

City of Morro Bay

City Council Agenda

Mission Statement

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

REGULAR MEETING – MARCH 8, 2010

**CLOSED SESSION – MARCH 8, 2010
CITY HALL CONFERENCE ROOM - 5:00 P.M.
595 HARBOR ST., MORRO BAY, CA**

CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS. Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to two (2) parcels.

- Property: Chorro Valley Property.
Negotiating Parties: Chorro Valley Property Owners and City of Morro Bay.
Negotiations: Water rights.
- Property: Vacant Lot/Corner of Coral/San Jacinto.
Negotiating Parties: Paul Saint Hilaire and City of Morro Bay.
Negotiations: Voluntary Purchase and Sale.

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

**PUBLIC SESSION – MARCH 8, 2010
VETERANS MEMORIAL HALL - 6:00 P.M.
209 SURF ST., MORRO BAY, CA**

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

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

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

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

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

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF FEBRUARY 22, 2010; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

- B-1 CONSIDERATION OF AN AMENDMENT TO MORRO BAY MUNICIPAL CODE TITLE 5 ADDING CHAPTER 5.50 ESTABLISHING REGULATIONS AND PROCEDURES ENTITLED “MEDICAL MARIJUANA COLLECTIVES AND COOPERATIVES; (CITY ATTORNEY)

RECOMMENDATION: Review report and draft Regulations and Procedures, and direct staff to return for Introduction and First Reading with any changes suggested by Council.

- B-2 CONTINUED DISCUSSION ON THE FISCAL YEAR 2010/2011 BUDGET AND PRIORITIES; (ADMINISTRATION)

RECOMMENDATION: Receive public comments in regard to the Fiscal Year 2010/11 Budget.

- B-3 APPEAL OF THE PLANNING COMMISSION’S CONDITIONAL APPROVAL FOR A TENTATIVE PARCEL MAP AND COASTAL DEVELOPMENT PERMIT FOR A PROPOSED SUBDIVISION OF 3 RESIDENTIAL PARCELS [S00-101/CP0-321]; (PUBLIC SERVICES)

RECOMMENDATION: Deny the appeal and uphold the Planning Commission’s conditional approval of the project with modification.

- B-4 APPEALS OF THE PLANNING COMMISSION’S CONDITIONAL APPROVAL OF A MINOR USE PERMIT (UP0-255) TO CONVERT A UNIT FROM COMMERCIAL USE TO RESIDENTIAL USE; (PUBLIC SERVICES)

RECOMMENDATION: Deny the appeal and uphold the Planning Commission’s approval with conditions.

- C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

- D-1 POTENTIAL TOPICS FOR THE JOINT CITY COUNCIL/PLANNING COMMISSION MEETING; (PUBLIC SERVICES)

RECOMMENDATION: Consider potential discussion topics for the March 15, 2010 joint City Council/Planning Commission meeting.

E. DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6200 FOR FURTHER INFORMATION.

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

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

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – FEBRUARY 22, 2010
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Peters called the meeting to order at 5:00 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember

STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

MOTION: Councilmember Grantham moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Borchard and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS. Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to 3 parcels.

- Property: 625 Harbor Street; Library.
Negotiating Parties: SLO County and City of Morro Bay.
Negotiations: Lease Terms and Conditions.
- Property: 781 Market Street and the Corner of Pacific Street and Market Street.
Negotiating Parties: George Salwasser and the City of Morro Bay.
Negotiations: Purchase and Sale Conditions.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 6:00 p.m.

MOTION: Councilmember Borchard moved the meeting be adjourned. The motion was seconded by Councilmember Smukler and unanimously carried. (5-0)

The meeting adjourned at 6:00 p.m.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 22, 2010
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Peters called the meeting to order at 6:15 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Bridgett Kessler	City Clerk
	Rick Algert	Harbor Director
	Janeen Burlingame	Management Analyst
	John DeRohan	Police Chief
	Cindy Jacinth	Housing Programs Coordinator
	Bruce Keogh	Wastewater Treatment Plant Manager
	Rob Livick	City Engineer
	Tim Olivas	Police Commander
	Mike Pond	Fire Chief
	Susan Slayton	Administrative Services Director
	Dylan Wade	Utilities/Capital Projects Manager
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS & PRESENTATIONS

CLOSED SESSION REPORT - City Attorney Robert Schultz reported the City Council met in Closed Session to discuss Real Property transactions relating to: 1) 625 Harbor Street, [the library]; and 2) 781 Market Street. No reportable action under the Brown Act was taken on the 781 Market Street property. Although no final action was taken relating to the 625 Harbor Street property [the library], Council did direct Staff to negotiate a transition plan for the use of the Program Room to library use.

PUBLIC COMMENT

David Weisman, Alliance for Nuclear Responsibility, addressed the letter to the Nuclear Regulatory Commission regarding the re-licensing of Diablo Nuclear Power Plant which the City Council considered at its meeting on February 8, 2010. He stated this is a matter of economics; all money spent on the Diablo Canyon Power Plant project will come out of consumers' electric bills. Mr. Weisman stated a letter from the entire City Council

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 22, 2010

regarding the re-licensing of Diablo Nuclear Power Plant project would be appreciated however he will be happy to deliver the letter from the two Council Members as well.

Janet Gould and students of Del Mar Elementary School thanked the Council for support with PEG funding for video equipment and shared a short video made by the students.

Bill Martony stated Council should consider using the surplus building as a meeting room when the fire department moves into their new fire house and allow the library to expand into the program room.

Jack McCurdy addressed the Morro Bay Library and said a survey was performed and found there are numerous alternatives around the City for meeting rooms that would allow the program room at the library to be used for library services. He said the City has no legal grounds to not allow the library to not use this for library services.

John Barta stated recovery.gov shows the City is doing well fiscally.

Alice Kolb thanked the Fire Department for saving her house from being flooded from an underground spring.

Zeke Turley, AGP Video, announced Morro Bay Aquarium's 50th Anniversary party will be airing on Channel 20.

Mayor Peters closed the hearing for public comment.

Mayor Peters called for a break at 7:10 p.m.; the meeting resumed at 7:15 p.m.

A. CONSENT CALENDAR

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

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL
MEETINGS OF JANUARY 25, 2010 AND FEBRUARY 8, 2010;
(ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – FEBRUARY 22, 2010

A-2 RESOLUTION APPROVING ASSIGNMENT OF LEASE SITE 86-86W, LOCATED AT 801 EMBARCADERO, FROM 801 EMBARCADERO LLC (CALDWELL AND REDICAN) TO 801 EMBARCADERO LLC (CALDWELL); (HARBOR)

RECOMMENDATION: Adopt Resolution No. 10-10.

A-3 REQUEST TO CHANGE RECREATION & PARKS COMMISSION MEETING DAY AND TIME; (RECREATION & PARKS)

RECOMMENDATION: Review and approve the Recreation & Parks Commission's request to change their regular monthly meeting day and time.

A-4 STATUS REPORT ON WATER USAGE FOR JANUARY 2010; (PUBLIC SERVICES)

RECOMMENDATION: Review and file report.

A-5 RESOLUTION NO. 08-10 AUTHORIZING SUBMISSION OF RURAL TRANSIT FUND GRANT APPLICATIONS; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 08-10.

A-6 RESOLUTION NO. 09-10 AWARDED CONTRACT TO PURCHASE ONE NEW REPLACEMENT TROLLEY; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 09-10.

A-7 RESOLUTION AUTHORIZING SACRAMENTO COUNTY TO RECEIVE THE SUPPLEMENTAL ENERGY PROGRAM GRANT ON BEHALF OF THE CITY OF MORRO BAY; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 12-10.

A-8 PROCLAMATION DESIGNATING FEBRUARY 20-27, 2010 AS "NATIONAL FFA WEEK"; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

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A-9 PROCLAMATION DESIGNATING TUESDAY, FEBRUARY 23, 2010 AS
“SPAY DAY USA”; (ADMINISTRATION)

RECOMMENDATION: Adopt Proclamation.

Councilmember Winholtz pulled Item A-4 of the Consent Calendar; Mayor Peters pulled Items A-8 and A-9 in order to make public presentations.

MOTION: Councilmember Grantham moved the City Council approve the Consent Calendar with the exception of Items A-4, A-8 and A-9. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

A-4 STATUS REPORT ON WATER USAGE FOR JANUARY 2010; (PUBLIC SERVICES)

Councilmember Winholtz requested staff clarification regarding information provided in the report. Utilities/Capital Projects Manager Dylan Wade responded to Councilmember Winholtz and Council questions regarding water usage/production in the City.

MOTION: Councilmember Winholtz moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

A-8 PROCLAMATION DESIGNATING FEBRUARY 20-27, 2010 AS
“NATIONAL FFA WEEK”; (ADMINISTRATION)

A-9 PROCLAMATION DESIGNATING TUESDAY, FEBRUARY 23, 2010 AS
“SPAY DAY USA”; (ADMINISTRATION)

MOTION: Councilmember Grantham moved the City Council approve Items A-8 and A-9 of the Consent Calendar. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

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B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 DISCUSSION ON THE FISCAL YEAR 2010/11 BUDGET AND PRIORITIES;
(ADMINISTRATION)

City Manager Andrea Lueker stated the City Council approved the budget calendar at their February 8, 2010 City Council meeting. As part of that discussion the City Council approved and encouraged additional opportunities to receive public comment in regard to the budget. In addition to general comments the Council is interested in members of the public answering two specific questions: 1) In these difficult budget times, what City services are most important to you; and 2) What do you value most about Morro Bay. Ms. Lueker recommended the City Council open the public hearing to receive comments in regard to the fiscal year 2010/2011 budget; no further action is recommended.

Mayor Peters opened the hearing for public comment.

Vicki Landis stated she loves the fresh air and that she can walk around town and feels safe. She said public safety, critical youth programs and transportation are important. Ms. Landis also requested the City retain the Police Commander position.

Virginia Hiramatsu stated public safety is important, and retaining the Police Commander position.

Stephanie Finley stated she likes the general lifestyle of Morro Bay. She said public safety is important to maintain, and retain the Police Commander position.

Pete Mascal of Shoreline Calvary Chapel, stated due to the vandalism and graffiti at their facility, funding of public safety is important.

Mayor Peters closed the public comment hearing.

The City Council received the public comments; no action was taken on this item.

C. UNFINISHED BUSINESS

C-1 AUTHORIZATION TO ADD AND HIRE A WASTEWATER COLLECTIONS
SYSTEMS OPERATOR II; (PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated the work tasks that will be assigned to this position, have already been committed to with the City Council's adoption of the State mandated Sanitary Sewer Management Plan (SSMP) on June 8, 2009. In the June 4th staff report for the adoption of the SSMP, staff underscored the importance of this position noting that, "Implementation of the plan will lead to larger operational

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expenditures, larger capital expenditures, and potentially larger staffing levels to meet the minimal standards of the General Waste Discharge Requirements.” Staff is now requesting that an additional person be added to help cover these added work tasks. Mr. Wade recommended the City Council authorize the addition and hiring of a new Maintenance Worker II for the Waste Water Collections Division.

MOTION: Councilmember Borchard moved the City Council authorize the addition and hiring of a new Maintenance Worker II for the Waste Water Collections Department. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

C-2 DISCUSSION ON WATER QUALITY TESTING IN MORRO BAY’S
DRINKING WATER; (PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated the City Council held a discussion on the water quality in the City at the January 11, 2010 meeting. During that discussion, the Council requested that staff investigate the availability and costs for testing for emerging contaminants. The City of Morro Bay conducts a routine monitoring program testing the quality of both the source waters and the treated waters that enter into the distribution system. The water is tested for the more than 100 contaminants for which both primary and secondary drinking water standards have been established. In addition to testing for the regulated contaminants for which primary or secondary standards apply, the City also performs testing to assist the EPA in determining to what extent unregulated contaminants occur as part of the 5 year repeating Unregulated Contaminate Monitoring Rule process. Other testing is performed by the City as needed to ensure the integrity of the treatment process being used, or in the case of the recent nitrate studies, as an indicator of source water characteristics. Since the City receives water from multiple sources, some of which are subject to the influence of wastewater, there is the potential to find trace levels of these contaminants in the drinking water in Morro Bay. Depending on a number of factors such as the time of year, or blend of waters being used, the probability of finding trace contaminants will vary. While there are no known health risks from exposure to emerging contaminants occurring in trace amounts, and the methodologies for testing or treating water containing these emerging contaminants are not well established, testing can be pursued at the will of the Council. Mr. Wade recommended the City Council review this staff report and provide direction to Staff as it deems necessary to test for emerging contaminants.

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MOTION: Councilmember Grantham moved the City Council direct staff to perform a water quality test on the five chemicals including acetaminophen, with the final product tested after treatment with the intent of testing the City's current supply now and to test state water when it begins to supply the City with water again. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

C-3 DISCUSSION REGARDING ALTERNATIVE BIOSOLIDS MANAGEMENT
OPTIONS; (CITY COUNCIL)

Councilmember Smukler stated the Morro Bay/Cayucos Water Treatment Plant construction project, as currently proposed, eliminates the existing onsite composting program and sludge drying beds. The new Biosolids Management Plan is to pay to haul the Sub Class B biosolids via truck to a Kern County based composting facility. Addition of tertiary treatment will increase the volume of biosolids to be disposed. Hauling expenses will be susceptible to fuel cost increases and tightened regulations. The benefits of a locally based Biosolids Management or Minimization Plan are: 1) More control and predictability in long term operational costs; 2) Continue leadership by example and retained knowledge of program; 3) Improved Carbon Footprint of WWTP operations and maintenance; 4) Energy generation potential; 5) Improved ability to identify and address pollution sources in the system; and 6) Ability to regulate and protect local area from out of area biosolids. The Morro Bay/Cayucos water treatment plant composting operation is the only such program in the County. All other SLO County water treatment plants are dependent on trucking of treated biosolids to either an out-of-county composting operation or to a local landfill. Both of these choices are best described as "temporary avoidance behavior". Councilmember Smukler also reviewed additional "out-of-County" options and summarized possible actions. He recommended the City Council consider this information and direct staff accordingly.

MOTION: Councilmember Smukler moved the City Council direct staff to develop the opportunity to evaluate biosolids hauling contracts based on lowest bid and other factors important to the community such as climate impacts and local management of the material. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

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C-4 RESOLUTION NO. 11-10 ADDING TO AND AMENDING THE COUNCIL POLICIES AND PROCEDURES MANUAL REGARDING THE EXPENSE REIMBURSEMENT POLICY FOR ELECTED AND APPOINTED OFFICIALS, CITY LETTERHEAD AND THE COUNCIL COMPENSATION COMMITTEE; (ADMINISTRATION)

City Manager Andrea Lueker stated at the October 8, 2007 City Council meeting, the City Council adopted Resolution No. 52-07 which outlined an expense reimbursement policy for elected officials. However, that policy was not incorporated into the Council Policies and Procedures Manual. Staff has incorporated that information in Chapter 2 of the Manual with the added information red/blue-lined. At the January 14, 2008 City Council meeting, the City Council motioned for an amendment to Section 2.6 of the Council Policies and Procedures Manual which would change the word “shall” to “may”. Staff has incorporated that amendment in Chapter 2 of the Manual with the amendment red/blue-lined. At the January 11, 2010 City Council meeting, the City Council motioned for an amendment to Section 5.4 of the Council Policies and Procedures Manual in regard to the use of City letterhead. Staff has amended that language with the amendment red/blue-lined. Ms. Lueker recommended the City Council approve Resolution No 11-10 amending the Council Policies and Procedures Manual in regard to expense reimbursement, City letterhead and the Council Compensation Committee.

Council reviewed the amendments made by staff, and requested further amendments be made.

MOTION: Councilmember Winholtz moved the City Council adopt Resolution 11-10 Adding to and Amending the Council Policies and Procedures Manual Regarding the Expense Reimbursement Policy for Elected and Appointed Officials, City Letterhead and the Council Compensation Committee as amended by Council. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D. NEW BUSINESS

D-1 RESOLUTION NO. 13.10 ESTABLISHING THE PURPOSE OF THE RISK MANAGEMENT FUND; (ADMINISTRATIVE SERVICES)

Administrative Services Director Susan Slayton stated the Risk Management Fund was established to manage the insurance needs of the City; this fund is not required by the California Joint Powers Insurance Authority (CJPIA). The cash balance in this fund has grown well beyond those needs, and staff is recommending that the City Council establish parameters for the Risk Management Fund cash balance, and move the excess funds to the General Fund Accumulation Fund. In 2003, the City of Morro Bay, along

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with most of the other cities in the County, joined the California Joint Powers Authority (CJPIA) liability insurance program for self-insuring and pooling losses with other member agencies. In the 2006/07 fiscal year, staff combined all of the insurance funds into one Risk Management Fund to simplify the presentation. Once combined, it became apparent that the cash balances in all of the separate insurance funds (\$1.17 million) were excessive for our insurance premium and claims needs that, on average over the last 7 years, have cost between \$700,000 and \$900,000, the majority of which was reimbursed by monthly departmental charges. Above and beyond the cost of the premiums, the City has an additional “reserve” of approximately \$2.73 million in that fund. Because of how the CJPIA is designed, the City does not need to retain a reserve to pay for any claims related to the CJPIA covered programs, as those are handled by CJPIA as part of their agreement with the City. In fact, most cities that are members of the CJPIA, or a similar insurance organization, do not have a Risk Management reserve, as it serves no purpose; the funds will never be used. However, there are two specific areas that are not covered by the CJPIA: Land Use lawsuits and some personnel issues. For these purposes, the fund should not retain monies in excess of \$500,000, which is the estimate arrived by staff for the target cash balance. Staff further recommends that the remaining cash in the Risk Management Fund (\$2.4 million) be transferred to the General Fund Accumulation Fund. This would raise that fund’s cash balance from \$477,042 to \$2.88 million. The General Fund reserve target is 27.5% of General Fund expenditures, or \$2.875 million. By passing this Resolution, Council will have achieved that goal. Ms. Slayton recommended the City Council adopt Resolution 13-10, which sets the parameters of the Risk Management Fund, as revised.

MOTION: Mayor Peters moved the City Council adopt Resolution 13-10, which sets the parameters of the Risk Management Fund, as revised. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

D-2 CONSIDERATION OF AN AMENDMENT TO MORRO BAY MUNICIPAL CODE CHAPTER 2.16.080 REGARDING THE DUTIES OF THE CITY ATTORNEY; (CITY ATTORNEY)

City Attorney Robert Schultz stated Councilmember Winholtz expressed interest in amending the City Attorney’s duties to include a requirement that he/she attend all appeals before the Planning Commission. Morro Bay Municipal Code Section 2.16.080 currently provides the following:

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2.16.080 City attorney—Duties.

A. The city attorney shall advise the city officials in all legal matters pertaining to city business. The city attorney shall prepare such ordinances, formal resolutions, contracts or other legal instruments as may be required by the city council. The city attorney shall attend all regular meetings of the city council, and other meetings as requested by the city council, and give advice or opinions in writing whenever requested to do so by the city council, or with the approval of the city manager, by any of the boards or officers of the city. The city attorney shall approve the form of all bonds given to and all contracts made by the city, endorsing approval thereon in writing. The city attorney shall monitor existing and pending legislation which may affect the city. The city attorney shall periodically report to the city council on pending and threatened litigation in which city is a party or otherwise interested. The city attorney shall perform other legal services required from time to time by the city council.

Mr. Schultz recommended the City Council review the report and draft amendment to Morro Bay Municipal Code Section 2.16.080 regarding the duties of the City Attorney and direct staff to return with this item for Introduction and First Reading with any changes suggested by Council.

Councilmember Borchard stated she will be voting in opposition to amending this section of the Municipal Code, because she is not interested in regulating what the Planning Commission or any advisory board duties are in the process.

MOTION: Mayor Peters moved the City Council direct staff to amend Section 2.16.080 of the Morro Bay Municipal Code to include in the City Attorney's duties that he/she will attend all appeals before the Planning Commission, and return to Council for Introduction and First Reading. The motion was seconded by Councilmember Winholtz and carried with Councilmember Borchard voting no. (4-1)

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Winholtz requested to agendize a discussion on action taken on the Amador Ad-Hoc Committee and Business Ad-Hoc Committee; Council concurred.

ADJOURNMENT - The meeting adjourned at 9:00 p.m.

Recorded by:

Bridgett Kessling
City Clerk



AGENDA NO: **B-1**

MEETING DATE: March 8, 2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 3, 2010
FROM: Rob Schultz, City Attorney
SUBJECT: Consideration of an Amendment to Morro Bay Municipal Code Title 5
Adding Chapter 5.50 Establishing Regulations and Procedures Entitled
“Medical Marijuana Collectives and Cooperatives”

RECOMMENDATION:

Review the Staff Report and attached draft Regulations and Procedures entitled “Medical Marijuana Collectives and Cooperatives”, and direct staff to return with this item for Introduction and First Reading with any changes suggested by Council.

FISCAL IMPACT:

None at this time.

SUMMARY:

In 1996 California voters enacted Proposition 215, the Compassionate Use Act, which protects qualified patients and their primary caregivers from prosecution under California laws for possession or cultivation of marijuana to treat serious illness pursuant to a doctor’s recommendation. Several years later, in 2003, the state legislature enacted implementing legislation to allow qualified patients and caregivers to obtain identification cards that insulate them from arrest for cultivation and/or use of marijuana for authorized medical purposes. Although dispensaries are not expressly authorized under these laws, many individuals have used these laws as the legal backdrop to set up medical marijuana dispensaries where qualified patients and caregivers could purchase marijuana for medical use.

BACKGROUND:

In June 2005, Staff recommended to the City Council that they enact an interim urgency ordinance imposing a moratorium on medical marijuana dispensaries until Staff had an opportunity to propose regulations. The interim urgency ordinance was not adopted by City Council and Staff was directed to allow medical marijuana dispensaries pursuant to our current municipal code. Pursuant to Council direction, medical marijuana dispensaries were allowed in the City of Morro

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

Bay in the C-1 District by obtaining a business license and with a minor use permit in the MCR District under the category of “drugs”.

Based upon Council’s action, in 2006, the City approved a Medical Marijuana Dispensary at 780 Monterey Street. This location was in the General Commercial zoning district. Staff issued a business license since the sale of drugs (in this case medical marijuana) was an allowable use in the General Commercial zoning district.

In 2007, an application was received for the establishment of a Medical Marijuana Dispensary at 2840 Main Street. This location is in the Mixed Commercial/Residential zoning district, so a minor use permit was required. Staff issued a minor use permit since the sale of drugs (in this case medical marijuana) was an allowable use in the Mixed Commercial/Residential zoning district. The minor use permit was appealed to the Planning Commission. While the appeal was pending, the City Council declared a moratorium on medical marijuana dispensaries.

In 2008, after reviewing the current status of federal and state law and the associated risks and possible consequences of establishing an ordinance allowing medical marijuana dispensaries, the City Council instructed the City Attorney to prepare an ordinance that would eliminate the possibility of storefront medical marijuana sales in the City. Pursuant to Council’s direction, Ordinance No 547 was enacted in 2009. However, Ordinance 547 had a sunset provision and expired in October 2009.

During discussions on Ordinance 547, the City Council expressed interest in considering an ordinance that would establish provisions for locating and regulating medical marijuana dispensaries (MMDs) within the City of Morro Bay. The City’s Attorney’s Office has developed a possible approach to locating and regulating MMDs which entails specifying the zoning districts in which MMDs may be established and developing regulations governing the procedures to be followed in applying for, permitting, revoking and renewing a license required to operate an MMD. Attached please find a draft ordinance that would implement this approach.

The draft ordinance is based upon the City Attorney Office’s review of both adopted and draft ordinances of several jurisdictions that allow MMDs or are considering allowing MMDs. It represents a comprehensive examination of potential impacts and sets forth detailed requirements for the operators of an MMD.

LEGAL ANALYSIS:

State Law

In November 1996, California voters passed the Compassionate Use Act of 1996 (CUA), which protects patients, their primary caregivers (defined as an individual designated by the patient who has consistently assumed responsibility for the housing, health, or safety of the patient), and physicians who prescribe marijuana for medical treatment, from criminal prosecution or sanction. While Proposition 215 exempts qualified individuals from certain State marijuana laws, it does not grant an absolute immunity from arrest. Instead, it provides a limited immunity from prosecution and may provide a basis for a pretrial motion to set aside an indictment or a defense at trial.

In 2004, the CUA was supplemented by Senate Bill 420 (hereinafter “S.B. 420”). S.B. 420 mandates the State of California via the Department of Health Services to create and maintain a voluntary program for the issuance of identification cards for qualified patients. Although mandated to establish the identification program, the Department has not done so. S.B. 420 also requires that “every county health department, or the county’s designee” provide applications for identification cards, process completed applications, maintain records and utilize protocols adopted by the Department of Health Services. As of this date, San Luis Obispo County has not issued identification cards in compliance with S.B. 420. Neither the original 1996 CUA nor the additions contained in S.B. 420 speak to the regulation of medical marijuana dispensaries.

Neither the CUA nor S.B. 420 specifically addresses medical marijuana dispensaries; however, the findings made by the legislature when approving S.B. 420 include a statement that the legislation is intended to “enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects.” It is asserted by those seeking to operate medical marijuana dispensaries that this language authorizes such facilities.

Federal Law

The Federal Controlled Substances Act (21 USC 801 et seq.) prohibits the possession, cultivation, and dispensing of marijuana, regardless of its purpose. Therefore, there exists a conflict between California and Federal law regarding medical marijuana, and for this reason some cities in California have banned medical marijuana dispensaries, or have adopted moratoria prohibiting medical marijuana dispensaries until the law is settled.

On June 6, 2005, the U.S. Supreme Court addressed the California voter-enacted Compassionate Use Act, holding that Congress (i.e., the federal government) has the power to prohibit the local possession, cultivation and use of marijuana. Thus, notwithstanding the Compassionate Use Act, those using or distributing marijuana for medical reasons could still be prosecuted under federal law. In *Gonzales v. Raich* (2005) 125 S.Ct. 2195, the Federal Court found that the federal prohibition on use of marijuana for medicinal purposes could be enforced even though it was in conflict with the law of the State of California. As such, the Court ruled that the federal prohibition could be applied to prosecute persons growing, dispensing, possessing, and using marijuana wholly within the borders of the State of California and without having carried on a commercial transaction.

The Supreme Court did not go so far, however, as to invalidate California law permitting the medicinal use of marijuana. No appellate court has as yet invalidated the California law. What has resulted is a substantial controversy over the validity of state law permitting medicinal use of marijuana when federal authorities may legally raid medical marijuana dispensaries, shut them down, and prosecute those persons dispensing or using marijuana inside them.

In response to the Supreme Court decision, California Attorney General Bill Lockyer issued a statement that the “ruling does not overturn California law permitting the use of medical marijuana.” The California Department of Justice issued a bulletin to law enforcement agencies stating that the decision does not pre-empt the Compassionate Use Act and that law enforcement should not change

current practices for non-arrest and non-prosecution of individuals who are within the legal scope of the Act.

In August 2008, California Attorney General (AG) Jerry Brown issued guidelines for the operation of California's medical marijuana laws (as he is required to do under those laws). The AG guidelines were an important step towards fully clarifying the legal landscape and towards implementing medical marijuana law in California. They advise patients on how to stay within the confines of state law. They advise law enforcement on how to approach encounters with medical marijuana patients. They advise patients, law enforcement, and local communities on what is allowed and what is not allowed with regards to medical marijuana under California law. Although the AG guidelines are recommendations and are not binding on any court, they do provide powerful direction to state and local law enforcement, judges, and other public officials.

Perhaps most importantly, the AG guidelines provide recommendations for operating medical marijuana dispensaries in accordance with state law. Specifically, the Attorney General states:

...a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law, but that dispensaries that do not substantially comply with the guidelines...are likely operating outside the protections of Proposition 215 and the MMP, and that the individuals operating such entities may be subject to arrest and criminal prosecution under California law. For example, dispensaries that merely require patients to complete a form summarily designating the business owner as their primary caregiver—and then offering marijuana in exchange for cash “donations”—are likely unlawful.

The AG guidelines also contain a provision requiring medical marijuana dispensaries to operate on a not-for-profit basis.

On November 24, 2008, the California Supreme Court, in a unanimous decision, defined the term “primary caregiver” as used in the CUA. In the case of *People v. Mentch*, S148204, the Court held that the CUA “provides partial immunity for the possession and cultivation of marijuana to two groups of people: qualified medical marijuana patients and their primary caregivers.” The Supreme Court in *Mentch* held that “the statutory definition has two parts: (1) a primary caregiver must have been designated as such by the medical marijuana patient; and (2) he or she must be a person ‘who has consistently assumed responsibility for the housing, health, or safety’ of the patient.” The Court concluded “a defendant asserting primary caregiver status must prove at a minimum that he or she (1) consistently provided care giving, (2) independent of any assistance in taking medical marijuana, (3) at or before the time he or she assumed responsibility for assisting with medical marijuana.”

The Supreme Court in *Mentch* discussed the purpose of the CUA as one to help those who were seriously ill and who could benefit from the use of marijuana for medical purposes. It pointed out that the CUA's “focus is on the seriously and terminally ill, [and] logically the Act must offer some alternative for those unable to act in their own behalf; accordingly, the Act allows ‘primary

caregivers’ the same authority to act on behalf of those too ill or bedridden to do so. To exercise that authority, however, one must be a ‘primary’—principal, lead, central—‘caregiver’—one responsible for rendering assistance in the provision of daily life necessities—for a qualifying seriously or terminally ill patient.”

After eight years of police raids on marijuana dispensaries under the preceding administration, federal law enforcement, through Attorney General Eric Holder, has changed the course of federal marijuana enforcement policy by declaring federal authorities will no longer be raiding state licensed medical marijuana dispensaries and clinics that are in compliance with their own state laws and regulations concerning the medical use and safe access to marijuana. Under current federal law however, the use, sale or possession of marijuana, whether medically prescribed or not, is still unlawful and carries significant criminal penalties.

SUMMARY OF DRAFT REGULATIONS:

The draft Medical Marijuana Collectives and Cooperatives ordinance proposes to add Chapter 5.50 to Title 5 (Business Licenses and Regulations) establishing licensing provisions for facilities to dispense medical cannabis, consistent with the intent of Health and Safety Code Section 11362, et. seq. The draft ordinance establishes the following main provisions:

1. Dispensary Permit Required.
 - Requires a permit to operate a facility.
 - Establishes an annual permit renewal and fee.
2. Limitations on Dispensaries. Limits the number, size, and location of dispensaries.
3. Operating requirements. Establishes the following operating requirements:
 - Prohibits operators with a criminal history.
 - Prohibits/controls access by non-patients and minors.
 - Limits days and hours of operation.
 - Controls size, supply, storage and general operations.
 - Establishes floor plan, security, and storage requirements.
 - Requires patients to have physician’s recommendation before visiting site.
 - Prohibits on-site prescribing of medical cannabis.
 - Prohibits on-site and open public consumption.
 - Requires operators to advise patients of rules and etiquette.
 - Prohibits all retail sales.
 - Requires active management of site activities, litter and graffiti control.
 - Requires staff training.
 - Establishes signage and noticing requirements.
 - Requires emergency contact information, record keeping.
4. Application Requirements. Establishes application eligibility and submittal requirements, including:
 - Background information on applicant and employees.

- Preparation of a security plan.
 - Preparation of a dispensary plan of operations, identifying how the use would comply with codes.
 - Submittal of site, floor and lighting plans that demonstrate adequate site visibility, ability to provide site security and compliance with standards for entry, storage and dispensing.
5. Criteria for Review. Establishes criteria for approval or denial of permits, including consideration of:
- Crime statistics in area.
 - The location and design of the facility.
 - The dispensary's plan of operations.
 - Any nuisance issues.
 - Any felony conviction of applicants.
 - Age limit—minors are not allowed to operate or work at site.

Additionally, the draft ordinance establishes the authority to revoke the permit or not renew the permit if issues result. Fees are also required to cover costs of administration and enforcement.

CONCLUSION:

Cities in California definitely find themselves at the center of the discussion regarding the compassionate use of marijuana. Staff has reviewed and analyzed several ordinances and reports and can attest to a strong public interest in its use to combat the symptoms of various debilitating illnesses. However, allowing a medical marijuana dispensary is not without concerns, as described in this report.

The City Attorney's office has attempted to draft an ordinance that suits the scale of Morro Bay by providing the possibility of a single medical marijuana dispensary under specific circumstances. The use of the license process will allow greater control by the City should the dispensary be found to be a nuisance.

In addition, the City Attorney's office has attempted to prepare a draft ordinance that blends many of the interests and options gleaned from the broad information gathered. The draft ordinance contains many policy decisions that the City Council will want to consider.

ORDINANCE NO. 554

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MORRO BAY
AMENDING THE MUNICIPAL CODE BY ADDING CHAPTER 5.50
ESTABLISHING REGULATIONS AND PROCEDURES ENTITLED
“MEDICAL MARIJUANA COLLECTIVES AND COOPERATIVES”

The Council of the City of Morro Bay does ordain as follows:

SECTION ONE. Chapter 5.50 of Title 5 of the Morro Bay Municipal Code, entitled “Medical Marijuana Collectives and Cooperatives,” is added to read as follows:

Chapter 5.50

MEDICAL MARIJUANA COLLECTIVES & COOPERATIVES

Sections:

- 5.50.010 Purpose and intent.
- 5.50.020 Definitions.
- 5.50.030 Collective or Cooperative permit required to operate.
- 5.50.040 Business license tax liability.
- 5.50.050 Imposition of Collective or Cooperative use permit fees.
- 5.50.060 Limitations on the permitted location of a Collective or Cooperative.
- 5.50.070 Operating requirements for Collectives or Cooperatives.
- 5.50.080 Collective or Cooperative permit application—Preparation and filing.
- 5.50.090 Criteria for review of Collective or Cooperative applications
- 5.50.100 Appeal.
- 5.50.110 Suspension and revocation by ~~Planning Commission~~ City Council.
- 5.50.120 Transfer of Collective or Cooperative permits.

5.50.010 Purpose and intent.

It is the purpose and intent of this Chapter to regulate medical marijuana Collectives and Cooperatives in order to ensure the health, safety and welfare of the residents of the City of Morro Bay. The regulations in this Chapter, in compliance with the Compassionate Use Act, the Medical Marijuana Program Act, and the California Health and Safety Code (collectively referred to as “State Law”) do not interfere with a patient’s right to use medical marijuana as authorized under State Law, nor do they criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, as authorized under State Law. Under State Law, only qualified patients, persons with identification cards, and primary caregivers may cultivate medical marijuana collectively. Medical marijuana Collectives and Cooperatives shall comply with all provisions of the Morro Bay Municipal Code (“Code”), State Law, and all other applicable local and state laws. Nothing in this article purports to permit activities that are otherwise illegal under state or local law.

5.50.020 Definitions.

For the purpose of this chapter, the following words and phrases shall have the following meanings:

A. "Applicant". A person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a Collective or Cooperative.

B. "Drug Paraphernalia". As defined in California Health and Safety Code Section 11014.5, and as may be amended from time to time.

C. "Identification Card". As defined in California Health and Safety Code Section 11362.71, and as may be amended from time to time.

D. "Medical Marijuana Collective or Cooperative". Any association, cooperative, affiliation, or collective of persons where multiple qualified patients or primary caregivers are organized to provide education, referral, or network services, and facilitation or assistance in the lawful distribution of medical ~~eannabismarijuana~~. "Collective" or "Cooperative" shall include any facility or location where the primary purpose is to dispense medical ~~eannabismarijuana (i.e., marijuana)~~ as a medication that has been recommended by an "attending physician" [as that term is defined in Health & Safety Code Section 11362.7(a)] and where medical ~~eannabismarijuana~~ is made available to or distributed by or to a primary caregiver or a qualified patient, in strict accordance with California Health and Safety Code Section 11362.5 et seq.

E. "Permittee". The person to whom either a Collective or Cooperative permit is issued by the City and who is identified as a primary caregiver in California Health and Safety Code Section 11362.7, subdivision (d) or (e).

F. "Person". An individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company, non profit mutual benefit association, or combination of the above in whatever form or character.

G. "Person with an Identification Card". As set forth in California Health and Safety Code Section 11362.5 et seq., and as amended from time to time.

H. "Physician". A licensed medical doctor including a doctor of osteopathic medicine as defined in the California Business and Professions Code.

I. "Primary Caregiver". As defined in subdivision (d) of California Health and Safety Code Section 11362.7, and as it may be amended from time to time.

J. "Qualified Patient". As defined in California Health and Safety Code Section 11362.5 et seq., and as it may be amended from time to time.

K. "School". An institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes an elementary school, middle, or junior high school, senior high school, or any special institution of education for persons under the age of eighteen years, whether public or private.

5.50.030 Collective or Cooperative permit required to operate.

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City, the operation of a Collective or Cooperative unless the person first obtains and continues to maintain in full force and effect a Collective or Cooperative Use Permit issued by the City.

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5.50.040 Business license tax liability.

An operator of a Collective or Cooperative shall be required to apply for and obtain a Business Tax Certificate pursuant to Chapter 5.04 as a prerequisite to obtaining a permit pursuant to the terms of this Chapter, as required by the State Board of Equalization. Collective and Cooperative sales shall be subject to sales tax, which applies to all retail sales of goods and merchandise.

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5.50.050 Imposition of Collective or Cooperative use permit fees.

Every application for a Collective or Cooperative use permit or renewal shall be accompanied by an application fee, in an amount established by resolution of the City Council from time to time at an amount calculated to recover the City’s full cost of reviewing and issuing the Collective Use Permit pursuant to this Chapter.

5.50.060 Limitations on the permitted location of a Collective or Cooperative.

A. Permissible zoning for Collectives or Cooperatives. A Collective or Cooperative is designated as a retail sales “drugs” business establishment pursuant to Title 17 of the Municipal Code, and may be located only within the C-1 or MCR C-2 zoned areas of the City.

B. Storefront locations. A Collective or Cooperative shall be located only in a visible store-front type location which provides good public views of the Collective or Cooperative entrance, its windows, and the entrance to the Collective or Cooperative premises from a public street.

C. Areas and zones where Collectives and Cooperatives not permitted. Notwithstanding subparagraph (A) above or any other section of the Municipal Code, a Collective or Cooperative shall not be allowed or permitted in the following locations or zones:

- 1. On a parcel located within 500 feet of an existing school, public park, religious institution, licensed child care facility, youth center, or substance abuse rehabilitation center;
- 2. ~~On a parcel located within 500 feet of any existing residential zoning district;~~
- 3. ~~On a parcel located within 500 feet of any other medical marijuana Collective.~~

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D. Maximum number of Collective/Cooperative permits. Notwithstanding the above, the City may not issue a total of more than three (3) Collective or Cooperative permits at any one time and no more than three (3) permitted Collectives or Cooperatives may legally operate within the City at any one time. No Permittee shall operate more than one Collective or Cooperative.

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5.50.070 Operating requirements for Collectives or Cooperatives.

Collective or Cooperative operations shall be permitted and maintained only in compliance with the following day-to-day operational standards:

A. Criminal history. A Collective or Cooperative permit applicant, his or her agents or employees, volunteer workers, or any person exercising managerial authority over a Collective or Cooperative, on behalf of the Collective or Cooperative applicant shall not have been convicted of a felony or be on probation or parole for the sale or distribution of a controlled substance. “Felony or be on probation or parole for the sale or distribution of a controlled substance” means a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted. “Felony drug offense” does not include any of the following:

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1. An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten or more years earlier.

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2. An offense that involved conduct that would have been permitted under this chapter.

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B. Minors. It is unlawful for any Collective or Cooperative Permittee, operator, or other person in charge of any Collective to employ any person who is not at least ~~18~~ 21 years of age. Persons under the age of 18 shall not be allowed on the premises of a Collective unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian. The entrance to a Collective shall be clearly and legibly posted with a notice indicating that persons under the age of 18 are precluded from entering the premises unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian.

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C. Collective or Cooperative size and access. The following ~~Collective and~~ access restrictions shall apply to all Collectives and Cooperatives permitted by this Chapter:

1. A Collective or Cooperative shall not be enlarged in size (i.e. increased floor area) without a prior approval from the City amending the existing Collective or Cooperative permit pursuant to the requirements of this Chapter.

2. The entrance area of the Collective or Cooperative building shall be strictly controlled; a viewer or video camera shall be installed in the door that allows maximum angle of view of the exterior entrance.

3. Collective or Cooperative personnel shall be responsible for monitoring the real property of the Collective or Cooperative site (including the adjacent public sidewalk and rights-of-way) of the block within which the Collective or Cooperative is operating for the purposes of controlling loitering.

4. Only Collective or Cooperative staff, primary caregivers, qualified patients and persons with bona fide purposes for visiting the site shall be permitted within a Collective or Cooperative.

5. Qualified patients or primary caregivers shall not visit a Collective or Cooperative without first having obtained a valid written recommendation from their physician recommending use of medical ~~cannabis~~ marijuana.

6. Only a primary caregiver and qualified patient shall be permitted in the designated dispensing area along with Collective or Cooperative personnel.

7. Restrooms shall remain locked and under the control of Collective or Cooperative management at all times.

D. Dispensing operations. The following restrictions shall apply to all dispensing operations by a Collective or Cooperative:

1. A Collective or Cooperative shall dispense only to qualified patients or a primary caregiver with a currently valid physician's approval or recommendation in compliance with the criteria in California Health and Safety Code Section 11362.5 et.seq. Collectives or Cooperatives shall require such persons to provide valid official government-issued identification, such as a Department of Motor Vehicles driver's license or State Identification Card.

2. Prior to dispensing medical ~~cannabis~~ marijuana, the Collective or Cooperative shall obtain verification from the recommending physician's office personnel that the individual requesting medical ~~cannabis~~ marijuana is or remains a qualified patient pursuant to state Health & Safety Code Section 11362.5.

3. A Collective or Cooperative shall not have a physician on-site to evaluate patients and provide a recommendation ~~or prescription~~ for the use of medical ~~cannabis~~ marijuana.

4. A Collective or Cooperative shall not dispense more than one ounce of medical marijuana per day to an individual qualified patient or primary caregiver, ~~more than twice a day.~~

E. Consumption restrictions. The following medical marijuana consumption restrictions shall apply to all permitted Collectives or Cooperatives:

1. ~~Cannabis~~Marijuana shall not be consumed by patients on the premises of the Collective or Cooperative. The term “premises” includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the Collective’s or Cooperative’s entrance. Collective or Cooperative employees who are qualified patients may consume ~~eannabis~~marijuana within the enclosed building area of the premises, provided such consumption occurs only via oral consumption (i.e., eating only) but not by means of smoking or vaporization.

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2. Collective or Cooperative operations shall not result in illegal redistribution or sale of medical ~~eannabis~~marijuana obtained from the Collective or Cooperative, or use or distribution in any manner which violates state law.

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F. Retail sales of other items by a Collective or Cooperative. The retail sales of Collective/Cooperative-related or marijuana use items may be allowed under the following circumstances:

1. With the approval of the City, a Collective or Cooperative may conduct or engage in the commercial sale of specific products, goods, or services in addition to the provision of medical ~~eannabis~~marijuana on terms and conditions consistent with this chapter and applicable law.

2. No Collective or Cooperative shall sell or display any drug paraphernalia or any implement that may be used to administer medical ~~eannabis~~marijuana.

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3. A Collective or Cooperative shall meet all the operating criteria for the dispensing of medical ~~eannabis~~marijuana as is required pursuant to California Health and Safety Code Section 11362.5 et seq.

G. Operations Plan. In connection with a permit application under this Chapter, the applicant shall provide, as part of the permit application, a detailed Operations Plan and, upon issuance of the Collective or Cooperative permit, shall operate the Collective or Cooperative in accordance with the Operations Plan as such plan is approved by the City. The Operations Plan shall include:

1. Floor plan. A Collective or Cooperative shall have a lobby waiting area at the entrance to the Collective or Cooperative to receive clients, and a separate and secure designated area for dispensing medical ~~eannabis~~marijuana to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

2. Storage. A Collective or Cooperative shall have suitable locked storage on premises, identified and approved as a part of the security plan, for after-hours storage of medical ~~eannabis~~marijuana.

3. Security plans. A Collective or Cooperative shall provide adequate security on the premises, in accordance with a security plan, including provisions for adequate lighting and alarms, in order to insure the safety of persons and to protect the premises from theft.

4. Security cameras. Security surveillance cameras shall be installed to monitor the main entrance and exterior of the premises to discourage and to report loitering, crime, illegal or nuisance activities. Security video shall be maintained for a period of not less than 72 hours.

5. Alarm system. Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition within the Collective or Cooperative at all times.

6. Emergency contact. A Collective or Cooperative shall provide the Chief of Police with the name, cell phone number, and facsimile number of an on-site community relations staff person to whom the City may provide notice of any operating problems associated with the Collective or Cooperative.

7. Operating hours. The hours of operation for an approved ~~medical marijuana~~ Collective or eCooperative or Collective shall be limited to between 8:00 a.m. to 8:00 p.m. or as specified within the Use Permit.

H. Collective or Cooperative signage and notices. A notice shall be clearly and legibly posted in the Collective or Cooperative indicating that smoking, ingesting or consuming ~~eannabismarijuana~~ on the premises or in the vicinity of the Collective or Cooperative is prohibited. Signs on the premises shall not obstruct the entrance or windows. No interior illumination of any exterior signs or any interior signs shall be visible from the exterior.

I. Employee records. Each owner or operator of a Collective or Cooperative shall maintain a current register of the names of all volunteers and employees currently working at or employed by the Collective or Cooperative on-site ~~at the Collective~~ at all times, and shall disclose such registration for inspection by ~~any the City Manager or Police Chief, officer or official~~ but only for the purposes of determining compliance with the requirements of this Chapter.

J. Patient records. A Collective or Cooperative shall maintain confidential health care records of all patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.71 et seq., (as a protection of the confidentiality of the cardholders) or a copy of the written recommendation from a physician or doctor of osteopathy stating the need for medical ~~eannabismarijuana~~ under state Health & Safety Code Section 11362.5. Such records shall be maintained on-site at the Collective or Cooperative at all times.

K. Staff training. Collective or Cooperative staff shall receive appropriate training for their intended duties to ensure understanding of rules and procedures regarding dispensing in compliance with state and local law and this Chapter.

L. Site management. The operator of the establishment shall take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject Collective or Cooperative. The operator shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours. The operator shall provide patients with a list of the rules and regulations governing medical ~~eannabismarijuana~~ use and consumption within the City and recommendations on sensible ~~eannabismarijuana~~ etiquette.

M. Compliance with other requirements. The Collective or Cooperative operator shall comply with all provisions of all local, state or federal laws, regulations, orders, and executive branch and/or agency policy directives ~~or orders~~, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.

N. Display of permit. Every Collective or Cooperative shall display at all times during business hours the permit issued pursuant to the provisions of this Chapter for such Collective or

Cooperative in a conspicuous place so that the same may be readily seen by all persons entering the Collective or Cooperative.

