



# CITY OF MORRO BAY CITY COUNCIL AGENDA

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*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.*

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## **Regular Meeting Tuesday, June 8, 2021 – 5:30 P.M. Held Via Teleconference**

ESTABLISH QUORUM AND CALL TO ORDER  
MOMENT OF SILENCE  
PLEDGE OF ALLEGIANCE  
RECOGNITION  
CLOSED SESSION REPORT  
MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS  
CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS  
PRESENTATIONS

- Juneteenth Day Proclamation

### PUBLIC COMMENT

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this Meeting will be conducted telephonically through Zoom and broadcast live on Cable Channel 20 and streamed on the City website (click [here](#) to view). Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Veterans' Hall will not be open for the meeting.*

### Public Participation:

*In order to prevent and mitigate the effects of the COVID-19 pandemic, and limit potential spread within the City of Morro Bay, in accordance with Executive Order N-29-20, the City will not make available a physical location from which members of the public may observe the meeting and offer public comment. Remote public participation is allowed in the following ways:*

- *Community members are encouraged to submit agenda correspondence in advance of the meeting via email to the City Council at [council@morrobayca.gov](mailto:council@morrobayca.gov) prior to the meeting and will be published on the City website with a final update one hour prior to the meeting start time. Agenda correspondence received less than an hour before the meeting start time may not be posted until after the meeting.*
- *Members of the public may watch the meeting either on cable Channel 20 or as streamed on the City [website](#).*
- *Alternatively, members of the public may watch the meeting and speak during general Public Comment or on a specific agenda item by logging in to the Zoom webinar using the information provided below. Please use the "raise hand" feature to indicate your desire to provide public comment. Each speaker will be allowed three minutes to provide input.*

*Please click the link below to join the webinar:*

- <https://us02web.zoom.us/j/82722747698?pwd=aWZpTzcwTHlRTk9xaTlmWVNW RWFUQT09>  
Password: 135692
- Or Telephone Attendee: 1 (408) 638-0968 or 1 (669) 900 6833 or 1 (346) 248 7799; Webinar ID: 827 2274 7698; Password: 135692; Press \*9 to “Raise Hand” for Public Comment

A. CONSENT AGENDA

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion. The public will also be provided an opportunity to comment on consent agenda items.

- A-1 APPROVAL OF MINUTES FOR THE MAY 11, 2021 CITY COUNCIL MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-2 APPROVAL OF MINUTES FOR THE MAY 26, 2021 CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

- A-3 ANNUAL WATER REPORT AND RECOMMENDATION FOR ALLOCATION OF WATER EQUIVALENCY UNITS (WEU) FOR FY2021/22; (PUBLIC WORKS DEPARTMENT)

**RECOMMENDATION: Staff recommends the City Council review the annual water report and allocation of the FY 2021/22 Water Equivalency Units and adopt Resolution No. 27-21 with the following recommendations: 1) Allocate 50 Water Equivalency Units (WEUs) for residential development and 65 for commercial development for a total of 115 WEUs for FY2021/22; 2) Direct staff to Implement Mandatory Water Conservation Requirements for Severely Restricted Water Supply Conditions if the Governor of California declares a state of emergency including San Luis Obispo County specifically due to drought.**

- A-4 APPOINTMENT OF CAL MYERS AS THE RECREATIONAL BOATING REPRESENTATIVE ON THE HARBOR ADVISORY BOARD; (CITY CLERK)

**RECOMMENDATION: Staff recommends the City Council appoint Cal Myers to the Harbor Advisory Board (HAB) as the Recreational Boating Representative to complete an unexpired term through January 31, 2023.**

- A-5 PROCLAMATION DECLARING SATURDAY, JUNE 19, 2021 AS “JUNETEENTH DAY”; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

B. PUBLIC HEARINGS

- B-1 RESOLUTION DECLARING RESULTS OF MAJORITY PROTEST PROCEEDINGS AND (RE)ESTABLISHING (IF NO MAJORITY PROTEST) THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT, TO HELP FUND SALES, MARKETING, AND COMMUNICATION PROGRAMS FOR MORRO BAY LODGING BUSINESSES AND VACATION RENTAL BUSINESSES, PURSUANT TO THE PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994; (CITY MANAGER)

**RECOMMENDATION:** Hold the public hearing, allow public testimony regarding the formation of the (new) MBTBID and the levy of assessments. accept written protests (if any), declare results of majority protest proceedings, and if there is not a protest from the owners of businesses in the proposed (new) MBTBID which will pay more than fifty percent (50%) of the assessments proposed to be levied, adopt Resolution No. 28-21.

**NOTE:** Holding the public hearing, declaring results of the majority protest proceedings, and adopting this Resolution will result in the (re)formation of the Morro Bay Tourism Business Improvement District (MBTBID) and the levy of assessments on lodging businesses and vacation rental businesses.

- B-2 APPEAL FILED ON APRIL 28, 2021 OF THE PLANNING COMMISSION'S DENIAL OF AN APPEAL OF THE ADMINISTRATIVELY ISSUED MINOR USE PERMIT (MUP20-02), APPROVING A CHANGE IN USE FROM A MOTEL (FORMERLY TWIN BAY INN AND BEST WESTERN) TO SUPPORTIVE HOUSING. THE ZONING OF THE SITE IS MCR/R-4/SP AND IS NOT LOCATED IN THE COASTAL APPEALS JURISDICTION. AS REQUIRED BY STATE LAW, SUPPORTIVE HOUSING IS A USE ALLOWED BY RIGHT IN BOTH THE MCR AND THE R-4 ZONES; (COMMUNITY DEVELOPMENT)

**RECOMMENDATION:** Deny the appeal and uphold the Planning Commission decision and the Director's approval of Minor Use Permit (MUP20-02) allowing the change in use to supportive housing in compliance with the requirements of the MBMC, by adopting Resolution No. 29-21.

C. BUSINESS ITEMS

- C-1 DISCUSSION OF REVENUE OPPORTUNITIES AND NEEDS FOR HARBOR FUND; (HARBOR DEPARTMENT)

**RECOMMENDATION:** Staff recommends the City Council consider the Harbor Advisory Board (HAB) input and recommendations as they pertain to revenue generation opportunities and needs for the Harbor Fund as determined at their June 3, 2021 meeting and direct staff accordingly.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, June 22, 2021 at 5:30 p.m.** via teleconference.

THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 805-772-6205 FOR FURTHER INFORMATION.

MATERIALS RELATED TO AN ITEM ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC INSPECTION UPON REQUEST BY CALLING THE CITY CLERK'S OFFICE AT 805-772-6205.

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

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*City Council conducted this meeting in accordance with Section 3 of California Governor Newsom's Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.*

PRESENT:	John Headding	Mayor
	Dawn Addis	Council Member
	Laurel Barton	Council Member
	Robert Davis	Council Member
	Jeff Heller	Council Member
ABSENT:	None	
STAFF:	Scott Collins	City Manager
	Chris Neumeyer	City Attorney
	Dana Swanson	City Clerk
	Katie Lichtig	Interim Finance Director
	Greg Kwolek	Public Works Director
	Joe Mueller	Utilities Division Manager
	Scot Graham	Community Development Director
	Steve Knuckles	Fire Chief
	Jody Cox	Police Chief
	Eric Endersby	Harbor Director
	Cindy Jacinth	Senior Planner
	Matt Vierra	Fire Marshal

#### ESTABLISH QUORUM AND CALL TO ORDER

[https://youtu.be/0Eu\\_vUFq4Y8?t=22](https://youtu.be/0Eu_vUFq4Y8?t=22)

Mayor Headding called the meeting to order at 5:30 p.m. with all members present.

#### MOMENT OF SILENCE

#### PLEDGE OF ALLEGIANCE

RECOGNITION – None

CLOSED SESSION REPORT – City Attorney Neumeyer stated no reportable action was taken by the City Council in accordance with the Brown Act.

#### MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

[https://youtu.be/0Eu\\_vUFq4Y8?t=303](https://youtu.be/0Eu_vUFq4Y8?t=303)

#### CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS

[https://youtu.be/0Eu\\_vUFq4Y8?t=865](https://youtu.be/0Eu_vUFq4Y8?t=865)

#### PRESENTATIONS

[https://youtu.be/0Eu\\_vUFq4Y8?t=1523](https://youtu.be/0Eu_vUFq4Y8?t=1523)

- “Bike There” Presentation by Peter Williamson from San Luis Obispo Council of Governments
- Air Quality Monitoring Presentation by Richard Sadowski

#### PUBLIC COMMENT

[https://youtu.be/0Eu\\_vUFq4Y8?t=2764](https://youtu.be/0Eu_vUFq4Y8?t=2764)

Joe Benson, President of the San Luis Obispo County Bar Association, announced a traveling Library of Congress exhibit commemorating the 100<sup>th</sup> anniversary of the 19<sup>th</sup> amendment is on display until September 18, 2021, at the San Luis Obispo Public Library, 995 Palm Street.

Jeremiah O'Brien, Morro Bay, asked for confirmation regarding the communication received from the Morro Bay Commercial Fishermen's Organization would be discussed at this meeting.

Glenn Silloway, co-chair of Morro Bay Open Space Alliance, shared the conservation easement binding future owners to maintain Eagle Rock as open space had been recorded, and thanked the many volunteers who made it possible.

Betty Winholtz, Morro Bay, asked when the Morro Bay Public Facilities Corporation would hold its next meeting, at what point increased WRF project costs would impact rates, and clarification on whether a company or a person was hired to manage the WRF project.

Mayor Heading closed public comment.

The Council and staff responded to issues raised during public comment.

A. CONSENT AGENDA  
[https://youtu.be/0Eu\\_vUFq4Y8?t=3428](https://youtu.be/0Eu_vUFq4Y8?t=3428)

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion. The public will also be provided an opportunity to comment on consent agenda items.

A-1 APPROVAL OF MINUTES FOR THE MARCH 23, 2021 CITY COUNCIL MEETING;  
(ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF MINUTES FOR THE APRIL 28, 2021 CITY COUNCIL SPECIAL  
CLOSED SESSION MEETING; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-3 ADOPTION OF RESOLUTION NO. 21-21 APPROVING THE MORRO BAY MUNICIPAL  
CODE TITLE 5 FISCAL YEAR 2021/22 BUSINESS TAX SCHEDULE CONSISTENT  
WITH CPI INCREASE AND DIRECTION TO IMPLEMENT ON JULY 1, 2021; (FINANCE  
DEPARTMENT)

**RECOMMENDATION: Staff recommends the Council review the Business Tax schedule and adopt Resolution No. 21-21, setting the Fiscal Year (FY) 2021/22 Business Tax Schedule consistent with CPI increase and directing staff to implement the new rates beginning on July 1, 2021 for all renewals and new applications for business tax certificates.**

Mayor Heading opened the public comment for the Consent Agenda; seeing none, the public comment period was closed.

MOTION: Council Member Addis moved approval of all items on the Consent Agenda. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

B. PUBLIC HEARINGS

- B-1 CONTINUED PUBLIC HEARING FOR CONSIDERATION OF PLAN MORRO BAY: GENERAL PLAN / LOCAL COASTAL PROGRAM UPDATE AND THE FINAL ENVIRONMENTAL IMPACT REPORT AND RELATED DOCUMENTS AND TO PROVIDE DIRECTION, AS DEEMED APPROPRIATE; (COMMUNITY DEVELOPMENT) [https://youtu.be/0Eu\\_vUFq4Y8?t=3508](https://youtu.be/0Eu_vUFq4Y8?t=3508)

Community Development Director Graham, Senior Planner Jacinth, Chris Bersbach from Rincon Consultants, and Amy Sinsheimer from PlaceWorks Inc., presented the report and responded to Council inquiries.

The Council provided individual comments and directed staff to evaluate the following potential revisions:

- Add Class IV separated bikeways to the Circulation Element
- Add Enhanced Infrastructure Financing Districts (EIFD's) as an alternative method of financing future circulation improvements.
- Update Conservation Element C-4.1 to eliminate the 2020 date reference.
- Revise Conservation Element IA C-7 to include reference to SB 1383.
- Explore the possibility of removing reference to the 25% allocation of waterfront hotel units as low-cost visitor accommodations.
- Revise Open Space Element to reflect MBOSA payment to City and recording of conservation easement for Cerrito Peak.
- Revise Rincon EIR revision letter or land use at 3300 Panorama to reflect correct lot size and land use designation of Moderate Density Residential.

Mayor Heading opened the Public Hearing and Public Comment.

Lorin French, Morro Bay, commented on the Circulation Element, noting this was an opportunity to enhance access and economic development in north Morro Bay.

Betty Winholtz, Morro Bay, raised a number of questions, expressed concern regarding Circulation Element policies she deemed not representative of Morro Bay, as well as reduced ESHA setbacks and buffers. She asked that questions raised in agenda correspondence be considered prior to the next meeting.

Cathy Novak, Morro Bay, represented the Embarcadero Master Leaseholders, offering potential solutions that would address the group's concerns regarding Policies PS 3.1, 3.2, 3.3, 3.5, 3.6 and 3.7 regarding shoreline protected devices and asked a sentence be added to clarify this policy does not apply to the Embarcadero from Tidelands Park to Target Rock. She requested the same notation be made regarding Policy LU 8.13 requiring the issuance a Coastal Permit every 20 years.

Paul VanBeurden, owner of Dutchman Seafood House and President of Embarcadero Master Leaseholders, requested Lateral Access Policies LU 7.1 and 7.3. be modified to allow for amenities within the 10' lateral access and require a minimum of 6' unobstructed walkway.

The Public Hearing was closed.

The Council did not take any formal action on this item.

- B-2 ADOPTION OF RESOLUTION NO. 22-21 APPROVING MAJOR AMENDMENT #MAJ19-006 OF CONDITIONAL USE PERMIT NO. UP0-260, LOCATED AT 571 EMBARCADERO, FOR THE CONVERSION OF 839SF OF EXISTING 2ND FLOOR OFFICE SPACE TO ONE VACATION RENTAL UNIT WITH 988SF OF NEW DECK, REPLACEMENT OF DOCKS AND GANGWAY, AND 207SF EXPANSION OF HARBORWALK PUBLIC ACCESS. PROJECT ALSO INCLUDES REQUEST FOR MASTER SIGN PROGRAM APPROVAL AND RELATED BUILDING FACADE IMPROVEMENTS. THIS PROJECT IS LOCATED IN THE COASTAL COMMISSION ORIGINAL JURISDICTION; (COMMUNITY DEVELOPMENT)

[https://youtu.be/0Eu\\_vUFq4Y8?t=8259](https://youtu.be/0Eu_vUFq4Y8?t=8259)

Senior Planner Jacinth provided the report and responded to Council inquires.

Mayor Heading opened the Public Hearing and Public Comment.

Cathy Novak, Morro Bay, spoke representing the project applicant, thanked the Planning Commission for a favorable recommendation, provided a brief overview of the project and noted the architect was also available to respond to Council questions.

The Public Hearing was closed.

MOTION: Council Member Heller moved to adopt Resolution No. 22-21, making the necessary findings for approval of Major Amendment #MAJ19-006 to Conditional Use Permit (CUP) No. UP0-260 as Concept/Precise Plan approval, located at 571 Embarcadero, including additional condition No. 19 of Attachment 1 of the resolution as recommend by staff. The motion was seconded by Council Member Addis and carried 5-0 by roll call vote.

- B-3 PUBLIC HEARING AND ADOPTION OF RESOLUTION NO. 23-21, WHICH RESCINDS RESOLUTION NO. 96-20 AND ADOPTS THE FY 2021/22 MASTER FEE SCHEDULE; (FINANCE DEPARTMENT)

[https://youtu.be/0Eu\\_vUFq4Y8?t=9049](https://youtu.be/0Eu_vUFq4Y8?t=9049)

Interim Finance Director Lichtig provided the report and responded to Council inquires.

Mayor Heading opened the Public Hearing and Public Comment.

Jeremiah O'Brien, Morro Bay Commercial Fishermen's Organization, thanked staff for working with them on the new schedule for commercial slip fees and looks forward to working with the City on the new slip project. T

Betty Winholtz, Morro Bay, requested the Council go back to the Los Angeles CPI rather than the Bay Area CPI.

The Public Hearing was closed.

MOTION: Council Member Davis moved to adopt Resolution No. 23-21 to update the City's Master Fee Schedule for Fiscal Year 2021/22. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

C. BUSINESS ITEMS

- C-1 DISCUSSION OF THE USE OF FIREWORKS WITHIN THE CITY OF MORRO BAY; (FIRE DEPARTMENT)

[https://youtu.be/0Eu\\_vUFq4Y8?t=10001](https://youtu.be/0Eu_vUFq4Y8?t=10001)

Fire Chief Knuckles and Fire Marshal Vierra provided the report and responded to Council inquires.

The public comment period for Item C-1 was opened; seeing none, the public comment period was closed.

The Council discussed by did not take any formal action on this item.

- C-2 ADOPTION OF RESOLUTION NO. 24-21 APPROVING THE ENGINEER'S REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (PUBLIC WORKS DEPARTMENT)  
[https://youtu.be/0Eu\\_vUFq4Y8?t=10595](https://youtu.be/0Eu_vUFq4Y8?t=10595)

City Engineer Livick provided the report and responded to Council inquires.

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

Betty Winholtz, Morro Bay, commented the path that parallels the dunes is in very poor condition and needs coating or re-sealing to prevent further deterioration.

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

Staff responded to questions raised during public comment.

MOTION: Council Member Davis moved to adopt Resolution No. 24-21 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space for fiscal year 2021/22 and approving the Engineer's Report. The motion was seconded by Council Member Addis and carried 5-0 by roll call vote.

- C-3 ADOPTION OF RESOLUTION NO. 25-21 APPROVING THE ENGINEER'S REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (PUBLIC WORKS DEPARTMENT)  
[https://youtu.be/0Eu\\_vUFq4Y8?t=11175](https://youtu.be/0Eu_vUFq4Y8?t=11175)

City Engineer Livick provided the report and responded to Council inquires.

The public comment period for Item C-3 was opened; seeing none, the public comment period was closed.

MOTION: Council Member Davis moved to adopt Resolution No. 25-21 approving the Engineer's Report and declaring the intent to levy the annual assessment for maintenance of the North Point Natural Area Landscaping and lighting district. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

- D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS  
[https://youtu.be/0Eu\\_vUFq4Y8?t=11539](https://youtu.be/0Eu_vUFq4Y8?t=11539)

Council Member Davis requested a staff report regarding the city's outlook for water delivery and measures residents should consider to address drought and severe fire conditions. Staff offered to incorporate relevant information in the upcoming Water Report.

E. ADJOURNMENT

The meeting adjourned at 8:45 p.m.

Recorded by:

Dana Swanson  
City Clerk

MINUTES - MORRO BAY CITY COUNCIL  
SPECIAL CLOSED SESSION MEETING –  
MAY 26, 2021 – 5:00 P.M.  
TELECONFERENCE

AGENDA NO: A-2  
MEETING DATE: June 8, 2021

*City Council conducted this meeting in accordance with Section 3 of California Governor Newsom's Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.*

PRESENT:            John Headding            Mayor  
                         Dawn Addis                Council Member  
                         Laurel Barton              Council Member  
                         Robert Davis              Council Member  
                         Jeff Heller                 Council Member

ABSENT:            None

STAFF:             Scott Collins              City Manager  
                         Chris Neumeyer          City Attorney  
                         Scot Graham              Community Development Director  
                         Greg Kwolek              Public Works Director

**ESTABLISH QUORUM AND CALL TO ORDER**

Mayor Headding called the meeting to order at 5:00 p.m. with all members present.

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

**CLOSED SESSION PUBLIC COMMENT** – Mayor Headding opened public comment for items on the agenda; seeing none, the public comment period was closed.

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

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

Property:            Assessor Parcel No. 066-331-046  
Property Negotiators:    Vistra Energy  
Agency Negotiators:    Scott Collins, City Manager; Greg Kwolek, Public Works Director, Rob Livick, City Engineer; Scot Graham, Community Development Director and Chris Neumeyer, City Attorney  
Under Negotiation:      Price and Terms of Payment – Easement Acquisition

**CS-2 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

- Paragraph (1) of subdivision (d) Government Code Section 54956.9
- Name of Case: City of Morro Bay vs. Vistra Energy Corp., Case No. 20CV-0127, San Luis Obispo County Superior Court

**RECONVENE IN OPEN SESSION** – The City Council reconvened in Open Session. The Council did not take any reportable action in accordance with the Brown Act.

**ADJOURNMENT** - The meeting adjourned at 5:34 p.m.

Recorded by:

Dana Swanson  
City Clerk

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**AGENDA NO: A-3**

**MEETING DATE: June 8, 2021**

# Staff Report

**TO: Honorable Mayor and City Council**

**DATE: May 27, 2021**

**FROM: Greg Kwolek, Public Works Director  
Damaris Hanson, Environmental Programs Manager  
Rob Livick, PE/PLS/QSD - City Engineer**

**SUBJECT: Annual Water Report and Recommendation for Allocation of Water Equivalency Units (WEU) for FY2021/22**

## RECOMMENDATION

Staff recommends the City Council review the annual water report and allocation of the FY 2021/22 Water Equivalency Units and adopt Resolution No. 27-21 with the following recommendations:

1. Allocate 50 Water Equivalency Units (WEUs) for residential development and 65 for commercial development for a total of 115 WEUs for FY2021/22.
2. Direct staff to Implement Mandatory Water Conservation Requirements for Severely Restricted Water Supply Conditions if the Governor of California declares a state of emergency including San Luis Obispo County specifically due to drought.

## ALTERNATIVES

As an alternative to the proposed allocation of 115 WEUs, City Council could modify the allocation of WEUs for FY 2021/22 by increasing or decreasing the total amount allowed by Ordinance No. 266 and/or City Council could implement Mandatory Water Conservation Requirements for Severely Restricted Water Supply Conditions now, as opposed to waiting for the Governor of California to declare a drought state of emergency that includes the entirety of San Luis Obispo County.

## FISCAL IMPACT

There are no fiscal impacts directly associated with the allocation of the WEUs. Although, a moratorium on new WEUs would reduce the amount of revenue the City receives through building and planning fees, property taxes, sales taxes, and other property related revenues.

There is a cost to implement Mandatory Water Conservation Requirements for Severely Restricted Water Supply Conditions, if they are triggered. The requirement in section 13.15.345 C.8 requires all visitor serving facilities to display the mandatory water conservation requirements. The owners of these facilities would have to distribute printed fliers, which would be provided by the City, to their customers. The estimated cost for these handouts and the requisite staff time is approximately \$8,000, and will be funded by the water fund operating budget.

Prepared By:    DH/RL   

Dept Review:    GK   

City Manager Review:    SC   

City Attorney Review:    CFN

## **BACKGROUND**

The Public Works Department staff, pursuant to Morro Bay Municipal Code (MBMC) Section 13.20, has prepared the Annual Water Report highlighting any significant changes in water availability and reporting the water equivalency units (WEU) from the previous year. This report was reviewed by the Public Works Advisory Board (PWAB) on May 19, 2021 and the Planning Commission on May 18, 2021. Both advisory boards concurred with staff recommendations, which received a unanimous vote from each body.

A WEU is defined as a unit of measure for water use equal to the average amount of water used by a single-family residence over the period of one year. Since 2016 this amount is 8,732 cubic feet of water or 90 gallons per capita per day (GPCD). This amount was lowered from previous years due to the historical trend of lower water use compared to previous years. The intent of the WEU allocations is to regulate the addition of new water users to the City's water system and to ensure the demand for water does not exceed available water supply.

In 1984 the citizens adopted Measure F (Codified as Ordinance No. 266 in MBMC as Chapter 13.20), a "Growth Management System". This measure set a maximum population of 12,200 by the year 2000. To accomplish the housing needs of this population growth, Measure F set a maximum number of housing units to a limit of 70 new units per year with a maximum variation in the number of units in a year cannot exceed 10 percent or 77 WEUs for residential units. City Council acted on August 27, 2007 to reduce the number of allocated housing units to 50 new housing units. Ordinance No. 266 requires allocation mix of 60-percent SFR (single family residential) units and 40-percent MFR (multi-family residential) units. Since housing and population growth has not increased as projected, i.e., the City has yet to reach Measure F population of 12,200, new housing units can still be issued. The population growth estimates in the proposed General Plan predict reaching the Measure F established population in 2040.

## **DISCUSSION**

### **Projected Water Supply FY 2021/22**

#### **State Water Supply**

The City of Morro Bay's primary water source is surface water from the State Water Project (SWP). The SWP is administered locally by the San Luis Obispo County Flood Control and Water Conservation District. The water available from the SWP (allocation) is determined every year by the State Department of Water Resources (DWR) and is based on rainfall and snowpack in the watersheds that serve as a source for the SWP. Due to persistent dry conditions, on April 2021 DWR set the SWP water deliveries at five percent. DWR based this determination on the continued low precipitation and runoff, and an assessment of overall water supply conditions. The City's SWP annual delivery is contractually limited to 1313 acre-feet per year (AFY). Morro Bay also contracted for a drought buffer of 2290 AFY. When the SWP allocation is above 36-percent, the City's drought buffer will bring the City back to 100-percent delivery. Should DWR set the delivery allocation at 36-percent or below, the City relies on stored water in San Luis Reservoir and locally available groundwater to make up the difference between delivery and demand. Currently, the City has approximately 1019 acre-feet (AF) of water stored in San Luis Reservoir. This allocation, in combination with the City's available drought buffer and storage in San Luis Reservoir along with the Countywide excess availability and local production, is enough to make up the difference between delivery requests and the City's estimated demand of 1,080 AF. Additional information on the SWP in San Luis Obispo County is available on the County's [website](#).

State Water is an interruptible source of water. If there is a line break/repair or other emergency, Morro Bay could be without water from this source. Additionally, there are scheduled “shutdowns” once a year for routine maintenance, typically in October and/or November and has typically been anywhere from 1-2 weeks to a month. During this time the City’s water supply comes from the Morro Valley wells and is treated at the City-operated Brackish Water Reverse Osmosis (BWRO) plant.

#### Local Water Supply

The City’s other sources of water are constrained by a variety of water quality and permitting issues. Utilization of the Chorro Valley wells requires stream flows in Chorro Creek that exceed 1.4 cubic feet per second (cfs) per the City’s water rights license/permit; additionally, water pumped from these wells are high in nitrates and cannot be used without treatment or blending. The City would need to perform upgrades to the water system in order to treat this water from the Chorro Valley. The Morro Valley wells are also high in nitrates and are treated at the City’s Water Treatment Plant; the BWRO is used to remove nitrates. There are also upgrades needed at the BWRO plant if this plant was to be used on a continuous basis. The Morro Valley water rights are only for 581 AF of water per year and the City demand is estimated at 1080 AFY.

#### Water Conservation Summary

In 2014 a State of Emergency was declared in California due to severe drought conditions. The State was required to reduce potable water usage by 20%. In 2015 the State Water Board imposed strict water conservation requirements on all urban water suppliers. Morro Bay was required to reduce potable water consumption by 12% compared to 2013 consumption amounts. In 2016, Morro Bay completed the “stress test” and reduced our mandatory water conservation requirements from 12% to 0%. Over 83% of the State had 0% conservation after the stress test was completed. Morro Bay has continued to reduce water use over the years when compared to the base year, 2013.

In April 2021 Governor Newsom issued a State of Emergency due to drought for Sonoma and Mendocino Counties. On May 10<sup>th</sup>, the Governor broadened the order to include 39 additional counties. San Luis Obispo, however, is not one of the counties listed. Currently Governor Newsom has not issued any mandatory drought conservation measures as in the past but did state they “are on the table” if the state has another dry winter.

#### Local Conservation Requirements:

In 2018 City Council revised the mandatory water conservation requirements to implement the Moderately restricted water supply water conservation requirements. This is a step down from the previous Severely Restricted Water Supply Conditions. The City of Morro Bay could implement Mandatory Water Conservation Requirements for Severely Restricted Water Supply Conditions at this time or at the time a State of Emergency, including San Luis Obispo County, is declared. These requirements restrict when outdoor watering can occur, requires restaurants to only serve water when requested, and mandates the display of water conservation requirements by all visitor-serving facilities. The City is responsible for creating this material and distributing the materials to these facilities free of charge.

Morro Bay’s water usage on average is low when compared to the average water use in the State. City water usage has decreased from 2013 to the present. The lowest water usage during this time was in 2016 and has slightly increased since but is still below 2013 base year. Water Conservation rebates are available to Morro Bay water customers. To view the various rebates, visit [www.morrobayca.gov/waterconservation](http://www.morrobayca.gov/waterconservation).

