

Key Issues and Policies Report

Review and Comment

Chapters 9 - 16

September 26, 2016

Chapter 9: Downtown and Waterfront Connections

The Analysis section of this chapter indicates that “Morro Bay’s downtown and waterfront districts are charming and quaint, but many properties have experienced some neglect in recent decades. Many community members have noted a need for improved maintenance in both the public and private realms.” Oddly, however, no Policy Option is proposed to address this issue.

A Policy Option should be advanced to prohibit dilapidated, unmaintained, or neglected commercial properties in the Downtown and Embarcadero Districts and to develop programs that will assist the owners of properties that are in need of rehabilitation.

Chapter 10: Sea Level Rise Resilience

This section appears quite comprehensive.

Chapter 11: Commercial Fishing Industry and Measure D

Unfortunately, the issues involved in the application and enforcement of Measure D are far more extensive than discussed in this chapter. The actual text of Measure D reads as follows:

“The City shall not grant any permit, authorization or other approval of any state owned tidelands subject to city lease between Beach Street and Target Rock, unless such development or use is primarily for the purpose of serving or facilitating licensed commercial fishing activities or noncommercial recreational fishing activities, or is clearly incidental thereto. For purposes of illustration only, and not by way of limitation, no approval shall be granted for any new passenger for hire boats or supporting facilities, or for any new restaurant, café, gift shop or other retail establishments serving the general public, and any existing such uses shall hereafter be considered nonconforming and shall not be expanded or enlarged.”

The first question that arises is the interpretation of the word “*primarily*”. On initial reading, this word would seem to suggest that new developments or uses may only be permitted if the majority of the persons utilizing the goods and/or services provided by the development will be engaged in commercial or recreational fishing activities. This interpretation, however, would render such new uses as fuel docks, marine repair facilities, and boat haul-out facilities financially non-viable. As these types of installation would greatly benefit the commercial fishing community, it seems unlikely that their prohibition was actually intended by the voters when approving Measure D. An alternate explanation of “*primarily*” is therefore needed.

Second, it is necessary to consider what is encompassed within the concept of “*serving or facilitating*”? In many instances, the manner in which a proposed development will serve or facilitate the commercial fishing industry will be clear. Cases that would appear relatively straightforward include docking sites for commercial fishing boats and fish off-loading and processing facilities. In other cases, however, the facilitative relationship between a development proposal and commercial fishing may be less direct. As examples, would the following represent valid instances in which the commercial fishing industry is served and facilitated by development, as required by Measure D?

- a.) *Development that is unrelated to fishing but which financially supports a commercial fishing enterprise* – Consider, by way of example, the following:

- The owner of a commercial fishing boat docked in Morro Bay is unable to meet expenses (mortgage, dock fees, salaries, maintenance, et al.) with the revenues generated by fishing. He proposes to open a pancake house within the area subject to Measure D, with the condition that 75% of the profits generated by the pancake house will be devoted exclusively to the upkeep, maintenance, and continued operation of the fishing vessel. Is this proposal consistent with Measure D? Would it make a difference if the proposed cafe was a fish restaurant, rather than a pancake house? Would it make a difference if the proposed cafe was a fish restaurant, but purchased no fish from local commercial fisherman?
- The holder of both a landside and water lease in the area encompassed by Measure D proposes to build a boutique hotel on the landside site. As a condition of approval for this development, the applicant agrees to build 12 docking slips on the water lease and, in anticipation of profits to be made from the hotel, to rent these slips to commercial fishing vessels at a rate 25% lower than that charged at City-owner docks. Does this proposal "serve and facilitate" the commercial fishing industry, as required by Measure D?

b.) *Development that does not directly serve or facilitate commercial fishing but which raises public awareness of our local fishing heritage* – For example, a maritime museum or a theater that shows documentaries about the commercial fishing industry.

Third, in the phrase "*licensed commercial fishing activities or noncommercial recreational fishing activities*", does the adjective "licensed" apply only to "commercial fishing activities" or does it apply to "noncommercial recreational fishing activities", as well? In other words, does this phrase mean:

- a.) *Licensed commercial fishing activities or **licensed** noncommercial recreational fishing activities* (e.g., sportfishing), or
- b.) *Licensed commercial fishing activities or **any** noncommercial recreational fishing activities* (e.g., sportfishing, fishing from private boats, fishing from piers)?