O. Alcoholic beverages. No Collective shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

P. Non profit status. No Collective or Cooperative shall operate for a profit. Cash and in-kind contributions, reimbursements, and reasonable compensation provided by members towards the eCollective's or Cooperative's actual expenses ~~of the growth, cultivation and provisions of medical marijuana~~ shall be allowed provided that they are in strict compliance with State law.

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5.50.080 Collective or Cooperative permit application—Preparation and filing.

A. Application filing. A complete medical marijuana Cannabis Use Permit application submittal packet shall be submitted including all necessary fees and all other information and materials required by the City and this chapter. All applications for permits shall be filed with the Public Services Department, using forms provided by the City, and accompanied by the applicable filing fee. It is the responsibility of the applicant to provide information required for approval of the permit. The application shall be made under penalty of perjury.

B. Eligibility for filing. Applications may be filed only by the owner of the subject property or by a person with a leaseconsent signed by the owner or duly authorized agent of the owner expressly allowing them the right to occupy the property for the intended Collective or Cooperative use.

C. Filing date. The filing date of any application shall be the date when the City receives the last submission of information or materials required in compliance with the submittal requirements specified herein.

D. Effect of incomplete filing. Upon notification that an application submittal is incomplete, the applicant shall be granted an extension of time to submit all materials required to complete the application within 30 days. If the application remains incomplete in excess of 30 days the application shall be deemed withdrawn and a new application submittal shall be required in order to proceed with the subject request.

E. Effect of other permits or licenses. The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining a Collective or Cooperative permit.

5.50.090 Criteria for review of Collective or Cooperative applications

A. Decision on application. Upon an application for a Collective or Cooperative permit being deemed complete, the application shall be processed pursuant to the terms of Chapter 5, as a minor use permit or conditional use permit depending upon the zoning and Title 17.

B. Criteria for issuance. In addition to any and all requirements pursuant to Chapter 5 Title 17, the City Manager Public Service Director and Police Chief for the Planning Commission shall consider the following criteria in determining whether to grant or deny a Collective or Cooperative permit:

1. That the Collective or Cooperative permit is consistent with the intent of the state Health & Safety Code for providing medical marijuana to qualified patients and primary

caregivers and the provisions of this Chapter and the Municipal Code, including the application submittal and operating requirements herein;

2. That the proposed location of the Collective or Cooperative is not identified by the City Chief of Police as an area of increased or high crime activity in the two previous years (e.g., based upon crime reporting districts/statistics as maintained by the Police Department);

3. That all required application fees have been paid and reporting requirements have been satisfied in a timely manner;

4. That issuance of a ~~Collective~~ permit for the Collective or Cooperative size requested is appropriate and justified to meet the needs of the community for access to medical marijuana;

5. That issuance of the Collective or Cooperative permit would serve the needs of City residents within a proximity to this location;

6. That the location is not prohibited by the provisions of this chapter or any local or state law, statute, rule, or regulation and no significant nuisance issues or problems are likely or anticipated to result and that compliance with other applicable requirements of the City's Zoning Ordinance will be accomplished;

7. That the site plan, floor plan, and security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, security on-site; procedure for allowing entry; openness to surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior;

8. That all reasonable measures have been incorporated into the security plan or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, eannabismarijuana use in public, or creation of a public or private nuisance, or interference of the operation of another business;

9. That the Collective or Cooperative is likely to have no potentially adverse affect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance; or that the Collective or Cooperative will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, eannabismarijuana use in public, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests;

10. That any provision of the Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws will not be violated;

11. That the applicant has not knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit;

12. That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City.

5.50.100 Appeal.

An applicant or any interested party who disagrees with the Public Services Director's ~~or~~ Planning Commission decision to issue, issue with conditions, or to deny a Collective or

Cooperative permit may appeal such decision by filing an appeal pursuant to the requirements of the Municipal Code:

5.50.110 Suspension and revocation by ~~Planning Commission~~ City Council.

A. Authority to suspend or revoke a Collective or Cooperative permit. Any Collective or Cooperative permit issued under the terms of this Chapter may be suspended or revoked by the City Council when it shall appear to the Council that the Permittee has violated any of the requirements of this chapter or the Collective is operated in a manner that violates the provisions of this chapter, including the operational requirements of this Chapter, or in a manner which conflicts with state law.

B. Annual review of Collective or Cooperative operations. The staff of the Public Services Department and the Police Department are hereby authorized to conduct an annual review of the operation of each permitted Collective or Cooperative within the City for full compliance with the operational requirements of this Chapter, including specifically a verification that all persons employed or volunteering at the Collective or Cooperative have not been convicted of or on probation for a crime related to the possession, sale, or distribution of controlled substances. The staff may initiate a permit suspension or revocation process for any Collective or Cooperative which is found not to be in compliance with the requirements of this Chapter or which is operating in a manner which constitutes a public nuisance.

C. Suspension or revocation—Written notice. Except as otherwise provided in this chapter, no permit shall be revoked or suspended by virtue of this chapter until written notice of the intent to consider revocation or suspension of the permit has been served upon the person to whom the permit was granted at least ten (10) days prior to the date set for such review hearing and the reasons for the proposed suspension or revocation have been provided to the Permittee in writing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery to the Permittee, or by depositing such notice in the U.S. mail in a sealed envelope, postage prepaid, (via regular mail and return receipt requested), addressed to the person to be notified at his or her address as it appears in his or her application for a Collective or Cooperative permit.

5.50.120 Transfer of Collective or Cooperative permits.

A. Permit—Site specific. A Permittee shall not operate a ~~Collective~~ under the authority of a Collective or Cooperative permit at any place other than the address of the Collective or Cooperative stated in the application for the permit. All Collective or Cooperative permits issued by the City pursuant to this chapter shall be non-transferable. For the purpose of this section, those Collectives and Cooperatives which operate “medical marijuana delivery services” as a regular part of business are deemed to operate from the address of the Collective or Cooperative.

B. Transfer of a permitted collective. A Permittee shall not transfer ownership or control of a Collective or Cooperative or attempt to transfer a Collective or Cooperative permit to another person unless and until the transferee obtains an amendment to the permit from the Staff Hearing Officer pursuant to the permitting requirements of this chapter stating that the transferee is now the Permittee. Such an amendment may be obtained only if the transferee files an application with the Public Services Department in accordance with all provisions of this chapter accompanied by the required application fee.

C. Request for Transfer with a Revocation or Suspension Pending. No Collective or Cooperative permit may be transferred (and no permission for a transfer may be issued) when the Public Services Department has notified in writing the Permittee that the permit has been or may be suspended or revoked and a notice of such suspension or revocation has been provided.

D. Transfer without Permission. Any attempt to transfer a permit either directly or indirectly in violation of this section is declared void, and the permit shall be deemed revoked.

SECTION TWO. This Ordinance shall take effect and be in full force and effect thirty (30) days from and after its passage and, before the expiration of fifteen (15) days after its passage, shall be published once in a newspaper of general circulation printed and published in the City of Morro Bay, or in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance. Any publication of the Ordinance or summary or posting of the Ordinance shall include the names of the members of the City Council voting for and against the same.

INTRODUCED at the regular meeting of the City Council of the City of Morro Bay held on the 8th day of February, 2010, by motion of _____ and seconded by _____.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay, on the ____ day of _____, 2010 by the following vote to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

JANICE PETERS, MAYOR

ATTEST:

BRIDGETT KESSLING, CITY CLERK



AGENDA NO: B-2

MEETING DATE: March 8, 2010

Staff Report

TO: Honorable Mayor and Council **DATE:** March 2, 2010
FROM: Andrea Lueker, City Manager
SUBJECT: Continued Discussion on the Fiscal Year 2010/11 Budget and Priorities

RECOMMENDATION:

Open the public hearing to receive comments in regard to the fiscal year 2010/2011 budget. No further action is recommended.

FISCAL IMPACT:

Not applicable

DISCUSSION:

The City Council approved the budget calendar (Attachment 1) at their February 8, 2010 City Council meeting. As part of that discussion the City Council approved and encouraged additional opportunities to receive public comment in regard to the budget. In addition to general comments the Council is interested in members of the public answering two specific questions:

1. In these difficult budget times, what City Services are most important to you?
2. What do you value most about Morro Bay?

Staff will collect all the comments/responses and provide that information to the City Council at their first budget/goal workshop scheduled for March 16th/17th.

The other dates for public comment on the budget include the March 8th City Council meeting and prior to the March 16th Budget/Goal Workshop (specific time to be determined).

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



AGENDA NO: B-3

MEETING DATE: 3/8/10

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 8, 2010
FROM: Genene Lehotsky, Associate Planner
SUBJECT: Appeal of the Planning Commission's Conditional Approval for a Tentative Parcel Map and Coastal Development Permit for a Proposed Subdivision of 3 Residential Parcels (S00-101/ CP0-321)

RECOMMENDATION:

Staff recommends the City Council deny the appeal and uphold the Planning Commission's conditional approval of the project with the following modification:

Require an alternative condition that requires residences over 2,500 sq. ft., excluding a 400 sq. ft. garage, to be reviewed under a Conditional Use Permit consistent with Interim Urgency Ordinance No. 535 .

MOTION: I move that the City Council deny the appeal and uphold the Planning Commission's conditional approval of the project with the following modification:

Require an alternative condition that requires residences over 2,500 sq. ft., excluding a 400 sq. ft. garage, to be reviewed under a Conditional Use Permit consistent with Interim Urgency Ordinance No. 535.

FISCAL IMPACT:

The project's fiscal affects would be potentially negative. Cumulatively, it costs more to provide services for new residential development than the associated revenues generated by property taxes. To the extent that the occupants of the new residences spend dollars within the City limits, sales tax receipts can generate some additional revenue to offset those costs. In addition, fees are collected with development fees and for services such as water and sewer.

SUMMARY:

The project was appealed by the applicant because the Planning Commission approved the Tentative Parcel Map and Coastal Development Permit pursuant to placing a condition on the project which restricted the size of the residences that could be constructed on each parcel.

Prepared by: _____ Dept. Review: _____
City Manager Review: _____

The City Council should consider if the Planning Commission's condition restricting the size of the residences, which was placed on a request for a subdivision exception to allow substandard sized lots, is appropriate, if the density and character of the map is appropriate for the surrounding neighborhood, and if the project is consistent with the Zoning Ordinance, General Plan and Local Coastal Plan.

BACKGROUND:

On December 7, 2009, the Planning Commission considered the proposed application at a regularly scheduled public hearing. Staff's recommendation was to deny the proposed subdivision exception request, which was to allow the accessway (Agave Dr.) square footage to be included in the required lot square footage for single family residentially zoned lots and to revise the map reducing the requested three lots to two lots, which would allow the lots to meet the Subdivision Ordinance's requirements for the minimum lot size of 6,000 square feet for single family residentially zoned lots. After considering public testimony and following their discussion, the Planning Commission directed staff to prepare findings of approval for a subdivision exception request.

Staff brought forward the Planning Commission's requested findings of approval for the proposed subdivision to the January 4, 2010 Planning Commission meeting. Commissioner Lucas abstained from voting because he was not present at the December 7, 2009 meeting and had not had the opportunity to review the audio and associated materials. The applicant requested, and the Planning Commission agreed to, a continuance to allow Commissioner Lucas to vote on the project.

On January 19, 2010, the project was once again brought before the Planning Commission. Pursuant to public testimony and Planning Commission discussion, a condition was placed on the project restricting the size of each residence to a maximum of 2,000 square feet, excluding the garage, with the second floor no more than 80% of the first floor square footage. This condition was placed on the project to ensure that future residences would not be of an excessive size in relation to the reduced size of each parcel which resulted from the subdivision exception request. In addition, the condition sought to prevent future homeowners from requesting variances or special exceptions due to the reduced size of the lots.

DISCUSSION:

Cathy Novak, on behalf of Dave and Dorene Stover, has appealed the Planning Commission's conditional approval, specifically Condition #14, which states: "The gross living area square footage allowed for each residence is 2,000 square feet total, excluding the garage, with the second floor no more than 80% of the first floor square footage".

The appellant contends that the map is not a Vesting Tentative Parcel Map, only a Tentative Parcel Map, therefore the proposal does not require development plans or, in this case, building footprints as a part of the approval. As such, the Planning Commission does not have the authority to impose a condition related to future development since development plans are not a

requirement of a Tentative Parcel Map. In addition, a condition was arbitrarily placed on the project by the Planning Commission which restricted the second floor of each residence to 80% of the first floor because there are currently no codified requirements to limit the size of the second floor of single family residences. Further, the appellant states that pursuant to Section 16-1.003B, nothing in the Subdivision Ordinance shall be read to limit the rights of the city to enact additional provisions concerning the division of land as are deemed necessary to protect the public health, safety and welfare and there is no nexus that can be made between restricting the size of the residences and protecting the public's health, safety, and welfare.

Response

The applicant requested to subdivide the existing 21,891 square foot lot into three smaller parcels. The parcels would be as follows: parcel one 6,120 gross square feet (4,105 net); parcel two 6,045 gross square feet (4,195 net); parcel three 9,726 gross square feet (5,168 net). The above gross square footage includes Agave Dr., whereas the net square footage excludes Agave Dr. Each lot is in compliance with the maximum depth to width ratio of 3:1 and is in compliance with the minimum permissible lot width of 40 feet. However, the proposed lots do not conform to Section 16.9.206 which requires that newly created lots meet the minimum 6,000 square foot requirement without including the square footage of Agave Dr. When Agave Dr. is subtracted from the lot calculations, the square footage of the lots would be as follows: parcel one 4,105 square feet or 32% below minimum size; parcel two 4,195 square feet or 30% below minimum size; and parcel three 5,168 square feet or 14 % below minimum size. Since the proposed lots do not meet the minimum lot size required by the Subdivision Ordinance, the applicant requested an exception.

Pursuant to Section 16-9.201 General Requirements of the Subdivision Ordinance, the design of lots, which are impractical for buildable area, shall not be approved. To determine whether the reduced sized lots were practical for building area, staff requested that the applicant provide a graphic detailing the building footprint of each lot to demonstrate that a single family home could feasibly be constructed with the net acreage available after subtracting Agave Dr. It appears that with the required R-1 setbacks and the required additional 10-foot setback from Agave Dr., as required by the Subdivision Ordinance, the buildable area for Parcel 1 is approximately 2,243 sq. ft., Parcel 2 is approximately 2,251 sq. ft., and Parcel 3 is approximately 3,302 sq. ft., resulting in two-story homes that could potentially be as large as 3,600 sq. ft. to 4,000 sq. ft. and still meet all setbacks and lot coverage requirements. The intent of the Planning Commission's condition was to prevent construction of such large residences on the substandard parcels.

The appellant has stated in the appeal application that the building footprints for each parcel are not necessary to approve the Tentative Parcel Map, since the map is not a Vesting Tentative Parcel Map, and that, therefore, the condition that the Planning Commission placed on the project which restricts the size of the residences is not appropriate to the approval of the project. This argument is not applicable because the provision under which the applicant applied for the subdivision exception (Section 16-15) allows for staff to request additional information, as well

as condition the project in response to the exception. Section 16-15.004 of the Subdivision Ordinance states the following:

“The Planning Commission shall consider any request for exceptions, and the recommendation on such request, at the same time as the Planning Commission considers the tentative map and shall grant, conditionally grant, or deny the request.”

Based on the above Section of the Subdivision Ordinance, conditioning a subdivision exception is appropriate. However, the Appellant contends that there is no codified basis to restrict the second floor to no more than 80% of the first floor square footage. Alternatively, staff could support a replacement condition to restrict the residences based on previous practice and the recently expired Interim Urgency Ordinance No. 535. This Ordinance allowed residences up to 2,500 sq. ft., excluding a 400 sq. ft. garage, to be approved via an Administrative Coastal Development Permit. If the residences exceeded the 2,500 sq. ft., a Conditional Use Permit was required, therefore allowing the Planning Commission purview over the application.

CONCLUSION:

The Planning Commission’s decision to require Condition #14 was intended to limit the size of the residences to be constructed on the undersized lots, which were approved based on the appellant’s subdivision exception request. Pursuant to the Subdivision Ordinance, when an exception is requested, the Planning Commission has purview to impose conditions on the proposed project. Consistent with previous practice, staff recommends an alternative condition that requires residences over 2,500 sq. ft., excluding a 400 sq. ft. garage, to be reviewed under a Conditional Use Permit.

As currently conditioned or with staff’s alternative condition, the proposed project would be consistent with all applicable development standards of the Zoning Ordinance and applicable provisions of the General Plan and Local Coastal Plan and would not have a significant impact on the environment. The project would further goals for orderly and harmonious development, would be an attractive addition to the neighborhood, and would provide home ownership units to the city housing supply. All of the required findings could be made for project approval.

ATTACHMENTS:

- Attachment 1: December 7, 2009 Planning Commission Staff Report
- Attachment 2: January 4, 2010 Planning Commission Memorandum
- Attachment 3: January 19, 2010 Planning Commission Memorandum
- Attachment 4: Applicant/Appellant Appeal Letter – Cathy Novak



AGENDA ITEM: X-C
ACTION: _____

CITY OF MORRO BAY PLANNING COMMISSION

December 7, 2009

PROJECT SUMMARY

Deep Lot Subdivision for the creation of 3 Parcels

FILE NUMBER

S00-101/CP0-321

LEGAL DESCRIPTION

Portion of Lot 20 of Dirks
Resubdivision of a portion of Lots
6, 17, & 18 of Rancho Morro Y
Cayucos subdivision

ADDRESS

612 Agave Drive

APN

068-340-015

APPLICANT

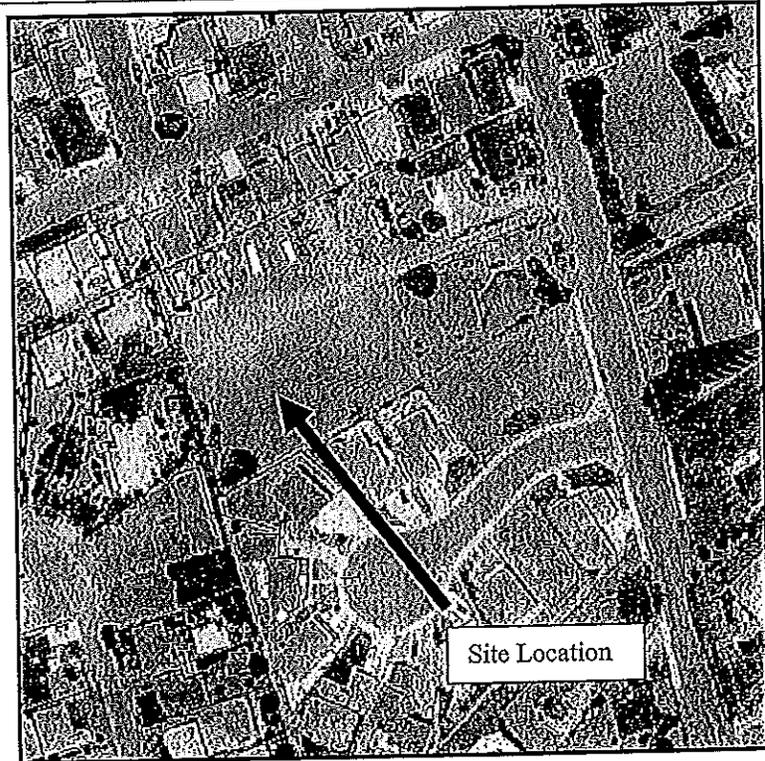
Dave and Dorene Stover
2193 Ironwood Avenue
Morro Bay, CA 93442
(805) 788-0588

EXHIBITS

- A. Findings for Approval
- B. Conditions of Approval
- C. Graphics/Plan Reductions
- D. Building Footprint Study

ISSUE SUMMARY

The applicants are requesting a three lot Parcel Map to subdivide an existing parcel into a deep-lot subdivision with private driveway access, off-site easements, and a hammerhead turnaround. The project includes a request to allow the accessway to be reduced from 24 feet to 20 feet in width and a subdivision exception request to allow the inclusion of access easement square footage into the overall lot square footage. No residential development is proposed for the lots at this time.



Vicinity Map

STAFF RECOMMENDATION

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

- A. Adopt the Findings for Denial included as Exhibit "A" of the staff report for the Subdivision Exception Request; and
- B. Adopt the Findings for Approval included as Exhibit "A" of the staff report, for the CEQA Categorical Exemption; and
- C. Adopt the Findings for Approval included as Exhibit "A" of the staff report for the Subdivision Map Act and Coastal Development Permit based on the Tentative Parcel Map dated November 20, 2009, subject to the Conditions of Approval included as Exhibit "B" of the staff report.

ENVIRONMENTAL DETERMINATION:

In accordance with California Environmental Quality Act (CEQA) (Public Resources Code 21000 et. Seq.), the project is exempt pursuant to Section 15332 (Infill Development), Class 32. There are no known sensitive environmental resources on the project site, nor would the creation of new lots potentially cause, directly or indirectly, a significant impact. An archaeological survey was conducted as well as a soils report to determine if site had potential concerns for future development and no known concerns were raised.

SETTING/BACKGROUND

The project site encompasses 21,891 square feet and is currently vacant with exception of a 6-foot tall fence located on Parcel 1 and several shrubs along adjacent residences' fence lines. The area is surrounded by residential density land uses with some existing single-family residences to the north and east. To the west is a single family residence and to the south is a large parcel predominately vacant with a single family residence along Ironwood. The parcel to the south has additional development potential including subdivision of the parcels into smaller lots.

The project is located between Avalon Street and Mimosa Street along Ironwood Avenue. The Tentative Parcel Map (TPM) proposes to subdivide one parcel into three parcels within a deep lot subdivision configuration. Access to the three new parcels will be provided by a 282.99-foot long by 20-foot wide paved driveway easement that includes a hammerhead turnaround which is proposed between Parcels 1 and 2. The previously approved TPM 07-0232 provided a 15 foot accessway to 4 parcels, including APN 068-311-030 and three parcels identified on TPM 07-0232. A reciprocal access easement agreement between the property owners of this proposed map (TPM MB 09-0091) and the previously approved TPM 07-0232 was recorded allowing access to the parcels from Ironwood Avenue, a public street. The 20-foot wide easement will also allow drainage, utilities and provide access for emergency response vehicles and will be posted and marked as a fire lane with no parking allowed.

Adjacent Zoning/Land Use			
North:	Single-Family Residential (R-1)	East:	Single Family Residence (R-1)
South:	Single Family Residence (R-1)	West:	Duplex Residential (R-2)
Site Characteristics			
Site Area	21,891 square feet		
Existing Use	Vacant land and a fence on Parcel 1		
Terrain:	Slopes westerly approximately 5%		
Vegetation/Wildlife	Small shrubs along existing fence line.		
Archaeological Resources	Greater than 1,500 feet from any known site and the closest survey was taken 400 feet away (#2819) where no known resources were found.		
Access	All lots will have access from a common driveway from Ironwood Avenue		
General Plan, Zoning Ordinance & Local Coastal Plan Designations			
Land Use Plan Designation	Low/Medium Density Residential (4-7 du/ac)		
Base Zone District	R-1		
Zoning Overlay District	N/A		
Coastal Zone	Yes, but not within appeals jurisdiction		

DISCUSSION

The proposed project would not result in any new structures, but would increase the development potential of the site by creating three new single-family residential lots. The construction of single-family residences on the new lots would require an Administrative Coastal Development Permit and Building Permit.

Creating four or less parcels only requires a Tentative Parcel Map approval, which does not require City Council action, although the map may be appealed to them. The minimum lot size requirement for the creation of new parcels comes from the City's Subdivision Ordinance. Section 16-9.204 of the Subdivision Ordinance addresses residential subdivisions and specifies the minimum lot size for residential zoned property with a slope of 15% or less shall be 6,000 square feet. Section 16-9.206 further defines the requirements for deep lot subdivisions.

The R-1 zoning standards are as follows:

Setbacks	Required	Proposed Envelopes
Front yard	20 feet	20 feet + 10 feet from access easement
Rear yard	10 feet	10 feet
Side yard	5 feet	5 feet
Lot coverage	45% maximum	45%
Height	25 feet	25 feet

The Subdivision Ordinance requires a minimum lot size of 6,000 square feet for a standard R-1 single family subdivision.

ANALYSIS:

Subdivision Design

The applicant requests to subdivide the existing 21,891 square foot lot into three smaller parcels. The parcels would be as follows: parcel one 6,120 gross (4,105 net); parcel two 6,045 gross (4,195 net); parcel three 9,726 gross (5,168 net) square feet. The above gross square footage includes the accessway, whereas the net square footage excludes the accessway. Each lot is in compliance with the maximum depth to width ratio of 3:1 and is in compliance with the minimum permissible lot width of 40 feet. However, the proposed lots do not conform to Section 16.9.206 which requires that newly created lots meet the minimum 6,000 square foot requirement without including the square footage of the accessway. When the accessway is subtracted from the lot calculations, the square footage of the lots would be as follows: parcel one 4,105 square feet or 32% below minimum size; parcel two 4,195 square feet or 30% below minimum size; and parcel three 5,168 square feet or 14 % below minimum size. Since the proposed lots do not meet the minimum lot size required by the Subdivision Ordinance, the applicant is requesting an exception.

Exception Analysis

To approve the minimum lot size exception request, the Planning Commission must make the required findings as stated in Section 16-15.002 of the Subdivision Ordinance as follows:

Before any exception is authorized, all of the following findings shall be made:

1. That the property to be divided is of such size or shape, or is affected by such topographic conditions, that it is impossible, impractical or undesirable, in the particular case, to conform to the strict application of the regulations codified in this title; and
2. That the cost to the subdivider of strict or literal compliance with the regulations is not the sole reason for granting the modification; and
3. That the modification will not be detrimental to the public health, safety and welfare, or be injurious to other properties in the vicinity; and
4. That granting the modification is in accord with the intent and purposes of these regulations, and is consistent with the General Plan and with all applicable specific plans or other plans of the City.

As noted above all four findings need to be made to grant an exception to any requirement imposed by the Subdivision Ordinance. Staff has reviewed the proposal in relation to the exception findings as follows:

The property has no unusual size or shape and is not limited by topography to where it makes the ability to create lots which meet the subdivision requirement for a minimum of 6,000 square feet exclusive of any accessway impractical. The project site yields approximately 13,348 net square feet (exclusive of any accessway) which could be divided into two lots each approximately 6,734 square feet in size. In order to facilitate the development of this site into two parcels of 6,734 square feet each, it will require the relocation of a hammerhead turnaround located between Parcel 1 and 2, which was approved via Improvement Plans. Relocating the hammerhead can be accommodated, although it would require that the applicant revise the Improvement Plans submitted for the installation of the accessway. The loss of one parcel would result in a loss of profit to the developer, but the exception cannot be granted solely due to economic

considerations. Since the City has just recently adopted a new Subdivision Ordinance that requires a minimum of 6,000 square feet, exclusive of the accessway, a request to deviate from this requirement without unusual circumstances would not be consistent with the intent or purpose of the subdivision requirements. Many subdivision proposals include provisions for a private accessway. Because this is such a common occurrence within the City, granting an exception in this case without a specific limitation to the property could result in a precedent setting decision resulting in others requesting the same exception and ultimately no project would ever be proposed meeting the 6,000 square foot minimum exclusive of the access way.

Staff requested that the applicant provide a graphic detailing the building footprint of each lot to demonstrate that a single family home could feasibly be constructed with the net acreage available after subtracting the accessway. It appears that with the required R-1 setbacks and the required additional 10-foot setback from the accessway, as required by the Subdivision Ordinance, the buildable area for Parcel 1 is approximately 2,243 sq. ft., Parcel 2 is approximately 2,251 sq. ft., and Parcel 3 is approximately 3,302 sq. ft., resulting in homes at approximately 1,900 sq. ft., 1,400 sq. ft., and 1,900 sq. ft., respectively, which may accommodate small 2 to 3 bedroom, 2-story homes. Although the graphics indicate that a modest sized homes may be possible at the reduced acreage, staff determined that the findings for the exception to the required lot size cannot be made. Therefore, the project has been conditioned to revise the parcel map to depict two regulation sized lots, rather than three undersized lots.

Other Requests

Another request by the applicant is that the Planning Commission find that the 20-foot wide paved accessway to the three parcels is adequate. Section 16-9.206 of the Subdivision Ordinance requires that an accessway which is more than 150 feet long be at least 24 feet wide with 20 feet of pavement, unless otherwise approved by the Planning Commission. Staff reviewed the proposed reduction and has determined that the project will be provided with adequate access at the proposed 20-foot width.

Public Improvements

The subdivision of property requires the full development of street improvements (curb, gutter, and sidewalks). The Improvement Plans for this proposed parcel map and previously approved TPM 07-0232 have been approved and grading has commenced. Improvements include a 6-foot wide concrete sidewalk, 6-inch concrete curb, and 18-inch gutter within a 20-foot right of way, as well as a hammerhead turn around located between Parcels 1 and 2. Fire suppression and prevention facilities for the subdivision have been determined by the Fire Department to be provided by sprinkling of the new residences and one hydrant located at Parcel 3. A 5-foot wide drainage and utility easement, which was approved with TPM MB 07-0232 is proposed along the westerly property line that crosses neighboring properties connecting to Bayview Avenue. The site has an average gentle slope towards the west at approximately 5 percent, as does each individual parcel. The project has been conditioned with standard stormwater requirements to ensure adequate drainage capacity, treatment of stormwater and measures to control flow that will be conveyed via proposed and existing drainage and utility easements to the lower west-end of the property connecting to existing improvements off site.

Subdivision Review Board (SRB)

The SRB reviewed the proposed Parcel Map on November 18, 2009, the SRB found the application complete and the SRB was able to make the required findings to support a conditional approval for the deep lot subdivision as mandated by the City's Subdivision and Zoning Ordinance. The following members attended the meeting: Kathleen Wold, Senior Planner; Gene Lehotsky, Associate Planner; Tom Prows, Fire Prevention Coordinator; Rob Livick, City Engineer; Damaris Hanson, Engineering Technician III; Joe Woods, Parks and Recreation Director; and Dan Doris, Chief Building Official.

Motion by Livick to approve the project as conditioned, Second by Prows.
Approved 7/0.

Consistency with the Local Coastal Program

For the proposed project to be approved, findings must be made that the project is consistent with applicable goals, objectives and policies of the Local Coastal program. As conditioned, the proposed project is consistent with the zoning and subdivision regulations and with the various applicable goals, objectives and policies of the LCP for all of the reasons stated above.

PUBLIC NOTICE:

Notice of this item was posted at the site and published in the San Luis Obispo Telegram-Tribune newspaper on November 27, 2009, and all property owners of record within 300 feet of the subject site and occupants within 100 feet of the subject site were notified of this evening's public hearing and invited to voice any concerns on this application.

CONCLUSION:

With recommended Conditions of Approval, the proposed project is consistent with the LCP and would not have a significant impact on the environment. The project would further goals for orderly and harmonious development, would be an attractive addition to the neighborhood, provide home ownership units to the city housing supply, and as such, all of the required findings could be made for project approval.

Report prepared by: Gene Lehotsky, Associate Planner

FINDINGS

California Environmental Quality Act (CEQA)

In accordance with California Environmental Quality Act (CEQA) (Public Resources Code 21000 et. Seq.), the project is exempt pursuant to Section 15332 (Infill Development), Class 32. There are no known sensitive environmental resources on the project site, nor would the creation of new lots cause directly or indirectly a potentially significant impact. An archaeological survey was conducted as well as a soils report to determine if site had potential concerns for future development and no known concerns were raised required as conditions of approval.

Subdivision Map Act Findings

- A. As conditioned, the proposed map to create a two lot deep subdivision project, where new parcels will have single-family residences is consistent with the General Plan and Coastal Land Use Plan because residential development and the given parcel sizes are allowed under the land use designation and zoning & subdivision ordinance.
- B. As conditioned, the design and improvements to create two single-family residences for the proposed subdivision is consistent with the General Plan and Coastal Land Use Plan because all public improvements will be constructed in accordance with City Engineers recommendation.
- C. The site is physically suitable for the type and density of development proposed because the site is zoned for single-family residential low to medium density (4-7 du/ac) and consistent with the land use designation.
- D. The design of the subdivision and related improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because all precautions will be implemented to catch and direct all runoff.
- E. The design of the subdivision and improvements will not cause serious public health problems.
- F. The design of the subdivision and related improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because no easements are required for the public however, facilities are designed to handle the adjacent properties as well.
- G. As conditioned, the design, architectural treatment, and general appearance of all buildings and open space areas are in keeping with the character of the surrounding area pursuant to 17.48.200, and will not be incompatible with the uses permitted in the surrounding areas and zoning district because new development will be subject to coastal development permits and neighborhood compatibility standards; and

- H. The City has available adequate water to serve the proposed subdivision based upon the water regulations and water equivalency table (Exhibit A) enforced at the time of approval of the tentative parcel map pursuant to the certified Water Management Plan and General Plan LU-22.1.
- I. Improved design based on density control and better community environment. As conditioned, the map will be consistent with Subdivision Ordinance and will allow orderly development consistent with the zoning district designation.

Coastal Development Permit Findings

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

Subdivision Exception Findings

Pursuant to Section 16-15.020 of the Subdivision Ordinance, before any exception is authorized, the Planning Commission must make all of the below findings. As discussed in the staff report, Staff is unable to justify allowing the Parcel Map to deviate from the required residential lot size because the property has no unusual size or shape and is not limited by topography to where it makes the ability to create lots which meet the subdivision requirement for a minimum of 6,000 square feet exclusive of any accessway impractical. The project site yields approximately 13,348 net square feet (exclusive of any accessway) which could be divided into two lots each approximately 6,734 square feet in size. In order to facilitate the development of this site into two parcels of 6,734 square feet each, it will require the relocation of a hammerhead turnaround proposed between Parcel 1 and 2, which was approved via Improvement Plans. Relocating the hammerhead can be accommodated, although it would require that the applicant revise the Improvement Plans submitted for the installation of the accessway. The loss of one parcel would result in a loss of profit to the developer, but the exception cannot be granted solely due to economic considerations. Since the City has just recently adopted a new Subdivision Ordinance that requires a minimum of 6,000 square feet, exclusive of the accessway, a request to deviate from this requirement without unusual circumstances would not be consistent with the intent or purpose of the subdivision requirements. Many subdivision proposals include provisions for a private accessway. Because this is such a common occurrence within the City, granting an exception in this case without a specific limitation to the property could result in a precedent setting decision resulting in others requesting the same exception and ultimately no project would ever be proposed meeting the 6,000 square foot minimum exclusive of the access way.

- M. That the property to be divided is of such size or shape, or is affected by such topographic conditions, that it is impossible, impractical or undesirable, in the particular case, to conform to the strict application of the regulations codified in this title; and
- N. That the cost to the subdivider of strict or literal compliance with the regulations is not the sole reason for granting the modification; and
- O. That the modification will not be detrimental to the public health, safety and welfare, or be injurious to other properties in the vicinity; and
- P. That granting the modification is in accord with the intent and purposes of these regulations, and is consistent with the General Plan and with all applicable specific plans or other plans of the City.

CONDITIONS OF APPROVAL

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report referenced above, dated December 7, 2009 for the project depicted on the attached plans labeled "Exhibit C", dated November 20, 2009 on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:
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 Planning and Building 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 Planning and Building Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Planning and Building Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

7. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities including electrical, telephone and cable television shall be installed underground.
8. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. during the weekdays and eight a.m. and seven p.m. during the weekends, unless an exception is granted by the Building Official pursuant to the terms of this regulation.
9. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and wind blown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC Section 17.52.070.
10. 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 and implementation of any protective measures as determined by the Director of Planning & Building.
11. Property Line Verification. It is owner's responsibility to verify lot lines. Prior to foundation inspection the lot corners shall be staked and setbacks marked by a licensed professional.
12. Transportation/Circulation: The project shall provide approved "Fire Lane-No Parking" signage with red-painted curbs on the frontage of the alley where applicable.

PLANNING CONDITIONS

13. The Parcel Map shall be revised to depict two parcels instead of three to meet the minimum lot size of 6,000 square feet pursuant to the Subdivision Ordinance, excluding any accessway.
14. The accessway serving the proposed parcels shall be paved and shall be no less than 20 feet wide, as approved by the Planning Commission.

FIRE CONDITIONS

15. Access: A Fire Department Access Road is required pursuant to 2007 California Fire Code, Section 503.
16. Turnaround: A Fire Department Apparatus Turnaround is required and the Alternative to the 120-foot Hammerhead (contained in Appendix D) shall be used. (CFC 503.2.5)

17. Access Dimensions: Fire Department Access Road Dimensions shall have an obstructed width of not less than 20 feet. (CFC 503.2.1)
18. Access Surface: Fire Department Access Road Surface shall be designed and maintained to support imposed loads of fire apparatus and shall be surfaced to provide all-weather driving capabilities. (CFC 503.2.3)
19. Fire Hydrant System: Project shall provide an on-site fire hydrant for this subdivision, in accordance with CFC 508.1
20. Fire Sprinklers: All structures of this new subdivision shall be provided with automatic fire sprinkler systems, in accordance with NFPA 13-D and Morro Bay Municipal Code, Section 14.60.200.

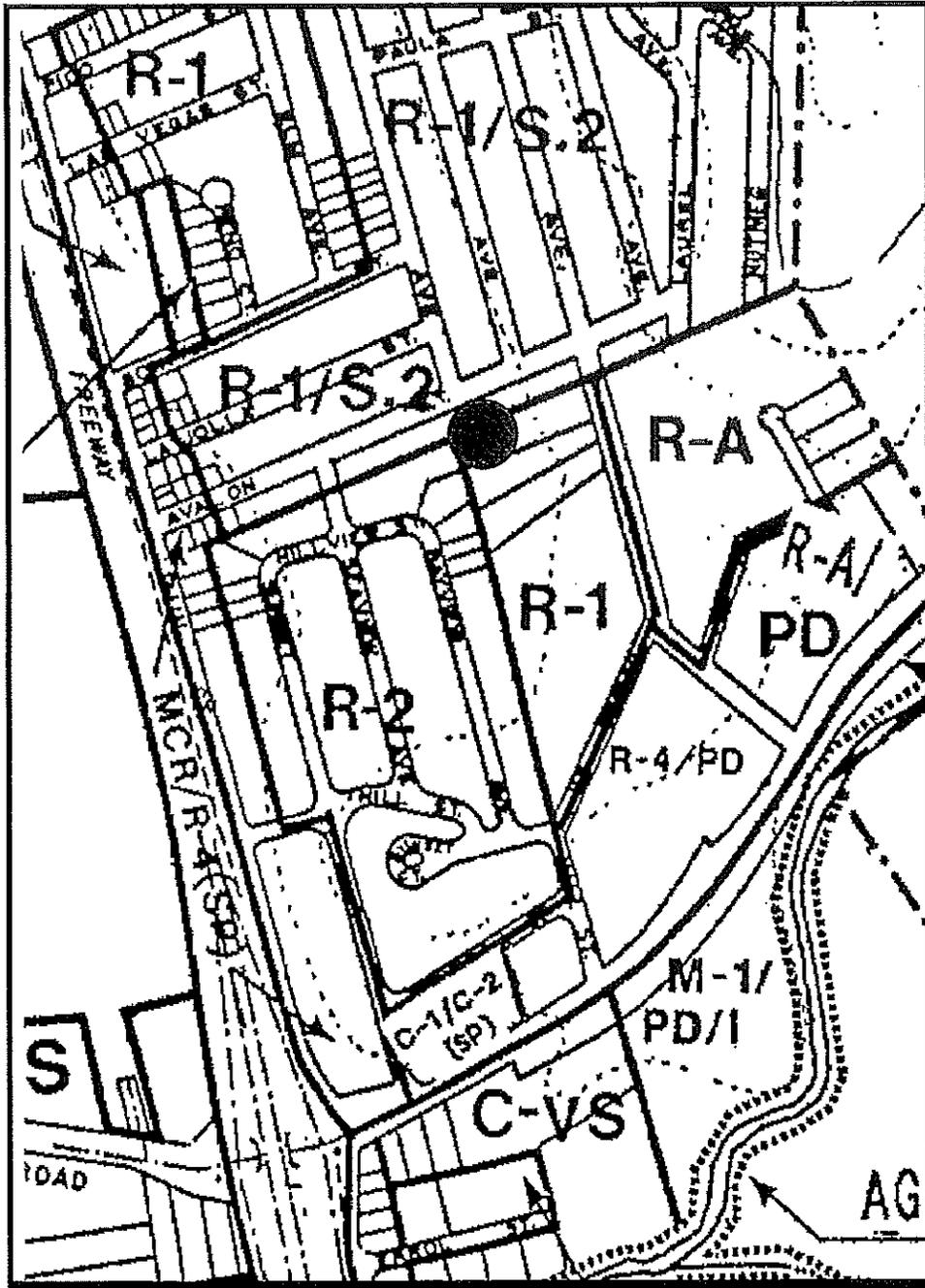
PUBLIC WORKS CONDITIONS

21. Stormwater Requirements:
 - a. Provide water quality treatment for the runoff resulting from a two year storm event either through retention (infiltration) or an alternative Water Quality BMP such as biofiltration, mechanical filtration or hydrodynamic separation.
 - b. Provide peak runoff rate control for the runoff resulting from the ten through hundred year rainfall events. For the purposes of stormwater management the pre-construction condition shall be natural soil and vegetation. Post development shall assume a fully built out parcel map.
 - c. Drainage analysis, runoff calculations, design and justification of drainage facilities shall be performed by a Registered Civil Engineer and submitted prior to recordation of the Final Parcel Map. The responsible Soils Engineer shall review all proposed infiltration and storage systems for site suitability.
22. Stormwater Requirements: With any building or grading permits, 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.

RECREATION AND PARKS CONDITIONS

23. Parkland In-Lieu Fees: In accordance with the Morro Bay Municipal Code 16.16.030 Parkland Dedication Requirements, the subdivision will require payment of an in-lieu fee. Based on the County of San Luis Obispo Assessed Value for 2009-2010, the anticipated in-lieu fee total is: \$17,864.00. Note that this fee may be redetermined at the time of payment and that the value of the land based on 2009-2010 is vested.

GRAPHICS/PLAN REDUCTIONS

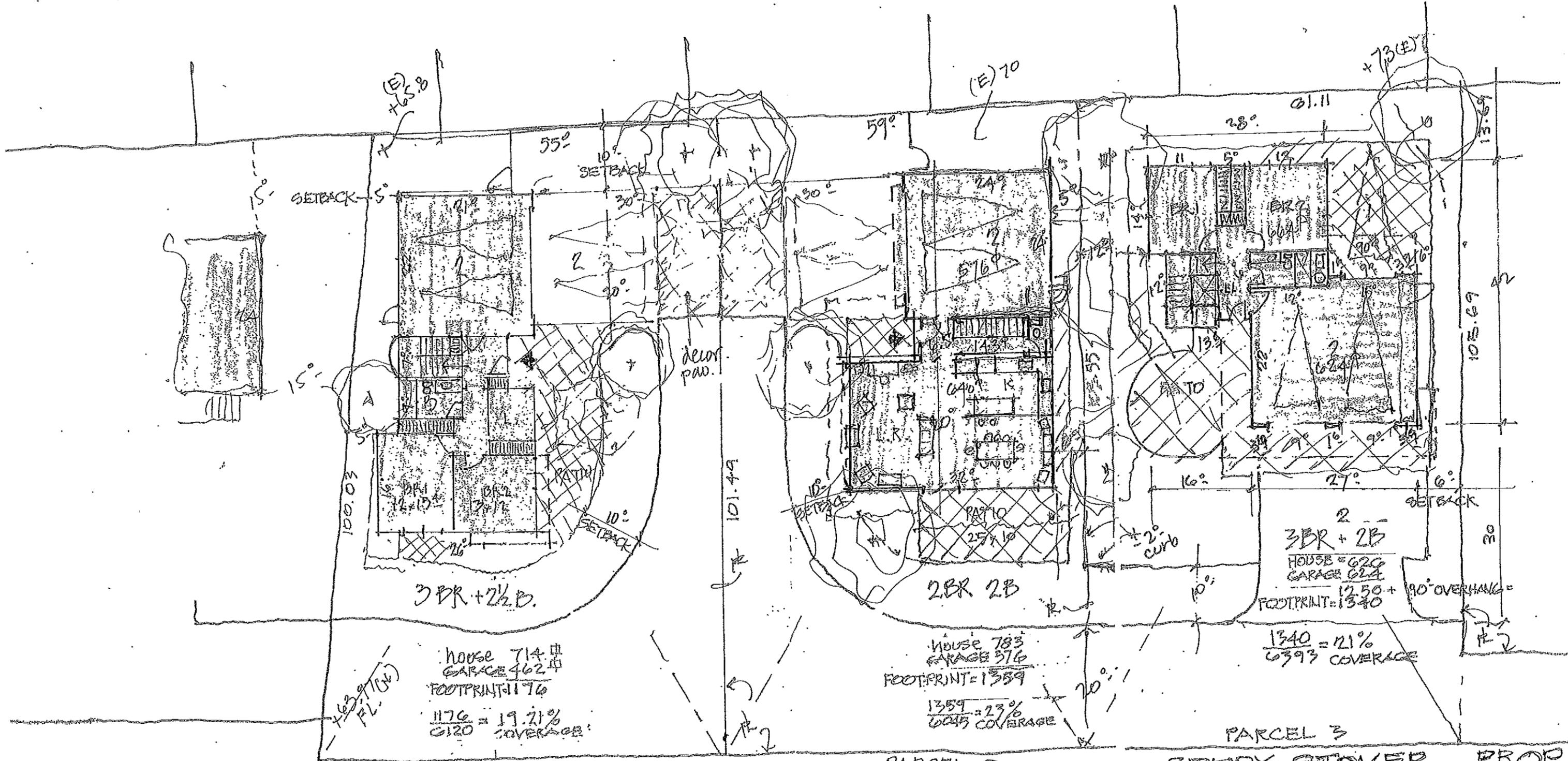


Planning Commission



ZONING MAP

BUILDING FOOTPRINT STUDY



House 714
Garage 462
FOOTPRINT=1176
 $\frac{1176}{6120} = 19.21\%$
COVERAGE

House 783
Garage 376
FOOTPRINT=1359
 $\frac{1359}{6045} = 23\%$
COVERAGE

2
3BR + 2B
HOUSE = 626
GARAGE 624
FOOTPRINT=1340
 $\frac{1340}{6393} = 21\%$
COVERAGE

PARCEL 1

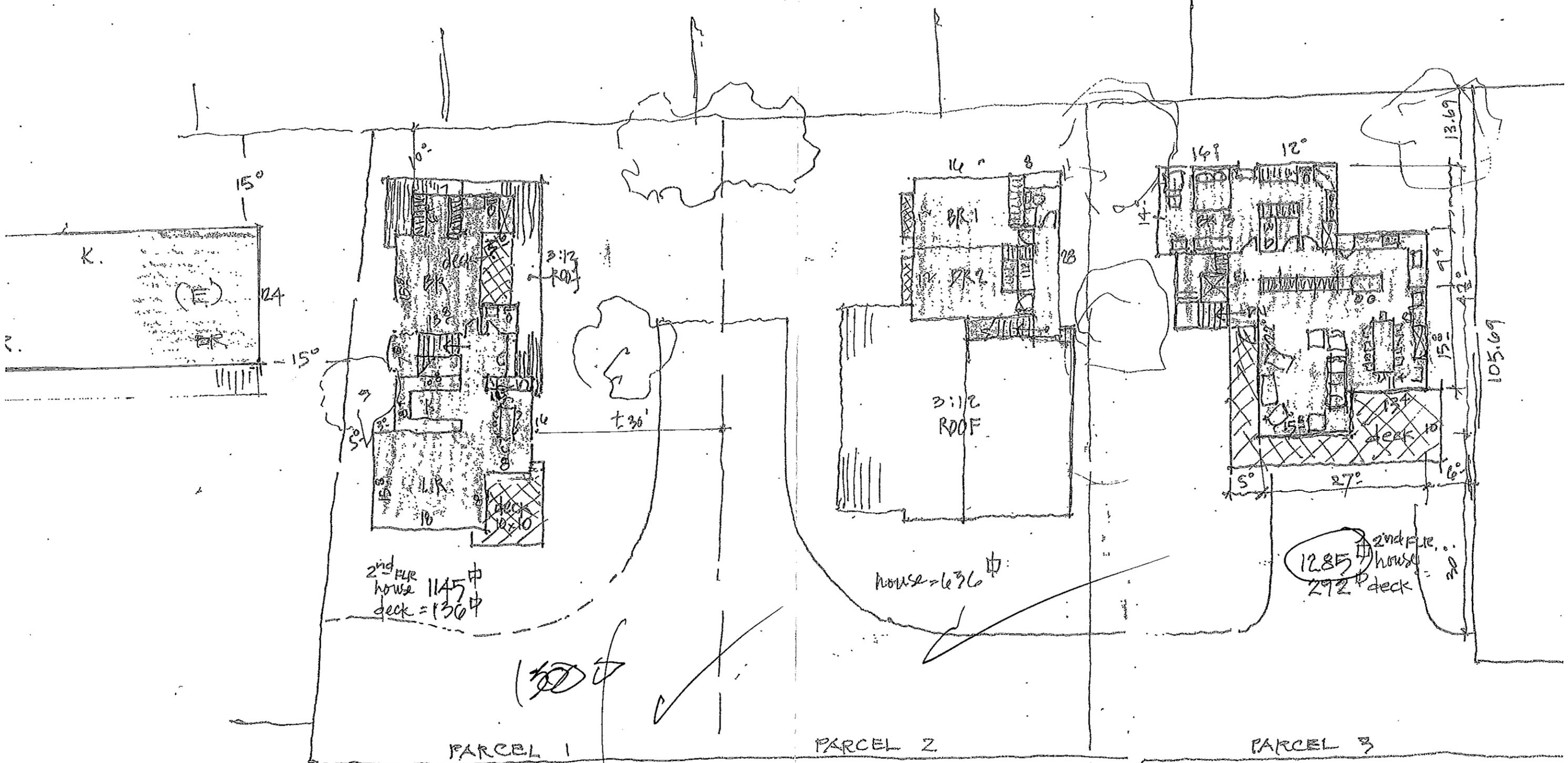
PARCEL 2

PARCEL 3
STUDY: STOVER PROP.