#### Future Water Supply: Water Management Planning

The OneWater plan was adopted by City Council in November of 2018. As part of the OneWater scope, all the City's water resources potential (Potable Water, Wastewater and Stormwater) were holistically reviewed to develop a complete water resource picture. The OneWater plan did a complete study of the City's water portfolio and determined that due to the restrictions on the Chorro Valley water rights this is not a reliable water source for the City. Additionally, due to the costs associated with seawater desalination, recommended discontinuation of this as a water supply. On November 27, 2018, City Council adopted Resolution No. 92-18 approving the OneWater Planning document which documented one of the Council's major goals:

*"the OneWater planning effort (Plan) has continued as a City Goal since 2016 and the following was included in the 2018 Council's approved Goal and Objectives document:*

*Goal 2: Water Reclamation Facility (WRF) and OneWater Review and Implementation...The City is also working on a comprehensive plan looking at all the city's systems that address water, from sewer to potable water to stormwater. The OneWater Plan establishes a plan to secure our water future and establish a long-term capital improvement plan to improve water and sewer infrastructure;"*

and provided the following direction regarding water supply:

*"Staff is directed to use the recommendations for water supply options section of the Plan as guidance in the consideration, development and implementation regarding the composition of the City's future water supply portfolio.*

*Staff is directed to take the following actions regarding specific water supply options:*

*A. Begin the decommissioning of the City's seawater desalination facility, including but not limited to inactivation of the sea water wells, removal of the seawater pumps and removal of the sea water reverse osmosis pressure vessels, and*

*B. Begin the process to relinquish water rights in the Chorro Valley, including the discontinuation of stream flow monitoring."*

The new Water Reclamation Facility will provide the City with the ability to provide up to 800 AFY of water through (indirect) potable reuse (in accordance with Title 22 of California's Code of Regulations) by injecting this highly purified water into the Morro Valley groundwater basin and recovering that water with its existing extraction wells. This water source was determined to be a more reliable, sustainable and cost-effective water source than other options analyzed in the OneWater plan.

#### Potable Water Production Summary

As shown in Attachment 2, Water production from 1980-2020, no water was extracted from Chorro and Morro Basins for direct distribution into the water supply, 1019 acre-feet were delivered from the State Water Project (SWP), and 61 acre-feet of treated Morro Basin well water from the BWRO treatment plant. Attachment 3 provides an historical record of water production and use from 1960 through 2020.

#### Water Equivalency Unit program:

A WEU is defined as a unit of measure for water use equal to the average amount of water used by a single-family residence over the period of one year. WEUs are issued to new projects based on the projects potential water use. In past years WEUs have been issued at building permit final. After reevaluating the WEU program staff will be issuing WEUs at the time of Planning permit approval moving forward. For fiscal year 2020/21 all approved planning and building projects have been

included.

Summary of WEU FY 2020-21 activity:

The Council authorized 115 WEUs for FY 2020-21. Thirty WEUs to be used for single-family dwellings and 20 for multiple-family dwellings with 65 allowed for commercial/Industrial uses. Those WEUs were allocated on a first-come, first-served basis. The tracking of the WEUs utilized for FY 2020-21 indicates 84.81 of the 115 WEUs allocated were used as follows:

- Single-Family Residential: 8
- Multi-Family Residential: 21.7 (3-unit and 35-unit apartment building, and Multi-family duplex)
- Commercial: 55.11 (several new hotels and a few smaller commercial projects)

This is not a comprehensive list of all building activity, but rather a list of those activities which required a WEU allocation. The larger number of issued WEUs this year is due to including all planning and building projects, compared to previous year only including the projects at building permit final. Looking at the planning projects in the “que”, staff does not see a need to adjust the number of WEUs for next fiscal year.

**Conclusion**

Staff recommends the City Council review the annual water report and allocation of the FY 2021/22 Water Equivalency Units and adopt Resolution No. 27-21 with the following recommendations:

1. Allocate 50 Water Equivalency Units (WEUs) for residential development and 65 for commercial development for a total of 115 WEUs for FY2021/22.
2. Direct staff to implement Mandatory Water Conservation Requirements for Severely Restricted Water Supply Conditions if the Governor of California declares a state of emergency, including San Luis Obispo County, due to drought.

**ATTACHMENTS**

1. Resolution No. 27-21
2. Table 1: Water Production by source
3. Table 2: Per Capita Water Use

**RESOLUTION NO. 27-21**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
RECEIVING THE ANNUAL WATER REPORT ADOPTING THE WATER  
ALLOCATION PROGRAM FOR FY 2021/22**

**WHEREAS**, Chapter 13.20 of the Morro Bay Municipal Code calls for the City Council of the City of Morro Bay to adopt a yearly Water Allocation Program based on a report by the Public Works (Services) Director after review by the City of Morro Bay Planning Commission and Public Works Advisory Board; and

**WHEREAS**, the Local Coastal Program Land Use Plan and Ordinance Number 266, require the City Council to set an annual limit on new residential units and to prescribe the mix of multi-family and single-family residences allowed within that limit; and

**WHEREAS**, in March 2021, the California Department of Water Resources informed the State Water Project contractors the allocations for 2020/21 would be 5-percent of the contracted amount; and

**WHEREAS**, the City has approximately 1019 acre-feet (AF) of unused contracted water stored in San Luis Reservoir. This allocation, in combination with the City's available drought buffer and storage in San Luis Reservoir along with the Countywide excess availability and local production, is enough to make up the difference between delivery requests and the City's estimated demand of 1,080 AF; and

**WHEREAS**, if persistent dry conditions and low snowpack conditions continue and the California Governor declares a State of Emergency, including San Luis Obispo County, due to drought, the City will implement Mandatory Water Conservation Requirements for Severely Restricted Water Supply; and

**WHEREAS**, on May 18, 2021, the Planning Commission held a public meeting on the Annual Water Report and the proposed FY 2021/22 Water Allocation Program and recommended the City Council adopt the proposed allocation of WEUs along with the planning for severe drought conditions; and

**WHEREAS**, on May 19, 2021, the Public Works Advisory Board held a public meeting on the Annual Water Report and the proposed FY 2021/22 Water Allocation Program and recommended the City Council adopt the proposed allocation of WEUs along with the planning for severe drought conditions; and

**WHEREAS**, on June 8, 2021, the City Council did hold a public meeting on the Annual Water Report and the proposed FY 2021/22 Water Allocation Program; and

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

**SECTION 1:** Based upon evidence, the City Council resolves the following:

- A. Allocate 115 WEUs in FY2020/21, 50 WEU for residential purposes, 30 SFR 20 MFR and 65 for Commercial/Industrial purposes.
- B. Direct staff to implement Mandatory Water Conservation Requirements for Severely Restricted Water Supply Conditions if the Governor of California declares a drought state of emergency, that includes San Luis Obispo County.

**SECTION 2: Applicability**

Each development project that requires an allocation of new Water Equivalency Units shall be subject to this revised allocation program, unless a building permit has been issued prior to the date of adoption of this Resolution.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on this 8<sup>th</sup> day of June 2021 on the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
John Heading, Mayor

ATTEST

\_\_\_\_\_  
Dana Swanson, City Clerk

TABLE 1

WATER PRODUCTION PER SOURCE 1980 - 2020  
(Acre Feet - AF)

Year	Chorro Basin	Morro Basin	** BWRO	State Water	TOTAL (AF)
1980	1079	672	*	*	1751
1981	1143	584	*	*	1727
1982	1061	526	*	*	1587
1983	995	537	*	*	1532
1984	1097	572	*	*	1669
1985	1108	582	*	*	1690
1986	1059	552	*	*	1611
1987	1124	531	*	*	1655
1988	1120	528	*	*	1648
1989	1047	512	*	*	1559
1990	963	564	*	*	1527
1991	808	449	*	*	1257
1992	1049	270	*	*	1319
1993	994	397	*	*	1391
1994	954	460	*	*	1414
1995	986	420	*	*	1406
1996	1261	240	*	*	1501
1997	985	249	*	301	1535
1998	38	*	*	1288	1326
1999	34	*	*	1359	1393
2000	4	*	*	1396	1400
2001	11	*	*	1399	1410
2002	1	32	48	1373	1454
2003	1	28	13	1379	1421
2004	49	213	10	1205	1477
2005	204	150	0	1007	1361
2006	257	80	25	1009	1371
2007	276	35	19	1116	1446
2008	184	52	28	1175	1439
2009	235	80	64	1069	1448
2010	74	54	258	873	1259
2011	14	0.5	84	1144	1243
2012	0	3.9	70	1129	1203
2013	0	27	107	1137	1271
2014	0	0	41	1141	1183
2015	0	0	138	952	1088
2016	0	0	36	958	994
2017	0	0	106	925	1031
2018	0	0	93	960	1053
2019	0	0	101	968	1070
2020	0	0	61	1029	1090

\*\* BWRO Production numbers include both Morro Groundwater treated via Brackish Water Reverse Osmosis (BWRO)

TABLE 2						
TOTAL HISTORIC WATER PRODUCTION & PER CAPITA USAGE						
FOR THE CITY OF MORRO BAY						
Year	Rainfall	City Population	Production in acre feet	Production in millions of gallons	Average daily production in millions of gallons	Average use in gallons per capita per day
1960	10.48	5,599	894	291	0.8	142
1961	8.6	*	842	274	0.75	*
1962	17.22	*	999	326	0.89	*
1963	18.52	*	840	274	0.75	*
1964	11.26	*	881	287	0.79	*
1965	16.08	6,400	1000	326	0.89	140
1966	11.24	6,500	1188	387	1.06	163
1967	20.09	6,600	1194	389	1.07	161
1968	9.64	6,750	1298	423	1.16	172
1969	28.74	6,900	1255	409	1.12	162
1970	9.84	7,109	1534	500	1.37	193
1971	14.2	7,450	1533	500	1.37	184
1972	7.41	7,517	1547	504	1.38	184
1973	27.51	7,725	1424	464	1.27	165
1974	22.35	7,942	1482	483	1.38	167
1975	14.43	8,165	1510	492	1.35	165
1976	11.38	8,394	1574	513	1.41	167
1977	8.35	8,525	1249	407	1.12	131
1978	29.68	8,625	1430	466	1.28	148
1979	17.06	9,150	1614	526	1.44	157
1980	20.99	9,064	1651	538	1.47	162
1981	13.11	9,206	1727	563	1.54	168
1982	20.01	9,297	1586	517	1.42	152
1983	35.01	9,435	1534	500	1.37	145
1984	10.08	9,599	1669	544	1.49	155
1985	10.02	9,747	1691	551	1.51	155
1986	17.17	9,881	1614	526	1.44	146
1987	12.29	9,819	1655	539	1.48	150
1988	15.01	9,975	1648	537	1.47	147
1989	10.88	10,133	1559	508	1.39	137
1990	8.78	9,664	1527	498	1.36	141
1991	16.01	9,806	1256	410	1.12	114
1992	19.63	9,736	1319	430	1.18	121
1993	24.21	9,979	1391	452	1.24	124
1994	11.05	10,071	1414	462	1.26	126
1995	40.01	9,518	1418	462	1.27	133
1996	15.47	9,687	1501	462	1.34	138
1997	18.56	9,696	1535	489	1.37	141
1998	18.01	9,845	1326	432	1.18	120
1999	13.11	9,871	1393	454	1.24	126
2000	19.63	10,410	1400	456	1.25	120
2001	16.04	10,486	1410	459	1.26	118
2002	9.36	10,510	1454	474	1.3	123
2003	13.75	10,485	1421	466	1.28	122
2004	9.48	10,522	1477	481	1.32	125
2005	30.19	10,270	1361	444	1.22	118
2006	18.9	10,491	1371	447	1.23	117
2007	7.24	10,436	1446	471	1.29	118
2008	13.34	10,548	1439	469	1.23	122
2009	12.25	10,555	1448	472	1.29	120
2010	17.26	10,608	1259	410	1.12	106
2011	12.99	10,234	1243	405	1.11	108
2012	10.16	10,327	1203	392	1.07	105
2013	4.05	10,370	1349	440	1.21	117
2014	12.62	10,234	1183	385	1.05	103
2015	8.55	10,544	1088	354	0.97	92
2016	18.79	10,284	994	324	0.88	86
2017	18.73	10,284	1031	336	0.92	89.5
2018	15.1	10,439	1053	342	0.94	90.0
2019	19.32	10,439	1039	339	0.93	89.0
2020	7.73	10,188	1090	355	0.97	95.5

a: [average] determined from metered water sold, not water produced

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AGENDA NO: A-4

MEETING DATE: June 8, 2021

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** June 2, 2021

**FROM:** Dana Swanson, City Clerk  
Heather Goodwin, Deputy City Clerk

**SUBJECT:** Appointment of Cal Myers as the Recreational Boating Representative on the Harbor Advisory Board

### RECOMMENDATION

Staff recommends the City Council appoint Cal Myers to the Harbor Advisory Board (HAB) as the Recreational Boating Representative to complete an unexpired term through January 31, 2023.

### ALTERNATIVES

Direct staff to continue to recruit and re-advertise the vacant position.

### FISCAL IMPACT

There is no fiscal impact.

### BACKGROUND/DISCUSSION

On April 27, 2021, staff was notified by Dana McClish that he was resigning from the Harbor Advisory Board as the Recreational Boating Representative. Mr. McClish's term would have expired on January 31, 2023. Staff conducted an open recruitment to fill the unscheduled vacancy from May 10 – 28, 2021, providing public notice in City kiosks, in the New Times SLO, and the City's website and social media sites.

At the May 11, 2021 City Council Special Meeting, the Council interviewed and made appointments to various advisory bodies. Cal Myers was interviewed for appointment for the Public Works Advisory Board at that time and subsequently expressed interest and submitted his application to fill the unscheduled vacancy on the Harbor Advisory Board. As of the closing date of May 28, 2021, the City Clerk's office received one application which was Mr. Myers. As that applicant had already been interviewed at the May 11, 2021, City Council Special meeting and received favorable comments, staff recommends the Council appoint Mr. Myers be appointed to fill the vacancy.

### CONCLUSION

Staff recommends the City Council review Mr. Myers's application, and by vote, decide if they wish to fill the vacant Recreational Boating Representative position on the Harbor Advisory Board. This term will expire on January 31, 2023.

Prepared By: <u>  HG                  </u>	Dept Review: <u>  DS          </u>
City Manager Review: <u>  SC          </u>	City Attorney Review: <u>  CFN          </u>

**ATTACHMENT**

1. Cal Myers HAB Application



# CITY OF MORRO BAY ADVISORY BODY APPLICATION

### Contact Information

<b>Full Name</b> Cal Myers	<b>Home Phone</b> 
<div style="background-color: black; width: 100%; height: 15px;"></div>	<b>Cell Phone</b> <div style="background-color: black; width: 100%; height: 15px;"></div>
<b>Mailing Address (if different than above)</b> 	<b>Work Phone</b> 
<b>City, State, Zip Code</b> Morro Bay, CA, 93442	<b>Email Address</b> <div style="background-color: black; width: 100%; height: 15px;"></div>

Do you live within the Morro Bay City Limits?       Yes       No

Are you registered to vote in the City of Morro Bay?       Yes       No

### Advisory Body Information

I would like to be considered for appointment to the following Commission/Advisory Body:

- Citizens Oversight and Citizens Finance Advisory Committee\*
- Harbor Advisory Board
  - Marine-Oriented Business
  - Waterfront Leaseholder
  - Recreational Boating
  - Member-at-Large
  - South Bay/Los Osos Representative
  - Morro Bay Commercial Fisherman's Association (MBCFO)
  - Alternate Member to MBCFO
- Planning Commission\*
- Public Works Advisory Board\*
- Recreation & Parks Commission
- Tourism Business Improvement District Advisory Board
  - Hotelier (Member-at-Large)
  - Hotelier (No. of rooms \_\_\_\_\_)
  - Vacation Rental Representative
  - Community Member-at-Large\*
- SLOCOG Citizens Transportation Advisory Committee (CTAC) - County and Regional Board

**\* Must be a resident and registered to vote in the City of Morro Bay during the term of appointment.**

### Employment Information

<b>Present or Last Employer</b> Dell/Secureworks	<b>Position or Occupation</b> Senior Project Manager
<b>Employer Address</b>	<b>How Many Years</b> 10
<b>City, State, Zip Code</b> Round Rock, TX	

### Education and Training

<b>Institution Name, City and State</b>	<b>Major, Degree or Area of Study</b>
UC Irvine	Math, BS

### Qualifications and Interests

Please use the space provided, or attach a separate document, responding to the questions below. If desired, you may attach a resume or other additional documentation for consideration.

1. Are you currently or have you previously served on a board, commission, committee, or other public body, if so, which one and when? What do you feel were the advisory body's major accomplishment(s) during your tenure?  
Orange County Head Start, Facility & Technology Committee - Oversaw technology refresh for HQ, Reviewed budget and plans for food service facility conversion, i.e. kitchen build out for student daily meal preparations.
2. What experience, technical training, and skill qualify you for an appointment, considering your experience and activities in business, labor, professional, social, or other organization?  
My background in leading IT related projects and delivering professional services has allowed me to exercise people management skills. Also been involved in large contract negotiation for both receiving and delivering services.
3. Why are you interested in serving on this advisory board, commission, or committee?  
I belonged to the UC Irvine sailing club and also took a number of sailing classes at Orange Coast College. It would be ideal if Morro Bay could increase interest in sailing and other aquatic activities such as scuba or open water swimming.

I have read the Advisory Bodies Handbook regarding the expectations and responsibilities of this Commission/Advisory Board/Committee and, should I be appointed, am able and willing to devote the necessary time to perform the required duties.



(Signature)

5/11/2021

(Date)

This application is a public record that be disclosed to the public upon request. All appointees to a City Commission, Advisory Board, or Committee will be required, in accordance with State law to file a "Statement of Economic Interest Form 700" which remains available for public inspection.

Completed applications may be emailed to [cityclerk@morrobayca.gov](mailto:cityclerk@morrobayca.gov) or mailed to: Office of the City Clerk, City Hall, 595 Harbor Street, Morro Bay, CA 93442

**A PROCLAMATION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY  
PROCLAIMING SATURDAY JUNE 19, 2021  
AS “JUNETEENTH DAY” IN THE CITY OF MORRO BAY**

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

**WHEREAS**, since June 19, 1865, the American celebration known as Juneteenth has historically been observed as the end of the Institution of Slavery in our Great Nation; and

**WHEREAS**, Juneteenth embodies the indomitable human spirit of the past, the present, and all time; and

**WHEREAS**, the celebration of Juneteenth gives us all the opportunity to rededicate ourselves to the true American spirit and to strive for a more perfect Union; and

**WHEREAS**, we are citizens who wish to secure the Blessings of Freedom, Justice, and Equality for all in this great Country of ours; and

**WHEREAS**, the collaboration of community-based organizations, faith-based organizations, local businesses, and local government demonstrates a shared commitment to being part of the solution and acknowledging the importance of strength through unity.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Morro Bay, is proclaiming the third Saturday in June as “Juneteenth Day” and recommends all citizens of the City of Morro Bay to join in recognizing the importance of this day.

IN WITNESS WHEREOF I have hereunto  
set my hand and caused the seal of the City  
of Morro Bay to be affixed this 8<sup>th</sup> day of  
June, 2021

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JOHN HEADING, MAYOR  
City of Morro Bay, California

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AGENDA NO: B-1

MEETING DATE: June 8, 2021

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** June 2, 2021

**FROM:** Scott Collins, City Manager

**SUBJECT:** Resolution Declaring Results of Majority Protest Proceedings and (re)establishing (if no Majority Protest) the Morro Bay Tourism Business Improvement District, to help fund sales, marketing, and communication programs for Morro Bay lodging businesses and vacation rental businesses, pursuant to the Property and Business Improvement District Law of 1994

### RECOMMENDATION

Hold the public hearing, allow public testimony regarding the formation of the (new) MBTBID and the levy of assessments. accept written protests (if any), declare results of majority protest proceedings, and if there is not a protest from the owners of businesses in the proposed (new) MBTBID which will pay more than fifty percent (50%) of the assessments proposed to be levied, adopt Resolution No. 28-21.

*NOTE: Holding the public hearing, declaring results of the majority protest proceedings, and adopting this Resolution will result in the (re)formation of the Morro Bay Tourism Business Improvement District (MBTBID) and the levy of assessments on lodging businesses and vacation rental businesses.*

### ALTERNATIVES

The Council could choose (even if there is not a majority protest) not to adopt the Resolution Declaring Results of Majority Protest Proceedings and forming the Morro Bay Tourism Business Improvement District. Staff does not recommend this option.

### FISCAL IMPACT

None immediately. The City will receive a fee of three percent (3%) of the amount collected to cover its costs of administration. Because the MBTBID programs are intended to increase visitation to the City, there may be an increase in transient occupancy tax and sales tax collections.

### BACKGROUND

The existing Morro Bay Tourism Business Improvement District (MBTBID) was formed pursuant to the Parking and Business Improvement Area Law of 1989 (89 Law) (Streets and Highways Code sections 36500 et seq.). On April 27, 2009, City Council approved

01181.0001/720380.1	
Prepared By: <u>SC</u>	Dept Review: _____
City Manager Review: <u>SC</u>	City Attorney Review: <u>CFN</u>

Ordinance No. 546 (the “Ordinance”) amending the Morro Bay Municipal Code and establishing the MBTBID. This current effort seeks to modernize the MBTBID by allowing the MBTBID created via the 89 Law to expire and re-establishing the MBTBID pursuant to the Property and Business Improvement District Law of 1994 (94 Law) (Streets and Highways Code sections 36600 et seq.).

The MBTBID is a business improvement district designed to help fund sales, marketing, and communication programs for Morro Bay lodging businesses and vacation rental businesses. The MBTBID levies assessments to be used in accordance with the MBTBID mandate. This approach has been used successfully in other destination areas throughout the state to improve tourism and drive additional room nights to assessed businesses. The MBTBID includes all lodging businesses and vacation rental businesses, existing and in the future, within the boundaries of the City of Morro Bay, as shown on the map in the Management District Plan.

Lodging business and vacation rental business owners decided to pursue formation of the new MBTBID in order to create an up-to-date revenue source devoted to marketing Morro Bay as a tourist, meeting and event destination, pursuant to the 94 Law. If (re)formed, the MBTBID would generate approximately \$991,000 on an annual basis for promotion of travel and tourism specific to Morro Bay.

### *TOURISM BUSINESS IMPROVEMENT DISTRICTS*

Tourism Business Improvement Districts (TBIDs) utilize the efficiencies of private sector operation in the market-based promotion of tourism. These special assessment districts allow lodging business owners to organize their efforts to increase tourism. Business owners within the TBID fund the TBID, and those funds are used to provide services that are desired by and benefit the lodging businesses within the TBID.

TBID benefits:

- Funds cannot be diverted for other government programs;
- They are customized to fit the needs of each destination;
- They allow for a wide range of services, including: destination marketing, tourism promotion, and sales lead generation;
- They are designed, created and governed by those who will pay the assessment; and
- They provide a stable funding source for tourism promotion.

In California, TBIDs may be primarily formed pursuant to the Property and Business Improvement District Law of 1994 (94 Law) or the Parking and Business Improvement Area Law of 1989 (89 Law). These laws allow for the creation of a special benefit assessment district to raise funds within a specific geographic area. A key difference between TBIDs and other special benefit assessment districts is that funds raised may be returned to the private non-profit corporation governing the TBID.

The 94 Law provides for a more stream-lined approach - than the 89 Law - that many cities find more efficient and practical.

In the last ten years, many 89 Law TBIDs have converted to the 94 Law. A partial list is below:

- Stockton (2010);
- Sacramento (2012);
- Fairfield (2013);
- West Hollywood (2013);
- Huntington Beach (2014);
- Lodi (2015);
- Richmond (2015);
- Palm Springs (2016);
- Yolo County (2017);
- Paso Robles (2017);
- Pasadena (2018); and
- Dana Point (2020)

### *MANAGEMENT DISTRICT PLAN*

The Management District Plan (**Attachment 2**) includes the proposed boundary of the MBTBID, a service plan and budget and a proposed means of governance. The MBTBID includes all lodging businesses and vacation rental businesses, existing and in the future, within the boundaries of the City of Morro Bay.

The MBTBID will have a five (5) year term, beginning July 1, 2021 through June 30, 2026. The assessment will be implemented beginning July 1, 2021. Once per year beginning on the anniversary of MBTBID formation there is a thirty (30) day period in which business owners paying fifty percent (50%) or more of the assessment may protest and begin proceedings to terminate the MBTBID.

The annual assessment rate is three percent (3%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days. Assessments will not be collected on any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

The City of Morro Bay (City) will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business and vacation rental business located in the boundaries of the MBTBID. The City shall take all reasonable efforts to collect the assessments from each lodging business and vacation rental business.

### **MBTBID FORMATION PROCESS**

April 13, 2021

#### **RESOLUTION OF INTENTION ADOPTION [COMPLETED]**

Upon the submission of a written petition, signed by the business owners in the proposed MBTBID who will pay more than fifty percent (50%) of the assessments proposed to be levied, the City Council may initiate proceedings to establish the MBTBID by the adoption of a resolution expressing its intention to establish a district. (**Attachment 3**)

*Petition Status:* Petitions in favor of MBTBID formation were submitted by 27 lodging businesses, which represent 72.87% of the total MBTBID assessment. This majority petition allowed the Council to initiate proceedings for MBTBID formation at its April 13, 2021 meeting.

April 14, 2021

**NOTICE [COMPLETED]**

The 94 Law requires the City to mail written notice to the owners of all businesses proposed to be within the MBTBID. Mailing the notice begins a mandatory forty-five (45) day period in which owners may protest MBTBID formation. **(Attachment 4)**

April 27, 2021

**PUBLIC MEETING [COMPLETED]**

Allow public testimony on the formation of the (new) MBTBID and levy of assessments. No Council action required.

June 8, 2021

**PUBLIC HEARING**

Allow public testimony regarding the formation of the (new) MBTBID and the levy of assessments.

Any owner of an assessed business within the proposed MBTBID that will be subject to the assessment may protest the formation of the MBTBID.

If written protests are received (at the public hearing, or by City Hall pursuant to notice before the public hearing during the protest period) from the owners of businesses in the established proposed (new) MBTBID which will pay more than fifty percent (50%) of the assessments proposed to be levied, and protests are not withdrawn so as to reduce the protests to less than fifty percent (50%), no further proceedings to levy the proposed assessment against such businesses shall be taken for a period of one (1) year from the date of the finding of such a majority protest by the Council.

At the conclusion of the public hearing to form the MBTBID, if there is not a protest from the owners of businesses in the proposed (new) MBTBID which will pay more than fifty percent (50%) of the assessments proposed to be levied, the Council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them.

If the Council, following the public hearing, decides to establish the (new) MBTBID, the Council shall by adopting a resolution of formation.

**CONCLUSION**

Should the Council adopt Resolution No. 28-21 (re)forming the MBTBID assessment district, staff will return with an ordinance to amend Morro Bay Municipal Code Chapter 3.60 accordingly.

**ATTACHMENTS**

1. Resolution No. 28-21
2. Management District Plan
3. Resolution of Intention No. 16-21
4. Notice of Public Meeting and Public Hearing

**RESOLUTION NO. 28- 21**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
DECLARING RESULTS OF MAJORITY PROTEST  
PROCEEDINGS AND ESTABLISHING THE  
MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT (MBTBID)**

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

**WHEREAS**, the Property and Business Improvement District Law of 1994 (Streets and Highways Code §§36600 et. seq.) authorizes the City to establish business improvement districts upon petition by a weighted majority of the business owners located within the boundaries of the district; and

**WHEREAS**, lodging business and vacation rental business owners who will pay more than fifty percent (50%) of the proposed assessment, as weighted according to the amount of the assessment to be paid by the petitioner, within the boundaries of the Morro Bay Tourism Business Improvement District (MBTBID) have petitioned the City Council to establish the MBTBID; and

**WHEREAS**, included with the petitions was a Management District Plan (Plan) summary that describes the proposed assessment to be levied on lodging businesses and vacation rental businesses within the MBTBID to pay for sales, marketing, and communications programs and other improvements and activities set forth in the Plan; and

**WHEREAS**, the assessed businesses within the MBTBID will receive a specific benefit from the activities and improvements set forth in the Plan; and

**WHEREAS**, on April 13, 2021 at 5:30 PM via teleconference pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the City Council adopted a Resolution of Intention, Resolution No. 16-21; and

**WHEREAS**, the public meeting and public hearing to consider the establishment of the MBTBID have been properly noticed in accordance with Streets and Highways Code §36623; and

**WHEREAS**, on April 27, 2021 at 5:30 PM via teleconference pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the City Council held a public meeting regarding the establishment of the MBTBID, and the City Council heard and received objections and protests, if any, to the establishment of the MBTBID and the levy of the proposed assessment; and

**WHEREAS**, on June 8, 2021 at 5:30 PM, via teleconference pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the City Council held a public hearing regarding the establishment of the MBTBID, and the City Council heard and received all objections and protests, if any, to the establishment of the MBTBID and the levy of the proposed assessment; and

**WHEREAS**, the City Clerk has determined that there was no majority protest. A majority protest is defined as written protests received from owners of businesses in the proposed MBTBID

which would pay fifty percent (50%) or more of the assessments proposed to be levied. Protests are weighted based on the assessment proposed to be levied on each assessed business; and

**WHEREAS**, the City bears the burden of proving by a preponderance of the evidence that an assessment imposed for a specific benefit or specific government service is not a tax, that the amount is no more than necessary to cover the costs to the City in providing the specific benefit or specific government service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the specific benefits or specific government services received by the payor.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, California, as Follows:

1. The recitals set forth herein are adopted by the City Council as findings and they are true and correct.

2. The MBTBID is hereby established for a five (5) years year term, beginning July 1, 2021 through June 30, 2026.

3. The Plan dated March 3, 2021 is hereby adopted and approved.

4. The activities to be provided to benefit businesses in the MBTBID will be funded by the levy of the assessment. The revenue from the assessment levy shall not be used: to provide activities that directly benefit businesses outside the MBTBID; to provide activities or improvements outside the MBTBID; or for any purpose other than the purposes specified in this Resolution, the Resolution of Intention, and the Plan. Notwithstanding the foregoing, improvements and activities that must be provided outside the MBTBID boundaries to create a specific benefit to the assessed businesses may be provided, but shall be limited to marketing or signage pointing to the MBTBID.

