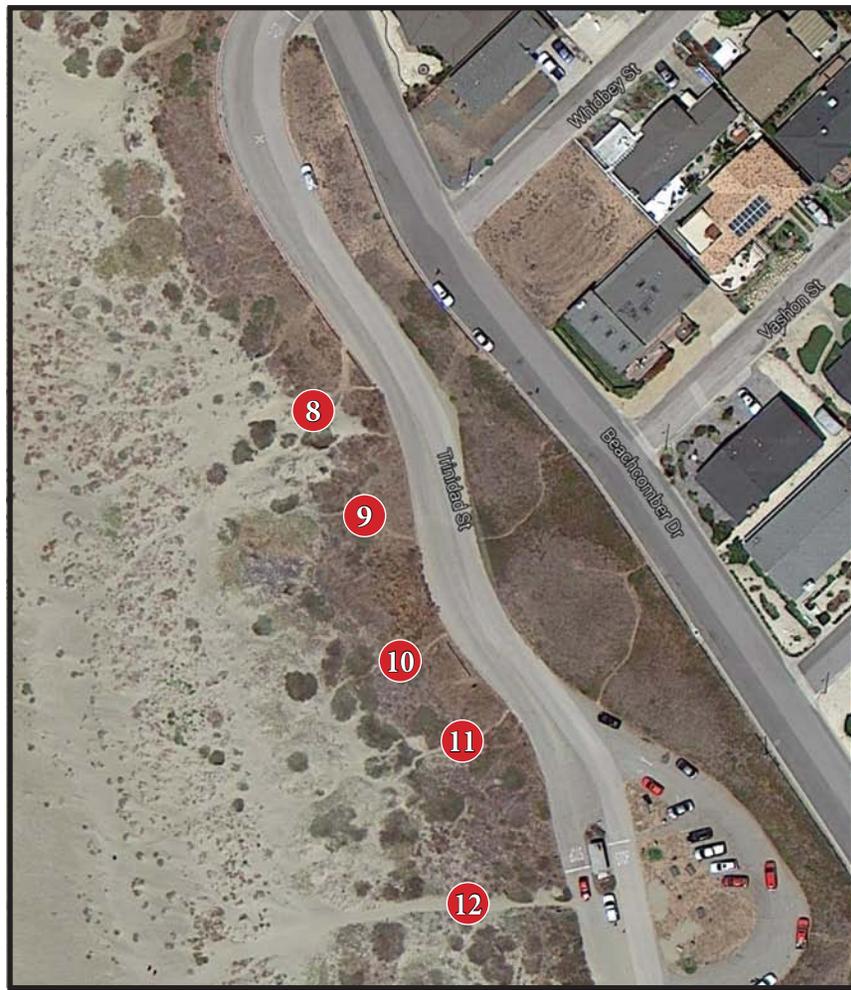


Alternative Access Routes – North Point Area

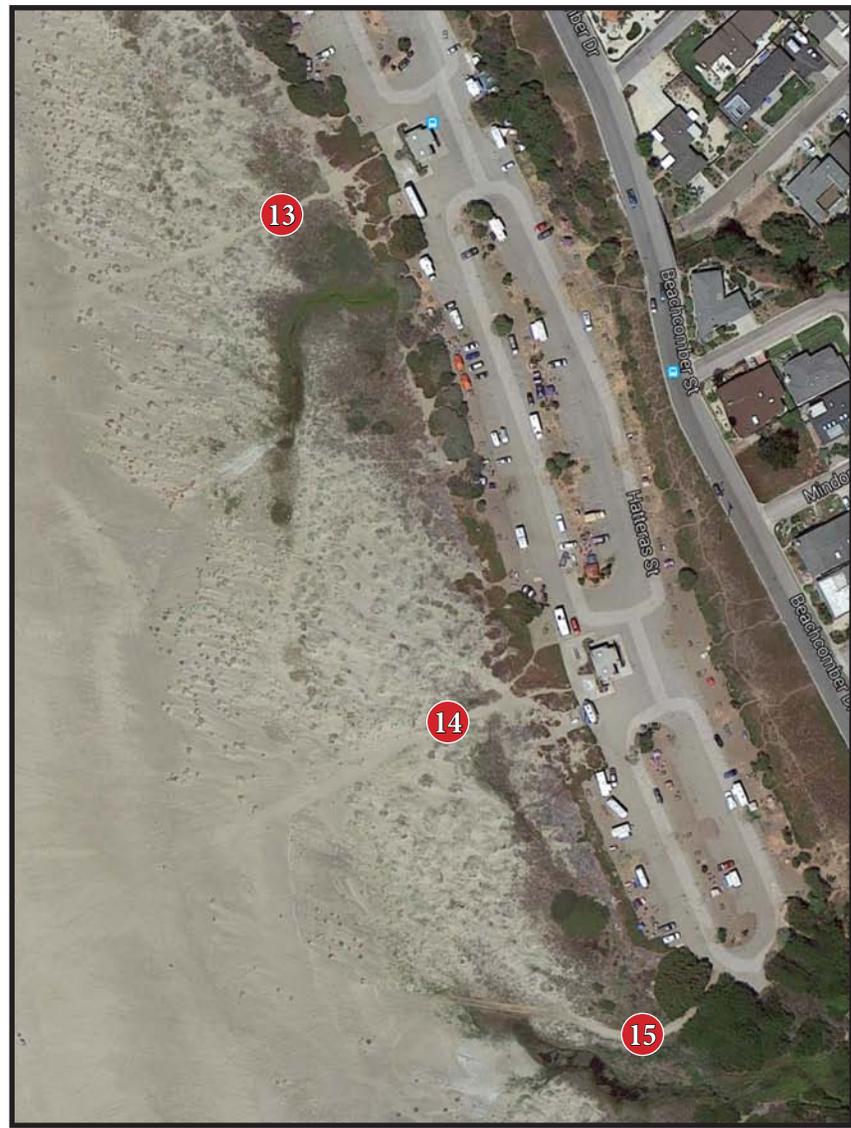


Alternative Access Routes – Beachcomber Area

LOCATION OF AVAILABLE ALTERNATIVE BEACH ACCESS ROUTES: Trinidad and Morro Strand Areas



Alternative Access Routes – Trinidad Area



Alternative Access Routes – Morro Strand Area



**Photo No. 1: Trail 1, North Point Area** – Trail 1 appears to be the remnant of an old road along the ocean bluff (perhaps a vestige of the old, two-lane Highway 1). It does not provide direct beach access, but leads from the North Point parking area to four additional trails (1a, 1b, 1c, and 1d) which access the beach and coastal bluff views. The trail is composed of asphalt and packed dirt and is relatively level, with little irregularity related to erosion.



**Photo No. 2: Trail 1a, North Point Area** – Trail 1a extends northward toward the beach from the northern terminus of Trail 1, skirting the chain link fence that marks the boundary of the Highway 1 right-of-way. The surface is packed dirt. Significant plant incursion suggests that this route is little-used



**Photo No. 3: Trail 1a, North Point Area** – In all likelihood, the disuse of Trail 1a is due to the fact that this access is interrupted by a drainage ravine, which renders passage somewhat difficult. In addition, after passing the ravine, the trail descends very steeply and is impacted by significant erosion.



**Photo No. 4: Trail 1b, North Point Area** – Trail 1b leads from the north end of Trail 1 to the beach. Its surface is composed of packed dirt. As shown in the photograph, the seaward end of this trail is quite steep and the walking surface is very irregular due to erosion. This trail is utilized almost exclusively by dog owners and their pets accessing an area of the beach where dogs are allowed.



**Photo No. 5: Trail 2, North Point Area** – Trail 2 leads from the North Point parking lot northward along the edge of the coastal bluff. The trail is level to gently sloped. The initial 50 feet or so are asphalt and the remainder of the surface is packed dirt. This trail does not provide direct beach access, but offers spectacular views along the coast to both the north and south. Trail 2a, which branches off of Trail 2, does access the beach below.



Photo No. 6: View Northward from Trail 2



Photo No. 7: View Southward from Trail 2.



**Photo No. 8: Trail 2a, North Point Area** – Trail 2a leads from the mid-portion of Trail 2 to the beach. Its surface is composed of packed dirt, with numerous loose rocks in the uphill segment. This trail is relatively narrow and very steep, and the walking surface is moderately irregular due to erosion. This route appears to be used rather infrequently.



**Photo No. 9: Trail 3, North Point Area** – Trail 3 consists of a stairway leading from the North Point parking area to the beach. The stair treads are wood and compacted gravel, and handrails are present on both sides of the stairway. The facility appears to be well-maintained and in good repair. This stairway provides the primary route for public beach access from the North Point parking lot..



**Photo No. 10: Trail 4, Beachcomber Area** – Trail 4 is a narrow, steep access that leads northward from the north end of Beachcomber Street and passes just seaward of the southwestern corner of the 3420 Toro Lane property. Although more challenging than other nearby access, Trail 4 does appear to be utilized to a degree, as evidenced by the footprints at the bottom of the trail.



**Photo No. 11: Trail 5, Beachcomber Area** – Trail 5 is another narrow and rather steep access that leads from Beachcomber Street to the beach.



Photo No. 12: Trail 5, Beachcomber Area – Looking landward from the beach.



**Photo No. 13: Trail 6, Beachcomber Area** – A third informal access from Beachcomber Street. The trail is moderately steep at the top, flattening some as it approaches the beach. The surface is hardpack near the road, giving way to sand in the lower section.



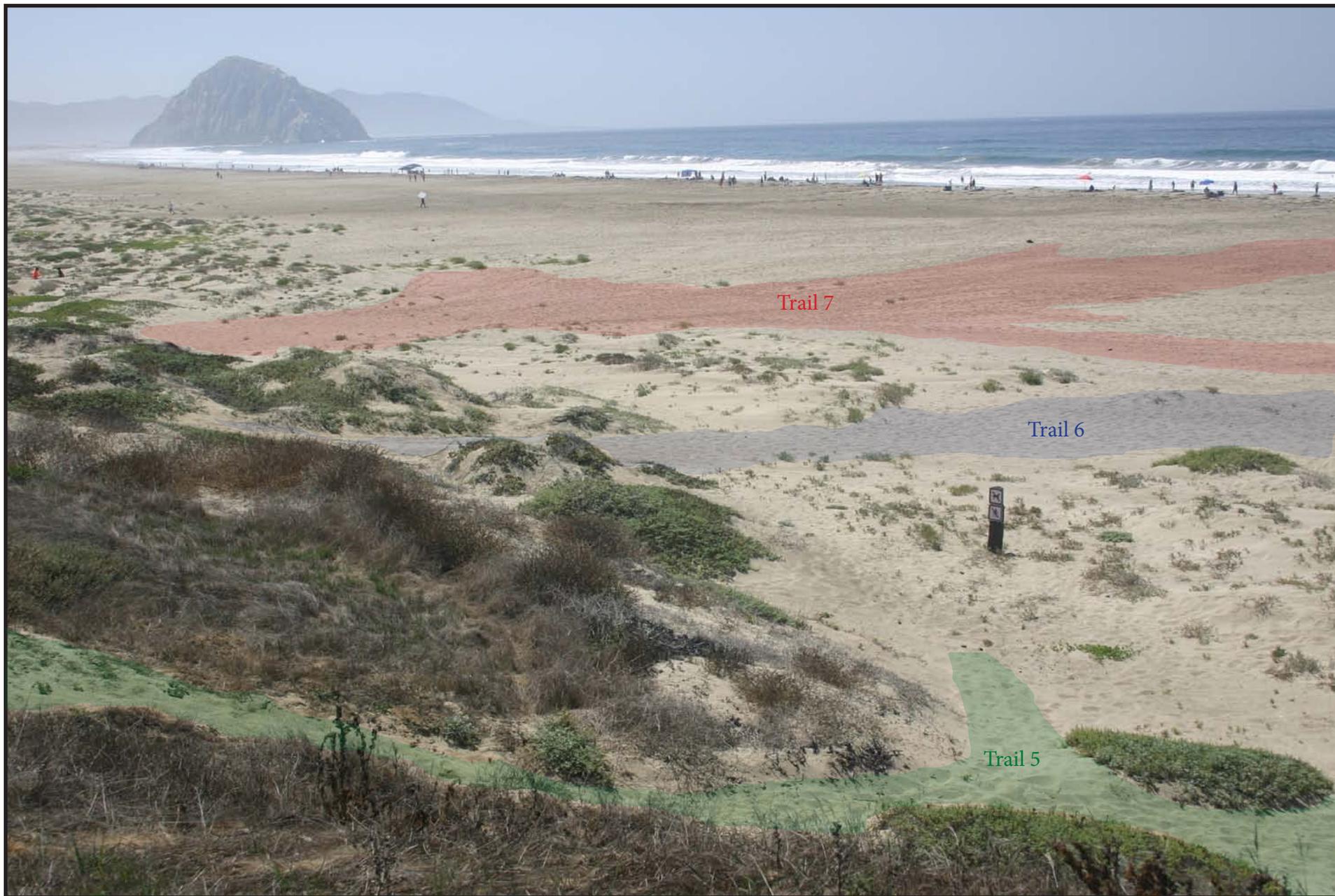
Photo No. 14: Trail 6, Beachcomber Area – View of Trail 6 from the beach.



**Photo No. 15: Trail 7, Beachcomber Area** – Trail 7 provides access to the beach from Beachcomber Street as it intersects with Yerba Buena and Trinidad Street. This is the widest and most gently sloped of the Beachcomber accessways, and exhibits a packed dirt surface all the way to beach level. As can be seen, moderate surface irregularity due to erosion is present. Trail 7 appears to be the most heavily used of the Beachcomber trails.



Photo No. 16: Trail 7, Beachcomber Area – View of Trail 7 looking landward from the beach.



**Photo No. 17: Beachcomber Area** – View of beach adjacent to Beachcomber Street. Footprint patterns document public use of Trails 5, 6, and 7, but demonstrate that Trail 7 is the most heavily utilized of the three by a substantial margin.



**Photo No. 18: Trail 8, Trinidad Area** – Trail 8 intersects Trinidad Street while the paved road is still relatively high on the bluff. Consequently, the upper part of this access is relatively steep. Irregularity of the walking surface due to erosion is minimal, as most drainage is directed southward by the curb of Trinidad Street. Density of footprints at the foot of the trail suggests fairly light usage by the public



Photo No. 19: Trail 9, Trinidad Area – Trail 9 appears similar in configuration and usage to Trail 8.



**Photo No. 20: Trail 10, Trinidad Area** – Trail 10 leaves Trinidad Street at a lower elevation than Trails 8 and 9 and is, therefore, less steep. This beach accessway is primarily sand and undulates between dunes on its way to the beach. Footprint density is higher than observed on Trails 8 and 9.



Photo No. 21: Trinidad Area – Trails 8, 9, and 10, as viewed looking landward.



**Photo No. 22: Trail 11, Trinidad Area** – Trail 11 appears similar to Tail 10, though somewhat more narrow. The growth of vegetation in the trail and relatively low density of footprints would appear to indicate relatively little use by the public. This may be due to the fact that nearby Trail 12 offers easier access.



**Photo No. 23: Trail 12, Trinidad Area** – Trail 12 begins at Trinidad Street just as that street enters Morro Strand State Beach. The head of this trail is also adjacent to the State Beach day-parking lot. The route skirts a protected snowy plover nesting area in the dunes immediately to the south. The access is sandy and virtually level.



Photo No. 24: Trail 12, Trinidad Area – View of Trail 12 from the beach. Note the rope line restricting access to snowy plover nesting habitat.



Photo No. 25: Trail 13, Morro Strand Area – Trail 13 also offers a level sandy access. Rope lines restrict access to snowy plover nesting areas.



Photo No. 26: Trail 13, Morro Strand Area – View of Trail 13 from the beach.



Photo No. 27: Trail 14, Morro Strand Area



Photo No. 28: Trail 14, Morro Strand Area – View of Trail 14 from the beach



**Photo No. 29: Trail 15, Morro Strand Area** – Trail 15 accesses the beach from the southern tip of Morro Strand State Beach. The walking surface is sand and compacted sand, covered in some spots with short beach grass. The trail is essentially level. The head of the trail exits the camping area through a small grove of trees, then meanders to the beach. Trail 15 would probably provide the easiest wheelchair access to the beach, since the sand is somewhat firmer than on Trails 12, 13, and 14.



Photo No. 30: Trail 15, Morro Strand Area – View of Trail 15 looking landward from the beach.

**INVESTIGATION AS TO POTENTIAL PRESCRIPTIVE EASEMENT**

**Related To  
Beach Access Trail  
3420 Toro Lane  
Morro Bay, CA**

**Prepared for the  
Planning Commission  
City of Morro Bay**

**by  
Robert G. Tefft, MD  
Chairperson, Planning Commission**

**September, 2015**

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## SUMMARY FINDINGS AND CONCLUSIONS

- Finding 1:** The normal beach trail which is clearly identifiable across the property at 3420 Toro Lane in Morro Bay, CA appears to afford coastal access that can reasonably be utilized by most able-bodied persons. The width, incline, and surface characteristics may, however, be challenging for the elderly and the infirm. Surface irregularities due to erosion present at least some degree of risk for trip-and-fall accidents or ankle injuries. Wheelchair access would be infeasible at this site.
- Finding 2:** The area surrounding the property at 3420 Toro Lane affords many alternate beach access routes, both informal and improved. The primary obstacles to public coastal access in this area are a severe lack of off-street parking facilities and inadequate signage to direct visitors to available access points.
- Finding 3:** Investigation into the potential for a public prescriptive easement with respect to the trail on the 3420 Toro Lane property suggests that all of the elements required for a prescriptive easement are extant, with the possible exception of “adverse” or “hostile” use.
- Finding 4:** Perfection of a prescriptive easement for the trail at 3420 Toro Lane, in combination with buffers required by the local coastal plan for protection of dune and stream habitat, would prevent the owners building a residence at the site and would therefore prohibit any economically viable use of the property. This would, in all likelihood, be considered a taking of private property for public use without just compensation and would, therefore, be prohibited by the Fifth Amendment to the Constitution of the United States and by Article 1 of the Constitution of the State of California.
- Finding 5:** Irrespective of the potential prescriptive easement question, the issues before the City of Morro Bay, at the time of this report, are the approval of a Coastal Development Permit and Conditional Use Permit for the 3420 Toro Lane property. Under the precedent established by the California Appellate Court in *LT-WR, LLC. v. California Coastal Commission*, a determination that a potential prescriptive easement may exist with respect to a particular property is “speculative” and can not serve as the basis for denying such permits.
- Finding 6:** While the City of Morro Bay has both the authority and the responsibility to establish appropriate mitigation if public access is lost due to development at this site, permit conditions requiring alternate on-site access would, by definition, impinge on the fundamental right of landowners to exclude others from their property. Such conditions would foreseeably violate the principle of “proportionality”, as established by the United States Supreme Court in *Dolan v. City of Tigard*. In addition, other adequate mitigation requirements are available to the City (e.g., requiring the owners to provide improvements at existing off-site beach access points or requiring owners to contribute in-lieu funds that will be used by the City to improve coastal access) which would not infringe upon constitutionally protected property.

## INVESTIGATION OF POTENTIAL PRESCRIPTIVE PUBLIC ACCESS EASEMENT

3420 Toro Lane  
City of Morro Bay, CA

### SECTION 1: SITE DESCRIPTION AND SETTING

#### Description of Coastal Access

The beach access addressed in this investigation is located near the northern tip of the City of Morro Bay, extending from an origin on Toro Lane approximately 200 feet north of the intersection of Toro Lane and Yerba Buena Street to a terminus just south of the mouth of Alva Paul Creek. The access consists of an informal trail which appears to have been created by pedestrian usage, with no evidence of deliberately constructed improvements. The overall length of the trail is estimated to be approximately 250 feet and, over its length, the trail drops approximately 40-45 feet in elevation.

The initial portion (approximately 50 feet in length) of the access trail is located within City-owned property that constitutes the right-of-way adjacent to Toro Lane. This segment diverges from Toro Lane at approximately a 45 degree angle in a west-by-northwesterly direction. The walking surface is hard-packed dirt with minimal damage due to erosion. Topography is nearly level to gently-sloping and the width of the path is roughly six-to-eight feet. This portion of the access trail does not lie within any environmentally sensitive habitat area (ESHA) or ESHA-associated buffers.

As the access route leaves City property, it traverses, for a distance of approximately 10-15 feet, a private parcel (APN 065-091-023) that lies to the south and east of 3420 Toro Lane. The San Luis Obispo County Tax Assessor's website indicates that this property is owned by "Frye, Gregory J. Tre Etal", although there is some question as to whether this information is current. A low split-rail fence is located near the boundary of the City-owned right-of-way, but this structure is in an advanced state of disrepair and presents no obstruction to use of the accessway. A sign affixed to the fence reads "RIGHT TO PASS BY PERMISSION AND SUBJECT TO CONTROL OF OWNER, CIVIL CODE SECTION 1008". In terms of width and surface, this portion of the trail is similar to the initial segment. The incline of this portion is slightly greater than of the first segment, but would still be considered gentle.

Continuing, the trail enters the property at 3420 Toro Lane (APN 065-091-022). This parcel is also recorded

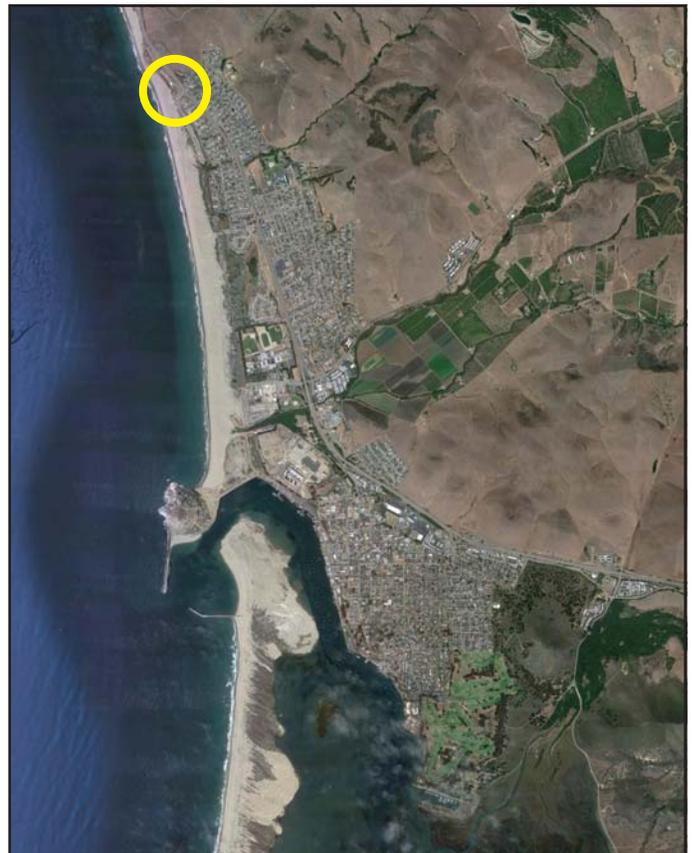


Figure 1: Site Location (yellow circle)

# EXHIBIT G



**Figure 2: Location of Access Trail at 3420 Toro Lane**

with the County Tax Assessor as belonging to “Frye, Gregory J. Tre Etal”, though, again, there is some question as the currency of this information. As the access enters this property, it curves to the west and begins an oblique descent of the bank of an unnamed creek. In consequence, the incline of the walkway steepens to a moderate pitch. The surface of the path is still packed earth, but, in some areas, is uneven due to erosion caused by water run-off during rain events. The degree of surface irregularity is sufficient to present at least some risk of a trip-and-fall accident or ankle injury to users who are

inattentive.

As the access trail approaches the beach, the pitch continues to steepen, and the last 25 feet or so of the trail could be described as moderate-to-steep. In addition, the walking surface changes from packed dirt to beach sand. Erosive damage is not prominent in this segment. The pathway does not pass through the areas of riparian habitat or of degraded dune habitat located at the north edge of the property. It does, however, pass

**Figure 3  
Origin of Access Trail  
at Toro Lane**



3420 Toro Lane  
Morro Bay, CA

**Figure 4**  
**Upper Portion of**  
**Access Trail**



3420 Toro Lane  
Morro Bay, CA

**Figure 5**  
**Condition of Split**  
**Rail Fence**



3420 Toro Lane  
Morro Bay, CA

through the 25-foot stream buffer zone and the 50-foot buffer associated with the dune habitat. Considerable evidence of gopher activity is noted on both sides of the trail.

The trail terminates onto beach sand just south of the mouth of the unnamed creek. On the beach near the foot of the trail are two small informational signs, apparently placed by State Parks. Aside from these signs, there are no improvements along or adjacent to the path, and there are no visitor amenities. After arriving at the foot of the accessway, visitors must traverse an estimated 100 to 200 yards of beach sand (depending on



**Figure 6  
Posted Signage**

3420 Toro Lane  
Morro Bay, CA

tide conditions) in order to reach the ocean.

Street parking for persons utilizing this access point is available on Toro Lane between the intersection with Yerba Buena Street on the south and a point approximately 50 feet north of the northerly property line at 3420. Beyond that point, going north, Toro Lane becomes a private road on which public parking is not permitted. “No Parking” signs have been placed along the street at frequent intervals, and the curbs along both sides are painted bright red. South of 3420, the westerly curb of Toro Lane actually bows toward the

**Figure 7  
Mid- and Lower  
Sections of Access  
Trail**



3420 Toro Lane  
Morro Bay, CA

ocean, providing an area of parking that is father from traffic lanes. The capacity for on-street on Toro Lane is estimated to be between 12 and 14 vehicles.

**Figure 8**  
**Erosive Damage,**  
**Mid- Portion of**  
**Access Trail**



3420 Toro Lane  
Morro Bay, CA

**Figure 9**  
**Termination of**  
**Access Trail**



3420 Toro Lane  
Morro Bay, CA

**Figure 10**  
**Adjacent Street**  
**Parking on Toro Lane**



3420 Toro Lane  
 Morro Bay, CA

### **Area Description**

Toro Lane itself is approximately 1000 feet in length and extends from Yerba Buena Street on the south to the a small public parking area at its north end (North Point). Vehicular access to the street is by way of a signalized intersection of Yerba Buena with State Highway 1. Toro Lane runs parallel to and adjacent to Highway 1, and the chain link safety fence associated with the State highway is only a few feet from the eastern curb of Toro Lane. Fifteen properties along the west side of Toro Lane are developed with single-family residences, and three lots remain vacant. Topographically, Toro Lane lies along a coastal bluff. The elevation of the bluff increases as one travels north, rising from approximately 40 feet at the Yerba Buena intersection to 60 feet at North Point.

The area of Morro Bay that surrounds Toro Lane is also essentially residential in character. No commercial, industrial, or private visitor-serving land uses exist west of Highway 1 between the northern City limits and Morro Bay High School, almost two miles to the south. Commercial development to the east of Highway 1, along North Main Street is primarily community-oriented, rather than visitor serving.

## Nearby Coastal-Related Facilities

In contrast to the absence of commercial visitor-serving land uses, the neighborhood surrounding 3420 Toro Lane does provide several public, coastal-related facilities. This area of the City is a residential neighborhood with virtually no commercial development. Two visitor-serving facilities are located in this area: Morro Strand State Beach and the North Point public parking area.

### Morro Strand State Beach

Morro Strand State Beach lies immediately to the south of the Toro Lane-Yerba Buena Street intersection, approximately 400 yards from 3420 Toro Lane.

The California Department of Parks and Recreation describes Morro Strand as follows:

“This beach is a coastal frontage park featuring outstanding picnic sites. A three-mile stretch of beach connects the southern and northern entrances to the beach. Fishing, windsurfing, jogging, and kite flying are popular.”

The park offers 81 campsites, as well as a day use parking area that can accommodate 12 to 15 vehicles. Park staff, however, notes that the availability of day parking is often, during periods of heavy campground use, impacted by the fact that some spaces are occupied by overnight campers waiting for reserved campsites to be vacated. Morro Strand also provides four large public restrooms, the only such facilities in the vicinity.

Vehicular access to Morro Strand is only by way of Trinidad Street, which descends from Yerba Buena Street along the face of the coastal bluff. Pedestrian access to the park is by way of Trinidad Street, by multiple informal trails from Beechcomber Street, by a well-constructed wooden stairway from Beachcomber, or by a paved walkway which crosses under Beachcomber from Orcas Street.



Figure 11: Morro Strand, Access from Beachcomber



Figure 12: Morro Strand, Access from Orcas Street

### North Point Public Parking Area

The North Point public parking area is located at the north end of Toro Lane, approximately 300 yards from 3420 Toro Lane.

The parking lot itself is small, providing only nine parking spaces (including one handicapped space), but the area around the parking lot has been improved to offer some visitor amenities. Perhaps the most significant of these is a wide, well-constructed stairway, with handrails on either side, which leads to the beach below. Additionally, benches have been installed along the south and west edges of the parking



Figure 13: Stairway at North Point



Figure 14: Benches at North Point

area, and these offer spectacular views of the coastline to the north and south and of Morro Rock. Public restroom facilities, however, are not provided at this location.

Because of its relatively remote location, the North Point parking area is not highly utilized by visitors from out of the area. It is, however, a very popular coastal access point with “locals” and is often filled to capacity. This lot is especially frequented by dog owners, as it offers the closest parking to dog-accessible beaches to the north.

