



CITY OF MORRO BAY PLANNING COMMISSION AGENDA

The City of Morro Bay provides essential public services and infrastructure to maintain a safe, clean and healthy place for residents and visitors to live, work and play.

**Regular Meeting - Tuesday, September 19, 2017
Veteran's Memorial Building – 6:00 P.M.
209 Surf Street, Morro Bay, CA**

Chairperson Gerald Luhr

Commissioner Michael Lucas
Commissioner – Vacant

Commissioner Richard Sadowski
Commissioner Joseph Ingrassia

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

PUBLIC COMMENT PERIOD

Members of the audience wishing to address the Commission on matters not on the agenda may do so at this time. For Public Hearing, New Business, and Unfinished Business items, additional opportunities for public comment will be provided following the Staff Report for each such item. Commission hearings often involve highly emotional issues. It is important that all participants conduct themselves with courtesy, dignity and respect. All persons who wish to present comments must observe the following rules to increase the effectiveness of the Public Comment Period:

- When recognized by the Chair, please come forward to the podium and state your name and address for the record. Commission meetings are audio and video recorded and this information is voluntary and desired for the preparation of minutes.
- Comments are to be limited to three minutes so keep your comments brief and to the point.
- All remarks shall be addressed to the Commission, as a whole, and not to any individual member thereof. Conversation or debate between a speaker at the podium and a member of the audience is not permitted.
- The Commission respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, commission and/or staff.
- Please refrain from public displays or outbursts such as unsolicited applause, comments or cheering.
- Any disruptive activities that substantially interfere with the ability of the Commission to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in Commission meetings is welcome and your courtesy will be appreciated.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development at (805) 772-6264. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. There are devices for the hearing impaired available upon request at the staff's table.

PRESENTATIONS – NONE

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

A. CONSENT CALENDAR

- A-1 Current and Advanced Planning Processing List
Staff Recommendation: Receive and file.

B. PUBLIC HEARINGS

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

C. NEW BUSINESS

C-1 Project: Plan Morro Bay: Zoning Code Update: Draft Administration & Permits

Review of draft Zoning Code Update Module 1: Administration and Permits prepared as part of the Plan Morro Bay: General Plan/ Local Coastal Program Update project. The Zoning Code Administration and Permits draft is a part of the overall Zoning Code update (Morro Bay Municipal Code Title 17). Public draft document also available online at <http://www.morro-bay.ca.us/945/Project-Documents> with copies also available upon request.

Staff Recommendation: Review draft document and provide comments to staff

Staff Contact: Scot Graham, Community Development Director, (805) 772-6291

C-2 Measure D and Working Waterfront Discussion. Planning Commission to discuss and provide input on decision points for consideration by the Harbor Advisory Board and Planning Commission subcommittee's.

Staff Contact: Scot Graham, Community Development Director, (805) 772-6291

D. UNFINISHED BUSINESS

E. PLANNING COMMISSIONER COMMENTS

F. COMMUNITY DEVELOPMENT DIRECTOR COMMENTS

G. ADJOURNMENT

Adjourn to the next regular Planning Commission meeting at the Veteran's Memorial Building, 209 Surf Street, on October 3, 2017 at 6:00 p.m.

PLANNING COMMISSION MEETING PROCEDURES

This Agenda is subject to amendment up to 72 hours prior to the date and time set for the meeting. Please refer to the Agenda posted at the Community Development Department, 955 Shasta Avenue, for any revisions, or call the department at 772-6264 for further information.

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

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

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

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

1. Responding to statements made or questions posed by members of the public; or
2. Requesting staff to report back on a matter at a subsequent meeting; or
3. Directing staff to place the item on a future agenda. (Government Code Section 54954.2(a))

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

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

APPEALS

If you are dissatisfied with an approval or denial of a project, you have the right to appeal this decision to the City Council up to 10 calendar days after the date of action. Pursuant to Government Code §65009, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Commission, at, or prior to, the public hearing. The appeal form is available at the Community Development Department and on the City's web site. If legitimate coastal resource issues related to our Local Coastal Program are raised in the appeal, there is no fee if the subject property is located within the Coastal Appeal Area. If the property is located outside the Coastal Appeal Area, the fee is a \$277 flat fee. If a fee is required, the appeal will not be considered complete if the fee is not paid. If the City decides in the appellant's favor then the fee will be refunded.

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



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

This tracking sheet shows the status of the work being processed by the Planning & Building Divisions

New Planning items or items recently updated are highlighted in yellow.

Approved projects are deleted on next version of log.

Agenda No: A-1

Meeting Date September 19, 2017

#	Applicant/ Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
Hearing or Action Ready Projects:										
1	DeGarimore	1001 Front	8/14/17	UP0-490	Temporary Use Permit for two SLO jazz Fest outdoor concerts on 9/30 & 10/14.	Under Review. Noticed 9/12/17				ig
30 -Day Review, Incomplete or Additional Submittal Review Projects:										
2	Erlendson	299 Sienna	9/1/17	UP0-491/AD0-123	Minor use permit and parking exception for the conversion of a 2-car garage to habitable living space and a parking exception to allow for a one-car carport to satisfy the parking requirement in the R-1/S.2A zoning district	Under review. Correction letter sent 9/13/17				ig
3	Gold Coast Library	625 Harbor	8/29/17	CP0-552	Admin Coastal Development Permit for the removal of cherry tree in courtyard	Under Review. Noticed 9/14/17				ig
4	Richey	2871 Juniper	8/29/17	CP0-551	Admin Coastal Development Permit for Accessory Dwelling Unit constructed under existing space	Under Review				ig
5	MacMillan	590 Morro Bay Blvd	8/17/17	A00-051	Minor modification to UP0-460 for Distasio's restaurant	Under review. Additional minor modification proposed and added to A00-051 8/29/17. Under review. Additional changes submitted 9/5/17				ig

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6	Tabrizi	399 Quintana	8/4/17	UP0-489	Environmental review. Peer review of bio report	Peer Review of environmental document by Terra Environmental				cj
7	Ferrin	2770 Elm	7/7/17	CP0-550/UP0-487	Coastal Development and Conditional Use Permit for a 752 sq. ft. 2nd story addition and garage expansion	Under Initial Review. Correction letter sent. Waiting for resubmittal		PN- Conditionally approved 8/10/2017		jg
8	Gillean	479 Panay	7/6/17	CP0-549	Coastal Development Permit to allow for an existing accessory dwelling unit.	Under Initial Review. Correction Letter sent 7/20/2017.				jg
9	Taverner	335 Piney	6/15/17	CP0-547	Coastal Development Permit for the construction of a detached 624 sq. ft. accessory dwelling unit	Under Initial Review. Correction Letter sent 7/11/2017		PN- Conditionally approved 7/17/2017		jg
10	Guesno	210 Atascadero	6/1/17	CP0-544 / UP0-481	Coastal Development Permit and Conditional Use Permit for commercial change in use	Under Review. Correction memo sent to applicant 6-27-17. Resubmittal received 7/24/17. Incomplete letter sent 8/4/2017		PN- Disapproved 7/5/17		wm
11	Teresa Drive Estates, LLC	301 Sea Shell Cove	5/11/17	CP0-543 & UP0-480	Coastal Development Permit & Conditional Use Permit for new SFR on Lot 1. 2220sf living, 580sf garage, 336sf covered patio & decks.	Under Review. Correction memo sent to applicant 6-19-17.		PN- Conditionally Approved 6/7/17		wm
12	Morgan	101 Fig St.	4/12/17	UP0-476	Conceptual Review of New SFR with accessory unit. Existing historical structure on lower level.	PC Conceptual Review 5/16/17. Applicant evaluating whether to pursue project.		PN-Conditionally approved 5/11/17		wm
13	So Cal Gas Company	0 Sequoia St (Public Right of Way, 32' west of Alder Ave)	3/29/17	CP0-539	Administrative Coastal Development Permit to install new class 5 wood pole, 29' above ground level. Advance Meter - Equipment attached to top of pole	Under Initial Review. Working with So Cal Gas to lower pole height and locate behind future sidewalk.		PN - Disapproved 5/3/17		wm

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14	So Cal Gas Company	0 Nutmeg (Public Right of Way, 710' north of Cuesta St.)	3/29/17	CP0-538	Administrative Coastal Development Permit to install new class 5 wood pole, 29' above ground level. Advance Meter - Equipment attached to top of pole	Under Initial Review. Working with So Cal Gas to move slightly northeast out of resident viewshed and into PUC easement.		PN - Disapproved 5/3/17		wm
15	Mathias Family Trust	2515 & 2525 Greenwood	3/29/17	CP0-537	Administrative Coastal Development Permit for demolition of two residential structure, prep site for new construction, prune & trim overgrown bushes, and removal of fallen tree.	CDP approved for demo 4/25/17.		PN- Conditionally Approved per memo dated 5/1/17		wm
16	James / Nisbet	310 Mindoro	3/2/17	CP0-533	Admin CDP for New SFR on vacant lot for 1542sf living, 462sf garage, 176sf deck.	Incomplete letter sent 3/23. Requires CDP, MUP, Parking exception. Action date set for 6/27/17		PN- Conditionally Approved 7/5/17		wm
17	James/ Nisbet	300 Mindoro	3/2/17	CP0-532	Admin CDP for New SFR on vacant lot, 1433sf living, 446 sf garage, 195sf deck.	Incomplete letter sent 3/23. Requires CDP, MUP, and Parking Exception. Action Date set for 6/27/17		PN- Conditionally Approved 7/5/17		wm
18	Huber	2783 Coral Ave	2/24/17	CP0-530, UP0-470, S00-127	Proposed 6 lot residential subdivision (Tentative Tract Map, CDP, and CUP application). Property located at corner of San Jacinto & Coral Ave.	Under Initial Review		PN- Not Approved per memo dated 3/16/17		wm
19	Najarian	321 Luzon	11/7/16	CP0-521 & UP0-473 and AD0-115	Coastal Development Permit for a new 1,694 sq. ft. SFR	CDP/MUP/Parking exception issued for plans redesigned to meet flood zone standards on 5/30/17.		PN- Conditionally Approved 5/26/17		wm
20	Najarian	320 Mindoro	11/7/16	CP0-520 & UP0-472 & AD0-114	Admin CDP and MUP to build a SFR in an MCR/R-4 zone on a vacant lot. Proposed 2 story, 1694sf living, 546sf garage, & 144sf deck.	CDP/MUP/Parking exception issued for plans redesigned to meet flood zone standards on 5/30/17.		PN - Conditionally Approved 5/25/17		wm
21	Eisemann	535 Atascadero	10/12/15	CP0-490 & S00-125	Parcel map application & CDP to split 1 R-4 zoned lot in to two lots.	Incomplete letter sent 11-5-15. Received revised plans and communicated via email to applicant regarding plan corrections. Resubmittal under review. Correction letter sent 2/18/16 with Public Works comments. Received revised info from Applicant 3-3-16. Correction sent and resubmitted 4-8-16. Met w/ Architect to discuss intent to include development of 4-plex apartments. Resubmittal rcv'd 5/10. Correction letter sent 6/14/16. Spoke with architect 8/9/2016. Resubmittal rcv'd 8/17/2016. Correction letter sent 10/13/2016. <i>Applicant now wants to remove development from proposal and process the parcel map independently of any development.</i> Waiting on updated map (4/7/2017) Rcv'd 4/17. Correction letter sent 5/30/2017. Resubmittal Received 7/10/17		PN- Disapproved per Memo dated 8/10/2017		jg

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22	DeGarimore	1001 Front St.	7/14/15	A00-026 and UP0-442	Amendment to CUP to modify project description to remove proposed new awning.	Letter sent to applicant 9-9-15 regarding public access requirements. In process. Applicant wishes to include a kiosk for Virg's Landing with the awning amendment. Reviewed prelim site plan of kiosk and provided email comment corrections on 2/24/16. Met with Virg's Landing owner to discuss kiosk plan 2-29-16. TUP application submitted for kiosk proposal adjacent to parking lot on 4-19-16. Correction letter sent 5-12-16. No recent activity as of 9-1-17.		PN- Conditionally Approved 5/17/2017		cj
23	Gambril	405 Atascadero Rd.	5/13/15	CP0-475 / UP0-417	New construction of 10,000sf commercial retail on vacant lot	WM. Under review. Will need Arch and Traffic reports. Resubmittal received 8/11/15. Incomplete letter sent 9/4/15.		PN-Plans Disapproved. Req. Stormwater & plan update-8/24/15		wm
24	Leage	833 Embarcadero	9/15/14	UP0-389	Demolish existing building. Reconstruct new 1 story 19 foot building (retail/restaurant use) & outdoor improvements	Under review. Deemed incompletd. Letter sent 10-13-14. CJ Resubmittal received 2/17/15. Incomplete letter sent . Resubmittal received. Not compliant with view corridors requirements. Resubmitta received 1-20-16. Email corrections provided to Applicant on 2/10. Reviewed revised plans received from architect via email on 3/7/16.	BC- incomplete	RPS - Disapproved for plan corrections noted in memo of 10/14/14		cj
Planning Commission Continued projects:										
25	Elster	530 Morro	4/20/16	UP0-282 & CP0-323	New 2,978 sq. ft. SFR with 1,516 sq. ft. garage, 1,191 sq. ft. of decking, and a 560 s. ft. secondary dwelling unit.	Applicant has decided against the parcel map and development of three townhomes and now proposes to build one SFR and a secondary dwelling unit. Under initial review. Waiting on PW comments. Correction letter sent 5/18/16. Spoke with Applicant 8/4/2016 - resubmittal pending. Resubmittal received. Correction Letter Sent 11/7/2016. Resubmittal received 1/17/17. PC on March 7, 2017. Continued to a date uncertain. Resubmittal Received 6/2/2017. Emailed correction comments 6/26. Resubmittal rcv'd 9/7/17				ig
26	Rhine LP & Morro 94, LLC	3300 Panorama	2/24/16	CP0-500 & UP0-440	Coastal Development Permit & Conditional Use Permit for Demolition of 3 existing tanks, related pumps and concrete	Under review. Correction letter sent 5-10-16. Environmental review complete and to be routed 7-28-16 for required 30 day period. PC 9/6/16 hearing. Reviewed and PC continued hearing to 10/4/16. Project continued to 12/6 PC meeting. Project reviewed at 1/3/17 PC hearing and continued to a date uncertain.		PN- Conditionally approved per memo dated 7/26/16		wm

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27	Verizon / Knight	484 Main new location, Corner of Main and Cabrillo	11/19/14	UP0-394 and CP0-512	Coastal Development Permit and Conditional Use Permit for installation of new Wireless Facility/Verizon antennas on existing pole.	Under Review. JG. Incomplete. Waiting on response from Tricia Knight. Wants to keep project open and figure out the parking situation or move location. 1/26. JG. Applicant looking to move location to pole across the street. resubmittal rcv'd 5/26. Deemed Complete, waiting for Applicant to confirm PC meeting date. PC hearing held on 9/6/16 and continued for further review to 11-1-16 PC hearing. Continuance requested. Continued to a date uncertain		PN- Conditionally approved 6/14/16		
28	Seashell Estates, LLC	361 Sea Shell Cove	1/26/15	CP0-459/ UP0-401	Coastal Development Permit/Conditional Use Permit for new SFR. Lot 4 of 1305 Teresa Subdivision	Reviewing CC&R Design Guidelines. Deemed complete 3-2-15. Anticipate 4/21 PC hearing. Project continued to a date uncertain. CJ.	2/23/15 FD Cond App TP	BCR has for review 2/3/15		ig cj
29	City of Morro Bay	End of Nutmeg	1/18/12	UP0-344	Environmental documents for Nutmeg Tanks. Permit number for tracking purposes only County issuing permit. Demo existing and replace with two larger reservoirs. City handling environmental review	KW--Environmental contracted out to SWCA estimated to be complete on 4/27/2012. SWCA submitted draft I.S. to City on May 1, 2012. MR-Reviewed MND and met with SWCA to make corrections. In contact with County Environmental Division for their review. MND received by SWCA on 10/7/12. MND out for public notice and 30 day review as of 11/19/12. 30 day review ends on 12/25/12. No comments received. Scheduled for 1/16/13 Planning Commission meeting and then to be referred back to SLO County. Planning Commission continued this item to address concerns regarding traffic generated from the removal of soil. In applicant's court, they are addressing issues brought up by neighbors during initial P.C. meeting. Project has been redesigned and will be going forward with concrete tanks. Modifications to the MND are in process. Neighborhood meeting conducted with Engineering on 9/27/2013. Revising project description and MND.	No review performed.	BCR- New design concept completed. Needs new MND for concrete tank, less truck trips. Neighborhood mtg held 9/27. Neighbors generally support new design that reduces truck trips by 80%. Concrete batch plant set up on site will further reduce impact. 5/5/14 - Cannon contract signed to finish permit phase. Construction will be delayed to FY15/16		wm
30	AT&T	590 Morro Street	4/10/15	UP0-411 & CP0-465	Conditional Use Permit & Coastal Development permit to modify 2006 Planning permit approval for unmanned cell site	WM.Was tentatively scheduled for 3-1-16 PC hearing. Awaiting additional info from applicant. Tentatively scheduled for 5-17-16 hearing. Applicant requested continuance. PC continued review with direction on June 21, 2016.				wm

Projects Appealed or Forwarded to City Council:

#	Applicant/ Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
31	Van Buerden	945 Embarcadero	5/24/16	UP0-446	Conditional Use Permit for House of JuJu restaurant remodel, and City Park improvements	Incomplete letter sent 6-23-16 to Applicant and Applicant Representative. Cj. Resubmitted revised plans 6-5-17. Project reviewed and discussed with Consultant. PC hearing date is 9-5-17. Conditionally approved via Favorable Recommendation to City Council for approval. Tentative Council hearing date is 10/10/17		Conditionally approved 6/14/16		cj
32	Baston	561 Embarcadero	UP0-448	UP0-448	Conditional use permit for Gray's Inn access improvements and piling repair	Incomplete letter sent 8-4-16. Received resubmittal 9/16/16. Correction letter sent 10/14 and resubmittal 10/19. Met w/ Agent to review resubmittal 10/19. Project reviewed at 12/20 PC meeting and continued to 1/17 PC meeting. Project reviewed for favorable recommendation to the City Council with direction. City Council reviewed and continued to a date uncertain to allow plan revisions to sign location and ADA clarification. Resubmitted plans 5-25-17. Met with Applicant and Agent 9-2017 to discuss project issues related to parking.		PN- Conditionally approved per memo dated 8/3/16		cj
33	City of Morro Bay	Citywide	6/19/13	A00-015	Sign Ordinance Update. Text Amendment Modifying Section 17.68 "Signs"	Text Amendment Modifying Section 17.68 "Signs". Planning Commission reviewed 5/17/2010. Item heard at 5/24/11 City Council Meeting. Interim Urgency Ordinance approved to allow projecting signs. PC reviewed 2/7/2011. Workshops scheduled 9/29/11 & 10/6/11 .City Council 12/13/11. Continued to 1/10/12 CC meeting. PC reviewed 5/2/2012. Update due to City Council in June 2013. Draft Sign Ordinance reviewed by PC on 6/19/13 & 7/3/13. PC has reviewed Downtown, Embarcadero, and Quintana Districts as well as the Tourist-Oriented Directional Sign Plan. 8/21/13 Final Draft of Sign Ordinance approved at 9/4/13 PC meeting with recommendation to forward to City Council. Council directed staff to do further research with local businesses. Business workshops held fall/winter 13/14. Result of sign workshops discussed at 11-3-15 PC mtg. Revised Public Draft of Sign Ordinance posted to City website on July 6, 2017	No review performed.	N/R		sg
Environmental Review										
34	Bay Pines/Shorebreak Energy	1501 Quintana	11/29/16	UP0-463/CP0-525	Coastal development permit & Conditional Use Permit for Bay Pines Solar Project.	Under Initial Review. Bio Report and Phase 1 Arch report rcv'd. Waiting for preliminary title report. Rcv'd 3/15. Sent to PW: Under Review. Correction letter sent 4/12/2017. Rcv'd email resubmittal 5/5, resubmittal under review. Requires Initial Study		PN- Conditionally Approved, 6/5/17		jg

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35	City of Morro Bay	N/A		UP0-423	MND for Chorro Creek Stream Gauges	Applicant requesting meeting for week of 9/9/13. SWCA performing the environmental review. Received completed MND from Water Systems Consulting (WSC) on 4/1/15. Routed to State Clearinghouse for required 30 day review period. Tentative hearing 8/4/15. No recent activity.	No review performed.	MND complete. Cut permit checks to RWQCB and CDFW on 2/27/15		cj
Final Map Under Review Projects:										
36	Tract 2739	485 S. Bay Blvd, Black Hill Villas Subdivision	1/17/17	Map	Final Map - Tract 2739 / 16 lot subdivision with dedicated lot for riparian enhancement and raptor preservation.	Final Map Application Under review. Map corrections forwarded to Engineering/Public Works Dept. on 3/13/16. Final Map & Public Improvement Plans resubmitted to City on 4/24/17. Corrections on CC&Rs and tree removal sent to Applicant on 6-30-17		JW/PN - Disapproved final map and public improvements 8/16/2017		cj
37	Tract 2818	2400 Main St / Morro Mist	6/13/16	Map	Final Map - Tract 2818 / 23 lot subdivision and 1 common lot	Initial submittal for final map processing received 6-13-16. Correction letter sent 7-6-16. Draft CC&Rs received. Resubmittal received 1/5/17. Corrections sent 4-7-17. Resubmittal received 6-16-17.		JW/PN - Disapproved final map and public improvements 8/1/2017		cj
38	Tract 2670	1899 -1911 Sunset	11/17/15	Map	Final Map. - Tract 2670 6 lot subdivision and 1 common lot	Under review. Correction letter sent on 12-17-15. Met with Applicant on 3-8-16 to review outstanding items. Received revised CC&R's 3-8-16 for review. CC&R documents reviewed and determined deficient - corrections sent 4-21-16. Met with Applicant to review final corrections 7-13-16. Revised grading/retaining wall plans to be resubmitted. Draft CC&Rs under review by City Attorney. Attorney's review forwarded to Applicant on 7/28/16. CC&Rs under review for consistency with Council conditions of approval. Waiting for revised final map, revised grading plans as of 10/27/16. Grading permit issued. Reviewed revised CC&R's and sent comments back to Applicant on 7-10. Met with Applicant 9-8-17 to address Final Map outstanding items. Tentative Council consent calendar item is 10/24/17		JW/PN - Approved public improvements 3/28/2017		cj

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39	Medina	3390 Main	10/7/11	Map	Final Map. Issues with ESH restoration. Applicant placed processing of final map on hold by proposing an amendment to the approved tentative map and coastal development permit. Applicant proposed administrative amendment. Elevated to PC, approved 1/4/12. Appealed, scheduled for 2/14/12 CC Meeting. Appeal upheld by City Council, and project with denied 2/14/12. map check returning for corrections on 3/9/12	SD--Meeting with applicant regarding ESH Area and Biological Study. MR- Received letters from biologist regarding revegetation on 9/2/12. Letter sent to biologist. Recent Submittal reviewed and memo sent to PW regarding deficiencies. Initial review shows resubmitted map does not meet the 50 foot ESH buffer setback requirement. Creek restoration required per Planning condition #4 prior to recordation of the final map. Unresolved Planning conditions. Sent correction letter to Engineering 4-14-16. Received request for extension of permit as allowed by code. One year extension of permits granted extending map to 7/19/2017. Received map resubmittal 11-28-16. Response letter sent 12-27-16. Biologist submitted revised creekside restoration plan on 6/8/17 for City review. Sent comments back to Biologist on 6-29-17	No review performed.	DH - resubmitted map and Biological study on Dec 19th 2012. PW has completed their review. Received a letter from Medina's lawyer and preparing response. PW comments sent to RS to be included with his response letter. RS said to process map for CC. Letter being prepared to send to applicant to submit		sg/cj
Projects requiring coordination with another jurisdiction:										
40	City of Morro Bay	Outfall			Original jurisdiction CDP for the outfall and for the associated wells	Coastal staff is working with staff. Coastal letter received 4/29/2013. Discussed project with Coastal staff in meeting 11-18-14.	No review performed.	City provided response to CCC on 7/12/13. Per Qtrly Conference Call CCC will take 30days to respond		
41	City of Morro Bay Desal Plant	170 Atascadero			Project requires a Coastal Development Permit for upgrades at the Plant. Final action taken Sent to CCC but pursuant to their request the City has rescinded the action.	Waiting for outcome from the CDP application for the outfall. Discussed project with Coastal staff in meeting 11-18-14.	No review performed.	BCR- Phase 1 Maint and Repair project is underway. Desal plant start-up scheduled for 10/15/13. Phase 1 complete and		
Projects going forward to Coastal Commission for review (Pending LCP Amendments) / or State Department of Housing:										