5. The City Council finds as follows:

a) The activities funded by the assessment will provide a specific benefit to assessed businesses within the MBTBID that is not provided to those not paying the assessment.

b) The assessment is a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

c) The assessment is a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

d) Assessments imposed pursuant to the MBTBID are levied solely upon the assessed business, and the business owner is solely responsible for payment of the assessment when due. If the owner chooses to collect any portion of the assessment from a transient, that portion shall be specifically called out and identified for the transient in any and all communications from the business owner as the "MBTBID Assessment" or "Tourism Assessment" as specified in the Plan.

6. The assessments levied for the MBTBID shall be applied towards sales, marketing, and communications programs to market assessed Morro Bay lodging businesses and vacation rental businesses as tourist, meeting and event destinations, and other improvements and activities as set forth in the Plan.

7. Assessments levied on lodging businesses and vacation rental businesses pursuant to this resolution shall be levied on the basis of benefit. Because the services provided are intended to increase room rentals, an assessment based on room rentals is the best measure of benefit.

8. The annual assessment rate is three percent (3%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days. Assessments will not be collected on any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

9. The assessments for the entire MBTBID will total approximately \$991,000 in year one (1).

10. Bonds shall not be issued to fund the MBTBID.

11. The MBTBID shall include all lodging business and vacation rental businesses, existing and in the future, within the boundaries of the City of Morro Bay. A boundary map is attached hereto and incorporated herein by reference.

12. The assessments shall be used for the purposes set forth above and any funds remaining at the end of any year may be used in subsequent years in which the MBTBID assessment is levied as long as they are used consistent with the requirements set forth herein.

13. The assessments to fund the activities and improvements for the MBTBID will be collected by the City on a monthly basis, and in accordance with Streets and Highways Code §36631.

14. The City Council, through adoption of this Resolution and the Plan, has the right pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the MBTBID as defined in Streets and Highways Code §36612. The City Council has determined that Visit Morro Bay shall be the MBTBID Owners' Association.

15. Visit Morro Bay, pursuant to Streets and Highways Code §36650, shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvement and activities described in the report. The first report shall be due after the first year of operation of the MBTBID.

16. The MBTBID established pursuant to this resolution will be subject to any amendments to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code §§36600 et. seq.).

17. The City Clerk, or his or her designee, is directed to take all necessary actions to complete the establishment of the MBTBID and to levy the assessments.

18. This Resolution shall take effect immediately upon its adoption by the City Council.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 8<sup>th</sup> day of June 2021, by the following vote:

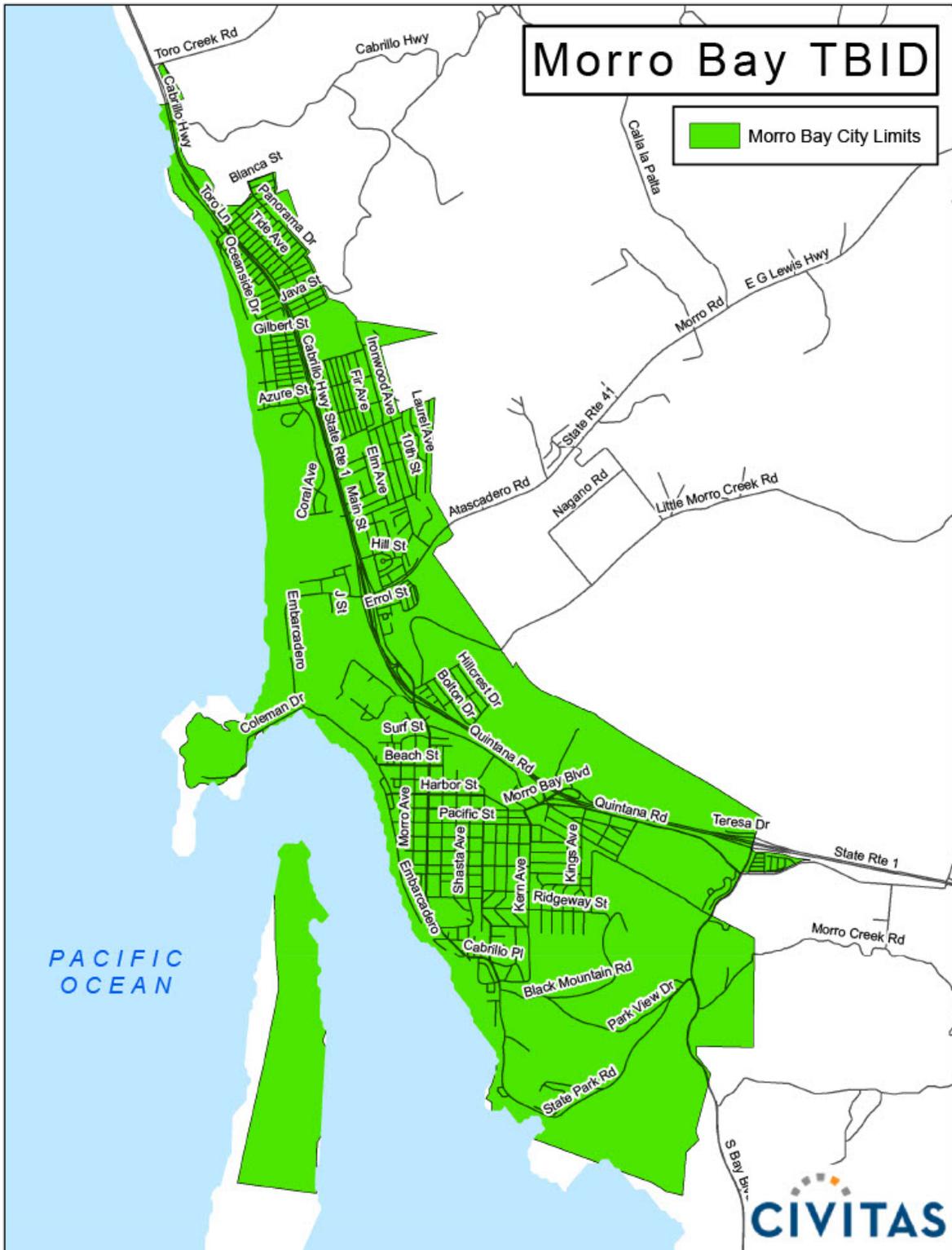
AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
JOHN HEADDING, Mayor

ATTEST:

\_\_\_\_\_  
DANA SWANSON, City Clerk

# Boundary Map



2021-2026



# MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT MANAGEMENT DISTRICT PLAN

*Prepared pursuant to the Property and Business Improvement District Law of  
1994, Streets and Highways Code section 36600 et seq.*

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March 3, 2021

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## I. OVERVIEW

Developed by City of Morro Bay (City), Morro Bay hoteliers, and Morro Bay vacation rental businesses, the Morro Bay Tourism Business Improvement District (MBTBID) is an assessment district proposed to provide specific benefits to payors, by funding marketing and sales promotion efforts for assessed businesses. In 2009, the Morro Bay Tourism Business Improvement District (MBTBID) was formed pursuant to the Parking and Business Improvement Area Law of 1989 (89 Law). This effort seeks to modernize the MBTBID by disestablishing the 89 Law District and forming a new District pursuant to the Property and Business Improvement District Law of 1994 (94 Law).

*Location:* The MBTBID includes all lodging businesses and vacation rental businesses, existing and in the future, within the boundaries of the City of Morro Bay, as shown on the map in Section III.

*Services:* The MBTBID is designed to provide specific benefits directly to payors by increasing room night sales. Sales, marketing, and communications programs will increase overnight tourism through promotion of payors as tourist, meeting and event destinations, thereby increasing room night sales.

*Budget:* The total MBTBID annual assessment budget for the initial year of its five (5) year operation is anticipated to be approximately \$991,000. A similar budget is expected to apply to subsequent years, but this budget is expected to fluctuate as room sales do.

*Cost:* The annual assessment rate is three percent (3%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days. Assessments will not be collected on any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

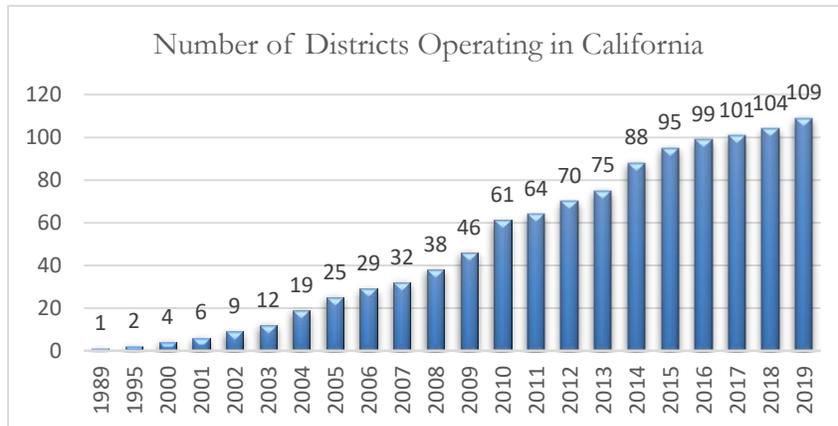
*Collection:* The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business and vacation rental business located in the boundaries of the MBTBID. The City shall take all reasonable efforts to collect the assessments from each lodging business and vacation rental business.

*Duration:* The MBTBID will have a five (5) year life, beginning July 1, 2021 through June 30, 2026. Once per year, beginning on the anniversary of the MBTBID formation, there is a thirty (30) day period in which assessed business owners paying fifty percent (50%) or more of the assessment by written petition may protest the assessment and thereby initiate a City Council hearing on MBTBID termination.

*Management:* Visit Morro Bay (VMB) will serve as the founding MBTBID's Owners' Association. The Owners' Association contracts with the City of Morro Bay to manage funds and implement programs in accordance with this Plan, is a private nonprofit entity, must provide annual reports to the City Council.

## II. BACKGROUND

TBIDs are an evolution of the traditional Business Improvement District. The first TBID was formed in West Hollywood, California in 1989. Since then, over one hundred California destinations have followed suit. In recent years, other states have begun adopting the California model – Montana, South Dakota, Washington, Colorado, Texas and Louisiana have adopted TBID laws. Several other states are in the process of adopting their own legislation. The cities of Wichita, Kansas and Newark, New Jersey used an existing business improvement district law to form a TBID. And, some cities, like Portland, Oregon and Memphis, Tennessee have utilized their home rule powers to create TBIDs without a state law.



California's TBIDs collectively raise over \$250 million annually for local destination marketing. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Morro Bay lodging businesses invest in stable, lodging-specific marketing programs.

TBIDs utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TBIDs allow lodging business owners to organize their efforts to increase room night sales. Lodging business owners within the TBID pay an assessment and those funds are used to provide services that increase room night sales.

In California, many TBIDs are formed pursuant to the Property and Business Improvement District Law of 1994. This law allows for the creation of a benefit assessment district to raise funds within a specific geographic area. *The key difference between TBIDs and other benefit assessment districts is that funds raised are returned to the private non-profit corporation governing the district.*

There are many benefits to TBIDs:

- Funds must be spent on services and improvements that provide a specific benefit only to those who pay;
- Funds cannot be diverted to general government programs;
- They are customized to fit the needs of payors in each destination;
- They allow for a wide range of services;
- They are ***designed, created and governed by those who will pay*** the assessment; and
- They provide a stable, long-term funding source for tourism promotion.

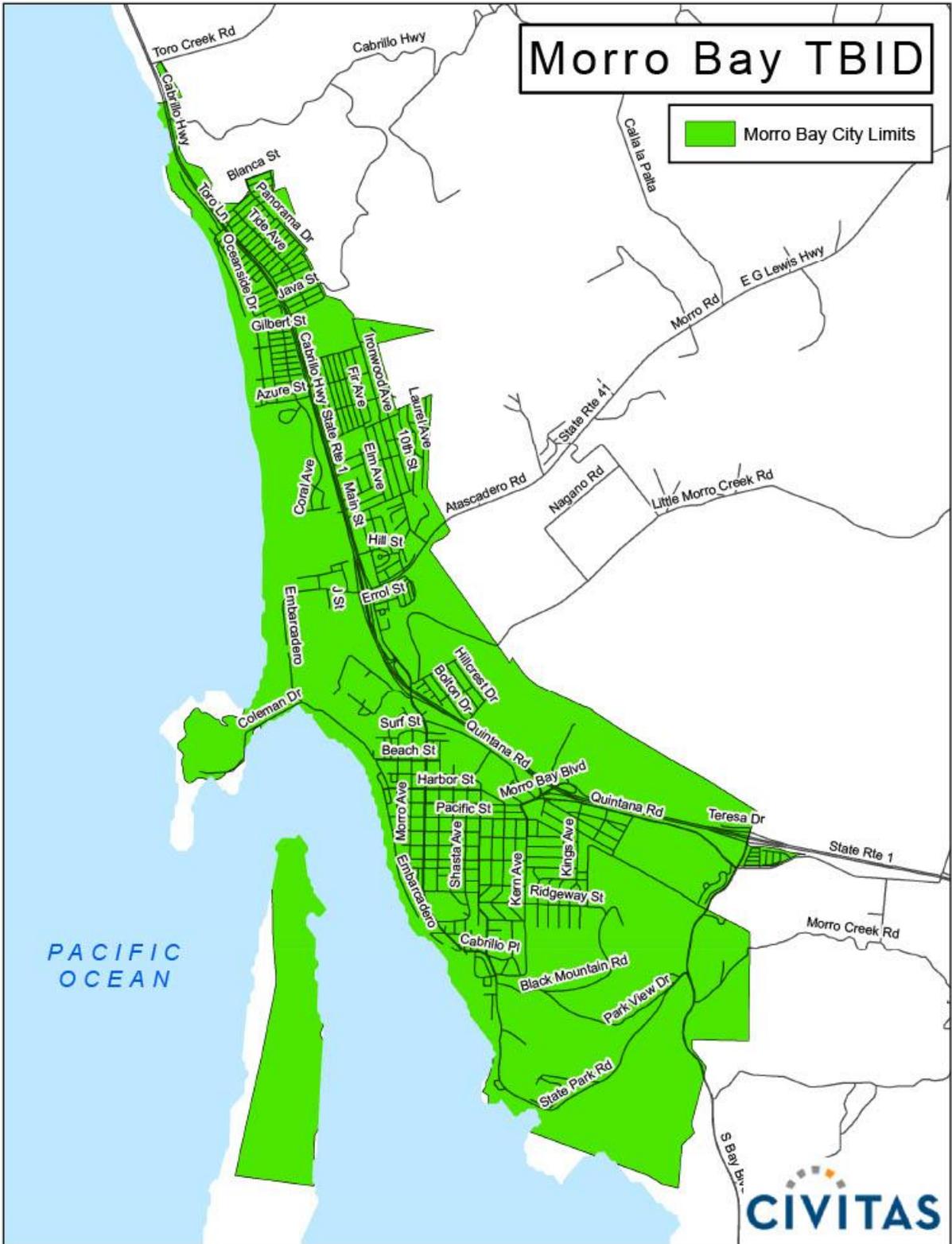
### III. BOUNDARY

The MBTBID will include all lodging businesses and vacation rental businesses, existing and in the future, within the boundaries of the City of Morro Bay.

Lodging business means: any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club at a fixed location or other similar structure or portion thereof; and shall further include any space, lot, area or site in any or other similar conveyance that is occupied or intended or designed for occupancy by transients dwelling, lodging or sleeping purposes. For purposes of this Plan, the definition of "lodging business" shall not include mobile homes, house trailers, trailer courts, recreational vehicle parks, mobilehome parks, camps, parks or lot where a trailer, tent, recreational vehicle, mobile home, motorhome or similar conveyance that is occupied or intended or designed for occupancy by transients dwelling, lodging or sleeping purposes.

Vacation rental means: the rental of any structure or any portion of any structure for occupancy for dwelling, lodging or sleeping purposes for thirty (30) consecutive calendar days or less in duration, including detached single-family residences, condominiums, duplexes, twinplexes, townhomes and multiple-family dwellings.

The boundary, as shown in the map on the following page, as of January 19, 2021 includes two hundred and eighty-two (282) businesses. A complete listing of lodging businesses within the MBTBID can be found in Appendix 2.

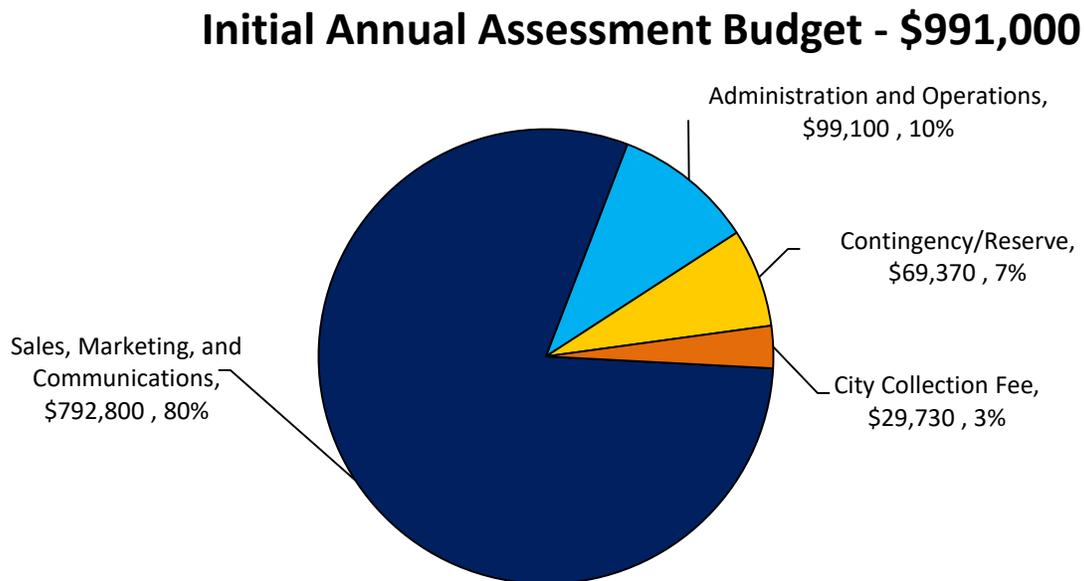


## IV. ASSESSMENT BUDGET AND SERVICES

### A. Annual Service Plan

Assessment funds will be spent to provide specific benefits conferred or privileges granted directly<sup>1</sup> to the payors that are not provided to those not charged, and which do not exceed the reasonable cost to the City of conferring the benefits or granting the privileges. The privileges and services provided with the MBTBID funds are sales, marketing, and communications programs available only to assessed businesses.

A service plan budget has been developed to deliver services that benefit the assessed businesses. A detailed annual budget will be developed and approved by VMB. The table below illustrates the initial annual assessment budget allocations. The total initial budget is \$991,000.



Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the VMB board shall have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) of the total budget per year. A description of the proposed improvements and activities for the initial year of operation is below. The same activities are proposed for subsequent years. In the event of a legal challenge against the MBTBID, any and all assessment funds may be used for the costs of defending the MBTBID. In the first year of operation, the costs of creating the MBTBID may be repaid by deducting repayment funds proportionally from each of the budget categories.

Each budget category includes all costs related to providing that service. For example, the sales, marketing, and communications budget includes the cost of staff time dedicated to overseeing and implementing the sales, marketing, and communications program. Staff time dedicated purely to administrative tasks is allocated to the administrative portion of the budget. The costs of an individual staff member may be allocated to multiple budget categories. The staffing levels necessary to provide the services below will be determined by VMB on an as-needed basis.

<sup>1</sup> Notwithstanding businesses not assessed may “receive incidental or collateral effects that benefit them.” (Sts. & High. Code § 36601(d).)

## **Sales, Marketing, and Communications**

A sales, marketing, and communications program will promote assessed lodging businesses as tourist, meeting, and event destinations. The sales, marketing, and communications program will have a central theme of promoting the destination as a desirable place for overnight visits. The program will have the goal of increasing overnight visitation and room night sales at assessed lodging businesses, and may include, but is not limited to, the following activities:

- Internet marketing efforts to increase awareness and optimize internet presence to drive overnight visitation and room sales to assessed lodging businesses; Print ads in magazines and newspapers, television ads, and radio ads targeted at potential visitors to drive overnight visitation and room sales to assessed lodging businesses;
- Building the Morro Bay branding and local destination marketing to attract overnight visitation to assessed businesses and the MBTBID;
- Attendance of trade shows to promote assessed lodging businesses;
- Sales blitzes for assessed lodging businesses;
- Familiarization tours of assessed lodging businesses;
- Preparation and production of collateral promotional materials such as brochures, flyers and maps featuring assessed lodging businesses;
- Attendance of professional industry conferences and affiliation events to promote assessed lodging businesses;
- Lead generation activities designed to attract tourists and group events to assessed lodging businesses;
- Director of Sales and General Manager meetings to plan and coordinate tourism promotion efforts for assessed lodging businesses;
- Education of hospitality staff on service and safety (related to alcohol and food) designed to create a visitor experience that will bring repeat visits to assessed lodging businesses; and
- Education of lodging business management and the Owners' Association on marketing strategies best suited to meet assessed lodging businesses' needs.

## **Administration and Operations**

The administration and operations portion of the budget shall be utilized for administrative staffing costs, office costs, advocacy, and other general administrative costs such as insurance, legal, and accounting fees.

## **Collection Fee**

The City of Morro Bay shall be paid a fee equal to three percent (3%) of the amount of assessment collected to cover its costs of collection and administration.

## **Contingency / Reserve**

The budget includes a contingency line item to account for lower than anticipated assessments. If there are contingency funds collected, they may be held in a reserve fund or utilized for other program, administration or renewal costs at the discretion of VMB. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by VMB. Contingency/reserve funds may be spent on MBTBID programs or administrative and renewal costs in such proportions as determined by VMB. The reserve fund may be used for the costs of renewing the MBTBID.

## **B. Annual Assessment Budget**

The total five (5) year improvement and service plan assessment budget is projected at approximately \$991,000 annually, or \$4,955,000 through 2026. A similar budget is expected to apply to subsequent years, but this budget is expected to fluctuate as room sales do.

## **C. California Constitutional Compliance**

The MBTBID assessment is not a property-based assessment subject to the requirements of Proposition 218. Courts have found Proposition 218 limited the term ‘assessments’ to levies on real property.<sup>2</sup> Rather, the MBTBID assessment is a business-based assessment, and is subject to Proposition 26. Pursuant to Proposition 26 all levies are a tax unless they fit one of seven exceptions. Two of these exceptions apply to the MBTBID, a “specific benefit” and a “specific government service.” Both require that the costs of benefits or services do not exceed the reasonable costs to the City of conferring the benefits or providing the services.

### **1. Specific Benefit**

Proposition 26 requires that assessment funds be expended on, “a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.”<sup>3</sup> The services in this Plan are designed to provide targeted benefits directly to assessed businesses, and are intended only to provide benefits and services directly to those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, or parcels of land, but rather to serve the specific businesses within the MBTBID. The activities described in this Plan are specifically targeted to increase room night sales for assessed lodging businesses and vacation rental businesses within the boundaries of the MBTBID, and are narrowly tailored. MBTBID funds will be used exclusively to provide the specific benefit of increased room night sales directly to the assessees. Assessment funds shall not be used to feature non-assessed lodging businesses in MBTBID programs, or to directly generate sales for non-assessed businesses. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed businesses.

The assessment imposed by this MBTBID is for a specific benefit conferred directly to the payors that is not provided to those not charged. The specific benefit conferred directly to the payors is an increase in room night sales. The specific benefit of an increase in room night sales for assessed businesses will be provided only to businesses paying the district assessment, with marketing, sales, and communications programs promoting businesses paying the MBTBID assessment. The marketing, sales, and communications programs will be designed to increase room night sales at each assessed businesses. Because they are necessary to provide the marketing, sales, and communications programs that specifically benefit the assessed lodging businesses, the administration and contingency services also provide the specific benefit of increased room night sales to the assessed lodging businesses.

Although the MBTBID, in providing specific benefits to payors, may produce incidental benefits to non-paying businesses, the incidental benefit does not preclude the services from being considered a specific benefit. The legislature has found that, “A specific benefit is not excluded from classification

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<sup>2</sup> *Jarvis v. the City of San Diego* 72 Cal App. 4<sup>th</sup> 230

<sup>3</sup> Cal. Const. art XIII C § 1(e)(1)

as a ‘specific benefit’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific benefit to the payor.”<sup>4</sup>

## **2. Specific Government Service**

The assessment may also be utilized to provide, “a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.”<sup>5</sup> The legislature has recognized that marketing and promotions services like those to be provided by the MBTBID are government services within the meaning of Proposition 26<sup>6</sup>. Further, the legislature has determined that “a specific government service is not excluded from classification as a ‘specific government service’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific government service to the payor.”<sup>7</sup>

## **3. Reasonable Cost**

MBTBID services will be implemented carefully to ensure they do not exceed the reasonable cost of such services. The full amount assessed will be used to provide the services described herein. Funds will be managed by the MBTBID, and reports submitted on an annual basis to the City. Only assessed businesses will be featured in marketing materials, receive sales leads generated from MBTBID-funded activities, be featured in advertising campaigns, and benefit from other MBTBID-funded services. Non-assessed businesses will not receive these, nor any other, MBTBID-funded services and benefits.

The MBTBID-funded programs are all targeted directly at and feature only assessed businesses. It is, however, possible that there will be a spill over benefit to non-assessed businesses. If non-assessed businesses receive incremental room nights, that portion of the promotion or program generating those room nights shall be paid with non-MBTBID funds. MBTBID funds shall only be spent to benefit the assessed businesses, and shall not be spent on that portion of any program which directly generates incremental room nights for non-assessed businesses.

## **D. Assessment**

The annual assessment rate is three percent (3%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days. Assessments will not be collected on any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

The term “gross room rental revenue” as used herein means: Gross room rental revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes.

The assessment is levied upon and a direct obligation of the assessed business. However, the assessed business may, at its discretion, pass the assessment on to transients. The amount of assessment, if passed on to each transient, shall be disclosed in advance and separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business. If the MBTBID assessment is identified separately it shall be disclosed as the “MBTBID Assessment.” As an alternative, the disclosure may include the amount of the MBTBID assessment and the amount of the assessment imposed pursuant to the California Tourism Marketing

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<sup>4</sup> Government Code § 53758(a)

<sup>5</sup> Cal. Const. art XIII C § 1(e)(2)

<sup>6</sup> Government Code § 53758(b)

<sup>7</sup> Government Code § 53758(b)

Act, Government Code §13995 et seq. and shall be disclosed as the “Tourism Assessment.” The assessment is imposed solely upon, and is the sole obligation of, the assessed lodging business, even if it is passed on to transients. The assessment shall not be considered revenue for any purpose, including calculation of transient occupancy taxes.

Bonds shall not be issued.