### Alternate Beach Access

The issue of other available beach access in the vicinity of 3420 Toro Avenue does not have direct bearing on this investigation into the potential for a prescriptive public access easement over that property. Consideration of this matter, however, is included here because it may be very important in reviewing possible alternatives to prescriptive easement, such as, for example, a requirement for public access as a condition of a coastal development permit or conditional use permit.

The area chosen for the survey of alternate beach access extended from North Point southward to the southern end of Morro Strand campground. The length of the survey area is approximately 1000 yards, or 0.56 mile. Although the choice of survey area was, admittedly, somewhat arbitrary, it represents a stretch of beach that can easily be walked by an average person and which is bounded on the north end by Morro Bay’s city limit and on the south by a long stretch of relatively solid residential development, with little visitor-serving activity.

The preliminary location and identification of possible beach access routes was performed using satellite imagery obtained through Google Earth. Each potential access was then visually verified and inspected and documented photographically. Verified beach access routes were evaluated with respect to:

*Nature of the walking surface* – The material composition of each access route was noted and recorded. If more than one type of walking surface was observed at a given site, all surfaces were recorded and are shown in Table 2, separated by slashes (e.g., PS/S or PG/W).

*Width of the walking surface* – The width surface of each access route was estimated. When the width of the path was variable, the width classification reflects the most narrow portion of the trail or path, since this segment would determine the ultimate usability of the access.

# EXHIBIT G

*Slope* – The slope of each access route was noted and classified. In cases where the slope of the path varied, the slope classification reflects the most narrow portion of the trail or path, since this segment would determine the ultimate ease the access.

*Surface irregularity* – The presence of irregularities in the walking surface was noted and recorded. Most frequent causes of surface irregularity were the presence of rocks, plants, or other foreign objects and erosive damage to the surface due to water run-off.

*Overall accessibility* – An overall estimate of the usability of each access route was made, based upon the type of visitor who could safely and conveniently use the access.

The classification system used in evaluating each of the above characteristics is outlined in Table 1, below

**Table 1: Evaluation of Beach Access Routes in the Vicinity of 3420 Toro Lane, Morro Bay, CA**

Symbol	Interpretation
<i>Nature of the walking surface</i>	
A	Asphalt
BG	Matted beach grass
PD	Packed earth
PG	Packed gravel
PS	Packed sand
S	Loose sand
W	Wood
<i>Width of the walking surface</i>	
1	Wide - Minimum width >6 feet
3	Medium - Minimum width 3-6 feet
5	Narrow - Minimum width <3 feet
<i>Slope</i>	
1	Level or nearly level
2	Mildly inclined - Can be negotiated by an average person with little special effort
3	Moderately inclined - Can be negotiated by an average person with care
4	Steeply inclined - Can be negotiated only with considerable difficulty
5	Very steep - Too steep for routine use
<i>Surface irregularity</i>	
1	Essentially smooth
2	Mildly irregular or eroded
3	Moderately irregular or eroded - some trip-and-fall hazard
4	Severely irregular or eroded - high trip-and-fall hazard
5	Essentially impassable due to gullies or ruts
<i>Overall accessibility</i>	
1	Accessible to virtually all potential users, including beach wheelchairs
2	Accessible to virtually all ambulatory users, including aged and infirm
3	Accessible to most able-bodied users
4	Accessible only to athletic users
5	Dangerous or impassable to all users

# EXHIBIT G

In this survey, a total of seventeen beach access routes were found between North Point and the south end of Morro Strand (including the access trail at 3420 Toro Lane). This corresponds to a density of 30 access points per linear mile of beach. For comparison, the average access density for all beaches in California is 0.77 access points per mile. The location of each of these beach access trails is shown in Figures 15 - 18.



Figure 15: Trails in North Point Area



Figure 16: Trails in Beachcomber Drive Area

The **North Point** area provides two routes of ready access to the coastal bluff. In this area, the bluff has been improved with benches and offers spectacular views of the shoreline to the north and of beaches and Morro Rock to the south. Trail 2 provides the most direct bluff access. This route begins with an upward incline from the North Point parking area. The ascending segment, however, is paved with asphalt and is easily usable for all potential visitors, though persons in wheelchairs may require some assistance here. The remainder of the trail is composed of hard-packed dirt and is essentially level. Trail 2a branches off of Trail 2, providing a route to the beach below. The steep incline of this access route, however, renders it unsuitable for many beachgoers. At its terminus, Trail 2 joins Trail 1 and Trail 1b.

Trail 1b provides direct access to the beach areas to the north. The initial portion of this access route slopes gently downward and is easily traveled. As the trail approaches the beach, however, the slope becomes much steeper and marked erosive damage is present. Despite its challenges, Trail 1b is relatively heavily utilized, as it provides access to an area of the beach where dogs are allowed.

Trail 1 is a wide, flat route that runs from the North Point parking area to the norther edge of the coastal

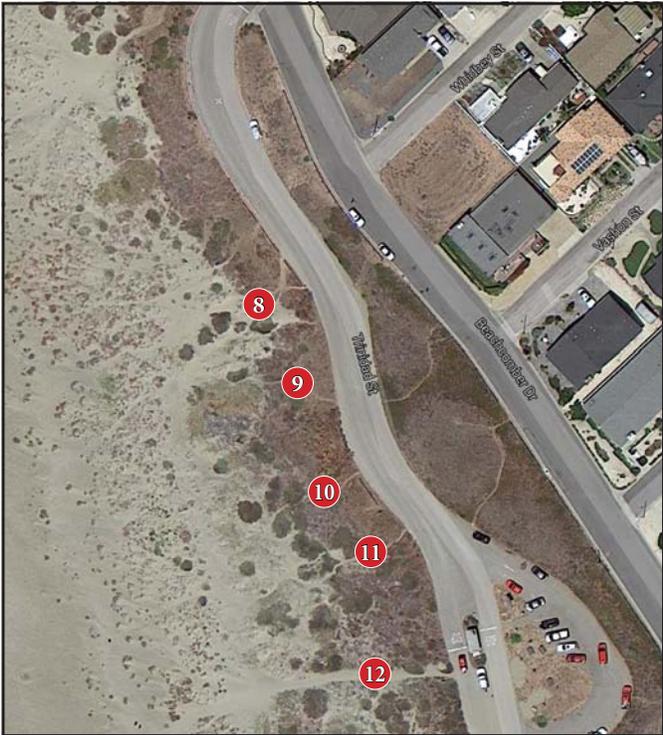


Figure 17: Trails in Trinidad Street Area



Figure 18: Trails in Morro Strand Area

bluff, where it joins Trails 1a, 1b, and 2. Access to this trail requires users to walk up a berm that surrounds the parking lot. This would likely prove difficult for any visitor confined to wheelchair. The trail itself is wide and level, and much of it is paved with asphalt (probably representing an abandoned segment of the original Highway 1). Trail 1 is much-used by dog owners, as it is the most direct route to Trail 1b (discussed above). Trail 1a, on the other hand, has been severely eroded by water run-off and is considered, for practical purposes, impassable.

Trail 3 provides the most important direct beach access from the North Point Area. This “trail” is actually a wide and well-constructed stairway that descends from the parking lot to the sand. The stair treads consist of packed gravel, retained by wooden risers, and handrails are provided on both sides of the stairway. This route is accessible for virtually all visitors, except for persons confined to wheelchairs.

Trails 1, 2, and 3 in the North Point area provide beach and coastal bluff access that is superior to that offered by the trail at 3420 Toro Lane.



Figure 19: North Point Parking Area

The primary obstacle to public beach access in the North Point area is a shortage of available parking. The parking lot here provides only 9 spaces (including one handicapped space), and is often filled to capacity. In addition, much of Toro Lane, leading to the parking lot, is a private road and is prominently posted with “No Parking” signs. The potential exists to greatly facilitate recreational beach use in this area by enlarging the existing parking area, removing parking restrictions on Toro Lane, constructing a dedicated bicycle accessway, and posting directional signage at the intersection of Yerba Buena Street and Toro Lane.

**Beachcomber Drive** is a very popular site for informal beach access, probably because of its direct connection to Yerba Buena Street. In this area, four informal trails (Trails 4 - 7) descend from street level to the sand. The surface of these trails is packed dirt, transitioning to sand near beach level. Assessment of footprint density at the foot of the trails suggests that Trail 7 is most heavily-used. This trail is also the most accessible of the four routes, as it is less steep than others in this area. Trail 7 offers access to virtually all able-bodied visitors that is essentially equivalent to that provided at the 3420 Toro Lane site.

Trails 5 and 6 are similar to, but somewhat steeper than, Trail 7. Footprint patterns, however, suggest that these trails are utilized for beach access to at least a moderate degree. Trail 4 is much steeper and much more narrow than other5 accesses in this area, and appears to be little-used.

As with the North Point area, the primary constraint to beach access in the Beachcomber Drive area is lack of sufficient parking.

The **Trinidad Street** area provides five established points of beach access (Trails 8-12). Four of these (Trails 8-11) are informal trails that appear to have been created simply by public use. Trail 12, which is adjacent to the entrance to Morro Strand State Beach, has been improved with signage and with rope barriers to prevent incursion into snowy plover nesting habitat.

Trinidad Street provides vehicular access to Morro Strand State Beach and descends approximately 30 feet from Yerba Buena Street to the park entrance. In consequence, the access trails which originate from the northern part of the street (Trails 8 and 9) are rather steep. Trails 10 and 11, on the other hand, are only moderately inclined and Trail 12 is essentially level. Because the curb of Trinidad Street blocks the flow of water run-off, trails in this area show little of the erosive surface damage seen at other sites. Trails 10 and 11 provide beach access



**Figure 20: Parking for Beachcomber Trails**



**Figure 21: Parking for Trinidad Trails**

that is equivalent to that at 3420 Toro Lane, while Trail 12 provides superior access.

Footprint patterns suggest that Trails 10 and 12 are the most heavily utilized beach routes in this area. Trail 10 is the closest gentle path to the intersection of Trinidad Street with Yerba Buena and Beachcomber, while Trail 12 is the widest, most level, and best-marked trail in the area and is adjacent to the day-use parking area for Morro Strand State Beach. Although Trail 11 is quite accessible, it shows relatively sparse signs of use, probably because of its proximity to Trail 12.

Although parking is not permitted on Trinidad Street, considerable parking is available non the portion of Beachcomber that runs parallel to the east. From Beachcomber, visitors can access the Trinidad trails via a number of informal, though somewhat steep, paths that connect the two streets. Persons who wish a less strenuous route may walk north on Beachcomber to the intersection with Trinidad, the downhill on Trinidad to the desired trail.

The **Morro Strand** area offers three outstanding beach access trails (Trails 13 - 15). All three of these trails are wide (8-12 feet), essentially flat, and unmarred by erosive damage. They are heavily utilized by visitors staying at the adjacent campground and by day-users, as well. Trails are marked, signed, and separated from nearby snowy plover nesting sites. In addition, public restroom facilities are available in the campground. The access provided by each of these three routes is far superior to that at the 3420 Toro Lane site.

The landward ends of Trails 13 and 14 traverse low dunes. As a result, there is some gentle undulation of the walking surface and some dune vegetation within the trails. As these routes leave the dunes, they become quite broad, flat, and sandy. In contrast, the landward end of Trail 15 is paved with asphalt as it winds through a small grove of trees. The remaining surface of this trail includes substantial areas of packed sand and of matted beach vegetation, as well as some loose beach sand. Because of its width, lack of undulation, and relatively firm surface, Trail 15 offers excellent access for persons in beach wheelchairs.

Day-use beach parking is not permitted within the Morro Strand campground itself. A free parking area at the State Beach entrance provides space for 12-15 vehicles, including one marked handicapped-accessible space. This facility, however, is often filled to capacity during high-use periods. Additional street parking is available on Beachcomber Drive. Visitors parking on Beachcomber can access

the Morro Strand trails via a staircase (see Figure 11), by informal trails leading down the bluff between Beachcomber and the campground, or by way of Trinidad Street. Persons who are unable to negotiate a stairway have the option of parking on or adjacent to Orcas Street and accessing the campground by means of a paved asphalt path that runs under Beachcomber (see Figure 12). Accessibility of the Morro Strand trails could be significantly improved by enlarging the current day-use parking area and designating additional handicapped-accessible parking within this lot, by establishing handicapped-accessible parking spaces within



**Figure 22: Morro Strand Day Parking Area**

# EXHIBIT G

the campground in proximity to trail heads, and by providing appropriate signage to inform visitors about the stairway from Beachcomber Drive and the underpass from Orcas Street.

In summary, this area of Morro Bay currently enjoys an abundance of beach access, both formal and informal. Table 2, below, provides an overview of this information. The primary impediment to public access in north Morro Bay appears not to be a lack of beach access routes, but rather a shortage of organized, well-signed parking and, particularly, a deficit in well-located handicapped-accessible spaces.

**Table 2: Summary of Beach Access in the Vicinity of 3420 Toro Lane, Morro Bay, CA**

Trail Number	Surface	Width	Slope	Surface Irregularity	Overall Accessibility	Comments
<b>North Point Area</b>						
1	A/PD	5	1	1	2	Access to coastal bluff only.
1a	PD	3	5	5	5	Virtually impassable
1b	PD	3	4	4	4	
2	PD	3	1	1	1	Access to coastal bluff only
2a	PD	3	4	2	4	
3	G/W	3	n/a	1	2	Stairway
<b>Toro Lane Area</b>						
3420 Toro	PD/S	3	3	3	3	Few footprints at base
<b>Beachcomber Drive Area</b>						
4	PS/S	5	4	2	4	
5	PD	3	4	2	4	Footprints at base indicate some use
6	PD/S	5	4	2	4	Footprints indicate moderate use
7	PD/S	5	3	3	3	Footprints at base indicate heavy use
<b>Trinidad Street Area</b>						
8	S	5	4	2	4	Footprints at base indicate some use
9	PD/S	5	4	1	4	Footprints at base indicate some use
10	S	5	3	1	3	Footprints indicate moderate use
11	PD/S	5	3	1	3	Little apparent usage
12	S	3	1	1	2	Footprints indicate moderate use
<b>Morro Strand Area</b>						
13	S	3	1	1	2	Footprints at base indicate heavy use
14	S	3	1	1	2	Footprints at base indicate heavy use
15	BG/PS/S	1	1	1	1	Footprints at base indicate heavy use
<i>Primary beach access routes indicated by yellow shading. Primary coastal bluff access routes indicated by green shading.</i>						

## SECTION 2: CONSIDERATION OF POTENTIAL FOR PRESCRIPTIVE EASEMENT

**Terminology and Background**

- An *easement* is a nonpossessory interest in another's land that entitles the holder only to the right to use such land in a specified manner.
- A *prescriptive easement* is a right of use over another's land that is established by use, rather than by a contract or other means. Specific criteria are set forth in law as to the nature and duration of use that may result in a prescriptive easement,
- A prescriptive easement is termed a *public prescriptive easement* when the holder of the easement (i.e., the party entitled to use the land of another) is the public, in general, rather than a specific individual or entity.

As a general rule, California law does not permit the establishment of a prescriptive right of access over private property by the public in general or by any governmental body<sup>1</sup>. An exception to this principle, however, applies to properties which are located along the coast or adjacent to other marine environments.

The right of public access to the ocean and navigable waterways is ultimately based on Article X, Section 4 of the California Constitution, which reads:

“No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.”

One of the stated goals of the California Coastal Act, enacted in 1976, is to “maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners”<sup>2</sup>. The Coastal Act goes on to require that:

“Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation”<sup>3</sup>; and

“Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected<sup>4</sup>.

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<sup>1</sup> **California Civil Code, Section 1009(3)(b):** “Regardless of whether or not a private owner of real property has recorded a notice of consent to use of any particular property pursuant to Section 813 of the Civil Code or has posted signs on such property pursuant to Section 1008 of the Civil Code, except as otherwise provided in subdivision (d), no use of such property by the public after the effective date of this section shall ever ripen to confer upon the public or any governmental body or unit a vested right to continue to make such use permanently, in the absence of an express written irrevocable offer of dedication of such property to such use, made by the owner thereof in the manner prescribed in subdivision (c) of this section, which has been accepted by the county, city, or other public body to which the offer of dedication was made, in the manner set forth in subdivision (c).”

<sup>2</sup> **California Public Resources Code, Section 30001.5(c)**

<sup>3</sup> **California Public Resources Code, Section 30211**

<sup>4</sup> **California Public Resources Code, Section 30212(a)**

Consistent with these goals, State law provides that properties which lie generally within 1000 yards of the mean high tide line of the Pacific Ocean or between the mean high tide line and the nearest public road, may be subject to prescriptive easement to ensure the public's access to the coast is not impaired<sup>5</sup>.

The responsibility for investigating whether or not a public prescriptive access easement may exist with regard to any given property lies with the California Coastal Commission. If the Coastal Commission determines that such an easement is likely exist, the matter may be referred to the Office of the Attorney General. Acting upon information supplied by the Coastal Commission, the Attorney General may then bring the matter to court. Neither the Coastal Commission nor the Attorney General have authority to determine if a public prescriptive easement actually exists in a specific instance, This determination rests with the judge who serves as the trier of fact.

In 1989, the Attorney General's office prepared a manual for Coastal Commission staff to use in determining the level of public use necessary to establish a prescriptive right<sup>6</sup>. According to the Attorney General, in order to establish a prescriptive right in California the public must have used the land for a prescriptive period of five years before an easement comes into being and (1) if the land is a beach or coastal bluff it must be shown that the land was used as if it were a public recreational area; (2) the use should be substantial rather than minimal; (3) the use must be by the public at large as opposed to a number of persons who belong to some limited identifiable group; and (4) the use must be continual though not continuous.

In addition to these requirements related to the duration and intensity of public use, a prescriptive easement is established only if use by the public occurs with the owner's actual or presumed knowledge and without significant objection or bona fide attempts to halt such use. Finally, a prescriptive easement is created only if the public's use is "hostile" or "adverse" to the owner's interest (i.e., without asking or receiving permission). Sections 1008<sup>7</sup> and 1009(f)<sup>8</sup> of the California Civil Code provides specific measures that an owner of coastal land may take to defeat a claim of hostile use by the public. These include a.) posting signage, publishing notice in a newspaper of record, or filing a statement with the County Recorder to the effect that rights to use the property are by permission and subject to control of the owner, or b.) entering into a written agreement with a governmental agency that provides for public use of the property.

## **Authority for the City of Morro Bay to Conduct an Investigation of Potential Prescriptive Easement**

Many coastal California communities have incorporated the authority, responsibility, and standards for conducting an investigation of a potential prescriptive easement into their adopted and certified Local

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<sup>5</sup> **California Civil Code, Section 1009(e):** Subdivision (b) shall not apply to any coastal property which lies within 1,000 yards inland of the mean high tide line of the Pacific Ocean, and harbors, estuaries, bays and inlets thereof, but not including any property lying inland of the Carquinez Straits bridge, or between the mean high tide line and the nearest public road or highway, whichever distance is less.

<sup>6</sup> **Implied Dedication and Prescriptive Rights Manual Relating to California Coastal Commission Matters.** Department of Justice, Office of the Attorney General, 1978.

<sup>7</sup> **California Civil Code, Section 1008:** No use by any person or persons, no matter how long continued, of any land, shall ever ripen into an easement by prescription, if the owner of such property posts at each entrance to the property or at intervals of not more than 200 feet along the boundary a sign reading substantially as follows: "Right to pass by permission, and subject to control, of owner: Section 1008, Civil Code."

<sup>8</sup> **California Civil Code, Section 1009(f):** No use, subsequent to the effective date of this section, by the public of property described in subdivision (e) shall constitute evidence or be admissible as evidence that the public or any governmental body or unit has any right in such property by implied dedication if the owner does any of the following actions:

(1) Posts signs, as provided in Section 1008, and renews the same, if they are removed, at least once a year, or publishes annually, pursuant to Section 6066 of the Government Code, in a newspaper of general circulation in the county or counties in which the land is located, a statement describing the property and reading substantially as follows: "Right to pass by permission and subject to control of owner: Section 1008, Civil Code."

(2) Records a notice as provided in Section 813.

(3) Enters into a written agreement with any federal, state, or local agency providing for the public use of such land.

Coastal Plan (LCP). The City of Morro Bay's Coastal Land Use Plan does not include such provisions.

However, as the local agency responsible for management and protection of coastal resources in our community, the City is undertaking this investigation at the expressed request of the California Coastal Commission. The investigation will be conducted in accord with the document entitled *Implied Dedication and Prescriptive Rights Manual Relating to California Coastal Commission Matters* (Department of Justice, Office of the Attorney General, 1978).

While the City of Morro Bay may legitimately inquire as to the facts and circumstances of the public's use of private property adjacent to the beach or waterfront, neither the City nor the California Coastal Commission have the authority to determine whether a public easement does or does not exist. The power to make such a determination is reserved to the courts.

## **Investigation of Potential Public Prescriptive Easement**

### *1. Has there been continual, substantial use by the general public for the required five-year period?*

Immediately prior to and after the initial Planning Commission hearing, on August 18, 2015, to consider issuance of a Coastal Development Permit for construction of a single-family residence on the property at 3420 Toro Lane, the City of Morro Bay received over 70 completed Coastal Commission questionnaires attesting to public use of the beach access trail which crosses this property. The data presented by these has been compiled and summarized by a Morro Bay resident who is not an employee of the City nor an elected or appointed official. The summary is attached to this report as Appendix B. While this investigation has not exhaustively checked the accuracy of this summary, it appears to represent the general sentiment and information provided by the original questionnaires.

Subsequently, direct observation has documented use of this access, at a minimum on weekend days when weather conditions were favorable for beach recreation. Further observation of parked vehicles on Toro Street adjacent to the trail head and of footprints in the beach sand at the foot of the trail would appear to substantiate at least some degree of use of this access route by the general public.

### *2. Did the owners have actual or presumed knowledge of the public's use of their property?*

The California courts have established that, when the public's use of private property is "open and notorious", the owner is presumed to be aware of such activity. In the current case, the presence of a well-worn trail with no evidence of re-vegetation and with footprints leading to the beach would seem to support the concept that the owners knew, or should have known of the public usage.

### *3. Did the owners object to or engage in significant efforts to halt the public's use of their property?*

The owners of this property have not indicated, nor have any records been found to suggest, that any objections to the public use of this beach access route were submitted to the City of Morro Bay or to any law enforcement agency.

Currently at the site there are remnants of a low wood rail fence which, at one time, would have crossed the beach access path. The fence is broken and, at present, presents no obstruction to the use of this access route. There is no evidence of any recent attempts to perform repairs. It is estimated that, even when intact, the fence would have been no more than 2 1/2 feet in height and would not have presented an effective barrier to pedestrian use of the trail. While the owner's actual intent in constructing this fence is not known, it likely would not be considered a substantial or bona fide effort to halt public use of site.

4. *Is the public's use of this property "hostile" or "adverse to the owner's interest" (i.e., without expressed or implied permission)?*

At the present time, signs reading "Right to pass by permission and subject to control of owner: Section 1008, Civil Code" are posted adjacent to the trail at 3420 Toro Lane. The property owners have indicated that the present signage was placed in May of 2015, so all use of this beach access since that date must be considered permissive, rather than hostile. Some individuals have reported, anecdotally, that they recall signs being posted on the property at various times in past years, but are unable to remember the wording of such signs. The question of whether the evidence is sufficient to document a five-year period of continual hostile use by the public is a matter to be determined by the trier of fact (the court).

Another significant issue with regard to the question of whether or not public use of this trail is, or has been in the past, hostile is that of the general pattern which has traditionally existed in the city of Morro Bay with regard to beach access across private, vacant land by members of the public. Morro Bay is a small town with a generally friendly and accommodating atmosphere. In addition, the economy of the town benefits greatly from tourism. It is, in fact, quite usual for the owners of undeveloped property to permit, without objection, public access for a variety of uses related to tourism and the use of the beaches and waterfront. Prominent examples of this practice include the properties now occupied by Bayshore condominiums and by the Morro Cove housing development. It could, therefore, be reasonably be argued that the absence of interference with the public's use of the beach trail at the Toro Lane site is evidence of a friendly and permissive accommodation of the public (implied permission) that is common among the community of Morro Bay. In *Armijo v. Mason*, the trial court denied a claim of private prescriptive easement based on the fact that a use allowed as a "friendly gesture and accommodation cannot ripen to a prescriptive easement". The decision of the trial court in this case was subsequently upheld by the court of appeals.

The issue of whether or not the "hostile use" standard has been met with regard to the Toro Lane property is a question of fact, reserved to judicial determination (*Warsaw v. Chicago Metallic Ceilings, Inc.* (1984) 36 Cal 3d. 564, 570).

### **Potential Inapplicability of the Public Prescriptive Easement Process**

As noted previously, the prescriptive easement process is based upon California Public Resources Code, Section 30001.5(c), which indicates that one of the "basic goals of the state for the coastal zone", is to "maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners"<sup>2</sup>. The stated goal, therefore, is not an absolute protection of public access. The Legislature, in adopting this language specifically defined two instances in which maximization of public access is not required:

- a.) When such public access would be inconsistent with "sound resources conservation principles"; and
- b.) When such public access would conflict with "constitutionally protected rights of private property owners".

An important and universally recognized such constitutionally protected property right is the prohibition against taking of private property for public use without just compensation. This principle is rooted in the Fifth Amendment to the Constitution of the United States:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the

militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; ***nor shall private property be taken for public use, without just compensation.***” (emphasis added)

Additionally, the California Constitution, Article 1, Section 19(a) provides that:

“Private property may be taken or damaged for a public use and ***only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner.***” (emphasis added)

Case law interpreting these provisions is voluminous at both the State and Federal level, and an extensive review of this material is beyond the scope of this study. As a general rule, however, an unlawful taking will be deemed to have occurred when an action undertaken by or on behalf of a governmental agency deprives an owner of all commercially viable use of his or her property.

In analyzing how this principle might apply to the property at 3420 Toro Lane, it is necessary to be mindful that prescriptive access easements convey only the right to the use of a specific portion of a subject property, namely, the portion which has been demonstrably used for access during the five-year period in which the easement was established. In this case, the beach access trail that has been utilized by the public is readily apparent, and a prescriptive easement would permit future public access only along this specific route. Significantly, the prescriptive easement process would not establish a right of public access across any other portion of the property and would not allow for relocation of public access to another location.

In consideration of these restrictions, the possible ramifications of an action to establish a public access easement at this site must be evaluated in the context of other constraints on the use and development of the property:

- a.) The designated zoning for this property is R-1, with s.2a and ESH overlays. Under this designation, the only financially viable use for the property is construction of one or more single-family residences.
- b.) The existence of buffers related to environmentally sensitive habitats (both stream and coastal dunes) preclude development on approximately 2/3 of the property.
- c.) The area of the potential public access easement roughly bisects the portion of the lot that is currently available for development.
- d.) Preservation of eastern end of the existing beach access trail would preclude construction of a driveway and garage required by the Morro Bay Zoning Ordinance

Considering these various restrictions, it appears quite likely that the establishment of a public easement for use of the existing beach access trail would render infeasible any economically viable use of the property.

While it is beyond the purview of this investigation to determine whether California Public Resources Code, Section 30001.5(c) precludes any action to establish a prescriptive public access easement at the 3420 Toro Lane site, there does appear to be a significant likelihood that the courts will eventually determine that, in this specific instance, constitutional prohibitions against the seizure of private property without just compensation supersede the prescriptive public access easement provisions of the California Civil Code.

## **Relevance of Potential Public Prescriptive Easement to City Regulatory Process**

Although the City of Morro Bay has, on request of the California Coastal Commission, undertaken this investigation into the potential for a public prescriptive easement, the actual issue before the Planning

Commission as of this writing is an application for Coastal Development Permit CP0-419 and Conditional Use Permit UP0-383.

The issue of potential prescriptive easement has, in actuality, little bearing on the task currently before the City. In a 2007 case, *LT-WR, LLC. v. California Coastal Commission*, the California Court of Appeals, Second District ruled that determination by the Coastal Commission of the existence of a potential prescriptive easement on a property is insufficient grounds to justify denial of a Coastal Development Permit for that site. The relevant text of that decision is as follows:

“We recognize one of the basic mandates of the Coastal Act is to maximize public access and recreational opportunities within coastal areas. Public Resources Code section 30210 provides: ‘In carrying out the requirement of Section 4 of Article X of the California Constitution [access to navigable waters], maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.’ .... However, the Commission is not vested with the authority to adjudicate the existence of prescriptive rights for public use of privately owned property. In denying LT-WR a permit for the gates and no trespassing signs due to the possibility of prescriptive rights, the Commission in effect gave credence to the claimed prescriptive rights. The Commission’s denial of a permit for the gates and signs, premised on the existence of ‘potential’ prescriptive rights, was speculative and properly was overturned by the trial court.”

Reasonable inference from this decision dictates that the City of Morro Bay should provide such information as it may have on the issue of a potential prescriptive easement to the Coastal Commission to be acted upon as is seen fit, but should proceed to formulate a decision on CP0-419 and UP0-383 based upon the City’s own local Coastal Land Use Plan, General Plan, and Zoning Ordinance and without consideration of any potential prescriptive public access easement at this site.

