



**AGENDA NO: B-1**

**MEETING DATE: May 25, 2021**

**AGENDA CORRESPONDENCE  
RECEIVED BY THE CITY COUNCIL FOR  
PUBLIC REVIEW PRIOR TO THE MEETING**

**From:** [Lynda Merrill](#)  
**To:** [Council](#)  
**Subject:** Fw: ESHA Protection is vital to the preservation of creeks and wetlands within the City  
**Date:** Monday, May 24, 2021 9:06:21 PM

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*Dear Mayor and council members:  
I also want to add the ESHA setbacks are valuable for fire protection.  
Sincerely, Lynda Merrill*

**From:** [Lynda Merrill](#)  
**Sent:** Monday, May 24, 2021 8:50 PM  
**To:** [Mayor Heading and Council members](#)  
**Subject:** ESHA Protection is vital to the preservation of creeks and wetlands within the City

*Dear Mayor and Council members,*

*For many years citizens have spoken out about the need to preserve our creeks and wetlands within the City. They are habitat for many wildlife species and provide much needed natural open space. The Plan Morro Bay document reduces the set backs for these important areas.*

*We have seen the worst example of ignoring ESHA protection at the Panorama property. Goats were turned loose into the ESHA area resulting in the destruction of native plants along the creek bank which has not fully recovered and erosion has occurred. The owner/developer showed no concern for the ESHA protected area.*

*Plan Morro Bay has ignored the previous buffer and substituted the 100 ft. protection down to 50 ft and less. Building closer to the ESHA will greatly endanger the wildlife. Morro Bay needs these special protected areas to retain the natural beauty we all treasure. So, I ask that you retain the original policy 11.06 for C-1.5 and C-1.6.*

*Also, I have read the letter from Morro Coast Audubon Society and agree that allowing the removal of trees, encroaching on rookeries and breeding sites would lead to the loss of our valuable natural resources and endanger our wildlife.*

*Please heed their warnings.*

*Sincerely, Lynda Merrill*

## Dana Swanson

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**From:** Nancy Bast [REDACTED]  
**Sent:** Monday, May 24, 2021 1:45 PM  
**To:** Dana Swanson  
**Subject:** Administrative Permits: Residents Must Pay To Say

Dana,  
Please include in correspondence for 5/25/2021 Council Meeting.  
Thank You, Nancy

Mayor and Councilmembers,

Our elected leaders and City staff insistently tell residents of their commitment to transparency in their governing actions. However, the Planning Director's authority to permit major development by Administrative action denies neighbors and the community knowledge of development that may adversely affect their quality of life and is just one significant way in which city government decisions are opaque. As a consequence, a citizen must pay (increased as of 7/21) \$306 to appeal a project for discussion in a public forum before the Planning Commission. Should the Planning Commission appeal fail, another \$306 must be paid to appeal to the City Council.

The standard use by cities and counties of an Administrative Permit is for minor land use actions that have little potential to affect surrounding properties, ie. signage, fence height, weed abatement, etc.

The new \$1,170,000 update of our General Plan continues to authorize the issue of Administrative Permits by the Planning Director for major development projects.

It seems there is a high price Morro Bay residents must pay to have a voice in how our town's character and identity is developed.

For example, an Administrative Permit was given to demolish an attractive 2 bedroom home (with a garage conversion) and construction of a 2 story 4 bedroom plus office residence on the smallest lot in the area located inside an uphill curve with a short driveway parking space that extends into the public right of way. In addition, the planned modern design was in sharp contrast to the older neighborhood. The Appeal cost \$275 to express the concerns of neighbors before the Planning

Commission. The Appeal failed.

A more recent example is the conversion of a motel to an addiction rehab facility that was permitted Administratively, justified by the Planning Director as being mandated by law. However, it denied the community the courtesy of a chance to voice their concerns, or possibly to modify or condition the project, until someone paid the City \$275 to have the project openly discussed in public.

It seems ironic that the City entreats residents to apply for Advisory boards and Commissions when their considerations seldom matter, nor needed as in the case of the Planning Commission whose Public Hearing agenda consists mainly of projects on appeal.

If the City's committment to transparency is not hollow rhetoric, a step in the right direction is to **abolish the Planning Director's authority to issue Administrative Permits**, except for minor, non-controversial projects as was originally intended.

Nancy Bast

Morro Bay

Sent from my iPad

**From:** [Judy Neuhauser](#)  
**To:** [Council](#)  
**Subject:** MB General Plan and LCP update Agenda No B-1  
**Date:** Monday, May 24, 2021 2:31:27 PM  
**Attachments:** [MB GP and LCP update .doc](#)

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Dear Morro Bay City Council,

May 24, 2021

The Morro Coast Audubon Society would like to comment on the Conservation Element of the proposed update of the Morro Bay General Plan and Local Coastal Development Plan that is before you this evening.

