

AGENDA ITEM: A-2

DATE: March 7, 2017

ACTION: Approved

ACTION MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – JANUARY 3, 2017  
VETERANS MEMORIAL BUILDING – 6:00 PM

PRESENT:	Robert Tefft Richard Sadowski Joe Ingraffia Michael Lucas Gerald Luhr	Chairperson Commissioner Commissioner Commissioner Vice-Chairperson
STAFF:	Scot Graham Whitney McIlvaine Ryan Russell  Chris Neumeyer Rick Sauerwein	Community Development Director Contract Planner Planning Intern  Assistant City Attorney Capital Projects Manager

ESTABLISH QUORUM AND CALL TO ORDER  
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE  
PLANNING COMMISSIONER ANNOUNCEMENTS – NONE  
<https://youtu.be/w3gQjRIY74I?t=2m13s>

Commissioner Sadowski announced he will be attending the 2017 California Climate Change Symposium in Sacramento on January 25<sup>th</sup> and 26<sup>th</sup>.

Commissioner Lucas announced the Building Code Change and SLO Green Build review of Title 24 was in effect starting January 1<sup>st</sup>. Information regarding the changes will be held at the PG&E Information Center on Ontario Rd. tomorrow, January 4<sup>th</sup> at 5:30 pm – 7:00 pm.

PUBLIC COMMENT PERIOD  
<https://youtu.be/w3gQjRIY74I?t=3m58s>

Rigmore, Morro Bay resident, announced a few events going on in the City of Morro Bay and County of San Luis Obispo:

- Mind Walks lecture at the Vet's Hall held on Monday's at 10:15 a.m.
- Next Monday, a lecture on Renaissance in Morro Bay in the 1930's
- Development and Planning meeting in SLO County
- Morro Bay Harbor Visions Coming out of WWII
- Chumash Tribe History

Rigmore stated she is glad Mr. Tefft and Mr. Lucas will continue to stay on the Planning Commission.

Chairperson Tefft closed the Public Comment period.  
<https://youtu.be/w3gQjRIY74I?t=5m49s>

PRESENTATIONS – NONE

**A. CONSENT CALENDAR**

<https://youtu.be/w3gQjRIY74I?t=5m55s>

**A-1 Current and Advanced Planning Processing List**

**Staff Recommendation:** Receive and file.

Commissioners agreed to receive and file.

<https://youtu.be/w3gQjRIY74I?t=6m13s>

Chairperson Tefft suggested reversing the order of the Public Hearing items on the agenda.

**MOTION:** Commissioner Sadowski motioned to move item B-2 before item B-1.

Commissioner Lucas seconded and the motion passed unanimously (5-0).

<https://youtu.be/w3gQjRIY74I?t=7m27s>

**B. PUBLIC HEARINGS**

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

**B-2 Case No.:** #UP0-457

**Site Location:** 648 Bernardo, Morro Bay, CA

**Project Description:** The applicant proposes a 348 square foot rear addition to an existing 932 square foot single-family residence located in the Central Morro Bay Neighborhood. The property is considered nonconforming due to the two-car garage which lies within the rear- and side-yard setbacks. The project site is located in a Single Family Residential (R-1) zone.

**CEQA Determination:** Categorically Exempt under Section 15301 Class 3

**Staff Recommendation:** Conditional approval

**Staff Contact:** Ryan Russell, Planning Intern, (805) 225-2619

<https://youtu.be/w3gQjRIY74I?t=8m33s>

COMMISSIONERS DISCLOSURE OF EX PARTE COMMUNICATIONS –  
NONE

Commissioner Ingraffia recused himself because he lives within the 500-foot buffer.

Russell presented staff report.

Chairperson Tefft opened the Public Comment period.

<https://youtu.be/w3gQjRIY74I?t=13m25s>

Nelson Bernal, agent for applicant, reviewed the plans for the project and noted he would be available to answer questions.

The Commissioners presented their questions and concerns to Bernal and staff.

Chairperson Tefft closed the Public Comment period.

