

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
TUESDAY, AUGUST 25, 2015
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

CLOSED SESSION REPORT

MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS –

PUBLIC PRESENTATIONS –

SLO Rideshare Presentation

California Clean Power Presentation

PUBLIC COMMENT - Members of the audience wishing to address the Council on City business matters not on the agenda may do so at this time. For those desiring to speak on items on the agenda, but unable to stay for the item, may also address the Council at this time.

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

- When recognized by the Mayor, please come forward to the podium and state your name and 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.

A. CONSENT AGENDA

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 SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON AUGUST 11, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE CITY COUNCIL MEETING HELD ON AUGUST 11, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF VISITOR CENTER SERVICES CONTRACT & LEASE AGREEMENT FOR CITY-OWNED PROPERTY LOCATED AT 695 HARBOR STREET; (ADMINISTRATION)

RECOMMENDATION: Review and approve the proposed Visitor Center Agreement and Lease Agreement for 695 Harbor Street.

A-4 APPROVAL OF RESOLUTION NO. 59-15 URGING THE STATE TO PROVIDE NEW SUSTAINABLE FUNDING FOR STATE AND LOCAL TRANSPORTATION INFRASTRUCTURE; (PUBLIC WORKS)

RECOMMENDATION: Adopt Resolution No. 59-15.

A-5 APPROVAL OF RESOLUTION NO. 60-15 SUPPORTING THE CALIFORNIA EMERGENCY DROUGHT RELIEF ACT OF 2015 (S. 1894); (PUBLIC WORKS)

RECOMMENDATION: Adopt Resolution No. 60-15.

B. PUBLIC HEARINGS

B-1 **CONDITIONAL USE PERMIT UP0-058 – REVISED CONCEPT PLAN/ PRECISE PLAN APPROVAL FOR LANDSIDE IMPROVEMENTS (PHASE 2) ASSOCIATED WITH THE PREVIOUSLY APPROVED CONCEPT PLAN FOR HARBOR HUT, GREAT AMERICAN FISH COMPANY (GAFCO) AND MORRO BAY LANDINGS (FORMERLY KNOWN AS VIRG’S) REDEVELOPMENT PROJECT. PHASE 2 IMPROVEMENTS WILL INCLUDE DEMOLITION OF EXISTING MORRO BAY LANDING (VIRG’S) BUILDINGS AND EXISTING DOCKSIDE 3 RESTAURANT BUILDING WITH NEW CONSTRUCTION OF A 2-STORY COMMERCIAL VISITOR-SERVING BUILDING ALONG WITH OBSERVATION DECK, OUTDOOR SEATING AREA, PUBLIC ACCESS IMPROVEMENTS, AS WELL AS PARKING/ DRIVEWAY IMPROVEMENTS, AND 568SF POCKET PARK; (COMMUNITY DEVELOPMENT)**

RECOMMENDATION: Adopt Resolution No. 57-15 making the necessary findings for approval of Conditional Use Permit (#UP0-058) for Phase 2 with revised Concept/Precise Plan approval.

C. UNFINISHED BUSINESS / SECOND READING AND ADOPTION OF ORDINANCES

C-1 ADOPTION OF ORDINANCE NO. 594 AMENDING VARIOUS SECTIONS OF CHAPTER 3.08 OF THE MORRO BAY MUNICIPAL CODE, RELATING TO CONTRACT AUTHORITY AND THE PURCHASING PROCESS: (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Ordinance 594 after reading the title only and waiving further reading.

D. NEW BUSINESS

D-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 595 AMENDING VARIOUS PROVISIONS OF TITLE 5 OF THE MORRO BAY MUNICIPAL CODE RELATING TO BUSINESS TAXES; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Move for introduction and first reading of Ordinance No. 595, by number and title only.

D-2 CONSIDERATION AND ADOPTION OF RESOLUTION NO. 58-15, UPDATING THE CITY COUNCIL POLICIES AND PROCEDURES MANUAL; (ADMINISTRATION)

RECOMMENDATION: Review staff recommendations and dopt Resolution No. 58-15 updating the City Council Policies & procedures manual.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

The next Regular Meeting will be held on Tuesday, September 8, 2015 at 6:00 pm at the Veteran's Memorial Hall located at 209 Surf Street, Morro Bay, California.

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

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

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

MINUTES – MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
AUGUST 11, 2015
CITY HALL CONFERENCE ROOM – 4:30 P.M.

PRESENT:	Jamie Irons	Mayor
	John Heading	Councilmember
	Christine Johnson	Councilmember
	Matt Makowetski	Councilmember
	Noah Smukler	Councilmember
STAFF:	David Buckingham	City Manager
	Joe Pannone	City Attorney
	Eric Endersby	Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER

SUMMARY OF CLOSED SESSION ITEMS - The Mayor read a summary of Closed Session items.

CLOSED SESSION PUBLIC COMMENTS - Mayor Irons opened the meeting for public comments for items only on the agenda; seeing none, the public comment period was closed.

The City Council moved to Closed Session and heard the following items:

CS-1 GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATOR:

Property: Lease Site 65-66/65W-66W, Abba Imani, 571 Embarcadero
Agency Negotiators: Eric Endersby, Harbor Director and Joseph Pannone, City Attorney
Negotiations: Price and Terms of Payment

Property: Lease Site 110W-112W, Great American Fish Co., 1185 Embarcadero
Agency Negotiators: Eric Endersby, Harbor Director and Joseph Pannone, City Attorney
Negotiations: Price and Terms of Payment

Property: Lease Site 122-123/122W-123W, Harbor Hut - THMT, Inc., 1205 Embarcadero
Agency Negotiators: Eric Endersby, Harbor Director and Joseph Pannone, City Attorney
Negotiations: Price and Terms of Payment

Property: Morro Bay Power Plant, 1290 Embarcadero
Negotiating Parties: Cleve Lancaster, General Counsel, Dynegy
Agency Negotiators: David Buckingham, City Manager and Joseph Pannone, City Attorney
Negotiations: Price and Terms of Payment

The City Council reconvened to Open Session.

The City Attorney reported that with regards to the Closed Session Items, the Council did not take any reportable action pursuant to the Brown Act.

ADJOURNMENT

The meeting adjourned at 5:31 p.m.

Recorded by:

Dana Swanson
City Clerk

MINUTES - MORRO BAY CITY COUNCIL
REGULAR MEETING – AUGUST 11, 2015
VETERAN’S MEMORIAL HALL – 6:00P.M.

PRESENT:	Jamie Irons	Mayor
	Noah Smukler	Councilmember
	John Headding	Councilmember
	Christine Johnson	Councilmember
	Matt Makowetski	Councilmember
STAFF:	David Buckingham	City Manager
	Joe Pannone	City Attorney
	Dana Swanson	City Clerk
	Sam Taylor	Deputy City Manager
	Susan Slayton	Administrative Services Director
	Rob Livick	Public Works Director
	Scot Graham	Community Development Manager
	Cindy Jacinth	Associate Planner
	Eric Endersby	Harbor Director
	Steve Knuckles	Fire Chief

ESTABLISH QUORUM AND CALL TO ORDER

The meeting was called to order at 6:05pm

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT - City Attorney Pannone reported that with regards to the Closed Session Items, the Council did not take any reportable action pursuant to the Brown Act.

MAYOR AND COUNCILMEMBERS’ REPORTS, ANNOUNCEMENTS & PRESENTATIONS

PUBLIC PRESENTATIONS

LEAP Update Presentation

<https://youtu.be/4IoxzPOMdt8?t=5m58s>

Don Maruska provided an implementation update on ten LEAP initiatives. This presentation and additional information is available on the City website at www.morro-bay.ca.us/LEAP.

Presentation of Xtreme Hero Awards Week Proclamation

<https://youtu.be/4IoxzPOMdt8?t=18m23s>

Mayor Irons asked to pull Item A-3 from the Consent Agenda.

MOTION: Councilmember Makowetski moved to approve Item A-3. The motion was seconded by Councilmember Headding and carried unanimously, 5-0.

The Mayor and City Council presented a Proclamation to Staff Sergeant John Detamore recognizing and honoring the Marine Xtreme heroes and their families from the Wounded Warrior Battalion West headquartered at Camp Pendleton, CA.

PUBLIC COMMENT

<https://youtu.be/4IoxzPOMdt8?t=25m48s>

Cruz Reyes, Morro Bay, submitted a petition to place a stop sign at Main and Pacific Streets in January and is waiting to hear the status of that request. He also asked about traffic control to improve safety for bicyclists.

Walter Heath, Morro Bay resident and President of Morro Bay in Bloom, thanked the City Council and staff for their support during the America in Bloom visit. The judges were very complimentary of what they saw, the heritage trees, in particular. Results are expected in early October.

Chris Christensen, who, along with Jeffrey Bacon, founded Xtreme Hero Awards, appreciates the Council recognizing the effort to honor our wounded warriors and their families.

Sandy Tannler, Morro Bay, presented a letter from the Central Coast Taxpayers Association and requested the City Council pass a Resolution opposing SCA-5, the “split roll” tax proposal.

Susan Stewart, Morro Bay resident and business owner, recommends the City begin planning and preparing creek beds for a potential El Nino this winter.

Bill Fritch, Morro Bay resident, asked the Council to increase the public comment period from 3 to 5 minutes to give people a chance to deliver their message, and further encourage public participation.

Bill Martony, Morro Bay, noticed there had been a closed door meeting regarding Cerrito Peak and asked the public be made aware of any agreement between the City and owners of that property. He also questioned the projected cost of the WWTP.

David Nelson, Morro Bay, shared concerns about the type of technology that will be used for the new WRF, as well as cleanup of the Dynegy power plant. He also asked the status of medical marijuana referendum.

Betty Winholtz, Morro Bay, is collecting forms on prescriptive rights on Toro Lane project coming before the Planning Commission on Tuesday. Many residents have used this trail since the 1960s. If you use this trail and are interested in signing a form that will be presented to the Planning Commission, please contact Betty at 772-5912. She also noted her comments at the July 14, 2015 City Council meeting were made on behalf of Morro Bay Beautiful.

The public comment period was closed.

The City Council and City Manager responded to comments and concerns raised during the Public Comment period.

- A. CONSENT AGENDA
<https://youtu.be/4IoxzPOMdt8?t=1h4m58s>

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 SPECIAL CLOSED SESSION CITY COUNCIL MEETING HELD ON JULY 14, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-2 APPROVAL OF MINUTES FOR THE CITY COUNCIL MEETING HELD ON JULY 14, 2015; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-3 PROCLAMATION COMMENDING AND HONORING FIRE CAPTAIN PARAMEDIC JEFF OLSON ON HIS RETIREMENT; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-4 PROCLAMATION DECLARING TUESDAY, AUGUST 11, 2015 THROUGH FRIDAY, AUGUST 14, 2015 AS “XTREME HERO AWARDS” WEEK; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-5 STATUS REPORT OF A MAJOR MAINTENANCE & REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLANT; (PUBLIC WORKS)

RECOMMENDATION: Receive and file.

- A-6 WATER RECLAMATION FACILITY (WRF) PROJECT UPDATE; (PUBLIC WORKS)

RECOMMENDATION: Receive and file.

The public comment period for the Consent Agenda was opened; seeing none the public comment period was closed.

Councilmember Makowetski pulled Items A-2, A-3 and A-5 for further discussion.

MOTION: Councilmember Johnson moved the Council approve A-1 and A-6 on the Consent Agenda. The motion was seconded by Councilmember Headding and carried unanimously, 5-0.

A-2 APPROVAL OF MINUTES FOR THE CITY COUNCIL MEETING HELD ON JULY 14, 2015; (ADMINISTRATION)

There were no comments related to Item A-2.

A-3 PROCLAMATION COMMENDING AND HONORING FIRE CAPTAIN PARAMEDIC JEFF OLSON ON HIS RETIREMENT; (ADMINISTRATION)

Councilmember Makowetski thanked Fire Captain Jeff Olson for his many years of service to the community of Morro Bay.

A-5 STATUS REPORT OF A MAJOR MAINTENANCE & REPAIR PLAN (MMRP) FOR THE EXISTING WASTEWATER TREATMENT PLANT; (PUBLIC WORKS)

Councilmember Makowetski noted that \$465,000 is being spent to maintain the existing WWTP and keep that plant running while we're building the new plant. This is important for both Morro Bay and Cayucos residents.

MOTION: Councilmember Makowetski moved the Council approve Items A-2, A-3 and A-5 of the Consent Agenda. The motion was seconded by Councilmember Smukler and carried unanimously, 5-0.

B. PUBLIC HEARINGS - NONE

C. UNFINISHED BUSINESS / SECOND READING AND ADOPTION OF ORDINANCES - NONE

D. NEW BUSINESS

D-1 APPROVAL OF SETTLEMENT AGREEMENT - JOHNNIE MEDINA V. CITY OF MORRO BAY, SAN LUIS OBISPO SUPERIOR COURT CASE NO. 14CV-0214; (CITY ATTORNEY)
<https://youtu.be/4IoxzPOMdt8?t=1h8m31s>

City Attorney Pannone presented the staff report and responded to Council inquiries.

The public comment period for Item D-1 was opened.

Michelle Arete, Morro Bay, spoke representing 350 previous petitioners, asked that previous conditions set by the Planning Commission and City Council from 2009 – 2012 be upheld. She

also asked if neighbors will be notified of plans before they are approved and who will monitor and enforce City requirements.

Betty Winholtz, Morro Bay, shared concerns about this area due to the ESHA, which is a public resource. One of the conditions states that Mr. Medina has reported he will stake out the ESHA; she went to observe and it has not been done. She shares Ms. Arete's concerns regarding the previous Planning Commission conditions and how they will be enforced, specifically size of the house and its location.

The public comment period for Item D-1 was closed.

City Attorney Pannone responded to public comment noting one of the benefits of the settlement agreement is that Mr. Medina has signed a contractual document where he obligates himself to follow certain requirements. Also, there is nothing in this agreement that eliminates any of the previous Planning Commission's approvals for those for land use entitlements.

Community Development Manager Graham notes the applicant is in process of submitting final parcel map and building plans subject to the settlement agreement and all conditions of the map.

Councilmember Johnson confirmed the previous Planning Commission conditions will stay; there will be two driveways and one driveway apron. At her request, staff explained the public can track the project by checking the Planning Commission activity list. Mr. Pannone confirmed the building permit will not be issued unless all conditions have been met.

Councilmember Headding noted on page 2 of settlement agreement, Mr. Medina indicates the boundary of the ESH on the property has been surveyed and survey markers have been set. Mr. Graham noted staff has not yet confirmed this, but assures the Council the applicant will comply with every component of the conditions.

Councilmember Smukler noted there is strong language in the agreement about the restoration plan and the project cannot move forward without an approved restoration plan.

Mayor Irons asked for clarification on the alignment of the apron and driveway. Capital Projects Manager Sauerwein noted applicant will be required to resubmit their plans for final map approval to ensure the driveway alignment is compliant with ADA regulations. Mr. Pannone stated for the record this map is not an Exhibit to the agreement, but was submitted at Council's request. A final map still has to be prepared.

MOTION: Councilmember Headding moved the Council approve the settlement agreement as presented by staff. The motion was seconded by Councilmember Smukler and carried unanimously, 5-0.

D-2 DISCUSSION OF VISITOR CENTER SERVICES CONTRACT & LEASE AGREEMENT FOR CITY-OWNED PROPERTY LOCATED AT 695 HARBOR STREET; (ADMINISTRATION)

<https://youtu.be/4IoxzPOMdt8?t=1h30m11s>

City Manager Buckingham presented the staff report and responded to Council inquiries.

The public comment period for Item D-2 was opened.

Walter Heath, Morro Bay, noted the City paid for improvements at the current Visitor Center at 255 Morro Bay Blvd, including a fairly expensive patio, which may now go to the benefit of the private property owner,. And asked if those improvements could be moved to the Chamber.

Liz Gilson, Director of the Chamber of Commerce, thanked the City Council for the opportunity to provide a wonderful Visitor Center.

The public comment period for Item D-2 was closed.

Councilmember Johnson noted that based on the Tourism Bureau quarterly reports, we've repeatedly been told 8-10% of those who come into Visitor Center have questions about lodging; the majority are looking for restaurants, retail, activities, etc. The Chamber represents all businesses, including Chamber members and non-members, so every business can benefit from the Visitor Center. They are able to provide this service at a rate the City can afford, in a building the City owns, with ample parking, a vehicle charging station, and public restroom. She is happy to hear the current Visitor Center folks will transition to the new location as they are our best ambassadors in Morro Bay, and hopes this move from one entity to another will not impact ability of Tourism Bureau and Chamber to work collaboratively toward economic development.

Councilmember Makowetski likes the idea of completing triangle—dining, recreational and lodging. The larger vision of tourism in town is not just bricks and mortar, but will include kiosks.

Councilmember Headding echoes Councilmember Johnson's comments, adding tourism is economic engine of this community. Based on his research, attributes of a successful Visitor Center include: friendly staff; close proximity to the freeway or major throughput; availability of social media computer/website/app type services; a bathroom; and, it was not just single visitor center, but a dissemination of information around the city (kiosks) within other businesses. He asks staff to develop key measurements for success and have that reported back to the Council quarterly, or more often as needed. He supports the staff recommendation and thanked the Tourism Bureau under Brent's leadership and the existing staff for the work they've done.

Councilmember Smukler agrees with the points that have been made. This decision gives us some flexibility to continue building those relationships and analyze what makes sense going forward. Staff at the current Visitor Center are excellent ambassadors; and the new location, while it's not a direct path of travel, it is a natural hub with nearby parking, library, transit center, Community Center, Fire Department, and public restrooms. The mobile app component is important. He looks forward to improved relations with all partners.

Mayor Irons noted when the Chamber/Visitor Center moved from the waterfront, the City entered into a partnership for economic development with the Tourism Bureau and Chamber of Commerce. The original Director of the Tourism Bureau, Karin Moss, did a great job, as has Brent Haugen. Along with attributes listed, it's the one-on-one people who guide you, and that's what we have.

MOTION: Councilmember Johnson moved the Council approve staff's recommendation to partner with the Chamber of Commerce to provide Visitor Center services, direct staff to finalize the contract with the Chamber, and negotiate a lease agreement for two offices and the lobby area of City-owned building at 695 Harbor Street, with final review of both agreements at a future meeting. The motion was seconded by Councilmember Headding and carried unanimously, 5-0.

A brief recess was called at 8:37pm and the meeting reconvened at 8:46pm.

D-3 EVALUATION OF DEMONSTRATION PARKLET LOCATED ON MAIN STREET AND RECOMMENDED FUTURE ACTIONS; (COMMUNITY DEVELOPMENT)
https://youtu.be/o_s3E7bMbRI?t=3s

Community Development Manager Graham presented the staff report and, along with Mr. Buckingham, responded to Council inquiries.

The public comment period for Item D-3 was opened.

Linna Thomas, business owner on Main Street, speaking on behalf of over 1800 petition signers and the majority of Main Street businesses, urged the Council to decide it is not in the best interest of Morro Bay to have parklets at this time.

David Nelson, Morro Bay, stated the idea of parklets has merit, but the one at this location is congested. He suggested shutting down the whole street to make it a mall.

Bill Martony, Morro Bay, thought the idea was excellent but when it ends up benefiting one business and affecting another, it speaks for itself. After a 6-month demonstration, the parklet should come down.

Walter Heath, Morro Bay, hopes a stigma is not associated with future parklets – that would be a shame. There is some value and there are some businesses on the Embarcadero that would really like a parklet. You can't have enough gathering places.

Betty Winholtz, Morro Bay, shared that as elected official, even if 80% of those who signed the petition are from out of town that still leaves 300 Morro Bay residents who oppose - you don't see people who support it here. It all came back to parking. Parking is important and we want to support our businesses.

Susan Stewart, Morro Bay business owner, asked the City to please put bike racks up on sidewalk not on the street. She also noted this was supposed to be part of an economic improvement and she doesn't feel it has helped business.

Melody Demeritt, Morro Bay resident and former Council Member, urged the Council to remove the parklet. She also asked there be no centerline parking, no metered parking, and no angled parking in Morro Bay.

Bernadette Pekarek, Morro Bay, urged the Council to remove the parklet as Main Street is not the street to have this parklet.

Craig Griswold, Morro Bay, thought idea was good but it interferes with walking traffic. There's just not enough space.

Jane Heath, Morro Bay resident and business owner on Main Street, spoke in support of the parklet, noting she had several visitors this summer from out of the area, and every one commented they thought our downtown was charming. Part of what attracted those visitors is the parklet - they thought it was a great idea to have additional space for congregating.

Richard Williams, Morro Bay, suggested a portable parklet that can be removed easily. If you want a permanent location you might as well have brick and mortar.

The public comment period for Item D-3 was closed.

Mayor Irons thanked Linna Thomas for her thoughtful and courteous input throughout the process.

Councilmember Smukler appreciated being able to experience an idea and ultimately make a decision. He will miss the parklet, but at this point he thinks the demonstration has served its purpose and we should focus on a program.

Councilmember Heading recommends removing the existing parklet. He supports the idea of parklets, in general, but would like staff to develop parklet compatibility guidelines before we move forward with any more parklets.

Councilmember Makowetski noted there's a lot of people who like a pedestrian friendly downtown, and once you move one or two streets above Main Street you lose seating to allow people to rest and enjoy coffee, a book or conversation. He suggests removing the demonstration parklet - it's opened the dialogue - but wants to continue to promote the feel of Morro Bay and enhance business.

Councilmember Johnson is pleased we're finally focusing on supporting downtown businesses and hopes once the parklet is removed people will feel more comfortable going downtown and visiting those businesses. She hopes we don't lose the idea that trying something new can be a good idea even if we don't like it at the end. She supports removing parklet and having a parking discussion before moving further on parklets.

Mayor Irons agrees this issue doesn't need to be referred to the Planning Commission and Recreation & Parks Commission at this time. He supports removing the project and suggests we pause the parklet program while we pursue parking and the downtown specific plan.

MOTION: Councilmember Smukler moved the Council direct staff to remove the demonstration parklet and have staff and the Planning Commission strategize and continue discussion on parklets in context with the parking management plan and downtown specific plan update. The motion was seconded by Councilmember Johnson and carried unanimously, 5-0.

D-4 MORRO BAY STRATEGIC PLANNING AND BUDGETING FRAMEWORK;
(ADMINISTRATION)
https://youtu.be/o_s3E7bMbRI?t=1h27m47s

City Manager Buckingham presented the staff report and responded to Council inquiries.

The public comment period for Item D-4 was opened; seeing none, the public comment period was closed.

Mayor Irons appreciates the way it's tied to the election cycle and provides a framework for staff and new Council Members. He supports a 2-year budget cycle but understands staff's recommendation. He sees an opportunity for the Citizens Finance Committee to analyze and make a recommendation on 1-year vs. 2-year budgeting, and to compile a budget policy handbook.

Councilmember Makowetski feels this is a good framework that can provide continuity to the Council, staff and residents who want to see the planning cycle.

Councilmember Johnson agrees that long term planning is important to Morro Bay and helps build commonality between Council Members, based on public input. It is essential for us to have strategic planning framework. She is still a proponent for a 2-year budget, and would like input from the Citizens Finance Committee.

Councilmember Smukler agrees this is good for long-term and to achieve goals, however he is concerned a 4-year goal cycle may not hold up. He would like to revisit goals annually to make sure they don't get thrown out the window.

MOTION: Mayor Irons moved the Council approve the Strategic Planning and Budgeting Framework concept as presented at this meeting, and direct staff to develop a Strategic Planning Framework policy to be adopted at a future meeting. The motion was seconded by Councilmember Johnson and carried unanimously, 5-0.

MOTION: Mayor Irons moved to continue the meeting past 11:00. The motion was seconded by Councilmember Makowetski and carried unanimously, 5-0.

D-5 AWARD OF CONSULTANT CONTRACT FOR IMPLEMENTATION OF CITYWORKS PERMIT TRACKING AND ASSET MANAGEMENT SOFTWARE SOLUTION TO TIMMONS GROUP, INC.; (COMMUNITY DEVELOPMENT / PUBLIC WORKS)
https://youtu.be/o_s3E7bMbRI?t=2h7m39s

Community Development Manager Graham presented the staff report and responded to Council inquiries.

The public comment period for Item D-5 was opened; seeing none, the public comment period was closed.

MOTION: Councilmember Makowetski moved the Council award the consultant contract for implementation of Cityworks permit tracking and asset management software solution to Timmons Group, Inc., and authorized staff to execute an agreement in the amount of \$210,655. The motion was seconded by Councilmember Heading and carried unanimously, 5-0.

A brief recess was called at 11:22pm and the meeting reconvened at 11:27pm.

D-6 CONSIDERATION OF PROPOSAL AND CONTRACT AWARD TO MICHAEL K. NUNLEY & ASSOCIATES, INC. FOR PROGRAM MANAGEMENT SERVICES FOR DEVELOPMENT AND CONSTRUCTION MANAGEMENT OF A NEW WRF; (PUBLIC WORKS)
<https://youtu.be/ULmpc9Cd0qI?t=8s>

Capital Projects Manager Sauerwein provided the staff report and responded to Council inquiries.

Mike Nunley introduced the project management team.

The public comment period for Item D-6 was opened; seeing none, the public comment period was closed.

Mayor Irons shared concern that only one proposal was received; on the other hand we've had great work from Mike and John, which brings comfort. He welcomes more conversation on the significant project we're undertaking.

Councilmember Heading stated that despite the fact there has been a good working relationship with these consultants in the past, he is uncomfortable with having to make this kind of financial decision without the ability to consider several options to be sure we're getting the greatest value.

City Attorney Pannone shared that based on his involvement in similar projects, there are times when a group may come into the interview process, find out the details, then go back and crunch numbers in order to make a business decision to submit your hat in the ring or not. Because you

know you're spending a lot of money up front, if someone else has a great relationship with who you want to have a contract with, you know it's not likely you're going to get that contract, and you make the business decision to not submit.

Councilmember Smukler notes the proposal was submitted without knowing there were no other proposals. Looking at the track record we have so far, the results we've received from the options analysis, and the fit they've demonstrated - style, accessibility – the WRFCAC was able to reevaluate their performance in context of this next stage. He doesn't see an alternative; we need to keep this thing moving.

Councilmember Makowetski appreciates the comments and concerns, but agrees that based on the track record of the past couple of years and WRFCAC review, he's comfortable moving ahead.

Councilmember Johnson noted we are in a rural area and perhaps a larger engineering firm based in a larger area would not consider a smaller project like ours. It's unfortunate we don't have another proposal to compare this to, however she supports moving forward. A proven team has brought us this far and she looks forward to next steps.

Mayor Irons closed by stating there's a lot of comfort in having great work from this firm. You have to trust the process so he supports moving forward.

MOTION: Councilmember Smukler moved the Council award the 8-year contract to Michael K. Nunley & Associates, Inc. for program management services for development and construction management of a new WRF, and authorized staff to execute an agreement not to exceed \$1,012,889, including a 10% contingency for this first task order, with contract review in 6-8 months, then annually thereafter to coincide with the budgeting process. The motion was seconded by Headding and carried unanimously, 5-0.

D-7 ORDINANCE NO. 594 AMENDING VARIOUS SECTIONS OF CHAPTER 3.08 OF THE MORRO BAY MUNICIPAL CODE, RELATING TO CONTRACT AUTHORITY AND THE PURCHASING PROCESS; (ADMINISTRATIVE SERVICES)
<https://youtu.be/ULmpc9Cd0qI?t=1h24m28s>

Administrative Services Director Slayton provided the staff report and responded to Council inquiries.

The public comment period for Item D-7 was opened.

Betty Winholtz, Morro Bay, felt it was inappropriate to deal with this type of item at 1:10 in the morning and encouraged the Council to continue this item to a future meeting. She also stated the dollar limits are higher than she is comfortable with.

The public comment period for Item D-7 was closed.

MOTION: Mayor Irons moved for introduction and first reading of Ordinance No. 594, by number and title only. The motion was seconded by Councilmember Heading and carried unanimously, 5-0.

E. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS
<https://youtu.be/ULmpc9Cd0qI?t=1h44m1s>

Mayor Irons requested a consultant presentation by Community Choice Aggregation. The Council supported this item.

Mayor Irons requested a joint meeting with the Public Works Advisory Board with scheduling to be determined. The Council supported this item.

ADJOURNMENT

The meeting adjourned at 1:13am to the next regular City Council meeting to be held on **Tuesday, August 25, 2015** at 6:00pm at the Veteran's Memorial Hall, 209 Surf Street, Morro Bay, California.

Recorded by:

Dana Swanson
City Clerk



AGENDA NO: A-3

MEETING DATE: August 25, 2015

Staff Report

TO: Honorable Mayor and City Council

DATE: August 18, 2015

FROM: Sam Taylor, Deputy City Manager

SUBJECT: Approval of Visitor Center Services Contract & Lease Agreement for City-owned Property located at 695 Harbor Street

RECOMMENDATION

Staff recommends the City Council approve agreements with the Morro Bay Chamber of Commerce (“Chamber”) for Visitor Center services and for renewal of a property lease at 695 Harbor Street.

ALTERNATIVES

No alternatives are recommended at this time.

FISCAL IMPACT

The fiscal impact is anticipated to be \$37,503 from October 1, 2015 to June 30, 2016, and \$50,000 from July 1, 2016 until June 30, 2017.

BACKGROUND

During work on the FY 2015-2016 budget, the City Council approved a new expenditure amount for Visitor Center services. The adopted budget included \$50,000 for Visitor Center services.

At the same time, the Council, staff, and the community discussed ways to provide outstanding Visitor Center services at a reduced price using innovative or creative solutions. To that end, the City issued a Request for Proposals seeking vendors for Visitor Center services that was very open-ended to allow for extreme creativity in suggesting how visitors to our community were welcomed through the use of this public facility.

The City received three proposals based on the RFP. Of the three, two were responsive to the conditions of the RFP, and one was deemed non-responsive.

Based on tours of the responsive RFP proponent’s facilities and interviews with both proponents, staff recommended the City Council approve an agreement for Visitor Center Services with the Morro Bay Chamber of Commerce at the City-owned building at 695 Harbor Street.

Prepared By: ST

Dept Review: _____

City Manager Review: SS

City Attorney Review: JWP

In initial discussions with the Chamber, the organization is excited to partner with the City and would also like a renewal of its lease for space at 695 Harbor Street.

City Council members unanimously approved at their August 11, 2015, regular meeting directing staff to move forward on both agreements for Visitor Center services and renewal of leased space at 695 Harbor Street with the Morro Bay Chamber of Commerce.

DISCUSSION

The basics of the proposed contract include requirements that the Visitor Center will:

- Be open to the public all days with the exception of Thanksgiving Day, Christmas Day, and New Year's Day;
- Be open at least 7 hours specifically for Visitor Center services, and host visitors during times outside of Visitor Center hours when the Chamber is open to the public;
- Include at least one ADA-accessible unisex restroom facility for public use, or one must be available for public use within 150 feet of the Visitor Center;
- Be within walking distance of the Morro Bay Transit Center;
- Include one phone line dedicated to Visitor Center purposes;
- Have only City-approved signage posted onsite. Major signage on the facility will be City-approved and be at the expense of the City. Any other signage will be City-approved and at the expense of the Chamber;
- Include on-site wireless Internet access for visitors at all times the Visitor Center is open to the public;
- Include an Internet-enabled computer terminal accessible to visitors at all times the Visitor Center is open to the public;
- Have some form of limited visitor information on the exterior of the Visitor Center available to the public who may not want to enter the Visitor Center, or when the Visitor Center is otherwise closed to the public; and
- The visitor's guide produced by the Morro Bay Tourism Bureau will continue to be provided at the Visitor Center.

As with the previous contractor, the Chamber will be required to submit quarterly reports related to the activities of the Center, track referrals to hotels and other facilities and vendors, provide stellar customer service and be subject to financial inspection, review and audit. With the hiring of a Deputy City Manager tasked with economic development initiatives, the City has greatly strengthened its oversight of

how these services are provided on its behalf.

Because the Chamber's lease of 695 Harbor Street expires December 31, 2015, it's appropriate to consider a lease renewal to ensure they remain in the facility where they will provide Visitor Center services. The City intends to take over the management of this facility from the Chamber and lease back to the organization the Visitor Center space and two offices.

The new lease provides for that direction, by leasing the specific office spaced used by the Chamber to the organization, as well as Visitor Center space, and returning overall management of the facility to the City. This means the City will take over basic maintenance and utility expenses, though the Chamber will pay a percentage of utilities based on the space used by the organization. The Chamber will also have access to common areas such as the conference room and bathrooms.

As it relates to the other organizations that have office space in the facility, the City has no intention of removing those organizations from the space at this time, or even this year. The City believes in the future there may be a need for additional City staff office space and it would be appropriate to utilize some of the offices in this facility. That is some time in the future, and not necessary now. The City would enter into agreements with these other individual organizations for lease of space, just as it is proposing with the Chamber. Those agreements will be prepared at a future date.

CONCLUSION

With a new era of the Morro Bay Chamber of Commerce, staff greatly believes in a renewed commitment to a partnership between these two organizations as it relates to economic development in this community.

Over the next year or so, it will be vital that the City has strong partnerships, better synchronization, and control of efforts related to business retention and expansion (internal economic development), business recruitment (external), and tourism. Staff believes these agreements and fresh partnership with the Chamber will be the first step on a path on that new direction.

ATTACHMENTS

Visitor Center Services Agreement
695 Harbor Street Lease Agreement

Morro Bay Visitor Center Agreement

This Agreement is made and entered into this 25th day of August, 2015 by and between the City of Morro Bay, a municipal corporation, hereinafter referred to as "City" and the Morro Bay Chamber of Commerce, a California non-profit corporation, hereinafter referred to as "Chamber."

Recitals

WHEREAS, the City recognizes continued development of the community is vital, and therefore, wishes to provide for a coordinated effort to encourage, promote, and foster the economic advantages as a vibrant tourist and recreational center; and

WHEREAS, a Morro Bay Visitor Center (the "Center") is the welcoming face to Morro Bay visitors, and it is crucial the Center be the cheerleader for the entire destination that is Morro Bay; and

WHEREAS, the Chamber has experience, together with available facilities, to provide visitor center services, necessary to enhance the economic development and vitality for the City; and

WHEREAS, it is in the interest of the community for the Chamber to provide and perform services to facilitate the welcoming and hospitality of visitors to the City, in a manner designed to promote the unique character, heritage and special attributes of the community and enhance the economic vitality of the City; and

WHEREAS, the City and the Chamber agree those goals can best be accomplished through the operation of a Visitor Center by the Chamber, under the terms and conditions outlined hereinafter, making use of funds provided, pursuant to this contract, by the City for operations of the Visitor Center.

Covenants

Now, therefore, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits that will accrue to each of the parties hereto, as well as to the public good of all the citizens of Morro Bay, the parties have agreed, and do hereby agree, as follows:

- 1) The foregoing recitals are true and correct, and constitute accurate statements of the facts herein.
- 2) The term of this Agreement shall commence on October 1, 2015 and terminate on June 30, 2017 (the "Term"). The City and Chamber may, by mutual written agreement no later than 60 days prior to expiration of the Term, extend this agreement for an additional year beyond the Term.
- 3) The maximum amount due and payable during the Term is \$37,503 in the first nine months of the Term from October 1, 2015 to June 30, 2016 and \$50,000 between July 1, 2016 and June 30, 2017. If this agreement is extended for an additional year, pursuant to Section 2, then the maximum amount payable for the additional period shall be \$50,000. The City shall pay said amounts to the Chamber in monthly increments, in advance, for each contract month. Such funds are to be expended only under the terms, conditions and restrictions, and for the purposes specifically set forth in this Agreement.

- 4) The City agrees to negotiate a future contract for the Chamber to lease of space at 695 Harbor Street in good faith that the Chamber and Visitor Center will remain in the same location for the Term of this agreement; provided that the parties understand and agree if no agreement is reached, then the current lease agreement between the Chamber and the City will terminate pursuant to its terms.
- 5) The Chamber shall promote all businesses and services in the City on behalf of the community, regardless if said business is a member of the Chamber.
- 6) The Chamber shall provide qualified and competent staff, for the successful implementation of this Agreement.
- 7) The Chamber shall maintain a Visitor Center at 695 Harbor Street suitable for the conduct of visitor information services. The Center must:
 - a. Be open to the public every day with the exception of Thanksgiving Day, Christmas Day, and New Year's Day, or those times when the City faces an emergency or disaster warranting closure of the Center,
 - b. Be open at least 7 hours specifically for Visitor Center services, normally 10am to 5pm, and will also host visitors during times outside of Visitor Center hours when the Chamber is open to the public,
 - c. Include at least one ADA-accessible unisex restroom facility for public use or one must be available for public use within 150 feet of the Visitor Center,
 - d. Be within walking distance of the Morro Bay Transit Center,
 - e. Include one phone line dedicated to Visitor Center purposes,
 - f. Have only City-approved signage posted onsite. Main signage on the facility will be City-approved and be at the expense of the City. Any other on-site signage will be City-approved and at the expense of the Chamber. The City shall be responsible for all offsite signage directing the public to the location of the Visitor Center,
 - g. Include on-site wireless Internet access for visitors at all times the Visitor Center is open to the public,
 - h. Include an Internet-enabled computer terminal accessible to visitors at all times the Visitor Center is open to the public,
 - i. Have some form of limited visitor information on the exterior of the Visitor Center available to the public who may not want to enter the Visitor Center, or when the Visitor Center is otherwise closed to the public and
 - j. Be open to facilitate contact with news media representatives, and to disseminate news releases and promotions information, in a professional manner, for various media, general public, and visitor information needs, based on information provided by the City/TBID, with City approval.
- 8) The Chamber shall provide a free mobile app for visitors to download that includes pertinent information to visitors. The app must include information on brick and mortar business establishments that are not members of the Chamber, based on accurate information provided by the City. The app must be complete and available for download no later than January 1, 2016.
- 9) The Chamber shall respond promptly to all requests, including during high volume periods, of information requests including telephone calls and E-mails. The Chamber shall maintain a voicemail system during closed office hours to receive messages for visitor information requests.

- 10) The Chamber shall coordinate services for prospective visitor groups, to include referrals to motels, rental facilities, caterers, entertainment and other services. Said referrals will be tracked and recorded. The Chamber shall provide promotional publication materials for visitors that specify recreational opportunities, campgrounds, art galleries and other services. The visitor's guide produced by the Morro Bay Tourism Bureau will continue to be provided at the Visitor Center.
- 11) The Chamber shall ensure no funds provided by the City will be used to support activities not directly related to the Visitor Center. Nothing in this contract, however, shall prevent the City from specifically funding new projects as proposed by the Chamber.
- 12) The Chamber shall submit written and oral quarterly reports to the City Manager or his/her designee regarding visitor information and promotional activities, and quarterly reports of the same to the City Council, excluding monthly expenditures and invoice information, which will be managed by administrative staff. Those reports need not be lengthy, but should be specific as to the following:
 - a. Number of visitors to the Visitor Center.
 - b. The type and quantity of materials dispensed from the Visitor Center.
 - c. Summary of telephone and email information requests received.
 - d. The type and quantity of any special materials distributed to groups.
 - e. The number of visitor site referrals made.
 - f. Detailed report of Visitor Center monthly expenditures.
 - g. Copies of invoices to support charges.
- 13) Failure to provide such quarterly reports will be considered by the City as possible grounds for termination of this Agreement.
- 14) The Chamber agrees to make all Visitor Center books and financial records, or any other books and financial records concerning the funds expended under this Agreement, available to the City for inspection, review and audit. The Chamber will, at no expense to the City, provide an annual report and accounting of expenditures of the funds covered by this Agreement. The City Administrative Services Director shall work with the Chamber to perform a detailed financial review at the end of each City-Fiscal Year, which will be presented to the City Manager.
- 15) The Chamber agrees all persons working for the Chamber under this Agreement shall in no way be considered employees of the City; and any liability, which might arise under the Worker's Compensation Law of the State of California due to any injury of any employee of the Chamber, shall be the sole liability of the Chamber. The Chamber shall, throughout the period of this Agreement, maintain in full force and effect, a policy of worker's compensation insurance meeting statutory limits of Labor Code covering all its employees and volunteers. Said policy shall include a waiver of subrogation against City, its officers, agents, employees and volunteers.
- 16) The Chamber shall not use any monies received under this Agreement for the endorsement, opposition or participation in any political or lobbying activity involved in the support or opposition to any candidate for public office or proposed ballot measure.
- 17) The Chamber agrees to indemnify, defend and hold harmless City, and its officers, employees, and agents, from any and all claims, suits, demands and causes of action and costs, including reasonable attorney's fees and court costs ("Damages"), resulting from this Agreement; provided, that the obligation to indemnify and hold harmless shall only be to the extent Damages are caused by the

Chamber or any of its officers, employees, agents or contractors.

- 18) The Chamber shall obtain and maintain, in full force and effect during the term of the Agreement, a \$1,000,000 general liability insurance policy specifically naming City as primary additional insured against claims and demands resulting from any act or omission by the Chamber or any of its officers, employees, agents or contractors related to this Agreement. Said insurance policy shall provide for thirty-days' notice of cancellation to the City. Within ten days after the date of execution of this Agreement by both parties, the Chamber shall submit to the City evidence of such insurance.
- 19) Notwithstanding any other representation, oral or written, between the parties, including any and all agents or representatives thereof, the Chamber is at all times during the term of this Agreement acting as a free and independent contractor, and shall not be an employee or an agent of the City.
- 20) Except as the City may authorize in writing, the Chamber shall have no authority, express or implied to act on behalf of then City in any capacity whatsoever as an agent. The Chamber shall have no authority, express or implied, pursuant to this Agreement, to bind City to any obligations whatsoever.
- 21) The Chamber shall not enter into any contract or agreement that will create a conflict of interest with its duties to the City under this Agreement. No member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his/her personal interests or the interests of any corporation, partnership, or association in which he is directly or indirectly interested. The Chamber warrants it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.
- 22) The Chamber represents and warrants to City the Chamber has, and shall maintain at all time during the term of this Agreement, at its sole cost and expense, all business licenses, permits, qualifications and approvals of whatsoever nature which are legally required for the Chamber to provide the service hereunder.
- 23) The Chamber shall perform all services required pursuant to this Agreement in a manner and according to the standards observed by a competent practitioner of the profession in which the Chamber is engaged. All products and services of any nature which the Chamber provides to the City and to visitors to the Visitor Center shall conform to the standards of a quality normally observed by licensed, competent organizations practicing in the Chamber's profession.
- 24) The Chamber shall devote such time to the performance of services as may be reasonably necessary for the satisfactory performance of the Chamber's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performances are prevented or delayed by any cause, present or future, which is beyond the reasonable control of the non-performing party. The Chamber agrees to assign only competent personnel according to the reasonable and customary standards of training and experience in the relevant field to perform services pursuant to this Agreement.
- 25) During the term of this Agreement if the Chamber is dissolved, disbanded, or otherwise ceases to function in a manner described in this Agreement, then all funds attributable to the City and equipment purchased out of funds provided by the City shall revert to ownership of the City. For the

purpose of this provision, the Chamber shall maintain a written record of, and include as part of each annual report, a listing of capital equipment that has been purchased with the funds provided by the City.

- 26) No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligations pursuant to this Agreement shall be void and of no effect.
- 27) The Chamber agrees to comply with all fair employment practice laws of the State and Federal government. The Chamber covenants and agrees for itself, its successors, its assigns and every successor in interest, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, medical condition, disability, marital status, ancestry or national origin in the provision of any services to be provided by the Chamber hereunder, nor shall the Chamber of any person claiming under or through the Chamber establish or permit any such practice or practices of discrimination or segregation in the provision of any services to be provided by the Chamber hereunder.
- 28) The failure of either party to abide by any term of this Agreement shall constitute a default under this Agreement. If either party fails to cure any such default within five (5) days after receiving notice from the other party of such default, then this Agreement may be terminated by giving ten-days' written notice of such termination. Upon any such termination, the final monthly payment to be paid under Paragraph 3, above, shall be adjusted on a pro rata basis, based on a 30-day month, to the date of such termination, and if applicable, the Chamber shall immediately return to the City any amounts previously paid by the City for any period subsequent to the date of such termination.
- 29) In addition to termination pursuant to Paragraph 29), above, this Agreement may be terminated in whole or in part at any time by either party hereto upon thirty-days' written notice to the other as identified below. In the event of any termination of this Agreement, all rights and obligations of both parties hereto, except for Paragraph 18), including without limitation the monthly payment from City to the Chamber hereunder, shall terminate as of the date of such termination (and the final monthly payment shall be adjusted on a pro rata basis to the date of such termination).
- 30) This document represents the entire understanding between the parties and supersedes all prior negotiations, representations or agreements, either written or oral regarding the subject matter hereof. This Agreement may only be amended in writing signed by both parties.
- 31) If any provision of this Agreement is deemed to be legally void or unenforceable, then all remaining provisions shall survive and be enforceable. This Agreement shall in all respects be governed by the laws of the State of California.
- 32) In the event suit is brought for the enforcement, or interpretation, of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees.

In Witness Whereof, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

--signatures on next page--

City of Morro Bay

Morro Bay Chamber of Commerce

David Buckingham, City Manager

Jennifer Redman, President

By: _____

Its _____

Lease Agreement

AGREEMENT

This lease agreement (“this Lease”) is made and entered into this day of _____, by and between the CITY OF MORRO BAY, a municipal Corporation hereinafter referred to as “LESSOR”, and THE MORRO BAY CHAMBER OF COMMERCE, a California non-profit corporation hereinafter referred to as “LESSEE”.

RECITALS

WHEREAS, LESSOR is the owner of certain real property located at 695 Harbor Street, Morro Bay CA (the “Premises”); and

WHEREAS, LESSEE is organized to encourage a strong local economy and quality of life by promoting commerce, sound government, and an informed membership and community; and

WHEREAS, comprised of local business leaders, LESSEE has special knowledge and experience to promote economic and business development, including business attraction and retention programs, for the benefit of LESSOR; and

WHEREAS, LESSOR and LESSEE have mutual interests in enhancing the economic growth and vitality of the community; and

WHEREAS, LESSOR and LESSEE desire to enter into a lease agreement for a portion of the Premises.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS;

1. LEASE: LESSOR hereby leases to LESSEE and LESSEE agrees to accept from LESSOR the lease of the portions of the Premises as described in Section 4., below.
2. RENT: During the term on this Lease, LESSEE agrees to pay on or before October 1, 2015, and each year thereafter on or before January 1 the sum of \$1.00, payable in advanced per fiscal year as rent for the use of the Leased Premises.
3. TERM: The term of this Lease shall commence on October 1, 2015 and terminate without notice on June 30, 2017, unless sooner terminated as a herein provided term (the “Term”). Any holdover of possession of the Leased Premises by LESSEE beyond the Term shall constitute a month-to-month tendency on the same terms and conditions of this Lease and LESSEE agrees to vacate the Premises upon thirty-days’ (30-days’) prior written notice from LESSOR.
4. LEASED PREMISES: The Leased Premises for purpose of this Lease shall include only those portions of Premises that include the office now used, as of the effective date of this Lease, by LESSOR’S director, the office used, as of the effective date of this Lease, by

the Chamber's accountant and administrative assistant, and the front foyer space, all of which are shown on Exhibit A, which is attached hereto and incorporated herein by this reference. In addition, LESSEE shall have access to and use of, but not control of, common areas including both bathrooms, the conference room, hallways, entranceways and the kitchen, which are also shown on Exhibit A (the "Common Areas").

5. **USE OF PREMISES:** LESSEE shall use the Leased Premises solely for the purpose of operation of Chamber business and the City of Morro Bay Visitor Center (the "Visitor Center"), as outlined in that separate Visitor Center agreement, attached for reference.
6. **FIXTURES AND ALTERATIONS:** LESSEE shall not make or cause to be made any alterations, additions or improvements, of a substantial nature or make any structural changes in the building (the "Improvements") without first notifying LESSOR and obtaining prior written approval from LESSOR for the Improvements. In the event the Improvements include any structural change, LESSEE shall supply to LESSOR plans and specifications for such work, and obtain prior written approval. LESSEE shall be responsible for all costs associated with any of the Improvements. All permits necessary for the Improvements, excluding improvements related to Visitor Center services, shall be at LESSEE'S expense and obtained prior to any work any of on the Improvements.
7. **ITEMS INSTALLED BY LESSEE:** All decorations and additions and any of the Improvements in the Lease Premises, except for structural changes, made by LESSEE shall remain the property of LESSEE for the term of this Lease or any extension or renewal thereof. Upon expiration of this Lease, or any renewal term thereof, LESSEE shall remove all decorations and additions and those portions of the Improvements that are LESSEE property, and restore the Premises, ordinary wear and tear excepted, to its condition at the time of original occupancy, unless written approval is obtained by LESSOR to allow such decorations, additions or the Improvements to remain.
8. **SECURITY:** LESSOR agrees to provide locks on doors of the Premises to be used exclusively by LESSEE for its use and for Visitor Center services, and to provide keys for access to Leased Premises. LESSOR shall also provide new access to the Premises at the rear entrance for others to access the Premises without access to Leased Premises.
9. **MAINTENANCE:** LESSOR shall be responsible for the overall interior and exterior maintenance of the Premises, except that LESSOR shall have no duty, obligation, or liability whatever to care for or maintain or rebuild the Premises or surrounding grounds except at its sole discretion. LESSEE shall be responsible for routine janitorial and maintenance of the Leased Premises.
10. **SURRENDER OF PREMISES:** At the expiration of the tenancy hereby created, LESSEE shall surrender the Leased Premises in the same condition as the Leased Premises were upon delivery of possession thereto under this Lease, reasonable wear and tear excepted, and damage by unavoidable casualty not within the reasonable control of LESSEE excepted, and shall surrender all keys for the Leased Premises to LESSOR.

LESSEE shall thereupon remove all its fixtures, and any alterations or improvements as provided above before surrendering the Leased Premises and shall repair any damage to the Leased Premises caused thereby. LESSEE's obligation to observe or perform this covenant shall survive the expiration or other termination of the term of this lease.

11. **INSURANCE:** LESSEE shall, during the full term of this lease, keep in full force and effect an appropriate policy of liability and property damage insurance with respect to the Leased Premises in the minimum amounts of \$1,000,000 each. The policies shall name LESSOR and its officers, employees and representatives as additional insureds and shall contain a clause the insurer will not cancel or change the insurance without first giving LESSOR 10-days' prior written notice. LESSEE shall exhibit to LESSOR, at any time upon demand, a certificate of insurance, or other evidence of insurance, and shall keep such policies in effect during the full term of this Lease or any extensions thereof.
12. **FIRE, EXTENDED COVERAGE:** LESSEE agrees to purchase and maintain, during the full term of this Lease or any extensions thereof, a policy of fire, extended coverage, insurance, which policy shall not be less than 100% of the replacement value of the Leased Premises. The cost of such insurance shall be at the sole cost of LESSEE.
13. **INDEMNIFICATION:** LESSEE agrees to indemnify, defend and hold harmless LESSOR, its offices, directors and agents, from and against any and all claims, actions, damages, liability, expenses, costs and reasonable attorney's fees resulting or related to any loss of life, personal injury or damage to property, or any other liability, arising out of any occurrence related to the Leased Premises or the occupancy or use by LESSEE of the Leased Premises or any part thereof, occasioned wholly or in part by any act or omission of LESSEE, its agents, contractors, employees, servants, lessees or concessionaires, or for any act or omission by LESSOR in furtherance of the interests of LESSEE for any reason in connection with this Lease.
14. **UTILITIES & TAXES:** LESSEE shall be responsible for and promptly pay 30 percent of all charges for heat, water, gas, electricity or any other utility used or consumed on the Leased Premises, including any deposits demanded by any utility, based on the 2014-2015 Fiscal Year average monthly cost for all identified utilities. LESSEE shall pay the aforementioned rate plus an annual Cost of Living Adjustment based on the August CPI-U from the Los Angeles-Riverside-Orange County area beginning with the City's FY 16-17 Budget Year. LESSEE agrees to pay, at its sole cost and expense, any possessory interest tax that may be assessed as a result of this Lease.
15. **ASSIGNMENT AND SUB-LETTING:** LESSEE will not assign this lease, in whole or in part, nor sub-let all or any part of the Leased Premises.
16. **GOVERNMENTAL REGULATIONS:** LESSEE shall at LESSEE's sole cost and expense, comply with all of the requirements of all county, municipal, state, federal and other applicable government authorities, now in force, or which may hereafter be in force, pertaining to the Premises, and shall faithfully observe in the use of the Premises

all municipal and county ordinances, and all state and federal statutes now, or which may hereafter be, in force.

17. **DESTRUCTION OF PREMISES:** If the Leased Premises shall be damaged or destroyed by fire, the elements, unavoidable accidents or other casualty, then all insurance proceeds payable by reason thereof shall be applied to the repair, reconstruction and renovation of Premises.
18. **CONDEMNATION:** In the event any or all of the Premises are taken, in whole or in part, through the exercise of any power of eminent domain exercised by any state, federal or local municipality (including LESSOR) having the power thereof, any sums paid by such condemning authority shall be paid to LESSOR.
19. **DEFAULT:** In the event of any failure of LESSEE to perform any of the terms, conditions or covenants of this Lease to be observed or performed by LESSEE for more than 30 days after written notice of such default shall have been given to LESSEE, or if LESSEE shall abandon the Leased Premises, then LESSOR, besides other rights or remedies it may have, shall have the immediate right of reentry and may remove all persons and properties from the Leased Premises without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby.
20. **ENTIRE AGREEMENT:** This Lease, and any exhibits attached hereto and forming a part hereof set forth all the covenants, promises, agreements, conditions and understanding between the parties concerning the Premises, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them, other than or herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this lease shall be binding upon either party unless reduced to writing and signed by both.
21. **NOTICE:** Any notice, demand, request or other instrument which may be required to be given under this lease shall be deemed delivered when sent by ordinary United States Mail, postage prepaid, addressed to LESSOR care of its City Manager, or LESSEE care of its then acting President.
22. **PARTIAL INVALIDITY:** If any term, covenant or condition of this lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this lease, or the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid, or unenforceable, shall not be affected thereby; and each term, covenant or condition of this lease shall be valid and be enforced to the fullest extent permitted by law. If the length, term or duration of this Lease, in any way is in violation of any statute, law or Constitution or is invalid for any reason whatsoever, then this Lease shall be deemed a lease from year to year, and all other provisions hereunder shall remain the same.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this ____ day of _____ 2015, at Morro Bay, California

CITY OF MORRO BAY

MORRO BAY CHAMBER OF COMMERCE

By: _____
DAVID BUCKINGHAM
City Manager

By: _____
LIZ GILSON
Director of Operations

And

By: _____
Jennifer Redman
Chamber Board President

Attest:

By: _____

Its _____

DANA SWANSON
City Clerk

Approved As To Form:

JOSEPH W. PANNONE
City Attorney

EXHIBIT A

Figure of Premises and Leased Premises

EXHIBIT A

Figure of Premises and Leased Premises

California's local streets and roads are on a path of significant decline. On a scale of zero (failed) to 100 (excellent), the statewide average pavement condition index (PCI) is 66, placing it in the "at risk" category. The 2012 City's Pavement Management Plan showed the City's local streets have a statewide average PCI in a range from 59 to 78, with only 15 percent above 66, placing them in the "at risk" category.

It is estimated cities and counties need an additional \$1.7 billion to maintain the PCI of 66, and an estimated additional \$3 billion annual investment to improve pavement conditions from "at risk" to "good" condition. If additional funding is not secured now, then unmet funding needs for local transportation infrastructure will increase by \$11 billion in five years, and \$21 billion in ten years.

The League of California Cities has been working towards obtaining funding for local street and road repair, and is encouraging cities to adopt a Resolution urging the Governor and State Legislature to provide new sustainable funding for State and local transportation infrastructure.

RESOLUTION NO. 59-15

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
URGING THE STATE TO PROVIDE NEW SUSTAINABLE FUNDING
FOR STATE AND LOCAL TRANSPORTATION INFRASTRUCTURE**

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

WHEREAS, on June 16, 2015, Governor Edmund G. Brown, Jr. called for an Extraordinary Session of the State Legislature to provide permanent and sustainable funding to maintain and repair state and local transportation infrastructure; and

WHEREAS, cities and counties own and operate more than 81 percent of streets and roads in California; and

WHEREAS, the City of Morro Bay (City) has participated in efforts with the California State Association of Counties, League of California Cities, and California's Regional Transportation Planning Agencies to study unmet funding needs for local roads and bridges, including sidewalks and other essential components; and

WHEREAS, the resulting 2014 California Statewide Local Streets and Roads Needs Assessment (Study), which provides critical analysis and information on the local transportation network's condition and funding needs, indicates the condition of the local transportation network is deteriorating as predicted in the initial 2008 Study; and

WHEREAS, on a scale of zero (failed) to 100 (excellent), the statewide average pavement condition index (PCI) is 66, placing it in the "at risk" category where pavements will begin to deteriorate much more rapidly and require rehabilitation or rebuilding rather than more cost-effective preventative maintenance if funding is not increased; and

WHEREAS, the results of the 2012 City's Pavement Management Plan showed the City's local streets have a statewide average PCI in a range from 59 to 78, with only 15 percent above 66, placing them in the "at risk" category; and

WHEREAS, if funding remains at the current levels, then in 10 years, 25 percent of local streets and roads in California will be in "failed" condition; and

WHEREAS, California cities and counties need an additional \$1.7 Billion just to maintain a PCI of 66; and

WHEREAS, models show an additional \$3 Billion annual investment in the local streets and roads system is expected to improve pavement conditions statewide from an average "at risk" condition to an average "good" condition; and

WHEREAS, if additional funding isn't secured now, it will cost taxpayers twice as much to fix the local system in the future, as failure to act this year will increase unmet funding needs for local transportation facilities by \$11 Billion in five years and \$21 Billion in ten years; and

WHEREAS, in addition to the local system, the state highway system needs an additional \$5.7 billion annually to address the state's deferred maintenance; and

WHEREAS, in order to bring the local system back into a cost-effective condition, at least \$7.3 billion is needed annually in new money going directly to cities and counties.

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

SECTION 1. The City Council of the City of Morro Bay hereby urges the Governor and Legislature to identify a sufficient and stable funding source for local street and state highway maintenance and rehabilitation to ensure the safe and efficient mobility of the traveling public and the economic vitality of California; and to adopt the following priorities for funding California's streets and roads:

- I. Make a significant investment in transportation infrastructure. Any package should seek to raise at least \$6 Billion annually and should remain in place for at least 10 years or until an alternative method of funding our transportation system is agreed upon.
- II. Focus on maintaining and rehabilitating the current system. It requires major road pavement overlays, fixing unsafe bridges, providing safe access for bicyclists and pedestrians, replacing storm water culverts, as well as operational improvements that necessitate the construction of auxiliary lanes to relieve traffic congestion choke points and fixing design deficiencies that have created unsafe merging and other traffic hazards. Efforts to supply funding for transit in addition to funding for roads should also focus on fixing the system first.
- III. Equal split between state and local projects. We support sharing revenue for roadway maintenance equally (50/50) between the state and cities and counties, given the equally-pressing funding needs of both systems, as well as the longstanding historical precedent for collecting transportation user fees through a centralized system and sharing the revenues across the entire network through direct subventions. Ensuring funding to local governments is provided directly, without intermediaries, will accelerate project delivery and ensure maximum accountability.
- IV. Raise revenues across a broad range of options. Research by the California Alliance for Jobs and Transportation California shows voters strongly support increased funding for transportation improvements. They are much more open to a package that spreads potential tax or fee increases across a broad range of options, including fuel taxes, license fees, and registration fees, rather than just one source. Additionally, any package should move California toward an all-users pay structure, in which everyone who benefits from the system contributes to maintaining it, from traditional gasoline-fueled vehicles, to new hybrids or electric vehicles, to commercial vehicles.