## **Possible Alternatives to Public Prescriptive Easement**

### **Alternative 1: Condition the Applicant’s Coastal Development Permit on Providing Public Beach Access Improvements**

Given the potential difficulties of proceeding with a prescriptive easement claim, the City could further the goal of maximizing the public’s access to the sea by requiring, as a condition of approval of the requested Coastal Development Permit (CDP), that the applicants provide mitigation for any loss of access that would occur due to this project. Such mitigation could, for example, be in the form of:

- a.) Construction of alternative, equivalent public access onsite
- b.) Construction of new public access on public lands offsite
- c.) Improvement to existing public accessways offsite that would increase the capacity of such access
- d.) Payment of monies to be used exclusively to improve and increase usability of public beach access

It should be noted, however, that the City’s actions in imposing a mitigation requirement on any permit are subject to the significant limitations imposed by several rulings that have been handed down by the United States Supreme Court and which define the manner in which the Fifth Amendment applies to the local permitting process:

- a.) There must be a nexus between the impact of the project and the required mitigation measures (*Nollan v. California Coastal Commission*, 483 U.S. 825 (1987)) – In this case, it has been asserted

that the project will have a negative impact on the public's ability to physically access the beach and the ocean. Any required mitigation measures, therefore, must be imposed for the purpose of directly facilitating such access.

- b.) The required mitigation must be “roughly proportional” to the negative impact of the project (*Dolan v. City of Tigard*, 512 U.S. 374 (1994), *Koontz v. St. Johns River Water Management District*, 568 U.S. \_\_\_\_ (2013)) – The improvement in public access expected from the required mitigation measures cannot greatly outweigh the amount of access that is impaired by the project. The City could not, for example, require that the applicants provide a freeway interchange at Yerba Buena Street as mitigation for the loss of an informal dirt beach access path.

It is unlikely that the City can legally specifically compel the applicant in this instance to provide alternate beach access onsite as a condition of CDP. Imposition of such a condition would deprive the property owners of the right to exclude others, which, as Chief Justice Rehnquist stated in *Dolan v. Tigard*, is “one of the most essential sticks in the bundle of rights that are commonly characterized as property.” It is unlikely, therefore, that a requirement for onsite access could pass the “rough proportionality” test, especially when other, less onerous mitigations are effective.

### **Alternative 2: Accept an Offer of Dedication**

The applicant has indicated, in this case, that he may be willing to dedicate property to the City for the purpose of establishing an alternative access. This could mitigate any adverse impacts of the proposed project on public beach access, but may burden the City with construction and maintenance costs and expose the City to liability.

In addition, it would be essential to ensure that the offer of dedication is made willingly by the applicant, with no sense of obligation or coercion.

### **Alternative 3: No Action Alternative**

As noted previously in this report, the area of the City including and adjacent to 3420 Toro Lane currently provides a high density and wide variety of beach access points, both formal and informal. The City may, therefore conclude that loss of the trail at the proposed project site would not conflict with the objective of maximizing public access to the beach and ocean, as persons who have previously used this trail would simply choose another of many readily-available alternatives.

If such an assessment is made, the City may elect not to require mitigation and to decline any offer of dedication made by the applicant.

**Investigation as to Potential Prescriptive Easement  
Appendix B  
SUMMARY OF PUBLIC QUESTIONNAIRES**

*This summary was prepared by an interested Morro Bay resident and is presented as received*



# EXHIBIT G

## 3420 Toro Lane Public Path Prescriptive Easement Survey Results Summary

### Process:

Questionnaires were developed according to specifications and a sample obtained from the California Coastal Commission. Questionnaire requirements were also discussed with a Commission staff member who specializes in prescriptive easements.

The questionnaires were distributed by one individual over a two-week period. Distribution was done as follows:

- At the trailhead, on two weekend days, for about 2 hours each day
- At a farmer's market, on two consecutive Thursday afternoons
- Door-to-Door on three streets (Zanzibar, Yerba Buena, Vashon) east of Highway One
- To some persons with whom the person distributing the questionnaires was acquainted

Completed questionnaires were delivered to the City of Morro Bay Planning and Building department.

### Results:

75 questionnaires were completed by persons who use the path.

The earliest documented path use was by a respondent who used it in the 1950's. Two respondents began using the path in the 60's, seven began using it in the 70's, thirteen in the 80's, seven in the 90's, and 13 began using the path between 2000 and 2010. The remainder either began using it within the last five years, or misunderstood the question and gave the dates of their most recent uses.

The primary reason given for path use is beach access. Additional uses specified include birding, surfing, walking, biking, dog walking and clamming (clamming was in the 1950's).

More than a third of the responding path users state they are 61 or older. Age groups of respondents are as follows:

20 and under:	3
21 – 30:	9
31 – 40:	4
41 – 50:	6
51 – 60:	15
61 – 70:	19
71 – 80:	8
over 80:	1
No age given:	10

Fifteen respondents said they had used the path 100 times or more (of those, one said "100?"). Within that group, three said they had used it 1,000 or more times over the years. Three said their uses were "too many to count". Four said "numerous", "many", or "frequently". Some said they used it a specific number of times per week, month, or year. Others gave numbers of uses between 2 and 50+.

According to the California Coastal Commission, the following are the basic criteria for determining prescriptive rights to use a property:

- Use is substantial rather than minimal
- Use is continual, although it need not be continuous
- Use must be without asking or receiving permission from the owner
- Use must be with the actual or presumed knowledge of the owner
- There must be no significant objection or bona fide attempts by the fee owner to prevent or halt the use.

# EXHIBIT G

Only one respondent stated she had asked for permission to use the path; all others stated that they had never sought nor received permission. One respondent said that within the two week period prior to completing his questionnaire, someone had tried to interfere with his use of the path; one stated that in the last year, signs have been put up. All others stated that their path use had never been interfered with. Many respondents specifically stated on questionnaire page 2 that they believed the path was public property.

Respondents provided significantly more information than that compiled in the table below. The data provided here was chosen because it is a meaningful subset of that data which specifically addresses the California Coastal Commission criteria.

Respondent		Path Usage Duration	Approximate Number of Uses	Used Path Openly?	Asked and/or Received Permission?	Did Anyone Ever Try to Prevent Path Use?	Observed Others Using the Path?
Betty W.	63	1986 to present	35 - 40	Yes	No	Not until the last year, when signs were put up	Frequently
J. Gary W.	72	Last 3 years	20+	Yes	No	No	Frequently
F. Paul W.	56	1999 to present	20+	Yes	No	No	Frequently
James W.	53	1975 to present	Not specified	Yes	No	No	Whenever I was there
Robert S.	80	not specified	6	Yes	No	No	Frequently
Michael S.	70	1981 to present	100+	Yes	No	No	Whenever I was there; frequently
Chris S.	56	Since July, 2015	10+	Yes	No	No	Whenever I was there
Gail Q.	72	Since January, 2014	20	Yes	No	No	Whenever I was there
Daniel P.	66	Since 2001	4 times a year	Yes	No	No	Occasionally
Charlene P.	68	Since 2001	4 times a year	Yes	No	No	Occasionally
Daniel O.	25	Within last 6 months	4 or 5	Yes	No	No	Occasionally
Jonathan O.	34	Since 1981	100 ?	Yes	No	No	Frequently
Jeff O.	63	Since 1971	not specified	Yes	No	No	Frequently
Jacque O.	---	Since 1971	many	Yes	No	No	Frequently and Occasionally
Lynda M.	---	Since 1980	50	Yes	No	No	Occasionally
Frank M.	77	Since 1987	6	Yes	No	No	Occasionally
Denise H.	54	Since the 70's	whenever in town	Yes	Yes	No	Frequently

# EXHIBIT G

Robert L.	54	Since 1998	Too many to count - 100+	Yes	No	No	Frequently
Damien H.	43	yesterday	numerous	Yes	No	No	Whenever I was there
Susan H.	---	Since 2014	3 or 4	Yes	No	No	Occasionally
Janith G.	70	Since July, 2007	once a month	unspecified	No	No	Whenever I was there
Jill G.	51	For 15 years	numerous	Yes	No	No	Whenever I was there
Kevin F.	55	Since 2000	2 – 3 times weekly	Yes	No	No	Whenever I was there
Cherry F.	31	Since 2012	2 – 3 times weekly	Yes	No	No	Whenever I was there
Megan E.	29	Since 2010	More than 50	Yes	No	No	Whenever I was there
Brigid C.	63	8/2/15	12 / year	Yes	No	No	Whenever I was there
Tom C.	68	unspecified	Frequently	Yes	No	No	Frequently
Tim B.	---	Since 1989	30+	Yes	No	No	Whenever I was there
Kelly B.	58	Since 4/10/15	3 times	Yes	No	No	Frequently
Michele A.	65	Since 1970	4,000 times plus	Yes	No	No	Whenever I was there
Nancy B.	76	Since 1980	50+	Yes	No	No	Frequently
Linda J. B.	---	Since August 10, 2015	7	Yes	No	No	Whenever I was there
David B.	42	8/16/15	5 - 6	Yes	No	No	Whenever I was there
Joan C.	older	2000	100	Yes	No	No	Occasionally
Brandon C.	30	2008	Every week	Yes	No	No	Whenever I was there
Lindsey C.	31	For the last 2 years	20+	Yes	No	No	Frequently
Kim S. D.	30	June	5	Yes	No	No	Whenever I was there
Sandy F.	63	Since 1989	100	Yes	No	No	Whenever I was there
Carol G.	68	Since 1989	100's	Yes	No	No	Frequently
Jeanne H.	55	5/5/14	30	Yes	No	No	Frequently
Betsy K.	47	Since 1999	not sure – more than 10	Yes	No	No	Occasionally
Michael K.	51	6/1999	10	Yes	No	Yes – in last 2 weeks	Whenever I was there
Miriam L.	42	unspecified	unspecified	unspecified	unspecified	unspecified	unspecified
Susan and Dennis M.	----	2014	10 – 12 times	Yes	No	No	Frequently
Makena M.	22	2000	Hundreds	Yes	No	No	Frequently
Jeffrey M.	30	2 years	20	Yes	No	No	Frequently
Chris N.	46	2002	Too many to count	Yes	No	No	Whenever I was there

## EXHIBIT G

David N.	67	1990	2 – 3 times a week	Yes	No	No	Whenever I was there
Monique N.	---	Roughly 1995	varied over years but now 2 – 3 times/week	Yes	No	No	Frequently
Ruby N.	9	2006	Too many to count	Yes	No	No	Whenever I was there
Bill N.	68	2000	50	unspecified	No	No	Occasionally
Ava R. P.	9	2006	100's	Yes	No	No	Whenever I was there
Leanne	57	unspecified	2	Yes	No	No	Frequently
Logan R.	25	2010	? – looks like 101s!	Yes	No	No	Frequently
Michele S.	43	40 years	100's	Yes	No	No	Whenever I was there
Nine T.	62	every day	7 days a week	unspecified	No	No	Whenever I was there
Ben W.	37	7-1-4	100	Yes	No	No	Whenever I was there
Alice Y.	72	3 x week	100's	Yes	No	No	Frequently
Diane and Ralph S.	---	1980	1000 +	Yes	No	No	Whenever I was there, and Frequently
Margie P.	70	1989	weekly	Yes	No	No	Whenever I was there
Abe P.	84	1989	On and off since 1989	Yes	No	No	Whenever I was there
Barbara W.	71	1987	Well over 3000	Yes	No	No	Frequently
Cynthia H.	---	August 2015 and in 1950's	20	Yes	No	No	Whenever I was there
Lisa K.	55	1986	20 – 30 years	Yes	No	No	Frequently
Kirk K.	65	1975	100	Yes	No	No	Frequently
Flora K.	27	1990	unspecified	Yes	No	No	Whenever I was there
Francesca K.	17	1998	unspecified	Yes	unspecified	No	Frequently
Nancy K. B.	65	2005	25	Yes	No	No	Occasionally
Chase C.	23	many, many years	? partially crossed out	Yes	No	No	Whenever I was there
Dennis C.	67	1968	50	Yes	No	No	Frequently
Natalia M.	---	1968	50	Yes	No	No	Frequently
Melinda J. U.	52	July, 2015	30	Yes	No	No	Frequently
Jackie R.	75	August, 2012	Twice a month	Yes	No	No	Frequently
Debbie H.	65	8/1/15	Several	Yes	No	No	Frequently
Helen G. A.	52	unspecified	unspecified	unspecified	unspecified	unspecified	unspecified
Christine B.	54	1996	20 times	Yes	unspecified	unspecified	occasionally



AGENDA NO: B-3

MEETING DATE: October 6, 2015

## Staff Report

**TO:** Planning Commissioners **DATE:** September 30, 2015

**FROM:** Cindy Jacinth, Associate Planner

**SUBJECT:** Coastal Development Permit (CP0-410) & Conditional Use Permit (UP0-369) to construct a 3,386sf single family residence with 520sf garage and 356 sf of decking and 236 sf covered porch on a vacant lot at 289 Main Street. This project is located inside the Coastal Commission appeals jurisdiction.  
*(continued from the September 1, 2015 meeting)*

**RECOMMENDATION:**

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

- A. Adopt Planning Commission Resolution 39-15 which includes the Findings and Conditions of Approval for the project depicted on site development plans dated September 23, 2015

**ALTERNATIVE OPTIONS:**

**Option 2: Approve the project with additional conditions.**

**Option 3: Continue the hearing directing the Applicant to make additional plan changes.**

**Option 4: Deny the project and direct staff to return with a resolution for denial.**

**APPLICANT/AGENT:** John & Alair Hough / Cathy Novak

**LEGAL DESCRIPTION/APN:** 066-251-052

**PROJECT DESCRIPTION:**

The Applicant is requesting Coastal Development Permit and Conditional Use Permit approval for a new 3,386 square foot 2 story single family residence with basement area, 520 square foot garage and 356 sf of decking and 236 sf covered porch on a vacant lot to be located at 289 Main which is within the California Coastal Commission appeals jurisdiction.

Prepared By:  CJ

Department Review:  SG



## **BACKGROUND/ DISCUSSION:**

### **Property Background**

Though previously thought to be part of a Parcel Map application in 2008, further research into the parcel map and past Planning Commission records revealed that this parcel was not in fact the subject of the 2008 parcel map action. At the September 15, 2008 meeting, PC approved a parcel map (S00-086) (Exhibit G) and coastal development permit (CP0-272) for the demolition of an existing garage and reconfiguration of the existing lot into two lots (A split of Parcel 3, which fronted onto Main Street, into Parcel A and B). The map also recorded the relinquishment of 1,370 square feet of City right-of-way and acquisition of 1,400 square feet of private property for use as right-of-way. The approval also included a reciprocal access easement across the property to facilitate vehicle access so that the lots were not landlocked and so that the 289 Main property did not become landlocked. This easement is the common driveway that exists today which was completed in approximately 2011. The address associated with this approval was 285 Main Street. The two lots that were created as a result of the parcel map approval and became 279 Main and 281 Main St.

Though the 289 Main Street lot was not a party to the 2008 parcel map action, it benefitted from it in that the easement/common access driveway that was created, serves all 4 lots: 285, 279, 281 and 289 Main Street. Of each of these properties, 289 Main Street is the last lot owned by the Applicant to seek development approvals for construction of a single family home.

Because the 289 Main Street lot was not a party to the parcel map application, there were no previous view corridor requirements assigned to this parcel. Staff reviewed the 2008 staff report and Planning Commission meeting minutes which did not apply any view corridor requirements

or conditions, though the power point presentation for the 2008 meeting did have slides included which depicted site section and view analysis from Main Street as part of the proposed lot split which created the 279 and 281 Main Street parcels.

### Continuance

At their September 1, 2015 meeting, the Planning Commission held a public hearing on the Applicant's request for coastal development permit and conditional use permit for new construction of a 3,386square foot single family residence with 503 square foot garage, 356 sf of decking and 236 sf covered porch. After consideration of the item, it was the direction of the Commission to continue the hearing to the October 6, 2015 meeting with direction to the Applicant to submit revised plans which 1.) accurately calculate lot coverage excluding that portion of the property dedicated to the common driveway; 2.) correct square footage of home to include the lower story basement square footage in the total size of the proposed home; and 3.) revise plans to show a shortened/reduced deck along the south elevation which also 4.) reduces scale/mass along the west elevation which faces the Tidelands Parking lot. (see Exhibit B – *note: the after action letter listed 3 action items, though item #3 combined two actions and so is referred here as 4 items for clarity*).

The Applicant responded with a letter dated September 24, 2015 (Exhibit C) and revised plans dated September 23, 2015. Staff reviewed each of the four points raised by the Planning Commission in the resubmittal with each point detailed below:

1. Lot Coverage. Revised plans now show the lot coverage calculated to include the square footages of all structures on site, as well as excluding the common driveway portion for calculating the overall lot coverage. The lot coverage is identified on the plans at 34% where a maximum of 45% is allowed in this zoning district.
2. Revised title sheet home square footage. The size of the home has not changed, but the title sheet has been revised to include the 503 square of basement space in the size of the home square footage which is 3,386sf. The Applicant's response was that originally the square footage was segregated to reflect conditioned square footage versus unconditioned square footage. It should be noted that the plans do not include sufficient information to determine whether the 503 square foot basement is actually a basement. Also, the "Floor Area" definition does not specifically exclude basements from consideration in the overall or gross floor area calculation.
3. Southern deck redesign. The square footage of the deck has been reduced from a single 822 square foot deck along the southern side of the home to two separate decks, one off the living room (approximately 226sf) and one off the master bedroom (approximately 93 sf) with a set of stairs for access.

Item #3 of Staff's after action letter to the applicant also identified Planning Commission's direction to the applicant to reduce the scale/mass of the home which

faces the Tidelands Parking lot. This could have been accomplished in a number of ways. The Applicant's response letter argues that the reduction in decking (and as illustrated in the revised visual simulation – Exhibit E) accomplishes the goal of reducing the scale and mass of the home as viewed from Tidelands parking lot.

However, some of the other general comments by Planning Commission center around design features such as the roofline ridges. The plans as drawn show approximately 5 separate ridgelines each of which is parallel to Tidelands Parking lot, thereby creating the bulk issue noted by the Planning Commission. The Applicant's response letter noted that changing the roof orientation would be detrimental to the project because to do so would increase the height of the home causing it to exceed the 25 foot height limit and also spoil the architectural character of the Cape Cod design.

In addition, the Commission discussed that the home could be stepped down or lowered so as to reduce the visible exposure of the western most building elevation to Tidelands parking lot. The Applicant's response interpreted this as a request to change the home into a split-level home by stepping the home down 3 to 4 feet and that it was impossible because it would cause an unreasonable amount of grading. The Applicant's letter states that they have need for a mostly-single level home, though they are proposing a 2 story home with a separate story/level for a basement. Staff review of the resubmitted plans determined that despite the Applicant's letter statement, the topography of the lot shows that the home could be lowered approximately 2 feet. The plans show a finish floor elevation 27.83 on the elevations page and 28.0 on the site plan page, but the topography shows the front door of the home at elevation 26'. The applicant notes concern related to lowering the garage as it may steepen the driveway making access more difficult. Once again the plans do not include enough detail related to grade to determine the impact to the driveway of lowering the house. One option would be to keep the garage at its current height and lower the remaining portion of the home. While the applicant notes a desire to have a single level home that is not how the home is designed, therefore having the garage at a different height than the main floor finish floor elevation would appear to have little impact to the overall design.

Staff review found that lowering the home on the site would assist with the ability to lower the roofline design modification, despite the Applicant's assertion that height would increase by 1 foot and potentially assist in reducing the number of steps from the first floor elevation to the basement elevation.

Staff inquiry into the grading question resulted in an email response from the Applicant dated September 29, 2015 which details out the specific arguments against lowering the home or making additional modifications to the bulk and scale of the home. (See Exhibit D).

The Applicant states it would be impossible to lower the proposed home and garage because it

would create non-code compliant driveway turnaround; which would also increase costs associated with utilities as well as create other numerous building difficulties. The second scenario argued against lowering the home by the Applicant was in the example of lowering only the home but not the garage. The claim was made that to do so would require major modifications to the building construction details.

It would seem the only constraint related to redesign of the home under the scenario where the garage remains at the original elevation, with the remainder of the home being lowered, would be the necessity to redesign architectural plans. If the applicant moved forward, prior to approval, with structural plans, they did so at their own risk.

The Applicant concluded that the property location and the view from Tidelands is not part of a scenic viewshed that has been identified in the LCP and thus in essence should not be subject to view corridor requirements looking east, because the LCP identifies scenic views looking west.

The Planning Commission's discussion regarding reducing bulk and scale however is also reflective of the City's General Plan policies regarding scale as well as recently adopted residential design guidelines.

Though the Applicant has made revisions to the plans as directed by the Planning Commission, the resubmittal falls short of effectively reducing bulk and scale of the home. The proposed home does meet General Plan /LCP and Zoning Ordinance requirements for new construction of a single family home on a vacant residential lot. However, because the Applicant received direction from the Planning Commission regarding changes to the plans, it is well within the authority of the Planning Commission to determine if the proposed changes meet the direction given.

**CONCLUSION:** The project as proposed is consistent with the General Plan, Local Coastal Plan, and Municipal Code for development standards as described in the staff report dated August 27, 2015 for the September 1, 2015 meeting (Exhibit H).

However, staff analysis determined that the Applicant's proposed reductions to bulk and scale in the form of decreasing the size of the deck did not fully address the concerns of the Planning Commission. As such, staff has proposed alternate options for the Planning Commission to consider as follows:

**Option 1: Approve the project as revised, adopting Planning Commission Resolution 39-15 which includes the Findings and Conditions of Approval for the project depicted on site development plans dated September 23, 2015.**

**Option 2: Approve the project with additional conditions.**

**Option 3: Continue the hearing directing the Applicant to make additional plan changes.**

**Option 4: Deny the project and direct staff to return with a resolution for denial.**

**EXHIBITS:**

Exhibit A - Planning Commission Resolution 39-15

Exhibit B – Staff letter to Applicant dated September 10, 2015

Exhibit C – Applicant Response Letter dated September 24, 2015

Exhibit D - 2<sup>nd</sup> Applicant Response Letter email dated September 29, 2015

Exhibit E – Revised Visual Simulations

Exhibit F – Neighbor Correspondence Received Regarding Project

Exhibit G – Parcel Map MB 08-0019

Exhibit H – September 1, 2015 Planning Commission Staff Report

Exhibit I – Plan Reductions dated September 23, 2015

**LINKS:**

1. Link to Full September 1, 2015 Staff Report and Exhibits, Agenda Item B-2

<http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/2519>

2. Minutes to past 9-15-2008 Planning Commission meeting:

<http://www.morro-bay.ca.us/ArchiveCenter/ViewFile/Item/283>

# EXHIBIT A

## RESOLUTION NO. PC 39-15

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION APPROVING COASTAL DEVELOPMENT PERMIT (CP0-410) AND CONDITIONAL USE PERMIT (UP0-369) TO ALLOW CONSTRUCTION OF A NEW 3,386 SQUARE FOOT SINGLE-FAMILY RESIDENCE WITH 520 SQUARE FOOT GARAGE, and 356 SQUARE FEET OF DECKING AND 236 SQUARE FOOT COVERED PORCH ON A VACANT LOT AT 289 MAIN STREET

**WHEREAS**, the Planning Commission of the City of Morro Bay (the “City”) conducted a public hearing at the Morro Bay Veteran’s Hall, 209 Surf Street, Morro Bay, California, on September 1, 2015, for the purpose of considering Coastal Development Permit (CP0-410) and Conditional Use Permit (UP0-369) for construction of a new 3,386 square foot single-family residence with 520 square foot garage on a vacant lot at 289 Main Street and continued the hearing to the October 6, 2015 Planning Commission meeting; and

**WHEREAS**, the Planning Commission of the City of Morro Bay (the “City”) conducted a public hearing at the Morro Bay Veteran’s Hall, 209 Surf Street, Morro Bay, California, on October 6, 2015, for the purpose of considering Coastal Development Permit (CP0-410) and Conditional Use Permit (UP0-369) for construction of a new 3,386 square foot single-family residence with 520 square foot garage and 356 sf of decking and 236 sf covered porch on a vacant lot at 289 Main Street; and

**WHEREAS**, notice of the public hearing was provided at the time and in the manner required by law; and

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

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

**Section 1: Findings.** Based upon all the evidence, the Commission makes the following findings:

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS**

- A. Pursuant to the California Environmental Quality Act, the project is categorically exempt under Section 15303, Class 3 for construction of one single-family residence.

### **COASTAL DEVELOPMENT PERMIT FINDINGS**

- A. The project as proposed is consistent with the applicable provisions of the certified Local Coastal Plan. The Local Coastal Plan is consistent with the

# EXHIBIT A

General Plan and the project meets minimum density requirements and therefore meets the LCP.

- B. For every development between the nearest public road and the sea or the shoreline of any body of water, the Planning Commission shall make a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. *The property is located to the east of Tidelands Park which provides public access to the water.*

## **CONDITIONAL USE PERMIT FINDINGS**

- A. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the proposed single-family residence is a permitted use within the zoning district applicable to the project site and said structure complies with all applicable project conditions and City regulations.
- B. The project will not be injurious or detrimental to property and improvements in the neighborhood because the use is designed to be consistent with the City regulations applicable to this development.
- C. The project will not be injurious or detrimental to the general welfare of the City because the single-family residence is a permitted use within the zone district and plan designation applicable to the site and said use is designed to be accordance with all applicable project conditions and City regulations.

## **MIXED USE AREA B FINDINGS**

- A. That any proposed commercial use is generally serving a water-borne clientele or serving a water-oriented purpose. *The proposed project does not have a commercial element; therefore the finding does not apply to this project.*
- B. That the proposed commercial use, by its nature or design, will result in minimal noise, glare, odor, and traffic impacts on other nearby uses. *The proposed project does not have a commercial element; therefore the finding does not apply to this project.*
- C. That any new residential development shall be of a density and design which minimizes potential exposure to and would not unreasonably restrict water-oriented commercial activities. *The project is located on an existing residential lot that was previously subdivided and meets the minimum density. The project will not have a negative effect on water-oriented commercial activities because the property does not provide access to the water and is adjacent to Tidelands Park which provides water access.*

# EXHIBIT A

- D. That any new use shall not generate significant traffic/circulation impacts and shall include adequate parking, loading and access (turning and driveway) facilities. *The project is on a lot that meets minimum density with a private access easement off Main Street. Main Street can accommodate the traffic that will result from the development of one-single family residence.*
- E. That any new use shall not result in any harmful (e.g. toxic waste) discharge into the bay. *The single family residence will not discharge any harmful waste from the site nor will the bay be affected.*

**Section 2. Action.** The Planning Commission does hereby approve Coastal Development Permit CP0-410 and Conditional Use Permit UP0-369 for property located at 289 Main Street subject to the following conditions:

## **STANDARD CONDITIONS**

1. This permit is granted for the land described in the staff reports dated August 27, 2015 and September 30, 2015 for the project at 289 Main Street depicted on plans dated September 23, 2015, on file with the Community Development Department, as modified by these conditions of approval, and more specifically described as follows: Site development, including all buildings and other features, shall be located and designed substantially as shown on plans, unless otherwise specified herein.
2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this Resolution 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. Any extension may be granted by the City's Community Development Manager (the "CDM"), upon finding the project complies with all applicable provisions of the Morro Bay Municipal Code (the "MBMC"), General Plan and certified 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 Community Development Manager. Any changes to this approved permit determined, by the CDM, not to be minor 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, the City, 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 MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan for the City.

# EXHIBIT A

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. Applicant understands and acknowledges the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Director or as authorized by the Planning Commission. Failure to comply with any of 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 MBMC and is a misdemeanor.
7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan of the City.

## **PUBLIC WORKS CONDITIONS:**

The Applicant show the following items on the plans submitted for a Building Permit:

1. Provide a standard erosion and sediment control plan. The Plan shall show control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or ecologically sensitive area.
2. Include the locations of all proposed utilities, gas, sewer, water etc. Indicate on the plans the location of the lateral and if the sewer lateral is proposed or existing. If the existing sewer lateral is going to be used the following must be completed prior to building permit issuance.
  - a. Conduct a video inspection of the conditions of existing sewer lateral prior to building permit issuance. Submit a DVD to City Public Services Department. Repair or replace as required to prohibit inflow/infiltration.
  - b. Sewer Backwater Valve: A sewer backwater valve shall be installed on site to prevent a blockage or maintenance of the municipal sewer main from causing damage to the proposed project. (MBMC 14.07.030)

Add the following Notes to the Plans:

# EXHIBIT A

- c. Any damage to City facilities, i.e. curb/berm, street, sewer line, water line, or any public improvements shall be repaired at no cost to the City of Morro Bay.

## **BUILDING CONDITIONS**

1. Building Permit: Prior to construction, the applicant shall submit a complete Building Permit Application and obtain the required Permit.

## **FIRE CONDITIONS:**

1. The plan depicts a 10 ft. by 23 ft. emergency vehicle overhang space, adjacent to the apparatus turnaround and fronting the garage. This space shall not be obstructed in any manner, including the parking of vehicles (CFC 503.4).

## **PLANNING CONDITIONS:**

1. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation.
2. Construction Hours: Pursuant to MBMC subsection 9.28.030.I, Construction or Repairing of Buildings, the erection (including excavating), demolition, alteration or repair of any building or general land grading and contour activity using equipment in such a manner as to be plainly audible at a distance of fifty feet from the building other than between the hours of seven a.m. and seven p.m. on weekdays and eight a.m. and seven p.m. on weekends except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Community Development Department, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues.
3. Dust Control: That prior to issuance of a grading permit, a method of control to prevent dust and wind blow earth problems shall be submitted for review and approval by the Building Official.
4. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.
5. Architecture: Building color and materials shall be as shown on plans approved by the Planning Commission and specifically called out on the plans submitted for a Building Permit to the satisfaction of the Community Development Manager Manager.
6. Boundaries and Setbacks: The property owner is responsible for verification of lot boundaries. Prior to requesting foundation inspection, a licensed land surveyor shall verify lot boundaries and building setbacks to the satisfaction of the Community Development Manager. A copy of the

# EXHIBIT A

surveyor's *Form Certification* based on a boundary survey shall be submitted with the request for foundation inspection.