Scale 1"=15'



11/10/09 H. Smith Arch.



Scale 1" = 15' 11/10/09 Smith Arch.
 W A E
 S

STUDY: STOVER PROP.

BLOCK
RETAI
WALL

N 64°44'00" E 176.11'

311-030
/D.M. TRUST

PARCEL 1
5,142 S.F. NET
6,120 S.F. GROSS

PARCEL 2
5,161 S.F. NET
6,045 S.F. GROSS

PARCEL 3
5,474 S.F. NET
9,726 S.F. GROSS

± BUILDABLE 2243

± BUILDABLE 2251

± BUILDABLE 3302

EXIST. EDGE
OF PAVEMENT

EXISTING
5' P.U.E.

EXISTING GRAVEL DRIVEWAY

NOT
ARE
INTL
MAI

N 17°32'14" W 100.03'

N 23°4'30" W 101.49'

N 23°4'30" W 103.55'

N 23°4'30" W 105.69'

63.97
FL

64.88
FL

65.91'

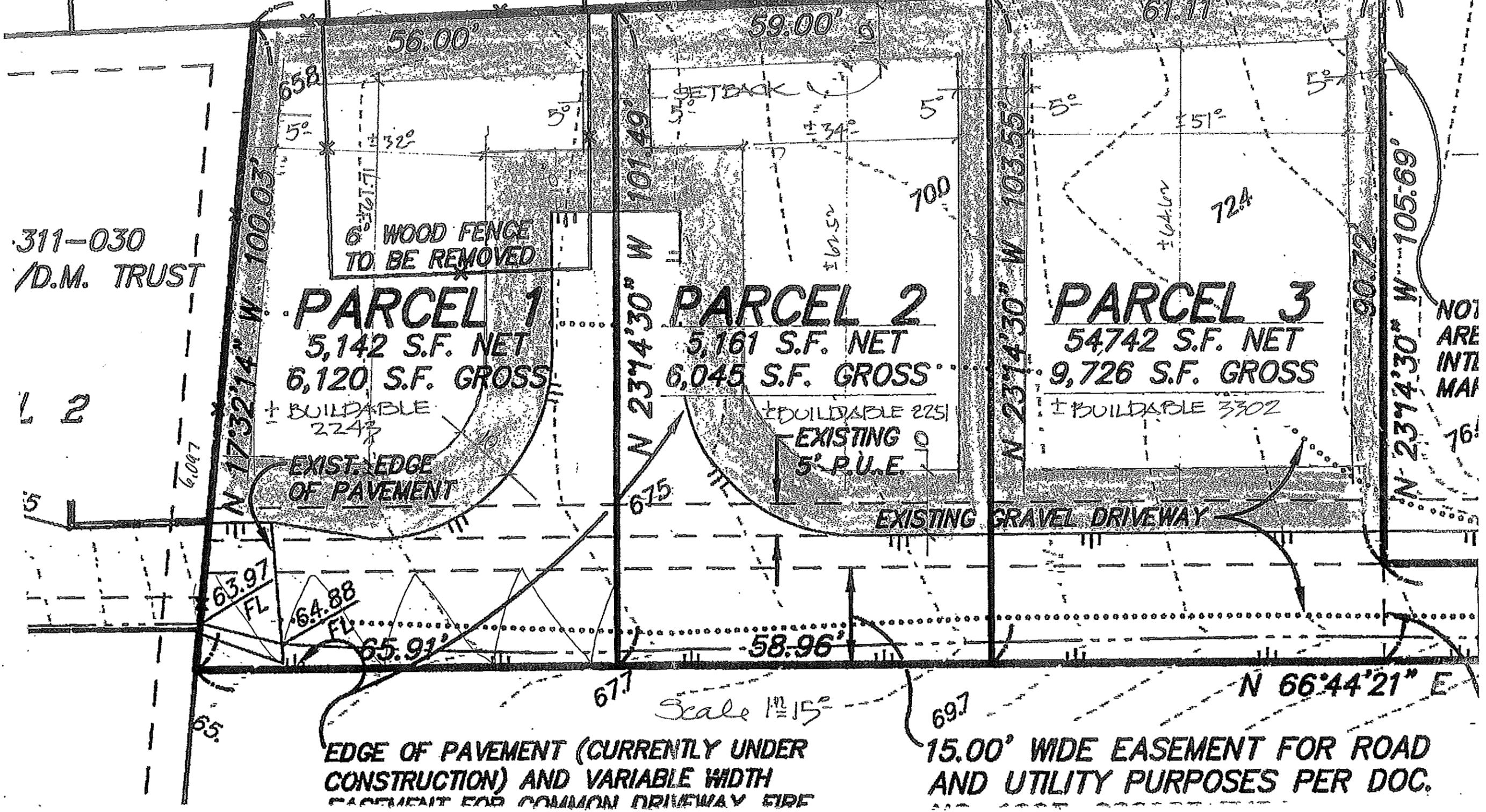
58.96'

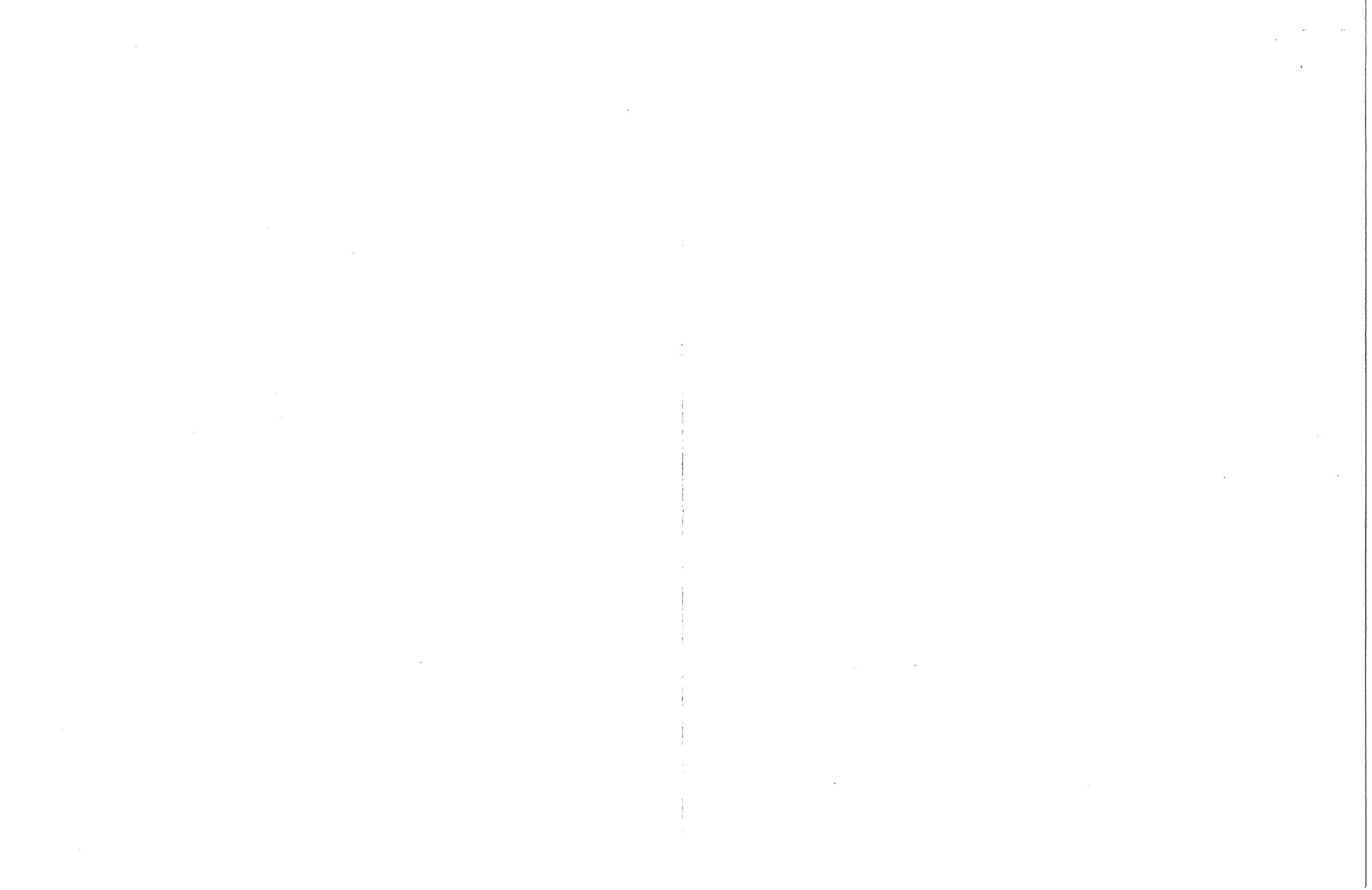
N 66°44'21" E

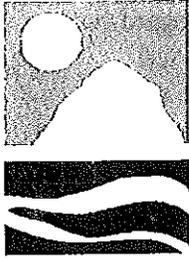
Scale 1" = 15'

EDGE OF PAVEMENT (CURRENTLY UNDER
CONSTRUCTION) AND VARIABLE WIDTH
EASEMENT FOR COMMON DRIVEWAY FIRE

15.00' WIDE EASEMENT FOR ROAD
AND UTILITY PURPOSES PER DOC.







AGENDA NO: XA
Meeting Date: January 4, 2010
Action:

Memorandum

TO: PLANNING COMMISSION **DATE:** JANUARY 4, 2010
FROM: GENENE LEHOTSKY, ASSOCIATE PLANNER
SUBJECT: REQUEST FOR PARCEL MAP (MB 09-0091) AND COASTAL
DEVELOPMENT PERMIT APPROVAL TO SUBDIVIDE ONE LOT INTO
THREE AT 612 AGAVE DRIVE

RECOMMENDATION:

Staff recommends that the Planning Commission conditionally approve the project by adopting a motion including the following actions(s):

- A. Adopt the Findings for Approval included as Exhibit "A" of the staff report, for the Subdivision Exception Request, CEQA Categorical Exemption, Subdivision Map Act, and Coastal Development Permit based on the Tentative Parcel Map dated November 20, 2009, subject to the Conditions of Approval included as Exhibit "B" of the staff report.

BACKGROUND:

On December 7, 2009 the applicant requested Parcel Map and Coastal Development Permit approval for the subdivision of one parcel into three located at 612 Agave Dr. Based upon comments and concerns expressed by the Planning Commission, staff was directed to prepare findings of approval for the subdivision exception request allowing the accessway to be included to meet the required lot square footage for single family residentially zoned lots.

DISCUSSION:

The applicant is requesting the subdivision of one lot into three lots (subject property). To subdivide the subject property into three lots, the applicant is required to request a subdivision exception to allow the accessway to be counted toward the minimum lot size requirement of 6,000 square feet, pursuant to the City's Subdivision Regulations. Staff recommended denying the subdivision exception request and allowing two lots instead of three so that the lots would meet the lot size requirement and therefore be in compliance with the City's Subdivision Regulations.

The Planning Commission's motion to continue the project was due to discussions regarding an adjacent subdivision's approval (Parcel Map MB 07-0232) which impacts this proposed subdivision by placing a fire turnaround required for Parcel Map MB 07-0232 on the subject property. Staff required a turnaround to serve the previously approved subdivision, however, the precise placement of the turnaround on the then adjacent property (subject property) was proposed by the applicant, not by staff.

Staff reviewed the audio of the July 7, 2008 Planning Commission Meeting and during the presentation to Planning Commission for previously approved Parcel Map MB 07-0232, it was recognized by the owner Parcel Map MB 07-0232 and the owner of the subject property that it would be mutually beneficial to work together to facilitate the development of both parcels. As such, the turnaround proposed with Parcel Map MB 07-0232 on the subject property was designed to service not only Parcel Map MB 07-0232, but the subject property itself.

This turnaround creates a unique or unusual situation because it encumbers the subject property with a regional turnaround to serve more than one project. Typically, turnarounds for a project would be required on that project's property; however the turnaround for Parcel Map MB 07-0232 was placed on the subject property. Therefore, the allowance of three undersized parcels, in lieu of two parcels on the subject site, which will include the accessway square footage to meet the minimum square footage requirements is justifiable, since the turnaround reduces the developable square footage of the subject property.

Staff was only able to find the above justification to allow the inclusion of the accessway square footage to meet the required lot square footage of 6,000 square feet. Staff has provided findings in Exhibit A to approve subdivision exception request pursuant to the plans dated November 20, 2009. Further, staff has removed Condition 13 included in the original conditions of approval which states: "The Parcel Parcel Map shall be revised to depict two parcels instead of three to meet the minimum lot size of 6,000 square feet pursuant to the Subdivision Ordinance, excluding any accessway."

CONCLUSION:

As conditioned, the proposed project would be consistent with all applicable development standards of the Zoning Ordinance, and applicable provisions of the General Plan and Local Coastal Plan and would not have a significant impact on the environment. The project would further goals for orderly and harmonious development, would be an attractive addition to the neighborhood, provide home ownership units to the city housing supply, and as such, all of the required findings could be made for project approval.

Exhibits:

- Attachment A – Findings for Approval
- Attachment B – Conditions of Approval
- Attachment C – December 7, 2009 Staff Report
- Attachment D – July 7, 2008 Planning Commission Minutes (Parcel Map MB 07-0232)

EXHIBIT A
FINDINGS

California Environmental Quality Act (CEQA)

In accordance with California Environmental Quality Act (CEQA) (Public Resources Code 21000 et. Seq.), the project is exempt pursuant to Section 15332 (Infill Development), Class 32. There are no known sensitive environmental resources on the project site, nor would the creation of new lots cause directly or indirectly a potentially significant impact. An archaeological survey was conducted as well as a soils report to determine if site had potential concerns for future development and no known concerns were raised required as conditions of approval.

Subdivision Map Act Findings

- A. As conditioned, the proposed map to create a three lot deep subdivision project, where new parcels will have single-family residences, is consistent with the General Plan and Coastal Land Use Plan because residential development and the given parcel sizes are allowed under the land use designation and zoning & subdivision ordinance.
- B. As conditioned, the design and improvements to create three single-family residences for the proposed subdivision is consistent with the General Plan and Coastal Land Use Plan because all public improvements will be constructed in accordance with City Engineers recommendation.
- C. The site is physically suitable for the type and density of development proposed because the site is zoned for single-family residential low to medium density (4-7 du/ac) and consistent with the land use designation.
- D. The design of the subdivision and related improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because all precautions will be implemented to catch and direct all runoff.
- E. The design of the subdivision and improvements will not cause serious public health problems.
- F. The design of the subdivision and related improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because no easements are required for the public however, facilities are designed to handle the adjacent properties as well.
- G. As conditioned, the design, architectural treatment, and general appearance of all buildings and open space areas are in keeping with the character of the surrounding area pursuant to 17.48.200, and will not be incompatible with the uses permitted in the surrounding areas and zoning district because new development will be subject to coastal development permits and neighborhood compatibility standards; and

- H. The City has available adequate water to serve the proposed subdivision based upon the water regulations and water equivalency table (Exhibit A) enforced at the time of approval of the tentative parcel map pursuant to the certified Water Management Plan and General Plan LU-22.1.
- I. Improved design based on density control and better community environment. As conditioned, the map will be consistent with Subdivision Ordinance and will allow orderly development consistent with the zoning district designation.

Coastal Development Permit Findings

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

Subdivision Exception Findings

Pursuant to Section 16-15.020 of the Subdivision Ordinance, before any exception is authorized, the Planning Commission must make all of the below findings.

As discussed above in the staff report, staff made the below findings to justify allowing the Parcel Map to deviate from the required residential lot size because the property has been encumbered by the turnaround to provide access not just to the subject property but for other properties as well. This turnaround creates a unique or unusual situation because it encumbers the subject property with a regional turnaround to serve more than one project. Typically, turnarounds for a project would be required on that project's property; however the turnaround for Parcel Map MB 07-0232 was placed and approved on the subject property. Therefore, the allowance of three undersized parcels, in lieu of two parcels on the subject site, which will include the accessway square footage to meet the minimum square footage requirements is justifiable, since the turnaround reduces the developable square footage of the subject property. Due to the unique situation, the project as conditioned, is consistent with the General Plan and with all applicable specific plans or other plans of the City.

- M. That the property to be divided is of such size or shape, or is affected by such topographic conditions, that it is impossible, impractical or undesirable, in the particular case, to conform to the strict application of the regulations codified in this title; and

- N. That the cost to the subdivider of strict or literal compliance with the regulations is not the sole reason for granting the modification; and
- O. That the modification will not be detrimental to the public health, safety and welfare, or be injurious to other properties in the vicinity; and
- P. That granting the modification is in accord with the intent and purposes of these regulations, and is consistent with the General Plan and with all applicable specific plans or other plans of the City.

EXHIBIT B
CONDITIONS OF APPROVAL

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report referenced above, dated December 7, 2009 for the project depicted on the attached plans labeled "Exhibit C", dated November 20, 2009 on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:
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 Planning and Building 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.
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4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
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use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

7. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities including electrical, telephone and cable television shall be installed underground.
8. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. during the weekdays and eight a.m. and seven p.m. during the weekends, unless an exception is granted by the Building Official pursuant to the terms of this regulation.
9. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and wind blown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC Section 17.52.070.
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PLANNING CONDITIONS

13. The accessway serving the proposed parcels shall be paved and shall be no less than 20 feet wide, as approved by the Planning Commission.

FIRE CONDITIONS

14. Access: A Fire Department Access Road is required pursuant to 2007 California Fire Code, Section 503.
15. Turnaround: A Fire Department Apparatus Turnaround is required and the Alternative to the 120-foot Hammerhead (contained in Appendix D) shall be used. (CFC 503.2.5)

16. Access Dimensions: Fire Department Access Road Dimensions shall have an obstructed width of not less than 20 feet. (CFC 503.2.1)
17. Access Surface: Fire Department Access Road Surface shall be designed and maintained to support imposed loads of fire apparatus and shall be surfaced to provide all-weather driving capabilities. (CFC 503.2.3)
18. Fire Hydrant System: Project shall provide an on-site fire hydrant for this subdivision, in accordance with CFC 508.1
19. Fire Sprinklers: All structures of this new subdivision shall be provided with automatic fire sprinkler systems, in accordance with NFPA 13-D and Morro Bay Municipal Code, Section 14.60.200.

PUBLIC WORKS CONDITIONS

20. Stormwater Requirements:
 - a. Provide water quality treatment for the runoff resulting from a two year storm event either through retention (infiltration) or an alternative Water Quality BMP such as biofiltration, mechanical filtration or hydrodynamic separation.
 - b. Provide peak runoff rate control for the runoff resulting from the ten through hundred year rainfall events. For the purposes of stormwater management the pre-construction condition shall be natural soil and vegetation. Post development shall assume a fully built out parcel map.
 - c. Drainage analysis, runoff calculations, design and justification of drainage facilities shall be preformed by a Registered Civil Engineer and submitted prior to recordation of the Final Parcel Map. The responsible Soils Engineer shall review all proposed infiltration and storage systems for site suitability.
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RECREATION AND PARKS CONDITIONS

22. Parkland In-Lieu Fees: In accordance with the Morro Bay Municipal Code 16.16.030 Parkland Dedication Requirements, the subdivision will require payment of an in-lieu fee. Based on the County of San Luis Obispo Assessed Value for 2009-2010, the anticipated in-lieu fee total is: \$17,864.00. Note that this fee may be redetermined at the time of payment and that the value of the land based on 2009-2010 is vested.

EXHIBIT C



AGENDA ITEM: X-C
ACTION: _____

CITY OF MORRO BAY PLANNING COMMISSION

December 7, 2009

PROJECT SUMMARY

Deep Lot Subdivision for the creation of 3 Parcels

FILE NUMBER

S00-101/CP0-321

LEGAL DESCRIPTION

Portion of Lot 20 of Dirks Resubdivision of a portion of Lots 6, 17, & 18 of Rancho Morro Y Cayucos subdivision

ADDRESS

612 Agave Drive

APN

068-340-015

APPLICANT

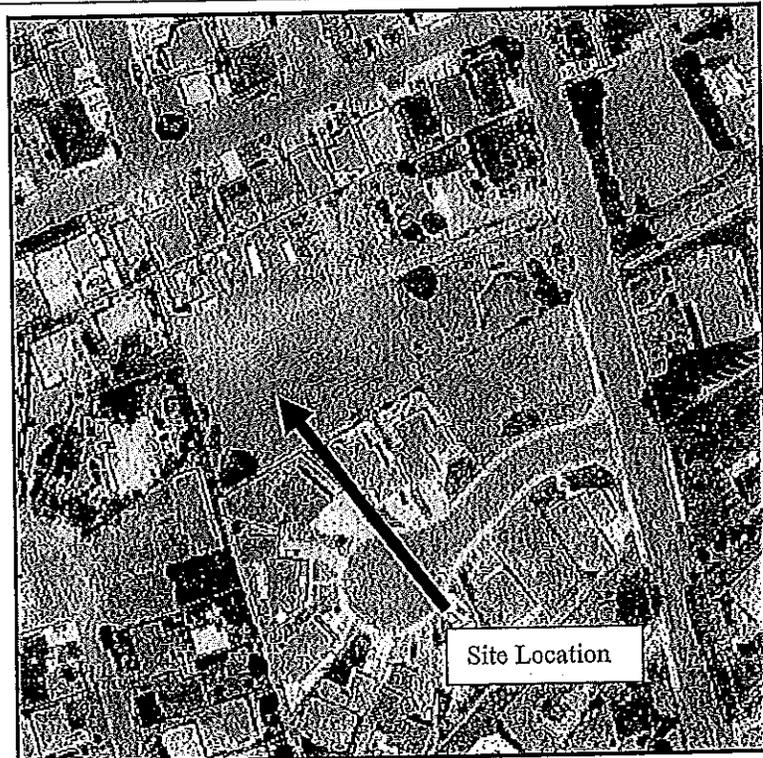
Dave and Dorene Stover
2193 Ironwood Avenue
Morro Bay, CA 93442
(805) 788-0588

EXHIBITS

- A. Findings for Approval
- B. Conditions of Approval
- C. Graphics/Plan Reductions
- D. Building Footprint Study

ISSUE SUMMARY

The applicants are requesting a three lot Parcel Map to subdivide an existing parcel into a deep-lot subdivision with private driveway access, off-site easements, and a hammerhead turnaround. The project includes a request to allow the accessway to be reduced from 24 feet to 20 feet in width and a subdivision exception request to allow the inclusion of access easement square footage into the overall lot square footage. No residential development is proposed for the lots at this time.



Vicinity Map

STAFF RECOMMENDATION

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

- A. Adopt the Findings for Denial included as Exhibit "A" of the staff report for the Subdivision Exception Request; and
- B. Adopt the Findings for Approval included as Exhibit "A" of the staff report, for the CEQA Categorical Exemption; and
- C. Adopt the Findings for Approval included as Exhibit "A" of the staff report for the Subdivision Map Act and Coastal Development Permit based on the Tentative Parcel Map dated November 20, 2009, subject to the Conditions of Approval included as Exhibit "B" of the staff report.

ENVIRONMENTAL DETERMINATION:

In accordance with California Environmental Quality Act (CEQA) (Public Resources Code 21000 et. Seq.), the project is exempt pursuant to Section 15332 (Infill Development), Class 32. There are no known sensitive environmental resources on the project site, nor would the creation of new lots potentially cause, directly or indirectly, a significant impact. An archaeological survey was conducted as well as a soils report to determine if site had potential concerns for future development and no known concerns were raised.

SETTING/BACKGROUND

The project site encompasses 21,891 square feet and is currently vacant with exception of a 6-foot tall fence located on Parcel 1 and several shrubs along adjacent residences' fence lines. The area is surrounded by residential density land uses with some existing single-family residences to the north and east. To the west is a single family residence and to the south is a large parcel predominately vacant with a single family residence along Ironwood. The parcel to the south has additional development potential including subdivision of the parcels into smaller lots.

The project is located between Avalon Street and Mimosa Street along Ironwood Avenue. The Tentative Parcel Map (TPM) proposes to subdivide one parcel into three parcels within a deep lot subdivision configuration. Access to the three new parcels will be provided by a 282.99-foot long by 20-foot wide paved driveway easement that includes a hammerhead turnaround which is proposed between Parcels 1 and 2. The previously approved TPM 07-0232 provided a 15 foot accessway to 4 parcels, including APN 068-311-030 and three parcels identified on TPM 07-0232. A reciprocal access easement agreement between the property owners of this proposed map (TPM MB 09-0091) and the previously approved TPM 07-0232 was recorded allowing access to the parcels from Ironwood Avenue, a public street. The 20-foot wide easement will also allow drainage, utilities and provide access for emergency response vehicles and will be posted and marked as a fire lane with no parking allowed.

Adjacent Zoning/Land Use			
North:	Single-Family Residential (R-1)	East:	Single Family Residence (R-1)
South:	Single Family Residence (R-1)	West:	Duplex Residential (R-2)
Site Characteristics			
Site Area	21,891 square feet		
Existing Use	Vacant land and a fence on Parcel 1		
Terrain:	Slopes westerly approximately 5%		
Vegetation/Wildlife	Small shrubs along existing fence line.		
Archaeological Resources	Greater than 1,500 feet from any known site and the closest survey was taken 400 feet away (#2819) where no known resources were found.		
Access	All lots will have access from a common driveway from Ironwood Avenue		
General Plan, Zoning Ordinance & Local Coastal Plan Designations			
Land Use Plan Designation	Low/Medium Density Residential (4-7 du/ac)		
Base Zone District	R-1		
Zoning Overlay District	N/A		
Coastal Zone	Yes, but not within appeals jurisdiction		

DISCUSSION

The proposed project would not result in any new structures, but would increase the development potential of the site by creating three new single-family residential lots. The construction of single-family residences on the new lots would require an Administrative Coastal Development Permit and Building Permit.

Creating four or less parcels only requires a Tentative Parcel Map approval, which does not require City Council action, although the map may be appealed to them. The minimum lot size requirement for the creation of new parcels comes from the City's Subdivision Ordinance. Section 16-9.204 of the Subdivision Ordinance addresses residential subdivisions and specifies the minimum lot size for residential zoned property with a slope of 15% or less shall be 6,000 square feet. Section 16-9.206 further defines the requirements for deep lot subdivisions.

The R-1 zoning standards are as follows:

Setbacks	Required	Proposed Envelopes
Front yard	20 feet	20 feet + 10 feet from access easement
Rear yard	10 feet	10 feet
Side yard	5 feet	5 feet
Lot coverage	45% maximum	45%
Height	25 feet	25 feet

The Subdivision Ordinance requires a minimum lot size of 6,000 square feet for a standard R-1 single family subdivision.

ANALYSIS:

Subdivision Design

The applicant requests to subdivide the existing 21,891 square foot lot into three smaller parcels. The parcels would be as follows: parcel one 6,120 gross (4,105 net); parcel two 6,045 gross (4,195 net); parcel three 9,726 gross (5,168 net) square feet. The above gross square footage includes the accessway, whereas the net square footage excludes the accessway. Each lot is in compliance with the maximum depth to width ratio of 3:1 and is in compliance with the minimum permissible lot width of 40 feet. However, the proposed lots do not conform to Section 16.9.206 which requires that newly created lots meet the minimum 6,000 square foot requirement without including the square footage of the accessway. When the accessway is subtracted from the lot calculations, the square footage of the lots would be as follows: parcel one 4,105 square feet or 32% below minimum size; parcel two 4,195 square feet or 30% below minimum size; and parcel three 5,168 square feet or 14 % below minimum size. Since the proposed lots do not meet the minimum lot size required by the Subdivision Ordinance, the applicant is requesting an exception.

Exception Analysis

To approve the minimum lot size exception request, the Planning Commission must make the required findings as stated in Section 16-15.002 of the Subdivision Ordinance as follows:

Before any exception is authorized, all of the following findings shall be made:

1. That the property to be divided is of such size or shape, or is affected by such topographic conditions, that it is impossible, impractical or undesirable, in the particular case, to conform to the strict application of the regulations codified in this title; and
2. That the cost to the subdivider of strict or literal compliance with the regulations is not the sole reason for granting the modification; and
3. That the modification will not be detrimental to the public health, safety and welfare, or be injurious to other properties in the vicinity; and
4. That granting the modification is in accord with the intent and purposes of these regulations, and is consistent with the General Plan and with all applicable specific plans or other plans of the City.

As noted above all four findings need to be made to grant an exception to any requirement imposed by the Subdivision Ordinance. Staff has reviewed the proposal in relation to the exception findings as follows:

The property has no unusual size or shape and is not limited by topography to where it makes the ability to create lots which meet the subdivision requirement for a minimum of 6,000 square feet exclusive of any accessway impractical. The project site yields approximately 13,348 net square feet (exclusive of any accessway) which could be divided into two lots each approximately 6,734 square feet in size. In order to facilitate the development of this site into two parcels of 6,734 square feet each, it will require the relocation of a hammerhead turnaround located between Parcel 1 and 2, which was approved via Improvement Plans. Relocating the hammerhead can be accommodated, although it would require that the applicant revise the Improvement Plans submitted for the installation of the accessway. The loss of one parcel would result in a loss of profit to the developer, but the exception cannot be granted solely due to economic

considerations. Since the City has just recently adopted a new Subdivision Ordinance that requires a minimum of 6,000 square feet, exclusive of the accessway, a request to deviate from this requirement without unusual circumstances would not be consistent with the intent or purpose of the subdivision requirements. Many subdivision proposals include provisions for a private accessway. Because this is such a common occurrence within the City, granting an exception in this case without a specific limitation to the property could result in a precedent setting decision resulting in others requesting the same exception and ultimately no project would ever be proposed meeting the 6,000 square foot minimum exclusive of the access way.

Staff requested that the applicant provide a graphic detailing the building footprint of each lot to demonstrate that a single family home could feasibly be constructed with the net acreage available after subtracting the accessway. It appears that with the required R-1 setbacks and the required additional 10-foot setback from the accessway, as required by the Subdivision Ordinance, the buildable area for Parcel 1 is approximately 2,243 sq. ft., Parcel 2 is approximately 2,251 sq. ft., and Parcel 3 is approximately 3,302 sq. ft., resulting in homes at approximately 1,900 sq. ft., 1,400 sq. ft., and 1,900 sq. ft., respectively, which may accommodate small 2 to 3 bedroom, 2-story homes. Although the graphics indicate that a modest sized homes may be possible at the reduced acreage, staff determined that the findings for the exception to the required lot size cannot be made. Therefore, the project has been conditioned to revise the parcel map to depict two regulation sized lots, rather than three undersized lots.

Other Requests

Another request by the applicant is that the Planning Commission find that the 20-foot wide paved accessway to the three parcels is adequate. Section 16-9.206 of the Subdivision Ordinance requires that an accessway which is more than 150 feet long be at least 24 feet wide with 20 feet of pavement, unless otherwise approved by the Planning Commission. Staff reviewed the proposed reduction and has determined that the project will be provided with adequate access at the proposed 20-foot width.

Public Improvements

The subdivision of property requires the full development of street improvements (curb, gutter, and sidewalks). The Improvement Plans for this proposed parcel map and previously approved TPM 07-0232 have been approved and grading has commenced. Improvements include a 6-foot wide concrete sidewalk, 6-inch concrete curb, and 18-inch gutter within a 20-foot right of way, as well as a hammerhead turn around located between Parcels 1 and 2. Fire suppression and prevention facilities for the subdivision have been determined by the Fire Department to be provided by sprinkling of the new residences and one hydrant located at Parcel 3. A 5-foot wide drainage and utility easement, which was approved with TPM MB 07-0232 is proposed along the westerly property line that crosses neighboring properties connecting to Bayview Avenue. The site has an average gentle slope towards the west at approximately 5 percent, as does each individual parcel. The project has been conditioned with standard stormwater requirements to ensure adequate drainage capacity, treatment of stormwater and measures to control flow that will be conveyed via proposed and existing drainage and utility easements to the lower west-end of the property connecting to existing improvements off site.

Subdivision Review Board (SRB)

The SRB reviewed the proposed Parcel Map on November 18, 2009, the SRB found the application complete and the SRB was able to make the required findings to support a conditional approval for the deep lot subdivision as mandated by the City's Subdivision and Zoning Ordinance. The following members attended the meeting: Kathleen Wold, Senior Planner; Gene Lehotsky, Associate Planner; Tom Prows, Fire Prevention Coordinator; Rob Livick, City Engineer; Damaris Hanson, Engineering Technician III; Joe Woods, Parks and Recreation Director; and Dan Doris, Chief Building Official.

Motion by Livick to approve the project as conditioned, Second by Prows.
Approved 7/0.

Consistency with the Local Coastal Program

For the proposed project to be approved, findings must be made that the project is consistent with applicable goals, objectives and policies of the Local Coastal program. As conditioned, the proposed project is consistent with the zoning and subdivision regulations and with the various applicable goals, objectives and policies of the LCP for all of the reasons stated above.

PUBLIC NOTICE:

Notice of this item was posted at the site and published in the San Luis Obispo Telegram-Tribune newspaper on November 27, 2009, and all property owners of record within 300 feet of the subject site and occupants within 100 feet of the subject site were notified of this evening's public hearing and invited to voice any concerns on this application.

CONCLUSION:

With recommended Conditions of Approval, the proposed project is consistent with the LCP and would not have a significant impact on the environment. The project would further goals for orderly and harmonious development, would be an attractive addition to the neighborhood, provide home ownership units to the city housing supply, and as such, all of the required findings could be made for project approval.

Report prepared by: Gene Lehotsky, Associate Planner

FINDINGS

California Environmental Quality Act (CEQA)

In accordance with California Environmental Quality Act (CEQA) (Public Resources Code 21000 et. Seq.), the project is exempt pursuant to Section 15332 (Infill Development), Class 32. There are no known sensitive environmental resources on the project site, nor would the creation of new lots cause directly or indirectly a potentially significant impact. An archaeological survey was conducted as well as a soils report to determine if site had potential concerns for future development and no known concerns were raised required as conditions of approval.

Subdivision Map Act Findings

- A. As conditioned, the proposed map to create a two lot deep subdivision project, where new parcels will have single-family residences is consistent with the General Plan and Coastal Land Use Plan because residential development and the given parcel sizes are allowed under the land use designation and zoning & subdivision ordinance.
- B. As conditioned, the design and improvements to create two single-family residences for the proposed subdivision is consistent with the General Plan and Coastal Land Use Plan because all public improvements will be constructed in accordance with City Engineers recommendation.
- C. The site is physically suitable for the type and density of development proposed because the site is zoned for single-family residential low to medium density (4-7 du/ac) and consistent with the land use designation.
- D. The design of the subdivision and related improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because all precautions will be implemented to catch and direct all runoff.
- E. The design of the subdivision and improvements will not cause serious public health problems.
- F. The design of the subdivision and related improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because no easements are required for the public however, facilities are designed to handle the adjacent properties as well.
- G. As conditioned, the design, architectural treatment, and general appearance of all buildings and open space areas are in keeping with the character of the surrounding area pursuant to 17.48.200, and will not be incompatible with the uses permitted in the surrounding areas and zoning district because new development will be subject to coastal development permits and neighborhood compatibility standards; and

- H. The City has available adequate water to serve the proposed subdivision based upon the water regulations and water equivalency table (Exhibit A) enforced at the time of approval of the tentative parcel map pursuant to the certified Water Management Plan and General Plan LU-22.1.
- I. Improved design based on density control and better community environment. As conditioned, the map will be consistent with Subdivision Ordinance and will allow orderly development consistent with the zoning district designation.

Coastal Development Permit Findings

J. That the project is an allowable use in its zoning district and is also in accordance with the certified Local Coastal Program and the General Plan for the City of Morro Bay based on the analysis and discussion in the attached staff report; and

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Put into main project*

K. The establishment, maintenance, or operation of the use applied for will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use as the project is consistent with all applicable zoning and plan requirements as indicated in the attached staff report; and

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Storage
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L. The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City since the project, as conditioned, will be conducted consistent with all applicable City regulations, as indicated in the attached staff report.

2nd

Subdivision Exception Findings

*Letter
4/1*

Pursuant to Section 16-15.020 of the Subdivision Ordinance, before any exception is authorized, the Planning Commission must make all of the below findings. As discussed in the staff report, Staff is unable to justify allowing the Parcel Map to deviate from the required residential lot size because the property has no unusual size or shape and is not limited by topography to where it makes the ability to create lots which meet the subdivision requirement for a minimum of 6,000 square feet exclusive of any accessway impractical. The project site yields approximately 13,348 net square feet (exclusive of any accessway) which could be divided into two lots each approximately 6,734 square feet in size. In order to facilitate the development of this site into two parcels of 6,734 square feet each, it will require the relocation of a hammerhead turnaround proposed between Parcel 1 and 2, which was approved via Improvement Plans. Relocating the hammerhead can be accommodated, although it would require that the applicant revise the Improvement Plans submitted for the installation of the accessway. The loss of one parcel would result in a loss of profit to the developer, but the exception cannot be granted solely due to economic considerations. Since the City has just recently adopted a new Subdivision Ordinance that requires a minimum of 6,000 square feet, exclusive of the accessway, a request to deviate from this requirement without unusual circumstances would not be consistent with the intent or purpose of the subdivision requirements. Many subdivision proposals include provisions for a private accessway. Because this is such a common occurrence within the City, granting an exception in this case without a specific limitation to the property could result in a precedent setting decision resulting in others requesting the same exception and ultimately no project would ever be proposed meeting the 6,000 square foot minimum exclusive of the access way.

- M. That the property to be divided is of such size or shape, or is affected by such topographic conditions, that it is impossible, impractical or undesirable, in the particular case, to conform to the strict application of the regulations codified in this title; and
- N. That the cost to the subdivider of strict or literal compliance with the regulations is not the sole reason for granting the modification; and
- O. That the modification will not be detrimental to the public health, safety and welfare, or be injurious to other properties in the vicinity; and
- P. That granting the modification is in accord with the intent and purposes of these regulations, and is consistent with the General Plan and with all applicable specific plans or other plans of the City.

CONDITIONS OF APPROVAL

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report referenced above, dated December 7, 2009 for the project depicted on the attached plans labeled "Exhibit C", dated November 20, 2009 on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:
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 Planning and Building 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 Planning and Building Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Planning and Building Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

7. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities including electrical, telephone and cable television shall be installed underground.
8. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. during the weekdays and eight a.m. and seven p.m. during the weekends, unless an exception is granted by the Building Official pursuant to the terms of this regulation.
9. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and wind blown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC Section 17.52.070.
10. 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 and implementation of any protective measures as determined by the Director of Planning & Building.
11. Property Line Verification. It is owner's responsibility to verify lot lines. Prior to foundation inspection the lot corners shall be staked and setbacks marked by a licensed professional.
12. Transportation/Circulation: The project shall provide approved "Fire Lane-No Parking" signage with red-painted curbs on the frontage of the alley where applicable.

PLANNING CONDITIONS

13. The Parcel Map shall be revised to depict two parcels instead of three to meet the minimum lot size of 6,000 square feet pursuant to the Subdivision Ordinance, excluding any accessway.
14. The accessway serving the proposed parcels shall be paved and shall be no less than 20 feet wide, as approved by the Planning Commission.

FIRE CONDITIONS

15. Access: A Fire Department Access Road is required pursuant to 2007 California Fire Code, Section 503.
16. Turnaround: A Fire Department Apparatus Turnaround is required and the Alternative to the 120-foot Hammerhead (contained in Appendix D) shall be used. (CFC 503.2.5)

17. Access Dimensions: Fire Department Access Road Dimensions shall have an obstructed width of not less than 20 feet. (CFC 503.2.1)
18. Access Surface: Fire Department Access Road Surface shall be designed and maintained to support imposed loads of fire apparatus and shall be surfaced to provide all-weather driving capabilities. (CFC 503.2.3)
19. Fire Hydrant System: Project shall provide an on-site fire hydrant for this subdivision, in accordance with CFC 508.1
20. Fire Sprinklers: All structures of this new subdivision shall be provided with automatic fire sprinkler systems, in accordance with NFPA 13-D and Morro Bay Municipal Code, Section 14.60.200.

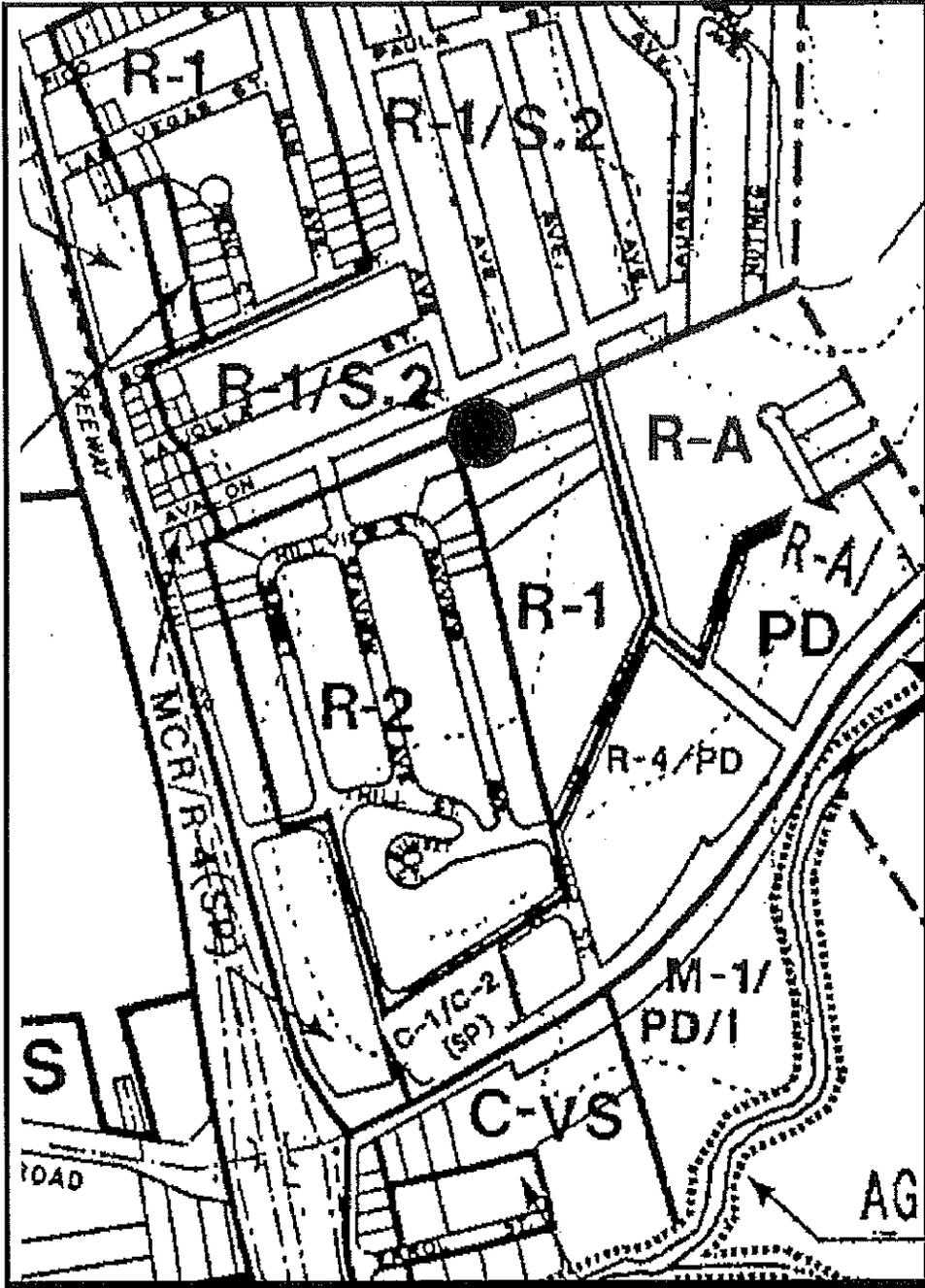
PUBLIC WORKS CONDITIONS

21. Stormwater Requirements:
 - a. Provide water quality treatment for the runoff resulting from a two year storm event either through retention (infiltration) or an alternative Water Quality BMP such as biofiltration, mechanical filtration or hydrodynamic separation.
 - b. Provide peak runoff rate control for the runoff resulting from the ten through hundred year rainfall events. For the purposes of stormwater management the pre-construction condition shall be natural soil and vegetation. Post development shall assume a fully built out parcel map.
 - c. Drainage analysis, runoff calculations, design and justification of drainage facilities shall be preformed by a Registered Civil Engineer and submitted prior to recordation of the Final Parcel Map. The responsible Soils Engineer shall review all proposed infiltration and storage systems for site suitability.
22. Stormwater Requirements: With any building or grading permits, 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.