- V. Invest a portion of diesel tax and/or cap and trade revenue to high-priority goods movement projects. While the focus of a transportation funding package should be on maintaining and rehabilitating the existing system, California has a critical need to upgrade the goods movement infrastructure that is essential to our economic well-being. Establishing a framework to make appropriate investments in major goods movement arteries can lay the groundwork for greater investments in the future that will also improve air quality and reduce greenhouse gas emissions.
- VI. Strong accountability requirements to protect the taxpayers' investment. Voters and taxpayers must be assured that all transportation revenues are spent responsibly. Local governments are accustomed to employing transparent processes for selecting road maintenance projects aided by pavement management systems, as well as reporting on the expenditure of transportation funds through the State Controller's Local Streets and Roads Annual Report.
- VII. Provide Consistent Annual Funding Levels. Under current statute, the annual gas tax adjustment by the Board of Equalization is creating extreme fluctuations in funding levels, including a \$900 million drop in this budget year alone. A transportation funding package should contain legislation that will create more consistent revenue projections and allow Caltrans and transportation agencies the certainty they need for longer term planning.

SECTION 2. The Mayor, or presiding officer, is hereby authorized to affix his signature to this Resolution signifying its adoption by the City Council of the City of Morro Bay and the City Clerk, or her duly appointed deputy, is directed to attest thereto.

PASSED AND ADOPTED, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 25th day of August 2015, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk



AGENDA NO: A-5

MEETING DATE: August 25, 2015

Staff Report

TO: Honorable Mayor and City Council **DATE:** August 20, 2015

FROM: Rob Livick, PE/PLS - Public Works Director/City Engineer
David Buckingham, City Manager

SUBJECT: Approval of Resolution No. 60-15 Supporting the California Emergency Drought Relief Act of 2015 (S. 1894)

RECOMMENDATION

Staff recommends the City Council approve Resolution No. 60-15 supporting the California Emergency Drought Relief Act of 2015 - Senate Bill 1894 authored by Senator Dianne Feinstein.

ALTERNATIVES

The City Council may recommend changes to Resolution No. 60-15, or elect not to approve the Resolution.

FISCAL IMPACT

Should funds become available the

BACKGROUND/DISCUSSION

In June 2015, Sarah Moffat an aid from Senator Feinstein's office contacted the Mayor to discuss the City's desalinization facility and a possible tour. Ms. Moffat was making a tour of the Central Coast's water situation in particular desalinization facilities. In July 2015, Ms. Moffat met with the Mayor and staff for a scheduled tour of our desalinization plant. The tour informed Senator Feinstein on the permitting status of the desalinization plant, its capabilities, potential, and costs associated to achieve all of those. The estimated costs to permit and to upgrade the plant to a capacity output of 1300 acre feet of water per year, enough to supply the entire city's water, is approximately \$1-million.

In addition to the discussions regarding the desalinization facility, staff also discussed the potential of Federal funding for the new Water Reclamation Facility (WRF) since the new WRF will have the potential of providing about 1MGD of new recycled water. When implemented, S.1894 would allow the City to compete for Federal funding in a new competitive grant program for water recycling and reuse projects that meet specified eligibility and feasibility criteria. This new program is critically important to leverage state and local investments in water recycling and water quality infrastructure that will create

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

more sustainable and "drought-proof" water supplies in California.

CONCLUSION

Senator Feinstein drafted California Emergency Drought Relief Act of 2015 (S. 1894) specifically naming the City of Morro Bay in one of several strategies to fund drought relief opportunities. Resolution No. 60-15 identifies the City of Morro Bay's current position and support of S. 1894.

RESOLUTON NO. 60-15

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
SUPPORTING THE CALIFORNIA EMERGENCY DROUGHT
RELIEF ACT OF 2015 (SENATE BILL 1894)**

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

WHEREAS, the City of Morro Bay constructed its desalinization facility in 1992 as an emergency water supply due to depletion of its groundwater sources; and

WHEREAS, the desalinization facility was permitted to supply 645 Acre-Feet per year for emergency water supply purposes; and

WHEREAS, the City of Morro Bay contracted with San Luis Obispo County for State Water in 1992 to supply 100% of the City's water supply or an annual allocation of 1313 Acre-Feet; and

WHEREAS, the City of Morro Bay also contracted with San Luis Obispo County for State Water in 2003 provide a drought buffer to protect its water supply allocation during time of water supply shortage water supply in the amount of 2290 Acre-Feet per year; and

WHEREAS, in the last five years the City has not received its full allocation of State Water due to drought; and

WHEREAS, the City operated the desalinization facility in 1993 and intermittently since then to supply the city's water needs during times of State water shutdown and high water demand; and

WHEREAS, on January 17, 2014, Governor Brown first declared a State of Emergency throughout the State of California due to severe drought conditions; and

WHEREAS, on January 28, 2014, the City of Morro Bay increased its level of water conservation from moderately restricted to severely restricted water supply conditions; and

WHEREAS, on March 11, 2014, San Luis Obispo County declared a local emergency due to the drought; and

WHEREAS, on March 11,2014, the City of Morro Bay declared a local emergency due to the drought and State Water Project deliveries of 35% or less; and

WHEREAS, on April 1, 2015, Governor Brown issued another executive order mandating statewide urban water conservation of 25-percent compared to the 2013 usage; and

WHEREAS, the City of Morro Bay is meeting its community specific goal of a 12-percent reduction in water usage as compared to the 2013 usage; and

WHEREAS, the City of Morro Bay has set a goal to diversify its water supply portfolio; and

WHEREAS, The City of Morro Bay is undertaking the construction of an estimated \$100-million state of art Water Reclamation Facility replacing its 62-year-old beachside wastewater treatment plant and will provide up to one million gallons of reclaimed water per day; and

WHEREAS, with both a water reclamation facility and desalinization plant, the City could become self-reliant in its water supply portfolio.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Morro Bay, supports and endorses the California Emergency Drought Relief Act of 2015 (S.1894) which, when signed by the President, would allow the City to compete for Federal funding in a new competitive grant program for water recycling and reuse projects that meet specified eligibility and feasibility criteria. This new program is critically important to leverage state and local investments in water recycling and water quality infrastructure that will create more sustainable and "drought-proof" water supplies in California..

PASSED AND ADOPTED, by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 25th day of August, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk



AGENDA NO: B-1

MEETING DATE: August 25, 2015

Staff Report

TO: Honorable Mayor and City Council

DATE: August 20, 2015

FROM: Cindy Jacinth, Associate Planner

SUBJECT: **Conditional Use Permit UP0-058 – Revised Concept Plan/Precise Plan** approval for landside improvements (Phase 2) associated with the previously approved Concept Plan for Harbor Hut, Great American Fish Company (GAFCO) and Morro Bay Landings (formerly known as Virg's) Redevelopment Project. Phase 2 improvements will include demolition of existing Morro Bay Landing (Virg's) buildings and existing Dockside 3 restaurant building with new construction of a 2-story commercial visitor-serving building along with observation deck, outdoor seating area, public access improvements, as well as parking/ driveway improvements, and 568sf pocket park

RECOMMENDATION

Adopt City Council Resolution No. 57-15, making the necessary findings for approval of Conditional Use Permit (#UP0-058) for Phase 2 with revised Concept/Precise Plan approval.

ALTERNATIVES

Alternative 1. The City Council may move not to adopt the Resolution for approval and instead add additional conditions to the project and direct staff to return to the next Council meeting with a revised Resolution for approval.

Alternative 2. The City Council may move to modify or delete conditions of approval from the Planning Commission's favorable recommendation.

Alternative 3. The City Council could choose to deny the Conditional Use Permit request.

FISCAL IMPACT- None

BACKGROUND

City Approval Background:

Planning Commission meeting May, 2015:

This proposed project was reviewed by the Planning Commission on May 19, 2015, pursuant to Morro Bay Municipal Code (MBMC) section 17.40.030 (Planned Development overlay), which requires both a

01181.0001/265550.1

Prepared By: CJ Dept Review: SG

City Manager Review: SS

City Attorney Review: JWP

Concept and Precise plan for projects on publicly owned land. The Planning Commission forwarded a favorable recommendation with conditions to the City Council for final consideration (Exhibit B). Please refer to Exhibit C which contains a copy of the Planning Commission staff report, which discusses the project in greater detail.

Planning Commission and City Council approvals 2007-2010:

The proposed project first received conditional use permit (CUP) approval as a Concept Plan by City Council on May 12, 2008 (see page 3 of Exhibit C). The CUP approval covered a sizeable section of the north Embarcadero waterfront area, spanning 22 lease sites represented by the business owners of Great American Fish Company (GAFCO), Harbor Hut, and Morro Bay Landings (previously Virg's Tackle Shop). The City's concept plan approval for this CUP reviewed this project by applying project requirements to the project as a whole, even though the project included approvals to phase the project by each business owner separately over a number of years. With regard to the requirement for bayside continuous lateral access, the Planning Commission and City Council reviewed different options to meet this requirement (LCP Policy 1.20) at public hearings in 2007 and 2008. Ultimately the project was approved without direct continuous bayside lateral access finding public access on the docks, along with a condition for the Applicant to pay a pro-rata fair share toward the Harborwalk pedestrian path on the landward side of the buildings, met the requirement.

That alternate form of lateral access was approved due to several constraints to the project: 1.) the small maneuverability of boats docking at GAFCO (water area between GAFCO and north side of the South T-Pier; 2.) the lack of physical lateral access across the Dynegy property (between GAFCO and Harbor Hut; 3.) presence of eelgrass immediately west of the area near the Virg's lease site (now known as Morro Bay Landing); and 4.) pedestrian safety north of Morro Bay Landing in the working commercial fishing area.

Precise Plan approval for Phase 1 of the project was approved by Planning Commission on June 21, 2010, which included the portion of the project that was the waterside improvements with the GAFCO remodel. Phase 2 of the project, now before the Council for approval, is the portion of the original approval that covered landside improvements only. See top right of plan sheet A-1 for depiction of map outline showing Phase 2 boundaries (Exhibit F).

Coastal Commission Background:

After City approvals in 2008, the project received its Coastal Development Permit from the California Coastal Commission (CCC) on June 10, 2009 (CDP#3-08-025-A). In 2013, the project received an amendment from CCC to modify the floating dock layout. An illustration of the original versus revised overall site plan is depicted in the CCC stamped approved plans in Exhibit E (refer to plan sheet A-2 and A-3). Plan sheet A-2 in Exhibit F also depicts the site plan changes from original to revised.

As part of the CCC approval, one key condition was added requiring a change to the building's architectural style. Originally, the City's approval of the Concept Plan in 2008 was that of a modern design as shown on plan sheet A-4 (Exhibit F). The condition of approval from CCC was that "...the design and appearance of the building shall be modified to reflect a working dock, nautical/maritime

theme (i.e. simple and utilitarian lines and materials, including use of board and bats, corrugated metal, brick, etc.) The plans shall clearly identify all measures that will be applied to ensure such design aesthetic is achieved, including with respect to all structures and all other project elements within the public view (e.g. walkways, paved areas, railings, benches, tables, chairs, lighting, signs, landscaping, etc.). At a minimum, the plans shall clearly identify all structural elements, materials, and finishes...”

Since the Applicant has made major changes to the proposed project’s design to meet the CCC’s requirements, that modification requires approval of changes to the approved Concept Plan.

Project Description:

In summary, the Applicant is requesting approval of Phase 2 of the CUP for landside improvements, which primarily include demolition of 3 existing buildings: the Morro Bay Landing (“Virgs”) building and equipment shed and the existing Dockside 3 (“Thai Boat”) restaurant. A new 7,286 sf commercial visitor-serving retail building is proposed to be constructed, a portion of which will be one story, 17 feet in height and a portion proposed as two stories, which will be 24 feet 10 inches in height. The first floor will be 4,726 sf with 2,214 sf of public open space to include a 700-square-foot public observation deck. The retail uses proposed on the first floor of the building will be a sport fishing tackle shop and marine-related retail shop/charter boat service, along with elevator and public restrooms. The second floor will include the relocated Dockside 3 restaurant at the same size of the current restaurant, a small office space for marine-related business use along with public observation deck, outdoor seating area, and public restrooms.

In addition, the project scope includes realignment of the driveway and related parking re-striping to enable greater access by commercial delivery trucks in support of commercial fishing operations. With realignment of the driveway, the northeast corner of the project will include creation of a small pocket park which is shown on plan sheet A-6. The original Concept Plan approval included an underground fueling facility, but the Applicant has requested to remove approvals for underground fuel storage facility consistent with the Master Lease amendment recently approved by City Council.

DISCUSSION

Under the Planned Development (PD) Overlay requirements, projects that are presented for Precise Plan approval can only be approved by Planning Commission with a finding the Precise Plan substantially conforms to the Concept Plan. Due to the significant changes conditioned by CCC, that finding could not be made. Therefore, staff’s recommendation to Planning Commission was approval be granted to revise the Concept Plan with favorable recommendation to City Council to approve a revised Concept Plan combined with Precise Plan approval. At the May 19, 2015, Planning Commission meeting, the Commission reviewed the project and adopted PC Resolution 17-15 (Exhibit B).

Included within the Resolution are additional conditions added by the Planning Commission. The Planning Commission identified four main issues:

1. Lack of continuous bayside lateral access,
2. Provision of view corridors consistent with requirements of Waterfront Master Plan,

3. Removal of existing non-conforming pole sign and
4. Additional public access signs

Bayside Lateral Access

Policy 1.20 of the City's Local Coastal Plan (LCP) requires all projects shall be required to provide continuous lateral access as a condition of approval. The project as originally approved by the City and as discussed in CCC's 2009 staff report (see link on page 4) described the requirement for lateral access would be met through expanding and tying together a network of floating docks from lease site to lease site with public access on the docks, as well as requiring the Applicant to pay their pro-rata fair share toward the Harborwalk pedestrian path on the landward side of the buildings. Also, under the PD Overlay, other significant public access would be provided in the form of floating dock access with vertical connections available for general public use during daylight hours 365 days a year; as well as public observation/viewing deck and pocket park.

The Planning Commission discussed in detail the City's requirements for new projects under the Waterfront Master Plan and LCP. Conditions 6 and 7 reflect those requirements and were added to be consistent with how all other bayfront projects are reviewed and approved by the City.

Planning Commission condition:

- 6. Continuous bayside lateral access, a minimum of eight feet in width, shall be designed and shown on revised plans in a manner that connects with the lease sites to the north and south of the proposed project.***

- 7. The applicant shall provide a bayside lateral access design that would allow connection to any future lateral bayside access improvements incorporated into future redevelopment of the Harbor Hut lease site. The design shall address feasibility of providing such a connection to the satisfaction of the Community Development Manager.***

The Applicant responded to staff in a letter dated May 29, 2015, stating it is infeasible to provide continuous bayside lateral access and the proposed project, as approved by City Council, found the floating docks coupled with the pro-rata share of the Harborwalk pedestrian path met the requirement (Exhibit D). The Applicant also responded to staff after the Planning Commission meeting with the contention the Planning Commission wanted bayside lateral access to be provided by cantilevering the walkway (see Exhibit G for Applicant's visual rendering). Though that idea was briefly discussed by the Planning Commission, it was dismissed due to the presence of eelgrass in the Bay.

Staff has reviewed the Applicant's response letter and reviewed the Planning Commission record and concluded the response received does not adequately address why or how it would be infeasible. The Planning Commission noted on the first floor site plan (sheet A-6 of Exhibit F), the proposed project currently shows vertical access on the south side of the new building that extends west to the Bay then turns and extends northward along the bayside of the building, but dead ends into the rear of the first-floor retail space. The requirement for continuous bayside lateral access could be met in that specific location if the width or building square footage were reduced. That would reduce the first-floor retail

space by approximately 320 square feet. However, the lateral access would then extend north along the west or bayside of the building.

The Applicant's response letter (Exhibit D) stated it was infeasible to make building modifications to provide access here for several reasons, such as eelgrass impacts, electrical panel location, stairwell location on north side of the building and utility trench east of the proposed building.

Regarding presence of eelgrass and shading impacts, the Planning Commission did not require addition of a cantilevered lateral access path, but stated lateral access be provided within the area of the proposed building footprint. The proposed project includes new construction, which means the electrical panel and stairwell locations could be altered to accommodate the lateral bayside access pathway. Lastly, the plans submitted for City review do not show a utility trench. If the presence of a utility trench were to impact the ability to shift the building eastward to pick up the loss of retail square footage, then the new construction of the building could be redesigned in other areas such as elevators, restroom, walkway, etc. to recapture some of the lost square footage. In other words, the applicant has not sufficiently justified a finding the Planning Commission conditions are not feasible. Staff's determination is the conditions added by the Planning Commission are reasonable, while not unduly limiting the use of the property and provide for public benefit in the form of continuous bayside lateral access, consistent with other bayside development and consistent with the specific policy direction provided in the LCP.

Put in perspective, the City's 2008 Concept Plan approval looked at the project as a whole. However, in reviewing just Phase 2 singularly as a demolition/new construction of a commercial building, the lack of lateral access bayside of the new building is more apparent. Planning Commission's review of the project plans correctly identifies that lack of lateral access for this area of the project (Phase 2) and, thus, applied the condition to provide for lateral access consistent with the LCP.

View Corridors

The Waterfront Master Plan (WMP) Design Guidelines contain provisions for required view corridors. On page 5-1, view corridors are defined as "...open line[a]r spaces located ***between or adjacent to buildings*** affording views from the street, of the harbor, bay, sandspit and Morro Rock." (emphasis added). For lease sites of 50 feet in width or more, a minimum view corridor of 30% of lot width is required. The existing approved Concept Plan for the proposed project allowed for vertical view areas adjacent to the roof peak to be included toward the 30% view corridor as depicted in the view corridor example on page 5-14 of the WMP. When the Applicant revised the architectural style, there was a small increase in view corridor percentage based on that formula. The Planning Commission deliberated regarding the view corridor requirement and whether there was sufficient open linear space. Plan sheet A-11 shows the calculation. Given the past approvals, the Planning Commission made a finding for approval, because there is no reduction in measured width compared to the approved Concept Plan (see Exhibit B, page 3).

Pole Sign

As discussed in the Planning Commission staff report (page 8 of Exhibit C), the proposed project site contains an existing non-conforming pole sign for the Morro Bay Landing business. Based on the size

and scope of the redevelopment of the site and after review of the MBMC sign regulations, staff recommended to Planning Commission a condition of approval be added to remove the non-conforming pole sign, due to its inconsistency with the fishing village design character envisioned by the Waterfront Master Plan. The Planning Commission agreed with staff's recommendation.

Public Access Signage

Planning Commission conditions 8 and 9 were added to ensure the public is well aware of its right to public access given the fact the second floor public observation deck will be outside of the relocated Dockside 3 restaurant, as well as placing signage at stairwells. Also, siting of tables on the observation deck was conditioned to be placed away from the northern and western edge of the view deck to maintain its primary function as a viewing deck.

Applicant Correspondence Received August 2015

Since the May 19, 2015, Planning Commission (PC) meeting, City staff has had additional conversations with the Applicant regarding the recommended conditions made by the Planning Commission (Exhibit A). The Applicant has provided the City a letter dated August 15, 2015 (Exhibit H), which outlines the objections to the recommended conditions placed on the project at the May 19, 2015 PC meeting.

The letter also provides a history to the project approval which encompasses 22 City lease sites including three businesses: Morro Bay Landing, Harbor Hut and Great American Fish Company. In summary, the Applicant objects to Planning condition 3 (removal of pole sign); 6 & 7 (provide bayside lateral access); and 8 (siting of tables on second floor public view deck away from edge of view deck).

In regards to Planning condition 6 and 7, the requirement for bayside lateral access is clearly defined in the City's Local Coastal Plan (LCP) and was appropriately conditioned by Planning Commission to be consistent with the City's LCP. However in reviewing the Applicant's letter, the Applicant points out facts that were not available during Planning Commission's deliberation. Staff acknowledges given the recent lease site modification by City Council and recent new business opening of Southbay Wild, a fish processing business, the area to the north of Morro Bay Landing may not lend itself to continuous bayside pedestrian traffic. In fact, it likely makes more sense to route pedestrian traffic around the inland side of the fishing industry activities that take place in this area of the Embarcadero. Bayside access would move to the inland side of the fishing industry related activities, either along the existing driveway area or as part of some future walkway improvement. The new Southbay Wild business, which is Measure D-compliant, is consistent with the fish processing businesses immediately to the north (see figure below). The Applicant also points to the conditions contained within the Master Lease which incorporates the approvals of the Conditional Use Permit as approved on May 12, 2008.



Chapter 3 of the Waterfront Master Plan does state the need to “continue systematic efforts to obtain lateral access to the waterfront side of building and lease sites whenever development is proposed. However, the requirement for continuous lateral access along the waterfront from one site to another should be waived where...use conflicts would result.” As shown in the above image, a use conflict would present itself with pedestrian traffic on the bayside continuing north through the fish processing activities. That represents a logical point in which to route pedestrian access inland.

In regards to Planning condition 8, Planning Commission expressed concern tables used for seating on the second floor view deck would over time appear to be for the use of restaurant patrons only, which could potentially blocks views of visitors walking up to the second floor view deck. Given there may be visitors who would prefer to sit and enjoy the bay views, especially those of different age or ability levels, staff is supportive of a condition which maintains 50 percent of the view deck clear of tables and 50 percent to remain with the appropriate table sign cards announcing public access.

Lastly, the Applicant’s letter objects to Planning condition 3 which conditions removal of the non-conforming pole sign. As a Precise Plan approval, this project’s review is to include a detailed and substantial analysis on property which is also subject to the design guidelines contained in Chapter 5 of the Waterfront Master Plan. As discussed in the Planning Commission staff report and as stated earlier, the pole sign is clearly inconsistent with both the fishing village character of the waterfront, as well as inconsistent with the design of the proposed Morro Bay Landings building. Staff continues to recommend removal of the pole sign consistent with the Planning Commission suggested condition 3.

CONCLUSION

The proposed project, as presented as Phase 2 of Conditional Use Permit #UP0-058, is the last phase to be presented for discretionary approval by the City. Under the PD Overlay requirements found in

MBMC section 17.40.030, projects on lease sites are required to obtain Concept Plan approval followed by Precise Plan approval. Also under the PD Overlay requirement, modification of standards is permitted upon finding greater than normal public benefit may result such as improved or innovative design.

Due to CCC conditions, which required significant architectural design changes, the proposed project now requires approval to revise the Concept Plan consistent with CCC conditions, as well as final Precise Plan approval. The proposed project includes demolition and reconstruction of visitor-serving uses with provisions of new public access, which provides for maximum public benefit as well as visitor-serving development consistent with the City's General Plan/LCP/Zoning Ordinance and Waterfront Master Plan and the California Coastal Act.

As conditioned, the proposed project will be consistent with all applicable development standards of the Zoning Ordinance, including the Concept and Precise Plan requirements, the Waterfront Master Plan, and applicable provisions of the General Plan, Local Coastal Plan, and Zoning Ordinance. The Commercial/Recreational Fishing (CF) District is intended to "promote and accommodate both the commercial fishing industry and noncommercial recreational fishing activities in appropriate waterfront areas" and the proposed project advances that goal.

The Planning Commission has reviewed the revised Concept Plan/Precise Plan as well as the modifications made by the California Coastal Commission and have forwarded a favorable recommendation with added conditions for final approval by City Council. The attached Council resolution (No. 57-15) reflects the recommendation of the Planning Commission. Staff however recommends City Council revise Resolution 57-15, striking Planning conditions 6 & 7 related to lateral access and amending condition 8 to read as follows:

8. Siting of tables on the second floor public view deck shall be such that **50% of the view deck width (facing the bay) may have tables located adjacent to the railing with the remaining 50% of view deck width maintaining** eight (8') feet of clear area at all times. **All tables located on the public view deck shall include signage noting that the tables are for public use. The public access signage for the tables shall be submitted to the Planning Division for review and approval prior to issuance of a building permit.**

EXHIBITS

- A. City Council Resolution 57-15
- B. Planning Commission Resolution 17-15
- C. Planning Commission Staff Report, May 19, 2015 meeting
- D. Response from Applicant dated May 29, 2015
- E. Coastal Commission revised plans approved April 24, 2013
- F. Plans/ Plan Reductions dated December 22, 2014
- G. Response from Applicant dated June 8, 2015 regarding Planning Commission

- H. Applicant letter dated August 15, 2015
- I. Neighbor correspondence dated August 11, 2015

LINK DOCUMENTS

- 1. Coastal Development Permit Staff Report, 6/10/2009 Coastal Commission meeting
<http://documents.coastal.ca.gov/reports/2009/6/W7b-6-2009.pdf>

RESOLUTION NO. 57-15

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
TO APPROVE A REVISED CONCEPT PLAN/ PRECISE PLAN APPROVAL
FOR PHASE 2 OF CONDITIONAL USE PERMIT (UP0-058) FOR LANDSIDE
IMPROVEMENTS WHICH INCLUDE DEMOLITION OF EXISTING MORRO BAY
LANDING (VIRG'S) BUILDINGS AND EXISTING DOCKSIDE 3 RESTAURANT
BUILDING WITH NEW CONSTRUCTION OF A 2 STORY COMMERCIAL VISITOR-
SERVING BUILDING ALONG WITH OBSERVATION DECK, OUTDOOR SEATING
AREA, PUBLIC ACCESS IMPROVEMENTS AS WELL AS PARKING / DRIVEWAY
IMPROVEMENTS, AND CREATION OF A POCKET PARK**

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

WHEREAS, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on May 19, 2015, for the purpose of considering a revised Concept Plan/ Precise Plan approval of Conditional Use Permit #UP0-058 (the "Proposed Project") and adopted PC Resolution 17-15 to forward a favorable recommendation to the City Council for approval of revised Concept Plan/ Precise Plan approval; and

WHEREAS, the City Council conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on August 25, 2015, pursuant to the Planned Development regulations (Morro Bay Municipal Code (MBMC) section 17.40.030), for the purpose of considering the Proposed Project for 1215 Embarcadero Road, also known as land lease site 124W, 125W, 126W, 127W, 128W (APN #066-351-012, 013, 014, 015) in an area within the original jurisdiction of the California Coastal Commission; and

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

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

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

Section 1: Findings. Based upon all the written and oral testimony and evidence presented to the Council at and for the above public hearing, the City Council makes the following findings:

California Environmental Quality Act (CEQA)

1. For purposes of the California Environmental Quality Act, a Mitigated Negative Declaration (MND) has been prepared for the Proposed Project, based upon potentially significant impacts to Aesthetics, Air Quality, Biological Resources, Geology/Soils, Hazards/Hazardous Materials, Hydrology, Land Use and Planning, Noise, Transportation. Any impacts associated with the Proposed Development will be brought to a less than significant level through the mitigation measures described in the MND.
2. An MND was adopted on May 12, 2008 (SCH# 2007091057). This approval is to allow for the implementation of the Proposed Project. An analysis has been performed pursuant to CEQA Guidelines § 15162 to determine whether subsequent environmental review is required for the Proposed Project. Based upon this analysis, none of the circumstances set forth in CEQA Guidelines § 15162 have occurred which would require subsequent environmental review.

Conditional Use Permit Findings

1. The Proposed Project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the landside improvements which include demolition of three buildings and construction of a new two story commercial building to include the replacement restaurant for the Dockside 3 restaurant are permitted uses within the zoning district and said structures comply with all applicable project conditions and City regulations. The City's past concept plan approval of Proposed Project on May 12, 2008, found the replacement of the Dockside 3 restaurant (formerly known as Thai Boat) does not conflict with Measure D's intent. In addition, public benefits are provided to offset the exceptions granted, including, but not limited to, provision of a small pocket park, public observation decks and outdoor seating areas, public restrooms, extension of the Harborwalk pedestrian path and increased vertical access and lateral access. Revisions to the Concept Plan for the Proposed Project, as conditioned by the California Coastal Commission, have been reviewed and evaluated and found to be consistent with the City's Local Coastal Program.
2. The Proposed Project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the overall master plan for the Proposed Project and the landside improvements to demolish 3 existing buildings and construct a new two-story commercial building with public access consistent with the zone designation will provide additional public benefits.

Waterfront Master Plan Findings

The Proposed Project makes a positive contribution to the visual and public accessibility to the bay while increasing and maintaining commercial fishing industry and not increasing restaurants:

1. It meets the Waterfront Plan height limit and maximum building coverage, bulk, and scale requirements in that the proposed project offsets these standards by increasing public benefits.
2. In the case of granting height greater than 17 feet, the Proposed Project also provides significant public benefit pursuant to the Planned Development Overlay zone requirements in that the Proposed Project provides vertical access and creates a public view deck, provides view corridors, and includes public restrooms.
3. The Proposed Project provides the amenities identified in the Waterfront Master Plan, facilitates pedestrian visual and physical access to the waterfront, and takes advantage of outward views and characteristics of the topography in that the roof elements were altered to allow for better bay views.
4. The Proposed Project makes a positive contribution to the working fishing village character and quality of the Embarcadero area in that it will add to the pedestrian orientation while maintaining the commercial fishing operations.
5. The Proposed Project design recognizes the pedestrian orientation of the Embarcadero and provides an interesting and varied frontage that will enhance the pedestrian experience in the Proposed Project will provide vertical and lateral public access to the water and docks while assisting in the Harborwalk plan to continue public access along the waterfront.
6. The Proposed Project gives its occupants and the public some variety in materials and application in that a portion of the new building will be single-story and a portion will be two-story and consist of hardi-plank siding and metal roofing.
7. The Proposed Project contains the elements of harmony, continuity, proportion, simplicity, and balance, and its appearance matches its function and the uses proposed in that the new structure will provide more horizontal and vertical articulation, and the public will be invited into the space via a new public view deck.
8. The Proposed Project does not diminish, either directly or by cumulative impact of several similar projects, the use, enjoyment, or attractiveness of adjacent buildings and provides a visual and pedestrian transition to its immediate neighbor in that the existing and new construction is in keeping with the architectural style, massing, materials, scale, and use of its surroundings.
9. The Proposed Project's view corridors are not adequate to meet the requirements for new construction, but may be approved because there is no reduction in measured width compared to the Proposed Project's approved Concept Plan, which is considered to be the existing condition.

Precise Plan Finding

The City Council finds it accepts the Proposed Project's revised Concept Plan as recommended by Planning Commission and further finds the Proposed Project's Precise Plan is in substantial conformance with the revised Concept Plan.

Architectural Consideration Finding

The City Council finds the architectural treatment and general appearance of all buildings, structures and open areas of the Proposed Project are in keeping with the character of the surrounding waterfront area, are compatible with the Waterfront Master Plan design theme adopted by the City, and are not detrimental to the orderly and harmonious development; of the City or to the desirability of investment of occupation in the area.

Section 2. Action. The City Council does hereby approve Conditional Use Permit #UP0-058 subject to the following conditions:

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report dated June 3, 2015, for the project at 1215 Embarcadero depicted on plans dated December 22, 2014, on file with the Community Development Department, as modified by these conditions of approval, and more specifically described as follows: Site development, including all buildings and other features, shall be located and designed substantially as shown on City Council approved plans submitted for UP0-058, unless otherwise specified herein.
2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this Resolution and is diligently pursued, thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Any extension may be granted by the City's Community Development Manager (the "CDM") upon finding the project complies with all applicable provisions of the MBMC, General Plan and certified Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. Changes: Minor changes to the project description and conditions of approval shall be subject to review and approval by the CDM. Any changes to this approved permit determined, by the CDM, not to be minor shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, the City, and any other governmental entity shall be complied with in the exercise of this approval, (b) This project shall meet all applicable

requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan for the City.

5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. Applicant understands and acknowledges the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the CDM or as authorized by the Planning Commission or City Council. Failure to comply with any of these conditions shall render this entitlement, at the discretion of the CDM, null and void. Continuation of the use without a valid entitlement will constitute a violation of the MBMC and is a misdemeanor.
7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan of the City.
8. Conditions of Approval: The Findings and Conditions of Approval shall be included as a full-size sheet in the Building Plans.

Building Conditions:

Prior to construction, the applicant shall submit a complete building permit application and obtain all required building permits.

Fire Conditions:

1. Sheet A-1. Address identification. New and existing buildings shall have approved address numbers or building numbers placed in a position to be plainly legible from the street or road fronting the property (CFC 505). Provide approved address numbers 4 inches high with ½ inch stroke in contrasting numbers.
2. Sheet A-2. Existing Marine Shop. This structure was constructed in 2006 and a condition of approval was the requirement that the structure and wharf below, be protected with automatic fire sprinklers, in accordance with MBMC section 14.60.200, CFC 903 and NFPA 13. The

past owner and Harbor Lease Holder defaulted on City and CFC requirements, the structure was Red Tagged and remained vacant and unused for at least 2 years.

In an effort to revitalize the “working harbor” and put the structure to good use, Morro Bay Harbor, Building and Fire Departments negotiated with potential occupants to impose strict limitation, by way of an occupancy assignment to “U” (utility group) and permit its use, without required sprinkler protection, until the existing Morro Bay Landing (Virg’s) building is replaced, pursuant to the Harbor Master Plan and on-shore lease improvements.

3. As result of MBMC, Fire Code, and Harbor Master Plan on-shore improvements (UPO-058), applicant shall provide automatic fire sprinkler protection of the Utility Building and wharf below as a “Precise Plan Condition of Approval.”

Public Works Conditions:

1. The Site Plan must show the wheel path of travel (turning radius) for the WB62 truck to confirm that the design vehicle can successfully negotiation this curve.
2. Show all specific public improvements including driveway entrance and median modifications on Embarcadero Road and within the adjoining parking lot that will be provided to satisfy recommendations of the OEG Traffic Study.
3. Add a note to the plans specifying the filter system for the new drain (drop inlet) as a FloGard +PLUS Model FGP-24F manufactured by Kristar Enterprises to be installed per manufacturer recommendations. Provide an operation & maintenance plan to assure that the inlet is properly maintained.
4. Note how the public will be protected/screened from work areas of the wharf. Commonly accepted CALOSHA work practices include temporary physical barriers, such as a scissor gate, that will momentarily segregate the public from the swing arc of the existing hoist.
5. WEU offset requirements
New water allocations requested shall be offset on a two-to-one basis (or 440 gallons per day) by providing retrofits to existing uses or providing non-required water savings features for new development that is seeking water allocation. The project will need to determine how many WEUs the development will need to offset. Retrofits are approved by the Public Works Director and may include the following water savings best management practices:
 - a. Irrigation retrofits
 - b. Waterless urinals
 - c. Waterless toilets
 - d. Ultra-Low flow toilets
 - e. Lawn/Landscape replacement

- f. Grey water system installation in new construction
- g. Installation of rainwater recovery system
- h. Other water savings best management practices as approved by the Public Works Director
- i. Payment of an “In-Lieu” fee program of \$2,900 **per** Water Equivalency Units (WEU).

Harbor Department Conditions:

1. Applicant shall request in writing to the City to adjust the lease lines at the appropriate time prior to issuance of a building permit.
2. Clean Marina BMP's: Applicant is encouraged to berm trash and recycling areas to prevent leaks from entering waterways. Applicant has indicated on sheet A-14 they will comply with this containment BMP, which if bermed correctly, should not impede rolling of trash bins over the berm and out of the enclosure.

Planning Conditions:

1. A Coastal Development Permit shall be submitted to the Community Development Department prior to issuance of a building permit.
2. All conditions imposed with the Concept Plan approval of UP0-058, as approved by the City Council on May 12, 2008, and any modifications to the project approved by the City subsequent to that date not inconsistent with this Resolution or any future modifications to the subject CUP shall remain in full force and effect.
3. Applicant shall remove the non-conforming pole sign.
4. Height Certification: Prior to foundation inspection, a licensed land surveyor shall measure and inspect the foundation and submit a letter to the CDM certifying that the tops of the foundation is in compliance with the finish floor elevations and setbacks as shown on approved plans. Prior to either roof nail or framing inspection, a licensed surveyor shall measure the height of the structure and submit a letter to the CDM, certifying the height of the structure is in accordance with the approved set of plans and complies with the height requirements of MBMC section 17.12.310.
5. Inspection: The applicant shall comply with all Planning conditions listed above and obtain a final inspection from the Planning Division at the necessary time in order to ensure all conditions have been met.
6. Continuous bayside lateral access, a minimum of eight feet in width, shall be designed and shown on revised plans in a manner that connects with the lease sites to the north and south of the proposed project.

7. The applicant shall provide a bayside lateral access design that would allow connection to any future lateral bayside access improvements incorporated into future redevelopment of the Harbor Hut lease site. The design shall address feasibility of providing such a connection to the satisfaction of the CDM.
8. Siting of tables on the second floor public view deck shall be such that eight (8') feet of clear area is maintained, at all times, between the tables and the northern and western edge of the view deck.
9. Signs announcing public coastal access shall be placed on or adjacent to the elevator and at the bottom of the staircase leading to the second floor view deck.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 25th day of August, 2015 on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST

DANA SWANSON, City Clerk

EXHIBIT B of 8/25/15 Council staff report

RESOLUTION NO. PC 17-15

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION FORWARDING A FAVORABLE RECOMMENDATION TO THE MORRO BAY CITY COUNCIL FOR A REVISED CONCEPT PLAN/ PRECISE PLAN APPROVAL FOR PHASE 2 OF CONDITIONAL USE PERMIT (UP0-058) FOR LANDSIDE IMPROVEMENTS WHICH INCLUDE DEMOLITION OF EXISTING MORRO BAY LANDING (VIRG'S) BUILDINGS AND EXISTING DOCKSIDE 3 RESTAURANT BUILDING WITH NEW CONSTRUCTION OF A 2 STORY COMMERCIAL VISITOR-SERVING BUILDING ALONG WITH OBSERVATION DECK, OUTDOOR SEATING AREA, PUBLIC ACCESS IMPROVEMENTS AS WELL AS PARKING/ DRIVEWAY IMPROVEMENTS, AND CREATION OF A POCKET PARK.

WHEREAS, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on May 19, 2015, for the purpose of considering a revised Concept Plan/ Precise Plan approval of Conditional Use Permit #UP0-058; and

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

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

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

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

California Environmental Quality Act (CEQA)

- A. That for purposes of the California Environmental Quality Act, Case No. UP0-058 is subject to a Mitigated Negative Declaration based upon potentially significant impacts to Aesthetics, Air Quality, Biological Resources, Geology/Soils, Hazards/Hazardous Materials, Hydrology, Land Use and Planning, Noise, Transportation. Any impacts associated with the proposed development will be brought to a less than significant level through the Mitigated Negative Declaration (MND). A MND was adopted on May 12, 2008. (SCH# 2007091057).
- B. A MND was adopted on May 12, 2008. This approval is to implement that project. An analysis has been performed pursuant to CEQA Guidelines § 15162 to determine whether subsequent environmental review is required for UP0-342. Based upon this

EXHIBIT B of 8/25/15 Council staff report

analysis, none of the circumstances set forth in CEQA Guidelines § 15162 have occurred which would require subsequent environmental review

Conditional Use Permit Findings

- A. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the landside improvements which include demolition of three buildings and construction of a new two story commercial building to include the replacement restaurant for the Dockside 3 restaurant are permitted uses within the zoning district and said structures complies with all applicable project conditions and City regulations. The City's past concept plan approval of UP0-058 on May 12, 2008 found that the replacement of the Dockside 3 restaurant (formerly known as Thai Boat) does not conflict with Measure D's intent. In addition, public benefits are provided to offset the exceptions granted, including but not limited to provision of a small pocket park, public observation decks and outdoor seating areas, public restrooms, extension of the Harborwalk pedestrian path and increased vertical access and lateral access. Revisions to the Concept Plan as conditioned by the California Coastal Commission have been reviewed and evaluation and found to be consistent with the City's Local Coastal Program.
- B. The project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the overall masterplan project and the landside improvements to demolish 3 existing buildings and construct a new two story commercial building consistent with the zone designation will provide additional public benefits.

Waterfront Master Plan Findings

- A. The proposed project makes a positive contribution to the visual and public accessibility to the bay while increasing and maintaining commercial fishing industry and not increasing restaurants:
 - a. Meets the Waterfront plan height limit and maximum building coverage, bulk, and scale requirements in that the proposed project offsets these standards by increasing public benefits.
 - b. In the case of granting height greater than 17 feet, the proposed project also provides significant public benefit pursuant to the Planned Development Overlay zone requirements in that the proposed project is widening the sidewalk and creating a public view deck, providing view corridors, and including public restrooms.
 - c. The proposed project provides the amenities identified in the WF Plan, facilitates pedestrian visual and physical access to the waterfront, and takes advantage of outward views and characteristics of the topography in that the roof elements were altered to allow for better bay views.

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- d. The proposed project makes a positive contribution to the working fishing village character and quality of the Embarcadero area in that the new project will add to the pedestrian orientation while maintaining the commercial fishing operations.
- e. The design recognizes the pedestrian orientation of the Embarcadero and provides an interesting and varied frontage that will enhance the pedestrian experience in that the project will provide lateral public access to the water and docks while assisting in the Harborwalk plan to continue public access along the waterfront.
- f. The project gives its occupants and the public some variety in materials and/or application in that the building will consist of stucco and metal roofing, while outdoor market will be wood.
- g. The project contains the elements of harmony, continuity, proportion, simplicity, and balance, and its appearance matches its function and the uses proposed in that the new structure will provide more horizontal and vertical articulation, and the public will be invited into the space via a new public view deck.
- h. The proposed project does not diminish, either directly or by cumulative impact of several similar projects, the use, enjoyment, or attractiveness of adjacent buildings and provides a visual and pedestrian transition to its immediate neighbor in that the existing and new construction is in keeping with the architectural style, massing, materials, scale, and use of its surroundings.

Additional finding made by Planning Commission on May 19, 2015

- i. The proposed project's view corridors are not adequate to meet the requirements for new construction but may be approved because there is no reduction in measured width compared to the approved Concept Plan which is considered to be the existing condition.*

Architectural Consideration

- A. As required by Ordinance Section 17.48.200 the Planning Commission find that the architectural treatment and general appearance of all proposed buildings, structures and open areas are in keeping with the character of the surrounding areas, are compatible with any design themes adopted by the city, and are not detrimental to the orderly and harmonious development; of the city or to the desirability of investment of occupation in the area.

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Section 2. Action. The Planning Commission does hereby approve Conditional Use Permit #UP0-058 subject to the following conditions:

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report dated May 14, 2015, for the project at 1215 Embarcadero depicted on plans dated December 22, 2014, on file with the Community Development Department, as modified by these conditions of approval, and more specifically described as follows: Site development, including all buildings and other features, shall be located and designed substantially as shown on Planning Commission approved plans submitted for UP0-058, unless otherwise specified herein.
2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this Resolution and is diligently pursued, thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Any extension may be granted by the City's Community Development Manager (the "Director"), upon finding the project complies with all applicable provisions of the Morro Bay Municipal Code (the "MBMC"), General Plan and certified Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Community Development Manager. Any changes to this approved permit determined, by the Director, not to be minor shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, the City, and any other governmental entity shall be complied with in the exercise of this approval, (b) This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan for the City.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. Applicant understands and acknowledges the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be

EXHIBIT B of 8/25/15 Council staff report

required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Director or as authorized by the Planning Commission. Failure to comply with any of these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the MBMC and is a misdemeanor.

7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan of the City.
8. Conditions of Approval: The Findings and Conditions of Approval shall be included as a full-size sheet in the Building Plans.

Building Conditions:

1. Prior to construction, the applicant shall submit a complete building permit application and obtain the required building permit.

Fire Conditions:

1. Sheet A-1. Address identification. New and existing buildings shall have approved address numbers or building numbers placed in a position to be plainly legible from the street or road fronting the property (CFC 505). Provide approved address numbers 4 inches high with ½ inch stroke in contrasting numbers.
2. Sheet A-2. Existing Marine Shop. This structure was constructed in 2006 and a condition of approval was the requirement that the structure and wharf below, be protected with automatic fire sprinklers, in accordance with Morro Bay Municipal Code (Section 14.60.200), CFC 903 and NFPA 13. The past owner and Harbor Lease Holder defaulted on City and CFC requirement, the structure was Red Tagged and remained vacant and unused for at least 2 years.

In an effort to revitalize our “working harbor” and put the structure to good use, Morro Bay Harbor, Building and Fire Departments, negotiated with potential occupants to impose strict limitation, by way of an occupancy assignment to “U” (utility group) and permit its use, without required sprinkler protection, until the existing Virg’s building is replaced, pursuant to the Harbor Master Plan and on-shore lease improvements.

3. As result of Municipal Code, Fire Code, and Harbor Master Plan on-shore improvements (UPO-058), applicant shall provide automatic fire sprinkler protection of the Utility Building and wharf below as a “Precise Plan Condition of Approval”.

EXHIBIT B of 8/25/15 Council staff report

Public Works Conditions:

1. The Site Plan must show the wheel path of travel (turning radius) for the WB62 truck to confirm that the design vehicle can successfully negotiation this curve.
2. Show all specific public improvements including driveway entrance and median modifications on Embarcadero Road and within the adjoining parking lot that will be provided to satisfy recommendations of the OEG Traffic Study.
3. Add a note to the plans specifying the filter system for the new drain (drop inlet) as a FloGard +PLUS Model FGP-24F manufactured by Kristar Enterprises to be installed per manufacturer recommendations. Provide a operation & maintenance plan to assure that the inlet is properly maintained.
4. Note how the public will be protected/ screened from work areas of the wharf. Commonly accepted CALOSHA work practices include temporary physical barriers such, as a scissor gate, that will momentarily segregate the public from the swing arc of the existing hoist.
5. WEU offset requirements
New water allocations requested shall be offset on a two-to-one basis (or 440 gallons per day) by providing retrofits to existing uses or providing non-required water savings features for new development that is seeking water allocation. The project will need to determine how many WEUs the development will need to offset. Retrofits are approved by the Public Works Director and may include the following water savings best management practices:
 - a. Irrigation retrofits
 - b. Waterless urinals
 - c. Waterless toilets
 - d. Ultra-Low flow toilets
 - e. Lawn/Landscape replacement
 - f. Grey water system installation in new construction
 - g. Installation of rainwater recovery system
 - h. Other water savings best management practices as approved by the Public Services Director
 - i. Payment of an “In-Lieu” fee program of \$2,900 **per** Water Equivalency Units (WEU).

Harbor Department Conditions:

1. Applicant shall request in writing to the City to adjust the lease lines at the appropriate time.

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2. Clean Marina BMP's: Applicant is encouraged to berm trash and recycling areas to prevent leaks from entering waterways. Applicant has indicated on sheet A-14 they will comply with this containment BMP, which if bermed correctly should not impede rolling of trash bins over the berm and out of the enclosure.

Planning Conditions:

1. A Coastal Development Permit shall be submitted to the Community Development Department prior to issuance of a building permit.
2. All conditions imposed with the Concept Plan approval of UP0-058 as approved by the City Council on May 12, 2008 and any subsequent City approved modifications to the conditional use permit shall remain in full force and effect.
3. Applicant shall remove the non-conforming pole sign.
4. Height Certification: Prior to foundation inspection, a licensed land surveyor shall measure and inspect the foundation and submit a letter to the City Community Development Manager certifying that the tops of the foundation is in compliance with the finish floor elevations and setbacks as shown on approved plans. Prior to either roof nail or framing inspection a licensed surveyor shall measure the height of the structure and submit a letter to the Community Development Manager, certifying that the height of the structure is in accordance with the approved set of plans and complies with the height requirements of the Morro Bay, Municipal Code Section 17.12.310.
5. Inspection: The applicant shall comply with all Planning conditions listed above and obtain a final inspection from the Planning Division at the necessary time in order to ensure all conditions have been met.

Additional conditions added by Planning Commission on May 19, 2015

6. ***Continuous bayside lateral access, a minimum of eight feet in width, shall be designed and shown on revised plans in a manner that connects with the lease sites to the north and south of the proposed project.***
7. ***The applicant shall provide a bayside lateral access design that would allow connection to any future lateral bayside access improvements incorporated into future redevelopment of the Harbor Hut lease site. The design shall address feasibility of providing such a connection to the satisfaction of the Community Development Manager.***
8. ***Siting of tables on the second floor public view deck shall be such that eight (8') feet of clear area is maintained between the tables and the northern and western edge of the view deck.***

EXHIBIT B of 8/25/15 Council staff report

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Revised Concept Plan/ Precise Plan for UP0-058
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9. *Signs announcing public coastal access shall be placed on or adjacent to the elevator and at the bottom of the staircase leading to the second floor view deck.*

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 19th day of May, 2015 on the following vote:

AYES: 5-0

NOES:

ABSENT:

ABSTAIN:



Robert Tefft, Chairperson

ATTEST



Scot Graham, Planning Secretary

The foregoing resolution was passed and adopted this 19th day of May, 2015.

EXHIBIT C of 8/25/15 Council staff report



AGENDA NO: B-3

MEETING DATE: May 19, 2015

Staff Report

TO: Planning Commissioners

DATE: May 14, 2015

FROM: Cindy Jacinth, Associate Planner

SUBJECT: Precise Plan approval with revisions to Concept Plan of Conditional Use Permit #UP0-058 for landside improvements (Phase 2) associated with the previously approved concept plan for Harbor Hut, Great American Fish Company (GAFCO) and Morro Bay Landings (formerly known as Virg's) Redevelopment Project. Phase 2 improvements will include demolition of existing Morro Bay Landing (Virg's) buildings and existing Dockside 3 restaurant building with new construction of a 2 story commercial visitor-serving building along with observation deck, outdoor seating area, public access improvements as well as parking/ driveway improvements, and 568sf pocket park.

RECOMMENDATION:

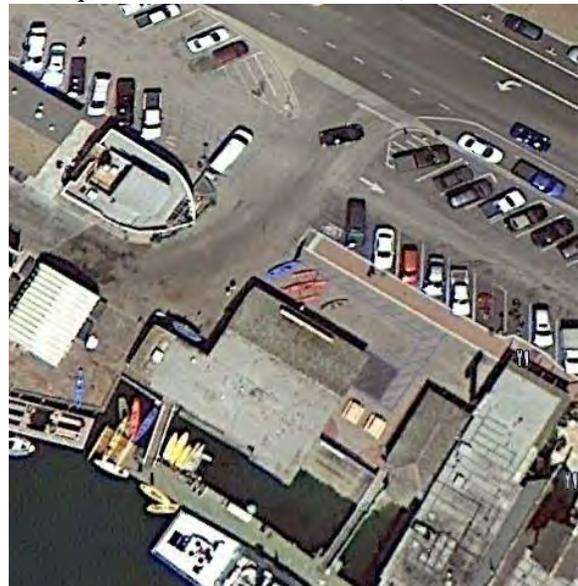
Adopt Planning Commission Resolution 17-15 which includes the Findings and Conditions of Approval for the project depicted on site development plans dated December 22, 2014.

APPLICANT/AGENT: Bob Fowler, M.M.B.S
/ Cathy Novak Consulting, Agent

LEGAL DESCRIPTION/APN: 1215 Embarcadero Road, immediately northwest of the intersection of Harbor Street and Embarcadero Road. Also known as land lease site 124W, 125W, 126W, 127W, 128W. APN #066-351-012,013,014,015

PROJECT LOCATION:

The project is located at 1215 Embarcadero Road, west of the (across the street) Dynegy power plant and also south of the North T-pier. The project site is currently developed with businesses such as Morro Bay Landings (formerly occupied by Virg's Tackle Shop) and Dockside 3 restaurant (formerly occupied by Thai Boat restaurant). The area of the landside



Prepared By: __CJ__

Department Review: _____

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improvements covers lease sites 125-127 (Morro Bay Landing); lease site 128 (Dockside 3 restaurant; lease site 124 (small storage shed building). The pocket park would be constructed at lease site 128 which would also reconfigure the existing driveway to make the access safer for large vehicles and commercial delivery trucks.

PROJECT SUMMARY:

The Applicant is requesting Precise Plan approval for Phase 2 (landside improvements only) of a previously approved Conditional Use Permit (UP0-058). The Precise Plan addresses only the landside improvements which include demolition of three visitor-serving buildings and reconstruction of a one to two story commercial visitor-serving building which includes ground floor retail and second floor restaurant along with observation deck, outdoor seating area, and public access improvements as well as parking/driveway realignment, public restrooms and creation of a small pocket park.

As conditioned by the California Coastal Commission, architectural changes have been made to the proposed buildings that will require modification to the approved Concept Plan of UP0-058. Planning Commission shall review the proposed Precise Plan and revised Concept Plan and make the necessary findings and favorable recommendation to be forwarded to City Council for final approval.

COASTAL DEVELOPMENT PERMIT:

The project is within the original jurisdiction of the California Coastal Commission (CCC) which has authority for issuance of a Coastal Development Permit (CDP). A public hearing was held for the overall project on June 10, 2009 (CDP#3-08-025) with the Coastal Development Permit amended on November 15, 2012 (CDP #3-08-025A1). The Notice of Intent to Issue Amended CDP dated November 30, 2012 conditions of approval are attached to the plans as plan sheet A-16. Receipt of a signed Coastal Development Permit is required prior to issuance of a building permit (see Planning condition 1). The CDP associated with this conditional use permit (CUP) was issued by the CCC for the water side improvements only. This project represents the landside improvements associated with the CUP for which the CCC will issue a separate CDP after it completes its required compliance review.

BACKGROUND:

The goal of the project is an attempt to master plan 22 City lease sites to bring together a sizeable section of the City's northern waterfront area. Three long-term prominent businesses, Virg's Harbor Hut and Great American Fish Company submitted an application in 2007 for a conditional use permit with the goal to create a design that will promote the City's long term vision for melding water dependent uses, recreational uses and visitor serving needs, along with supporting the working waterfront, existing businesses and offer new public benefits that are consistent with goals and programs identified in the City's Waterfront Master Plan.

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This conditional use permit was first approved by the Planning Commission and City Council over a series of public meetings in 2007 and 2008 (see summary table below). Approval to phase the project was included in the Concept Plan (See Exhibit D).

<u>Approval History (#UP0-058)</u>		
Concept Plan review & recommendation to City Council	Planning Commission	11/5/2007 & 1/22/2007
Concept Plan approval and adoption of MND	City Council	3/24/2008, 4/28/2008 & 5/12/2008
Coastal Commission CDP hearing		6/10/2009
Precise Plan approval Phase 1 - Waterside	Planning Commission	6/21/2010

Phase 1 of the project represented all waterside improvements and Planning Commission approved the Precise Plan permit for this phase on June 21, 2010. Of the components included in Phase 1, the project was phased to accommodate dock construction by the different business owners. Phase 1A docks were constructed and finalized by the City in 2014. Phase 1B docks are currently in building permit review.

PROJECT DESCRIPTION:

The City received the Applicant's Precise Plan application for Phase 2 of the CUP in October 2014. The project description is detailed below in three main components followed by a discussion of Coastal Commission changes to the project which will require approval by the City of a revised Concept Plan.

Demolition/Reconstruction:

The Applicant proposes demolition of 3 buildings: the existing Morro Bay Landing (“Virgs”) buildings, existing Dockside 3 (“Thai Boat”) restaurant and equipment shed associated with the Morro Bay Landings business. A new 7,286sf commercial visitor-serving retail building is proposed to be constructed, a portion of which will be one story, 17 feet in height and a portion proposed as two story which will be 24 feet 10 inches in height. The new commercial building will include observation deck, outdoor seating area, and public restrooms. The existing restaurant, Dockside 3, will be relocated to the second floor of this new building. The first floor will be 4,726sf with 2,214sf of public open space to include a 700 sf observation deck. The retail uses of the first floor of the building will be a sportfishing tackle shop; marine related retail shop/charter boat service, along with elevator and public restrooms.

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The second floor of the building will be 2,560 sf which will include the relocated Dockside 3 restaurant (952sf), a small office space of 128sf for marine related business only, along with a public viewing deck and outdoor seating and area for elevator and stairs. The size of the restaurant reflects the City's condition at concept plan approval that the relocated restaurant be no larger than the existing 952 sf in order to ensure Measure D consistency where restaurant uses cannot be expanded.

Parking/ Driveway Realignment:

Demolition of the Dockside 3 restaurant building will facilitate realignment of the commercial fishing dock access driveway and re-striping of the adjacent public parking lot to satisfy the increase in parking requirement (3 additional spaces) necessitated by the increase in vessel demand (i.e. additional boat spaces). The existing drive will be shifted northward in order to accommodate Trucking Standards W62 as shown on site plan page A-6. The wider driveway will enable greater access for delivery trucks in support of on/off loading of commercial fishing operations. The project does not involve any new land-based retail or visitor-serving uses beyond that which exists and in fact is smaller than originally approved.

Public access benefit:

Public benefit from this project will be in the form of new public recreational access opportunities by expanding and tying together the existing network of floating docks and allowing public access to 590 linear feet of Bay waters during daylight hours. The project is conditioned to allow public access year round during daylight hours for the life of the development. Vertical access to the docks is through connections at the north and south end of the dock. In addition, public access includes the provision of a small 568sf pocket park, observation decks, outdoor seating areas, and public restrooms and a relocated gangway in order to accommodate the new development. In addition to both bayward lateral and vertical access, the project also includes landward public access in the form of the Harborwalk pedestrian path. Plans show an extension of the Harborwalk in front of the existing Morro Bay Landing building. This area of the Harborwalk will be extended to the north upon realignment of the driveway access. In addition, the CUP includes a condition (Public Works condition 20) that the Applicant reimburse the City its pro-rata share of the Harborwalk improvements for the area along the frontage of the lease site. In order to ensure maximum public access opportunities, Coastal Commission has added conditions to eliminate obstructions to public access (i.e. tables, wind screens, planters, etc.) and facilitate maximum public use of these areas. Also, that the glass wind screen proposed for the second floor observation and view deck be relocated to the perimeter of the deck and also that coastal access signs be posted and maintained in perpetuity with public access to be open and available year round during daylight hours and non-daylight hours when the project's retail uses are open. (See Coastal Special Conditions 1b, 2c-g).

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Coastal Commission changes to Concept Plan:

During the Coastal Commission's review of the project when it went to public hearing on approval in 2009 and then again when it was amended in 2013 (minor amendment), CCC required various conditions on the project. These conditions made changes to the City's approval of the Concept Plan CUP that now require City to review, revise and incorporate plans changes as a revised Concept Plan combined with the Precise Plan approval.

Most notably, Coastal conditioned changes to the building's architectural style. Originally, the City's approval of the Concept Plan was that of a modern design as shown on plan sheet A-4. The condition of approval from CCC was that "...the design and appearance of the building shall be modified to reflect a working dock, nautical/maritime theme (i.e. simple and utilitarian lines and materials, including use of board and bats, corrugated metal, brick, etc.) The plans shall clearly identify all measures that will be applied to ensure such design aesthetic is achieved, including with respect to all structures and all other project elements within the public view (e.g. walkways, paved areas, railings, benches, tables, chairs, lighting, signs, landscaping, etc.). At a minimum, the plans shall clearly identify all structural elements, materials, and finishes..."

Consistent with this direction from Coastal Commission, the Applicant has revised plans to incorporate a maritime theme that reflects the structural elements of pilings and heavy timber used in pier and wharf construction as well as curved laminated beams that mimic the flow of the water and the graceful lines of our boats.

Plan sheet A-1 also identifies other smaller changes to the project which resulted from conditions by Coastal Commission. In summary, these changes include a smaller building in overall square footage from 6,004sf to 4,726sf on the first floor, smaller office from 590sf to 128sf on the second floor, larger open view decking and smaller public space on the first floor. The view deck as approved extended westward beyond the existing building line, but as modified the building will now be within the existing building line on the west side. The pocket park has also been reduced in size from 760sf to 568sf to fit within the lease lines.