7. Building Height Verification: Prior to foundation inspection, a licensed land surveyor shall measure and inspect the forms and submit a letter to the Community Development Manager certifying that the tops of the forms are in compliance with the finish floor elevations as shown on approved plans. Prior to either roof nail or framing inspection, a licensed surveyor shall submit a letter to the building inspector certifying that the height of the structures is in accordance with the approved plans and complies with the maximum height requirements of 14 for flat roofs or 17 feet (for 4 in 12 or greater pitch), maximum above the average natural grade of the building footprint.
8. Landscaping: Plans shall be revised prior to building permit issuance to provide an irrigation water management plan consistent with the conceptual landscaping plan dated July 20, 2015 and approved as part of this planning permit (CP0-410 & UP0-369).
9. Lighting: Prior to issuance of a building permit, exterior lighting shall be in substantial compliance with fixture cut sheets submitted with project plans dated June 30, 2015.
10. Inspection: The applicant shall comply with all Planning conditions listed above and obtain a final inspection from the Planning Division at the necessary time in order to ensure all conditions have been met.
11. Assessor's Parcel Number (APN): The applicant shall include on the plans submitted for Building Permit approval, the accurate APN Number for the property. The property APN is 066-251-052.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 6<sup>th</sup> day of October, 2015 on the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

---

Chairperson Robert Tefft

ATTEST

---

Scot Graham, Community Development Manager

The foregoing resolution was passed and adopted this 6<sup>th</sup> day of October, 2015.



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

September 10, 2015

Cathy Novak  
Cathy Novak Consulting  
PO Box 296  
Morro Bay, CA 93443

RE: 289 Main Street., Morro Bay, CA -- CP0-410 and UP0-369

Dear Ms. Novak,

On September 1, 2015, the Planning Commission moved to continue the above referenced public hearing to the October 6, 2015 Planning Commission meeting.

The direction of the Planning Commission was to submit revised plans which include:

1. Calculate actual lot coverage which excludes from lot size the portion of the common driveway; includes all structures on the property namely the sheds situated on the west side of property; and includes the decks. Note the project statistics do specify 859.4 sf of driveway/walk included in the lot coverage calculation, but it is not clear what consists of the 859 square feet.
2. Revise plan title sheet to reflect correct square footage of home which includes the basement for a total square footage of 3,385.9sf.
3. The rear deck along the south to be shortened along with a revised design which reduces the scale/mass along the west elevation which faces the Tidelands parking lot.

Although not identified by Planning Commission, please note that the elevation page is not consistent with the floor plan page as it does not show the deck. With your resubmittal, the elevation pages should be revised to consistent with the rest of the plan sheets or provide appropriate clarification.

A revised submittal will be due no later than Thursday September 24, 2015 in order to meet agenda deadlines for the October 6<sup>th</sup> meeting. Please contact me if you have any questions at 805-772-6577.

Sincerely,

Cindy Jacinth  
Associate Planner

# EXHIBIT C

CATHY • NOVAK

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RECEIVED

SEP 24 2015

City of Morro Bay  
Community Development Dept.

September 24, 2015

Ms. Cindy Jacinth  
City of Morro Bay Public Services Department  
955 Shasta Street  
Morro Bay, CA 93442

RE: 289 Main Street

Dear Cindy,

This letter is in response to the Planning Commission's request to revise the plans for the above mentioned project. I am providing answers below to the items in your letter dated September 10. In addition, the Planning Commission made comments at the meeting that are not included in your letter so I would like to address those as well.

1. *Lot coverage:* The plans presented prior to this inadvertently missed adding the storage, shed and greenhouse into the overall lot coverage calculations. The revised plans attached have corrected two things which are, 1) includes the buildings on the west side of the property, 2) excludes the common driveway portion for calculating the overall lot coverage. The lot coverage for the project now is at 34%. To illustrate the specific areas that are used in the lot coverage calculations, we have provided an additional sheet that shows the building footprints, decks and covered porch with the square footage for each of these areas. We hope this will add clarity and assist in your review.
2. *Revise title sheet for home square footage:* The title sheet has been revised to show a total of 3,385.9 sq. ft. However, I would like to clear up the question regarding the conditioned versus unconditioned space that make up the total square footage for this home. The architect has listed the conditioned space total as 2,882.4 sq. ft. and the basement as unconditioned at 503.5 sq. ft. These spaces remain accurate as listed because the basement is not proposing to have any heating or cooling which would then change that space to a conditioned space. I recognize the fact that until construction drawings are done and submitted for a

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CELL 805.441.7581 • PHONE & FAX 805.772.9499

POST OFFICE BOX 296 • MORRO BAY, CA 93443

NOVAKCONSULTING@CHARTER.NET

# EXHIBIT C

building permit, you will not be able to confirm the fact that the basement will be an unconditioned space. So therefore to address this issue, the Hough's are willing to accept a condition of approval that the basement will not have heating or cooling.

3. *Southern deck redesign:* As per the Commission's request, the deck on the southern side of the home has been redesigned which reduces the scale/mass along the western elevation. The previous deck, approximately 822 sq. ft., was a single deck that stretched from the living room to the master bedroom and towards the southern property line. The revised plans now show two decks, one off the living room (approximately 226 sq. ft.) and one off the master bedroom (approximately 93 sq. ft.) with a set of stairs for access. This results in an overall reduction of approximately 503 sq. ft. of decking and considerable area to reduce the scale and mass of the home as viewed from Tidlands parking lot.

In addition to the items above, we noted other comments from the Planning Commissioner's at the meeting and would like to follow up with responses to those items.

1. *Roofline design:* The Commission inquired at the possibility of changing the roofline to run perpendicular to the parking lot rather than parallel. In consultation with the architect we find changing the roof orientation will be detrimental to the project for a couple of reasons. First, the ridgeline is meeting the zoning standards at 25 feet above average natural grade. If the roof is redesigned, it will exceed the allowable height limit by one foot. Second, the home is a Cape Cod design which has a roof pitch of not less than 4 in 12. Altering the roof and lowering pitch will spoil the architectural integrity of this design and will not result in a significant benefit or better design. Third, the upstairs bedrooms are designed such that there is no encroachment into the 50 foot setback for a second story and within the building height requirements.
2. *Step down and split level home:* The Commission mentioned that the house could be redesigned by stepping the house down on the western side approximately 3 to 4 feet and thereby creating a split level home. Serious consideration was given to the design of this home because this is not a spec home but rather the Hough's primary residence. Because of the nature of Morro Bay's terrain and the desire for views of the bay and ocean it is extremely difficult to find a home that has most if not all of the primary living space on one level. Because of this, the Hough's had planned for some time to find the right property and then ultimately to

# EXHIBIT C

construct their home with the main living area on a single level. Not only have they considered the future as they age to reduce stairs and other impediments but Mr. Hough has a medical condition that he has been battling with and to that end, they must face reality and have the main living space on one level to fit his future needs.

Furthermore, stepping down the house will create additional grading of a large area to accommodate this drop, retaining walls and a major redesign to gain entry into the house from the garage area (it was mentioned to leave the garage at the same level as design currently). Moreover, retaining the garage at the present level will not reduce the height of the second floor since the one bedroom is designed directly above the garage and this will also complicate the ingress and egress to both the bedrooms if they are located on differing levels.

3. *Articulation and design:* This project as designed has considerable articulation on all sides of the home.
  - a. On the eastern side, the second floor bedroom #2 has been designed above the garage which is setback from the main entrance by approximately 12 feet. Bedroom #3 is over the entry, laundry and bath and is not on the same front plane as the other bedroom.
  - b. The northern side does not have a straight wall running the length of the home but rather has offsets at the kitchen and covered porch which provides articulation and meets the required setbacks.
  - c. For the western side, the covered porch extends further to west than the dining room and living room, which also are designed with step backs from each area. This creates visual interest with the varying rooflines and recessed walls not being on one plane.
  - d. As for the southern side, the revised plans have created two separate decks and reduced the deck size by approximately 503 sq. ft. as I mentioned above. This modification to the deck significantly decreases the scale, mass and elongated appearance of the home from the Tidelands parking lot.

All in all, the entire home has varying height elements, rooflines and no boxy features. The proposed plan includes a well thought out landscape design that includes trees, shrubs and ground cover strategically placed to provide screening from the neighbors and Tidelands parking lot. The Hough's are amenable to adding additional landscaping to screen more of

# EXHIBIT C

the house from the Tidelands area if that becomes more of a concern to the Commission.

4. *Neighborhood compatibility*: There was some concern regarding neighborhood compatibility which I believe should be addressed. The following are project statistics that are important for consideration.
  - a. All three of the houses that have been designed or built are substantially under the 45% allowed lot coverage. The proposed house at 289 Main Street is 34% coverage.
  - b. The house at 281 Main is 2,829 sq. ft., 700 sq. ft. garage which equals 3,529 sq. ft. and is on a 7,700 sq. ft. lot with 39.5% lot coverage.
  - c. The house at 279 Main is 2,616 sq. ft., 577 sq. ft. garage which equals 3,193 sq. ft. and is on an 8,600 sq. ft. lot with 26% lot coverage.
  - d. For comparison with other recent projects in the neighborhood, 505 Walnut is 2,935 sq. ft. (with garage and second unit) on a 4,534 sq. ft. lot with 41% lot coverage.

Furthermore and even though this project was designed prior to the *Residential Design Guidelines*, there are several aspects of the Guidelines that have been incorporated into this project and warrant mentioning.

- a. *The overall design of the home should pay particular attention to the adjacent homes while remaining visually compatible with the immediate neighborhood.* All three homes have been designed by the same architect. The result is continuity and design compatibility within the immediate area.
- b. *Maintain architectural integrity with design and material consistency on all facades.* The house, as mentioned, is in keeping with the Cape Cod style with the roof pitch at 4 in 12 and the siding materials proposed.
- c. *When replacing or changing the exterior materials, use materials compatible with homes in the surrounding area.* The exterior materials proposed are compatible with surrounding homes with ship lap and board and batt which are typical seaside finishes. The new shingle blends well with the other homes.
- d. *Limit the size of the second story relative to the first story.* The total square footage of the second floor is 607 sq. ft. and is only 27% of the main level.
- e. *Surface Articulation*: The east side façade roof is broken up with a Gable end and the west facade roofline is broken up by the second

# EXHIBIT C

- story and differing first story. The walls facing Tidelands parking lot are articulated by the varying depth of each room in the house.
- f. *Garages placed along the front elevation of a home should not exceed 50% of the linear front elevation width where possible.* The garage is less than 50% of East façade.
  - g. *Utilizing decorative paving materials, permeable pavers or special patterns or colors to break up paved driveway areas in front setbacks.* Decorative and permeable paving materials are proposed in the driveway and parking space.
  - h. *Building materials should be consistently applied and shall be harmonious with adjacent materials.* The proposed plan will use a single material, shingle siding.
  - i. *Privacy. Minimize privacy intrusions on adjacent residences.* The proposed plan is designed with minimal windows on the northern side adjacent to the neighboring house.
  - j. *Set the structure into the hillside topography while also balancing or limiting the amount of grading, beyond the footprint, to avoid erosion and visual impacts.* The proposed project is located on the flattest portion of the parcel and the grading is limited by not stepping the home down further which would increase the necessity for additional grading.
  - k. *Step back the taller portions of the structure to reduce the appearance of height.* The second floor is stepped back from the Tidelands parking lot (west) side of the home to reduce height appearance.
  - l. *Minimize exposed foundations, underfloor areas, and downhill cantilevers when structurally feasible and avoid use of tall support columns utilized for support of overhanging areas.* The project has been designed with a basement (rec room & wine cellar) under the kitchen and covered porch area. This design accomplishes supporting the main floor level, avoids the use of tall support columns for the overhanging area and minimizes what would otherwise be exposed foundations of the house. The basement area does not add any height to the home nor does it increase the lot coverage any way.
  - m. *Vary height of building elements.* The home is designed with varying roof heights, roof angles and offsets to provide visual interest with the building elements.

# EXHIBIT C

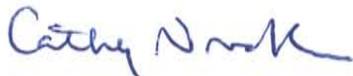
5. *Previous subdivision:* There was some discussion at the Commission meeting in regards to the previously approved subdivision and conditions of approval. To provide an accurate history of this I would like to say that when the Hough's purchased the property, there were three lots. The three lots were made up of 289 Main, 285 Main and one parcel that is now 281 and 279 Main. The Hough's filed a parcel map to divide the one upper lot and create what we see now as 281 & 279 Main. In addition at the time of purchase, none of the lots had a legal access from Main Street. When the parcel map was done, a comprehensive design for the accessway, utilities, fire hydrant, check valve and drainage system was completed and ultimately installed to accommodate all four houses once they were proposed. The parcel map that was approved for this project did not have any additional conditions of approval for the future development of the houses at 285 and 289 Main Street.

In conclusion I would like to say that the Hough's have spent considerable time with the architect since the Commission meeting to review design options that would fit their needs for the home design as I have described above. From the start they have done everything to meet or exceed the City standards, including self-imposed setbacks and height limitations that are not required for this property. The result of these setbacks have reduced the size of the building envelope and created a more triangular shaped area in which to design their home.

We believe that the architect has taken into consideration all the nuances of the shape, size and location of the project site and designed a home that fits within the neighborhood while maintaining visual interest and providing for the needs of the Hough's. With that in mind we would certainly appreciate staff's continued support and the Commission's approval for this home.

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

Regards,

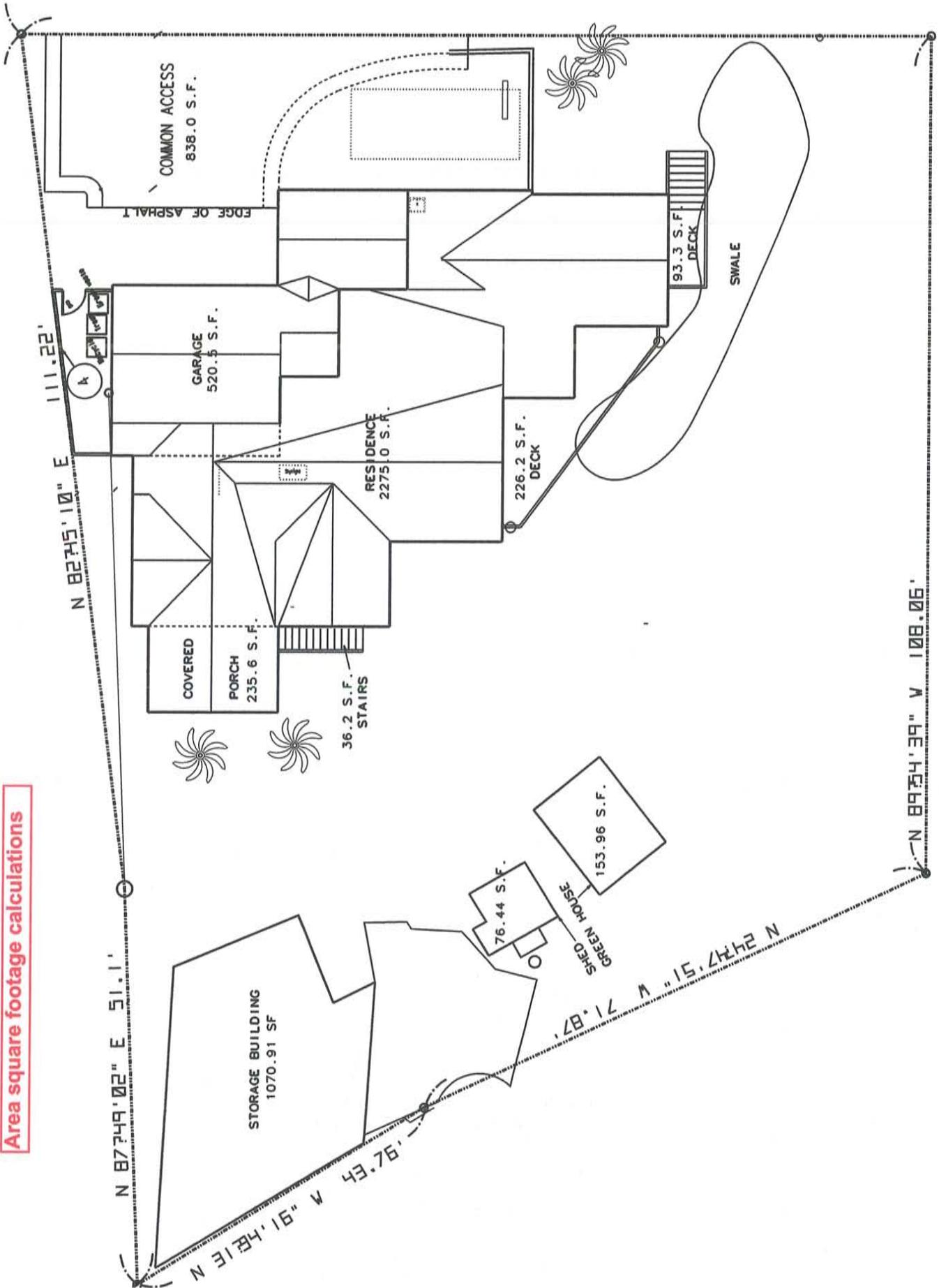


Cathy Novak

cc: Mr. & Mrs. John Hough

# EXHIBIT C

Area square footage calculations



# EXHIBIT D

September 29, 2015

RE: response to e-mail dated September 24, 2015 – 289 Main question

Dear Cindy,

I have had the chance to discuss with the architect the points that you raise in this e-mail.

First I would like to comment on your last statement. *“As it stands, of the 4 concerns, only 2 are being addressed.”* Your PC continuance letter contained three items for us to address so I don't understand what you are saying about only two out of the four are being addressed. The items you had in your letter were, 1) calculating the proper lot coverage, 2) revise the square footages for the proposed home, and 3) revise the deck and plan to reduce the scale/mass along the west elevation. In my letter dated Sept. 24 I addressed the above comments and also added further information regarding comments from Commissioners about a revised roofline and stepping down the house. I believe that we have adequately answered the question on the roofline by stating that the change would increase the home height by one foot and therefore exceeding the height limit. The second item in regards to stepping down the house was in response to a general statement by one of the Commissioners at the meeting and my follow up conversation with him to ascertain what exactly he meant by that comment. His response, as I mentioned to you, was that he was looking for the house to step down three to four feet and hence my comments to answer that in my Sept. 24 letter.

It appears now that you are asking for more information in regards to stepping down the house by stating that *“The plans shows a finish floor elevation of 27.83 on the elevations page and 28.0 on the site plan page, but the topography shows the front door of the home at 26, which means you could in fact lower the elevation of the home 2 feet with no grading at all, or very little.”* In order to address this we need to consider a couple of scenarios by looking at the project as a whole and what the effects will be with a new design.

First scenario is that the entire house including the garage would be set down two feet lower than proposed currently.

1. The first and most important thing to understand is the finished elevation of the accessway is at 28 feet. In order to lower the house you would need to lower the driveway, accessway and turnaround area. The code requires that the turnaround stay at a 2% slope and accessways cannot exceed 15% for residential (an exception is required for slopes up to 20% with special construction and materials). To get six inches lower with a 15% slope, the

# EXHIBIT D

driveway and turnaround would have to be removed all the way to the parallel parking space. To get two feet lower, you would need to remove the entire accessway (nearly 300 feet) and turnaround including curbs and gutters all the way to Main Street. This would additionally require reconstruction of all the existing driveways. Last, the architect is not very confident that with this major undertaking you would even gain a foot of difference.

2. The second significant task would require that all the utilities to the area would also need to be lowered.
3. The edge of the asphalt extends two feet beyond the end of the accessway and is required to remain so that the Fire Dept. has enough turn around room. They have brought the engine out on site and discovered that the additional two feet is necessary to make their turn. So therefore this area cannot be changed.
4. Just simply trying to lower the home without modification to the accessway as another alternative would put the driveway with a significant drop of two feet within the 10 foot area which is impossible. This would also put the entryway down in a hole, so to speak, from the elevation of the accessway. Other considerations include the following:
  - a. In order for the parking space to function properly, the finished elevation must stay at the same finished elevation of the accessway so that a car can pull in. Lowering it would require construction of a retaining wall around the parking space area so that it will remain at the same elevation as the accessway. Since there is only 48 inches between the parking space and the home, then the parking space must be widened at least 2 ½ feet to allow a passenger to exit a car without being right on the edge of a drop off. While code requires a 30" drop without a guardrail, it is still a safety hazard not to have a 42" railing around an area with a two foot drop, especially at night time when someone may be unfamiliar that this drop is there. Last, by adding 2 ½ feet to the parking space area, the east wall will need to be reduced by the same in order to keep sufficient walking space around the parking area.
  - b. The master bedroom windows along the east side are 4' 7" above the finished elevation at the current garage level. Lowering the finished floor will put the master bedroom in a hole and only about 3 feet above the accessway finished elevation.
  - c. The basement (rec room & wine cellar) is located below the covered porch and kitchen area so, the entire section would need additional grading to lower it by two feet. This makes your statement "*which means you could in fact lower the elevation of the home 2 feet with no grading at all, or very little.*" inaccurate.
  - d. To address your comment, "And further if the home were stepped down, there wouldn't be as many steps to walk down to the basement, which would help the Applicant for health reasons?", the basement would not have less steps as it is necessary to keep the same number in order to keep the finished floor elevation of the basement at the same relationship

# EXHIBIT D

to the covered porch and kitchen. In other words if the basement was not lowered two feet along with the rest of the house, the ceiling height in the basement would only be 6 feet which does not meet code.

- e. Changing the roofline orientation under this scenario would only lower the house by one foot because as previously stated; the new roofline would add one foot to the house height.

Second scenario is that the entire house excluding the garage would be set down two feet lower than proposed currently. Many of the same items listed above apply here as well.

1. The home height will not change above the garage because bedroom #2 is located directly above.
2. Major modifications to bedroom #3 will be required because of the following:
  - a. The ingress and egress to the two upstairs bedrooms are from one location. Changing the finished floor elevation on bedroom #2 to correspond with the main floor living area below (dropped two feet) will create a difficulty in keeping the landing at the top of the stairs on the same level.
  - b. If the bedroom is dropped two feet, then you would need stairs to go down into the bedroom.
  - c. If the bedroom is at the same height as bedroom #3, there will be additional stairs from the living area to make up for the height increase.
  - d. Since the east wall will need to be moved 2 ½ feet to the west (mentioned in #4c), bedroom #2 will be cantilevered 2 ½ feet over the main living area on the east side and this will not be a Cape Cod style home.
  - e. If bedroom #2 is kept at the same height as bedroom #3, then the exterior home height will not change.
  - f. This also means that changing the roofline orientation will not work because it will exceed the height limit.
3. The kitchen will need a major revision because it will be two feet lower than the garage elevation and therefore require stairs for entry and a landing area to meet building code.
  - a. This defeats the purpose of having the main living area on the same level.

The main reason for your requested modifications were the Planning Commission's comments at the meeting which included the following statements, "see what they can do", "at least discuss" and "the applicant to consider" revolving around the visuals from Tideland Park. So I would like to step back for just a moment and consider that the view from Tideland is not part of a scenic viewshed that has been identified in the LCP.

I provided an LCP policy assessment when we first submitted the project and I have attached again for reference with this letter. As I mentioned in this assessment, both

# EXHIBIT D

the City and Coastal Commission had based their decision on the 281 Main Street home that this portion of Main Street and in this location is not designated as a highly scenic area under the LCP. Furthermore the scenic view areas along the Embarcadero shown in the LCP are not directed towards the east but rather towards the west for views of the harbor and ocean. Last, this area of Tidelands Park is off the parking lot and boat launch area which is not a prime viewing location for a significant number of people as it would be if the property was located above the playground area further north along the Embarcadero.

The subject of view corridors also came up at the Planning Commission meeting in reference to the previous "subdivision". I know that you have done some research on this issue and it was not a "subdivision" that was done but a "lot split" via a Parcel Map that was completed in 2011. The Map created 281 & 279 Main and that there was no involvement with 285 & 289 Main. The Commissioner's recollected that there was a discussion during the previous meetings regarding views for the future homes and that there might be requirements for view corridors with this proposed project. In order to provide a complete and accurate response, the Hough's have gone back and reviewed the old meeting tapes.

The first Planning Commission meeting was September 15, 2008 with Commissioners Gerald Luhr, Gary Ream, Michael Lucas and Nancy Johnson present. This meeting was to consider the proposed Tentative Parcel Map 08-0019 and Coastal Development Permit which "would allow for demolition of an existing garage and reconfiguration of the existing lot into two lots with the potential for future single-family residential homes". The Commission was concerned about the two other parcels, 285 & 289 being landlocked but did not bring up any issues with the future projects and view corridors. Motion: Luhr/Lucas 2nd to approve the project as presented and without any conditions for views.

The second Planning Commission meeting from August 3, 2009 with Commissioners Gerald Luhr, Bill Woodson and Nancy Johnson present. This meeting was to consider the Conditional Use Permit UPO - 269 /Coastal Development Permit CPO- 307 to allow demolition of an existing garage and construction of a new 2 car garage with a 400 square foot guest house addition. The meeting was continued to November 16, 2009 but again did not have any discussion about view corridors.

At the November 16 meeting were Commissioners Gerald Luhr, Michael Lucas, Nancy Johnson, Jamie Irons and John Diodati in which the garage unit at 285 Main was approved and no mention of view corridors.

In conclusion, the modifications that you suggest cannot be simply done without triggering a number of different issues. To do a major redesign on the house purely to gain one foot lower (you only get a one foot difference with the modified roofline as I mentioned above) in height is an extreme hardship and unfounded request. And, there are no other requirements from conditions of approval or City laws, ordinances or

# EXHIBIT D

standards that would necessitate significant modifications or a complete redesign of the proposed home. Last, this project as proposed does not seek any exceptions but rather meets all City setbacks, height, lot coverage and all other standards.

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

Regards,

Cathy Novak

cc: Mr. & Mrs. John Hough  
Mr. Tom Martin

# EXHIBIT E

## Hough Residence

289 MAIN STREET  
MORRO BAY, CA



GLANDON  
LANDSCAPE  
ARCHITECTURE  
& PLANNING

Email: [g\\_glandon@charter.net](mailto:g_glandon@charter.net)  
[www.landscapecentralcoast.com](http://www.landscapecentralcoast.com)

PH: 805/ 801-8697  
FAX: 805/ 772-6982

### EXHIBIT #2 - VIEW FROM TIDELANDS PARKING



EXISTING



PROPOSED

## NEIGHBOR CORRESPONDENCE REGARDING PROJECT

**Cindy Jacinth - 289 Main Street**

---

**From:** Yvonne Blanchard <2blanchards@gmail.com>  
**To:** <GLuhr@morro-bay.ca.us>, <mlucas@morro-bay.ca.us>, <ksorenson@morro-bay....>  
**Date:** 9/18/2015 2:34 PM  
**Subject:** 289 Main Street

---

Dear Planning Commission:

As part of a deeply rooted family of the Central Coast and a Morro Bay homeowner, it has been pleasing to see the various homes that have been designed, built, and under construction at the above address. I've reviewed the plans for the house under construction as well as those that are currently going through the approval process. This is the type of construction that maintains the character of Morro Bay while providing us with true seaside beauty. It's great to see that there are still people who have the desire to maintain the character of our community.

Sincerely,

Yvonne Blanchard

## NEIGHBOR CORRESPONDENCE REGARDING PROJECT

Cindy Jacinth - Home at 289 Main Street - Morro Bay

---

**From:** bobbi primo <boprino@hotmail.com>  
**To:** "GLuhr@morro-bay.ca.us" <gluhr@morro-bay.ca.us>, "mlucas@morro-bay.ca.us...  
**Date:** 9/22/2015 11:54 AM  
**Subject:** Home at 289 Main Street - Morro Bay

---

Dear Planning Commission,

I am writing to let you know that as a neighbor who walks on a regular basis and lives above the proposed property, how pleased I am with all of the improvements that these owners have made to this property to date. I've reviewed the current plans under consideration, and again, what a terrific addition as an infill project to Morro Bay. The home that was recently completed is beautiful and in keeping with the bay front/seashore look. The house under construction will have similar appeal and I applaud you in seeing how stylish this new home under consideration will enhance the balance of this site.

Thank you for you time and consideration.

Sincerely,

Bobbi Primo

## NEIGHBOR CORRESPONDENCE REGARDING PROJECT

**Cindy Jacinth - Letter of Recommendation**

---

**From:** Sharon Moores <sharonmorrobay@gmail.com>  
**To:** <gluhr@morro-bay.ca.us>, <mlucas@morro-bay.ca.us>, <ksorenson@morro-bay....>  
**Date:** 9/25/2015 11:59 AM  
**Subject:** Letter of Recommendation

---

Dear Planning Commissioners,

I have been a resident on Morro Bay 60 years and watched the city grow and change. We would like to preserve what makes Morro Bay special and keep the unique beach and fishing city it was and still is today. New structures come under scrutiny and this new development has kept these things in consideration. I have watched this particular development located at 289 Main St and can see that the architect and owners have kept this a priority in building. The homes are thoughtfully designed for the individual sites and carefully spaced on the property, not on a grid. In keeping with the uniquely built homes we see in Morro Bay, these are each different but will complement each other in the final color and style. The seaside feeling is present as it is being developed. I would urge you to support the Hough's project as it is presented to you.