It is notable that, in common English usage, when two nouns separated by the word "or" are preceded by an adjective, the adjective typically applies to both nouns (e.g., "Diners may choose from broiled halibut or cod. The space will be planted with a 15-gallon maple or oak.") Common grammatical usage notwithstanding, the City should attempt to clarify the actual intent of Measure D and to provide a better-defined statement of the types of activity that must be served or facilitated by new development in this area.

Fourth, although Measure D states specifically that "*no approval shall be granted for any new passenger for hire boats or supporting facilities, or for any new restaurant, café, gift shop or other retail establishments serving the general public*", this restriction is qualified by the phrase "*for purposes of illustration only, and not by way of limitation*". What latitude does the qualifying phrase provide the City with respect to consideration of the listed or other uses?

Fifth, as discussed in the Key Issues and Policies Report, what criteria should properly be utilized to determine whether or not a proposed development or use is "*clearly incidental*" to licensed commercial fishing activities or noncommercial recreational fishing activities?

In light of these numerous ambiguities concerning the adopted language of Measure D, an additional Policy Option that should be considered is for the City, in consultation with the commercial and sports fishing communities, to reformulate Measure D with more precise language and place the amended version before the voters.

Chapter 12: Environmentally Sensitive Habitat Areas (ESHA)

Policy 12.E. would represent a significant step backward from our current General Plan, which requires preservation and buffering of all ESHA within the city. In addition, this policy should be expanded to include not only preservation, but restoration of sensitive habitat. This is especially important, for example, with respect to eel grass beds in the bay.

Chapter 13: Transportation Metrics

The Policy Options presented in this chapter appear to deal only with the evaluation of proposed new construction with regard to VMT and LOS impacts. This ignores the fact that several intersections in the city are already operating at quite poor service levels during peak traffic periods. It is very important that Policy Options be adopted which commit the city, after establishing acceptable local level of service standards, to identifying intersections which fail to meet the adopted standards and taking such actions as may be necessary to meet LOS standards. In addition, the Policy Options should commit the city to monitoring the effectiveness of measures outlined in its Climate Action Plan and adopting such additional measures as may be necessary to meet to meet California Air Resources Board targets for VMT reduction.

Chapter 14: Historic Resource Management

No comments or additional suggestions. Policy Options appear well thought-out.

Chapter 15: Parking

The city's current policy of requiring on-site parking in the Embarcadero and Downtown Districts has become untenable, and will continue to become more so in the future. This system discourages shared parking, makes area-wide planning for parking impossible, and perpetuates an excess number of spaces at some locations with inadequate parking at others. Furthermore, the practice of allocating "grandfathered" spaces based on the historical uses of buildings is massively unfair.

On-site parking continues to be workable in the Quintana Road and North Main Street business districts and in residential areas. In Downtown and on the Embarcadero, however, all on-site parking requirements and in-lieu parking fees should be eliminated in favor of parking districts. This option should clearly be included in the Policy Options presented.

Many of the city-owned parking lots throughout the Downtown and Embarcadero Districts are inadequately landscaped and screened and are not in compliance with the Morro Bay Zoning Ordinance. A Policy Option should be included to improve and maintain all city-owned lots to achieve consistency with the Municipal Code.

Policy 15.E. states that "Currently, adequate parking is available for coastal access." While this may be true as a general statement, adequate and appropriate coastal parking is not available in north Morro Bay (the North Point-Morro Strand area). Beach-related parking in this area frequently spills into residential neighborhoods, and steep terrain severely limits coastal access for the elderly and those with physical limitations. Policy 15.E. should call for monitoring not only of parking demand and supply, but also of the distribution and quality of available parking facilities.

Chapter 16: Viewsheds and Viewpoints

This chapter appears to deal only with Morro Bay's "big" views. The GP/LCP should also recognize that there are hundreds, perhaps thousands of "smaller" views that are also important. These include unexpected vistas of the bay and sandspit that present themselves to pedestrians walking along various city streets and sidewalks, spectacular views of the South Bay from the golf course, and eucalyptus-framed scenes glimpsed from the city right-of-way on Cerritos Peak. Mapping and designating all of these as "official" views would be virtually impossible, yet they are *public* views and, cumulatively, they are an essential element of the character of the town and of the neighborhood.

Policy Options should address this issue. One possibility would be simply to define "significant public view", then delineate the degree to which development will or will not be permitted to interfere with a significant public view.