PROJECT SETTING:

<u>Adjacent Zoning/Land Use</u>			
North:	(CF, PD) / Visitor-serving uses (Restaurant)	South	(CF, PD) / Visitor-serving uses
East:	(M-2, PD, I) / Industrial use (Power Plant)	West:	Harbor and navigable ways (H)

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Site Characteristics	
Overall Site Area	45,887sf
Existing Use	Visitor-serving
Terrain	Paved surface, gentle slope to bay
Vegetation/Wildlife	None to minimal
Access	Existing building entrances is from Embarcadero Road via existing parking lot
Archaeological Resources	None known

General Plan, Zoning Ordinance & Local Coastal Plan Designations	
General Plan/Coastal Plan Land Use Designation	Commercial/ Recreational Fishing
Base Zone District	Commercial / Recreation Fishing (CF District)
Zoning Overlay District	Planned Development Overlay
Special Treatment Area	n/a
Combining District	n/a
Specific Plan Area	n/a
Coastal Zone	Yes, Original Jurisdiction; Coastal Commission responsible for Coastal Development Permit

PROJECT ANALYSIS:

Waterfront Master Plan

The proposal is within the Waterfront Master Plan and is within Planning Area 2: T-Piers/Fisherman Working Area. This includes the area from the Dynegy energy intake building to the Embarcadero Road/Beach Street intersection. This area is primarily devoted to the working fishing boats and shoreside support. There is also a few restaurants and series of parking lots. To the east, the area is visually dominated by the now-closed Dynegy power plant. The proposed project contains many of the elements requested in Area 2 proposals, including observation areas and signage, provision of lateral access and extension of the Harbor Walk, and pedestrian amenities in this portion of the Embarcadero. View corridors as required by the Waterfront Master Plan have been increased, from 44% to 46.8% as shown in detail on page A-11.

General Plan/Local Coastal Plan/ Zoning Ordinance consistency

The property is zoned CF/PD as a commercial/recreational fishing land use designation. The

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purpose of the CF district is to promote and accommodate both the commercial fishing industry and noncommercial recreational fishing activities in appropriate waterfront areas. The property's zoning also includes the Planned Development (PD) overlay.

The Planning Commission must review the project for consistency with the General Plan, Local Coastal Plan, and Waterfront Master Plan. The proposed project is located between the shore and the nearest public road therefore consistency with public access and recreation policies of Chapter 3 of the California Coastal Act is required.

Planned Development (PD) overlay

Pursuant to chapter 17.40, section 17.40.030, Planned Development, (PD) overlay zone, of the Zoning Code after concept plan approval, projects are required to seek precise plan approval from Planning Commission as the final step prior to application for building permit.

However, because Coastal Commission conditions significantly changed the architectural design of the proposed building, Planning Commission would be unable to make the finding as required that the Precise Plan substantially conforms to the Concept Plan. The Applicant has submitted an application with plans that delineates the revisions to the Concept Plan approval so that Planning Commission may review the revised Concept Plan/Precise Plan and make findings to forward a favorable recommendation to the City Council for approval.

As part of the precise plan submittal, the Applicant has submitted plans which further detail lighting, design and other detail specifications. Photo simulations depicting existing and proposed views from both the floating docks and Embarcadero are shown on plan sheet A-1. Elevations of the proposed commercial building are shown on sheet A-8. The original approved building is shown on sheet A-4 with a markedly different design. The modern design has been replaced with a design meant to reflect a working dock, nautical/maritime theme as conditioned by Coastal Commission. (Special Condition 1a).

A public access management plan is included as plan sheet A-12 which shows public access locations. Vertical access will be along the north and south end of the commercial building with a 18 foot wide corridor along the north end and 17 foot corridor along the south. Other public amenities include the pocket park, and the second floor view deck. Coastal access signs will be placed indicating open access to the public.

The proposed color for the exterior hardi-plank siding is Heathered Moss. The building's color palette is to be a range of blues and greens. Metal roofing colors are proposed to be River Teal and Marine Green; tinted glazing to be Atlantica Green and Arctic Blue; with sandstone colored stamped concrete. (See Color Board - Exhibit G).

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Plan sheet A-14 provides details on the pocket park landscape plan, shrub planting detail, specification for trash enclosure as well as lighting. The lighting schedule shows brass details with various designs for exterior lighting.

Signs

A sign program was submitted and is shown in detail on sheet A-14 specifying each business sign to be located on the new building.

Included on this lease site is an existing non-conforming pole sign for the Morro Bay Landing business. Pursuant to Zoning Code 17.68.150B4, "If change of ownership of the business occurs, and no change to the type of business advertised by any nonconforming sign, the new owner may change any name or names on such sign provided there is no change in the sign size, configuration or orientation." Staff has observed that in the time from when the Virg's business moved out in 2011 to when the Morro Bay Landing business moved in, in 2013, there was an extended period of time, when there was no sign up (empty sign can). The sign ordinance allows for nonconforming signs to be taken down for repair, replacement for a period not to exceed 60 days. In this case, the sign can was empty for so long that the image was captured on Google Earth street view (imagery date Feb. 2012) (Exhibit E). Furthermore, there is currently a blue banner running the length of both sides of the sign pole, which reads, "Sportfishing" that is not allowed under the sign ordinance.

The Applicant has requested to maintain the existing pole sign and asserts that approval was granted for the pole sign as part of the concept plan approvals. Staff has reviewed the project's long history, the concept plan approvals, as well as carefully reviewed the provisions of the sign ordinance. The sign ordinance states the purpose and intent is to:

"... regulate signs as an information system which expresses the character and environment of the community. Standards shall attempt to:

- A. Encourage communications which aid orientation and identify activities;
- B. Preserve and enhance the aesthetic character of the surroundings;
- C. Relate signing to basic principles of good design, encouraging pleasing community appearance; and
- D. Restrict signs which overload the public's capacity to receive information, violate privacy or which increase the probability of accidents by distracting attention or obstructing vision."

It is clear that the intent of the City's Sign ordinance is to discontinue the use of nonconforming signs. The site is proposed for redevelopment and the proposed development including any

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associated signage should be brought into conformance with current standards. Given the scope and magnitude of this project, Staff finds it difficult to support a pole sign whose design is clearly inconsistent with the fishing village character desired by the Waterfront Master Plan. Staff therefore recommends that the Pole sign be removed and the project has been conditioned accordingly (See Planning Condition 3).

ENVIRONMENTAL DETERMINATION:

A Mitigated Negative Declaration was prepared for this project and adopted by City Council on May 12, 2008. With the environmental review complete, no changes to the precise plan were made that would require additional environmental review. The mitigations incorporated as conditions of approval to the concept plan approval remain on the project.

PUBLIC NOTICE:

Notice of a public hearing on this item was posted at the site and published in the Tribune newspaper on May 9, 2015, and mailed directly to all property owners of record within 300 feet of the subject site and occupants within 300 feet of the site. The notices invited the public to attend the hearing and express any concerns they may have regarding the proposed project.

CONCLUSION:

The demolition and reconstruction of visitor-serving uses have been sited and designed to provide for maximum public benefit as well as provide for visitor-serving development consistent with the City's General Plan/ LCP / Zoning Ordinance and Waterfront Master Plan and the California Coastal Act.

As conditioned, the proposed project will be consistent with all applicable development standards of the Zoning Ordinance, including the concept and precise plan requirements, the Waterfront Master Plan, and applicable provisions of the General Plan, Local Coastal Plan, and Waterfront Master Plan. The Commercial/Recreational Fishing (CF) District is intended to "promote and accommodate both the commercial fishing industry and noncommercial recreational fishing activities in appropriate waterfront areas" and this project advances that goal.

Staff has reviewed the Precise Plan to the approved Concept Plan as well as the modifications made by the California Coastal Commission and recommends that the Planning Commission forward a favorable recommendation to the City Council to revise the approved Concept Plan with final Precise Plan approval.

EXHIBITS:

Exhibit A – Planning Commission Resolution 17-15

Exhibit B – Plans/Plan Reductions dated December 22, 2014

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Exhibit C – City Council Staff Reports for Concept Plan, 3/24/08, 4/28/08, 5/12/08
Exhibit D – Concept Plan permit for UP0-058 as approved by City Council 5/12/08
Exhibit E – Google Earth street view image, 2012
Exhibit F – Lease Site Map Amendment revised October 2010
Exhibit G –Color Board
Exhibit H –Visual Simulations
Exhibit I – May 14, 2015 letter from Applicant regarding pole sign

LINKS:

Coastal Development Permit Staff Report, 6/10/2009 Coastal Commission meeting
<http://documents.coastal.ca.gov/reports/2009/6/W7b-6-2009.pdf>

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RESOLUTION NO. PC 17-15

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION FORWARDING A FAVORABLE RECOMMENDATION TO THE MORRO BAY CITY COUNCIL FOR A REVISED CONCEPT PLAN/ PRECISE PLAN APPROVAL FOR PHASE 2 OF CONDITIONAL USE PERMIT (UP0-058) FOR LANDSIDE IMPROVEMENTS WHICH INCLUDE DEMOLITION OF EXISTING MORRO BAY LANDING (VIRG'S) BUILDINGS AND EXISTING DOCKSIDE 3 RESTAURANT BUILDING WITH NEW CONSTRUCTION OF A 2 STORY COMMERCIAL VISITOR-SERVING BUILDING ALONG WITH OBSERVATION DECK, OUTDOOR SEATING AREA, PUBLIC ACCESS IMPROVEMENTS AS WELL AS PARKING/ DRIVEWAY IMPROVEMENTS, AND CREATION OF A POCKET PARK.

WHEREAS, the Planning Commission of the City of Morro Bay conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on May 19, 2015, for the purpose of considering a revised Concept Plan/ Precise Plan approval of Conditional Use Permit #UP0-058; and

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

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

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

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

California Environmental Quality Act (CEQA)

- A. That for purposes of the California Environmental Quality Act, Case No. UP0-058 is subject to a Mitigated Negative Declaration based upon potentially significant impacts to Aesthetics, Air Quality, Biological Resources, Geology/Soils, Hazards/Hazardous Materials, Hydrology, Land Use and Planning, Noise, Transportation. Any impacts associated with the proposed development will be brought to a less than significant level through the Mitigated Negative Declaration (MND). A MND was adopted on May 12, 2008. (SCH# 2007091057).
- B. A MND was adopted on May 12, 2008. This approval is to implement that project. An analysis has been performed pursuant to CEQA Guidelines § 15162 to determine whether subsequent environmental review is required for UP0-342. Based upon this

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analysis, none of the circumstances set forth in CEQA Guidelines § 15162 have occurred which would require subsequent environmental review

Conditional Use Permit Findings

- A. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the landside improvements which include demolition of three buildings and construction of a new two story commercial building to include the replacement restaurant for the Dockside 3 restaurant are permitted uses within the zoning district and said structures complies with all applicable project conditions and City regulations. The City's past concept plan approval of UP0-058 on May 12, 2008 found that the replacement of the Dockside 3 restaurant (formerly known as Thai Boat) does not conflict with Measure D's intent. In addition, public benefits are provided to offset the exceptions granted, including but not limited to provision of a small pocket park, public observation decks and outdoor seating areas, public restrooms, extension of the Harborwalk pedestrian path and increased vertical access and lateral access. Revisions to the Concept Plan as conditioned by the California Coastal Commission have been reviewed and evaluation and found to be consistent with the City's Local Coastal Program.
- B. The project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the overall masterplan project and the landside improvements to demolish 3 existing buildings and construct a new two story commercial building consistent with the zone designation will provide additional public benefits.

Waterfront Master Plan Findings

- A. The proposed project makes a positive contribution to the visual and public accessibility to the bay while increasing and maintaining commercial fishing industry and not increasing restaurants:
 - a. Meets the Waterfront plan height limit and maximum building coverage, bulk, and scale requirements in that the proposed project offsets these standards by increasing public benefits.
 - b. In the case of granting height greater than 17 feet, the proposed project also provides significant public benefit pursuant to the Planned Development Overlay zone requirements in that the proposed project is widening the sidewalk and creating a public view deck, providing view corridors, and including public restrooms.
 - c. The proposed project provides the amenities identified in the WF Plan, facilitates pedestrian visual and physical access to the waterfront, and takes advantage of outward views and characteristics of the topography in that the roof elements were altered to allow for better bay views.

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- d. The proposed project makes a positive contribution to the working fishing village character and quality of the Embarcadero area in that the new project will add to the pedestrian orientation while maintaining the commercial fishing operations.
- e. The design recognizes the pedestrian orientation of the Embarcadero and provides an interesting and varied frontage that will enhance the pedestrian experience in that the project will provide lateral public access to the water and docks while assisting in the Harborwalk plan to continue public access along the waterfront.
- f. The project gives its occupants and the public some variety in materials and/or application in that the building will consist of stucco and metal roofing, while outdoor market will be wood.
- g. The project contains the elements of harmony, continuity, proportion, simplicity, and balance, and its appearance matches its function and the uses proposed in that the new structure will provide more horizontal and vertical articulation, and the public will be invited into the space via a new public view deck.
- h. The proposed project does not diminish, either directly or by cumulative impact of several similar projects, the use, enjoyment, or attractiveness of adjacent buildings and provides a visual and pedestrian transition to its immediate neighbor in that the existing and new construction is in keeping with the architectural style, massing, materials, scale, and use of its surroundings.

Additional finding made by Planning Commission on May 19, 2015

- i. The proposed project's view corridors are not adequate to meet the requirements for new construction but may be approved because there is no reduction in measured width compared to the approved Concept Plan which is considered to be the existing condition.*

Architectural Consideration

- A. As required by Ordinance Section 17.48.200 the Planning Commission find that the architectural treatment and general appearance of all proposed buildings, structures and open areas are in keeping with the character of the surrounding areas, are compatible with any design themes adopted by the city, and are not detrimental to the orderly and harmonious development; of the city or to the desirability of investment of occupation in the area.

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Section 2. Action. The Planning Commission does hereby approve Conditional Use Permit #UP0-058 subject to the following conditions:

STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report dated May 14, 2015, for the project at 1215 Embarcadero depicted on plans dated December 22, 2014, on file with the Community Development Department, as modified by these conditions of approval, and more specifically described as follows: Site development, including all buildings and other features, shall be located and designed substantially as shown on Planning Commission approved plans submitted for UP0-058, unless otherwise specified herein.
2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this Resolution and is diligently pursued, thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Any extension may be granted by the City's Community Development Manager (the "Director"), upon finding the project complies with all applicable provisions of the Morro Bay Municipal Code (the "MBMC"), General Plan and certified Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Community Development Manager. Any changes to this approved permit determined, by the Director, not to be minor shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, the City, and any other governmental entity shall be complied with in the exercise of this approval, (b) This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan for the City.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. Applicant understands and acknowledges the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be

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required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Director or as authorized by the Planning Commission. Failure to comply with any of these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the MBMC and is a misdemeanor.

7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan of the City.
8. Conditions of Approval: The Findings and Conditions of Approval shall be included as a full-size sheet in the Building Plans.

Building Conditions:

1. Prior to construction, the applicant shall submit a complete building permit application and obtain the required building permit.

Fire Conditions:

1. Sheet A-1. Address identification. New and existing buildings shall have approved address numbers or building numbers placed in a position to be plainly legible from the street or road fronting the property (CFC 505). Provide approved address numbers 4 inches high with ½ inch stroke in contrasting numbers.
2. Sheet A-2. Existing Marine Shop. This structure was constructed in 2006 and a condition of approval was the requirement that the structure and wharf below, be protected with automatic fire sprinklers, in accordance with Morro Bay Municipal Code (Section 14.60.200), CFC 903 and NFPA 13. The past owner and Harbor Lease Holder defaulted on City and CFC requirement, the structure was Red Tagged and remained vacant and unused for at least 2 years.

In an effort to revitalize our “working harbor” and put the structure to good use, Morro Bay Harbor, Building and Fire Departments, negotiated with potential occupants to impose strict limitation, by way of an occupancy assignment to “U” (utility group) and permit its use, without required sprinkler protection, until the existing Virg’s building is replaced, pursuant to the Harbor Master Plan and on-shore lease improvements.

3. As result of Municipal Code, Fire Code, and Harbor Master Plan on-shore improvements (UPO-058), applicant shall provide automatic fire sprinkler protection of the Utility Building and wharf below as a “Precise Plan Condition of Approval”.

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Public Works Conditions:

1. The Site Plan must show the wheel path of travel (turning radius) for the WB62 truck to confirm that the design vehicle can successfully negotiate this curve.
2. Show all specific public improvements including driveway entrance and median modifications on Embarcadero Road and within the adjoining parking lot that will be provided to satisfy recommendations of the OEG Traffic Study.
3. Add a note to the plans specifying the filter system for the new drain (drop inlet) as a FloGard +PLUS Model FGP-24F manufactured by Kristar Enterprises to be installed per manufacturer recommendations. Provide a operation & maintenance plan to assure that the inlet is properly maintained.
4. Note how the public will be protected/ screened from work areas of the wharf. Commonly accepted CALOSHA work practices include temporary physical barriers such, as a scissor gate, that will momentarily segregate the public from the swing arc of the existing hoist.
5. WEU offset requirements
New water allocations requested shall be offset on a two-to-one basis (or 440 gallons per day) by providing retrofits to existing uses or providing non-required water savings features for new development that is seeking water allocation. The project will need to determine how many WEUs the development will need to offset. Retrofits are approved by the Public Works Director and may include the following water savings best management practices:
 - a. Irrigation retrofits
 - b. Waterless urinals
 - c. Waterless toilets
 - d. Ultra-Low flow toilets
 - e. Lawn/Landscape replacement
 - f. Grey water system installation in new construction
 - g. Installation of rainwater recovery system
 - h. Other water savings best management practices as approved by the Public Services Director
 - i. Payment of an “In-Lieu” fee program of \$2,900 **per** Water Equivalency Units (WEU).

Harbor Department Conditions:

1. Applicant shall request in writing to the City to adjust the lease lines at the appropriate time.

EXHIBIT C of 8/25/15 Council staff report

2. Clean Marina BMP's: Applicant is encouraged to berm trash and recycling areas to prevent leaks from entering waterways. Applicant has indicated on sheet A-14 they will comply with this containment BMP, which if bermed correctly should not impede rolling of trash bins over the berm and out of the enclosure.

Planning Conditions:

1. A Coastal Development Permit shall be submitted to the Community Development Department prior to issuance of a building permit.
2. All conditions imposed with the Concept Plan approval of UP0-058 as approved by the City Council on May 12, 2008 and any subsequent City approved modifications to the conditional use permit shall remain in full force and effect.
3. Applicant shall remove the non-conforming pole sign.
4. Height Certification: Prior to foundation inspection, a licensed land surveyor shall measure and inspect the foundation and submit a letter to the City Community Development Manager certifying that the tops of the foundation is in compliance with the finish floor elevations and setbacks as shown on approved plans. Prior to either roof nail or framing inspection a licensed surveyor shall measure the height of the structure and submit a letter to the Community Development Manager, certifying that the height of the structure is in accordance with the approved set of plans and complies with the height requirements of the Morro Bay, Municipal Code Section 17.12.310.
5. Inspection: The applicant shall comply with all Planning conditions listed above and obtain a final inspection from the Planning Division at the necessary time in order to ensure all conditions have been met.

Additional conditions added by Planning Commission on May 19, 2015

6. ***Continuous bayside lateral access, a minimum of eight feet in width, shall be designed and shown on revised plans in a manner that connects with the lease sites to the north and south of the proposed project.***
7. ***The applicant shall provide a bayside lateral access design that would allow connection to any future lateral bayside access improvements incorporated into future redevelopment of the Harbor Hut lease site. The design shall address feasibility of providing such a connection to the satisfaction of the Community Development Manager.***
8. ***Siting of tables on the second floor public view deck shall be such that eight (8') feet of clear area is maintained between the tables and the northern and western edge of the view deck.***

9. *Signs announcing public coastal access shall be placed on or adjacent to the elevator and at the bottom of the staircase leading to the second floor view deck.*

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 19th day of May, 2015 on the following vote:

AYES: 5-0

NOES:

ABSENT:

ABSTAIN:



Robert Tefft, Chairperson

ATTEST



Scot Graham, Planning Secretary

The foregoing resolution was passed and adopted this 19th day of May, 2015.

GENERAL NOTES

THE COSTRUCTION COORDINATORS INFORMATION
 SHALL BE POSTED ON SITE
 CONSTRUCTION COORDINATOR SHALL BE BOB FOWLER
 (805-701-5702),
 ALL WORK SHALL BE COMPLETED IN
 A GOOD WORKMANSHIP MANNER
 CONTRACTOR SHALL HAVE ON SITE 2013
 COPY OF C.B.C., ALL WORK SHALL COMPLY
 W/ 2013 C. B.C., 2013 U.M.C. 2013 N.E.C., 2013 U.P.C. 2013 CALIF TITLE 24,
 CITY OF MORRO BAY, CODES AND REQUIREMENTS, CONDITIONS OF APPROVAL
 CALIFORNIA COASTAL COMMISSIONS STANDARD AND SPECIAL CONDITIONS
 CONTRACTOR SHALL NOTIFY ARCHITECT
 AND OWNER PRIOR TO CHANGES OF CONSTRUCTION
 FOR APPROVAL.
 CARPENTRY
 ALL STRUCTURAL LUMBER SHALL BE GRADED IN ACCORDANCE W/ W.C.L.A.
STRUCTURAL NOTES:
 1. DESIGN BASIS
 2013 CALIFORNIA BUILDING CODE
 WIND - LOAD
 SEISMIC- ASCE7-05
 SITE CLASS-D
 SEISMIC CATEGORY D
 R= 3.5(STEEL ORDINARY MOVEMENT RESISTING FRAME,
 2. STEEL
 PIPE FILES-API 5L GRADE X82
 H56 STRUCTURAL SHAPES-A500 GRADE B,Fy=46 KSI
 ANGLES, MISCELLANEOUS SHAPES AND PLATE-ASTM A36
 3. BOLTS
 ASTM A307 HOT DIP GALVANIZED, UNLESS OTHERWISE NOTED
 4 WELDING
 WELDING SHALL CONFORM TO AWS D1.1 LATEST EDITION WELD
 CONSUMABLES SHALL BE APPROPRIATE FOR THE MATERIAL BEING
 JOINED.
FIRE DEPARTMENT NOTES
 a. Demolition and Construction. Fire Safety During Construction and Demolition.
 Prescribes minimum safeguards for construction, alteration and demolition
 operations to provide reasonable safety to life and property from fire during
 such operations (CFC Chapter 33). Compliance with NFPA 241 is required for
 items not specifically addressed herein.
 b. Automatic Fire Sprinklers. The applicant shall provide fire sprinkler protection,
 for all cantilevered water side wharf areas, restaurant space, retail structure
 and trash area, in accordance with Morro Bay Municipal Code (Section
 14.08.090(L)), 2013 California Fire Code (Section 903), and NFPA Standards
 13, 303, and 307.
 c. Fire Alarm and Detection Systems. An approved fire alarm system
 installed in accordance with the provisions of this code and NFPA 72 shall
 be provided in new buildings and structures in accordance with Sections
 907.2.1 through 907.2.23 and provide occupant notification in accordance
 with Section 907.5, unless other requirements are provided by another
 section of this code. (CFC 907.2)
 d. Fire extinguishers. One Provide one wall mounted 2A:10-B:C fire extinguisher,
 and approved signage, for each 3,000 square feet of light hazard fuel load.
 Travel distance shall not in accordance with California Code of Regulations,
 Title 19, Division 1.
 2. **Sheet A-6.** Address identification. New and existing buildings shall have approved
 address numbers or building numbers placed in a position to be plainly legible from the
 street or road fronting the property (CFC 505). **Provide approved address numbers 4
 inches high with 1/8 inch stroke in contrasting numbers.**
Provide a Knox Box on exterior of the
structure, in an approved location. Please obtain a Knox application from Morro
Bay Fire Department during business hours.
 Applicant shall provide automatic fire sprinkler protection of the Utility Building and wharf
 below as a "Precise Plan Condition of Approval"
TRASH RECEPTACLES SHALL PROVIDE CONTAINMENT SUFFICIENT TO
STOP LEAKING FLUIDS FROM FLOWING OUT OF RECEPTABLE AREA,
TO MEET CLEAN MARINE BMP.
 APPLICANT/TENANT SHALL BE RESPONSIBLE FOR MAINTENANCE AND
 UPKEEP OF POCKET PARK AND PARK AMENITIES
 the system for the new drain (drop inlet) shall be
 FloGard +PLUS Model FGP-24F manufactured by
 Kristar Enterprises or equal to be installed per manufacture
 recommendations serviced and inspected yearly and prior to major storms



EXISTING VIEW FROM FLOATING DOCKS ↑



EXISTING VIEW FROM EMBARCADERO ↑



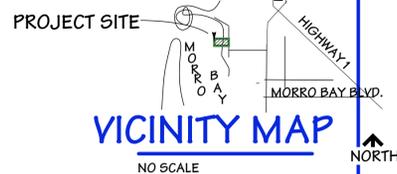
PROPOSED VIEW FROM FLOATING DOCKS ↑



PROPOSED VIEW FROM EMBARCADERO ↑



VICINITY PHOTO

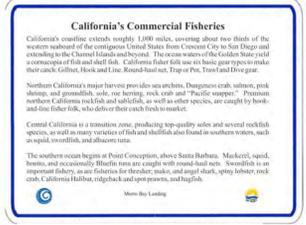


LEGAL DESCRIPTION

OWNERS----- Bob Fowler, M.M.B.S.
 SITE ADDRESS----- 1213,1215, Embarcadero
 MORRO BAY, CALIF
 LEASE SITES-----
 124W,125W, 126W, 127W, 128W
 Morro Bay, California
 COUNTY OF SAN LUIS OBISPO, CALIFORNIA
 APN. ----- 066-351-012,013,014,015
 ZONE----- H, WF, CF, W/ PD OVERLAY

ONSHORE INFORMATION

LEASE INFORMATION on shore		
EXISTING	PROPOSED +/-	TOTAL
128- 1443 S.F.	-151	1292
128W 3382 S.F.	0	3382 S.F.
127 443	+ 857	1300
126 1300	0	1300
125 1300	0	1300
124 1560	0	1560
7888 706 S.F. 8834 S.F.		
LEASE INFORMATION off shore		
ORIGINAL	APPROVED +	TOTAL
128W-3382 S.F.	0 S.F.	3382 S.F.
127W-2540	850	3390
126W-2550	2000	4550
125W-3050	2750	5800
124W-3660	3300	6960
113W-9263	12542	21805
24445 S.F.	21442 S.F.	45887 S.F.



SIGNAGE SHALL BE 24" WIDE X 18" HIGH METAL SIGN
 W/ IMAGES MOUNTED FLAT ON 4X4 POST W/
 white background & blue lettering
 PUBLIC FLOATING DOCK TO REMAIN
 OPEN DURING DAYLIGHT HOURS, 1
 hour before sunrise to 1 hour after sunset, to
 be located @ top of public access gangways

MATERIAL SPECIFICATIONS



HARDI-PLANK SIDING
 HEATHERMOSS SELECT
 CEDARMILL
 RIVER TEAL CLASSIC GREEN
 METAL SALES
 METAL ROOFING

PROJECT DATA PHASE 2

PROJECT DATA				CDP 3-08-025 UPO-058			
LEASE SITES	CDP 3-08-025 UPO-058	PROPOSED	MODIFICATION	BUILDING 1ST FLOOR	PROPOSED	MODIFICATION	
128	1443 S.F.	1292 S.F.	-151 S.F.	BUILDING 1ST FLOOR			
128W	3382 S.F.	3382 S.F.	0	RETAIL/OFFICE BOAT CHARTER	4530 S.F.	4306 S.F.	-224 S.F.
TOTAL	4825 S.F.	4787 S.F.	-151 S.F.	ELEV. / R.R.	450 S.F.	420 S.F.	-30 S.F.
127	443 S.F.	1300 S.F.	+857 S.F.	SEPERATE BUILDINGS	1024 S.F.	0	0
127W	3382 S.F.	3382 S.F.	0	TOTAL	6004 S.F.	4726 S.F.	-1278 S.F.
TOTAL	3832 S.F.	4689 S.F.	+857 S.F.	BUILDING 2ND FLOOR			
126	1300 S.F.	1300 S.F.	0	RESTAURANT	952 S.F.	952 S.F.	0
126W	5775 S.F.	5775 S.F.	0	OFFICE	650 S.F.	130 S.F.	-520 S.F.
TOTAL	7075 S.F.	7075 S.F.	0	OPEN VIEW DECKING	1171 S.F.	1290 S.F.	+ 119 S.F.
125	1300 S.F.	1300 S.F.	0	SITE			
125W	6583 S.F.	6583 S.F.	0	PROPERTY LENGTH	159 LIN FT.	REDUCED FOR ICE PLANT 153 LIN FT.	- 6 LIN FT.
TOTAL	7883 S.F.	7883 S.F.	0	BUILDING LENGTH	114 LIN FT.-70%	114 LIN FT.-77%	- 7%
124	1560 S.F.	1560 S.F.	0	OPEN VIEW AREA	8317 S.F.	10585 S.F.	+ 227 S.F.
124W	7866 S.F.	7866 S.F.	0	PUBLIC SPACE 1ST FLOOR	3150 S.F.	2560 S.F.	-590 S.F.
TOTAL	9366 S.F.	9366 S.F.	0	VIEW DECK 1ST FLOOR	960 S.F.	700 S.F.	-260 S.F.
TOTAL	32981 S.F.	33800 S.F.	+706 S.F.	POCKET PARK	760 S.F.	568 S.F.	-192 S.F.

PROJECT DESCRIPTION: PHASE 2
 DEMOLITION OF EXISTING MORRO BAY LANDING, ("VIRGS") BUILDINGS, EXISTING "DOCKSIDE#3(TIHA BOAT) RESTAURANT"
 PUBLIC IMPROVEMENTS TO SITE, PARKING, DRIVEWAY
 NEW CONSTRUCTION OF MORRO BAY LANDING BUILDING, LANDSCAPING
 NEW POCKET PARK,

PHASE 2 NOTES
 Prior to construction, the development plans shall be submitted to the Executive Director of the California Coastal Commission for their review and approval.
 23 Realign existing driveway entry
 24 Existing curb to be removed and relocated
 25 relocate entry to parking lot.
 26 Move median.
 27 Extend turn lane island.
 28 New pocket park.
 29 New rod/reel building & public restroom.
 30 Existing Building to be redesigned by Project Architect : Gene Doughty

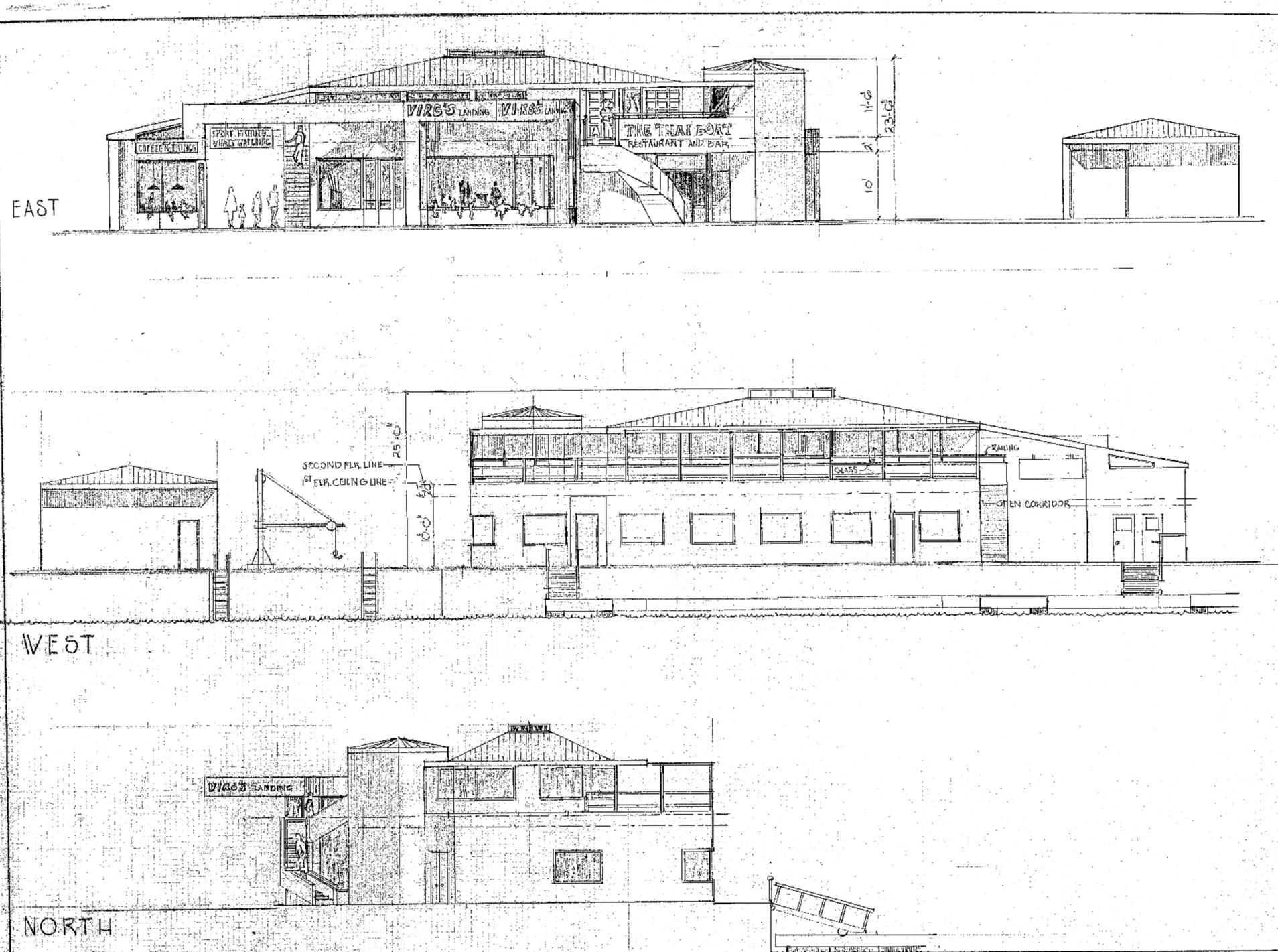
PARKING ANALYSIS

RATIO	CDP 3-08-025 PARKING UPO-058		PROPOSED PARKING		MODIFICATION
	APPROVED	REQUIRED	APPROVED	REQUIRED	
BUILDING 1ST FLOOR					
RETAIL/OFFICE BOAT CHARTER	1/300 S.F.	4530 S.F.	15.1	4306 S.F.	15
SEPERATE BUILDINGS	1/300 S.F.	1024 S.F.	3.4		
BUILDING 2ND FLOOR					
RESTAURANT OFFICE	1/60 S.F.	952 S.F.	15.9	952 S.F.	16
SUB TOTAL	1/300 S.F.	650 S.F.	2.2	130 S.F.	1
TOTAL			18 SPACES	1290 S.F.	17 SPACES - 1 SPACES
			37 SPACES	32 SPACES	- 5 SPACES

INDEX TO DRAWINGS

- A-1 COVER SHEET, GENERAL NOTES
- A-2 OVERLAY OF SITE HISTORY
- A-3 APPROVED UPO-058 SITE PLAN
- A-4 APPROVED UPO-058 SITE ELEVATIONS
- A-5 DEMOLITION PLAN, CUT/FILL NOTES
- A-6 FIRST FLOOR/ SITE PLAN
- A-7 SECOND FLOOR PLAN
- A-8 EAST/ SOUTH ELEVATION
- A-9 WEST/ NORTH ELEVATION
- A-10 ONSHORE SITE COVERAGE
- A-11 BUILDING PROFILES
- A-12 PUBLIC ACCESS
- A-13 LEASE SITE REVISION
- A-14 LANDSCAPING PLAN, SIGN PLAN, LIGHTING
- A-15 CONDITIONS OF PERMIT-- CITY OF MORRO BAY
- A-16 CONDITIONS OF PERMIT--C.C.C.

GENERAL NOTES, SPECIFICATIONS, SITE PHOTOS, VICINITY MAP, SIGNAGE, PARKING ANALYSIS
 M.M.B.S. L.L.C.
 MORRO BAY LANDING
 ONSHORE LEASE IMPROVEMENTS
 SCALE AS SHOWN
 SHEET A-1 OF 16 SHEET
 GENE DOUGHTY ARCHITECT
 1-805-772-8436
 C 18794
 1215 EMBARCADERO MORRO BAY, CALIF.



APPROVED UPO-058 ELEVATIONS

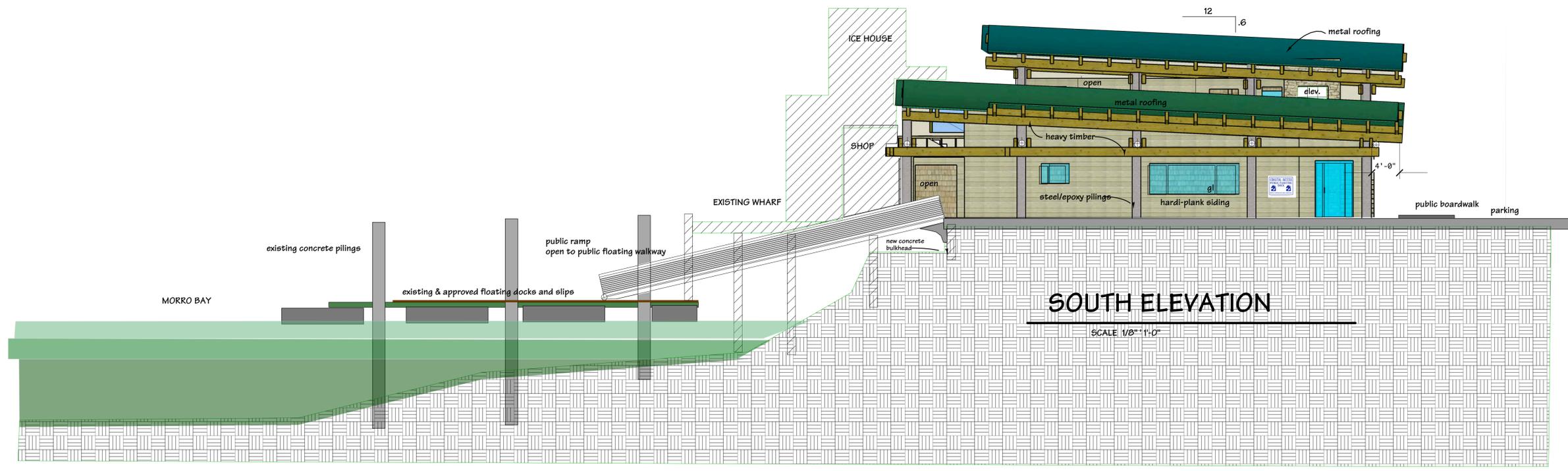
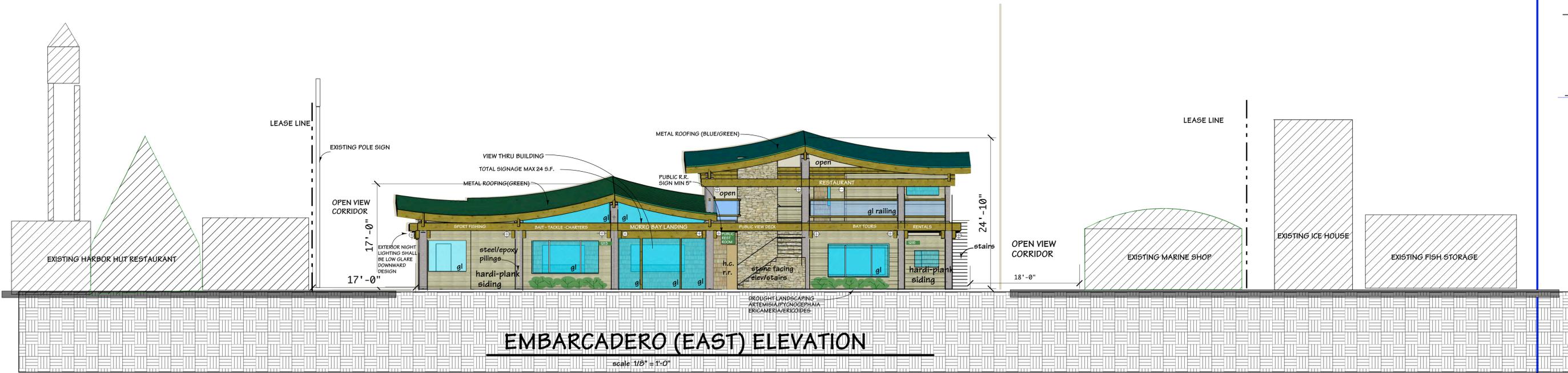
PROPOSED IMPROVEMENTS TO VIRG'S LANDING FOR: DARBY NEIL 1215 EMBARCADERO MORRO BAY, CA.	DATE: 12/13/07	REVISIONS: 12/13/07 05/16/08	ELEVATIONS AT 1/8" = 1'-0"	805/724-8605 MAUL ASSOCIATES ARCHITECT A.I.A. 3009 BEACHCOMBER MORRO BAY, CA.	OF 2
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LAND/SEA INTERFACE
 GENE DOUGHTY-ARCHITECT 1-805-772-8436
 C 18794

M.M.B.S. L.L.C. TROY LEAGE, JAMES/GEORGE LEAGE
 MORRO BAY LANDING HARBOR HUT
 GREAT AMERICAN FISH COMPANY
FLOATING DOCK IMPROVEMENTS
 1185-1215 EMBARCADERO MORRO BAY, CALIF.

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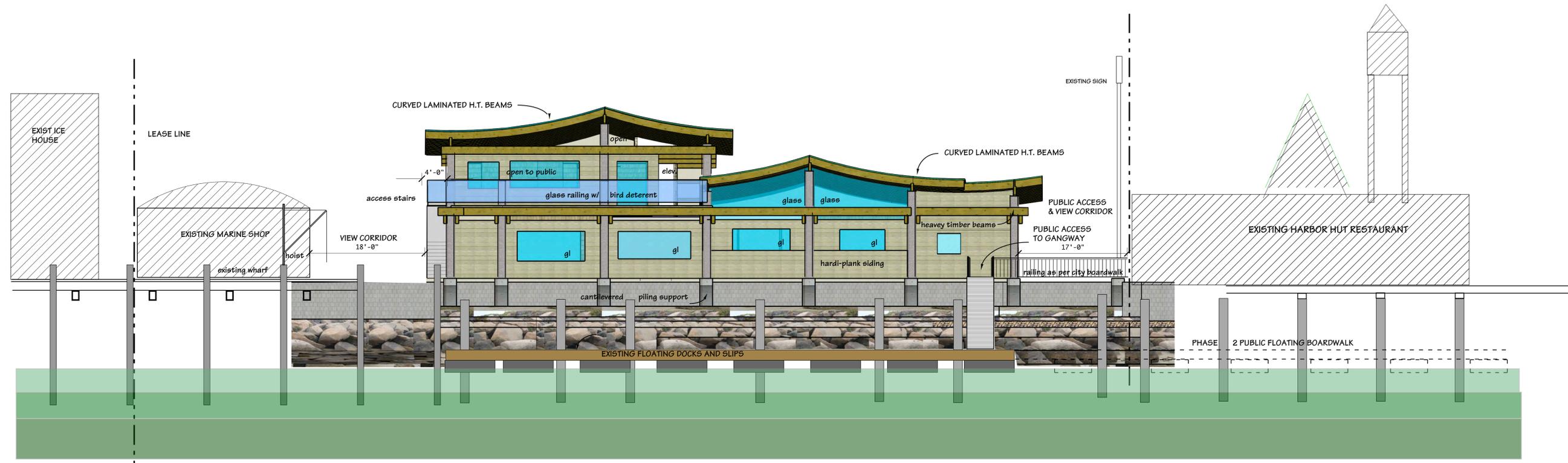


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ONSHORE LEASE IMPROVEMENTS
 MORRO BAY LANDING
 M.M.B.S. L.L.C.
 1215 EMBARCADERO MORRO BAY, CALIF.

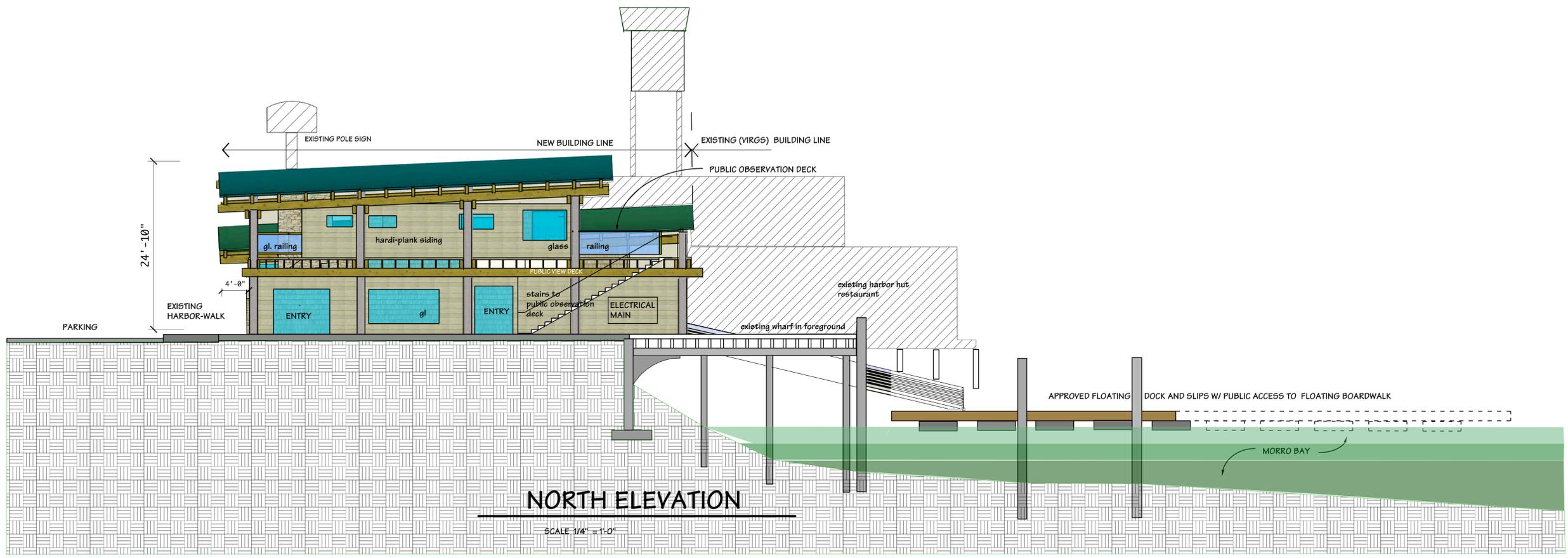
LAND/SEA INTERFACE
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 1-805-772-8436
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WEST ELEVATION

scale 1/8" = 1'-0"



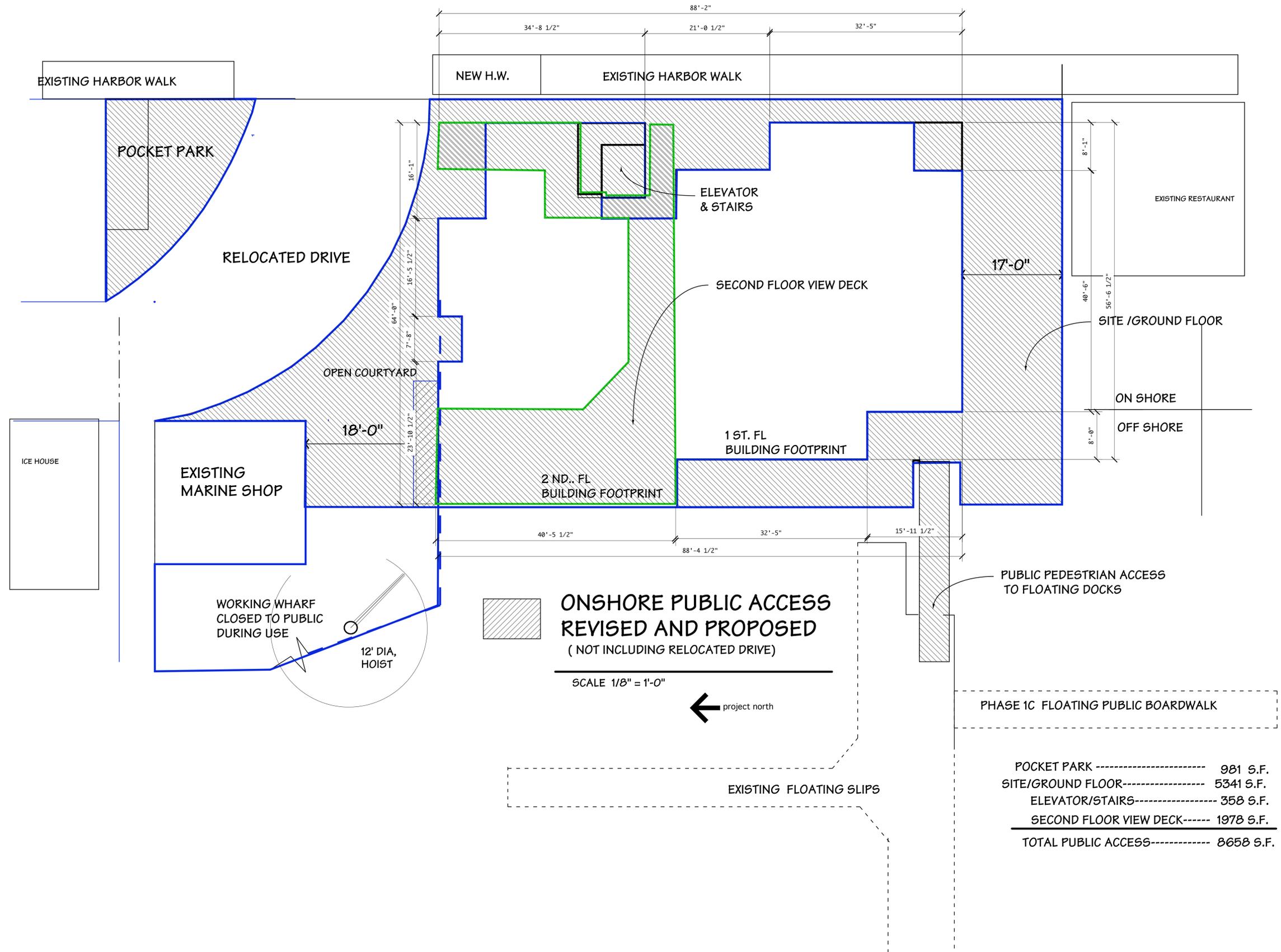
NORTH ELEVATION

SCALE 1/4" = 1'-0"

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M.M.B.S. L.L.C.
 MORRO BAY LANDING
ONSHORE LEASE IMPROVEMENTS
 1215 EMBARCADERO MORRO BAY, CALIF.

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POCKET PARK	881 S.F.
SITE/GROUND FLOOR	5341 S.F.
ELEVATOR/STAIRS	358 S.F.
SECOND FLOOR VIEW DECK	1978 S.F.
TOTAL PUBLIC ACCESS	8658 S.F.

The plan, specifications, notes and other information contained herein are the property of the architect and are not to be used for any other project without the written consent of the architect.

M.M.B.S. L.L.C.
 MORRO BAY LANDING
ONSHORE LEASE IMPROVEMENTS
 1215 EMBARCADERO MORRO BAY, CALIF.
 GENE DOUGHTY-ARCHITECT
 C 18794
 1-805-772-8436

ONSHORE PUBLIC ACCESS
 SCALE AS SHOWN
 DRAWING NO.

EXHIBIT C of 8/25/15 Council staff report



AGENDA NO: _____

Meeting Date: March 24, 2008

Action: _____

Staff Report

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE:** MARCH 17, 2008

FROM: MIKE PRATER, PLANNING MANAGER

SUBJECT: CONCEPT PLAN APPROVAL FOR 1185 to 1215 EMBARCADERO ROAD (VIRG'S LANDING, GAFCO, & HARBOR HUT)

RECOMMENDATION:

Staff recommends the City Council review the information contained in this memorandum and its attachments, consider testimony from the applicant and the public, and adopt the following motion:

Approve the Concept Plan for the development proposed at 1185 to 1215 Embarcadero Road based upon the Findings and Conditions contained herein as Attachments A and B, respectively.

FISCAL IMPACT:

The proposed project will likely have a positive fiscal impact for the City. The lease agreement for the subject sites requires the income from the uses to pay a percentage of gross sales rent.

BACKGROUND:

The project site is located in the Commercial Fishing (CF)/Harbor (H) districts and is zoned with planned development (PD) overlay. Pursuant to Section 17.40.030 of the Zoning Ordinance, development on lands zoned with a PD Overlay requires a Conditional Use Permit. For new development or new uses on public lands or lands greater than one acre, the applicant must submit a concept plan and a precise plan. Concept plans for development in the PD Overlay Zone shall receive final approval from the City Council at a duly noticed public hearing after review and approval by the Planning Commission at a noticed public hearing.

The Planning Commission reviewed the proposed project at two previously noticed public hearings on November 5, 2007 and January 22, 2008. The Planning Commission conditionally approved the project with substantial changes to the originally proposed project with a Vote: 4-0, Johnson was absent. Upon approval by the City Council, the applicant would seek Coastal Development Permit approval from the Coastal Commission before returning to the Planning Commission for precise plan approval. The applicants have requested the City Council consider revisions to the Planning Commission conditions of approval.

EXHIBIT C of 8/25/15 Council staff report

SUMMARY:

The applicant's lease agreement will be coming due in 2012. The Harbor Department requested the applicant's improve the buildings and/or waterfront area as part of the new lease. The applicant's have requested phasing their master plan that would revitalize the northern waterfront area to be completed by the year 2012. The project proposal would bring together 22 city leases and three businesses to construct improvements that include restaurant expansion and replacement, provide a unique coastal boardwalk that stretches from the City South T-Pier to Virg's, and enhances commercial and recreational fisheries with new and expanded dock slips.

A number of issues were raised and discussed at the Planning Commission hearings that will need to be considered by the City Council to re-affirm the findings and decision of the Planning Commission or be reconsidered as requested by the applicants to determine the greatest benefit and strongest project that provides for a positive investment into the community that advances community goals. The main issues were: dock plans/lateral access was conditioned to be elevated versus accepting Harborwalk as meeting this requirement, Measure D and types of uses (and particularly size in square footage of new Virg's building) proposed in the northern waterfront area, parking lot/roadway re-configuration with relation to the projects level of involvement to accomplish these improvements versus City contribution, and Waterfront Master Plan consistency for offsetting public benefits.

Dock Plans/Lateral Access

The applicant's have put forth an argument that staff supports in that the Harborwalk project should be recognized as the public lateral access in this area and the applicant's fair share in a monetary contribution is sufficient to meet the requirements of providing public access. The applicant's have stated their proposal attempts to provide the public with a unique waterfront experience that has captured many requests to walk amongst the working docks and get closer to the water. In staff's opinion, this project provides that added unique experience and along with the Harborwalk project these two paths will provide the public with the coastal access provisions.

The applicant has stated the concerns with an elevated boardwalk is that it has the potential to encroach on power plant property (for which no permission is granted), interfere with the dock slips, cause portions of the docks to be relocated which causes additional eelgrass impacts and limited spacing between the South T-Pier and the dock, and require a portion of Virg's rod & reel/restroom building to be reduced in size. These added issues create bigger challenges to elevating the lateral access that are not needed since the Harborwalk provides the public with pedestrian access.

Measure D

The project site is situated along the Morro Bay waterfront between the South T-Pier and North T-Pier, within Planning Area 2 of the City of Morro Bay Waterfront Master Plan (WMP). WMP Planning Area 2 (T-Piers/Fisherman Working Area) includes the area between the intake building and the Embarcadero Road/Beach Street intersection. Measure D was passed in 1981 as Ordinance 207 that was an initiative ordinance by the community that was certified and placed in the Zoning Code which paraphrased here states no approval shall be granted for any new passenger for hire boats or for any new restaurant serving the general public and any existing uses are considered non-conforming and shall not be expanded or enlarged for the area in the CF zone. In 1980, predating this initiative, the City of Morro Bay entered into an agreement with the leaseholder of 110W typically known as GAFCO now, (this portion of the lease site is the new outdoor market area) to allow expansion of the restaurant. This area is also located in the H zone and not the CF zone for which the measure was passed. The development agreement is allowed to be honored by this approval and would not cause any inconsistency issues with the City's General Plan or Local Coastal Plan.

EXHIBIT C of 8/25/15 Council staff report

The method staff supported would allow the replacement in square footages of the Thai Boat restaurant to the new second floor Virg's building. The existing Thai Boat occupies a space of approximately 1,206 square feet and the new second floor restaurant over the Virg's building will occupy a customer area of the same or less square feet however with a public view deck and other miscellaneous areas the upper floor is 2,200 square feet. This replacement building could be considered not adding any new restaurants but rather exchanging the Thai Boat for a new restaurant in a new location, therefore consistent with Measure D.

Parking Lot/Roadway re-configuration

The applicant's would like to continue working with the City to address these improvements. As stated by the applicant's, their wish is for the City to complete many of these tasks as part of a broader scope to improve circulation in the area. As a reminder, staff has conditioned this project (Conditions # 19, 30 & 31 TR-2) to complete these steps in order to facilitate their project. These elements include re-alignment of the one-way driveway behind Thai Boat, Embarcadero median re-configuration, and parking lot stall ends re-striped and curbed.

Waterfront Master Plan

The WMP also includes design guidelines that amended the City's Planned Development (PD) overlay zone standards. The objective of the WMP is to balance the need to maintain a working waterfront while planning for improvements and enhancement of the commercial and public access elements of the Morro Bay waterfront.

Height, View Corridor and Significant Benefit

The WMP plan requires that public views be protected and enhanced by new development. The applicant is proposing a 25-foot high structure that will open up views of the Bay. The WMP plan requires a 30% view corridor for lots greater than 50 feet in width. The proposed project will incorporate amenities such as a public view deck, ADA lateral access, public restrooms, widening of the sidewalk in some places, and enhancing the physical and visual experience of the northern Embarcadero area.

The Waterfront Master Plan allows for an increase in height above the 17-foot limit via a Conditional Use Permit in the Planned Development (PD) Overlay zone. The PD zone allows the City to approve a 25-foot maximum height if significant public benefit can be achieved. In order to approve the increased height the City Council must make the finding that the overall viewshed characteristics will be improved or, at a minimum, not diminished from the public viewing locations established within the Waterfront Master Plan. Based on the identified public benefits, the Planning Commission recommended that the project be granted an exception to increase the height limit over 17-feet. The Planning Commission also conditioned the project to open up the view corridor to increase the view opportunity by eliminating the roofline that connects the two buildings on Virg's tackle shop lease.

CONCLUSION:

Based on an objective reading of the goals and policies expressed in the Coastal Plan, General Plan and zoning regulations, and carefully balancing those goals and policies, staff's opinion and recommendation can be summed up very simply -- in a utilitarian sense, it appears that project approval would bring a greater community good than would project denial. This will no doubt be the focus of considerable discussion at the project hearings, as the project is certainly not without its issues. In the end, staff anticipates that the Planning Commission and Council will also seek the greater good and conclude that the project is a strong and positive investment into the community that advances community goals.

EXHIBIT C of 8/25/15 Council staff report

ATTACHMENTS:

Attachment A – Findings for Approval

Attachment B – Conditions of Approval (as adopted by the planning commission)

Attachment C – Letter from Applicant’s agent requesting modifications dated February 27, 2008

Attachment D – Minutes of January 22, 2008 Planning Commission Meeting

Attachment E – January 22, 2008 Planning Commission Staff Report

Attachment F – Minutes of November 5, 2007 Planning Commission Meeting

Attachment G – November 5, 2007 Planning Commission Staff Report including Final Mitigated
Negative Declaration

EXHIBIT C of 8/25/15 Council staff report



AGENDA NO: _____

Meeting Date: April 28, 2008

Action: _____

Staff Report

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE:** APRIL 21, 2008

FROM: MIKE PRATER, PLANNING MANAGER

SUBJECT: CONCEPT PLAN APPROVAL FOR 1185 TO 1215 EMBARCADERO ROAD
(VIRG'S LANDING, GAFCO, & HARBOR HUT)

Please bring your March 24 report for more details

RECOMMENDATION:

Staff recommends the City Council review the information contained in this memorandum and its attachments, consider testimony from the applicant and the public, and adopt the following motion:

Approve the Concept Plan for the development proposed at 1185 to 1215 Embarcadero Road based upon the Findings and Conditions contained herein as Attachments A and B, respectively.