#### **E. Penalties and Interest**

The MBTBID shall reimburse the City of Morro Bay for any costs and fees (including, but not limited to, both City staff time as reasonably calculated by the City, as well as any attorney’s fees) associated with collecting unpaid assessments. If sums in excess of the delinquent MBTBID assessment are sought to be recovered in the same collection action by the City, the MBTBID shall bear its pro rata share of such collection costs. Assessed businesses which are delinquent in paying the assessment shall be responsible for paying:

1. *Original Delinquency.* Any owner who fails to remit any assessment imposed by this Plan within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.
2. *Continued Delinquency.* Any owner who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment and the ten percent (10%) penalty first imposed.
3. *Fraud.* If the City determines in its sole reasonable discretion that the nonpayment of any remittance due under this chapter is due to fraud and/or intent to mislead the City, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added thereto in addition to the penalties stated in subsections 1 and 2 of this section.
4. *Interest.* In addition to the penalties imposed, any owner who fails to remit any assessment imposed by this Plan shall pay interest at the rate of one-half of one percent (0.05%) per month or fraction thereof on the amount of the assessment, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
5. *Penalties Merged with Assessment.* Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the assessment herein required to be paid.
6. *Appeals Procedure.* City will provide written procedures for appeal of contested assessments, consistent with due process.
7. *City Collection Costs.* Delinquent assessed businesses will be responsible for City collection costs, pursuant to section F below.

#### **F. Time and Manner for Collecting Assessments**

The MBTBID assessment will be implemented beginning July 1, 2021 and will continue for five (5) years through June 30, 2026. The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each assessed business. The City shall take all reasonable efforts to collect the assessments from each assessed business. The City shall forward the assessments collected to VMB.

## **V. GOVERNANCE**

### **A. Owners' Association**

The City Council, through adoption of this Management District Plan, has the right, pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the MBTBID as defined in Streets and Highways Code §36612. The City Council has determined that Visit Morro Bay will serve as the Owners' Association for the MBTBID. The City reserves the right to conduct regular financial and/or operational audits, as reasonably determined to be appropriate by City in City's sole discretion, of the Owners' Association. Any such City audits will receive the full and unqualified cooperation and assistance of the Owners' Association, and upon request by City will be paid for in whole or part with MBTBID funds. Consistent with law, and for good cause as reasonably demonstrated to the satisfaction of the City Council, the City Council at a noticed public hearing may designate a different qualified private nonprofit entity as the Owners' Association of the MBTBID, to replace either Visit Morro Bay, or any subsequent designated Owners' Association.

### **B. Brown Act and California Public Records Act Compliance**

An Owners' Association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. The Owners' Association is, however, subject to government regulations relating to transparency, namely the Ralph M. Brown Act and the California Public Records Act. These regulations are designed to promote public accountability. The Owners' Association acts as a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the Owner's Association board and certain committees must be held in compliance with the public notice and other requirements of the Brown Act. The Owners' Association is also subject to the record keeping and disclosure requirements of the California Public Records Act. Accordingly, the Owners' Association shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

### **C. Annual Report**

Visit Morro Bay shall present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code §36650 (see Appendix 1). The annual report shall include:

- Any proposed changes in the boundaries of the improvement district or in any benefit zones or classification of businesses within the district.
- The improvements and activities to be provided for that fiscal year.
- An estimate of the cost of providing the improvements and the activities for that fiscal year.
- The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.
- The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
- The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

# APPENDIX 1 – LAW

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 2020 SUPPLEMENT \*\*\*  
(ALL 2019 LEGISLATION)

## STREETS AND HIGHWAYS CODE DIVISION 18. PARKING PART 7. PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994

### CHAPTER 1. General Provisions

#### ARTICLE 1. Declarations

##### **36600. Citation of part**

This part shall be known and may be cited as the “Property and Business Improvement District Law of 1994.”

##### **36601. Legislative findings and declarations; Legislative guidance**

The Legislature finds and declares all of the following:

- (a) Businesses located and operating within business districts in some of this state’s communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.
- (b) It is in the public interest to promote the economic revitalization and physical maintenance of business districts in order to create jobs, attract new businesses, and prevent the erosion of the business districts.
- (c) It is of particular local benefit to allow business districts to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that receive benefits from those improvements.
- (d) Assessments levied for the purpose of conferring special benefit upon the real property or a specific benefit upon the businesses in a business district are not taxes for the general benefit of a city, even if property, businesses, or persons not assessed receive incidental or collateral effects that benefit them.
- (e) Property and business improvement districts formed throughout this state have conferred special benefits upon properties and businesses within their districts and have made those properties and businesses more useful by providing the following benefits:
  - (1) Crime reduction. A study by the Rand Corporation has confirmed a 12-percent reduction in the incidence of robbery and an 8-percent reduction in the total incidence of violent crimes within the 30 districts studied.
  - (2) Job creation.
  - (3) Business attraction.
  - (4) Business retention.
  - (5) Economic growth.
  - (6) New investments.
- (f) With the dissolution of redevelopment agencies throughout the state, property and business improvement districts have become even more important tools with which communities can combat blight, promote economic opportunities, and create a clean and safe environment.
- (g) Since the enactment of this act, the people of California have adopted Proposition 218, which added Article XIII D to the Constitution in order to place certain requirements and restrictions on the formation of, and activities, expenditures, and assessments by property-based districts. Article XIII D of the Constitution provides that property-based districts may only levy assessments for special benefits.
- (h) The act amending this section is intended to provide the Legislature’s guidance with regard to this act, its interaction with the provisions of Article XIII D of the Constitution, and the determination of special benefits in property-based districts.
  - (1) The lack of legislative guidance has resulted in uncertainty and inconsistent application of this act, which discourages the use of assessments to fund needed improvements, maintenance, and activities in property-based districts, contributing to blight and other underutilization of property.
  - (2) Activities undertaken for the purpose of conferring special benefits upon property to be assessed inherently produce incidental or collateral effects that benefit property or persons not assessed. Therefore, for special benefits to exist as a separate and distinct category from general benefits, the

incidental or collateral effects of those special benefits are inherently part of those special benefits. The mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits.

(3) It is of the utmost importance that property-based districts created under this act have clarity regarding restrictions on assessments they may levy and the proper determination of special benefits. Legislative clarity with regard to this act will provide districts with clear instructions and courts with legislative intent regarding restrictions on property-based assessments, and the manner in which special benefits should be determined.

### **36602. Purpose of part**

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within property and business improvement districts, to ensure that those assessments conform to all constitutional requirements and are determined and assessed in accordance with the guidance set forth in this act. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

### **36603. Preemption of authority or charter city to adopt ordinances levying assessments**

Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part. A property and business improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

### **36603.5. Part prevails over conflicting provisions**

Any provision of this part that conflicts with any other provision of law shall prevail over the other provision of law, as to districts created under this part.

### **36604. Severability**

This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. Assessments levied under this part are not special taxes.

## **ARTICLE 2. Definitions**

### **36606. “Activities”**

“Activities” means, but is not limited to, all of the following that benefit businesses or real property in the district:

- (a) Promotion of public events.
- (b) Furnishing of music in any public place.
- (c) Promotion of tourism within the district.
- (d) Marketing and economic development, including retail retention and recruitment.
- (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
- (f) Other services provided for the purpose of conferring special benefit upon assessed real property or specific benefits upon assessed businesses located in the district.

### **36606.5. “Assessment”**

“Assessment” means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and providing activities that will provide certain benefits to properties or businesses located within a property and business improvement district.

### **36607. “Business”**

“Business” means all types of businesses and includes financial institutions and professions.

**36608. “City”**

“City” means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which includes only cities, counties, or a city and county, or the State of California.

**36609. “City council”**

“City council” means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

**36609.4. “Clerk”**

“Clerk” means the clerk of the legislative body.

**36609.5. “General benefit”**

“General benefit” means, for purposes of a property-based district, any benefit that is not a “special benefit” as defined in Section 36615.5.

**36610. “Improvement”**

“Improvement” means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

- (a) Parking facilities.
- (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
- (c) Trash receptacles and public restrooms.
- (d) Lighting and heating facilities.
- (e) Decorations.
- (f) Parks.
- (g) Fountains.
- (h) Planting areas.
- (i) Closing, opening, widening, or narrowing of existing streets.
- (j) Facilities or equipment, or both, to enhance security of persons and property within the district.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures.

**36611. “Management district plan”; “Plan”**

“Management district plan” or “plan” means a proposal as defined in Section 36622.

**36612. “Owners’ association”**

“Owners’ association” means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners’ association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners’ association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all records relating to activities of the district.

**36614. “Property”**

“Property” means real property situated within a district.

**36614.5. “Property and business improvement district”; “District”**

“Property and business improvement district,” or “district,” means a property and business improvement district established pursuant to this part.

**36614.6. “Property-based assessment”**

“Property-based assessment” means any assessment made pursuant to this part upon real property.

**36614.7. “Property-based district”**

“Property-based district” means any district in which a city levies a property-based assessment.

**36615. “Property owner”; “Business owner”; “Owner”**

“Property owner” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. “Business owner” means any person recognized by the city as the owner of the business. “Owner” means either a business owner or a property owner. The city council has no obligation to obtain other information as to the ownership of land or businesses, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this part requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient. Wherever this part requires the signature of the business owner, the signature of the authorized agent of the business owner shall be sufficient.

**36615.5. “Special benefit”**

“Special benefit” means, for purposes of a property-based district, a particular and distinct benefit over and above general benefits conferred on real property located in a district or to the public at large. Special benefit includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed. Special benefit excludes general enhancement of property value.

**36616. “Tenant”**

“Tenant” means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

**ARTICLE 3. Prior Law**

**36617. Alternate method of financing certain improvements and activities; Effect on other provisions**

This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. Every improvement area established pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500) of this division) is valid and effective and is unaffected by this part.

**CHAPTER 2. Establishment**

**36620. Establishment of property and business improvement district**

A property and business improvement district may be established as provided in this chapter.

**36620.5. Requirement of consent of city council**

A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

### **36621. Initiation of proceedings; Petition of property or business owners in proposed district**

- (a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.
- (b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:
- (1) A map showing the boundaries of the district.
  - (2) Information specifying where the complete management district plan can be obtained.
  - (3) Information specifying that the complete management district plan shall be furnished upon request.
- (c) The resolution of intention described in subdivision (a) shall contain all of the following:
- (1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities, and the location and extent of the proposed district.
  - (2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall be consistent with the requirements of Section 36623.

### **36622. Contents of management district plan**

The management district plan shall include, but is not limited to, all of the following:

- (a) If the assessment will be levied on property, a map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district. If the assessment will be levied on businesses, a map that identifies the district boundaries in sufficient detail to allow a business owner to reasonably determine whether a business is located within the district boundaries. If the assessment will be levied on property and businesses, a map of the district in sufficient detail to locate each parcel of property and to allow a business owner to reasonably determine whether a business is located within the district boundaries.
- (b) The name of the proposed district.
- (c) A description of the boundaries of the district, including the boundaries of benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected property and businesses included, which may be made by reference to any plan or map that is on file with the clerk. The boundaries of a proposed property assessment district shall not overlap with the boundaries of another existing property assessment district created pursuant to this part. This part does not prohibit the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law, including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.
- (d) The improvements, maintenance, and activities proposed for each year of operation of the district and the maximum cost thereof. If the improvements, maintenance, and activities proposed for each year of operation are the same, a description of the first year's proposed improvements, maintenance, and activities and a statement that the same improvements, maintenance, and activities are proposed for subsequent years shall satisfy the requirements of this subdivision.
- (e) The total annual amount proposed to be expended for improvements, maintenance, or activities, and debt service in each year of operation of the district. If the assessment is levied on businesses, this amount may be estimated based upon the assessment rate. If the total annual amount proposed to be expended in each year of operation of the district is not significantly different, the amount proposed to be expended in the initial

year and a statement that a similar amount applies to subsequent years shall satisfy the requirements of this subdivision.

(f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against his or her property or business. The plan also shall state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k) (1) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof.

(2) In a property-based district, the proportionate special benefit derived by each identified parcel shall be determined exclusively in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the activities. An assessment shall not be imposed on any parcel that exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and a property-based district shall separate the general benefits, if any, from the special benefits conferred on a parcel. Parcels within a property-based district that are owned or used by any city, public agency, the State of California, or the United States shall not be exempt from assessment unless the governmental entity can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit. The value of any incidental, secondary, or collateral effects that arise from the improvements, maintenance, or activities of a property-based district and that benefit property or persons not assessed shall not be deducted from the entirety of the cost of any special benefit or affect the proportionate special benefit derived by each identified parcel.

(l) In a property-based district, the total amount of all special benefits to be conferred upon the properties located within the property-based district.

(m) In a property-based district, the total amount of general benefits, if any.

(n) In a property-based district, a detailed engineer's report prepared by a registered professional engineer certified by the State of California supporting all assessments contemplated by the management district plan.

(o) Any other item or matter required to be incorporated therein by the city council.

### **36623. Procedure to levy assessment**

(a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with Section 53753 of the Government Code.

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business or the authorized representative. A written protest that does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners or authorized representatives of businesses in the proposed district that will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

(c) If a city council proposes to conduct a single proceeding to levy both a new or increased property assessment and a new or increased business assessment, the notice and protest and hearing procedure for the property assessment shall comply with subdivision (a), and the notice and protest and hearing procedure for the business assessment shall comply with subdivision (b). If a majority protest is received from either the property or business owners, that respective portion of the assessment shall not be levied. The remaining portion of the assessment may be levied unless the improvement or other special benefit was proposed to be funded by assessing both property and business owners.

#### **36624. Changes to proposed assessments**

At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements, maintenance, and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements, maintenance, and activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

#### **36625. Resolution of formation**

(a) If the city council, following the public hearing, decides to establish a proposed property and business improvement district, the city council shall adopt a resolution of formation that shall include, but is not limited to, all of the following:

(1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property, businesses, or both within the district, a statement on whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements need not be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities and the location and extent of the proposed district.

(2) The number, date of adoption, and title of the resolution of intention.

(3) The time and place where the public hearing was held concerning the establishment of the district.

(4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.

(5) A statement that the properties, businesses, or properties and businesses in the district established by the resolution shall be subject to any amendments to this part.

(6) A statement that the improvements, maintenance, and activities to be conferred on businesses and properties in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements, maintenance, or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district. Notwithstanding the foregoing, improvements and activities that must be provided outside the district boundaries to create a special or specific benefit to the assessed parcels or businesses may be provided, but shall be limited to marketing or signage pointing to the district.

(7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements, maintenance, and activities funded by the proposed assessments, and, for a property-based district, that property within the district will receive a special benefit.

(8) In a property-based district, the total amount of all special benefits to be conferred on the properties within the property-based district.

(b) The adoption of the resolution of formation and, if required, recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

**36627. Notice and assessment diagram**

Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625, the clerk shall record a notice and an assessment diagram pursuant to Section 3114. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

**36628. Establishment of separate benefit zones within district; Categories of businesses**

The city council may establish one or more separate benefit zones within the district based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone. If the assessment is to be levied on businesses, the city council may also define categories of businesses based upon the degree of benefit that each will derive from the improvements or activities to be provided within the district and may impose a different assessment or rate of assessment on each category of business, or on each category of business within each zone.

**36628.5. Assessments on businesses or property owners**

The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements, maintenance, and activities, provided that any property-based assessment conforms with the requirements set forth in paragraph (2) of subdivision (k) of Section 36622.

**36629. Provisions and procedures applicable to benefit zones and business categories**

All provisions of this part applicable to the establishment, modification, or disestablishment of a property and business improvement district apply to the establishment, modification, or disestablishment of benefit zones or categories of business. The city council shall, to establish, modify, or disestablish a benefit zone or category of business, follow the procedure to establish, modify, or disestablish a property and business improvement district.

**36630. Expiration of district; Creation of new district**

If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and the district may be renewed pursuant to this part.

**CHAPTER 3. Assessments**

**36631. Time and manner of collection of assessments; Delinquent payments**

The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution levying the assessment. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part may be charged interest and penalties.

**36632. Assessments to be based on estimated benefit; Classification of real property and businesses; Exclusion of residential and agricultural property**

- (a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.
- (b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the property and business improvement district. The city council may classify businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.
- (c) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

**36633. Time for contesting validity of assessment**

The validity of an assessment levied under this part shall not be contested in an action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36626. An appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

**36634. Service contracts authorized to establish levels of city services**

The city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.

**36635. Request to modify management district plan**

The owners' association may, at any time, request that the city council modify the management district plan. Any modification of the management district plan shall be made pursuant to this chapter.

**36636. Modification of plan by resolution after public hearing; Adoption of resolution of intention**

(a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all other public hearings pursuant to this section shall comply with both of the following:

- (1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.
- (2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.
- (b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

**36637. Reflection of modification in notices recorded and maps**

Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100), in a manner consistent with the provisions of Section 36627.

**CHAPTER 3.5. Financing**

**36640. Bonds authorized; Procedure; Restriction on reduction or termination of assessments**

(a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36625, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)) or in conjunction with Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code). Either act, as the case may be, shall govern the proceedings relating to the issuance of bonds, although proceedings under the Bond Act of 1915 may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.

(b) The resolution adopted pursuant to subdivision (a) shall generally describe the proposed improvements specified in the resolution of formation adopted pursuant to Section 36625, set forth the estimated cost of those improvements, specify the number of annual installments and the fiscal years during which they are to

be collected. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years.

(c) Notwithstanding any other provision of this part, assessments levied to pay the principal and interest on any bond issued pursuant to this section shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

## **CHAPTER 4. Governance**

### **36650. Report by owners' association; Approval or modification by city council**

(a) The owners' association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements, maintenance, and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:

(1) Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.

(2) The improvements, maintenance, and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements, maintenance, and activities for that fiscal year.

(4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.

(5) The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636.

The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

### **36651. Designation of owners' association to provide improvements, maintenance, and activities**

The management district plan may, but is not required to, state that an owners' association will provide the improvements, maintenance, and activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

## **CHAPTER 5. Renewal**

### **36660. Renewal of district; Transfer or refund of remaining revenues; District term limit**

(a) Any district previously established whose term has expired, or will expire, may be renewed by following the procedures for establishment as provided in this chapter.

(b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.

(c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

## **CHAPTER 6. Disestablishment**

### **36670. Circumstances permitting disestablishment of district; Procedure**

(a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:

(1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.

(2) During the operation of the district, there shall be a 30-day period each year in which assesseses may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners or authorized representatives of real property or the owners or authorized representatives of businesses in the district who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment.

(b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

### **36671. Refund of remaining revenues upon disestablishment or expiration without renewal of district; Calculation of refund; Use of outstanding revenue collected after disestablishment of district**

(a) Upon the disestablishment or expiration without renewal of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished or expires. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.

(b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

## APPENDIX 2 – ASSESSED BUSINESSES

<b>Motels</b>	<b>Address</b>
Anderson Inn	897 Embarcadero
Ascot Suites	260 Morro Bay Blvd
Bayfront Inn	1148 Front St.
Bay View Inn	225 Harbor St.
Beach Bungalow Inn & Suites	1050 Morro Ave.
Best Western San Marcos Inn	250 Pacific St.
Blue Sail Inn	851 Market Ave.
The Landing	780 Market Ave.
Coastal Breeze Inn	1098 Main St.
Comfort Inn	590 Morro Ave.
Harbor House	1095 Main St.
Morro Bay Beach Inn	1100 Main St.
El Rancho Motel	2460 Main St.
Embarcadero Inn	456 Embarcadero
Estero Inn	501 Embarcadero
Fireside Inn	730 Morro Ave.
Front Street Inn	1140 Front St.
Gray's Inn	561 Embarcadero
Harborfront Suites	581 Embarcadero
Holland Inn	2630 Main St.
Inn at Morro Bay	60 State Park Rd.
La Roche	575 Embarcadero
La Serena Inn	990 Morro Ave.
Marina Street Inn B & B	305 Marina St.
Masterpiece Hotel	1206 Main St.
Morro Crest Inn	670 Main St.
Morro Shores Inn & Suites	290 Atascadero Rd.
Motel Six	298 Atascadero Rd.
Pacific Cottage	2830 Alder
Pacific Shores Inn	890 Morro Ave.
Pleasant Inn Motel	235 Harbor St.
Salty Sister	1170 Front St.
Sandpiper Inn	540 Main St.
Sea Air Inn	845 Morro Ave.
Seaside Inn	220 Beach St.
Sundown Inn	640 Main St.
Rockview Inn	1080 Market Ave.
Tradewinds	225 Beach St.
<b>Vacation Rentals*</b>	<b>Address</b>
Garcia Investments	221 Piney Way

Kolb Properties	271 Main Street
Kolb Properties	271 Main Street #B
Kolb Properties	263 Main Street
Meske by the Sea	1210 Bolton Drive
The 1211 Trust	154 Orcas Street
The Saap Trust	965 Pelican Place
Brim J & June A Carter Trust	150 Verdon
Ciano Real Estate, Inc.	880 Main Street
Kenneth & Debra Lehman Trust	3350 Beachcomber
Klose Rentals	3390 Beachcomber Drive
Agnes Dill	2060 Seaview
Al & Geri Bevilacqua	3201 Tide Ave
Al Boada	310 Bernardo
Al Boada	356 Shasta Ave
Al Boada	337 Bernardo
Al Boada	229 Piney Way
Alice Frawley Bicksler	477 Kern Avenue
Allen Hochstetler	199 Main Street
Andrew & Hilary Wilkie	476 Hill St.
Anne Jenks	3130 Beachcomber Drive
Antonio Benevento	431 Panay Street
Arthur Dyson	1177 Main Street
Barron Aleshire	2958 Cedar Avenue
Barry Bailey	410 Mindoro
Beth & Douglas Kerns	921 Mesa St.
Beth Richie	238 Pacific Street
Beth Richie	240 Pacific Street
Blanche Hosfeldt	121 Bradley
Brenda Avery	550 Bernardo Avenue
Brian & Ann Littlefield	180 Verdon St.
Brian Hill	675 La Loma Avenue
Brian Lucas	150 Bali Street
Brian Osgood	2250 Hemlock Ave
Brian Salber	165 Panay Street
Bruce Morosin	150 Formosa Street
Cameron B. Samuelson-Sanford	121 Easter
Carol Burk	199 Sienna
Carol Ferioli-Moe	810 Luisita Street
Carol Soares	2400 Ironwood Ave.
Ceil & Gerri Howe	184 Tahiti St.
Chris Hunt	2470 Hemlock Avenue
Chris & Rebecca Running	155 Hatteras
Chris Bath	380 Las Vegas

Christine Barrett	216 Surf St.
Christopher & Elizabeth Appel	400 Pico Street
Chuck & Tillie Easterling	1178 Main St.
Cindy Gregory	645 Monterey Avenue #B
Colin Chaney	508 Shasta Avenue
Constance Hamilton Trustee Robert G Hamilton Trust	180 Gilbert Street
Craig Jeffus	405 Zanzibar
Craig & Ellen Fetterolf	3128 Beachcomber Drive
Cynthia & Thomas Nabors	240 Bali
Cynthia Mauch	280 Main Street
Dan & Dina Krull	2575 Greenwood Avenue
Dan & Teri Ennis	611 Estero Ave.
Daniel Yates	221 Main St.
David Eggers	938 Marina Street
David Zepp	120 Java Street
Daynard Tullis	456 Yerba Buena
Debbie Kopack	535 Dunes St.
Deborah Boyett	1280 Bolton Drive
Debra Lehman	2629 Koa Avenue
Dennis Buckley	2171 Sunset Avenue
DeRosa, Betty/ Pegler, Robert	270 Cypress Avenue
Diane Doban	2235 Hemlock Avenue
Diem Chau Le	455 Panay St.
Don & Carolyn Schimnowski	2615 Nutmeg Avenue
Don & Sandra Pool	2545 Elm Ave.
Donna & Robert Weigandt	491 Orcas St
Douglas & Catherine Loop	391 Luzon Street
E. Wade & June Ortman	650 Avalon Street
Ed & Erin Largoza	1215 Main Street
Elizabeth & Richard Egan	701 San Joaquin
Flaherty, Loreen/ Dent, Chris	731 Marina
Frank & Sandra Ciano	2960 Beachcomber Drive
Frank Ciano	115 Easter Street
Frank Ciano	897 Monterey Avenue
Frank Ciano	895 Monterey Avenue
Fred & Candi Wickman	3198 Beachcomber
Frederick Jack Buckman	671 Estero Avenue
Gail Johnson	470 Arbutus
Garry & Janice Wilson	560 Bonita Street
Gary & Nancy Weisenberger	115 Hatteras
Gary & Susie Ferreria	245 Gilbert Street
Gates, Jeff & Ronni Grogan, Rene	340 Vashon Street

Genji & Stephanie Arakaki	2799 Elm Avenue
Giacomo Licari	2950 Beachcomber Drive
Gina & John Strong	940 Monterey
Ginie Harris	460 Piney Way
Grant & Phyllis Morris	3370 Beachcomber Drive
Greg & Angie Wheeler	2697 Laurel Ave.
Greg & Jeanne Frye	3420 Toro Lane
Greg Finch	1881 Sunset Ave.
Gregory MacDougall	1851 Ironwood
Gustafson, Cindy/ Auerbach, Wally	3200 Beachcomber Drive
Harry Stroup	524 Yerba Buena Street
Helen Ferguson	700 Sierra Court
Herb & Gayle Rose	929 Mesa St.
Ilsa Pope	2585 Ironwood
Jack Franklin	299 Kern Avenue
Jack Randall	3033 Beachcomber
James & Casey Shuler	3464 Toro Lane
James & Peggy Church	195 Capri
James & Rhoda Gonzales	441 Luzon Street
James Cooley	510 Yerba Buena Street
James Sigler	390 Luzon Street
Janice Bryant	2665 Juniper
Janice Kennedy	385 Tulare Avenue
Jasmyn Haas	440 Java Street
Jean White	413 Arbutus
Jeannie Jorgensen	2615 Maple Ave.
Jeannie Mielke	550 Main St.
Jeff & Darlene Wise	360 Trinidad Street
Jenny B. & Ross Jones	450 Napa Ave.
Jim & Sharon Kroll	301 Trinidad
Joe & Susan Ross	120 Mindoro Street
John Strong	955 Napa Avenue Apt B
John Draxler	1279 Berwick Drive
John Hyché	377 Fairview Avenue
Jonel Mueller	1291 Main St.
Joseph & Beverly Heinemann	2889 Hemlock Avenue
Judy Kandarian	425 Bernardo
Julie & Ron Eddlemon	1197 Main St.
Julie Caglia	2811 Ironwood Avenue
Julie Sanders	1323 Clarabelle Drive
Karen Croley	2870 Fir Avenue
Karen Farlow	311 Piney
Karl & Elizabeth Levy	3480 Toro Lane

Karla A. Haeuser	501 Zanzibar Street
Kate Stulberg	261 Shasta Avenue
Kathy Taverner	324 Shasta Ave.
Ken Lehman	3015 Beachcomber Street
Kenneth Burke	370 Vashon Street
Kenneth Fiser	491 Mindoro
Kenneth Vogel	948 Marina Street
Kevin & Leslie Conrad	449 Panay Street
Kevin Winfield	2700 Greenwood Avenue
Kristin/Stacey Lopez/Houk	3476 Toro Lane
Kurt & Darcy Senff	180 Bali Street
L.M. Williams	157 Verdon Street
L.M. Williams	195 Orcas
L.M. Williams	3175 Orcas Way
Lani Colhouer	401 San Joaquin Street
LaRonda Chirman	1365 Prescott Drive
LaRonda Chirman	1363 Prescott Drive
Larry T & Corinne Black	625 Monterey Ave
Laura Andes	498 Nassau
Lee & Peggy Garispe	1271 Hillcrest
Lena Rutherford	2580 Laurel Avenue
Linda Rieger	2975 Beachcomber
Lisa Burgstrom	372 Main Street
Lisa Dornhofer	180 Andros St.
Loyd & Madalyn Clift	150 Andros
Maci & Henri Daramy	2740 Dogwood Ave.
Manuel & Geraldine Rodrigues	623 Kern Avenue
Mark Graham	166 Vashon
Mark Hays	3273 Tide Avenue
Marshall King	325 Shasta Ave
Mary Guinn Felsted	455 Oahu (457)
Michael & Jenny Hudson	2076 Seaview
Michael & Jordonna Dores	155 Formosa Street
Michael Chernekoff	2910 Fir Avenue
Michelle Quillin & William II Reynolds	234 Pacific Street
Michelle Wiebe	325 Kings Avenue
Mike & Laurel Blackenby-Slater Slater	686/690 Driftwood Street
Mike Fackler	2640 Maple Ave
Minh Riley	875 Ridgeway Street
N Keith Decker	2870 Hemlock Avenue
Nancy Seiler	2556 Koa Avenue
Nicholas Taron	340 Arbutus
Nicole Nix	370 Bonita St.