We are concerned that, while the General Plan says that rookeries and roosts are ESHA and therefore any development **shall be limited to uses dependent on the resource**, the FEIR implies that development could indeed occur with mitigation that would render the impacts less than significant. These statements are contradictory and could lead to exceptions being allowed whereby rookeries and roosts could be impacted.

The FEIR Impact BIO-3 states that "New development facilitated by the General Plan and LCP Update may remove trees, encroach on rookeries and breeding sites... Impacts to wildlife corridors, rookeries, and nest sites would be less than significant with incorporation of mitigation." It goes on to say "Development facilitated by the General Plan and LCP Update would allow for construction of new residential units and non-residential development in the planning area. Depending on the location, orientation, and design of new development and redeveloped properties, development could encroach on rookeries and breeding sites, reducing their suitability for use by breeding birds."

If, as stated in the Plan, page 4-19, development in all ESHAs would be limited to uses dependent on the resource, why would ANY development encroach on rookeries and breeding sites since the plan also states that "all roosts, nests, and rookeries for such species as herons, egrets, cormorants, and peregrine falcons" are designated ESHAs?

We are concerned that this ambiguity in text will lead to exceptions being made to the strict ESHA guidelines that are the basis for stating in the FEIR that all impacts would be less than significant.

Morro Bay prides itself on being a Bird Sanctuary City and indeed much of its tourism takes direct advantage of the rich natural history of the area. Morro Bay would be wise to not allow the wiggly room that might indeed be the start of killing the goose that lays the golden egg.

Thank you.

[REDACTED]  
Sincerely,

Judy Neuhauser

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P.O. BOX 1507 • MORRO BAY, CA 93443 • 805-772-1991  
<http://www.morrocoastaudubon.org>

**From:** [Cathy Novak](#)  
**To:** [Council](#)  
**Cc:** [Paul Van Beurden; "Smith Held"; \[REDACTED\] Fowler"](#)  
**Subject:** Communication from EML for May 25, item B-1  
**Date:** Friday, May 21, 2021 3:03:16 PM  
**Attachments:** [EML to City Council - Plan Morro Bay 5-21-21.pdf](#)

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Dear Mayor and Council,  
Please accept this letter on behalf the Embarcadero Master Leaseholders Association for your upcoming meeting and discussion on Plan Morro Bay. Thank you in advance for consideration of the EML concerns regarding the proposed policies. Please let us know if you have any questions.

Thanks,  
Cathy

Cathy Novak Consulting  
PO Box 296  
Morro Bay, CA 93443  
NovakConsulting@charter.net  
Phone/Fax: (805) 772-9499  
Cell: (805) 441-7581

# EML

Embarcadero Master Leaseholders, LLC

City Council  
City Of Morro Bay  
595 Harbor Street  
Morro Bay, CA 93422

Re: Plan Morro Bay; City Council Meeting May 25, 2021

Mayor and City Council Members,

As the upcoming hearing on Plan Morro Bay is likely the last opportunity to amend the current draft we would like to try and focus your collective attention on policies, which we have addressed to you before, which you have questioned staff on (thank you!), and which we feel are crucial to maintaining the City's ability to manage the Embarcadero waterfront assets to their highest and best uses.

Staff has said that Policies PS-3.1, 3.2, 3.3, 3.5, 3.6 and 3.7 are not intended to apply to the Embarcadero waterfront. Unfortunately, the policies, as written, do not distinguish between the protective devices that are of concern to the Coastal Commission and the Embarcadero revetments. If staff and the Coastal Commission do not intend them to apply to the Embarcadero revetments, it should be of no consequence to include a simple sentence to clearly say so.

Of greater consequence is LU-8.13 which requires a new coastal permit amendment every twenty years for shoreline protective devices, which in the definition of shoreline protective devices, includes revetments. That will for all practical purposes limit the City's ability to enter into leases that exceed twenty years. The private capital that the City needs cannot achieve the needed return on investment in that period of time, so that capital simply won't be attracted.

It appears that the reason for this condition is so that the Coastal Commission can review the continuing necessity for the protective devices periodically. We think we can all agree that the need for the revetments that the Embarcadero is built on will continue to be necessary throughout the 50 year lease terms and further on into the future. This policy is a poison pill to your ability to attract capital and needs to be removed as it pertains to the Embarcadero in order to avoid discouraging that needed capital.

The City needs to attract capital out of the open and competitive marketplace to develop and redevelop these properties to keep them up to modern standards and competitive in the marketplace. To fail to do that, as is happening to Morro Bay's Embarcadero right now and for the past ten years, starts a downward cycle that gets harder to reverse with each passing month.

**701 Embarcadero  
Morro Bay, CA 93442-2174**

# EML

## Embarcadero Master Leaseholders, LLC

The capital available in the marketplace has plenty of other places to go. It's going to go for the best return with the least risk. Inserting additional regulatory burdens on the City's own properties, unnecessarily, adds additional risks for that capital to consider and seems to be counterproductive and contrary to the City's own interests.