BACKGROUND:

The City Council held a public hearing and took public testimony on March 24. Council continued the project and directed the applicant and staff to consider splitting the project into two phases; Phase I would consist of the restaurant/fish market expansion of Great American Fish Company (GAFCO) and all of the floating docks, Phase II would consist of Virg's new building. Since the City Council meeting, the applicant for Virg's (Phase II) has had conversations with members of the concerned public about consistency of this phase with Measure D. Based on the outcome of the conversations Virg's is requesting an amendment to the square footages with the new building. The second floor of the new Virg's building would have a restaurant that has 952 square feet (the same size as the first floor portion only of the Thai Boat). Additionally, the second floor would have 324 square feet of offices giving first priority to marine related businesses. The City Council could consider this request and approve the concept plan for both phases. The Council must find consistency with Measure D to authorize these new square footages.

The City Council also requested clarification regarding the floating docks and public access to them with intermittent use. The applicant's have included into their proposal opening the floating docks to the public from 8 a.m. to sunset. The Council did not come to a conclusion on the lateral access requirement. The applicant is requesting the Harborwalk satisfy this requirement. With the completion of the Harborwalk and new floating docks the public would have access to the waters edge via the South T-Pier, two walkways to access the floating docks (one at Virg's tackle shop and one at Harbor Hut with ADA lift), and intermittent access along the Harborwalk path.

EXHIBIT C of 8/25/15 Council staff report

SUMMARY:

The applicant's lease agreement will be coming due in 2012. The Harbor Department requested the applicant's improve the buildings and/or waterfront area as part of the new lease. The applicant's have requested phasing their master plan that would revitalize the northern waterfront area to be completed by the year 2012. The project proposal would bring together 22 city leases and three businesses to construct improvements that include restaurant expansion and replacement, provide a unique coastal boardwalk that stretches from the City South T-Pier to Virg's, and enhances commercial and recreational fisheries with new and expanded dock slips.

CONCLUSION:

The proposed project can be found consistent with the General Plan and Local Coastal Program, Waterfront Design Guidelines and requirements for projects in the Planned Development district. Staff recommends that the council approve the concept plan for this project.

ATTACHMENTS:

Attachment A – Draft Minutes of March 24, 2008 City Council Meeting

Attachment B – Findings for Approval

Attachment C – Conditions of Approval (as adopted by the planning commission)

Attachment D – Letter from Applicant's agent revising project dated April 14, 2008

EXHIBIT C of 8/25/15 Council staff report



AGENDA NO: _____

Meeting Date: May 12, 2008

Action: _____

Staff Report

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE:** MAY 5, 2008

FROM: MIKE PRATER, PLANNING MANAGER

SUBJECT: REVIEW OF PHASE II OF THE CONCEPT PLAN APPROVAL OF GREAT AMERICAN FISH COMPANY/HARBOR HUT/VIRG'S FISHING PROJECT LOCATED AT 1185-1215 EMBARCADERO

Please bring your March 24 report for more details

RECOMMENDATION:

Staff recommends the City Council review the information contained in this memorandum and its attachments and adopt the following motion:

Approve Phase II of the Concept Plan for the development proposed at 1185 to 1215 Embarcadero Road based upon the Findings and Conditions contained herein as Attachments A and B, respectively.

BACKGROUND:

The City Council held a public hearing and took public testimony on March 24. Council continued the project and directed the applicant and staff to consider splitting the project into two phases; Phase I would consist of the restaurant/fish market expansion of Great American Fish Company (GAFCO) and all of the floating docks. Council action was taken on this matter at your April 28, 2008 meeting to approve Phase I and direct staff to return to May 12, 2008 meeting to continue your review of Phase II. Phase II consist of Virg's new building, bio-diesel tanks, and demolition of the Thai Boat. Staff indicated at the last meeting the applicant for Virg's has had conversations with members of the concerned public about consistency of this phase with Measure D. Based on the outcome of the conversations Virg's is requesting an amendment to the square footages with the new building. The second floor of the new Virg's building would have a restaurant that has 952 square feet (the same size as the first floor portion only of the Thai Boat). Additionally, the second floor would have 324 square feet of offices giving first priority to marine related businesses. The City Council should consider this request and decide if consistency with Measure D has been achieved to authorize these new square footages.

CONCLUSION:

The proposed project can be found consistent with the General Plan and Local Coastal Program, Waterfront Design Guidelines and requirements for projects in the Planned Development district. Staff recommends that the council approve the concept plan for this project.

EXHIBIT C of 8/25/15 Council staff report

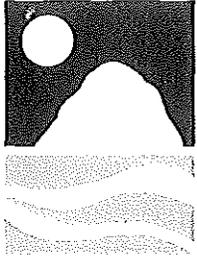
ATTACHMENTS:

Attachment A – Draft Minutes of April 28, 2008 City Council Meeting

Attachment B – Findings for Approval

Attachment C – Conditions of Approval

EXHIBIT C of 8/25/15 Council staff report



City of Morro Bay

Morro Bay, CA 93442 • 805-772-6200

www.morro-bay.ca.us

May 14, 2008

Mrs. Cathy Novak
P.O. Box 296
Morro Bay, Ca. 93443

RE: Case No.: UP0-058 SITE: 1185 to 1215 Embarcadero

Dear Mrs. Novak:

At its regular meetings on April 28, 2008 and May 12, 2008, the City Council approved your request for UP0-058 to construct improvements along the Harbor Waterfront that would enhance, promote and support a working waterfront, and offer new public benefits, with conditions.

This action does not constitute a building permit. Further processing of this project must be initiated by the applicant, and is subject to applicable rules and regulations of the Morro Bay Municipal Code.

Your project is also located within the California Coastal Commission Permit Jurisdiction. Please note that it is the applicant's responsibility to obtain all necessary approvals from the Coastal Commission.

The approved project as approved by the Council was modified from the original plans and new project plans shall be submitted that reflect the changes for final Precise Plan approval. These changes include:

- Remove the platform and gangway proposed off the South T-Pier and install a ladder.
- Extend the floating dock towards the South T-Pier approx. 43-feet.
- Pay reimbursement fees for the installation of the Harborwalk in front of the business and \$5,000 for bait receivers' frontage.
- Reduce the enclosed dock space as much as possible without impacting Eelgrass.
- Remove the cantilever boardwalk on the west side of Virg's new building.
- Shorten the western most finger style dock by at least 15-feet to increase navigation to the North T-Pier.
- The second floor restaurant in the new Virg's building shall not be greater than 952 square feet and 324 square feet of marine related business space.
- Appropriately sign the floating dock to allow public access between 8 a.m. and sunset.
- Connection and public access from South T-Pier to GAFCO market.

The rest of the project as presented is also accepted which includes and not limited to: the second floor public deck with no restaurant seating, third floor roof deck, ADA lifts to floating docks, temporary and underground bio-diesel fuel tanks, removal of Thai Boat/Virg's shop and tackle, expansion of GAFCO market, floating docks, and working with the City regarding the realignment of entryways into parking lot.

Sincerely,

Mike Prater, Planning Manager
Public Services Department

Enclosures: Permit, Findings, and Conditions of Approval

FINANCE 595 Harbor Street	ADMINISTRATION 595 Harbor Street	FIRE DEPARTMENT 715 Harbor Street	PUBLIC SERVICES 955 Shasta Street
HARBOR DEPARTMENT 1275 Embarcadero Road	CITY ATTORNEY 955 Shasta Avenue	POLICE DEPARTMENT 850 Morro Bay Boulevard	RECREATION AND PARKS 1001 Kennedy Way

EXHIBIT C of 8/25/15 Council staff report

Concept Plan Permit

CONDITIONAL USE PERMIT

CASE NO: UP0-058

THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:

SITE ADDRESS: 1185 to 1215 Embarcadero

APPLICANT: Virg's Landing Inc, Darby Neil, Harbor Hut/GAFCO, James & George Leage

APN/LEGAL: 066-351-018-020, 039, 016, 029, 028, & 012-015/Lease Sites 110-112, 122 & 123, 124-127/110W-112W & 115W, 122W & 123W, 124W-127W

DATE APPROVED: April 28 & May 12, 2008 APPROVED BY: City Council

APPROVED BASED UPON ATTACHED FINDINGS *(Findings and Conditions of Approval Attached)*

CEQA DETERMINATION: MITIGATED NEGATIVE DECLARATION

DESCRIPTION OF APPROVAL: to construct improvements along the Harbor Waterfront that would enhance, promote and support a working waterfront, and offer new public benefits and as described in the cover letter.

THIS APPROVAL IS CONDITIONAL 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 Planning & Building Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void. -

YOUR PROPERTY IS LOCATED IN THE CITY OF MORRO BAY JURISDICTION, CITY COUNCIL HAS FINAL APPROVAL OF CONDITIONAL USE PERMIT

YOUR PROPERTY IS LOCATED IN THE COASTAL COMMISSION ORIGINAL 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. Any 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: 831-427-4863. If you have any questions, please call the City of Morro Bay Public Services Department, 772-6210.

IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: May 12, 2008 pending Precise Plan Approval

ATTEST: _____ DATE: _____

Mike Prater, Planning Manager

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

EXHIBIT C of 8/25/15 Council staff report
Concept Plan PermitEXHIBIT A:
Revised FINDINGS

UP0-058, A request to demolish and reconstruct Dock Master Plan, replace Virg's & expand GAFCO with an outdoor market.

California Environmental Quality Act (CEQA)

- A. That for purposes of the California Environmental Quality Act, Case No. UP0-058 is subject to a Mitigated Negative Declaration based on aesthetic, air quality, biological, geological, hazardous, hydrology, land use and planning, noise, and transportation issues present on the property. Any impacts associated with the proposed development will be brought to a less than significant level through the Mitigated Negative Declaration.

Conditional Use Permit Findings

- B. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the prior development agreement for GAFCO and the replacement restaurant for the Thai Boat are permitted use within the zoning district and that the dock plans do not conflict with the navigational channel and in fact better protect the eelgrass habitat applicable to the project site and said structures complies with all applicable project conditions and City regulations.
- C. The project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the masterplan project will provide additional public benefits.
- D. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the City in that the City entered into a prior development agreement for GAFCO and the replacement restaurant for the Thai Boat are permitted use within the zoning district and that the dock plans do not conflict with the navigational channel and in fact better protect the eelgrass habitat. The City recognize these prior agreements and believes the replacement of the Thai Boat does not conflict with Measure D's intent. In addition, public benefits are provided to offset the exceptions granted.

Waterfront Master Plan Findings

- E. The proposed project makes a positive contribution to the visual and public accessibility to the bay while increasing and maintaining commercial fishing industry and not increasing restaurants:
- a. Meets the Waterfront plan height limit and maximum building coverage, bulk, and scale requirements in that the proposed project offsets these standards by increasing public benefits.
 - b. In the case of granting height greater than 17 feet, the proposed project also provides significant public benefit pursuant to the Planned Development Overlay zone requirements in that the proposed project is widening the sidewalk and creating a public view deck, providing view corridors, and including public restrooms.
 - c. The proposed project provides the amenities identified in the WF Plan, facilitates pedestrian visual and physical access to the waterfront, and takes advantage of outward views and characteristics of the topography in that the roof elements were altered to allow for better bay views.
 - d. The proposed project makes a positive contribution to the working fishing village character and quality of the Embarcadero area in that the new project will add to the pedestrian orientation while maintaining the commercial fishing operations.

Concept Plan Permit
EXHIBIT C of 8/25/15 Council staff report

- e. The design recognizes the pedestrian orientation of the Embarcadero and provides an interesting and varied frontage that will enhance the pedestrian experience in that the project will provide lateral public access to the water and docks while assisting in the Harborwalk plan to continue public access along the waterfront.
- f. The project gives its occupants and the public some variety in materials and/or application in that the building will consist of stucco and metal roofing, while outdoor market will be wood.
- g. The project contains the elements of harmony, continuity, proportion, simplicity, and balance, and its appearance matches its function and the uses proposed in that the new structure will provide more horizontal and vertical articulation, and the public will be invited into the space via a new public view deck.
- h. The proposed project does not diminish, either directly or by cumulative impact of several similar projects, the use, enjoyment, or attractiveness of adjacent buildings and provides a visual and pedestrian transition to its immediate neighbor in that the existing and new construction is in keeping with the architectural style, massing, materials, scale, and use of its surroundings.

General Plan Consistency

- F. The proposed project implements Visual and Land Use Policies by providing and enhanced the area as indicated in the attached staff report.
- G. The proposed project implements habitat protection and water quality as indicated in the attached staff report.
- H. With the implementation of the above-mentioned policies enumerated in the staff report, the project demonstrates consistency with the General Plan.

Local Coastal Plan Findings

- I. The City Council finds that the project is compatible with the surrounding uses and that exceptions are warranted because of the offsetting public benefits.

Planned Development Overlay

- J. With approval of the project, the City finds that with the heightened level of review the proposed project is acceptable and consistent with Morro Bay standards and the project includes public benefits to deviate from the height, lot coverage and view corridor standards.

Architectural Consideration

- K. As required by Ordinance Section 17.48.200 the City Council find that the architectural treatment and general appearance of all proposed building, structures and open areas are in keeping with the character of the surrounding areas, are compatible with any design themes adopted by the city, and are not detrimental to the orderly and harmonious development ;of the city or to the desirability of investment of occupation in the area.

Measure D & CF Zone Consistency

- L. The City Council finds the proposed project is primarily for the purpose of serving or facilitating licensed commercial fishing activities or non-commercial recreational fishing activities, or is clearly incidental thereto.

EXHIBIT C of 8/25/15 Council staff report
Concept Plan PermitEXHIBIT B:
Revised CONDITIONS OF APPROVALSTANDARD CONDITIONS

1. This permit is granted for the land described in the staff report referenced above, dated April 28, & May 12, 2008 for the projects depicted on the attached plans labeled "Exhibit C" on file with the Public Services Department, as modified by these conditions of approval.
2. Changes: Any minor change may be approved by the Public Services Director. Any substantial change will require the filing of an application for an amendment to be reviewed by the Planning Commission.
3. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.
4. Compliance with Conditions: By issuance of building permits for the proposed use or development, the owner or designee accepts and agrees to comply with all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
5. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the Zoning Ordinance, Beach Street Specific Plan, certified Coastal Land Use plan and General Plan for the City of Morro Bay.
6. 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.
7. Water Saving Devices: Prior to final occupancy clearance, water saving devices shall be installed in all facilities in all leases effected by the project in accordance with the policies of the Morro Bay Coastal Land Use Plan and as approved by the Building Official.
8. 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.
9. Screening of Equipment/Utility Meters/Fencing: All roof-mounted air conditioning, or heating equipment, vents, ducts and/or utility meters shall be screened from view in a manner approved

Concept Plan Permit
EXHIBIT C of 8/25/15 Council staff report

by the Director of Planning and Building. Prior to building permit issuance, the approved method of screening shall be shown on the project plans.

10. 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. weekdays and eight a.m. to seven p.m. on weekends, unless an exception is granted by the Director of Planning & Building pursuant to the terms of this regulation.
11. Exterior Lighting: Pursuant to MBMC Section 17.52.080, prior to building permit issuance, complete details of all exterior lighting shall be shown on the project plans for review and approval by the Director of Planning & Building. All exterior lighting shall be low level with a height of fixture not to exceed a maximum of 17 feet and shall achieve the following objectives; avoid interference with reasonable use of adjoining properties; shielded to minimize on-site and off-site glare; provide adequate on-site lighting; limit fixture height to avoid excessive illumination; provide structures which are compatible with the total design of the proposed facility.
12. 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.
13. 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.
14. 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.

PLANNING CONDITIONS

15. Colors and Materials: Prior to issuance of a building permit, the Public Services Director shall ensure compliance of all exterior colors and materials, including fencing materials. All other colors and materials not so specifically approved may be approved by the Director according to the following objectives: achieve compatibility with colors and materials used in the on-site improvements; achieve compatibility with the architectural design of the improvements; achieve compatibility with surrounding land uses and properties; preserve the character and integrity of the zone.
16. Signage: Prior to installation of any sign on-site, a sign program shall be approved by the Director in conformance with MBMC Chapter 17.68. Minium 2 signs leading public to public restrooms.
17. Soils Report: Prior to building permit issuance, the applicant shall provide all updated and project-specific soils and geology reports required by the Building Official. Project design and construction shall be consistent with recommendations contained in soils and geology reports, as required by the Building Official.

EXHIBIT C of 8/25/15 Council staff report
Concept Plan Permit**PUBLIC WORKS CONDITIONS**

18. **Drainage:** To reduce pollution into Morro Bay and the ocean waters, the applicant/developer shall install storm drain inlet protection at the existing storm drain between Virg's Landing and Harbor Hut and also one along the walkway between Harbor Hut and Great American Fish Company. Inlet protection shall be approved by the City.
19. **Parking lot:** Prior to final approval provide Public Improvement Plans showing all improvements to Embarcadero Road and the parking lot as recommended by OEG's traffic Engineer. Also the parking lot associated with these properties shall be resurfaced and work with staff to accomplish in an equitable manner, and new stripping added.
20. **Harborwalk:** To maintain the flow of pedestrians throughout the area the applicant/developer shall pay their fair share of the Harborwalk along the frontage of the properties. In addition, Virg's lease site for the bait receivers shall pay only \$5000 contribution for its frontage.
21. **Storage Tanks:** Provide a detailed plan including but not limited to the following concerns:
Spill control measures at the tank and at the dispensing area. Provide installation of safeguards against accidents, installing secondary containment, conducting regular inspections and spill cleanup techniques.
Install a fence around the fuel tanks for safety and aesthetics since the tank will be located near the pedestrian pathways.
Proposed fuel hose route from tank to docks will interfere with pedestrian facilities causing a trip hazard.
Show how the fuel tank will access the proposed tank for fill-up.
Include the dimensions of the proposed storage tank.
22. **Driveway:** The driveway must keep a minimum 20' clear for WB63 truck access. There appears to be a conflict with the 20' minimum clear of the proposed driveway alignment between the proposed storage tanks and Virg's Landing. The driveway alignment is shown going through the existing Ice Machine and Virg's new maintenance /tool shed.

FIRE DEPARTMENT CONDITIONS

23. **Building and Address Identification:** Approved address numbers shall be placed on all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall clearly contrast with their background. The characters shall be a minimum of 5" high with a ½ " stroke.
24. Prior to final occupancy the applicant shall submit an 8-1/2" x 11" reduced copy of the floor plan and site plan for updating Fire Departments response books
25. **Fire Extinguishers:** The minimum fire-extinguisher requirement shall be one portable, wall-mounted for each retail space in such locations so that maximum floor travel distance does not exceed 75' to the nearest extinguisher from any portion of the building with a maximum of 3,000 square feet of floor area surveyed. Fire extinguishers listed above, will be required on site during construction.
26. **Automatic Fire-Alarm Systems:** Sprinkler systems shall be installed in accordance with Morro Bay Municipal Code Section 14.60.200, in all new structures along the waterfront in compliance with appropriate Uniform Building Code Standards, regardless of area separation or where

EXHIBIT C of 8/25/15 Council staff report

required by National Fire Protection Association (NFPA) Standards, and other standards adopted by the jurisdiction.

27. Refuse Containers: Trash enclosures must comply with the 1994 Uniform Fire Code Article 1103.2.2. Dumpsters and containers with an individual capacity of 1.5 cubic yards or more shall not be stored in buildings or placed within 5 feet of combustible walls, openings, public walkways (if feasible), or combustible roof eave lines.
28. Fire Alarms: For fire alarm systems employing automatic Fire detectors or waterflow detection devices, at least one fire alarm box shall be provided to initiate a fire alarm signal. This fire alarm box (pull station) shall be located where required by the authority having jurisdiction.
29. An approved audible sprinkler flow alarm shall be provided on the exterior of the building in an approved location. An approved audible sprinkler flow alarm to alert the occupants shall be provided in the interior of the building in a normally occupied location. Action of the alarm shall be as set forth in UBC Standard N0. 9-1.

CONCEPT PLAN CONDITIONS

30. The applicant shall revise and/or supplement plans to reflect the necessary changes to the project site and/or nearby properties to comply with the all city standards. This may include but not be limited to parking lot re-configuration, more knowledge about the above ground fuel tanks and pocket park concept, reflect the Harborwalk plan, and any other topics mentioned in the report and discussed at the meetings.

ENVIRONMENTAL CONDITIONS

31. The mitigation measures from the final MND are as follows:

AESTHETICS:

- AES-1 The project will comply with all of the required view corridor and building height limitations imposed by the Zoning Ordinance, Local Coastal Plan, and the Waterfront Master Plan. Including opening or removal of roofline between smaller corridor.
- AES-2 The project master plan shall incorporate the added and enhanced public access and view corridors indicated in the project description along with the appropriate signage to inform the public of their right to access these areas. Including but not limited to: a) public view deck above Virg's, b) lateral access boardwalk the length of the water leases of the master plan, c) view corridors between Virg's and Harbor Hut, d) no visual obstructions except for low shrubs, seating benches, and other small scale features to replace the Thai Boat.
- AES-3 In addition to the master plan project description of enhanced views, the project shall also include a public observation area and open public access into the GAFCO outdoor market area with clear signage to inform the public of their right to access this area limited to the same hours as the market. The above ground fuel tank for Virg's shall be temporary and removed when the underground tanks are installed. The Virg's maintenance shed area should be considered as an additional opportunity to increase the public view corridor by potentially maintaining a low profile.
- AES-4 At a noticed public hearing, the Planning Commission shall consider details of the proposed architectural treatment, including landscaping and bulk/scale, and shall require any changes deemed necessary or appropriate to avoid or minimize adverse impacts as viewed from public streets.

EXHIBIT C of 8/25/15 Council staff report
Concept Plan Permit

AES-5 Exterior night lighting installed on the project site shall be of a low intensity, low glare design, and shall be hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent areas. Pole supports shall be of a darker finish to reduce glare.

AIR QUALITY:

- AQ-1 Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site. A dust management plan shall include the following:
- a. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems shall be used to prevent dust from leaving the site and to create a crust after each day's activities cease.
 - b. Water trucks or sprinkler systems shall be used during construction to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this shall include wetting down such areas in the later morning and after work is completed for the day, and whenever wind exceeds 15 miles per hour.
 - c. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.
 - d. Reduce the amount of the disturbed area where possible.
 - e. Permanent dust control measures identified in the approved project revegetation and landscape plans shall be implemented as soon as possible following completion of all soil disturbing activities.
 - f. All paved areas (i.e., roadways, sidewalks, etc.) shall be completed as soon as possible unless seeding or soil binders are used.
 - g. Construction vehicle speeds shall be not exceed 15 mph on any unpaved surface at the site.
- AQ-2 The applicant shall submit their geologic evaluation to APCD for consistency review with the Asbestos Airborne Toxic Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations to verify that serpentine rock or any ultramafic rock is not present within proposed disturbance areas prior to commencement of grading activities and grading permit. Subsequent to this finding, an Exemption Request from Section 93105 of the California Code of Regulations-ARB Asbestos Airborne Toxic Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations shall be filed with the San Luis Obispo County APCD. In the highly unlikely event that serpentine rock or any ultramafic rock are identified during the geologic evaluation, the applicant shall comply with all requirements outlined in the Asbestos Air Toxics Control Measures (ATCM), including preparation of an Asbestos Dust Mitigation Plan and an Asbestos Health and Safety Program for approval by the APCD.

BIOLOGICAL RESOURCES:

- BIO-1 Prior to the issuance of a building permit, an approved "otter watcher" shall be under contract or otherwise committed to being on the job site at all times during which the pile driver is in operation. The contract or other written agreement between the applicant and "otter watcher" shall specifically encourage and empower the "otter watcher" to stop work immediately in the event that a sea otter is detected in the project area. The contract, agreement, work scope or similar document shall further specify that no work shall be resumed until after the marine mammal has left the area. With this mitigation, the project would not have a significant impact of animals, or require a state or federal take permit.
- BIO-2 To avoid impacts, all work that disturbs the ocean floor (i.e., installation of pilings) shall be overseen and monitored by the project biologist.
- BIO-3 The shaded eelgrass shall be surveyed prior to construction and after completion to ensure the area has not lost more than anticipated. Concurrence from the federal agencies and obtain all necessary

EXHIBIT C of 8/25/15 Council staff report

permits from them before start of construction

- BIO-4 All docks shall be lowered in placed (following assembly) from the existing building site or by water, as stated in the Section 10 authorization from the Army Corp of Engineering.

GEOLOGY/SOILS:

- GEO-1 Grading shall not occur during the wet season (November 1-April 15) unless erosion control devices acceptable to the City Public Works Department are implemented. Silt fencing, straw bales, straw wattles, and/or sand bags shall be used in conjunction with other methods to prevent surface water-induced erosion of on-site soils and siltation offsite.
- GEO-2 The applicant shall provide project-specific soils and geotechnical reports required by the Building Official. Project design and construction shall be consistent with recommendations contained in soils and geology reports, as required by the Building Official.

HAZARDS/HAZARDOUS MATERIALS:

- HAZ-1 To reduce the potential for inadvertent release of fuel from lease areas to aquatic habitats, avoidance of storing all cleaning and refueling materials for equipment and vehicles/vessels near the western property boundary without having proper safe guards in place to prevent a hazardous accident.
- HAZ-2 Sorbent materials, such as booms and drop cloths, should be stored on site to allow a crew member to respond to unplanned spills in a timely manner. Employees shall be briefed on the purpose, application, and location of sorbent materials.
- HAZ-3 All lease sites shall provide the Harbor and Fire Department with a list of hazardous materials used and inform the employees of where clean-up supplies are located in case of accidents that could cause harm to the environment and particularly the water and take necessary measures to prevent such accidents including developing rules and procedures on how and where to handle these materials, routine maintenance on vessels, and passing the performance standards under Resolution 53-06.

HYDROLOGY/WATER QUALITY:

- HYDRO/WQ-1 Implementation of Best Management Practices (BMPs) in accordance with the NPDES Phase 2 Permit requirements for short-term construction shall be required to address erosion impacts at the site. BMPs include but are not limited to the following:
- a. Constructing berms and, if needed, covering sand/gravel stock piles to prevent erosion and offsite transport by stormwater runoff;
 - b. Covering storm drain catch basins within the construction area to prevent sediments and debris from collecting in the basins;
 - c. Sweeping and disposing soils from the work area to prevent offsite transport and/or runoff into storm drains or directly to the Bay;
 - d. Implementing measures to prevent runoff of any debris from cutting, grinding, or welding into the Bay;
 - e. Placing drip pans under mechanical equipment to catch leaks (e.g., fuels and hydraulic fluids); and
 - f. Properly storing or disposing all materials with potentials for polluting stormwater runoff.
- HYDRO/WQ-2 The following measures would be required to address erosion impacts at the project site:
- a. Temporary berms and sedimentation traps, such as silt fencing, shall be installed in association with project grading to minimize erosion of soils and sedimentation

EXHIBIT C of 8/25/15 Council staff report

Concept Plan Permit

- in the storm drains. The sedimentation basins shall be cleaned as needed and the silt shall be removed and disposed of in a location that shall not impact native habitat, as approved by the City of Morro Bay Public Works Department;
- b. Runoff shall not be directed across exposed slopes. All surface runoff shall be conveyed in accordance with the approved plans; and
 - c. Site grading shall be completed such that permanent drainage away from foundations and slabs is provided and so that water shall not pond near proposed structures or pavements.
 - d. To reduce the potential for inadvertent release of fuel from construction areas to aquatic habitats, avoid all cleaning and refueling of equipment and vehicles near the western property boundary. Stage and refuel vehicles only in appropriately marked construction staging areas, preferably offsite or near Embarcadero.
 - e. Sorbent materials, such as booms and drop cloths, should be stored on site to allow construction crews to respond to unplanned hydrocarbon spills in a timely manner. Construction crews shall be briefed on the purpose, application, and location of sorbent materials prior to project implementation.

LAND USE AND PLANNING:

- LU-1 At a noticed public hearing, the Planning Commission shall consider details of the proposed land use and Measure D consistency, and shall require any changes deemed necessary or appropriate to avoid general plan local coastal plan consistency concerns.

NOISE:

- NOISE-1 Construction activity shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday during Summer and holiday weekends. All other seasons construction hours shall follow the MBMC. No construction shall occur on State holidays (e.g., Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities (e.g., painting, landscaping with hand tools, etc.) are not subject to these restrictions.

TRANSPORTATION:

- TR-1. A Traffic Management Plan (CTMP) shall be implemented during project construction that includes the following:
- a. A minimum of one travel lane shall be maintained in each direction during construction.
 - b. A public awareness program shall be implemented before and during construction providing information on road closures, delays expected during construction, signage and flag persons, brochures, web sites, newspaper, and other notices.
- TR-2. Traffic improvements to the parking lot and circulation routes identified in the plan (as a City project) and Harborwalk plan shall be mitigation for this project in order to maintain feasible circulation.
- TR-3. If the applicant request to not make the parking space improvements that would increase the number of parking spaces by three to accommodate the increase vessel demand (the circulation improvements are required regardless) then they may request to pay three In-Lieu-Fees from the City. In accordance with MBMC §17.44, the applicant shall pay in lieu fees for the total required increase in number of onsite parking spaces demand for the dock and structures.

PLANNING COMMISSION CONDITIONS

EXHIBIT C of 8/25/15 Council staff report
Concept Plan Permit

32. Restaruant square footage –Equal square footage of the existing resturant (Thai Boat) for the entire resturant space (~952sqft), and (~324sqft) of office space (for marine related businesses) on the upper floor is allowed.
33. The applicant is allowed to modify the project timeline, as feasible, however all of the public improvements shall be within Phase I.
34. Temporary above ground fuel is only allowed until the Thai Boat is removed and the underground tanks are installed, at such time the temporary tanks shall be removed.
35. All structures shall not exceed 25 feet in height, except for existing structures.
36. The 1-foot extension to tie into the South T-Pier is allowed.

CITY COUNCIL CONDITIONS

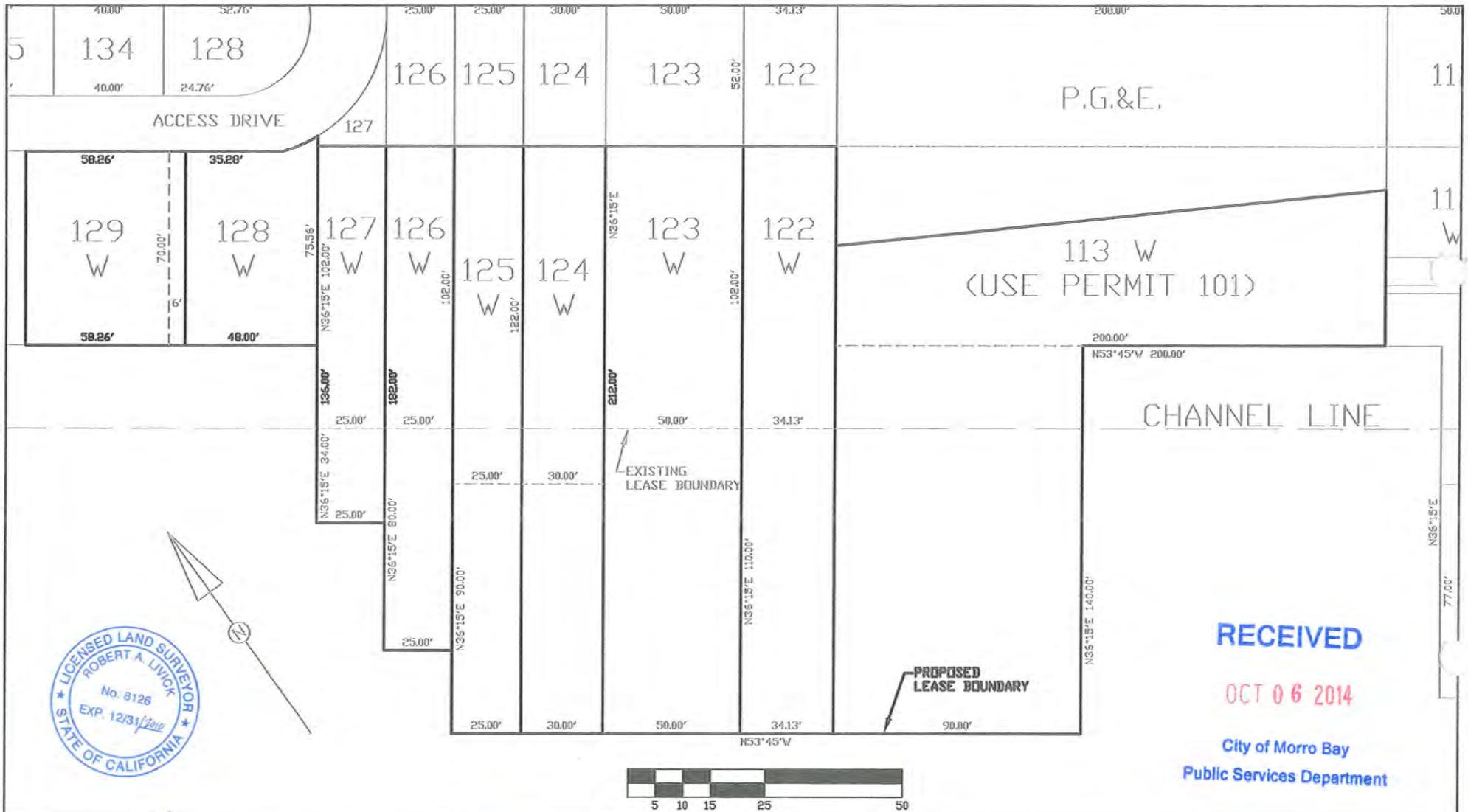
37. Public access to the floating docks shall be allowed between the hours of 8 a.m. to sunset everyday.



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EXHIBIT C of 8/25/15 Council staff report



RECEIVED
OCT 06 2014
 City of Morro Bay
 Public Services Department

APPROVED: Rob Livick DATE: 11/16/2010
 Rob Livick, Director/ City Engineer

DRAWN BY: RZ DATE: JULY 2010

REVISED: OCTOBER 2010

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

SCALE IN FEET
 Approximate Scale

EXHIBIT A
 REVISION TO LEASE SITES MAPS
 LEASE SITES 113 W AND 122 W THRU 129 W

EXHIBIT C of 8/25/15 Council staff report



WHITE
SIGNAGE COLOR



OLIVE GREEN
TRIM COLOR



SANDSTONE
STAMPED CONCRETE



RIVER TEAL
METAL ROOFING



MARINE GREEN



HEATHERED MOSS
HARDI-PLANK SIDING



ATANTICA GREEN
TINTED GLAZING



ARCTIC BLUE



SEA HARVEST
COMMERCIAL CARPET

MORRO BAY LANDING ONSHORE LEASE IMPROVEMENTS
MATERIAL SAMPLE BOARD

LAND / SEA INTERFACE

0013704-001341
Morro Bay, CA 93422
Morro Bay, CA 93422
1-800-772-8428
phone office 7-805-106-9344
Fax: 1-805-772-8428
E-mail: 1-800-Sea-Interface
M@morrobayhg.com

- ARCHITECT
- CONSULTANT
- CONSTRUCTION

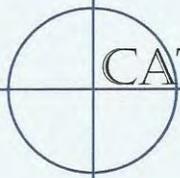
MARINE
COMMERCIAL
RESIDENTIAL

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EXHIBIT C of 8/25/15 Council staff report





May 14, 2015

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

RE: 1215 Embarcadero Road project – Pole Sign

Dear Cindy,

As per our conversation I wanted to follow up you on the information and previous comments we submitted regarding the pole sign. We are still of the opinion that the City does not have the authority to request that the pole sign be removed as a condition of approval for the Precise Plan. This sign has been previously approved by both the City and CA Coastal Commission as evidenced in the photo simulations and discussed below.

The incomplete application letter that you sent dated January 29, 2015 stated the following: *"Staff has reviewed your response regarding the nonconforming pole sign. The concept plan approvals do not include reference of pole sign approval. Pursuant to Zoning Code 17.68.150B4, "If change of ownership of the business occurs, and no change to the type of business advertised by any nonconforming sign, the new owner may change any name or names on such sign provided there is no change in the sign size, configuration or orientation." Staff has observed that in the time from when the Virg's business moved out, to when the Morro Bay Landing business moved in, there was an extended period of time, when there was no sign up (empty sign can). The sign ordinance allows for nonconforming signs to be taken down for repair, replacement for a period not to exceed 60 days. In this case, the sign can was empty for so long that the image was captured on Google Earth street view (imagery date Feb. 2012). Furthermore, there is currently a blue banner running the length of both sides of the sign pole, which reads, "Sportfishing" that is not allowed. As an illegal non-conforming sign, and as part of the discretionary permit process of the Precise Plan, it is within the Director's authority to appropriately condition the project in a manner that is consistent with the Waterfront Master Plan design guidelines, General Plan and Local*

GOVERNMENTAL & COMMUNITY RELATIONS • PLANNING

CELL 805.441.7581 • PHONE & FAX 805.772.9499

POST OFFICE BOX 296 • MORRO BAY, CA 93443

NOVAKCONSULTING@CHARTER.NET

EXHIBIT C of 8/25/15 Council staff report

Coastal Program. A sign of this magnitude is not consistent with the character of the working fishing village.”

Our response to your comments is as follows:

Nonconforming Pole Sign: I appreciate your comments regarding the pole sign and the ordinance section you provided however, I must respectfully disagree with your conclusion that the sign must be removed. First you indicated that there was no sign up (empty sign can) for an extended period of time during the transition from Virg's to Morro Bay Landing and that the sign has exceeded the allowable time of 60 days per the Zoning Ordinance for a nonconforming sign to be taken down for repair. The Zoning Ordinance section for which you refer to is section 17.68.150 B.1 and states, "Such sign may be removed for purposes of repair and routine maintenance, including painting, provided such sign is replaced within sixty days of its removal". The intent of this section is to allow businesses to take down the structure for repairs, painting or maintenance and then be able to replace it as a non-conforming use as long as it doesn't exceed the 60 days. This section applies only to the "sign" and not to the sign face or display surface. Also in B.2, it says that minor sign face changes are permitted which clearly delineates that there is a difference between the "sign" and "sign face". The "sign" that you referred to was only the sign face or display and had nothing to do with the actual structure that was in place.

Furthermore, the Zoning Ordinance is clear as to what constitutes a "sign" by way of the definitions in two separate sections. It is also very clear that there is a difference between the sign and sign face. The sections from the Zoning Ordinance are as follows:

- a. 17.12.580 - Signs. "Signs" means any display or structure as defined in Chapter 14.64 of this code.
- b. 17.68.020 - Definitions.
"Changeable copy sign" means a sign designed so that characters, letters or illustrations can be changed or rearranged without substantially altering the face or the surface of the sign.

"Display surface" means the area made available by the sign structure for the purpose of making visible the advertising message.

"Sign" means any medium, including its structure and component parts, which is primarily used for, or having the effect of attracting

EXHIBIT C of 8/25/15 Council staff report

attention from streets, parking lots, sidewalks or other outside public private areas.

Therefore based upon the Zoning Ordinance, the “sign” structure (in this case the metal frame) has **not** been taken down for an extended period of time and is not in violation of the City codes.

Second, the blue banner currently on the sign pole is not a matter for the incomplete letter but should be dealt with as a separate issue with the applicant.

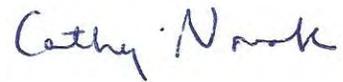
Third, the original project approvals deemed this project consistent with City codes and the Waterfront Master Plan. As part of the presentation of this project for both the City and Coastal Commission, there were several photo simulations that were provided. Specifically, I have attached simulations and a sketch that were done and presented both to the City and Coastal Commission that clearly show the pole sign remaining as part of this approved project. These simulations were presented at the Planning Commission January 2008 meeting, Coastal Commission June 2009 meeting and Planning Commission June 2010 meeting. Since the pole sign was incorporated into the approvals of this project prior to this time, it is not appropriate for the City to reverse the course and determine that this sign is an illegal non-conforming sign and therefore must be removed. The sign is a non-conforming use however; it complies with all City codes that govern this use.

Fourth, the applicant installed the new sign face/display in July 2013. Prior to the installation, the applicant went to the City to apply for a sign permit and was told that none was needed since he was just changing the copy on the sign. So in the end, the installation of the new sign face was done without a permit with City permission.

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

EXHIBIT C of 8/25/15 Council staff report

Sincerely,

A handwritten signature in blue ink that reads "Cathy Novak". The signature is written in a cursive style with a small dot above the 'y' in "Novak".

Cathy Novak

Project representative

cc: Mr. Bob Fowler
Mr. Gene Doughty

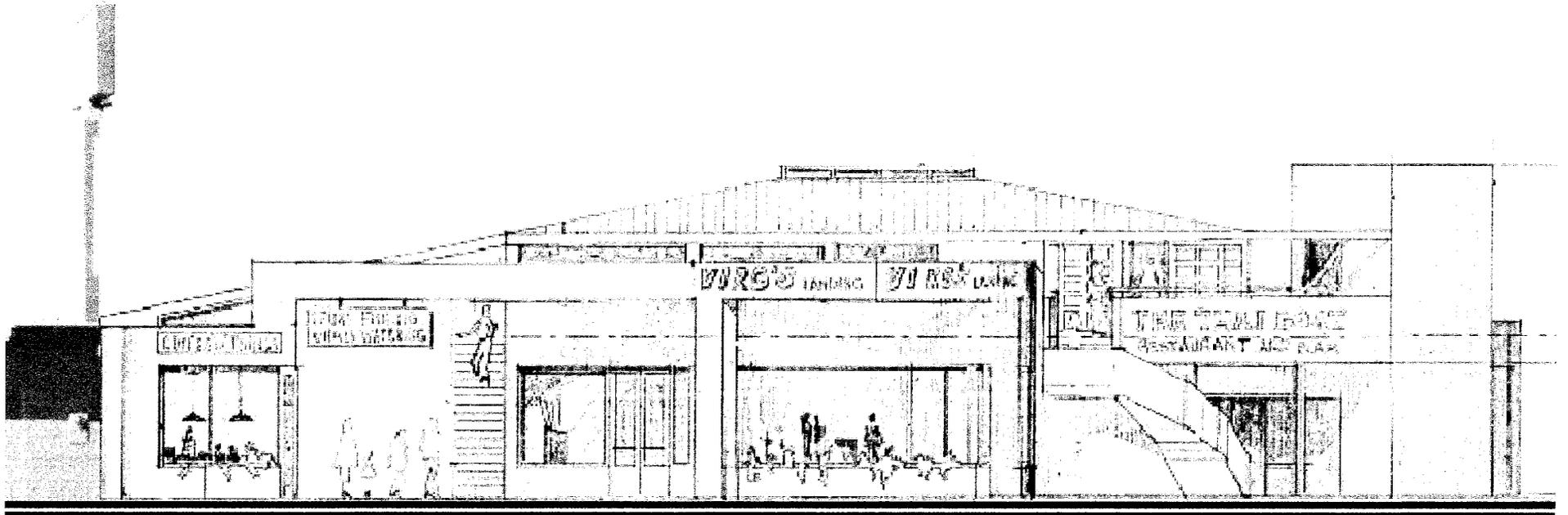
Exhibit J - Concept Plan Simulations
EXHIBIT C of 8/25/15 Council staff report



Embarcadero Simulation May 2007

C.P. PARKER
ARCHITECT

Exhibit J - Concept Plan Simulations
EXHIBIT C of 8/25/15 Council staff report



Planning Commission Presentation January 22, 2008

Exhibit J - Concept Plan Simulations
EXHIBIT C of 8/25/15 Council staff report

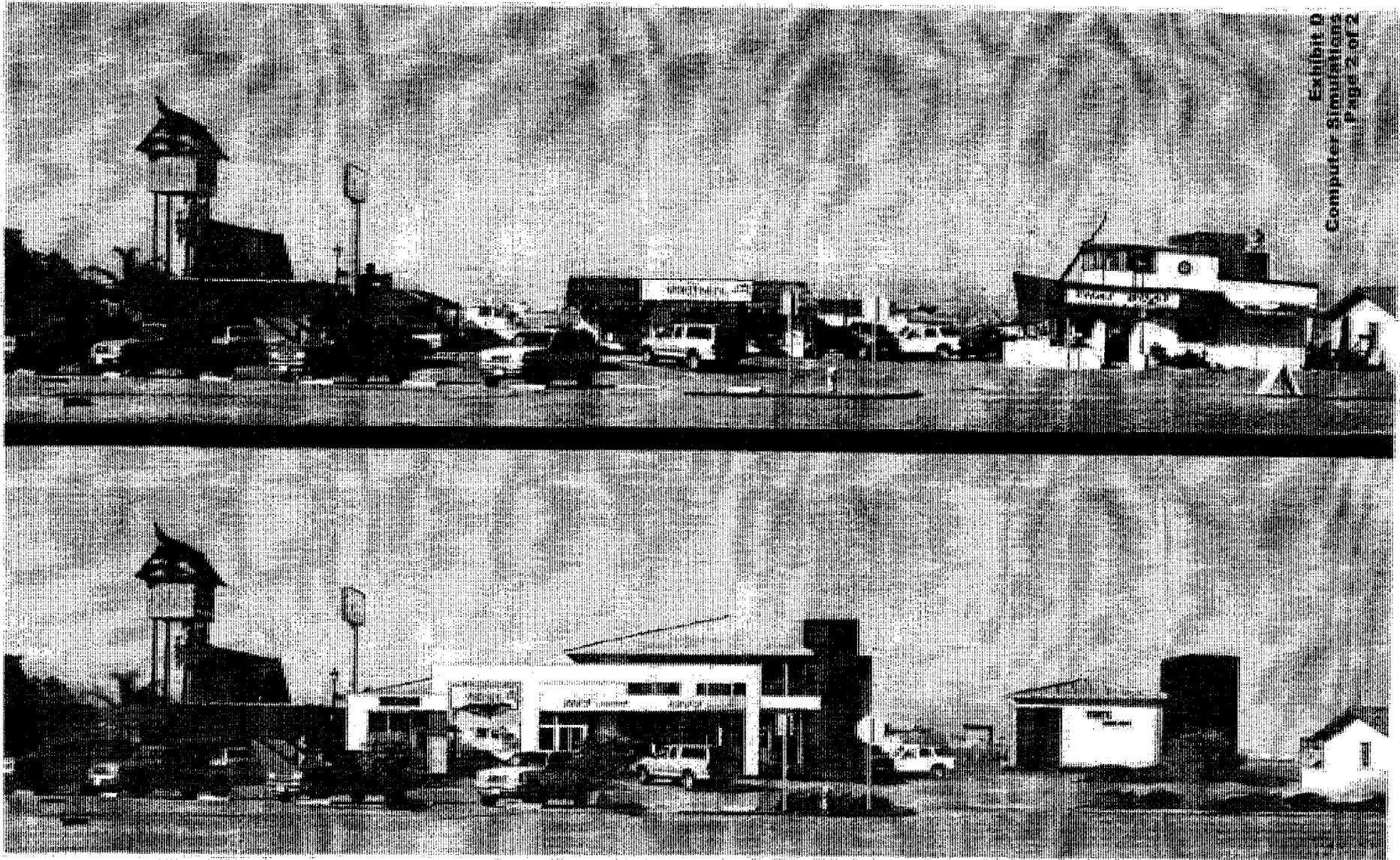


EXHIBIT D

CATHY • NOVAK

consulting

RECEIVED

JUN 02 2015

City of Morro Bay
Community Development Dept.

May 29, 2015

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

RE: 1215 Embarcadero Road project, UPO-058 Precise Plan

Dear Cindy,

Thank you for the after action item letter dated May 21, 2015. Mr. Fowler has asked me to prepare a response to your letter and inquiry to submit revised plans to show a lateral bayside access prior to the City Council meeting on June 23, 2015 and an evaluation for the Harbor Hut access connection.

First in regards to the evaluation for the feasibility of the Harbor Hut access connection, we can say that there are no structural improvements on the site plan that would prohibit the future connection of a lateral accessway from Harbor Hut to Morro Bay Landing. The project as proposed has a public observation deck and 17 foot wide public accessway along the Harbor Hut side of the building which allows for sufficient area to make a future connection. Evaluating a future connection location from the Harbor Hut beyond this is point in time, based upon the Morro Bay Landing plans, is impossible to determine whether it would be entirely feasible. A redevelopment plan for the Harbor Hut would need to be submitted and evaluated for any potential impacts to Eelgrass among other things in order to fully understand if the connection would be feasible from the Harbor Hut side. Since there are no plans from the Harbor Hut to redevelop that site, we can only rely on the fact that the Morro Bay Landing side is free and clear of obstructions.

Second, we must respectfully disagree with the imposed Planning Commission condition to add a bayside lateral access on the new building project for several reasons. This project was approved by the City in 2008 without a bayside lateral access. At the time the City Council had three public hearings in which they were presented with information regarding the difficulties of constructing a bayside access and that there were two clear options to satisfy the Waterfront Master Plan and LCP policies for this. At each of the meetings the Council considered all the options and in the end, they approved the project without the

GOVERNMENTAL & COMMUNITY RELATIONS • PLANNING

CELL 805.441.7581 • PHONE & FAX 805.772.9499

POST OFFICE BOX 296 • MORRO BAY, CA 93443

NOVAKCONSULTING@CHARTER.NET

EXHIBIT D

this requirement and determined that the floating docks coupled with the in-lieu payment to the City for the construction of the City's Harborwalk was appropriate and satisfied all the City standards (Exhibit A Revised Finding, May 12, 2008).

After the City Council approved the project as presented we applied to the Coastal Commission for a CDP. The Coastal Commission reviewed the project and additionally agreed that the project as presented met all the Coastal Act policies for coastal access. It was made clear in the Coastal Commission staff report that each of the applicants would pay for their portion of the Harborwalk (already constructed by that point) and that the project provided maximum public access via the floating dock system. The report further addressed the issue in regards to the difficulty of constructing a walkway seaward of the buildings and concluded that the floating dock access as a condition of approval mitigated this.

Furthermore, I tried to explain to the Planning Commission that there was a potential to impact Eelgrass with the addition of a bayside access that would be added westward of the proposed project. The Planning Commission also suggested that the new building could be moved eastward a few feet to help with this design. Since I was not asked in advance to provide a copy of the Eelgrass survey, I was not able to show the Planning Commission that the proposed building is cantilevered over the rock revetment as far as feasible at this time without creating any impacts to the Eelgrass beds. I have attached a copy of the post-construction Eelgrass survey from the floating dock project that shows a bed of Eelgrass at the very location that the Planning Commission suggested the walkway be constructed. In addition, it is not feasible to move the building several feet eastward to gain more space since there is a utility trench that runs through the area between the building and the Harborwalk.

There several other considerations such as landing a public accessway into a working commercial fishing area, location of the electric panel on the north side of the building, and the stairway access to the second floor on the north side of the building that make this modification in feasible.

Last I must say that modifying the project plans to the extent the Planning Commission did at their meeting is certainly not feasible or is it appropriate to completely change the conditions of approval by the City or Coastal Commission. The very reason this project plan has been updated over the original approvals is to respond to a Coastal Commission condition that stated the architecture of the new building should be modified "to reflect a working dock, nautical/maritime theme".

EXHIBIT D

The plans as presented to the City incorporate the condition and reflect a nautical style theme that is consistent with the Waterfront Master Plan as well. Further refinements to the building include a reduction in the office space, an overall reduction in building size, an increase in open view decking among other items should be seen as a positive benefit. This architecture redesign should be the only item that the City should be considering to determine consistency with the prior approvals and not to open the door to make major modifications to the project components especially as it relates to mitigations.

Mr. Fowler purchased the lease site just a couple of years ago with the understanding and reliance on the project entitlements that had been issued by the City in 2008 and the Coastal Commission in 2009. So it is clear that since this project has received the entitlements and consideration in the Master Lease, it should be presented and accepted with the previous conditions of approval intact.

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

Sincerely,



Cathy Novak

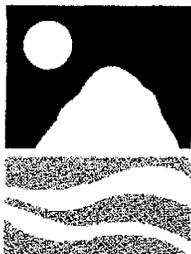
Project representative

cc: Mr. Bob Fowler
Mr. Gene Doughty

Attachments:

Exhibit A Revised Finding, May 12, 2008
Post-construction Eelgrass Survey - March 2014

EXHIBIT D



City of Morro Bay

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

May 14, 2008

Mrs. Cathy Novak
P.O. Box 296
Morro Bay, Ca. 93443

RE: Case No.: UP0-058 SITE: 1185 to 1215 Embarcadero

Dear Mrs. Novak:

At its regular meetings on April 28, 2008 and May 12, 2008, the City Council approved your request for UP0-058 to construct improvements along the Harbor Waterfront that would enhance, promote and support a working waterfront, and offer new public benefits, with conditions.

This action does not constitute a building permit. Further processing of this project must be initiated by the applicant, and is subject to applicable rules and regulations of the Morro Bay Municipal Code.

Your project is also located within the California Coastal Commission Permit Jurisdiction. Please note that it is the applicant's responsibility to obtain all necessary approvals from the Coastal Commission.

The approved project as approved by the Council was modified from the original plans and new project plans shall be submitted that reflect the changes for final Precise Plan approval. These changes include:

- Remove the platform and gangway proposed off the South T-Pier and install a ladder.
- Extend the floating dock towards the South T-Pier approx. 43-feet.
- Pay reimbursement fees for the installation of the Harborwalk in front of the business and \$5,000 for bait receivers' frontage.
- Reduce the enclosed dock space as much as possible without impacting Eelgrass.
- Remove the cantilever boardwalk on the west side of Virg's new building.
- Shorten the western most finger style dock by at least 15-feet to increase navigation to the North T-Pier.
- The second floor restaurant in the new Virg's building shall not be greater than 952 square feet and 324 square feet of marine related business space.
- Appropriately sign the floating dock to allow public access between 8 a.m. and sunset.
- Connection and public access from South T-Pier to GAFCO market.

The rest of the project as presented is also accepted which includes and not limited to: the second floor public deck with no restaurant seating, third floor roof deck, ADA lifts to floating docks, temporary and underground bio-diesel fuel tanks, removal of Thai Boat/Virg's shop and tackle, expansion of GAFCO market, floating docks, and working with the City regarding the realignment of entryways into parking lot.

Sincerely,

Mike Prater, Planning Manager
Public Services Department

Enclosures: Permit, Findings, and Conditions of Approval

FINANCE 595 Harbor Street	ADMINISTRATION 595 Harbor Street	FIRE DEPARTMENT 715 Harbor Street	PUBLIC SERVICES 955 Shasta Street
HARBOR DEPARTMENT 1275 Embarcadero Road	CITY ATTORNEY 955 Shasta Avenue	POLICE DEPARTMENT 850 Morro Bay Boulevard	RECREATION AND PARKS 1001 Kennedy Way

EXHIBIT D

EXHIBIT A: Revised FINDINGS

UP0-058, A request to demolish and reconstruct Dock Master Plan, replace Virg's & expand GAFCO with an outdoor market.

California Environmental Quality Act (CEQA)

- A. That for purposes of the California Environmental Quality Act, Case No. UP0-058 is subject to a Mitigated Negative Declaration based on aesthetic, air quality, biological, geological, hazardous, hydrology, land use and planning, noise, and transportation issues present on the property. Any impacts associated with the proposed development will be brought to a less than significant level through the Mitigated Negative Declaration.

Conditional Use Permit Findings

- B. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the the prior development agreement for GAFCO and the replacement restaurant for the Thai Boat are permitted use within the zoning district and that the dock plans do not conflict with the navigational channel and in fact better protect the eelgrass habitat applicable to the project site and said structures complies with all applicable project conditions and City regulations.
- C. The project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the masterplan project will provide additional public benefits.
- D. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the City in that the City entered into a prior development agreement for GAFCO and the replacement restaurant for the Thai Boat are permitted use within the zoning district and that the dock plans do not conflict with the navigational channel and in fact better protect the eelgrass habitat. The City recognize these prior agreements and believes the replacement of the Thai Boat does not conflict with Measure D's intent. In addition, public benefits are provided to offset the exceptions granted.

Waterfront Master Plan Findings

- E. The proposed project makes a positive contribution to the visual and public accessibility to the bay while increasing and maintaining commercial fishing industry and not increasing restaurants:
- a. Meets the Waterfront plan height limit and maximum building coverage, bulk, and scale requirements in that the proposed project offsets these standards by increasing public benefits.
 - b. In the case of granting height greater than 17 feet, the proposed project also provides significant public benefit pursuant to the Planned Development Overlay zone requirements in that the proposed project is widening the sidewalk and creating a public view deck, providing view corridors, and including public restrooms.
 - c. The proposed project provides the amenities identified in the WF Plan, facilitates pedestrian visual and physical access to the waterfront, and takes advantage of outward views and characteristics of the topography in that the roof elements were altered to allow for better bay views.
 - d. The proposed project makes a positive contribution to the working fishing village character and quality of the Embarcadero area in that the new project will add to the pedestrian orientation while maintaining the commercial fishing operations.

EXHIBIT D

- e. The design recognizes the pedestrian orientation of the Embarcadero and provides an interesting and varied frontage that will enhance the pedestrian experience in that the project will provide lateral public access to the water and docks while assisting in the Harborwalk plan to continue public access along the waterfront.
- f. The project gives its occupants and the public some variety in materials and/or application in that the building will consist of stucco and metal roofing, while outdoor market will be wood.
- g. The project contains the elements of harmony, continuity, proportion, simplicity, and balance, and its appearance matches its function and the uses proposed in that the new structure will provide more horizontal and vertical articulation, and the public will be invited into the space via a new public view deck.
- h. The proposed project does not diminish, either directly or by cumulative impact of several similar projects, the use, enjoyment, or attractiveness of adjacent buildings and provides a visual and pedestrian transition to its immediate neighbor in that the existing and new construction is in keeping with the architectural style, massing, materials, scale, and use of its surroundings.

General Plan Consistency

- F. The proposed project implements Visual and Land Use Policies by providing and enhanced the area as indicated in the attached staff report.
- G. The proposed project implements habitat protection and water quality as indicated in the attached staff report.
- H. With the implementation of the above-mentioned policies enumerated in the staff report, the project demonstrates consistency with the General Plan.

Local Coastal Plan Findings

- I. The City Council finds that the project is compatible with the surrounding uses and that exceptions are warranted because of the offsetting public benefits.

Planned Development Overlay

- J. With approval of the project, the City finds that with the heightened level of review the proposed project is acceptable and consistent with Morro Bay standards and the project includes public benefits to deviate from the height, lot coverage and view corridor standards.

Architectural Consideration

- K. As required by Ordinance Section 17.48.200 the City Council find that the architectural treatment and general appearance of all proposed building, structures and open areas are in keeping with the character of the surrounding areas, are compatible with any design themes adopted by the city, and are not detrimental to the orderly and harmonious development ;of the city or to the desirability of investment of occupation in the area.

Measure D & CF Zone Consistency

- L. The City Council finds the proposed project is primarily for the purpose of serving or facilitating licensed commercial fishing activities or non-commercial recreational fishing activities, or is clearly incidental thereto.