#	Applicant/ Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
42	City of Morro Bay	Citywide	10/16/13	A00-013. A00-029: Ordinance 601	Zoning Text Amendment - Second Unit	Secondary Unit Ordinance Amendment. Ordinance 576 passed by City Council in 2012. 6-11-13 City Council direction to staff to bring back to Planning Commission for review of ordinance. At 10-16-13 PC meeting, Commission recommended changes to maximum unit size and tandem parking design where units over 900 sf and/or tandem parking design of second unit triggers a CUP process. Council accepted PC recommendation at 2-11-14 meeting and directed staff to bring back revised ordinance for a first reading and introduction. Item continued to 4/22/14 Council meeting to allow time for Coastal staff comment regarding proposed changes. Council approved Into and First Reading on 4/22/14. Final Adoption of Ord. 585 at 5/13/14 Council meeting. Ordinance to be sent as an LCP Amendment for certification by Coastal Commission. New language for PC and Council review. Second reading going to council on April 12, 2016. PC reviewed change 5-3-16. CC second First Reading 6-28-16.. Application submitted to Coastal Commission August 2016. Coastal objected to ban on use as vacation rentals. New State legislation will force additional changes.	No review performed.			wm
Projects Continued Indefinitely, No Response to Date on Incomplete Letter or inactive:										
43	T-Mobile	1478 Quintana	1/30/15	UP0-403	Minor Use Permit to Modify existing wireless telecommunication site at church	JG - Under initial review. Correction letter sent 3/5/2015. JG. Partial resubmittal rcv'd via email 9/18		JW approved		jg
Grants										
44	California Coastal Commission, California Ocean Protection Council	City-wide	4/6/16		\$400,000 Grant for LCP update to address sea-level rise and climate change impacts. Round 3 Grant award of \$200,000 for Lateral Access Plan, and ESHA delineation.	Grant agreements for both the grants are in place and grant administration has been turned over to Michael Baker International, per terms of the GP/LCP update contract. Received signed grant agreement for \$200,000 LCP Planning grant by CCC for Round 3 awards 2-27-17.	No review performed.	N/A		sg
45	City of Morro Bay	City-wide			Community Development Block Grant/HOME Program - Urban County Consortium	Staff has ongoing responsibilities for contract management in coordination with County staff administration. Final 2016 funding recommendations reviewed by Council on 3-8-16. 2016 Subrecipient Agreement executed and Council approved 2018-2020 Cooperation Agreement with County on 6-13-17.	No review performed.	N/R		cj

#	Applicant/ Property Owner	Project Address		Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
46	City of Morro Bay	City-wide				Climate Action Plan - Implementation	Staff has ongoing responsibilities for implementation of Climate Action Plan as adopted by City Council January 2014. Staff coordinating activities with other Cities and County of SLO via APCD.				cj
Projects in Building Plan Check:											
1	Frank	2900	Alder	4/4/16	B-30941	New Duplex	Approved by jg. 5/31/16	Approved by cdl on 6-3-16.	PN- Approved 6/27/16		
2	LaPlante	3093	Beachcomber	4/24/17	B-31487	New SFR: 3,495sf w/ 500 sf garage on vacant land. No activity on this project. Remains in plan check.	Sent correction memo 6-13-17. cj.	Approved by cdl on 5-10-17	PN - Disapproved 6/9/17		
3	Diodati	175	Capri	5/22/17	B-31508	216sf addition to existng SFR		Approved by cdl on 6-27-17.PZ	PN- Disapproved 6/16/17		
4	Barker	2214	Coral	9/11/17	B-31668	SFR NEW					
5	Schechter	245	Driftwood	5/31/17	B-31529	Exterior elevator installation,		Approved by cdl on 6-27-17.PZ			
6	MMbs Lic	1215	Embarcadero	12/9/16	B-31326	Demo existing Dockside 3 and Morro Bay Landing to replace with 2 story new structure	Disapproved with plan corrections 1-5-17. CJ.	Plans sent to Ca, Code Check 1-5-17.	PN- Disapproved per memo dated 1/18/17		
7	Appleby	381	Fresno	7/31/14	B-30227	Carport& Storage Shed. Remians in plan check status.	Correction sent 8-7-14. WM. Will require a CUP prior to building. JG. Corrections sent 2/23 JG	Building approved 08-04-15 cdl	RPS - No PW comments if street access is not		
8	Rezzonico	421	Fresno	5/24/17	B-31524	Interior remodel and addition of 189sf covered deck.		Disapproved by cdl on 6/7/17.	PN- conditionally approved per memo 5/31/17		
9	Stanley	570 Harbor St		9/12/16	CP0-517	Demo existing SFR/Chiropractic office. New construction of 2 new SFRs - 1507sf living with 480sf garage, and 891 sf living with 441 sf	CDP approved 11-22-16. WM	Conditionally approved per memo dated 9/12/16.	PN-Conditionally approved per memo dated 11/17/16		
10	Weisberger	115	Hatteras	7/31/17	B-31604	Sf alteration .		Approved by cdl on 8/11/17.			
11	Bulatov	2980	Hemlock	9/11/17	B-31651	Remodel existing SFR, new 1st & 2nd floor addition (1444 sq. ft.), new 310 sf deck above					
12	Stanton	2335	Ironwood	4/19/17	B-31484	75sf addition to existing SFR		Approved by cdl on 4-26-17.	PN- Not approved per memo dated 4/28/17		
13	Spencer	2445	Ironwood	7/21/17	B-31594	Sf alteration 151 sq. ft. addition, 78 Sq. ft. deck.		Approved by cdl on 8/29/17.			
14	Linkwiller/Balch	535	Kern Ave	5/10/17	B-31504	118sq.ft. 1st. Floor addition new bathroom & porch 102 sq. ft. second floor addition new observation room decrease size of existing bathroom & deck.		Disapproved by cdl on 5-12-17 . Approved by cdl on 5-17-17.	PN- Disapproved 6/6/17		
15	Grover	484	Kings	8/31/17	B-31650	Single Family Addition					

#	Applicant/ Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
16	Wright	6/3/1901 LaJolla	7/21/17	B-31595	Enclose 10'x20' carport for single car garage		Disapproved by cdl on 8/11/17.			
17	PG&E	1245 Little Morro Creek	3/25/16	B-30925	Add 25K Generator to cell site/tower to satisfy Planning Commission conditions.	Approved. CJ. 4-5-16. Complies w/ PC approval.	Approved by cdl 3/30/16	PN- Approved 5/17/16		
18	Najarian	321 Luzon	6/9/17	B-31543	New SFR 2-story 1694 sq, ft, living 546 sq ft.garage 144 sq. ft. deck		Disapproved by cdl on 7-5-17.	PN- Not Approved 7/26/17		
19	Kinsinger	220 Main	8/21/17	B-31639	Interior remodel of kitchen, bath and living room, add new deck area, remodel exterior of building					
20	Morro Mist LLC	2402-2446 Main	7/5/16	B-31067 through B-31089	Building permit applications for 23 new townhomes in 6 detached building clusters to include 15 one-bedroom units and 8 three-bedroom units. 23 separate permit applications	Disapproved. Corrections sent 8-3-16. cj.	Disapproved by cdl on 1-23-17.	PN- Approved waiting for RL sign-off of WEU form.		
21	Bradley/Edwards	310 Mindoro	7/19/17	B-31592	SFNew 1486 ft. of living, 446 sq. ft. of decking					
22	Najarian	320 Mindoro	6/9/17	B-31544	New SFR 2-story 1694 sq, ft, living 546 sq ft.garage 144 sq. ft. deck		Disapproved by cdl on 7-5-17.	PN- Not Approved 7/26/17		
23	Assembly of God	615 Monterey	10/14/16	B-31226	Interior remodel (to rear house) - Demo interior, replace sub floor, drywall, electrical & plumbing, new stairs over exterior	Disapproved 11-10-16. JG	Disapproved by cdl on 11-17-16.	PN- Disapproved 11/16/16		
24	Crowfoot	416 Napa	3/1/17	B-31417	Convert downstairs closet into kitchen to create secondary dwelling unit (CP0-531)		Approved by cdl on 3-23-17	PN- Disapproved per memo dated 3/29/17		
25	Robson	110 Orcas	12/9/16	B-31350	2098 s.f. living, 939 s.f. subterranean garage, and 376 s.f. decking	Corrections sent 3-24-17 to Bldg. CJ.	Disapproved by cdl on 01-12-17			
26	Fenske	470 Orcas	5/29/17	B-31525	After fact permit for basement bedroom and bathroom		Disapproved by cdl on 6-7-17.	PN- Approved 5/31/17		
27	Phelps	490 Piney Way	8/24/17	B-31643	Repair walls to utility/storage room, new concrete re-inforced slab, new stem wall,					
28	Rose	630 San Joaquin	7/20/17	B-31593	Deck repairs and and replacement of dry rot.		Disapproved by cdl on 8/14/17.	PN-Approved 8/10/17		
29	Barfield	260 Shasta	4/24/17	B-31486	Remodel, Room Addition and new garage		Disapproved by cdl on 5-4-17.	PN - Disapproved 5/25/17		
30	Dolezal	1885 to 1905 Sunset	3/17/17	B31378	Addendum to Grading permit #G00-045 issued 12/7/16. Changes to approved Grading to on-site improvements	Disapproved 5/9/17. CJ	Disapproved by cdl on 5-12-17.	PN- Not Approved per memo dated 3/29/17		
31	Dolezal	1885 Sunset	11/30/15	B-30758	Lot 6: New SFR with 1140sf and 480 garage. Remains in plan check Status.	Disapproved 7-6-16. Plans not consistent with pending final map. Corrections needed. CJ.	Approved by cdl on 5/6/16	PN- Approved 7/14/16		
32	Dolezal	1889 Sunset	11/30/15	B-30757	Lot 5: New SFR with 1140sf with 480 garage. Remains in plan check Status.	Disapproved 7-6-16. Plans not consistent with pending final map. Corrections needed. CJ.	Approved by cdl on 5/6/16	PN- Approved 7/14/16		
33	Dolezal	1893 Sunset	11/30/15	B-30756	Lot 4: New SFR with 1140sf living and 480sf garage. Remains in plan check Status.	Disapproved 7-6-16. Plans not consistent with pending final map. Corrections needed. CJ.	Approved by cdl on 5/6/16	PN- Approved 7/14/16		
34	Dolezal	1897 Sunset	11/30/15	B-30753	Lot 1: New SFR with 1140sf living and 480sf garage. Remains in plan check Status.	Disapproved 7-6-16. Plans not consistent with pending final map. Corrections needed. CJ.	Approved by cdl on 5/6/16	PN- Approved 7/14/16		

#	Applicant/ Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
35	Dolezal	1901 Sunset	11/30/15	B-30754	Lot 2: New SFR with 1541sf living and 483sf garage. Remains in plan check Status.	Disapproved 7-6-16. Plans not consistent with pending final map. Corrections needed. CJ.	Approved by cdl on 5/6/16	PN- Approved 7/14/16		
36	Dolezal	1905 Sunset	11/30/15	B-30755	Lot 3: New SFR with 1457sf living and 480sf garage. Remains in plan check Status.	Disapproved 7-6-16. Plans not consistent with pending final map. Corrections needed. CJ.	Approved by cdl on 5/6/16	PN- Approved 7/14/16		
37	Adamson	155 Terra	6/9/17	B-31545	Addition to single family residence. Remodel to existing living, dining,kitchen, 7 rooms.		Approved by cdl on 7/5/17.	PN- Not Approved 7/25/17		
38	Jordan	340 Tulare	6/17/16	B-31046	2nd floor 650sf Addition & 75sf garage addition	Approved 5-17. JG	Disapproved by cdl on 1-13-16.	PN- Approved 2/2/17		

Planning Projects & Permits with Final Action:

1	Fennacy	939 Main Street	10/18/16	UP0-459	Use permit approval for change of occupancy for the creation of outdoor dining area at the Brickhouse BBQ	Project under review. Correction letter sent 11/17. Resubmittal Rcv'd 3/27, Resubmittal 5/25/17, Building correction letter. Resubmittal received 7/17/2017. Resubmittal received 8/25/17. Project to be noticed before or by 9/4/17. Consent of landowner revoked on 9/5/17		Conditionally approved per memo dated 5/1/17		rr



AGENDA NO: C-1

MEETING DATE: September 19, 2017

Staff Report

TO: Planning Commissioners **DATE:** September 11, 2017

FROM: Scot Graham, Community Development Director
Cindy Jacinth, Senior Planner

SUBJECT: Zoning Code Update Module 1: Draft Administration & Permits

RECOMMENDATION:

Staff recommends the Planning Commission review the attached information regarding the draft Zoning Code Administration & Permits and provide input to staff.

DISCUSSION:

The Administration and Permits draft is the first module of the Zoning Code update. The purpose of the Administration and Permits provisions is to convey who is responsible for making decisions on zoning applications; and also presents the permit approval process. It also establishes common procedures and zoning clearance procedures in order to provide a clear, and concise review process.

The draft Zoning Code Administration & Permits was presented to the General Plan Advisory Committee (GPAC) on August 17, 2017. At this meeting, the GPAC provided feedback to staff primarily on neighborhood compatibility and design guidelines/standards. More specifically, there were two main comments on the contents of the Module. The design review threshold for single family homes should be further explored and considered with the district regulations. The suggestions for Modifications were to tighten up the findings, eliminate the ability to modify height limitations, and to only allow one modifications.

Overall, staff concurs with GPAC input. However, staff recommendation regarding modifications would be to continue to allow more than one modification as there may be situations that warrant it on a development project where there would be no discernable effect or impact to the character of the neighborhood. An illustrative scenario of approving more than one modification would be: an existing house with no garage and Applicant wants to build a two car garage where code requires a two car garage to be 20 feet wide. Based on lot configuration and

Prepared By: CJ

Department Review: SG

existing development, Applicant could only get 19 feet in width in order to stay out of the required six foot setback. Also, the construction of a two car garage would exceed the lot coverage limit by 20 square feet. They don't need to build the 2 car garage, but generally that is seen as an 'improvement'. It may be reasonable to allow a 19.5 foot wide garage (modification to garage dimension standards) to encroach six inches into the side setback (setback modification), and allow an additional 20 square feet of lot coverage (lot coverage modification). It would not be uncommon for staff to receive this type of application or zoning inquiry.

CONCLUSION:

The draft Zoning Code Administration & Permits is only a portion of the draft regulations for GPAC, Planning Commission, and Public Review. The next step in the update of the City's Zoning Code will be reviewing and updating Citywide regulations, and District Regulations, followed by a public review of the Draft Zoning Code, revisions, hearings, and ultimately adoption.

ATTACHMENTS:

- A. Powerpoint Presentation
- B. Zoning Draft Administrative Provisions

PLANNING COMMISSION STUDY SESSION

September 19, 2017



Zoning Code Update



Project Objectives

To craft an updated Zoning Code that:

- Is consistent with and implements the General Plan/Local Coastal Land Use Plan;
- Promotes high quality design;
- Responds to community concerns about neighborhood character and project design;
- Is modern and reflects the City's current uses, practices, and development patterns;
- Provides clear decision-making protocols and streamlined review processes, where appropriate;
- Complies with State and federal law; and
- Is clear, concise, understandable, and easy to use.

Project Overview

- ✓ Research and reconnaissance
- ✓ Consultant assessment
- ✓ Zoning Code Diagnosis Memo

Draft Regulations for Committee, Commission, and Public Review:

- Administration and Permits
 - Citywide Regulations
 - District Regulations
- Public Review of Draft Zoning Code
- Revisions, Hearings, and Adoption

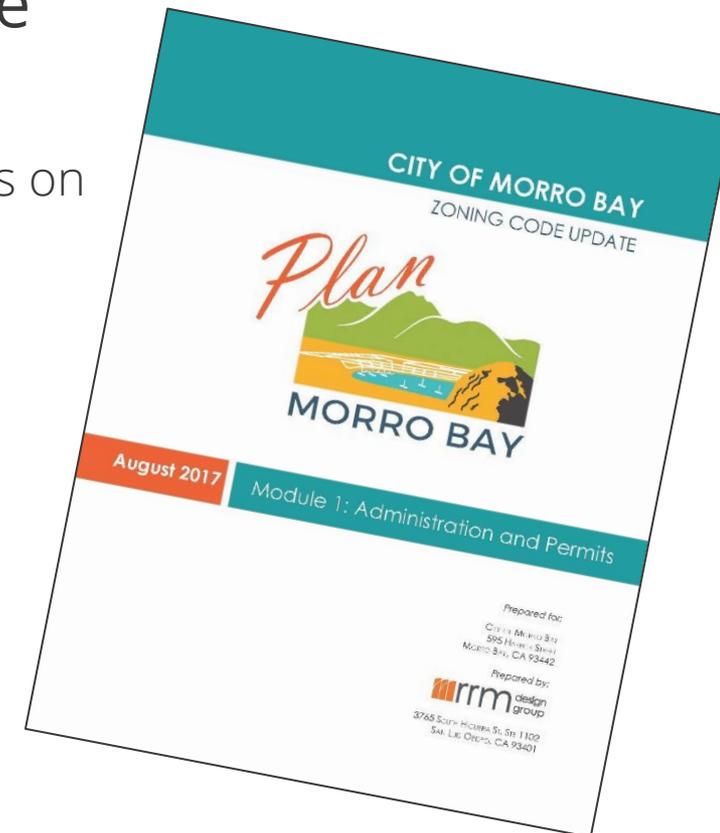
Administration and Permits

Provisions for the administration of the Zoning Ordinance

- Conveys who is responsible for making decisions on zoning applications
- Presents permit approval process

Draft provisions intended to:

- Maintain the bulk of existing provisions
- Consolidate administrative procedures in a new, separate chapter
- Reflect 'best practices' and respond to staff and GPAC input



Administration and Permits

Planning Authorities

- Assigns and describes basic roles and functions of authorities that have a role in administering the Zoning Code, including City Council, Planning Commission, and the Director

Common Procedures

- Uniform procedures that are common to the permitting process; covering everything from time limits and extensions through to post-decision provisions.
 - Application
 - Conceptual Review
 - Public Notice
 - Public Hearings
 - Effective Dates
 - Appeals
 - Changes to Approved Plans
 - Interpretation

Zoning Clearance

- Check for consistency with Zoning Ordinance and any discretionary approvals before issuance of permit or license.

Administration and Permits

Design Review

- Required for projects that require a permit except like replacement of exterior materials.
- Review authority:
 - **Planning Commission** is review authority and public hearing required for:
 - Multi-unit development with five or more units
 - New nonresidential development and additions of more than 10% of floor area or more than 2,000 square feet
 - All projects otherwise requiring PC review
 - **Director** is review authority for all other projects, may refer to Planning Commission. No public hearing required for design review by Director
- Includes reference to design guidelines, design review considerations and design review criteria

GPAC discussion: Consider a threshold for design review of single family homes by the Planning Commission.
To be further discussed and considered during review of residential development standards.

Administration and Permits

Coastal Development Permits

- Establishes Coastal Development Permit procedures
- Requirement for a Coastal Development Permit will be established in the Coastal Zone Overlay Zone provisions
- Review authority:
 - **Director** is the review authority for development that does not:
 - Result in more than four units
 - Demolish more than two units
 - *Constitute "major public works"*
 - Require discretionary action by the Planning Commission
 - Consist of coastal appealable development
 - **Planning Commission** is review authority and public hearing is required for all other coastal development permits

Administration and Permits

Use Permits

- **Conditional Use Permits**
 - Review by Planning Commission
 - Public notice
 - Public hearing
- **Minor Use Permits**
 - Review by the Director
 - Public notice
 - No public hearing
 - Director may refer item to Planning Commission for decision

Administration and Permits

Temporary Use Permits

- Details permit procedures for temporary uses requiring a permit
- Regulations and classifications governing temporary uses will be included in a separate chapter
- Public notice is required
- Findings regarding nuisances and impacts to circulation required
- Conditions of approval may be required to achieve consistency with required findings

Administration and Permits

Modifications

- Similar to current provisions for Minor Variances
- Details opportunities for relief from the Director for minor (10%) locational, developmental, and operational standards when General Plan objectives are still being met and the situation does not qualify for a variance
- Not allowed for lot area, width, or depth or density
- Processed concurrent with other required approvals

Current allowance: Zoning Administrator may allow 10% adjustment to setbacks; design of on-site parking; extension and projection limitations; location, height, and design of fences; and building separation requirements

GPAC discussion: Limit number of modifications, do not allow height modification, and revise findings so modifications are limited to situations where the intended purpose of a structure could not otherwise be achieved.

Administration and Permits

Reasonable Accommodation

- Procedures in compliance with State and Federal laws requiring reasonable accommodation for persons with disabilities
- Carries forward recently adopted Section 17.48.400 of current code

Variances

- Details situations where the variation exceeds the thresholds for or otherwise do not qualify for a Modification
- Must be result of extraordinary circumstance applicable to the property that would preclude a property from having same rights as others in vicinity and same zoning district

Administration and Permits

Emergency Permits

- Provisions for issuance of a permit in cases of emergency that do not allow sufficient time for typical permit process
- Director is review authority
- Required findings
- Notice to City Council and Coastal Commission (in Coastal Zone)

Development Agreements

- Allows the City to implement Government Code Section 65864 authorizing government entities to enter into legally binding agreements with private parties

Administration and Permits

Amendments to the General Plan, Zoning Code and Map

- Provisions for amending the General Plan, Zoning Code text, and Zoning Map
- Planning Commission recommendation to City Council for decision

Amendments to the Local Coastal Program (LCP)

- Provisions for amending the Local Coastal Program consistent with the Coastal Act

Zoning Upon Annexation

- Unincorporated areas may be pre-zoned prior to annexation through a zoning amendment and, if applicable, a Local Coastal Program amendment

Administration and Permits

Enforcement

- Expands upon Chapter 17.61, Enforcement, of the current code
- Provisions enable the City to record a notice of violation against the property if violations are not addressed
- Includes provisions for revocation of permits if terms of permit are violated

Discussion



THANK YOU

Questions?

Contact Us

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CITY OF MORRO BAY

ZONING CODE UPDATE



August 2017

Module 1: Administration and Permits

Prepared for:

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INTRODUCTION

Zoning updates are significant undertakings for any community. Proceeding with discrete, digestible groups of specific sections make the project more approachable. To this end, this paper presents preliminary draft regulations for a major section of Morro Bay's new Zoning Code—provisions for the administration of the code and processing of permits.

The new Zoning Code will be organized so that it will be easy to use and amend overtime. Generally, the most frequently consulted sections appear towards the beginning of the code, while more specific and less frequently used parts, such as definitions, appear at the end. Administrative provisions combine permit requirements in one place for ease of reference by staff, the Planning Commission, and other code-users. In all, the updated Title 17-Zoning will comprise five divisions, in the following order:

Division I – Introductory Provisions

Division II – District Regulations

Division III – Citywide Regulations

Division IV – Administration and Permits

Division V –Terms and Definitions

Within each of these divisions, chapters and sections have been ordered to flow logically from one idea to the next. Typically, chapters begin with statements regarding their purpose and applicability, next list general provisions, and then move progressively to more specific provisions and related regulations.

This paper presents preliminary draft regulations for Division IV – Administration and Permits.

DIVISION IV: ADMINISTRATION AND PERMITS

Provisions for administration of the code are intended to convey clearly who is responsible for making decisions on zoning applications and what the process is to secure approvals. It is important that this section be understandable to both users and staff.

Division IV contains provisions for administration of the Zoning Code. Chapters have been organized to list, first, the responsibilities of all decision makers, followed by a "common procedures" section that establishes procedures applicable to all types of review procedures and approvals. This Division then proceeds to more specific processes and permits in an order meant to reflect their relative frequency of use. Additionally, it clarifies the complementary roles of the Director, Planning Commission, and City Council by listing the responsibilities and authority that each body has in administering the code.

The proposed chapters incorporate many provisions included in Morro Bay's existing code, but simplify the regulations by consolidating a number of the administrative provisions in a new and

separate chapter that establishes common administrative procedures related to filing and review of applications, noticing and hearings common to all or most approvals. Technical edits also are made to reflect “ best practices.”

Certain chapters included in Division IV, Administration and Permits, are a part of the Coastal Implementation Plan. These chapters are indicated with an **(IP)**.