Patricia Brown	2780 Cedar Ave.
Patricia Czach	565 Monterey Ave #A
Patricia Czach	1890 Hill St
Paul & Janell Spencer	2630 Greenwood
Penni Daugherty	1098 Balboa St.
Perry William	235 Piney Way
Phillip & Mary Ann Britton	465 Whidbey Street
Pina Naran	2172 Main St.
Randall & Jennifer McNamee	844 Monterey St
Reba & Glenn Myers	226 Pacific Street
Reba & Glenn Myers	226 1/2 Pacific Street
Reg Whibley	471 Embarcadero
Reilly & Sean Carpenter	2076 Bayview Ave.
Rhonda L. Davis	564 Morro Avenue
Rich Buquet	647 Estero Avenue
Richard Moss	730 Luisita
Rigmor Samuelsen	230 Surf St.
Robert Naste	2660 Nutmeg Avenue
Robert & Cynthia Young	381 Panay St.
Robert & Donna Salber	176 Panay St.
Robert & Katie Heugly	2670 Greenwood Ave
Robert & Sabrina Elzer	169 Kodiak Street
Robert & Tiffany Eranio	1188 Main Street
Robert Coomer	3440 Toro Lane
Robert Schechter	245 Driftwood Street
Roberta & Wayne Colmer	424 Morro Avenue
Roberta Herter	3185 Orcas Way
Robyn Bowser	1364 Clarabelle Drive
Ron Medellin	320 Sicily
Rushdi Cader	1887 Ironwood
Sam & Manetta Shields	2700 Fir Avenue
Sara Williams	659 Kern Avenue
Satoshi Sasaki	452 Sicily Street
Sean Green	361 Dunes Street
Sebastian & Zulmira Sousa	360 Luzon Street
Sharon Duganne	636 Bay Avenue
Shiban & Sushma Tiku	221 Dunes Street
Stephen & Glenna Penner	645 Morro #2G
Stephen Burdette	530 Monterey, Unit #1
Steve Barton	860 Luisita
Steve Gong	217 Main Street
Steven Banner	110 Java
Steven Cox	1174 Main Street

Stuart & Marcy Styles	2290 Ironwood Ave.
Sue Quanstrom	645 Morro Avenue #2B
Susan Callado	471 Mindoro Street
Susan Craig	340 Island Street
Sylvia Sanchez	450 Tahiti Street
Tech Chea	218 Pacific St.
Tedd Struckmeyer	150 Gilbert Street
Teresa Shea	290 Terra Street
Terri Frank	445 Whidbey Street
Terry & Lissa Gillette	391 Panay Street
Thomas & Connie Jameson	2398 Laurel Avenue
Thomas Gruber	540 Downing Street
Thomas Harrington	496 Kern
Thomas Riley	881 Ridgeway Street
Tiffani & Anthony Gonzales	234 Beach St.
Tim & Karen Dixon	2746 Main Street
Timothy Gomes	2970 Greenwood Avenue
Todd & Ashley McGuyer	481 Jamaica
Tom & Cynthia Gotuzzo	300 Kings Avenue
Tom & Ordonna Link	1184 Main Street
Tom St. John	460 Jamaica St.
Tylor Mason	335 Fairview Avenue
Virginia & Tony Brazil	601 San Jacinto
Virginia Bailey	395 Avalon Street
Wayne Johnson	421 Kings Ave., Unit A
William & Marlene Regan	3030 Beachcomber Drive
William Benson	2670 Ironwood Avenue
Wilma Stephens	1275 Morro Avenue
Yolanda Hill	1368 Berwick Drive

\* The assessed business list was compiled from records provided by City of Morro Bay. The list was developed with the most reliable information provided, however, the list may contain discrepancies due to any of the following reasons: 1) The vacation rentals included in the list are businesses that have obtained a permit or license to operate as a vacation rental at the time of formation, and does not include vacation rentals that are not permitted or licensed to operate as a vacation rental; 2) Vacation rentals may cease operation with little or no notice, and may no longer be operating as a vacation rental; 3) the vacation rental list was compiled based on information provided in January of 2021, and may not include vacation rentals that began operation after the date listed.

**RESOLUTION NO. 16-21**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
DECLARING ITS INTENTION TO FORM THE  
MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT (MBTBID) UNDER  
THE PROPERTY AND BUSINESS IMPROVEMENT LAW OF 1994, AND FIXING  
THE TIME AND PLACE OF A PUBLIC MEETING AND A PUBLIC HEARING  
THEREON, AND GIVING NOTICE THEREOF**

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

**WHEREAS**, the Property and Business Improvement Law of 1994, Streets and Highways Code §36600 et seq., authorizes the City to form business improvement districts for the purposes of promoting tourism; and

**WHEREAS**, Visit Morro Bay, Morro Bay business owners, and representatives from the City of Morro Bay have met to consider the formation of the MBTBID; and

**WHEREAS**, Visit Morro Bay has drafted a Management District Plan (Plan) consistent with requirements of Streets and Highways Code section 36622 and which sets forth the proposed boundary of the MBTBID, a service plan and budget, and a proposed means of governance; and

**WHEREAS**, businesses who will pay more than fifty percent (50%) of the assessment under the MBTBID have petitioned the City Council to form the MBTBID pursuant to Streets and Highways Code section 36621.

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

1. The recitals set forth herein are true and correct.
2. The City Council finds that businesses that will pay more than fifty percent (50%) of the assessment proposed in the Plan have signed and submitted petitions in support of the formation of the MBTBID. The City Council accepts the petitions and adopts this Resolution of Intention to form the MBTBID and to levy an assessment on certain lodging businesses and vacation rentals within the MBTBID boundaries in accordance with the Property and Business Improvement District Law of 1994.
3. The City Council finds that the Plan satisfies all requirements of Streets and Highways Code §36622.
4. The City Council declares its intention to form the MBTBID and to levy and collect assessments on lodging businesses and vacation rental businesses within the MBTBID boundaries pursuant to the Property and Business Improvement District Law of 1994.
5. The MBTBID includes all lodging businesses and vacation rental businesses, existing and in the future, within the boundaries of the City of Morro Bay, as shown in the map attached as

Exhibit A.

6. The name of the district shall be Morro Bay Tourism Business Improvement District (MBTBID).
7. The annual assessment rate is three percent (3%) of gross short-term room rental revenue. The assessments will be collected on a monthly basis. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days. Assessments will not be collected on any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.
8. The assessments levied for the MBTBID shall be applied toward sales, marketing, and communications programs to promote an increase in overnight tourism through promotion of payors as tourist, meeting and event destinations, thereby increasing room night sales, as described in the Plan. Funds remaining at the end of any year may be used in subsequent years in which MBTBID assessments are levied as long as they are used consistent with the requirements of this resolution and the Plan.
9. The MBTBID will have a five (5) year life, beginning July 1, 2021 through June 30, 2026, unless renewed pursuant to Streets and Highways Code §36660.
10. Bonds shall not be issued.
11. The time and place for the public meeting to hear testimony on forming the MBTBID and levying assessments are set for April 27, 2021, at 5:30 PM, or as soon thereafter as the matter may be heard, at City Hall located at 595 Harbor Street, Morro Bay, CA 93442.
12. The time and place for the public hearing to form the MBTBID and the levy of assessments is set for June 8, 2021, at 5:30 PM, or as soon thereafter as the matter may be heard, at City Hall located at 595 Harbor Street, Morro Bay, CA 93442. The City Clerk is directed to provide written notice to the lodging businesses subject to assessment of the date and time of the meeting and hearing, and to provide that notice as required by Streets and Highways Code §36623.
13. At the public meeting and hearing, the testimony of all interested persons for or against the formation of the MBTBID may be received. If at the conclusion of the public hearing, there are of record written protests by the owners of the assessed businesses within the formed MBTBID that will pay more than fifty percent (50%) of the estimated total assessment of the entire MBTBID, no further proceedings to form the MBTBID shall occur for a period of one (1) year.
14. The complete Plan is on file with the City Clerk and may be reviewed upon request.

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15. This resolution shall take effect immediately upon its adoption by the City Council.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 13th day of April 2021 by the following vote:

AYES: Headding, Addis, Barton, Davis, Heller  
NOES: None  
ABSENT: None  
ABSTAIN: None

  
\_\_\_\_\_  
JOHN HEADDING, Mayor

ATTEST:

  
\_\_\_\_\_  
DANA SWANSON, City Clerk

EXHIBIT A  
District Boundaries



**NOTICE OF PUBLIC MEETING AND PUBLIC HEARING CONCERNING THE  
FORMATION OF THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT  
(MBTBID) AND LEVY OF AN ASSESSMENT ON CERTAIN LODGING BUSINESSES AND  
VACATION RENTAL BUSINESSES WITHIN THE MBTBID**

**NOTICE IS HEREBY GIVEN** that on April 13, 2021, the City Council (the “Council”) of the City of Morro Bay (the “City”) adopted a Resolution of Intention to form the Morro Bay Tourism Business Improvement District (the “MBTBID”) and to levy an assessment on certain businesses within the MBTBID as set forth in the Resolution of Intention.

**NOTICE IS HEREBY FURTHER GIVEN** that at 5:30 PM on April 27, 2021, at City Hall located at 595 Harbor Street, Morro Bay, CA 93442, a public meeting shall be held pursuant to Government Code section 54954.6 to allow public testimony regarding the formation of the MBTBID and the levy of assessments therein as set forth in the Resolution of Intention and pursuant to Government Code section 54954.6.

**NOTICE IS HEREBY FURTHER GIVEN** that at 5:30 PM on June 8, 2021, at City Hall located at 595 Harbor Street, Morro Bay, CA 93442, has been set as the time and place for a public hearing at which time the Council proposes to form the MBTBID and to levy the proposed assessment as set forth in the Resolution of Intention.

**Location:** The MBTBID includes all lodging businesses and vacation rental businesses, existing and in the future, within the boundaries of the City of Morro Bay, as shown on the map in the Management District Plan (Plan).

**Services:** The MBTBID is designed to provide specific benefits directly to payors by increasing room night sales. Sales, marketing, and communications programs will increase overnight tourism through promotion of payors as tourist, meeting and event destinations, thereby increasing room night sales.

**Budget:** The total MBTBID annual assessment budget for the initial year of its five (5) year operation is anticipated to be approximately \$991,000. A similar budget is expected to apply to subsequent years, but this budget is expected to fluctuate as room sales do.

**Cost:** The annual assessment rate is three percent (3%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days. Assessments will not be collected on any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

**Collection:** The City of Morro Bay (City) will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business and vacation rental business located in the boundaries of the MBTBID. The City shall take all reasonable efforts to collect the assessments from each lodging business and vacation rental business.

**Duration:** MBTBID will have a five (5) year life, beginning July 1, 2021 through June 30, 2026. Once per year, beginning on the anniversary of MBTBID formation, there is a thirty (30) day period in which owners paying fifty percent (50%) or more of the assessment may protest and initiate a City Council hearing on MBTBID termination.

**Management:** Visit Morro Bay (VMB) will serve as the founding MBTBID's Owners' Association. The Owners' Association contracts with the City of Morro Bay to manage funds and implement programs in accordance with the Plan, is a private nonprofit entity, and must provide annual reports to the City Council.

**Protest:** Any owner of an assessed business within the proposed MBTBID that will be subject to the assessment may protest the formation of the MBTBID. If written protests are received from the owners of assessed businesses in the proposed MBTBID who represent fifty percent (50%) or more of the estimated annual assessments to be levied, the MBTBID shall not be formed, and the assessment shall not be imposed.

You may mail a written protest to:

Office of the City Clerk  
595 Harbor Street  
Morro Bay, CA 93442

You may also appear at the public meeting or hearing and submit a written protest at that time.

**Information:** Should you desire additional information about this proposed MBTBID formation or assessment contact:

Scott Collins  
City Manager  
City of Morro Bay  
595 Harbor Street  
Morro Bay, CA 93442  
(805) 772-6200



AGENDA NO: B-2

MEETING DATE: June 8, 2021

# Staff Report

TO: Honorable Mayor and City Council

DATE: May 28, 2021

FROM: Nancy Hubbard, Contract Planner

**SUBJECT: Appeal filed on April 28, 2021 of the Planning Commission’s denial of an appeal of the administratively issued Minor Use Permit (MUP20-02), approving a change in use from a motel (formerly Twin Bay Inn and Best Western) to supportive housing. The zoning of the site is MCR/R-4/SP and is not located in the Coastal Appeals Jurisdiction. As required by state law, supportive housing is a use allowed by right in both the MCR and the R-4 zones.**

## RECOMMENDATION

Deny the appeal and uphold the Planning Commission decision and the Director’s approval of Minor Use Permit (MUP20-02) allowing the change in use to supportive housing in compliance with the requirements of the MBMC, by adopting Resolution No. 29-21.

## ALTERNATIVES

1. Uphold the appeal and provide direction to staff regarding desired action
2. Continue appeal and provide direction to staff regarding desired action

**APPELLANTS** Ashley Smith

**APPLICANTS** Brian Der Vartanian, Agent for Morro Bay Recovery

**LEGAL DESCRIPTION/APN** 2460 MAIN STREET/068-201-004

## SUMMARY

On February 24, 2021, the City granted administrative approval of a Minor Use Permit (MUP20-02) with conditions of approval to allow a change in use from a motel to a residential supportive housing facility at 2460 Main Street. The property is zoned MCR/R-4/SP, and it is not located in the Coastal Appeals Jurisdiction.

An Appeal of this action was filed on March 1, 2021 by Ashley Smith. The Planning Commission held a duly noticed appeal hearing on April 20, 2021 resulting in a denial of the appeal and support of the Director’s approval of MUP 20-02. On April 28, 2021 Ashley Smith filed an appeal to City Council of the Planning Commission’s decision.

01181.0005/718458.3

Prepared By:   NH  

Department Review:   SG  

City Manager Review:   SC  

City Attorney Review:   EQG/CFN

## **ANALYSIS**

The facility will constitute supportive housing, as defined in the City's code and in state law, and the applicant expects to provide housing and services for up to 26 individuals in recovery from alcohol and substance abuse, who are considered disabled under state and federal law. State law requires that supportive housing be permitted by right in zones where multi-family and mixed uses are allowed.

### **State and Federal Law Protect Individuals with Disabilities**

People in alcohol and substance abuse recovery are considered disabled under both State and Federal law, and are therefore subject to heightened protection in the area of housing. See, e.g., Gov't Code Section 12940 et seq.; 42 U.S.C. Section 3601 et seq.; 42 U.S. C Section 12101 et seq.

California has a number of statutes that are relevant here:

- The California Fair Employment and Housing Act, Gov't Code § 12940 et seq., makes it unlawful to discriminate in land use practices on a number of bases, including on the basis of disability. Gov't Code § 12955(l).
- Government Code Section 65008 invalidates any action by a city that discriminates on the bases set forth in Section 12955, including disability.
- Government Code Section 11135 provides that no person shall, on the basis of disability, be "unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state." Further, any violation of the Americans with Disabilities Act constitutes a violation of Section 11135, although the state law may provide for stronger protections than the ADA.

### **Supportive Housing Allowed by Right As Required By State Law**

The proposed change in use is to "supportive housing," defined as "housing with no limit on length of stay, that is occupied by a target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live, and, when possible, work in the community." MBMC § 17.12.626. This definition mirrors the definition of "supportive housing" in Section 50675.14 of the Health & Safety Code.

State law provides that "... supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. Supportive housing, as defined in [Government Code] Section 65650, shall be a use by right in all zones where multifamily and mixed uses are permitted, as provided in Gov't Code § 65583(c)(3). (It should be noted that Government Code Section 65650 refers back to the definition in Section 50675.14 of the Health & Safety Code.)

01181.0005/718458.3

Supportive housing is permitted by right in the R-4 and MCR zones, as provided by MBMC Sections 17.24.070 and 17.24.110, respectively. The application was reviewed and the development standards for the zoning district have been met.

The applicant has stated that the facility will be licensed by the State of California as a residential treatment facility, and will provide the following onsite/offsite services: counseling, psych-social therapy, and medication monitoring. The facility will engage a network of medical, mental health providers and provide self-help recovery group meetings, and other entities providing social and recreational services to the residents. The majority of the services are provided on site. Therefore, it constitutes supportive housing under the MBMC.

### **Morro Bay's Adopted 2020-2028 Housing Element Programs/Goals**

Housing Elements must "[a]ddress and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. Further, the city shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. The MB HE includes Policy H-3.2 that states the city will "promote development of special needs housing, such as transitional and supportive housing for persons with physical, developmental or mental disabilities" and specifically includes Policy H-2.2 which states that the city will support adaptive reuse of existing homes and motels to maximize housing opportunities allowed in the zoning/land use plan.

### **State Regulatory Requirements Related to Supportive Housing**

The proposed facility use will be licensed by the State of California. Initial licenses are valid for 3 years. Licenses can only be obtained after zoning and fire clearances as well as DHCS (California Department of Health Care Services) field inspections and approval of the facility's programs. Specifically, the State of California requires submittal of program policies and procedures in accordance with the State's rules and regulations regarding substance abuse treatment, that staff providing treatment must be licensed and/or certified in the State, and all service providers must be First Aid/CPR certified and must obtain a negative test for tuberculosis. The DHCS licensing department performs background checks on the owners and operators and the facility is obligated to perform a background check for every employee. Licensing will be denied if owners or the staff has been involved in malpractice or medical and/or financial fraud of any type.

As mentioned above, the proposed facility will be licensed by the state, and will provide residential treatment for clients who are recovering from alcohol and substance abuse, including counseling and psycho-social therapy. Programs will be provided on site when possible and the staffing includes 24-hour supervision by licensed, certified and trained personnel. The proposed facility is not a detox facility, and it is not an unlicensed facility providing temporary housing for individuals in recovery from alcohol or substance abuse (commonly known as a sober living home).

The proposed facility is required to have a policy on resident offences or conditions that are not accepted by the provider. This applicant's policy excludes acceptance of residents with a criminal history that includes the following offenses: sexual offenses, arson, homicide or attempted homicide, offenses that require registration under Penal Code 290 or the equivalent federal statute or statute from another state, and drug trafficking. The facility also would not accept residents who need nursing care or have severe forms of mental illness.

### **GROUNDS FOR APPEAL AND STAFF RESPONSES**

The stated grounds for the appeal are listed below, followed by a staff response (in bold italics).  
*Note: The grounds for appeal below have been paraphrased, the full text of each of the stated grounds for appeal are in Attachment 2:*

1. The City admin and city commission did not research or provide evidence or documentation that an analysis was completed on all 5 circumstances in which a city can deny this permit as outlined in the Housing Accountability Act (Cal Govt Code 65589.5 (D)).

***Staff response: The City permit review process involves a review by each department to ensure that the proposed project or change in use meets the criteria in the general plan, coastal land use plan and requirements stated in the zoning code for the use and project in the specific project zone. This is the same process used for any planning application for any type of project in any zone, including other residential uses in the same zone as the subject project. The city does not search for ways in which a project can be denied if the project meets the standards of the zoning code. If such evidence is readily available, the City may rely on it for a permit denial. Staff and the Planning Commission have not been presented with any such evidence.***

2. The appellant provided a list of facilities that they believe are affiliated with the applicant and/or operator and has demanded that the city investigate these facilities to provide evidence that these facilities did not have 'specific adverse impacts on public health and safety' as stated in the grounds for denial per the Housing Accountability Act. The appellant further defines specifically how they want the city investigation to be done and requested that the results be provided to the appellant.

***Staff response: This is not grounds for an appeal. The experiences of other facilities in other communities does not provide relevant information for the review and approval of this subject project. Additionally, the state requirements in AB2162 and the Housing Accountability Act and the zoning code state that review of a housing application for supportive housing should not be subject to requirements or conditions that are not also imposed on other residential projects. The city does not review the background of other applicants applying for residential projects.***

***The background and related experiences of the applicant, operator and***

***employees are all part of the State licensing review. The state license cannot be applied for until the project has final approval from the jurisdiction in which it is located.***

3. The appellant provided a list of State Department of Health Care Services license related documents that she requested that the city obtain and provide to the Planning Commission (it is assumed she meant to say City Council) and appellant prior to the appeal hearing.

***Staff response: This is not grounds for an appeal. The state license cannot be applied for until the project has final approval from the jurisdiction in which it is located. As such, the requested documents are not available to provide to City Council or the appellant and are not relevant to the city purview related to an approved change in use.***

4. The appellant provided a list of questions for the applicant.

***Staff response: This list of questions does not constitute grounds for an appeal. The responses to these questions would not result in necessary information needed by the city to issue a minor use permit. The City does not require this type of background or operational information from any other applicant applying for a permit for a residential use or a business. The licensing of the facility, the operations and procedures are all under the State of California licensing purview. Requesting answers to this type of detailed questions could be construed as harassment or bias against housing for the disabled.***

***The applicant has, nevertheless, provided responses to the appellant's questions, which are attached to this staff report as Attachment 6.***

5. The appellant requests that the appeal hearing before the City Council take place on a Thursday for an in-person hearing so the appellant and the City Council have ample time to review the staff report and other information regarding this appeal.

***Staff response: This is not grounds for an appeal. The city is required to hold the appeal hearing within 60 days of the date of the appeal (60 days from April 28, 2021 is June 27, 2021). City Council holds hearings every 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month. The appellant agreed to the June 8, 2021 hearing date.***

### **APPEAL REQUESTED ACTION**

Below are the requested relief or actions requested by Appellant followed by staff response in bold italics:

1. ***A stay on permit issued to have a public hearing with a City Council decision on the appeal. Appellant has also asked that the hearing be in person (vs zoom meeting).***

**Staff response: The City of Morro Bay approved the MUP permit administratively in compliance with the MBMC and the requirements of AB 2162. A delay of approximately 60 days in the permit effective date resulted from the filing of the first appeal to Planning Commission. On April 20, 2021, the Planning Commission voted unanimously to deny the appeal and uphold the Director's approval of the MUP20-02 permit. The Planning Commission found no grounds to uphold the appeal, and no grounds to deny the project.**

**Ashley Smith filed another appeal on April 28, 2021 to appeal the Planning Commission decision to City Council. This results in a further delay of about 45 days to the project and the applicant.**

### **REGULATORY REQUIREMENTS FOR APPEALS TO CITY COUNCIL**

The function and duties of the City Council as the appellate body are to review the appeal, administrative record, and written correspondence received by staff and included in the staff report, and take one of the following actions:

- A. Conduct a public hearing considering the concerns raised by the appellant, and uphold or deny the appeal; or
- B. If new evidence comes to light at the hearing that was not previously reviewed by staff that is relevant to the city decision to approve a Minor Use Permit, remand the matter back to staff for further review and action.

The City Council, under option A above, shall conduct a de novo review in that the appellant body shall consider only the same application, plans and related materials that were the subject of the original decision, and is not required to give any deference to the original determination of the Director.

### **ENVIRONMENTAL DETERMINATION**

Pursuant to the California Environmental Quality Act, the project meets the requirements for a categorical exemption under CEQA Guidelines Section 15301, Class 1a (minor improvements to an existing facility necessary for the change in use). Additionally, none of the Categorical Exemption exceptions, noted under Section 15300.2, apply to the project.

**PUBLIC NOTICE** - Notice of this item was published in the San Luis Obispo Tribune newspaper on May 28, 2021 and all property owners of record within 500 feet of the subject site were notified of this evening's public hearing and invited to voice any concerns on this application.

**CONCLUSION** The City of Morro Bay processing of this application was thorough and in compliance with the requirements of the MBMC and the State requirements under AB 2162. Staff recommends the City Council find there are no grounds for an appeal of the project's approval, and therefore City Council deny the appeal and uphold the Director's approval of the Minor Use Permit based on the above staff analysis. The project submittal was sufficient to make the necessary findings for approval including that the project is consistent with the City's General Plan, Local Coastal Program, and the Municipal Code.

01181.0005/718458.3

**STAFF RECOMMENDATION**

Staff recommends that the City Council deny the appeal and uphold the Director approval of the Minor Use Permit subject to the findings and conditions of approval as specified by Resolution No. 29-21 attached below as Attachment 1.

**ATTACHMENTS:**

1. Resolution No. 29-21
2. Appeal received from Appellant dated April 28, 2021.
3. Planning Commission Resolution 08-21
4. Appeal received from Appellant dated March 1, 2021.
5. Minor Use Permit (MUP20-02) Permit issued February 24, 2021
6. Applicant responses to Appellant questions.
7. Staff Presentation

**Link to project correspondence** <http://www.morro-bay.ca.us/842/Current-Planning-Projects>

**RESOLUTION NO. 29-21**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
DENYING AN APPEAL OF THE PLANNING COMMISSION  
DECISION DENYING THE FIRST APPEAL AND UPHOLDING  
THE COMMUNITY DEVELOPMENT DIRECTOR'S APPROVAL  
OF A MINOR USE PERMIT (MUP20-02) TO ALLOW A CHANGE  
IN USE FROM MOTEL TO SUPPORTIVE HOUSING  
AT 2460 MAIN STREET.**

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

**WHEREAS**, the Community Development Director (“Director”) of the City of Morro Bay administratively approved the Minor Use Permit (MUP20-02) on February 24, 2021, for a change in use of an existing motel supportive housing, in accordance with the requirements of the Morro Bay Municipal Code for the site located at 2460 Main (“the Project”); and

**WHEREAS**, The Director’s approval was appealed to Planning Commission of the City of Morro Bay by Ashley Smith and on April 20, 2021, the Planning Commission adopted Resolution 8-21 denying the appeal and upholding the Director’s approval of MUP20-02; and

**WHEREAS**, on April 28, 2021, Ashley Smith filed an appeal of the Planning Commission decision to deny the first appeal and uphold the Director’s approval of the Minor Use Permit, specifically requesting a decision by City Council and a stay on the MUP; and

**WHEREAS**, the City Council conducted a public hearing on June 8, 2021, to consider an appeal of the Planning Commission’s denial of the first appeal and confirmation of the Director’s approval of the project; and

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

**WHEREAS**, the City Council has duly considered all evidence, including the action taken by the Planning Commission, the testimony of the Appellants, the testimony of the applicant, and the evaluation and recommendations by staff, presented at the hearing.

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

**Section 1: The above recitals are true and correct and are incorporated herein by reference.**

**Section 2: Findings upholding the Director and Planning Commission Approval of the Change in Use:**

- A. As conditioned, the project is in compliance with the General Plan and certified Local Coastal Program and will not be detrimental to the health, safety, and general welfare of persons residing or working in the surrounding neighborhood.
- B. Supportive housing is allowed in all residential zoning districts and many commercial/mixed-use zoning districts, including the subject property zoning district (MCR/R-4/SP), subject to a Minor Use Permit requiring administrative approval. MBMC Section 17.24.110.
- C. The proposed use fits the definition of supportive housing pursuant to MBMC 17.12.626 and Section 50675.14 of the Health and Safety Code.
- D. The MUP was noticed and approved through an administrative approval process in accordance with the requirements of MBMC Section 17.24.110.
- E. Conditions imposed through the required administrative approval process do not create restrictions that are not imposed on any other residential use within that zoning district.

State Assembly Bill 2162 Findings

- F. The project was approved in compliance with AB 2162, which specifies that transitional housing and supportive housing are a residential use of property, subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. Gov't Code § 65583(c)(3).

**Section 3: Findings.** Based upon all the written and oral testimony and evidence presented to the Council at and for the above public hearing, the City Council makes the findings as included in Resolution No. 29-21.

**Section 4. Action.** The City Council does hereby deny the appeal filed on April 28, 2021, by Ashley Smith and uphold the Planning Commission's denial of the appeal and approval of the Minor Use Permit (MUP20-02) for the property located at 2460 Main Street, subject to the conditions as included in the February 24, 2021, permit.

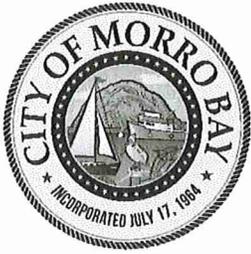
**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on this 8<sup>th</sup> day of June 2021, on the following vote:

AYES:  
 NOES:  
 ABSENT:  
 ABSTAIN:

\_\_\_\_\_  
 JOHN HEADDING, Mayor

ATTEST

\_\_\_\_\_  
 DANA SWANSON, City Clerk



# CITY OF MORRO BAY

APR 28 2021

## APPEAL FORM

Community Development Department  
Planning Division

955 Shasta Avenue  
Morro Bay, CA 93442  
(805) 772-6261

### In CCC Appeals Jurisdiction?

YES - No Fee  
 NO - Fee Paid:  Yes  No

Project Address being appealed: 2400 Main Street	
Appeal from the decision or action of (governing body or City officer): <input type="checkbox"/> Administrative Decision <input checked="" type="checkbox"/> Planning Commission <input type="checkbox"/> City Council	
Appeal of action or specific condition of approval: Appeal planning commission decision. Push project to city council.	
Permit number and type being appealed (ie. coastal permit, use permit, tentative subdivision): MUP 20-02	
Date decision or action rendered: 4-20-2021	
Grounds for the appeal (attach additional sheets as necessary): see attachment	
Requested relief or action: A stay on permit issued. Public hearing requested in person, with city council in attendance. Ask city council to vote on proposal.	
Appellant (please print): Ashley Smith	Phone: (805) 404-9296
Address:	
Appellant Signature:	Date: 4-28-2021

FOR OFFICE USE ONLY	
Accepted by:	Date appeal filed:
Appeal body:	Date of appeal hearing:

I am filing an appeal to the permit issued at 2460 Main Street on the following grounds;

1. The city admin and city commission did not research, or provide evidence or documentation that an analysis was completed on all 5 circumstances in which a city can deny this permit, as outlined in the Housing Accountability Act, Cal. Govt. Code 65589.5 (D).