EXHIBIT D

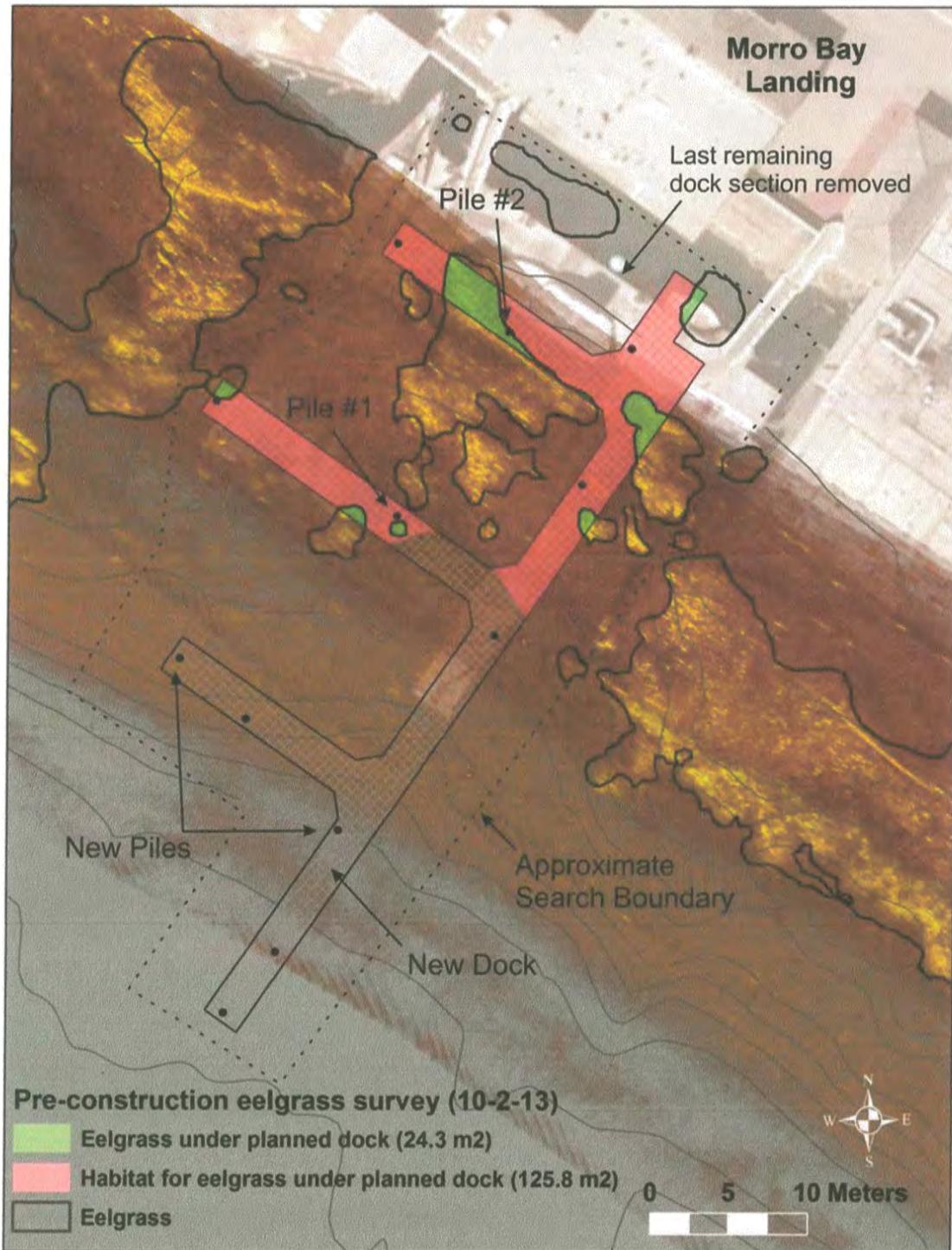


Figure 5. Outline of newly constructed dock at Morro Bay Landing, locations of piles, and approximate search boundary of the 30 day post-construction survey completed on March 31, 2014. The background map of eelgrass is from the October 2013 pre-construction survey. Eelgrass on March 31, 2014 was near Piles #1 and #2.



EXHIBIT E - Coastal Approved Plans

GENERAL NOTES

THE CONSTRUCTION COORDINATOR'S INFORMATION SHALL BE POSTED ON SITE
 CONSTRUCTION COORDINATOR SHALL BE BOB FOWLER (805-772-5703), TROY LEAGE (805-335-1531), JAMES GEORGE LEAGE (805-772-4405)
 ALL WORK SHALL BE COMPLETED IN A GOOD WORKMANSHIP MANNER
 CONTRACTOR SHALL HAVE ON SITE 2010 COPY OF U.B.C., ALL WORK SHALL COMPLY WITH 2010 U.B.C., 2010 U.M.C.2010 NEG. 2010 U.P.C. 2010 CALIF TITLE 24, CITY OF MORRO BAY, CODES AND REQUIREMENTS, CONDITIONS OF APPROVAL CALIFORNIA COASTAL COMMISSIONS STANDARD AND SPECIAL CONDITIONS CALIFORNIA BOATING AND WATERWAYS GUIDELINES
 CONTRACTOR SHALL NOTIFY ARCHITECT AND OWNER PRIOR TO CHANGES OF CONSTRUCTION FOR APPROVAL.
 CARPENTRY
 ALL STRUCTURAL LUMBER SHALL BE GRADED IN ACCORDANCE WITH N.C.L.A.
 LUMBER SHALL BE D.F. # 1 A.C.A.Z. TREATED FOR MARINE SPLASH ZONE
 PLYWOOD SHALL BE MARINE GRADE PLY A.C.A.Z. TREATED FOR MARINE SPLASH ZONE

STRUCTURAL NOTES:
 1. DESIGN BASIS
 2010 CALIFORNIA BUILDING CODE
 FLOAT LIVE LOAD= 25PSF
 GANGWAY SUPPORT PLATFORM LIVE LOAD= 100 PSF

WIND - LOAD TO FLOATS FROM VESSELS
 DEPARTMENT OF BOATING AND WATERWAYS GUIDELINES
 10 PSF WIND LOAD

SEISMIC - ASCE7-05
 SITE CLASS= 2
 SEISMIC CATEGORY C
 R= 3.5 (STEEL ORDINARY MOVEMENT RESISTING FRAME)

2. STEEL
 PIPE PILES- API 5L GRADE X52
 HSS STRUCTURAL SHAPES- A500 GRADE B, F_y=46 KSI
 ANGLES, MISCELLANEOUS SHAPES AND PLATE- ASTM A36
 3. BOLTS
 ASTM A307 HOT DIP GALVANIZED, UNLESS OTHERWISE NOTED
 4. WELDING
 WELDING SHALL CONFORM TO AWS D1.1 LATEST EDITION WELD CONSUMABLES SHALL BE APPROPRIATE FOR THE MATERIAL BEING JOINED.

UTILITY

E2.5 Where utility lines pass through structural members within a floating dock system, the holes in the structural members are to be free of rough edges and abrasive surfaces that will cause accelerated wear on the utility lines.

E3. Potable Water Service on Marina Docks

E3.1 Each potable water line should deliver water to all hose bibbs at a water pressure not less than 35 psi while 10 percent of the hose bibbs are fully open and running. This level of service will meet normal water demands, and help guard against unusually low water pressure during weekends and holidays.

E3.2 All potable water lines on marina docks shall be equipped at the shore end with appropriate anti-siphon devices to prevent back flows into the service mains.

E3.3 A minimum of one (1) standard 3/4 inch hose bibb is to be provided for each berth. Each hose bibb shall be fitted with an anti-siphon device to prevent back flows into the supply line.

E3.4 Dedicated potable water and fire suppression lines should be provided on marina dock systems. Potable water and fire suppression lines should not be combined.

E3.6 Utility hoses and/or lines, whether permanent or temporary, shall not be allowed across the dock of main walkways or marginal walkways.

E3.7 Where a fingerfloat is part of an accessible route, utility hoses and lines shall not be allowed across the fingerfloat.

E4. Fire Suppression Systems on Marina Dock Systems

E4.1 It is required that marinas have equipment, systems and sustainable water resources to suppress, control and extinguish fires on boats, docks, buildings.

E5. Electrical Power Services on Marina Dock Systems

E5.1 Each marina developed or improved with loan funds from the Department of Boating and Waterways on or after January 1, 2002, shall have its over-water electrical systems inspected biennially, during the term of the loan, by a licensed electrical contractor or licensed electrical engineer, for compliance with the safety-related provisions of the California Electrical Code.

E5.1.1 If newly constructed, an inspected marina shall comply with all of the California Electrical Code requirements in effect at the time the marina was developed.

E5.4 Accessible utilities in a marina, including electrical power outlets and jacks for telephone and cable TV, shall have unobstructed access, and meet the following reach range heights, measured vertically from the dock surface:

Forward Reach: 15 inch minimum 48 inch maximum
 Side Reach: 15 inch minimum 54 inch maximum

F2. Gangways

F2.2 Uniform Live Loads

100 #/ft² minimum ULL shall be used for gangway structural design.

50 #/ft² minimum shall be used for ULL transferred to floating docks.

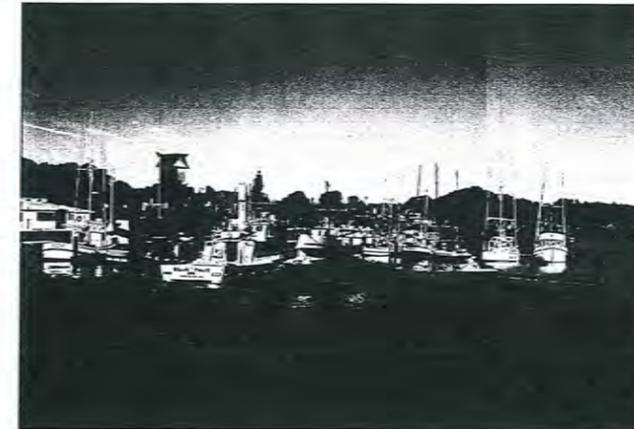
F2.6.1.2 Guard Rail Heights

42 inches minimum height FOR MOR INFORMATION SEE
 45 inches maximum height C.C.C. CONDITION #B.1.F

measured perpendicular from dock to top of top rail



ORIGINAL FLOATING SLIPS PHOTO FROM NORTH "T" PIER



PROPOSED FLOATING SLIPS PHOTO SIMULATION FROM NORTH "T" PIER



ORIGINAL FLOATING SLIPS PHOTO FROM SOUTH "T" PIER



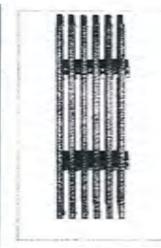
PROPOSED FLOATING SLIPS PHOTO SIMULATION FROM SOUTH "T" PIER

APPROVED* with changes
 Shawn on
 Sheet A-4
 M. Cavallari
 4/24/2013

CALIFORNIA
 COASTAL COMMISSION
 CENTRAL COAST DISTRICT OFFICE
 725 FRONT ST., STE. 300
 SANTA CRUZ, CA 95060

MATERIAL SPECIFICATIONS

POONTOONS SHALL BE HENDERSON "SUPERFLOAT" FLOAT DRUMS or equal 3696-24
 FRAMING LUMBER SHALL BE D.F. # 1 A.C.A.Z. TREATED FOR MARINE SPLASH ZONE
 PLYWOOD SHALL BE MARINE GRADE PLY A.C.A.Z. TREATED FOR MARINE SPLASH ZONE
 DECKING SHALL BE "EPS DECKING" OR EQUAL W/ SKID RESISTANCE SURFACE
 FIBERGLASS GRATING SHALL BE "INDUSTRIAL GRATING" GRAY OR EQUAL



Caution:
 due to fluctuation of water elevation,
 this dock/pier is only accessible
 between tidal elevations of +7' to 0.

use with caution.

MORRO BAY LANDING

SIGNAGE SHALL BE 24" WIDE X 18" HIGH METAL SIGN
 W/ IMAGES MOUNTED FLAT ON 4X4 POST
 w/ white background & blue lettering

A sign that states "Caution: due to fluctuation of water elevation, this dock/pier is only accessible between tidal elevations of +7' to 0. use with caution, to be located @ top of public access gangways.

California's Commercial Fisheries

California's Commercial Fisheries are subject to the waters of the State of California. All vessels operating in the waters of the State of California must comply with the regulations of the California Department of Fish and Game. California's Commercial Fisheries are subject to the waters of the State of California. All vessels operating in the waters of the State of California must comply with the regulations of the California Department of Fish and Game.

SIGNAGE SHALL BE 24" WIDE X 18" HIGH METAL SIGN
 W/ IMAGES MOUNTED FLAT ON 4X4 POST
 w/ white background & blue lettering

SIGNAGE DEPICTING COMMERCIAL AND SPORTFISHING IN MORRO BAY

FLOATING SLIPS RESTRICTED
 TO
 BOAT OWNERS, CREW & GUEST

MORRO BAY LANDING

SIGNAGE SHALL BE 24" WIDE X 18" HIGH METAL SIGN
 W/ IMAGES ON CHAIN GUARD w/ white background & blue lettering

SECURITY SIGN @ BASE OF FLOATING SLIPS

COASTAL ACCESS
 PUBLIC FLOATING DOCK

OPEN DURING DAYLIGHT HOURS
 1 HOUR BEFORE SUNRISE UNTIL 1 HOUR AFTER SUNSET

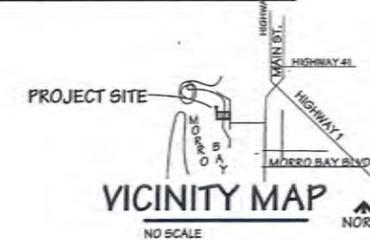
MORRO BAY LANDING

SIGNAGE SHALL BE 24" WIDE X 18" HIGH METAL SIGN
 W/ IMAGES MOUNTED FLAT ON 4X4 POST w/ white background & blue lettering

PUBLIC FLOATING DOCK TO REMAIN OPEN DURING DAYLIGHT HOURS, 1 hour before sunrise to 1 hour after sunset, to be located @ top of public access gangways



VICINITY PHOTO



LEGAL DESCRIPTION

OWNERS----- Bob Fowler, M.M.B.S.
 Troy Leage, Harbor Hut
 James, George Leage Great American Fish Co.

SITE ADDRESS----- 1215, 1205, 1185 Embarcadero
 MORRO BAY, CALIF

LEASE SITES----- 110-113W, 122-128-110W, 113W, 115W,
 122W, 123W, 124W, 125W, 126W, 127W, 128W
 Morro Bay, California
 COUNTY OF SAN LUIS OBISPO, CALIFORNIA

APN. ----- 066-351-018-020, 039, 016, 029, 028 & 012-015

ZONE----- H., WF., CF. W/ PD OVERLAY

MARINA INFORMATION

LEASE INFORMATION		
EXISTING	PROPOSED +	TOTAL
128W-3382 S.F.	0 S.F.	3382 S.F.
127W-2540	850	3390
126W-2550	2000	4550
125W-3050	2750	5800
124W-3560	3300	6960
113W-9263	12542	21805
24445 S.F.	21442 S.F.	45887 S.F.

EXISTING FLOATING DOCKAGE	
G.A.F.C.	720 S.F.
HARBOR HUT	854 S.F.
MORRO BAY LANDING	5593 S.F.
TOTAL	7167 S.F.

APPROVED BY C.C.C. (CDP-3-08-025)
 GAFCO-----1194 S.F.
 HARBOR HUT-----3659 S.F.
 MORRO BAY LANDING-----9784 S.F.
 (including 3 bait receivers)
 TOTAL-----14637 S.F.

PROPOSED FLOATING DOCKAGE	
G.A.F.C.	1194 S.F.
HARBOR HUT	753 S.F.
MORRO BAY LANDING	7600 S.F.
(including 3 bait receivers)	
TOTAL	9547 S.F.

EXISTING CROSOATED PILING
 TO BE REMOVED ----- 200
 APPROVED-(steel) ----- 100
 PROPOSED-(steel/fiberglass)- 44

INDEX TO DRAWINGS

- A-1 COVER SHEET, GENERAL NOTES
- A-2 EXISTING FLOATING DOCKS
- A-3 APPROVED AND PROPOSED PLAN
- A-4 PROPOSED FLOATING DOCK PLAN
- A-5 ELEVATIONS, LIGHTING PLAN
- A-6 CONDITIONS OF PERMIT C.C.C.
- A-7 CONDITIONS OF PERMIT M.B.

RECEIVED

APR 1 0 2013

CALIFORNIA
 COASTAL COMMISSION
 CENTRAL COAST AREA

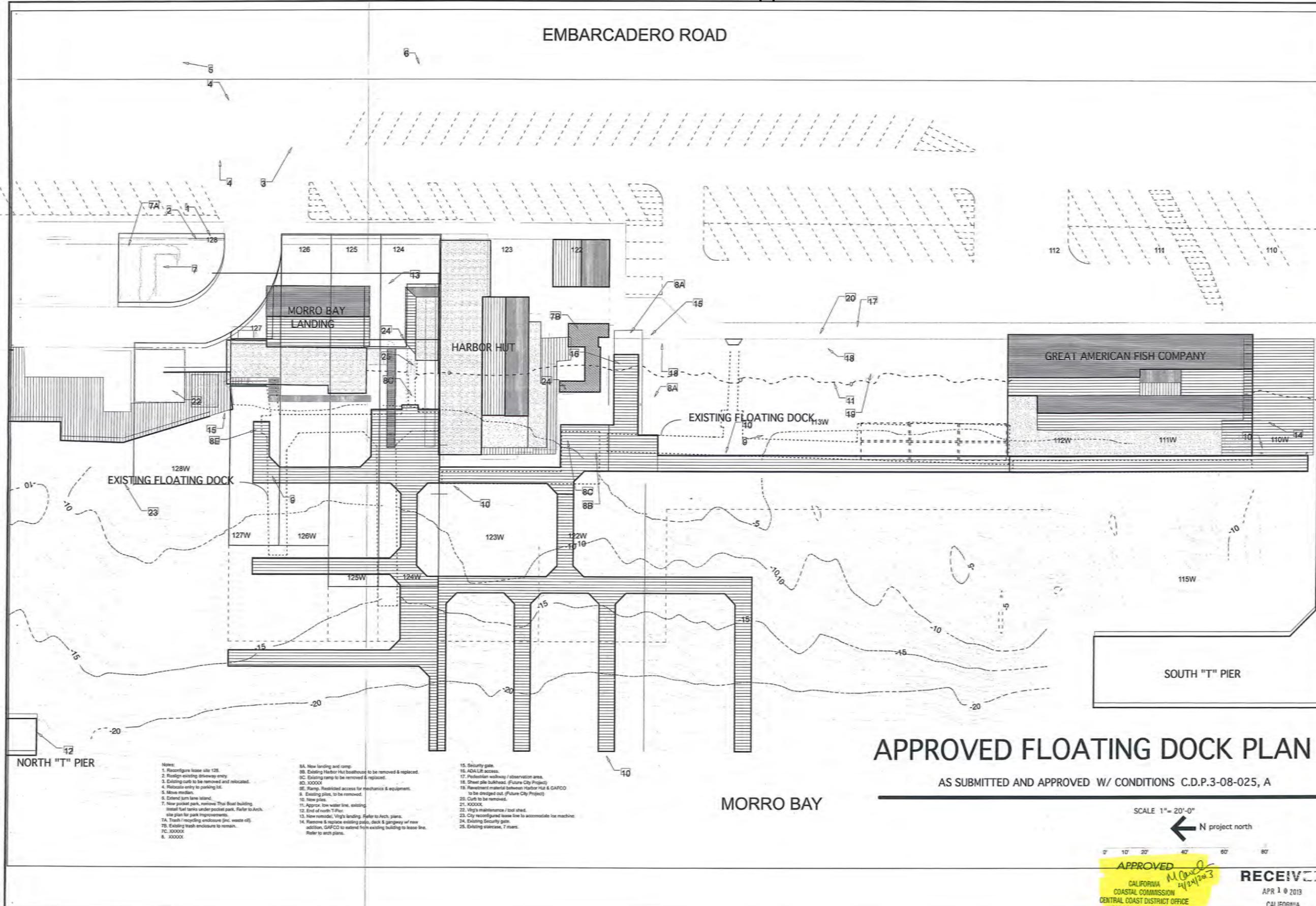
PROFESSIONAL ARCHITECT
 GENE DOUGHERTY-ARCHITECT
 1-805-772-8436
 C 18794

M.M.B.S. L.L.C., TROY LEAGE, JAMES GEORGE LEAGE
 MORRO BAY LANDING HARBOR HUT
 GREAT AMERICAN FISH COMPANY
 FLOATING DOCK IMPROVEMENTS
 1185-1215 EMBARCADERO MORRO BAY, CALIF.

GENERAL NOTES,
 SPECIFICATIONS
 SITE PHOTOS, VICINITY MAP
 SIGNAGE

DATE: 1810 1812 1813 1814 1815 1816 1817 1818 1819 1820 1821 1822 1823 1824 1825 1826 1827 1828 1829 1830 1831 1832 1833 1834 1835 1836 1837 1838 1839 1840 1841 1842 1843 1844 1845 1846 1847 1848 1849 1850 1851 1852 1853 1854 1855 1856 1857 1858 1859 1860 1861 1862 1863 1864 1865 1866 1867 1868 1869 1870 1871 1872 1873 1874 1875 1876 1877 1878 1879 1880 1881 1882 1883 1884 1885 1886 1887 1888 1889 1890 1891 1892 1893 1894 1895 1896 1897 1898 1899 1900 1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916 1917 1918 1919 1920 1921 1922 1923 1924 1925 1926 1927 1928 1929 1930 1931 1932 1933 1934 1935 1936 1937 1938 1939 1940 1941 1942 1943 1944 1945 1946 1947 1948 1949 1950 1951 1952 1953 1954 1955 1956 1957 1958 1959 1960 1961 1962 1963 1964 1965 1966 1967 1968 1969 1970 1971 1972 1973 1974 1975 1976 1977 1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 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EXHIBIT E - Coastal Approved Plans



EMBARCADERO ROAD

MORRO BAY

APPROVED FLOATING DOCK PLAN

AS SUBMITTED AND APPROVED W/ CONDITIONS C.D.P.3-08-025, A

SCALE 1" = 20'-0"



APPROVED
 CALIFORNIA COASTAL COMMISSION
 CENTRAL COAST DISTRICT OFFICE
 725 FRONT ST., STE. 300
 SANTA CRUZ, CA 95060

RECEIVED
 APR 10 2013
 CALIFORNIA COASTAL COMMISSION
 CENTRAL COAST DISTRICT OFFICE

- Notes:
1. Reconfigure lease site 125.
 2. Budget existing driveway entry.
 3. Existing curb to be removed & replaced.
 4. Relocate entry to parking lot.
 5. Move median.
 6. Extend turn lane island.
 7. New pocket park, remove Thai Boat building, install fuel tanks under pocket park. Refer to Arch. site plan for park improvements.
 - 7A. Trash/recycling enclosure (inc. waste oil).
 - 7B. Existing trash enclosure to remain.
 - 7C. XXXXX.
 8. XXXXX.
 - 8A. New landing and ramp.
 - 8B. Existing Harbor Hut boathouse to be removed & replaced.
 - 8C. Existing ramp to be removed & replaced.
 - 8D. XXXXX.
 - 8E. Ramp. Restricted access for mechanics & equipment.
 9. Existing piles, to be removed.
 10. New piles.
 11. Approx. low water line, existing.
 12. End of north 'T' Pier.
 13. New ramped, vinyl landing. Refer to Arch. plans.
 14. Remove & replace existing patio, deck & gangway w/ new addition. GAPCO to extend from existing building to lease line. Refer to arch plans.
 15. Security gate.
 16. ADA LR access.
 17. Protection walkway / observation area.
 18. Sheet pile bulkhead. (Future City Project)
 19. Revampment material between Harbor Hut & GAPCO to be dredged out. (Future City Project)
 20. Curb to be removed.
 21. XXXXX.
 22. Vinyl maintenance / tool shed.
 23. City reconfigured lease line to accommodate for machine.
 24. Existing Security gate.
 25. Existing staircase, 7' min.

LAND/SEA INTERFACE

MORRO BAY LANDING HARBOR HUT
 GREAT AMERICAN FISH COMPANY
 FLOATING DOCK IMPROVEMENTS

1195-1215 EMBARCADERO MORRO BAY, CALIF.

CDP 3-08-025
 FLOATING DOCK PLAN

SCALE AS NOTED
 DRAWN: GD

SHEET A-2 OF 7 SHEET

GENE DOUGHTY-ARCHITECT
 1-805-772-8436
 C 18794

REGISTERED PROFESSIONAL ARCHITECT
 STATE OF CALIFORNIA
 ARCHITECT NO. 45113
 EXPIRES 12/31/13

EXHIBIT E - Coastal Approved Plans

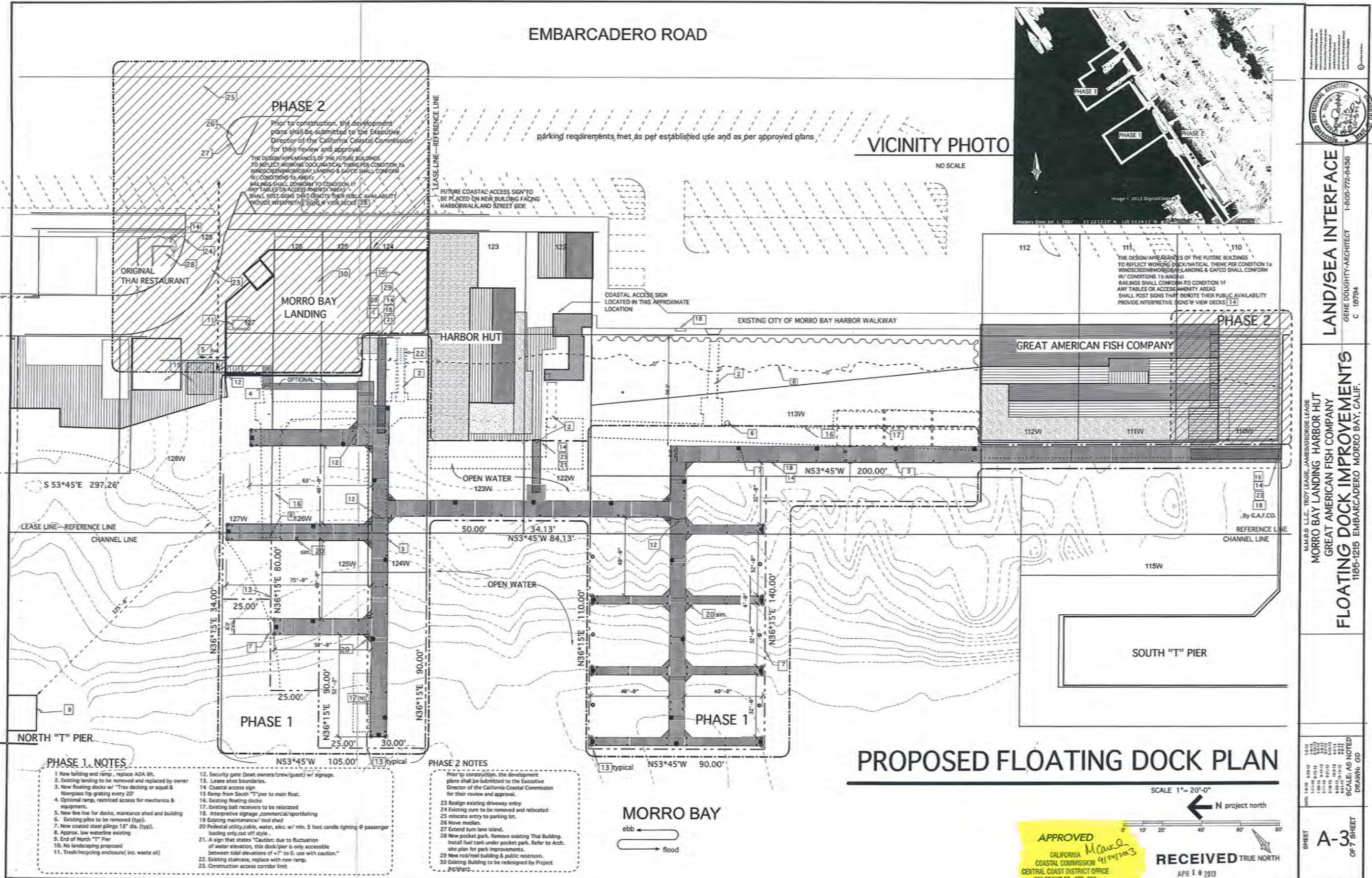
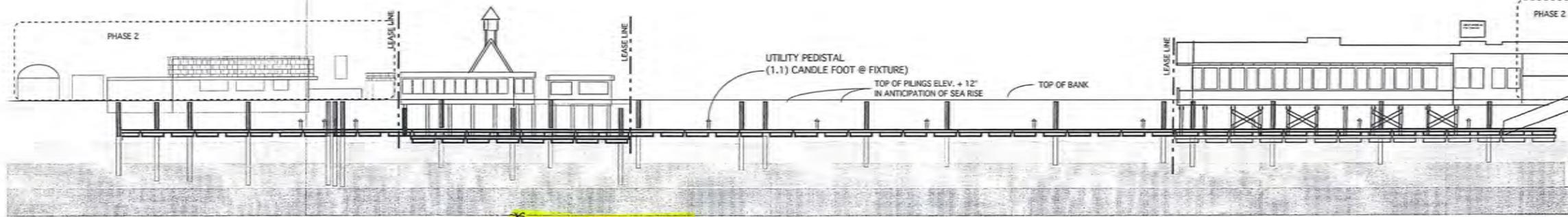
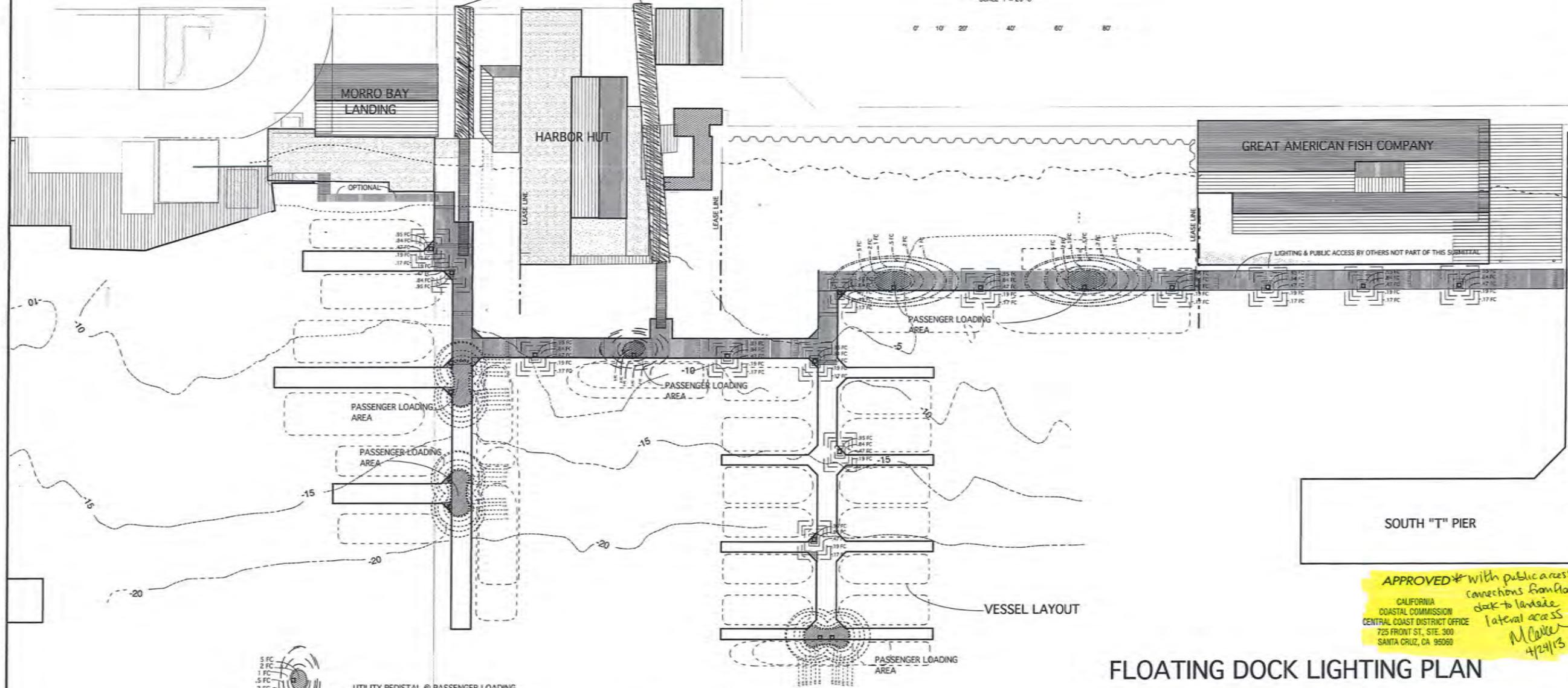


EXHIBIT E - Coastal Approved Plans



FLOATING DOCK ELEVATION

SCALE 1" = 20'-0"



Approximate location of public access connecting floating dock to landside lateral access.

APPROVED* with public access connections from floating dock to landside lateral access
 M. Carter
 4/24/15



UTILITY PEDIestal @ PASSENGER LOADING (5) CANDLE FOOT @ FIXTURE, (see sheet 5)



UTILITY PEDIestal (1.1) CANDLE FOOT @ FIXTURE (SEE SHEET 5)

LIGHTING TO MEET CALIF. COASTAL COMMISSION & CITY OF MORRO BAY GUIDELINES & REGULATIONS
 LIGHTING TO BE DOWNWARD FACING, LOW INTENSITY AND FOCUSED TO THE DOCK AREA

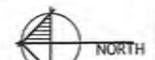


PUBLIC ACCESS AREA

PUBLIC ACCESS NOTES:
 All public access areas and amenities shall be available to the general public free of charge during at least daylight hours (i.e. one hour before sunrise to one hour after sunset) and during at least all non-daylight hours when the retail components of the approved project are open. The access plans shall provide access to the lateral and vertical access features once connectivity is provided via the lateral access boardwalk to either the upcoast or downcoast lateral access ways.

**FLOATING DOCK LIGHTING PLAN
 PUBLIC ACCESS PLAN**

SCALE 1" = 20'-0"



RECEIVED

APR 10 2015

CALIFORNIA COASTAL COMMISSION
 CENTRAL COAST AREA



LAND/SEA INTERFACE
 GENE DOUGHTY-ARCHITECT 1-800-772-8436
 C 18784

MARBS L.L.C., TROY LEAGE, JAMES/GEORGE LEAGE
 MORRO BAY LANDING HARBOR HUT
 GREAT AMERICAN FISH COMPANY
FLOATING DOCK IMPROVEMENTS
 1185-1215 EMBARCADERO MORRO BAY, CALIF.

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NO.	1410	8202	1043	1043	1043	1043	1043	1043	1043
REV.	11/10	8/20/12	10/23						

EXHIBIT E - Coastal Approved Plans

Dockmaster® Marina Power Pedestal

DOCKMASTER MARINA POWER PEDESTAL
ITEM NO. 12-005
Also available 48" tall.

Standard Features:
UNITED SERVICE PANEL
Panel is pre-configured to accept electrical components, telephone, cable TV and lighting options.
Electrical Rating: 100 to 200 amps maximum. For one with 100000 volt, 1 phase, 500 plus ground. (100000 volt, 3 phase, 400 plus ground optional).
Circuit Breakers: Each receptacle is protected by an ambient temperature thermal magnetic circuit breaker. Ground fault circuit breakers are also available.
WEATHER RESISTANT
VALCO® thermoplastic enclosure and internal components are corrosion resistant. The steel helix protect coils and plugs while maintaining a neat, clean appearance. Utilizes a full-length stainless steel plate hinge for maximum durability.
FRIGID/C/L/ENG
On units equipped with lighting options, the lens effectively minimizes glare and directs the light downward and outward for maximum dock illumination.
DRESS PANEL
Completes the reverse side of all single service pedestals.
OVERSIZE ACCESS PANEL
Facilitates easy installation and upgrading. Includes his viewing ports for quick meter readings.
BASE ACCESSIBLE with Lock Feed Terminal Bar
Easy to wire terminal all large accept up to 2000ACI (standard) cable. Bar allows easy wiring of pedestals eliminating repetitive tapping. Provides complete isolation of electrical, water, telephone and cable TV connectors for maximum safety.

Options:
DOUBLE SIDED SERVICE
Allows two signs to be viewed from the same pedestal. Service ports may be identical or differently colored.
WATER SERVICE
1/2" hose bibs standard, also available for other plumbing systems. Available with backflow prevention.
CORD & HOSE CADDIES
Keeps dock area uncluttered for greater safety and better appearance. Stainless steel construction.
ELECTRICAL METERING
Automatic slip metering is available with electronic weather station. Electronic meters offer remote reading capability. (One pedestal needed for meter connections).
TELEPHONE AND CABLE TV
Subcity standard ports are provided for direct connection.
FLOURESCENT LIGHTING
7 watt fluorescent lamps are available for all service and dress panels. Light circuit is protected by an in-line fuse.
LIGHTING CONTROL
Photoelectric sensor turns lights on at dusk, off at dawn. Alternatively, a photoelectric sensor a small timer is provided for a complete inverter used light circuit.

Available in Yellow, Red, or White.

HENDERSON MARINE SUPPLY, INC. Page 124

UTILITY PEDESTAL

Fire Hose Cabinet

FIBERGLASS FIRE HOSE CABINET
ITEM NO. 11-021R (Red), 11-021Y (Yellow), 11-021 (White)

This fire hose cabinet has set a standard for the industry. The door has glass knockout and opens 180° for quick access. It is constructed of high gloss, long lasting fiberglass with a gel-cole finish, 1/8" minimum thickness. Holding 100 foot fire hose rack assembly with room for a fire extinguisher up to 10 pound 5.0 lb. It is equipped inside with 2 x 4 structural wood verticals for rack installation. While the standard cabinet color is yellow, it is also available in red. We strongly recommend yellow as red has a tendency to fade. A coat of polish once a year will keep its good looks for years to come. We do not include the glass as it usually breaks during transportation. We recommend that you purchase tempered glass locally. However we can supply glass if you need it.

The cabinet can be placed dockside and free standing by securing at the base to the deck or plaited against a wall for an even more secure installation.

Available in Yellow, Red, or White.

HENDERSON MARINE SUPPLY, INC. Page 125

FIRE HOSE CABINET

BEAR BOARD

2x6 Board

PLASTIC LUMBER PRODUCTS
COLORS & SIZES
PROFESSIONAL APPLICATIONS
INSTALLATION & OWNERSHIP
THE PLASTIC ADVANTAGE
ABOUT US
REQUEST A SAMPLE
REQUEST A QUOTE
FAQ
DECKING CALCULATOR
RECYCLE YOUR PLASTIC LUMBER
RESOURCES & LINKS
OUR OTHER BRANDS

PROFILE INFORMATION:
 Length: 66, 81, 126 and 161
 Actual Size: 1 1/2" x 5 7/8" (Nominal 2x6)
 Weight: 24 lbs/ft
 Galv. Free
 Weighs as much as one 2x6, 1/2" shorter in length.

FEATURES:
 Green, Blue, Gray, Purple, Orange, Tan, Black, White
 Chemical Resistant - Resistant to Salt
 Alkaline, No Urethane, No PVC
 Made with a real 100% post consumer recycled plastic.
 20 Year Limited Warranty
 Sheds No Splinters

ORDERING CUSTOM LENGTHS:
 Custom lengths can be purchased with a minimum order of 250 lbs. or more.
 Allow 30 days for production.

GET A QUOTE
REQUEST A SAMPLE

DECKING CALCULATOR
DECK & DOCK INSTALLATION GUIDES
GROUP DISCOUNTS

HENDERSON MARINE SUPPLY, INC. Page 126

DECKING MATERIAL

GRATING PACIFIC

Safe-T-Span® Industrial Grating | Grating Pacific Call (800) 321-4314

10/15/12 3:48 PM

Safe-T-Span® Industrial Grating
 Safe-T-Span® industrial grating is made from 100% fiberglass and is available from 1" to 1-1/2" deep. It has profiles with your choice of I, S, or H shapes. Light grating or heavy grating can be formed by specifying 2" deep "T" for 100% or 50% open area.

Safe-T-Span Resin Systems
 Safe-T-Span resin systems are available in 3 resin systems with a textured, slip-resistant gel coating surface. Panels are stocked in 24" and 48" widths and come in 6' or 12' lengths. Custom panel widths from 12" to 60" wide are available on special order. All products are available in stock panels or custom sizes.

Safe-T-Span Details

FRP FIBERGLASS GRATING GRAY

Page 2 of 3

Safe-T-Span® Industrial Grating | Grating Pacific Call (800) 321-4314

10/15/12 3:48 PM

1" Deep, I6010
 Engineering Properties per FT. of Width
 Avg. 24.5 kN/m² | 1.780 kN/m² (40%) | 24.5 kN/m²

1-1/2" Deep, I6015
 Engineering Properties per FT. of Width
 Avg. 32.5 kN/m² | 2.438 kN/m² (50%) | 32.5 kN/m²

1" Deep, I5010
 Engineering Properties per FT. of Width
 Avg. 22.5 kN/m² | 1.650 kN/m² (37%) | 22.5 kN/m²

1-1/2" Deep, I5015
 Engineering Properties per FT. of Width
 Avg. 30.5 kN/m² | 2.280 kN/m² (49%) | 30.5 kN/m²

1" Deep, I4010 ADA Compliant
 Engineering Properties per FT. of Width
 Avg. 18.5 kN/m² | 1.380 kN/m² (31%) | 18.5 kN/m²

1-1/2" Deep, I4015 ADA Compliant
 Engineering Properties per FT. of Width
 Avg. 26.5 kN/m² | 1.960 kN/m² (44%) | 26.5 kN/m²

FRP FIBERGLASS GRATING GRAY

Page 2 of 3

APPROVED
 CALIFORNIA COASTAL COMMISSION
 CENTRAL COAST DISTRICT OFFICE
 725 FRONT ST., STE. 300
 SANTA CRUZ, CA 95060

RECEIVED
 APR 10 2013

CALIFORNIA COASTAL COMMISSION
 CENTRAL COAST AREA

M.M.B.S. L.L.C., TROY LEAGE, JAMES/GEORGE LEAGE
 MORRO BAY LANDING HARBOR HUT
 GREAT AMERICAN FISH COMPANY
FLOATING DOCK IMPROVEMENTS
 1185-1215 EMBARCADERO MORRO BAY, CALIF.

MATERIAL AND EQUIPMENT INFORMATION

SCALE: AS NOTED

DRAWN: GD

SHEET A-5 OF 7 SHEET

EXHIBIT E - Coastal Approved Plans

EXHIBIT E REVISED CONDITIONS OF APPROVAL

STANDARD CONDITIONS

- This permit is granted for the last described in the staff report referenced above, dated April 26, 2011, for the project as shown on the attached plans labeled "Final CIP" on file with the Public Services Department, as modified by these conditions of approval.
- Changes: Any minor change may be approved by the Public Services Director. Any substantial change will require the filing of an application for an amendment to be reviewed by the Planning Commission.
- Compliance with 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.
- Compliance with Conditions: By issuance of building permits for the proposed use or development, the owner or developer accepts and agrees to comply with all Conditions of Approval. Compliance with and execution of all conditions listed herein shall be required prior to obtaining final building inspection clearance. Deviations from this requirement shall be permitted only by written consent of the Public Services Director 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.
- Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code and shall be consistent with all programs and policies contained in the Zoning Ordinance, South Shore Specific Plan, certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
- 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 claims, actions, or proceedings against the City as a result of the action or inaction by the City, or for any injury to a person, animal, plant, or property, or any damage to the City or its property, or any failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
- Water Saving Devices: Prior to final occupancy clearance, water saving devices shall be installed in all fixtures in all residences with the exception of those approved by the City of Morro Bay Coastal Land Use Plan and as approved by the Building Official.
- Underground Utilities: Pursuant to MIMC Section 17.48.010, prior to final occupancy clearance, all on-site utilities including electrical, telephone and cable television shall be installed underground.
- Screening of Equipment: All noise-generating equipment, including but not limited to air conditioning, heating equipment, water ducts and/or air fryer units shall be screened from view in a manner approved

by the Director of Planning and Building. Prior to building permit issuance, the approved method of screening shall be shown on the project plans.

- Construction Hours: Pursuant to MIMC Section 9.28.030 (1), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m., weekdays and eight a.m. to seven p.m., on weekends, unless an exception is granted by the Director of Planning & Building pursuant to the terms of this regulation.
- External Lighting: Pursuant to MIMC Section 17.52.060, prior to building permit issuance, complete details of all exterior lighting shall be shown on the project plans for review and approval by the Director of Planning & Building. All exterior lighting shall be low-voltage and a height of fixture not to exceed a maximum of 17 feet and shall achieve the following objectives: avoid interference with reasonable use of adjoining properties, shielded to minimize on-site and off-site glare; provide adequate on-site lighting; limit fixture height to avoid excessive illumination; provide structures which are compatible with the total design of the proposed facility.
- Light 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 compliance with the performance standards included in MIMC Section 17.52.070.
- Anthropology: In the event of the active or potential discovery 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 undisturbed until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called by the applicant and recommendations as to disposition, mitigation and/or storage. 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.
- Prepared Land Verification: It is the owner's responsibility to verify the land. Prior to construction proposals for lot conversion shall be signed and certified by a licensed professional.

PLANNING CONDITIONS

- Colors and Materials: Prior to issuance of a building permit, the Public Services Director shall ensure compliance of all exterior colors and materials, including finishing materials. All other colors and materials not specifically approved may be approved by the Director according to the following objectives: achieve compatibility with existing and materials used in the site; demonstrate active compatibility with the architectural design of the improvement; achieve compatibility with surrounding land uses and preserve the character and history of the area.
- Signage: Prior to installation of any sign or a sign program shall be approved by the Director in accordance with MIMC Chapter 17.48. MIMC 17.48.010 and 17.48.020 shall apply to public facilities.
- Shield Signs: Prior to building permit issuance, the applicant shall provide all updated and project-specific soils and geology reports required by the Building Official. Project design and construction shall be consistent with recommendations contained in soils and geology reports, as required by the Building Official.

PUBLIC WORKS CONDITIONS

- Drainage: To reduce pollution into Morro Bay and the ocean waters, the applicant/owner shall install storm drain inlet protection at the existing storm drain between Viny's Landing and Harbor 114 and also use along the walkway between Harbor 114 and Great American Fish Company. Inlet protection shall be approved by the City.
- Final Site: Prior to final approval provide Public Improvement Plans showing all improvements to Embankment Road and the parking lot as recommended by UDC's Traffic Engineer. Also the parking lot associated with these properties shall be resurfaced and work shall be approved by the Public Services Director, and new striping shall be approved by the City.
- Materials: To maintain the flow of pedestrian throughout the area the applicant/owner shall pay their fair share of the Harborwalk along the lounge of the properties. In addition, Viny's lease site for the hot tubs shall pay only \$5000 contribution for its footage.
- Storm Tanks: Provide a detailed plan including but not limited to the following contents: spill control measures at the tank end at the detouring area. Provide installation of guardrails against accidents, installing secondary containment, providing regular inspection and spill clean-up techniques. Install a fence around the fuel tank for safety and aesthetics since the tank will be located near the parking lot. Provide a fence around the hot tub tanks to interface with pedestrian facilities causing a trip hazard. Show how the fuel tank will access the proposed tank for fit-up. Include the dimensions of the proposed storage tank.
- Driveway: The driveway must keep a minimum 20' clear of WBD's 8224 access. There appears to be a conflict with the 20' minimum clear of the proposed driveway alignment between the proposed storage tanks and Viny's Landing. The driveway alignment is shown going through the existing hot tub line and Viny's new maintenance road.

FIRE DEPARTMENT CONDITIONS

- Building and Address Identification: Approved address numbers shall be placed on all new buildings on such a position as to be plainly visible and legible from the street and facing the property. Said numbers shall clearly contrast with the background. The characters shall be a minimum of 7" high with a 1" stroke.
- Prior to final occupancy the applicant shall submit an 8-1/2" x 11" reduced copy of the floor plan and use plan for building fire department response books.
- Fire Extinguishers: The minimum fire-extinguisher requirement shall be one portable, wall-mounted for each retail space in such locations so that maximum fire travel distance does not exceed 75' to the nearest extinguisher from any portion of the building with a minimum of one square foot of floor area per unit. Fire extinguisher labels shall be required on site during construction.
- Automatic Fire Sprinkler System: Sprinkler systems shall be installed in accordance with Morro Bay Municipal Code Section 14.02.010, on all new structures along the waterfront in compliance with appropriate Uniform Building Code Standards, regardless of area separation or where

required by National Fire Protection Association (NFPA) Standards, and other standards adopted by the jurisdiction.

- Fire Alarm: Fire alarm systems employing automatic fire detectors or water-flow detection devices, at least one fire alarm box shall be provided to initiate a fire alarm signal. This fire alarm box (pull station) shall be located where required by the authority having jurisdiction.
- Fire Alarm: For fire alarm systems employing automatic fire detectors or water-flow detection devices, at least one fire alarm box shall be provided to initiate a fire alarm signal. This fire alarm box (pull station) shall be located where required by the authority having jurisdiction.
- An approved audible sprinkler flow alarm shall be provided on the exterior of the building in an approved location. An approved audible sprinkler flow alarm to alert occupants shall be provided in the interior of the building in a normally occupied location. Action of the alarm shall be as set forth in UDC Standard NS 9-1.

CONCEPT PLAN CONDITIONS

- The applicant shall revise and/or supplement plans to reflect the necessary changes in the project site and/or nearby properties to comply with the all city standards. This may include but not be limited to parking lot re-configuration, more knowledge about the shore ground, fuel tanks and pocket park coverage, reflect the Harborwalk plan, and any other topics mentioned in the report and discussed at the meeting.

ENVIRONMENTAL CONDITIONS

- The mitigation measures from the Coastal MND are as follows:
AESTHETICS:
AES-1 The project will comply with all of the required view corridor and building height limitations imposed by the Zoning Ordinance, Local Coastal Plan, and the Shoreline Master Plan. Including opening or removal of existing view corridors.
AES-2 The project master plan shall incorporate the added and enhanced public access and view corridors indicated on the project description along with the appropriate signage to inform the public of their rights to access these areas. Including but not limited to: 1) public view deck above Viny's 1) lateral access boards along the length of the water lanes of the master plan, 2) view corridors between Viny's and Harbor 114, 3) no visual obstructions except for low decks, seating benches, and other small scale features to replace the Thai Boat.
AES-3 In addition to the master plan project description of enhanced views, the project shall also include a public observation area and open public access into the UATCO outdoor market area with clear signage to inform the public of their rights to access this area limited to the street between the market. The above ground fuel tank for Viny's shall be temporary and removed when the underground tanks are installed. The Viny's maintenance shed area should be considered an additional opportunity to increase the public view corridor by potentially maintaining a low profile.
AES-4 As a natural public viewing, the Planning Commission shall consider details of the proposed structural treatment, including landscaping and walkways, and shall require any changes deemed necessary or appropriate to avoid or minimize adverse impacts as viewed from public streets.

- Restroom square footage: Equal square footage of the existing restroom (Thai Boat) for the restaurant square space (~932sqft), and (~324sqft) of office space (for marine-related businesses) on the upper floor is allowed.
- The applicant is allowed to modify the project timeline, as feasible, however all of the public improvements shall be within Phase 1.
- Temporary above ground fuel tank is only allowed until the Thai Boat is removed and the underground tanks are installed. At such time the temporary tanks shall be removed.
- All structures shall not exceed 25 feet in height, except for existing structures.
- The 1-foot extension to the site to the South T-Flow is allowed.

CITY COUNCIL CONDITIONS

- Public access to the floating docks shall be allowed between the hours of 8 a.m. to sunset every day.

- Exterior lighting installed at the project site shall be of a low intensity, low glare design, and shall be housed in direct light downward over the subject parcel and not spill over onto adjacent areas. Pole supports shall be of a darker finish to reduce glare.

AIR QUALITY

- Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site. A dust management plan shall include the following:
 - During clearing, grading, earth moving, excavation, or transportation of dirt or fill materials, water trucks or similar systems shall be used to prevent dust from leaving the site and to create a mist after each day's activities.
 - Water trucks or similar systems shall be used during construction to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this shall include wetting down each area at the start morning and after work is completed for the day, and whenever wind exceeds 15 miles per hour.
 - Soil stockpiled for more than five days shall be covered, kept moist, or treated with soil binders to prevent dust generation.
 - Reduce the amount of the disturbed area where possible.
 - Prevention dust control measures identified in the approved project registration and landscape plan shall be implemented as soon as possible following completion of all soil disturbing activities.
 - All paved areas (i.e., roadways, sidewalks, etc.) shall be completed as soon as possible unless sealing or soil binders are used.
 - Construction vehicle speeds shall be not exceed 15 mph on any unpaved surface at the site.

- The applicant shall submit their geologic evaluation to APCD for consistency review with the Airborne Aerosol Toxic Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations to verify that repetitive rock or any materials exist in the project within proposed disturbance areas prior to commencement of grading activities and grading permit. Subsequent to this finding, an Emission Report from Section 9130 of the California Code of Regulations (ARB Airborne Aerosol Toxic Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations shall be filed with the San Luis Obispo County APCD. In the highly unlikely event that repetitive rock or any materials exist in the project during the geologic evaluation, the applicant shall comply with all requirements outlined in the Airborne Air Toxic Control Measure (ATCM), including preparation of an Airborne Dust Mitigation Plan and an Airborne Health and Safety Program for approval by the APCD.

BIOLOGICAL RESOURCES

- Prior to the issuance of a building permit, an approved "water washer" shall be under contract or otherwise committed to being on the job site at all times during which the job is done as an operation. The contract or other written agreement between the applicant and "water washer" shall specifically coverages and require the "water washer" to stop work immediately in the event that a sea otter is detected in the project area. The contract, agreement, work scope or similar document shall further specify that no work shall be resumed until after the marine mammal has left the area. With this mitigation, the project would not have a significant impact of animals, or require a state or federal take permit.
- To avoid impacts, all work that disturbs the ocean floor (i.e., installation of pilings) shall be avoided and minimized by the project biologist.
- The shaded red areas shall be surveyed prior to construction and after completion to ensure the area has not lost more than anticipated. Consultancy from the federal agencies and obtain all necessary

permits from them before start of construction

- All docks shall be lowered in place (following assembly) from the existing building site or by water, as stated in the Section 10 authorization from the Army Corp of Engineering.

GEOLOGY/SOILS

- Grading shall not occur during the wet season (November 1-April 15) unless erosion control devices acceptable to the City Public Works Department are implemented. Soil fencing, straw bales, new water, and/or sand bags shall be used in conjunction with other methods to prevent surface water-induced erosion of on-site soils and adjacent off-site.
- The applicant shall provide project-specific soils and geotechnical reports required by the Building Official. Project design and construction shall be consistent with recommendations contained in soils and geology reports, as required by the Building Official.

HAZARDOUS/HAZARDOUS MATERIALS

- To reduce the potential for inadvertent release of fuel from lease areas to aquatic habitats, avoidance of dipping, oil cleaning and refueling materials for equipment and vehicles located near the western property boundary without having proper safe areas in place to prevent a hazardous accident.
- Solvent materials, such as boomers and shop cloths, should be stored on site to allow a crew member to respond to unplanned spills in a timely manner. Employees shall be briefed on the proper application, use and location of solvent materials.
- All lease sites shall provide the Harbor and Fire Department with a list of hazardous materials used and inform the employees of where cleaning supplies are located in case of accidents that could cause harm to the environment and particularly the water and take necessary measures to prevent such accidents including developing rules and procedures on how and where to handle these materials, routine maintenance on vessels, and passing the performance standards under Resolution 03-06.

HYDROLOGY/WATER QUALITY

- Implementation of Best Management Practices (BMPs) in accordance with the NPDES Phase 2 Permit requirements for stormwater construction shall be required to address erosion impacts at the site. BMPs include but are not limited to the following:
 - Controlling erosion and, if needed, covering stockpiled stock piles to prevent erosion and adjacent transport by stormwater runoff.
 - Covering storm drain catch basins within the construction area to prevent sediments and debris from collecting in the basins.
 - Storing and disposing soils from the work area to prevent erosion transport and/or runoff from storm drains or directly to the Bay.
 - Implementing measures to prevent runoff of any debris from existing, grading, or wetting into the Bay.
 - Placing drip mats under mechanical equipment to catch leaks (e.g., fuels and hydraulic fluids), and
 - Effectively storing or disposing all materials with potentials for polluting stormwater runoff.
- The following measures would be required to address erosion impacts at the project site:
 - Temporary berms and sedimentation traps, such as silt fences, shall be installed in accordance with project grading to minimize erosion of soils and sedimentation

in the storm drain. The sedimentation basins shall be cleaned as needed and the site shall be restored and disposed of in a location that shall meet permit requirements.

- Handoff shall not be directed into proposed slopes. All surface runoff shall be conveyed in accordance with the approved plans, and
- Site grading shall be completed such that permanent drainage away from foundations and shall be provided and so that water shall not pool near proposed structures or pavements.
- To reduce the potential for inadvertent release of fuel from construction areas to aquatic habitats, avoid oil cleaning and refueling of equipment and vehicles near the western property boundary. Store and refuel vehicles only in appropriately marked construction staging areas, preferably within or near Embankment.
- Solvent materials, such as boomers and shop cloths, should be stored on site to allow construction crews to respond to unplanned spills in a timely manner. Construction crews shall be briefed on the proper application, use and location of solvent materials prior to project implementation.

LAND USE AND PLANNING

- At a natural public hearing, the Planning Commission shall consider details of the proposed land use and Measure D consistency, and shall require any changes deemed necessary or appropriate to avoid general first-hand coastal plan consistency concerns.

NOISE

- NOISE-1 Construction activity shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday during business and holiday weekdays. All other construction hours shall follow the MIMC. No construction shall occur on State holidays (e.g., Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Noise-generating construction activities (e.g., painting, landscaping, with hand tools, etc.) are not subject to these restrictions.

TRANSPORTATION

- A Traffic Management Plan (TMAP) shall be implemented during project construction that includes the following:
 - A minimum of one travel lane shall be maintained in each direction during construction.
 - A public access program shall be implemented before and during construction providing information on road closures, delays expected during construction, signage and flag persons, brochures, web sites, newspaper, and other notices.
- Traffic improvements to the parking lot and circulation routes identified in the plan (as a City project) and Harborwalk plan shall be implemented for the project in order to maintain feasible circulation.
- If the applicant request to not make the parking space improvements that would increase the number of parking spaces by three to accommodate the increase vessel demand (the circulation requirements are required regulatory when they may request to pay three to five feet from the City, in accordance with MIMC 17.44, the applicant shall pay no less fee for the total equivalent increase in number of usable parking spaces Council for the dock and structure.

PLANNING COMMISSION CONDITIONS



LAND/SEA INTERFACE
GENE DOUGHTY-ARCHITECT
1-805-772-0436
C 18794

M.M.B.S. L.L.C., TROY LEAGE, JAMES GEORGE LEAGE
MORRO BAY LANDING HARBOR HUT
GREAT AMERICAN FISH COMPANY
FLOATING DOCK IMPROVEMENTS
1185-1215 EMBARCADERO MORRO BAY, CALIF.