Planning Authorities

The first chapter of Division IV, Administration and Permits, lays out the basic roles and functions of the authorities that have a role in implementing the Zoning Code, including the City Council, Planning Commission, and Director.

Common Procedures (IP)

The purpose of this chapter is to establish uniform procedures that are common to the application and processing of a variety of different permits and approvals such as Use Permits, Coastal Development Permits, Variances, General Plan Amendments, and Zoning Code and Map Amendments. This material includes everything from time limits and extensions through to post-decision provisions (e.g. expiration, extension, and revision of approvals). Because this chapter will likely be the most frequently consulted of all administrative chapters, it appears immediately following the chapter identifying various planning authorities.

Zoning Clearance

This chapter establishes procedures for ensuring that all permits or licenses issued by the City conform to the provisions of the Zoning Code. The chapter describes the process the City uses for reviewing applications for business licenses, building permits, and other entitlements to ensure that the proposed use or structure is either permitted by right and conforms to all applicable zoning standards or conforms to the requirements and conditions of any discretionary approval that the City has granted under the code.

Design Review

This chapter establishes provisions for design review, identifying first which projects are subject to design review and then the review authority, scope of review, procedures, and criteria. Reference is made to the Residential Design Guidelines and other applicable design guidelines.

Coastal Development Permits (IP)

A Coastal Development Permit is required for certain types and locations of development in the Coastal Zone. Instances in which a Coastal Development Permit is required will be detailed in the Coastal Zone (CZ) Overlay District provisions. This chapter contains the permit procedures to be followed for those instances where a Coastal Development Permit is required.

Use Permits

This chapter includes a description of the purpose and processes for “Conditional” Use Permits, which require Planning Commission review, and “Minor” Use Permits, which require review by the Director. This chapter is organized so that action by the appropriate authority is listed first, followed by the application and public hearing provisions. The chapter includes cross-references to specific provisions in Chapter 17.25, Common Procedures, that describe specific requirements for appeals, expiration, extension, revision, and other procedures common to use permits as well as other approvals. The lists of conditionally permitted uses currently located in Chapter 17.60 will be incorporated into the use regulations for each zoning district.

Temporary Use Permits

Regulations governing temporary uses on private property will be included in a separate chapter which includes standards for specific uses which will classify temporary uses as those requiring a permit and those permitted by right, subject to specific standards and time limits. This chapter on Temporary Use Permits details the permit procedures for those temporary uses that require a permit.

Modifications (IP)

Similar to the current provisions for Minor Variances, this Chapter is intended to provide an alternate means of granting relief from code requirements when so doing would be consistent with the code’s objectives and it is not possible or practical to approve a Variance. This chapter includes opportunities for gaining relief from codified locational, developmental, and operational standards by the Director in cases where modifications are consistent with General Plan objectives and warranted by special circumstances that may not meet the requirements for approval of a variance based on physical hardship.

Reasonable Accommodation

This chapter includes procedures to ensure compliance with State and Federal laws that require accommodation of certain protected uses, consistent with Section 17.48.400, Reasonable Accommodation Procedure, of the current code.

Variances

This chapter incorporates provisions for Variances that are applicable to situations where the variation exceeds the thresholds for consideration of a Modification or are not otherwise entitled to modification under those rules or other regulations. Where procedures are the same as for use permits and other approvals, the chapter refers to relevant requirements in Chapter 17.25, Common Procedures. This chapter is distinguished from Chapter 17.31, Modifications, which applies to situations where relief is determined consistent with the City’s adopted plans and the purposes of the code.

Emergency Permits (IP)

This chapter includes provisions that enable the Community Development Director to issue an Emergency Permit without compliance with the procedures for the issuance of a regular city permit or Coastal Development Permit in cases of an emergency, as the term emergency is defined in Section 13009 of Title 14 of the California Code of Regulations.

Development Agreements

The purpose of this chapter is to enable the City to implement Government Code Sections 65864-65869.5 authorizing government entities to enter into legally binding agreements with private parties. Section 65865 requires cities to establish procedures for consideration of development agreements when requested by an applicant.

Amendments to the General Plan, Zoning Code, and Zoning Map

This chapter contains provisions for amending the Zoning Code text and the Zoning Map, currently located in Chapter 17.64, Amendment, and for amending the General Plan. Emphasis is given to the General Plan as the underlying basis for all land use and development policies and regulations.

Amendments to the Local Coastal Program (IP)

This chapter contains provisions for amending the Local Coastal Program, consisting of the Coastal Land Use Plan and Coastal Implementation Plan, incorporating the State Government Code's specific procedures governing these legislative decisions.

Zoning Upon Annexation

This chapter describes the process and applicability for zoning property upon annexation. Zoning of property to be annexed may be established through a zoning amendment and, if applicable, a Local Coastal Program amendment.

Enforcement

This chapter incorporates and expands upon procedures in Chapters 17.61, Enforcement, for enforcement of code regulations. In addition to issuing citations for title violations, provisions in this chapter enable the City to record a notice of violation against the property. This notice, filed with the County Recorder, would identify the property and/or structure in violation, describe the violation, and certify that the owner has been notified of such violation.

Division IV: Administration and Permits

Chapter 17.24 Planning Authorities

Sections:

- 17.24.010 Purpose
- 17.24.020 City Council
- 17.24.030 Planning Commission
- 17.24.040 Community Development Director

17.24.010 Purpose

The purpose of this Chapter is to identify the bodies, officials, and administrators with designated responsibilities under various chapters of this Title. Subsequent chapters of this Division provide detailed information on procedures, applications, and permits, including zoning and General Plan text and map amendments, and enforcement. When carrying out their assigned duties and responsibilities, all bodies, administrators, and officials shall interpret and apply the provisions of this Title as minimum requirements adopted to implement the policies and achieve the objectives of the General Plan and Local Coastal Plan.

17.24.020 City Council

The powers and duties of the City Council under this Title include, but are not limited to, the following:

- A. Consider and act on amendments to the General Plan, Zoning Code, Zoning Map, and Local Coastal Program, and environmental documents related to any of the foregoing following a public hearing and recommended action by the Planning Commission.
- B. Hear and decide applications for Development Agreements.
- C. Hear and decide appeals from decisions of the Planning Commission.
- D. Establish, by resolution, a Municipal Fee Schedule listing fees, charges, and deposits for various applications and services provided, pursuant to this Title.

17.24.030 Planning Commission

The powers and duties of the Planning Commission under this Title include, but are not limited to the following:

- A. Annually review progress towards implementation of the General Plan and recommend to the City Council changes needed due to new legislation, development trends and changing economic, social, and environmental conditions.

- B. Make recommendations to the City Council on proposed amendments to the General Plan, Zoning Code, Zoning Map, and Local Coastal Program, and environmental documents related to any of the foregoing following a public hearing.
- C. Make recommendations to the City Council on Development Agreements.
- D. Approve, conditionally approve, or deny Conditional Use Permits, Coastal Development Permits, and Variances.
- E. Hear and decide on revisions to approved Conditional Use Permits and Variances, pursuant to Section TBD, Revision of Approved Plans.
- F. Conduct design review on certain projects and approvals it grants pursuant to Chapter TBD, Design Review.
- G. Hear and decide on proposed revocations of permits.
- H. Hear and decide appeals from decisions of the Director.
- I. Make environmental determinations on any approvals it grants that are subject to environmental review under the California Environmental Quality Act.
- J. Such other duties and powers as assigned or directed by the City Council.

17.24.040 Community Development Director

The following powers and duties of the Community Development Director (the "Director") under this Title include, but are not limited to the following:

- A. Have the responsibility to perform all of the functions designated by State law, including, but not limited to the following:
 - 1. Prepare an annual report related to implementation of the General Plan in compliance with Government Code Section 65400;
 - 2. Review of public works projects for conformity to the General Plan in compliance with Government Code Section 65401; and
 - 3. Review of acquisition of property for conformity to the General Plan in compliance with Government Code Section 65402.
- B. Maintain and administer the Zoning Code, including processing of applications, abatements and other enforcement actions.
- C. Prepare and effect rules and procedures necessary or convenient for the conduct of the Director's business. These rules and procedures must be as approved by a resolution of the City Council following review and recommendation of the Planning Commission. They may include the administrative details of hearings officiated by the Director (e.g., scheduling, rules of procedure and recordkeeping).
- D. Interpret the Zoning Code to members of the public and to other City Departments.
- E. Issue administrative regulations for the submission and review of applications subject to the requirements of this Title and Government Code Section 65950, Deadlines for Project Approval Conformance; Extensions.

- F. Review applications for permits and licenses for conformance with this Title and issue a Zoning Clearance when the proposed use, activity or building is allowed by right and conforms to all applicable development and use standards.
- G. Review applications for discretionary permits and approvals under this Title for conformance with applicable submission requirements and time limits.
- H. Review applications for discretionary permits and approvals to determine whether the application is exempt from review under the California Environmental Quality Act and the City's environmental review requirements and notify the applicant if any additional information is necessary to conduct the review.
- I. Determine level of coastal review pursuant to Chapter TBD, Coastal (CZ) Overlay Zone, and document Coastal Exclusions and Coastal Exemptions, as appropriate.
- J. Hear and decide requests for minor revisions to approved permits, pursuant to Section TBD, Revision of Approved Plans.
- K. Process and make recommendations to the City Council on all applications, amendments, appeals and other matters upon which the Council has the authority and the duty to act under this Title.
- L. Process and make recommendations to the Planning Commission on all applications, appeals and other matters upon which the Commission has the authority and the duty to act under this Title.
- M. Approve, conditionally approve, or deny Minor Use Permits pursuant to the provisions of Chapter TBD, Use Permits, and Coastal Development Permits pursuant to the provisions of Chapter TBD.
- N. Approve, conditionally approve, or deny requests for modifications to dimensional requirements and requests for reasonable accommodation, pursuant to Chapter TBD, Modifications, and Chapter TBD, Reasonable Accommodation.
- O. Conduct design review pursuant to Chapter TBD, Design Review.
- P. Review and decide on Temporary Use Permits pursuant to Chapter TBD.
- Q. Review and decide on Emergency Permits pursuant to Chapter TBD, Emergency Permits.
- R. Negotiate the components and provisions of Development Agreements for recommendation to the City Council.
- S. Investigate and make reports to the Planning Commission on violations of permit terms and conditions when the City has initiated revocation procedures.
- T. Refer items to the Planning Commission where, in his/her opinion, the public interest would be better served by a Planning Commission public hearing and action.
- U. Delegate the responsibilities of the Director to Department staff under the supervision of the Director.
- V. Other duties and powers as may be assigned by the City Council or established by legislation.

Chapter 17.25 Common Procedures (IP)

Sections:

- 17.25.010 Purpose
- 17.25.020 Application Forms and Fees
- 17.25.030 Conceptual Review
- 17.25.040 Review of Applications
- 17.25.050 Environmental Review
- 17.25.060 Public Notice
- 17.25.070 Conduct of Public Hearings
- 17.25.080 Timing and Notice of Action and Findings Required
- 17.25.090 Scope of Approvals
- 17.25.100 Effective Dates
- 17.25.110 Expiration and Extension
- 17.25.120 Revisions of Approved Plans and Permits
- 17.25.130 Appeals
- 17.25.140 Interpretations and Determinations

17.25.010 Purpose

This Chapter establishes procedures that are common to the application and processing of all permits and approvals provided for in this Title, unless superseded by specific requirement of this Title or State law.

17.25.020 Application Forms and Fees

- A. **Applicant.** The owner of property or the owner's authorized agent. If the application is made by someone other than the owner or the owner's agent, proof, satisfactory to the Director, of the right to use and possess the property as applied for, shall accompany the application.
- B. **Application Forms and Materials.**
 - 1. **Application Forms.** The Director shall prepare and issue application forms and lists that specify the information that will be required from applicants for projects subject to the provisions of this Title.
 - 2. **Supporting Materials.** The Director may require the submission of supporting materials as part of the application, including but not limited to statements, photographs, plans, drawings, renderings, models, material samples and other items necessary to describe existing conditions and the proposed project and to determine the level of environmental review pursuant to the California Environmental Quality Act (CEQA).
 - 3. **Availability of Materials.** All material submitted becomes the property of the City, may be distributed to the public, and shall be made available for public inspection. At any time upon reasonable request, and during normal business hours, any

person may examine an application and materials submitted in support of or in opposition to an application in the Planning Division offices. Unless prohibited by law, copies of such materials shall be made available at a reasonable cost.

C. **Application Fees.**

1. **Schedule of Fees.** The City Council shall approve by resolution a Municipal Fee Schedule that establishes fees for permits, informational materials, penalties, copying, and other such items.
2. **Payment of Fees.** No application shall be accepted as complete and processed without payment of a fee unless a fee waiver has been approved.
3. **Fee Waiver.** No fee shall be required when the applicant is the City, or if it is waived by the City Council or under any other provision of the Municipal Code.
4. **Refund of Fees.** Application fees are non-refundable unless otherwise provided for in the Municipal Code or by policy of the City Council.

17.25.030 Conceptual Review

Conceptual review is an optional review process that is intended to provide information on relevant policies, zoning regulations, and procedures.

- A. **Exemption from Permit Streamlining Act.** Conceptual review is not subject to the requirements of the California Permit Streamlining Act (the Act). An application that is accepted for conceptual review shall not be considered complete pursuant to the requirements of the Act unless and until the Director has received an application for approval of a development project, reviewed it, and determined it to be complete under Section TBD, Review of Applications.
- B. **Review Procedure.** The Planning Division shall conduct conceptual review. The Director may consult with or request review by any City agency or official with interest in the application. The Director may refer items to the Planning Commission when in his/her opinion the conceptual review would benefit from Planning Commission input.
- C. **Fees.** Conceptual review application fees are credited toward any future discretionary permit application.
- D. **Recommendations are Advisory.** Neither the conceptual review nor the provision of information and/or pertinent policies shall be construed as a recommendation for approval or denial of the application by City representatives. Any recommendations that result from conceptual review are considered advisory only and shall not be binding on either the applicant or the City.

17.25.040 Review of Applications

- A. **Review Process.** The Director shall determine whether an application is complete within 30 days of the date the application is filed with the required fee.
- B. **Incomplete Application.** If an application is incomplete, the Director shall provide written notification to the applicant listing the applications for permit(s), forms, information, and any additional fees that are necessary to complete the application.

1. **Zoning Code Violations.** An application shall not be found complete if conditions exist on the site in violation of this Zoning Code or any permit or other approval granted in compliance with this Zoning Code, unless the proposed project includes the correction of the violations.
 2. **Appeal of Determination.** Determinations of incompleteness are subject to the provisions of Section TBD, Appeals, except there shall be a final written determination on the appeal no later than 60 days after receipt of the appeal. The fact that an appeal is permitted to both the Planning Commission and the City Council does not extend the 60-day period.
 3. **Submittal of Additional Information.** The applicant shall provide the additional information within 30 days of the notice of incompleteness unless a longer time limit is specified by the Director.
 4. **Expiration of Application.** If an applicant fails to correct the specified deficiencies within the specified time limit, the application shall expire and be deemed withdrawn. After the expiration of an application, project review shall require the submittal of a new, complete application, along with all required fees.
- C. **Complete Application.** When an application is determined to be complete, the Director shall make a record of that date. If an application requires a public hearing, the Director shall schedule it and notify the applicant of the date and time.
- D. **Extensions.** The Director may, upon written request and for good cause, grant extensions of any time limit for review of applications imposed by this Title.

17.25.050 Environmental Review

All projects shall be reviewed for compliance with or exemption from the California Environmental Quality Act (CEQA). Environmental review will be conducted pursuant to Title 14 of the California Code of Regulations (CEQA Guidelines). If Title 14 of the California Code is amended, such amendments will govern City procedures.

17.25.060 Public Notice

Unless otherwise specified, whenever the provisions of this Title require public notice, the City shall provide notice in compliance with State law as follows.

- A. **Posted Notice.** At least 10 days before the date of the public hearing or the date of action when no public hearing is required the City shall post a notice in a conspicuous place on the project site and at the Morro Bay branch of the public library, at the Planning Division office, and at City Hall.
- B. **Mailed Notice.** At least 10 days before the date of the public hearing or before the date of action when no public hearing is required, the Director, or the City Clerk for hearings before the City Council, shall provide notice by First Class mail delivery to:
 1. The applicant, the owner, and any occupant of the subject property;
 2. All owners of record as shown on the latest available records of the County Assessor of property within 500 feet of the subject property.

3. All neighborhood and community organizations that have previously filed a written request for notice of projects in the area where the site is located; and
 4. Any person or group who has filed a written request for notice regarding the specific application.
- C. **Newspaper Notice.** At least 10 days before the date of the public hearing or the date of action when no public hearing is required, the Director or the City Clerk for hearings before the City Council, shall publish a notice in at least one newspaper of general circulation in the City.
- D. **Alternative Method for Large Mailings.** If the number of owners to whom notice would be mailed or delivered is greater than 1,000, instead of mailed notice, the Director or City Clerk may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation in the City at least 10 days prior to the hearing.
- E. **Contents of Notice.** The notice shall include the following information:
1. The location of the real property, if any, that is the subject of the application;
 2. A general description of the proposed project or action;
 3. The City's file number assigned to the application;
 4. The date, time, location, and purpose of the public hearing or the date of action when no public hearing is required and the identity of the hearing body or officer;
 5. The date of filing of the application and names of the applicant and the owner of the property that is the subject of the application;
 6. The location and times at which the complete application and project file, including any environmental impact assessment prepared in connection with the application, may be viewed by the public;
 7. A statement that any interested person or authorized agent may appear and be heard;
 8. A statement describing how to submit written comments;
 9. For Council hearings, the Planning Commission recommendation; and
 10. A statement, if applicable, that the project is located within the City's Coastal Zone, that the decision will include a determination on a Coastal Development Permit, and whether the project is appealable to the Coastal Commission under Public Resources Code 30603(a).
- F. **Failure to Notify Individual Properties.** The validity of the proceedings shall not be affected by the failure of any property owner, resident, or neighborhood or community organization to receive a mailed notice.

17.25.070 Conduct of Public Hearings

Whenever the provisions of this Title require a public hearing, the hearing shall be conducted in compliance with the requirements of State law and as follows.

- A. **Generally.** Hearings shall be conducted pursuant to procedures adopted by the hearing body. They do not have to be conducted according to technical rules relating to evidence and witnesses.
- B. **Scheduling.** Hearings before the City Council shall be scheduled by the City Clerk. All other hearings shall be scheduled by the Director.
- C. **Presentation.** An applicant or an applicant's representative may make a presentation of a proposed project.
- D. **Public Hearing Testimony.** Any person may appear at a public hearing and submit oral or written evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing representing an organization shall identify the organization being represented.
- E. **Time Limits.** The presiding officer may establish time limits for individual testimony and require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals.
- F. **Continuance of Public Hearing.** The body conducting the public hearing may by motion continue the public hearing to a fixed date, time and place without providing further notice, or may continue the item to an undetermined date and provide notice of the continued hearing.
- G. **Investigations.** The body conducting the hearing may cause such investigations to be made as it deems necessary and in the public interest in any matter to be heard by it. Such investigation may be made by a committee of one or more members of the hearing body or by City staff. The facts established by such investigation shall be submitted to the hearing body either in writing, to be filed with the records of the matter, or in testimony before the hearing body, and may be considered by the body in making its decision.
- H. **Decision.** The public hearing shall be closed before a vote is taken.

17.25.080 Timing and Notice of Action and Findings Required

When making a decision to approve, approve with conditions, revoke or deny any discretionary permit under this Title, the responsible authority shall issue a Notice of Action and make findings of fact as required by this Title.

- A. **Timing.** The responsible authority shall decide to approve, revoke, or deny any discretionary permit following the close of the public hearing, or if no public hearing is required, within the time period set forth below. These deadlines do not apply to any action that has been appealed to the City Council in accordance with Section TBD, Appeals.
 - 1. **Project Exempt from Environmental Review.** Within 30 days of the date the City has determined an application to be complete, a determination must be made whether the project is exempt from Environmental Review per State CEQA requirements.
 - 2. **Project for which a Negative Declaration or Mitigated Negative Declaration is Prepared.** Within 60 days of the date a Negative Declaration or Mitigated Negative

Declaration has been completed and adopted for project approval, the City shall take action on the accompanying discretionary project.

3. **Project for which an EIR is Prepared.** Within 180 days from the date the decision-making authority certifies a Final EIR, the City shall take action on the accompanying discretionary project.
- B. **Notice of Action.** After any action to approve, or deny an application that is subject to appeal under the terms of this Title, the Director shall issue a Notice of Action. The Notice shall describe the action taken, including any applicable conditions, and shall list the findings that were the basis for the decision. The Director shall mail the Notice to the applicant and to any other person or entity that has filed a written request for such notification with the Planning Division.
1. **Coastal Development Permits.**
 - a. **Final Local Decision.** A local decision on an application for a Coastal Development Permit shall not be deemed final until:
 - i. A local decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified Local Coastal Program, and where applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act; and
 - ii. All local rights to appeal pursuant to Section TBD, Appeals, have been exhausted.
 - b. **Notice of Final Action.** Within five business days of a final local decision on an application for a Coastal Development Permit, the Community Development Director shall provide notice of the action in writing by first class mail to the California Coastal Commission and to any persons who specifically requested such notice and provided a self-addressed, stamped envelope. Such notice shall include conditions of approval, written findings and the procedures for appeal of the City decision to the California Coastal Commission.
- C. **Findings.** Findings, when required by State law or this Title, shall be based upon consideration of the application, plans, testimony, reports, and other materials that constitute the administrative record and shall be stated in writing in the resolution or record of the action on the permit.

17.25.090 Scope of Approvals

- A. **Scope.** Any approval permits only those uses and activities actually included in the project approval, and excludes other uses and activities. Unless otherwise specified, the approval of a new use shall terminate all rights and approvals for previous uses no longer occupying the same site or location.
- B. **Conditions of Approval.** The site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or submitted during the approval

process shall be deemed conditions of approval. Any approval may be subject to requirements that the applicant guarantees, warranties or insures compliance with permit's plans and conditions in all respects.

- C. **Actions Subject to Enforcement.** If the construction of a building or structure or the use established is contrary to the description or illustration in the application, so as to either violate any provision of this Title or require additional permits, then the approval shall be suspended and subject to revocation and enforcement provisions of Chapter TBD, Enforcement.
- D. **Periodic Review.** All approvals may be subject to periodic review to determine compliance with the permit and applicable conditions. If a condition specifies that activities or uses allowed under the permit are subject to periodic reporting, monitoring or assessments, it shall be the responsibility of the permit holder, the property owner or successor property owners to comply with such conditions.

17.25.100 Effective Dates

A final decision on an application for any discretionary approval subject to appeal shall become effective after the expiration of the 10-day appeal period following the date of action, unless an appeal is filed. No building permit or business license shall be issued until the 11th day following the date of the action.

A. **Coastal Development Permits.**

- 1. **Outside the Coastal Appeal Jurisdiction.** A final decision on a Coastal Development Permit for projects outside the Coastal Development Permit appeal area shall become effective after the City's 10-day appeal period has expired unless an appeal is filed, or the Notice of Final Action required for Coastal Development Permits pursuant to Section TBD.B, Notice of Action, is inadequate.
- 2. **Within the Coastal Appeal Jurisdiction.** A final decision on an application for a Coastal Development Permit for projects within the Coastal Development Permit appeal area shall become effective 10 working days after the date the Coastal Commission receives a Notice of Final Action pursuant to Section TBD. B, Notice of Action unless either of the following occur:
 - a. An appeal is filed with the Coastal Commission within 10 working days of Coastal Commission receipt of the Notice of Final Action; or
 - b. Notice of Final Action does not meet the requirements set forth in Section TBD.B, Notice of Action.

17.25.110 Expiration and Extension

Permits and approvals granted under this Title shall automatically expire and become null and void if the approval is not inaugurated within the time periods established in this Section, or the approved use, structure, or site development is not continued pursuant to Section TBD.B, Continuation of Use, Structure, or Site Development.

- A. **Inaugurating a Permit or Approval.** A permit or approval is inaugurated when a valid City building permit has been issued for work related to the approval and construction work

has begun and been carried on diligently without substantial suspension or abandonment of work. Where a building permit is not required, the approval shall be considered inaugurated when the use or development authorized by the approval has commenced and, if required, a valid City business license has been issued.