Regards,

Sharon L Moores

EXHIBIT F  
NEIGHBOR CORRESPONDENCE REGARDING PROJECT

Sent via e-mail

September 27, 2015

Morro Bay Planning Department  
ATTN: Planning Commissioners

**Re: 289 Main Street**

Dear Planning Commissioners,

I have recently had the opportunity to view the proposed project on 289 Main Street here in Morro Bay. My husband and I often walk or run by that area. We have always enjoyed looking at new projects in the area whether it's to brainstorm ideas for our own future projects or to admire others' ideas.

The current proposed project on 289 Main Street not only is esthetically pleasing, but it also takes into account its surroundings. The proposed project will not obstruct the surrounding residents views of the bay, it will "blend" in with the other homes of the area, as to not take away from the appeal neighborhood, and lastly, the chosen landscaping takes into consideration our current water predicament.

While my comments on fore mentioned project are brief and to the point, I hope the following comment has more weight than the rest. It is obvious the owners of this property have taken careful and thoughtful consideration for every facet of this proposed project. As a current resident of Morro Bay, it is my belief that this project would be a beautiful addition to the area.

Sincerely,

Alexandra Welch

# EXHIBIT G

## PARCEL MAP NO. MB 08-0019 IN THE CITY OF MORRO BAY, CA

BEING A SUBDIVISION OF PARCEL 3 OF LOT LINE ADJUSTMENT MB AL 04-0458, RECORDED DECEMBER 17, 2004 AS DOCUMENT 2004100059, AND AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 94 AT PAGE 61 OF LICENSED SURVEYS IN THE OFFICE OF THE RECORDER FOR SAN LUIS OBISPO COUNTY, STATE OF CALIFORNIA.



VICINITY MAP  
NOT TO SCALE

### ABANDONMENT RESERVATION

PACIFIC GAS AND ELECTRIC COMPANY, PURSUANT TO THE PROVISIONS OF SECTION 8340 OF THE STREETS AND HIGHWAYS CODE, DOES HEREBY RESERVE FROM THE ABANDONED PUBLIC RIGHT-OF-WAY SHOWN HEREON, FOR THE BENEFIT OF PACIFIC GAS AND ELECTRIC COMPANY, THE PERMANENT EASEMENT AND THE RIGHT AT ANY TIME AND FROM TIME TO TIME TO CONSTRUCT, RECONSTRUCT, MAINTAIN, OPERATE, REPLACE, REMOVE, REPAIR, RENEW AND ENLARGE LINES OF PIPES, CONDUITS, CABLES, WIRES, POLES, ELECTRICAL CONDUCTORS, AND OTHER EQUIPMENT, FIXTURES AND APPURTENANCES FOR THE OPERATION OF ELECTRIC GAS, AND COMMUNICATION FACILITIES, INCLUDING ACCESS, AND ALSO THE RIGHTS TO TRIM AND CUT DOWN TREES AND BRUSH THAT MAY BE A HAZARD TO THE FACILITIES SAID AREA SHALL BE KEPT OPEN AND FREE OF BUILDINGS, STRUCTURES AND WELLS OF ANY KIND.

JERRY DEGANNO DATE \_\_\_\_\_  
PACIFIC GAS AND ELECTRIC COMPANY

### BENEFICIARY STATEMENT

IN ACCORDANCE WITH SECTION 66436 AND 66445 OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA, COUNTRYWIDE BANK, FSB AS BENEFICIARY UNDER THAT CERTAIN DEED OF TRUST RECORDED FEBRUARY 23, 2009 AS INSTRUMENT NO. 2009-009932 OF OFFICIAL RECORDS, SAN LUIS OBISPO COUNTY, HEREBY CONSENTS TO THE PREPARATION AND RECORDATION OF THIS PARCEL MAP.

COUNTRYWIDE BANK, FSB, BENEFICIARY  
DATE: \_\_\_\_\_ BENEFICIARY'S SIGNATURE: \_\_\_\_\_  
NAME & TITLE: \_\_\_\_\_

### NOTARY ACKNOWLEDGMENT

STATE OF CALIFORNIA  
COUNTY OF SAN LUIS OBISPO } SS

ON \_\_\_\_\_, BEFORE ME \_\_\_\_\_,  
NOTARY PUBLIC, PERSONALLY APPEARED \_\_\_\_\_,  
WHO PROVIDED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE  
THE PERSONS WHOSE NAME IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND  
ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR  
AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE  
INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S)  
ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.

SIGNATURE: \_\_\_\_\_  
NAME: \_\_\_\_\_ (PRINTED)  
COUNTY OF COMMISSION: \_\_\_\_\_  
MY COMMISSION NO.: \_\_\_\_\_ EXPIRES: \_\_\_\_\_

### OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN UPON THIS PARCEL MAP, AND THAT EXCEPT AS SHOWN ON THIS MAP AND STATEMENTS MADE A PART HEREOF, WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS CLEAR TITLE TO SAID PROPERTY, AND WE CONSENT TO THE MAKING OF SAID MAP AND SUBDIVISION AS SHOWN HEREON.

WE HEREBY OFFER FOR DEDICATION TO THE PUBLIC THE PORTIONS OF LAND, AS DELINEATED ON THIS MAP FOR THE PURPOSE OF PUBLIC RIGHTS-OF-WAY.

WE HEREBY RESERVE FOR THE USE AND BENEFIT OF THE SEVERAL PUBLIC UTILITY COMPANIES WHOSE ARE AUTHORIZED TO SERVE IN SAID SUBDIVISION CERTAIN EASEMENTS FOR PUBLIC UTILITY PURPOSES, SHOWN ON THIS MAP AS PUBLIC UTILITY EASEMENT OR "PUE".

HOUGH FAMILY TRUST

JOHN C. HOUGH, TRUSTEE ALAIR L. HOUGH, TRUSTEE

### NOTARY ACKNOWLEDGMENT

STATE OF CALIFORNIA  
COUNTY OF SAN LUIS OBISPO } SS

ON \_\_\_\_\_, BEFORE ME \_\_\_\_\_,  
NOTARY PUBLIC, PERSONALLY APPEARED \_\_\_\_\_,  
WHO PROVIDED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE  
THE PERSONS WHOSE NAME IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND  
ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR  
AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE  
INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S)  
ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.

SIGNATURE: \_\_\_\_\_  
NAME: \_\_\_\_\_ (PRINTED)  
COUNTY OF COMMISSION: \_\_\_\_\_  
MY COMMISSION NO.: \_\_\_\_\_ EXPIRES: \_\_\_\_\_

### BENEFICIARY STATEMENT

IN ACCORDANCE WITH SECTION 66436 AND 66445 OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA, SAN LUIS TRUST BANK AS BENEFICIARY UNDER THAT CERTAIN DEED OF TRUST RECORDED JANUARY 15, 2008 AS INSTRUMENT NO. 2008-003169 OF OFFICIAL RECORDS, SAN LUIS OBISPO COUNTY, HEREBY CONSENTS TO THE PREPARATION AND RECORDATION OF THIS PARCEL MAP.

SAN LUIS TRUST BANK, BENEFICIARY  
DATE: \_\_\_\_\_ BENEFICIARY'S SIGNATURE: \_\_\_\_\_  
NAME & TITLE: \_\_\_\_\_

### NOTARY ACKNOWLEDGMENT

STATE OF CALIFORNIA  
COUNTY OF SAN LUIS OBISPO } SS

ON \_\_\_\_\_, BEFORE ME \_\_\_\_\_,  
NOTARY PUBLIC, PERSONALLY APPEARED \_\_\_\_\_,  
WHO PROVIDED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE  
THE PERSONS WHOSE NAME IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND  
ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR  
AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE  
INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S)  
ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.

SIGNATURE: \_\_\_\_\_  
NAME: \_\_\_\_\_ (PRINTED)  
COUNTY OF COMMISSION: \_\_\_\_\_  
MY COMMISSION NO.: \_\_\_\_\_ EXPIRES: \_\_\_\_\_

### ADDITIONAL INFORMATION

THE FOLLOWING DOCUMENTS ARE TO BE RECORDED CONCURRENTLY PER THE CONDITIONS OF APPROVAL ISSUED BY THE CITY OF MORRO BAY CITY COUNCIL, DATED SEPTEMBER 15, 2008.

1. DEED RESERVING ACCESS AND PRIVATE UTILITY EASEMENT
2. DEED RESERVING DRAINAGE EASEMENT
3. AGREEMENT FOR DEFERRAL OF IMPROVEMENTS

### CITY ENGINEER'S STATEMENT

I, ROB LIVICK, HEREBY STATE THAT I HAVE EXAMINED THIS MAP, THAT THE SUBDIVISION SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP OR APPROVED ALTERATIONS THEREOF, THAT ALL THE PROVISIONS OF THE SUBDIVISION MAP ACT AND TITLE 16 OF THE CITY OF MORRO BAY MUNICIPAL CODE APPLICABLE AT THE TIME OF THE APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH, AND THAT TO MY BEST KNOWLEDGE AND BELIEF, I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT.

CITY ENGINEER, CITY OF MORRO BAY DATE \_\_\_\_\_  
ROB LIVICK, P.E. 61057, P.L.S. 8126

### SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF THE HOUGH FAMILY TRUST IN JANUARY 2010. I HEREBY STATE THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THEY WILL BE SET IN THOSE POSITIONS WITHIN ONE YEAR OF THE RECORDED OF THIS MAP, AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

I HERBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP.

PETER R. MORECI, P.L.S. 8372 DATE \_\_\_\_\_

### CITY CLERK STATEMENT

THIS IS TO STATE THAT AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF MORRO BAY HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AN ORDER WAS DULY AND REGULARLY MADE AND ENTERED INTO, APPROVING THIS MAP AND SUBDIVISION AND, ON BEHALF OF THE PUBLIC, ACCEPTING THE OFFERS OF DEDICATION SHOWN HEREON FOR PUBLIC RIGHTS-OF-WAY, AND ABANDONS THAT RIGHT OF WAY SHOWN HERE ON "ABANDONED" PER CALIFORNIA GOVERNMENT CODE SECTION 66499.20-1/2

WITNESS MY HAND AND OFFICIAL SEAL OF THE CITY OF MORRO BAY THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

BRIDGETT KESSLING, CITY CLERK

### COUNTY RECORDER'S CERTIFICATE

ACCEPTED FOR RECORD AND FILED IN BOOK \_\_\_\_\_ OF MAPS, PAGE \_\_\_\_\_, DAY \_\_\_\_\_ OF \_\_\_\_\_, 20\_\_\_\_, AT \_\_\_\_\_, IN THE OFFICE OF THE SAN LUIS OBISPO COUNTY RECORDER, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AT \_\_\_\_\_, IN THE REQUEST OF PETER R. MORECI.

SAN LUIS OBISPO COUNTY RECORDER BY: \_\_\_\_\_  
DEPUTY RECORDER

### BENEFICIARY STATEMENT

IN ACCORDANCE WITH SECTION 66436 AND 66445 OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA, FOUNDERS COMMUNITY BANK AS BENEFICIARY UNDER THAT CERTAIN DEED OF TRUST RECORDED APRIL 17, 2009 AS INSTRUMENT NO. 2009-021910 OF OFFICIAL RECORDS, SAN LUIS OBISPO COUNTY, HEREBY CONSENTS TO THE PREPARATION AND RECORDATION OF THIS PARCEL MAP.

FOUNDERS COMMUNITY BANK, BENEFICIARY  
DATE: \_\_\_\_\_ BENEFICIARY'S SIGNATURE: \_\_\_\_\_  
NAME & TITLE: \_\_\_\_\_

### NOTARY ACKNOWLEDGMENT

STATE OF CALIFORNIA  
COUNTY OF SAN LUIS OBISPO } SS

ON \_\_\_\_\_, BEFORE ME \_\_\_\_\_,  
NOTARY PUBLIC, PERSONALLY APPEARED \_\_\_\_\_,  
WHO PROVIDED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE  
THE PERSONS WHOSE NAME IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND  
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ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.

SIGNATURE: \_\_\_\_\_  
NAME: \_\_\_\_\_ (PRINTED)  
COUNTY OF COMMISSION: \_\_\_\_\_  
MY COMMISSION NO.: \_\_\_\_\_ EXPIRES: \_\_\_\_\_



RECEIVED

SEP 03 2015

City of Morro Bay  
Community Development Dept.

**RICK** ENGINEERING COMPANY  
711 TANK FARM ROAD - SUITE 110 J-155934  
SAN LUIS OBISPO, CA 93401  
805.544.0707  
IPAX#805.544.2052  
San Luis Obispo San Diego - Bakersfield - Riverside - Change - Sacramento - Phoenix - Tucson



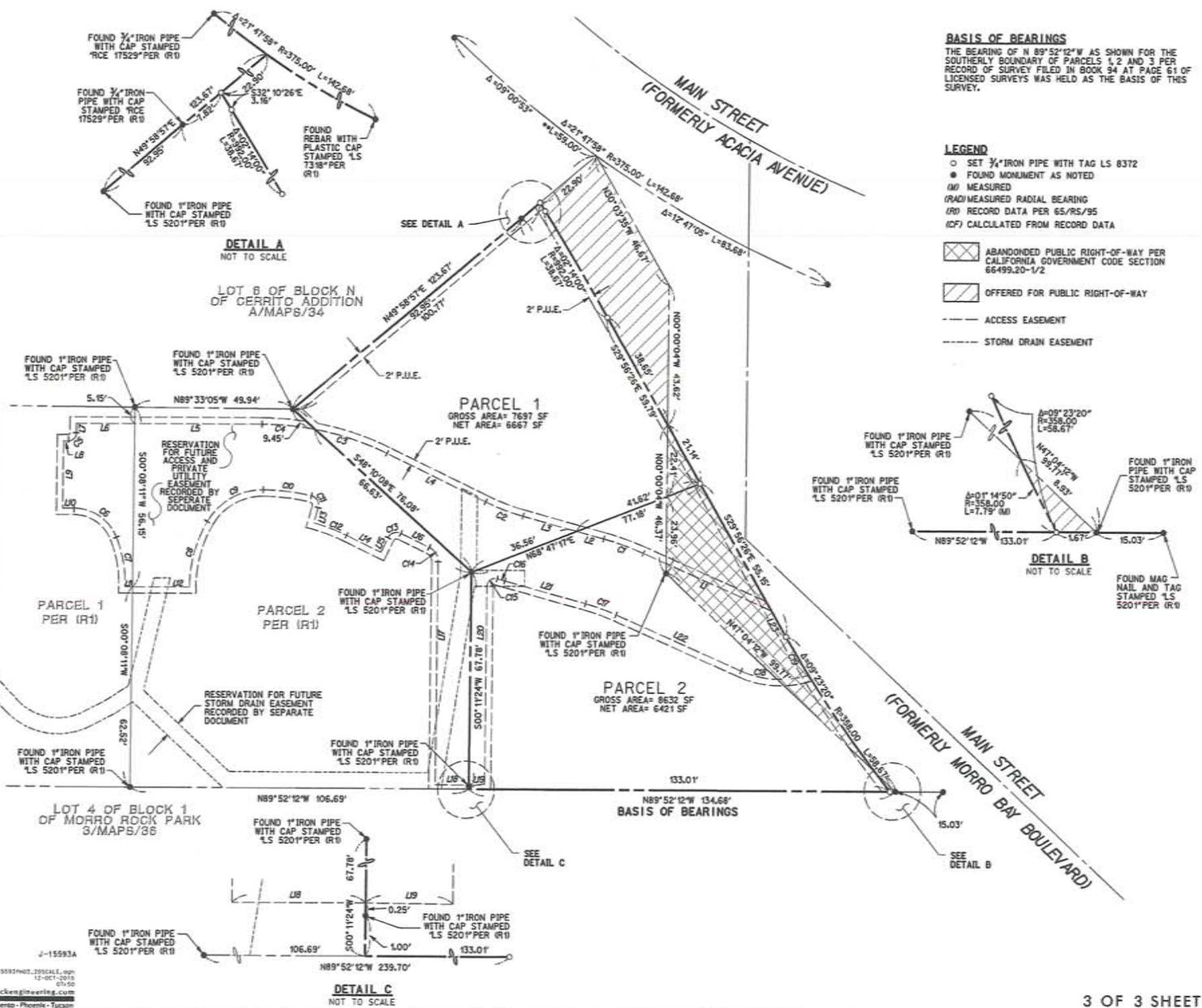
# EXHIBIT G

LINE TABLE

LINE	BEARING	LENGTH
L1	N 65°18'10" W	44.28
L2	N 74°44'42" W	8.82
L3	N 74°44'42" W	17.69
L4	N 64°15'33" W	34.60
L5	S 30°00'00" W	40.36
L6	S 90°00'00" W	18.37
L7	S 00°00'00" W	3.01
L8	N 89°52'12" W	1.50
L9	S 00°07'48" W	21.00
L10	S 89°52'12" E	3.63
L11	S 90°00'00" E	2.34
L12	S 90°00'00" E	18.17
L13	S 15°33'13" W	4.93
L14	S 64°15'33" E	11.98
L15	N 25°44'27" E	5.00
L16	S 64°15'33" E	9.97
L17	S 00°07'48" W	59.62
L18	S 89°52'12" E	10.51
L19	S 89°52'12" E	4.99
L20	N 00°07'48" E	62.12
L21	S 74°44'42" E	26.82
L22	S 66°18'10" E	43.31
L23	N 29°56'26" W	9.43

CURVE TABLE

289 / 285 219 281



**BASIS OF BEARINGS**  
THE BEARING OF N 89°52'12" W AS SHOWN FOR THE SOUTHERLY BOUNDARY OF PARCELS 1, 2 AND 3 PER RECORD OF SURVEY FILED IN BOOK 94 AT PAGE 61 OF LICENSED SURVEYS WAS HELD AS THE BASIS OF THIS SURVEY.

**LEGEND**

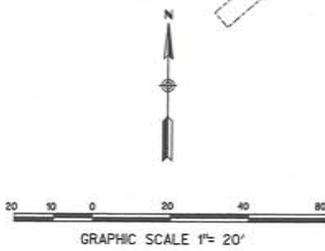
- SET 3/4" IRON PIPE WITH TAG LS 8372
- FOUND MONUMENT AS NOTED
- (M) MEASURED
- (RAD) MEASURED RADIAL BEARING
- (R1) RECORD DATA PER 65/RS/95
- (CF) CALCULATED FROM RECORD DATA

ABANDONED PUBLIC RIGHT-OF-WAY PER CALIFORNIA GOVERNMENT CODE SECTION 66499.20-1/2

OFFERED FOR PUBLIC RIGHT-OF-WAY

ACCESS EASEMENT

STORM DRAIN EASEMENT



**RICK ENGINEERING COMPANY**  
711 TANK FARM ROAD - SUITE 110  
SAN LUIS OBISPO, CA 93401  
805.544.0707  
15555 Highway 17  
San Luis Obispo, CA 93401  
12-OCT-2010  
01-10  
rickengineering.com  
San Diego - Rubenfeld - Riverside - Chgo - Sacramento - Phoenix - Tucson

# EXHIBIT H



AGENDA NO: B-2

MEETING DATE: September 1, 2015

## Staff Report

**TO:** Planning Commissioners

**DATE:** August 27, 2015

**FROM:** Cindy Jacinth, Associate Planner

**SUBJECT:** Coastal Development Permit (CP0-410) & Conditional Use Permit (UP0-369) to construct a 2,882sf single family residence with 503sf basement and 520sf garage on a vacant lot. This project is located inside the Coastal Commission appeals jurisdiction.

**RECOMMENDATION:**

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

- A. Adopt Planning Commission Resolution 32-15 which includes the Findings and Conditions of Approval for the project depicted on site development plans dated June 30, 2015

**APPLICANT/AGENT:** John & Alair Hough / Cathy Novak

**LEGAL DESCRIPTION/APN:** 066-251-052

**PROJECT DESCRIPTION:**

The Applicant is requesting Coastal Development Permit and Conditional Use Permit approval for a new 2,882 square foot single family residence with 503 square foot basement and 520 square foot garage on a vacant lot to be located at 289 Main which is within the California Coastal Commission appeals jurisdiction. Projects located within the appeals jurisdiction are required to obtain a coastal development permit from the Planning Commission. Projects located within a planned development (PD) overlay must process a conditional use permit and requires a precise plan.

**PROJECT SETTING:**

The property is split zoned R-1/PD on the eastern three-fourths of the property and the western one fourth of the property is zoned WF/PD. The proposed new single family residence is proposed for the R-1 portion of the lot, with no development proposed for the Waterfront side. Visually the line of vegetation in the aerial image below depicts the zoning line change from R-1

Prepared By:  CJ

Department Review:  SG

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September 1, 2015

to Waterfront zoning district.



## **Adjacent Zoning/Land Use**

North:	R-1, Low/Medium Residential	South:	R-1, Low /Medium Residential
East:	R-1, Low/Medium Residential	West:	Waterfront (WF/PD)/Parking lot

## **Site Characteristics**

Site Area	14,672 square feet
Existing Use	Vacant
Terrain	Moderately sloping toward the west
Vegetation/Wildlife	Mix of ruderal and ornamental landscaping along perimeter
Archaeological Resources	No known archaeological resources exist on the site and the site is not within close proximity of a known site
Access	Main Street/ nearest cross street is Acacia Street

## **General Plan, Zoning Ordinance & Local Coastal Plan Designations**

General Plan/Coastal Plan Land Use Designation	Mixed Use Area B of the Coastal Land Use Plan Low to Medium Density Residential (4-7 unit/acre)
Base Zone District	R-1, Single Family Residential / WF, Waterfront
Zoning Overlay District	Planned Development (PD)

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Special Treatment Area	N/A
Combining District	N/A
Specific Plan Area	N/A
Coastal Zone	Within the Coastal Appeals Jurisdiction

## **PROJECT ANALYSIS:**

### ***Background***

This property was part of a Parcel Map application in 2008 that ultimately resulted in the creation of four lots from three existing lots, one of which is the subject parcel. In conjunction with the parcel map approval, a common access easement/driveway was required and approved subsequently by the Planning Commission on November 25, 2009 through Conditional Use Permit #UP0-269 and Coastal Development Permit #CP0-307. This is the last lot in the parcel map to seek development approvals.

### ***Regulations***

The project is located in the Coastal Commission's Appeals Jurisdiction and pursuant to section 17.58.020.H.2.b of the Morro Bay Municipal Code, a single family residence within the coastal appeals jurisdiction, is required to obtain a regular coastal development permit from Planning Commission.

The project is located in the Planned Development overlay and requires the plans be reviewed pursuant to a precise plan. A concept plan is not required for this project because the project size does not meet the threshold in order for a concept plan to be required. Although a concept plan is not required all the information for a concept plan shall be presented at the precise plan submittal.

The applicant has submitted a site plan, floor plan, elevations, color and material board, landscape plan, lighting fixtures details and visual simulations with visual study site plan.

### ***Coastal Bluff Determination***

The City's LCP requires that development on coastal bluffs be regulated in order to protect public views, protect coastal bluffs, mitigate for adverse visual impacts and to maintain unique geographic features that ensures development is subordinate to the character and form of the coastal bluff areas.

During the initial review of this application, staff noted that on page 37 of the City's LCP, Figure 6 "Coastal Physical Characteristics" (Exhibit F), this property is in an area not shown as a coastal bluff. However, because the LCP map does not identify individual parcels clearly, the Applicant submitted a geological report prepared by Earth Systems for a professional determination. Earth Systems prepared a report in 2007 and updated in 2014 through a site visit in 2013 to review the

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existing slope at the site and assess its current condition with respect to stability and provide a professional opinion as to whether it would be considered a coastal bluff per accepted geologic definitions and the City's LCP. The report concluded that the property is not a coastal bluff and should not be subject to development standards intended for coastal bluffs. In late 2014, staff consulted with the Coastal Commission with a request for concurrence from Coastal on the acceptance of recommendations from the geologist to apply the standard setback requirements in lieu of bluff development setback standards as noted in the Zoning code.

In February 2015, City staff met with Mark Johnsson, staff geologist for the Coastal Commission along with Rick Gorman with Earth Systems at the project site to review in person the site conditions.

Coastal Commission normally measures development setbacks from the upper edge of the bluff top. Defining that "bluff edge" can be complicated by the presence of irregularities in the bluff edge, and for this particular project, the presence bayward of the Tidelands parking lot which was constructed decades ago. Coastal staff response was that it would be necessary to locate the old bluff top prior to the parking lot construction at tidelands park, and that they suspect the toe of the bluff could be buried underneath the existing parking lot.

It was unclear whether the toe of the bluff or top of bluff is in fact on the property or is underneath the Tideland parking lot. Attempts to research and recover old aerial photos that predate the parking lot construction were unsuccessful in that they do not reveal site conditions due to vegetation obscuring the western site boundary during that era.

Because the outcome of the request for Coastal Commission concurrence was inconclusive, the Applicant chose to revise their plans to reflect compliance with the bluff development standards and submitted revised plans that now show an increased rear setback. The plans currently identify a 20 foot setback from top of bank as would be required under the City's Bluff Development standards (Title 17.45) in regards to development within the bluff buffer area (17.45.040). The line called out as top of bank is approximately 35 feet from the property line and is noted as "as shown on 3 MB 36 (1924)". The City's bluff buffer standards also require that new development within 50 feet of the bluff edge be no higher than 17 feet for pitched roof design. This portion of the house has been design as one story. The plans also denote a 50 foot setback from top of bank and it is this portion where the home is proposed as two story with a height denoted as 23.45 feet from average natural grade.

## ***Project Specifics***

The project is proposed at the end of the access driveway which accesses off Main Street. The project proposes to construct a new split level two story residence with a total square footage of 2,882 conditioned space. This includes upstairs area of 607 square feet and downstairs area of 2,275 square feet. The project also includes 503.5 square feet of basement area. includes a 520

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square foot garage. The proposal includes 3 bedrooms plus office with 2.5 bathrooms, kitchen, living, dining, covered porch and deck. The proposal also incorporates a west facing deck on the first floor. The basement area consists of a rec room and wine cellar. In addition to the 2 car garage, the project proposes to create a 9' x 20' foot guest parking space outside of the access driveway.

The applicant has designed the house with the front of the house and entrance along the west elevation. Home access and garage access is through the common access driveway.

For the purposes of zoning district setbacks the 20 foot front yard setback is established from the property line at the access driveway which fronts onto Main Street and the rear yard setback is established from the west side of the property. When an access easement is created all development shall have yards (setbacks) as required by the zoning regulations, including a ten foot setback along any access way, (Section 16-9.206.A.4). Plans show the 20 foot setback from property line for front and also denote the 10 foot setback from the edge of the access driveway. The interior side yard setbacks meet the minimum requirement of 5 feet.

<b><u>Single Family Residential Zoning Ordinance Standards</u></b>		
	<b>Standards</b>	<b>Proposed</b>
<b>Front Yard Setback</b>	20 feet, including garage	20 feet
<b>Interior Yard Setback</b>	10% of average width of lot with 10 foot maximum and 5 foot minimum	5 feet on north side 34 feet 2 inches on south side
<b>Exterior Yard Setback</b>	20% of average width of lot with 10 foot maximum and 5 foot minimum	n/a
<b>Rear Yard Setback</b>	10% depth	55 feet at closest point to house
<b>Lot Coverage</b>	45% allowed	32.1%
<b>Height</b>	25 feet	23.45 feet
<b>Parking</b>	2 covered and enclosed spaces	2 covered and enclosed spaces plus 1 additional uncovered space

### *Color and Materials*

The applicant has proposed cedar or hardi shingles with an asphalt shingle roof. The residence siding will be painted a light gray tone (Benjamin Moore “whitestone”) with white trim and front door to be a dark red with dark grey roofing.

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## 289 Main Street Color Board



### Lighting

Pursuant to section 17.52.080, no illumination may be directed toward the adjacent residential uses and onto streets. The proposed house, located at the end of the access easement is the closest home of the original parcel map action to Tidelands Park and the Bay. These are areas from which the proposed lighting could be visible. Specific exterior lighting locations are not shown on the plans. The applicant did submit cut sheets which specify the light type, dimensions and light bulb wattage. The materials submitted show Kichler Nickel bronze finish outdoor wall sconce and low-voltage half-moon bronze finish deck lights. These lighting specifications also indicate the proposed lights will be Dark Sky-compliant. Staff recommends that all exterior lighting be shielded so that the light source is not directly visible from off site. To ensure compliance with lighting requirements, a condition of approval has been added to require

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September 1, 2015*

exterior lighting to be in substantial compliance with fixture cut sheets submitted with project plans. (Exhibit E).