1 (A). I ask that the city provide an investigation into the 5 circumstances as outlined in the Act, and provide me with their findings of evidence by credible documentation, prior to the next public hearing.

2. The following facilities are associated with the applicants. I ask the the city investigate these facilities by non- biased research, to prove by evidence via documentation that the facilities listed did or did not have “ specific, adverse impact on public health or safety,” as stated in the grounds for denial per the Housing Accountability Act, before the next public hearing. If facilities are no longer operating, or associated with applicants, further inquiry is requested to determine the reason for the closure of the facility or the reason why applicants are no longer associated with facility. Inquires regarding this, should be non biased, documented and provided to the appellant.

2 (A). Research of the facilities should include but is not limited to the following sources, Newspaper articles, police reports, police logs, city zoning, compliance or any citations from state licensing- Department of Health Care and State Department of Drug and Alcohol Program.

Here are the following facilities I am requesting be investigated :

California Behavioral Treatment Center  
NPI # 1821120023- Joyce Kaishar  
501 E. Harvard  
Glendale, CA

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APR 28 2021

City of Morro Bay  
Community Development Dept.

Absolute Control Transitional Counseling Center  
NPI # 1699963546 - Organes Nardos  
2331 E. Foothill Blvd.  
Pasadena, CA

1

RECEIVED

First Responders First  
NPI# 1841789484- Justin Frankian  
28765 Pine Canyon  
Lake Hughes, CA

APR 28 2021

City of Morro Bay  
Community Development Dept.

Building Unique Youth Alternatives  
La Puente, CA

[nonprofitsfact.com](http://nonprofitsfact.com) Lists, "Antonio Luna- Brain Der Vartanian," as In Care of Name.

3. In order to be informed about the specific implications and specific responsibilities that accompany a facility such as this, I am requesting that copies of the following documents/information be made available to the Planning Committee and the appellant prior to the hearing on this appeal:

DHCS 6002 -Initial Treatment Provider Application,  
DHCS 5255- Supplemental Treatment Request,  
DHCS 4022- Level of Care Designation,  
Annotated List of Community Resources(a DHCS requirement),  
Blank copies of Intake form, case management form, treatment plan form, admission agreement, policy with regard to weapons, drug screening policy, written code of employee conduct, employee and client background check forms, and client rights.

4. Further questions for the applicant include:

- A. Will treatment include MAT(Medication Assisted Treatment)?
- B. Will clients with co-occurring disorders (dual diagnosis) be treated in this facility?
- C. What will the medical doctor availability, Mr. Organes alluded to in the meeting of 4/20/21, be comprised of on a daily/weekly basis?
- D. How will completion of detox be determined prior to acceptance into the program?

E. How will the 20 hours of treatment a week required by The California Dept. of Health Care Services' Alcohol and/or Drug Program Certification Standards\* be met with only 10 hours of group therapy listed in the schedule? The schedule provided no allowance for individual therapy or any other individual service requirements, i.e., \*8000e.1 A-F- education, vocational, job referral, legal services, physical, mental, dental, social/recreational. Nor any time allotted to

87100 recovery planning, \*7120 discharge planning & summary.

F. How will staffing ratio be maintained if a client requires transport back to County of origin? Is the facility responsible for portal to portal transport?

G. What is the SOP if a patient leaves the facility? Does the staff track them down? Does MBPD have to track them down?

H. Based on applicants pervious experience, what percentage of patients are foreseen to be local?

What percentage will be first responders?

What percentage will be from diversion program?

What types of charges will patients from the diversion program have, misdemeanor or felon?

How many patients are foreseen to be self referred?

Will patients with NO substance abuse be treated? Such as First Responders with PTSD? If so, what is the applicants general plan for treating non-substance abuse patients?

Presenting these documents should pose no undue hardships as the signed applicants involved with this project have prior experience with other similar facilities.

5. Lastly, I am also requesting that the next public hearing with the City Council take place on a Thursday and in person (since the county has moved into Orange tier). Staff reports are posted 3 business days prior to a hearing, by moving the day of the hearing, it provides ample time for the appellant and City Council to review the staff report and other information related to this case. Thank you.

RECEIVED

APR 28 2021

3

City of Morro Bay  
Community Development Dept.



City of Morro Bay

Receipt#: 3881

Date: 4/29/2021

Payment Receipt

Paid By: Roland T. Smith

Invoice #	Case Type	Case Number	Sub Type
	CD-MINUSE	MUP20-02	

Tender Type / Description	Amount
CHECK- Check	275.00
<b>Sub Total:</b>	<b>275.00</b>

Fees:

Fee Codes / Description	Amount
MISCAPPEAL- Miscellaneous: Appeal of City decision	275.00
<b>Sub Total:</b>	<b>275.00</b>

**Total Amount Due: 275.00**  
**Total Payment: 275.00**

RESOLUTION NO. PC 08-21

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION  
TO DENY THE APPEAL OF MINOR USE PERMIT (MUP20-02) APPROVING A  
CHANGE IN USE FROM MOTEL TO SUPPORTIVE HOUSING AT 2460  
MAIN STREET

**WHEREAS**, Twin Bay, Inc., DBA Morro Bay Recovery, applied for a minor use permit on December 15, 2020 requesting a change from motel use to supportive housing (residential treatment center) (the "project"); and

**WHEREAS**, the City of Morro Bay administratively approved the minor use permit (MUP20-02) on February 24, 2021, following the end of the 10-day public notification period; and

**WHEREAS**, Ashley Smith submitted an appeal of the City's approval of MUP20-02 on March 1, 2021 (Appeal) within in the valid appeal period; and

**WHEREAS**, the Planning Commission of the City of Morro Bay (the "City") conducted a public hearing via video conference on April 20, 2021 for the purpose of considering the Appeal request; and

**WHEREAS**, pursuant to the Governor's Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19, the City of Morro Bay Planning Commission is authorized to hold public meetings via teleconferencing and all requirements in the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived; and

**WHEREAS**, notice of the public hearing was provided at the time and in the manner required by law; and

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

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

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

Minor Use Permit Finding

1. As conditioned, the project is in compliance with the General Plan and certified Local Coastal Program and will not be detrimental to the health,

safety, and general welfare of persons residing or working in the surrounding neighborhood.

2. Supportive housing is allowed in all residential zoning districts and many commercial/mixed-use zoning districts, including the subject property zoning district (MCR/R-4/SP), subject to a Minor Use Permit. MBMC Section 17.24.110.
3. The proposed use fits the definition of supportive housing pursuant to MBMC 17.12.626 and Section 50675.14 of the Health and Safety Code.
4. The MUP was noticed and approved through an administrative approval process in accordance with the requirements of MBMC Section 17.24.110.
5. Conditions imposed through the required administrative approval process do not create restrictions that are not imposed on any other residential use within that zoning district.

State Assembly Bill 2162 Findings

1. The project was approved in compliance with AB 2162, which specifies that transitional housing and supportive housing are a residential use of property, subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. Gov't Code § 65583(c)(3).

**Section 2: Action.** The Planning Commission does hereby deny the appeal of Minor Use Permit MUP20-02 for the property located at 2460 Main Street subject to the conditions of approval included in the Permit issued February 24, 2021.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 20th day of April 2021 on the following vote:

AYES: Ford, Ingraffia, Roschen, Stewart

NOES:

ABSENT:

ABSTAIN:

  
 Susan Stewart Chairperson 5/11/21

ATTEST

  
 Scot Graham, Planning Secretary

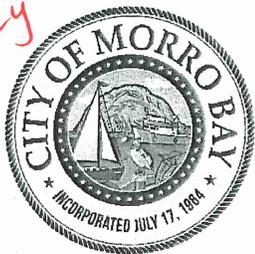
The foregoing resolution was passed and adopted on this 20th day of April 2021.

Nancy

RECEIVED

MAR 01 2021

# APPEAL FORM



## CITY OF MORRO BAY

City of Morro Bay

Community Development Department

Community Development Department  
Planning Division

955 Shasta Avenue  
Morro Bay, CA 93442  
(805) 772-6261

**CCC Appeals Jurisdiction?**

YES - No Fee  
 NO - Fee Paid:  Yes  No

Project Address being appealed: 2460 Main Street

Appeal from the decision or action of (governing body or City officer):  
 Administrative Decision  Planning Commission  City Council

Appeal of action or specific condition of approval:  
Appeal admin decision, push project to planning.

Permit number and type being appealed (ie. coastal permit, use permit, tentative subdivision):  
MUP20-02

Date decision or action rendered: 2/24/2021

Grounds for the appeal (attach additional sheets as necessary):  
MUP20-02 does not adequately address impact of: MBPD, MBFD, Morro Bay chamber of commerce & tourism.  
Does not adequately address measures to ensure safety to surrounding neighborhood →

Requested relief or action:  
A stay on permit issued, to have a public hearing. Requesting chief of police & chief of fire a rep from chamber of commerce & Mr. Der Varonian address these issues.  
Ashley Smith

Appellant (please print): 2418 Reno Ct, MB Phone: (805) 464-9290

Address:

Appellant Signature: [Signature] Date: 3/1/2021

**FOR OFFICE USE ONLY**

Accepted by:	Date appeal filed:
Appeal body:	Date of appeal hearing:

MUPU20-02 does not adequately address the facility curriculum/program or the facility employees such as physicians & counselors.

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MAR 01 2021

City of Morro Bay  
Community Development Dept.



City of Morro Bay

Receipt#: 3466

Date: 3/1/2021

Payment Receipt

Paid By: Roland Smith

Invoice #	Case Type	Case Number	Sub Type
	CD-MINUSE	MUP20-02	

Tender Type / Description	Amount
CHECK- Check	275.00
<b>Sub Total:</b>	<b>275.00</b>

Fees:

Fee Codes / Description	Amount
APPEAL- Appeal fee for non-land use admin decisi	275.00
<b>Sub Total:</b>	<b>275.00</b>

**Total Amount Due: 275.00**  
**Total Payment: 275.00**

*Emailed .  
to Applicant  
3-1-2021*



**CITY OF MORRO BAY**  
COMMUNITY DEVELOPMENT DEPARTMENT  
955 Shasta Avenue  
Morro Bay, CA 93442

February 24, 2021

Brian Der Vartanian  
Morro Bay Recovery, Inc.  
2460 Main Street  
Morro Bay, CA 93442

RE: Minor Use Permit No. MUP20-02 at 2460 Main Street, Morro Bay

Description: *MUP to allow a change in use from motel to a supportive housing facility, classified under the Morro Bay Housing Element as a residential use. The program clients are provided housing while they are participating in the rehabilitation programs. This facility will be licensed through the Department of Health and Human Services, State of California. The zoning of the site is MCR/R-4/SP and is not located in the Coastal Appeals Jurisdiction.*

Dear Mr. Der Vartanian:

The City of Morro Bay Community Development Director has conditionally approved your request. Any further processing of this project must be initiated by the applicant, subject to the applicable rules and regulations of the Morro Bay Municipal Code. ***Please be advised that you must return the enclosed Acceptance of Conditions form, signed, to this department or the action is null and void.***

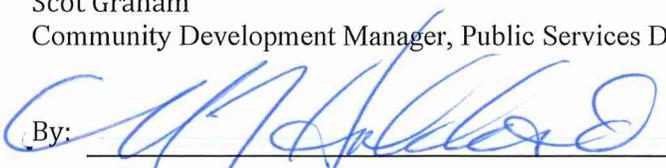
Please also find enclosed the Notice of Exemption for your project. The City of Morro Bay no longer files notices of exemptions. You may file the Notice of Exemption with the County Clerk's office located in the County Government Building in San Luis Obispo. The filing Fee is \$50.00 and the County requires the original Notice of Exemption and at least one copy.

Section 15062 (d) of The California Environmental Quality Act (CEQA) provides:

"The filing of a Notice of Exemption and the posting on the list of notices start a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. If a Notice of Exemption is not filed, a 180 day statute of limitations will apply."

Sincerely,

Scot Graham  
Community Development Manager, Public Services Department

By: 

Nancy Hubbard, Contract Planner



CITY OF MORRO BAY  
COMMUNITY DEVELOPMENT DEPARTMENT

MINOR USE PERMIT (MUP20-02)

This approval is based upon the attached findings and compliance with the conditions of approval and is valid only after the applicable appeal period. Failure to comply with the conditions of this permit shall, at the discretion of the Community Development Manager pursuant to Municipal Code Section 17.60.150, render this entitlement null and void.

CASE NO: MUP20-02

**THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:**

SITE ADDRESS: 2460 Main Street

APPLICANT: Brian Der Vartanian, DBA Morro Bay Recovery

APN/LEGAL: 068-201-004

DATE APPROVED: February 24, 2021

APPROVED BY: Community Development Director

CEQA DETERMINATION: Categorical Exemption, Class 1, CEQA Guidelines Section 15301

DESCRIPTION

OF APPROVAL: *MUP to allow a change in use from motel to a supportive housing facility, classified under the Morro Bay Housing Element as a residential use. The program clients are provided housing while they are participating in the rehabilitation programs. This facility will be licensed through the Department of Health and Human Services, State of California. The zoning of the site is MCR/R-4/SP and is not located in the Coastal Appeals Jurisdiction.*

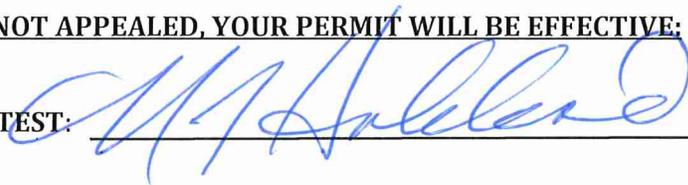
Please see reverse for Permit Effective Date.

**YOUR PROPERTY IS LOCATED IN THE CITY OF MORRO BAY JURISDICTION, OUTSIDE OF THE COASTAL APPEALS JURISDICTION.**

**YOUR PROPERTY IS LOCATED IN THE COASTAL COMMISSION APPEALS JURISDICTION:** THE FOLLOWING COASTAL COMMISSION APPEAL PERIOD APPLIES TO YOUR PROJECT: This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. The applicant or any aggrieved person may appeal this decision to the Coastal Commission within TEN (10) *Working days* following Commission receipt of this notice and after expiration of the City of Morro Bay appeal period. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, Ste. 300, Santa Cruz, CA 95060, Phone: 831-427-4863. If you have any questions, please call the City of Morro Bay Community Development Department, 772-6264.

**IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: March 4, 2021**

ATTEST: \_\_\_\_\_



DATE: February 24, 2021

**THIS IS A ADMINISTRATIVE PLANNING PERMIT APPROVAL AND DOES NOT CONSTITUTE A BUILDING PERMIT**

APPLICANT'S ACCEPTANCE  
OF  
CONDITIONS OF APPROVAL

CASE NO.     MUP20-02    

SITE LOCATION:     2460 MAIN STREET    

APPLICANT NAME:     Brian Der Vartanian, DBA Morro Bay Recovery    

APPROVAL BODY:     COMMUNITY DEVELOPMENT DIRECTOR    

DATE OF ACTION:     2/24/21    

I, \_\_\_\_\_ the undersigned, have read and  
*(APPLICANT'S NAME - PLEASE PRINT)*

reviewed the conditions of approval imposed by the Approval Body in its action approving

    Case Number: MUP20-02    

I UNDERSTAND AND ACCEPT SAID CONDITIONS AND AGREE TO FULLY COMPLY WITH THEM.

\_\_\_\_\_  
APPLICANT'S SIGNATURE

\_\_\_\_\_  
DATE



MINOR USE PERMIT  
CASE NO. MUP20-02  
SITE LOCATION: 2460 MAIN STREET  
APPROVED FEBRUARY 24, 2021

**I. FINDINGS OF APPROVAL**

The Community Development Director has reviewed this Minor Use Permit and application and finds the following:

California Environmental Quality Act (CEQA)

Pursuant to the California Environmental Quality Act, the project meets the requirements for a Categorical Exemption under CEQA Guidelines Section 15301 Class 1a (minor improvements to an existing facility necessary for the change in use). Additionally, none of the Categorical Exemption exceptions, noted under Section 15300.2, apply to the project.

Minor Use Permit findings

1. The project is consistent with the General Plan and Local Coastal Program (LCP) that specifically identifies this area for residential uses.
2. The project is in compliance with the zoning code, which includes supportive housing as a use by right in the zoning district.
3. The project is in compliance with the General Plan and certified Local Coastal Program and will not be detrimental to the health, safety, and general welfare of persons residing or working in the surrounding neighborhood.

**II. CONDITIONS OF APPROVAL**

**STANDARD CONDITIONS**

1. This permit is granted for a Minor Use Permit to allow a change in use from motel to a supportive housing facility, classified under the Morro Bay Housing Element as a residential use. The facility will be operated pursuant to the requirements of a license issued by the State of California. The zoning of the site is MCR/R-4/SP and is not located in the Coastal Appeals Jurisdiction
2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this Resolution and is diligently pursued, thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Any extension may be granted by the City's Community Development Director (the "Director"), upon finding the project complies with all applicable provisions of the Morro Bay Municipal Code (the "MBMC"), General Plan and certified Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.

3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Director.
4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, the City, and any other governmental entity shall be complied with in the exercise of this approval, (b) This project shall meet all applicable requirements under the MBMC, and shall be consistent with all programs and policies contained in the LCP and General Plan for the City.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants' failure to comply with conditions of approval. Applicant understands and acknowledges the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: The applicant's establishment of the use or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Director. Failure to comply with any of these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the MBMC and is a misdemeanor.
7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the MBMC and shall be consistent with all programs and policies contained in the LCP and General Plan of the City.

### **PLANNING CONDITIONS**

1. Construction Hours: Pursuant to MBMC subsection 9.28.030.I, Construction or Repairing of Buildings, the erection (including excavating), demolition, alteration or repair of any building or general land grading and contour activity using equipment in such a manner as to be plainly audible at a distance of fifty feet from the building other than between the hours of seven a.m. and seven p.m. on weekdays and eight a.m. and seven p.m. on weekends except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Community Development Department, which permit may be granted for a period not to exceed three days or less while the emergency continues and which

permit may be renewed for a period of three days or less while the emergency continues.

2. Dust Control: That prior to issuance of a grading permit, a method of control to prevent dust and wind blow earth problems shall be submitted for review and approval by the Building Official.
3. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.
4. License with State of California: Prior to occupancy under the new use, the City shall be provided with a copy of the final operational license with the State of California. Any changes to the license status should be reported to the City within 10 days of the change.

### **BUILDING DIVISION CONDITIONS**

- 1.) If frontage improvements are required, a fully accessible route (path of travel) from the public way into the building will be required.

#### **A. CONDITIONS PRIOR TO THE ISSUANCE OF A BUILDING PERMIT:**

- 1.) Building permit plans shall be submitted by a California licensed architect or engineer when required by the Business & Professions Code, except when otherwise approved by the Chief Building Official.
- 2.) The owner shall designate on the building permit application a registered design professional who shall act as the Registered Design Professional in Responsible Charge. The Registered Design Professional in Responsible Charge shall be responsible for reviewing and coordinating submittal documents prepared by others including phased and staggered submittal items, for compatibility with design of the building.
- 3.) BUILDING PERMIT APPLICATION: To apply for building permits, submit three (3) sets of construction plans, fire sprinkler plans, if applicable, and supplemental documents to the Building Division.
- 4.) The Title sheet of the plans shall include, but not limited to:
  - Street address, lot, block, track and Assessor Parcel Number
  - Occupancy Classification(s)
  - Construction Type
  - Maximum height of the building allowed and proposed.
  - Floor area of the building(s)
  - Fire sprinklers proposed or existing.
  - Minimum building setback allowed and proposed.

All construction will conform to the 2019 California Building Code (CBC), 2019 California Residential Code (CRC), 2019 California Fire Code (IFC), 2019 California Mechanical Code (CMC), 2019 California Plumbing Code (CPC), 2019

California Electrical Code (CEC), 2019 California Energy Code, 2019 California Green Building Code (CGBC), Title 14 and 17 of the Morro Bay Municipal Code.

(Code adoption dates are subject to change. The code adoption year is established by application date of plans submitted to the Building Division for plan review.)

**B. CONDITIONS TO BE MET DURING CONSTRUCTION:**

- 1.) **SITE MAINTENANCE:** During construction, the site shall be maintained to not infringe on neighboring property, such as debris and dust. A storm water management plan shall be maintained through the duration of the project. The storm water management measures such as fiber rolls, silt fencing, etc. will be enforced by City staff by random site visits.
- 2.) **ARCHAEOLOGICAL MATERIALS:** In the event unforeseen archaeological resources are unearthed during any construction activities, all grading and or excavation shall cease in the immediate area and the find left untouched. The Building Official shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, Native American, or paleontologist, whichever is appropriate. The qualified professional shall evaluate the find and make reservations related to the preservation or disposition of artifacts in accordance with applicable laws and ordinances. If discovered archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the Building Official shall notify to county coroner. If human remains are found to be of ancient age and of archaeological and spiritual significance, the Building Official shall notify the Native American Heritage Commission. The developer shall be liable for costs associated with the professional investigation.
- 3.) **EXISTING BUILDINGS:** Where windows are required to provide emergency escape and rescue openings, replacement windows shall comply with the maximum sill height requirements of section R310.2.2 and the minimum opening area requirements of section R310.2.1 of the 2019 California Residential Code.

**C. CONDITIONS TO BE MET PRIOR TO FINAL INSPECTION AND ISSUANCE OF THE CERTIFICATE OF OCCUPANCY:**

- 1.) Prior to building division final approval and request for final inspection, all required inspections from the other various divisions and departments must be completed and verified by a city inspector. All required final inspection approvals must be obtained from the various departments and documented on the permit card. This permit card shall then be turned into the building division for scheduling of the final building inspection.
- 2.) Any as-built drawings that were required by the building inspector or plans examiner must be submitted for approval prior to the request for final inspection.

- 3.) If structural observations were required, the final structural observation report shall be submitted to the building division prior to issuance of the certificate of occupancy or final inspection approval.
- 4.) If special inspections were required, the final special inspection report shall be submitted to the building division prior to the issuance of the certificate of occupancy or final inspection approval.
- 5.) Final T-24 energy reports (Certificates of Installation).

#### **PUBLIC WORKS CONDITIONS:**

The plans are Conditionally Approved and subject to the following conditions:

1. Frontage Improvements: Frontage improvements are required. Show the installation of City standard driveway approaches per B-6, curb, gutter, sidewalk, and street trees. An encroachment permit is required for any work within the Right of Way. (MBMC 14.44.020)
2. Water Meter: New water meters are required for all structures that are not under the same roof. Indicate and label new and existing water meter on plans and include size of meter(s). (MBMC 13.0.140)
3. Water Backflow Prevention Device: Verify and label all new or existing water backflow preventers. Devices are required for fire water systems, irrigation systems on a dedicated water meter, systems which may change in character of use (commercial rentals, etc.), gray water systems, or any plumbing system which has cross-connections or the ability to allow water of deteriorated sanitary quality to enter the public water supply. Add note to plan that device is required to be an approved domestic water backflow prevention device. (MBMC 3.08.040)
4. Fence and retaining wall: Fence along frontage and part of retaining wall at driveway entrance is located within the City right-of-way. There are three options : relocate (at or behind private property line), remove fence or apply for a "Special Encroachment Permit". To apply for a Special Encroachment Permit, submit fee payment and an 8.5"x11" size exhibit for City Engineer approval. Exhibit shall show the plan layout of the frontage and fence. Label and dimension fence, right-of-way width and street. (MBMC 8.14.020)

Add the following Notes to the Plans:

1. Any damage, as a result of construction operations for this project, to City facilities, i.e. curb/berm, street, sewer line, water line, or any public improvements shall be repaired at no cost to the City of Morro Bay.
2. No work shall occur within (or use of) the City's Right of Way without an encroachment permit. Encroachment permits are available at the City of Morro

Bay Public Works Office located at 955 Shasta Ave. A standard encroachment permit shall be required for the proposed driveway; the driveway shall comply with B-9 (Driveway Ramps: Size & Location). A sewer encroachment permit shall be required for any repairs or installation of a sewer lateral within the City right-of-way or within a utility easement. If a construction dumpster is used, the dumpster location shall be on private property, unless allowed by an encroachment permit within the City right-of-way.

**FIRE DEPARTMENT CONDITIONS:**

1. Fire Safety during Construction and Demolition shall be in accordance with 2019 California Fire Code, Chapter 33. This Chapter prescribes minimum safeguards for construction alteration and demolition operations to provide reasonable safety to life and property during such operations.
2. Automatic fire sprinklers. Due to the change in occupancy, automatic fire sprinkler system is required in accordance with NFPA13, California Fire Code (Section 903) and Morro Bay Municipal Code (Section 14.08.090). Applicant shall submit sprinkler plans to Morro Bay Community Development Department for review.
3. Every sleeping room shall have at least one operable window or door approved for emergency escape or rescue that shall open directly into a public way and shall be operable from inside to provide a full, clear opening without tools. Minimum width of the opening: 20 inches. Minimum height of the opening: 24 inches. The windowsill must not be higher than 44 inches from the ground level.
4. Fire Department access to equipment. Rooms or areas containing controls for electrical, FAU, Alarm, Fire sprinklers systems shall be identified by approved and appropriate signage for Fire Department use. (CFC, Title 19, Sec. 3.29)
5. Key Boxes. Where access is or within a structure or an area is restricted because of the secured openings or where immediate access is necessary for lifesaving or fire-fighting purposes, a Knox Box must be provided for installation to the exterior of the structure. Obtain a Knox Box application from Morro Bay Fire Department during business hours.



**California Green Building Standards Code:**

**Residential Mandatory Measures Requirements for (R-3) SFD**

All newly constructed single family dwellings (SFD) and any addition or alteration to an existing single family dwelling which proposes to increase the dwellings conditioned area, volume, or size shall fully comply with the adopted California Green Building Standards Code and the items described in this checklist. These requirements apply only to the specific area of addition or alteration for existing dwellings.