B. Time Period in which to Inaugurate a Permit or Approval.

1. **Expiration.** The decision-maker, in the granting of any permit, may specify a time, consistent with the purposes of the use and necessary to safeguard the public safety, health and welfare, within which the proposed project must be undertaken and actively and continuously pursued. If no time period is specified, any permit granted under this Title shall automatically expire if it is not inaugurated or extended within two years of its approval.
 - a. A Coastal Development Permit shall expire on the latest expiration date applicable to any other permit or approval required for the project.
2. **Extensions.** The Director may approve up to two one-year extensions of any permit or approval granted under this Title upon receipt of a written application with the required fee prior to expiration date of the permit. For discretionary permits issued by the Planning Commission, the Planning Commission may approve additional extensions upon conducting a public hearing.

C. Continuation of Use, Structure, or Site Development. A use, structure, or site development authorized by the permit or approval is considered continued unless the structure or site development is demolished pursuant to Section TBD, Demolition, or the use authorized by the approval is discontinued pursuant to Section TBD, Discontinuation of Use.

17.25.120 Revisions of Approved Plans and Permits

No change in the use, structure, or site development for which a permit or other approval has been issued is permitted unless the permit or approval is revised as provided for in this Title.

- A. **Minor Revisions.** The Director may approve minor changes to approved plans that are consistent with the original findings and conditions approved by the hearing body and would not intensify any potentially detrimental effects of the project.
- B. **Major Revisions.** A request for changes in conditions of approval of a discretionary permit or for a change in an approved site plan or building plan that would affect a condition of approval shall be treated as a new application, except that the Director may approve changes determined to be minor.

17.25.130 Appeals

- A. **Applicability.** An action by the Director or Planning Commission in the administration or enforcement of the provisions of this Title may be appealed in accordance with this Section.
 1. **Appeals of Director Decisions.** Decisions of the Director may be appealed to the Planning Commission by filing a written appeal with the Planning Division.

2. **Appeals of Planning Commission Decisions.** Decisions of the Planning Commission may be appealed to the City Council by filing a written appeal with the City Clerk and paying any applicable fees.
3. **Appeals of Local Decisions on Coastal Development Permits.** Actions on Coastal Development Permits for the following types of development may also be appealed to the California Coastal Commission pursuant to Section TBD.C, Appeals to the Coastal Commission.
 - a. **Appealable Development.** Pursuant to Public Resources Code Section 30603(a), an action taken by the City on a Coastal Development Permit application may be appealed to the Coastal Commission for the following types of development.
 - i. Developments between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.
 - ii. Developments that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.
 - iii. Developments located in a sensitive coastal resource area.
 - iv. Any development which constitutes a major public works project or a major energy facility.

B. **Appeal Process.**

1. **Rights of Appeal.** Appeals may be filed by the applicant, by the owner of property, or by any other person aggrieved by a decision that is subject to appeal under the provisions of this Title.
2. **Time Limits.** Unless otherwise specified in State or federal law, all appeals shall be filed in writing within 10 days of the date of the action, decision, motion, or resolution from which the action is taken. In the event an appeal period ends on a Saturday, Sunday, or any other day the City is closed, the appeal period shall end at the close of business on the next consecutive business day.
3. **Procedures.**
 - a. **Filing.** The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal. The appeal shall be accompanied by the required fee.
 - b. **Proceedings Stayed by Appeal.** The timely filing of an appeal shall stay all proceedings in the matter appealed including, but not limited to, the issuance of City building permits and business licenses.
 - c. **Public Notice and Hearing.** The Director, or in the case of appeals to the City Council, the City Clerk, shall schedule the appeal for consideration by the applicable appeal body within 60 days of the date the appeal is filed.

Notice of the appeal hearing must be provided in the same manner required for the action that was the subject of the appeal.

C. **Appeals to the Coastal Commission.** A final action taken by the City on a Coastal Development Permit application for appealable development may be appealed to the California Coastal Commission in compliance with this Section.

1. ***Status of Appellant.***

- a. ***Who may Appeal.*** An appeal may be filed by an applicant, an aggrieved person, or two members of the Coastal Commission in compliance with Public Resources Code Section 30625.
- b. ***Aggrieved Person Defined.*** As provided by Public Resources Code Section 30801, an aggrieved person is anyone who, in person or through an explicitly identified representative, appeared at a public hearing held before the Zoning Administrator, Planning Commission, or Council in connection with the decision or appeal of any project, or who by other appropriate means before a hearing, informed the City of the nature of their concerns, unless for good cause was unable to do either.

2. ***Exhaustion of City Appeals Required.*** An applicant or other aggrieved person may appeal a City decision on a Coastal Development Permit application to the Coastal Commission only after exhausting all appeals to the Planning Commission and Council in compliance with this Section. This limitation shall not apply to any circumstance identified in Code of Regulations Section 13573, including:

- a. An appellant was denied the right of appeal under this Section because City notice and hearing procedures did not comply with Title 14, Division 5.5, Chapter 8, Subdivision 2 of the Code of Regulations; or
- b. An appeal of a City decision was filed by two members of the Coastal Commission in compliance with Public Resources Code Section 30625. (Notice of a Coastal Commissioners' appeal shall be transmitted to the City in compliance with Code of Regulations Section 13573(b). The appeal shall be suspended where the City decision has been appealed. If the final action by an appellate body changes or reverses the previous decision, the Coastal Commissioners shall be required to file a new appeal of that decision if deemed appropriate and necessary.)

3. ***Grounds for appeal to Coastal Commission.*** Pursuant to Public Resources Code Section 30603, the grounds for an appeal to the Coastal Commission of a City decision on a Coastal Development Permit application are as follows:

- a. For approval of a Coastal Development Permit, an allegation that the project does not conform to the standards of the Coastal Land Use Plan or the public access policies of the Coastal Act;
- b. For elimination or change of a condition of approval for a Coastal Development Permit, an allegation that the condition was not needed or should be adjusted; or

- c. For denial of a development, an allegation that the project conforms to the standards of the Coastal Land Use Plan and the public access policies of the Coastal Act.
4. ***Time Limit for Filing an Appeal to the Coastal Commission.*** An appeal of a Council decision on an appealable development shall be filed with the Coastal Commission within 10 business days of the receipt by the Coastal Commission of adequate notice of final City action, in compliance with this Section and the Coastal Act.
5. ***Notice to City of Appeal to Coastal Commission.*** An appellant shall notify the City when appealing to the Coastal Commission by providing the City a copy of the appeal within five days of filing the appeal.

17.25.140 Interpretations and Determinations

Requests for interpretations of this Title and verifications relating to prior approvals or permits may be made to the Director. Requests shall be in writing. The decision of the Director or Planning Commission on such requests may be appealed under Section TBD, Appeals.

Chapter 17.26 Zoning Clearance

Sections:

- 17.26.010 Purpose
- 17.26.020 Applicability
- 17.26.030 Review and Decision

17.26.010 Purpose

This Chapter establishes procedures for conducting a Zoning Clearance to verify that each new or expanded use, activity, improvement, or structure complies with all of the applicable requirements of this Title.

17.26.020 Applicability

A Zoning Clearance is required for property improvements, buildings or structures erected, constructed, altered, repaired or moved, the use of vacant land, changes in the character of the use of land or building, or for substantial expansions in the use of land or building, which are allowed as a matter of right by this Title.

17.26.030 Review and Decision

Before work may commence and before the City may issue any business license, building permit, subdivision approval, or lot line adjustment, the Director shall review the application to determine whether the improvement, use, building, or change in lot configuration complies with all provisions of this Title or any Design Review, Use Permit or Variance approval and that all conditions of such permits and approvals have been satisfied.

- A. **Application.** Applications and fees for a Zoning Clearance shall be submitted in accordance with the provisions set forth in Section TBD, Application Forms and Fees. The Director may request that the Zoning Clearance application be accompanied by a written narrative, plans and other related materials necessary to show that the proposed development, alteration, or use of the site complies with all provisions of this Title and the requirements and conditions of any applicable Design Review, Use Permit, Variance, Coastal Development Permit, or other planning approval.
- B. **Determination.** If the Director determines that the proposed use, building, or site development is allowed as a matter of right by this Title, and conforms to all the applicable development and use standards, the Director shall issue a Zoning Clearance. An approved Zoning Clearance may include attachments of other written or graphic information, including but not limited to, statements, numeric data, site plans, floor plans and building elevations and sections, as a record of the proposal's conformity with the applicable regulations of this Title.
- C. **Exceptions.** No Zoning Clearance shall be required for the continuation of previously approved or permitted uses and structures, or uses and structures that are not subject to any building or zoning regulations.

Chapter 17.27 Design Review

Sections:

- 17.27.010 Purpose
- 17.27.020 Applicability
- 17.27.030 Review Authority
- 17.27.040 Application
- 17.27.050 Public Notice
- 17.27.060 Public Hearing
- 17.27.070 Scope of Design Review
- 17.27.080 Design Review Criteria
- 17.27.090 Appeals; Expiration, Extensions, and Revisions; Revocation

17.27.010 Purpose

This Chapter establishes the design review procedure to ensure that new development supports the goals and objectives of the General Plan and other adopted plans and guidelines. The specific purposes of the design review process are to:

- A. Promote excellence in site planning and design and the harmonious appearance of buildings and sites;
- B. Ensure that new and altered uses and development will be compatible with the existing and potential development of the surrounding area; and
- C. Supplement other City regulations and standards in order to ensure control of aspects of design that are not otherwise addressed.

17.27.020 Applicability

Design review is required for all projects that require a permit for new construction, reconstruction, rehabilitation, alteration, or other improvements to the exterior of a structure, site, or a parking area except for:

- A. Additions, construction, reconstruction, alterations, improvements, and landscaping for a project developed in compliance with a previous design review approval; and
- B. Replacement of exterior materials, including openings, with the same materials.

17.27.030 Review Authority

- A. **Planning Commission.** The Planning Commission shall have design review authority for the following projects:
 - 1. **Multi-Unit Development.** Multi-unit development consisting of five or more units.

2. **Nonresidential Development.** All new construction and any improvement or addition that results in more than a 10 percent increase in floor area or more than 2,000 square feet of floor area.
 3. **Other Projects.** All projects otherwise requiring Planning Commission approval.
- B. **Director.**
1. The Director shall have design review authority for all projects that do not meet the criteria listed in Subsection A for a decision by the Planning Commission.
 2. The Director may refer items directly to the Planning Commission when in his/her opinion the public interest would be better served by having the Planning Commission conduct design review.

17.27.040 Application

- A. **Forms and Fees.** Written applications for design review applications shall be submitted to the Planning Division in compliance with the application procedures in Chapter TBD, Common Procedures.
- B. **Concurrent Processing.** When a development project requires a Use Permit, Variance, Coastal Development Permit, or any other discretionary approval, the design review application shall be submitted as a part of the application for the underlying permit, Coastal Development Permit, Use Permit, or Variance.

17.27.050 Public Notice

- A. **Design Review by the Planning Commission.** For all projects for which the Planning Commission is the design review authority, public notice shall be provided pursuant to Section TBD, Public Notice.
- B. **Design Review by the Director.** No public notice is required for Design Review for projects for which the Director is the design review authority.

17.27.060 Public Hearing

- A. **Design Review by the Planning Commission.** All projects for which the Planning Commission is the design review authority, shall require a public hearing before the Planning Commission pursuant to Section TBD, Conduct of Public Hearings.
- B. **Design Review by the Director.** No public hearing is required for Design Review where the Director is the design review authority.

17.27.070 Scope of Design Review

- A. **Design Review Considerations.** Design review shall be based on consideration of the requirements of this Chapter as they apply to the design of the site plan, structures, landscaping, and other physical features of a proposed project, including:
 1. Building proportions, massing, and architectural details;

2. Site design, orientation, location, and architectural design of buildings relative to existing structures on or adjacent to the property, topography, and other physical features of the natural and built environment;
 3. Size, location, design, development, and arrangement of on-site parking and other paved areas;
 4. Exterior materials and, except in the case of design review of a single-family residence, color as they relate to each other, to the overall appearance of the project, and to surrounding development;
 5. Height, materials, design, fences, walls, and screen plantings;
 6. Location and type of landscaping including selection and size of plant materials, and design of hardscape; and
 7. Size, location, design, color, lighting, and materials of all signs.
- B. **Reduction in Density.** Design review shall not result in a reduction in the residential density.

17.27.080 Design Review Criteria

When conducting design review, the review authority shall evaluate applications to ensure that they satisfy the following criteria, conform to the policies of the General Plan and any applicable specific plan, the Residential Design Guidelines and any other applicable design guidelines, and are consistent with any other policies or guidelines the City Council may adopt for this purpose. To obtain design review approval, projects must satisfy the following criteria to the extent they apply.

- A. The overall design of the project including its scale, massing, site plan, exterior design, and landscaping will enhance the appearance and features of the project site and surrounding natural and built environment.
- B. The project design is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.
- C. Project details, materials, signage and landscaping, are internally consistent, fully integrated with one another, and used in a manner that is visually consistent with the proposed architectural design.
- D. The design of streetscapes, including street trees, lighting, and pedestrian furniture, is consistent with the intended character of the area.
- E. Parking areas are designed and developed to buffer surrounding land uses; compliment pedestrian-oriented development; enhance the environmental quality of the site, including minimizing stormwater run-off and the heat-island effect; and achieve a safe, efficient, and harmonious development.
- F. Lighting and lighting fixtures are designed to complement buildings, be of appropriate scale, provide adequate light over walkways and parking areas to create a sense of pedestrian safety, and avoid creating glare.
- G. Landscaping is designed to be compatible with and enhance the architectural character and features of the buildings on site, and help relate the building to the surrounding landscape.

17.27.090 Appeals; Expiration, Extensions, and Revisions; Revocation

- A. **Appeals.** Design review decisions are subject to the appeal provisions of Section TBD, Appeals.
- B. **Expiration, Extensions and Revisions.** Design review approval is effective and may only be extended or revised as provided for in Chapter TBD, Common Procedures.
- C. **Revocation.** Design review approval may be revoked pursuant to Section TBD, Revocation, if any of the conditions or terms of the approval are violated or if any law or ordinance is violated.

Chapter 17.28 Coastal Development Permits (IP)

Sections:

- 17.28.010 Purpose
- 17.28.020 Applicability
- 17.28.030 Review Authority
- 17.28.040 Application
- 17.28.050 Public Notice
- 17.28.060 Public Hearing
- 17.28.070 Required Findings
- 17.28.080 Conditions of Approval
- 17.28.090 Appeals; Expirations, Extensions, and Revisions; Revocation
- 17.28.100 Failure to Act Notice

17.28.010 Purpose

This Chapter establishes a process for consideration and review of Coastal Development Permits issued by the City, which is intended to implement the California Coastal Act of 1976 (Division 20 of the Public Resources Code), as amended, in accordance with the City's Local Coastal Program.

17.28.020 Applicability

The provisions of this Chapter apply to Coastal Development Permits for development in the Coastal (CZ) Overlay Zone except the following:

- A. Development specifically excluded or exempted pursuant to Section TBD, Exclusions and Exemptions.
- B. Development determined to require a permit or exemption issued by the Coastal Commission pursuant to Section TBD, Determination of Applicable Coastal Development Permit Procedures.

17.28.030 Review Authority

The following bodies shall approve, conditionally approve, revise or deny applications for Coastal Development Permits based on consideration of the requirements of this Chapter.

- A. **Director.** The Director shall review applications for Coastal Development Permits for development that meets all the following criteria:
 - 1. The development will not result in more than four new residential units;
 - 2. The development will not result in the demolition of more than two residential units;
 - 3. The development does not constitute major public works as defined by the California Code of Regulations Section 13012;

4. The development does not require discretionary action by the Planning Commission under another provision of this Title; and
 5. The development is not appealable to the Coastal Commission pursuant to Public Resources Code Section 30603 and Title 14 Sections 13110 through 13120 of the California Code of Regulations.
- B. **Planning Commission.** The Planning Commission shall review applications for Coastal Development Permits for all projects that do not meet the criteria listed in Section TBD.A, Director, for a decision by the Director.

17.28.040 Application

Applications for Coastal Development Permits shall be accepted and processed pursuant to Chapter TBD, Common Procedures, and the specific requirements of this Chapter. In addition to any other application requirements, the application for a Coastal Development Permit shall include data or other evidence in support of the applicable findings required by Section TBD, Required Findings, below.

- A. **Timing.** The application for the Coastal Development Permit shall be filed with the Community Development Director prior to or concurrent with other necessary City permits or approvals for the subject development.

17.28.050 Public Notice

- A. **Coastal Development Permits that Require Public Hearing.** For Coastal Development Permits where a public hearing is required, public notice shall be provided as specified in Section TBD, Public Notice. In addition to the recipients listed in Section TBD(A), Mailed Notice, notice by First Class mail delivery shall be provided to:
1. Occupants of property within 500 feet of the affected parcel;
 2. All persons who have requested to be on the mailing list for decisions by the City within the Coastal Zone; and
 3. The Coastal Commission.
- B. **Coastal Development Permits that Do Not Require Public Hearing.** For Coastal Development Permits where no public hearing is required, public notice shall be provided as follows.
1. **Posted Notice.** Posted notice shall be provided as specified in Subsection TBD(A), Posted Notice.
 2. **Mailed Notice.** Mailed notice pursuant to Section TBD, Public Notice, shall be provided to:
 - a. The applicant, the owner, and any occupant of the subject property;
 - b. Property owners and occupants within 500 feet of subject property;
 - c. The Coastal Commission; and

- d. All persons who have filed a written request for notice of all projects in the Coastal Zone, all projects in the area where the site is located, or any action regarding the specific application.

17.28.060 Public Hearing

At least one public hearing shall be held on each application for a Coastal Development Permit for which the Planning Commission is the Review Authority pursuant to Section TBD, Review Authority.

17.28.070 Required Findings

A Coastal Development Permit shall only be approved if the following findings are made:

- A. The project is consistent with the policies of the City's certified Local Coastal Program; and
- B. The project, if appealable to the Coastal Commission, is consistent with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

17.28.080 Conditions of Approval

In approving a Coastal Development Permit, the Review Authority may impose reasonable conditions or restrictions deemed necessary to:

- A. Ensure that the proposal conforms in all significant aspects with the certified Local Coastal Program; and
- B. Achieve the findings for a Coastal Development Permit listed in Section TBD, Required Findings, above.
- C. The Review Authority may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

17.28.090 Appeals; Expirations, Extensions, and Revisions; Revocation

- A. **Appeals.** An applicant or any other aggrieved party may appeal a decision on a Coastal Development Permit pursuant to the provisions of Section TBD, Appeals.
- B. **Expiration, Extensions and Revisions.** Coastal Development Permits are effective and may only be extended or revised as provided for in Chapter TBD, Common Procedures.
- C. **Revocation.** Coastal Development Permit approval may be revoked pursuant to Section TBD, Revocation, if any of the conditions or terms of the approval are violated or if any law or ordinance is violated.

17.28.100 Failure to Act Notice

- A. **Notification by Applicant.** If the City has failed to act on an application within the time limits set forth in Article 5 ("Approval of Development Permits") of Title 7, Division I, Chapter 4.5 of the Government Code, commencing with 65950, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to

Government Code Section 65950 et seq. shall notify, in writing, the City and the Coastal Commission of the claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved.

- B. **Notification by City.** Upon determination that the time limits established pursuant to Government Code Section 65950 et seq. have expired, the Community Development Director shall, within five working days of such determination, notify those persons entitled to receive notice that it has taken final action by operation of law pursuant to Government Code Section 65956. The appeal period for projects approved by operation of law shall begin only upon receipt of the City's notice in the office of the Coastal Commission.

Chapter 17.29 Use Permits

Sections:

- 17.29.010 Purpose
- 17.29.020 Applicability
- 17.29.030 Review Authority
- 17.29.040 Application
- 17.29.050 Public Notice
- 17.29.060 Public Hearing
- 17.29.070 Required Findings
- 17.29.080 Conditions of Approval
- 17.29.090 Appeals; Expirations, Extensions, and Revisions; Revocation

17.29.010 Purpose

The Use Permit review and approval process is intended to apply to uses that are generally consistent with the purposes of the zoning district where they are proposed but require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties.

17.29.020 Applicability

Approval of a Use Permit is required for uses or developments specifically identified in Division II, District Regulations, and/or any other section of this Title which requires a Use Permit.

17.29.030 Review Authority

- A. **Conditional Use Permits.** The Planning Commission shall approve, conditionally approve, or deny applications for Conditional Use Permits based on consideration of the requirements of this Chapter.
- B. **Minor Use Permits.** The Director shall approve, conditionally approve, or deny applications for Minor Use Permits based on consideration of the requirements of this Chapter.
 - 1. The Director may, at their discretion, refer any application for a Minor Use Permit for a project that may generate substantial public controversy or involve significant land use policy decisions to the Planning Commission for a decision rather than acting on it themselves. In that case, the application shall be processed as a Conditional Use Permit.

17.29.040 Application

An application for a Use Permit shall be filed to the Planning Division in accordance with Section TBD, Application Forms and Fees. In addition to any other application requirements, the application for a Use Permit shall include data or other evidence in support of the applicable findings required by Section TBD, Required Findings, below.

17.29.050 Public Notice

Public notice pursuant to Section TBD, Public Notice, is required for all Use Permits.

17.29.060 Public Hearing

- A. **Conditional Use Permits.** All applications for Conditional Use Permits shall require a public hearing before the Planning Commission pursuant to Section TBD, Conduct of Public Hearings.
- B. **Minor Use Permits.** No public hearing is required for Minor Use Permits where the Director is the Review Authority.
 - 1. Minor Use Permit applications referred to the Planning Commission for decision shall require a public hearing pursuant to Section TBD, Conduct of Public Hearings.

17.29.070 Required Findings

The Review Authority must make all of the following findings in order to approve or conditionally approve a Use Permit application. The inability to make one or more of the findings is grounds for denial of an application.

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Title and all other titles of the Municipal Code;
- B. The proposed use is consistent with the General Plan and any applicable specific plan;
- C. The proposed use will not be adverse to the public health, safety, or general welfare of the community, nor detrimental to surrounding properties or improvements;
- D. The proposed use complies with any design or development standards applicable to the zoning district or the use in question unless waived or modified pursuant to the provisions of this Title;
- E. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity; and
- F. The site is physically suitable for the type, density, and intensity of use being proposed.

17.29.080 Conditions of Approval

In approving a Use Permit, the Review Authority may impose reasonable conditions or restrictions deemed necessary to:

- A. Ensure that the proposal conforms in all significant aspects with the General Plan and with any other applicable plans or policies adopted by the City Council;
- B. Achieve the general purpose of this Title or the specific purpose of the zoning district in which the project is located;
- C. Achieve the findings for a use permit listed in Section TBD, Required Findings, above; or

- D. Mitigate any potentially significant impacts identified as a result of environmental review conducted in compliance with the California Environmental Quality Act.

The Review Authority may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

17.29.090 Appeals; Expirations, Extensions, and Revisions; Revocation

- A. **Appeals.** An applicant or any other aggrieved party may appeal a decision on a Use Permit pursuant to the provisions of Section TBD, Appeals.
- B. **Expiration, Extensions and Revisions.** Use Permits are effective and may only be extended or revised as provided for in Chapter TBD, Common Procedures.
- C. **Revocation.** Use Permit approval may be revoked pursuant to Section TBD, Revocation, if any of the conditions or terms of the approval are violated or if any law or ordinance is violated.

Chapter 17.30 Temporary Use Permits

Sections:

- 17.30.010 Purpose
- 17.30.020 Application
- 17.30.030 Public Notice
- 17.30.040 Required Findings
- 17.30.050 Conditions of Approval

17.30.010 Purpose

This Chapter establishes a process for review and approval of certain uses that are intended to be of limited duration of time and will not permanently alter the character or physical facilities of the site where they occur.

17.30.020 Application

An application for a Temporary Use Permit shall be submitted at least 15 days before the use is intended to begin. The application shall be on the required form and shall include the written consent of the owner of the property or the agent of the owner.

17.30.030 Public Notice

- A. **Posted Notice.** At least 10 days before the date the temporary use will commence, notice shall be posted on the project site.
- B. **Contents of Notice.** The notice shall include the following information:
 - 1. The location of the real property, if any, that is the subject of the application;
 - 2. A general description of the proposed temporary use;
 - 3. The City's file number assigned to the application;
 - 4. The date, time, and duration of the temporary use;
 - 5. The location and times as which the application and project file may be viewed by the public; and
 - 6. A statement describing how to submit written comments.

17.30.040 Required Findings

The Director may approve an application for a temporary use only upon making both of the following findings:

- A. The proposed use will not unreasonably affect adjacent properties, their owners and occupants, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety, peace, comfort, or general welfare of

persons residing or working in the area of such use or to the general welfare of the City;
and

- B. The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use, and will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas.