## *Landscape Plan*

The applicant submitted a landscape plan because it is a required element of a Precise Plan application. The landscape and irrigation plan submitted identifies 4 existing palm trees (2 groups) within the area of building footprint to be removed or trans-located. Also, 5 additional palm trees (2 groups) in the area of the proposed guest parking space are also proposed to be removed for a total of 9 palm trees removed. A group of 2 existing palms in the front of the proposed guest parking will remain. The planting schedule identifies a mix of native drought tolerant trees and shrub surrounding the property consistent with the neighboring properties along the access driveway. The proposed tree schedule includes Black Peppermint Tree, Toyon, Fernleaf Catalina Ironwood, New Zealand Christmas Tree, Holly Leaf Cherry, and Brisbane Box. A variety of shrubs and ground covers are also proposed and shown on plan sheet L1.1 No plantings are proposed which would require high water usage. An irrigation schedule submitted with the original house design before bluff determination showed the proposed areas of crush granite paths, cobble mulch and non-irrigated area as well as the total landscape area with a mix of low (drought tolerant) and moderate water use plantings. A condition of approval has been added to require the applicant to revise the irrigation schedule to be consistent with the landscape plan submitted due to the change in house footprint.

## *Visual Simulations*

The applicant has submitted color photo simulations to illustrate existing and proposed viewpoints. The simulations presented are taken from a variety of vantage points. These include simulations from the street showing an outline of proposed home with adjacent homes to the left and right; In addition, a visual simulation is included which shows the proposed home looking east from Tideland Park. The simulation shows the relationship of the proposed home in proximity to the existing adjacent homes. These simulations are included as Exhibit C to the staff report.

## *Local Coastal Plan (LCP) and Zoning Ordinance Consistency*

The LCP contains numerous policies protecting public views from scenic corridors and public recreational areas. LCP Policy 12.01 requires development to be sited and designed to protect views to and along the ocean and scenic and coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. The LCP's highly scenic areas have an additional standard, but the proposed home is not located in a City designated highly scenic area. This was based on a determination from a coastal appeal that was filed for 281 Main Street in 2012 wherein both the City Council and the Coastal Commission found that that project (part of the subject parcel map application) did not raise a visual resource issue and that the project was consistent with the City's LCP policies. The Coastal Commission's decision was

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September 1, 2015*

based upon the fact that this portion of Main Street is not designated as a highly scenic area under the LCP (Coastal Commission staff report dated 2/14/2013).

This project as proposed is sited and designed to blend into the context of the existing residential in the area while also compatible with commercial and recreational developments that are located between Main Street and the waterfront. In addition, Zoning Ordinance Section 17.48.190 requires that alterations to natural landforms be minimized, that new development be visually compatible with the character of the surrounding area, and that significant public views to and along the coast be protected.

The project as proposed is sited on the flattest portion of the property which minimizes the alteration of natural land forms which is consistent with the requirements of the LCP. The orientation of the home is from east to west which minimizes visual impacts from Main Street and the topography of the lot which is set down from the elevation of Main Street, a public viewpoint. It additionally has been reviewed by a qualified soils engineer who has concluded that with the implementation of the recommendations in the report, the site is suitable for the proposed development. The home is consistent and compatible with the character of the surrounding area that has a mixture of architectural styles, materials that range from board and batten siding to stucco and varying sizes.

Since the project as proposed is sited on the flattest portion of the property, it minimizes the alteration of landforms which is consistent with the requirements of LCP Policies.

The project as proposed constitutes infill residential development in an urbanized area of the City and is located less than 300 feet from the bay. The project meets the development standards of the zoning district, including height, lot coverage and setbacks so it is consistent with the requirements of the Mixed Use Area B overlay. Pursuant to the City's LCP coastal physical characteristics map, the project is not identified as a bluff, but has been designed to be consistent with bluff setback requirements as identified in the Title 17.45 of the Zoning Ordinance. Also, the proposed residence would not have significant adverse impacts to visual resources since the development is not located within a highly scenic area but in an existing residential area with other residential and commercial developments in this area between the property and shoreline.

**ENVIRONMENTAL DETERMINATION:** Pursuant to the California Environmental Quality Act the project is categorically exempt pursuant Section 15303, Class 3 for New Construction or Conversion of Small Structures. The exemption provides for the construction of one single-family residential structure.

**PUBLIC NOTICE:** Notice of this item was published in the San Luis Obispo Tribune newspaper on August 21, 2015 and all property owners of record and occupants within 500 feet of the subject site were notified of this evening's public hearing and invited to voice any

# EXHIBIT H

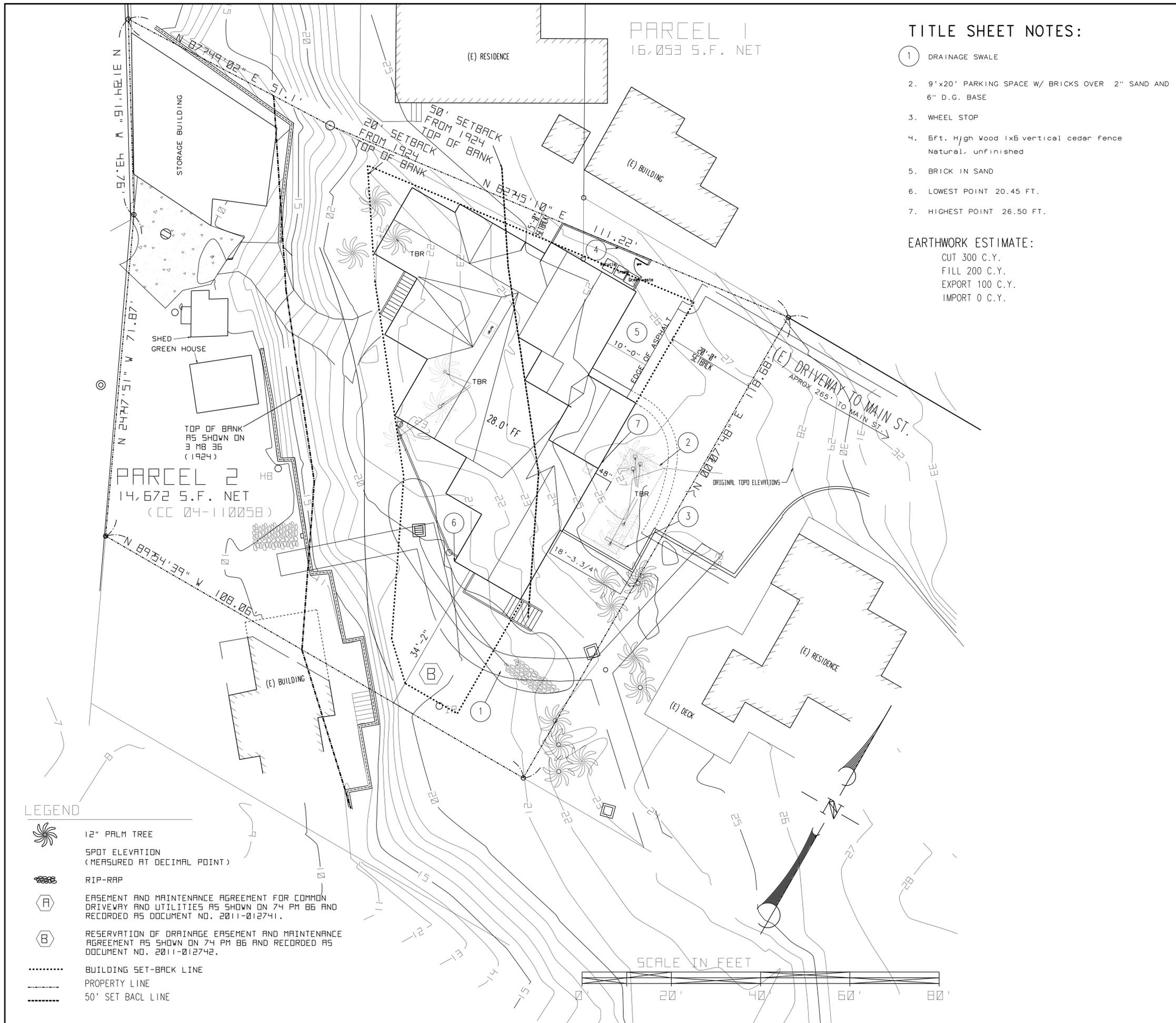
*Planning Commission  
September 1, 2015*

concerns on this application.

**CONCLUSION:** The project as proposed is consistent with the General Plan, Local Coastal Plan, and Municipal Code for development standards. Staff recommends that the Planning Commission find this project consistent with the purpose of the zoning district as a principally permitted use, that it complies with City LCP policies, finds it consistent with the requirements of the Mixed Use Area B overlay and meets development standards. Therefore, staff recommends Planning Commission conditionally approve the requested Conditional Use Permit #UP0-369 and Coastal Development Permit #CP0-410 for new construction of a single family residence at 289 Main Street.

**EXHIBITS:**

- Exhibit A - Planning Commission Resolution 32-15
- Exhibit B – Graphics/ Plan Reductions
- Exhibit C– Visual Simulations
- Exhibit D – Visual Study Site Plan
- Exhibit E – Lighting Details
- Exhibit F – LCP Coastal Physical Characteristics Map



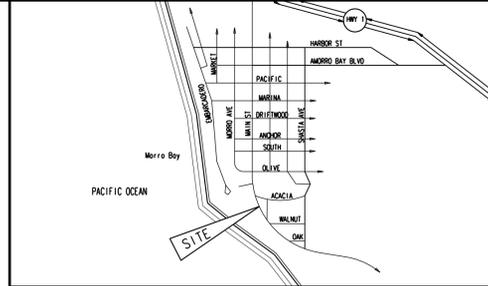
- LEGEND**
- 12" PALM TREE
  - SPOT ELEVATION (MEASURED AT DECIMAL POINT)
  - RIP-RAP
  - EASEMENT AND MAINTENANCE AGREEMENT FOR COMMON DRIVEWAY AND UTILITIES AS SHOWN ON 74 PM 86 AND RECORDED AS DOCUMENT NO. 2011-012741.
  - RESERVATION OF DRAINAGE EASEMENT AND MAINTENANCE AGREEMENT AS SHOWN ON 74 PM 86 AND RECORDED AS DOCUMENT NO. 2011-012742.
  - BUILDING SET-BACK LINE
  - PROPERTY LINE
  - 50' SET BACK LINE

**TITLE SHEET NOTES:**

1. DRAINAGE SWALE
2. 9'x20' PARKING SPACE W/ BRICKS OVER 2" SAND AND 6" D.G. BASE
3. WHEEL STOP
4. 6ft. High Wood 1x6 vertical cedar fence Natural, unfinished
5. BRICK IN SAND
6. LOWEST POINT 20.45 FT.
7. HIGHEST POINT 26.50 FT.

**EARTHWORK ESTIMATE:**

CUT 300 C.Y.  
 FILL 200 C.Y.  
 EXPORT 100 C.Y.  
 IMPORT 0 C.Y.



VICINITY MAP

**PROJECT DIRECTORY**

**OWNER:**  
 JOHN & ALAIR HOUGH  
 285 MAIN STREET  
 MORRO BAY, CA 93442  
 805.772.2197

**ARCHITECTURE/AGENT:**  
 THOMAS MARTIN ARCHITECT  
 P.O. BOX 14128  
 San Luis Obispo, CA 93406  
 CONTACT: TOM MARTIN  
 805.544.4398

**CIVIL ENGINEER:**  
 STEVE LoCHANE  
 15524 ABHERT RD  
 ATASCADERO, CA 93422  
 CONTACT: STEVE  
 805.798.5348

**LANDSCALE ARCHITECT**  
 GARY L. GLANDOR  
 ASLA, PLA 3791  
 PO BOX 944  
 MORRO BAY, CA 93443  
 805.801.8697

**GEOTECHNICAL ENGINEER:**  
 GEOSOLUTIONS  
 220 HIGH STREET  
 SAN LUIS OBISPO, CA 93401  
 CONTACT: RILEY  
 805.543.2171

**LAND SURVEYOR:**  
 JOANN HEAD  
 P.O. BOX 887  
 SANTA MARGARITA, CA 93453  
 CONTACT: JOANN HEAD  
 805.674.1530

**PLANNING CONSULTANT:**  
 CATHY NOVAK CONSULTING  
 P.O. BOX 296  
 MORRO BAY, CA 93443  
 805.772.9499  
 CONTACT: CATHY

PREPARED: 20 JUL 2013  
 SUBMIT PLNG. DEPT:  
 REVISED:

**SHEET INDEX**

- T.1 PROPOSED SITE PLAN/TITLE SHEET
- A.1 GRND LVL FLR PLN
- A.2 2ND LVL FLR PLN
- A.3 ELEVATIONS

**PROJECT STATISTICS**

R-1 (P-D) SINGLE FAMILY  
 PROJECT SITE AREA: 14,673.36 S.F. - 838.0 S.F. COMMON ACCESSWAY= 13,835.36 S.F.  
 MAX LOT COVERAGE ALLOWED: 13835.36 S.F. x 45% = 6225.91 S.F. allowed

2275.0 S.F. LOWER FLOOR  
 355.6 S.F. RAISED DECK  
 235.6 S.F. COVERED PORCH  
 1070.9 S.F. STORAGE BUILDING  
 154.0 S.F. GREENHOUSE  
 76.4 S.F. SHED  
 520.5 S.F. GARAGE

TOTAL PROPOSED COVERAGE: 4687.1 S.F. PROPOSED < 6225.9 S.F. ALLOWED

CONDITIONED SPACE UPSTAIRS: 607.4 S.F.  
 CONDITIONED SPACE DOWNSTAIRS: 2275.0 S.F.  
 TOTAL CONDITIONED SPACE: 2882.4 S.F.  
 UNCONDITIONED BASEMENT: 503.5 S.F.  
 TOTAL SPACE: 3385.9 S.F.

CURRENT USE: UNIMPROVED LOT  
 PROPOSED USE: SINGLE FAMILY RESIDENCE

**LEGAL DESCRIPTION:**

PARCEL 2 OF PARCEL MAP MB 08-0019, RECORDED IN BOOK 74,  
 AT PAGE 86-88 OF PARCEL MAPS IN OFFICE OF THE COUNTY RECORDER,  
 COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA.

APN: 066-251-036

**OCCUPANCY CLASSIFICATION**

GROUP: R-3 (LESS THAN 10)

**AVERAGE NATURAL GRADE:**

26.50' HIGHEST POINT BLDG INTERSECTS NATURAL GRADE  
 20.45' LOWEST POINT BLDG INTERSECT NATURAL GRADE

46.90= 23.45' ANG

**PARKING REQUIREMENT:**

2 Spaces Covered in Garage, 1 open Space @ entry

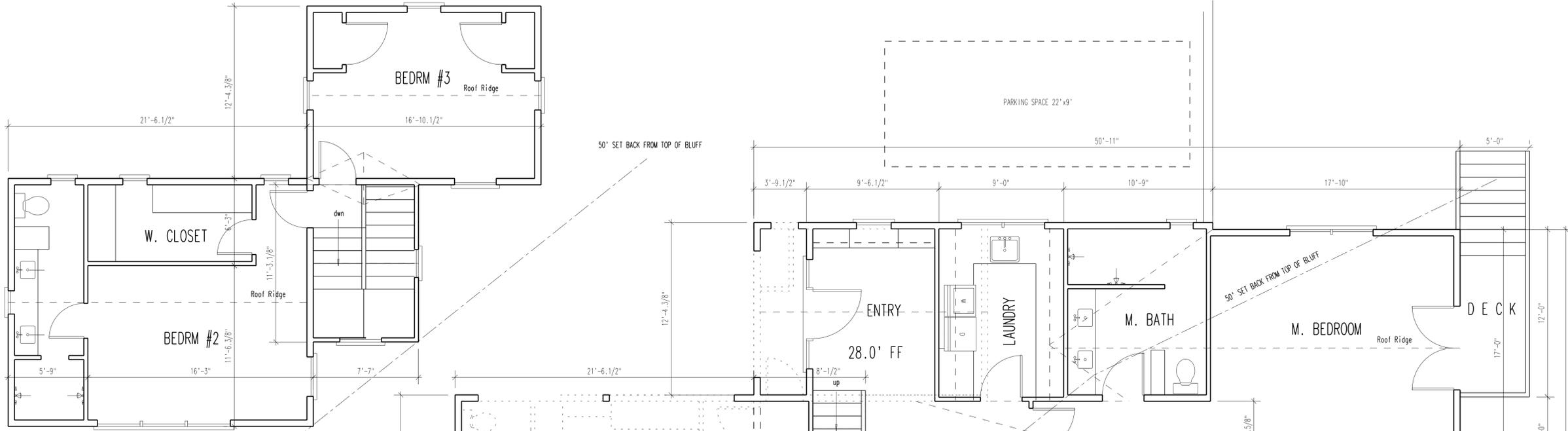
**THOMAS MARTIN**  
 ARCHITECTURE . PLANNING . INTERIORS  
 P.O. BOX 14128 . SAN LUIS OBISPO . CA 93401  
 P.H. 805.544.4398 . E-MAIL: TMARCHS@YAHOO.COM

SHEET TITLE:  
**TITLE SHEET**  
 Scale 1"=10'

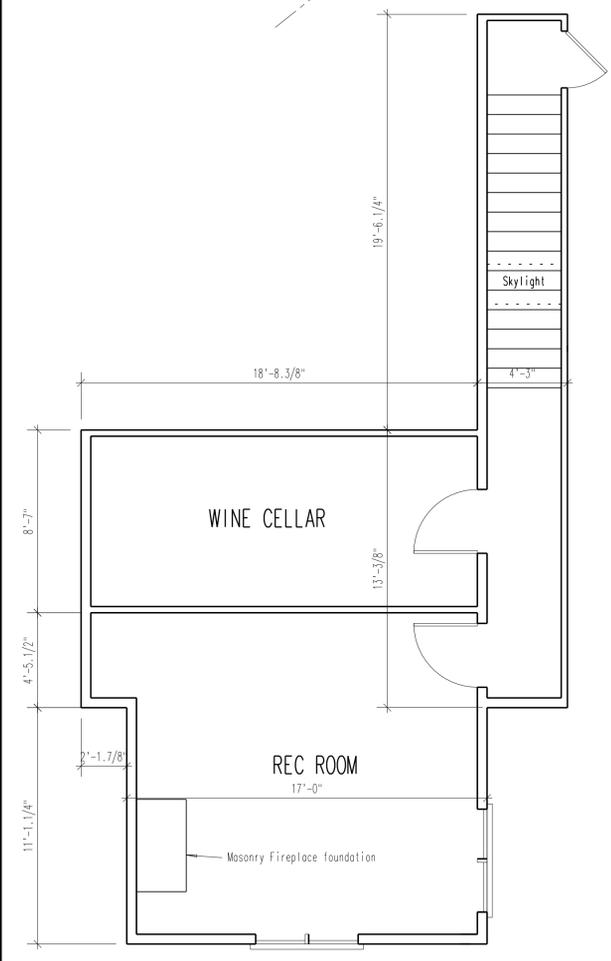
PROJECT ADDRESS:  
**HOUGH RESIDENCE**  
 289 Main Street  
 Morro Bay, CA 93442



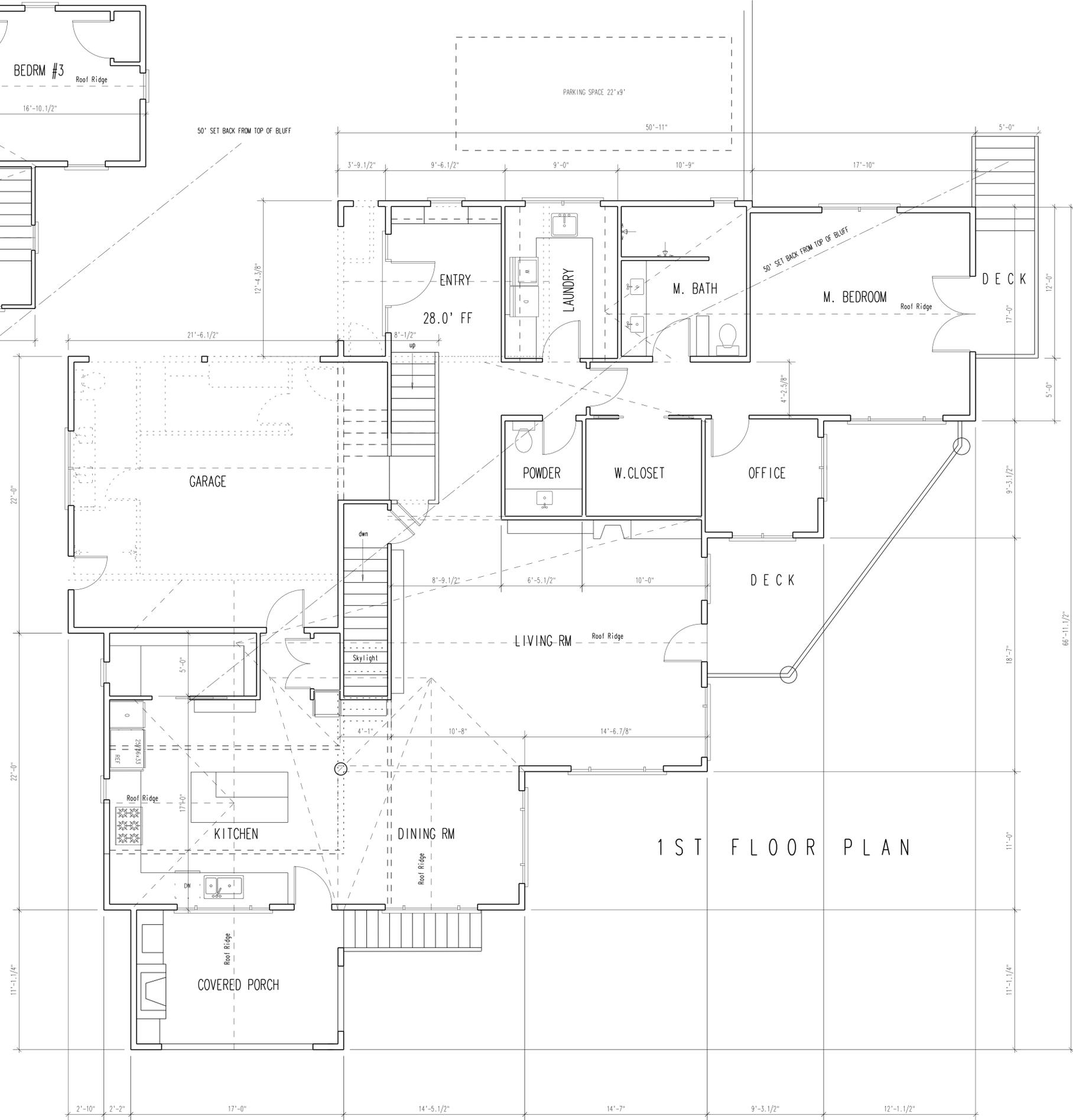
HOUGH  
 REVISED: 23 SEP 2015



2ND FLOOR PLAN



BASEMENT



1ST FLOOR PLAN

**THOMAS MARTIN**  
 ARCHITECTURE · PLANNING · INTERIORS  
 869 CHURCH ST. · SAN LUIS OBISPO · CA 93401  
 PH 805.544.4398 · tmartinarchitect@gmail.com

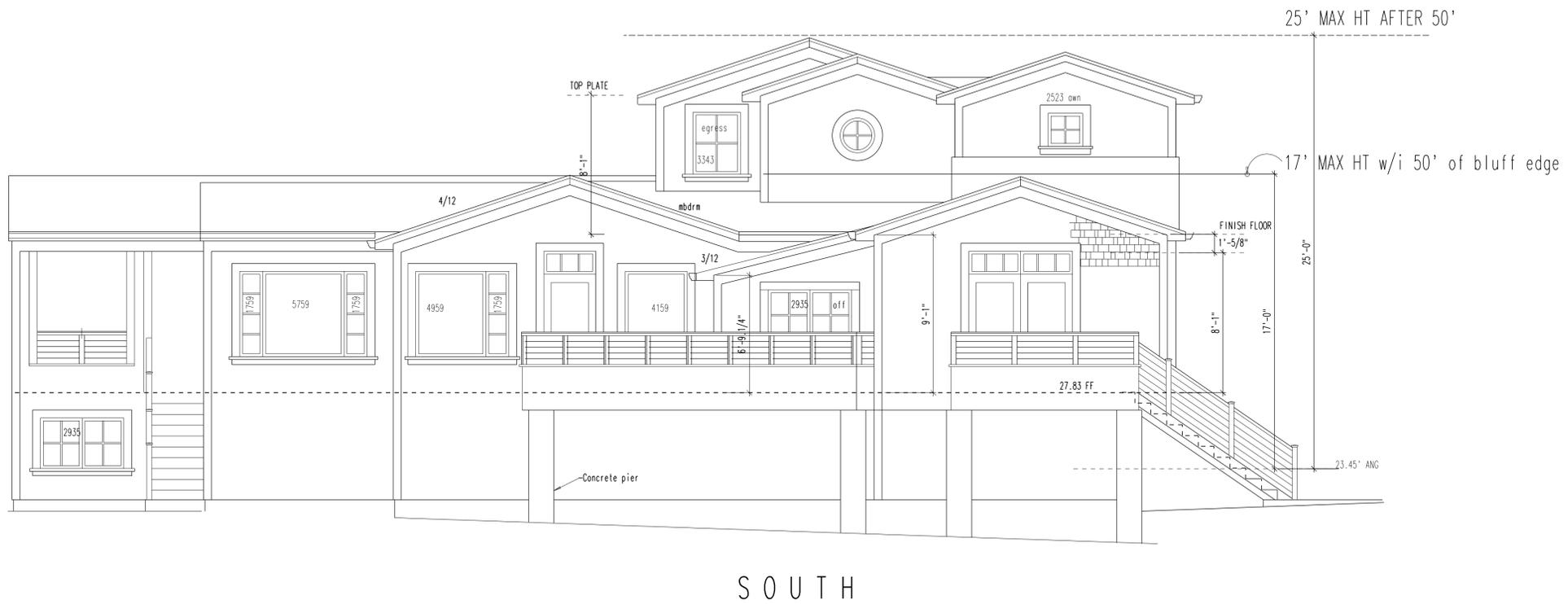
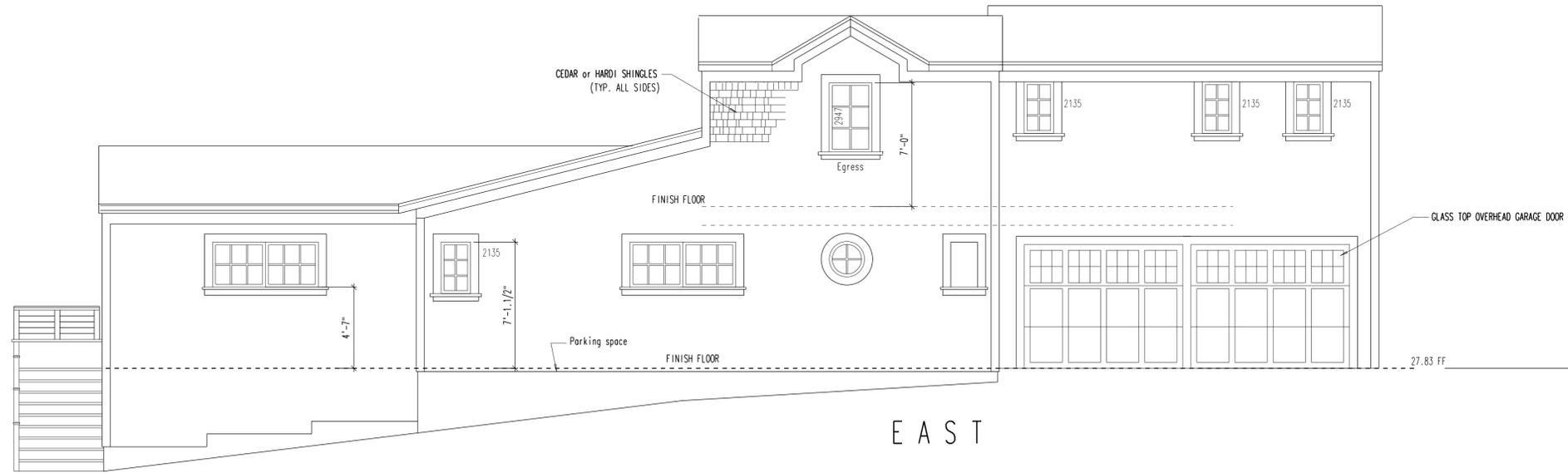
PREPARED: 25 JULY 2012  
 SUBMIT TO BLOG DEPT:  
 REVISED:  
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SHEET TITLE:  
**FLOOR PLAN**  
 Scale 1/4"=1'-0"

PROJECT ADDRESS:  
**HOUGH RESIDENCE**  
 289 MAIN STREET  
 MORRO BAY, CA 93442



PROJECT NORTH  
 HOUGH REVISSED: 16 SEP 15



**THOMAS MARTIN**  
 ARCHITECTURE . PLANNING . INTERIORS  
 869 CHURCH ST. . SAN LUIS OBISPO . CA 93401  
 PH 805 544 4398 . tmartinarchitect@gmail.com