CONDITIONS TO PERMIT
CITY OF MORRO BAY

DATE: 10/10/2012
11/10/2012
12/10/2012
1/10/2013
2/10/2013
3/10/2013
4/10/2013
5/10/2013
6/10/2013
7/10/2013
8/10/2013
9/10/2013
10/10/2013
11/10/2013
12/10/2013

SHEET
A-7
OF 7 SHEET
SCALE: AS NOTED
DRAWN: GD

GENERAL NOTES

THE COSTRUCTION COORDINATORS INFORMATION
SHALL BE POSTED ON SITE
CONSTRUCTION COORDINATOR SHALL BE BOB FOWLER (805-701-5702).
ALL WORK SHALL BE COMPLETED IN A GOOD WORKMANSHIP MANNER
CONTRACTOR SHALL HAVE ON SITE 2013 COPY OF C.B.C., ALL WORK SHALL COMPLY W/ 2013 C. B.C., 2013 UMC, 2013 NEC, 2013 UPC 2013 CALIF TITLE 24, CITY OF MORRO BAY. CODES AND REQUIREMENTS, CONDITIONS OF APPROVAL CALIFORNIA COASTAL COMMISSIONS STANDARD AND SPECIAL CONDITIONS CONTRACTOR SHALL NOTIFY ARCHITECT AND OWNER PRIOR TO CHANGES OF CONSTRUCTION FOR APPROVAL.
CARPENTRY
ALL STRUCTURAL LUMBER SHALL BE GRADED IN ACCORDANCE W/ W.C.L.A.
STRUCTURAL NOTES:
1. DESIGN BASIS
2013 CALIFORNIA BUILDING CODE
WIND - LOAD
SEISMIC- ASCE7-05
SITE CLASS-D
SEISMIC CATEGORY D
R= 3.5(STEEL ORDINARY MOVEMENT RESISTING FRAME.)
2. STEEL
PIPE FILES-API 5L GRADE X82
H56 STRUCTURAL SHAPES-A500 GRADE B,Fy=46 KSI
ANGLES, MISCELLANEOUS SHAPES AND PLATE-ASTM A36
3. BOLTS
ASTM A307 HOT DIP GALVANIZED, UNLESS OTHERWISE NOTED
4 WELDING
WELDING SHALL CONFORM TO AWS D1.1 LATEST EDITION WELD CONSUMABLES SHALL BE APPROPRIATE FOR THE MATERIAL BEING JOINED.
FIRE DEPARTMENT NOTES
a. Demolition and Construction. Fire Safety During Construction and Demolition. Prescribes minimum safeguards for construction, alteration and demolition operations to provide reasonable safety to life and property from fire during such operations (CFC Chapter 33). Compliance with NFPA 241 is required for items not specifically addressed herein.
b. Automatic Fire Sprinklers. The applicant shall provide fire sprinkler protection, for all cantilevered water side wharf areas, restaurant space, retail structure and trash area, in accordance with Morro Bay Municipal Code (Section 14.08.090(L)). 2013 California Fire Code (Section 903), and NFPA Standards 13, 303, and 307.
c. Fire Alarm and Detection Systems. An approved fire alarm system installed in accordance with the provisions of this code and NFPA 72 shall be provided in new buildings and structures in accordance with Sections 907.2.1 through 907.2.23 and provide occupant notification in accordance with Section 907.5, unless other requirements are provided by another section of this code. (CFC 907.2)
d. Fire extinguishers. One Provide one wall mounted 2A:10-B:C fire extinguisher, and approved signage, for each 3,000 square feet of light hazard fuel load. Travel distance shall not in accordance with California Code of Regulations, Title 19, Division 1.
2. **Sheet A-6.** Address identification. New and existing buildings shall have approved address numbers or building numbers placed in a position to be plainly legible from the street or road fronting the property (CFC 505). **Provide approved address numbers 4 inches high with 1/8 inch stroke in contrasting numbers. Provide a Knox Box on exterior of the structure, in an approved location. Please obtain a Knox application from Morro Bay Fire Department during business hours.**
Applicant shall provide automatic fire sprinkler protection of the Utility Building and wharf below as a "Precise Plan Condition of Approval"
TRASH RECEPTACLES SHALL PROVIDE CONTAINMENT SUFFICIENT TO STOP LEAKING FLUIDS FROM FLOWING OUT OF RECEPTABLE AREA, TO MEET CLEAN MARINE BMP.
APPLICANT/TENANT SHALL BE RESPONSIBLE FOR MAINTENANCE AND UPKEEP OF POCKET PARK AND PARK AMENITIES
the system for the new drain (drop inlet) shall be FloGard +PLUS Model FGP-24F manufactured by Kristar Enterprises or equal to be installed per manufacture recommendations serviced and inspected yearly and prior to major storms



EXISTING VIEW FROM FLOATING DOCKS ↑



EXISTING VIEW FROM EMBARCADERO ↑



PROPOSED VIEW FROM FLOATING DOCKS ↑



PROPOSED VIEW FROM EMBARCADERO ↑

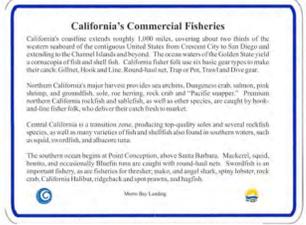
MORRO BAY LANDING PHASE 2

PROJECT DESCRIPTION: PHASE 2
DEMOLITION OF EXISTING MORRO BAY LANDING, ("VIRGS") BUILDINGS, EXISTING "DOCKSIDE#3(TIHA) BOAT) RESTAURANT"
PUBLIC IMPROVEMENTS TO SITE, PARKING, DRIVEWAY
NEW CONSTRUCTION OF MORRO BAY LANDING BUILDING, LANDSCAPING
NEW POCKET PARK,

PHASE 2 NOTES
Prior to construction, the development plans shall be submitted to the Executive Director of the California Coastal Commission for their review and approval.
23 Realign existing driveway entry
24 Existing curb to be removed and relocated
25 relocate entry to parking lot.
26 Move median.
27 Extend turn lane island.
28 New pocket park.
29 New rod/reel building & public restroom.
30 Existing Building to be redesigned by Project Architect : Gene Doughty

PARKING ANALYSIS

RATIO	CDP 3-08-025 UPO-056		PROPOSED		MODIFICATION
	PARKING	APPROVED	PARKING	REQUIRED	
BUILDING 1ST FLOOR					
RETAIL/OFFICE BOAT CHARTER	1/300 S.F.	4530 S.F.	15.1	4306 S.F.	15
SEPERATE BUILDINGS	1/300 S.F.	1024 S.F.	3.4		
SUB TOTAL	1/300 S.F.	6004 S.F.	19 SPACES	15 SPACES	- 4 SPACES
BUILDING 2ND FLOOR					
RESTAURANT OFFICE	1/60 S.F.	952 S.F.	15.9	952 S.F.	16
SUB TOTAL	1/300 S.F.	650 S.F.	2.2	130 S.F.	1
TOTAL			18 SPACES	1290 S.F.	- 1 SPACES
			37 SPACES	32 SPACES	- 5 SPACES



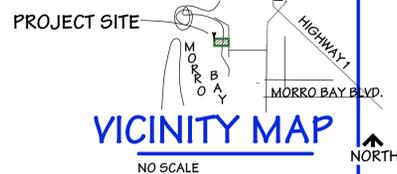
SIGNAGE DEPICTING COMMERCIAL AND SPORTFISHING IN MORRO BAY



SIGNAGE SHALL BE 24" WIDE X 18" HIGH METAL SIGN W/ IMAGES MOUNTED FLAT ON 4X4 POST w/ white background & blue lettering
PUBLIC FLOATING DOCK TO REMAIN OPEN DURING DAYLIGHT HOURS, 1 hour before sunrise to 1 hour after sunset, to be located @ top of public access gangways



VICINITY PHOTO



LEGAL DESCRIPTION

OWNERS----- Bob Fowler, M.M.B.S.
SITE ADDRESS----- 1213,1215, Embarcadero MORRO BAY, CALIF
LEASE SITES----- 124W,125W, 126W, 127W, 128W Morro Bay, California COUNTY OF SAN LUIS OBISPO, CALIFORNIA
APN. ----- 066-351-012,013,014,015
ZONE----- H, WF, CF, W/ PD OVERLAY

ONSHORE INFORMATION

LEASE INFORMATION on shore		
EXISTING	PROPOSED +/-	TOTAL
128- 1443 S.F.	-151	1292
128W 3382 S.F.	0	3382 S.F.
127 443	+ 857	1300
126 1300	0	1300
125 1300	0	1300
124 1560	0	1560
7888	706 S.F.	8834 S.F.
LEASE INFORMATION off shore		
ORIGINAL	APPROVED +	TOTAL
128W-3382 S.F.	0 S.F.	3382 S.F.
127W-2540	850	3390
126W-2550	2000	4550
125W-3050	2750	5800
124W-3660	3300	6960
113W-9263	12542	21805
24445 S.F.	21442 S.F.	45887 S.F.

INDEX TO DRAWINGS

- A-1 COVER SHEET, GENERAL NOTES
- A-2 OVERLAY OF SITE HISTORY
- A-3 APPROVED UPO-056 SITE PLAN
- A-4 APPROVED UPO-056 SITE ELEVATIONS
- A-5 DEMOLITION PLAN, CUT/FILL NOTES
- A-6 FIRST FLOOR/ SITE PLAN
- A-7 SECOND FLOOR PLAN
- A-8 EAST/ SOUTH ELEVATION
- A-9 WEST/ NORTH ELEVATION
- A-10 ONSHORE SITE COVERAGE
- A-11 BUILDING PROFILES
- A-12 PUBLIC ACCESS
- A-13 LEASE SITE REVISION
- A-14 LANDSCAPING PLAN, SIGN PLAN, LIGHTING
- A-15 CONDITIONS OF PERMIT-- CITY OF MORRO BAY
- A-16 CONDITIONS OF PERMIT--C.C.C.

MATERIAL SPECIFICATIONS



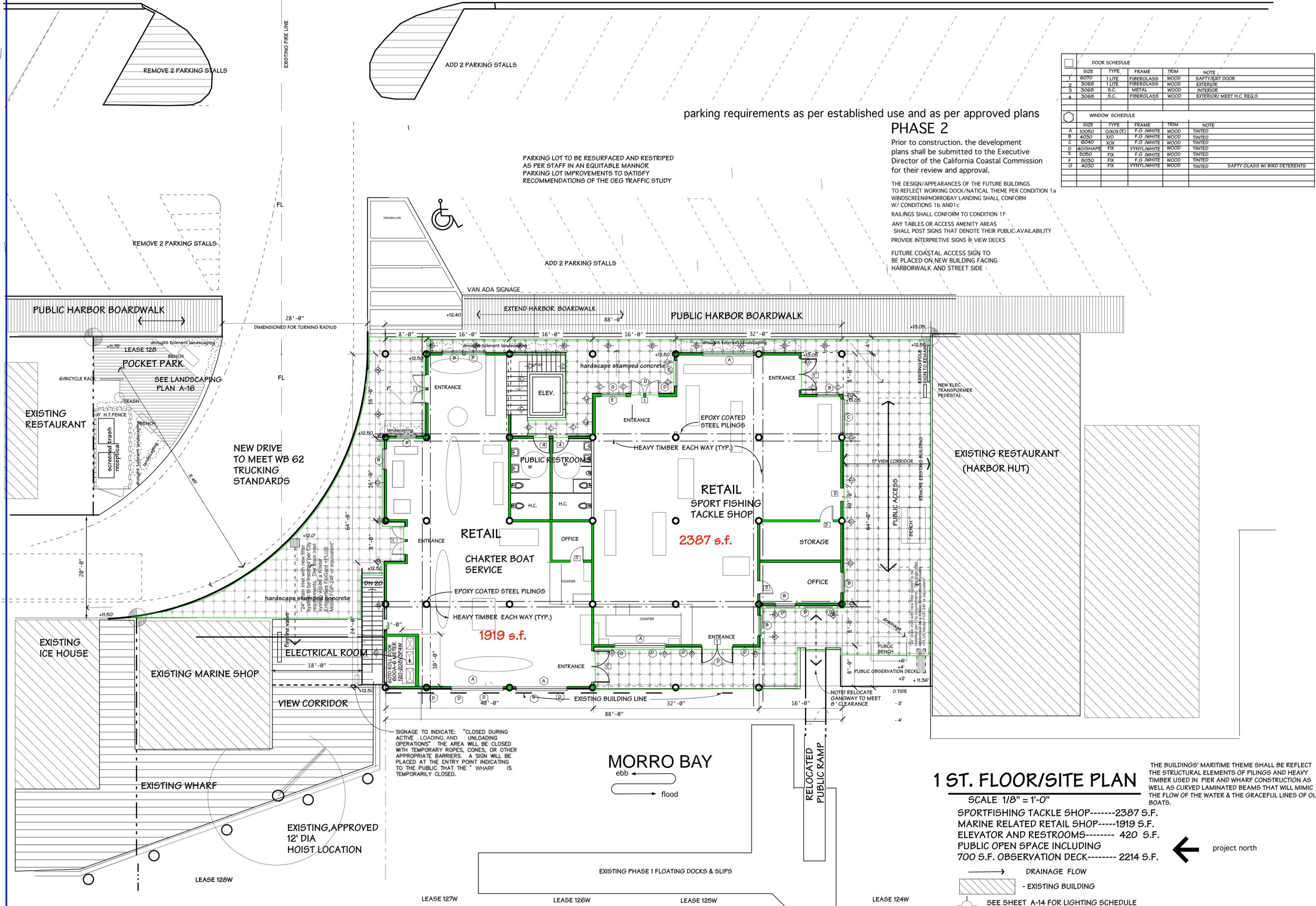
HARDI-PLANK SIDING
HEATHERMOSS SELECT
CEDARMILL
RIVER TEAL CLASSIC GREEN
METAL SALES
METAL ROOFING

PROJECT DATA PHASE 2

PROJECT DATA				CDP 3-08-025 UPO-056			
LEASE SITES	CDP 3-08-025 UPO-056	PROPOSED	MODIFICATION	BUILDING 1ST FLOOR	PROPOSED	MODIFICATION	
128	1443 S.F.	1292 S.F.	-151 S.F.				
128W	3382 S.F.	3382 S.F.	0	RETAIL/OFFICE BOAT CHARTER	4530 S.F.	4306 S.F.	-224 S.F.
TOTAL	4825 S.F.	4787 S.F.	-151 S.F.	ELEV. / R.R.	450 S.F.	420 S.F.	-30 S.F.
127	443 S.F.	1300 S.F.	+857 S.F.	SEPERATE BUILDINGS	1024 S.F.	0	0
127W	3382 S.F.	3382 S.F.	0	TOTAL	6004 S.F.	4726 S.F.	-1278 S.F.
TOTAL	3832 S.F.	4689 S.F.	+857 S.F.	BUILDING 2ND FLOOR			
126	1300 S.F.	1300 S.F.	0	RESTAURANT	952 S.F.	952 S.F.	0
126W	5775 S.F.	5775 S.F.	0	OFFICE	650 S.F.	-520 S.F.	
TOTAL	7075 S.F.	7075 S.F.	0	OPEN VIEW DECKING	1171 S.F.	1290 S.F.	+ 119 S.F.
125	1300 S.F.	1300 S.F.	0	SITE			
125W	6583 S.F.	6583 S.F.	0	PROPERTY LENGTH	159 LIN FT.	REDUCED FOR ICE PLANT 153 LIN FT.	- 6 LIN FT.
TOTAL	7883 S.F.	7883 S.F.	0	BUILDING LENGTH	114 LIN FT.-70%	114 LIN FT.-77%	- 7%
124	1560 S.F.	1560 S.F.	0	OPEN VIEW AREA	8317 S.F.	10585 S.F.	+ 227 S.F.
124W	7866 S.F.	7866 S.F.	0	PUBLIC SPACE 1ST FLOOR	3150 S.F.	2560 S.F.	-590 S.F.
TOTAL	9366 S.F.	9366 S.F.	0	VIEW DECK 1ST FLOOR	960 S.F.	700 S.F.	-260 S.F.
TOTAL	32981 S.F.	33800 S.F.	+706 S.F.	POCKET PARK	760 S.F.	568 S.F.	-192 S.F.
	NO EXTENDED LEASE FOR BUILDING	INCLUDED LEASE EXTENSION			6-72 S.F. BEYOND LEASE LINE	WITHIN EXISTING BUILDING LINE	-120 S.F. ACTUAL

GENERAL NOTES, SPECIFICATIONS, SITE PHOTOS, VICINITY MAP, SIGNAGE, PARKING ANALYSIS
M.M.B.S. L.L.C.
MORRO BAY LANDING
ONSHORE LEASE IMPROVEMENTS
1215 EMBARCADERO MORRO BAY, CALIF.

EMBARCADERO RD.



DOOR SCHEDULE					
NO.	SIZE	TYPE	FRAME	TRIM	NOTE
1	6070	1 LITE	FIBERGLASS	WOOD	SAFETY/EXIT DOOR
2	3068	1 LITE	FIBERGLASS	WOOD	EXTERIOR
3	3068	S.C.	METAL	WOOD	INTERIOR
4	3068	S.C.	FIBERGLASS	WOOD	EXTERIOR/MEET H.C. REQ.5

WINDOW SCHEDULE					
NO.	SIZE	TYPE	FRAME	TRIM	NOTE
A	10080	O/XOX (E)	F.G. WHITE	WOOD	TINTED
B	4030	X/O	F.G. WHITE	WOOD	TINTED
C	6040	X/O	F.G. WHITE	WOOD	TINTED
D	40/SHAPE	FIX	WYNLWHITE	WOOD	TINTED
E	6050	FIX	F.G. WHITE	WOOD	TINTED
F	8230	FIX	F.G. WHITE	WOOD	TINTED
G	4030	FIX	WYNLWHITE	WOOD	TINTED SAFETY GLASS W/ BIRD DETERENTS

parking requirements as per established use and as per approved plans

PHASE 2

Prior to construction, the development plans shall be submitted to the Executive Director of the California Coastal Commission for their review and approval.

THE DESIGN/APPEARANCES OF THE FUTURE BUILDINGS TO REFLECT WORKING DOCK/NATICAL THEME PER CONDITION 1a WINDSCREEN@MORROBAY LANDING SHALL CONFORM W/ CONDITIONS 1b AND 1c RAILINGS SHALL CONFORM TO CONDITION 1f ANY TABLES OR ACCESS AMENITY AREAS SHALL POST SIGNS THAT DENOTE THEIR PUBLIC AVAILABILITY PROVIDE INTERPRETIVE SIGNS @ VIEW DECKS

FUTURE COASTAL ACCESS SIGN TO BE PLACED ON NEW BUILDING FACING HARBORWALK AND STREET SIDE

PARKING LOT TO BE RESURFACED AND RESTRIPE AS PER STAFF IN AN EQUITABLE MANNER PARKING LOT IMPROVEMENTS TO SATISFY RECOMMENDATIONS OF THE OEG TRAFFIC STUDY

LAND/SEA INTERFACE
ONSHORE LEASE IMPROVEMENTS
 MORRO BAY LANDING
 1215 EMBARCADERO MORRO BAY, CALIF.

FIRST FLOOR/ SITE PLAN

1 ST. FLOOR/SITE PLAN

SCALE 1/8" = 1'-0"

SPORTFISHING TACKLE SHOP-----2387 S.F.
 MARINE RELATED RETAIL SHOP-----1919 S.F.
 ELEVATOR AND RESTROOMS----- 420 S.F.
 PUBLIC OPEN SPACE INCLUDING
 700 S.F. OBSERVATION DECK----- 2214 S.F.

- DRAINAGE FLOW
- ▨ EXISTING BUILDING
- SEE SHEET A-14 FOR LIGHTING SCHEDULE

THE BUILDINGS' MARITIME THEME SHALL BE REFLECT THE STRUCTURAL ELEMENTS OF PILING AND HEAVY TIMBER USED IN PIER AND WHARF CONSTRUCTION AS WELL AS CURVED LAMINATED BEAMS THAT WILL MIMIC THE FLOW OF THE WATER & THE GRACEFUL LINES OF OUR BOATS.

SHEET **A-6**

OF 16 SHEET

M.M.B.S. L.L.C.

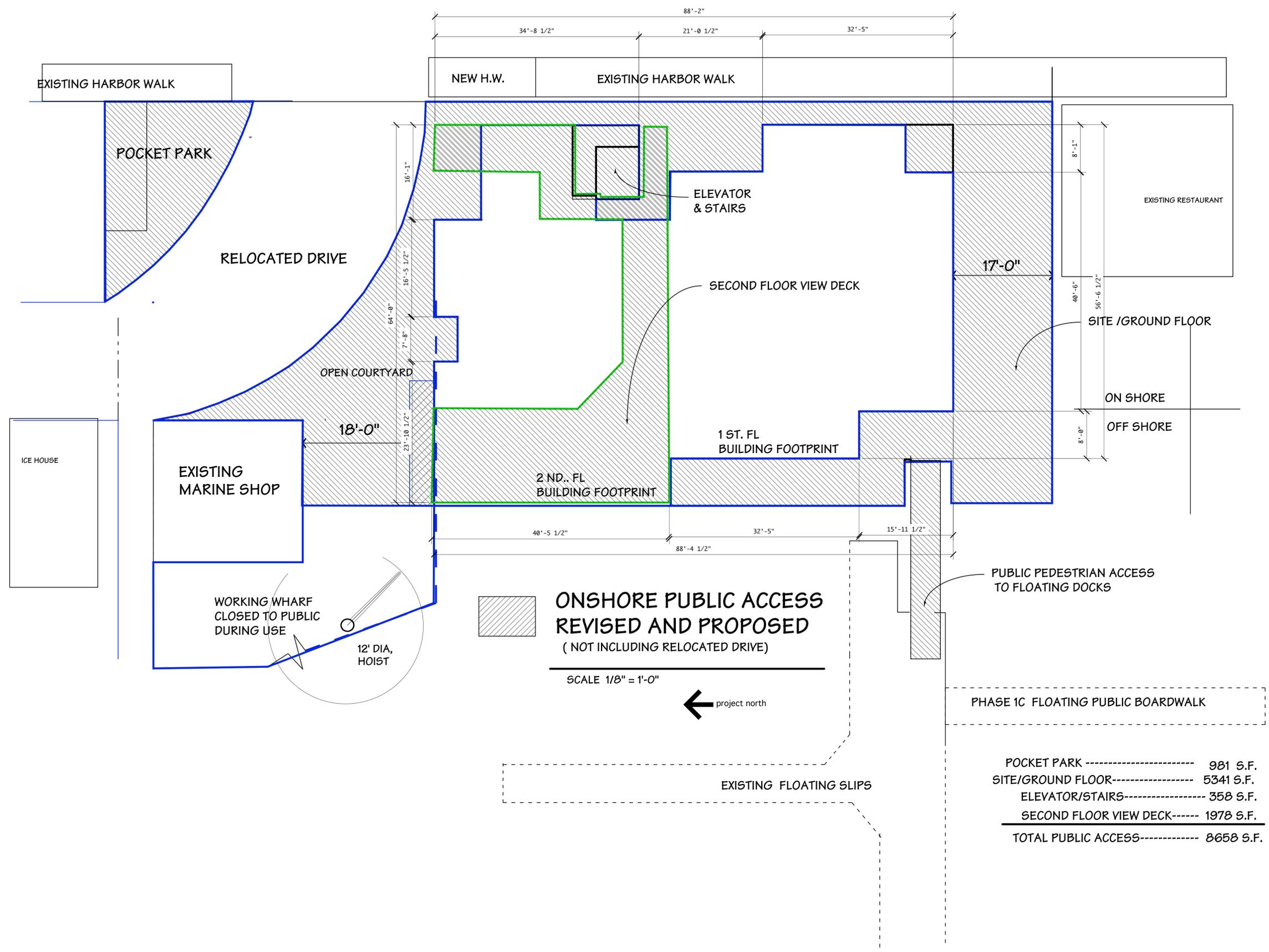
MORRO BAY LANDING

ONSHORE LEASE IMPROVEMENTS

1215 EMBARCADERO MORRO BAY, CALIF.

LAND/SEA INTERFACE
 GENE DOUGHTY-ARCHITECT
 1-805-772-8436
 C 18794

THE PLAN, SPECIFICATIONS, NOTES AND DIMENSIONS OF THIS DRAWING ARE THE PROPERTY OF GENE DOUGHTY ARCHITECT AND SHALL BE KEPT IN CONFIDENCE AND NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF GENE DOUGHTY ARCHITECT.

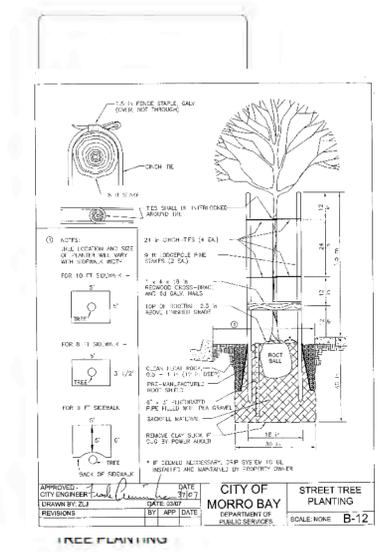
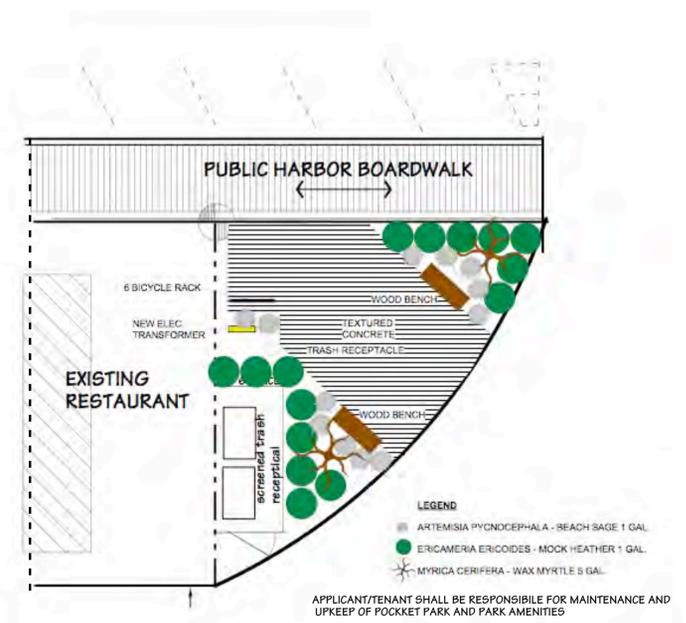
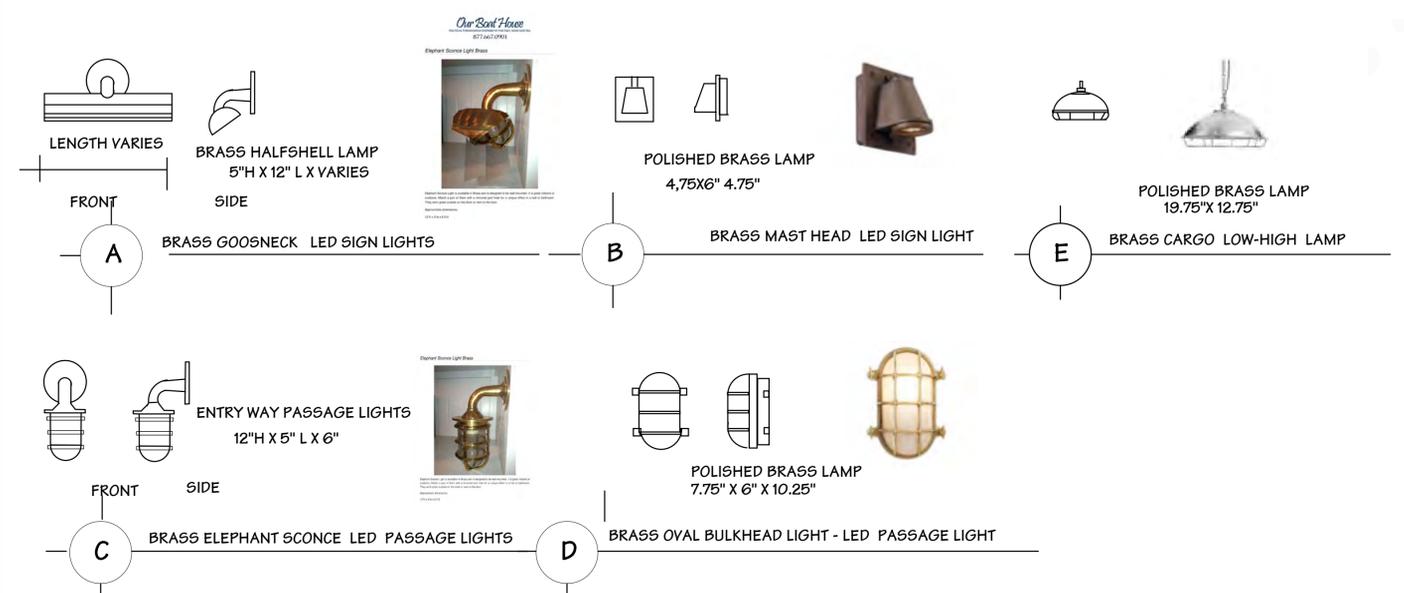


POCKET PARK	881 S.F.
SITE/GROUND FLOOR	5341 S.F.
ELEVATOR/STAIRS	358 S.F.
SECOND FLOOR VIEW DECK	1978 S.F.
TOTAL PUBLIC ACCESS	8658 S.F.

The plan, specifications, notes and other information contained herein are the property of the architect and shall not be used for any other project without the written consent of the architect.

M.M.B.S. L.L.C.
 MORRO BAY LANDING
ONSHORE LEASE IMPROVEMENTS
 1215 EMBARCADERO MORRO BAY, CALIF.
 GENE DOUGHTY-ARCHITECT
 C 18794
 1-805-772-8436

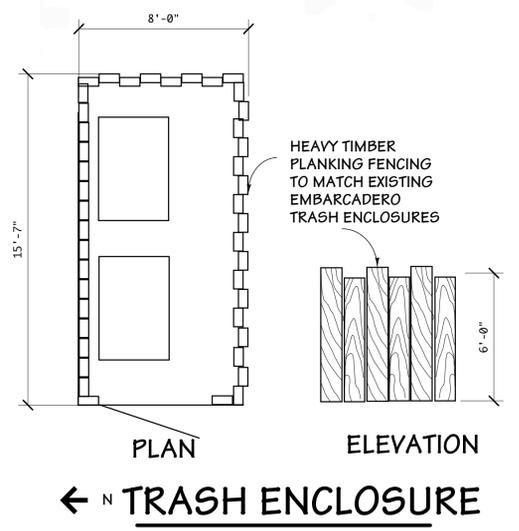
ONSHORE PUBLIC ACCESS
 SCALE AS NOTED
 DRAWING CD



EXTERIOR LIGHTING SCHEDULE

NOTE! FINAL LOCATION AND AMOUNT OF EXTERIOR/INTERIOR LIGHTING SHALL BE DETERMINED W/ ENERGY CALCULATION

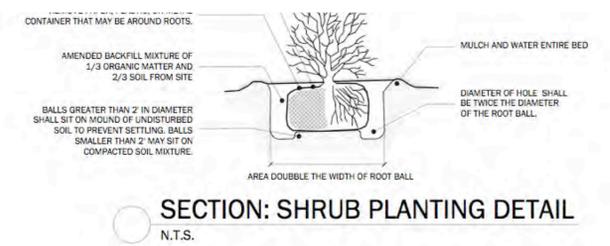
LETTERING	SIGN LENGTH	LETTER HEIGHT	SQUARE FOOTAGE
SPORT FISHING	60"	4"	2.16 S.F.
BAIT - TACKLE - CHARTERS	102"	4"	3.6 S.F.
MORRO BAY LANDING	110"	5"	4.75 S.F.
PUBLIC VIEW DECKING	72"	4"	2.75 S.F.
RESTAURANT	65"	4"	2.5 S.F.
BAY TOURS	60"	4"	2.5 S.F.
RENTALS	57"	4"	2.4 S.F.
RETAIL	50"	4"	2.2 S.F.
PUBLIC VIEW DECK	68"	4"	2.6 S.F.
PUBLIC RESTROOMS	66"	3"	2.0 S.F.
1213	14"	4"	2.0 S.F.
1215	14"	4"	2.0 S.F.



TRASH ENCLOSURE

NO SCALE
TRASH RECEPTACLES SHALL PROVIDE CONTAINMENT SUFFICIENT TO STOP LEAKING FLUIDS FROM FLOWING OUT OF RECEPTABLE AREA, TO MEET CLEAN MARINE BMP.

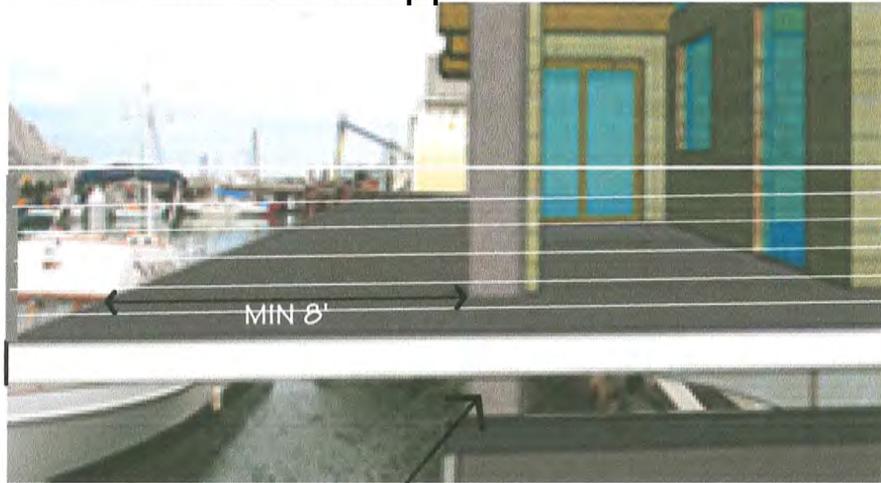
POCKET PARK LANDSCAPE PLAN
WINDSHIP DESIGN STUDIO
THOMAS CRAIG LANDSCAPE ARCHITECT CA #1792



SIGNS SHALL BE RAISED LETTERING (PROJECTING TYPE, 1 1/2"), MOUNTED ON FACE OF HORIZONTAL BEAMS
MAXIMUM LETTER HEIGHT SHALL BE 5"
SIGN LETTER SHALL BE WHITE AS PER MATERIAL BOARD SUBMITTED
SQUARE FOOTAGE OF SIGNS SHALL BE MAXIMUM OF 1 SQUARE FOOT OF SIGN PER LENGTH OF BUILDING FRONTAGE 88' = 88 S.F. MAX.
TOTAL 31.46 SQUARE FOOTAGE OF SIGNS LESS THAN 88 S.F. -----O.K.

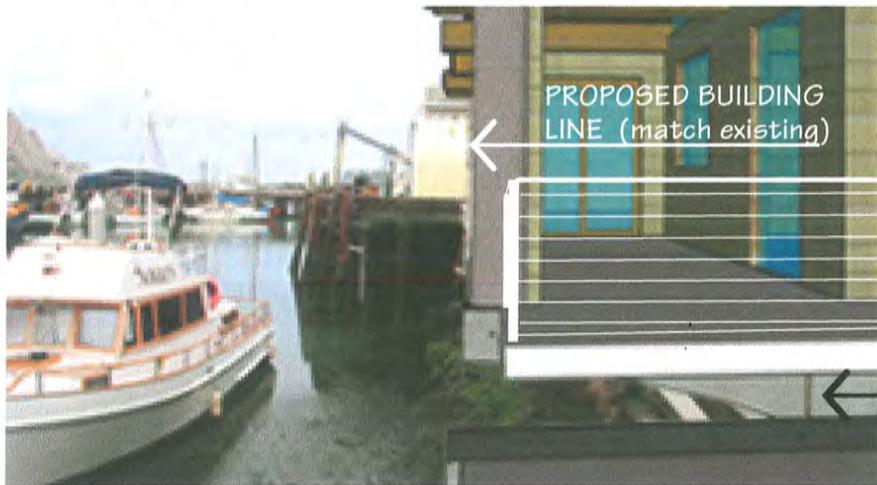
SIGN PLAN

EXHIBIT G - Applicant's Submittal



PILINGS REQUIRED IN REVETMENT

RECOMMENDATION BY PLANNING COMMISSION



PROPOSED ELEVATION



EXISTING ELEVATION
6-4-15 MINUS 0.5 TIDE

MORRO BAY LANDING UPO 058

C018794-357941
Marine workshop
201 Main St.
Morro Bay, Calif. 93442
1-805-772-8436



EXHIBIT H MMBS, LLC

RECEIVED
City of Morro Bay

AUG 17 2015

Administration

August 15, 2015

Members of the City Council
City Of Morro Bay
595 Harbor Street
City of Morro Bay, Ca. 93442

Re: Conditional Use Permit UPO-058
1215 Embarcadero

Mr. Mayor and City Council Persons,

With regard to the Planning Commission meeting of May 19, 2015 where the above referenced project was considered by the Commission I would like to make clear my position in opposition to the Commission's recommendations to the City Council.

As an overarching consideration I would like to express my concern about the appropriateness of adding additional significant conditions to this project at this time. The appropriateness in light of the City's fidelity to the original Concept Plan and CUP approvals and the relationship of those approvals to the business deal as embodied in the Master Lease (the business deal) between the City and MMBS, LLC the applicant.

The Precise Plan, prior approvals of design and development plans by the City and the Master Lease for the property are all part of a public/private partnership between the City and the Master Lessee and go beyond the usual roles of regulator and applicant. In this case, as it is with all of the leaseholders in the waterfront area, the City is the lessor in a financial arrangement with the lessees under the terms of master leases. The conditions of this CUP have been embodied in and made a part of the Master Lease for this site. The City has repeatedly ratified the conditions for CUP UPO-058 in resolutions amending the Master Lease for reasons of assigning the Master Lease to its current owner and in amending the Master Lease as recently as three months ago. We have relied upon the repeated assurances of these resolutions as well as the contract between the City and the Applicant represented by the Master Lease that issues such as the lateral access and the non-conforming sign, but not limited to just those, have been agreed upon and are not subject to further negotiation or change.

While we have formally applied for a modification to the existing approvals because of a condition imposed by the California Coastal Commission and technically the City can legally impose additional conditions, I would like to register my vehement objections from the point of view of being the City's business partner in this situation. As a business partner should I tolerate the City changing conditions on

EXHIBIT H

MMBS, LLC

me at this point or should I reconsider whether or not I am willing to make an additional \$1,000,000 investment with a partner who has failed to demonstrate its fidelity to the deal originally made? This isn't to cast aspersions on any individual involved since these approvals have taken place over a long period of time and all, or almost all, of the persons on the Planning Commission, The City Council and the City Staff have changed over that period. I believe everyone is acting in good faith but because of the changed individuals, sight has been lost of the integrity of this kind of deal making process. Nevertheless, I do believe the current City Council is obliged to abide by the deal made by your predecessors. As a business person I expect the Master Lessor to uphold their side of the deal.

This project already has an approved Concept Plan as evidenced by Exhibit A attached to this letter. The City Council considered and approved this CUP May 12, 2008, whereupon an application was made to the California Coastal Commission (CCC) which was considered and approved in June 2009. In their conditions to the approval of the issuance of the Notice Of Intent to Issue # 3-08-025, specifically condition B. 1. a. The CCC required "***a. Virg's Tackle Shop/Thai Boat Restaurant Design. The design and appearance of this component of the project shall be modified to reflect a working dock, nautical/maritime theme (i.e., simple and utilitarian lines and materials, including use of board and bats, corrugated metal, brick, etc.)***." That new condition is the only reason this is back in front of the Council now and we believe that in the spirit of fair dealing the only thing that should be considered is how we have responded to the Coastal Commission's condition. Had we simply left the building substantially the same and applied "boards and Bats, corrugated metal, brick, etc." to the existing design to meet the Coastal Commission condition it would probably only needed Planning Commission review for substantial conformance and to review the "bells and whistles" such as lighting, landscaping and other refined details. Planning Staff felt that the Council needed to review this as well because the building is so different than was originally approved by the Council and that they thought should be left to just Planning Commission review.

Admittedly we have gone further than simply applying "boards and bats, corrugated metal, brick, etc." and have taken this opportunity to make what we feel are changes to the building that improve and enhance the project's desirability and utility. That is more than just taking the original building design and adding some "lipstick". The building(s) have been changed as follows:

1. The two buildings on the approved design have been consolidated into a single building.
2. The size of the second story of the building has been reduced to one half of the building footprint resulting in an enhancement to the open view area of 8.6%
3. The size of the building has been reduced by 1,278 SF
4. The size of the public viewing deck has been increased by 119 SF

All of these changes actually reduce the impacts of the development and enhance the public's access to the waterfront. As such they require no additional mitigations or conditions.

That is the only reason that we have brought the project back for review and we feel it is the City's obligation to look at just that issue alone and leave intact and unchanged the original CUP entitlement. In fact we will request that the application be withdrawn prior to any action on the part of the City Council if you choose to impose additional detrimental conditions.

Now allow me to address each of the specific concerns that I have with the Planning Commission's recommendations but first also allow me to say that several of these issues were brought up by

EXHIBIT H

MMBS, LLC

Commissioners at the recent Planning Commission hearing only after the close of the public hearing and as a result the Commissioners were deprived of the information I am supplying to you below.

Lateral Access (Additional Planning Conditions #6 & 7). The Commission has recommended that lateral access be added to connect with the lease sites to the north and south. Aside from my overarching objection cited earlier, there are several other problems with this. The first of which is the fact that this project was deemed to have met the requirements of the Waterfront Master Plan (Exhibit A. Revised FINDINGS, Waterfront Master Plan Findings E.a., E.b., E.c., E.d., and especially E.e. These findings document the fact that the City Council agreed that the provision of public access on the docks of the four properties and the repayment to the City of the costs of the City designed Harbor Walk would meet the requirements of the Water Front Master Plan including the requirement for public access. Even if the City Council wants to now change the deal there are a few physical barriers to its implementation.

1. As a part of the construction of the second phase of docks, scheduled to begin in September, we need to upgrade the electrical capacity of the entire project. That means that we need to install a main electrical switchgear as well as the distribution sections for the various submeters for the various end users. This equipment is six feet high and twelve feet wide. It needs to be installed in the existing building in such a way to incorporate it into the new building. We have been working with PG&E on the design and the only place we can put it in the existing building conflicts with the Planning Commission's recommended lateral access connection beyond the proposed project that I have presented. I have attached an Exhibit B showing its location in the new building.
2. Running the walkway through the existing building and through the new electrical panels would reduce the leaseable area of the building by an additional 320 square feet, reducing the economics of the project beyond the 1,298 square feet that we have already voluntarily reduced it.
3. If the walkway is cantilevered out over the water area whole new issues arise. Eel grass surveys would need to reconsider the shading that the walkway produces. I also believe it is highly unlikely that the Coastal Commission and Army Corps of Engineers (representing all the Federal Agencies) would support a modification that constructs a walkway directly over an existing eel grass bed since they are clearly only allowing a net zero impact to eel grass beds. The structure would need additional engineering and the walkway would land pedestrians in the middle of a working dock (see #4 below)
4. We have recently leased the wharf area to the north of the future building to the Central California Seafood Marketing Association and the processing building to Southbay Wild for the purpose of offloading seafood and for the processing of seafood. Please see their attached letters regarding their opposition to having to share their lease/work areas with pedestrians.

Table Siting on the View Deck. (Addition Planning Condition #8). There is already a condition that ensures the use of the deck by the public. We are required to place signs with information that the use of the deck is open to the public, as per CDP condition #2 d. Additionally it is clearly labeled and presented on plan sheet #A-7 that this is a public view deck. Again my objection is to the change in particular deal points. This has an economic effect to the operation of the businesses in the building. We have already agreed to ensure the public's use of the view deck, but it has also always been clear that it is also an area for use by the businesses operating in the building.

EXHIBIT H

MMBS, LLC

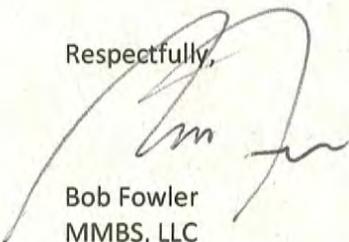
Non-Conforming Sign (Planning condition #3). This sign was shown on all of the photo simulations that were required to be submitted and as such was approved as a part of the project. In GAFCO's recent Precise Plan approval they were not required to remove their non-conforming signs nor was Harbor Hut. In fact Morro Bay Landing's non-conforming sign is also seen in their photo simulations. City Staff has consistently insisted that the photo simulations be accurate as to the project being approved. If it is Staff's position that the non-conforming sign was not intended to be approved in the original Concept Plan approval then isn't their addition of this condition a tacit admission that it had been approved and now they want to amend that approval? Again, the requirement to remove the sign violates the essential business deal points made as a part of the original approvals. It should remain unmolested by this application. If the City Council believes that its removal is essential to this approval, please consider the fact that this CUP is open for all three of the leaseholders that are the subject of this application and that there are three non-conforming signs. Are they all to be treated the same and all to be removed? If not why not?

While it can be argued that it is not the Planning Commissioners' or Planning Staff's role to consider the business considerations of any application because their roles are as a regulators only and they should consider matters presented to them from a regulatory point of view. That cannot be said for the City Council. The City Council is the adult in the room and needs be concerned about the entirety of the CUP process and with the Master Lease (ie; the business deal). Not only is it important for this particular leasehold but it also sends a message to all the other leaseholders in similar deals and speaks to the credibility of the City as a whole which will likely have implications to those other leaseholders and their business decisions. The only way to do that is to support and abide by the decisions of your predecessors even if you don't completely agree. After all, isn't that what you'll expect of your successors?

I would welcome the opportunity to discuss this with you or answer any questions you may have. I can be contacted at (805) 701-5702, cell phone or at Bfowler@AccessLandCo.com.

Thank you.

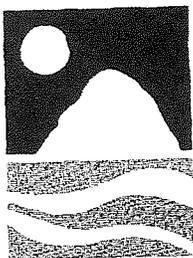
Respectfully,



Bob Fowler
MMBS, LLC

CC: Mr. David Buckingham, City Manager
Mr. Scott Graham, Community Development Manager
Mr. Eric Endersby, Harbor Director
Ms. Cindy Jacinth. Associate Planner

EXHIBIT H



City of Morro Bay

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

CONDITIONAL USE PERMIT

CASE NO: UP0-058

THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:

SITE ADDRESS: 1185 to 1215 Embarcadero

APPLICANT: Virg's Landing Inc, Darby Neil, Harbor Hut/GAFCO, James & George Leage

APN/LEGAL: 066-351-018-020, 039, 016, 029, 028, & 012-015/Lease Sites 110-112, 122 & 123, 124-127/110W-112W & 115W, 122W & 123W, 124W-127W

DATE APPROVED: April 28 & May 12, 2008 APPROVED BY: City Council

APPROVED BASED UPON ATTACHED FINDINGS (*Findings and Conditions of Approval Attached*)

CEQA DETERMINATION: MITIGATED NEGATIVE DECLARATION

DESCRIPTION OF APPROVAL: to construct improvements along the Harbor Waterfront that would enhance, promote and support a working waterfront, and offer new public benefits and as described in the cover letter.

THIS APPROVAL IS CONDITIONAL 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 Planning & Building Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void. -

YOUR PROPERTY IS LOCATED IN THE CITY OF MORRO BAY JURISDICTION, CITY COUNCIL HAS FINAL APPROVAL OF CONDITIONAL USE PERMIT

YOUR PROPERTY IS LOCATED IN THE COASTAL COMMISSION ORIGINAL 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. Any 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: 831-427-4863. If you have any questions, please call the City of Morro Bay Public Services Department, 772-6210.

IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: May 12, 2008 pending Precise Plan Approval

ATTEST: *M. Prater*

DATE: 5.14.08

Mike Prater, Planning Manager

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

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

EXHIBIT H

EXHIBIT A: Revised FINDINGS

UP0-058, A request to demolish and reconstruct Dock Master Plan, replace Virg's & expand GAFCO with an outdoor market.

California Environmental Quality Act (CEQA)

- A. That for purposes of the California Environmental Quality Act, Case No. UP0-058 is subject to a Mitigated Negative Declaration based on aesthetic, air quality, biological, geological, hazardous, hydrology, land use and planning, noise, and transportation issues present on the property. Any impacts associated with the proposed development will be brought to a less than significant level through the Mitigated Negative Declaration.

Conditional Use Permit Findings

- B. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the the prior development agreement for GAFCO and the replacement restaurant for the Thai Boat are permitted use within the zoning district and that the dock plans do not conflict with the navigational channel and in fact better protect the eelgrass habitat applicable to the project site and said structures complies with all applicable project conditions and City regulations.
- C. The project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the masterplan project will provide additional public benefits.
- D. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the City in that the City entered into a prior development agreement for GAFCO and the replacement restaurant for the Thai Boat are permitted use within the zoning district and that the dock plans do not conflict with the navigational channel and in fact better protect the eelgrass habitat. The City recongize these prior agreements and believes the replacement of the Thai Boat does not conflict with Measure D's intent. In addition, public benefits are provided to offset the exceptions granted.

Waterfront Master Plan Findings

- E. The proposed project makes a positive contribution to the visual and public accessibilty to the bay while increasing and maintaining commercial fishing industry and not increasing restaurants:
- a. Meets the Waterfront plan height limit and maximum building coverage, bulk, and scale requirements in that the proposed project offsets these standards by increasing public benefits. *
 - b. In the case of granting height greater than 17 feet, the proposed project also provides significant public benefit pursuant to the Planned Development Overlay zone requirements in that the proposed project is widening the sidewalk and creating a public view deck, providing view corridors, and including public restrooms. *
 - c. The proposed project provides the amenities identified in the WF Plan, facilitates pedestrian visual and physical access to the waterfront, and takes advantage of outward views and characteristics of the topography in that the roof elements were altered to allow for better bay views. *
 - d. The proposed project makes a positive contribution to the working fishing village character and quality of the Embarcadero area in that the new project will add to the pedestrian orientation while maintaining the commercial fishing operations.

EXHIBIT H

- e. The design recognizes the pedestrian orientation of the Embarcadero and provides an interesting and varied frontage that will enhance the pedestrian experience in that the project will provide lateral public access to the water and docks while assisting in the Harborwalk plan to continue public access along the waterfront.
- f. The project gives its occupants and the public some variety in materials and/or application in that the building will consist of stucco and metal roofing, while outdoor market will be wood.
- g. The project contains the elements of harmony, continuity, proportion, simplicity, and balance, and its appearance matches its function and the uses proposed in that the new structure will provide more horizontal and vertical articulation, and the public will be invited into the space via a new public view deck.
- h. The proposed project does not diminish, either directly or by cumulative impact of several similar projects, the use, enjoyment, or attractiveness of adjacent buildings and provides a visual and pedestrian transition to its immediate neighbor in that the existing and new construction is in keeping with the architectural style, massing, materials, scale, and use of its surroundings.

General Plan Consistency

- F. The proposed project implements Visual and Land Use Policies by providing and enhanced the area as indicated in the attached staff report.
- G. The proposed project implements habitat protection and water quality as indicated in the attached staff report.
- H. With the implementation of the above-mentioned policies enumerated in the staff report, the project demonstrates consistency with the General Plan.

Local Coastal Plan Findings

- I. The City Council finds that the project is compatible with the surrounding uses and that exceptions are warranted because of the offsetting public benefits.

Planned Development Overlay

- J. With approval of the project, the City finds that with the heightened level of review the proposed project is acceptable and consistent with Morro Bay standards and the project includes public benefits to deviate from the height, lot coverage and view corridor standards.

Architectural Consideration

- K. As required by Ordinance Section 17.48.200 the City Council find that the architectural treatment and general appearance of all proposed building, structures and open areas are in keeping with the character of the surrounding areas, are compatible with any design themes adopted by the city, and are not detrimental to the orderly and harmonious development of the city or to the desirability of investment of occupation in the area.

Measure D & CF Zone Consistency

- L. The City Council finds the proposed project is primarily for the purpose of serving or facilitating licensed commercial fishing activities or non-commercial recreational fishing activities, or is clearly incidental thereto.

EXHIBIT H

required by National Fire Protection Association (NFPA) Standards, and other standards adopted by the jurisdiction.

27. Refuse Containers: Trash enclosures must comply with the 1994 Uniform Fire Code Article 1103.2.2. Dumpsters and containers with an individual capacity of 1.5 cubic yards or more shall not be stored in buildings or placed within 5 feet of combustible walls, openings, public walkways (if feasible), or combustible roof eave lines.
28. Fire Alarms: For fire alarm systems employing automatic Fire detectors or waterflow detection devices, at least one fire alarm box shall be provided to initiate a fire alarm signal. This fire alarm box (pull station) shall be located where required by the authority having jurisdiction.
29. An approved audible sprinkler flow alarm shall be provided on the exterior of the building in an approved location. An approved audible sprinkler flow alarm to alert the occupants shall be provided in the interior of the building in a normally occupied location. Action of the alarm shall be as set forth in UBC Standard N0. 9-1.

CONCEPT PLAN CONDITIONS

30. The applicant shall revise and/or supplement plans to reflect the necessary changes to the project site and/or nearby properties to comply with the all city standards. This may include but not be limited to parking lot re-configuration, more knowledge about the above ground fuel tanks and pocket park concept, reflect the Harborwalk plan, and any other topics mentioned in the report and discussed at the meetings.

ENVIRONMENTAL CONDITIONS

31. The mitigation measures from the final MND are as follows:

AESTHETICS:

- AES-1 The project will comply with all of the required view corridor and building height limitations imposed by the Zoning Ordinance, Local Coastal Plan, and the Waterfront Master Plan. Including opening or removal of roofline between smaller corridor.
- AES-2 The project master plan shall incorporate the added and enhanced public access and view corridors indicated in the project description along with the appropriate signage to inform the public of their right to access these areas. Including but not limited to: a) public view deck above Virg's, b) lateral access boardwalk the length of the water leases of the master plan, c) view corridors between Virg's and Harbor Hut, d) no visual obstructions except for low shrubs, seating benches, and other small scale features to replace the Thai Boat.
- AES-3 In addition to the master plan project description of enhanced views, the project shall also include a public observation area and open public access into the GAFCO outdoor market area with clear signage to inform the public of their right to access this area limited to the same hours as the market. The above ground fuel tank for Virg's shall be temporary and removed when the underground tanks are installed. The Virg's maintenance shed area should be considered as an additional opportunity to increase the public view corridor by potentially maintaining a low profile.
- AES-4 At a noticed public hearing, the Planning Commission shall consider details of the proposed architectural treatment, including landscaping and bulk/scale, and shall require any changes deemed necessary or appropriate to avoid or minimize adverse impacts as viewed from public streets.

EXHIBIT H

EXHIBIT B: Revised CONDITIONS OF APPROVAL

STANDARD CONDITIONS

- I. This permit is granted for the land described in the staff report referenced above, dated April 28, & May 12, 2008 for the projects depicted on the attached plans labeled "Exhibit C" on file with the Public Services Department, as modified by these conditions of approval.
2. **Changes:** Any minor change may be approved by the Public Services Director. Any substantial change will require the filing of an application for an amendment to be reviewed by the Planning Commission.
3. **Compliance with the Law:** All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.
4. **Compliance with Conditions:** By issuance of building permits for the proposed use or development, the owner or designee accepts and agrees to comply with all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
5. **Compliance with Morro Bay Standards:** This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the Zoning Ordinance, Beach Street Specific Plan, certified Coastal Land Use plan and General Plan for the City of Morro Bay.
6. **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.
7. **Water Saving Devices:** Prior to final occupancy clearance, water saving devices shall be installed in all facilities in all leases effected by the project in accordance with the policies of the Morro Bay Coastal Land Use Plan and as approved by the Building Official.
8. **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

EXHIBIT H

by the Director of Planning and Building. Prior to building permit issuance, the approved method of screening shall be shown on the project plans.

10. 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. weekdays and eight a.m. to seven p.m. on weekends, unless an exception is granted by the Director of Planning & Building pursuant to the terms of this regulation.
11. Exterior Lighting: Pursuant to MBMC Section 17.52.080, prior to building permit issuance, complete details of all exterior lighting shall be shown on the project plans for review and approval by the Director of Planning & Building. All exterior lighting shall be low level with a height of fixture not to exceed a maximum of 17 feet and shall achieve the following objectives; avoid interference with reasonable use of adjoining properties; shielded to minimize on-site and off-site glare; provide adequate on-site lighting; limit fixture height to avoid excessive illumination; provide structures which are compatible with the total design of the proposed facility.
12. 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.
13. 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.
14. 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.

PLANNING CONDITIONS

15. Colors and Materials: Prior to issuance of a building permit, the Public Services Director shall ensure compliance of all exterior colors and materials, including fencing materials. All other colors and materials not so specifically approved may be approved by the Director according to the following objectives: achieve compatibility with colors and materials used in the on-site improvements; achieve compatibility with the architectural design of the improvements; achieve compatibility with surrounding land uses and properties; preserve the character and integrity of the zone.
16. Signage: Prior to installation of any sign on-site, a sign program shall be approved by the Director in conformance with MBMC Chapter 17.68. Minimum 2 signs leading public to public restrooms.
17. Soils Report: Prior to building permit issuance, the applicant shall provide all updated and project-specific soils and geology reports required by the Building Official. Project design and construction shall be consistent with recommendations contained in soils and geology reports, as required by the Building Official.

EXHIBIT H

PUBLIC WORKS CONDITIONS

18. Drainage: To reduce pollution into Morro Bay and the ocean waters, the applicant/developer shall install storm drain inlet protection at the existing storm drain between Virg's Landing and Harbor Hut and also one along the walkway between Harbor Hut and Great American Fish Company. Inlet protection shall be approved by the City.
19. Parking lot: Prior to final approval provide Public Improvement Plans showing all improvements to Embarcadero Road and the parking lot as recommended by OEG's traffic Engineer. Also the parking lot associated with these properties shall be resurfaced and work with staff to accomplish in an equitable manner, and new stripping added.
20. Harborwalk: To maintain the flow of pedestrians throughout the area the applicant/developer shall pay their fair share of the Harborwalk along the frontage of the properties. In addition, Virg's lease site for the bait receivers shall pay only \$5000 contribution for its frontage.
21. Storage Tanks: Provide a detailed plan including but not limited to the following concerns:
Spill control measures at the tank and at the dispensing area. Provide installation of safeguards against accidents, installing secondary containment, conducting regular inspections and spill cleanup techniques.
Install a fence around the fuel tanks for safety and aesthetics since the tank will be located near the pedestrian pathways.
Proposed fuel hose route from tank to docks will interfere with pedestrian facilities causing a trip hazard.
Show how the fuel tank will access the proposed tank for fill-up.
Include the dimensions of the proposed storage tank.
22. Driveway: The driveway must keep a minimum 20' clear for WB63 truck access. There appears to be a conflict with the 20' minimum clear of the proposed driveway alignment between the proposed storage tanks and Virg's Landing. The driveway alignment is shown going through the existing Ice Machine and Virg's new maintenance /tool shed.

FIRE DEPARTMENT CONDITIONS

23. Building and Address Identification: Approved address numbers shall be placed on all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall clearly contrast with their background. The characters shall be a minimum of 5" high with a 1/2" stroke.
24. Prior to final occupancy the applicant shall submit an 8-1/2" x 11" reduced copy of the floor plan and site plan for updating Fire Departments response books
25. Fire Extinguishers: The minimum fire-extinguisher requirement shall be one portable, wall-mounted for each retail space in such locations so that maximum floor travel distance does not exceed 75' to the nearest extinguisher from any portion of the building with a maximum of 3,000 square feet of floor area surveyed. Fire extinguishers listed above, will be required on site during construction.
26. Automatic Fire-Alarm Systems: Sprinkler systems shall be installed in accordance with Morro Bay Municipal Code Section 14.60.200, in all new structures along the waterfront in compliance with appropriate Uniform Building Code Standards, regardless of area separation or where

EXHIBIT H

required by National Fire Protection Association (NFPA) Standards, and other standards adopted by the jurisdiction.

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CONCEPT PLAN CONDITIONS

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- AES-4 At a noticed public hearing, the Planning Commission shall consider details of the proposed architectural treatment, including landscaping and bulk/scale, and shall require any changes deemed necessary or appropriate to avoid or minimize adverse impacts as viewed from public streets.

EXHIBIT H

- AES-5 Exterior night lighting installed on the project site shall be of a low intensity, low glare design, and shall be hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent areas. Pole supports shall be of a darker finish to reduce glare.

AIR QUALITY:

- AQ-1 Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site. A dust management plan shall include the following:
- During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems shall be used to prevent dust from leaving the site and to create a crust after each day's activities cease.
 - Water trucks or sprinkler systems shall be used during construction to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this shall include wetting down such areas in the later morning and after work is completed for the day, and whenever wind exceeds 15 miles per hour.
 - Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.
 - Reduce the amount of the disturbed area where possible.
 - Permanent dust control measures identified in the approved project revegetation and landscape plans shall be implemented as soon as possible following completion of all soil disturbing activities.
 - All paved areas (i.e., roadways, sidewalks, etc.) shall be completed as soon as possible unless seeding or soil binders are used.
 - Construction vehicle speeds shall be not exceed 15 mph on any unpaved surface at the site.
- AQ-2 The applicant shall submit their geologic evaluation to APCD for consistency review with the Asbestos Airborne Toxic Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations to verify that serpentine rock or any ultramafic rock is not present within proposed disturbance areas prior to commencement of grading activities and grading permit. Subsequent to this finding, an Exemption Request from Section 93105 of the California Code of Regulations-ARB Asbestos Airborne Toxic Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations shall be filed with the San Luis Obispo County APCD. In the highly unlikely event that serpentine rock or any ultramafic rock are identified during the geologic evaluation, the applicant shall comply with all requirements outlined in the Asbestos Air Toxics Control Measures (ATCM), including preparation of an Asbestos Dust Mitigation Plan and an Asbestos Health and Safety Program for approval by the APCD.