17.30.050 Conditions of Approval

The Director may impose reasonable conditions deemed necessary to ensure compliance with the findings for a Temporary Use Permit listed in Section TBD, Required Findings, including, but not limited to: regulation of ingress and egress and traffic circulation; fire protection and access for fire vehicles; regulation of lighting; regulation of hours and/or other characteristics of operation; and removal of all trash, debris, signs, sign supports and temporary structures and electrical service. The Director may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

Chapter 17.31 Modifications (IP)

Sections:

- 17.31.010 Purpose
- 17.31.020 Applicability and Review Authority
- 17.31.030 Application
- 17.31.040 Public Notice
- 17.31.050 Public Hearing
- 17.31.060 Required Findings
- 17.31.070 Conditions of Approval
- 17.31.080 Appeals; Expiration, Extensions, and Revisions; Revocation

17.31.010 Purpose

The purpose of this Chapter is to establish an alternate means of granting relief from the requirements of this Title when so doing would be consistent with the purposes of the Zoning Code and it is not possible or practical to approve a Variance.

17.31.020 Applicability and Review Authority

The Director may grant Modifications as specifically identified in any other section of this Title and as follows:

- A. **Dimensional Requirements.** Relief from dimensional requirements of property development standards specified in this Title, not to exceed 10 percent of the requirement. Types of standards for which Modifications may be approved by the Director include, but are not limited to:
 - 1. **Setbacks.** Front, side, and rear yard setback standards.
 - 2. **Parking.** The dimensional standards for parking spaces, aisles, driveways, landscaping, garages, and parking facility design.
 - 3. **Fences.** Standards for the location, height, and design of fences.
 - 4. **Lot Coverage.** Standards for the maximum amount of lot coverage.
 - 5. **Height.** Maximum building height or other height limitations.
 - 6. **Landscaping.** Standards for required landscaping and plantings.
 - 7. **Transparency.** Required ground-floor building transparency.
 - 8. **Other Standards.** Up to 10 percent of other development standards not listed in Subsection B below.
- B. **Exclusions.** Modification of the following standards may not be granted:
 - 1. Lot area, width, or depth.
 - 2. Residential density.

3. Maximum floor area ratio (FAR).

17.31.030 Application

- A. **Concurrent Processing.** If a request for a Modification is being submitted in conjunction with an application for another approval, permit, or entitlement that requires Planning Commission action, it shall be heard and acted upon at the same time and in the same manner as that application.
- B. **Application Requirements.** An application for a Modification shall be filed to the Planning Division in accordance with Section TBD, Application Forms and Fees. In addition to any other application requirements, the application shall state in writing the nature of the modification requested and explain why the findings necessary to grant the modification are satisfied. The applicant shall also submit plans delineating the requested modification.

17.31.040 Public Notice

Public notice pursuant to Section TBD, Public Notice, is required for all Modifications.

17.31.050 Public Hearing

No public hearing is required for Modifications where the Director is the Review Authority.

17.31.060 Required Findings

A decision to grant a Modification shall be based on the following findings:

- A. The modification is necessary due to the physical characteristics of the property and the proposed use or structure or other circumstances, including, but not limited to, topography, noise exposure, irregular property boundaries, or other unusual circumstance.
- B. There are no alternatives to the requested modification that could provide an equivalent level of benefit to the applicant with less potential detriment to surrounding owners and occupants or to the general public.
- C. The granting of the requested modification would not be detrimental to the health or safety of the public or the occupants of the property or result in a change in land use or density that would be inconsistent with the requirements of this Title.

17.31.070 Conditions of Approval

In approving a Modification, the Review Authority may impose any conditions deemed necessary to:

- A. Ensure that the proposal conforms in all significant respects with the General Plan, Local Coastal Program, and with any other applicable plans or policies adopted by the City Council;
- B. Achieve the general purposes of this Title or the specific purposes of the zoning district in which the project is located;
- C. Achieve the findings for a modification granted; or

- D. Mitigate any potentially significant impacts identified as a result of review conducted in compliance with the California Environmental Quality Act.

The Review Authority may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

17.31.080 Appeals; Expiration, Extensions, and Revisions; Revocation

- A. **Appeals.** The applicant or any other aggrieved party may appeal a decision on Modification pursuant to the provisions of Section TBD, Appeals.
- B. **Expiration, Extensions, and Revisions.** Modifications granted under this Chapter are effective and may only be extended or revised as provided for in Chapter TBD, Common Procedures.
- C. **Revocation.** Modification approval may be revoked pursuant to Section TBD, Revocation, if any of the conditions or terms of the approval are violated or if any law or ordinance is violated.

Chapter 17.32 Reasonable Accommodation

Sections:

- 17.32.010 Purpose
- 17.32.020 Applicability
- 17.32.030 Review Authority
- 17.32.040 Application
- 17.32.050 Required Findings
- 17.32.060 Conditions of Approval

17.32.010 Purpose

This Chapter provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures.

17.32.020 Applicability

- A. A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of a requirement of this Title or other city requirement, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or developmental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This chapter is intended to apply to those persons who are defined as disabled under the Acts.
- B. A request for reasonable accommodation may include a change or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.
- C. A reasonable accommodation is granted to the household that needs the accommodation and does not apply to successors in interest to the property.
- D. A reasonable accommodation may be granted in compliance with this chapter without the need for the approval of a variance.
- E. Requests for reasonable accommodation shall be as described in the following section.

17.32.030 Review Authority

- A. **Community Development Director.** Requests for reasonable accommodation shall be reviewed by the Community Development Director if no approval is sought other than the request for reasonable accommodation. The written determination to grant, grant with changes, or deny the request for reasonable accommodation shall be made in accordance with the Findings and Decision as established below.

- B. **Other Review Authority.** Requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority responsible for reviewing the discretionary land use application. The written determination to grant, grant with changes, or deny the request for reasonable accommodation shall be made in accordance with the Findings and Decision as established below.

17.32.040 Application

- A. **Application.** Requests for reasonable accommodation shall be submitted in the form of a letter to the Community Development Director and shall contain the following information:
1. The applicant's name, address and telephone number;
 2. Address of the property for which the request is being made;
 3. The current actual use of the property;
 4. The basis for the claim that the individual is considered disabled under the Acts;
 5. The Zoning Code provision, regulation or policy from which reasonable accommodation is being requested; and
 6. Why the reasonable accommodation is necessary to make the specific property accessible to the individual.
- B. **Review with Other Land Use Applications.** If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (e.g., conditional use permit, coastal development permit, etc.), then the applicant shall file the application for discretionary approval together with the information required by Subsection A above for concurrent review.

17.32.050 Required Findings

The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:

- A. Whether the housing, which is the subject of the request, will be used by an individual disabled under the Acts;
- B. Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts;
- C. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City;
- D. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use, zoning, or the Local Coastal Program;
- E. Potential impact on surrounding uses;
- F. Physical attributes of the property and structures; and
- G. Alternative reasonable accommodations that may provide an equivalent level of benefit.

17.32.060 Conditions of Approval

In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required herein. The conditions shall also state whether the accommodation granted shall be rescinded in the event that the person for whom the accommodation was requested no longer resides on the property.

Chapter 17.33 Variances

Sections:

- 17.33.010 Purpose
- 17.33.020 Applicability
- 17.33.030 Review Authority
- 17.33.040 Application
- 17.33.050 Public Notice
- 17.33.060 Public Hearing
- 17.33.070 Required Findings
- 17.33.080 Conditions of Approval
- 17.33.090 Appeals; Expirations, Extensions, and Revisions; Revocation

17.33.010 Purpose

This Chapter is intended to provide a mechanism for relief from the strict application of this Title where this will deprive the property owner of privileges enjoyed by similar properties because of the subject property's unique and special conditions.

17.33.020 Applicability

Variances may be granted to vary or modify dimensional and performance standards, but Variances may not be granted to allow uses or activities that this Title does not authorize for a specific lot or site.

17.33.030 Review Authority

The Planning Commission shall approve, conditionally approve, or deny applications for Variances based on consideration of the requirements of this Chapter.

17.33.040 Application

Applications for a Variance shall be filed with the Planning Division on the prescribed application forms in accordance with the procedures in Chapter TBD, Common Procedures. In addition to any other application requirements, the application for a Variance shall include data or other evidence showing that the requested Variance conforms to the required findings set forth in Section TBD, Required Findings.

17.33.050 Public Notice

An application for a Variance shall require public notice pursuant to Section TBD, Public Notice.

17.33.060 Public Hearing

An application for a Variance shall require a public hearing before the Planning Commission pursuant to Section TBD, Conduct of Public Hearing.

17.33.070 Required Findings

The Review Authority must make all of the following findings in order to approve or conditionally approve a Variance application. The inability to make one or more of the findings is grounds for denial of an application.

- A. There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to property in the vicinity and identical zoning district, and that the granting of a Variance will not constitute a granting of a special privilege inconsistent with the limitations on the property in the vicinity and identical zone district;
- B. The granting of the Variance is necessary to prevent a physical hardship which is not of the applicant's own actions or the actions of a predecessor in interest;
- C. The granting of the Variance will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare or convenience; and
- D. The granting of the Variance will be consistent with the general purposes and objectives of this Title, any applicable specific plans, and of the General Plan.

17.33.080 Conditions of Approval

In approving a Variance, the Planning Commission may impose reasonable conditions deemed necessary to ensure compliance with the findings required in Section TBD, Required Findings, above and may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

17.33.090 Appeals; Expirations, Extensions, and Revisions; Revocation

- A. **Appeals.** The applicant or any other aggrieved party may appeal a decision on a Variance pursuant to the provisions of Section TBD, Appeals.
- B. **Expiration, Extensions and Revision.** Variances are effective and may only be extended or revised as provided for in Chapter TBD, Common Procedures.
- C. **Revocation.** Approval of a Variance may be revoked pursuant to Section TBD, Revocation, if any of the conditions or terms of the approval are violated or if any law or ordinance is violated.

Chapter 17.34 Emergency Permits (IP)

Sections:

- 17.34.010 Purpose
- 17.34.020 Applicability
- 17.34.030 Review Authority
- 17.34.040 Application
- 17.34.050 Verification of Emergency
- 17.34.060 Coordination and Public Notice
- 17.34.070 Issuance
- 17.34.080 Format of Permit
- 17.34.090 Notice to the City Council

17.34.010 Purpose

The purpose of this Chapter is to establish procedures for the issuance of Emergency Permits.

17.34.020 Applicability

The procedures of this Chapter apply where persons or public agencies seek a permit for emergency work where the circumstances of an emergency do not allow sufficient time for the permit process otherwise applicable to the work needed to address an emergency and, where persons or public agencies seek a permit for emergency work in the Coastal Zone, pursuant to Section 30624 of the California Public Resources Code.

17.34.030 Review Authority

The Director is the Review Authority for Emergency Permits.

- A. **Coastal Zone.** In the Coastal Zone, the Director may issue an Emergency Permit without compliance with the procedures for the issuance of a Coastal Development Permit in cases of an emergency, as the term emergency is defined in Section 13009 of Title 14 of the California Administrative Code.

17.34.040 Application

Applications for permits for emergency work shall be made to the Director by letter or facsimile during business hours if time allows, or by telephone or in person if time does not allow. The information to be reported during the emergency, if it is possible to do so, or to be reported fully in any case after the emergency, shall include the following:

- A. The nature of the emergency;
- B. The cause of the emergency, insofar as this can be established;
- C. The location of the emergency;

- D. The remedial, protective, or preventive work required to deal with the emergency;
- E. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action; and
- F. Any other information deemed necessary by the Director.

17.34.050 Verification of Emergency

The Director shall verify the facts, including the existence and nature of the emergency, insofar as time allows.

17.34.060 Coordination and Public Notice

Prior to issuance of an Emergency Permit, when feasible, the Director shall provide public notice of the emergency work with the extent and type of notice determined on the basis of the nature of the emergency itself.

- A. **Coastal Zone.** In the Coastal Zone, the Director also shall notify, and coordinate with, the Central Coast District Office of the California Coastal Commission as to the nature of the emergency and the scope of the work to be performed. This notification shall be in person or by telephone.

17.34.070 Issuance

The Director may grant a permit for emergency work upon reasonable terms and conditions, including an expiration date and the requirement for a regular permit application later, if the Director finds that:

- A. An emergency exists and requires action more quickly than permitted by the procedures for ordinary permits, and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit; and
- B. Public comment on the proposed emergency action has been reviewed if time allows.
- C. In the Coastal Zone, the Director shall also make the following findings:
 - 1. The work proposed would be consistent with the requirements of the City's Local Coastal Program;
 - 2. The work proposed is the minimum action necessary to address the emergency and, to the maximum extent feasible, is the least environmentally damaging temporary alternative for addressing the emergency. This finding shall be made with the maximum information and analysis possible given the expedited review demanded by the emergency situation; and
 - 3. The work does not fall within the provisions of Public Resources Code Section 30519(b) since a Coastal Development Permit application for this type of work must be reviewed by the California Coastal Commission pursuant to the provisions of Public Resources Code Sections 30519(b) and 30600(d).

17.34.080 Format of Permit

The Emergency Permit shall be a written document that includes the following information:

- A. The date of issuance;
- B. An expiration date;
- C. The scope of work to be performed; and
- D. Terms and conditions of the permit.
- E. In the Coastal Zone, the Emergency Permit shall also include the following:
 - 1. The Emergency Permit may contain conditions for removal of existing development or structures if they are not authorized in a Coastal Development Permit, or the Emergency Permit may require that a subsequent Coastal Development Permit must be obtained to authorize the removal of such existing unpermitted development or structures;
 - 2. A provision stating that within 90 days of issuance of the Emergency Permit, a Coastal Development Permit application shall be submitted and properly filed consistent with the requirements of this Chapter seeking authorization to retain structures erected pursuant to the Emergency Permit, to remove such structures, or some other alternative;
 - 3. A provision stating that any development or structures constructed pursuant to an Emergency Permit shall be considered temporary until authorized by a subsequent Coastal Development Permit and that issuance of an Emergency Permit shall not constitute an entitlement to the erection of permanent development or structures; and
 - 4. A provision that states that the development authorized in the Emergency Permit must be removed unless a complete application for a Coastal Development Permit is filed within 90 days of approval of the Emergency Permit. If all or any portion of the application for the Coastal Development Permit seeking authorization for permanent retention of the development authorized pursuant to the Emergency Permit is denied, the portion of the development that is denied must be removed.

17.34.090 Notice to the City Council

- A. The Director shall report on the granting of an Emergency Permit in writing to the City Council. The report shall contain a description of the nature of the emergency and the work involved. Copies of this report shall be available at the meeting and shall have been mailed at the time the application summaries and staff recommendations are normally distributed to all persons who have requested such notification in writing. In the Coastal Zone, copies of this report shall also be sent to the Central Coast District Office of the California Coastal Commission.
- B. The report of the Director shall be informational only. The decision to issue an Emergency Permit is solely at the discretion of the Director.

Chapter 17.35 Development Agreements

Sections:

- 17.35.010 Purpose
- 17.35.020 Applicability
- 17.35.030 Review Authority
- 17.35.040 Application Requirements
- 17.35.050 Contents of Development Agreements
- 17.35.060 Public Notice
- 17.35.070 Planning Commission Action
- 17.35.080 City Council Action
- 17.35.090 Required Findings
- 17.35.100 Recordation of Development Agreement
- 17.35.110 Annual Review
- 17.35.120 Amendment or Cancellation
- 17.35.130 Effect of Approved Agreement
- 17.35.140 Enforcement

17.35.010 Purpose

This Chapter establishes a process for consideration and review of Development Agreements consistent with Section 65864 et seq., of the Government Code. Development Agreements are legally binding agreements that grant assurance that an applicant may proceed with development in accord with policies, rules, and regulations in effect at the time of approval subject to conditions to promote the orderly planning of public improvements and services, allocate costs to achieve maximum utilization of public and private resources in the development process, and ensure that appropriate measures to enhance and protect the environment are achieved.

17.35.020 Applicability

- A. The City incorporates by reference the provisions of Government Code Sections 65864-65869.5. In the event of any conflict between these statutory provisions and this Chapter, this Chapter shall control.
- B. A Development Agreement may be considered for a proposed development that will require a developer to make a substantial investment at the early stages of the project for planning and engineering for the entire project and for public facilities and services.

17.35.030 Review Authority

- A. The Director shall negotiate the specific components and provisions of the Development Agreement on behalf of the City for review by the Planning Commission and recommendation to the City Council.

- B. The Planning Commission shall review the Development Agreement and provide recommendation to the City Council.
- C. The City Council shall have the exclusive authority to approve a Development Agreement.

17.35.040 Application Requirements

Applications for Development Agreements shall be filed with the Community Development Department in accordance with the provisions set forth in Section TBD, Application Forms and Fees. In addition to any other application requirements, the application for a Development Agreement shall include data or other evidence in support of the applicable findings required by Section TBD, Required Findings, below.

17.35.050 Contents of Development Agreements

- A. **Required Contents.** A Development Agreement shall specify its duration; the permitted uses of the subject property; the general location and density or intensity of uses; the general location, maximum height and size of proposed buildings; and provisions for reservation or dedication of land for public purposes. It shall contain provisions concerning its transferability.
- B. **Additional Contents.** Development Agreements may also include the following:
 - 1. **Improvements and Fees.** A Development Agreement may include requirements for construction and maintenance of onsite and offsite improvements or payment of fees in lieu of such dedications or improvements.
 - 2. **Conditions.** A Development Agreement may also include conditions, terms, restrictions, and requirements for subsequent discretionary actions but does not eliminate the applicant's responsibility to obtain all required land use approvals.
 - 3. **Phasing.** A Development Agreement may provide that the project be constructed in specified phases, that construction shall commence within a specified time, and that the project or any phase thereof be completed within a specified time.
 - 4. **Financing.** If the Development Agreement requires applicant financing of necessary public facilities, it may include terms relating to subsequent reimbursement over time for such financing.
 - 5. **Indemnity.** A Development Agreement may contain an indemnity clause requiring the applicant to indemnify and hold the City harmless against claims arising out of or in any way related to the actions of applicant in connection with the application or the development process, including all legal fees and costs.
 - 6. **Performance Obligation Fees.** A Development Agreement may include provisions to guarantee performance of obligations stated in the agreement.
 - 7. **Other Items.** Other components and provisions as negotiated by City.

17.35.060 Public Notice

A proposed Development Agreement shall be signed by the Applicant before it is placed before the Planning Commission and the City Council for consideration at a public hearing. Public notice

of hearings by the Planning Commission and City Council for a Development Agreement shall be given as specified in Section TBD, Public Notice. Notice of the hearing shall also be mailed or delivered at least 10 days before the hearing to any other local agency expected to provide essential facilities or services to the property that is the subject of the Development Agreement.

17.35.070 Planning Commission Action

- A. **Hearing.** The Planning Commission shall conduct a public hearing for the purpose of making recommendations to the City Council in conformance with the provisions of Section TBD, Conduct of Public Hearings.
- B. **Recommendation to Council.** Following the public hearing, the Planning Commission shall make a written recommendation on the proposed Development Agreement. The Community Development Director shall transmit the Planning Commission's written recommendation and record of the application to the City Council.
- C. **Denial.** If the Planning Commission has recommended against the Development Agreement, the Development Agreement is not forwarded to the City Council unless an appeal is filed in accordance with Section TBD, Appeals or the City Council call for review.

17.35.080 City Council Action

- A. **Hearing.** After receiving the report from the Planning Commission but no later than the time specified by Section 65943 of the Government Code, the City Council shall hold a public hearing in conformance with the provisions of Chapter TBD, Common Procedures.
- B. **Decision.** After the conclusion of the hearing, the City Council shall approve, revise, or disapprove the Development Agreement. Approval of a Development Agreement shall be by ordinance. Matters not previously considered by the Planning Commission during its hearing may, but need not, be referred back to the Planning Commission for report and recommendation. The Planning Commission is not required to hold a public hearing. Failure of the Planning Commission to provide a report to the City Council within 45 days after the referral, shall be deemed a recommendation for approval.

17.35.090 Required Findings

The City Council shall find that the project is deemed essential or desirable to the public convenience or welfare and is consistent with the General Plan, Local Coastal Plan, and any applicable specific plan in order to approve or conditionally approve a Development Agreement.

17.35.100 Recordation of Development Agreement

Within 10 days of City Council approval of the Development Agreement, the Director shall execute the Development Agreement on behalf of the City, and the City Clerk shall record the Development Agreement with the County Recorder.

17.35.110 Annual Review

The applicant shall be required to demonstrate compliance with the provisions of the Development Agreement at least once a year at which time the Director shall review each approved Development Agreement.

- A. **Finding of Compliance.** If the Director, on the basis of substantial evidence, finds compliance by the applicant with the provisions of the Development Agreement, the Director shall issue a finding of compliance, which shall be in recordable form and may be recorded with the County Recorder after conclusion of the review.
- B. **Finding of Noncompliance.** If the Director finds the applicant has not complied with the provisions of the Development Agreement, the Director may issue a finding of noncompliance which may be recorded by the City with the County Recorder after it becomes final. The Director shall specify in writing to the applicant the respects in which applicant has failed to comply, and shall set forth terms of compliance and specify a reasonable time for the applicant to meet the terms of compliance. If applicant does not comply with any terms of compliance within the prescribed time limits, the Development Agreement shall be subject to termination or revision pursuant to this Chapter.
- C. **Appeal of Determination.** Within seven days after issuance of a finding of compliance or a finding of noncompliance, any interested person may file a written appeal of the finding with the City Council. The appellant shall pay fees and charges for the filing and processing of the appeal in amounts established by resolution of the City Council. The appellant shall specify the reasons for the appeal. The issuance of a finding of compliance or finding of noncompliance by the Director and the expiration of the appeal period without appeal, or the confirmation by the City Council of the issuance of the finding on such appeal, shall conclude the review for the applicable period and such determination shall be final.

17.35.120 Amendment or Cancellation

- A. **After Finding of Noncompliance.** If a finding of noncompliance does not include terms of compliance, or if applicant does not comply with the terms of compliance within the prescribed time limits, the Director may refer the Development Agreement to the City Council for termination or revision. The City Council shall conduct a public hearing. After the public hearing, the City Council may terminate the Development Agreement, revise the finding of noncompliance, or rescind the finding of noncompliance, and issue a finding of compliance.
- B. **Mutual Agreement.** Any development may be canceled or amended by mutual consent of the parties following compliance with the procedures specified in this section. A Development Agreement may also specify procedures for administrative approval of minor amendments by mutual consent of the applicant and Director.
- C. **Recordation.** If the parties to the agreement or their successors in interest amend or cancel the Development Agreement, or if the City terminates or revises the Development Agreement for failure of the applicant to fully comply with the provisions of the Development Agreement, the City Clerk shall record notice of such action with the County Recorder.
- D. **Rights of the Parties After Cancellation or Termination.** In the event that a Development Agreement is cancelled or terminated, all rights of the applicant, property owner or successors in interest under the Development Agreement shall be terminated. If a Development Agreement is terminated following a finding of noncompliance, the City may, in its sole discretion, determine to return any and all benefits, including reservations or dedications of land, and payments of fees, received by the City.

17.35.130 Effect of Approved Agreement

- A. **Existing Rules and Regulations.** Unless otherwise specified in the Development Agreement, the City's rules, regulations and official policies governing permitted uses of the property, density and design, and improvement standards and specifications applicable to development of the property shall be those City rules, regulations and official policies in force on the effective date of the Development Agreement.
- B. **Future Rules and Regulations.** A Development Agreement shall not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations and policies that do not conflict with those rules, regulations and policies applicable to the property as set forth in the Development Agreement. A Development Agreement shall not prevent the City from denying or conditionally approving any subsequent land use permit or authorization for the project on the basis of such existing or new rules, regulations, and policies.
- C. **State and Federal Rules and Regulations.** In the event that state or federal laws or regulations, enacted after a Development Agreement has been entered into, prevent or preclude compliance with one or more provisions of the Development Agreement, such provisions of the agreement shall be revised or suspended as may be necessary to comply with such state or federal laws or regulations.

17.35.140 Enforcement

The procedures for enforcement, amendment, revision, cancellation or termination of a Development Agreement specified in this Chapter and in Government Code Section 65865.4 or any successor statute, are nonexclusive. A Development Agreement may be enforced, amended, revised, cancelled or terminated by any manner otherwise provided by law or by the provisions of the Development Agreement.