RECREATION AND PARKS CONDITIONS

23. Parkland In-Lieu Fees: In accordance with the Morro Bay Municipal Code 16.16.030 Parkland Dedication Requirements, the subdivision will require payment of an in-lieu fee. Based on the County of San Luis Obispo Assessed Value for 2009-2010, the anticipated in-lieu fee total is: \$17,864.00. Note that this fee may be redetermined at the time of payment and that the value of the land based on 2009-2010 is vested.

GRAPHICS/PLAN REDUCTIONS



Planning Commission



ZONING MAP

EXHIBIT D

- Amended -
CITY OF MORRO BAY
PLANNING COMMISSION
SYNOPSIS MINUTES

AGENDA ITEM NO. VII B
DATE: July 21, 2008
ACTION: Approved 5-0

(Complete audio- and videotapes of this meeting are available from the City upon request)

Veteran's Memorial Building
Regular Meeting, 6:00 p.m.

209 Surf Street, Morro Bay
Monday, July 7, 2008

Chairperson Nancy Johnson
Vice-Chairperson Bill Woodson Commissioner Michael Lucas
Commissioner Gerald Luhr Commissioner Gary Ream
Michael Prater, Secretary

I. CALL MEETING TO ORDER

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

II. PLEDGE OF ALLEGIANCE

Dan Doris led the pledge.

III. ROLL CALL

Johnson asked that the record show all Commissioners were present.

Staff Present: Bruce Ambo, Michael Prater, Rachel Grossman, Kay Miller and Dan Doris.

IV. ACCEPTANCE OF AGENDA

MOTION: Ream, Luhr 2nd to accept the agenda as presented. VOTE: 5-0

V. DIRECTOR'S REPORT/WRITTEN COMMUNICATIONS

Ambo reported at the June 23, 2008 meeting, City Council:

- Approved transmitting a letter to Governor in opposition of state budget cuts that would impact state transit assistance – Morro Bay Dial-A-Ride
- Issued a Certificate of Public Convenience for Surf Cab Service in Morro Bay
- Authorized the filing of Notice of Completion for Fire Station 54
- Authorized Staff to enter into an agreement with General Electric to purchase a brackish water equipment train for the Desalinization Plant
- Approved the lighting and landscape District for Northpoint and the Cloisters
- Discussed putting Measure D on the ballot and decided to postpone it
- Assigned a lease for 225 Main Street from Norm Arnold to Bob Crizer
- Adopted in-lieu parking fee boundary and reduced the fees to \$2,000 for 5 year period
- Held a goal setting meeting on June 30th and the report is forthcoming from the facilitator

Ambo reported for the upcoming Agenda for the July 14th City Council Meeting:

- Resolution to appoint Andrea Lueker as City Manager
- Minor Revisions to cost of living adjustments to Master Fee Schedule
- Final Action of the Abandonment of Palm Street
- Two items as place holders for applying for grants for housing and economic development. It is possible this may need to be moved to the August 11th Meeting because the Notice of Funding and Availability may not be out by then.
- The Economic Vitality Corporation will propose to City Council to participate in a city cost study for a Countywide Tourism Study
- Presentation of space needs study on expansion of City Corp yard and ask Council for direction
- Set date to discuss the Management Partners Study and follow-up on implementation of recommendations

VI. PUBLIC COMMENT

- Jeannie Gonsenhauser and Francis Jeffrey, Members of the Sea Air CO2 Committee, expressed concern of the impact of pollution to the ocean, children, pregnant women and climate change.
- Marla Jo Bruton and Richard Sadowski presented a Coastal Commission Notification of Appeal regarding closing out the monitoring wells at 1840 Main Street and expressed concerns of the city's collection system
- Ken Vestefelt congratulated Post 43 Youth Group competed with the western agencies and came in second place overall and the Cal Fire ADHOC Committee will host a workshop regarding contracting with Cal Fire on July 12, 2008
- Johnson announced upcoming Dahlia Days
- Bill Woodson stated Michael Lucas was awarded outstanding Academic for Professor at Cal Poly

VII. CONSENT CALENDAR

- A. None

VIII. PRESENTATIONS

- A. Dan Doris, the City Building Official, addressed Special Conditions versus Code Compliance.
- This year the City adopted a new building code that is the international building code.
 - There are new storm water measures and fire sprinklers that are in place for new and remodeled buildings.
 - Occasionally the Commission makes a recommendation for a special condition that is in conflict with the code, however, the building department takes precedent.
 - Doris clarified the following questions from the Commission:
 - Any project that has already been approved does not require fire sprinklers. Any project after June 11th, 2008, needs to comply with new code.
 - All new projects require a landscape plan and staff encourages native, drought tolerant species, high efficiency landscape irrigation systems and low flow fixtures

IX. FUTURE AGENDA ITEMS

- A. Planning Commission interpretation on decks in the front yard setback and what elements are allowed on them.

X. PUBLIC HEARINGS

- A. Site Location: 1170 Front Street in the C-VS/PD (SP) Zoning District. Applicants: Robin Martella and George Leage. The applicant requests to modify the Commission's previous approval to construct a six-unit hotel, associated manager's unit and seven space subterranean parking lot, as a result of changes requested by the California Coastal Commission. This site is located within the original jurisdiction of the Coastal Commission. (Recommended CEQA Determination: A Mitigated Negative Declaration has been prepared and filed).
- Staff Recommendation: Conditionally approve the modified project.
Staff Contact: Rachel Grossman, Associate Planner, 772-6261

Grossman presented the Staff Report

Lucas questioned does the city allow construction of habitable space within the flood plane and imagines the lower floor of the basement to be in the flood plane and Grossman stated that the City Engineer reviewed this and showed no concern about having construction in the basement .

Woodson stated concern about rooms having only one exit and Grossman said this has been reviewed by the building department and the project will not be able to move forward until they meet code compliant egress from the structures

Woodson questioned is this it for this project and where does it go from here and Grossman replied once they get approval from us they will get concurrence from the California Coastal Commission then they can move forward with building permits submittal

Luhr asked does the consistency analysis from the previous staff report still apply or has it been upgraded and Grossman responded that it has not been upgraded except for some verbal denotations on the staff report the project is more consistent with design requirements and the waterfront master plan

Luhr asked about in-lieu parking fees are they entitled to dedicate parking or is this a public lot and Grossman responded it would be a public lot.

Woodson said that Ambo stated at the last City Council Meeting there was a change in parking in-lieu fees so how does it effect this projects commitment to pay seven in-lieu fees and how does that set with the CCC in the negotiations with them on agreeing with the seven in-lieu spaces in-lieu of any on site parking and Grossman responded that reduced fees do not apply to this area of town, so this project is subject to the \$15,000 per space fee that is currently in effect for the water front area

Johnson said that Grossman mentioned the project is a vacation rental with no manager on site, so does that mean they are subject to additional regulations that apply to vacation rentals rather than motels and Grossman replied that she assumed so but that would go through the business license clerk and she is going to let the applicant speak to that specifically

Johnson opened public hearing

Novak, agent for applicant, said the major modification to the project was the structural height which was redesigned to protect the view of the bluff behind the project and that the project does not need to go back to CCC and that there will no roof top equipment. Novak also stated there will be a management service for this project.

Seeing no other comment, Johnson closed public hearing

Grossman clarified that a condition of approval is to re-stripe the parking lot
The Commission Discussion:

- No mechanical on roof assuming that it would not include solar, photovoltaic and hot water. Luhr requested a condition to include future solar systems
- A condition that there is no storage or structures behind building
- Trash cans moved back an additional five feet and remove concrete stopper for parking space so trash cans can be rolled away with ease, Woodson request it be a suggestion not a condition
- Clarification vinyl would be the material used for fence
- Concerns of retaining wall elevation and the plantings
- Concerned with amplified noise

Johnson states there are three conditions before they vote which are: no storage or structure behind building, exclude solar panels from roof and noise level not to exceed city ordinance
Lucas wants to condition the plants to cover retaining wall

MOTION: Woodson moved to approve the project with the following conditions, Lucas 2nd:

- No storage or structure behind building
- No mechanical on roof except solar
- Noise level not to exceed city ordinance

VOTE 5-0

- B. Site Location: 2195 Ironwood Avenue in the R-1 Zoning District. Applicants: Tim & Carol Daniels. The applicant requests a 3 lot Parcel Map to subdivide an existing parcel into a deep-lot subdivision with private driveway access with offsite easements and hammerhead turn-a-round. The resulting lots will be Parcel 3, 6,000 sqft, Parcel 2, 6,000 sqft, and Parcel 1, 9,776 sqft in gross area. Parcel 1 would retain the existing residences and detached garage that would record a lot tie agreement to remove or remodel the garage at the time of sell or development for Parcel 2. No residential development is proposed for the remaining lots at this time. This site is located outside the appeals jurisdiction of the Coastal Commission. (Recommended CEQA Determination: A Mitigated Negative Declaration has been prepared).
- Staff Recommendation: Conditionally approve the project.
 Staff Contact: Mike Prater, Planning Manager, 772-6261.

Prater presented the Staff Report

- Lucas and Woodson expressed concern that the retaining wall and fence are too tall

Johnson opened Public Hearing

Novak, agent for the applicant, discussed size of lots, fire turn around, sewer issues

Roger Ewing expressed concern about sidewalk, curb and gutter. He would prefer a 90-degree angle curb versus a rolling curb

Seeing no other comment, Johnson closed public hearing

Commission continued discussion of retaining wall and fence height, sidewalk, curb and gutter, fire turn around and drainage

MOTION: Bill Woodson moved to approve the project with the following conditions, Ream 2nd:

- Change condition # 22 for Fence Height -- The maximum fence height shall be six-feet and allowed above the retaining walls. The retaining walls are expected to not exceed five-feet. If the combination of the retaining wall and fence exceed eight feet in height from finish grade then concurrence from the Planning Commission shall be required. The maximum height shall be reduced along the front setbacks to meet code of four feet in height
- Change condition # 10 to include fire turn around
- Add condition # 24 -- The applicant shall acquire all necessary easements from the adjacent properties for utilities and drainage and shall be recorded prior to final map recordation
- Add condition # 25 - The driveway for Parcel 1 shall utilize the proposed shared common driveway
- Add condition # 26 -- Sidewalk and curb shall be concrete and meet the city standards
- Add condition # 27 -- The City Engineer should consider requiring frontage improvements per collector street detail
- Add condition # 28 -- The current curb material of the private driveway shall match the future improvements of Parcel 19

Vote: 5-0

I. OLD BUSINESS

- Prater working on neighborhood compatibility standards anticipating it coming back August 4, 2008.

A. Current Planning Processing List

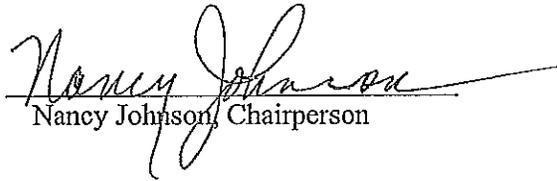
Projects submitted for Administrative Approval (not single-family residential unless in MCR)

1. None

XII. NEW BUSINESS – None

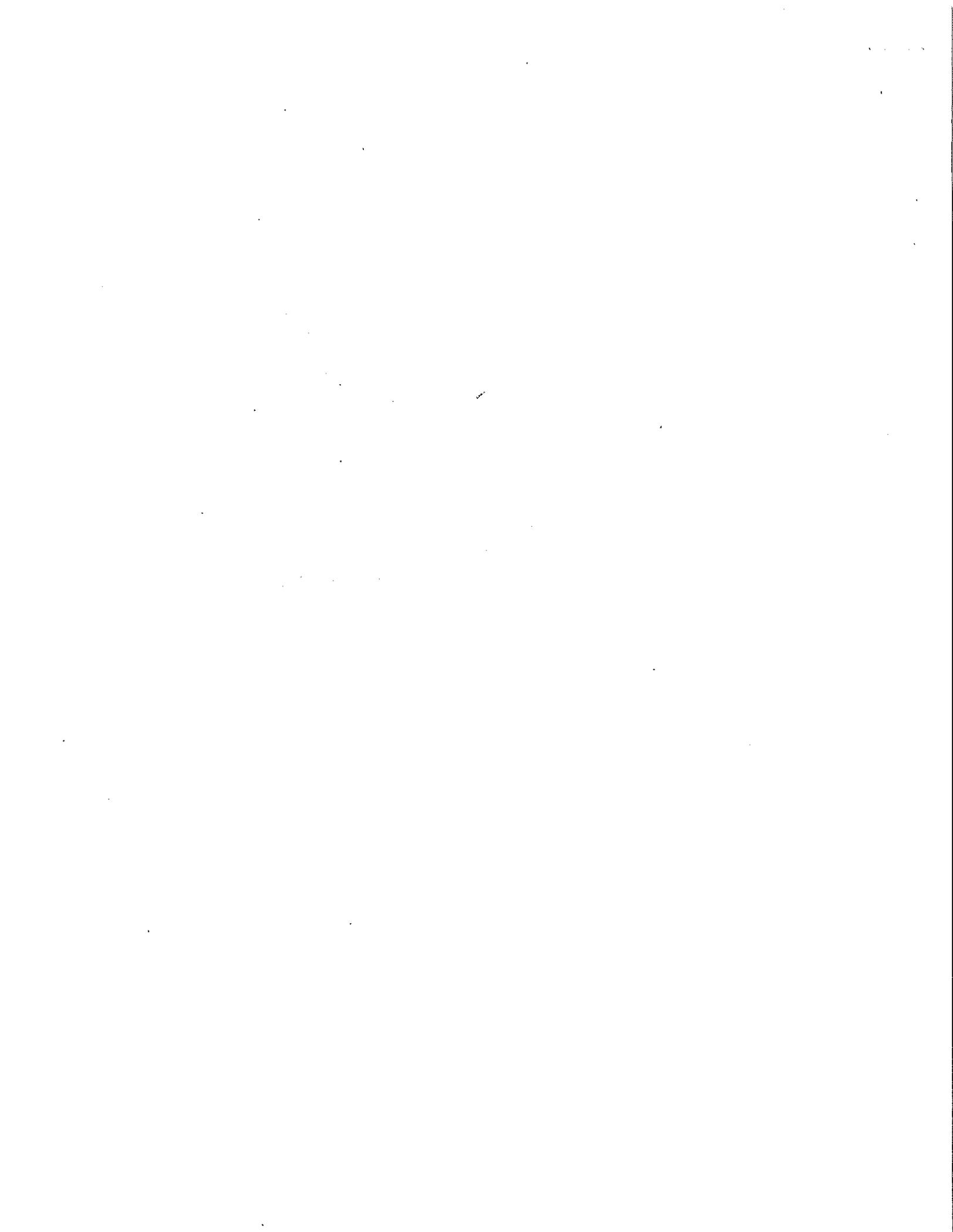
XIII. ADJOURNMENT

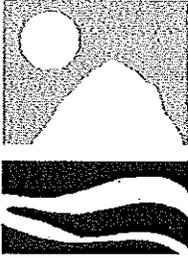
Johnson adjourned the meeting at 9:18p.m. to the next regularly scheduled Planning Commission meeting at the Veterans Hall, 209 Surf Street, on Monday, July 21, 2008, at 6:00 p.m.


Nancy Johnson, Chairperson

ATTEST:


Michael Prater, Secretary





AGENDA ITEM: XA
DATE 1-19-10
ACTION: _____

Memorandum

TO: PLANNING COMMISSION **DATE:** JANUARY 19, 2010
FROM: GENENE LEHOTSKY, ASSOCIATE PLANNER
SUBJECT: CONTINUED HEARING REQUEST FOR PARCEL MAP (MB 09-0091) AND
COASTAL DEVELOPMENT PERMIT APPROVAL TO SUBDIVIDE ONE
LOT INTO THREE AT 612 AGAVE DRIVE

RECOMMENDATION:

Staff recommends that the Planning Commission conditionally approve the project by adopting a motion including the following actions(s):

- A. Adopt the Findings for Approval included as Exhibit "A" of the staff report, for the Subdivision Exception Request, CEQA Categorical Exemption, Subdivision Map Act, and Coastal Development Permit based on the Tentative Parcel Map dated November 20, 2009, subject to the Conditions of Approval included as Exhibit "B" of the staff report.

BACKGROUND:

This project was initially heard by the Planning Commission on December 7, 2009. At the meeting, the Commission directed staff to return with findings of approval for the subdivision exception request, which would allow the accessway to be included to meet the required lot square footage for single family residentially zoned lots. On January 4, 2010, based upon direction from the Planning Commission, staff brought forward findings of approval for the subdivision exception request.

DISCUSSION:

Commissioner Lucas abstained from voting on the project at the January 4, 2010 Planning Commission meeting since he was not present at the December 7, 2009 Planning Commission Meeting and had not had an opportunity to review the audio and associated materials. The applicant requested that the project be continued to this Planning Commission meeting to allow Commissioner Lucas to review the audio and other materials presented at the December 7, 2009 Planning Commission meeting so that he would be fully informed and prepared to vote on the project.

CONCLUSION:

As conditioned, the proposed project would be consistent with all applicable development standards of the Zoning Ordinance, and applicable provisions of the General Plan and Local Coastal Plan and would not have a significant impact on the environment. The project would further goals for orderly and harmonious development, would be an attractive addition to the neighborhood, provide home ownership units to the city housing supply, and as such, all of the required findings could be made for project approval.

Attachments:

- Exhibit A – Findings for Approval
- Exhibit B – Conditions of Approval
- Exhibit C – January 4, 2010 Staff Report
- Exhibit D – December 7, 2009 Staff Report

EXHIBIT A
FINDINGS

California Environmental Quality Act (CEQA)

In accordance with California Environmental Quality Act (CEQA) (Public Resources Code 21000 et. Seq.), the project is exempt pursuant to Section 15332 (Infill Development), Class 32. There are no known sensitive environmental resources on the project site, nor would the creation of new lots cause directly or indirectly a potentially significant impact. An archaeological survey was conducted as well as a soils report to determine if site had potential concerns for future development and no known concerns were raised required as conditions of approval.

Subdivision Map Act Findings

- A. As conditioned, the proposed map to create a three lot deep subdivision project, where new parcels will have single-family residences, is consistent with the General Plan and Coastal Land Use Plan because residential development and the given parcel sizes are allowed under the land use designation and zoning & subdivision ordinance.
- B. As conditioned, the design and improvements to create three single-family residences for the proposed subdivision is consistent with the General Plan and Coastal Land Use Plan because all public improvements will be constructed in accordance with City Engineers recommendation.
- C. The site is physically suitable for the type and density of development proposed because the site is zoned for single-family residential low to medium density (4-7 du/ac) and consistent with the land use designation.
- D. The design of the subdivision and related improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because all precautions will be implemented to catch and direct all runoff.
- E. The design of the subdivision and improvements will not cause serious public health problems.
- F. The design of the subdivision and related improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because no easements are required for the public however, facilities are designed to handle the adjacent properties as well.
- G. As conditioned, the design, architectural treatment, and general appearance of all buildings and open space areas are in keeping with the character of the surrounding area pursuant to 17.48.200, and will not be incompatible with the uses permitted in the surrounding areas and zoning district because new development will be subject to coastal development permits and neighborhood compatibility standards; and

- H. The City has available adequate water to serve the proposed subdivision based upon the water regulations and water equivalency table (Exhibit A) enforced at the time of approval of the tentative parcel map pursuant to the certified Water Management Plan and General Plan LU-22.1.
- I. Improved design based on density control and better community environment. As conditioned, the map will be consistent with Subdivision Ordinance and will allow orderly development consistent with the zoning district designation.

Coastal Development Permit Findings

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

Subdivision Exception Findings

Pursuant to Section 16-15.020 of the Subdivision Ordinance, before any exception is authorized, the Planning Commission must make all of the below findings.

As discussed above in the staff report, staff made the below findings to justify allowing the Parcel Map to deviate from the required residential lot size because the property has been encumbered by the turnaround to provide access not just to the subject property but for other properties as well. This turnaround creates a unique or unusual situation because it encumbers the subject property with a regional turnaround to serve more than one project. Typically, turnarounds for a project would be required on that project's property; however the turnaround for Parcel Map MB 07-0232 was placed and approved on the subject property. Therefore, the allowance of three undersized parcels, in lieu of two parcels on the subject site, which will include the accessway square footage to meet the minimum square footage requirements is justifiable, since the turnaround reduces the developable square footage of the subject property. Due to the unique situation, the project as conditioned, is consistent with the General Plan and with all applicable specific plans or other plans of the City.

- M. That the property to be divided is of such size or shape, or is affected by such topographic conditions, that it is impossible, impractical or undesirable, in the particular case, to conform to the strict application of the regulations codified in this title; and

- N. That the cost to the subdivider of strict or literal compliance with the regulations is not the sole reason for granting the modification; and
- O. That the modification will not be detrimental to the public health, safety and welfare, or be injurious to other properties in the vicinity; and
- P. That granting the modification is in accord with the intent and purposes of these regulations, and is consistent with the General Plan and with all applicable specific plans or other plans of the City.

EXHIBIT B
CONDITIONS OF APPROVAL

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report referenced above, dated December 7, 2009 for the project depicted on the attached plans labeled "Exhibit C", dated November 20, 2009 on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:
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 Planning and Building 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 Planning and Building Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Planning and Building Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the

use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

7. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities including electrical, telephone and cable television shall be installed underground.
8. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. during the weekdays and eight a.m. and seven p.m. during the weekends, unless an exception is granted by the Building Official pursuant to the terms of this regulation.
9. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and wind blown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC Section 17.52.070.
10. 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 and implementation of any protective measures as determined by the Director of Planning & Building.
11. Property Line Verification. It is owner's responsibility to verify lot lines. Prior to foundation inspection the lot corners shall be staked and setbacks marked by a licensed professional.
12. Transportation/Circulation: The project shall provide approved "Fire Lane-No Parking" signage with red-painted curbs on the frontage of the alley where applicable.

PLANNING CONDITIONS

13. The accessway serving the proposed parcels shall be paved and shall be no less than 20 feet wide, as approved by the Planning Commission.

FIRE CONDITIONS

14. Access: A Fire Department Access Road is required pursuant to 2007 California Fire Code, Section 503.
15. Turnaround: A Fire Department Apparatus Turnaround is required and the Alternative to the 120-foot Hammerhead (contained in Appendix D) shall be used. (CFC 503.2.5)

16. Access Dimensions: Fire Department Access Road Dimensions shall have an obstructed width of not less than 20 feet. (CFC 503.2.1)
17. Access Surface: Fire Department Access Road Surface shall be designed and maintained to support imposed loads of fire apparatus and shall be surfaced to provide all-weather driving capabilities. (CFC 503.2.3)
18. Fire Hydrant System: Project shall provide an on-site fire hydrant for this subdivision, in accordance with CFC 508.1
19. Fire Sprinklers: All structures of this new subdivision shall be provided with automatic fire sprinkler systems, in accordance with NFPA 13-D and Morro Bay Municipal Code, Section 14.60.200.

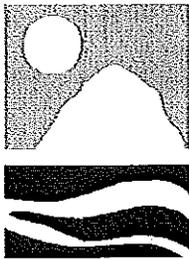
PUBLIC WORKS CONDITIONS

20. Stormwater Requirements:
 - a. Provide water quality treatment for the runoff resulting from a two year storm event either through retention (infiltration) or an alternative Water Quality BMP such as biofiltration, mechanical filtration or hydrodynamic separation.
 - b. Provide peak runoff rate control for the runoff resulting from the ten through hundred year rainfall events. For the purposes of stormwater management the pre-construction condition shall be natural soil and vegetation. Post development shall assume a fully built out parcel map.
 - c. Drainage analysis, runoff calculations, design and justification of drainage facilities shall be preformed by a Registered Civil Engineer and submitted prior to recordation of the Final Parcel Map. The responsible Soils Engineer shall review all proposed infiltration and storage systems for site suitability.
21. Stormwater Requirements: With any building or grading permits, 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.

RECREATION AND PARKS CONDITIONS

22. Parkland In-Lieu Fees: In accordance with the Morro Bay Municipal Code 16.16.030 Parkland Dedication Requirements, the subdivision will require payment of an in-lieu fee. Based on the County of San Luis Obispo Assessed Value for 2009-2010, the anticipated in-lieu fee total is: \$17,864.00. Note that this fee may be redetermined at the time of payment and that the value of the land based on 2009-2010 is vested.

EXHIBIT C



AGENDA NO: _____

Meeting Date: _____

Action: _____

Memorandum

TO: PLANNING COMMISSION

DATE: JANUARY 4, 2010

FROM: GENENE LEHOTSKY, ASSOCIATE PLANNER

SUBJECT: REQUEST FOR PARCEL MAP (MB 09-0091) AND COASTAL DEVELOPMENT PERMIT APPROVAL TO SUBDIVIDE ONE LOT INTO THREE AT 612 AGAVE DRIVE

RECOMMENDATION:

Staff recommends that the Planning Commission conditionally approve the project by adopting a motion including the following actions(s):

- A. Adopt the Findings for Approval included as Exhibit "A" of the staff report, for the Subdivision Exception Request, CEQA Categorical Exemption, Subdivision Map Act, and Coastal Development Permit based on the Tentative Parcel Map dated November 20, 2009, subject to the Conditions of Approval included as Exhibit "B" of the staff report.

BACKGROUND:

On December 7, 2009 the applicant requested Parcel Map and Coastal Development Permit approval for the subdivision of one parcel into three located at 612 Agave Dr. Based upon comments and concerns expressed by the Planning Commission, staff was directed to prepare findings of approval for the subdivision exception request allowing the accessway to be included to meet the required lot square footage for single family residentially zoned lots.

DISCUSSION:

The applicant is requesting the subdivision of one lot into three lots (subject property). To subdivide the subject property into three lots, the applicant is required to request a subdivision exception to allow the accessway to be counted toward the minimum lot size requirement of 6,000 square feet, pursuant to the City's Subdivision Regulations. Staff recommended denying the subdivision exception request and allowing two lots instead of three so that the lots would meet the lot size requirement and therefore be in compliance with the City's Subdivision Regulations.

The Planning Commission's motion to continue the project was due to discussions regarding an adjacent subdivision's approval (Parcel Map MB 07-0232) which impacts this proposed subdivision by placing a fire turnaround required for Parcel Map MB 07-0232 on the subject property. Staff required a turnaround to serve the previously approved subdivision, however, the precise placement of the turnaround on the then adjacent property (subject property) was proposed by the applicant, not by staff.

Staff reviewed the audio of the July 7, 2008 Planning Commission Meeting and during the presentation to Planning Commission for previously approved Parcel Map MB 07-0232, it was recognized by the owner Parcel Map MB 07-0232 and the owner of the subject property that it would be mutually beneficial to work together to facilitate the development of both parcels. As such, the turnaround proposed with Parcel Map MB 07-0232 on the subject property was designed to service not only Parcel Map MB 07-0232, but the subject property itself.

This turnaround creates a unique or unusual situation because it encumbers the subject property with a regional turnaround to serve more than one project. Typically, turnarounds for a project would be required on that project's property; however the turnaround for Parcel Map MB 07-0232 was placed on the subject property. Therefore, the allowance of three undersized parcels, in lieu of two parcels on the subject site, which will include the accessway square footage to meet the minimum square footage requirements is justifiable, since the turnaround reduces the developable square footage of the subject property.

Staff was only able to find the above justification to allow the inclusion of the accessway square footage to meet the required lot square footage of 6,000 square feet. Staff has provided findings in Exhibit A to approve subdivision exception request pursuant to the plans dated November 20, 2009. Further, staff has removed Condition 13 included in the original conditions of approval which states: "The Parcel Parcel Map shall be revised to depict two parcels instead of three to meet the minimum lot size of 6,000 square feet pursuant to the Subdivision Ordinance, excluding any accessway."

CONCLUSION:

As conditioned, the proposed project would be consistent with all applicable development standards of the Zoning Ordinance, and applicable provisions of the General Plan and Local Coastal Plan and would not have a significant impact on the environment. The project would further goals for orderly and harmonious development, would be an attractive addition to the neighborhood, provide home ownership units to the city housing supply, and as such, all of the required findings could be made for project approval.

Exhibits:

- Attachment A – Findings for Approval
- Attachment B – Conditions of Approval
- Attachment C – December 7, 2009 Staff Report
- Attachment D – July 7, 2008 Planning Commission Minutes (Parcel Map MB 07-0232)

EXHIBIT A
FINDINGS

California Environmental Quality Act (CEQA)

In accordance with California Environmental Quality Act (CEQA) (Public Resources Code 21000 et. Seq.), the project is exempt pursuant to Section 15332 (Infill Development), Class 32. There are no known sensitive environmental resources on the project site, nor would the creation of new lots cause directly or indirectly a potentially significant impact. An archaeological survey was conducted as well as a soils report to determine if site had potential concerns for future development and no known concerns were raised required as conditions of approval.

Subdivision Map Act Findings

- A. As conditioned, the proposed map to create a three lot deep subdivision project, where new parcels will have single-family residences, is consistent with the General Plan and Coastal Land Use Plan because residential development and the given parcel sizes are allowed under the land use designation and zoning & subdivision ordinance.
- B. As conditioned, the design and improvements to create three single-family residences for the proposed subdivision is consistent with the General Plan and Coastal Land Use Plan because all public improvements will be constructed in accordance with City Engineers recommendation.
- C. The site is physically suitable for the type and density of development proposed because the site is zoned for single-family residential low to medium density (4-7 du/ac) and consistent with the land use designation.
- D. The design of the subdivision and related improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because all precautions will be implemented to catch and direct all runoff.
- E. The design of the subdivision and improvements will not cause serious public health problems.
- F. The design of the subdivision and related improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because no easements are required for the public however, facilities are designed to handle the adjacent properties as well.
- G. As conditioned, the design, architectural treatment, and general appearance of all buildings and open space areas are in keeping with the character of the surrounding area pursuant to 17.48.209, and will not be incompatible with the uses permitted in the surrounding areas and zoning district because new development will be subject to coastal development permits and neighborhood compatibility standards; and

- H. The City has available adequate water to serve the proposed subdivision based upon the water regulations and water equivalency table (Exhibit A) enforced at the time of approval of the tentative parcel map pursuant to the certified Water Management Plan and General Plan LU-22.1.
- I. Improved design based on density control and better community environment. As conditioned, the map will be consistent with Subdivision Ordinance and will allow orderly development consistent with the zoning district designation.

Coastal Development Permit Findings

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

Subdivision Exception Findings

Pursuant to Section 16-15.020 of the Subdivision Ordinance, before any exception is authorized, the Planning Commission must make all of the below findings.

As discussed above in the staff report, staff made the below findings to justify allowing the Parcel Map to deviate from the required residential lot size because the property has been encumbered by the turnaround to provide access not just to the subject property but for other properties as well. This turnaround creates a unique or unusual situation because it encumbers the subject property with a regional turnaround to serve more than one project. Typically, turnarounds for a project would be required on that project's property; however the turnaround for Parcel Map MB 07-0232 was placed and approved on the subject property. Therefore, the allowance of three undersized parcels, in lieu of two parcels on the subject site, which will include the accessway square footage to meet the minimum square footage requirements is justifiable, since the turnaround reduces the developable square footage of the subject property. Due to the unique situation, the project as conditioned, is consistent with the General Plan and with all applicable specific plans or other plans of the City.

- M. That the property to be divided is of such size or shape, or is affected by such topographic conditions, that it is impossible, impractical or undesirable, in the particular case, to conform to the strict application of the regulations codified in this title; and

- N. That the cost to the subdivider of strict or literal compliance with the regulations is not the sole reason for granting the modification; and
- O. That the modification will not be detrimental to the public health, safety and welfare, or be injurious to other properties in the vicinity; and
- P. That granting the modification is in accord with the intent and purposes of these regulations, and is consistent with the General Plan and with all applicable specific plans or other plans of the City.

EXHIBIT B
CONDITIONS OF APPROVAL

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report referenced above, dated December 7, 2009 for the project depicted on the attached plans labeled "Exhibit C", dated November 20, 2009 on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:
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 Planning and Building 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 Planning and Building Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Planning and Building Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the

use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

7. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities including electrical, telephone and cable television shall be installed underground.
8. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. during the weekdays and eight a.m. and seven p.m. during the weekends, unless an exception is granted by the Building Official pursuant to the terms of this regulation.
9. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and wind blown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC Section 17.52.070.
10. 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 and implementation of any protective measures as determined by the Director of Planning & Building.
11. Property Line Verification. It is owner's responsibility to verify lot lines. Prior to foundation inspection the lot corners shall be staked and setbacks marked by a licensed professional.
12. Transportation/Circulation: The project shall provide approved "Fire Lane-No Parking" signage with red-painted curbs on the frontage of the alley where applicable.

PLANNING CONDITIONS

13. The accessway serving the proposed parcels shall be paved and shall be no less than 20 feet wide, as approved by the Planning Commission.

FIRE CONDITIONS

14. Access: A Fire Department Access Road is required pursuant to 2007 California Fire Code, Section 503.
15. Turnaround: A Fire Department Apparatus Turnaround is required and the Alternative to the 120-foot Hammerhead (contained in Appendix D) shall be used. (CFC 503.2.5)

16. Access Dimensions: Fire Department Access Road Dimensions shall have an obstructed width of not less than 20 feet. (CFC 503.2.1)
17. Access Surface: Fire Department Access Road Surface shall be designed and maintained to support imposed loads of fire apparatus and shall be surfaced to provide all-weather driving capabilities. (CFC 503.2.3)
18. Fire Hydrant System: Project shall provide an on-site fire hydrant for this subdivision, in accordance with CFC 508.1
19. Fire Sprinklers: All structures of this new subdivision shall be provided with automatic fire sprinkler systems, in accordance with NFPA 13-D and Morro Bay Municipal Code, Section 14.60.200.

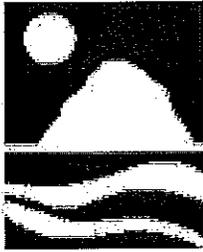
PUBLIC WORKS CONDITIONS

20. Stormwater Requirements:
 - a. Provide water quality treatment for the runoff resulting from a two year storm event either through retention (infiltration) or an alternative Water Quality BMP such as biofiltration, mechanical filtration or hydrodynamic separation.
 - b. Provide peak runoff rate control for the runoff resulting from the ten through hundred year rainfall events. For the purposes of stormwater management the pre-construction condition shall be natural soil and vegetation. Post development shall assume a fully built out parcel map.
 - c. Drainage analysis, runoff calculations, design and justification of drainage facilities shall be performed by a Registered Civil Engineer and submitted prior to recordation of the Final Parcel Map. The responsible Soils Engineer shall review all proposed infiltration and storage systems for site suitability.
21. Stormwater Requirements: With any building or grading permits, 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.

RECREATION AND PARKS CONDITIONS

22. Parkland In-Lieu Fees: In accordance with the Morro Bay Municipal Code 16.16.030 Parkland Dedication Requirements, the subdivision will require payment of an in-lieu fee. Based on the County of San Luis Obispo Assessed Value for 2009-2010, the anticipated in-lieu fee total is: \$17,864.00. Note that this fee may be redetermined at the time of payment and that the value of the land based on 2009-2010 is vested.

EXHIBIT D



AGENDA ITEM: _____
ACTION: _____

CITY OF MORRO BAY PLANNING COMMISSION

December 7, 2009

PROJECT SUMMARY

Deep Lot Subdivision for the creation of 3 Parcels

FILE NUMBER

S00-101/CP0-321

LEGAL DESCRIPTION

Portion of Lot 20 of Dirks
Resubdivision of a portion of Lots
6, 17, & 18 of Rancho Morro Y
Cayucos subdivision

ADDRESS

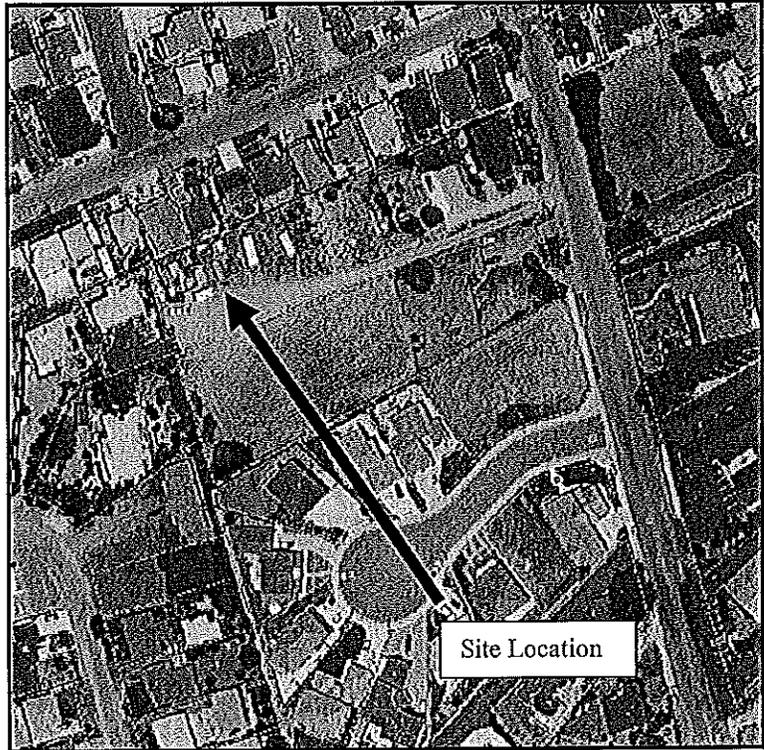
612 Agave Drive

APN

068-340-015

APPLICANT

Dave and Dorene Stover
2193 Ironwood Avenue
Morro Bay, CA 93442
(805) 788-0588



Vicinity Map

EXHIBITS

- A. Findings for Approval
- B. Conditions of Approval
- C. Graphics/Plan Reductions
- D. Building Footprint Study

ISSUE SUMMARY

The applicants are requesting a three lot Parcel Map to subdivide an existing parcel into a deep-lot subdivision with private driveway access, off-site easements, and a hammerhead turnaround. The project includes a request to allow the accessway to be reduced from 24 feet to 20 feet in width and a subdivision exception request to allow the inclusion of access easement square footage into the overall lot square footage. No residential development is proposed for the lots at this time.

STAFF RECOMMENDATION

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

- A. Adopt the Findings for Denial included as Exhibit "A" of the staff report for the Subdivision Exception Request; and
- B. Adopt the Findings for Approval included as Exhibit "A" of the staff report, for the CEQA Categorical Exemption; and
- C. Adopt the Findings for Approval included as Exhibit "A" of the staff report for the Subdivision Map Act and Coastal Development Permit based on the Tentative Parcel Map dated November 20, 2009, subject to the Conditions of Approval included as Exhibit "B" of the staff report.

ENVIRONMENTAL DETERMINATION:

In accordance with California Environmental Quality Act (CEQA) (Public Resources Code 21000 et. Seq.), the project is exempt pursuant to Section 15332 (Infill Development), Class 32. There are no known sensitive environmental resources on the project site, nor would the creation of new lots potentially cause, directly or indirectly, a significant impact. An archaeological survey was conducted as well as a soils report to determine if site had potential concerns for future development and no known concerns were raised.

SETTING/BACKGROUND

The project site encompasses 21,891 square feet and is currently vacant with exception of a 6-foot tall fence located on Parcel 1 and several shrubs along adjacent residences' fence lines. The area is surrounded by residential density land uses with some existing single-family residences to the north and east. To the west is a single family residence and to the south is a large parcel predominately vacant with a single family residence along Ironwood. The parcel to the south has additional development potential including subdivision of the parcels into smaller lots.

The project is located between Avalon Street and Mimosa Street along Ironwood Avenue. The Tentative Parcel Map (TPM) proposes to subdivide one parcel into three parcels within a deep lot subdivision configuration. Access to the three new parcels will be provided by a 282.99-foot long by 20-foot wide paved driveway easement that includes a hammerhead turnaround which is proposed between Parcels 1 and 2. The previously approved TPM 07-0232 provided a 15 foot accessway to 4 parcels, including APN 068-311-030 and three parcels identified on TPM 07-0232. A reciprocal access easement agreement between the property owners of this proposed map (TPM MB 09-0091) and the previously approved TPM 07-0232 was recorded allowing access to the parcels from Ironwood Avenue, a public street. The 20-foot wide easement will also allow drainage, utilities and provide access for emergency response vehicles and will be posted and marked as a fire lane with no parking allowed.

Adjacent Zoning/Land Use			
North:	Single-Family Residential (R-1)	East:	Single Family Residence (R-1)
South:	Single Family Residence (R-1)	West:	Duplex Residential (R-2)
Site Characteristics			
Site Area	21,891 square feet		
Existing Use	Vacant land and a fence on Parcel 1		
Terrain:	Slopes westerly approximately 5%		
Vegetation/Wildlife	Small shrubs along existing fence line.		
Archaeological Resources	Greater than 1,500 feet from any known site and the closest survey was taken 400 feet away (#2819) where no known resources were found.		
Access	All lots will have access from a common driveway from Ironwood Avenue		
General Plan, Zoning Ordinance & Local Coastal Plan Designations			
Land Use Plan Designation	Low/Medium Density Residential (4-7 du/ac)		
Base Zone District	R-1		
Zoning Overlay District	N/A		
Coastal Zone	Yes, but not within appeals jurisdiction		

DISCUSSION

The proposed project would not result in any new structures, but would increase the development potential of the site by creating three new single-family residential lots. The construction of single-family residences on the new lots would require an Administrative Coastal Development Permit and Building Permit.

Creating four or less parcels only requires a Tentative Parcel Map approval, which does not require City Council action, although the map may be appealed to them. The minimum lot size requirement for the creation of new parcels comes from the City's Subdivision Ordinance. Section 16-9.204 of the Subdivision Ordinance addresses residential subdivisions and specifies the minimum lot size for residential zoned property with a slope of 15% or less shall be 6,000 square feet. Section 16-9.206 further defines the requirements for deep lot subdivisions.

The R-1 zoning standards are as follows:

Setbacks	Required	Proposed Envelopes
Front yard	20 feet	20 feet + 10 feet from access easement
Rear yard	10 feet	10 feet
Side yard	5 feet	5 feet
Lot coverage	45% maximum	45%
Height	25 feet	25 feet

The Subdivision Ordinance requires a minimum lot size of 6,000 square feet for a standard R-1 single family subdivision.

ANALYSIS:

Subdivision Design

The applicant requests to subdivide the existing 21,891 square foot lot into three smaller parcels. The parcels would be as follows: parcel one 6,120 gross (4,105 net); parcel two 6,045 gross (4,195 net); parcel three 9,726 gross (5,168 net) square feet. The above gross square footage includes the accessway, whereas the net square footage excludes the accessway. Each lot is in compliance with the maximum depth to width ratio of 3:1 and is in compliance with the minimum permissible lot width of 40 feet. However, the proposed lots do not conform to Section 16.9.206 which requires that newly created lots meet the minimum 6,000 square foot requirement without including the square footage of the accessway. When the accessway is subtracted from the lot calculations, the square footage of the lots would be as follows: parcel one 4,105 square feet or 32% below minimum size; parcel two 4,195 square feet or 30% below minimum size; and parcel three 5,168 square feet or 14 % below minimum size. Since the proposed lots do not meet the minimum lot size required by the Subdivision Ordinance, the applicant is requesting an exception.

Exception Analysis

To approve the minimum lot size exception request, the Planning Commission must make the required findings as stated in Section 16-15.002 of the Subdivision Ordinance as follows:

Before any exception is authorized, all of the following findings shall be made:

1. That the property to be divided is of such size or shape, or is affected by such topographic conditions, that it is impossible, impractical or undesirable, in the particular case, to conform to the strict application of the regulations codified in this title; and
2. That the cost to the subdivider of strict or literal compliance with the regulations is not the sole reason for granting the modification; and
3. That the modification will not be detrimental to the public health, safety and welfare, or be injurious to other properties in the vicinity; and
4. That granting the modification is in accord with the intent and purposes of these regulations, and is consistent with the General Plan and with all applicable specific plans or other plans of the City.

As noted above all four findings need to be made to grant an exception to any requirement imposed by the Subdivision Ordinance. Staff has reviewed the proposal in relation to the exception findings as follows:

The property has no unusual size or shape and is not limited by topography to where it makes the ability to create lots which meet the subdivision requirement for a minimum of 6,000 square feet exclusive of any accessway impractical. The project site yields approximately 13,348 net square feet (exclusive of any accessway) which could be divided into two lots each approximately 6,734 square feet in size. In order to facilitate the development of this site into two parcels of 6,734 square feet each, it will require the relocation of a hammerhead turnaround located between Parcel 1 and 2, which was approved via Improvement Plans. Relocating the hammerhead can be accommodated, although it would require that the applicant revise the Improvement Plans submitted for the installation of the accessway. The loss of one parcel would result in a loss of profit to the developer, but the exception cannot be granted solely due to economic

considerations. Since the City has just recently adopted a new Subdivision Ordinance that requires a minimum of 6,000 square feet, exclusive of the accessway, a request to deviate from this requirement without unusual circumstances would not be consistent with the intent or purpose of the subdivision requirements. Many subdivision proposals include provisions for a private accessway. Because this is such a common occurrence within the City, granting an exception in this case without a specific limitation to the property could result in a precedent setting decision resulting in others requesting the same exception and ultimately no project would ever be proposed meeting the 6,000 square foot minimum exclusive of the accessway.

Staff requested that the applicant provide a graphic detailing the building footprint of each lot to demonstrate that a single family home could feasibly be constructed with the net acreage available after subtracting the accessway. It appears that with the required R-1 setbacks and the required additional 10-foot setback from the accessway, as required by the Subdivision Ordinance, the buildable area for Parcel 1 is approximately 2,243 sq. ft., Parcel 2 is approximately 2,251 sq. ft., and Parcel 3 is approximately 3,302 sq. ft., resulting in homes at approximately 1,900 sq. ft., 1,400 sq. ft., and 1,900 sq. ft., respectively, which may accommodate small 2 to 3 bedroom, 2-story homes. Although the graphics indicate that a modest sized homes may be possible at the reduced acreage, staff determined that the findings for the exception to the required lot size cannot be made. Therefore, the project has been conditioned to revise the parcel map to depict two regulation sized lots, rather than three undersized lots.