Building Permit Number: \_\_\_\_\_ Site Address: \_\_\_\_\_

Section	Green Mandatory Measures
<b>Division 4.1</b>	<b>Planning &amp; Design: Site Development</b>
<b>4.106.2</b>	<b>Storm water drainage and retention during construction:</b> Projects which disturb less than one acre of soil and are not part of a larger common development shall manage storm water drainage during construction in accordance with this code and State law.
4.106.3	Grading and paving. Site grading or drainage systems will manage all surface water flows to keep water from entering buildings.
<b>4.106.4</b>	<b>Electric vehicle charging for new one- and two-family dwellings with attached private garages.</b> For each dwelling unit, install a listed raceway to accommodate a dedicated 208/240-volt branch circuit (nominal 1-inch inside diameter) that originates at the main service or subpanel and terminates into a listed cabinet, box or other enclosure in close proximity to the proposed location of an EV charger. The service panel or subpanel shall provide capacity to install a 40-ampere minimum dedicated branch circuit and space(s) reserved to permit installation of a branch circuit overcurrent protective device. The service panel or subpanel shall be permanently labeled to identify the breaker space as "EV CAPABLE". The raceway termination location shall be permanently and visibly marked as "EV CAPABLE".
<b>Division 4.2</b>	<b>Energy Efficiency</b>
<b>4.201.1</b>	Scope. This project shall comply with all applicable energy efficiency requirements as set forth in the most recent version of the California Energy Code. Energy calculations and forms shall be included as part of the plans and drawings.
<b>Division 4.3</b>	<b>Water Efficiency &amp; Conservation</b>
<b>4.303.1</b>	Indoor water use. Plumbing fixtures and fittings shall comply with the following and shall be shown on the construction documents:

Fixture Type	Maximum Flow Rate	
Shower Head	2.0 GPM @60 psi	Plumbing fixtures and fittings shall be installed in accordance with the California Plumbing Code and shall meet the applicable standards referenced in Table 1701.1 of the California Plumbing Code.
Kitchen Faucet	1.8 GPM @60 psi	
Lavatory Faucet	1.2 GPM @60 psi	
Water Closet	1.28 gallons per flush	
Urinal	0.125 gallons per flush	
<b>4.304.1</b>	<b>Outdoor potable water use in landscape areas.</b> New residential developments with an aggregate landscape area equal to or greater than 500 square feet shall comply with one of the following options: a. A local water efficient landscape ordinance or the current California Department of Water Resources Model Water Efficient Landscape Ordinance (MWEL0), whichever is more stringent; or b. Projects with aggregate landscape areas less than 2,500 square feet may comply with the MWEL0's Appendix D Prescriptive Compliance Option.	
<b>Division 4.4</b>	<b>Material Conservation &amp; Resource Efficiency</b>	
<b>4.406.1</b>	Rodent proofing: Annular spaces around pipes, electric cables, conduits or other openings in sole/bottom plates at exterior walls shall be protected against the passage of rodents by closing such openings with cement mortar, concrete masonry or a similar method acceptable to the city building inspector.	
<b>4.408.1</b>	Construction waste management. Recycle and/or salvage for reuse a minimum of 65% of the nonhazardous construction and demolition waste in accordance with either <b>CAL Green Section 4.408.2 Waste Management Plan</b> , <b>4.408.3 Waste Management Company</b> or <b>4.408.4 Waste Stream Reduction Alternative</b> . A City approved waste management company/hauler shall be used for recycling of construction waste. Documentation of compliance with Section 4.408.1 shall be provided to the Authority Having Jurisdiction prior to project final approval.	
4.410.1	Operation and Maintenance manual. The builder shall prepare an Operation and Maintenance Manual as outlined in Cal Green Section 4.410.1. The manual shall be given to the owner upon final approval by the building inspector. In such case where the property is being sold, it should be given to the new owner at the time of sale. A copy of the manual shall be available for the inspector prior to, or at the time of final inspection.	
<b>Division 4.5</b>	<b>Environmental Quality</b>	
<b>4.503.1</b>	Fireplaces. Any installed gas fireplace shall be of the direct vent, sealed combustion type. New wood burning fireplaces are not permissible in accordance with AQMD Rule 445.	
<b>4.504.1</b>	HVAC system protection. During the construction process and until final startup of the HVAC system, all duct and other related air distribution component openings shall be covered with tape, plastic, sheet metal or other method to reduce the amount of water, dust and debris which may enter the system.	
<b>4.504.2</b>	Finish material pollutant control. Finish materials shall comply with the following:	
<b>4.504.3</b>	a. Adhesives, sealants and caulks used on this project shall comply with SCAQMD Rule 1168 for VOC limits and toxic compounds. Aerosol adhesives, sealants and caulks shall comply with statewide VOC standards.	
<b>4.504.4</b>	b. Paints and coatings shall comply with VOC limits in Cal Green Table 4.504.3.	
<b>4.504.5</b>	c. Aerosol paints and coatings shall comply with statewide requirements and other requirements noted in Cal Green Section 4.504.2.3.	

	d. Carpet systems. All carpeting and carpet cushions shall meet the requirements of the Carpet and Rug Institute Green Label program. Carpet Adhesives shall comply with VOC limits in Cal Green Table 4.504.1. e. Resilient flooring. Where installed, 80% of the floor area receiving resilient flooring shall comply with one or more of the standards listed in Cal-Green Section 4.504.4. f. Composite wood products used on the interior or exterior of the building shall comply with the formaldehyde limits per Cal-Green Table 4.504.5. Verification of compliance with the standards listed above shall be provided upon request to the building inspector.
<b>4.505.1</b> <b>4.505.2</b> <b>4.505.3</b>	<b>Interior moisture control.</b> Buildings shall meet or exceed the provisions of the California Building Code. a. Concrete Slab foundations. Concrete Slab-on grade foundations/floors that are required to have a vapor retarder by California Building Code Section 1907 or California Residential Code Section R506, shall have a capillary break installed between the concrete slab and supporting grade. b. Building materials with visible signs of water damage shall not be installed. Wall and floor framing lumber shall not be enclosed when the framing members exceed 19-percent moisture content. Moisture content shall be verified using one of the methods listed in Cal Green Section 4.505.3. c. Insulation products which are visibly wet or have high moisture content shall be replaced or allowed to dry prior to enclosure in wall or floor cavities.
<b>4.506.1</b>	<b>Indoor air quality and exhaust.</b> Each bathroom (a room which contains a bathtub, shower, or tub/shower combination) shall be mechanically ventilated and shall comply with the following: <input type="checkbox"/> Exhaust fans shall be ENERGY STAR compliant and be ducted to terminate outside the building. <input type="checkbox"/> Unless functioning as a component of a whole house ventilation system, bathroom exhaust fans must be controlled by a humidity control. <input type="checkbox"/> Humidity controls shall be capable of adjustment between 50% and 80% relative humidity. Humidity control may utilize manual or automatic means of adjustment which may be a separate component to the exhaust fan (not required to be built-in).
<b>4.507</b>	<b>HVAC system design.</b> HVAC systems shall be sized, designed and have equipment selected using the methods listed in Cal Green Section 4.507.2.

Designer's Declaration Statement	Builder's Declaration Statement
I hereby certify as the designer of record that the proposed building plans meet the requirements of the California Green Building Standards Code.	I hereby certify as the builder or installer of record under the permit listed herein, that this project will be constructed to meet the requirements of the California Green Building Standards Code.
Name: Richard Diradourian Address: 3786 La Crescenta Ave, Glendale, CA 91208 Signature: Date: 10/30/19 License #: C 10336	Name: Brian Der Vartanian Address: 2659 South Buenos Aires Dr., Covina, CA 91724 Signature: Date: 10/30/19 License #: n/a

City of Morro Bay  
Administrative Approval  
Project #(s) MUP20-02  
Approved as Submitted  
Approved with Changes  
Approval Date: 2/24/21  
Planner: N. Hubare



BEST WESTERN HOTEL  
2460 Main Street, Morro Bay, Ca. 93442

**RICHARD C. DIRADOURIAN**  
ARCHITECT - INTERIOR DESIGNER  
3786 La Crescenta Avenue, Suite 207, Glendale, California 91208

1/8/2020 AS SHOWN SCALE  
1841-1431 COMMISSION NO.

DATE DRAWN BY RD CHECKED BY RD

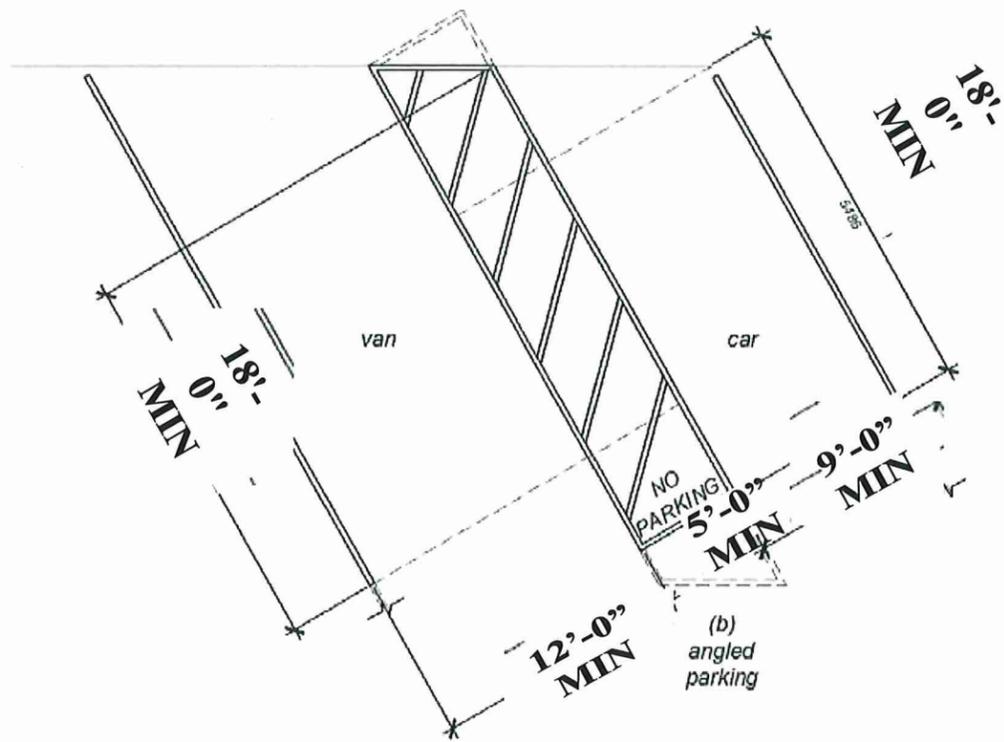
REV. NO. DATE

IF CHANGES ARE REQUIRED CONDITIONS SHALL BE CHECKED FOR ON THE SITE. NOTIFY ARCHITECT IMMEDIATELY BY FAX OR PHONE. NOTIFY PLANNING DEPARTMENT IMMEDIATELY BEFORE PROCEEDING WITH THE WORK.

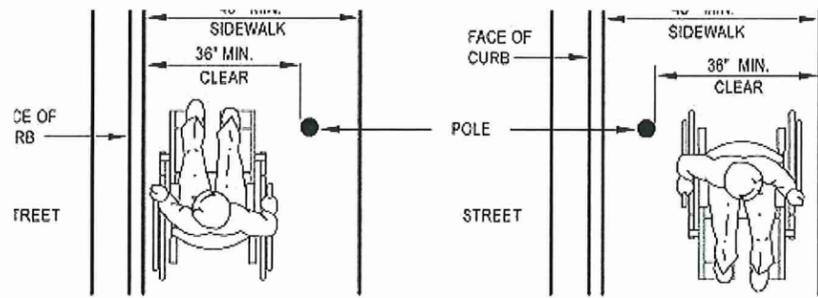
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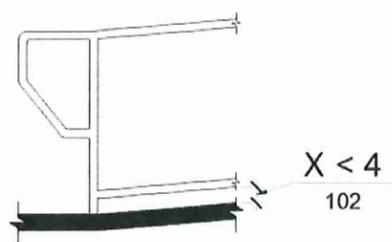




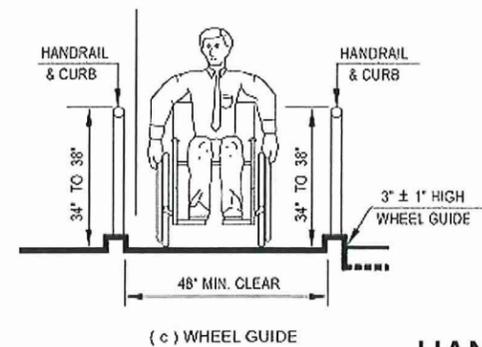
**PERPENDICULAR PARKING STALL DETAIL**  
SCALE: N/A



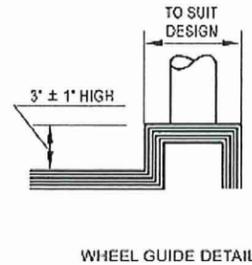
**FIGURE 11B-405.9.2**  
CURB OR BARRIER EDGE PROTECTION



**FIGURE 11B-505.10.1**  
TOP AND BOTTOM HANDRAIL EXTENSION AT RAMP

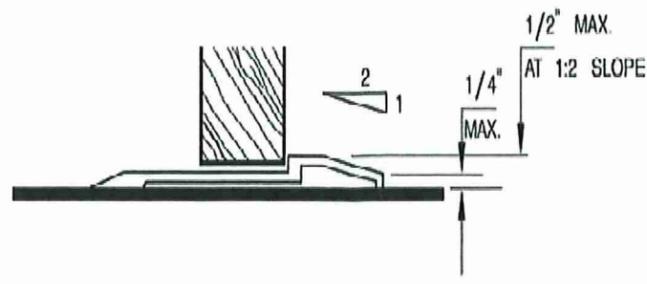


(c) WHEEL GUIDE



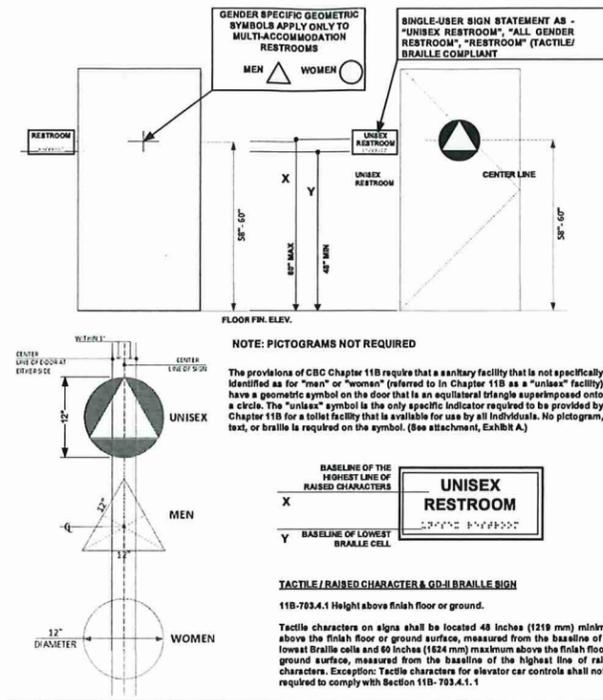
WHEEL GUIDE DETAIL

**HANDRAIL RAMP DETAILS**  
SCALE: N/A

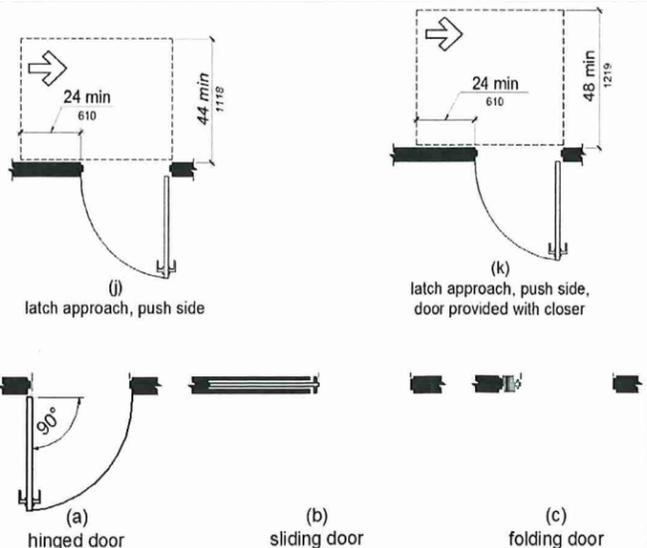


**ACCESSIBLE THRESHOLD DETAIL**  
SCALE: N/A

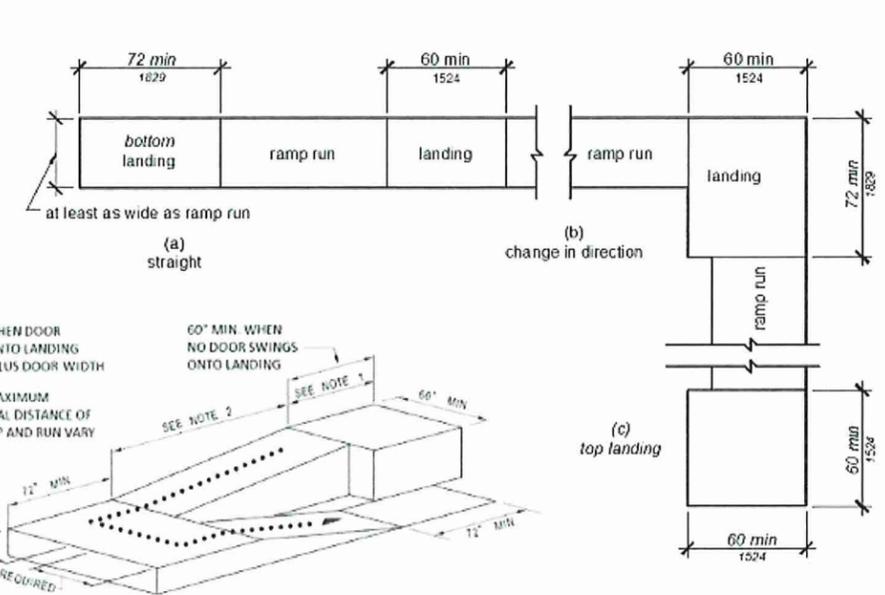
**TOILETS AND BATHING FACILITIES GEOMETRIC SYMBOLS**



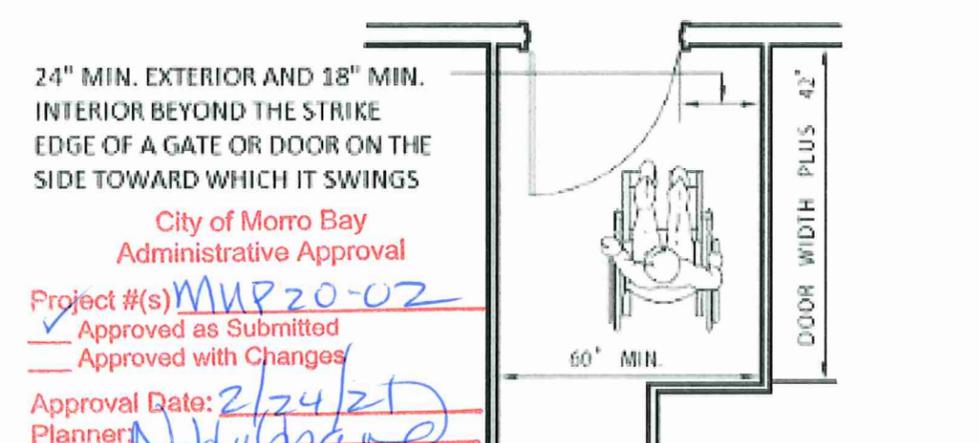
**TYP. ACCESSIBLE SIGNAGE**  
SCALE: N/A



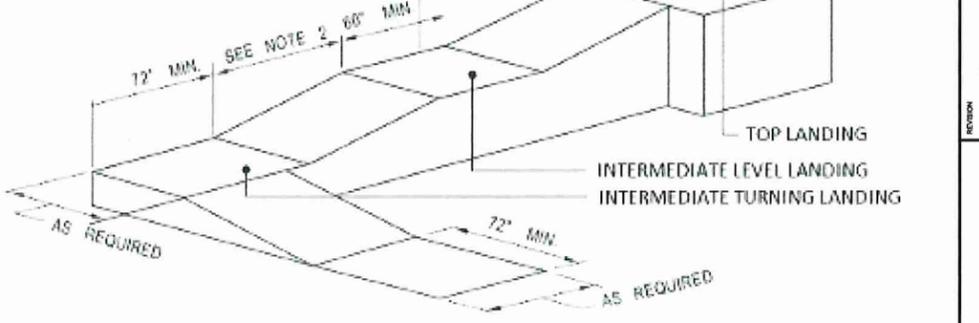
**TYP. CLEARANCE AT SWINGING DOOR**  
SCALE: N/A



**NOTE 1:** WHEN DOOR SWINGS ONTO LANDING 42" MIN. PLUS DOOR WIDTH  
**NOTE 2:** MAXIMUM HORIZONTAL DISTANCE OF EACH RAMP AND RUN VARY



**NOTE 1:** WHEN DOOR SWINGS ONTO LANDING 42" MIN. PLUS DOOR WIDTH  
**NOTE 2:** MAXIMUM HORIZONTAL DISTANCE OF EACH RAMP AND RUN VARY



**RAMP DETAILS**  
SCALE: N/A



City of Morro Bay  
Administrative Approval  
Project #(s) MUP 20-02  
Approved as Submitted  
Approved with Changes  
Approval Date: 2/24/21  
Planner: N. Hubbard

**REVISION**

NO.	DATE	BY	REV.

ALL DIMENSIONS AND FINISHES UNLESS OTHERWISE SPECIFIED SHALL BE CHECKED BY THE ARCHITECT. NOTIFY THE ARCHITECT IMMEDIATELY BY PHONE OR IN WRITING BEFORE PROCEEDING WITH THE WORK.

**A1.2**

**RICHARD C. DIRADOURIAN**  
ARCHITECT  
3788 La Cresenta Avenue, Suite 207, Glendale, California 91208  
1/9/2020 AS SHOWN 1941-1431 RD  
1/9/2020 AS SHOWN 1941-1431 RD

BEST WESTERN HOTEL  
2460 Main Street, Morro Bay, Ca. 93442

A. APPLICATION AND ADMINISTRATION

- 1. When alterations or additions are made to existing buildings or facilities, an accessible path of travel to the specific area of alteration or addition shall be provided unless otherwise exempt. §11B-202.4
2. Primary accessible path of travel shall include a primary entrance to the building or facility, toilet and bathing facilities serving the area, drinking fountains serving the area, and public telephones serving the area, and signs. §11B-202.4
3. The attached "Summary of Accessibility Upgrades" Form should be completed and submitted for review, as not all elements are shown to comply with minimum accessibility code standards. §11B-202.4 Exception B
4. Verify the project adjusted construction cost. If below the current valuation threshold (As of Jan 2018: \$161,298\*) and not all elements are proposed to be improved to comply with disabled access requirements, complete the attached "Summary of Upgrades Form" and detail path of travel improvements as required.

\*Val here for the updated valuation threshold that is updated annually in January: http://www.dgs.ca.gov/itsa/Programs/progAccess/threshold.aspx §11B-202.4 Exception B

B. BUILDING BLOCKS

- 1. Confirm any elevation differences on the plans and provide detail(s) showing compliance with Section 11B-303 Changes of Level. §11B-303.1
2. At the location(s) indicated on the plan, show and dimension the required turning space (circle or T-shaped). §11B-304
3. At the location(s) indicated on the plans, provide sections detailing minimum knee and toe clearance. (At laboratories, sinks, dining and work surfaces...). §11B-306
4. At the location(s) indicated on the plans, dimension the required clear floor or ground space. §11B-305
5. Show on the site plan a guardrail or barrier that complies with the following. Provide a guardrail or other barrier with a leading edge located 27 inches maximum above the finish floor or ground as the vertical clearance above the circulation path is reduced to less than 80 inches. §11B-307.4
6. Provide dimensions to ensure the objects indicated on the plans do not protrude into the accessible route clear width or more than 4 inches horizontally into the circulation path. §11B-307.2
7. Add dimensions on the plans to ensure the objects indicated are within allowable reach ranges. Confirm front or side approach at unobstructed and/or obstructed conditions, as applicable. §11B-308
8. At required operable parts, indicate maximum force and specify operation type. §11B-308.4

C. ACCESSIBLE ROUTES

- 1. Show on the site plan accessible routes that comply with the following. At least one accessible route shall be provided within the site from accessible parking spaces and accessible passenger loading zones; public streets and sidewalks; and public transportation stops to the accessible building or facility entrance they serve. Where more than one route is provided, all routes must be accessible. §11B-206.2.1
2. Show on the site plan at least one accessible route that complies with the following. At least one accessible route shall connect accessible buildings, accessible facilities, accessible elements, and accessible spaces that are on the same site. §11B-206.2.2
3. Show on the floor plans at least one accessible route that complies with the following. At least one accessible route shall connect each story and mezzanine in multi-story buildings and facilities. §11B-206.2.3 (See exceptions)
4. Show on the floor plans all accessibility requirements that comply with the following. Although the building is without an elevator, the upper/lower level(s) must still meet all accessibility requirements.
5. Show on the floor/site plan accessible means of vertical access and dimensions that comply with the following. In new construction of buildings where elevators are required by 11B-206.2.3 Multi-Story Buildings and Facilities, and which exceed 10,000 square feet on any floor, an accessible means of vertical access via ramp, elevator or lift shall be provided within 200 feet of travel of each stair and each escalator. §11B-206.2.3.2
6. Show on the floor/site plan accessible means of vertical access and dimensions that comply with the following. In existing buildings that exceed 10,000 square feet on any floor and in which elevators are required by 11B-206.2.3 Multi-

- Story Buildings and Facilities, whenever a newly constructed means of vertical access is provided via stairs or an escalator, an accessible means of vertical access via ramp, elevator or lift shall be provided within 200 feet of travel of each new stair or escalator. §11B-206.2.3.2
7. Show on the floor/site plans at least one accessible route that complies with the following. At least one accessible route shall connect accessible building or facility entrances with all accessible spaces and elements within the building or facility, including mezzanines, which are otherwise connected by a circulation path. §11B-206.2.4 (See exceptions 1 through 7)
8. Show on the floor/site plan accessible routes and circulation paths that comply with the following. Accessible routes shall coincide with or be located in the same area as general circulation paths. Where circulation paths are interior, required accessible routes shall also be interior. An accessible route shall not pass through kitchens, storage rooms, restrooms, closets or other spaces used for similar purposes, except as permitted by Chapter 10. §11B-206.3

EMPLOYEE WORKSTATIONS

- 9. Detail accessible route to employee workstation and specify compliance with Division 4. Spaces and elements within employee workstations shall only be required to comply with Sections 11B-207.1, 11B-215.3, 11B-302, 11B-303, 11B-308, 11B-306.1.2, 11B-306.1.2 and 11B-404.2.3. Common use circulation paths within employee workstations shall comply with Section 11B-206.2.8. §11B-203.9
10. Indicate on the floor plans the use of each space. Specifically call out common areas and employee work stations.
11. Provide accessible details to comply with the following. The area indicated is a common area and is not considered an employee workstation, therefore disabled access compliance details are required. §11B-203.9

DETECTABLE WARNINGS AND DETECTABLE DIRECTIONAL TEXTURE

- 12. Show and detail all required detectable warnings on the plans to demonstrate compliance with the selected items below. §11B-247 & §11B-705
a. Curb ramps shall have detectable warnings that extend 36 inches in the direction of travel for the full width of the ramp run less than 2 inches maximum on each side, excluding any flared sides. §11B-247.1.2.2, §11B-705.1.2.2
b. On perpendicular curb ramps, detectable warnings shall be located so the edge nearest the curb is 6 to 8 inches from the line at the face of the curb marking the transition between the curb and the gutter, street or highway. §11B-247.1.2.2, §11B-705.1.2.2
c. On parallel curb ramps, detectable warnings shall be placed on the turning space at the flush transition between the street and sidewalk. Detectable warnings shall extend the full width of the turning space at the flush transition between the street and the sidewalk less than 2 inches maximum on each side §11B-247.1.2.2, §11B-705.1.2.2, Figure 11B-406.3.2
d. Islands or cut-through medians 96 inches or longer in length in the direction of pedestrian travel shall have detectable warnings that are 36 inches minimum in depth extending the full width of the pedestrian path or cut-through less than 2 inches maximum on each side, placed at the edges of the pedestrian island or cut-through median, and separated by 24 inches minimum of walking surface without detectable warnings. §11B-247.1.2.3, §11B-705.1.2.3
e. Walks that cross or adjoin a route provided for vehicular traffic, such as in a street, driveway, or parking facility, shall be separated by detectable warnings, curbs, railings or other elements between the pedestrian areas and vehicular areas. §202, §11B-247.1.2.5, §11B-705.1.2.5
f. Detectable warnings provided to separate walks that cross or adjoin a route provided for vehicular traffic, such as in a street, driveway, or parking facility, shall be 36 inches in width and continuous at the boundary between the pedestrian areas and vehicular areas. §202, §11B-247.1.2.5, §11B-705.1.2.5
g. Detectable warning surfaces shall be yellow and approximate FS 33538 of Federal Standard 595C. §11B-705.1.1.3.1

ENTRANCES

- 13. Show and specify the required primary building entry. §11B-206.4
14. For the new building proposed, detail compliance at all entrances and exterior ground-floor exits to buildings and facilities shall comply with 11B-404 Doors, Doorways, and Gates. §11B-206.4.1
15. Show and specify primary entry door and door(s) along path of travel, including door size(s), hardware, landings, thresholds, kickplates, pressure, etc...§11B-206.6