PREPARED: 3 APR 15  
 SUBMIT TO BLDG DEPT:  
 REVISED:  
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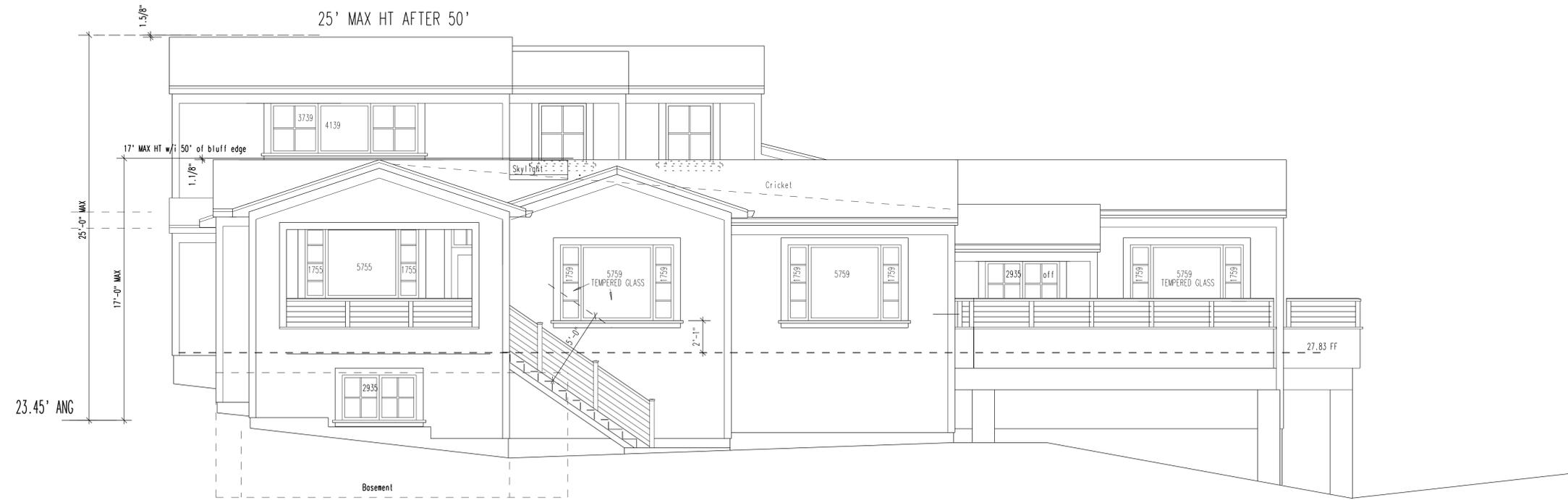
SHEET TITLE:  
**ELEVATIONS**  
 Scale 1/4"=1'-0"

PROJECT ADDRESS:  
**HOUGH RESIDENCE**  
 289 Main Street  
 Morro Bay, CA 93442

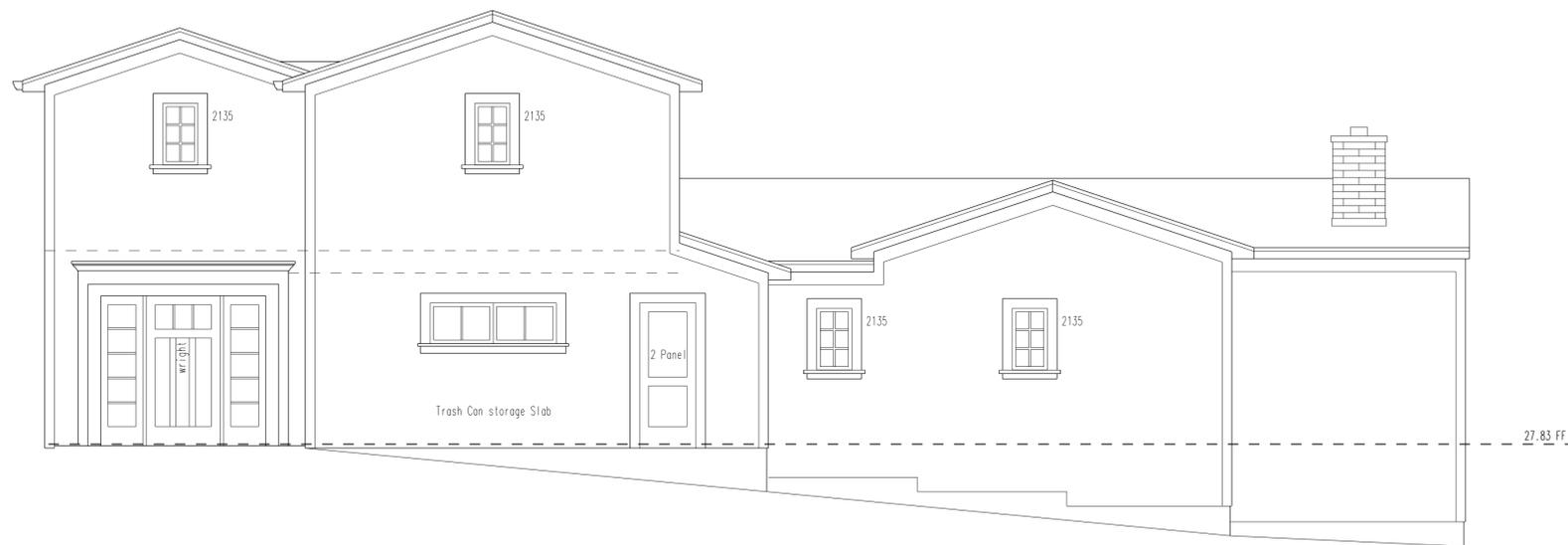


HOUGH  
 REVISED: 16 SEP 15

**2**



WEST



NORTH

**THOMAS MARTIN**  
 ARCHITECTURE . PLANNING . INTERIORS  
 P.O. BOX 14128 . SAN LUIS OBISPO . CA 93401  
 P.H. 805 544 4398 . E-MAIL : TMARCHS@YAHOO.COM

PREPARED: 2 APR 15  
 SUBMIT TO BLDG DEPT:  
 REVISIONS:  
 ▲  
 ▲  
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SHEET TITLE:  
**ELEVATIONS**  
 Scale 1/4"=1'-0"

PROJECT ADDRESS:  
**HOUGH RESIDENCE**  
 289 Main Street  
 Morro Bay, CA 93442



HOUGH  
 REVISED: 16 SEP 2015

**3**



AGENDA NO: B-4

MEETING DATE: October 6, 2015

## Staff Report

**TO:** Planning Commissioners **DATE:** October 6, 2015  
**FROM:** Whitney McIlvaine, Contract Planner  
**SUBJECT:** Conditional Use Permit (#UP0-428) Request to allow an addition to a single-family residence with a nonconforming front yard setback at 300 Shasta Avenue, located in the R-1 zoning district and outside of the Coastal Commission Appeals Jurisdiction.

**RECOMMENDATION:**

*CONDITIONALLY APPROVE THE PROJECT* by approving Planning Commission Resolution 37-15 which includes the Findings and Conditions of Approval for the project depicted on site development plans dated stamp received September 10, 2015.

**APPLICANTS:** Mark Schmidt and Verock Ky

**DRAFTSPERSON:** Kathleen Bergantzel

**LEGAL DESCRIPTION/APN:** 066-225-025

**PROJECT DESCRIPTION:**

The Applicants are requesting Conditional Use Permit approval for a conforming addition to a nonconforming single-family residence. The applicant proposes to add a 930 square-foot second story to an existing 1,859 square-foot residence. Virtually no change is proposed to the footprint of first floor. The existing single-story residence is considered nonconforming because it has a 10-foot front yard setback where 20 feet is otherwise required as discussed below in the 'Project Analysis' section.

**PROJECT SETTING:**

The parcel at 300 Shasta Street lies on the easterly side of the street between Acacia and Walnut Streets. The site was previously graded to create a level building pad. Outside the building pad the site slopes steeply uphill at the northern end and steeply downhill at the southern end. Housing in the surrounding area includes a variety of one- and two-story homes.

Prepared By: WM

Department Review: \_\_\_\_\_



Vicinity Map

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

Site Characteristics	
<b>Site Area</b>	Approximately 9,500 square feet
<b>Existing Use</b>	Single-Family residential
<b>Terrain</b>	Generally slopes northeast to southwest with a level building pad
<b>Vegetation/Wildlife</b>	Ornamental landscaping
<b>Archaeological Resources</b>	No significant resources within 300 feet of subject parcel
<b>Access</b>	Shasta Avenue

<b>General Plan, Zoning Ordinance, &amp; Local Coastal Plan Designations</b>	
<b>General Plan/Coastal Plan Land Use Designation</b>	Low-Medium Density Residential
<b>Base Zone District</b>	R-1
<b>Zoning Overlay District</b>	n/a
<b>Special Treatment Area</b>	n/a
<b>Combining District</b>	n/a
<b>Specific Plan Area</b>	n/a
<b>Coastal Zone</b>	Located outside the Coastal Appeals Jurisdiction

**PROJECT ANALYSIS:**

**Background**

County Assessor records indicate the existing residence was originally built in 1953. In 1988, a building permit was issued for bedroom addition at the southeastern corner of the house. In conjunction with that project, a variance was approved to allow a garage addition to extend 10 feet into the front setback. The residential use is consistent with the General Plan designation of Low-Medium Density Residential and with the Single-Family Residential (R-1) Zoning designation.

**Existing House**



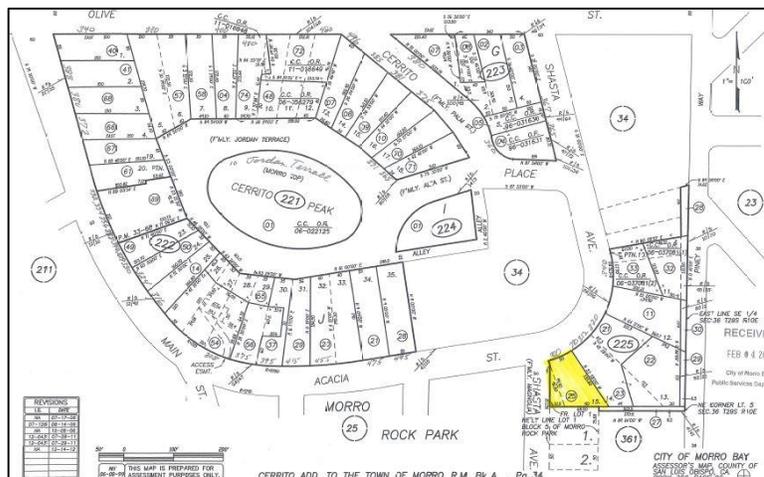
**Zoning Ordinance Consistency**

Current requirements of the Morro Bay City Zoning Ordinance (the “Zoning Ordinance”) for setbacks render the existing structure nonconforming with regard to the front setback. The proposed project meets all other site development standards. Additions to nonconforming structures may be permitted with approval of a conditional use permit, subject to certain findings (Morro Bay Municipal Code (MBMC) section 17.56.160).

<b>Zoning Ordinance Standards</b>			
	<b>Standards</b>	<b>Existing</b>	<b>Proposed</b>
<b>Front Setback</b>	20 feet	10 feet	10 feet
<b>Side-Yard Setback</b>	5 feet	12 feet 5 inches	12 feet 5 inches
<b>Exterior Side-Yard Setback</b>	10 feet	20 feet	20 feet
<b>Rear Setback</b>	10 feet	10 feet	10 feet
<b>Height</b>	Max. 25 Feet	Not shown	23.3
<b>Lot Coverage</b>	Max. 45%	26%	26%
<b>Parking</b>	2 Car Garage	2 Car Garage	2 Car Garage

**Setbacks**

The existing residence does not conform to the current requirements for a 20-foot front-yard setback per Section 17.24.040 of the Zoning Ordinance. Section 17.12.370 defines lot front as the narrowest dimension of a lot fronting on a street. The parcel is a corner lot at a location where Shasta Avenue makes a sharp turn. (See APN map to the right.) While both the northerly and westerly sides of the lot front on the same street, the northerly side is narrowest and therefore the front of the lot. No change is proposed to the nonconforming setback or the garage configuration. The proposed remodel and addition meet site development standards.



### **Conditional Use Permit Requirement**

The Zoning Ordinance, subsection 17.56.160A, requires approval of a conditional use permit for any structure which is nonconforming. Conditional use permit approval is also required for any expansion to a nonconforming structure that has already been expanded in the past. As noted above, the structure is nonconforming with regard to the front-yard setbacks. Approval of a Conditional Use Permit requires the following findings to be made:

1. The enlargement, expansion, or alteration is in conformance with all applicable provisions of the Zoning Ordinance.

*The proposed remodel and additions are consistent with Zoning Ordinance requirements.*

2. The project meets applicable Title 14 (Building and Construction Code) requirements for a conforming use.

*The applicant is required to submit a complete building permit application and obtain the required building permit prior to construction.*

3. The project is suitable for conforming uses and will not impair the character of the zone in which it exists.

*The project proposes additions to a single-family dwelling, which is an allowed use in the R-1 zone. The surrounding neighborhood is developed with one- and two-story homes.*

4. It is not feasible to make the structure conforming without major reconstruction of the existing structure.

*Major reconstruction would be necessary to meet the required front-yard setback along the northerly property line. The driveway would need to be reconfigured and the floor plans would need to be revised to create a conforming two-car garage.*

### **Color, Materials, and Architectural Design**

A color and materials exhibit was submitted on September 14, 2015 (Exhibit B). The applicants propose to paint the body of the house a light gray with a darker gray accent color for the fascia, trim, eaves and doors. The exhibit shows new off-white vinyl windows. A slate colored light weight concrete tile is proposed for the roofing.

The overall building design is fairly modern with clean lines and minimal adornment. Varying wall planes articulate the elevations. Window size is well proportioned and balanced on the elevation drawings. The addition reads as a logical expansion of the existing building.

**PUBLIC NOTICE:**

Notice of this item was published in the San Luis Obispo Tribune newspaper on September 25, 2015, and all property owners and occupants of record within 500 feet of the subject site were notified of this evening's public hearing and invited to voice any concerns on this application.

**ENVIRONMENTAL DETERMINATION:**

Environmental review was performed for this project and staff determined it meets the requirements for a Categorical Exemption under CEQA Guidelines Section 15301 Class 1. The exemption applies to additions to existing structures with no potentially significant environmental impacts. Additionally, none of the Categorical Exemption exceptions, noted under Section 15300.2, apply to the project.

**CONCLUSION:**

The project is consistent with the General Plan and Local Coastal Plan which establish five residential land use categories to provide for a wide range of densities and to ensure residential land is developed to a density suitable to its location and physical characteristics. The project is consistent with the Zoning Ordinance because housing is a principally allowed use in the Low/Medium Density land use designation and because the Zoning Ordinance allows additions to nonconforming structures upon approval of a conditional use permit (MBMC section 17.56.160).

**RECOMMENDATION:**

Staff recommends the Planning Commission approve the requested Conditional Use Permit #UPO-428 for the proposed addition to a nonconforming structure for the project at 300 Shasta Avenue, as shown on plans date stamp received September 10, 2015, by adopting Planning Commission Resolution 37-15 which includes the Findings and Conditions of Approval for the project.

**EXHIBITS:**

- Exhibit A: Planning Commission Resolution 37-15
- Exhibit B: Color and Materials
- Exhibit C: Graphics/Plan Reductions

## RESOLUTION NO. PC #7-15

### A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION APPROVING CONDITIONAL USE PERMIT (UP0-428) TO ALLOW AN ADDITION TO A NONCONFORMING RESIDENTIAL STRUCTURE AT 300 SHASTA AVE.

**WHEREAS**, the Planning Commission of the City of Morro Bay (the “City”) conducted a public hearing at the Morro Bay Veteran’s Hall, 209 Surf Street, Morro Bay, California, on October 6, 2015, for the purpose of considering Conditional Use Permit UPO-428 for a proposed addition to a nonconforming single-family home at 300 Shasta Ave.; and

**WHEREAS**, notice of the public hearing was provided at the time and in the manner required by law; and

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

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

**Section 1: Findings.** Based upon all the evidence, the Commission makes the following findings:

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

1. Pursuant to the California Environmental Quality Act, the project is categorically exempt pursuant to Class 1, CEQA Guidelines Section 15301(e) for additions to existing structures with no potentially significant environmental impacts. Additionally, none of the Categorical Exemption exceptions, noted under section 15300.2, apply to the project.

#### Conditional Use Permit Findings

1. The project is consistent with the General Plan and Local Coastal Plan which establish five residential land use categories to provide for a wide range of densities and to ensure that residential land is developed to a density suitable to its location and physical characteristics.
2. The proposed addition is in conformance with all applicable provisions of the Morro Bay City Zoning Ordinance (the “Zoning Ordinance”), including building height and setbacks.
3. The project meets applicable Title 14 (Building and Construction Code) requirements for a conforming use since the applicant is required to submit a complete building permit application and obtain the required building permit prior to construction.

4. The project is suitable for conforming uses and will not impair the character of the zone in which it exists because it proposes an addition to a single-family dwelling, which is an allowed use in the R-1 zone and the surrounding neighborhood is developed with modest one- and two-story homes.
5. It is not feasible to make the structure conforming without major reconstruction of the existing structure. Major reconstruction would be necessary to meet the required front-yard setback along the northerly property line. The driveway would need to be reconfigured and the project floor plan would need to be revised to create a conforming two-car garage.

**Section 2. Action.** The Planning Commission does hereby approve Conditional Use Permit UPO-428 for property located at 300 Shasta Avenue subject to the following conditions:

### **STANDARD CONDITIONS**

1. This permit is granted for the land described in the staff report dated October 6, 2015, for the project at 300 Shasta Avenue depicted on plans date stamped September 10, 2015, on file with the Community Development Department, as modified by these conditions of approval, and more specifically described as follows: Site development, including all buildings and other features, shall be located and designed substantially as shown on plans, unless otherwise specified herein.
2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this Resolution 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. Any extension may be granted by the City's Community Development Manager (the "Director"), upon finding the project complies with all applicable provisions of the Morro Bay Municipal Code (the "MBMC"), General Plan and certified 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 Community Development Manager. Any changes to this approved permit determined, by the Director, not to be minor 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, the City, 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 MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan for the City.

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. Applicant understands and acknowledges the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Director or as authorized by the Planning Commission. Failure to comply with any of 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 MBMC and is a misdemeanor.
7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan of the City.

### **PLANNING CONDITIONS**

1. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation.
2. Construction Hours: Pursuant to MBMC subsection 9.28.030.I, Construction or Repairing of Buildings: The erection (including excavating), demolition, alteration or repair of any building or general land grading and contour activity using equipment in such a manner as to be plainly audible at a distance of fifty feet from the building other than between the hours of seven a.m. and seven p.m. on weekdays and eight a.m. and seven p.m. on weekends except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Community Development Department, which permit may be granted for a period not to exceed three days or less while the emergency continues and

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

3. Dust Control: That prior to issuance of a grading permit, a method of control to prevent dust and wind blow earth problems shall be submitted for review and approval by the Building Official.
4. Conditions of Approval: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.

### **BUILDING CONDITIONS**

1. Building Permit: Prior to construction, the applicant shall submit a complete Building Permit Application and obtain the required Permit.

### **PUBLIC WORKS CONDITIONS**

1. Sewer Lateral: If an existing lateral is to be used, perform a video inspection of the lateral and submit to Public Works. Lateral shall be repaired if necessary. A sewer backwater valve and downstream cleanout, extended to grade, shall be installed on the sewer lateral. Note and show the proposed locations on the site plan. If a new lateral is being proposed include a note on the plans and abandon existing sewer lateral if necessary.
2. Sewer Backwater Valve: A sewer backwater valve shall be installed on site to prevent a blockage or maintenance of the municipal sewer main from causing damage to the proposed project. Please indicate on the plans.

Add the following Notes to the Plans:

1. Any damage to City facilities, i.e. curb/berm, street, sewer line, water line, or any public improvements shall be repaired at no cost to the City of Morro Bay.
2. No work shall occur within (or use of) the City's Right of Way without an encroachment permit. Encroachment permits are available at the City of Morro Bay Public Services Office located at 955 Shasta Ave. The Encroachment permit shall be issued concurrently with the building permit.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 6th day of October, 2015 on the following vote:

AYES:

# EXHIBIT A

Planning Commission Resolution #37-15

UPO-428: 300 Shasta Ave.

Page 5

NOES:

ABSENT:

ABSTAIN:

---

Robert Tefft, Chairperson

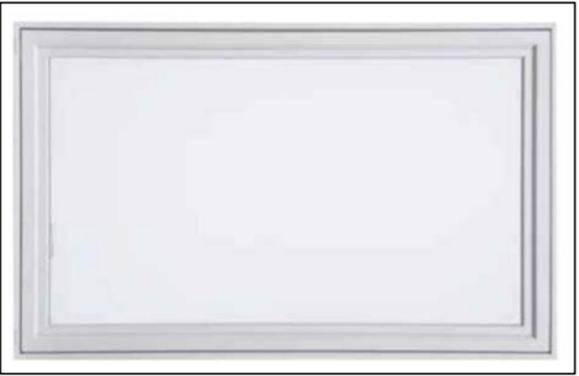
ATTEST

---

Scot Graham, Planning Secretary

The foregoing resolution was passed and adopted this 6th day of October, 2015.

**EXHIBIT B**



**MILGARD WINDOWS & DOORS**  
 Tuscan Series Vinyl Window & Patio Doors  
 Exterior Vinyl Finish: Fog (Premium)  
 Install Configuration: Block



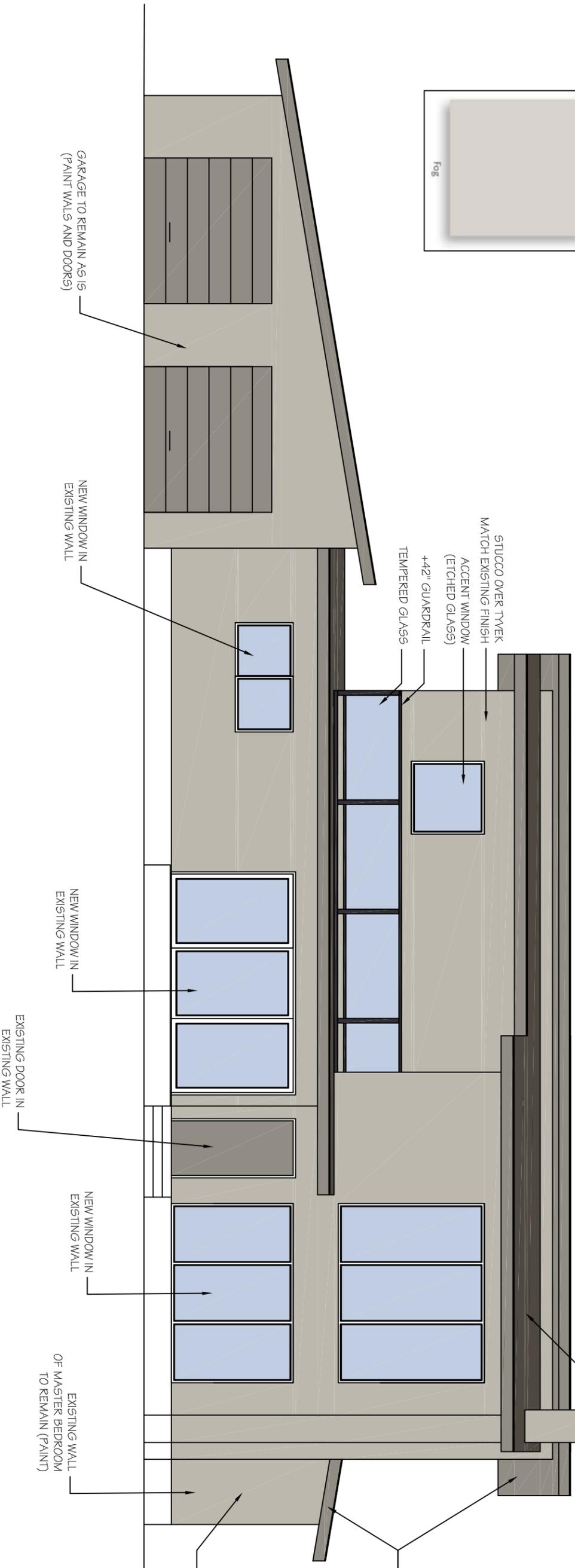
**FELSS LIGHTING**  
 The Salingier Collection  
 1-Light Salingier Outdoor Lantern  
 Brushed Steel  
 Style No. 013001B5-LA



Fog



**EAGLE ROOF COVERINGS:**  
 4697 Slate Range  
 Profile: Bel Air  
 Description: Charcoal Range



**FASCIA/TRIM/GARAGE DOORS PAINT**  
 COLOR:  
 Finish: Satin  
 Sherwin Williams:  
 SW 7018 / DoveTail

**EXTERIOR WALL COLOR:**  
 Elastromatic Paint - Smooth Finish  
 Sherwin Williams:  
 SW 7016 / Mindful Gray

**300 SHASTA STREET**  
**MORRO BAY, CA**

No.	Revision	Date

Kathleen Bergantzel  
 115 Rosewood Lane  
 Arroyo Grande, CA 93420  
 (805) 491-4567

TITLE SHEET

SCHMIDT/KY ADDITION/REMODEL  
 300 SHASTA  
 MORRO BAY, CA

T-1  
 Date: 04/10/15

GENERAL NOTES:

- This project must comply with the latest adopted applicable codes, including but not limited to the following, and shall be considered to be part of these drawings:
  - The 2013 California Building Code. (based on 2012 IBC)
  - The 2013 California Residential Code. (based on 2012 IRC)
  - The 2013 California Mechanical Code. (based on 2012 UMC)
  - The 2013 National Electrical Code. (based on 2011 NEC)
  - The 2013 California Plumbing Code. (based on 2012 UPC)
  - The 2013 California Energy Code.
  - The 2013 California Fire Code (based on the 2012 IFC)
  - The 2013 California Green Building Standards Code. (CalGreen)
  - Local ordinances.
- The contractor shall examine the working drawings, architectural, mechanical and electrical, and shall notify the designer of any discrepancies which he may find, prior to proceeding with the work.
- The contractor shall verify and be responsible for all dimensions and conditions at the site and shall notify the designer of discrepancies between the actual conditions and information shown in the drawings before proceeding with the work.
- The General Contractor is responsible for all coordination of work and trades with regard to scheduling, ordering materials, inspection and completion.
- The General Contractor is responsible for verification of all rough openings with related trades.
- These basic General Notes are integral to the drawings. Notify the designer before proceeding with the work if any disparity arises between the drawings and these general notes.
- All work shall conform to the best practice prevailing in the various trades comprising the work.
- Specific notes and details shall take precedence over general notes and typical details. Dimensions shall be similar to these details that are related in location, intent or function.
- The General Contractor shall guarantee the weatherproof integrity of the entire project for a period of one year after project completion.
- All sub-contractors shall be held responsible for all conditions, ordinances, codes, and requirements pertinent to their category of the work as dictated by the regulatory agencies.
- The General Contractor is to maintain the site in a clean and neat manner. He shall remove and legally dispose of all debris, rubbish, and other materials not intended for application.
- It is the owners responsibility to verify property coners and to have them marked prior to foundation inspection.
- These plans are intended for use on this site only and may not be used on any other site without expressed written consent of the designer.

CONSTRUCTION WASTE MANAGEMENT:

The Contractor shall submit a construction waste management plan reducing waste by at least 50%. The waste management plan shall be in conformance with Items 1 through 5. The construction waste management plan shall be updated as necessary and shall be available during construction for examination by the enforcing agency.

- Identify the construction and demolition waste materials to be diverted from disposal by recycling, reuse on the project or salvage for future use or sale.
- Specify if construction and demolition waste materials will be sorted on-site (source-separated) or bulk mixed (single stream).
- Identify diversion facilities where the construction and demolition waste material will be taken.
- Identify construction methods employed to reduce the amount of construction and demolition waste generated.
- Specify that the amount of construction and demolition waste materials diverted shall be calculated by weight or volume, but not by both.