Other Requests

Another request by the applicant is that the Planning Commission find that the 20-foot wide paved accessway to the three parcels is adequate. Section 16-9.206 of the Subdivision Ordinance requires that an accessway which is more than 150 feet long be at least 24 feet wide with 20 feet of pavement, unless otherwise approved by the Planning Commission. Staff reviewed the proposed reduction and has determined that the project will be provided with adequate access at the proposed 20-foot width.

Public Improvements

The subdivision of property requires the full development of street improvements (curb, gutter, and sidewalks). The Improvement Plans for this proposed parcel map and previously approved TPM 07-0232 have been approved and grading has commenced. Improvements include a 6-foot wide concrete sidewalk, 6-inch concrete curb, and 18-inch gutter within a 20-foot right of way, as well as a hammerhead turn around located between Parcels 1 and 2. Fire suppression and prevention facilities for the subdivision have been determined by the Fire Department to be provided by sprinkling of the new residences and one hydrant located at Parcel 3. A 5-foot wide drainage and utility easement, which was approved with TPM MB 07-0232 is proposed along the westerly property line that crosses neighboring properties connecting to Bayview Avenue. The site has an average gentle slope towards the west at approximately 5 percent, as does each individual parcel. The project has been conditioned with standard stormwater requirements to ensure adequate drainage capacity, treatment of stormwater and measures to control flow that will be conveyed via proposed and existing drainage and utility easements to the lower west-end of the property connecting to existing improvements off-site.

Subdivision Review Board (SRB)

The SRB reviewed the proposed Parcel Map on November 18, 2009, the SRB found the application complete and the SRB was able to make the required findings to support a conditional approval for the deep lot subdivision as mandated by the City's Subdivision and Zoning Ordinance. The following members attended the meeting: Kathleen Wold, Senior Planner; Genene Lehotsky, Associate Planner; Tom Prows, Fire Prevention Coordinator; Rob Livick, City Engineer; Damaris Hanson, Engineering Technician III; Joe Woods, Parks and Recreation Director; and Dan Doris, Chief Building Official.

Motion by Livick to approve the project as conditioned, Second by Prows.
Approved 7/0.

Consistency with the Local Coastal Program

For the proposed project to be approved, findings must be made that the project is consistent with applicable goals, objectives and policies of the Local Coastal program. As conditioned, the proposed project is consistent with the zoning and subdivision regulations and with the various applicable goals, objectives and policies of the LCP for all of the reasons stated above.

PUBLIC NOTICE:

Notice of this item was posted at the site and published in the San Luis Obispo Telegram-Tribune newspaper on November 27, 2009, and all property owners of record within 300 feet of the subject site and occupants within 100 feet of the subject site were notified of this evening's public hearing and invited to voice any concerns on this application.

CONCLUSION:

With recommended Conditions of Approval, the proposed project is consistent with the LCP and would not have a significant impact on the environment. The project would further goals for orderly and harmonious development, would be an attractive addition to the neighborhood, provide home ownership units to the city housing supply, and as such, all of the required findings could be made for project approval.

Report prepared by: Genene Lehotsky, Associate Planner

EXHIBIT A
FINDINGS

California Environmental Quality Act (CEQA)

In accordance with California Environmental Quality Act (CEQA) (Public Resources Code 21000 et. Seq.), the project is exempt pursuant to Section 15332 (Infill Development), Class 32. There are no known sensitive environmental resources on the project site, nor would the creation of new lots cause directly or indirectly a potentially significant impact. An archaeological survey was conducted as well as a soils report to determine if site had potential concerns for future development and no known concerns were raised required as conditions of approval.

Subdivision Map Act Findings

- A. As conditioned, the proposed map to create a two lot deep subdivision project, where new parcels will have single-family residences is consistent with the General Plan and Coastal Land Use Plan because residential development and the given parcel sizes are allowed under the land use designation and zoning & subdivision ordinance.
- B. As conditioned, the design and improvements to create two single-family residences for the proposed subdivision is consistent with the General Plan and Coastal Land Use Plan because all public improvements will be constructed in accordance with City Engineers recommendation.
- C. The site is physically suitable for the type and density of development proposed because the site is zoned for single-family residential low to medium density (4-7 du/ac) and consistent with the land use designation.
- D. The design of the subdivision and related improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because all precautions will be implemented to catch and direct all runoff.
- E. The design of the subdivision and improvements will not cause serious public health problems.
- F. The design of the subdivision and related improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because no easements are required for the public however, facilities are designed to handle the adjacent properties as well.
- G. As conditioned, the design, architectural treatment, and general appearance of all buildings and open space areas are in keeping with the character of the surrounding area pursuant to 17.48.200, and will not be incompatible with the uses permitted in the surrounding areas and zoning district because new development will be subject to coastal development permits and neighborhood compatibility standards; and

- H. The City has available adequate water to serve the proposed subdivision based upon the water regulations and water equivalency table (Exhibit A) enforced at the time of approval of the tentative parcel map pursuant to the certified Water Management Plan and General Plan LU-22.1.
- I. Improved design based on density control and better community environment. As conditioned, the map will be consistent with Subdivision Ordinance and will allow orderly development consistent with the zoning district designation.

Coastal Development Permit Findings

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

Subdivision Exception Findings

Pursuant to Section 16-15.020 of the Subdivision Ordinance, before any exception is authorized, the Planning Commission must make all of the below findings. As discussed in the staff report, Staff is unable to justify allowing the Parcel Map to deviate from the required residential lot size because the property has no unusual size or shape and is not limited by topography to where it makes the ability to create lots which meet the subdivision requirement for a minimum of 6,000 square feet exclusive of any accessway impractical. The project site yields approximately 13,348 net square feet (exclusive of any accessway) which could be divided into two lots each approximately 6,734 square feet in size. In order to facilitate the development of this site into two parcels of 6,734 square feet each, it will require the relocation of a hammerhead turnaround proposed between Parcel 1 and 2, which was approved via Improvement Plans. Relocating the hammerhead can be accommodated, although it would require that the applicant revise the Improvement Plans submitted for the installation of the accessway. The loss of one parcel would result in a loss of profit to the developer, but the exception cannot be granted solely due to economic considerations. Since the City has just recently adopted a new Subdivision Ordinance that requires a minimum of 6,000 square feet, exclusive of the accessway, a request to deviate from this requirement without unusual circumstances would not be consistent with the intent or purpose of the subdivision requirements. Many subdivision proposals include provisions for a private accessway. Because this is such a common occurrence within the City, granting an exception in this case without a specific limitation to the property could result in a precedent setting decision resulting in others requesting the same exception and ultimately no project would ever be proposed meeting the 6,000 square foot minimum exclusive of the accessway.

- M. That the property to be divided is of such size or shape, or is affected by such topographic conditions, that it is impossible, impractical or undesirable, in the particular case, to conform to the strict application of the regulations codified in this title; and
- N. That the cost to the subdivider of strict or literal compliance with the regulations is not the sole reason for granting the modification; and
- O. That the modification will not be detrimental to the public health, safety and welfare, or be injurious to other properties in the vicinity; and
- P. That granting the modification is in accord with the intent and purposes of these regulations, and is consistent with the General Plan and with all applicable specific plans or other plans of the City.

EXHIBIT B
CONDITIONS OF APPROVAL

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report referenced above, dated December 7, 2009 for the project depicted on the attached plans labeled "Exhibit C", dated November 20, 2009 on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:
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 Planning and Building 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 Planning and Building Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Planning and Building Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

7. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities including electrical, telephone and cable television shall be installed underground.
8. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. during the weekdays and eight a.m. and seven p.m. during the weekends, unless an exception is granted by the Building Official pursuant to the terms of this regulation.
9. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and wind blown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC Section 17.52.070.
10. 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 and implementation of any protective measures as determined by the Director of Planning & Building.
11. Property Line Verification. It is owner's responsibility to verify lot lines. Prior to foundation inspection the lot corners shall be staked and setbacks marked by a licensed professional.
12. Transportation/Circulation: The project shall provide approved "Fire Lane-No Parking" signage with red-painted curbs on the frontage of the alley where applicable.

PLANNING CONDITIONS

13. The Parcel Map shall be revised to depict two parcels instead of three to meet the minimum lot size of 6,000 square feet pursuant to the Subdivision Ordinance, excluding any accessway.
14. The accessway serving the proposed parcels shall be paved and shall be no less than 20 feet wide, as approved by the Planning Commission.

FIRE CONDITIONS

15. Access: A Fire Department Access Road is required pursuant to 2007 California Fire Code, Section 503.
16. Turnaround: A Fire Department Apparatus Turnaround is required and the Alternative to the 120-foot Hammerhead (contained in Appendix D) shall be used. (CFC 503.2.5)

17. Access Dimensions: Fire Department Access Road Dimensions shall have an obstructed width of not less than 20 feet. (CFC 503.2.1)
18. Access Surface: Fire Department Access Road Surface shall be designed and maintained to support imposed loads of fire apparatus and shall be surfaced to provide all-weather driving capabilities. (CFC 503.2.3)
19. Fire Hydrant System: Project shall provide an on-site fire hydrant for this subdivision, in accordance with CFC 508.1
20. Fire Sprinklers: All structures of this new subdivision shall be provided with automatic fire sprinkler systems, in accordance with NFPA 13-D and Morro Bay Municipal Code, Section 14.60.200.

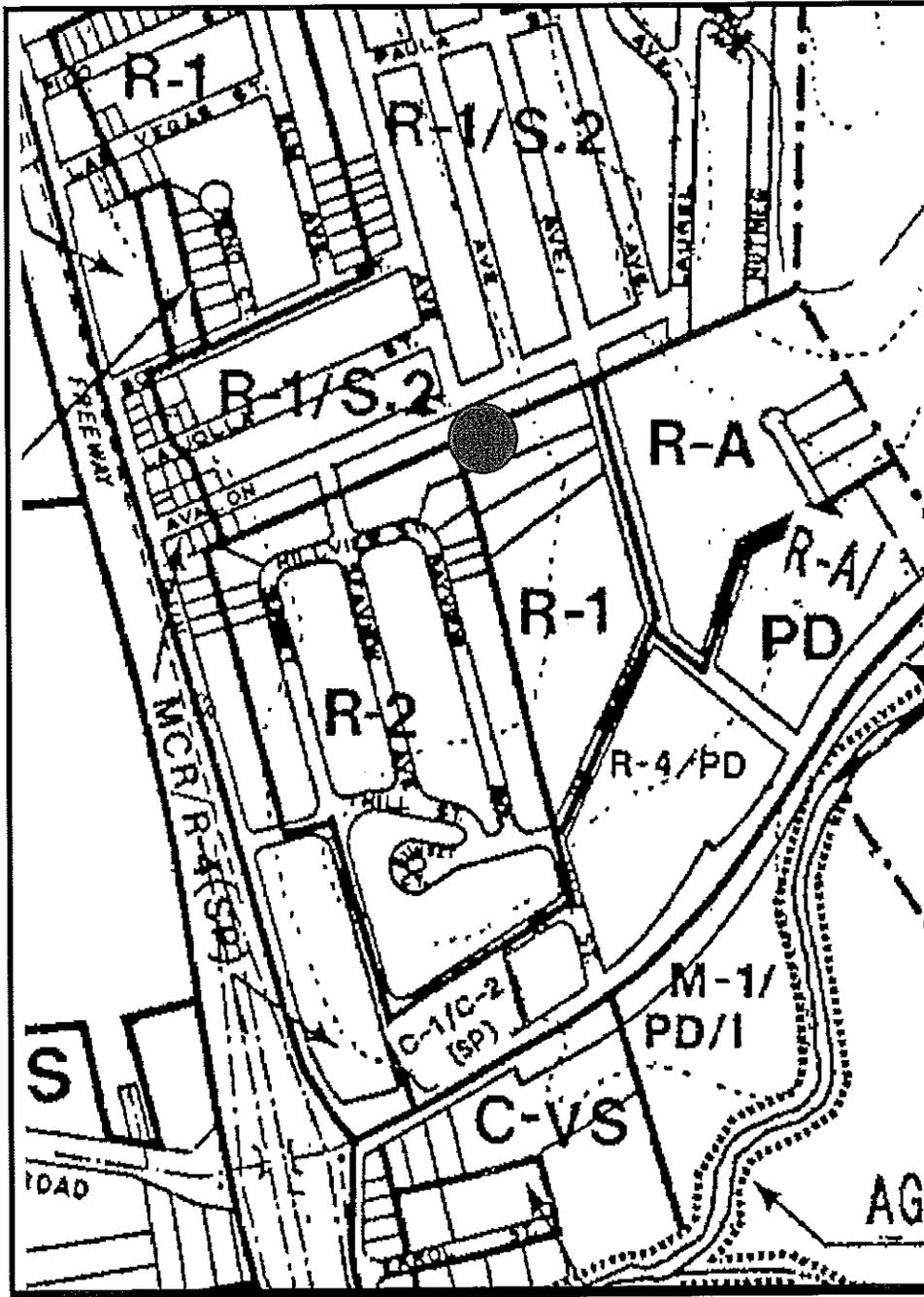
PUBLIC WORKS CONDITIONS

21. Stormwater Requirements:
 - a. Provide water quality treatment for the runoff resulting from a two year storm event either through retention (infiltration) or an alternative Water Quality BMP such as biofiltration, mechanical filtration or hydrodynamic separation.
 - b. Provide peak runoff rate control for the runoff resulting from the ten through hundred year rainfall events. For the purposes of stormwater management the pre-construction condition shall be natural soil and vegetation. Post development shall assume a fully built out parcel map.
 - c. Drainage analysis, runoff calculations, design and justification of drainage facilities shall be performed by a Registered Civil Engineer and submitted prior to recordation of the Final Parcel Map. The responsible Soils Engineer shall review all proposed infiltration and storage systems for site suitability.
22. Stormwater Requirements: With any building or grading permits, 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.

RECREATION AND PARKS CONDITIONS

23. Parkland In-Lieu Fees: In accordance with the Morro Bay Municipal Code 16.16.030 Parkland Dedication Requirements, the subdivision will require payment of an in-lieu fee. Based on the County of San Luis Obispo Assessed Value for 2009-2010, the anticipated in-lieu fee total is: \$17,864.00. Note that this fee may be redetermined at the time of payment and that the value of the land based on 2009-2010 is vested.

EXHIBIT C
GRAPHICS/PLAN REDUCTIONS



Planning Commission



ZONING MAP



**CITY OF MORRO BAY
PUBLIC SERVICES DEPARTMENT
APPEAL FORM**

APPEAL FROM THE DECISION OR ACTION OF (GOVERNING BODY OR CITY OFFICER):		Planning Commission
APPEAL OF SPECIFIC DECISION OR ACTION:		Planning Commission Action
		Imposing Condition # 14
DATE DECISION OR ACTION RENDERED:		January 19, 2010
APPELLANT (PLEASE PRINT):		DAVE & DORENE STOVER
SIGNATURE:		Cathy Novek for Dave & Dorene Stover
ADDRESS:	2193 Ironwood, MS	TELEPHONE NUMBER: 850-888-0588

GROUNDS FOR THE APPEAL (ATTACH SHEETS AS NECESSARY): SEE ATTACHED SHEETS

REQUESTED RELIEF OR ACTION: ① Remove Planning Condition # 14 ② Request the City Council uphold the Appeal AND Refund the Appellant the fee imposed for this filing

Receipt No. 5127	FOR OFFICE USE ONLY
DATE APPEAL FILED: 1-29-10	ACCEPTED BY:
APPEAL BODY:	
DATE OF APPEAL HEARING:	

Stover Appeal

Grounds for appeal of Planning Condition #14:

The project presented to the Planning Commission was a Tentative Parcel Map subdividing one legal lot into three new lots which required a Coastal Development Permit, Subdivision Map Act Findings and Subdivision and Subdivision Exception Findings for approval.

The City of Morro Bay Subdivision Ordinance outlines specific procedures that must be followed when applying for a Tentative Parcel Map. In addition, the City application form includes a list of requirements that must be provided with the submission of the Tentative Map, see attached City application form.

This project as submitted provided the necessary information for the processing of a Tentative Parcel Map and not for a Vesting Tentative Map. The distinction between the two types of maps is clear and because of this difference, it provides the basis for one of the grounds for this appeal of Planning Condition #14.

First, under the requirements of a Vesting Tentative Map the filing and processing shall be the same as a Tentative Map however; this type of map additionally requires a "total development plan" where a Tentative Map does not. A Vesting Tentative Map triggers further requirements which state "In addition to the tentative map application, approval of all other discretionary permits required by zoning in effect at the time shall also be required. These applications will be processed concurrently with the vesting tentative map, and approvals must be obtained prior to, or at the same time as, the subdivision application".

Since this application was limited to a Tentative Parcel Map, no development plans were required or submitted for inclusion with this project. At the request of Staff to determine whether the lots could provide for a viable home size, an exhibit was prepared with three conceptual homes designed to meet all the setback requirements (see Planning Commission Report December 7, 2009 page 5, attached). The homes in this exhibit were approximately 1,900 and 1,400 square feet. This exhibit was intended to be used as only an example to provide Staff and the Planning Commission with sufficient information to analyze the subdivision design and lot sizes. The Planning Commission used this information to create the condition #14 which reads, "Living Area: The gross living area square footage allowed for each residence is 2,000 square feet total, excluding the garage, with the second floor no more than 80% of the first floor square footage." However, the Planning Commission does not have the authority to impose a discretionary condition such as this because the individual home development plans are not a part of the project description or specifically allowed for consideration under any section of the Subdivision Ordinance for Tentative Parcel Maps. Furthermore, the Coastal Development Permit required with this project is not an appropriate mechanism for including this condition.

Secondly, the Subdivision Ordinance regulates the division of land with specific chapters regarding requirements for maps, the regulatory process and importantly, the subdivision design. The subdivision design chapter 9 general considerations refer to layout of the streets and lots, consistency with the General Plan, specific plans and zoning ordinance. It states that the subdivision design shall also recognize the physical conditions of the site, such as slope, soil types and adjacent land use. It is not there, in this case, to consider specific architectural treatments, designs and maximum allowed living area square footage for the individual homes and especially when a Tentative Parcel Map is not required to provide development plans as a part of the approval.

This project applied for an exception to the Subdivision Ordinance section 16-9.206 Flag Lots for the minimum parcel size as allowed in the Subdivision Ordinance section 16-15. One may try to argue that by granting the exception the Planning Commission was allowed to impose additional conditions as part of the approval but, the condition imposed should have been limited to the subdivision design and not the future home designs that were not a part of the project description.

Furthermore, the Subdivision Ordinance section, Subdivision Exceptions, 16-15.002 B states that the conditions are necessary to protect public health, safety and welfare and assure compliance with the General Plan and specific plans. Moreover, Subdivision Ordinance section 16-1.003 B states, "Nothing in this section shall be read to limit the rights of the city to enact additional provisions concerning the division of land as are deemed necessary to protect the public health, safety and general welfare." In these two sections it clearly says, "**deemed necessary**".

There is no essential nexus or reasonably related argument that can be made to support the conclusion that the reduction of the second floor of the house should be 80% of the first floor and that the gross living area square footage allowed for each residence of 2,000 square feet total will in any way protect public health, safety and welfare and assure compliance with the General Plan and specific plans.

Lastly, it should be noted that the City does not currently have any codified regulations that require the second floor of a single family home to be no more than 80% of the first floor square footage or limitations to gross living area square footage. The City previously had required homes in excess of 2,500 square feet to obtain Planning Commission approval where by the Commission had a nexus to request reductions in bulk, scale and mass of a project. In this case without the benefit of having submitted project plans with elevations and home sizes it was purely an arbitrary decision to limit the home designs.

Furthermore, these excessive limitations will deprive the applicant of full enjoyment of the property as afforded to others within the same zoning district. Other properties in the R-1 zoning district are not required to deduct the accessway from the total calculations to determine minimum lot size. Therefore, flag lots in the R-1 district are being unfairly penalized for their configuration.

In summary, the Planning Commission has exceeded its authority under the City Plans and Ordinances by unreasonably imposing condition #14 on this project. For the reasons stated above it is the request of the appellant to remove condition #14 from the conditions of approval for this project.

APPLICATION REQUIREMENTS
TENTATIVE PARCEL MAP / TRACT MAP / VESTING MAP

2. Statement and report by a certified engineering geologist, registered geologist or registered geotechnical engineer as to the suitability of the site for the proposed use;
3. Statement and report on soil tests by a soils engineer;
4. Statement as to intentions of subdivider in regard to erosion controls and improvements to be constructed by him, as required in Chapter 16.12 and other ordinances of the city;
5. Proposed source of water supply and method of sewage disposal, indicating whether or not Chapter 16.16 can be complied with;
6. Indicate type of tree planting as required by the city master tree list;
7. Proposed public areas including parkland dedication and scenic easements;
8. Statement as to the development of lots (whether for sale as lots or fully developed house and lot);
9. Preliminary title report; four copies. (Ord 310 Exhibit A (part), 1987; Ord 250 § 3.1983; Ord 49 § 2 (part) 1966; prior code § 5205.4)

II. VESTING TENTATIVE MAP APPLICATION REQUIREMENTS

- A. Filing and Processing: A vesting tentative map shall be filed in the same form and have the same contents, accompanying data and reports and shall be processed in the same manner as set forth in Chapter 16.20 and shall contain all of the information required in items identified for "Tentative Maps." In addition, a vesting tentative map shall contain the following information:
1. At the time a vesting tentative map is submitted,, it shall have printed conspicuously on its face the words "Vesting Tentative Map."
 2. At the time a vesting tentative map is filed, a subdivider shall also supply such information as may be determined to be necessary by the Community Development Director and Public Works Director. Such information may include but is not limited to the following:
 - a. The total development plan showing the precise dimensions and locations of proposed structures, buildings, streets, parking, yards, pathways, open spaces and public or private facilities;
 - b. Engineering plans showing site grading, including grades and proposed drainage facilities;

APPLICATION REQUIREMENTS
TENTATIVE PARCEL MAP / TRACT MAP / VESTING MAP

- c. List all proposed site uses or activities to be conducted on the site, with related floor area depicted or calculations of site area to be devoted to such uses;
 - d. Miscellaneous plan (as appropriate) showing any exterior lighting, roof plans, site cross-sections, view sight lines, ESH mitigation plans, archaeological mitigation plans, visual quality plans, public access mitigation plans, or other features necessary to evaluate the specific proposal including the information required of community housing projects.
 - e. Sewer, water, storm drain, and road details, including plans, specifications and cross sections where applicable;
 - f. Detailed grading plans, including soils and geological investigations where required by the Director of Public Works;
 - g. Fully developed architectural elevations of all buildings, structures, signs and fencing, showing colors and materials of construction;
 - h. A landscaping plan showing plant materials, type and size of plants at the time of planting and method of maintenance;
 - i. A plan for the long term management and protection of any dedicated open space, parkland, or public access facilities proposed for the property.
- B. Additional Requirements: In addition to the tentative map application, approval of all other discretionary permits required by zoning in effect at the time shall also be required. These applications will be processed concurrently with the vesting tentative map, and approvals must be obtained prior to, or at the same time as, the subdivision application.

I. TENTATIVE MAP

APPLICATION REQUIREMENTS

A. Filing and Processing: A tentative map must be prepared by a registered civil engineer or licensed land surveyor. Blue or black line copies of 18" x 26" with a 1" margin shall be submitted for review. A total of ten (10) copies shall be prepared. In addition, the applicant shall provide a reproducible copy of the proposed map on an 8-1/2" x 11" sheet(s). The map shall show:

1. A vicinity map at a minimum scale of one inch equals one thousand feet indicating the location of the proposed subdivision in relation to the surrounding area and showing existing land use in the surrounding area;
2. Name and address of record owner;
3. Name and address of surveyor, or engineer, who prepared said tentative map;
4. Date, north point (generally up on the map) and graphic scale; minimum scale is one inch equals one hundred feet.
5. Name of proposed subdivision (if any), tract or parcel map number and names of all adjacent streets, highways, alleys and ways, and easements of all kinds, together with the type and location of street improvements thereon including sidewalks, street trees, fire hydrants and street light locations;
6. The contour of the land at intervals of one foot of elevation up to five percent slope; two foot intervals up to ten percent and five foot intervals over ten percent;
7. Sufficient data to define the boundaries of the subdivision or a legal description of the subdivision and blue border on reverse side of map to indicate subdivision boundaries. Tentative map to show any proposed phasing of final map;
8. Width, location and purpose of all existing and proposed easements and adjacent easements adjoining such land;
9. The width and grade of all existing and proposed streets, highways, alleys and other rights-of-way proposed for dedication or not;
10. The radii of all curves;
11. All lots numbered consecutively throughout entire development; the dimensions of all lots; lot areas shall be shown for all lots not rectangular in shape;

APPLICATION REQUIREMENTS
TENTATIVE PARCEL MAP / TRACT MAP / VESTING MAP

12. The locations of areas subject to inundation by storm water overflow, based upon a 100 year storm, the locations, width and direction of flow of all watercourses existing and the proposed grading and drainage of all lots;
 13. The location and outline to scale of each existing building or structure within the subdivision, noting thereon whether or not such building or structure is to be removed from or remain in the development of the subdivision and its existing and proposed future use;
 14. Show elevation of street intersections;
 15. The location, pipe size and grades of proposed sewers, waterline and underground storm drains, including the proposed location of fire hydrants and street lights, power, gas TV cables;
 16. The location of all existing trees over four inches in diameter at base of tree (where stands of trees are located, individual trees need not be shown but they may be shown as a group); the location of all trees six inches or greater in diameter measured four feet above existing grade;
 17. The locations of existing fences, ditches, wells, sumps, cesspools, reservoirs, sewers, culverts, drain pipes, underground structures, utility lines or sand, gravel or other excavations within 200 feet or any portion of the subdivision noting thereon whether they are to be abandoned;
 18. The location of any public parkland and onsite improvements to such public parkland;
 19. A copy of any condition, restrictive reservation or covenant existing or proposed shall be attached to the statement in Section 16.20.040 (Ord. 49 SS 2 (part), 1966; prior code SS 5205.5)
 20. A complete environmental checklist form for the environmental determination.
- B. Accompanying the tentative map, or indicated on the map, shall be statements by the subdivider as follows:
1. Statement as to existing zoning and as to proposed use. If proposed use is not consistent with existing zoning, all necessary zoning amendments should have been applied for and approvals obtained prior to filing the application for the tentative tract map. Applications for tentative tract maps cannot be considered complete unless and until the proposed use is consistent with the existing zoning;

considerations. Since the City has just recently adopted a new Subdivision Ordinance that requires a minimum of 6,000 square feet, exclusive of the accessway, a request to deviate from this requirement without unusual circumstances would not be consistent with the intent or purpose of the subdivision requirements. Many subdivision proposals include provisions for a private accessway. Because this is such a common occurrence within the City, granting an exception in this case without a specific limitation to the property could result in a precedent setting decision resulting in others requesting the same exception and ultimately no project would ever be proposed meeting the 6,000 square foot minimum exclusive of the access way.

* Staff requested that the applicant provide a graphic detailing the building footprint of each lot to demonstrate that a single family home could feasibly be constructed with the net acreage available after subtracting the accessway. It appears that with the required R-1 setbacks and the required additional 10-foot setback from the accessway, as required by the Subdivision Ordinance, the buildable area for Parcel 1 is approximately 2,243 sq. ft., Parcel 2 is approximately 2,251 sq. ft., and Parcel 3 is approximately 3,302 sq. ft., resulting in homes at approximately 1,900 sq. ft., 1,400 sq. ft., and 1,900 sq. ft., respectively, which may accommodate small 2 to 3 bedroom, 2-story homes. Although the graphics indicate that a modest sized homes may be possible at the reduced acreage, staff determined that the findings for the exception to the required lot size cannot be made. Therefore, the project has been conditioned to revise the parcel map to depict two regulation sized lots, rather than three undersized lots.

Other Requests

Another request by the applicant is that the Planning Commission find that the 20-foot wide paved accessway to the three parcels is adequate. Section 16-9.206 of the Subdivision Ordinance requires that an accessway which is more than 150 feet long be at least 24 feet wide with 20 feet of pavement, unless otherwise approved by the Planning Commission. Staff reviewed the proposed reduction and has determined that the project will be provided with adequate access at the proposed 20-foot width.

Public Improvements

The subdivision of property requires the full development of street improvements (curb, gutter, and sidewalks). The Improvement Plans for this proposed parcel map and previously approved TPM 07-0232 have been approved and grading has commenced. Improvements include a 6-foot wide concrete sidewalk, 6-inch concrete curb, and 18-inch gutter within a 20-foot right of way, as well as a hammerhead turn around located between Parcels 1 and 2. Fire suppression and prevention facilities for the subdivision have been determined by the Fire Department to be provided by sprinkling of the new residences and one hydrant located at Parcel 3. A 5-foot wide drainage and utility easement, which was approved with TPM MB 07-0232 is proposed along the westerly property line that crosses neighboring properties connecting to Bayview Avenue. The site has an average gentle slope towards the west at approximately 5 percent, as does each individual parcel. The project has been conditioned with standard stormwater requirements to ensure adequate drainage capacity, treatment of stormwater and measures to control flow that will be conveyed via proposed and existing drainage and utility easements to the lower west-end of the property connecting to existing improvements off site.



AGENDA NO: B-4

MEETING DATE: 3/08/10

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 8, 2010

FROM: Genene Lehotsky, Associate Planner

SUBJECT: Appeals of the Planning Commission's Conditional Approval of a Minor Use Permit (UP0-255) to Convert a Unit From Commercial Use to Residential Use

RECOMMENDATION:

Staff recommends the City Council consider the appeals and take the following action:

MOTION: I move that the City Council deny the appeals and uphold the Planning Commission's approval of Minor Use Permit UP0-255 with:

1. Removal of the trash enclosure condition; or
2. Eliminate the parking space behind the building to allow for the trash enclosure.

FISCAL IMPACT:

The project's fiscal affects would be potentially negative. Cumulatively, the effect of new residential development requires more costs to serve than is generated by property tax revenues. To the extent that the occupants of the new residences spend within the City limits, then sales tax receipts can generate some additional revenue to offset those costs. In addition, fees are collected with development fees and for services such as water and sewer.

SUMMARY:

There were two separate appeals filed on this project. The first appeal was filed by Grant Crowl based on the Planning Commission's decision to deny an appeal of a Minor Use Permit (UP0-255) allowing the conversion of a commercial unit to a residential unit. The Appellant cites that granted request is not consistent with City regulations. The second appeal was filed by Cathy Novak on behalf of the applicant, Michael Del Puppo, to request removal of a condition requiring an existing parking space, currently located behind a locked gate, to be made available for the tenants.

Prepared by: _____ Dept. Review: _____
City Manager Review: _____

The City Council should consider if the Planning Commission's decision to deny the previous appeal and uphold approval Minor Use Permit (UP0-255) allowing the use conversion was appropriate, if the residential use is appropriate for the surrounding neighborhood, and if the project is consistent with the Zoning Ordinance, General Plan and Local Coastal Plan.

BACKGROUND:

The project site, which is approximately 8,036 square feet, is located at 2300 Main St. between Bonita and La Jolla Streets. The existing building on site was originally approved by Planning Commission in 1971 as a mixed use commercial/residential project within a C-1, S-8 zoning district. The approximately 4,502 square foot, two-story building was approved with commercial uses on the ground floor, residential uses on the top floor and 10 parking spaces. The site is currently zoned Mixed Commercial/Residential District MCR/R.4 (SP) and is located within the North Main Specific Plan. Pursuant to Section 17.24.110 of the Zoning Ordinance, residential use is allowed in the MCR/R-4 (SP) zoning district with the issuance of Minor Use Permit.

The proposed project is the conversion of one 960 square foot commercial unit (Unit #1) to a residential unit within a seven unit building. Unit #1, located on the bottom floor, was converted to a 1-bedroom residential unit without a permit. Staff learned about the conversion pursuant to a code enforcement complaint and gave the owner the option to revert the residential use back to commercial use or apply for a Minor Use Permit. The existing building's configuration on the bottom floor includes four units; one 1-bedroom residential unit, two residential studios, and a barber shop. The top floor consists of two 2-bedroom residential units and a storage area. Although the building was originally approved with 10 parking spaces, today, there are nine parking spaces on-site but only eight usable parking spaces. The tenth parking space was eliminated from the site due to the applicant installing a handicap parking space to serve the commercial uses. Two of the original parking spaces were combined into one to accommodate the required dimensions for a handicap parking space. The ninth parking space is not utilized, as it is located behind the building and a fence has been erected to prevent access. However, a condition was placed on Minor Use Permit UP0-255 requiring that this space be usable and available to the on-site residents.

Following the approval of the Minor Use Permit (UP0-255), the project was appealed to the Planning Commission based on the grounds that the granted request was not consistent with City regulations. On January 19, 2010, the Planning Commission heard and denied the appeal. Two conditions were added to the project, including the requirements for on-site storage to remain storage for the residents and a well screened trash enclosure to be provided.

DISCUSSION:

Grant Crawl Appeal

Grant Crowl contends that the Planning Commissioners treated the appeal as a project rather than an appeal and did not follow through with the City Council ruling of a 20% commercial use to 80% residential use as noted in the Housing Element or the 50% commercial use to 50% residential use ratio required in the Zoning Ordinance. The Appellant claims that the project was approved without the required covered parking for the residential uses and that the required number of parking spaces was not fully discussed but staff allowed a parking space which is located behind the building to be available for use. Further, the Appellant contends that there was confusion about whether the project is new, old, or existing and that questions asked by the Planning Commissioners to staff was redirected so that the decision that was made was not based on all of the facts. Finally, the Appellant contends that the applicant proposed to remove a handicap parking space.

The Appellant requests that the Zoning Ordinance and the City Council's ruling of residential to commercial ratio in mixed use areas be upheld. If the conversion is allowed to remain, then all current standards should be met.

Response

Grant Crowl claims that the Planning Commission treated the appeal as a project, not as an appeal; however, the appeal was noticed pursuant to Section 17.60.130 (Appeals of actions on use permits and variances) of the Zoning Ordinance. No appeal procedures were violated.

Commercial vs. Residential Percentages

With respect to the claim that the Planning Commission did not follow through with the City Council's ruling of 20% commercial and 80% residential for mixed use projects as noted in the Housing Element, these percentages were simply a methodology to estimate the number of units which could be placed on mixed use sites in order to satisfy the State's Regional Housing Needs Assessment (RHNA). These percentages were not intended to be implemented citywide. Staff's research did not discover specific policy acted on by Council with regard to requiring 50% commercial and 50% residential use for this area of the City; however, attached to the staff report is a memo dated May 2, 2006, which states that policies and regulations for development in the North Main Street Area are addressed in the North Main Street Specific Plan and most of the recommendations in this Specific Plan have been codified in the Zoning Ordinance or other regulatory documents. However, more stringent planning and development policies in this North Main Street Area were included in the 2005 updates to the Zoning Ordinance. The updated Zoning Ordinance requires a Conditional Use Permit for all mixed-use projects with a residential component, whereas current regulations require a Minor Use Permit. The memo recommends revisiting the issue of residential development in the North Main Street Area once the Coastal Commission has certified the Zoning Ordinance and General Plan. As the Council is aware, certification is pending.

Local Coastal Plan

The Local Coastal Plan is the primary authority for determining the appropriate uses in this area of the City, which the Local Coastal Plan designates as “Mixed Use Area F” and where a mix of all uses as appropriate shall be encouraged. The Local Coastal Plan states that:

“An evaluation of appropriate uses on a parcel by parcel basis will be conducted during the implementation phase.”

This indicates that the mix of uses for the project site is to be determined at the time of project review. In comparison, the other mixed use areas in the Local Coastal Plan are specific as to the types of uses that are allowed, including Mixed Use Area G, which requires 50% of the floor area of any new development must be devoted to office or commercial uses. Even then, in Mixed Use Area G, the restriction is imposed on new development only. There are no commercial vs. residential percentage requirements in the Local Coastal Plan for Mixed Use Area F.

North Main Specific Plan

As mentioned above, the project is within the North Main Specific Plan. Included in the original North Main Specific Plan, under “Definition and Purpose of the Specific Plan” is the following objective to achieve the goals of the Specific Plan: “... the MCR zone allows C-1-N, C-1, and C-2 uses, mixed commercial and residential, or exclusive residential use...”.

Additionally, under a section titled: “Relationship to the General Plan and Local Coastal Program”, it is stated that the MCR zone supports the mixed use concept of both the General Plan and Local Coastal Plan. The evaluation of appropriate uses on a parcel by parcel basis will be accomplished by the conditional use process.

The project is also subject to another layer of zoning; the SP overlay zone. Section 17.40.070 (Combining Mixed Use Overlay Zone) of the Zoning Ordinance states:

“B. Mixed Use Overlay Zone Standards. In those areas of the city where the Local Coastal Land Use Plan has indicated the combinations of different, but compatible, uses may be appropriate, two or more zoning districts may be applied to the same property. In such cases, new developments may be permitted in accordance with the zoning districts and with the following provisions:...”

This section continues with the following:

“In mixed use areas combining commercial and residential designations, the commercial district shall be the primary district and at least fifty percent of the gross floor area of the project shall be devoted to commercial or office uses. An exception is for those areas in which the Local Coastal Plan text specifically describes the mixed use relationship that should be allowed.”

As stated above, the project is to be reviewed on a case by case basis pursuant to Mixed Use Area F identified in the Local Coastal Plan and the required fifty percent of commercial is applicable to new developments. This is an existing non-conforming project and was reviewed as such.

Parking

Pursuant to the Zoning Ordinance, the applicant is not required to provide additional parking for a less intense uses. Therefore, under current code requirements, guest parking and additional spaces are not required. Section 17.44.020, (Parking Facilities) of the Zoning Ordinance states:

“ ... for any structure or land changed to a more intensive use that would require the provision of more parking spaces over what already exists, off-street parking spaces shall be provided in accordance with the requirements and standards....”

The Appellant states that the covered residential parking is required for the addition of the residential unit, however, the project is not new development, it is an existing non-conforming project and does not currently provide covered parking for any of the residential units. Requiring covered parking would create an undue burden on the project by reducing the available parking area on-site and limiting flexibility when converting back to commercial uses. The original project was approved under zoning designation (C-1, S-8) in 1971 and today's requirements in the MCR/R-4 zone are different. Staff conditioned the project to require a parking space that was originally constructed on-site to be made available for the tenants. This space is located behind the building. The Appellant also contends that the applicant proposed to remove a handicap parking space; however, this was never a consideration or part of the approval under the Minor Use Permit. The handicap parking space currently exists on-site and is not intended to be removed. The applicant mistakenly submitted a site plan that did not depict the handicap parking space, although its removal was not the intent. The applicant was conditioned through the Minor Use Permit to submit a revised site plan depicting the existing parking, including the handicap parking space (Condition #6).

Cathy Novak Appeal

Cathy Novak on behalf of the Applicant, Michael Del Puppo has appealed the Planning Commission's conditional approval, specifically Condition #7 which states: “The site plan submitted indicates a parking space at the rear of the site; however, pursuant to a site visit, the parking space is currently fenced off and garbage cans are placed in front of the entrance of the fence. The fence shall be opened and the garbage cans shall be removed and relocated. The parking space will accommodate the parking requirement for Unit 1. “

The Appellant contends that by requiring the tenant to park behind the building, it will force the relocation of trash containers and/or trash enclosure elsewhere on the site. However relocating a trash enclosure will be problematic. If the container is placed on the side of the building, it will be difficult for a trash truck to access the container, as there is no curb cut and the truck will be forced to drive over the curb and sidewalk. If a car is parked along the curb, this will also prohibit access to the container. Providing a container at the front of the site will be visually degrading and given the design of the parking area, will interfere with the parking and landscaping. According to the Appellant, the existing parking area could be redesigned to accommodate an additional parking space so that the space behind the building would not be necessary to meet the parking requirements.

The Appellant requests that condition # 7 be removed, as the project will be able to meet the parking requirements with the redesigned parking area.

Response

Cathy Novak on behalf of the applicant, Michael Del Puppo, contends that an alternative site plan depicting all of the required parking (9 parking spaces) can be accommodated within the existing front parking area, in lieu of opening up the rear of the property to allow the tenants access to the existing parking space in the rear. This configuration was not evaluated with the initial project and staff cannot provide a recommendation as to whether the revised site plan is acceptable.

Currently, trash and recycle receptacles are used to accommodate waste for the commercial and residential uses. These receptacles are visible to the public and located outside of the fenced off gated area behind the building. The condition that was placed on the project by the Planning Commission requires that a trash enclosure be provided on the site. To accommodate the trash enclosure behind the building, which appears to be the only logical location, it would have to be placed north of the existing parking space that was conditioned to be made available to the tenants. The distance between the building and the fence delineating the property line is approximately 10 feet. Because of the limited distance, a conflict will arise when vehicles are using this parking space, as the trash receptacles will have to be rolled past the vehicle to the curb for waste pick-up. Staff does agree with the Appellant that the only appropriate location for the enclosure would be behind the building, as locating it in the front of the property would be unsightly and potentially eliminate needed parking or landscaping. Therefore, staff provides two options for City Council consideration:

1. Eliminate the Planning Commission's trash enclosure condition.
2. Eliminate the parking space behind the building to allow for the trash enclosure. Findings will have to be made to allow for this.

CONCLUSION:

Staff recommends that the City Council deny the appeals and act on staff's options, as the trash enclosure condition that was placed on the Minor Use Permit UP0-255 conflicts with the parking required for the project. The project as conditioned is consistent with all applicable development standards of the North Main Specific Plan, Zoning Ordinance, and applicable provisions of the General Plan and Local Coastal Plan and would not have a significant impact on the environment.

ATTACHMENTS:

- Attachment 1: January 19, 2010 Planning Commission Staff Report
- Attachment 2: Applicant/Appellant Appeal Letter – Grant Crowl
- Attachment 3: Applicant/Appellant Appeal Letter – Cathy Novak

ATTACHMENT 1



CITY OF MORRO BAY PLANNING COMMISSION

January 19, 2010

PROJECT SUMMARY

Appeal of Minor Use Permit UP0-255 to allow the conversion of a commercial use to a residential use.

FILE NUMBER

UP0-255

LEGAL DESCRIPTION

Lots 24 & 25, Block 7, Tract Morro Del Mar Subdivision #1

ADDRESS

2300 Main St., Unit #1

APN

068-262-060

APPELLANT

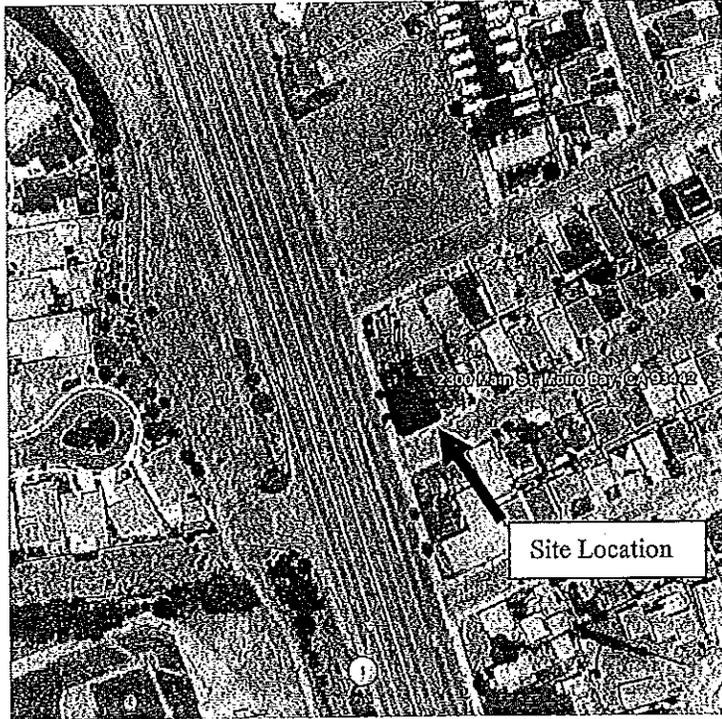
Grant Crowl
450 Fairview Ave.
Morro Bay, CA 93442
(805) 772-2812

APPLICANT

Michael Del Puppo
2542 Laurel St.
Morro Bay, CA 93442
(559) 281-0902

ATTACHMENTS

- Exhibit A: Findings
- Exhibit B: Conditions of Approval
- Exhibit C: Graphics/Plan Reductions
- Exhibit D: Appeal Form
- Exhibit E: Minor Use Permit UP0-255
- Exhibit F: Photos of the On-site Postings
- Exhibit G: Memo - Residential Development Regulations in the North Main Street Area, Dated May 2, 2006



Vicinity Map

ISSUE SUMMARY

Staff issued Minor Use Permit UP0-255 on November 10, 2009 to convert an existing commercial unit to a residential unit within an existing mixed use building. On November 20, 2009, Grant Crowl filed an appeal to Minor Use Permit UP0-255 citing that the granted request is not consistent with City regulations.

STAFF RECOMMENDATION

The Planning Commission should *DENY THE APPEAL* by adopting a motion including the following action(s):

- A. Adopt the Findings for Approval included as Exhibit “A” of the staff report for the Minor Use Permit, including the CEQA Categorical Exemption based on the Site Plan dated April 3, 2009, subject to the Conditions of Approval included as Exhibit “B” of the staff report.