Chapter 17.36 Amendments to the General Plan, Zoning Code, and Zoning Map

Sections:

- 17.36.010 Purpose
- 17.36.020 Applicability
- 17.36.030 Initiation
- 17.36.040 Application Requirements
- 17.36.050 Maximum Number of General Plan Amendments
- 17.36.060 Review Procedures and Public Notice
- 17.36.070 Planning Commission Hearing and Recommendation
- 17.36.080 City Council Hearing and Action
- 17.36.090 General Plan Consistency Required for Zoning Amendments

17.36.010 Purpose

This Chapter establishes a process for consideration and review of General Plan and Zoning Amendments. More specifically, the purpose of this Chapter is to:

- A. Establish procedures for making changes to the General Plan to address changes in applicable law and problems and opportunities that were unanticipated at the time of General Plan adoption or the last amendment.
- B. Establish procedures for making changes to the text of this Title or to the Zoning Map whenever the public necessity, convenience, general welfare, or good zoning practice justify such amendment, consistent with the General Plan.

17.36.020 Applicability

The procedures in this Chapter shall apply to:

- A. All proposals to change the text of the General Plan and the maps that illustrate the application of its provisions, and
- B. All proposals to change the text of this Title, a zoning district classification, or a zoning district boundary line shown on the Zoning Map.

17.36.030 Initiation

An amendment to the General Plan, Zoning Code, or Zoning Map may be initiated by any qualified applicant identified in Section TBD, Application Forms and Fees, or a motion of the City Council.

17.36.040 Application Requirements

Applications for a General Plan or Zoning Amendment shall be filed with the Director in accordance with the provisions set forth in Section TBD, Application Forms and Fees. In addition to any other application requirements, the application for a General Plan or Zoning Amendment shall include such additional information and supporting data as considered necessary to process the application.

17.36.050 Maximum Number of General Plan Amendments

Except as otherwise provided by applicable law, no mandatory element of the General Plan can be amended more frequently than four times during any calendar year. Subject to that limitation, an amendment may be made at any time, as determined by the City Council. Each amendment may include more than one change to the General Plan.

17.36.060 Review Procedures and Public Notice

- A. **Staff Report.** The Director shall prepare a report and recommendation to the Planning Commission on any application for an amendment. The report shall include, but is not limited to, a discussion of how the proposed amendment complies with the purposes of this Chapter, a determination as to whether the proposed amendment is consistent with other plans that the City Council has adopted, and an environmental document prepared in compliance with the California Environmental Quality Act.
- B. **Public Hearing Required.** All amendments shall be referred to the Planning Commission, which shall hold at least one public hearing on any proposed amendment.
- C. **Public Notice.** At least 10 days before the date of the public hearing, the Planning Division shall provide notice consistent with Section TBD, Public Notice. Notice of the hearing also shall be mailed or delivered at least 10 days prior to the hearing to the San Luis Coastal Unified School District and any other local agency expected to provide essential facilities or services to the property that is the subject of the proposed amendment.

17.36.070 Planning Commission Hearing and Recommendation

- A. **Planning Commission Hearing.** The Planning Commission shall conduct a public hearing in conformance with Section TBD, Conduct of Public Hearings.
- B. **Recommendation to Council.** Following the public hearing, the Planning Commission shall make a recommendation on the proposed amendment to the City Council. Such recommendation shall include the reasons for the recommendation, findings related to supporting the recommendation, and the relationship of the proposed amendment to applicable plans, and shall be transmitted to the City Council in the form of a Council staff report, prepared by Planning Staff, with a copy of the approved minutes from the Planning Commission meeting.

17.36.080 City Council Hearing and Action

- A. **City Council Hearing.** After receiving the report from the Planning Commission, the City Council shall hold at least one duly-noticed public hearing. The notice shall include a summary of the Planning Commission recommendation. If the Planning Commission has

recommended against the adoption of such amendment, the City Council is not required to take any further action unless an interested party files a written request for a hearing with the City Clerk within 10 days after the Planning Commission action.

- B. **City Council Action.** After the conclusion of the hearing, the City Council may approve, revise, or deny the proposed amendment. If the Council proposes any substantial revision not previously considered by the Planning Commission during its hearings, the revision shall first be referred back to the Planning Commission for report and recommendation, but the Planning Commission shall not be required to hold a public hearing. The failure of the Planning Commission to report within 45 days after the referral, shall be deemed a recommendation to approve and the amendment shall be returned to Council for adoption.

17.36.090 General Plan Consistency Required for Zoning Amendments

The Planning Commission shall not recommend and the City Council shall not approve a Zoning Amendment unless the proposed amendment is found to be consistent with the General Plan.

Chapter 17.37 Amendments to the Local Coastal Program (IP)

Sections:

- 17.37.010 Purpose and Applicability
- 17.37.020 Initiation
- 17.37.030 Review and Processing
- 17.37.040 California Coastal Commission Certification

17.37.010 Purpose and Applicability

This Chapter establishes a process for consideration and review of Local Coastal Program Amendments, consistent with the Coastal Act, including changes in the land use and/or zoning designation on properties where such change is warranted by consideration of location, surrounding development and timing of development; text or policy amendments to the City's Local Coastal Plan as the City may deem necessary or desirable; and amendments to any ordinances or other implementation measures carrying out the provisions of the City's Local Coastal Plan.

17.37.020 Initiation

An amendment to the Local Coastal Program may be initiated by any qualified applicant identified in Section TBD, Application Forms and Fees, or a motion of the City Council.

17.37.030 Review and Processing

Amendments to the certified Local Coastal Program shall be reviewed and processed as pursuant to Chapter TBD, Amendments to the General Plan, Zoning Code, and Zoning Map.

17.37.040 California Coastal Commission Certification

- A. An amendment to the Local Coastal Program shall not take effect until it has been certified by the Coastal Commission pursuant to Chapter 6, Article 2 or the California Coastal Act.
- B. Approval by the City Council of such a proposed amendment to the Local Coastal Program shall be submitted to the Coastal Commission by the City Council in accordance with Sections 30512, 30513, and 30514 of the Coastal Act.
- C. Denial of an amendment request by the City Council shall be final and there is no appeal to the Coastal Commission. However, any person proposing a public works project or a major energy facility development for which an amendment request was denied by the City Council may file with the Coastal Commission a request for an amendment pursuant to Public Resources Code Section 30515.

Chapter 17.38 Zoning Upon Annexation

Sections:

- 17.38.010 Purpose
- 17.38.020 Applicability
- 17.38.030 Procedure
- 17.38.040 Effective Date of Zoning and Time Limit

17.38.010 Purpose

The purpose of this Chapter is to establish a procedure for zoning property upon annexation.

17.38.020 Applicability

Unincorporated territory adjoining the City may be pre-zoned for the purpose of determining the zoning that will apply to such property upon annexation.

17.38.030 Procedure

Zoning of property to be annexed shall be established through initiation and processing according to the procedures established under Chapter TBD, Amendments to the General Plan, Zoning Code, and Zoning Map and, if applicable, Chapter TBD, Amendments to the Local Coastal Program.

17.38.040 Effective Date of Zoning and Time Limit

The zoning of the property to be annexed shall become effective at the time that annexation to the City becomes effective pursuant to Government Code Section 56000 et. seq. If the subject area has not been annexed to the City within five years of the date of zoning approval, the zoning approval is subject to reconsideration.

Chapter 17.39 Enforcement

Sections:

- 17.39.010 Purpose
- 17.39.020 Enforcement Responsibility
- 17.39.030 Nuisance Defined
- 17.39.040 Right of Entry
- 17.39.050 Notice of Violation and Opportunity to Cure
- 17.39.060 Penalties
- 17.39.070 Remedies
- 17.39.080 Revocation
- 17.39.090 Recording a Notice of Violation
- 17.39.100 Order to Appear in Court
- 17.39.110 Nuisance Abatement
- 17.39.120 Civil Remedies

17.39.010 Purpose

This Chapter establishes the responsibilities of various departments, officials, and public employees of the City to enforce the requirements of this Title and establishes uniform procedures the City will use to identify, abate, remove, and enjoin uses, buildings, or structures that are deemed to be in violation of this Title.

17.39.020 Enforcement Responsibility

All departments, officials and public employees of the City vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this Title and shall issue no permit or license for uses, buildings or purposes in conflict with the provisions of this Title; and any such permit or license issued in conflict with the provisions of this Title shall be null and void.

- A. It shall be the duty of the Director to enforce each and all provision of this Title. The Chief of Police shall render such assistance in the enforcement of this Title as may from time to time be required.

17.39.030 Nuisance Defined

Public nuisances are as designated in Section 8.14.020, Definitions, of the Morro Bay Municipal Code. Any building, structure, or planting set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this Title, any use of any land, building, or premises established, conducted, operated, or maintained contrary to the provisions of this Title, and failure to comply with any of the conditions of a permit granted under this Title is declared to be unlawful and a public nuisance.

17.39.040 Right of Entry

The Director or designee shall have the same right-of-entry as that set out in Section 8.14.060, Right of Entry, of the Morro Bay Municipal Code.

17.39.050 Notice of Violation and Opportunity to Cure

Following identification of a violation of this Title or of a public nuisance, the Director shall issue a Notice of Violation to the property owner and occupant of the subject property. The notice shall specify the exact violation or nuisance that has been identified, a date by which the nuisance must be corrected, provisions regarding re-inspection and any fees that may apply, and the name and contact information of the Director or designee. Prior to initiation of nuisance abatement, the property owner shall have the opportunity to cure the violation within the specified time period. The Director may authorize additional re-inspections if there is substantial progress in curing the violation, and all re-inspection fees are paid as required by the adopted City fee schedule.

17.39.060 Penalties

- A. **Misdemeanor/Infraction.** Any person who violates any provisions of this Title shall be deemed guilty of a misdemeanor/infraction and upon conviction thereof, shall be punishable as provided in Title 1, General Provisions, the Morro Bay Municipal Code.
- B. **Penalty Limits.** The imposition of one penalty shall not exclude the violation or permit such violations to continue.
- C. **Time Requirements.** Any person who violates any provision of this title shall be required to correct or remedy such violations within a reasonable period of time.
- D. **Additional Offenses.** When not otherwise specified, the existence of a zoning violation for each and every day after service of reasonable written notice shall be deemed a separate and distinct offense.

17.39.070 Remedies

The remedies provided for herein shall be cumulative and not exclusive. Upon a finding of nuisance pursuant to this Chapter, and after giving the property owner an opportunity to cure the nuisance and determining that the nuisance still exists, the Planning Commission or City Council may impose any remedy available at law or in equity, which shall include, but is not limited to, any of the following or combination thereof:

- A. Ordering the cessation of the use in whole or in part;
- B. Imposing reasonable conditions upon any continued operation of the use, including those uses that constitute existing non-conforming uses;
- C. Requiring continued compliance with any conditions so imposed;
- D. Requiring the user to guarantee that such conditions shall in all respects be complied with;
or
- E. Imposing additional conditions or ordering the cessation of the use in whole or in part upon a failure of the user to comply with any conditions so imposed.

17.39.080 Revocation

Any permit granted under this Title may be revoked or revised for cause if any of the conditions or terms of the permit are violated or if any law or ordinance is violated.

- A. **Initiation of Proceeding.** Revocation proceedings may be initiated by the City Council, Planning Commission, or Director.
- B. **Public Notice, Hearing, and Action.** After conducting a duly-noticed public hearing, the Planning Commission shall act on the proposed revocation.
- C. **Required Findings.** The Planning Commission may revoke or revise the permit if it makes any of the following findings:
 - 1. The approval was obtained by means of fraud or misrepresentation of a material fact;
 - 2. The use, building, or structure has been substantially expanded beyond what is set forth in the permit or substantially changed in character;
 - 3. The nonresidential use in question has ceased to exist or has been suspended for 12 months or more. No lawful residential use can lapse regardless of length of time of vacancy;
 - 4. There is or has been a violation of or failure to observe the terms or conditions of the permit or Variance, or the use has been conducted in violation of the provisions of this Title, or any applicable law or regulation; or
 - 5. The use to which the permit or Variance applies has been conducted in a manner detrimental to the public safety, health and welfare, or so as to be a nuisance.
- D. **Notice of Action.** Within seven days of a Planning Commission action to revoke or revise a permit, the Director shall issue a Notice of Action describing the Commission's action, with its findings. The Director shall mail notice to the permit holder and to any person who requested the revocation proceeding.
- E. **Appeal.** A decision on a revocation of a permit may be appealed pursuant to Section TBD, Appeals.

17.39.090 Recording a Notice of Violation

- A. If compliance is not had with an order of the Director to correct violations of this Title within the time specified therein, the Director may file with the County Recorder, a certified statement describing the property and certifying that:
 - 1. The property and/or structure is in violation of this Title; and
 - 2. The owner has been so notified. The notice shall specifically describe the violations and a proof of service shall also be recorded with the Notice and Order.
- B. Whenever the corrections ordered have been completed, the Director shall file a new certified statement with the County Recorder certifying that all required corrections have been made so that the property and/or structure is no longer in violation of this Title.

17.39.100 Order to Appear in Court

The Director may cause a notice to appear in court to an owner or occupant for a violation pursuant to Section 8.14.080, Citations, of the Morro Bay Municipal Code.

17.39.110 Nuisance Abatement

The City may abate nuisances pursuant to the procedures of Section 8.14.090, Nuisance Abatement, of the Morro Bay Municipal Code.

17.39.120 Civil Remedies

The City Attorney may apply to such court or courts as may have jurisdiction to grant such relief as will abate or correct any violation of this Title, or restrain and enjoin any person from continuing a violation of this Title.



AGENDA NO: C-2

MEETING DATE: September 19, 2017

Staff Report

DATE: 09/13/17

TO: Planning Commission

FROM: Scot Graham, Community Development

SUBJECT: Measure “D” and “Working Waterfront” Discussion and Input on Decision Points for consideration by the Harbor Advisory Board and Planning Commission Subcommittee’s

RECOMMENDATION

Review staff report and associated materials and provide input for use by the Planning Commission (PC) and Harbor Advisory Board (HAB) subcommittees to help develop policy language to better define and resolve ambiguities in Measure D and to develop a Working Waterfront Mission Statement and/or Policy for incorporation into the General Plan/Local Coastal Program/Zoning Code update.

BACKGROUND/DISCUSSION

The City Council, on July 11, 2017 authorized both the Harbor Advisory Board and Planning Commission to work jointly on development of policy language to better define and resolve ambiguities of Measure D and to advance policy language to better define “Working Waterfront”. The intent is to insert the new policy language into the General Plan/Local Coastal Program and Zoning Code update. See Council July 11, 2017 Staff report provided as Attachment 1.

The Planning Commission, on August 1, 2017 appointed two members of the Planning Commission to serve on the Measure “D” and Working Waterfront subcommittee: Joseph Ingraffia and Gerald Luhr.

The subcommittee met on September 8, 2017 at the Community Center and after much discussion, a decision was made that members develop a bullet list of discussion/decision items for consideration at the next, as of yet, unscheduled subcommittee meeting. Subcommittee member Luhr suggested that it might be beneficial to engage the PC in this effort at their regularly scheduled meeting of September 19, 2017.

Prepared By: SG Dept Review: SG

To help facilitate Planning Commission input, staff has provided all materials presented to the subcommittee on September 8, 2017, along with the actual Measure D ballot and supporting arguments document and the Local Coastal Program Land Use policy for Mixed Use Area "B".

The Planning Commission Staff report from August 16, 2016 is provided as Attachment 2 to this staff report and includes 5 questions the Planning Commission discussed regarding the meaning of Measure D.

The Measure D discussion, held by the Planning Commission in August of 2016, spurred the drafting of a Memo by Robert Tefft, the then Chairperson of the Planning Commission, that attempts to define how Measure D is currently applied from a land use perspective. The Tefft memo is provided as Attachment 3 to this staff report.

CONCLUSION

The Planning Commission should discuss both Measure D and the Working Waterfront concepts/issues and provide input to the subcommittee in the form of decision points and or questions that need to be addressed/discussed at the next subcommittee meeting.

ATTACHMENTS

1. July 11, 2017 Council Staff report with Attachments
2. August 16, 2016 PC Measure D Staff report
3. Tefft August 2016 Memo on Current Application of Measure D
4. Measure D Ballot Measure
5. Measure D Ballot Argument document
6. LCP Land Use Policy for Mixed Use Area "B"



AGENDA NO: C-2

MEETING DATE: July 11, 2017

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 29, 2017

FROM: Eric Endersby, Harbor Director
Scot Graham, Community Development Director

SUBJECT: Discussion and Direction Regarding Harbor Advisory Board Request to Resolve Ambiguities in Measure D, and Recommendations on Morro Bay “Working Waterfront” Initiative

RECOMMENDATION

Staff recommend the City Council consider the Harbor Advisory Board’s requests and recommendations regarding ambiguities in Measure D and the “Working Waterfront” initiative, and approve the approach recommended by staff to address the issues identified by the Board.

ALTERNATIVES

The City Council could direct measures, activities or actions taken other than, or additional to, those recommended in this staff report.

FISCAL IMPACT

There is no direct fiscal impact of the recommended actions in this report.

BACKGROUND

The issue of ambiguous language in “Measure D,” Ordinance No. 207, of the City of Morro Bay relating to the restriction of further non-commercial or non-recreational fishing land/water use development on City lease sites between Beach Street and Target Rock, is an ongoing issue the Harbor Advisory Board (HAB) has grappled with in recent years. Additionally, the General Plan Advisory Committee (GPAC) and Planning Commission (PC) are addressing Measure D in the General Plan (GP) and Local Coastal Plan (LCP) updates currently underway.

As part of its fiscal year 2016/2017 City Council Goal Objective Work Plans, the HAB has pursued the prospect of official “designation” or other possible recognition of Morro Bay as a “Working Waterfront.” That goal objective work plan item is also included in the 2017/2018 approved plans.

A summation of the requests, activities, actions, and recommendations made by the HAB regarding Measure D and Working Waterfronts is provided in a March 3, 2017, letter from HAB Chairman Ron Reisner to the City Council, and in an 11-page report by Mr. Reisner, dated June 11, 2017, included as Attachments 1 and 2 to this report. In addition, the text of Measure D is included with this staff report as Attachment 3.

DISCUSSION

Staff is seeking Council direction on how it wishes to proceed from a process standpoint with the

Prepared By: EE

Dept Review: EE

City Manager Review: MRL

City Attorney Review: JWP

various HAB requests and recommendations on these two separate, but quite related, issues.

Measure D

The HAB requests its involvement in consideration of the two recognized ambiguities in the measure by way of the GP and LCP updates. That is to say, the HAB recommends a process by which the ambiguities in Measure D be addressed by the City, and requests it be involved in that process, and that process be incorporated into or somehow involve the GP/LCP update process. With Measure D on the docket for GP/LCP consideration, the latter should be accounted for.

The City Council Goal 4 Objective Work Plan Element regarding Measure D is:

HAB Working Waterfront Ad-Hoc Committee to work with staff, consultants and GPAC to provide input and review relative to clarification of Measure D and incorporation of clarifications into the GP/LCP.

Working Waterfront

The HAB approved a Working Waterfront Mission Statement, as outlined in Mr. Reisner's report, as-requested by the City Council for consideration of approval.

Additionally, the HAB recommended the GP/LCP update include consideration of Working Waterfront uses, and included a representative list of those uses for consideration of approval.

The City Council Goal 4 Objective Work Plan Element regarding working waterfronts is:

HAB Working Waterfront Ad-Hoc Committee to develop a "Working Waterfront" mission statement or policy for incorporation into the GP/LCP.

CONCLUSION

Given the PC and GPAC are also working on Measure D and Working Waterfront-type issues in their involvement with the GP/LCP updates, it makes sense HAB, PC and GPAC all work together, so their combined efforts are both harmonious and non-duplicative.

The Harbor Director and Community Development Director, therefore, recommend the City Council approve an approach where *ad hoc* committee of two members from the PC work with the existing HAB Working Waterfront Ad-Hoc Committee to combine their work efforts and product for a cohesive approach to addressing the issues. Their combined work product and recommendations would be brought to a joint HAB/PC meeting (to be determined), where additional public and other input could be taken, the end results being forwarded to the GPAC for inclusion in the GP/LCP update process. Additionally, on an as-needed basis, draft language, policy and other items could be routed back to the Ad-Hoc Committee and/or HAB/PC for further vetting.

Pursuant to the Brown Act, the new body made up of two PC Members and two HAB Ad-Hoc Committee Members would be a legislative body and only able to meet at duly noticed public meetings, Since the HAB Ad-Hoc Committee already exists, if, the two members of the PC *ad hoc* committee were to attend one or more of the HAB Ad-Hoc Committee meetings to provide input to that Committee, but not participate in deciding actual recommendations of the HAB Ad-Hoc Committee, then that would not create a legislative body pursuant to the Brown Act. Alternatively, the two HAB Ad-Hoc Committee Members could similarly provide input to the PC *ad hoc* committee.

ATTACHMENTS

1. March 3, 2017 HAB Measure D request letter.
2. June 11, 2017 HAB Working Waterfront and Measure D recommendations document.
3. Measure D (Ordinance No. 207) text.



CITY OF MORRO BAY

HARBOR DEPARTMENT
1275 Embarcadero Road
Morro Bay, CA 93442

TO: MAYOR IRONS AND CITY COUNCIL

FROM: THE MORRO BAY HARBOR ADVISORY BOARD

MARCH 3, 2017

RE: HARBOR ADVISORY BOARD "MEASURE D" REQUEST

Dear Mayor Irons and City Council,

I am writing on behalf of the Harbor Advisory Board (HAB), which, during its March 2, 2017 meeting, determined to make the following request.

The HAB is aware that the City, with the assistance of consultant Michael Baker Int., is engaged in an update of the City's General Plan and Local Coastal Plan. Agenda item C-5 from the HAB's March 2, 2017 meeting included the following Staff Recommendation, "Consider whether clarification of Measure D's apparent ambiguities should be tied to the City's update of the General Plan and Local Coastal Plan, and make recommendations accordingly".

Over the past two years, the HAB has on several occasions identified and discussed apparent ambiguities in the text of Measure D. The two most apparent ambiguities revolve around: 1. the reference to "primarily" as it relates to uses of the Measure D waterfront for "purposes of serving or facilitating licensed commercial fishing activities or non-commercial recreational activities . . ."; and 2., the reference to "clearly incidental thereto" as it relates to consideration of waterfront land use in terms of being for "purposes of serving or facilitating licensed commercial fishing activities or non-commercial recreational activities . . .".

The HAB has carefully considered this Measure D language, its meaning, and its implications. Additionally, the HAB has on more than one occasion considered Measure D as it relates to usage of Tidelands Trust lands, i.e. Morro Bay's waterfront from Beach Street north to Target Rock.

Considering the above, the Harbor Advisory Board formally requests involvement in the consideration of Measure D, as it relates to the City's current update of the General Plan and Local Coastal Plan. Please advise us as to how we can best become involved to the benefit of the City, the Council, and the community.

Regards,

Ron Reisner, Chairman, Harbor Advisory Board

cc: Mr. Dave Buckingham, City Manager
Mr. Scot Graham, Community Development Director
Mr. Eric Endersby, Harbor Director

**Morro Bay Working Waterfront Initiative and Measure D
Harbor Advisory Board Recommendations**

June 11, 2017

Eleven Pages

Executive Summary

In August 2016, the Morro Bay City Council tasked the Morro Bay Harbor Advisory Board (HAB) to, “. . . begin a “Working Waterfront” policy-making process for Morro Bay”. Per the relevant City Staff Report in August, the HAB was requested to address three Working Waterfront “Work Plan Elements” (WPE) to “. . . guide the process and help achieve the goal”.

The first of those WPE’s (WPE1) was addressed by the HAB during the first quarter (Q1) of the City’s FY 2016/2017. WPE1 called for the HAB and the Committee to, “Research ‘Working Waterfronts’, their designations, guidelines and other information pertinent to Morro Bay for consideration of a Morro Bay policy and possible designation”.

In September 2016, after considerable research into Working Waterfronts in the U.S., as well as research into and consideration of the Working Waterfront concept as it relates to Morro Bay, the HAB presented a written report highlighting a number of key points, as well as relevant data, and imperatives. This report was subsequently enhanced in an updated Committee reported dated November 10, 2016. Further, during its October 6, 2016 meeting, the HAB passed a formal recommendation to the City Council, stating, *“Recommended to the City Council that in order to ensure a vibrant waterfront, the City of Morro Bay self-designate a working waterfront area from Morro Rock to the State Park Marina, with follow-on policies, perhaps zoning, and other land and water use implementation strategies and/or measures.”*

In December 2016 and January 2017, the HAB addressed WPE2, which called for the development of a draft Morro Bay Working Waterfront policy, for consideration by the City Council. On January 26, 2017, the HAB published a report which stated in part that to achieve the goal of WPE2, the HAB concluded that development of a Morro Bay Working Waterfront Policy, including Morro Bay’s definition of “Working Waterfront”, best occurs in concert with the current update of the City’s General Plan and Local Coastal Plan. Further, the HAB concluded that Morro Bay is in a position to self-designate its Working Waterfront, and develop Working Waterfront definitions that are of greatest advantage and opportunity.