<https://youtu.be/w3gQjRIY74I?t=22m49s>

Discussion between Commissioners.

**MOTION:** Vice-Chairperson Luhr moved to approve PC Resolution 01-17, UP0-457, with the condition of tree replacement as per Community Development Director. Commissioner Lucas seconded and the motion passed unanimously (4-0).

<https://youtu.be/w3gQjRIY74I?t=30m54s>

**B-1 Case No.:** #CP0-500 and #UP0-440

**Site Location:** 3300 Panorama Drive, Morro Bay, CA

**Project Description:** Continued from September 6, 2016 and October 4, 2016: Request for approval of a Coastal Development Permit and Conditional Use Permit for demolition and removal of tanks and associated pipelines and pumps, concrete foundations, and shotcrete on the containment berms in the R-1/PD/ESH zone on a site once used by the U.S. Navy for storage and distribution of jet fuel. The project is anticipated to require some level of disturbance over approximately 8 acres and is expected to require 2 to 3 months to complete. The site contains areas of environmentally sensitive habitat and is partially located in the Coastal Commission appeals jurisdiction.

**CEQA Determination:** The Community Development Director determined the project qualifies for a Mitigated Negative Declaration of environmental impact (MND), available, along with other project documents, on the City website at <http://www.morro-bay.ca.us/842/Current-Planning-Projects>. Mitigation is recommended to reduce potential environmental impacts to a less than significant level.

**Staff Recommendation:** Adopt the Mitigated Negative Declaration and approve the demolition project subject to compliance with recommended conditions and mitigation measures.

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

<https://youtu.be/w3gQjRIY74I?t=35m15s>

McIlvaine presented staff report.

COMMISSIONERS DISCLOSURE OF EX PARTE COMMUNICATIONS – Vice-Chairperson Luhr had conversations with members in the audience while on break. No opinions were expressed and no decisions were expressed.

Commissioner Sadowski met with some concerned residents and spoke about the project.

Chairperson Tefft attended the neighborhood outreach held by the project applicant. All comments and conversations were in public; there were no private conversations.

Commissioners presented their questions and concerns to staff.

Chairperson Tefft opened the Public Comment period.

<https://youtu.be/w3gQjRIY74I?t=1h24m58s>

Chris Mathys, representing Rhine LP & CVI Group LLC (Owners), clarified if anything went amiss with the project which caused loss or harm to anyone, the property would be at stake. Mathys stated the owners are committed to this project.

Mathys presented his report.

Rob Sully, CVI Group LLC stated there are numerous residents who are interested in removing the tanks. Sully will be turning in emails and letters to McIlvaine.

Michael Tiffany, Certified Hygienist/Consultant for owner, reviewed the work for grading and shotcrete removal. Tiffany informed the public on what types of noise to expect when the project begins.

Brian Dugas, Terra Verde Environmental, reviewed the biological assessments for the project. Dugas stated a biologist would be on site to implement surveys prior to work taking place.

Donald Headland, 498 Yerba Buena, stated he and his neighbors are not opposed to the removal of the tanks but are concerned with the environment, infrastructure and public safety. Headland noted he just wants to be sure all procedures are followed.

Brianna Smead, Nassau St., stated she would like to see the project approved. Smead stated all of her questions were answered by the applicant's consultants and sees no problem with the roads and noise issues.

Jason Folks, 460 Nassau St., stated he is for the project. Folks stated he grew up in Lemoore around the Navy and noted if this project was done in Lemoore, the Navy wouldn't have proceeded as cleanly as the owners of this project. Would like to see the project move forward in a safe way.

Bill Alpert, Yerba Buena St., spoke about habitat loss and the protection of trees, plants, animals, etc. because they are the basis of our economic health as well as Morro Bay's tourism industry. Alpert stated the ESHA map is incorrect and places heavy equipment in the path of protected species.

Ed Griggs, 539 Whidbey, stated the ESHA map was grossly inaccurate. Griggs presented a map of the ESHA and indicated the boundary went through the red legged frogs' habitat. Griggs noted the map boundaries were not properly determined and noted a six-inch pipeline was undetermined to be in or out of the ESHA due to the boundary inaccuracy.