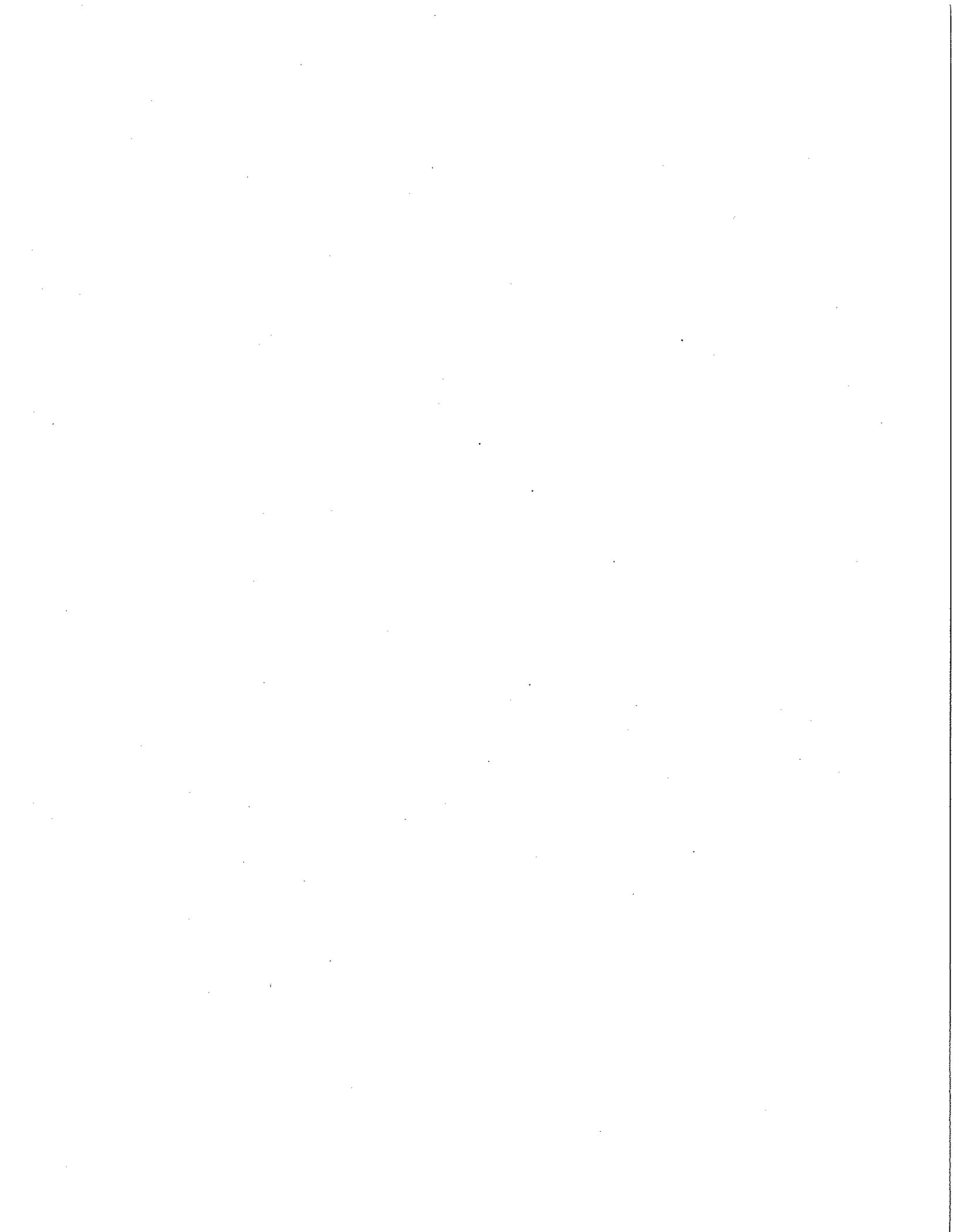
ENVIRONMENTAL DETERMINATION:

In accordance with California Environmental Quality Act (CEQA) (Public Resources Code 21000 et. Seq.), the project is exempt pursuant to Section 15303 (Conversion of Small Structures), Class 3. There are no known sensitive environmental resources on the project site, nor would the conversion of use of one unit from commercial to residential potentially cause, directly or indirectly, a significant impact.

SETTING/BACKGROUND

The project site, which is approximately 8,036 square feet, is located at 2300 Main St. between Bonita and La Jolla Streets. The existing building on site was originally approved by Planning Commission in 1971 as a mixed use commercial/residential project within a C-1, S-8 zoning district. The approximately 4,502 square foot, two-story building was approved with commercial uses on the ground floor, residential uses on the top floor and 10 parking spaces. The site is currently zoned Mixed Commercial/Residential District MCR/R.4 (SP) and is located within the North Main Specific Plan. Pursuant to Section 17.24.110 of the Zoning Ordinance, residential use is allowed in the MCR/R-4 (SP) zoning district with the issuance of Minor Use Permit.

<u>Adjacent Zoning/Land Use</u>			
North:	Mixed Use Commercial/ Residential (MCR, R-4, SP)	East:	Mixed Use Commercial/ Residential (MCR, R-4, SP)
South:	Mixed Use Commercial/ Residential (MCR, R-4, SP)	West:	Across the Fwy. - Mariculture and Marine Research, Coastal Resource Residential, Golf Course, Planned Development (MMR, CRR, GC, PD)
<u>Site Characteristics</u>			
Site Area	8,036 square feet		
Existing Use	Mixed Use (Commercial and Residential)		
Terrain:	Relatively flat		
Vegetation/Wildlife	Two trees and shrubs in planters located in the parking lot		
Archaeological	Greater than 1,200 feet from any known site		



Resources	
Access	Main and La Jolla Streets
General Plan, Zoning Ordinance & Local Coastal Plan Designations	
Land Use Plan Designation	Mixed Use Area
Base Zone District	MCR
Zoning Overlay District(s)	R-4, SP
Coastal Zone	Yes, but not within appeals jurisdiction

DISCUSSION

The proposed project is the conversion of one 960 square foot commercial unit (Unit #1) to a residential unit within a seven unit building. Unit #1, located on the bottom floor, was converted to a 1-bedroom residential unit without a permit. Staff learned about the conversion pursuant to a code enforcement complaint and gave the owner the option to revert the residential use back to commercial use or apply for a Minor Use Permit. The existing building's configuration on the bottom floor includes four units; one 1-bedroom residential unit, two residential studios, and a barber shop. The top floor consists of two 2-bedroom residential units and a storage area. Although the building was originally approved with 10 parking spaces, today, there are nine parking spaces on-site but only eight usable parking spaces. The tenth parking space was eliminated from the site due to the applicant installing a handicap parking space to serve the commercial uses. Two of the original parking spaces were combined into one to accommodate the required dimensions for a handicap parking space. The ninth parking space is not utilized, as it is located behind the building and a fence has been erected to prevent access. However, a condition was placed on Minor Use Permit UP0-255 requiring that this space be usable and available to the on-site residents and patrons of the barber shop.

Pursuant to the City's current regulations, the requested change in use is allowable. Attached to the staff report is a memo to Council dated May 2, 2006, which states that policies and regulations for development in the North Main Street Area are addressed in the North Main Street Specific Plan and most of the recommendations in this Specific Plan have been codified in the Zoning Ordinance or other regulatory documents. However, more stringent planning and development policies in this area were included in the 2005 updates to the Zoning Ordinance, which require a Conditional Use Permit for all mixed-use projects with a residential component, whereas current regulations require a Minor Use Permit. The memo recommends revisiting the issue of residential development in the North Main Street Area once the Coastal Commission has certified the Zoning Ordinance and General Plan.

The Appellant cites that the project, as approved with Minor Use Permit UP0-255 is: 1) inconsistent with the City's regulations regarding mixed use ratios (i.e. commercial vs. residential use); 2) inconsistent with current parking regulations and; 3) inadequate with respect to posting of the site notice. Below is an analysis of the contentions made by the Appellant.

ANALYSIS:

1) Mixed Use Ratios

The project was approved with commercial use on the bottom floor and residential on the top floor in 1971. At the time the zoning of the parcel was C-1, S-8. In 1989, the North Main Specific Plan was adopted and changed the zoning to MCR/R-4 (SP). Not only does the North Main Specific Plan apply to this project, but the Zoning Ordinance, General Plan, and Local

Coastal Plan also provide regulations and direction for this site. It should be noted that the project is simply a conversion of commercial to residential use within an existing non-conforming structure and is not new development or redevelopment of the site. Further, the change from commercial to residential use may contribute to market rate affordable housing.

Local Coastal Plan

The project is located in an area of City that the Local Coastal Plan designates as “Mixed Use Area F”, where a mix of all uses as appropriate shall be encouraged. The Local Coastal Plan states that:

“An evaluation of appropriate uses on a parcel by parcel basis will be conducted during the implementation phase.”

This indicates that the mix of uses for the project site is to be determined at the time of project review.

The project, as approved, consisted of a 50/50 mix of commercial and residential. Since 1971, it appears that two units on the bottom floor were converted from commercial to residential uses and back again which is afforded to the project since it is mixed use. Consistent with the Local Coastal Plan, a mix of uses as appropriate shall be encouraged in this area. The request to convert from commercial to residential is reasonable because the project was originally constructed with the mixed use concept and one commercial unit is being retained. Therefore, the mixed use concept is still in tact. Adjacent properties are zoned MCR/R-4 and the change in use of Unit #1 is consistent with the surrounding uses.

North Main Specific Plan

As mentioned above, the project is within the North Main Specific Plan. According to the section titled “Commercial Use on North Main Street”, the MCR/R-4 zone allows C-1-N, C-1, and C-2 uses, mixed commercial and residential, or exclusive residential use according to R-4 standards. The property owner is given discretion to choose the best use as long as they comply to the development standards of the plan. As stated above, the Specific Plan allows for exclusive residential use at the R-4 density, mixed use commercial or residential, or exclusive commercial use.

Zoning Ordinance

Section 17.24.110 of the Zoning Ordinance (Mixed Commercial/Residential (MCR) District) requires a Minor Use Permit to allow residential use in the MCR zone. Within this section, Special Standards state:

“The MCR zone allows uses which are found to be similar and consistent with the General Plan and Local Coastal Plan as those found within the C-1 and C-2 districts, mixed commercial and residential uses in any proportion, or exclusive residential use.”

Further, under Residential Uses, it states:

“Designation of the MCR zone with an R-4 suffix will permit residential development according to the designated density and applicable development standards of this plan.”

According to the above section, exclusive residential use is allowed with an R-4 designation. The conversion of Unit #1 from a commercial to residential use conforms to these standards, as one commercial unit in the building still remains. The MCR zone supports the mixed use

concept of both the Local Coastal Plan and the General Plan and the evaluation of appropriate uses on a parcel by parcel basis is accomplished through the conditional use process.

The project is also subject to another layer of zoning; the SP overlay zone. Section 17.40.070 (Combining Mixed Use Overlay Zone) of the Zoning Ordinance states:

“The Local Coastal Plan has designated certain areas of the City as mixed use designation and shall be addressed for development of each of these areas.”

This section continues with the following:

“In mixed use areas combining commercial and residential designations, the commercial district shall be the primary district and at least fifty percent of the gross floor area of the project shall be devoted to commercial or office uses. An exception is for those areas in which the Local Coastal Plan text specifically describes the mixed use relationship that should be allowed.”

As stated above, the project is to be reviewed on a case by case basis pursuant to Mixed Use Area F identified in the Local Coastal Plan.

2. Parking

The project was originally approved in 1971 with 10 parking spaces for approximately 2,234 square feet of commercial and 2,034 square feet of residential. Pursuant to the current Section 17.44.020 (Parking Facilities) of the Zoning Ordinance, the following parking requirements are as follows:

- 1 space per studio unit
- Multiple spaces for apartments of 1 bedroom or more, equaling 1.5 spaces for the first bedroom and .5 spaces for every additional bedroom and;
- 1 space for every 300 square feet of commercial space

To meet current parking requirements with a 50/50 mix of uses, 7 spaces would be required for the originally constructed 2,234 square feet of commercial use and 4 spaces would be required for the residential uses for a total of 11 parking spaces, without guest parking spaces. However, the current configuration of the project approved with Minor Use Permit UP0-255 requires only 9 total parking spaces because the additional residential use is not as intense as commercial use, and therefore, requires less parking. As demonstrated by the site plan, adequate space on the site plan is not available to accommodate parking that would be required for additional commercial uses. To provide the required amount of parking for the original project of 2,234 square feet of commercial, pursuant to current regulations, three additional parking spaces would be required on-site. Section 17.44.020, (Parking Facilities) of the Zoning Ordinance states:

“ ... for any structure or land changed to a more intensive use that would require the provision of more parking spaces over what already exists, off-street parking spaces shall be provided in accordance with the requirements and standards...”

The residential use proposed in Unit #1 is less intense; therefore additional on-site parking, including guest parking, is not required.

Finally, the Appellant states that guest parking is required per the Zoning Ordinance. The Zoning Ordinance does require guest parking in multi-family zones if there are five or more units; however, staff reviewed the project as an existing project rather than a new project. When determining the appropriate mix of uses for an existing mixed use building, staff evaluates the site and the current uses. Because the site was developed in 1971 pursuant to different regulations, it is non-conforming and has limited parking available which has a significant impact on the site's ability to accommodate a mix of commercial and residential uses without a

parking conflict. Unit #1 is 960 square feet in size which requires a minimum of three parking spaces to accommodate a standard commercial use. The proposed residential unit requires two parking spaces. The requirement of a guest parking space further restricts the mixed use flexibility of the project.

The maximum number of parking spaces that could be provided on-site given the original design is ten. The location of the ninth parking space, originally approved behind the building would not be allowed today due to its location; however, it currently exists so the project was conditioned to make the space accessible as originally approved. If the project does revert back to the original 50/50 mixed use configuration with exclusive commercial use on the bottom floor, the requirement for the eleventh space will be reviewed at that time.

3. Site Posting

The Appellant alleges that the site plan without text was posted on-site on November 6, 2009; however, the site plan with the text was posted on-site on October 27, 2009. In addition, the site notice is created as one 11" x 17" laminated sheet and always consists of the site plan and text. Attached are photos of the site postings for Minor Use Permit UP0-255 and the Appeal.

PUBLIC NOTICE:

Notice of this item was posted at the site and published in the San Luis Obispo Telegram-Tribune newspaper on January 8, 2010, and all property owners of record within 300 feet of the subject site were notified of the public hearing and invited to voice any concerns on this application.

CONCLUSION:

With recommended Conditions of Approval as provided with the issuance of Minor Use Permit UP0-255, the proposed project is consistent with the Zoning Ordinance, North Main Specific Plan, General Plan, and Local Coastal Plan and would not have a significant impact on the environment. It is recommended that the Appeal be denied.

Report prepared by: Genene Lehotsky, Associate Planner

EXHIBIT A
FINDINGS

Minor Use Permit Findings

1. That the project, as conditioned and approved with Minor Use Permit UP0-255, will not cause any health and safety concerns, and will not impact neighboring uses, environmentally sensitive habitat areas, or otherwise create significant impacts.
2. The Project is exempt from the California Environmental Quality Act, under the Class 3, 15303, for construction and location of limited numbers of new, small facilities or structures; installation of small structure new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel.

EXHIBIT B
CONDITIONS OF APPROVAL

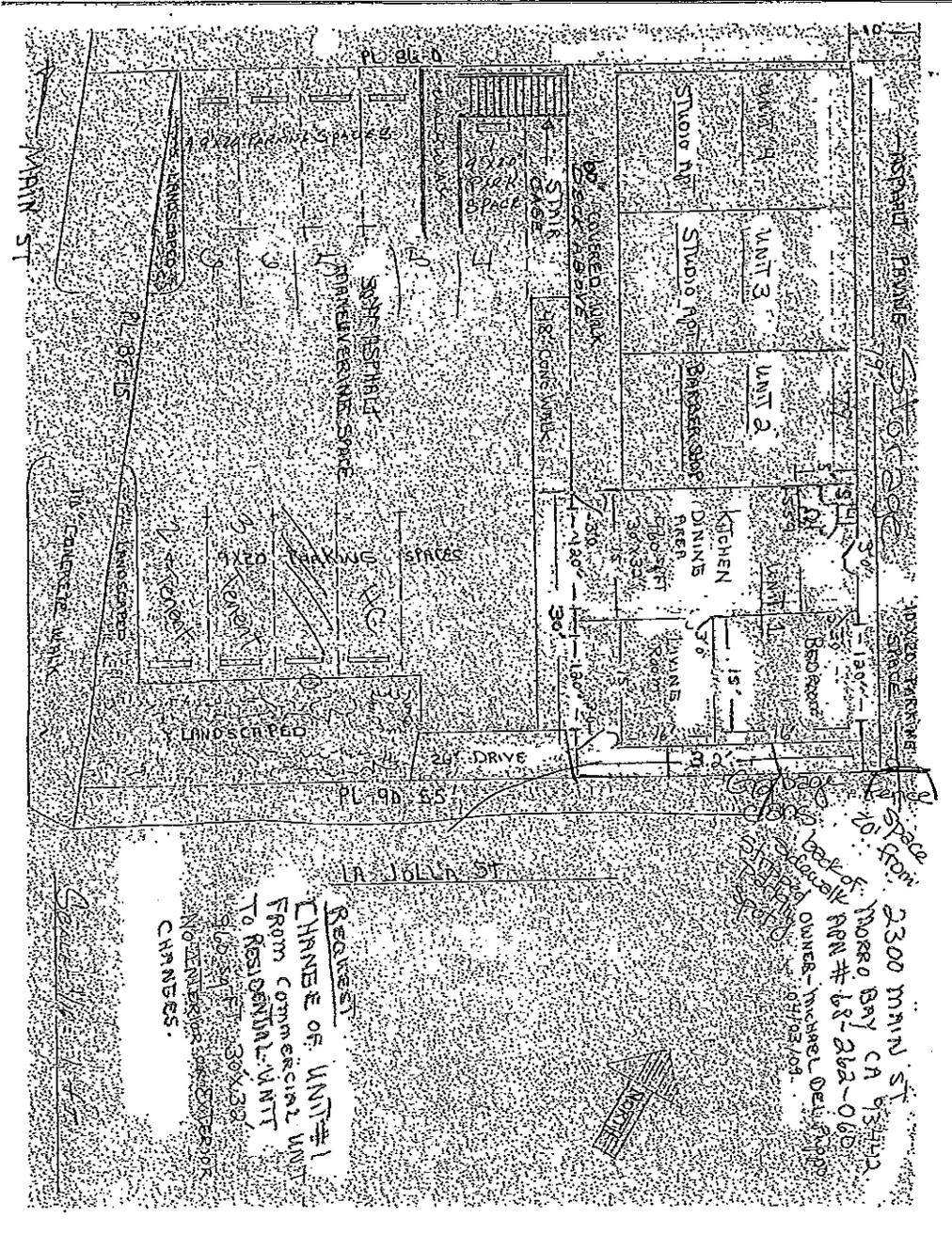
1. Inaugurate Within Six Months: Unless the construction or operation of the structure, facility, or use is commenced not later than Two (2) years after the effective date of this approval and is diligently pursued thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two (2) one year periods. Said extensions may be granted by the Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
2. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.
3. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
4. Compliance with Conditions: Compliance with and execution of all conditions listed hereon shall be necessary, unless otherwise specified. Deviation from this requirement shall be permitted only by written consent of the 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.
5. Compliance with Morro Bay Standards: This poroject 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.

PUBLIC SERVICES CONDITIONS

6. Revised Site Plan: The applicant will submit a revised site plan that depicts the existing parking space configuration and tenant space assignment, including the location of the existing handicap parking space.
7. Parking: The site plan submitted indicates a parking space at the rear of the site; however, pursuant to a site visit, the parking space is currently fenced off and garbage cans are placed in front of the entrance of the fence. The fence shall be opened and the garbage cans shall be removed and relocated. The parking space will accommodate the parking requirement for Unit 1.

8. Parking: All parking shall be allocated to the uses on-site. Boats and any other recreational vehicles shall not be stored or parked anywhere on-site.
9. Use Change: Any future use changes shall require a use permit.

EXHIBIT C
GRAPHICS/PLAN REDUCTIONS

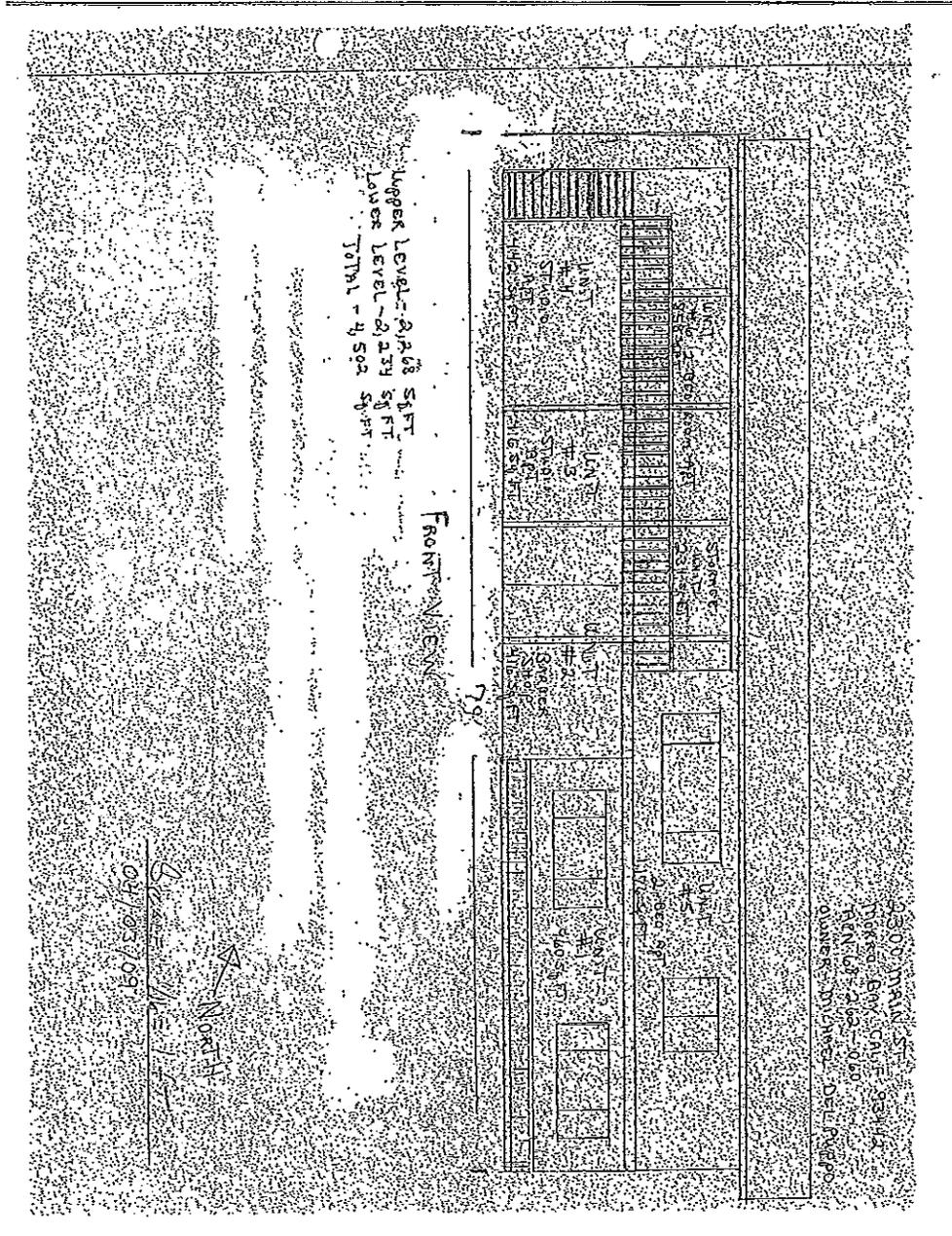


Planning Commission



Site Plan

EXHIBIT C
GRAPHICS/PLAN REDUCTIONS



Planning Commission



Elevation

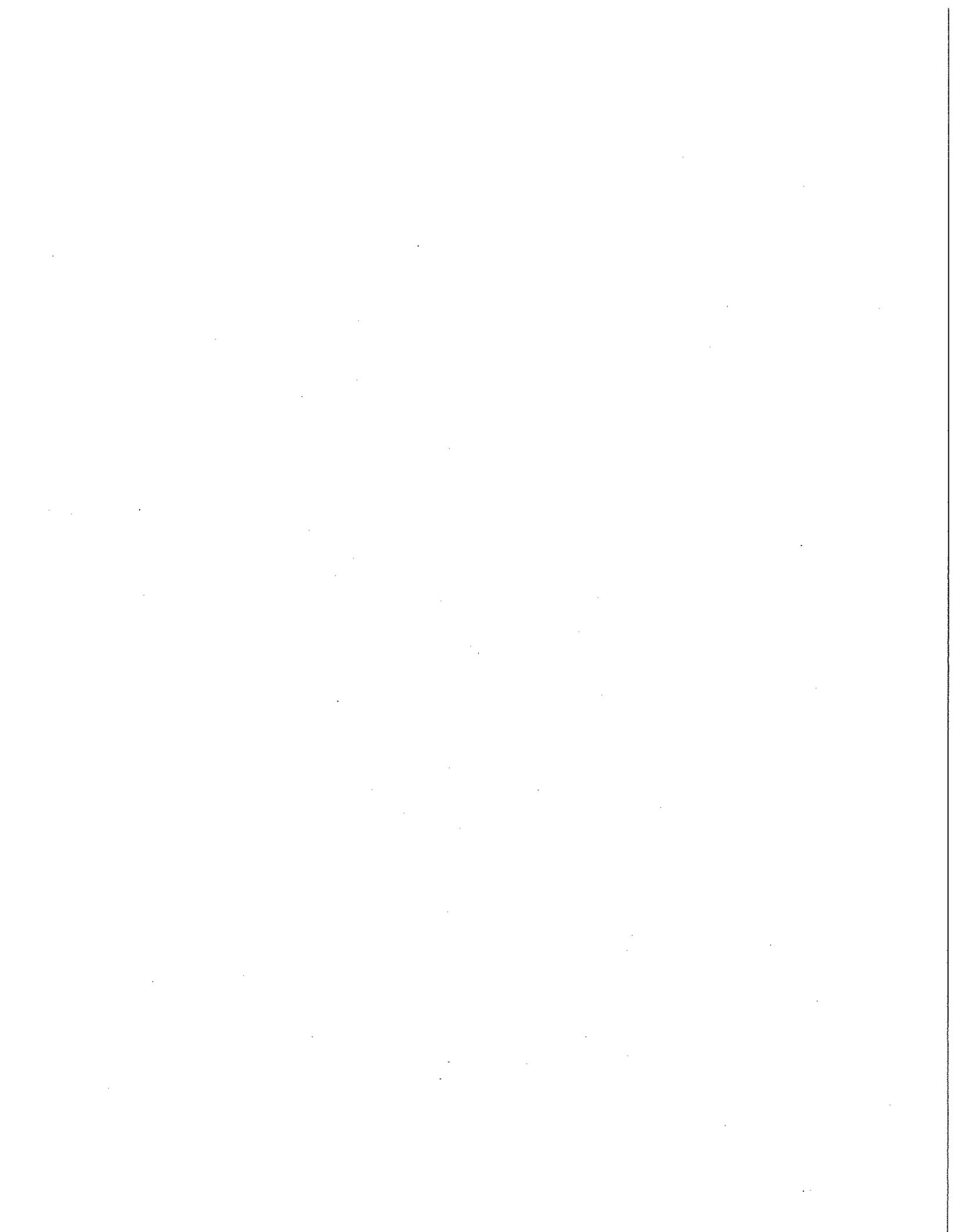


EXHIBIT D

History: When the property was first developed in the early 1970s, it was required that all 4 units downstairs were for commercial use only, while upstairs was residential. Subsequently, 2 of the downstairs units were illegally converted. Now, a third downstairs unit has been illegally converted leaving 1 commercial unit, a barber shop.

GROUND FOR THE APPEAL:

1. Parking. The parking as configured now is 5 regular parking spaces on the north side, 2 regular parking spaces on the south side, and 1 handicapped parking space on the south side. That is a total of 7 spaces for 7 residences plus 1 business which is only 7 spaces to accommodate 8 units, plus a handicapped space. In the proposal, the applicant is removing the 1 handicapped space and converting it to 2 regular spaces to get a total of 9 regular parking spaces for 7 residential units and 1 business, with no handicapped space.

However, since there is a commercial operation at this location, I would assume under the law that a handicapped space must be provided to accommodate patrons of the commercial operation. In addition, I believe our ordinances would require that 1 of the regular spaces would also be designated for the commercial use on this property. If this is true, that leaves 6 parking spaces for 7 residential rental units.

Also, I believe under our ordinances that any multiple unit residential project must provide at least 1 guest parking space. Since this is a change in use permit, this would require the property be brought up to the current requirements of our ordinances. Each of the triplex's built down the street by the Lucky Seven business required a guest parking space.

With the North Main Street bike line funded, on-street parking cannot be counted on to accommodate overflow parking needs.

2. Residential to Commercial Ratio. Initially, this development was approved as a mixed use project in a C-1 zone; now it has mixed use zoning of MCR/R-4(SP). When the project was built the ratio allowed was 50-50. City Council voted on November 9, 2009, that it is willing to go as high as 80-20. If this project were allowed, the ratio would be 87.5 to 12.5% in clear violation of the new recommended allocation as well as the old one.

The City Council in prior discussions has indicated that it did not want to lose anymore commercial property, particularly south of San Jacinto on Main Street. It undermines the City's tax base and reduces support for remaining adjacent businesses.

3. Posting time inadequate. Pedestrians first observed the posting on November 6, 2009. At that time there was only the drawing with none of the regular notice. Later, text was observed.

Conclusion: The current owner has already gone in and illegally made the conversion to a residential unit as the prior owner illegally did the other two lower units. Should a residential unit be converted from a prior Commercial Use unit? I do not believe the proposal meets or can meet the city requirements and/or ordinances.



CITY OF MORRO BAY
PUBLIC SERVICES DEPARTMENT
APPEAL FORM

RECEIVED

NOV 20 2009

City of Morro Bay
Public Services Department

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

APPEAL OF SPECIFIC DECISION OR ACTION:
300 Main St VPO-55 Conversion from Commercial to residential use

DATE DECISION OR ACTION RENDERED: Posted on property 11-06-09

PELLANT (PLEASE PRINT): Grant E Crowl

NATURE: *Grant Crowl*

ADDRESS: 450 Fairview Ave TELEPHONE NUMBER: 772-2812

FUNDING FOR THE APPEAL (ATTACH SHEETS AS NECESSARY):
See Attached

REQUESTED RELIEF OR ACTION: 1) To deny conversion from commercial to residential "previous glass shop"

FOR OFFICE USE ONLY

DATE APPEAL FILED: ACCEPTED BY:

APPEAL BODY:

DATE OF APPEAL HEARING:

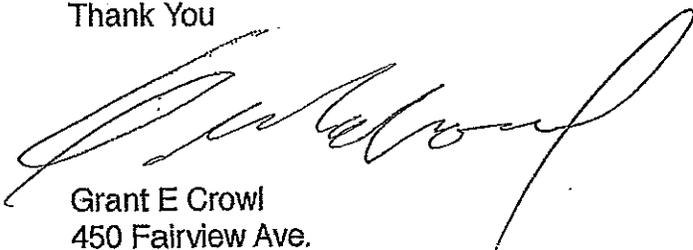
Monday November 23, 2009

To: City of Morro Bay Public Services Department

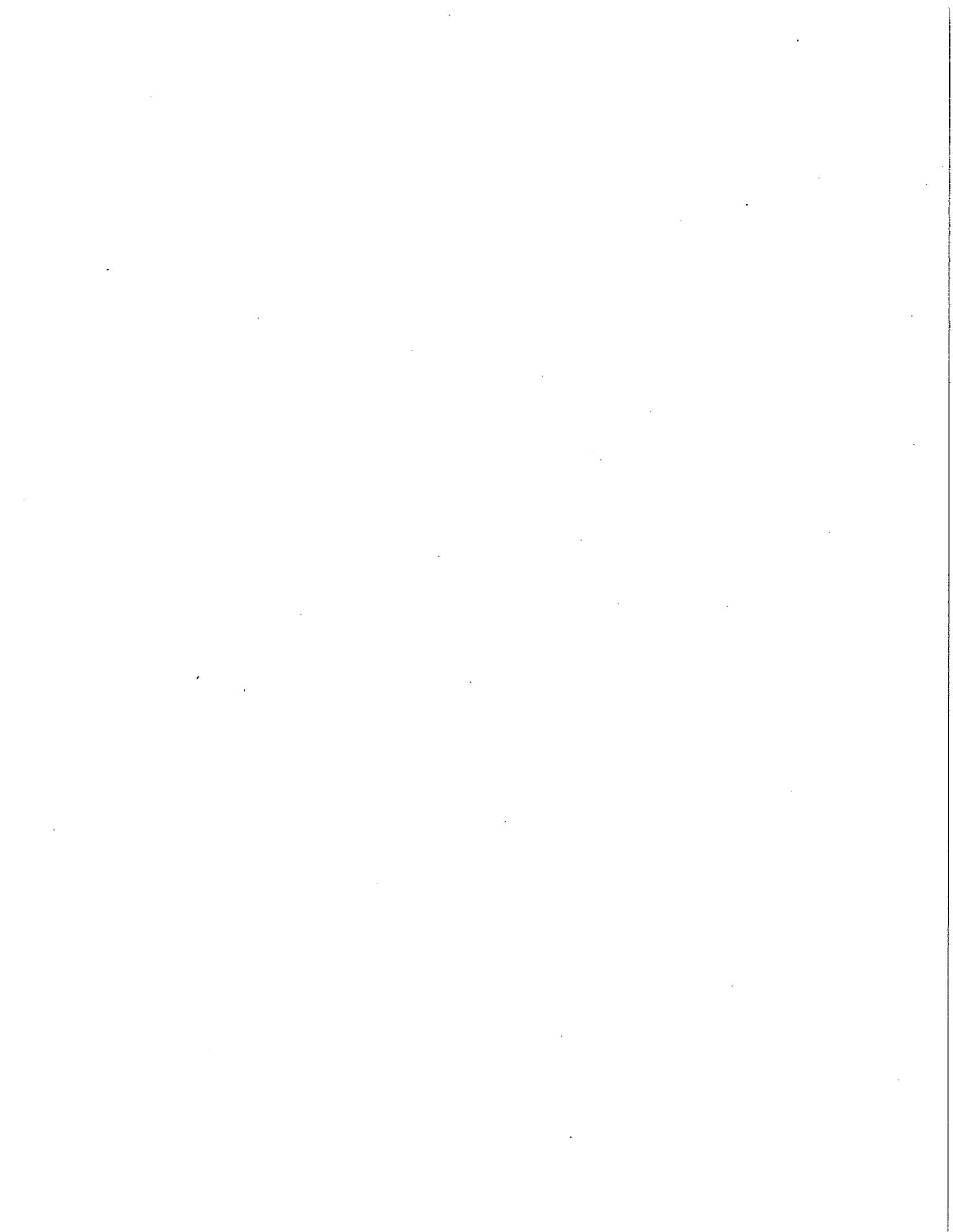
Re: Appeal Permit No. UP0-000-255

With the holidays in the immediate future and the stress that is caused by the season, I request that the appeal be scheduled for January 2010.

Thank You

A handwritten signature in black ink, appearing to read "Grant E Crowl", written in a cursive style.

Grant E Crowl
450 Fairview Ave.
Morro Bay, CA 93442
805-772-2812



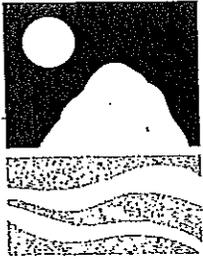


EXHIBIT E

City of Morro Bay

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

November 10, 2009

Michael Del Puppo
2542 Laurel Street
Morro Bay, CA 93442

SUBJECT: Case No.: UP0-255

SITE: 2300 Main Street, Unit #1

Dear Mr. Del Puppo,

The Public Services Department has approved your request for a Minor Use Permit with the attached conditions. This action does not constitute a building permit. Any further processing of this project must be initiated by the applicant, subject to the applicable rules and regulations of the Morro Bay Municipal Code. *Please be advised that you must return the enclosed Acceptance of Conditions form, signed, to this department within thirty (30) days of this approval or the action is null and void.*

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

Please also find enclosed the Notice of Exemption for your project. The City of Morro Bay no longer files notices of exemptions. You may file the Notice of Exemption with the County Clerk's office located in the County Government Building in San Luis Obispo. The filing Fee is \$25.00.

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

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

Sincerely,

Bruce Ambo
Director Public Services Department

By:

FINANCE
595 Harbor Street
HARBOR DEPARTMENT
1275 Embarcadero Road

ADMINISTRATION
595 Harbor Street
CITY ATTORNEY
955 Shasta Avenue

FIRE DEPARTMENT
715 Harbor Street
POLICE DEPARTMENT
850 Morro Bay Boulevard

PUBLIC SERVICES
955 Shasta Street
RECREATION AND PARKS
1001 Kennedy Way

Project Discussion

The applicant is proposing a use change from commercial use to residential use in Unit 1.

The building was constructed in 1971 and proposed as a mixed commercial and residential project. The project historically had commercial in the four floor units totaling 2,234 square feet. The top floor consists of two residential units totaling 2,034 square feet and a storage unit totaling 234 square feet. When the site was built the project provided 10 on-site parking spaces.

Section 17.44.020, Parking Facilities, of the Zoning Ordinance requires 1 space per studio unit, multiple spaces for the apartments of 1 bedroom or more, equaling 1.5 spaces for the first bedroom and .5 space for every additional bedroom and 1 space for every 300 square feet of commercial space. To have adequate parking on site they would have needed to provide 8 spaces for commercial uses and 4 spaces for residential spaces, totaling 12 spaces.

In order to conform to American Disability Act (ADA) standards, two spaces were utilized for handicap parking, one for the handicap parking space and one for access to the parking space. After the addition of the handicap parking space the total on-site parking spaces totaled 9 spaces.

Per section 17.24.110, Mixed commercial/residential (MCR) district, the Special Standards state, "The MCR zone allows uses which are found to be similar and consistent with the general plan and local coastal plan as those found with the C-1 and C-2 districts, mixed commercial and residential uses in any proportion, or exclusive residential use." The conversion of unit 1 from a commercial use to a residential use still conforms to the standards of a MCR zone. There is one unit that is commercial in the building.

Currently the parking is non-conforming, but the applicant will be required to keep 9 spaces that were originally available on-site open and available. Section 17.44.020, Parking Facilities, state for every "new use, and for any structure of land changed to a more intensive use that would require the provision of more parking space over what already exists, off-street parking spaces shall be provided in accordance with the requirements and standards." The use proposed in unit 1 is not more intense; therefore additional on-site parking is not required.

Staff visited the site and observed one space being used for boat storage. The project is being conditioned to prohibit recreational vehicle or boat storage.

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

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

Sincerely,

Bruce Ambo
Director, Public Services Department

By: 

enc: Permit, Findings, Conditions of Approval, and Acceptance of Conditions Form

NOTICE OF EXEMPTION

TO: San Luis Obispo County Clerk
County Government Center
San Luis Obispo CA 93401

FROM: City of Morro Bay
Public Services Department
.955 Shasta Avenue
Morro Bay, CA 93442

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

Project Title: Conversion of commercial unit to residential use.

Project Location - Specific: 2300 Main Street, Unit #1

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

Description of Project: Conversion of commercial unit into one bedroom apartment with no interior or exterior changes at 2300 Main Street, Unit #1 with conditions.

Name of Public Agency Approving the Project: CITY OF MORRO BAY

Name of Person or Agency Carrying Out Project: Michael Del Puppo

Exempt Status: (Check One)

Reasons why project is exempt: Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small structure new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel.

Ministerial (Sec. 21080(b)(1); 15268);

Categorical Exemption:
Type and Section Number: Conversion of Small Structures 15303

Declared Emergency (Sec. 21080(b)(3); 15269(a))

Declared Emergency (Sec. 21080(b)(3); 15269(a))

Statutory Exemption Code No. _____

Lead Agency: CITY OF MORRO BAY

Contact Person: Kathleen Wold Telephone: (805) 772-6211

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

Certification:

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

Kathleen Wold
Signature

Title: Senior Planner

Date: 11/10/09

Minor Use Permit

CASE NO: UPO-255

THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:

SITE ADDRESS: 2300 Main Street, Unit #1

APPLICANT: Michael Del Puppo

APN/LEGAL: 68-262-060

DATE APPROVED: November 10, 2009 APPROVED BY: Bruce Ambo, Director Public Services Department

BY: _____

CEQA DETERMINATION:
DESCRIPTION OF APPROVAL

THIS APPROVAL IS BASED UPON THE ATTACHED FINDINGS AND IS VALID ONLY IF CONDITIONS ATTACHED) ARE MET AND ONLY AFTER THE APPLICABLE APPEAL PERIOD. Failure to comply with the conditions of this permit shall, at the discretion of the Public Services Director pursuant to Municipal Code Section 7.60.150, render this entitlement null and void.

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

YOUR PROPERTY IS LOCATED IN THE COASTAL COMMISSION APPEALS JURISDICTION: THE FOLLOWING COASTAL COMMISSION APPEAL PERIOD APPLIES TO YOUR PROJECT: This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. The applicant or any aggrieved person may appeal this decision to the Coastal Commission within TEN (10) *Working days* following Commission receipt of this notice. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, Ste. 300, Santa Cruz, CA 95060, Phone: 415-427-4863. If you have any questions, please call the City of Morro Bay Public Services Department, 772-6261.

IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: November 23, 2009

ATTEST:  DATE: 11/25/2009

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

RECEIVED

DEC 04 2009

City of Morro Bay
Public Services Department

APPLICANT'S ACCEPTANCE
OF
CONDITIONS OF APPROVAL

CASE NO. UPO - 255

SITE LOCATION: 2300 MAIN STREET, UNIT #1

APPLICANT NAME: MICHAEL DEL PUPPO

APPROVAL BODY:

- Public Services Director
- Zoning Administrator
- Planning Commission
- City Council

DATE OF ACTION: NOVEMBER 10, 2009

I, Michael Del Puppo the undersigned, have read and
(APPLICANT'S NAME - PLEASE PRINT)

reviewed the conditions of approval imposed by the Approval Body in its action

approving Case Number: UPO - 255

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

Michael Del Puppo
APPLICANT'S SIGNATURE

12/04/09
DATE:

MINOR USE PERMIT
CASE NO. UPO-255
SITE LOCATION: 2300 MAIN, UNIT #1

I. FINDINGS OF APPROVAL

The Director has reviewed this Minor Use Permit application and finds the following:

1. That the project will not cause any health and safety concerns, and will not impact neighboring uses, environmentally sensitive habitat areas, or otherwise create significant impacts.
2. The Project is exempt from the California Environmental Quality Act, under the Class 3, 15303, for construction and location of limited numbers of new, small facilities or structures; installation of small structure new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel.

II. CONDITIONS OF APPROVAL

1. Inaugurate Within Six Months: 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 (2) one year periods. Said extensions may be granted by the Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
2. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.
3. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
4. Compliance with Conditions: Compliance with and execution of all conditions listed hereon shall be necessary, unless otherwise specified. Deviation from this requirement shall be permitted only by written consent of the 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.

5. Compliance with Morro Bay Standards: This poroject 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.

PUBLIC SERVICES CONDITIONS

6. Revised Site Plan: The applicant will submit a revised site plan that depicts the existing parking space configuration and tenant space assignment, including the location of the existing handicap parking space.
7. Parking: The site plan submitted indicates a parking space at the rear of the site; however, pursuant to a site visit, the parking space is currently fenced off and garbage cans are placed in front of the entrance of the fence. The fence shall be opened and the garbage cans shall be removed and relocated. The parking space will accommodate the parking requirement for Unit 1.
8. Parking: All parking shall be allocated to the uses on-site. Boats and any other recreational vehicles shall not be stored or parked anywhere on-site.
9. Use Change: Any future use changes shall require a use permit.

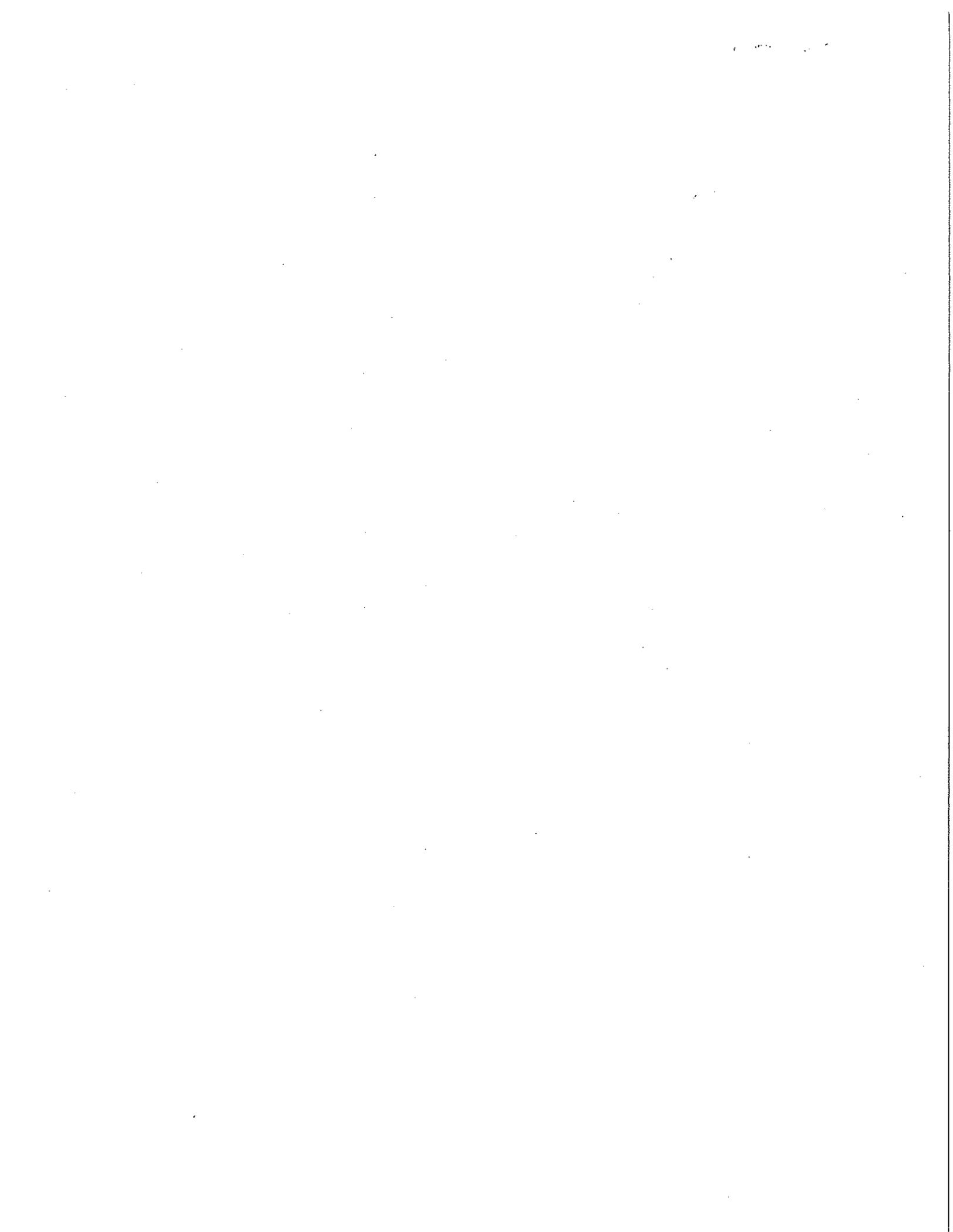


EXHIBIT F

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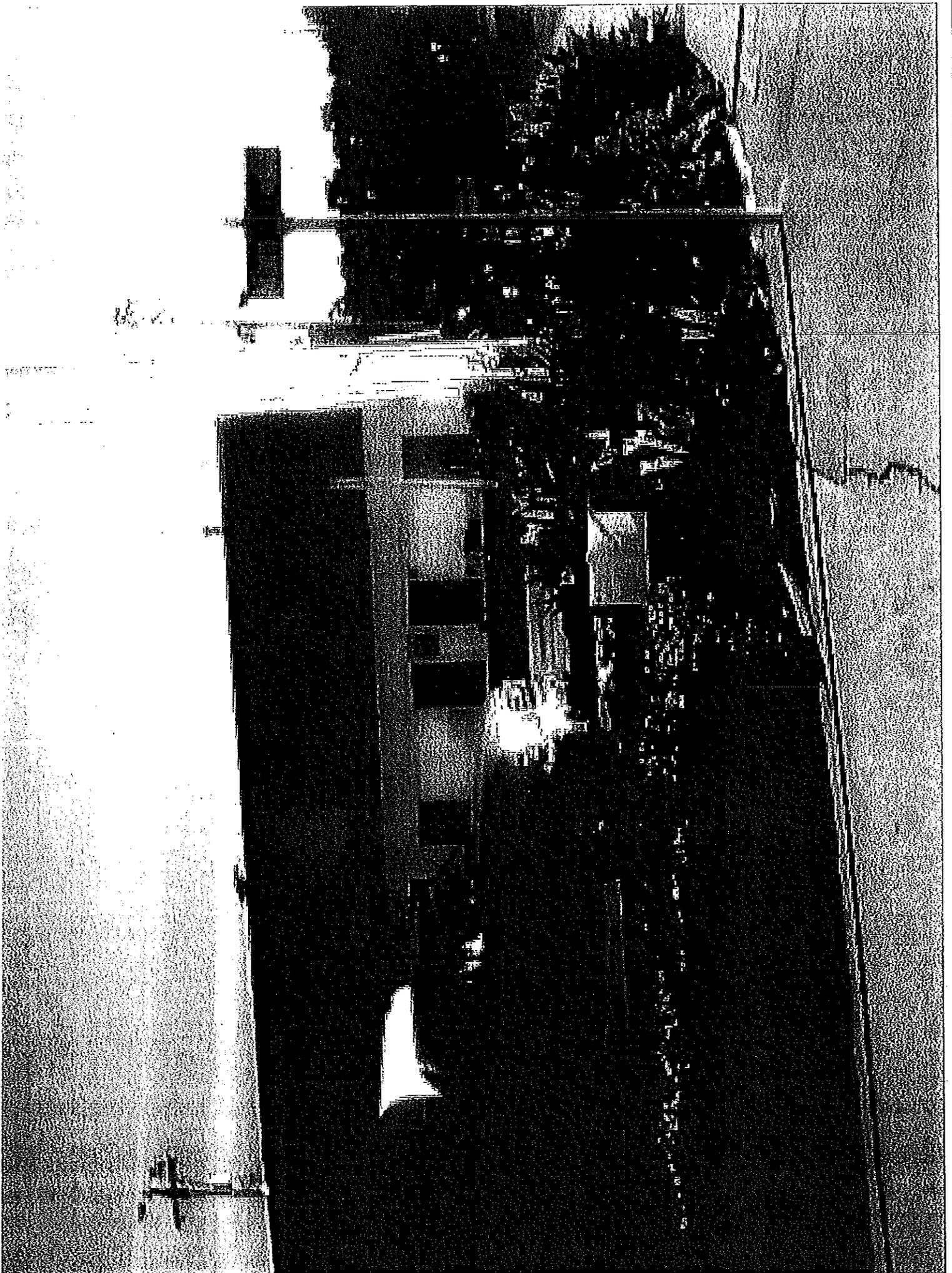


EXHIBIT G



AGENDA NO: D-1
Meeting Date: May 8, 2006
Action:

Staff Report

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE:** May 2, 2006

FROM: Bruce Ambo, Public Services Director

SUBJECT: Residential Development Regulations in the North Main Street Area

RECOMMENDATION: It is recommended that the City Council receive and file this report, or provide further direction to staff.