BIOLOGICAL RESOURCES:

- BI0-1 Prior to the issuance of a building permit, an approved "otter watcher" shall be under contract or otherwise committed to being on the job site at all times during which the pile driver is in operation. The contract or other written agreement between the applicant and "otter watcher" shall specifically encourage and empower the "otter watcher" to stop work immediately in the event that a sea otter is detected in the project area. The contract, agreement, work scope or similar document shall further specify that no work shall be resumed until after the marine mammal has left the area. With this mitigation, the project would not have a significant impact of animals, or require a state or federal take permit
- BI0-2 To avoid impacts, all work that disturbs the ocean floor (i.e., installation of pilings) shall be overseen and monitored by the project biologist.
- BI0-3 The shaded eelgrass shall be surveyed prior to construction and after completion to ensure the area has not lost more than anticipated. Concurrence from the federal agencies and obtain all necessary

EXHIBIT H

pennits from them before start of construction

- BIO-4** All docks shall be lowered in placed (following assembly) from the existing building site or by water, as stated in the Section 10 authorization from the Army Corp of Engineering.

GEOLOGY/SOILS:

- GE0-1** Grading shall not occur during the wet season (November 1-April 15) unless erosion control devices acceptable to the City Public Works Department are implemented. Silt fencing, straw bales, straw wattles, and/or sand bags shall be used in conjunction with other methods to prevent surface water-induced erosion of on-site soils and siltation offsite.
- GE0-2** The applicant shall provide project-specific soils and geotechnical reports required by the Building Official. Project design and construction shall be consistent with recommendations contained in soils and geology reports, as required by the Building Official.

HAZARDS!HAZARDOUS MATERIALS:

- HAZ-1** To reduce the potential for inadvertent release of fuel from lease areas to aquatic habitats, avoidance of storing all cleaning and refueling materials for equipment and vehicles/vessels near the western property boundary without having proper safe guards in place to prevent a hazardous accident.
- HAZ-2** Sorbent materials, such as booms and drop cloths, should be stored on site to allow a crew member to respond to unplanned spills in a timely manner. Employees shall be briefed on the purpose, application, and location of sorbent materials.
- HAZ-3** All lease sites shall provide the Harbor and Fire Department with a list of hazardous materials used and inform the employees of where clean-up supplies are located in case of accidents that could cause harm to the environment and particularly the water and take necessary measures to prevent such accidents including developing rules and procedures on how and where to handle these materials, routine maintenance on vessels, and passing the performance standards under Resolution 53-06.

HYDROLOGY/WATER QUALITY:

- HYDRO/WQ-1** Implementation of Best Management Practices (BMPs) in accordance with the NPDES Phase 2 Permit requirements for short-term construction shall be required to address erosion impacts at the site. BMPs include but are not limited to the following:
- a. Constructing berms and, if needed, covering sand/gravel stock piles to prevent erosion and offsite transport by stormwater runoff;
 - b. Covering storm drain catch basins within the construction area to prevent sediments and debris from collecting in the basins;
 - c. Sweeping and disposing soils from the work area to prevent offsite transport and/or runoff into storm drains or directly to the Bay;
 - d. Implementing measures to prevent runoff of any debris from cutting, grinding, or welding into the Bay;
 - e. Placing drip pans under mechanical equipment to catch leaks (e.g., fuels and hydraulic fluids); and
 - f. Properly storing or disposing all materials with potentials for polluting stormwater runoff.
- HYDRO/WQ-2** The following measures would be required to address erosion impacts at the project site:
- a. Temporary berms and sedimentation traps, such as silt fencing, shall be installed in association with project grading to minimize erosion of soils and sedimentation

EXHIBIT H

- in the storm drains. The sedimentation basins shall be cleaned as needed and the silt shall be removed and disposed of in a location that shall not impact native habitat, as approved by the City of Morro Bay Public Works Department;
- b. Runoff shall not be directed across exposed slopes. All surface runoff shall be conveyed in accordance with the approved plans; and
 - c. Site grading shall be completed such that permanent drainage away from foundations and slabs is provided and so that water shall not pond near proposed structures or pavements.
 - d. To reduce the potential for inadvertent release of fuel from construction areas to aquatic habitats, avoid all cleaning and refueling of equipment and vehicles near the western property boundary. Stage and refuel vehicles only in appropriately marked construction staging areas, preferably offsite or near Embarcadero.
 - e. Sorbent materials, such as booms and drop cloths, should be stored on site to allow construction crews to respond to unplanned hydrocarbon spills in a timely manner. Construction crews shall be briefed on the purpose, application, and location of sorbent materials prior to project implementation.

LAND USE AND PLANNING:

- LU-1 At a noticed public hearing, the Planning Commission shall consider details of the proposed land use and Measure D consistency, and shall require any changes deemed necessary or appropriate to avoid general plan local coastal plan consistency concerns.

NOISE:

- NOISE-I Construction activity shall be limited to the hours between 7:00a.m. and 7:00p.m., Monday through Friday during Summer and holiday weekends. All other seasons construction hours shall follow the MBMC. No construction shall occur on State holidays (e.g., Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities (e.g., painting, landscaping with hand tools, etc.) are not subject to these restrictions.

TRANSPORTATION:

- TR-1. A Traffic Management Plan (CTMP) shall be implemented during project construction that includes the following:
- a. A minimum of one travel lane shall be maintained in each direction during construction.
 - b. A public awareness program shall be implemented before and during construction providing information on road closures, delays expected during construction, signage and flag persons, brochures, web sites, newspaper, and other notices.
- TR-2. Traffic improvements to the parking lot and circulation routes identified in the plan (as a City project) and Harborwalk plan shall be mitigation for this project in order to maintain feasible circulation.
- TR-3. If the applicant request to not make the parking space improvements that would increase the number of parking spaces by three to accommodate the increase vessel demand (the circulation improvements are required regardless) then they may request to pay three In-Lieu-Fees from the City. In accordance with MBMC §17.44, the applicant shall pay in lieu fees for the total required increase in number of onsite parking spaces demand for the dock and structures.

PLANNING COMMISSION CONDITIONS

EXHIBIT H

32. Restaruant square footage -Equal square footage of the existing resturant (Thai Boat) for the entire resturant space (-952sqft), and (324sqft) of office space (for marine related businesses) on the upper floor is allowed.
33. The applicant is allowed to modify the project timeline, as feasible, however all of the public improvements shall be within Phase I.
34. Temporary above ground fuel is only allowed until the Thai Boat is removed and the underground tanks are installed, at such time the temporary tanks shall be removed.
35. All structures shall not exceed 25 feet in height, except for existing structures.
36. The 1-foot extension to tie into the South T-Pier is allowed.

CITY COUNCIL CONDITIONS

37. Public access to the floating docks shall be allowed between the hours of 8 a.m. to sunset everyday.

EXHIBIT H

RECEIVED

AUG 19 2015

City of Morro Bay
Community Development Dept.

Cindy Jacinth,

My name is Rob Seitz, together with my wife Tiffani we own a small seafood company named South Bay Wild inc. Our company recently invested the money to outfit a custom fish processing facility at 1217 Embarcadero. We also belong to a fish marketing co-op named Central California Seafood Marketing Association (CCSMA) which has a lease on the dock adjacent to the processing facility. The purpose of the dock is to have a space to perform work on our fishing gear, as well as offload our member's fish. The reason I'm writing this letter is because I was recently made aware of some plans to build a walkway/public viewing area which would impact our ability to perform these tasks, as well as create a serious safety hazard for the public.

The section of the Embarcadero in question falls under measure D regulation and is designated for commercial fishing use. Access to waterfront dock-space is limited, and competition for it is steep, (two former offloading/processing areas have already been turned into restaurants), but it is vital to our business, and the fishing fleet as a whole. We routinely have trucks and forklifts operating in the area, the maneuvering of these vehicles in the tight spaces they must operate combined with the threat of 'dropped payload' could constitute a serious safety hazard for the public should the walkway be made too close to our dock area. Another concern of ours is that an increase in foot traffic and people milling about on our dock would handicap our and our employee's ability to do their job efficiently and in a timely manner which would create a financial burden for our small company.

Our fish has been given a 'green' rating by Seafood Watch and a rating of 'sustainable' by The Marine Stewardship Council. We supply high quality seafood to a variety of restaurants in San Luis County as well as sell it to end consumers at farmers markets and in health food stores. Our business is growing and based on the feedback from our customers they appreciate having access to local sustainable seafood, please help us to continue providing it for them by allowing the walkway in question to stay at the already agreed upon place, please don't move it to where the public and my business will be in harms way.

Sincerely,

Rob and Tiffani Seitz

EXHIBIT I

RECEIVED
City of Morro Bay

AUG 11 2015

Administration

Copy: City Manager
City Attorney
Comm. Dev. Mgr.
Harbor Director

Mayor Jamie Irons and Morro Bay City Council Members

595 Harbor Street

Morro Bay, CA 93442

8/11/15

Mayor Irons, Council Member Johnson, Council Member Hedding, Council Member Makowetski, Council Member Smukler,

Soon you will be asked to review and comment on the "precise" plan for Virg's Landing which includes the lease site that Dockside 3 occupies. This project was approved years ago, but it included a grander, more elaborate redevelopment including not only Virg's but the Harbor Hut and GAFCO as well. This project has changed considerably. We don't believe it would have been approved in the conceptual process if it was presented as the project it has now become.

We have incorporated into our current lease for Dockside 3 the option to lease the "new restaurant" space on the second story level at Virg's. A decision we made in order to protect our efforts in building and growing our concept at Dockside 3. We do not believe that Measure D allows the building of a "new restaurant" on this end of the Embarcadero. We do believe we have made every effort to bring Dockside 3 into compliance with Measure D if not by the letter of the law but at least by the spirit of the Measure. We firmly believe we have brought Dockside 3 closer into compliance with Measure D than anyone has since it was a fish market when the Measure was passed by a vote of the people.

Without taking into consideration the argument whether Measure D would allow the construction of a "new restaurant." We would respectfully point out what tearing down Dockside 3 means.

Dockside 3 has become a viable business. It continues to grow, and generates increasing revenue for the City of Morro Bay. To tear down such a distinct building that has become a landmark for many visitors and locals alike seems to be a waste of a valuable resource and counterproductive. The eclectic buildings on the north end of the Embarcadero gives us charm and quaintness the City of Morro Bay's should protect. Morro Bay should demand to be who we are, not Monterey, Santa Barbara, or other locales in between. Visitors have found us and they like what they see, and locals have continued access to an area of the waterfront that is rich in history and memories. The city gains nothing by allowing the destruction of this iconic building. It actually loses some of the identity that the north end of our Embarcadero has.

The "pocket park" that will replace Dockside 3 will have NO view except of a visually questionable work shed and a parking lot! All documents, both from the city and the Coastal Commission prior to the "precise plan" lists the "shed" as part of the demolition that was promised. This then would at least give those that might use this park some view of our harbor. This "pocket park" will have to be maintained daily, and quite honestly hourly especially at busy times. I have seen what some leave behind after consuming their meals on the Embarcadero, and without constant monitoring and maintenance it will become littered and abused.

EXHIBIT I

Some will argue that by destroying Dockside 3 it will make a better turning radius for large fish trucks. However the majority of fish trucks are NOT big semis. Most semis are for the unloading of squid and squid is often not off loaded in Morro Bay years on end. The bigger issue for the semis is the turn and access north of the USCG building, not the turn at Dockside 3. Besides over the years 1000's of tons of squid have left the dock without incident already.

If the Virg's redevelopment plan can be manipulated to the degree it has then what would be wrong with changing it to the point of keeping a historic building that generates continued revenue for Morro Bay. The current lease holder could eliminate the expense of building a useless "pocket park," and the redevelopment plan could be kept closer in compliance with the spirit of Measure D and the current lease that Dockside 3 sits on could even be reassigned.

There are many options that should be examined now this redevelopment project has taken so many turns and twists. Again we believe that this project would have not been approved as it currently stands. Promises were made and it is up to the city of Morro Bay to make sure the project that was "sold" to the City of Morro Bay should be brought to completion. If not then you should be allowed to change it as much as others have changed it already.

Sincerely,



Mark & Bonnie Tognazzini

Tognazzini's Dockside Restaurants

1245 Embarcadero

Morro Bay, CA 93442



AGENDA NO: C-1

MEETING DATE: August 25, 2015

Staff Report

TO: Honorable Mayor and City Council

DATE: August 14, 2015

FROM: Susan Slayton, Administrative Services Director

SUBJECT: Adoption of Ordinance No. 594 Amending Various Sections of Chapter 3.08 of the Morro Bay Municipal Code, Relating to Contract Authority and the Purchasing Process

SUMMARY

Ordinance 594 was introduced at the regular Council meeting held on August 11, 2015. This is the legally required second reading for non-urgency ordinances. After the second reading, by title only with further reading waived, it is recommended the Council adopt the ordinance, which will then become effective on the 31st day after its adoption.

Prepared By: SS

Dept Review: _____

City Manager Review: SS

City Attorney Review: JWP

ORDINANCE NO. 594

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORRO BAY, CALIFORNIA
AMENDING VARIOUS SECTIONS OF CHAPTER 3.08 OF THE MORRO BAY
MUNICIPAL CODE RELATING TO CONTRACT AUTHORITY
AND THE PURCHASING PROCESS**

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

NOW, THEREFORE, the City Council of the City of Morro Bay does ordain as follows:

SECTION 1: Section 3.08.60 of the Morro Bay Municipal Code is hereby repealed.

SECTION 2: Section 3.08.80 of the Morro Bay Municipal Code is hereby amended, in its entirety, to read as follows:

3.08.80 – Purchase order system

The purchasing agent is directed to implement a purchase order system for all contracts and purchases for which city expenditures will be made; provided, that real property purchases, utility expenses, payments to governmental agencies, claim or litigation settlements or judicially required payments would not be subject to the purchase order system.

SECTION 3: The opening phrase of Section 3.08.100 of the Morro Bay Municipal Code is hereby amended, in its entirety, to read as follows:

Except as otherwise provided in this chapter, purchases of supplies or equipment, of an estimated value greater than Fifty Thousand Dollars (\$50,000), shall be by written contract with the lowest responsive and responsible bidder, pursuant to the procedure hereinafter prescribed:

SECTION 4: Section 3.08.110 of the Morro Bay Municipal Code is hereby amended, in its entirety, to read as follows:

3.08.110 - Open market procedure.

The city manager, or his/her written designee, is authorized to sign a written contract or purchase order to purchase supplies and equipment, from the same vendor, for a total dollar amount of Fifty Thousand Dollars (\$50,000) or less in the open market, pursuant to the procedure hereinafter prescribed, and without observing the procedure prescribed in

Section 3.08.100; provided, that, all bidding may be dispensed with for purchases of supplies and equipment from the same vendor for a total dollar amount of Two Thousand Five Hundred Dollars (\$2,500) or less; provided, further, that such authorizations are only effective to the extent the expenditure for the contract/purchase order has been approved by the City Council by adoption of, or amendment to, the City's budget.

A. Minimum Number of Bids. Open market purchases shall, wherever possible, be based on at least three written quotations, and shall be awarded to the entity submitting the lowest responsive and responsible quotation.

B. The purchasing agent, or her/his designee, shall solicit quotations for the purchases of all goods and services above Two Thousand Five Hundred Dollars (\$2,500). The quotations may be solicited by telephone, or in writing, but must be documented and attached to each purchase order, at the time of issuance.

SECTION 5: Section 3.08.140 of the Morro Bay Municipal Code is hereby amended, in its entirety, to read as follows:

3.08.140 - Informal public project bid procedures.

Public projects, as defined in Sections 22000, *et seq.*, of the Public Contract Code, of One Hundred Seventy-five Thousand Dollars (\$175,000) or less may be let to contract by informal procedures, as set forth in Sections 22032, *et seq.*, of the Public Contract Code.

SECTION 6: Section 3.08.170 of the Morro Bay Municipal Code is hereby amended, in its entirety, to read as follows:

3.08.170 - Award and amendment of contracts.

A. The city manager, or his/her written designee, is authorized to award and sign any contract or purchase order for supplies, services or equipment with a total dollar amount that does not exceed One Hundred Twenty-five Thousand Dollars (\$125,000) or is subject to the bid procedures, as described in Section 3.08.140; provided, that such authorizations are only effective to the extent the expenditure for the contract has been approved by the City Council, by adoption of, or amendment to, the City's budget.

B. Any contract or purchase order, approved in accordance with this code, may be amended by the city manager, or his/her written designee, so long as each amendment does not exceed the lesser of 25 percent of the contract/purchase order amount or Fifty Thousand Dollars (\$50,000).

SECTION 7: This Ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this Ordinance and shall cause this Ordinance to be published and posted in the manner required by law.

INTRODUCED at a regular meeting the of the City Council of Morro Bay, held on the 11th day of August, 2015, by motion of Mayor Irons, seconded by Councilmember Heading.

PASSED AND ADOPTED on the 25th day of August, 2015.

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

APPROVED AS TO FORM:

JOSEPH W. PANNONE, City Attorney

I, Dana Swanson, City Clerk for the City of Morro Bay, hereby certify that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the 11th day of August, 2015, and that hereafter the said ordinance was duly and regularly adopted at a meeting of the City Council on the _____ day of _____, 2015, by the following vote, to wit:

Ayes:

Noes:

Abstain:

Absent:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this _____ day of _____, 2015.

City Clerk of the City of Morro Bay



AGENDA NO: D-1

MEETING DATE: August 25, 2015

Staff Report

TO: Honorable Mayor and City Council **DATE:** August 14, 2015

FROM: Susan Slayton, Administrative Services Director

SUBJECT: Introduction and First Reading of Ordinance No. 595 Amending Various Provisions of Title 5 of the Morro Bay Municipal Code relating to Business Taxes

RECOMMENDATION

Staff recommends the City Council review Ordinance No. 595, accept public comment, and make a motion for the introduction and first reading of Ordinance No. 595, by number and title only, amending various provisions of Title 5 of the Morro Bay Municipal Code relating to Business Taxes.

BACKGROUND

The City of Morro Bay's Municipal Code (MBMC) Title 5, Chapters 5.04 through 5.40, was established for the purpose of regulating and imposing a tax on businesses conducting operations within the City limits, with or without a fixed place of business in the City. There has been a considerable amount of public engagement on this MBMC section, resulting in a staff report presented to City Council on May 26, 2015. At that meeting, the following two motions were recorded:

MOTION: Councilmember Smukler moved the Council direct staff to return with an ordinance amending the MBMC to establish a no business tax required threshold of \$4,000; make minor revisions in the area of real estate professionals to clarify when a real estate professional must register and pay a business tax; remove the now-expired business tax amnesty from MBMC; designate the "receipt" of payment of a business tax as a business tax certificate, not a business license; and clean up other items of the MBMC, such as counting an FTE at 2080 hours instead of 2000 hours. The motion was seconded by Councilmember Heading and carried unanimously, 5-0.

MOTION: Councilmember Heading moved the Council affirm the general structure of our business tax system, that independent contractors should be treated equally, whether they work under the roof of a single registered business, work under the roof of several registered business or work independently, and direct annual business tax updates and publication during the month of February,

Prepared By: SS

Dept Review: _____

City Manager Review: SS

City Attorney Review: JWP

of the Master Tax Schedule and Tax Collector's Business Tax Memo that clarifies requirements for business registration and taxes in the City of Morro Bay. The motion was seconded by Councilmember Johnson and carried unanimously, 5-0.

DISCUSSION

The attached Ordinance is presented to amend various Business Tax chapters of Title 5 of the MBMC in an effort to comply with Council's May 26th motions.

CONCLUSION

Staff recommends the City Council introduce Ordinance No. 595, by number and title only, and schedule the date of the second reading and adoption of this Ordinance.

ORDINANCE NO. 595

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORRO BAY, CALIFORNIA
AMENDING VARIOUS PROVISIONS OF TITLE 5 OF THE MORRO BAY
MUNICIPAL CODE RELATING TO BUSINESS TAXES**

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, Title 5 of the Morro Bay Municipal Code (MBMC) establishes the tax regulations for businesses operating within the City;

WHEREAS, the City recently audited the business taxes being paid to the City;

WHEREAS, as a result of that audit and the passage of time, Title 5 was found to be in need of various amendments; and

WHEREAS, with input for all stakeholders the City Council has determined it is in the best interest of the community to adopt amendments to Title 5.

NOW, THEREFORE, the City Council of the City of Morro Bay does ordain as follows:

SECTION 1: The title of Title 5 of the Morro Bay Municipal Code (MBMC) is hereby amended to read as follows:

Title 5 – BUSINESS TAX CERTIFICATES AND REGULATIONS

SECTION 2: The title of Chapter 5.04 of the Morro Bay Municipal Code (MBMC) is hereby amended to read as follows:

Chapter 5.04 – GENERAL PROVISIONS.

SECTION 3: Chapters 5.04, 5.08, 5.24 of the MBMC are hereby amended by changing the words (i) “license fee” and “license tax” to “business tax,” (ii) “license fees” and “license taxes” to “business taxes” and (iii) “Business License Rate Schedule” to “Business Tax Rate Schedule,” whenever they appear in those chapters.

SECTION 4: Section 5.04.010 of the MBMC is hereby amended by adding a three new subsections in the correct alphabetical order and to re-letter all the subsequent subsections accordingly:

“Business tax certificate” shall mean the document issued by the city to evidence a business is current on the payment of all business taxes, any penalties and fines, applicable to that business.

“Flea market” shall mean a vending location with several vendors, usually held outdoors, where used goods and antiques are sold.

“Independent contractor” shall mean any individual, who is not a full-time or part-time employee of the person for which that individual provides services. A valid W-2 form, issued by that person to that individual, would be *prima facie* evidence that individual is an employee.

SECTION 5: Section 5.04.010 of the MBMC is hereby amended by deleting the words “licensed and” from the definition of “Employee.”

SECTION 6: Section 5.04.030 of the MBMC is hereby amended in its entirety to read as follows:

5.04.030 - Substitute for other revenue ordinances.

Persons required to pay a business tax for transacting and carrying on any business, as defined in this chapter, shall not be relieved from payment of any other fee or tax for the privilege of doing such business required under any other title of this code and shall remain subject to the other regulatory provisions of this code.

SECTION 7: Section 5.04.050 of the MBMC is hereby amended in its entirety to read as follows:

5.04.050 - Business tax payment required.

A. There are hereby imposed, upon the businesses, trades, professions, callings, and occupations specified in this title, business taxes, as established annually in the Business Tax Rate Schedule.

B. Each year by June 30th the Business Tax Rate Schedule will be adjusted by the change in the Consumer Price Index (CPI), from March of the previous year to March of the current year. The percentage adjustment for any given year shall be based upon the average monthly index for twelve months ending March 31st. The Consumer Price Index referred to in this paragraph is the Consumer Price Index (all items indexes, all urban consumers) for Los Angeles-Riverside-Orange County, compiled and published by the United States Department of Labor, Bureau of Labor Statistics, 1968 Base Year = 100 (hereafter called Index). If the United States Department of Labor, Bureau of Labor

Statistics, ceases to compile and make public the Index as now constituted and issued, but substitutes another index in its place, then the substituted index shall be used in place of the Consumer Price Index referenced in this paragraph.

C. This section shall not be construed to require any person to pay a business tax or obtain a license prior to doing business within the city if such requirement conflicts with applicable statutes of the United States or of the state.

SECTION 8: Section 5.04.055 is hereby added to the MBMC to read as follows:

5.04.055 - Business tax certificate required.

The businesses, trades, professions, callings, and occupations required to pay a business tax pursuant to this chapter must also obtain a current and valid business tax certificate. This section shall not be construed to require any person to obtain a business tax certificate prior to doing business within the city if such requirement conflicts with applicable statutes of the United States or of the state.

SECTION 9: Section 5.04.060 of the MBMC is hereby amended in its entirety to read as follows:

5.04.060 - Separate business tax certificates.

A. A separate business tax certificate must be obtained for each branch establishment or location of the business transacted and carried on and for each category of business at the same location.

B. Each business tax certificate shall be evidence that business tax certificate holder has paid the taxes due for only the business for which that business tax certificate was issued at the location or in the manner designated in that business tax certificate.

C. If two or more businesses are conducted on the same premises by one person, as defined in Section 5.04.010, and the employees are employed by and serve all businesses so located, then only one business tax shall be levied based upon the number of employees employed and each other business shall be subject to the business tax assigned herein to the appropriate business category.

D. Notwithstanding the foregoing, warehouses and distributing plants used in connection with and incidental to a business for which a business tax certificate has been issued under the provisions of this title shall not be deemed to be separate places of business or branch establishments.

E. Notwithstanding the foregoing, any low income business, as defined in section 5.08.220, shall only require one business tax certificate, but the businesses operated at the same address by that business tax certificate holder shall be listed on the business tax certificate.

SECTION 10: Section 5.04.065 is hereby added to the MBMC to read as follows:

5.04.065 Exception to tax based on employees

A business without a fixed location in the city shall not be required to pay a business tax calculated on the number of employees serving that business.

SECTION 11: Section 5.04.080 of the MBMC is hereby amended in its entirety to read as follows:

5.04.080 - Constitutional apportionment.

A. None of the business taxes provided for by this title shall be so applied as to occasion an undue burden upon interstate commerce or violate the equal protection and due process clause of the Constitution of the United States and the state.

B. In any case where a business tax is believed by a business taxpayer or applicant for a business tax certificate to place an undue burden upon interstate commerce or violate such Constitutional clauses, he/she may apply to the collector for an adjustment of the business tax. The application may be made before, at, or within six months after payment of the prescribed business tax. The applicant shall, by sworn statement and supporting testimony, show his method of business and such other information as the collector may deem necessary in order to determine the extent, if any, of such undue burden or violation. The collector shall then conduct an investigation, and, after having first obtained the written approval of the city attorney, shall fix as the business tax for the applicant an amount that is reasonable and nondiscriminatory, or, if the business tax has already been paid, shall order a refund of that amount over and above the business tax so fixed.

SECTION 12: Sections 5.04.090, 5.4.100 and 5.04.110 of the MBMC are hereby amended by changing the words “license fee” and “license tax” to “business tax” and the words “license fees” to “business taxes.”

SECTION 13: Section 5.04.120 of the MBMC is hereby amended in its entirety to read as follows:

5.04.120 - Exemption claim.

Any person claiming an exemption pursuant to Sections 5.04.090 through 5.04.110 shall file a verified statement with the collector stating the facts upon which exemption is claimed. The collector, upon a proper showing contained in a verified statement, shall issue a business tax certificate to such person claiming exemption under Sections 5.04.090 through 5.04.110 without payment to the city of the business tax required by this title. The collector, after giving notice and a reasonable opportunity for

hearing to a holder of such a business tax certificate, may revoke any business tax certificate granted pursuant to the provisions of Sections 5.04.090 through 5.04.110 upon information that business tax certificate holder is not entitled to the exemption as provided herein.

SECTION 14: Section 5.04.130 of the MBMC is hereby amended in its entirety to read as follows:

5.04.130 - Contents of business tax certificate.

Every person required to have a business tax certificate under the provisions of this title shall make application for the same to the collector, and upon the payment of the prescribed business tax, the collector shall issue to such person a business tax certificate which shall contain the name of the person to whom the business tax certificate is issued, the business for which the business tax certificate was issued, the place where such business is to be transacted and carried on, the date of expiration of the business tax certificate, and such other information as may be necessary for the enforcement of the provisions of this title.

SECTION 15: Section 5.04.140 of the MBMC is hereby amended by changing the word “license” to “business tax certificate” in the title to and the first four times it appears in that section and changing the words “license tax” to business tax” each time they appear in that section.

SECTION 16: Sections 5.04.150 of the MBMC is hereby amended by changing the words “two thousand” to “two thousand eighty.”

SECTION 17: Sections 5.04.160 and 5.04.170 of the MBMC are hereby amended by changing the word “license” in the titles to those sections to “business tax certificate,” the word “licenses” to “business tax certificates,” the word “license” to “business tax certificate” the first time it appears in Section 5.04.170.

SECTION 18: Section 5.04.180 of the MBMC is hereby amended in its entirety to read as follows:

5.04.180 - Statements not conclusive.

A. No statement shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the city from collecting by appropriate action such sum as is actually due and payable hereunder. Such statement and each of the several items therein contained shall be subject to audit and verification by the collector, his/her deputies, or authorized employees of the city, who are hereby authorized to examine, audit, and inspect such books and records of any business tax certificate holder or applicant for a business tax certificate, as may be necessary in their judgment to verify or ascertain the amount of business tax due.

B. All business tax certificate holders, applicants for business tax certificates and persons engaged in business in the city are required to permit any examinations of such books and records for the purposes aforesaid.

SECTION 19: Section 5.04.190 of the MBMC is hereby amended by changing the word “license” to “business tax certificate” the first time it appears in that section and when it appears in Subsection E. of that section.

SECTION 20: Section 5.04.210 of the MBMC is hereby amended by changing the word “license” to “business tax certificate.”

SECTION 21: Section 5.04.220 of the MBMC is hereby amended in its entirety to read as follows:

5.04.220 - Transfer of business tax certificates.

Any business tax certificate under this chapter may be transferred to another person or location upon application and the payment of the fee of Two Dollars to the collector to have the business tax certificate amended; provided, that an application and payment of the applicable fee is made within fifteen days after such transfer, or a new business tax will be due and payable for the remainder of the business tax certificate period.

SECTION 22: Section 5.04.230 of the MBMC is hereby amended in its entirety to read as follows:

5.04.230 - Duplicate business tax certificate.

A duplicate business tax certificate may be issued by the collector to replace any business tax certificate previously issued hereunder, which has been lost or destroyed, if the person, to whom the business tax certificate was issued, files a statement of such fact with the collector, and at the time of filing such statement pays to the collector a duplicate business tax certificate fee of Two Dollars.

SECTION 23: Section 5.04.250 of the MBMC is hereby amended by changing the word (i) “licenses” to “business tax certificates” in the title and when it appears in that section, (ii) the word “license” to “business tax certificate” when it appear in that section and (iii) the word “licensee” to “business tax holder” when it appears in that section.

SECTION 24: Section 5.04.260 of the MBMC is hereby amended by changing the word “license” to “business tax certificate” the second time it appears in that section.

SECTION 25: Section 5.04.275 of the MBMC is hereby repealed.

SECTION 26: Sections 5.04.280 and 5.04.310 are amended by changing the word “license” to “business tax certificate” the first time it appears in both sections.

SECTION 27: Section 5.04.320 is hereby amended in its entirety to read as follows:

5.04.320 – Independent contractors.

Every independent contractor, who operates any business within the city, (i) whether upon a cost, rental, commission, flat fee, hourly rate or other basis, and (ii) whether such business is conducted on the premises of a single other business within the city, or the premises of several businesses within the city, shall be required to obtain a separate and independent business tax certificate, and pay a business tax as established by the Business Tax Rate Schedule.

SECTION 28: Section 5.04.330 of the MBMC is hereby amended in its entirety to read as follows:

5.04.330 - Application for permit to chief of police for certain businesses.

A. The filing of an application for a business tax certificate shall also be considered an application for a permit from the chief of police when the business to be operated is any of the following: (i) carnival, (ii) circus or menagerie, (iii) money lender or pawnbroker, (iv) massage parlor, (v) tent show, (vi) amusement parlor, (vii) penny arcade, or playland or (viii) private patrol service.

B. No permit shall be issued to carry on any business at any location where such would be in violation of Title 17, zoning.

C. Where an application for a new permit or renewal has been submitted for any of the businesses enumerated in subsection A, the chief of police may cause to have taken, fingerprints of all business supervisors and employees of the business, and may conduct a confidential background investigation to determine whether to issue a business license, and if issued, the conditions to assign to the business license. Failure to submit to fingerprinting or identification of a criminal involvement shall be grounds for denial of the permit.

D. Consideration of a permit described by this section shall be approved by the chief of police. The denial or issuance of a permit pursuant to this section may be appealed to the city council within ten days after the chief of police action. In the review of the permit pursuant to this section, the chief of police and city council may assign such conditions as it deems necessary for the conduct of the business operation to protect the public health, safety and welfare.

SECTION 29: The title of Chapter 5.08 of the MBMC is hereby amended to read as follows:

Chapter 5.08 – BUSINESS TAXES.

SECTION 30: Section 5.08.030 of the MBMC is hereby amended in its entirety to read as follow:

5.08.030 – Multi-family dwellings, motels, hotels, rest homes, rooming-houses, hospitals, and sanitariums.

Each (i) multi-family dwelling of four or more units, (ii) hotel, motel and rooming-house with four or more rooms and (iii) rest home, hospital and sanitarium with the capacity for four or more persons shall pay a business tax in accordance with the Business Tax Rate Schedule; provided, that the each business will pay the base tax, plus the per unit/room/person tax, which will be assessed on the fourth and more units, rooms or persons.

SECTION 31: Section 5.08.040 of the MBMC is hereby amended in its entirety to read as follow:

5.08.040 - Art, hobby or handicraft shows, farmers markets, special events and exhibitions (“Event”).

A. Each person sponsoring or organizing an Event, wherein goods, artifacts or articles are offered for sale to the general public (provided, that such goods, artifacts or articles offered for sale are the products of each individual exhibitor's own skill or talent) shall obtain a business tax certificate from the city for the conduct of the Event and shall collect a business tax from each individual offering such goods, artifacts or articles for sale to the general public at the Event. Organizers of a flea market are not included in this category and vendors at a flea market are covered by Section 5.08.110.

B. Each person sponsoring or organizing the Event shall assure the payment of such business taxes to the city and payment shall be made for each and every day of the Event and such payments shall be made by no later than the first day following the Event when the city business tax office is open for business.

C. See Business Tax Rate Schedule. With respect to nonprofit organizations, the council can, by resolution, modify the taxes provided for in this section.

SECTION 32: Section 5.08.060 of the MBMC is hereby amended in its entirety to read as follow:

5.08.060 – Carnivals, circuses or menageries.

For the business of conducting a carnival, circus or menagerie, a license issued pursuant to this section and Section 5.04.330 shall cover all shows, exhibitions, and entertainments, and all sales, food vendors or places, and the peddling of all novelties or notions and other activity for profit growing out of and as a part of such circus or carnival; provided, that such activity is conducted within the carnival or circus grounds

only. Application for any such license under this section must be made to the city council, which, under its police powers, reserves the right to deny any application for such license. The chief of police shall direct what shows, exhibitions, entertainments or activities are proper under such license and her/his decisions shall be final and conclusive. See the Business Tax Rate Schedule.

SECTION 33: Section 5.08.070 of the MBMC shall be amended by changing (i) the word “license” to “business tax certificate” the third, fourth, fifth and sixth time it appears in that section and (ii) the word “licensee” to “business tax certificate holder,” whenever it appears in that section.

SECTION 34: Section 5.08.080 of the MBMC is hereby amended in its entirety to read as follows:

5.08.080 - Contractor.

A. A contractor, within the meaning of this section, is a person who for either a fixed sum, price, fee, percentage, or other compensation, other than wages, undertakes or offers to undertake with another, or purports to have the capacity to undertake with another to construct, alter, repair, add to, or improve any building, highway, road, railroad, excavation, or other structure, project, development, or improvement, other than personally, or to do any part thereof; provided, that the term "contractor" as used in this chapter includes subcontractor, but does not include anyone who merely furnishes materials or supplies without fabricating the same into, or consuming the same in the performance of the work of the contractor hereby defined; and does not include any owner-builder who is exempt under the provisions of the State Contractors' License Law.

B. A general building contractor is a contractor whose principal contracting business is in connection with any structure built, being built, or to be built for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind, requiring in its construction the use of more than two unrelated building trades or crafts, or to do or superintend the whole or any part thereof. Persons issued a business tax certificate under this provision shall pay an annual business tax in accordance with the Business Tax Rate Schedule.

C. A specialty contractor is a contractor whose operations as such are the performance of work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts. Included within but not limited to this category are electrical, plumbing, pipeline, sewer, grading, street, paving, house moving, trenching or excavating contractors. Persons issued a business tax certificate under this provision shall pay an annual business tax in accordance with the Business Tax Rate Schedule.

D. It shall be the responsibility of the prime contractor or the owner-builder at the time of the application for a building or construction permit, to provide the collector with a certified list of those specialty contractors who have been engaged or are intended to be

engaged in the completion of the job for which the building or construction permit is issued. Each specialty contractor shall obtain a current and valid business tax certificate.

E. The inspecting city department will not issue the certificate of occupancy, final inspection or certificate of completion on any job until each specialty contractor who worked on the job has been properly issued a business tax certificate.

F. Every person engaged in the business of contracting shall show evidence he/she holds a valid state contractor's license before a city business tax certificate will be issued under the provisions of this title.

SECTION 35: Section 5.08.090 of the MBMC is hereby amended in its entirety to read as follow:

5.08.090 - Delivery by vehicle.

A. Each person who conducts a business of wholesale or retail deliveries for business services within the city shall obtain a business tax certificate and pay the applicable business tax, as provided in the Business Tax Rate Schedule.

B. This section shall not apply to a business for which a city business tax is paid pursuant to another provision of this chapter or if the business is exempt from paying the city's business taxes, pursuant to the interstate commerce or highway carrier exemption.

SECTION 36: Section 5.08.110 of the MBMC is hereby amended in its entirety to read as follows:

5.08.110 - Flea market vendors

A. Each person who participates as a vendor at a flea market within the city shall obtain a business tax certificate and pay the applicable business tax, as provided in the Business Tax Rate Schedule.

B. Payment of the business tax shall be made to the city for each and every day that vendor operates at a flea market within the city and that vendor shall pay the business tax no later than the first day following the sale upon which the business tax office is open for business.

C. With respect to nonprofit organizations, the council can, by resolution, modify the taxes provided for in this section.

SECTION 37: Section 5.08.120 of the MBMC is hereby amended in its entirety to read as follows:

5.08.120 - Garage sales.

Each person conducting more than two garage sales per year from their private residence wherein goods or merchandise, which were not originally purchased for resale and which are being offered for sale to the general public, shall pay an annual business tax in accordance with the Business Tax Rate Schedule. Such business may not operate if the garage sale, as conducted, is contrary to the provisions of Title 17, Zoning.

SECTION 38: Section 5.08.130 of the MBMC shall be amended by (i) amending, in its entirety the second sentence of the first paragraph of that section to read: "Such business may not operate contrary to the provisions of Title 17, Zoning." and (ii) changing the words "business license" to "business tax certificate" when it appears in subsection A. of that section.

SECTION 39: Section 5.08.150 of the MBMC is hereby amended in its entirety to read as follows:

5.08.150 - Vendors, solicitors, or itinerant merchants.

A. For the purpose of this section:

1. "Vendor" means and includes every person not having a fixed place of business in the city, and not an agent of a principal having a fixed place of business in the city, who travels from place to place, or has a stand upon any doorway of any building or unenclosed or vacant private lot or parcel of land, who sells or offers for sale and retail any goods in his/her possession.
2. "Solicitor" means and includes every person who engages in the business of going from house to house, place to place, selling or taking orders for or offering to sell or take orders for goods, wares, merchandise or other things of value that are not to be used for resale or become a part of any stock to be offered for sale.
3. "Itinerant merchant" means and includes every person who engages in temporary business in the city for one hundred eighty days or less, for the sale of merchandise or services and who, for such purpose, hires or occupies any building, vacant lot, or other private facilities, or a portion thereof.

B. Every person carrying on the business of vendor, solicitor or itinerant merchant shall pay a business tax in accordance with the Business Tax Rate Schedule.

C. No person shall be required to pay a business tax for vending any of his/her own agricultural, pastoral, or dairy products raised by himself/herself in the state, where the products sold are exclusively his/her own. This exemption shall not apply to nurseries

or other commercial establishments who buy goods for resale as well as selling their own products.

D. This section shall not apply to any person covered by Section 5.08.040

SECTION 40: Section 5.08.170 of the MBMC is hereby amended in its entirety to read as follows:

5.08.170 – Realtors and Property Managers.

A. Every person who, with a fixed place of business within the city, (i) assists another with the sale or with offers to sell any real estate or assists another with the purchase or with offers to purchase any real estate, (ii) assists another with the rental or leasing or with offers to rent or lease any real estate, or (iii) collects for another or offers to collect for another rents for any real estate and who is subject to regulation by the State of California Real Estate Board shall pay an annual business tax in accordance with the Business Tax Rate Schedule.

B. Every person who, without a fixed place of business within the city, (i) assists another to sell or offer to sell real estate within the city, (ii) assists another with the purchase of real estate within the city for which the sale is completed, or (iii) assists another with the rental or leasing of real estate within the city or (iv) collects rents for any real estate within the city and who is subject to regulation by the State of California Real Estate Board and who operates within the city, shall pay an annual business tax in accordance with the Business Tax Rate Schedule.

C. Any person who owns and rents property within the city and is not subject to this section shall be subject to Section 5.08.020, as applicable.

SECTION 41: Subsections 5.08.220 C. and D. of the MBMC shall be amended in their entirety to read as follows:

C. Except as provided herein and pursuant to Section 5.04.060, each low revenue business shall obtain a current business tax certificate in accordance with this title and pay a processing fee in accordance with the City's Master Fee Schedule; provided, that (i) the business tax certificate processing fee for each low revenue business shall not be greater than the amount necessary for the city to recover some or all of the costs incurred by the city in processing and issuing that business tax certificate and (ii) if the aggregate annual gross receipts from all the low revenue businesses operated at one location or by the same operator are less than four thousand dollars, then a business tax certificate is not required for any of those businesses; provided, that this subsection shall not apply to any business that would otherwise be required to pay a business tax only pursuant to Section 5.08.020 nor shall it waive any other requirements of this code, including, but not limited to, a requirement for a home occupation permit.

D. Any person who paid a business tax for a low revenue business on or after July 8, 2014, shall be entitled to receive a refund of the amount paid in excess of the business tax certificate processing fee described in subsection C., above; provided, that if the aggregate annual gross receipts for a low revenue business operated at one location or by the same operator are less than four thousand dollars and that business paid a processing fee before the effective date of this section, then the processing fee shall not be refunded.

SECTION 42: Chapter 5.12 of the MBMC shall be amended by adding (i) “or certificated” after “licensed” when the latter appears in Section 5.12.010, (ii) “and business tax” after license in the last line of Section 5.12.010, (iii) “, as applicable” to the end of the last paragraph of Section 5.12.010 and (iv) “, business tax certificate” after “license” when the latter appears in Section 5.12.030.

SECTION 43: Section 5.36.030 of the MBMC is amended by changing “license” to “tax certificate.”

SECTION 44: Chapter 5.40 of the MBMC is amended by (i) amending Section 5.40.020 to change “Peddler” to “Vendor” and reordering the definition of “Vendor and solicitor” into correct alphabetical order within that section and (ii) deleting Section 3.40.030.

SECTION 45: This Ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this Ordinance and shall cause this Ordinance to be published and posted in the manner required by law.

INTRODUCED at a regular meeting the of the City Council of Morro Bay, held on the 25th day of August, 2015 by motion of Councilmember _____, seconded by Councilmember _____.

PASSED AND ADOPTED on the ____ day of ____, 2015.

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

APPROVED AS TO FORM:

JOSEPH W. PANNONE, City Attorney

I, Dana Swanson, City Clerk for the City of Morro Bay, hereby certify that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the 25th day of August, 2015, and that hereafter the said ordinance was duly and regularly adopted at a meeting of the City Council on the _____ day of _____, 2015, by the following vote, to wit:

Ayes:
Noes:
Abstain:
Absent:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this _____ day of _____, 2015.

City Clerk of the City of Morro Bay



AGENDA NO: D-2

MEETING DATE: August 25, 2015

Staff Report

TO: Honorable Mayor and City Council

DATE: August 18, 2015

**FROM: David Buckingham, City Manager
Joseph Pannone, City Attorney**

SUBJECT: Consideration and Adoption of Resolution No. 58-15, Updating the City Council Policies and Procedures Manual

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 58-15 updating the City Council Policies and Procedures manual (the "Manual") as attached to proposed Resolution No. 58-15.

ALTERNATIVES

In addition to the recommended option, the City Council may consider making other changes to the Manual and adopt the Resolution with modifications, or return the matter to staff for further consideration of the Council's comments to return to the City Council with a revised version of the Manual at a future Council meeting.

FISCAL IMPACT

As this Resolution will update the Council's current Manual and does not create any new obligations or responsibilities for City staff, the adoption of this Resolution will not have any measurable fiscal impact.

BACKGROUND/DISCUSSION

Over the years, Councils have adopted and revised the Council Policy Manual. The Mayor, City Manager and City Attorney have again reviewed the current version of the Manual. The review has resulted in changes being suggested to the existing Manual. Those changes are noted as redlines on the attached proposed revised Manual.

Most of the changes are non-substantive language changes. Some are substantive. As to the latter, your attention is specifically directed to pages 10-11 (section 1.2.6), 14 (section 1.3.4), 15 (section 1.3.6.4), 17 (section 1.3.7.2.2), 20 (section 1.3.8.3), 21 (section 1.3.9.3), 30-31 (section 2.6), 32 (sections 3.1.4 – 3.1.6), 37 (4.2.7), 41-44 (Chapter 5); please note the deletion of sections 5.5 is because it was not in conformance with the Brown Act or the proper personnel procedures, because the City Manager is the

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Prepared By: JWP

Dept Review: _____

City Manager Review: DWB

City Attorney Review: JWP

appointing authority for Department Heads), and 46 (section 6.3.3.1) of the proposed Manual attached to the proposed Resolution No. 58-15.

CONCLUSION

Staff recommends the City Council adopt the attached Resolution 58-15 amending the City Council Policies & Procedures manual.

ATTACHMENT

Resolution No. 58-15 adopting a revised manual, which is attached thereto as Exhibit A.

RESOLUTION NO. 58-15

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AMENDING VARIOUS SECTIONS OF THE CITY COUNCIL
POLICIES AND PROCEDURES MANUAL**

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

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

WHEREAS, to ensure all Council Members are familiar with and understand the City of Morro Bay’s philosophies and policies regarding serving on the City Council, on August 12, 2002, the City Council adopted Resolution 47-01 approving an early version of Manual; and

WHEREAS, the Manual has been amended several times throughout the years; and

WHEREAS, the Council has again reviewed the Manual and has determined additional modifications are warranted.

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

SECTION 1. The Manual is readopted, as attached hereto as Exhibit A.

SECTION 2. This Resolution shall be effective as of August 26, 2015.

PASSED AND ADOPTED by the City Council, City of Morro Bay at a regular meeting thereof held on the 25th day of August, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JAMIE L. IRONS, Mayor

ATTEST:

DANA SWANSON, City Clerk

City of Morro Bay

Council Policies and Procedures

SCOPE

This resolution shall establish the procedures for the conduct of all meetings of the City Council of the City of Morro Bay. The purpose of this resolution is to provide that the City Council's meeting procedures will be consistent with the Brown Act (Government Code Sections 54950 et seq.) establish procedures which will be convenient for the public and contribute to the orderly conduct of the City's business. The procedures herein are in addition to, and not in place of, Morro Bay Municipal Code [\(MBMC\)](#) 2.08 and any other applicable ordinances and statutes, and in the event of conflict between this resolution and applicable ordinances or statutes, the latter shall govern.

**RESOLUTION NO: 46-02
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON
AUGUST 12, 2002 APPROVING AND ADOPTING
THE COUNCIL POLICIES AND PROCEDURES MANUAL
AND RESCINDING RESOLUTION NO. 47-01**

**RESOLUTION NO: 54-03
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON
NOVEMBER 13, 2003 AMENDING COUNCIL
POLICIES AND PROCEDURES MANUAL
SECTIONS 1.2.2 AND 1.3.7.1.1**

**RESOLUTION NO: 37-04
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON
JUNE 24, 2004 AMENDING COUNCIL
POLICIES AND PROCEDURES MANUAL
SECTION 1.3.9.3.5**

**RESOLUTION NO: 42-05
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON
NOVEMBER 14, 2005 AMENDING COUNCIL
POLICIES AND PROCEDURES MANUAL
SECTION 4.5**

**RESOLUTION NO: 23-06
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON
MAY 22, 2006 AMENDING COUNCIL
POLICIES AND PROCEDURES MANUAL
REGARDING CANCELLATION OF MEETINGS**

**RESOLUTION NO. 24-07
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON
MAY 14, 2007 AMENDING COUNCIL
POLICIES AND PROCEDURES MANUAL
REGARDING EX PARTE COMMUNICATIONS**

**RESOLUTION NO. 50-07
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON
OCTOBER 8, 2007 ADDING TO AND AMENDING COUNCIL
POLICIES AND PROCEDURES MANUAL
REGARDING USE OF CITY LETTERHEAD AND
USE OF SPEAKER SLIPS AT CITY COUNCIL MEETINGS**

**RESOLUTION NO. 76-08
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON
NOVEMBER 10, 2008 AMENDING COUNCIL
POLICIES AND PROCEDURES MANUAL
REGARDING THE ORDER OF BUSINESS ON THE
CITY COUNCIL AGENDA, APPOINTMENT OF VICE MAYOR
AND FILLING COUNCIL VACANCIES**

**RESOLUTION NO. 11-10
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON
FEBRUARY 22, 2010 ADDING TO AND AMENDING COUNCIL
POLICIES AND PROCEDURES MANUAL
REGARDING EXPENSE REIMBURSEMENT POLICY FOR
ELECTED AND APPOINTED OFFICIALS, CITY LETTERHEAD
AND THE COUNCIL COMPENSATION COMMITTEE**

**RESOLUTION NO. 28-10
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON
JUNE 14, 2010 AMENDING COUNCIL POLICIES AND PROCEDURES
MANUAL REGARDING SECTION 2.2, RETIREMENT,
MEDICAL, DENTAL, VISION, AND LIFE INSURANCE**

**RESOLUTION NO. 46-10
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON SEPTEMBER 27, 2010
AMENDING THE COUNCIL POLICIES AND PROCEDURES
MANUAL IN REGARD TO CALLING CLOSED SESSION MEETINGS;
IN REGARD TO ALL REAL PROPERTY CONTRACTS GOING TO CLOSED
SESSION PRIOR TO OPEN SESSION; IN REGARD TO COUNCIL LIAISONS
TO ADVISORY BOARDS; AND, IN REGARD TO CITY COUNCIL INPUT ON
HIRING AND EVALUATION OF DEPARTMENT HEADS**

**RESOLUTION NO. 11-11
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON JANUARY 25, 2011
ADDING TO AND AMENDING THE COUNCIL POLICIES
AND PROCEDURES MANUAL REGARDING
REGULAR MEETING TIMES AND PLACING ITEMS ON THE AGENDA**

**RESOLUTION 64-12
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON DECEMBER 11, 2012
AMENDING THE COUNCIL POLICIES AND PROCEDURES MANUAL
REGARDING ELECTRONIC MAIL (EMAIL), THE PUBLIC RECORDS ACT
AND THE BROWN ACT**

**RESOLUTION 19-13
ADOPTED BY THE CITY COUNCIL OF
THE CITY OF MORRO BAY ON MARCH 12, 2013
AMENDING THE COUNCIL POLICIES AND PROCEDURES MANUAL
REGARDING STUDY SESSIONS, PLACING AN ITEM ON THE AGENDA,
RECONSIDERATION, ORDER OF BUSINESS AND PUBLIC COMMENT**

RESOLUTION NO. 53-13

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AMENDING SECTION 2.2 OF THE CITY COUNCIL POLICIES AND
PROCEDURES MANUAL REGARDING RETIREMENT, MEDICAL, DENTAL,
VISION, AND LIFE INSURANCE UNSPENT DOLLARS**

RESOLUTION NO. 36-14

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AMENDING VARIOUS SECTIONS OF THE CITY COUNCIL POLICIES AND
PROCEDURES MANUAL REGARDING MAYOR PRO TEM**

RESOLUTION NO. 58-15

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AMENDING VARIOUS SECTIONS OF THE CITY COUNCIL POLICIES AND
PROCEDURES MANUAL**

**CHAPTER ONE
MEETING GUIDELINES & PROCEDURES**

1.1 MEETING SCHEDULE

1.1.1 MEETINGS OF COUNCIL

The Council shall provide by ordinance the time and place of holding meetings and the manner in which special meetings may be called. Public interest and convenience shall be primary considerations when decisions are made as to time, location and frequency.

Except as otherwise provided by law, all meetings of the Council shall be open to the public.

1.1.2 REGULAR MEETINGS

1.1.2.1 Regular meetings shall be held the second and fourth Tuesday of each month beginning at 6:00 p.m. In the event that a regular meeting of the Council shall fall on a legal holiday, that regular meeting shall be held at the same place and time on the next succeeding working day. ~~(MBMC 2.08.010)~~. A regular meeting can only be cancelled after polling the majority of the Council in favor of the cancellation. ~~(Reso. 23-06), (part) (Reso. 11-11), (part)~~

1.1.2.2 Regular meetings shall be held in the Veterans Memorial Building, 209 Surf Street, in the City of Morro Bay. ~~(MBMC 2.08.010)~~

1.1.2.3 Regular meetings shall be between the hours of 6:00 p.m. - 11:00 p.m. It shall be the policy of the City Council to complete meetings by 11:00 p.m., unless a majority of the Council elects to continue past the adjournment hour. If at the hour of 11:00 p.m. the City Council has not extended the time to adjourn the meeting or concluded its business, then the Council will review the balance of the agenda and determine whether to extend the meeting beyond the hour of 11:00 p.m., continue any remaining items, or adjourn the meeting to another date and time.

1.1.3 STUDY SESSIONS (Open to the public)

1.1.3.1 The purpose of these meetings shall be for informal discussions between staff, advisory bodies or consultants, the public, and the City Council regarding specific programs, projects or policies. Council may provide direction, but no formal action will be taken during a Study Session. Study Sessions may be conducted in a variety of formats, including Public Workshops. ~~(Reso 19-13), (part)~~

1.1.3.2 Study Sessions will be held at a time and place within the City limits and convenient to Council and advantageous for public participation.

1.1.4 SPECIAL MEETINGS

1.1.4.1 Special meetings may be called by the Mayor or three ~~members of the City Council~~ Members. ~~(GC n 54956)~~ Written notice of each special meeting must be given not less than twenty-four (24) hours before such meeting to each Member of the City Council not joining the call. Special meetings may be cancelled only by consent of a majority of the members of the Council not less than 24 hours before the date of the special meeting. Notice of such cancellation shall be given to all Council Members and written notice shall be posted for the public not less than 24 hours before the meeting. ~~(Reso. 23-06), (part)~~

1.1.4.2 Written notice must be given to the City Council and to the media ~~twenty-four hours prior to each meeting.~~ when requested. ~~(GC 54956)~~

1.1.4.3 A supplemental telephone call shall be made if necessary to notify each Council Member.

1.1.4.4 No business other than that announced shall be discussed.

1.1.4.5 Any special meeting held at a place other than the Veterans Memorial Building shall be open to the public. Such meetings shall be held within the ~~city~~ City limits. Notice requirements of the Brown Act shall be complied with for any such meetings; regular minutes shall be taken by the City Clerk and shall be available for public inspection.

1.1.5 DESIGNATION AND USE OF COUNCIL CHAMBERS

~~1.1.5.1 The City Manager, or designee, is responsible for maintaining a calendar on the use of the Council Chamber and all requests for reservations shall be cleared through the administrative office.~~

~~1.1.5.1 The Veterans Memorial Building shall be designated as the City's Council Chambers~~

1.1.5.2 When a question arises regarding permission for any group to use the ~~facility~~Council Chambers, the City Manager shall have authority to make the final decision. The following rules are established as a guide:

- a. Use of the Council Chamber for regular meetings by City commissions, committees, and other advisory bodies shall take precedence over any other group or agency. To the extent possible, special meetings will be scheduled around other regularly scheduled non-~~city~~City uses. In the event of a conflict, the City will give priority to rescheduling or relocating any use displaced by a ~~city~~City-related use.
- b. Council chambers is available for other use on a first-come-first-serve basis, after City, ~~city~~City-affiliated and other regular uses are scheduled.
- c. With the approval of the City Manager, and within the provisions of existing video production agreements, other local governmental agencies may use the Council Chamber for the purpose of live or video cablecasting public hearings and/or public meetings during regular or non-business hours.

1.2 AGENDA

1.2.1 ESTABLISHING THE COUNCIL AGENDA

The purpose of the agenda is to provide a framework within which Council meetings can be conducted and to effectively implement the approved Council Goals, Financial Plan and Budget, and also work programs, objectives, and business of the City as established by the present or earlier City Councils. Agenda items also include recommendations to the City Council from advisory bodies, land use and zoning actions or appeals, bid and purchasing procedures, and mandates from other levels of government. Staff shall work within the policy context established by the Council and will not arbitrarily place matters on the

agenda that are outside the scope of existing work programs of the City, except as approved by the Mayor or a majority of the Council, and to inform and advise the Council of matters necessary to the proper operation and well-being of the City.

- a. Tentative Council Meeting Agenda - ~~published~~ Every effort will be made to provide it to the City Council and staff before the close of business on the second Friday prior to the Council meeting.
- b. Full agenda packet published before the close of business Thursday prior to the Council meeting.

The process for determining the format and order of the agenda is based primarily on the order of business adopted by the City Council (~~See~~ Section 1.2.87). The process for establishing the order of specific business and public hearing items is a collaborative one determined largely by anticipated public attendance (those matters involving greater audience attendance are usually scheduled ahead of other items). The City Manager shall meet with department heads on ~~the day of the City Council meetings~~ regular basis, individually and as a group to discuss issues and to review upcoming agenda items.

In addition, the City Manager shall review the agenda materials with the Mayor, or in the Mayor's absence, the Mayor Pro Tempore. The final agenda is set subject to the approval of the Mayor (or Mayor Pro Tempore), after consultation with the City Manager.

1.2.2 PLACING AN ITEM ON THE AGENDA (COUNCIL MEMBER)

Any Council Member may request an item be placed on a future agenda by submitting a request, orally or in writing, to consider the matter and by discussing the request during the "Declaration of Future Agenda Items" section of the regular agenda. If a majority of the Council approves, including that matter on an upcoming agenda, then staff will prepare a staff report for the next available agenda ~~if formal, as determined by the City Manager, unless otherwise directed by the Council~~ action is required. (~~Reso. 11-11~~), (~~part~~).

If only one other Council Member supports hearing the item, then an item will be listed on the next available agenda, as determined by the City Manager, unless otherwise directed by the Council. The Council Member who made the request for the agenda item shall be responsible for providing the Council report and the Council will take no action on the substance of the matter at ~~this~~ that review, unless there is adequate public notice and information is provided for the Council to make an informed decision. If no other Council Member supports hearing the item, then the item will not be placed on the agenda. (~~Reso. 54-03~~), (~~part~~), (~~Reso. 11-11~~), (~~part~~)

Pursuant to SectionPolicy 1.2, the Mayor is responsible for establishing the Agenda and may place an item on the agenda without Council support. In such a situation, the Mayor, or Council Member who the Mayor is accommodating, shall be responsible for providing a Mayor or Council Report. ~~(Reso. 11-11)~~

~~Additionally, an individual Council Member may place an urgency item on an agenda with a minimum of 72 hours legal notice and a memorandum from the Council Member to the Council and staff setting forth the substantive issues of the item. For purposes of this paragraph, urgency shall arise in those limited situations where an item requires immediate action, and the need to take immediate action came to the attention of the Council Member subsequent to the distribution of the agenda.~~

Additionally, the Council may add an item to a posted agenda in accordance with the Brown Act.