Most of the members of this group have already developed or redeveloped our particular projects, so we are not arguing for some advantage on our own projects. Our concern is with the long-term survival and success of the entire Embarcadero. And that should be the City's concern as well.

Thanks to you and to all the members of the community for all the hard work in putting this document together.

Sincerely,



Smith Held, Vice President, EML  
Embarcadero Master Leaseholders, LLC

CC:

Paul Van Beurden, President  
Bob Fowler, Sec. & Treas.

## SAVE THE PARK



*a nonprofit*

Morro Bay City Council  
595 Harbor  
Morro Bay, CA 93442

Dear City Council:

In 2004, SAVE THE PARK was established as a 501(c)(3). Its mission is to “understand and protect parks and park-like areas that are important for the well being of natural systems, plant and animal species.” The Board of Directors submits these comments in response to *Plan Morro Bay's Greenprint*, FEIR, and Findings of Fact.

### **Plan Morro Bay. Greenprint**

In particular, SAVE THE PARK has a grave concern regarding the major change to the ESHA buffer setbacks. The current *LCP*, Chapter XII ESHA, page 193, is one paragraph and does not address taking. It is quoted in its entirety for convenience in comparing it to what is proposed. It reads:

**Policy 11.06** Buffering setback areas a minimum of 100 feet from sensitive habitat areas shall be required. In some habitat areas setbacks of more than 100 feet shall be required if environmental assessment results in information indicting a greater setback area is necessary for protection. No permanent structures shall be permitted within the setback area except for structures of a minor nature such as fences or at-grade improvements for pedestrian or equestrian trails. Such projects shall be subject to review and comment by the Department of Fish and Game prior to commencement of development within a setback area. For other than wetland habitats, if subdivision parcels would render the subdivided parcel unusable for its designated use, the setback area may be adjusted downward only to a point where the designated use is accommodated but in no case is the buffer to be less than 50 feet. The lesser setback shall be established in consultation with the Department of Fish and Game. If a setback area is adjusted downward mitigation measures developed in consultation with the Department of Fish and Game shall be implemented.

**Policies C-1.5 and C-1.6** are proposed to replace 11.06. They are on pages 4-21 to 4-24 in the Conservation Element of *Plan Morro Bay*. In summary, “For wetlands, the required buffer shall extend at least 100 feet from the edge of the wetland....For all other ESHA, the buffer shall be a minimum of 50 feet....but shall not be less than 25 feet.” In addition, City Staff not the Planning Commission is given the power to reduce buffers under certain conditions, eliminating public review. **Policy C-1.8** is added to allow takings.

The consequence of these changes reduces the ability to protect ESH in two ways:

- 1) Undeveloped properties--3300 Panorama, Texaco on Main St., power plant, etc.—will be allowed to push development into currently protected buffers reducing habitat protection by at least ½.
- 2) Developed properties which have been prevented from encroaching into adjacent ESH can now apply to expand development into ESH--Cerrito Peak, Cloisters, Beach Tract, Vashon Street., etc.

The proposed policies do not focus on maintaining or enhancing the current level of safeguards for ESH. At a time when strong, protective policies are called for, the proposed policies are weak and malleable, offering less preservation than what is currently in place.

**FEIR. Mitigation**

In particular, SAVE THE PARK criticizes 2 Biological Mitigation Measures.

**Bio-1(a) Avoidance and Minimization during Development** (page 4.3-36)

This mitigation measure *avoids* development during critical time periods to *minimize* take during development. It identifies and documents harm, but the mitigation doesn't prevent, limit, or compensate for harm. It is a weak statement.

**BIO-3 Wildlife Movement Corridors Protection** (page 4.3-41)

This mitigation measure addresses only the movement of wildlife, ½ of the situation proposed in BIO-3. No mitigation is offered for the unaddressed impact to “remove trees, encroach on rookeries and breeding sites.” If no mitigation is offered, then Threshold 4 is an unmitigated environmental impact, Class 1 – Significant and Unavoidable Impact, and should be labeled as such. The City has officially defined itself as a Bird Sanctuary and Tree City, USA.

**Findings of Fact.** Attachment A (page 25)

In particular, SAVE THE PARK disagrees that there can be a Finding of Fact that “incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the FEIR” with regard to Biological Resources as argued above.

SAVE THE PARK calls upon the City Council to:

- 1) Include in Policies C-1.5 and C-1.6 the same buffer setbacks as are in the current 11.06.
- 2) Exclude removal of trees and encroachment into rookeries and breeding sites as acceptable. Direct staff to write policy that protects rookeries and breeding sites.

Sincerely,

SAVE THE PARK

Nancy Bast, Director

Debbie Highfill, Director

Betty Winholtz, Director