FISCAL IMPACT: The fiscal impact associated with the staff response to this request for Council information is minimal. Potential fiscal impacts beyond the recommendations in this report would need to be determined based upon a clearer definition of the project and scope of work.

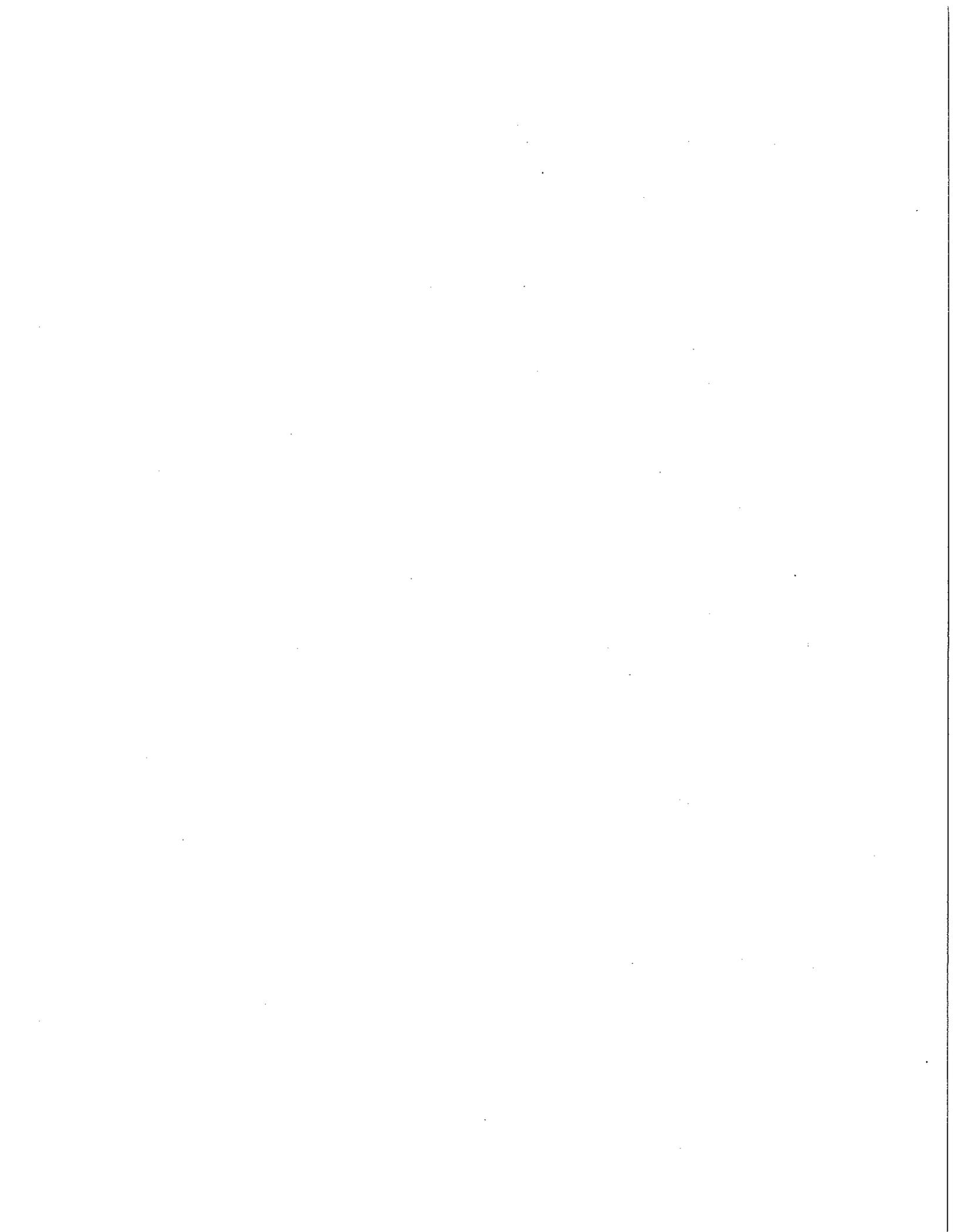
BACKGROUND: On April 24 the City Council requested a future agenda discussion item on what staff believes is the review process for residential projects in the North Main Street Area. For purposes of this discussion, staff suspects the area in question may be the MCR/R-4 Zone (Mixed Commercial Residential/Multifamily Residential) that generally fronts along Main Street in a north-south alignment. An Administrative or Minor Use Permit (MUP) is required for any residential project or component of a mixed-use project in this area, and densities are set at R-4 allowances. In addition to the noticing required for these use permits, all administrative applications are listed on the Planning Commission agendas for additional advanced notification.

Policies and regulations for development in this area were addressed in the North Main Street Specific Plan that was adopted in 1989. The plan had a 10-year time horizon and since that time nearly all of the recommendations in the specific plan have been codified and/or standards incorporated into other plans and ordinances.

All aspects of planning and development policies in this area were most recently considered through the General Plan/Local Coastal Plan update process that was completed in 2004. Similarly, the update to the City's Zoning Ordinance also included numerous code amendments that were also completed in 2005. You may recall that in the update to the Zoning Ordinance, all mixed-use projects with a residential component were elevated to a Conditional Use Permit (CUP), and development regulations were added that require the residences to be either above or at the rear of the commercial space. These provisions are more restrictive than the current ordinance.

The updated GP/LCP and new Zoning Ordinance have been submitted for review and certification at the California Coastal Commission. Additional concerns and possibly other regulations can be considered when the new Zoning Ordinance comes back before both the Planning Commission and City Council following the Coastal Commission review.

Prepared by: 	Dept. Review: 
City Manager Review: 	





cc: Planning Commission, Planning, Bldg. & Engineering *[Signature]*
1/5/10

AGENDA ITEM NO: XI
DATE: 1/19/2010
ACTION: _____

Staff Report

TO: City Council **DATE:** December 8, 2009
FROM: Bruce Ambo, Public Services Director
Christine Rogers, Housing Programs Coordinator
SUBJECT: Update on the Work Program for Developing a Preliminary Climate Action Plan

RECOMMENDATION

Staff recommends that the City Council receive and file this update of activities to be undertaken related to state, county, and/or local programs and updates to regulatory codes and standards.

MOTION: I move that the City Council receive and file this update.

FISCAL IMPACT

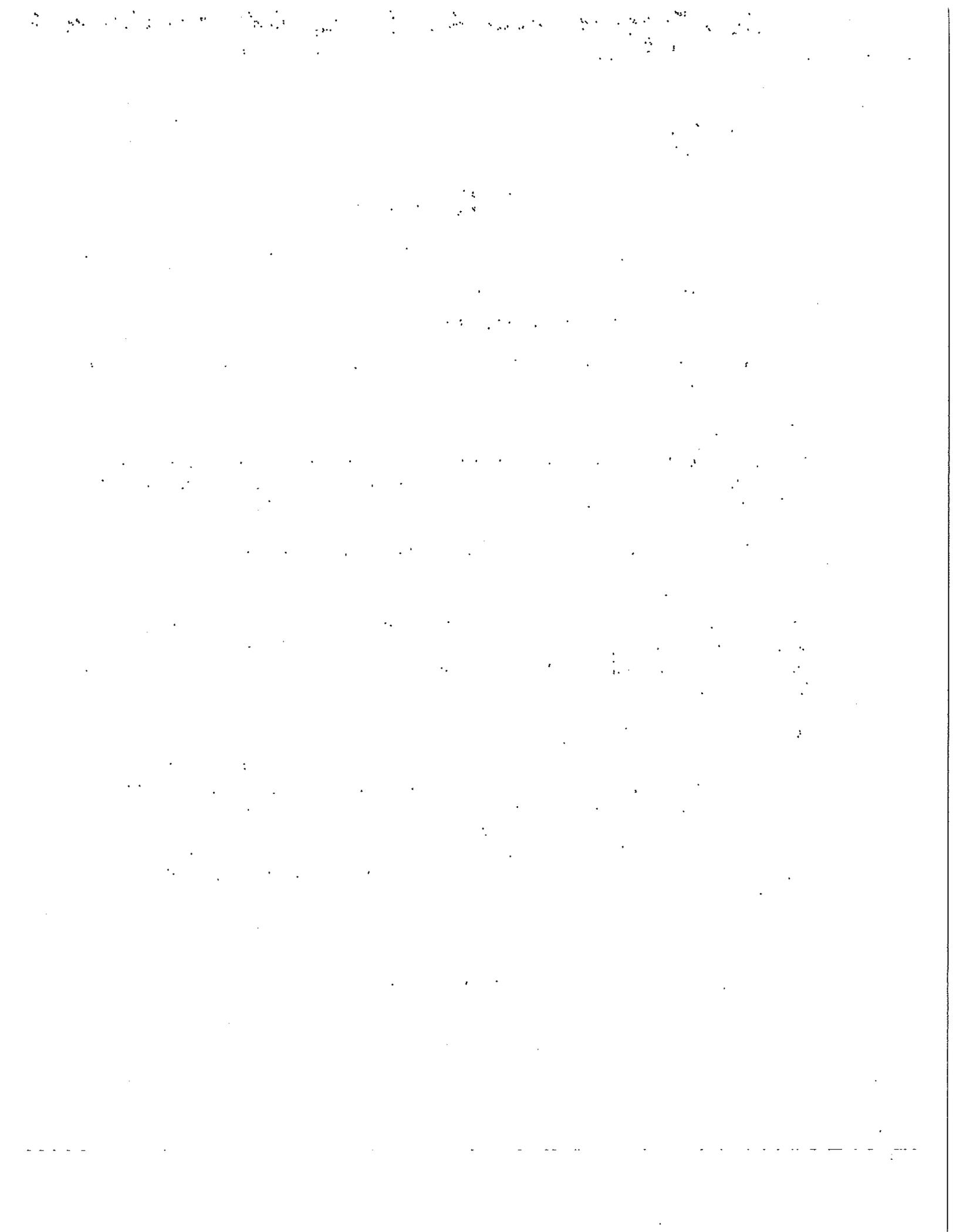
There is no direct fiscal impact associated with this action other than the administrative costs for staff support at this meeting. However, the staff time required for the administration of these project and program activities outlined in this update easily amount to an approximate average of about 20 hours each month.

BACKGROUND/DISCUSSION

The purpose of this working program is to identify all of the unfunded environmental and energy efficiency programs that are mandated by the State, establish some sort of timing and order to accomplishing the implementation of them, and efficiently allocate staff resources. The work program is a living document, and must respond to frequent changes in the regulatory and environmental framework, as well the availability of pertinent data and improved methodologies. A review of the work program identifies the program activities, target dates, responsible department, outcome and progress to date.

Attachment:

1. Work Program for Developing a Preliminary Climate Action Plan



PUBLIC SERVICES DEPARTMENT
 955 SHASTA AVENUE
 MORRO BAY, CA 93442
 (805) 772-6261

WORK PROGRAM FOR DEVELOPING A PRELIMINARY CLIMATE ACTION PLAN

Five-Year Plan
 2009 - 2014

Fiscal Year 2009 - Ongoing Programs

Activity	Target Date	Department	Outcome	Progress
Green Building Green Building Incentive Program	In Process 2009 Ongoing thru 2014	Building	Energy Conservation Water Conservation Resource Conservation	Incentives and expedited plan check for projects pursuing third-party certification and/or incorporating green building measures/renewable energy.
Referrals to SLO Green Build	In Process 2009 Ongoing thru 2014	Building	Energy Conservation Water Conservation Resource Conservation	Residential development applications are provided referral information for no cost PEER review services by SLO Green Build for sustainable design recommendations.
Toilet Retrofit Program	In Process 2009 Ongoing thru 2014	Building	Water Conservation Energy Efficiency	Program in place for verification and rebates for low flow toilet retrofit.
Washing Machine Rebate Program	In Process 2009 Ongoing thru 2014	Building	Water Conservation Energy Efficiency	Program in place for verification and rebates for Energy Star washing machine replacement.
Owner Occupied Rehabilitation Programs				
Home Investment Partnership Program	2009/12	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Implement program - guidelines incorporate energy efficient and water conservation measures as eligible program activities.
Energy Efficiency Audit Program Target Income Groups Single Family Residential	Pending	Housing	Energy Conservation Water Conservation	CDBG Grant application for reimbursement of Energy Efficiency Audits to identify potential energy and water conservation measures. Partnering with SLO Energy Watch. Program to implemented in Targeted Income Areas.
NPDES Stormwater Management Plan				
Public education Outreach & Public Participation	In Process 2009 Ongoing thru 2014	Stormwater	Water Conservation Water Quality	Provide brochures and hold event supporting the stormwater program.
Illicit Discharge and Elimination Program	In Process 2009 Ongoing thru 2014	Stormwater	Water Conservation Water Quality	Restaurant Inspection to educate restaurants on proper BMP to improve water quality.
Construction Site Runoff	In Process 2009 Ongoing thru 2014	Stormwater Building	Water Conservation Water Quality	Public Works and Building departments ensure proper erosion and sediment control is included with building plan submittal. Building department conducts erosion control inspections during wet weather.

(Hydro-modification Control)				Water Quantity Water Conservation Water Quality Water Quality Water Conservation Water Quality	interim standard by 12/09. Participate with SLO County Hydro-modification Technical Advisory Committee to develop interim and long-term Hydro-modification Control Criteria. Develop a program to train municipal staff on stormwater management practices. Develop a landscape and lawn care stormwater pollution and prevention procedures.
SLO County Hydro-modification Technical Advisory Committee	In Process 2009 Ongoing thru 2014	Stormwater		Water Conservation Water Quality	Participate with SLO County Hydro-modification Technical Advisory Committee to develop interim and long-term Hydro-modification Control Criteria.
Municipal Operations	In Process 2009 Ongoing thru 2014	Stormwater		Water Conservation Water Quality	Develop a program to train municipal staff on stormwater management practices. Develop a landscape and lawn care stormwater pollution and prevention procedures.

Codes and Planning Documents

Building Plan Check Review	In Process 2009 Ongoing thru 2014	Building		Energy Conservation Water Conservation Resource Conservation	Program in place for development review by Building Division (code compliance and appropriate technologies)
General Plan/Local Coastal Plan Updates	1/10 - 12/14 Ongoing	Planning		Energy Conservation Water Conservation Resource Conservation Walkable Communities	Mandatory five year update to incorporate goals related to new green building standards, sustainable design, reduced vehicle miles, etc.
Zoning Code Update	1/10 - 12/14 Ongoing	Planning		Energy Conservation Water Conservation Resource Conservation Walkable Communities	Mandatory five year update to incorporate goals related to new green building standards, sustainable design, reduced vehicle miles, etc

Waste Management

Construction Demolition and Debris Recycling Program	In Process 2009 Ongoing thru 2014	Building		Resource Conservation Energy Conservation	Program requires 50% C&D recycling prior to issuance of final occupancy.
Green waste/Composting Program	In Process 2009 Ongoing thru 2014	WWTP		Resource Conservation Water Conservation	Recycle/Re-Use, free composting improves soil quality and enhances infiltration of Stormwater for groundwater recharge. Central location for waste handling and re-use reduces vehicle miles.
Curbside Recycling Program	In Process 2009 Ongoing thru 2014	Public Services		Resource Conservation	Recycle/Re-use reduces resource consumption; central waste handling reduces vehicle miles.
Household Hazardous Waste Program	In Process 2009 Ongoing thru 2014	Public Services		Resource Conservation Water Quality	Centralized waste handling reduces vehicle miles and reduces illicit discharges and potential illegal disposal impacting water quality.
Recycle/Re-use Program	In Process 2009 Ongoing thru 2014	Public Services		Resource Conservation	Program in place for recycling of Batteries, Cell phones, Fluorescent Tubes. Centralized waste handling reduces vehicle miles and reduces potential illegal disposal resulting in environmental impacts.
Home Generated Sharps Program	In Process 2009 Ongoing thru 2014	Public Services		Resource Conservation Public Safety	Program in place for recycling of used syringes. Centralized waste handling reduces vehicle miles and reduces potential illegal disposal resulting in public safety issues.

Walkable Communities

Harborwalk	Complete	Capital Projects		Carbon Reduction Resource Conservation Eco Tourism	Pedestrian access to marine resources, protection of existing natural habitats, tourism benefits.
Trolley and Dial A Ride Programs	In Process 2009 Ongoing thru 2014	Public Services		Carbon Reduction Ecotourism	Alternative transportation, reduced vehicle miles, tourism benefit.
Roundabout	Complete	Public Works		Carbon Reduction	Reduce carbon resulting from idling, traffic calming.
North Main Bike Plan Project	In Process 2009 Ongoing thru 2010	Public Works		Carbon Reduction Ecotourism Walkable Communities	Alternative transportation, reduced vehicle miles, tourism benefit.

Resource Conservation

Desalination Plant Energy Recovery	In Process 2009 Ongoing thru 2014	WWTP	Resource Conservation Water Conservation	Reduces reliance upon imported water supplies, reduced groundwater use, facilitates wastewater reclamation.
Tree Planting and Maintenance Program	In Process 2009 Ongoing thru 2014	Public Works	Carbon Reduction Heat Island Effect Walkable Communities	Increased carbon sequestration, reduced heat island effect, enhanced walkability and community visual experiences.
Tree City USA	In Process 2009 Ongoing thru 2014	Public Works	Carbon Reduction Heat Island Effect Walkable Communities	City participates in Tree City USA and ensures associated minimum requirements for tree planting and maintenance are met.

Activity	Target Date	Department	Outcome	Progress
Green Building Green Building Incentives Program	05/09	Building Planning	Resource Conservation Water Conservation Walkable Communities	<p>Incentive program of building and plan check fee rebates for third party green building certification or incorporation of sustainable components into project design.</p> <p>The Green Building Incentive Program was adopted May 26, 2009. To date one application for a photovoltaic system has been received. No formal applications have been received for third party certification, however, verbal interest and discussions have occurred on two projects currently under review. There has also been a high level of interest pertaining to greywater systems.</p> <p>The program continues to be marketed on the City's websites, and through the local chapters of SLO Green Build, USGBC and National Association of Home Builders.</p>
LEED Version 3	04/09	Building Planning	Resource Conservation Water Conservation Walkable Communities	<p>USGBC initiated the new version LEED 2009, Version 3. Building Design and Construction Reference Guide currently under review. New version incorporates weighting of points for environmental benefit and regional credits.</p> <p>The Reference Guide for Building Design and Construction has been purchased and is available for staff review. Invitations were made to the Planning Commission and City Council members for online access to information and resources under the City's National USGBC Membership. City Staff attended the USGBC Annual Green Build Conference and Expo for additional training, and participates on the California Central Coast Chapter Regional Council Board with a specific focus on Education and Events.</p>
Toilet Retrofit Program	2009	Building	Water Conservation Energy Efficiency	<p>This fiscal year, nine properties have received rebates during the 2009/10 fiscal year, retrofitting 21 toilets/bathrooms.</p>
Washing Machine Rebate Program	2009	Building	Water Conservation Energy Efficiency	<p>This fiscal year date 40 properties have received rebates during the 2009/10 fiscal year.</p>
NPDES Stormwater Management Plan				
Illicit Discharge and Elimination Program	2010 thru 2014	Stormwater	Water Conservation Water Quality	<p>Illicit Discharge Ordinance adopted. Pet Waste Ordinance adopted.</p>
SLO County Hydro-modification Technical Advisory Committee	2010 thru 2014	Stormwater	Water Conservation Water Quality Water Quantity	<p>Interim Hydro modification Control Criteria adopted.</p>
Municipal Operations	In Process 2009 Ongoing thru 2014	Stormwater	Water Conservation Water Quality	<p>Storm Drain Maintenance and Cleaning, Municipal Staff training.</p>
Joint Hydromodification Effort	2010	Stormwater	Water Conservation Water Quality	<p>Develop/Modify enforcement mechanisms to implement Hydromodification controls and Low Impact Development. Develop and enact a strategy for implementing Low Impact Development and Hydromodification Controls for new and redevelopment projects.</p>

Apply Low Impact Development principles and features to all applicable new and redevelopment projects.

Owner Occupied Rehabilitation Programs

<p>Home Investment Partnership Program</p>	<p>2009/12 2010/13</p>	<p>Housing</p>	<p>Energy Conservation Water Conservation Affordable Housing Preservation</p>	<p>Continued implementation of Program. Grant application for new funding cycle. The HOME Program Guidelines were revised to increase the maximum loan amount, and to address the rehabilitation and/or replacement of Mobile Homes more specifically. A mobile home reconstruction (replacement) project is currently underway. Staff attended a two day workshop on the USGBC ReGreen program which focuses on residential rehabilitation. The City website incorporates links to various Green Building Rehabilitation online tools. Grant application for new funding cycle.</p>
<p>CDBG Owner Occupied Rehabilitation</p>	<p>2010/13</p>	<p>Housing</p>	<p>Energy Conservation Water Conservation Affordable Housing Preservation</p>	<p>Due to the availability of HOME Program funds, the CDBG General Allocation did not include a rehabilitation component, but instead requested financial assistance for an Energy Audit Program, Sewer Line Repairs, and Public Access Improvements for Del Mar Elementary students. A CDBG Planning and Technical Assistance grant application is planned to fund an Income Survey within target census block groups. The Notice of Funding Availability has not yet been issued. Grant application for new funding cycle.</p>
<p>CallHome Owner Occupied Rehabilitation Energy Efficiency Audit/Retrofit Program Single Family Residential Targeted Income Groups</p>	<p>2010/13 2009/10 2010/13</p>	<p>Housing Housing</p>	<p>Energy Conservation Water Conservation Affordable Housing Preservation Energy Conservation Water Conservation Affordable Housing Preservation</p>	<p>The Notice of Funding Availability has not yet been issued. Implementation of Program. Grant application for new funding cycle. Staff has been working with the Energy Watch Program representatives on the 2010 Energy Efficiency Program. The following programs are currently available: <u>Very Low Income (<75% of Median)</u> The Community Action Partnership provides Energy Efficiency Audits and Retrofits to eligible homeowners as a grant (no cost). <u>Low Income (<80% of Median)</u> The Community Action Partnership provides Energy Efficiency Audits and Retrofits to eligible homeowners as a grant (no cost). The Home Investment Partnership Program includes energy efficiency audits and retrofit as eligible expenses. The City is evaluating the potential to participate in the County-wide AB 811 District which would provide a financing mechanism for these types of improvements. <u>Moderate Income (>80% of Median)</u></p>

				<p>The Energy Watch Partnership does not currently have a program for this income group but will be updating the current rebates and incentives.</p> <p>The City has also implemented additional energy efficiency incentives through its Retrofit Rebate and Green Building Incentive programs, and provides community members with information on additional financial resources.</p>
<p>Energy Efficiency Audit Program Mobile Homes</p>	<p>1/10 - 12/10</p>	<p>Housing</p>	<p>Energy Conservation Water Conservation Affordable Housing Preservation</p>	<p>Working in partnership with SLO Energy Watch, coordinate no cost mobile home energy audit and retrofit program.</p> <p>The Energy Watch Program will provide a no cost program for Energy Efficiency Audits and Direct Installs specific to Mobile Homes in the 2010 Program.</p> <p>The HOME Investment Partnership Program also provides for energy efficiency upgrades in mobile homes.</p> <p>City staff has worked with the SLO Energy Watch to promote the Small Business Direct Install Program. Small business owners contact the third party contractor to schedule a site visit and appropriate direct install occurs. This program includes lighting, controls, and HVAC tunes up as appropriate.</p> <p>The Energy Watch Program provided a no cost Small Business Direct Install program for the installation of specific measures.</p> <p>The 2010 program will incorporate a more comprehensive list of options. The financial structure has been based upon energy savings, which may result in co-pay. The current proposal is a #30 co-pay for each \$500.</p>
<p>Commercial Energy Efficiency Audits</p>	<p>1/10 - 12/10</p>	<p>Housing</p>	<p>Energy Conservation Water Conservation</p>	<p>The Energy Watch Program provided a no cost Small Business Direct Install program for the installation of specific measures.</p> <p>The 2010 program will incorporate a more comprehensive list of options. The financial structure has been based upon energy savings, which may result in co-pay. The current proposal is a #30 co-pay for each \$500.</p>

Codes and Planning Documents

Housing Element Update	In process 2009	Planning	Energy Conservation Water Conservation Resource Conservation Affordable Housing Preservation	Mandated five-year update in process. Will address preservation of housing stock, including resource preservation goals (energy and water conservation). The Housing Element was adopted by the City Council on November 9, 2009 and was certified by the Department of Housing and Community Development on November 12, 2009. In addition to affordable housing preservation and enhancement, green house gas emissions, energy efficiency and resource conservation were also addressed within the document. Title 24 Updates incorporating substantial changes to energy efficiency requirements will become effective 8/1/2009. Updated requirements will require Staff training. The effective date for the updates was changed to January 1, 2010. Reference guides have been received from the California Energy Commission and are under review. California Building Code Updates will be adopted July 2010, effective January 2011. Specific Green Building Standards have been made mandatory. Updated requirements will require Staff training. Pending adoption in July 2010.
Title 24 Update	1/10	Building	Energy Conservation Water Conservation	
Green Building Code Standards Supplement	8/09	Building	Energy Conservation Water Conservation Resource Conservation	
Resource Conservation Redevelopment Agency Feasibility Survey	Completed	Planning	Resource Conservation Eco Tourism	Survey of existing infrastructure, commercial and residential building stock, evaluation of economic indicators and housing market impacts. Completed May 2009. Findings of feasibility survey available for public review. Potential redevelopment area boundaries recommended within the City that meet definitions for redevelopment.
Feasibility Report	Completed	Planning	Resource Conservation Eco Tourism	While the City Council did not proceed with formation of the Redevelopment Agency or preparation of a Redevelopment Plan, the final product was accepted and the CDBG Planning and Technical Assistance grant was closed out. It anticipated that the study will be beneficial in demonstrating need for future grant applications. Workshops and Public Hearings scheduled to review findings and make a determination regarding project area boundaries and agency formation.
Public Hearings	07/09 - 09/09	Planning	Resource Conservation Eco Tourism	Completed in August 2009. Determination made not to proceed with formation of a Redevelopment Agency or preparation of a Redevelopment Plan. Enter into formation process and begin evaluation of potential projects.
Redevelopment Agency Formation	10/09 - 8/10	Planning	Resource Conservation Eco Tourism	Not applicable.
SB 375 Green House Gas Inventory	9/09	Planning	Carbon Reduction	Inventory in process through PMC contract with APCD. The state will be generating GHG Reduction Targets as part of the ARB responsibilities

<p>PMC, Consultant for the Air Pollution Control District, continues to compile Green House Gas Inventories county-wide. There have been challenges related to staff turnover in completed the Morro Bay inventory. It is anticipated that a new staff person will be assigned and completing the data collection process in early 2010.</p> <p>SLOCOG will develop Interim Targets in conjunction with APCD to use in 2010 Regional Transportation Plan as a preliminary tool to judge scenario potential as they prepare to negotiate with ARB regarding their assignment for the region that will become part of the SCS Compliant RTP (after September 2010). AB 375 allows regions to propose their own targets and negotiate final targets with the ARB.</p> <p>This program is anticipated to involve representatives from local jurisdictions/planning agencies, as well as development interests, community organizations and other stakeholders in community planning and development. The outreach would provide feedback to the Working Team on important factors to consider in the preparation of the SCS. A series of workshops (three) would be conducted to provide the opportunity for review and comment on the proposed interim regional targets, goals, performance measures and draft work products.</p> <p>Preliminary discussions have begun with the Transportation Advisory Committees to the SLOCOG Board.</p> <p>Pending GHG inventory and reduction targets.</p>	Carbon Reduction	Planning	10/09 – 1/10	<p>SLOCOG Greenhouse Gas Recommendations</p>
<p>AB 32 ARB Early Action Measure Development</p>	Carbon Reduction	ARB	01/09 – 12/09	<p>ARB staff drafts rule language to implement its plan and holds a series of public workshops on each measure (including market mechanisms).</p>
<p>ARB Early Action Measures</p>	Carbon Reduction	ARB Planning	1/10	<p>Pending GHG inventory and reduction targets. Early action measures take effect.</p>
<p>Air Resource Board Rulemaking Development</p>	Carbon Reduction	ARB	01/10 – 12/10	<p>No action required. ARB Scoping Plan released May 2009 recommended a greenhouse gas reduction goal for local governments of 15 percent below today's levels by 2020 to ensure that their municipal and community-wide emissions match the State's reduction target.</p> <p>ARB conducts series of rulemakings, after workshops and public hearings, to adopt GHG regulations including rules governing market mechanisms.</p> <p>Relative projects currently underway which will result in reduced emissions include:</p> <ul style="list-style-type: none"> * Energy Watch Partnership Energy Efficiency Audit Completed on City Facilities – EECB Grant to fund recommended projects. * Energy Watch Small Business Direct Install WWTP Assessment complete – Direct Install scheduled City Facilities – Assessment in process * Desalination Facility – Energy Recovery System Phase I completed, Phase II grant pending

<p>Plans and Specifications under review by Caltrans. Looking for authorization by the end of the year.</p> <ul style="list-style-type: none"> * Water Conservation Retrofit Rebate Program (Ongoing) * Green Building Incentive Program (Ongoing) * Washing Machine Rebate Program (Ongoing) * Waste Management Programs (Various, Ongoing) 			
<p>AB 811 Evaluation and Report</p>	<p>Carbon Reduction</p>	<p>5/09</p>	<p>Planning</p>
<p>City Council will evaluate participation in the Statewide CaliforniaFIRST Program on December 14, 2009 under a separate agenda item.</p>			

Activity	Target Date	Department	Outcome	Progress
Green Building Green Building Incentives Program	Re-Evaluate 12/10	Building Planning	Energy Conservation Water Conservation Resource Conservation Walkable Communities	Re-evaluate success, consider establishing new performance standards based upon Title 12 and California Building Code updates.
NPDES Stormwater Management Plan				
Low Impact Development Manual	2/2009	Stormwater	Water Conservation Water Quality	Develop a manual similar to those utilized in Santa Barbara or San Diego's LID Manual.
Owner Occupied Rehabilitation Programs				
Home Investment Partnership Program	2009/12 2010/13 2011/14	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program. Grant application for new funding cycle.
CDBG Owner Occupied Rehabilitation	2010/11 2011/14	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program. Grant application for new funding cycle.
Call-Home Owner Occupied Rehabilitation	2010/11 2011/14	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program. Grant application for new funding cycle.
Energy Efficiency Audit/Retrofit Program	2010/13 2011/14	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program. Based upon previous year's success, apply for additional funds for energy efficiency audits and installation of retrofits identified in previous years audit findings.
Energy Efficiency Audit Program Mobile Homes	1/10 - 12/10	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program.
Codes and Planning Documents				
Green Building Code Standards Mandatory	1/11 - 21/11	Building	Energy Conservation Water Conservation Resource Conservation	Building Code update implementation.
Resource Conservation				
Redevelopment Agency Formation	9/10 - 12/11	Planning	Resource Conservation Eco Tourism	Begin project planning, strategic partnership building, identifying supplemental grant funding opportunities, accumulation of RDA funds.
SB 375				
Green House Gas Inventory	1/10 - 12/11	Planning	Carbon Reduction	Inventory update and monitoring.
SLOCOG Greenhouse Gas Recommendations	01/10- 12/11	Planning	Carbon Reduction	Continue work with SLOCOG on Sustainable Communities Strategy.

CARB Draft Emission Levels	1/10- 2/1/11	Planning	Carbon Reduction	Continued development of Emission targets.
CEQA Green House Gas Thresholds	1/10	Planning	Carbon Reduction	CEQA to establish impact thresholds for green house gas emissions. Staff training will be required.
CARB Final Target Emissions	9/10	Planning	Carbon Reduction	Continue to work with SLOCOG on SCS based upon evaluation of target emissions.
Sustainable Communities Strategy Plan	9/10 – 12/14	Planning	Carbon Reduction	Community workshops and public hearing to draft and develop plan. Submittal to agencies for review, public hearings for adoption, implementation planning.
AB 32 Air Resources Board Adopts Major Rulemaking	1/11	ARB	Carbon Reduction	ARB completes major rulemakings for reducing GHGs including market mechanisms. ARB may revise the rules and adopt new ones after 1/1/2011 in furtherance of the 2020 cap.
County Determination	TBD	Planning	Carbon Reduction	Ad Hoc group evaluating feasibility. City participation to occur after determination is made.

Activity	Target Date	Department	Outcome	Progress
Owner Occupied Rehabilitation Programs				
Home Investment Partnership Program	2010/13 2011/14 2012/15 2013/16	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program. Grant application for new funding cycle.
CDBG Owner Occupied Rehabilitation	2010/13 2011/14 2012/15 2013/16	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program. Grant application for new funding cycle.
CalHome Owner Occupied Rehabilitation	2010/13 2011/14 2012/15 2013/16	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program. Grant application for new funding cycle.
Energy Efficiency Audit/Retrofit Program	2010/13 2011/14 2012/15 2013/16	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program. Based upon previous year's success, apply for additional funds for energy efficiency audits and installation of retrofits identified in previous years audit findings.
Energy Efficiency Audit Program Mobile Homes	1/12 - 12/12	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program.
SB 375				
Sustainable Communities Strategy Plan	9/10 - 12/14	Planning	Carbon Reduction	Continue work with SLOCOG on implementation of Sustainable Communities Strategy.
AB 32				
Air Resources Board Rules Enforceable	1/12	ARB Planning	Carbon Reduction	GHG rules and market mechanisms adopted by ARB take effect and are legally enforceable.
Develop Climate Action Plan	01/13 - 01/14	Planning	Carbon Reduction	Draft Climate Action Plan based upon Sustainable Communities Strategy Plan and ARB rulemaking.

Activity	Target Date	Department	Outcome	Progress
NPDES Stormwater Management Plan				
SLO County Hydro-modification Control Plan	2/2014	Stormwater	Water Conservation Water Quality Water Quantity	Long Term Hydromodification Control Criteria adopted
General Plan Amendments	2/2014	Stormwater	Water Conservation Water Quality Water Quantity	Incorporate policies for Post Construction Stormwater Management.
Owner Occupied Rehabilitation Programs				
Home Investment Partnership Program	2010/13 2011/14 2012/15 2013/16 2014/17	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program. Grant application for new funding cycle.
CDBG Owner Occupied Rehabilitation	2010/13 2011/14 2012/15 2013/16 2014/17	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program. Grant application for new funding cycle.
CalHome Owner Occupied Rehabilitation	2010/13 2011/14 2012/15 2013/16 2014/17	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program. Grant application for new funding cycle.
Energy Efficiency Audit Program Target Income Groups Single Family Residential	2010/13 2011/14 2012/15 2013/16 2014/17	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program. Grant application for new funding cycle.
Energy Efficiency Audit Program Mobile Homes	1/13 – 12/13	Housing	Energy Conservation Water Conservation Affordable Housing Preservation	Continuation of Program
Codes and Planning Documents				
Housing Element Update	Next update 1/14	Planning	Energy Conservation Water Conservation Resource Conservation Affordable Housing Preservation	Mandated five-year update in process. Will address preservation of housing stock, including resource preservation goals (energy and water conservation).
SB 375				
Sustainable Communities Strategy Plan	9/10 – 12/14	Planning	Carbon Reduction	Implementation of Sustainable Communities Strategy Plan.
AB 32				
Develop Climate Action Plan	01/13 – 01/14	Planning	Carbon Reduction	Draft Climate Action Plan based upon Sustainable Communities Strategy Plan and ARB rulemaking.

Activity	Target Date	Department	Outcome	Progress
Green Building				
LEED Project Checklist Requirement	TBD	Building Planning	Energy Conservation Water Conservation Resource Conservation Walkable Communities	Evaluate requirement for submittal of green building checklists and narrative explanations of sustainable components incorporated or not incorporated in development projects. Require appropriate documentation of incorporated components. Will require staff to be well versed in certification requirements, strategies and implementation methods.
LEED Equivalent Mandatory 5,000 Sq Ft Residential 50,000 Sq Ft Commercial	TBD	Building Planning	Energy Conservation Water Conservation Resource Conservation Walkable Communities	Will require staff to be well versed in certification requirements, strategies and implementation methods.
Codes and Planning Documents				
Citywide Performance Standards Evaluation	TBD	Building	Energy Conservation Water Conservation Resource Conservation Walkable Communities	Evaluate development of Citywide performance standards, i.e., mandatory green building requirements, possible City specific certification.
Walkable Communities				
Bike Plan	TBD	Public Works	Carbon Reduction Resource Conservation Eco Tourism	Bicycle and Pedestrian access improvements, protection of existing natural habitats, tourism benefits.
Resource Conservation				
Urban Forest Management Plan	TBD	Public Works	Carbon Reduction Heat Island Effect Walkable Communities Resource Conservation Eco Tourism	Draft Urban Forest Management Plan. Increased carbon sequestration, reduced heat island effect, and enhanced walkability and community visual experiences.
Redevelopment Agency Development Projects	TBD	Planning	Resource Conservation Eco Tourism	Preservation of existing commercial/residential structures, infrastructure, eco tourism potential. Incorporate green building and sustainable design into new development projects.
AB 811				
County Determination	TBD	Planning	Carbon Reduction	Ad Hoc group evaluating feasibility. City participation to occur after determination is made.



City of Morro Bay
Public Services

Current Project Tracking Sheet

AGENDA ITEM NO: XI
DATE: 1/19/2010
ACTION:

New items or items which have been recently updated are italicized. Approved projects are deleted on next version of log.

	Applicant/Property Owner	Project Address	Date	Project Description/Status	Project Planner	Approval Body
Hearing or Action Ready						
1	Cathy Novak	612 Agave	9/17/09	Parcel Map. One lot to three lots. Incomplete letter sent to applicant. Applicant respond to items on letter 11/4/2009. Subdivision Review Board approved the map for processing on 11/17/2009. Item continued until 1/4/09, staff to bring back findings. Item continued to 1/19/2010	GL	PC
2	Michael Del Puppo	2300 Main	4/3/09	Appeal of Minor Use Permit to convert a commercial use to a residential use. Approved 11/13/09. Hearing scheduled for 1/19/2010	GL/SD	PC
New Submittals						
3	Bob Crizer	Water Lease Site 34 206 Main St./Oak St.	11/9/09	Oak Street Parking Exception. Also see 206 Main St. (Boitch). Request to allow parking spaces to be placed on Oak street to replace parking currently provided at 206 Main Street. Waiting for parties to resolve issue of ownership.	KW	PC/ICC
4	City of Morro Bay	Harbor Department	11/10/09	Marina Dredging. CUP to dredge.	KW	PC
5	Robert Fiori	2655 Koa	11/25/09	SFR Demo/Reconstruction. Incomplete letter sent to applicant	KW	Bld Permit
6	Cathy Novak	560 Embarcadero	12/3/09	Height & Setback Exception for Fence/Windscreen.	GL	PC
7	Dan Yates	221 Main	12/11/09	SF added to NCS and Parking Exception.	KW	PC
8	Mike Prater	235 Atascadero	12/16/09	Solar Arrays. Solar arrays located on carport structures at Morro Bay High School.	GL	PC
30-Day Review, Incomplete or Additional Submittal Review						
9	Wayne Colmer	485 South Bay	4/28/05	17 Lot Subdivision. Submitted 4/28/05. SRB 3/15/06, Staff requested information Starting Initial Study. MND Circulating, tentative PC 8/21/06 Approved, tentative CC 10/9 Continued to 11/13/06 Approved. Appealed by CCC Tentative November hearing Continued to March, CCC approved with Conditions, Pry Mod PC concurrence needed pending lawsuit; Resubmitted 11/19/08; awaiting CCC appeal and concurrence; Approved by CCC; 2/17/09 PC continue to date uncertain with direction. Applicant is addressing traffic concerns.	KW	PC
10	Mark Hoppe	2840 Cedar	11/18/09	Demo SFR. Fire department O.K. 12/4/2009. Comment letter sent 12/23/09.	GL/SD	Admin
11	Valley and Craifton	430 Olive	11/23/09	Lot Line Adjustment. Comment letter sent 12/23/09.	GL/SD	Admin

Applicant/Property Owner	Project Address	Date	Planner	Body
12	Larry Newland	11/21/05	KW	PC
	Embarcadero			
	1 Jordan Terrace	7/25/08	JH/KW	PC
13	Dan Reddell			
14	Kleinhammer	7/29/08	KW	PC/CC
15	Pina Noran	10/3/08	KW	PC
17	Greg Kircher	1/22/09	KW	PC
18	John Christie	4/27/09	GL	PC
19	Todd Schnack	9/30/09	GL	PC
20	Phil & Maureen Kispersky	9/30/09	GL	Admin
21	Studio Design Group	10/15/09	KW	PC
22	Les & Lari Deedon	10/21/09	GL/AC	Admin
23	Kent Snowden	10/27/09	AC	PC
24	Robert Romero	11/18/09	GL/AC	Admin
25	Robert Tefft	11/10/09	GL/SD	Admin
Projects in Process				

	Applicant/Property Owner	Project Address	Date	Project Description/Status	Project Planner	Approval Body
26	Great American Fish Co.	1185 Embarcadero	1/6/05	GAFAC, Virg's, & Harbor Huts Revitalization Plan. Submitted 1/06/05, Starting Initial Study Draft MND, eel grass study complete concurrence on findings Tentative PC 11/5/07 Continued, date uncertain CC March Phase I approved 5/12/08. CDP approval from Coastal Commission on June 10, 2009. Project submitted for precise review.	KW	PC
27	Rudolph Kubus/Mike Prater	1181 Main & Bonita	11/23/06	Morro Mist 20 Lot SFR Subdivision. Submitted 11/23/06, SRB 3/15/06, Staff requested information Resubmitted 8/16/06 MND analysis needed MIND Complete 7/20 PC 8/20/07 Continued date uncertain revised project smaller units still 100% residential. Applicant has redesigned project and resubmitted on June 1, 2009. Project under review. Letter sent to applicant regarding issues on 7/2009. Subsequent meeting with applicant team 8/2009. Staff has had additional correspondence with the applicant. Project tentatively scheduled for Planning Commission late February/early March 2010	JH/KW	PC
28	Frank Loving	247 Main	10/27/07	Docking for Vessels. Submitted 10/29/07, Incomplete 11/19/07 PC 2/4/08, Continued to PC 3/17/08, continued to PC 9/15/08 Applicant has indicated to staff that they wish to move ahead with the project.	KW	PC
29	Johnnie Medina	3390 Main	5/29/08	2 Lot Subdivision. Submitted 5/29/08, Incomplete CCC coordination; Inc. Later 12/2/08; Resubmitted 1/5/09. Staff working on environmental document, MND Noticed as available for review 6/9/09. Hearing schedule 7/20/09. Item continued to date uncertain. Applicant submitted additional materials, staff waiting for applicant's response to ESH/Willow buffer. Biologist letter submitted November 30, 2009.	KW	PC
30	City of Morro Bay & Cayucos	160 Atascadero	7/1/08	WWTP Upgrade. Submitted 7/1/08, Preparing Notice of Preparation, Staff reviewing Ad Min Draft EIR. Modifications to project description underway and subsequent renoticing.	BA	PC/CC/RW QCB
31	Nina Hartley	1290 Embarcadero	9/17/08	Relocate well and pump house. Submitted 9/17/08, Inc. letter 10/15/08. Applicant has resubmitted items from inc. letter, submittal under review. Initial Study in process. Applicant has submitted additional arch/information 11/09.	KW	PC
32	Chevron	3072 Main	12/31/08	Remove Underground Pipes. Submitted 12/31/08, environmental reports submitted for review 5/8/09. Project under review. Project routed to other agencies for comment. Environmental being processed.	KW/SD	PC
33	Candy Botich	Main/Water Lease Site 34	6/17/09	New Parking, Project under review. Agent given DRT comments July 10, 2009. Applicant submitted redesigned project 9/30/2009. Associated application submitted for a parking exception for the lease site generating the parking demand.	KW	PC/CC
34	Gene Doughty	206 Main & Oak St. 201 Main	7/24/09	Subdivide one lot into three. Comment letter sent 8/19/09. Resubmittal 12/22/09.	KW	PC
Environmental Review						
35	Ron McIntosh	190 Olive	8/26/08	New SFR. Submitted 8/26/08, Inc. Letter 9/24/08; Resubmitted 12/10/08, 1/9/09 request for more information. Applicant resubmitted on 2/06/09. Environmental under review. Applicant and City agree to continuance.	GL	PC

Applicant/Property Owner	Project Address	Date	Planner	body
36	Chevron 3072 Main	12/31/08	KW/SD	PC
				Remove Underground Pipes. Submitted 12/31/08, environmental reports submitted for review 5/8/09. Project under review. Project routed to other agencies for comment. Environmental being processed.
37	Smith Held 575& 591 Embarcadero	04/21/09	GL	PC
				Demo existing retail and vacation rentals, construct 2 retail units and a 6 unit hotel. Submitted 9/27/06, Incomplete 11/7/06 Resubmitted 12/21/06 Environmental Review MND Circulating, tentative PC 4/2/07 Continued, date uncertain Resubmitted 4/26/07 Incomplete 5/2/07 Resubmitted 5/30/07 Environmental document re-circulating 6/6/07, tentative PC 7/16/07 Concept plan approved, tentative CC 8/27/07 Concept Plan Approved, needs CDP from CCC -Hearing 11/12/08. Project back from Coastal Commission, ready for Precise Plan processing. Precise Plan submitted 4/21/09, Incomplete letter 6/25/09. Resubmitted 7/27/2009. Responses to applicant on 10/12/2009. Scheduled for hearing on 10/19, continued to 11/2 by applicant. Applicant requests continuation to date uncertain. Revised environmental in process
38	Imani 571 Embarcadero	5/14/09	GL	PC
				Remodel of Salt Building to include new public walkway and additional piling for support. Eel grass study submitted. Initial Study in process.
39	City of Morro Bay 235 Main	10/20/09	KW	Admin
				Demolish Wharf. Demo 7,400 sf. wharf, decking and support structure. Initial Study
Coordinating with Other Jurisdictions				
40	Burt Caldwell 801 Embarcadero	5/15/08	GL	PC/CC/ CCC
				Conference Center. Submitted 5/15/08, Inc Ltr 5/23 Resubmitted MND Circulating 7/15/08 PC 9/2 Approved, CC 9/22/08 Approved, needs CDP from CCC.
41	City of Morro Bay 887 Atascadero	3/9/09	KW	SLO County
				Nutmeg Water Tank Upgrade (City of Morro Bay CIP project). Oversight of County of San Luis Obispo application process. Preapplication meeting 3/9/09. Consultant coordination meeting 3/12/09.
42	John King 60 Lower State Park	7/2/08	KW	PC
				Lower parking lot resurface and construction of 2 new stairways. Submitted 7/02/08, PC Tent 10/6, PC Date TBD Applicant coordinating w/ CCC 10/20/08.
Projects Continued Indefinitely or No Response to Date on Incomplete Letter				
43	SLO County State Park	09/28/04	KW	PC/CC
				Master Plan for Golf Course. Submitted 9/28/04, On hold per applicant, project to be amended. Resubmitted 2/9/07 Tentative PC 3/19/07 Continued, date uncertain; Planting trees.
44	Cameron Financial 399 Quintana	04/11/07	KW	Admin
				New Commercial Building. Submitted 4/11/07, Inc. Letter 5/09/07.
45	West Millennium Homes 895 Monterey	7/10/07	KW	PC
				Mixed-use building. 16 residential units and 3 commercial units, Submitted 7/10/07, Inc Later 7/25 Resubmitted 1/14/08 SRB 3/10/08.
46	Kenneth and Lisa Blackwell 2740 Dogwood	07/20/07	KW	PC
				Addition to nonconforming residence. Submitted 7/20/07, Complete, tentative PC 9/17/07 Continued, date uncertain Resubmitted 10/31/07, PC 12/17/07 Continued, date uncertain.
47	Jeff Gregory 1295 Morro	09/25/07	KW	AD
				Coastal Development Permit to allow a second single family residence on lot with an existing home. Incomplete letter sent 10/9/2007. Intent to Deem Application Withdrawn Letter sent 12/29/09. Response from applicant 1/8/10 keep file open indefinitely.