Additionally, the January 26, 2017 report commented on a December 12, 2016 meeting with the then City Manager, Councilman Makowetski, and at the beginning of the meeting Councilman-elect Davis. During that meeting, the City Manager discussed issues relative to the HAB’s October 6 recommendation, suggesting that the concept of a Working Waterfront in Morro Bay be concentrated on the area presently delineated by Measure D.

The HAB responded to the City Manager’s suggestion by reiterating its reasoning behind the October 6, 2016 recommendation to Council. However, toward the end of the meeting, HAB

representatives suggested the possibility of designating three separate Working Waterfront sectors for Morro Bay:

- A Working Waterfront Fisheries Sector, extending from Beach Street north to the exiting northern boundary of Measure D. This sector would also include the “Triangle Lot”, given that it is the most viable site identified for a boatyard/marine services facility.
- A Working Waterfront Visitors Sector, extending from Beach Street south to Mariner’s Park.
- A Working Waterfront Commercial Sector, extending from Mariner’s Park south to the State Park Marina.

Through its work relative to a Morro Bay Working Waterfront, the HAB clearly determined that such concept must be integrated into the City’s General Plan, the Local Coastal Plan, and the Waterfront Master Plan. Further, such integration must include the City’s Measure D. Additionally, development of a Morro Bay working waterfront policy should take place in light of waterfront related business and land use projects that are underway, or are being contemplated.

During an April 11, 2017 City Council and HAB joint meeting, the Mayor, speaking for the City Council, requested the HAB provide Council with a generalized “mission statement” regarding a Morro Bay Working Waterfront, and Measure D, for consideration by Council for possible inclusion in the current General Plan/Local Coastal Plan update.

This proposed generalized mission statement was to be sufficiently broad to facilitate the future generation of a Morro Bay Working Waterfront policy, and sufficiently broad to address Measure D, but not at this time be specific as to either a Working Waterfront definition or policy, or any clarification of Measure D.

Subsequently, during its June 1, 2017 meeting, the HAB passed the following motions relative to a Morro Bay Working Waterfront, and Measure D. Consistent with the request of Council, both motions are intended to inform and enhance the current GP/LCP/WMP updates, as they relate to a Morro Bay Working Waterfront and Measure D:

Motion A. – Working Waterfront Mission Statement:

The City of Morro Bay is uniquely located and situated to capitalize on the waters of Morro Bay and the adjacent Pacific Ocean in its General Plan and Local Coastal Plan. Further, the City of Morro Bay is dedicated to ensuring a vibrant Working Waterfront for the purposes of providing, promoting and supporting land uses and access in support of water-dependent commercial activities, water-dependent recreational activities, waterfront enhanced commercial activities, water-enhanced recreational activities, and for purposes related to providing public access to Tidelands Trust lands.

Therefore, the Morro Bay Harbor Advisory Board recommends to the Morro Bay City Council

that incorporated into the current Morro Bay General Plan and Local Coastal Plan update is a Morro Bay Working Waterfront land area and its uses, consistent with the requirements of the California Coastal Act. This Morro Bay Working Waterfront land area encompasses the Morro Bay waterfront from Target Rock in the North, to the southern boundary of the State Park Marina in the South, and encompass all waters of Morro Bay within the City limits, as well as all tidelands within the City limits, and all wetlands within the City limits (i.e. inclusive of City property from the West shore of the Sand Spit, to the bottom of the bluff along the east side of Embarcadero Road).

Motion B. – Working Waterfront Land Uses:

The Morro Bay Harbor Advisory Board recommends to the Morro Bay City Council that in the update of the Morro Bay General Plan, the Morro Bay Local Coastal Plan, and the Morro Bay Waterfront Master Plan, that consideration be given to Working Waterfront uses including, but not limited to: Harbor Tract lease sites and other City lands adjacent to Morro Bay; structures on, over, or adjacent to Morro Bay along the waterfront within the City limits; infrastructure, facilities and properties that provide access to Morro Bay; infrastructure, facilities and properties that are used for water-dependent or Harbor related private, commercial, industrial, or City activities including tourism, boating, commercial fishing, recreational fishing, mariculture, charter boat operations, boat repair and maintenance, boat building, marine supply services, marine construction, marine industry support services, seafood processing, seafood sales, aquariums, transportation, shipping, military activities, coastal-dependent energy production, boat marinas, boat moorage, boat dockage, wharfage, boat launching, and other water dependent uses. Further, that the designated Measure D area and its defined uses be incorporated into the City of Morro Bay’s Working Waterfront.

Background and Timeline

August 2016: In August 2016, the Morro Bay City Council tasked the HAB to, “. . . begin a “Working Waterfront” policy-making process for Morro Bay”. The HAB in turn created a Working Waterfront Ad-Hoc Committee (Committee) to pursue that task.

Per the relevant City Staff Report in August, the HAB and the Committee were requested to address three Working Waterfront “Work Plan Elements” (WPE) to “. . . guide the process and help achieve the goal”.

The first of those WPE’s (WPE1) was to be addressed by the HAB and the Committee during the first quarter (Q1) of the current City fiscal year – July 2016 through September 2016. WPE1 calls for the HAB and the Committee to, “Research ‘Working Waterfronts’, their designations, guidelines and other information pertinent to Morro Bay for consideration of a Morro Bay policy and possible designation”. During August and September 2016, the HAB conducted considerable research into the concept of Working Waterfronts around the U.S., and various implementations of Working Waterfront policies.

ATTACHMENT 1 CONT.

September 2016: Having conducted considerable research into Working Waterfronts around the U.S., as well as research into and consideration of the Working Waterfront concept as it relates to Morro Bay, the HAB published a written report, highlighting a number of key points, relevant data, and imperatives. This report was subsequently enhanced in an updated report dated November 10, 2016.

Through these reports and the HAB's subsequent deliberations related to a Morro Bay Working Waterfront, the HAB clearly determined that such a concept must be integrated into the City's General Plan, the Local Coastal Plan, and the Waterfront Master Plan. Further, such integration must include the City's Measure D. Additionally, development of a Morro Bay Working Waterfront policy should take place in light of waterfront related business and land use projects that are underway, or are being contemplated.

October 2016: During the regular October 6, 2016 HAB meeting, and in response to the Morro Bay City Council's WPE2 assignment relative to a Working Waterfront initiative in Morro Bay, the HAB voted unanimously to recommend the following to the City Council:

Recommended to the City Council that in order to ensure a vibrant waterfront, the City of Morro Bay self-designate a working waterfront area from Morro Rock to the State Park Marina with follow-on policies, perhaps zoning, and other land and water use implementation strategies and/or measures.

This recommendation was transmitted to the City Council in a letter from the HAB dated October 10, 2016.

December 2016: On December 12, 2016, HAB members met with the then City Manager, Councilman Makowetski, and at the beginning of the meeting Councilman-elect Davis. During that meeting, the City Manager discussed issues relative to the HAB's October 6 recommendation, suggesting that the concept of a Working Waterfront in Morro Bay be concentrated on the geographic area presently delineated by Measure D.

The Ad Hoc Committee responded to the City Manager's suggestion by reiterating its reasoning behind the October 6, 2016 recommendation. However, toward the end of the meeting, the Committee suggested the possibility of designating three separate Working Waterfront sectors for Morro Bay:

- A Working Waterfront Fisheries Sector, extending from Beach Street north to the exiting northern boundary of Measure D. This sector would also include the "Triangle Lot", given that it is the most viable site identified for a boatyard/marine services facility.
- A Working Waterfront Visitors Sector, extending from Beach Street south to Mariner's Park.
- A Working Waterfront Commercial Sector, extending from Mariner's Park south to the State Park Marina.

ATTACHMENT 1 CONT.

Delineating these three Working Waterfront sectors, should the City determine to self-designate a Working Waterfront, provides opportunity for each of the sectors to be defined separately.

- The Fisheries Sector incorporates the existing land use protections provided to commercial and recreational fisheries by Measure D, and provides: a discrete portion of the waterfront for fisheries related facilities and services; and a discrete portion of the waterfront for fisheries related commercial activities and opportunities – some of which could readily enhance tourism.
- The Visitors Sector allows the City to define this area in ways that optimize the existing Tidelands Trust enterprise zone to the advantage of enterprise zone lease holders and to the City. This in turn provides optimal opportunities and advantages for visitors, as well as for the community at large, and the City that exists to serve the community.
- The Commercial Sector allows the City to define this area to the advantage of existing commercial lease holders; to the advantage of existing and future commercial enterprise; to the advantage of the community; and to the potential advantage of the City’s management arrangement with the State of California for the State Park Marina.

Additionally, the HAB recognized the definition of working waterfront as adopted by the State of Florida:

Florida’s Working Waterfront Protection Act [Fla. Const. art. VII (amended 2008); Fla. Stat. § 342.201 (2009); and Fla. Stat. § 342.07 (2009)] incorporates a broad definition of working waterfront, a definition that may be useful in the development of a Morro Bay Working Waterfront policy. The Florida Act describes and protects “recreational and commercial working waterfront,” including boatyards, marinas, and, since 2006, resort hotels.

In Florida’s Act, the term “recreational and commercial working waterfront” means a parcel or parcels of real property that provide access for water-dependent commercial activities, including hotels and motels...or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include public lodging establishments, docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water.

January 2017: The second WPE (WPE2) was to be addressed during the second quarter (Q2) of the current City fiscal year – October through December. WPE2 called for the HAB and the Ad Hoc Committee to: “Develop draft Morro Bay “Working Waterfront” policy for City Council consideration (FY Q2)”.

Toward that end, and as noted above, in December 2016 the HAB developed the three-sector Working Waterfront plan described in the Executive Summary.

March 2017: During its March 2, 2017 regular meeting, the HAB discussed the following agenda item, “Consider whether clarification of Measure D’s apparent ambiguities should be tied to the City’s update of the General Plan and Local Coastal Plan, and make recommendations accordingly”.

During the two-year period, the HAB carefully considered this Measure D language, its meaning, and its implications. Additionally, the HAB has on more than one occasion considered Measure D as it relates to usage of Tidelands Trust lands, i.e. Morro Bay’s waterfront from Beach Street north to Target Rock. During these considerations, the HAB on several occasions identified and discussed apparent ambiguities in the text of Measure D.

Following discussion on March 2, the HAB resolved to formally request that the City Council direct the HAB to further involve itself with Measure D, specifically as it related to the City’s current update of the General Plan and Local Coastal Plan. The HAB further requested, concerning Measure D, that the City Council advise the HAB as to how best it could become involved to the benefit of the City, the Council, and the community. On March 3, 2017, the HAB sent a letter to Council presenting those requests.

May - June 2017: During an April 11, 2017 City Council/HAB joint meeting, the Mayor, speaking for the City Council, requested the HAB provide Council with a generalized “mission statement” regarding a Morro Bay Working Waterfront, and Measure D, for consideration by Council for possible inclusion in the current General Plan/Local Coastal Plan update. This proposed generalized mission statement was to be sufficiently broad to facilitate the future generation of a Morro Bay Working Waterfront policy, and sufficiently broad to address Measure D, but not at this time be specific as to either a Working Waterfront definition or policy, or any clarification of Measure D.

Subsequently, during its June 1, 2017 regular meeting, the HAB passed two motions relative to a Morro Bay Working Waterfront, and Measure D. Consistent with the request of Council, both motions are intended to inform and enhance the current GP/LCP/WMP updates, as they relate to a Morro Bay Working Waterfront and Measure D. The two motions are documented in the above Executive Summary.

Developing a Working Waterfront Policy

To achieve the goal of WPE2, the HAB concluded that development of a Morro Bay Working Waterfront Policy best occurs in concert with the current update of the City’s General Plan and its Local Coastal Plan.

Borrowing from the *Sustainable Working Waterfronts Toolkit* developed by the Economic Development Administration division of the U.S. Department of Commerce, the following applies to the City of Morro Bay’s process of developing definitions for self-designated Working Waterfront Sectors:

Economics

In the economics element, consideration needs to be given to quantifying, to the greatest degree possible, the present financial contribution to Morro Bay, as well as the potential future contribution to Morro Bay economics, of: harboring vessels; marine service facilities; marine construction; coastal tourism and recreation; living marine resources and the marine environment; the commercial fishing industry; onshore and offshore energy production; marine transportation; etc.

Financing

The Financing element focuses on identifying economic resources that may be available to support a Working Waterfront in Morro Bay. Such resources include, but are not limited to: local taxation; State resources, Federal resources, foundations, etc. For instance, State resources are reported to include working waterfront funding mechanisms for thirty coastal states, and Federal resources are reported to include a compilation of federal programs and independent sources with national scope that qualify to be used on working waterfront issues. Additionally, there are reportedly philanthropic foundations that have either funded working waterfront projects or have focused on the economic aspects of coastal communities.

Law and Policy

Reportedly, with the exception of a few States such as Maine and Florida, working waterfronts have not been a primary focus for policymakers, and very few legal tools and policy approaches have reportedly been developed specifically with working waterfronts in mind. There reportedly are, however, tools available to help formulate working waterfront policy in the context of Morro Bay. These tools include: information on how local policymakers can apply water-dependent use definitions; addressing land use and tax policy; considerations of historic preservation laws; and addressing land conservation and acquisition programs relative to a Morro Bay working waterfront. Key components of Morro Bay developing a Working Waterfront policy include identifying existing policy-making tools, assessing those tools for relevance and sufficiency, developing and/or accessing additional tools as may be needed, and then developing and executing a policy-making plan utilizing appropriate tools.

Tools for Development of Working Waterfront Policy

Taken directly from the *Sustainable Working Waterfronts Toolkit*, the three tables below list a number of “Tools” useful to the development of Working Waterfront policy. It would be incumbent upon Morro Bay to use these tools, and to develop and apply any other tools necessary to the development of a well-conceived Working Waterfront policy.

Table 1. Working Waterfront Tools

Category	Tools
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ATTACHMENT 1 CONT.

Policy and Regulation	Building Code; Coastal Zone Management Program; Design Standards; Exaction; Historic Preservation; Litigation; Moratorium; No Net Loss Policy; Police Power; Public Trust Doctrine; Real Estate Disclosure; Special Purpose Political Subdivision; User Fee; Visual Access
Financing	Appropriation, Bond Financing, Dedicated Revenue, Economic Development Entity, Foundation, Grant, Loan, Loan Guarantee Subsidy, Tax Increment Financing, Trade Association
Planning	Action Planning, Business Recruitment Plan, Comprehensive Plan, Disaster Recovery Planning, Growth Management, Harbor Management Plans, Historic Resources Survey, Land Use Planning, Marine Spatial Planning, Six Hats Exercise, Smart Growth, Special Area Management Plan, SWOT Analysis; Waterfront Master Plan
Zoning	Contract Zoning, Form-based Code, Impact Fees, Incentive Zoning, Overlay Zoning, Private Zoning, Shoreland Zoning, Water Dependent Use, Water Dependent Use Zoning, Zoning, Zoning Ordinance
Taxation	Ad Valorem Tax, Current Use Taxation, Excise Tax, Income Tax, Property Tax, Real Estate Transfer Tax, Sales Tax; Special Assessment, Special Taxing Districts Tax, Tax Abatement/Deferral, Tax Incentives
Community/Stakeholder Engagement	Branding, Coalition, Conflict Resolution, Focus Group, Initiative, Partnerships, Stakeholder Analysis, Technical Assistance, Visioning Exercise
Mapping, Inventory, Study	Build Out Analysis, Coastal Access Site Inventory, Community Assets, Mapping/Inventory, Economic Analysis/Assessment, Force Field Analysis, Legal Tools Inventory, Legislative Task Force, Marketing Study, Natural Resource Inventory, Needs Assessment Repository, Visual Preference Survey, Working Waterfront Inventory
Land Conservation, Transfer, Acquisition	Acquisition; Compensation, Conservation Easement, Conveyance, Covenant, Deed Restriction, Easement, Eminent Domain, Land Bank, Land Trust, Lease, Liability Waiver, Purchase of Development Rights, Right-of-Way, Transferable Development Rights, Transferable Slip Rights, Working Waterfront Conservancy
Private Agreements	Consideration, Contracting for Access, Installment Contract, Lease-Option Contract, Private Use Agreements, Use Permitting

Table 2: Working Waterfront Tools for Decision and Policymakers

Category	Tools
Policy and Regulation	Decision and Policymakers may adopt formal policies or regulations to address discrete working waterfront issues. Building and development codes, for example, may impose water-dependent use requirements. Permitting programs can be designed to require consideration and mitigation of the impact of a working waterfront conversion on water-dependent business or uses.
Financing	Many states have created special funding programs to preserve working waterfront access. Money for such programs can come from a variety of sources, including grants, general fund revenue, and the issuance of state and municipal bonds. Indirectly, taxes can also be used by a government entity as a means of raising funds the public can invest in the acquisition of public access or working waterfronts. A land gains tax, real estate transfer tax, impact fees, or tax increment financing can all be explored for these purposes.
Planning	Local governments can use comprehensive plans, including waterfront master plans, harbor management plans, and special area management plans, to incorporate provisions to preserve and plan for the needs of working waterfronts.

Zoning	Zoning may be used to help fully realize any working waterfront goals, especially if those goals have been clearly articulated in local comprehensive plans. For example, zoning may help ensure that water-dependent uses, such as marinas, maintain priority and that other authorized uses, such as commercial spaces, are compatible. For example, Portland, Maine has worked hard to preserve its working waterfronts through zoning that ensures compatibility of uses located on the piers and the city waterfront, while being sensitive to the long-term operation and maintenance needs of pier owners as fishing in the Gulf of Maine has declined. (www.wateraccessus.case_study.cfm?ID=32)
Taxation	Impacts of high waterfront taxes can be mitigated through changes in tax policy that provide incentives for maintaining working waterfront access or protection. For example, a change in tax policy to an ad valorem, or "current use," tax that assesses working waterfront property based on the value of land as it is currently being used can help communities retain water-dependent business that may be struggling to pay property taxes assessed on the fair market value or "highest and best use" of the property.
Community/Stakeholder Engagement	Working waterfront stakeholders in any given community are those who are most affected by changes to the waterfront. As such, their engagement and participation is critical in visioning, planning, and implementing actions along the waterfront. Without the stakeholders at the table, initiatives are much less likely to succeed. The Middle Peninsula Planning District Commission in Virginia, for example, established the York River Use Conflict Committee to gain a better understanding of existing uses and conflicts along the York River and inform the development of policy recommendations.
Category	Tools
	(www.wateraccessus/case_study.cfm?ID=38)
Mapping, Inventory, Study	To clearly delineate their programs and policies, Decision and Policymakers must gather information about their working waterfronts. North Carolina and Alabama, for example, established legislative study committees in response to public concerns regarding loss of traditional working waterfronts. Maine and other states have inventoried and mapped working waterfront land (including ownership patterns), providing for the first time a comprehensive understanding of the status of working waterfront access and a baseline for tracking change.
Land Conservation, Transfer, Acquisition	Sometimes the most effective means of protecting or enhancing a working waterfront is to buy the property. A local government, for instance, may choose to purchase a dock or marina to ensure continued public use and access. Private owners, nonprofit organizations, and government agencies can form public/private partnerships to pursue the purchase and acquisition of working waterfront property and interests.
Private Agreements	Although a government decision-making body cannot require private entities to enter into contracts, policy can be crafted providing incentives for agreements that support working waterfronts. These can be implemented through other tools identified above, such as zoning. Additionally, local and state governments also own working waterfront infrastructure and can enter into private agreements like any other private land owner.

Table 3: Waterfront Users, and Working Waterfront Tools for Waterfront Users

Many who rely on access to working waterfronts for their livelihood or other activities do not have a guaranteed right to that access. Working waterfronts can be publicly owned, managed by a quasi-public entity like a port authority, or privately owned. Competing, and at times conflicting, demands on waterfront space can result in the loss of access for traditional waterfront activities and water-dependent uses. Loss of access frequently impacts the user more than the landowner.

ATTACHMENT 1 CONT.

Lacking ownership interest in their working waterfront and the direct ability to make laws, change zoning, or other regulatory decisions means that waterfront users have the fewest tools at their disposal. However, they are often key partners in the implementation of working waterfront initiatives. Displacement of waterfront users is frequently the catalyst for communities to come together and figure out how to protect land usage and access.

Category	Tools
Policy and Regulation	Working waterfront users can have considerable influence on local and state policies and regulations like tax or policy incentives for waterfront landowners that grant preferences to working waterfronts. In addition, many waterfront users are businesses that require access to the water, and often make important contributions to the local economy and character of coastal communities.
Financing	For many users of working waterfront infrastructure, tools for financing capital improvements or ongoing operations and maintenance costs are not directly applicable. Users, for instance, cannot get a loan or a grant to make an investment on somebody else's property. Working waterfront users, however, frequently help finance the ongoing viability of the infrastructure they use through the payments of taxes, fees, and rent. By entering into leases or other business arrangements, waterfront users may be able to help provide the financing needed to keep the infrastructure operational. In addition, many public financing programs require a commitment from the waterfront landowner to support water-dependent uses for a specific period of time. Users may also influence the funding for public financing through the provision of stakeholder input, or by advocating for a specific appropriation, bond financing, or dedicated revenue.
Planning	Waterfront users can be important participants in planning processes. This is true whether policymakers are developing comprehensive land use plans, harbor management plans, special area management plans, or engaging in marine spatial planning. Some strategies, like development of business recruitment and growth management plans, can be quite focused on the needs of working waterfront users. Concerns about losing a historic industry often drive these planning processes. For example, in Gloucester, Massachusetts, the comprehensive planning process helped identify issues facing waterfront users and provided a forum for negotiating compromises that allow continued access to the working waterfront.
Zoning	Waterfront users are often impacted by zoning decisions. Changes in the economic condition of the working waterfront can cause waterfront landowners to seek changes to or exemptions from zoning ordinances that may shift or displace traditional uses. The public process around zoning decisions gives waterfront users a chance to participate in the decision-making process and contribute to the development of solutions that work for the community, users, and landowners.
Taxation	Waterfront users often indirectly benefit from tax incentives for working waterfronts. Tax programs, including current use taxation, property tax abatement and other tax incentives,
Category	Tools
	can help landowners maintain working waterfronts on their property. This in turn ensures continued access for water-dependent uses. Waterfront users also support working waterfronts through tax payments, which are often the revenue source for public financing of working waterfront initiatives.

ATTACHMENT 1 CONT.

Community/Stakeholder Engagement	Waterfront users are often the most identifiable stakeholder in a community's working waterfront. Users can influence the local and state decision-making and policy processes by utilizing community and stakeholder engagement tools like coalition-building and forming partnerships.
Mapping, Inventory, Study	Some inventories, mapping projects, or studies may come from and be conducted by users or groups working closely with working waterfront users. Others may emerge as part of a public process. Participation in mapping, working waterfront inventories, and other studies can be an extremely important way to influence decisions being made by others about working waterfronts.
Land Conservation, Transfer, Acquisition	Waterfront users in some communities have purchased development rights, easements, covenants, or otherwise placed restrictions on properties they rely on to increase the likelihood of continued water access. Waterfront users are at a high risk for displacement around the time a working waterfront is being transferred or sold. They can work with the sellers, land trusts, and the community to acquire the property for the benefit of the broader community.
Private Agreements	Private arrangements between the landowner and user can help ensure that specific users or a community of working waterfront users maintains water access. Formal private agreements like leases, private use agreements, or other contracts, can provide revenue for the landowner and certainty for the user. Informal arrangements that allow access across private property can also be important; however, many coastal communities have seen that, as pressures on landowners increase, users of working waterfronts are likely to see changes to or the ending of these informal arrangements. Users with informal agreements are particularly at risk for displacement when a property is transferred, particularly if the new owner does not have a connection to those working waterfront users. In any private agreement, a tangible benefit to the landowner will help fortify the agreement, should it need to go before the court.

ATTACHMENT 1 CONT.