1.2.3 PLACING AN ITEM ON THE AGENDA (ADVISORY BODIES)

Recommendations made by advisory bodies, as part of their normal scope of duties and responsibilities, shall be timely placed on the City Council agenda by staff, who shall comply with the City's approved Council Agenda Preparation Policy. In the event ~~that~~ an advisory body desires to bring a matter of special consideration to the City Council (new ideas or concerns, for example), it may request ~~that~~ an item be placed on a future agenda by submitting a written request to the Council approved by a majority of the advisory body members and signed by the Chair. During Declaration of Future Agenda Items, any member of the Council may ask for consideration of the request and upon a majority of Council, a staff report will be prepared and approved by the City Manager or his/her designee. ~~(Reso 19-13), (part)~~

1.2.4 PLACING AN ITEM ON THE AGENDA (THE PUBLIC)

A member of the public may request an item be placed on a future agenda during the Public Comment period at the beginning of every Council meeting, or via other communication with Council Members. Any Member of the Council may ask for consideration of ~~the~~that request pursuant to those procedures set out in 1.2.2.

1.2.5 EMERGENCY ITEMS

Emergency items may be placed on the agenda only in accordance with state law-the Brown Act. Generally, only those matters affecting public health or safety may be considered emergency in nature. A four-~~fifths~~fifth's vote of Council is necessary to add an emergency item.

1.2.6 RECONSIDERATION

Reconsideration of issues previously acted upon is discouraged. However, in extraordinary situations, a request to reconsider an action taken by the City Council may be considered. The request must be presented by a Council Member who voted with the majority at the Council meeting at which the original vote was taken. The vote may be reconsidered during that meeting, but no later than the next Council meeting. Debate is limited to the question of whether or not there is a majority of the Council interested in reconsidering the matter. If a majority of the ~~council~~Council votes to reconsider an action, then the matter ~~will~~can be heard at that same meeting or placed on the next or future agenda. ~~(Reso. 19-13), (part), as directed by the Council. Notwithstanding the foregoing, as a governmental legislative body, the Council reserves the right to consider or reconsider any matter within its jurisdiction a majority of the Council deems appropriate.~~

1.2.7 ORDER OF BUSINESS shall be as follows:

- 1.2.7.1 Establish Quorum and Call to Order
 - 1.2.7.2 Moment of Silence
 - 1.2.7.3 Pledge of Allegiance
 - 1.2.7.4 Closed Session Report
 - 1.2.7.5 Mayor and Council Members Reports, Announcements and Presentations
 - 1.2.7.6 Public Presentations
 - 1.2.7.7 Public Comment
 - 1.2.7.8 Consent Agenda
 - 1.2.7.9 Public Hearings (shall start no sooner than 7:00 p.m.)
 - 1.2.7.10 Unfinished Business / Second Reading and Adoption of Ordinances
 - 1.2.7.11 New Business
 - 1.2.7.12 Council Declaration of Future Agenda Items
 - 1.2.7.13 Adjournment
- ~~(Reso. 76-08), (part), (Reso. 19-13), (part)~~

1.2.8 NOTIFICATION AND ADVERTISING

The City will advertise all matters of significant neighborhood or community public interest that appear on a City Council or Planning Commission agenda where advertising is required by law. Said advertisements shall include location maps, project descriptions and posting of property, if required, written in plain English in order to fully inform all interested individuals.

All advertising shall be accomplished in an economical manner. All affidavits of publication ~~shall be reviewed by the City Clerk and~~ will be available to interested members of the public.

1.3 MEETING PROCEDURES

1.3.1 PRESIDING OFFICER

1.3.1.1 The Mayor is the Presiding Officer and acts as Chair at Council meetings.

1.3.1.2 In the absence or incapacity of the Mayor, the Mayor Pro Tempore will serve as Presiding Officer.

1.3.1.3 In the absence of both the Mayor and Mayor Pro Tempore, a majority of the quorum shall select ~~a temporary Mayor Pro Tempore~~ one of the Council Members present to act as Chair for the meeting.

1.3.1.4 Seating arrangement of the Council:

The Mayor, with the approval of individual Council Members, shall establish seating arrangements for regular Council meetings.

1.3.1.5 Signing of City Documents:

The Mayor, unless unavailable, shall sign all ordinances, resolutions, contracts and other documents which have been adopted by the City Council and require an official signature, except where the City Manager, or other designee, has been authorized by Council to sign documents. In the event the Mayor is unavailable, the Mayor Pro ~~Tempore~~ Tempore's signature may be used.

1.3.2 QUORUM

A majority of the Council Members shall constitute a quorum for the transaction of business.

1.3.3 DISCUSSION RULES

1.3.3.1 Obtaining the floor:

1.3.3.1.1 A ~~Member of the~~ City Council Member or staff shall first address the ~~Mayor~~ Presiding Officer and gain recognition.

1.3.3.1.2 Comments and questions should be limited to the issue before Council.

1.3.3.1.3 Cross-exchange between Council Members and public should be avoided.

1.3.3.2 Questions to Staff:

A Council Member shall, after recognition by the Presiding Officer, address questions to the designated staff member. Council Members are encouraged to provide questions to staff prior to meetings. ~~(Reso. 19-13), (part)~~

1.3.3.3 Interruptions:

1.3.3.3.1 Once recognized, a Council Member shall not be interrupted while speaking except to make a point of order or personal privilege.

1.3.3.3.2 If a Council Member is called to order while speaking, then the individual shall cease speaking until the question of order is determined.

1.3.3.3.3 Upon being recognized by the Mayor, members of staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Mayor/Presiding Officer.

1.3.3.4 Limitation on Discussion:

No Council Member shall speak more than once on a particular subject until every other Council Member has had the opportunity to speak. Council Members are encouraged to discuss items during the decision-making process.

1.3.3.5 Tabling Procedure:

The purpose of the Motion to Lay on the Table also known as a Motion to Table is to enable the City Council, by majority vote and without debate, to lay a pending question aside temporarily when something else of immediate urgency has arisen or when something else needs to be addressed before consideration of the pending question is resumed. The Motion shall not be used to cut off debate and shall only be used when it is necessary to suspend consideration of a main motion in order to deal with another matter that has come up unexpectedly and which must be dealt with before the pending motion can be properly addressed. ~~(Reso. 19-13), (part)~~

1.3.3.6 Right of Protest:

A Council Member is never required to state reasons for dissent.

1.3.3.7 Rules of Procedure:

The Council shall determine its own rules of procedure.

1.3.3.8 Council Minutes:

If a Council Member wishes a stated opinion to be entered in the minutes, [then](#) he/she should precede the statement with "for the record," or request the City Clerk to enter it into the record following the statement.

— **1.3.4 PARLIAMENTARY PROCEDURE**

Those rules in effect according to the City Council policy (State law and Robert's Rules, [to the extent applicable to a public legislative body](#)). The following summarizes the most frequently used actions.

1.3.5 PROTOCOL

1.3.5.1 Council Members and staff shall:

1.3.5.1.1 Work earnestly to preserve appropriate order and decorum during all meetings.

1.3.5.1.2 Side conversations, disruptions, interruptions or delaying efforts are discouraged.

1.3.5.2 Persons demonstrating rude, boisterous, or profane behavior will be called to order by the [Mayor/Presiding Officer](#). If such conduct continues, [then](#) the [Mayor/Presiding Officer](#) may call a recess, request the removal of such person(s) from the Council Chamber, adjourn the meeting, or take such other appropriate action as permitted by the Brown Act.

1.3.5.3 Only the City Council, staff, Designated Representatives, and those authorized by the [Mayor/Presiding Officer](#) shall be permitted to sit at the Council or staff tables.

1.3.5.4 Enforcement of order:

1.3.5.4.1 The Police Chief or his/her designee shall act as the Sergeant-at-Arms.

1.3.5.4.2 Any Council Member may request the Mayor/Presiding Officer to enforce the rules of protocol. Upon motion and majority vote, the Mayor/Presiding Officer shall be required to do so.

1.3.6 VOTING PROCEDURES

- 1.3.6.1 When present, all Council Members shall vote. Failure of a seated Council Member to vote will be construed as an affirmative vote.
- 1.3.6.2 No ordinance, resolution or motion shall be passed or become effective without receiving the affirmative vote of at least three Council Members ~~of the Council~~.
- 1.3.6.3 A conflict of interest shall be declared whenever appropriate and in compliance with State law and the Council Member will ~~step down~~, disclose the nature of the conflict of interest, step down and shall not make, participate in making, or influence the decision.
- 1.3.6.4 A vote may not be changed by a Council Member ~~only immediately~~ after the vote announcement by the Presiding Officer or City Clerk; provided, that with the consent of the City Council a correction of the vote may be made ~~and prior to the introduction of the next agenda item~~.
- 1.3.6.5 The City Clerk shall restate the motion prior to the vote or request the ~~Mayor or~~ Presiding Officer to restate the motion, if required for Council or public clarification.
- 1.3.6.6 Voice voting is the preferred method for recording Council votes.
- 1.3.6.7 A roll call vote may be taken at the discretion of the ~~Mayor or Mayor Pro Tempore/Presiding Officer~~. The City Clerk will call the roll for the roll call vote in the following manner: 1) Maker of the motion; 2) Member who has seconded the motion; 3) Additional ~~council members~~ Council Members in alphabetical order by last name; and, 4) Mayor last. The City Clerk shall state for the record the name of any Council ~~member~~ Member who is recused or has abstained. ~~(Reso. 19-13), (part)~~

- 1.3.6.8 General consent vote may be taken at the discretion of the ChairPresiding Officer, if there are no negative votes or objections by Council Members.
- 1.3.6.9 Upon the request of any Council Member, the ayes and noes shall be taken and recorded on any vote.
- 1.3.6.10 The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council.
- 1.3.6.11 Following the vote, the ~~Mayor or~~ Presiding Officer shall announce whether the questions have been carried or defeated.
- 1.3.6.12 Tie votes: ~~Should~~If a tie vote ~~occur, occurs, then~~ the Council is required to continue the item by majority vote or make motions until an action receives three affirmative votes.
- 1.3.6.13 The ~~Mayor~~Presiding Officer may publicly explain the effect of the vote for the audience or may direct a member of the staff to do so.

1.3.7 PUBLIC COMMENT

Members of the public may address the City Council in a variety of ways. Written comments on agenda items are encouraged. As a courtesy to the Council, citizens are encouraged to present written comments at least one day prior to the meeting. This provides the Council with a greater opportunity to review and consider issues and/or concerns expressed in written communications prior to a meeting. Written material distributed at the meeting will be made a part of the public record. If the material is too voluminous for Council to review during the meeting or is new material not previously considered, then Council may at its discretion continue the item to a future meeting. The following are guidelines for providing public comments: ~~(Reso. 19-13), (part)~~

- 1.3.7.1 During Public Comment period, at the beginning of every meeting, members of the public may address the City Council on items that are not on the printed agenda. For Consent Items, Public Hearing Items, and Business Items, the MayorPresiding Officer will invite comments from the public in support of, or in opposition to each specific Agenda Item following the staff report and any questions from Council to Staff. ~~(Reso. 19-13), (part)~~
- 1.3.7.2 Individuals desiring to speak shall:

- 1.3.7.2.1 Address the Council from the podium after giving name and ~~city~~City of residence. Speakers shall direct their comments to the Council, not the audience.
- 1.3.7.2.2 Limit comments to three~~(3)~~ minutes or to the interval specified by the ~~Mayor or Mayor Pro Tempore~~Presiding Officer. The ~~Mayor or Mayor Pro Tempore~~Presiding Officer, with the majority of Council Members, may reopen public comment ~~after all have spoken, if necessary~~period to qualifyhear additional public comment. Council Members may ask questions,~~comments or concerns~~. of anyone present without reopening the public comment period. A speaker may not yield their time to another speaker.~~(Reso. 19-13)~~
- 1.3.7.2.3 Each person addressing the City Council shall do so in an orderly manner and the Council respectfully requests that speakers refrain from making repetitious, slanderous or irrelevant remarks, or engaging in any other disorderly conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of the Council meeting. Any person who so disrupts the meeting may, at the discretion of the ~~Mayor~~Presiding Officer or a majority of the City Council present, be subject to ejection from that meeting.~~(Reso. 54-03), (part)~~
- 1.3.7.2.4 Persons addressing the Council shall address the Council as a whole and shall not engage in a dialogue with individual Council Members, City staff or members of the audience. No questions shall be asked of a Council Member or a member of City staff without first obtaining permission of the ~~Mayor~~Presiding Officer. The ~~Mayor~~Presiding Officer shall determine whether, or in what manner, an answer will be provided. Any person violating this rule while addressing the Council shall be called to order by the ~~Mayor~~Presiding Officer.
- 1.3.7.3 ~~Pursuant to~~Except as otherwise permitted by the Brown Act, action may not be taken on issues not listed on the agenda. Staff may be asked to follow-up on such items.

1.3.7.4 Applicants or Applicant Representatives or Appellants desiring to speak shall:

1.3.7.4.1 ~~Shall be~~Be permitted to speak first during the public comment portion of the applicable matter public hearing for not more than ~~ten (10)~~ minutes or the time allowed by the Presiding Officer.

1.3.7.4.2 Address the Council from the podium after giving their name and ~~address, and/or~~ the name ~~and address~~ of the applicant/appellant they are representing.

1.3.7.5 Council Members actions

1.3.7.5.1 Council Members may question the person addressing the Council at the conclusion of the person's comments or upon expiration of the person's time to speak. ~~Such questions shall be directed to the person through the Mayor.~~

1.3.7.5.2 Council Members shall not engage the person addressing the Council in a dialogue with the City Council or City staff, but shall confine communication to a question and answer format conducted through the ~~Mayor~~Presiding Officer.

1.3.7.5.3 If a member of the audience has addressed the Council on matters which are not on the agenda, then Council Members shall refrain from extended discussion of the matter. If a Council Member so wishes, then the Council Member may seek to have direct the City Manager ~~to~~ place the matter on the next agenda in accordance with this policy.

1.3.7.6 After the public hearing is closed, no member of the public shall be permitted to address the Council or the staff from the audience, except at the discretion of the ~~Mayor~~Presiding Officer or the majority of the Council.

1.3.7.7 Upon violation of the rules of order and decorum established in Section 1.3.2 – 1.3.7 of this Resolution manual, the procedure to enforce the rule shall be as follows:

1.3.7.7.1 Warning. The ~~Mayor~~Presiding Officer shall request ~~that~~ a person who is violating the rules of decorum

cease such conduct. If, after receiving a warning from the ~~Mayor~~Presiding Officer, the person persists in disturbing the meeting, the Mayor shall order the person to leave the City Council meeting. If the person does not leave the meeting, then the ~~Mayor~~Presiding Officer may order any law enforcement officer who is on duty at the City Council meeting as sergeant-at-arms to remove the person from the City Council chambers.

1.3.7.7.2 Removal. Any law enforcement officer who is serving as sergeant-at-arms at the City Council meeting shall carry out the orders and instructions given by the ~~Mayor~~Presiding Officer for the purpose of maintaining order and decorum. Upon instruction of the ~~Mayor~~Presiding Officer, it shall be the duty of the sergeant-at-arms to remove from the City Council meeting any person who is disturbing the proceedings of the City Council.

1.3.7.7.3 Resisting Removal. Any person who resists removal by the sergeant-at-arms may be charged with a violation of the rules of order and decorum, as well as any other applicable ordinance or law.

1.3.7.7.4 Motion to Enforce. If the ~~presiding officer of the City Council~~Presiding Officer fails to enforce the rules of order and decorum set forth in Section 1.3.2 – 1.3.7, then any Member of the City Council may move to require the ~~Mayor~~Presiding Officer to do so, and an affirmative vote of a majority of the City Council shall require the ~~Mayor~~Presiding Officer to do so, ~~and an~~ An affirmative vote of a majority of the Council may appeal to the entire Council the ruling of the ~~Mayor~~Presiding Officer that a person be removed from the meeting, in which event the decision of the Council majority shall govern and conclusively determine such question. If the ~~Mayor~~Presiding Officer fails to carry out the will of the majority of the City Council, then the majority may designate another Member of the City Council to act as ~~Mayor~~the Presiding Officer for the limited purpose of enforcing the rules of order and decorum established in Section 1.3.2 - 1.3.7.

1.3.7.7.5 Clearing the Room. If a meeting of the City Council is disturbed or disrupted in such a manner as to make infeasible or improbable the restoration of order, ~~then~~ the ~~Mayor~~Presiding Officer or a majority of the City Council may exercise the authority granted in the California Government Code section 54957.9 by ordering the meeting room cleared and continuing in session in the manner authorized by Section 54957.9 of the Government Code.

1.3.8 CONSENT ITEMS

Consent items are the first items on the agenda. Only items that are routine, relate to implementation of approved budget items or to City operations, or are ~~second readings of ordinances, or are~~ items to be later set for public hearing are to be placed on the Consent Agenda. Items of significant neighborhood or community public interest should be heard as a Public Hearing or Business item, and not placed on the Consent Agenda.

1.3.8.1 Minor Questions. A Council Member may ask questions on any item without it being pulled from the Consent Agenda. When a Council Member has a minor question for clarification concerning a consent item that will not involve extended discussion, the item may be pulled for clarification at the beginning of the meeting and the questions will be addressed along with the rest of the Consent Agenda. There should be no objections at this time. Council Members are encouraged to seek clarifications prior to the meeting (~~whenever~~if at all possible).

1.3.8.2 No Vote. When a Council Member wishes to pull an item simply to register a dissenting vote, a request should be made ~~that~~ the item be pulled for separate vote without discussion. Such items will also be handled at the beginning of the meeting along with the rest of the Consent Agenda.

1.3.8.3 Any item may be pulled by a Council Member for discussion. A member of the public may request the Council to pull an item for discussion, but the discretion to pull that item will remain with the Council.

1.3.8.4 Pulled items shall be heard at the close of the Consent Agenda, unless a majority of the Council chooses another time.

1.3.9 NOTICED PUBLIC HEARINGS

During the pendency of any Public Hearing that is a quasi-judicial proceeding, no Council ~~member~~Member or Planning ~~Commission member~~Commissioner shall engage in an *ex parte* communication with any "Interested Party" who intends to influence the decision of the ~~council~~Council or ~~board member~~Commission in a proceeding, unless the ~~council~~Council Member or ~~board member~~Commissioner discloses the *ex parte* communication in the ~~council~~Council or ~~board's~~Commission's record. "Interested Party" means any individual with an interest in the quasi-judicial proceeding that is greater than the general interest of the public as a whole. The term includes, but is not limited to, parties involved in the proceeding, parties that may be significantly affected by the decision, and nonprofit or public interest organizations and associations with a special interest in the matter regulated. A member of the public at large who expresses a casual or general opinion about a pending proceeding would not necessarily be an "Interested Party." ~~(Reso. 24-07)~~

Matters which are required to be heard in a noticed Public Hearing shall be conducted in the following manner:

- 1.3.9.1 Time for Consideration. Matters noticed to be heard by the City Council shall commence no earlier than the time specified in the notice of hearing, or as soon thereafter as is reasonably possible, and shall continue until the same has been completed or until other disposition of the matter has been made.
- 1.3.9.2 Continuance of Hearing. Any hearing being held or noticed or ordered to be held by the City Council may, by order or notice of continuance, be continued or re-continued to any subsequent meeting.
- 1.3.9.3 Conduct of Hearings. When a matter for Public Hearing comes before the City Council, the ~~presiding officer shall open the public hearing and;~~Presiding Officer may:
 - 1.3.9.3.1 Call for a report on noticing from the City Clerk.
 - 1.3.9.3.2 Call for a report on written communications received by the City pertaining to the item being heard.
 - 1.3.9.3.3 Request that staff present the staff report and any other relevant evidence. Presentation of the staff report prior to the formal opening of the Public Hearing shall not prevent its consideration as evidence. Any such evidence shall be made a part of the record of the Public Hearing.

~~1.3.9.3.4~~—The MayorPresiding Officer shall then recognize the proponents or appellants in the cause, who shall be permitted 105 minutes to present evidence —related to the matter under consideration.

~~1.3.9.3.5~~—The MayorPresiding Officer shall then recognize members of the public. No person may speak without first being recognized by the Mayor. ~~Members of the~~Presiding Officer. City Council Members who wish to ask questions of the speakers or each other during the Public Hearing may do so. Council Members should be mindful ~~that~~ the purpose of the Public Hearing is to obtain testimony, and not to debate the merits of the item under consideration. Council Members should avoid debate and expressions of personal opinion until after the close of the public testimony portion of the Public Hearing. The Presiding Officer shall conduct the hearing in such a manner as to afford due process to all affected persons. For Public Hearings, when 10 or more members of the public desire to speak, the ~~Mayor or Mayor Pro Tempore~~Presiding Officer may request ~~the~~ speaker slips to be completed and delivered to the Clerk before the item is considered. Comments shall then be allowed first by those submitting a slip and in the order received by the Presiding Officer. Comments from the public shall be limited to three ~~(3)~~ minutes per speaker for Public Hearings, unless the City Council affirmatively decides otherwise. For Public Hearings that have the potential to be appealed to the California Coastal Commission, members of the public who desire to receive notice of any further proceedings shall write their name and address on the interested parties list at the back of the room. ~~(Reso. 37-04)~~ ~~(Reso. 50-07), (part)~~

~~1.3.9.3.6~~—The MayorPresiding Officer shall then close the public testimony portion of the Public Hearing. Council Members may still, however, ask questions of staff or members of the public. Upon conclusion of Council deliberations and immediately prior to a motion, the MayorPresiding Officer shall formally close the public hearing, which can be accomplished by the Presiding Officer declaring the matter is being brought back to the Council for discussion or other manner to clearly indicate the hearing portion of the matter has concluded. Upon formal closing of the public hearing, no additional public testimony shall be solicited or received without reopening the hearing.

- 1.3.9.4 Evidence. All persons interested in the matter being heard by the City Council shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence presented shall be retained by the City Clerk or appropriate City department, as part of the Clerk's official record— of the proceeding. Prior to declaring the public hearing open, the Mayor/Presiding Officer may establish a time limit for the entire public hearing, or and establish time limits for the presentation of each individual speaker.

1.3.10 CLOSED SESSION MEETINGS (closed to the public)

- 1.3.10.1 Closed Session Meetings may be called by the majority of the Council and are regulated pursuant to the Brown Act. The most common purpose of a closed session is to avoid revealing confidential information that may, in specified circumstances, prejudice the legal or negotiating position of the City or compromise the privacy interests of employees. Closed sessions should be conducted keeping those narrow purposes in mind. ~~(Reso. 46-10), (part)~~
- 1.3.10.2 No ~~Member of the Council~~ Member, employee of the City, or anyone else present shall disclose to any person the content or substance of any discussion which takes place in a closed session, unless authorized by a four-fifths vote of the Council.

1.4 MEETING COVERAGE

The purpose of cablecasting meetings of the Morro Bay City Council is to enhance the awareness and education of the general public regarding the actions and deliberations of the City Council.

- 1.4.1 Coverage of City Council meetings shall be gavel-to-gavel; whether presented to the public live or taped, Council coverage is not to be edited or subjected to editorial comment.
- 1.4.2 All City Council meetings shall be cablecast or taped for broadcast, except for meetings or portions of meetings which are closed to the public, or when the majority of the Council directs otherwise.
- 1.4.3 Cameras used for the gavel-to-gavel coverage shall be operated only by City employees, firms, or persons authorized by the City.
- 1.4.4 Cameras shall be operated so that they are primarily focused on the officially recognized speaker, and on any visually displayed information they may be showing.

- 1.4.5 “Reaction” shots will not be permitted.
- 1.4.6 The City Clerk’s minutes shall remain the official record of Council proceedings.

CHAPTER TWO

COUNCIL SALARY, BENEFITS AND REIMBURSEMENTS~~COMPENSATION~~

Council ~~salary, compensation and financial~~ benefits and reimbursements are established ~~every other year~~ by Council action and in conformance with State law. The MBMC and duly adopted and effective resolutions. Below is a description of the same, but may not include all that are applicable.

2.1 SALARIES FOR MAYOR AND COUNCIL MEMBERS

~~Pursuant to Morro Bay Municipal Code 2.20.010, compensation~~Compensation for services rendered by the Mayor and Council Member, in an official capacity, shall be provided ~~as follows: Members of the City Council shall receive \$300 per month. Pursuant to Morro Bay Municipal Code 2.20.015, the Mayor will receive an additional \$200 per month beyond the compensation paid to Council Members~~in accordance with State law and the MBMC.

2.2 RETIREMENT, MEDICAL, DENTAL, VISION, AND LIFE INSURANCE

The Mayor and Council Members are required to participate in P.A.R.S. retirement. The City shall pay a contribution to P.A.R.S. equal to 1% of salary. The City shall pay, in full, the cost of the Mayor's and Council Members' participation in lowest cost ~~HMO or PPO~~ medical plan (self-only), dental, vision, and life insurance. ~~(Reso. 28-10), (part) (Reso. 53-13)~~

2.3 PROFESSIONAL DEVELOPMENT

The Mayor and each Council Member shall be reimbursed for normal and customary business expenses as follows:

2.3.1 BUSINESS TRAVEL EXPENSE AND CONFERENCE REGISTRATION

The Mayor and each Council Member shall be reimbursed for normal and incidental expenses and for costs of professional development and educational conferences designed to improve understanding of and proficiency in municipal affairs. Such reimbursement shall be for out-of-county expenses only and shall be reimbursed in accordance with accepted City Travel Guidelines.

- 2.3.1.1. Authorized Expenses. City funds, equipment, supplies (including letter head), titles, and staff time must only be used for authorized City ~~business~~. Expenses incurred in connection with the following types of activities generally constitute authorized expenses, as long as the other requirements of this section are met:

- Communicating with representatives of regional, state and national government on City-adopted positions.
- Attending educational seminars designed to improve official's skill and information levels.
- Participating in regional, state and national organizations whose activities affect the City's interests.
- Recognizing service to the City (i.e. thanking a longtime employee with a retirement gift or celebration of nominal value and cost).
- Meetings such as those listed above for which a meeting stipend is expressly authorized under this section.

All other expenditures require prior approval by the City Council, including international and out-of-state travel.

~~(Reso. 11-10)~~

2.3.1.2. Expenses Not Eligible for Reimbursement.

- The personal portion of any trip.
- Political or charitable contributions or events.
- Family expenses, including partner's expenses, when accompanying official on City-related business.
- Entertainment expenses, including theater, movies, sporting events (including gym, massage and/or golf related expenses) or other cultural events.
- Alcohol/personal bar expenses.
- ~~Non-mileage~~ Except as provided in 2.4.2 and .3, personal automobile expenses, ~~including repairs, traffic citations, insurance or gasoline.~~
- Personal losses incurred while on City business.

~~(Reso. 11-10)~~

2.4 CITY BUSINESS AND MILEAGE REIMBURSEMENT

The Mayor and each Council Member shall be reimbursed as follows:

2.4.1 CITY BUSINESS

For costs incurred in connection with official City business, the Mayor and Council Members shall be reimbursed for in-county expenses, including meals, tickets, periodicals, dues, subscriptions, and similar miscellaneous expenses, if receipts for those expenses are provided.

2.4.2 MILEAGE

For official travel within the County of San Luis Obispo, reimbursement shall be made upon submittal of an official mileage expense form.

2.4.3 TRANSPORTATION

~~If trip arrangements are made, as a convenience, for spouse or family members, reimbursement to the City for any advanced expenses should be received by the City prior to the trip.~~ When attending conferences or meetings that are of such distances ~~that~~ it is more economical to take commercial ~~transportation~~ air fare, if an official ~~proposes to drive~~ drives his/her car ~~in those cases, to such meetings, then~~ commercial air fare will be paid and not automobile mileage. -Government and group rates must be used when available. ~~(Reso. 11-10)~~

2.4.3.1. Airfares that are reasonable and economical shall be eligible for purposes of reimbursement. ~~(Reso. 11-10)~~

2.4.3.2. Automobile mileage is reimbursed at IRS rates in effect at the time of travel. ~~These~~ Those rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls which are also reimbursable. ~~(Reso. 11-10)~~

2.4.3.3. Car Rental rates that are reasonable and economical shall be eligible for purposes of reimbursement. ~~(Reso. 11-10)~~

2.4.3.4. Taxi and shuttle fares may be reimbursed, including a 15% gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.
~~(Reso. 11-10)~~

2.4.4 LODGING

Lodging expenses will be reimbursed or paid for when travel on official City--business reasonably requires an overnight stay. If such lodging is in connection with a conference, ~~then~~ lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. Travelers must request government rates, when available. If the group rate is not available, ~~then~~ reimbursement at the IRS rate in effect at the time of travel shall apply. ~~(IRS Publication 463). (Reso. 11-10).~~

2.4.5 MEALS

~~A local expense reimbursement policy identifying a “per diem” of reasonable rates for meals is not adopted. Receipts for expenses for meals shall be required.~~ Actual expenses shall be reimbursed subject to the maximum per diem for the mean as set by the IRS rate in effect at the time of travel. (Cal. Gov’t. Code 53232.2) and Publication 1542 at www.irs.gov or www.policyworks.gov/ per diem.) The City will not pay for alcohol/personal bar expenses. ~~(Reso. 11-10)~~

2.4.6 MISCELLANEOUS EXPENSES

Officials will be reimbursed for actual telephone, fax, and parking expenses incurred ~~on~~for City-~~business~~. Telephone ~~bill~~bills should identify which calls were made ~~on~~for City-~~business~~. ~~(Reso. 11-10)~~

2.4.7 CASH ADVANCE POLICY

From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City’s behalf. Such request for an advance should be submitted to the City Manager ten working days prior to the need for the advance with the following information:

1. The purpose of the expenditures
2. The benefits of such expenditures to the residents of the City.
3. The anticipated amount of the expenditures(s) (for example, hotel rates, meal costs, and transportation expenses).
4. The dates of the expenditure.

Any unused advance must be returned to the City within five working days ~~of~~after the official’s return, along with an expense report and receipts documenting how the advance was used. In the event the City Manager is uncertain as to whether a request complies with this policy, ~~such individual~~the official must seek resolution from the City Council. ~~(Reso. 11-10)~~

2.4.8 CREDIT CARD USE POLICY

The City issues credit cards to individual office holders for selected City expenses. City office holders may use the City’s credit card for City-business-related~~such~~ purposes as airline tickets, hotel reservations and ~~for~~ meals by following the ~~said~~ procedures for cash advances. Receipts documenting expenses incurred on the City credit card and compliance with this section must be submitted within ~~thirty-ten~~ working days ~~of~~after use. Credit cards may not be used for personal expenses, even if the official subsequently reimburses the City. ~~(Reso. 11-10)~~ The City encourages use of the City credit card for allowable expenses rather than seeking reimbursement for payments made for those expenses.

2.4.9 EXPENSE REPORT CONTENT AND SUBMISSION DEADLINES

All cash advance expenditures, credit card expenses and expense reimbursement requests must be submitted on an expense report form provided by the City. ~~This~~That form shall include the following advisory:

“All expenses reported on this form must comply with the City’s policies relating to expenses and use of public resources. The information submitted on this form is a public record. Penalties for misusing public resources and violating the City’s policies include loss of reimbursement privileges, restitution, civil and criminal penalties as well as additional income tax liability. “

Expense reports must document that the expense in question met the requirements of this Policy. Officials must submit their expense reports within ~~thirty calendar~~10 working days ~~of~~after an expense ~~being~~has been incurred, accompanied by receipts documenting each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation.

Inability to provide such documentation within 310 calendar days ~~of~~after travel may result in the expense being borne by the official.

In the event the official does not attend the trip and non-refundable expenses have been incurred for registration, lodging ~~and~~or travel, the non-attending official shall submit a written explanation of the reasons for non-attendance to the City Manager. The City Manager shall determine if the public funds advanced must be reimbursed to the City. Any decision of the City Manager may be appealed to the City Council. ~~(Reso. 11-10)~~

2.4.10 REPORTS TO CITY COUNCIL

At the next regular City Council meeting, ~~each official~~the Mayor and City Council shall briefly report on the meetings attended by that person at City ~~expense~~. If multiple officials attended, then a joint report may be made. ~~(Reso. 11-10)~~

2.4.11 COMPLIANCE WITH LAWS; VIOLATION

City officials should keep in mind ~~that~~ some expenditures may be subject to reporting under the Political Reform Act and other laws. All City expenditures are public records subject to disclosure under the Public Reports Act and other applicable laws. Use of public resources or falsifying expense reports is a violation of this Policy and may result in any or all of the following: 1) loss of reimbursement privileges, 2) a demand for restitution to the City, 3) the City’s reporting the expenses as income to the elected official to state and federal tax authorities, 4) civil penalties of up to \$1,000 per day and three times the value of the resources used, and 5) prosecution for misuse of public resources. ~~(Reso. 11-10)~~

2.5 GENERAL PROCEDURES AND LIMITATIONS

Appropriate budgetary practices and accounting controls shall be established to ensure ~~that~~ expenditures and reimbursements are in compliance with approved budget allocations. The Mayor and each Council Member is expected to plan business activities so as to stay within budget. When exceptional circumstances require ~~that~~ additional amounts be allocated to accounts, formal Council action shall be required.

2.5.1 ACCOUNTING

An account shall be established in the name of the Mayor and each Council Member with all expenditures charged to the ~~individual Council Member or Mayor individuals~~. Receipts shall be submitted within the fiscal year.—~~The Council budget shall be available for public review in the City Clerk's Office and the Mayor and Council Members shall receive periodic statements.~~

2.5.2 REIMBURSEMENT LIMITATION

The City's adopted Travel Guidelines shall govern all expenditures for non-local professional development and conferences. ~~These~~Those guidelines include all non-local official meals, tuition or fees, transportation to meeting sites, materials and telephone usage.

2.5.3 SPECIAL EXPENSES

For occasions when the Mayor ~~and~~ or a Council Member is designated by the City Council to represent the City at special meetings, reimbursement shall be made from the appropriate Travel Expense Account.

2.5.4 HONORARIUM

If the Mayor or a Council Member receives an honorarium as a result of his/her participation in a meeting or conference, then the amount of the honorarium shall be deducted from the amount normally provided by the City for that meeting or conference if the City paid for the Mayor or Council Member's attendance at such meeting or conference.

2.5.5 OTHER GUIDELINES

Any other travel-related issue not specifically governed in this resolution shall be adjudicated in accordance with the City of Morro Bay Travel Expense Reimbursement Policy.

~~2.6~~ COUNCIL COMPENSATION COMMITTEE

~~A five-member review committee may be appointed by January 31, in even-numbered years and shall bring its proposed recommendations in resolution form to the City Council within 90 days, or no later than May 1st. (Reso. 11-10), (part)~~

~~**2.6.1 MEMBERSHIP**~~

~~The committee membership shall have as broad a representation as possible, including but not limited to, two former elected officials who are not currently serving on the Council, and one citizen at large.~~

~~**2.6.2 REVIEW RESPONSIBILITY**~~

~~The committee shall review the full Council compensation package including salary, benefits, expense reimbursement, professional development allowances and any other compensation provided the City Council. Review should include, but shall not be limited to: 1) compensation of Council and Mayors of cities of similar population and/or budget size; 2) compensation practices of both Charter and General Law cities; 3) Government Code provisions for General Law cities; and 4) Council and Mayor responsibilities in Morro Bay at the time of the committee's review; and, 5) any structural changes that may have occurred in municipal government either as a result of State legislation or by actions of the local electorate that may have added to or deducted from the duties and responsibilities of the Council Members and/or Mayor.~~

**CHAPTER THREE
COUNCIL POWERS & APPOINTMENTS**

3.1 MAYOR - POWER AND DUTIES

- 3.1.1 The Mayor shall preside at all meetings of the City Council and perform such other duties consistent with the office as may be imposed by the Council or by vote of the people. The Mayor shall be entitled to, and must vote when present, but shall possess no veto power.
- 3.1.2 The Mayor shall be recognized as the official head of the City for all ceremonial purposes.
- 3.1.3 The Mayor may order flags flown on City property to be lowered to half-staff in mourning for any member of the community designated to have made significant contributions to the City of Morro Bay, in accordance with recognized customs or practices not inconsistent with State and Federal law.
- 3.1.4 The Mayor is authorized to sign letters of appreciation to persons and organizations. Copies of those signed letters shall be provided to the Council Members, as soon as feasible.
- 3.1.5 The Mayor will, at times, receive written communications from recognized organizations or entities whose fundamental purpose is to support cities, such as the League of California Cities. Those communications may be seeking City support for a position the League is taking. Because of the often short time limits for submitting responses to those communications, the Mayor is authorized, at no cost to the City, to submit the requested communication consistent with the subject entity's recommendation. A copy of that letter will be provided to the Council. Any Member of the Council can request an agenda item be placed on an upcoming agenda to discuss that communication. The Council can also determine whether to admonish the Mayor for not carrying out the intent of this provision.
- 3.1.6 When the Mayor is a member of another legislative body, he/she may take actions on matters before that other body as she/he determines appropriate, as long as she/he makes it clear his/her position is that of the Mayor and not the entire City or Council, unless, at a duly agendized public meeting, a majority of the Council has provided direction on the position the Mayor is to take on a matter
- 3.1.6 The Mayor shall exercise such other powers and perform such other duties as may be prescribed by law or ordinance or by resolution of the Council, except as limited by law.

3.2 APPOINTMENT OF MAYOR PRO TEMPORE

The appointment of the Mayor Pro Tempore shall be for a one-year term and shall be made at the first meeting in ~~December~~January. For appointment as Mayor Pro Tempore, a Council Member must be on the Council at least one year. Of those who have been on the Council for at least one year, the Council Member who has not yet held the position shall be appointed Mayor Pro Tempore. If there are two Council Members who have not yet held the position, then the Council Member receiving the highest number of votes in the most recent election shall be appointed Mayor Pro Tempore. If all have held the position, then the Council Member who has held it the least number of times shall be appointed Mayor Pro Tempore. If all Council Members have held it for the same number of years, then the Council Member for whom it has been the longest period of time since holding the position shall be appointed Mayor Pro Tempore. ~~(Reso. 76-08), (part)~~

3.3 FILLING COUNCIL VACANCIES

3.3.1 SPECIAL ELECTION

Measure “R” codified as Ordinance 527 requires the City Council to immediately call a special election to fill any vacant seat on the Council, including the Mayor’s seat. The special election shall be held on the next established election date, as specified in California Elections Code, which is not less than 114 days from the call of the special election. The City Council may appoint an elector who is a registered voter in the City of Morro Bay to fill such vacancy prior to the special election. The appointee shall hold office only until the date of said special election. (Reso. 76-08)

3.3.2 LIMITATION OF COUNCILMEMBER WHO RUNS FOR MAYOR BEFORE COMPLETING REGULAR TERM

A sitting Council Member is disqualified from nomination for election to the office of Mayor in the next election if the remainder of their Council term after the next election cannot be filled by a vote of the electors on or prior to that election date. ~~(Reso. 76-08)~~

3.4 GENERAL POWERS OF THE COUNCIL

Subject to the provisions of law and the delegation of power to any person, officer, Board, or Commission, the Council shall have the power in the name of the City, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants and that are not specifically forbidden by the Constitution and laws of the State of California.

3.5 ADMINISTERING OATHS: SUBPOENAS

Each Member of the Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Council. The Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and compel the production of evidence before it. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoena or the refusal to testify (upon other than constitutional grounds), shall be deemed contempt and shall be punishable as provided by the general laws of the State.

3.6 LIMITATIONS

No Member of the Council shall be appointed to or serve as a voting Member of any City Board, Committee, or Authority, whether composed of citizen volunteers, City employees, or a combination of both. This is not to be construed as prohibiting Members of the Council from serving on Committees or Subcommittees of the Council itself, or of agencies representing other local, state or federal government.

3.7 METHOD OF ACTION BY COUNCIL

All action by the Council shall be taken only by means of ordinance, resolution, or oral motion duly made and passed.

Ordinances shall become a part of the ~~MBMunicipal Code~~ and so remain until amended or voided. All municipal laws relating to taxation or to possible criminal action against an offender shall be in the form of ordinances.

Resolutions shall be serially numbered and filed sequentially in the office of the City Clerk.

Oral motions shall be recorded only in the minutes of any regular or special meeting of the Council.

3.8 ORDINANCES

The consideration and adoption of ordinances shall be in accordance with relevant state law. Ordinances not legally required to have a public hearing shall be set for a public hearing if the subject matter is controversial or of a special nature. In addition, a majority of the City Council may direct ~~that~~ the consideration of an ordinance will be set for public hearing.

No ordinance, resolution or motion shall be passed or become effective without receiving the affirmative vote of at least three Members of the Council.

3.9 ACCEPTANCE OF GRANTS OR DEEDS

The Mayor and Mayor Pro Tempore of the City of Morro Bay are hereby authorized to accept and consent to the recording of any deed or grant conveying any interest in or easement upon real property to the City of Morro Bay.

3.10 LEGISLATIVE ACTION PROGRAM

The City has a legislative program to strengthen local government, promote City goals, and defend the City against legislative actions by state and federal governments that would weaken local government or take away traditional revenue sources. In order to respond promptly and proactively to fast-paced legislative changes, City staff is authorized to take positions on legislation provided the positions are consistent with the Legislative Actions of the City Council, ~~and~~ or resolutions or recommendations of the League of California Cities.

3.11 AMICUS CURIAE PARTICIPATION

The City is frequently requested to join as *amicus curiae* (friend of court) in cases of statewide significance to cities. Because of the often short time limits for filing *amicus curiae* briefs, the City Attorney ~~is authorized~~ may authorize the City's name being added to ~~participate in~~ such briefs, at no cost to the City, if the Legal Advisory Committee of the League of California Cities has urged participation.

CHAPTER FOUR THE BROWN ACT AND EMAIL

4.1 APPLICABILITY AND PENALTIES

The entire City organization conducts its business in compliance with the Ralph M. Brown Act, California State Government Code sSections 54950 *et seq*. The intent of the Act is to ensure ~~that~~ deliberations and actions of local public agencies are conducted in open and public meetings. The law provides for misdemeanor penalties for Members~~any members~~ of a ~~board~~legislative body who ~~violate~~violates the Act ~~(GC 54959)~~. In addition, violations are subject to civil action ~~(GC 54960)~~. A current copy of the Act will be provided to all Council Members assuming office, but the provisions that most directly affect the Council are summarized in this Chapter.

4.2 MAJOR PROVISIONS

4.2.1 APPLICABILITY

The Act applies to Council, City staff and all bodies that advise Council. ~~(GC 54952.2)~~

4.2.2 MEETINGS

All meetings shall be open and public.

4.2.2.1 A meeting takes place whenever a quorum (three or more) Members are present and information about the business of the board is received; discussions qualify ~~for~~as a meeting.

4.2.2.2 Serial meetings take place when any Member of Council contacts more than one other Council Member for the purpose of deliberating or acting upon an item pending before the City Council (does not apply to the public or media).

4.2.2.3 Correspondence that merely takes a position on an issue is acceptable. ~~(GC 54953)~~

4.2.3 AGENDAS

Agendas for regular meetings must be posted 72 hours in advance of the meeting and must meet various requirements. ~~(GC 54954.2)~~

4.2.4 ACTIONS

No action shall be taken on any item not appearing on the posted agenda.
Exceptions:

- 4.2.4.1 An emergency situation exists, (determined by a majority of the Council~~→~~).
- 4.2.4.2 ~~That the~~The need to take action arose subsequent to the agenda being posted (determined by 4/5 of the Council; or if less than 4/5 are present, then by unanimous vote~~→~~) and that action must be taken before the next regular Council meeting or special meeting can be scheduled and properly noticed.
- 4.2.4.3 The item was continued to another meeting that was scheduled and posted within five days ~~of~~after the original agenda.~~(GC # 54954.2)~~

4.2.5 PUBLIC INPUT

The public has an opportunity to address the Council on any item of interest to the public that is within the jurisdiction of the Council. The City has the right to establish time limits on speakers and the total time allocated for a particular issue.
~~(GC # 54954.3)~~

4.2.6 PUBLIC DISRUPTIONS

A portion or all of the public may be removed if willful disruption makes conducting the meeting "unfeasible";; the press may remain unless they participate in the disruption.~~(GC # 54957.9)~~

4.2.7 CORRESPONDENCE

All writings distributed for discussion or consideration at a public meeting are public records.~~(GC # 54957.5)~~ The~~If a member of the~~ public desires written materials to be fully considered by the Mayor and City Council, then that member is encouraged to submit that written material regarding agenda items to the City Clerk a week prior to the Council meeting so that it may be included in the public packet. Written material distributed at the meeting will be made a part of the public record. If the material is too voluminous for the Mayor and Council to review during the meeting or is new material not previously considered, the Council may, at its discretion, continue the item to a future meeting.

4.2.8 CLOSED SESSIONS MAY BE HELD TO DISCUSS:

- 4.2.8.1 Real Property. The purchase, sale, exchange or lease of real property with the City's negotiator; the real property and the person(s) with whom the City may negotiate must be announced in open session prior to the closed session. ~~(GC # 54956.8)~~. All Real Property transactions shall be held in closed session prior to final decision in open session and Council shall be provided with a copy of the draft real property agreement. ~~(Reso. 46-10), (part)~~
- 4.2.8.2 Litigation pending or a significant exposure to litigation, or the decision to initiate litigation; the litigation or title must be identified in open session prior to the closed session unless the Council states that to do so would jeopardize its ability to conclude existing settlement negotiation or effectuate service of process. ~~(GC # 54956.9)~~
- 4.2.8.3 Compensation (salaries and benefits) of employees; to review its position and instruct designated representatives. ~~(GC # 54957.6)~~
- 4.2.8.4 Personnel. The appointment, employment, evaluation of performance, or dismissal, of a public employee, or to hear complaint against the employee, unless the employee requests a public hearing. ~~(GC # 54957.6)~~

4.3 SPECIAL MEETINGS

Special Meetings may be called by the Mayor or a majority of the Council, with strict notification requirements delivered to the media and Council 24 hours before the time of the meeting. ~~(GC # 54956)~~

4.4 EMERGENCY MEETINGS

Emergency meetings may be called without the normal 24-hour notice and posting requirements if prompt action is required due to the disruption or threatened disruption of public facilities. Only work stoppages, crippling disasters or other activities that severely impair the public health and/or safety qualify for emergency meetings. ~~(GC # 54956.5)~~

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

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

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

City email should not be used in any case where a record of any event, occurrence or statement is required or intended to be retained by the City in the ordinary course of business. City emails are intended to fulfill the same general function as ordinary daily verbal communications among City Council and City staff and are considered “transitory” documents (work-in-progress), and therefore are not subject to records retention requirements. For file management and storage purposes, City email messages should only be retained for as long as needed. In most instances this means deleting messages as you have read them, and shortly after you have sent them. ~~(Reso. 42-05) (Reso. 64-12), (part)~~

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

It is the responsibility of individual City Council Members, employees and their department heads to determine if email is an official ~~city~~City-record that must be retained in accordance with the ~~city’s~~City’s record retention policy. ~~The city attorney~~City Attorney will assist ~~you~~ in making such a determination. ~~You should keep in mind, however, that preliminary~~Preliminary drafts, notes or interagency or intra-agency memoranda that are not retained by the ~~city~~City in the ordinary course of business are generally not considered to be official ~~city~~City records subject to disclosure. City Council Members and employees are encouraged to delete documents that are not otherwise required to be kept by law or whose preservation is not necessary or convenient to the discharge of your duties or the conduct of the city’s business. ~~(Reso. 42-05) (Reso. 64-12), (part)~~

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

contacted regarding any such emails within the City Council ~~member~~Member or employee's control. ~~(Reso. 42-05) (Reso. 64-12), (part)~~

4.6 OTHER PROVISIONS

The Act provides many other restrictions and requirements; this chapter is intended merely as a Council summary and overview of the Act, and nothing in this Chapter supersedes the provisions of the Brown Act. Since State law constantly changes, it is important to ensure you have the latest information. Please check with the City Attorney and/or the City Clerk for more information.

CHAPTER FIVE COUNCIL/STAFF RELATIONSHIPS AND CONDUCT

5.1 INTENT

The City Council as a whole retains full power to accept, reject, amend, influence, or otherwise guide and direct staff actions, decisions, recommendations, workloads and schedules, departmental priorities, and the conduct of City business.

This chapter addresses the relationship and conduct between [the Mayor and Council Members](#) and staff with the intent of the [Mayor and Council](#) to: 1) affirm ~~that~~ governing shall be by will of the collective Council, and 2) establish guidelines for [Mayor, Council and staff](#) to ensure orderly, consistent and open City government.

5.2 GUIDELINES FOR COUNCIL MEMBERS

The [Mayor and Council](#) shall recognize ~~that~~ the primary functions of staff are to execute Council policy and actions taken by the Council, and to keep the [Mayor and Council](#) informed.

5.2.1 REQUESTS FOR INFORMATION

~~Individual~~[The Mayor, individual Council Members,](#) as well as the Council as a whole, shall be permitted complete freedom of access to any information requested of staff, and shall receive the full cooperation and candor of staff in being provided with any requested information, [when the law allows that access.](#)

[The Mayor and Council Members](#) shall make routine requests for information through the appropriate department head, [who shall then advise the City Manager of such requests.](#) Complex or comprehensive requests for information shall be made through the City Manager.

5.2.2 DIRECTION TO STAFF

~~T~~[Generally, he Mayor and Council Members](#) shall make requests for work to be done [by City staff](#) through the City Manager. ~~Individual~~[The Mayor and individual Council Members of the Council](#) shall make no attempt to pressure or influence staff decisions, recommendations, workloads, ~~and~~ schedules, and departmental priorities, [except as part of budgetary and goal setting priority sessions without the prior knowledge](#) and [with](#) approval of the Council as a whole.

5.3 GUIDELINES FOR STAFF

Staff shall recognize ~~that~~ its primary function is to execute Council policy and to keep the Mayor and Council informed. Staff shall present the Mayor and Council with all relevant information, as well as alternatives, in an objective, succinct manner. The City Manager and staff are committed to treating the Mayor and each Council Member equally.

5.3.1 TIMELY RESPONSE

City staff will make every effort to respond in a timely and professional manner to all requests made by the Mayor and individual Council Members for information or assistance; ~~provided, that,~~ in the judgment of the City Manager the request is legally permitted (after consultation with the City Attorney) and not of a magnitude, either in terms of workload or policy, which would require that it more appropriately be assigned to staff through the collective direction of the City Council. In terms of making ~~this~~that judgment, the following guidelines should be considered: The request should be specific and limited in scope so ~~that~~ staff can respond without altering other priorities and with only minimal delay to other assignments; the request should only impose a "one-time" work requirement, as opposed to an on-going work requirement; and the response to the request should not require a significant allocation of staff resources (generally defined as consisting of more than one staff person, or a single staff person working on the issue in excess of 1-2 hours).

5.3.2 DIRECTION FROM COUNCIL

Staff is obligated to take guidance and direction only from the Council as a whole or from the appropriate management superiors as may be the case. Staff is directed to reject any attempts by the Mayor or individual Council Members ~~of the Council~~ to unduly influence or otherwise pressure them into making, changing or otherwise suppressing staff decisions or recommendations, or changing departmental work schedules and priorities. Staff shall report such attempts to influence them in confidence to the City Manager, who may inform the Council as a whole of such attempts.

5.3.3 STAFF SUPPORT TO INDIVIDUAL COUNCIL MEMBERS

An exception to the above guidelines may be staff work required in support of a Council Member designated by the City Council to represent the City in an intergovernmental role (e.g., Membership on Joint Powers Authority), or relative to a special assignment (e.g., a special task force).

5.3.4 INFORMATION DISTRIBUTION

In cases where a staff response to the Mayor or an individual Council Member request involves written material ~~that may be of interest to other Council Members~~, the City Manager will provide copies of the material to all other

Council Members. ~~In making this judgment, the City Manager will consider whether the information is significant or new or otherwise not available to the Council or of interest to the Council.~~

5.3.5 SIGNIFICANT INFORMATION

Any information, service-related needs, or policy positions perceived as necessary by the Mayor or individual Council Members, which cannot be fulfilled per the above guidelines, should be raised by the Mayor or individual Council Member under the "Declaration of Future Agenda Items" category of a regularly scheduled City Council meeting. If so directed by the collective action of the Council, then staff will proceed to complete the work within Council established deadlines.

5.4 USE OF CITY LETTERHEAD

Staff will not prepare correspondence representing the Mayor or a Councilmember's personal point of view or a dissenting point of view from an official City policy or Council position. If ~~Councilmembers use their~~ Councilmember uses her/his title, position, or City letterhead to express a personal opinion, then the letter shall state "I am writing this letter on behalf of myself" and, the official City position must also be stated clearly so the audience understands the difference/relationship between the official City position and the viewpoint of the Mayor or that Councilmember. If a letter is written on behalf of the majority of the City Council, then the letter shall state "I am writing this letter on behalf of the City Council". A copy of any and all correspondence developed by or for the Mayor or a Councilmember on City letterhead shall be provided to the City Manager and the rest of the entire City Council. ~~(Reso. 50-07), (Reso. 11-10), (part)~~

5.5 INPUT ON HIRING AND EVALUATION OF DEPARTMENT HEADS

5.5.1 HIRING

~~In an outside recruitment situation where the City Manager is hiring a Department Head, the City Council, as a group will be invited to an informal social setting, such as lunch, to meet the top candidates for the position. Following the event, Council members will provide the City Manager with any comments regarding the candidates prior to the final decision of the City Manager. (Reso. 46-10)~~

~~In an internal recruitment situation, the City Manager will provide the hiring plan to the City Council in a closed session, and Council members will have an opportunity for comments, prior to final hiring. (Reso. 46-10)~~

5.5.2 INPUT ON EVALUATION OF DEPARTMENT HEADS

~~Prior to the City Manager's completion of the annual evaluation of each Department Head (usually in December of each year), the City Council will be asked to submit in writing, that will remain confidential, any comments they would like the City Manager to consider in regard to the performance of the Department Head. (Reso. 46-10~~

CHAPTER SIX ADVISORY BOARD PROCEDURES

6.1 COUNTY OR REGIONAL REPRESENTATION

Annually, the Mayor shall make appointments to a variety of County and/or regional committees and boards. One Member of the Council shall serve as a voting representative and one Member shall serve as alternate. (See 6.5 for appointment procedures). To the best of their ability, Voting Delegates shall reflect the majority view of the Council as a whole, rather than their own personal opinions.

6.2 OTHER COUNCIL REPRESENTATION, SUBCOMMITTEES

6.2.1 COUNCIL LIAISON ASSIGNMENTS

The City Council shall assign a Council liaison to each of the following advisory boards: Recreation & Parks Commission, Harbor Advisory Board, Public Works Advisory Board, , and Tourism Business Improvement District Advisory Board. ~~(Reso. 46-10), (part)~~

The purpose of the liaison assignment is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the Council's familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, members should either attend advisory body meetings or watch the meeting broadcasts and maintain communication with the advisory body on a regular basis. ~~(Reso. 46-10)~~

Council Members should be sensitive to the fact ~~that~~ they are not participating members of the advisory body, but are there rather to create a linkage between the City Council and the advisory body. In interacting with advisory bodies, Council Members are to reflect the views of the Council as a body. Being an advisory body liaison bestows no special right with respect to advisory body business. ~~(Reso. 46-10)~~

6.2.2 OTHER COUNCIL SUBCOMMITTEES

Council may establish subcommittees of no more than two members to address areas of concern and ~~or~~ study.

6.3 ROLE OF ADVISORY BOARD MEMBERS AT COUNCIL MEETINGS

6.3.1 INTENT

To honor advisory board deliberations, views and positions on issues before Council; enhance communications between Council and their advisory bodies; and allow participation and input by advisory board members.

6.3.2 COUNCIL AGENDA REPORTS

6.3.2.1 Recommendation Differences. For those rare occasions when the City Manager recommendation differs from an advisory board recommendation, the difference should be clearly noted.

6.3.3 COUNCIL MEETINGS

6.3.3.1 Members of an advisory board are free to appear and give testimony before Council using the public microphone, after identifying whether they are speaking as a representative of the advisory board or as a private citizen and if as a representative of the board, then whether that appearance had been requested by the board.

6.3.3.2 Reports to Council must be in written form.

6.3.3.3 Advisory boards will provide quarterly written or oral reports to the City Council on a rotating member basis. ~~(Reso. 46-10)~~

6.4 ROLE OF CITY STAFF PERSONS

Staff support and assistance may be provided or made available, but advisory bodies do not have supervisory authority over City employees. While they may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and ultimately to the City Manager, who is responsible to the ~~and~~ Council. The members are responsible for the constructive participation with functions of the advisory board and the chairperson is responsible for committee compliance with applicable policies and procedures.

Staff support includes preparation of a summary agenda in conjunction with the Chairperson, and preparation of agenda reports providing a brief background of the issue, a list of alternatives, recommendations, and appropriate backup material, if necessary. Members of advisory bodies are volunteers and should be treated with respect and courtesy. Advisory board members should have sufficient information to reach decisions based upon a clear explanation of the

issues within their charge. Sometimes members of advisory bodies may request information not related to their area of service. Staff members should, in ~~that~~^{that} case, provide the same level of information and assistance as would be accorded any citizen. If in the judgment of staff the request goes beyond that standard, ~~then~~ the matter will be turned over to the City Manager. A staff person will be assigned to serve as Secretary, taking minutes as needed.

It is important ~~that~~ advisory bodies wishing to communicate with the City Council do so through adopted or approved Council agenda procedures. Staff members shall assist the advising board to insure appropriate review and that City and State legislation is complied with.

6.5 APPOINTMENT PROCEDURES

The following procedures shall be the policy of the City Council in regard to appointment of volunteer citizens to the various advisory bodies of the City.

6.5.1 PURPOSE

The purpose of establishing these procedures shall be to insure ~~that~~ well-qualified, responsible and willing citizens are given the opportunity to serve the City and participate in the governing of their community. These procedures will apply to all appointments and reappointments to standing advisory bodies.

6.6 PROCESS

6.6.1 QUALIFICATIONS

6.6.1.1 The applicant must be a resident and registered voter of the City at the time and during the entire term of appointment, unless excepted by State law or Council approved special requirements in advisory committee by-laws.

6.6.1.2.1 The applicant must be at least 18 years of age at the time of appointment.

6.6.1.2.2 Elected Officials, Officers and Employees of the City of Morro Bay shall not be considered for appointment.

6.6.2 TERMS

6.6.2.1 The term of office for each appointee to an advisory board shall be a maximum of four years unless excepted by State law or Council approved special requirements in advisory committee by-laws. The terms are staggered so that in no event, will all

terms on any committee expire in the same year. Incumbents may apply for subsequent terms of service. Terms of Office will expire on January 31, of the specified year.

- 6.6.2.2 Persons appointed to fill the remainder of a vacated office term may reapply to serve on the same advisory board.
- 6.6.2.3 Mid-term appointment to a vacant seat shall not preclude the appointee from serving additional terms.
- 6.6.2.4 As a general policy, an applicant shall not be appointed to serve on more than one advisory board, except that a member may also serve on one technical or special-purpose committee at the same time. If appointed to another committee, [then](#) he/she will be expected to resign from one board upon being appointed to another.

6.6.3 PROCESS

- 6.6.3.1 Applications are obtained and filed with the City Clerk's Office.
- 6.6.3.2 Prior to November 30, of each year, the City Clerk shall advise the City Council of the terms that are due to expire on each advisory board. The City Clerk shall also notify each advisory member whose term is due to expire. Each of these members shall be given the opportunity to apply for reappointment.
- 6.6.3.3 The City Clerk shall then place an advertisement in the local newspaper, inviting citizens to apply for consideration as an appointment to an advisory board, with instructions regarding the application process.
- 6.6.3.4 It is recommended that applicants attend at least one meeting of the advisory body applied for prior to the interview with the City Council.
- 6.6.3.5 The City Council shall, in a noticed public meeting, interview qualified applicants. In making appointments, the Council shall strive for a representative cross-section of both lay and professional knowledge. The Council will act by separate motion on each appointment made.
- 6.6.3.6.1 Applicants not appointed will be advised and their applications held for up to one year for consideration in the event of a future vacancy.

6.6.3.6.2 Candidates not appearing for interview before the City Council will be considered for appointment only upon a finding of the City Council by motion ~~that~~ the absence ~~arose~~^{arises} from excusable neglect or personal difficulties.