	Applicant/Property Owner	Project Address	Date	Project Description/Status	Project Planner	Approval Body
48	Nicki Fazio	360 Cerrito	08/15/07	Demo/Reconstruct SFR. Submitted 8/15/07, Incomplete 9/12/07, Complete and noticed 9/24/07. Issued 10/5/07, Appealed 10/15/07, Tentative PC 12/3/07 Continued, date uncertain. Applicant has made contact with staff regarding moving project along but no submittal to date.	KW	PC
49	Alicia Baroque	545 Napa	05/27/08	New guest house and parking exception. Submitted 5/27/08 Incomplete 6/13/08 Resubmitted 10/14/08, Complete 11/10, PC 12/15; Continued to a date uncertain.	KW	PC
50	City of Morro Bay	595 Harbor Depart	02/27/09	New stand-by generator. Submitted 2/27/09, City Council did not fund. Continued date uncertain.	KW	Admin
Projects in Building Plan Check						
51	Don Doubledee	360 Morro Bay Blvd	5/15/09	Mixed Use Project.	GL	N/A
52	Travis Leage	1155 West	11/17/09	Single Family Residence. Comment Letter sent 12/22/09. Resubmittal 1/8/10.	SD	N/A
53	Robert Fiori	2655 Koa	11/25/09	SFR Demo/Reconstruction.	KW	N/A
54	Victor Graziano	515 Morro Bay Blvd	11/19/09	Convert Portion of Retail to Deli. Comment letter sent 12/10/09.	GL	N/A
55	Robert & Paula Coomer	3440 Toro	12/28/09	Retaining Wall.	KW	N/A
56	Cathy Novak	585 Morro	12/23/09	As-Built Review of Community Housing Project.	KW	N/A
Completed Projects						
57	Jon Wickstrom	401 Panay	10/13/09	SF added to NCS and Parking Exception. Incomplete letter sent to applicant. Applicant resubmitted additional material 11/6/09. Ready for PC Hearing.	KW	PC
58	Ken Scott	501 Embarcadero	12/3/09	Sign Permit for Estero Int. Comment letter sent 12/18/09. Permit issued	SD	Admin



City of Morro Bay
Public Services
Advanced Planning Work Program

Item	Planning Commission	City Council	Coastal Commission	Comments	Estimated Staff Hours
Neighborhood Compatibility Standards (Variable Height & Setbacks, FAR)	TBD	TBD			120 to 160
Strategic plan for managing the greening process				Pending County AB811 analysis and Board of Supervisor's action.	200 to 300
11	7/6/09	12/14/09			
Housing Element	7/6/09	8/24/09			120 to 160
Urban Forest Management Plan	Approved	TBD			20 to 40
SEA Implementation Guidelines	TBD	TBD			200 to 300
State CEQA checklist pursuant to SWMP (2/2011)	TBD	TBD	NA		120 to 160
Community Visioning	TBD	TBD			120 to 160
Overlay	TBD	TBD			3/20/00
Exaction Proceeding for Public Facilities		TBD			TBD
Planning Commission Generated Items					
Item	Requesting Body				Estimated Staff Hours
Pedestrian Plan	Planning Commission				TBD
Items Requiring Further Analysis When Activated					
Item	Plng. Comm.	City Council	Coastal Comm.		Estimated Staff Hours
Updated Zoning Ordinance	TBD	TBD			1,800
Updated General Plan/LCP	TBD	TBD			1,800
DES Storm Water Management Plan			Approved By RWQCB 2/17/09		
Completed projects					
Housing Element Update/ SB 1818				Submitted to HCD by 6/17/09. HCD returned comments 8/2009. Staff/consultant responded to comments 9/15/2009. Item scheduled for P.C. on 10/5/2009. Revised PC date to 10/19/2009. Submitted responses to HCD comments on 9/15/2009. P.C. forwarded a favorable recommendation on Neg Dec and 2009 Element. City Council adopted the Neg Dec and 2009 Housing Element with minor modifications. Housing Element Certified by State Department of Housing and Community Development.	200 to 300
	10/26/09	11/9/09			

Menene Lehotsky



CITY OF MORRO BAY PLANNING COMMISSION MEETING AGENDA

Veteran's Memorial Building
Regular Meeting 6:00 p.m.

209 Surf Street, Morro Bay
Tuesday January 19, 2010

Nancy Johnson - Chairperson
Vice-Chairperson - Gerald Luhr
Commissioner - Michael Lucas
Bruce Ambo - Secretary

Commissioner - John Diodati
Commissioner - Jamie Irons

- I. CALL MEETING TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- IV. ACCEPTANCE OF AGENDA
- V. DIRECTOR'S REPORT/WRITTEN COMMUNICATIONS
 - A. Oral Report.
- VI. PUBLIC COMMENT:

Members of the audience wishing to address the Commission on matters other than scheduled hearing items may do so when recognized by the Chairman, by standing and stating their name and address. Comments should be limited to three minutes.

- VII. CONSENT CALENDAR
 - A. Approval of minutes from hearing held on January 4, 2010
- VIII. 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.

IX. FUTURE AGENDA ITEMS

- A. Downtown Visioning (Planning Commission Subcommittee).
- B. Restrictions/rules on installing gates on driveways for residential and commercial properties.
- C. Research information on allowing front porches within the front setback.
- D. Presentation from Rob Livick, City Engineer, on the Pedestrian Plan.
- E. Presentation from Dan Doris, Building Official, on Graywater systems.
- F. Staff presentation on the Affordable Housing Rehabilitation Program and general affordable housing issues.

X. PUBLIC HEARINGS

- A. Continued from the January 4, 2010 Planning Commission Meeting
Site Location: 612 Agave Drive
Applicant: Cathy Novak
Request: Tentative Parcel Map #S00-101 and Coastal Development Permit #CP0-321 subdividing one parcel into three parcels along with a subdivision exception request to include the square footage of the access easement into the overall lot square footage. This site is located outside the Coastal Commission Appeals Jurisdiction.
Recommended CEQA Determination: Categorically Exempt, Class 32, Section 15332.
Staff Recommendation: Conditionally approve.
Staff Contact: Genene Lehotsky, Associate Planner, 772-6270
- B. **Site Location:** 2300 Main St.
Appellant: Grant Crowl; **Applicant:** Michael Del Puppo
Request: Appeal of Minor Use Permit #UP0-255 which approved the conversion of a commercial unit to a residential unit. This site is located outside the Coastal Commission Appeals Jurisdiction.
Recommended CEQA Determination: Categorically Exempt, Class 3, Section 15303.
Staff Recommendation: Deny the Appeal.
Staff Contact: Genene Lehotsky, Associate Planner, 772-6270

XI. OLD BUSINESS

- A. Current Planning Processing List/Advanced Work Program.
- B. Climate Action Packet

XII. NEW BUSINESS

XIII. ADJOURNMENT

Adjourn to the next regularly scheduled Planning Commission meeting at the Veteran's Memorial Building, 209 Surf Street, on Monday, February 1, 2010 at 6:00 p.m.

PLANNING COMMISSION MEETING PROCEDURES

Materials related to an item on this Agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Public Services Office at 955 Shasta Avenue, during normal business hours, Mill's ASAP, 495 Morro Bay Boulevard, or Morro Bay Library, 695 Harbor, Morro Bay, CA 93442. Planning 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 Department 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.

RULES FOR PRESENTING TESTIMONY

Planning 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 testimony must observe the following rules:

1. When you come to the podium, first identify yourself and give your place or residence both orally and on the sign in sheet at the podium. Commission meetings are audio and video tape-recorded and this information is required for the record.
2. Address your testimony to the Chair. Conversation or debate between a speaker at the podium and a member of the audience is not permitted.
3. Keep your testimony brief and to the point. Speak about the proposal and not about individuals. On occasion, the Chair may place time limits on testimony: Focus testimony on the important parts of the proposal: do not repeat points made by others. Please, no applauding or making comments from the audience during the testimony of others.
4. Written testimony is encouraged so they can be distributed in the packets to the Planning Commission. However, letters are most effective when presented at least a week in advance of the hearing. Written testimony provided after the staff reports are distributed and up to the meeting will also be distributed to the Planning Commission but there may not be enough time to fully consider the information. Mail should be directed to the Public Services Department, attention: Planning Commission Secretary.

APPEALS

If you are dissatisfied with any aspect of 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. The appeal form is available at the Public Services 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 \$250 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 and the City Zoning Ordinance. 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.

HEARING IMPAIRED: There are devices for the hearing impaired available upon request at the staff's table.

COPIES OF VIDEO, CD: Copies of the video recording of the meeting may be obtained through AGP Video at (805) 772-2715, for a fee.

ON THE INTERNET: This agenda may be found on the Internet at: <http://www.morro-bay.ca.us/planningcommission>

AGENDA ITEM NO: VII - A
DATE: 1-19-2010

CITY OF MORRO BAY
PLANNING COMMISSION ACTION: _____
SYNOPSIS MINUTES

(Complete audio- and videotapes of this meeting are available from the City upon request)

City of Morro Bay Community Center
Regular Meeting, 6:00 p.m.

1001 Kennedy Way, Morro Bay
Monday, January 4, 2010

Chairperson - Nancy Johnson
Vice-Chairperson - Gerald Luhr Commissioner - Michael Lucas
Commissioner - Jamie Irons Commissioner - John Diodati

Bruce Ambo - Secretary

I. CALL MEETING TO ORDER

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

II. PLEDGE OF ALLEGIANCE

Ambo led the pledge.

III. ROLL CALL

Staff Present: Bruce Ambo, Kathleen Wold, Genene Lehotsky and Kay Merrill.

IV. ACCEPTANCE OF AGENDA

MOTION: Agenda accepted as presented.

V. DIRECTOR'S REPORT/WRITTEN COMMUNICATIONS

Ambo reported at the December 14, 2009 meeting, City Council:

- Approved a resolution authorizing the Harbor Department to Acquire and Abandon Watercraft Grant from the Department of Boat and Waterways
- Approved a resolution authorizing the Capital Projects Manager to apply for Proposition 84 Water Treatment Grant Funds for the desal plant
- Approved for the Rec & Parks Department, through the California Energy Commission, to do an energy audit and apply for grant funds
- Heard a report regarding funding cuts to Dial-A-Ride and authorized the compensation of the Reduced Transit Development Act Funds to come from the sale of the surplus trolley and additional funds from the Stimulus Act funding
- Will adopt a resolution to participate in the AB-811 Renewable Energy Financing Package pilot program
- Adopted a resolution authorizing the sale of City property at Market and Pacific Street along the Embarcadero
- Discussed placing adjustments to the Transient Occupancy Tax (TOT) for the next election and continue hearing to next week
- Extended Mandatory Water Conservation to a moderate level
- Heard an update on the floor to area ratio (FAR) and staff will begin the code update process for neighborhood compatibility
- Heard an update on the Climate Action Plan
- Discussed housing in- lieu fee fund studies
- Authorized funding for the Visioning Study

- Reduced the parking in-lieu fees for 600 Morro Bay Blvd.

At the upcoming meeting on January 11, 2010 Ambo said City Council will:

- Consider a resolution for the 600 Morro Bay Blvd. parking in-lieu fees project
- Be given the Annual Water Report and discuss water quality testing legal requirements
- Hear a 2009 year-end report on the trolley
- Review A-Frame signs

Chairperson Johnson wanted to know if there were any bids on the trolley and Ambo stated yes. Johnson asked for moderate water conservation to be defined. Ambo replied there are pamphlets in the office which outlines water conservation practices and is defined in the code.

Diodati asked if there is a timeline for the Neighborhood Compatibility Code Update and if the Planning Commission is involved in the code update. Ambo replied the process begins with the Planning Commission and is anticipating starting within the next six months.

VI. PUBLIC COMMENT - None

VII. CONSENT CALENDAR

- Approval of minutes from hearing held on November 30, 2009
- Approval of minutes from hearing held on December 7, 2009

MOTION: Diodati/Irons 2nd to approve the minutes as presented. VOTE: 5 – 0

MOTION: Diodati/Irons 2nd to approve the minutes as presented. VOTE: 5 – 0

VIII. 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.

IX. FUTURE AGENDA ITEMS

- Downtown Visioning (Planning Commission Subcommittee).
- Restrictions/rules on installing gates on driveways for residential and commercial properties.
- Research information on allowing front porches within the front setback.
- Presentation from Rob Livick, City Engineer, on the Pedestrian Plan.
- Presentation from Dan Doris, Building Official, on Graywater systems.
- Staff presentation on the Affordable Housing Rehabilitation Program and general affordable housing issues

X. PUBLIC HEARINGS

- Continued from the December 7, 2009 Planning Commission Meeting
Site Location: 612 Agave Drive
Applicant: Cathy Novak
Request: Tentative Parcel Map #S00-101 and Coastal Development Permit #CP0-321 subdividing one parcel into three parcels along with a subdivision exception request to

Nancy Johnson, Chairperson

ATTEST:

Bruce Ambo, Secretary

Johnson asked Wickstrom to come back and answer questions.

Lucas asked if there was a vehicle associated with the office space proposed in the residence and Wickstrom replied no.

Diodati asked if Wickstrom's truck could fit in the existing garage and Wickstrom replied yes.

Irons inquired about the gravel swale and how it is working. Wickstrom responded that the gravel is working well, especially since new homes adjacent to his home have recently been constructed and the sites were graded, which improved the drainage.

Lucas stated that a more permanent driveway should be constructed on-site to remove any vehicles currently parking on the street.

Wold stated that any parking to be relocated on-site may encroach into the right-of-way due to the limited area on the property. Encroachment into the right-of-way will also require liability insurance and an encroachment permit. However, this was not part of the applicant's request.

Diodati stated that he would like to see an additional parking space on-site.

Luhr requested a survey be conducted on this site to verify the corners.

Discussion continued regarding the deck, garage, gravel swale drainage and parking.

Johnson asked if there were any other questions before the discussion.

Discussion continued among the Commissioners.

MOTION: Lucas/Luhr 2nd to approve the project subject to the findings in Exhibit A and Conditions of Approval in Exhibit B with the following additional conditions:

- A 10 foot strip adjacent to the existing driveway be executed with pervious pavers and that at the owners option with our preference the existing drive be taken up and done with pervious pavers
- The lot survey be executed prior to the building permit application and be submitted with the building permit application by a licensed surveyor with the corners set

VOTE: 5-0

XI. OLD BUSINESS

- A. Current Planning Processing List

XII. NEW BUSINESS

- A. None

XIII. ADJOURNMENT

Johnson adjourned the meeting at 8:15 p.m. to the next regularly scheduled Planning Commission meeting at the Veterans Hall, 209 Surf Street, on Tuesday, January 19, 2010 at 6:00 p.m.

Diodati asked if there was no access or turnaround easement on Parcel Maps 07-0232 and 09-0091 would there be room on the southern adjacent parcel to provide a turnaround to serve all three properties. Lehotsky replied that yes that could potentially occur.

Ambo stated that the southern adjacent property is not included with this request and should not be considered in the decision of the project.

The Planning Commission discussed the turnaround, required lot size, neighborhood compatibility and flag lots.

MOTION: Luhr/Diodati 2nd to continue to the January 19, 2010 Planning Commission meeting.

VOTE: 4-0

B. **Site Location:** 401 Panay Street

Applicant: Jon Wickstrom

Request: Conditional Use Permit #UP0-277 for a second story addition to a non-conforming residence and Parking Exception #AD0-046 to reduce required parking to one stall. This site is located outside the Coastal Commission Appeals Jurisdiction.

Recommended CEQA Determination: Categorically Exempt, Class 1, Section 15301.

Staff Recommendation: Conditionally approve.

Staff Contact: Kathleen Wold, Senior Planner, 772-6211

Wold presented the staff report.

Johnson asked if the Commission had questions for staff.

Lucas asked if the office is associated with a business and if there is a vehicle associated with the Business. Wold stated she assumed it is a residential office and you need to ask the applicant. Lucas asked if the upper deck was in the setback and Wold stated decks are allowed to project up to 5 ft. into the front yard setback

Diodati asked about widening the garage into the office area to accommodate the required 20 ft. width and Wold stated no and that the existing bedroom projects into the 10 foot setback. 1,000 sf. can be added an existing non-conforming residence without providing a second parking space.

Luhr asked if a survey was prepared for this site and Wold responded no.

Johnson asked if graveled area that wraps around the edge of the property is in the City's right-of-way and Wold stated yes.

Johnson opened public hearing asking the applicant or their agent to address the Commission.

Jon Wickstrom stated that Wold sufficiently covered the project. There is no survey for this project; however, an adjacent property recently surveyed their property so the location of the shared property line should be correct.

Seeing no further comment, Johnson closed the public hearing.

include the square footage of the access easement into the overall lot square footage. This site is located outside the Coastal Commission Appeals Jurisdiction.

Recommended CEQA Determination: Categorically Exempt, Class 32, Section 15332.

Staff Recommendation: Conditionally approve.

Staff Contact: Genene Lehotsky, Associate Planner, 772-6270

Michael Lucas excused himself, because he had not reviewed the tape. Lehotsky presented the staff report.

Johnson asked if the Commission had questions for staff.

Diodati asked when the City's Subdivision Ordinance was amended and Lehotsky replied in 2007.

Irons asked if there were findings of approval made for Parcel Map 07-0232 and Lehotsky replied yes.

Irons asked Lehotsky to go over them and she replied there are similar findings for proposed Parcel Map 09-0091, as there were for Parcel Map 07-0232, including Coastal Development Permit, Subdivision Map Act, and CEQA findings.

Irons asked if there were findings for a Subdivision Exception made for Parcels 2 and 3 of Parcel Map 07-0232, since those parcels were undersized just as the three parcels on proposed Parcel Map 09-0091 are and Lehotsky said there were no Subdivision Exception findings made for Parcel Map 07-0232, only for 09-0091.

Irons asked how the Subdivision Exception to allow undersized parcels is justifiable for Parcel Map 09-0091 and Lehotsky replied that the parcels are justifiable because when Parcel Map 07-0232 was approved the turnaround was depicted on an adjacent parcel (Parcel Map 09-0091).

Johnson opened public hearing asking the applicant or their agent to address the Commission

Cathy Novak, representing the applicant, gave a presentation.

Roger Ewing urged the Planning Commission to deny this project.

Seeing no further comment, Johnson closed the public hearing

Johnson asked Novak to come back and answer questions.

Irons asked Novak to explain the condition of the driveway and turnaround easement and asked if compensation was exchanged. Novak replied all the parties involved decided to create a cost share agreement for construction of the driveway and turnaround easement.

Luhr asked if the southern adjacent parcel would be able to utilize the turnaround where it is currently proposed on this Parcel Map's property. Lehotsky stated that Fire staff indicated that as proposed the turnaround could serve Parcel Map 07-0232, Parcel Map 09-0091, and the southern adjacent parcel.

Johnson asked if there were any other questions for staff.



ATTACHMENT 2

CITY OF MORRO BAY PUBLIC SERVICES DEPARTMENT APPEAL FORM

RECEIVED
City of Morro Bay

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

JAN 29 REC'D

Finance Department

See attached

APPEAL OF SPECIFIC DECISION OR ACTION:

See attached

DATE DECISION OR ACTION RENDERED:

APPELLANT (PLEASE PRINT): Grant E Crowl

SIGNATURE: *Grant E Crowl*

ADDRESS: 450 Fairview Ave Morro Bay

TELEPHONE NUMBER:
771-2812

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

See Attached

REQUESTED RELIEF OR ACTION:

See attached

FOR OFFICE USE ONLY

DATE APPEAL FILED: 1-29-2010

ACCEPTED BY: Jamie Boucher

APPEAL BODY: City Council

DATE OF APPEAL HEARING: Appellant requests February 22, 2010
or later

Appeal the decision of the planning commission on:

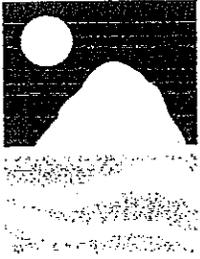
Appeal of Minor Use Permit UPO-255 SITE: 2300 Main Street. Unit#1

Grounds for the appeal:

1. The inexperienced commission without legal council to run a legitimate appeal.
2. The commissioners treated the hearing as a project rather than as an appeal.
3. The commission did not follow the new council ruling of 20% commercial to 80% residential housing element or the 50% to 50% as stated in the zoning ordinance and granted a 9% commercial to 91% Residential without requiring covered parking.
4. There was confusion about the definition of whether this was a new project, old, or existing.
5. Information asked by commissioners of staff was skirted and redirected so that a decision could not be made on all the facts.
6. They never fully discussed the required number of parking spaces but allowed a space behind the building that staff said, that by today's ordinances it would not be allowed.
7. Since the original appeal addressed the removal of the handicapped space, as witnessed by Chuck Reasor and has now been eliminated from this staff report, it would indicate that on this point the appellants have already won on one of the grounds of the appeal.

Requested relief or action:

To uphold the zoning ordinance standards and the council's ruling of residential to commercial ratio in mixed uses areas by denying the illegal conversion from commercial to residential, if however the illegal conversion is to remain then all current standards must be met.



City of Morro Bay

Morro Bay, CA 93442 • 805-772-6200

www.morro-bay.ca.us

January 25, 2010

Mr. Grant Cowl
450 Fairview Ave.
Morro Bay, CA 93442

SUBJECT: Appeal of Minor Use Permit UP0-255 SITE: 2300 Main St., Unit #1

Dear Mr. Cowl,

At its regular meeting on January 19, 2010 the City of Morro Bay Planning Commission denied your appeal and upheld approval of Minor Use Permit UP0-255, which allows the conversion of a commercial unit to a residential unit within an existing mixed use building.

The Morro Bay Municipal Code provides for an appeal of the action by the Planning Commission within ten (10) days of adoption. The last day to appeal this project is January 29, 2010. Anyone wishing to appeal may do so in writing by delivering such letter to the office of the City Clerk. There is a fee for processing appeals which are not coastal permits.

Sincerely,

Bruce Ambo
Director Public Services Department

By: *B. Ambo*

Cc: Chuck Reasor
541 La Jolla
Morro Bay, CA 93442

FINANCE
595 Harbor Street

HARBOR DEPARTMENT
1275 Embarcadero Road

ADMINISTRATION
595 Harbor Street

CITY ATTORNEY
955 Shasta Avenue

FIRE DEPARTMENT
715 Harbor Street

POLICE DEPARTMENT
850 Morro Bay Boulevard

PUBLIC SERVICES
955 Shasta Street

RECREATION AND PARKS
1001 Kennedy Way

Local Coastal Plan

The project is located in an area of City that Local Coastal Plan designates as "Mixed Use Area F", where a mix of all uses as appropriate shall be encouraged. The Local Coastal Plan states that:

"An evaluation of appropriate uses on a parcel by parcel basis will be conducted during the implementation phase."

This indicated that the mix of uses for the project site is to be determined at the time of project review.

This appeal is about an illegal conversion that did not get timely review because it was converted before it was properly decided as to whether it was appropriate. It was handled at the minor use level when it should have been brought to the planning commission because of its Land Use Plan Designation (Mixed Use Area), Base Zone District (MCR), and Zoning Overlay Districts (R -4, North Main Street Specific Plan). This appeal is about whether this is an appropriate mix of uses for this project site. The appellants contend that it is not appropriate. The public was denied a proper hearing.

The project, as approved, consisted of 50/50 mix of commercial and residential. Since 1971, it appears that two units on the bottom floor were converted from commercial to residential uses and back again which is afforded to the project since it is mixed use. Consistent with the Local Coastal Plan, a mix of uses as appropriate shall be encouraged in this area. The request to convert from commercial to residential is reasonable because the project was originally constructed with the mixed use concept and one commercial unit is being retained. Therefore, the mixed use concept is still in tact. Adjacent properties are zoned MCR/R-4 and the change in use of Unit#1 is consistent with the surrounding uses.

The appellants agree that the mixed use concept is still in tact, but the ratio is not appropriate. Also the change is decidedly not consistent with surrounding uses. This project faces west on Main Street and is flanked by commercial on both sides of it. (Dominos Pizza on the north and Ocean View Furniture on the south) The council repeatedly comments that their intent is that south of San Jacinto stay commercial facing Highway One to preserve the City's sales tax base. The approval of this project is a slippery slope because of the precedent it will set. In particular we are referring to the impending proposed project on the empty lot approximately 150 feet to the north.

North Maine Specific Plan

As mentioned above, the project is within the North Main Specific Plan. According to the section titled "Commercial Use on North Main Street", the MCR/R-4 zone allows C-1N, C-1, and C-2 uses, mixed commercial and residential, or exclusive residential use according to R-4 standards. The property owner is given discretion to choose the best use as long as they comply to the development standards of the plan. As stated above, the Specific Plan allows for exclusive residential use at the R-4 density, mixed use commercial or residential, or exclusive commercial use.

staff report with my comments

The appellants agree that a property owner can choose their use as long as they comply with development standards. However no decision about development standards would be possible had this illegal conversion gone unnoticed by the City. The appellants disagree that it is possible to have exclusive residential use because of section 17.40.070.B.3 "Combining Mixed Use Overlay Zone."

"Residential uses may be permitted in conjunction with the primary use, and shall be located on upper stories or to the rear of the primary use..."

Zoning Ordinance

Section 17.24.110 of the Zoning Ordinance (Mixed Commercial /Residential (MCR) District) requires a Minor Use Permit to allow residential use in the MCR zone. Within this section,

Special Standards state:

"The MCR zone allows uses which are found to be similar and consistent with the General Plan and Local Coastal Plan as those found within the C-1 and C-2 districts, mixed commercial and residential uses in any proportion, or exclusive residential use."

Further, under Residential Uses, it states:

"Designation of the MCR zone with an R-4 suffix will permit residential development according to the designated density and applicable development standards of this plan."

According to the above section, exclusive residential use is allowed with an R-4 designation. The conversion of Unit #1 from a commercial to residential use conforms to these standards, as one commercial unit in the building still remains. The MCR zone supports the mixed use concept of both the Local Coastal Plan and the General Plan and the evaluation of appropriate uses on a parcel by parcel basis is accomplished through the conditional use process.

An important portion of the section was ignored from paragraph 3: "Residential uses may be permitted in the MCR zone in conjunction with an approved office or commercial use in accordance with the provisions of the chapter." The importance of "in conjunction with" is that it is the joint use of commercial with residential that allows the residential use in a commercial zone.

The project is also subject to another layer of zoning; the SP overlay zone. Section 17.40.070 (Combining Mixed Use Overlay Zone) of the Zoning Ordinance states:

"The Local Coastal Plan has designated certain areas of the City as mixed use designation and shall be addressed for development of each of these areas."

This section continues with the following:

"In Mixed use areas combining commercial and residential designations, the commercial district shall be the primary district and at least fifty percent of the gross floor area of the project shall be devoted to commercial or office uses. An exception is for those areas in which the Local Coastal Plan text specifically describes the mixed use relationship that should be allowed."

As stated above, the project is to be reviewed on a case by case basis pursuant to Mixed use Area F identified in the Local Coastal Plan.

The ratio quoted in this ordinance is "at least 50% of the gross floor area." Therefore the requirement is least 50/50. However the Council approved residential/commercial ratio of 20/80 in November of 2009 (question of validity: does the new 20/80 have to be approved by the Coastal Commission? It is believed that it must go to the Coastal Commission because it is a significant change in land use). This project is still out of compliance with a ratio of 9/91. (existing commercial (Barber shop) at 416 square feet) $416/4502 \text{ gross} = 9/91$

2. Parking

The project was originally approved in 1971 with 10 parking spaces for approximately 2,234 square feet of commercial and 2,034 feet of residential. Pursuant to the current Section 17.44.020 (Parking Facilities) of the Zoning Ordinance, the following Parking requirements are as follows:

- 1 space per studio unit
- Multiple spaces for apartments of 1 bedroom or more, equaling 1.5 spaces for the first bedroom and .5 spaces for every additional bedroom and;
- 1 space for every 300 square feet of commercial space

To meet current parking requirements with a 50/50 mix of uses, 7 spaces would be required for the originally constructed 2,234, square feet of commercial use and 4 spaces would be required for the residential uses for a total of 11 parking spaces, without guest parking spaces. However, the current configuration of the project approved with Minor Use Permit UPO-255 requires only 8 / 9 total parking spaces because the additional residential use is not as intense as commercial use, and therefore, requires less parking. As demonstrated by the site plan, adequate space on the site plan is not available to accommodate parking that would be required for additional commercial uses. To provide the required amount of parking for the original project of 2,234 square feet of commercial, pursuant to current regulations, three additional parking spaces would be required on-site. Section 17.44.020, (Parking Facilities) of the zoning Ordinance states:

"... for any structure or land changed to a more intensive use that would require the provision of more parking spaces over what already exists, off-street parking spaces shall be provided in accordance with the requirements and standards...."

The residential use proposed in Unit #1 is less intense; therefore additional on-site parking, including guest parking, is not required.

Parking requirements calculated from ordinance:

Upstairs 2 - 2 bedrooms	= 4 parking spaces
Downstairs (new unit #1) 1 bedroom	= 1.5 (2)
Downstairs 2 studios	= 2
commercial	= 1 minimum
ADA	= 1
guest parking	= <u>1 minimum</u>
Total	11

staff report with my comments

There is more parking that is needed than can be handled on site. With the North Main Street bike line funded, on-street parking cannot be counted on to accommodate overflow parking needs. It is believed that if it were evaluated under current standards the owner would pay in-lieu fees for those spaces not provided on site. Under Parking 17.44.020.C.1.f "Multifamily apartments...All space except for those reserved for guest parking shall be covered." If left as is the ratio would be $416 + 960 = 1376$. $1376/4502 = 31/69$ mix which is within City Council approved standard. However if the ratio changes to 9/91 then this becomes in essence a multifamily apartment building and should meet those requirements which would put the Barber shop into non conformance. This is a slippery slope. (for example, required storage and required private space)

Finally, the Appellant states that guest parking is required per the Zoning Ordinance. The Zoning Ordinance does require guest parking in multi-family zones if there are five or more units; however, staff reviewed the project as an existing project rather than a new project. When determining the appropriate mix of uses for an existing mixed use building, staff evaluates the site and the current uses. Because the site was developed in 1971 pursuant to different regulations, it is non-conforming and has limited parking available which has significant impact on the site's ability to accommodate a mix of commercial and residential uses without a parking conflict. Unit#1 is 960 square feet in size which requires a minimum of three parking space to accommodate a standard commercial use. The proposed residential unit requires only one / two parking spaces. The requirement of a guest parking space further restricts the mixed use flexibility of the project.

"however, staff reviewed the project as an existing project rather than a new project." The appellants disagree. This was an illegal conversion with no Permit, no review, no inspections, no building fees charged. This owner should not be rewarded for violating the process. The project should be reviewed as a new project, not an existing project. It was never decided in an appropriate manner if it was appropriate for a conversion. If the project is reviewed as an existing project then the owner is being rewarded for violating the law.

This statement "The requirement of a guest parking space further restricts the mixed use flexibility of the project." is setting this commercial property to be converted to residential which goes against all documents quoted previously in this appeal.

The maximum number of parking spaces that could be provided on-site given the original design is ten. The location of the ninth parking space originally approved behind the building would not be allowed today due to its location; however, it currently exists so the project was conditioned to make the space accessible as originally approved. If the project does revert back to the original 50/50 mixed use configuration with exclusive commercial use on the bottom floor, the requirement for the eleventh space will be reviewed at the time.

The appellants question the legitimacy of the ninth parking space behind the building in the setback near to the gas meters. As stated above this "would not be allowed today".

staff report with my comments

CONCLUSION:With recommended Conditions of Approval as provided with the issuance of Minor Use Permit UPO-255, the proposed project is consistent with the Zoning Ordinance, North Main Specific Plan, General Plan, and Local Coastal Plan and would not have a significant impact on the environment. It is recommended that the appeal be denied.

In summary; The proposed project is NOT consistent.

It does not meet Mix use ratio standards regardless of which percentage is used, nor does it meet parking requirements.

It should have not been evaluated as an existing project but as a new project.

Administratively it should not have passed as a Minor Use Permit because it is not a minor change but is a significant change with far reaching implications.

The owner should be fined for converting this project without a permit.

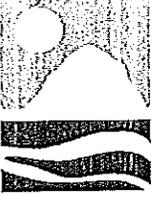
Since the original appeal addressed the removal of the handicapped space, as witnessed by Chuck Reasor and has now been eliminated from this staff report, it would indicate that on this point the appellants have already won on one of the grounds of the appeal.

The unit # 1 should be converted back to commercial use. If the commercial portion of this property is not creating a profit in this economy, that is the owners risk as a business man.

It is not the council or commissioners responsibility to guarantee a profit on a privately owned capital investment at the expense of our codes and sales tax.

If the other points of this appeal are denied then you will send a message to anyone who wants bypass the city zoning ordinances.

As I assume that staff does its best to help each applicant to achieve their project goals, it might also be assumed that they inadvertently omit some of the codes or the councils viewpoints. We must acknowledge that staff is not sworn to uphold the law but the council and the commission is, therefore since the violations of this project have been brought to the light of day we trust that you will uphold your oath.



CITY OF MORRO BAY

Payment Selection

February 1, 2010

Permit No. UP0-000-255
Project Address: 2300 Main St
Payer Name: Grant Crowl

ACCOUNT NO.	AMOUNT	FEE DESCRIPTION
	\$250.00	Appeal
Total Paid:	\$250.00	

Authorized By:  Date: 2-1-10
Planning



ATTACHMENT 3

CITY OF MORRO BAY PUBLIC SERVICES DEPARTMENT APPEAL FORM

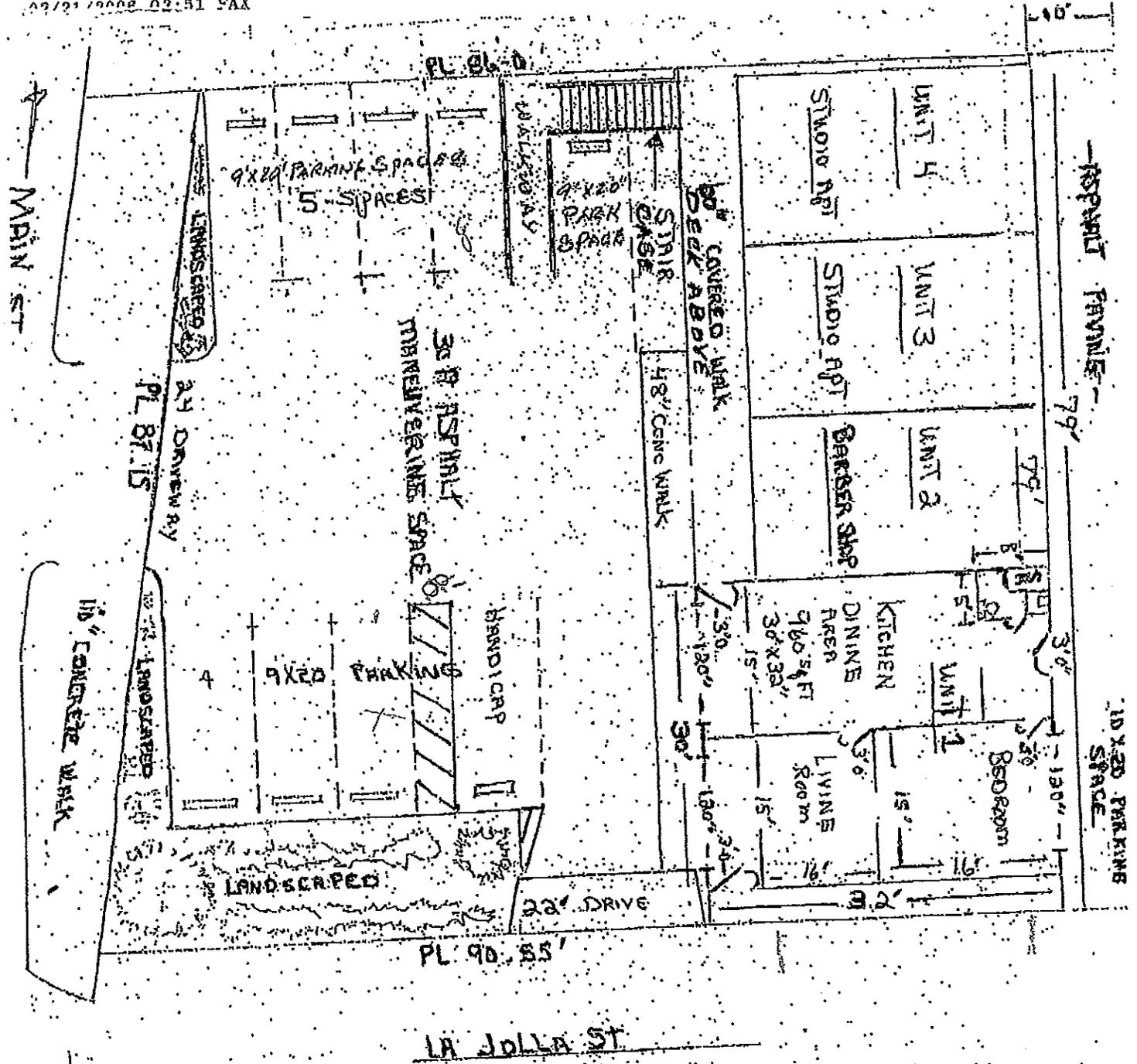
UPO-255

APPEAL FROM THE DECISION OR ACTION OF (GOVERNING BODY OR CITY OFFICER):	
Planning Commission	
APPEAL OF SPECIFIC DECISION OR ACTION: (Planning) Public Services	
Condition # 7	
DATE DECISION OR ACTION RENDERED: January 19, 2010	
APPELLANT (PLEASE PRINT): Mike Del Puppo	
SIGNATURE: Cathy Nook for Mike Del Puppo	
ADDRESS: 2542 Laurel MB	TELEPHONE NUMBER: (559)-281-0902

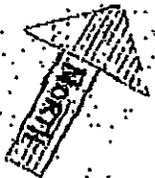
GROUNDS FOR THE APPEAL (ATTACH SHEETS AS NECESSARY): SEE ATTACHED SHEETS

REQUESTED RELIEF OR ACTION: ① Remove Planning / Public Services Condition # 7 ② Request the City Council uphold the appeal and Refund the Appellant the fee imposed for this filing

Receipt No. 5128	FOR OFFICE USE ONLY
DATE APPEAL FILED: 1-29-10	ACCEPTED BY:
APPEAL BODY:	
DATE OF APPEAL HEARING:	



2300 MAIN ST
 MORENO BAY CA 93142
 APN # 68-262-060
 OWNER MICHAEL DELLAPPO
 04/03/09



REQUEST
 CHANGE OF UNIT #1
 FROM COMMERCIAL UNIT
 TO RESIDENTIAL UNIT
 9'0" x 5'4" 3'0" x 3'6"
 NO INTERIOR OR EXTERIOR
 CHANGES.

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

1/13/10

Del Puppo Appeal

Grounds for appeal of Public Services Condition #7:

The Public Services condition #7 requires the project applicant to open the fence, relocate the garbage cans and provide the required parking for unit #1 in the space to the rear of the building.

The Planning Commission was presented with an alternative parking plan, see attached sheet that provides the required number of nine parking spaces for this mixed use project. The Planning Dept. was presented with this alternative however; it was not formally included with the Staff Report.

At the Planning Commission, the applicant was not able to respond to any questions regarding the parking configuration after the close of the public hearing. Had there been the ability to provide the Commission with further detail, this condition may have been revised.

By requiring Unit #1 to park in the rear of the building, it forces the relocation of the trash and recycle container. The rear of the building is far more suited to store the trash and recycling container. Relocating the container to the side of the building is problematic. This area does not have a driveway cut which will force the trash truck to drive over the curb and sidewalk to access the container. Additionally if a car is parked along the curb, it will prevent access to the container as well. Building a trash enclosure in the front of the building would be visually degrading and potentially would interfere with parking or landscaping. It is of no value to force a trash container at the front of the building when there is a more appropriate location in the rear of the building which can also provide screening.

In summary, the project as approved by the Planning Commission meets all the parking standards and with the removal of Public Services condition #7, the project will still be required to provide nine parking spaces which can be met with the reconfigured parking plan in the front of the building.

For the reasons stated above it is the request of the appellant to remove condition #17 from the conditions of approval for this project.



AGENDA NO: D-1

MEETING DATE: March 8, 2010

Staff Report

TO: Honorable Mayor and City Council **DATE:** March 3, 2010
FROM: Rob Livick PE/PLS, Acting Public Services Director
SUBJECT: Potential Topics for the Joint City Council/Planning Commission Meeting

RECOMMENDATION:

Staff recommends that the City Council consider and discuss potential discussion topics for the March 15, 2010 joint City Council/Planning Commission meeting; including a review the Planning Commission's recommendations for meeting topics that were acted on at their March 1, 2010 meeting.

FISCAL IMPACT:

There is no fiscal impact associated with this action other than the administrative costs for staff support at the meeting.

BACKGROUND/DISSION:

Section 2.28.120 MBMC provides for the Planning Commission to meet twice annually with the City Council to discuss proposed policies, programs, goals and objectives, budgeting, future planning, or any other planning matter requiring joint deliberation.

In anticipation of the joint City Council/Planning Commission meeting on March 15, 2010, the Planning Commission discussed potential topics at their March 1, 2010 meeting. The following is an excerpt from the Planning Commission draft minutes regarding potential topics as prioritized by the Commission:

Johnson confirmed the two main priority Agenda items proposed for the joint City Council/Planning Commission meeting will be:

- 1. Presentation from the County on Land Use Element Update Process plus time for questions and answers.*
- 2. Downtown Visioning / Revitalization Plan plus time for questions and answers.*

Other Agenda items proposed include:

- 3. Pro/Con Analysis of City property.*
- 4. Tree Replacement policies and how that works with tree committee.*

Prepared By: _____

Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

5. *Ask City to hire lobbyist to secure our General Plan and Zoning Ordinance*

Johnson stated that items three through five would be proposed Agenda items for discussion if there is time during the meeting. Johnson asked for a voice vote from Commissioners. Commissioners unanimously agreed to submit the proposed Agenda list to the City Council for the Joint Meeting on March 15, 2010.

CONCLUSION:

Staff recommends that the City Council consider and discuss potential discussion topics for the March 15, 2010 joint City Council/Planning Commission meeting; including a review the Planning Commission's recommendation for meeting topics that were recommended at their March 1, 2010 meeting; taking into account potential implications of any new projects or changes to existing programs and priorities.

Attachment:

1. Current Planning Processing List
2. Advance Planning Processing List