Carol Walker, 523 Whidbey St., spoke about the noise level when construction begins. Walker is concerned about the risks of hearing loss and of the lead and asbestos particles.

Cynthia Hawley, land use attorney and Morro Bay resident, stated she understands everyone wants the fuel tanks removed but feels it should be done correctly. Hawley commented there is a lack of information regarding the contamination of the soil in relation to the disturbance the project will cause. Hawley noted two reports missing from the City's website; the 1996 Risk Base Closure Report and the 2016 Contingency Plan for Discovered Hazardous Waste report. Hawley went on to note the project was being unlawfully piecemealed and stated CEQA requires the entire project to be evaluated at one time. The demo is the first phase of converting the site into residential use. Hawley believes the project requires an Environmental Impact Report.

Ann Pivarski, Morro Bay resident and Morro Bay stakeholder, thanked staff for responding to the stakeholders on December 28<sup>th</sup> regarding the permitting process and the role of SLO County Health Department. Pivarski also thanked the Commissioners for listening to all of their concerns. Pivarski stated there are trust issues with the project and noted not all documentation was posted on the City's website and it is hard to navigate to find them. Pivarski suggested an advisory oversight committee be formed to assist the Community Development Department to help organize and post all documentation for this project. Pivarski asked the Commissioners to not approve the project.

Carole Truesdale, Morro Bay resident, stated she and the Morro Bay stakeholders are not against the removal of the tanks but stand firm on the fact residents, wild life, utility infrastructure and streets are protected by any potential hazard that may have an impact as a result of the demolition project. Truesdale is also concerned about noise.

Robert Walker, 523 Whidbey St., stated there should be a contact person on site who the residents could contact anytime if a problem should arise. Walker stated the project originally was set for 4-6 weeks, now it has gone up to 2-3 months. Walker is concerned about the ESHA boundaries and performance bond issue.

Terry Wahler, 465 Sicily St., shared the same concerns as his neighbors, but stated no one knows the extent of the contaminated soil and noted we're all assuming everything is fine. Wahler commented the applicant is bundling the entire project under one environmental review and assuming the mitigation measure will cover an unknown situation. Wahler recommends the Commission consider the conditions of approval be revised to establish a phasing plan to determine if there's any contamination and establish new mitigation measures. Wahler strongly encourages the Commission to continue the project in order to revise the conditions and break up the project into phases.

Larry Truesdale, 331 Kodiak St., stated he has heard the performance bond is dead and feels it's not a wise decision. Truesdale noted the applicant could walk away

from the project and the City would be left with the debt. Truesdale feels a performance bond is the only way to protect the citizens of Morro Bay.

Kristen Headland, 498 Yerba Buena St., Morro Bay stakeholder, stated she contacted Patricia Atkins with SLO Public Health regarding the project. Headland received two documents from Atkins, one dated August 8<sup>th</sup> and another November 23<sup>rd</sup>. According to Headland, the conversation she had with Atkins was SLO Public Health has not heard from the applicant at all. Headland doesn't know why the permit is being pursued when the applicant is not communicating with the other agencies. Headland noted the November 23<sup>rd</sup> letter stated the demolition plan had been determined to be deficient. Headland would like to see the project done in a safe manner.

Yvonne Webster, Whidbey Way, stated she approves of the project and thinks the owner has done his due diligence with the experts he's hired. Webster stated the sooner the project starts the sooner it would get done.

John Webster, 467 Whidbey Way, stated the contaminant is on site and the project is to remove the contaminant, not to bring it in. Webster is a chemist and has worked for Public Health. Webster noted the removal of the containment would have to be compliant with the law and have the correct people to analyze it.

Kathleen Renfro, Tahiti St., asked if the applicant would consider doing the work from the back side of the mountain. Renfro gave some suggestions for the removal process and noted the road condition of her street. Renfro asked if they were going to weigh the trucks on site or at the dump site. Renfro is concerned about the site being prepared for development and is not sure why development would happen with the water moratorium.