ABBREVIATIONS

ADJUSTABLE . . . . . ADJ.	FOUNDATION . . . . . FON	REDWOOD . . . . . RDWD
ALTERNATE . . . . . ALT	FIXED GLASS . . . . . FIGL	RADIUS . . . . . RAD
APPROVED . . . . . APPD	FACE OF STUD . . . . . FOS	RECEPTACLE . . . . . RECP
APPROXIMATE . . . . . APPROX.	GALVE . . . . . GALV	REFERENCE . . . . . REF
ARCHITECTURAL . . . . . ARCH	GALLON PER . . . . . GPM	REQUIRED . . . . . REQD
ALUMINUM . . . . . AUM	MINUTE . . . . . MIN	RISER . . . . . R
	GALVANIZED . . . . . GALV	ROOM . . . . . RM
BENCH MARK . . . . . BM	GLASS . . . . . GL	ROOF DRAIN . . . . . RD
BEVELED . . . . . BEV	GRADE . . . . . GR	RAIN WATER . . . . . RWL
BLOCK . . . . . BLK	GYP. BOARD . . . . . GYP. BD.	
BLOCKING . . . . . BLKG	GRAB RAIL . . . . . G.R.	SOLID CORE . . . . . SC
BOARD . . . . . BD		SHELVES . . . . . SHLVS
BOTTOM . . . . . BOT	HARDWOOD . . . . . HWD	SCHEDULE . . . . . SCH
BUILDING . . . . . BLDG.	HARDWARE . . . . . HW	SHEETING . . . . . SHNG
	HEADER . . . . . HDR	SECTION . . . . . SECT
CABINET . . . . . CAB	HORIZONTAL . . . . . HRZ	SERVICE SINK . . . . . SS
CAST IRON . . . . . CI	HOUR . . . . . HR	SHEET . . . . . SHT
CEILING . . . . . CLG	HOLLOW METAL . . . . . HM	SPECIFICATION . . . . . SPEC
CENTER LINE . . . . . CL		SPLASH BLOCK . . . . . SB
COLUMN . . . . . COL	INCH . . . . . IN	SQUARE . . . . . SQ
CONCRETE . . . . . CONC	INSULATION . . . . . INSUL	STANDARD . . . . . STD
CONNECTION . . . . . CONN	INTERIOR . . . . . INT	STEEL . . . . . STL
CONTINUOUS . . . . . CONT		STRINGER . . . . . STR
CONTRACTOR . . . . . CONTR	JOINT . . . . . JT	STRUCTURAL . . . . . STRUC
CONTROL JOINT . . . . . CJ	JUNCTION . . . . . JCT	SIMILAR . . . . . SIM
COUNTERSINK . . . . . CTSK	LAVATORY . . . . . LAV	SUSPENDED . . . . . SUSP
CUBIC YARD . . . . . CUYD	LOW TRANS . . . . . LT	
COMPOSITION . . . . . COMP	LINTEL . . . . . LNTL	TEMPERED PLATE
		GLASS . . . . . TEMP. P.G.
DETAIL . . . . . DET		THICK . . . . . THK
DIAGONAL . . . . . DIAG	MACHINE . . . . . MACH	THRESHOLD . . . . . THRESH
DIAMETER . . . . . DIA	MANUFACTURE . . . . . MFR.	TONGUE & GROOVE . . . . . T&G
DIMENSION . . . . . DIM	MASONRY OPENING . . . . . MO	TYPICAL . . . . . TYP
DOWN . . . . . DW	MECHANICAL . . . . . MECH.	TOP OF LEDGER . . . . . TOL
DOWN SPOUT . . . . . DS	METAL . . . . . MET	TOP OF WALL . . . . . TOW
DRAIN . . . . . DR	MINIMUM . . . . . MIN.	TOP OF JOIST . . . . . TOJ
DRAWINGS . . . . . DWG		
DRAFLAY TRACK . . . . . DT	NEW . . . . . (N)	VENTILATION . . . . . VENT
	NOT IN CONTRACT . . . . . NIC	VERTICAL . . . . . VERT
EACH . . . . . EA.	NOT APPLICABLE . . . . . N/A	VINYL-ASBESTOS . . . . . VAT
ELECTRIC (AL) . . . . . ELEC.		TILE . . . . . TIL
ELECTRIC PANEL . . . . . EP	OVER FLOW . . . . . OVFL	VOLUME . . . . . VOL
ELEVATION . . . . . ELEV.	ON CENTER . . . . . O.C.	
EQUIPMENT . . . . . EQUIP	OPENING . . . . . OPNG	WATERPROOF . . . . . WP
EXCAVATE . . . . . EXC.	OPPOSITE . . . . . OPP	WEIGHT . . . . . WT
EXISTING . . . . . (E) EXIST		WINDOW . . . . . WD
EQUAL . . . . . EQ	PAIR . . . . . PR	WINDOW DIMENSION . . . . . W.D.
EXPOSED . . . . . EXP.	PENNY . . . . . P	WOOD . . . . . WD
EXTERIOR . . . . . EXT.	PLATE . . . . . PL	
EXPANSION JOINT . . . . . EJ	PLYWOOD . . . . . PLYWD	YARD . . . . . YD
	POUNDS . . . . . LBS	
FACE OF WALL . . . . . FOW	PROJECTION . . . . . PROJ	
FINISH . . . . . FIN	PORCELAIN . . . . . PORC	
FIXTURE . . . . . FIX		
FLASHING . . . . . FLASH		

SYMBOLS

①	DIMENSIONAL GRID LINE
①	DOOR NUMBER (REFER TO DOOR SCHEDULE)
①	WINDOW NUMBER (REFER TO WINDOW SCHEDULE)
FA1	FRAME TYPE (GLAZING)
SW1	SHEAR WALL TYPE (REFER TO SHEAR WALL SCHEDULE)
① A1	DETAIL NUMBER/SHEET SHOW ON
① A1	SECTION CUT (REFER TO BUILDING SECTIONS)
①	REFERENCE NOTES

EXTRA SUBMITTALS

- FIRE SPRINKLER SYSTEM: Drawings and calculations for the fire sprinkler system shall be submitted to the Building Department and approved by the Fire Department prior to permit issuance.

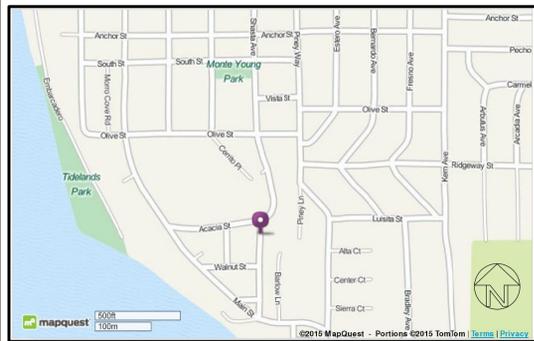
GENERAL REQUIREMENTS

- All work located within the public Right-of-way or within the jurisdiction of the City Utilities and Public works departments shall comply with the 2010 Engineering Standards and Standard Specifications.

PROJECT SUMMARY

USE ZONE . . . . . R-1, SINGLE FAMILY RESIDENTIAL	APN # 066-225-025
OCCUPANCY . . . . . R3/U	CY MB TN MORRO BL H LT 15
	MORRO RK PK BL 5 PTN LT1
CONSTRUCTION TYPE . . . . . V-NR	SITE ADDRESS: 300 SHASTA AVENUE
	MORRO BAY, CA 93442
TOTAL NUMBER OF BUILDINGS . . . . . 1	SITE AREA: 9,500 SF
BUILDING SQUARE FOOTAGE	SETBACKS:
EXISTING RESIDENCE: . . . . . 1,873.5 SF	FRONT: 20 FT.
REMODEL/ADDITION: . . . . . 923.69 SF	EXTERIOR SIDE: 20% OF WIDTH
FIRST FLOOR: . . . . . 923.69 SF	10' MAX - 5' MIN
SECOND FLOOR: . . . . . 2,788.47 SF	INTERIOR SIDE: 10% OF WIDTH
TOTAL: . . . . . 4,662.06 SF	5' MAX - 3' MIN
EXISTING GARAGE: . . . . . 563.79 SF	BACK: 10% OF DEPTH - 10' MAX - 6' MIN
NEW DECK: . . . . . 257.54 SF	ALLOWABLE LOT COVERAGE:
ENTRY PORCH: . . . . . 16.25 SF	45% OF 9,500 SF = 4,275 SF
STORIES: 2	ACTUAL LOT COVERAGE:
HEIGHT: 23'-4 1/4"	2,438.82 SF/9,500SF = 25.67%

VICINITY MAP



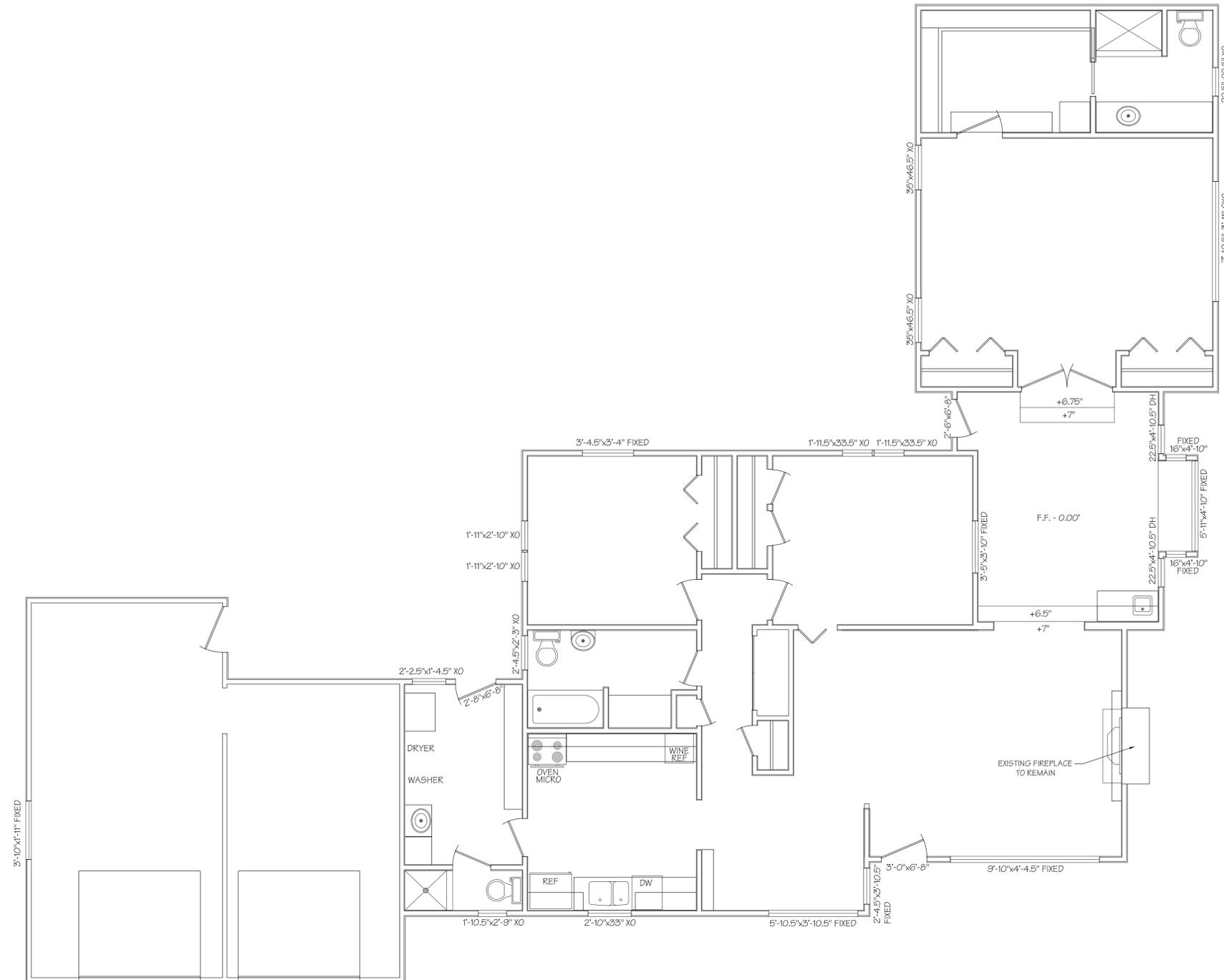
DIRECTORY

OWNER:  
 MARK SCHMIDT & VEROCK KY  
 3039 FAIRWAY AVENUE  
 KINGSBURG, CA 93631  
 PHONE: (559) 393-1929

SHEET INDEX

T1	TITLE SHEET
C1	EXISTING SITE
AO	EXISTING FLOOR PLAN
A1	FLOOR PLAN - LEVEL 1
A2	FLOOR PLAN - LEVEL 2
A3	EXTERIOR ELEVATIONS
A4	EXTERIOR ELEVATIONS





EXISTING FLOOR PLAN  
SCALE: 1/4"=1'-0"

EXISTING RESIDENCE = 1,873.5 SF  
EXISTING GARAGE = 563.79 SF

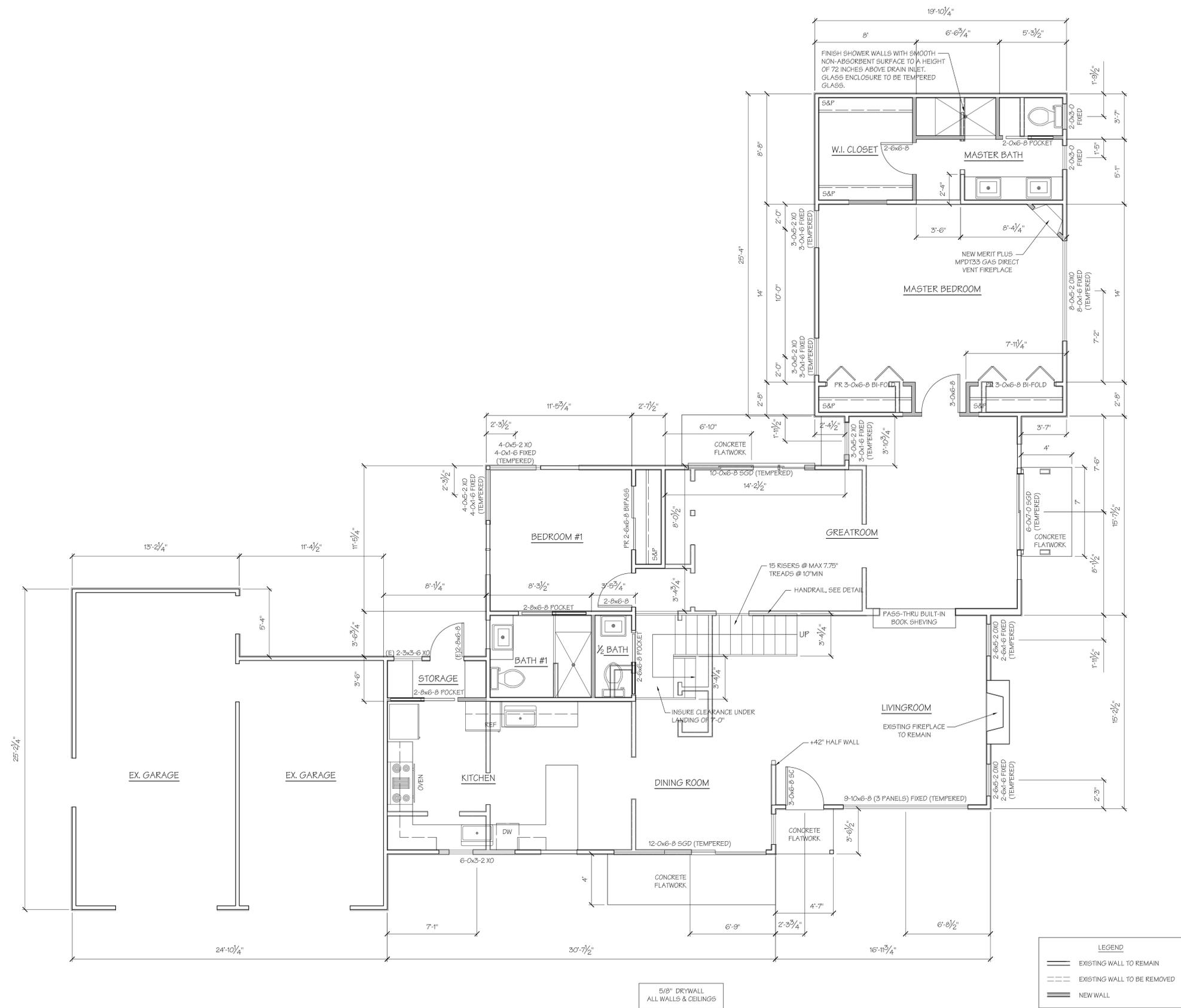
No.	Revision	Date

Project Name and Address  
**Kathleen Bergantzel**  
115 Koenwood Lane  
Arroyo Grande, CA 93420  
(805) 431-4367

Sheet Title  
**EXISTING FLOOR PLAN**

Project Name and Address  
**SCHMIDTKY ADDITION/REMODEL**  
300 SHASTA  
MORRO BAY, CA

Sheet Number  
**A-0**  
Date: 04/10/15



NEW FLOOR PLAN - LEVEL 1

SCALE: 1/4"=1'-0"

REMODELED RESIDENCE - LEVEL 1 = 1,858.78 SF  
EXISTING GARAGE = 563.79 SF

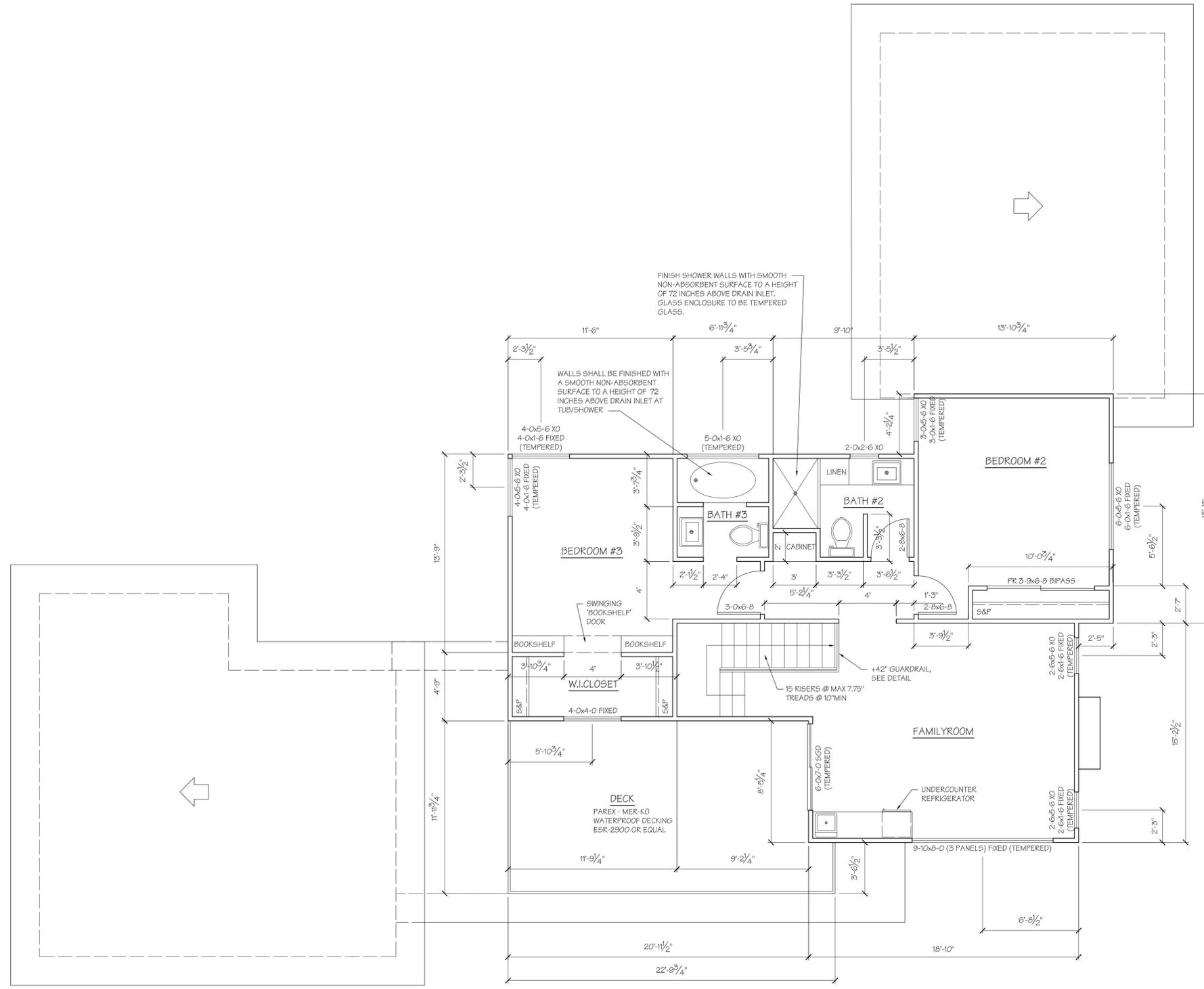
No.	Revision	Date

Project Name and Address  
**Kathleen Bergantzel**  
 115 Rosewood Lane  
 Arroyo Grande, CA 93420  
 (805) 481-4367

Drawn By  
**NEW FLOOR PLAN LEVEL 1**

Project Name and Address  
**SCHMIDTKY ADDITION/REMODEL**  
 300 SHASTA  
 MORRO BAY, CA

Sheet  
**A-1**  
 Of Sheets  
 Date: 04/10/15



NEW FLOOR PLAN - LEVEL 2

SCALE: 1/4"=1'-0"

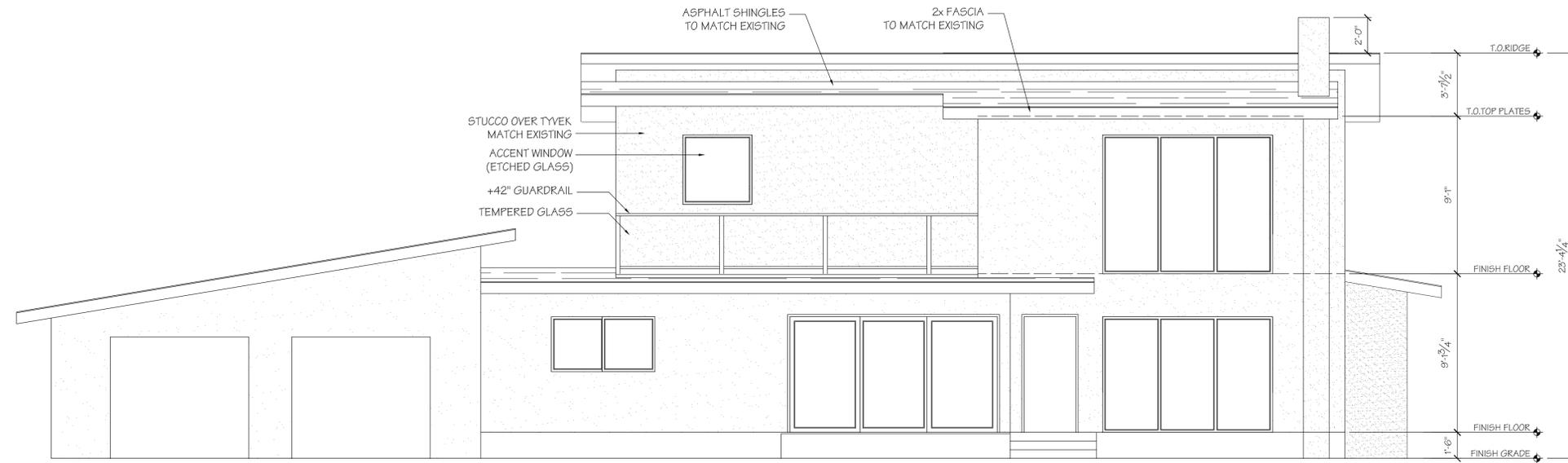
ADDITION TO RESIDENCE - LEVEL 2 = 929.69 SF  
NEW UPPER DECK = 257.54 SF

No.	Revision	Date

Project Name and Address  
**Kathleen Bergantzel**  
115 Rosewood Lane  
Arroyo Grande, CA 93420  
(805) 451-4927

NEW  
FLOOR PLAN  
LEVEL 2

SCHMIDTKY ADDITION/REMODEL  
300 SHASTA  
MORRO BAY, CA



FRONT ELEVATION - WEST (SHASTA)

SCALE: 1/4"=1'-0"



SIDE ELEVATION - SOUTH

SCALE: 1/4"=1'-0"

EXTERIOR FINISHES:

- STUCCO:
- Backing: 18 gauge wire, six inches to center vertical spacing; or solid sheathing.
  - Weatherproof paper: Kraft type building paper No. 15 asphalt saturated felt, apply over backing.
  - Lath: Stucco mesh, 1.6 pounds per square yard minimum weight; fasteners spaced six inches center to center vertically and 16 inches center to center horizontally, fur 1/4" out from backing.
  - Stucco: Two coat application over masonry; three coat application over wood framing.
    - Scratch coat: 3/8" thickness; one part portland cement to four parts sand, allow 48 hours between coats.
    - Brown coat: 3/8" thickness; one part portland cement to five parts sand; allow seven days between coats.
    - Finish coat: 1/8" thickness; one part portland cement to three parts sand.
    - Lime: proportions in accordance with CBC 2507.
  - Exterior stucco walls shall be provided with a weep screed at or below the foundation line with a vertical attachment flange of 3 1/2" and shall be attached a minimum of 8" above finish grade (CBC Section 2512.1.2).

ROOF NOTES:

- Roofing materials and installation shall be in accordance with CBC chapter 15.
- Flash crickets and valleys in accordance with CBC section 1503.6.
- Flash and counterflash junctions of roofs and vertical surfaces in accordance with CBC section 1503.2.
- Roofing materials:
  - Underlayment: 30lb felt.
  - Roofing: asphalt shingles to match existing.
- Flash all plumbing, mechanical, and electrical roof penetrations.
- Attic access: 22x30 inches minimum in size; 30 inches minimum clear headroom above. CBC Section 1209.2.
- Provide attic cross ventilation as follows (CBC Section 1203.2):
  - Net free ventilating area 1/150 of attic area, or
  - 1/300 of attic area where at least 50 percent of required ventilating area is provided by ventilators located in the upper portion of attic at least three feet above eaves and the remaining ventilating area is provided by eave vents.
  - Ventilating calculations:
    - Attic area: 929.69 square feet.
    - Ventilating area required 929.69 square feet at 1/150 = 6.2 square feet.
    - Type of vents: vents @ every third freeze block.
  - Protect attic vents against entrance of rain and snow (CBC Section 1203.2.1).
  - Cover attic vents with corrosion resistant wire mesh with openings of 1/4" (CBC Section 1203.2.1).

No.	Revision	Date

Project Name and Address  
**Kathleen Bergantzel**  
 115 Rosewood Lane  
 Arroyo Grande, CA 93420  
 (805) 491-4367

Project Title  
**EXTERIOR ELEVATIONS**

Project Name and Address  
**SCHMIDT/KY ADDITION/REMODEL**  
 300 SHASTA  
 MORRO BAY, CA

Sheet  
**A-3**  
 Of Sheets  
 Date: 04/10/15

# EXHIBIT C



BACK ELEVATION - EAST

SCALE: 1/4"=1'-0"



SIDE ELEVATION - NORTH

SCALE: 1/4"=1'-0"

No.	Revision	Date

Project Name and Address  
**Kathleen Bergantzel**  
115 Koenigwood Lane  
Arroyo Grande, CA 93420  
(805) 481-4967

Sheet Title  
**EXTERIOR  
ELEVATIONS**

Project Name and Address  
**SCHMIDT/KY ADDITION/REMODEL**  
300 SHASTA  
MORRO BAY, CA

Sheet  
**A-4**  
of  
Sheets  
Date  
04/10/15



AGENDA NO: B-5

MEETING DATE: October 6, 2015

## Staff Report

**TO:** Planning Commissioners

**DATE:** September 29, 2015

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

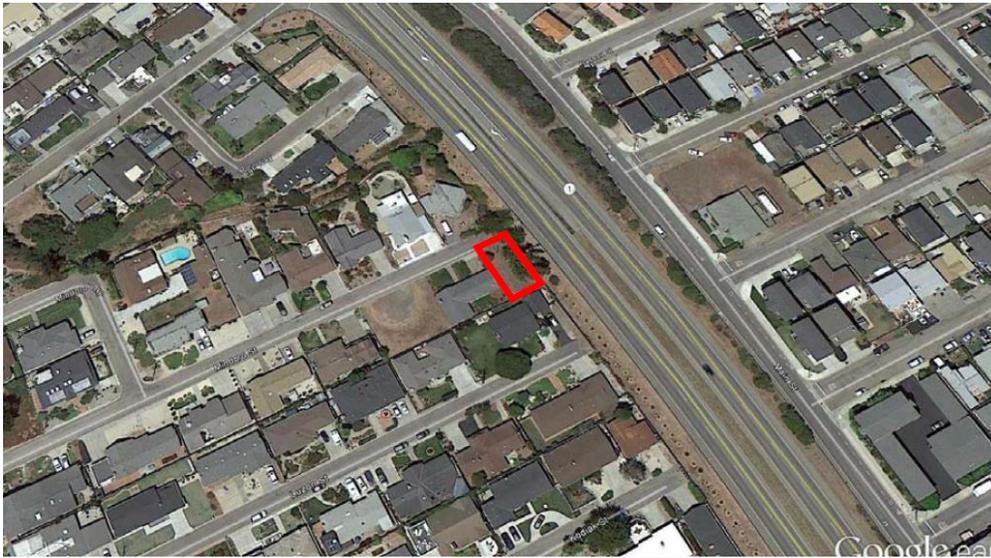
**SUBJECT:** Planning Commission review of General Plan conformity for disposition of vacant City owned property located on Mindoro Street, West of Highway 1, APN: 065-113-066.

**RECOMMENDATION:**

Continue item to a date uncertain, to allow staff time to prepare a site evaluation taking into consideration lot size and future need for water line easement.

**APPLICANT/AGENT:** City of Morro Bay

**LEGAL DESCRIPTION/APN:** Mindoro Street on the West side of HWY 1; APN No. 065-113-066



**PROJECT DESCRIPTION:**

Vacant Mindoro Street lot, on the west side of Highway 1; APN: 065-113-066. Planning

Prepared By: SG

Department Review: \_\_\_\_\_

Commission review of General Plan conformance in association with the City sale of City owned property on Mindoro Street. The City has listed the subject property for sale and prior to any sale of publically owned property, California Government Code Section 65402(a) requires the Planning Commission to review and report on the property disposition as to conformity with the City's General Plan.

**DISCUSSION:**

The Planning Commission reviewed the vacant Mindoro Street lot for General Plan conformance at the meeting of September 15, 2015. The item was continued with direction that staff return with an evaluation of the available developmental footprint, taking into consideration the accurate lot size and configuration and future need for a water line easement.

Staff discussed these issues with the Public Works Department and they are currently in the process of preparing a contract to have the lot surveyed. Once the survey is complete, staff will complete the requested evaluation and the item will be rescheduled for Planning Commission review. It is anticipated that the survey will be completed within the next four weeks.