ORDINANCE NO. 207

AN ORDINANCE TO RESTRICT FURTHER DEVELOPMENTS AND USES BETWEEN BEACH STREET AND TARGET ROCK TO THOSE PRIMARILY SERVING LICENSED COMMERCIAL FISHING OR RECREATIONAL FISHING

The people of the City of Morro Bay do ordain an ordinance relating to the restriction of further developments and uses between Beach Street and Target Rock to those primarily serving licensed commercial fishing or recreational fishing as follows:

Municipal Code Section 17.36.020C. The City shall not grant any permit, authorization or other approval of any state owned tidelands subject to city lease between Beach Street and Target Rock, unless such development or use is primarily for the purpose of serving or facilitating licensed commercial fishing activities or noncommercial recreational fishing activities, or is clearly incidental thereto. For purposes of illustration only, and not by way of limitation, no approval shall be granted for any new passenger for hire boats or supporting facilities, or for any new restaurant, cafe, gift shop or other retail establishments serving the general public, and any existing such uses shall hereafter be considered nonconforming and shall not be expanded or enlarged.

I, BONITA KAY MURRAY, Deputy City Clerk of the City of Morro Bay, do hereby certify that the foregoing is a true and correct copy of an ordinance adopted by a majority vote of the electors voting in the special municipal election held in the City of Morro Bay on the 2nd day of June, 1981.

DATED: June 8, 1981


BONITA KAY MURRAY, Deputy City Clerk



AGENDA NO: C-1

MEETING DATE: August 16, 2016

Staff Report

TO: City of Morro Bay Planning Commission **DATE:** 08/10/16

FROM: Scot Graham, Community Development Director

SUBJECT: Measure “D” Discussion/Study Session in support of possible preparation/adoption of a future interpretation memorandum as it relates to the requirements of the Measure D area.

RECOMMENDATION

1. Review the staff report and related materials, discuss and provide direction to staff

BACKGROUND

The Planning Commission recently raised the question about how we might go about better defining what is meant by the language in Measure “D”. The resulting discussion brought about identification of Measure D as a future agenda item.

Concern regarding how the language in Measure “D” has been interpreted overtime has been an ongoing issue since its inception through voter approval by the Citizens of Morro Bay on June 2, 1981.

Measure “D” 2008

The Council, back in 2008, discussed placing an initiative on the November 2008 General Election to either repeal or amend Measure “D”. Ultimately the Council decided to postpone the decision on amending or repealing Measure “D”, and instead direction was provided to staff to pursue additional stakeholder input and then to return to Council with the results of those efforts. It is unclear if this item was ever brought back for consideration by Council, but in searching through City records it appears that it was not.

Measure “D” 20012/2013

Back in April 23, 2013 the Council and Planning Commission held a joint meeting where Measure “D” again surfaced as a topic of discussion. The consensus between the Planning Commission and Council was that the intent behind Measure “D” was to preserve the area for the commercial fishing industry and that this was a topic worthy of discussion at the Planning Commission level, where stakeholder input could be gathered and recommendations brought back to Council for better defining what was allowed

Prepared By: SG Dept Review: SG

in the Measure “D” area.

In looking through the record it does not appear that the subject was ever agendaized for Planning Commission consideration, but instead the Harbor Advisory Board (HAB) picked it up in September of 2013. The agenda and minutes for the September 5, 2013 Harbor Advisory Board meeting can be found at the following link: <http://www.morrobayca.gov/archive.aspx>.

The HAB’s discussion centered on developing potential definitions for portions of Measure “D” to help clarify the language of the measure. Specifically, the Motion included the following:

MOTION: Chairman Eckles moved that the Harbor Advisory Board recommend to City Council that the City develop a policy statement defining passenger for hire and sport fishing as it pertains to Measure D, and to urge the City toward conservative interpretation to favor the commercial fishing industry and strict enforcement of Measure D.

Discussion by the Board. Ms. Meissen said she thought the first part of the Motion would not have great utility in helping the Harbor Director make decisions on what types of businesses are allowed in the area under Measure D, such as the Stand-Up Paddle business. She said that she really liked the second part of the Motion and anything that will help support our local fishermen.

Vote: The Motion was seconded by Mr. Luffee and passed with a vote of 5 to 1, with Ms. Meissen voting no.

It does not appear that the above noted action by the HAB ever resulted in additional action or direction to or by Council.

DISCUSSION

The intent behind Measure “D” is to limit development and uses, within the Tidelands Trust lease site area between Beach Street and Target Rock, to those catering predominately to licensed commercial fishing operations or non-commercial recreational fishing activities.

The language of Measure D follows:

Zoning Code Section 17.36.020:

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

The language is somewhat vague and the first sentence is really the only operational portion of the Measure. The second sentence indicates that it is for “Illustration only” and is thus not binding, although it does help somewhat in trying to define what is meant by the measure.

Chairperson Tefft, provided staff with five (5) questions pertaining to the meaning of the measure and it seemed as good a place to start as any. There may be other questions that the Commission is interested in addressing or Commissioners may have similar concerns as those noted but different solutions, options or ideas on how to address the questions. Again, these questions are provided to help jump start the conversation. Each Questions is followed by a staff comment section:

Question 1

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

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

It is notable that, in common English usage, when two nouns separated by the word “or” are preceded by an adjective, the adjective typically applies to both nouns. For example:

“Diners may choose from broiled halibut or cod.”

“The space will be planted with a 15-gallon maple or oak.”

Common grammatical usage notwithstanding, the Planning Commission should attempt to clarify the actual intent of Measure D and to provide a better-defined statement of the types of activity that must be served or facilitated by new development in this area.

Staff Comment Question 1

The question as to what is meant by “noncommercial recreational fishing activities”, seems to be one that has come up regularly over time. In some instances, there is testimony in the record that suggests the original intent behind this section of Measure “D” might have been to allow sport fishing boats. This has also been one of the sections regularly suggested for amendment.

Question 2

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

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

- The owner of a commercial fishing boat docked in Morro Bay is unable to meet expenses (mortgage, dock fees, salaries, maintenance, *et al.*) with the revenues generated by fishing. He proposes to open a pancake house within the area subject to Measure D, with the condition that 75% of the profits generated by the pancake house will be devoted exclusively to the upkeep, maintenance, and continued operation of the fishing vessel. Is this proposal consistent with Measure D?
 - The holder of both a landside and water lease in the area encompassed by Measure D
-

proposes to build a boutique hotel on the landside site. As a condition of approval for this development, the applicant agrees to build 12 docking slips on the water lease and, in anticipation of profits to be made from the hotel, to rent these slips to commercial fishing vessels at a rate 25% lower than that charged at City-owner docks. Does this proposal “serve and facilitate” the commercial fishing industry, as required by Measure D?

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

Staff Comment Question 2

We recently received some inquiries that are somewhat related to this item. More specifically, the inquiry centered on an unofficial proposal to operate a boat-vacation rental or (Botel) in the Measure D area.

Question 3

To what degree is the approval of proposed projects within the area covered by Measure D constrained by the requirement that “*such development or use is **primarily** for the purpose of serving or facilitating licensed commercial fishing activities or noncommercial recreational fishing activities*”?

Does this requirement mean that the City cannot approve a development which serves both fishing and general boat owners unless the service to commercial vessels is greater than that afforded to recreational boats? For example, would the “primarily” provision preclude a boat haul-out facility unless more than 50% of vessels to be hauled are commercial fishing boats or prohibit a new fuel dock unless service is denied to pleasure boats?

Staff Comment Question 3

This issue would likely only come in to play if the haul out facility were on the water side of the Embarcadero. The current location identified for a possible boat haul out facility is the Triangle Lot on the opposite side of the Embarcadero, outside the Measure “D” area.

Question 4

What is the significance of the fact that Measure D does not include language that restricts its impact to only approvals required for new development? An intuitive interpretation of this omission would be to conclude that Measure D does not allow for the “grandfathering” of land uses that fail to meet the test of “*serving or facilitating licensed commercial fishing activities or noncommercial recreational fishing activities*”. In other words, Measure D appears to require that land uses which do not serve or facilitate the fishing industry be disallowed whenever the City has discretion to do so (i.e, whenever a City permit, authorization, or tidelands lease agreement is under consideration), regardless of whether or not such non-compliant land use currently exists at the site or has existed there in the past. What other interpretations can reasonably be made of this clause?

In a related question, if a structure that houses nonconforming land uses is demolished and a new structure is erected at the site, can the land uses which existed in the demolished building be considered to be “continued” in the new structure, or must all uses in the new building be considered to be “new” uses? Likewise, if a “*passenger for hire boat*” is removed from docks within the Measure D area, should this use be considered “discontinued”? Can such a vessel be replaced with another “*passenger for hire boat*”, or would such an action represent a “new” use? Under the terms of Zoning Ordinance 17.56.130, does it matter if such replacement occurs after a period of six months has elapsed?

Staff Comment Question 4

The recently approved Fowler lease site landside development removes Dockside 3 and places the restaurant square footage within the new waterfront building. Dockside 3 is considered nonconforming related to use, but we were able to relocate the restaurant space, so long as the seating/restaurant area was not expanded. As we were taking this lease site proposal through the approval process, we inquired with Joe Pannone, City Attorney, and he agreed that based on how our nonconforming ordinance is written and taking into consideration the language of Measure D, it was possible to preserve the existing nonconforming use, so long as it was not expanded.

Question 5

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

Staff Comment 5

I believe the question here is a little more straight forward, given the "for purpose of illustration only" language would typically mean that it is not binding. Although, I would again note that the language following the statement does help define what is allowed in the Measure D area and it would not likely be a good idea to allow uses that directly controvert what is suggested. The point to take away here is that based on the "illustration only" language, the Commission has much more leeway in defining what is meant or allowed by this section.

CONCLUSION

The expectation or desire from this discussion is to emerge with some general direction from the Commission regarding interpretations for allowed uses/development in the Measure "D" area, keeping in mind the intent behind the measure is to preserve the Commercial Fishing industry in the City. I would hope to take input from the Commission and to start forming a policy document that supports and helps define what is allowed on this area. Once the PC finalizes the Draft document, I envision presenting it to the Harbor Advisory Board and then City Council.

Current Application of Land Use Requirements of Measure D

- Uses permitted by Measure D are those related to licensed commercial fishing and licensed non-commercial recreational fishing (i.e., sportfishing). Land uses or waterside facilities related to other forms of recreational fishing, such as pier fishing or spearfishing, are not allowed.
- Land uses prohibited by Measure D which were in existence at the time Measure D was adopted are considered nonconforming uses and are permitted to remain under the provisions of Chapter 17.56 of the Morro Bay Municipal Code. Since this chapter contains no requirement for the abatement of nonconforming uses, these pre-existing land uses may remain indefinitely, so long as they remain in continuous operation.

The permissibility of such a nonconforming use is linked to the site, rather than to a specific building or piece of equipment. Consequently, a restaurant could be relocated from one existing building to another or from an existing building to a proposed structure. and such relocation would constitute a continuation of the nonconforming use, rather than a new use. Likewise, a party boat could be replaced with a different party boat berthed at the same lease site without violating Measure D.

For the sake of clarity, several provisions of MBMC Chapter 17.56 should be noted:

- 17.56.100.A1 – *“Nonconforming use may be replaced with another nonconforming use in the same or in a more restricted classification as determined by the planning commission and subject to first obtaining a conditional use permit, provided that the planning commission finds that the new use is more conforming to the underlying zone than the previous nonconforming use.”*

This provision appears to indicate that a pre-existing use that does not conform to Measure D could, under some circumstances, be converted to a different nonconforming use without violating the terms of Measure D.

In this circumstance, however, the planning commission would have the authority to require eventual abatement, as provided in Section 17.56.100.B: *“In granting a conditional use permit to allow a non-conforming use to be replaced with another nonconforming use in a more restrictive classification, the planning commission may establish an amortization schedule for the nonconforming use by setting a date after which the nonconforming use must be discontinued or replaced with a conforming use.”*

- 17.56.130 – *“No nonconforming use may be resumed, reestablished, reopened or replaced by any other nonconforming use after it has been abandoned or vacated for a period of six months.”*

While it is generally possible, under certain circumstances, for nonconforming uses to be enlarged or expanded, this is specifically prohibited for pre-existing land uses that are not consistent with Measure D.

- Land uses which would otherwise be prohibited by Measure D but which are essential to the financial viability of a *bona fide* commercial fishing or sportfishing business are considered to serve or facilitate the parent enterprise, and are, therefore, permissible. Such subsidiary uses, however, must, however, be directly related to the commercial fishing or sportfishing industry (e.g., fish market, tackle shop) or must be water-dependent (e.g., kayak rentals), so as not to detract from the maritime character of the Measure D area.
- A land use is deemed to be *“primarily for the purposes of serving or facilitating licensed commercial fishing activities, or non-commercial recreational fishing”* if it provides products

ATTACHMENT 3

or services that are of primary importance to these industries. The term “primarily” does not require that a majority of the persons or businesses served be engaged in commercial fishing or sportfishing, nor must the majority of the firm’s income be derived from these sources.

- New land uses which are specifically prohibited by Measure D will not be approved or permitted, regardless of whether they provide financial support to a legitimate commercial fishing or sportfishing business. These include:
 - Passenger for hire boats or supporting facilities
 - Restaurant or cafe
 - Gift shop or other retail establishment serving the general public
- Current lease agreements for properties within the Measure D area do not contain specific language requiring compliance with Measure D or providing information concerning the City’s current interpretation of MBMC Section 17.36.020. It may be useful to consider including this material in the future.

01



OFFICIAL BALLOT
SPECIAL ELECTION
CITY OF MORRO BAY

JUNE 2, 1981

This ballot stub shall be torn off by precinct board member and handed to the voter.

Sample Ballot

MEASURES SUBMITTED TO VOTE OF VOTERS		
CITY OF MORRO BAY		
A	Shall the Ordinance limiting and regulating the expenditure of city funds for community promotion purposes be repealed?	YES +
		NO +
B	Shall the Ordinance requiring voter approval for annexation be repealed?	YES +
		NO +
ADVISORY VOTE ONLY		
C	Shall an Ordinance requiring mandatory garbage collection within Morro Bay be enacted?	YES +
		NO +
D	Shall an Ordinance to restrict further developments and uses between Beach Street and Target Rock to those primarily serving licensed commercial fishing or recreational fishing be enacted?	YES +
		NO +

MEASURE D

Shall an Ordinance to restrict further developments and uses between Beach Street and Target Rock to those primarily serving licensed commercial fishing or recreational fishing be enacted?

FULL TEXT OF MEASURE D

Municipal Code Section 17.36.020C. The City shall not grant any permit, authorization or other approval of any state owned tidelands subject to city lease between Beach Street and Target Rock, unless such development or use is primarily for the purpose of serving or facilitating licensed commercial fishing activities or noncommercial recreational fishing activities, or is clearly incidental thereto. For purposes of illustration only, and not by way of limitation, no approval shall be granted for any new passenger for hire boats or supporting facilities, or for any new restaurant, cafe, gift shop or other retail establishments serving the general public, and any existing such uses shall hereafter be considered nonconforming and shall not be expanded or enlarged.

ARGUMENT IN FAVOR OF MEASURE D

The purpose of Measure D is to preserve the unique area of Morro Bay Harbor extending north from Beach Street on the Embarcadero and west on Coleman Drive to Target Rock (near Morro Rock) for commercial and recreational fishing uses and as an unspoiled tourist attraction.

The initiative petition in support of Measure D was sponsored by local residents Andrew Zatko, Clifford F. Smith, Joseph C. Giannini, William R. Gruendler and Derek E. Carnes, all of whom have long demonstrated a concern for Morro Bay and its way of life. The petition was signed in a short period of time by over 1,000 registered voters of the City of Morro Bay.

As stated in the initiative petition for Measure D:

1. Historically, this area has been designated by both County and City planners solely for commercial and recreational fishing purposes.
2. This is the last remaining area in the harbor that is left for commercial fishing. In fact, a portion of this area has already been developed by the sportfishing interests, and recent proposals to the City seek further enlargement of sportfishing activities in this area.
3. There are no other open view areas in the City where the public can observe the dock activities of the commercial fishing fleet. If this area is fully developed to the water line by two-story buildings, a major tourist attraction will be destroyed forever.

Measure D is also consistent with the Local Coastal Plan, the Coastal Conservancy Plan, and the Coastal Commission's establishment of high priority for commercial fishing in this area.

Measure D is your opportunity to send a message to City Hall that you want this area protected.

Please vote YES on Measure D on election day.

s/ Ed Ewing, President Morro Bay Commercial Fishermens Assoc. s/ Joe Giannini, Chairman Proponent Committee

ARGUMENT AGAINST MEASURE D

The proposed ordinance is a disaster for the following reasons:

- (a) It will make virtually every existing business in the area a nonconforming use requiring conditional use permits (Approval by Planning Commission and City Council) for any repair work or small change in the business, which would require a building permit. PG&E intakes, pier and wharf repair that are related to sportfishing businesses and work on existing businesses would fall into this category. This is unreasonable.
- (b) It will interfere with the requirements of the local Coastal Plan in that public access requirements and development for general public use of harbor facilities could be prohibited.
- (c) It will give an opportunity to owners of property to claim breach of the Tidelands Trust by the City by restricting unreasonably such a large area for one purpose, and by prohibiting incidental public use that would not directly support commercial fishing activity.

Commercial fishing has been and is supported by the people of Morro Bay. The City has constructed slips and moorings and has worked with the commercial fishing industry for years.

Six new slips for commercial boats have been financed in this year's City budget. Work has begun on the project for reconstruction of the old T-pier. It's use will be allocated to commercial fishing.

Certain areas included in this petition may not be suitable for commercial fishing activity. To require they be set aside for such use illustrates a total disregard for proper land use planning.

It would be disastrous to pass this measure, inviting lawsuits, making existing businesses subject to unreasonable reconstruction or alteration requirements, and possibly precluding the general public from use of an area that is precious to the City of Morro Bay and its electorate. It deserves a NO vote.

Vote NO on Measure D.

s/ John S. Surfluh, First Mayor of Morro Bay s/ James E. Cook, President, El Morro Boats, Inc.
s/ Rodger J. Anderson, Councilman s/ John A. Knowlton, Building Contractor
s/ John L. Williams, Retired

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE D

Some curious arguments were made in favor of this measure by the author.

1. This area is designated solely for commercial and recreational fishing. We don't need this petition.
2. He stated this is the only area left for commercial fishing. Not so. There is area available near the launch ramp. He failed to mention that recent sportsfishing proposals were turned down by the Council in favor of redeveloping the T-Pier for commercial fishing.
3. The threat of two-story buildings is ridiculous. Neither the City nor Coastal Commission will permit them.

On September 30, 1971, Mr. Giannini, sponsor of this measure, then publisher of the paper, wrote an editorial opposing docks in the area along Coleman Drive. He claimed docks here would be unsafe. He also opposed the relocation of Coleman Drive to accommodate the docks. In October, 1971, he threatened to recall the Council if they attempted to construct a City-operated marina here.

In view of Mr. Giannini's well documented objections to construction of docks for fishermen here and elsewhere, there is only one possible conclusion.

Passage of this measure will not really protect the commercial fisherman. Docks cannot be built along Coleman Drive without relocating the road. The same people who have opposed both in the past will continue their opposition and if successful the fishermen will be out in the cold.

Our Council already protects the fishing industry.

We believe our entire community would be better served by permitting orderly, sensible planning to proceed.

VOTE NO ON MEASURE D.

s/ John S. Surfluh, First Mayor of Morro Bay s/ James E. Cook, President, El Morro Boats, Inc.
s/ Rodger J. Anderson, Councilman s/ John A. Knowlton, Building Contractor
s/ John L. Williams, Retired

REBUTTAL TO ARGUMENT AGAINST MEASURE D

Within the past year, the present city council was ready and willing, despite vigorous public opposition, to turn Brebe's T-pier and the adjoining shoreline property over to private sportfishing and development interests, and to approve private plans to remove both wings from the T-pier and to construct a two-story building for sportfishing interests.

Now they oppose Measure D with unsupported allegations of "breach of the Tidelands Trust", "possibly precluding the general public from use of an area", "inviting lawsuits" and "nonconforming use requiring use permits for any repair work." Ask yourself if such allegations are meant to help you understand Measure D, or to try to make you fearful.

Measure D is short, direct, and easily understandable. The opponents know what it means, and they fear it because it takes away their power to give financial favors to their friends.

Although Measure D will stop further commercial development of Coleman Drive and the area north of the T-pier, the people will retain their power at all times to amend Measure D if a development plan good for all the people should be proposed.

This area is known throughout the world as the essence of Morro Bay, and its future should not be left to five council members subject to changing political pressures and self interests.

If you will study Measure D carefully, I believe you will see that it is in the best interests of Morro Bay and its people.

Please vote YES on Measure D.

s/ Ed Ewing, President Morro Bay Commercial Fishing Ass'n. s/ Joseph C. Giannini Proponent

Environmentally Sensitive Habitat: This designation is intended to protect those areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. Resource-dependent activities such as fishing, clamming, hiking, viewshed enjoyment, etc., are allowable within this designation.

Open Space/Recreation: This designation includes that open space which is not defined environmentally sensitive habitat and is intended to accommodate more intensive recreational activities. Allowable uses include golf courses, boating clubs, athletic fields, stables, campgrounds and other commercial recreation uses.

Golf Course: This designation provides for golf courses and related facilities such as club houses, pro-shops, maintenance buildings, parking areas, and irrigation systems, and also provides for passive recreation activities including walking and bicycle paths, picnic areas, play areas and similar quiet recreational activities.

School: This land use category is applied to areas devoted to public school sites.

Mixed Uses: The mixed uses land use designation combines neighborhood and visitor-serving commercial uses, high density residential and professional uses. It recognizes those areas in the City which have existing mixed use development patterns which appear to be a positive land use function worth maintaining. Uses allowed in this designation will be those which can function compatibly and include but are not limited to apartments and condominiums, professional offices, small convenience stores and gift shops, and small capacity restaurants. Businesses which have later hours or tend to be noisy would be encouraged to locate in other areas with more appropriate land use categories.

In addition, the mixed land use designation may apply to certain vacant parcels, that because of their large size, can accommodate two or more types of uses with careful planning. The following descriptions of these areas shall be the basic planning policy for these areas. These mixed uses, designated by specific areas on Figure 5, are defined as follows:

Mixed Use Area A: Vacant lots or major developments (involving new Structures or additions of more than 50 percent of the total floor area to existing structures or 2,000 square feet, whichever is greater) shall have priority for visitor-serving uses. Existing uses shall be allowed to remain excepting the above development requirement. In Mixed Use Area A, the primary permitted use is visitor-serving recreational/commercial. The secondary permitted use is residential, however, the number of individual residential and office units or office space floor area within Mixed Use Area A, shall at no time exceed the amount existing at the time of the certification of the LUP.

Mixed Use Area B: Existing coastal-dependent and coastal-related uses shall be protected, maintained and provided where feasible in new development. Mixed Harbor Uses shall be for recreational boating and fishing rather than commercial fishing. Visitor-serving commercial /recreational uses shall have priority over other land uses consistent with traffic, circulation and parking constraints in the Embarcadero.

For the area of the City west of Main Street between Acacia and Barlow (ie: those parcels west of Main Street between APN 66-251-01 and 07, inclusively), the following policies shall apply:

1. All existing residences and commercial establishments in this area shall be considered conforming; existing commercial use above the bluff shall not be permitted to expand.
2. Vehicular accessways and parking lots serving commercial properties below the bluff may be permitted above the bluff.
3. The entire area shall be designated with a "P.D." overlay so that CUP's (and public hearings) are required for new development. In approving a CUP for new uses the Planning Commission shall make the following findings:
 - a. That any proposed commercial use is generally serving a water-borne clientele or serving a water-oriented purpose.
 - b. That the proposed commercial use, by its nature or design, will result in minimal noise, glare, odor and traffic impacts on other nearby uses.
 - c. That any new residential development shall be of a density and design which minimizes potential exposure to and would not unreasonably restrict water-oriented commercial activities.
 - d. That any new use shall not generate significant traffic/circulation impacts and shall include adequate parking, loading and access (turning and driveway) facilities.
 - e. That any new use shall not result in any harmful (eg: toxic waste) discharge into the bay.

Mixed Use Area C: Lower cost visitor-serving uses shall be protected, encouraged, and where feasible provided in this area. Existing lower cost uses shall be protected and maintained; vacant parcels suitable in size and location shall be designated for such use.

In Mixed Use Areas A, B and C, additional general commercial, general office, professional office and non-priority use commercial development shall be prohibited.

Mixed Use Area D: These areas serve as transition zones between the downtown and adjacent, established residential neighborhoods. Allowable uses shall be high density residential, offices and visitor-serving commercial uses such as hotels or motels.