Karen Gobble, 473 Trinidad St., stated she is concerned about the removal of the shotcrete located near the first tank on Trinidad. Gobble stated the berm would be exposed to the already eroding landscape and would spill down onto Trinidad. Gobble noted the scope of work has increased and questioned the development of the land.

Chairperson Tefft closed the Public Comment period.  
<https://youtu.be/w3gQjR1Y74I?t=2h47m23s>

The Commissioners presented their questions to the applicant and consultants.

Discussion between Commissioners, staff and consultants regarding ESHA buffer and how it was determined.

Discussion between Commissioners and Assistant City Attorney regarding performance bond and why it's not required for the project.

**MOTION:** Vice-Chairperson Luhr moved to approve meeting pass 10 p.m. Commissioner Lucas seconded and the motion passed unanimously (5-0).

<https://youtu.be/w3gQjRIY74I?t=4h1m19s>

Commissioners presented their questions to the applicant and the consultants.

Chairperson Tefft opened the Public Comment period.

<https://youtu.be/w3gQjRIY74I?t=4h1m33s>

Mathys and consultants answered questions from the Commissioners.

Chairperson Tefft closed the Public Comment period.

<https://youtu.be/w3gQjRIY74I?t=4h8m43s>

Discussion between Commissioners and staff.

Chairperson Tefft opened the Public Comment period.

<https://youtu.be/w3gQjRIY74I?t=4h50m40s>

Mathys stated they would agree to the additional conditions; he would like for the Commission to approve the permit tonight. Mathys is concerned about getting deeper into the nesting season if the project is delayed. Mathys would be willing to give a deed of trust on the property. Mathys noted Mr. Tiffany would be on site and would be the person of contact for any issues regarding the project.

Chairperson Tefft closed the Public Comment period.

<https://youtu.be/w3gQjRIY74I?t=4h55m54s>

Graham stated staff would like to look into things stated by the applicant and requested by Commissioners before the Commission makes a decision for the project. Graham noted he would feel uncomfortable with the Planning Commission making a decision tonight without staff being able to provide input. Graham would continue the project to the next available date but wasn't sure how long it would take because it would depend on the communication between the applicant and staff.

Chairperson Tefft suggested the submitted modification to the mitigation measures could be helpful to staff moving forward.

McIlvaine asked for more details on the Commission's direction for project noise evaluation and monitoring, and she would like to see more accurate ESHA buffer mapping.

Discussion between Commissioners and staff regarding noise monitoring and ESHA boundary map.

Chairperson Tefft opened the Public Comment period.

<https://youtu.be/w3gQjRIY74I?t=5h16m33s>

Tiffany responded he has data, GPS coordinates and the pipeline staked to create the map the Commission is requesting.

Chairperson Tefft closed the Public Comment period.  
<https://youtu.be/w3gQjRIY74I?t=5h24m6s>

Discussion between Commissioners regarding ESHA.

**MOTION:** Commissioner Lucas moved to continue to a date uncertain. Vice-Chairperson Luhr seconded with the provision the project be expedited and the motion passed unanimously (5-0).  
<https://youtu.be/w3gQjRIY74I?t=5h27m6s>

C. NEW BUSINESS - NONE

D. UNFINISHED BUSINESS - NONE

E. PLANNING COMMISSIONER COMMENTS - NONE

F. COMMUNITY DEVELOPMENT DIRECTOR COMMENTS  
<https://youtu.be/w3gQjRIY74I?t=5h29m55s>

Graham notified the Commissioners there will be a Planning Commission Academy, March 1<sup>st</sup> to March 3<sup>rd</sup>. Graham to send the link to the Commissioners.

G. ADJOURNMENT

The meeting adjourned at 11:30 p.m. to the regular Planning Commission meeting at the Veteran's Memorial Building, 209 Surf Street, on January 17, 2017, at 6:00 p.m.

---

Robert Tefft, Chairperson

ATTEST:

---

Scot Graham, Secretary