TECHNICAL REQUIREMENTS FOR ACCESSIBLE ROUTES

- 16. On the site plan, show and define the required accessible path of travel: 48 in minimum width walkway, 5% maximum slope in the direction of travel, 2% maximum cross-slope. §11B-403.3 & §11B-403.5
17. Delineate all walking surfaces and dimension the required widths (36"/44"/48"/60"). §11B-403.5
DOORS, DOORWAYS, AND GATES
18. Specify all door and gate widths, heights, hardware, thresholds, kick plates, etc... §11B-404
19. Show and dimension all required landings/maneuvering clearances. §11B-402.2.4
20. Revolving doors, revolving gates, and turnstiles shall not be part of an accessible route. §11B-404.2.1
21. At least one of the active leaves of doorways with two leaves shall comply with 11B-404.2.3 Clear Width and 11B-404.2.4 Maneuvering Clearances. §11B-404.2.2
22. Door openings shall provide a clear width of 32 inches minimum. Openings more than 24 inches deep shall provide a clear opening of 36 inches minimum. Specify all door widths on the plans and/or at door schedule. §11B-404.2.3
23. At doorways less than 36 inches wide without doors or gates, sliding doors, or folding doors dimension required maneuvering clearances complying with Table 11B-404.2.4.2. §11B-404.2.4.2
24. Dimension the minimum 18 inch interior and 24 inch exterior strike side clearance on the latch side of all doors with adjacent obstruction. §11B-404.2.4.3
25. Provide threshold details for doors, indicating 1/2 inch maximum height. §11B-404.2.5
26. Specify door hardware type(s) for all doors and gates and provide elevation indicating hardware height between 34 inches minimum and 44 inches maximum above the finish floor or ground. §11B-404.2.7
27. Swinging door and gate surfaces within 10 inches of the finish floor or ground measured vertically shall have a smooth surface on the push side extending the full width of the door or gate. Parts creating horizontal or vertical joints in these surfaces shall be within 1/16 inch of the same plane as the other and be free of sharp or abrasive edges. Cavities created by added kick plates shall be capped. Show and dimension required kickplate(s). §11B-404.2.10
28. Where sliding doors are in the fully open position, confirm operating hardware shall be exposed and usable from both sides. §11B-404.2.7

RAMP

- 29. Provide enlarged ramp details, including finish floor elevation at each landing, clear width, slope, cross-slope, top and bottom landing dimensions, handrails, handrail extensions, etc.complying with the following: §11B-405
a. Ramp runs shall not exceed a running slope of 1:12 (8.33%) and cross slopes of ramp runs shall not be steeper than 1:48 (2.083%). §11B-405.2 & §11B-405.3
b. Floor or ground surfaces of ramp runs shall comply with 11B-302 Floor or Ground Surfaces. Changes in level other than the running slope and cross slope are not permitted on ramp runs. §11B-405.4
c. The clear width of a ramp run shall be 48 inches minimum. §11B-405.5
d. The rise for any ramp run shall be 30 inches maximum. §11B-405.6
e. Ramps shall have landings at the top and the bottom of each ramp run. §11B-405.7
f. Landings shall comply with 11B-302 Floor or Ground Surfaces. Changes in level are not permitted. §11B-405.7.1
g. The landing clear width shall be at least as wide as the widest ramp run leading to the landing. §11B-405.7.2
h. Top landings shall be 60 inches wide and 60 inches long, minimum. §11B-405.7.2.1 & §11B-405.7.3
i. Bottom landings shall extend 72 inches minimum in the direction of ramp run. §11B-405.7.3.1
j. Ramps that change direction between runs at landings shall have a clear landing 60 inches minimum by 72 inches minimum in the direction of downward travel from the upper ramp run. §11B-405.7.4
k. Where doorways are located adjacent to a ramp landing, maneuvering clearances required by 11B-404.2.4 and 11B-404.3.2 shall be permitted to overlap the required landing area. Doors, when fully open, shall not reduce the required ramp landing width by more than 3 inches. Doors, in any position, shall not reduce the minimum dimension of the

- ramp landing to less than 42 inches. §11B-405.7.5
l. Ramp runs shall have compliant handrails per 11B-505 Handrails. §11B-405.8
m. Edge protection complying with 11B-405.9.2 Curb or Barrier shall be provided on each side of ramp runs and at each side of ramp landings. §11B-405.9 (See exceptions)
n. A curb or barrier shall be provided that prevents the passage of a 4 inch diameter sphere, where any portion of the sphere is within 4 inches of the finish floor or ground surface. To prevent wheel entrapment, the curb or barrier shall provide a continuous and uninterrupted barrier along the length of the ramp. §11B-405.9.2

HANDRAILS

- 30. Show required handrails on each side of stairs and ramps, including required top and bottom extensions. §11B-505.2 & §11B-505.10
31. Provide details and dimensions of the handrail cross-section(s), clearances, and gripping surfaces. §11B-505
32. Dimension to the top of gripping surfaces of handrails. Handrails shall be 34 inches minimum to 38 inches maximum vertically above walking surfaces, stair nosings, and ramp surfaces and shall be at a consistent height. §11B-505.4
33. Clearance between handrail gripping surfaces and adjacent surfaces shall be 1 1/2 inches minimum. Handrails may be located in a recess if the recess is 3 inches maximum deep and 18 inches minimum clear above the top of the handrail. §11B-505.5
34. Handrail gripping surfaces with a circular cross section shall have an outside diameter of 1 1/2 inches minimum and 2 inches maximum. §11B-505.7.1
35. Handrail gripping surfaces with a non-circular cross section shall have a perimeter dimension of 4 inches minimum and 6 1/2 inches maximum, and a cross-section dimension of 2 1/4 inches maximum. §11B-505.7.2
36. In alterations, where the extension of the handrail in the direction of stair flight or ramp run would create a hazard, the extension of the handrail may be turned 90 degrees from the direction of stair flight or ramp run. §11B-505.10 exception 3
37. Ramp handrails shall extend horizontally above the landing for 12 inches minimum beyond the top and bottom of ramp runs. Extensions shall return to a wall, guard, or the landing surface, or shall be continuous to the handrail of an adjacent ramp run. §11B-505.10.1
38. At the top of a stair flight, handrails shall extend horizontally above the landing for 12 inches minimum beginning directly above the first riser nosing. Extensions shall return to a wall, guard, or the landing surface, or shall be continuous to the handrail of an adjacent stair flight. §11B-505.10.2
39. At the bottom of a stair flight, handrails shall extend at the slope of the stair flight for a horizontal distance equal to one tread depth beyond the last riser nosing. The horizontal extension of a handrail shall be 12 inches long minimum and a height equal to that of the sloping portion of the handrail as measured above the stair nosings. Extension shall return to a wall, guard, or the landing surface, or shall be continuous to the handrail of an adjacent stair flight. §11B-505.10.3

STAIRWAYS

- 40. A stair is defined as a change in elevation, consisting of one or more risers. For all stairs, comply with the following: §11B-202
a. Provide stair details, including tread rise and run, nosings, striping, handrails, etc...§11B-504
b. Open risers are not permitted. §11B-504.3 (See exceptions)
c. Show and specify all required stairway striping. Interior stairs shall have the upper approach and lower tread marked by a stripe providing clear visual contrast. Exterior stairs shall have the upper approach and all treads marked by a stripe providing clear visual contrast. The stripe shall be a minimum of 2 inches wide to a maximum of 4 inches wide placed parallel to, and not more than 1 inch from, the nose of the step or upper approach. The stripe shall extend the full width of the step or upper approach and shall be of material that is at least as slip resistant as the other treads of the stair. A painted stripe shall be acceptable. Grooves shall not be used to satisfy this requirement. §11B-504.4.1

CURB RAMPS, BLENDED TRANSITIONS, AND ISLANDS

- 41. For curb ramps/blended transitions/islands, please comply with the following:

- a. Perpendicular ramp runs shall have a running slope not steeper than 1:12 (8.33%). §11B-406.2.1
b. For perpendicular ramps, where provided, curb ramp flares shall not be steeper than 1:10. §11B-406.2
c. The running slope of the curb ramp segments shall be in-line with the direction of sidewalk travel. Ramp runs shall have a running slope not steeper than 1:12 (8.33%). §11B-406.3.1
d. A turning space 48 inches minimum by 48 inches minimum shall be provided at the bottom of the curb ramp. The slope of the turning space in all directions shall be 1:48 maximum (2.083%). §11B-406.3.2
e. Blended transition ramps shall have a running slope not steeper than 1:20 (5%). §11B-406.4.1
f. Curb ramps and the flared sides of curb ramps shall be located so that they do not project into vehicular traffic lanes, parking spaces, or parking access aisles. Curb ramps at marked crossings shall be wholly contained within the markings, excluding any flared sides. §11B-406.5.1
g. The clear width of curb ramp runs (excluding any flared sides), blended transitions, and turning spaces shall be 48 inches minimum. §11B-406.5.2
h. Landings shall be provided at the tops of curb ramps and blended transitions (parallel curb ramps shall not be required to comply). The landing clear length shall be 48 inches minimum. The landing clear width shall be at least as wide as the curb ramp, excluding any flared sides, or the blended transition leading to the landing. The slope of the landing in all directions shall be 1:48 (2.083%) maximum. §11B-406.5.3
i. Grade breaks at the top and bottom of curb ramp runs shall be perpendicular to the direction of the ramp run. Grade breaks shall not be permitted on the surface of ramp runs and turning spaces. Surface slopes that meet at grade breaks shall be flush. §11B-406.5.6
j. The cross slope of curb ramps and blended transitions shall be 1:48 (2.083%) maximum. §11B-406.5.7
k. Counter slopes of adjoining gutters and road surfaces immediately adjacent to and within 24 inches of the curb ramp shall not be steeper than 1:20 (5%). The adjacent surfaces at transitions at curb ramps to walks, gutters, and streets shall be at the same level. §11B-406.5.8
l. The bottom of diagonal curb ramps shall have a clear space 48 inches minimum outside active traffic lanes of the roadway. Diagonal curb ramps provided at marked crossings shall provide the 48 inches minimum clear space within the markings. §11B-406.5.9
m. Curb ramps and blended transitions shall have detectable warnings complying with 11B-705 Detectable Warnings. §11B-406.5.12
n. Raised islands in crossings shall be cut through level with the street or have curb ramps at both sides. The clear width of the accessible route at islands shall be 60 inches wide minimum. Where curb ramps are provided, they shall comply with 11B-406 Curb Ramps, Blended Transitions and Islands. Landings complying with 11B-406.5.3 Landings and the accessible route shall be permitted to overlap. Islands shall have detectable warnings complying with 11B-705 Detectable Warnings and Detectable Directional Texture. §11B-406.6, Figure 11B-406.6

D. GENERAL SITE AND BUILDING ELEMENTS

PARKING SPACES

- 1. Where parking spaces are provided, accessible parking spaces shall be provided in number and kind required per Section 11B-208 Parking Spaces. Show and detail all required disabled access stalls, including dimensions, markings, signage, clear height, etc..For the purpose of this section, electric vehicle charging stations are not parking spaces; see Section 11B-228. §11B-208
2. Provide ( ) accessible parking spaces as required by Table 11B-208.2 §11B-208.2 (See exceptions)
3. Provide accessible spaces for each parking facility (parking lots and parking structures). The number of parking spaces required to be accessible is to be calculated separately for each parking facility; the required number is not based on the total number of parking spaces provided in all of the parking facilities provided on site. §11B-208.2
4. Ten percent of patient and visitor parking spaces provided to serve hospital outpatient facilities, and free-standing buildings providing outpatient clinical services of a hospital, shall comply with Section 11B-502 Parking Spaces. §11B-208.2.1

- 5. Twenty percent of patient and visitor parking spaces provided to serve rehabilitation facilities specializing in treating conditions that affect mobility and outpatient physical therapy facilities shall comply with Section 11B-502 Parking Spaces. §11B-208.2.2
6. One in every six or fraction of six parking spaces required by Section 11B-208.2 Minimum Number, but not less than one, shall be served by an access aisle 96 inches wide minimum placed on the side opposite the driver's side when the vehicle is going forward into the parking space and shall be designated "van accessible". All such spaces may be grouped on one level of a parking structure. §11B-208.2.4 & §11B-402
7. Accessible parking spaces complying with Section 11B-502 Parking Spaces serving a particular building or facility shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance (as near as practical to an accessible entrance). §11B-208.3.1
8. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces complying with Section 11B-502 Parking Spaces shall be dispersed and located closest to the accessible entrances. §11B-208.3.1
9. In parking facilities that do not serve a particular building or facility, accessible parking spaces complying with Section 11B-502 Parking Spaces shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility. §11B-208.3.1
10. Dimension minimum 18-foot long car and van accessible parking space(s) and access aisle(s). §11B-502.2, Figures 11B-502.2 & 11B-502.3
11. Dimension minimum 9-foot width at accessible car parking space. §11B-502.2, Figures 11B-502.2 & 11B-502.3
12. Dimension minimum 12-foot wide accessible van parking space with minimum 5-foot wide access aisle. Van parking spaces shall be permitted to be minimum 9 feet wide where access aisle is 8-foot wide minimum. §11B-502.2, Figures 11B-502.2 & 11B-502.3
13. Car and van stall access aisle shall be 5 foot wide minimum and shall adjoin an accessible route. Two parking spaces shall be permitted to share a common access aisle. §11B-502.3, Figures 11B-502.2 & 11B-502.3
14. Access aisles shall be marked with a blue painted borderline around their perimeter. The area within the blue borderlines shall be marked with hatched lines a maximum of 36 inches on center in a color contrasting with that of the aisle surface, preferably blue or white. The words "NO PARKING" shall be painted on the surface within each access aisle in white letters a minimum of 12 inches in height and located to be visible from the adjacent vehicular way. Access aisle markings may extend beyond the minimum required length. §11B-502.3.3, Figure 11B-502.3.3
15. Access aisles shall not overlap the vehicular way. Access aisles shall be permitted to be placed on either side of the parking space except for van parking spaces which shall have access aisles located on the passenger side of the parking spaces. §11B-502.3.4
16. Clearly show minimum vertical clearance of 8 feet 2 inches at accessible parking spaces and along at least one vehicle access route to such spaces from site entrances and exits. §11B-502.5 (See exception)
17. Parking space identification signs shall include the International Symbol of Accessibility complying with Section 11B-703.7.2.1 International Symbol of Accessibility. §11B-502.6, Figure 11B-703.7.2.1
18. Signs identifying van parking spaces shall contain additional language or an additional sign with the designation "van accessible." Signs shall be 60 inches minimum above the finish floor or ground surface measured to the bottom of the sign. §11B-502.6
19. Parking identification signs shall be reflectorized with a minimum area of 70 square inches. §11B-502.6.1
20. Additional language or an additional sign below the International Symbol of Accessibility shall state "Minimum Fine \$250." §11B-502.6.2
21. A parking space identification sign shall be visible from each parking space. Signs shall be permanently posted either immediately adjacent to the parking space or within the projected parking space width at the head end of the parking space. Signs may also be permanently posted on a wall at the interior end of the parking space. §11B-502.6.3
22. Each accessible car and van space shall have surface identification complying with either of the following schemes: §11B-502.6.4
a. The parking space shall be marked with an International Symbol of Accessibility complying with Section 11B-703.7.2.1 International Symbol of Accessibility in white on a blue background a minimum 36 inches wide by 36 inches high. The centerline of the International Symbol of Accessibility shall be a maximum of 6 inches from the centerline of the

City of Morro Bay  
Administrative Approval  
Project #(s) MUP 20-02  
Approved as Submitted  
Approved with Changes  
Approval Date: 2/24/20  
Planner: N. Hubschare

Professional seal and stamp for Richard C. Diradourian, Architect, Interior Designer, State of California, License No. 1941-1431. Includes address: 2460 Main Street, Morro Bay, CA 93442. Large 'A1.3' stamp is present.



DOOR SCHEDULE									
MARK	MATERIAL	WIDTH	HEIGHT	THICK	GLAZE TEMP	SOLID CORE	FINISH	HARDWARE TYPE	NOTES
①	METAL FRAMED	3'-0"	7'-0"	1 3/4"		●	CLEAR ANODIZED	L	EXTERIOR DOOR
②	WOOD	3'-0"	6'-8"	1 3/8"		●	PAINTED	L	INTERIOR DOOR

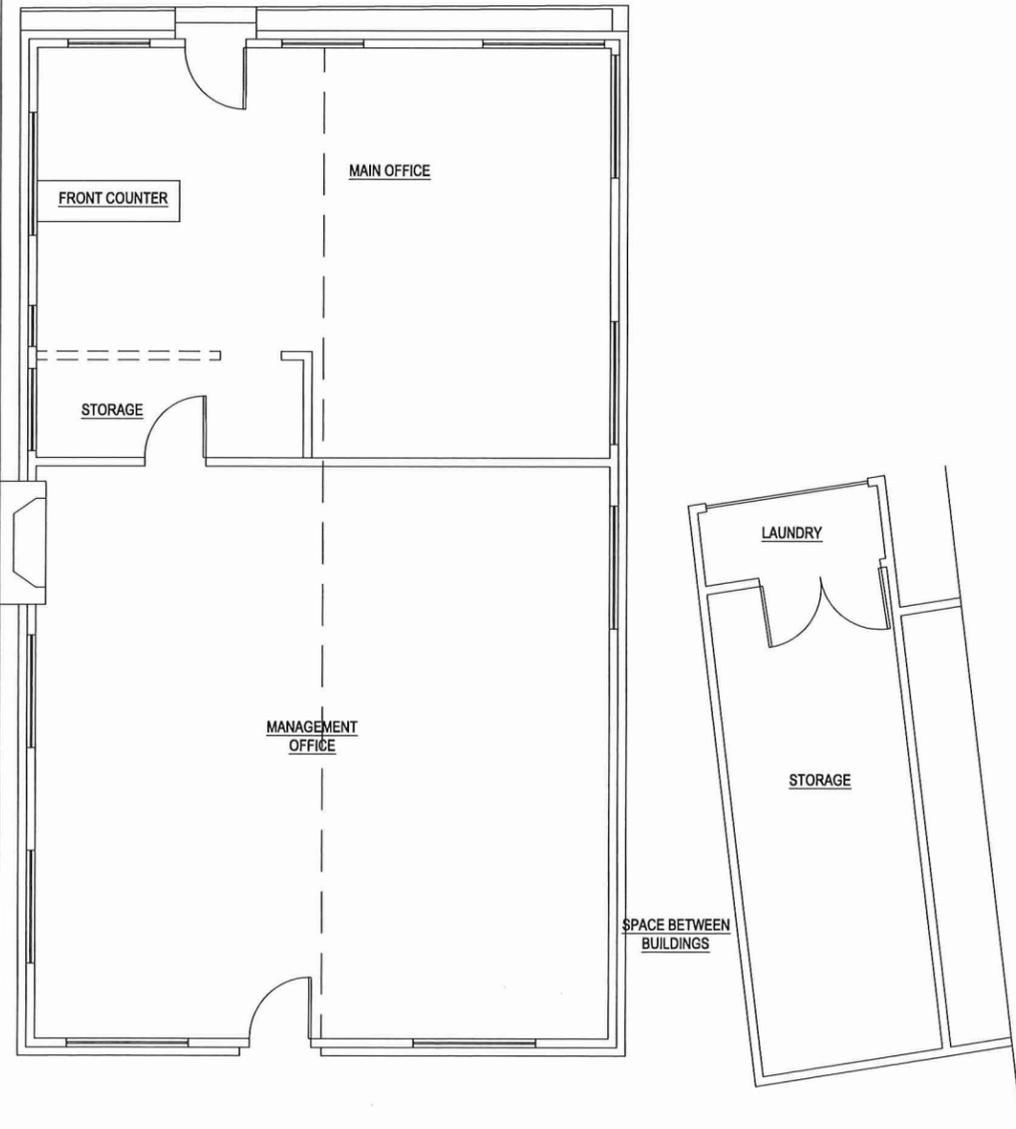
**DOOR NOTES :**

- 'L' LEVER TYPE HARDWARE - DOOR HANDLE TO BE 34" TO 44" ABOVE FINISH FLOOR
- PANIC HARDWARE ON ALL EXIT DOORS
- 1. SHAPE OF OPERATING DEVICES MUST BE EASY TO GRASP WITH ONE HAND
- 2. NO TIGHT GRASPING, TIGHT PINCHING, OR TWISTING OF THE WRIST TO OPERATE
- 3. LEVERS AND U-SHAPED HANDLES ARE ACCEPTABLE
- 4. NO SPECIFIC PROJECTION IS REQUIRED FOR PULLS
- 5. NO HIGHER THAN 48" ABOVE FINISHED FLOOR
- 6. FROM DOOR OPEN POSITION OF 70 DEGREE TO 3" FROM LATCH, THE SWEEP PERIOD
- 7. SHALL BE ADJUSTED TO BE 3 SECONDS MIN.

EXIT DOOR MUST BE OPENABLE FROM EGRESS SIDE WITHOUT THE USE OF KEY, SPECIAL KNOWLEDGE, OR EFFORT. CBC 1010.1.9

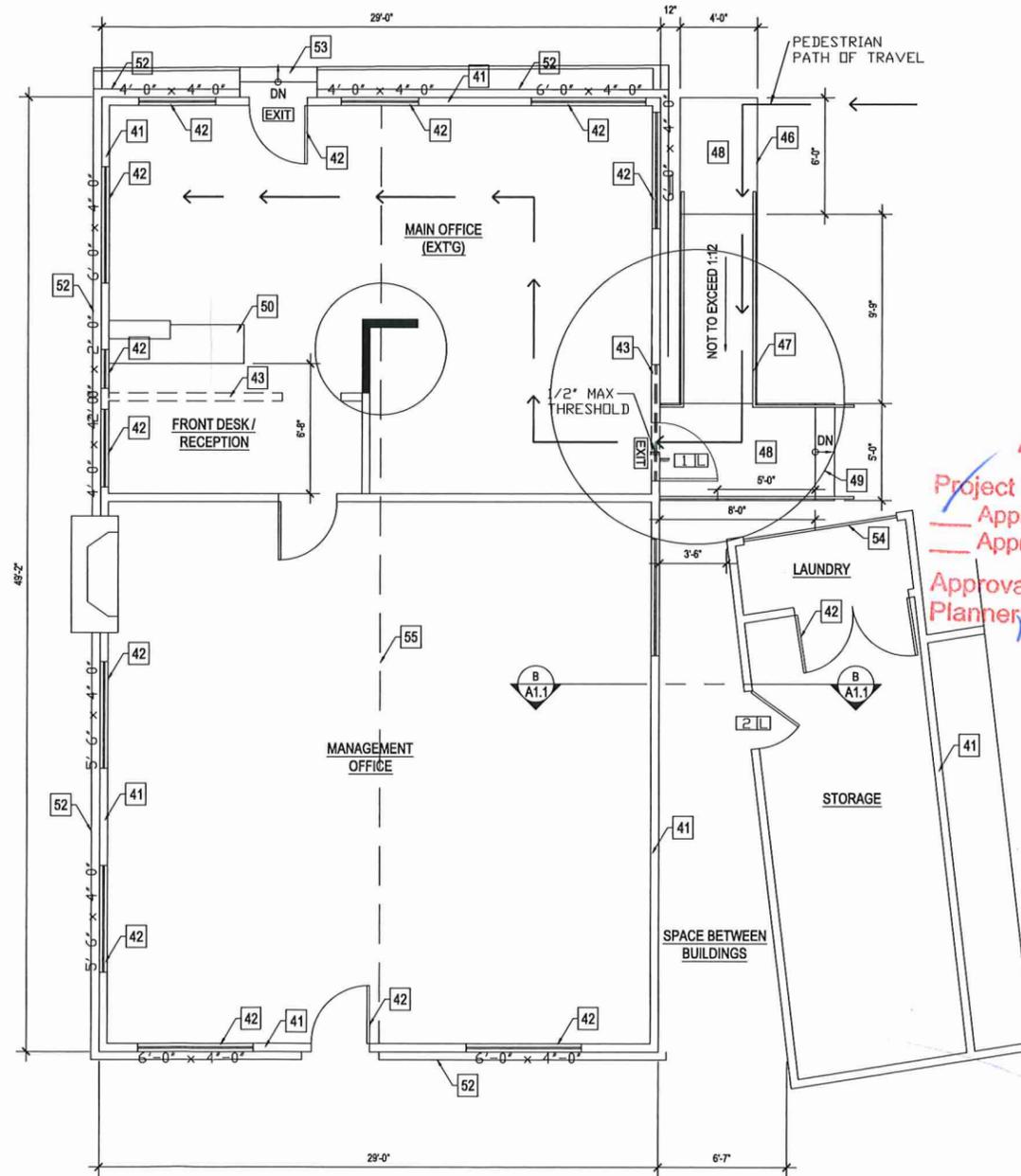
**FLOOR PLAN KEYED NOTES :**

- (S.B.D.) SELECTED BY OWNER OR CONTRACTOR
- 41. EXT'G WALLS TO REMAIN
- 42. EXT'G DOOR / WINDOWS TO REMAIN
- 43. EXT'G WALLS TO BE REMOVED
- 44. NEW WALLS
- 45. EXT'G WINDOW OPENING TO BE CLOSED
- 46. NEW ACCESSIBILITY CONC. RAMP
- 47. NEW GUARDRAILS
- 48. NEW CONC. LANDING
- 49. NEW CONC STEPS
- 50. FRONT DESK COUNTER @ 34" HT.
- 51. EXT'G CABINETS
- 52. EXT'G BRICK VENEER
- 53. EXT'G STEPS TO REMAIN
- 54. EXT'G ROLL-UP DOOR
- 55. EXT'G CEILING LINE



**EXT'G MAIN OFFICE FLOOR PLAN**

SCALE : 1/4" = 1'-0"



**PROPOSED MAIN OFFICE FLOOR PLAN**

SCALE : 1/4" = 1'-0"

**WALL / SYMBOL LEGEND**

- FULL HEIGHT NEW WALLS
- WALLS TO REMAIN
- EXT'G WALL TO BE REMOVED
- FIRE EXTINGUISHER, SEMI-RECESSED
- LIGHT SWITCH ACTIVATED MECHANICAL EXHAUST VENT
- EXIT PATHWAY
- DOOR NUMBER
- DETAIL NUMBER
- SHEET NUMBER
- EXIT SIGN
- CUSTOMER AREA
- 2 LAMP LED EMERGENCY LIGHTING

City of Morro Bay  
 Administrative Approval  
 Project #(s) MAP 20-02  
 Approved as Submitted  
 Approved with Changes  
 Approval Date: 2/24/26  
 Planner: J. Hubbard



**A2.1**

REVISION

DATE

REV. NO.

ALL DIMENSIONS AND FINISHES TO BE SHOWN UNLESS OTHERWISE SPECIFIED. THE CONTRACTOR SHALL VERIFY THE ACCURACY OF ALL DIMENSIONS AND FINISHES PRIOR TO PROCEEDING WITH THE WORK.

BEST WESTERN HOTEL  
 2460 Main Street, Morro Bay, Ca. 93442

RICHARD C. DIRADOURIAN  
 ARCHITECT - INTERIOR DESIGNER  
 3786 La Cresenta Avenue, Suite 207, Glendale, California 91208

1/9/2020 DATE  
 AS SHOWN SCALE  
 1/84 - 1/431 RD  
 1/84 - 1/431 RD  
 1/84 - 1/431 RD

Appeal of MUP20-02 for the change in use at 2460 Main Street  
(CC Appeal June 8, 2021)

**Note: The city has determined that the research requested by the appellant and the related questions to the applicant are not grounds for appeal and do not provide relevant information necessary to the city review and approval of the minor use permit for a change in use. The City did not respond to these items and did not require that the applicant respond. However, the applicant did submit a response, which is provided below.**

Appellant's Questions for the Applicant. **Applicant responses in red.**

2 (A). Research of the facilities should include but is not limited to the following sources, Newspaper articles, police reports, police logs, city zoning, compliance or any citations from state licensing- Department of Health Care and State Department of Drug and Alcohol Program. Here are the following facilities I am requesting be investigated :

California Behavioral Treatment Center  
NPI # 1821120023- Joyce Kaishar  
501 E. Harvard  
Glendale, CA

**Applicant Response: No affiliation to "California Behavioral Treatment Center". Joyce Kaishar's NPI # has no affiliation to any entity, additionally it is cancelled (by the Board of Pharmacy).**

Absolute Control Transitional Counseling Center  
NPI # 1699963546 - Organes Nardos  
2331 E. Foothill Blvd.  
Pasadena, CA

**Applicant Response: "Absolute Control transitional Counseling Center, Inc. ", In operation, no affiliation**

First Responders First  
NPI# 1841789484- Justin Frankian  
28765 Pine Canyon  
Lake Hughes, CA

**Applicant Response: "First Responders First". No affiliation.**

Building Unique Youth Alternatives  
La Puente, CA  
nonprofitsfact.com Lists, "Antonio Luna- Brain Der Vartanian," as In Care of Name.

**Applicant Response: "Building Unique Youth Alternatives" is a client, no affiliation, a non-for-profit entity, never been in operation and closed for over 10 years ago.**

3. In order to be informed about the specific Implications and specific responsibilities that accompany a facility such as this, I am requesting that copies of the following documents/ information be made available to the Planning Committee and the appellant prior to the hearing on this appeal:

DHCS 6002 -Initial Treatment Provider Application,  
DHCS 5255- Supplemental Treatment Request,  
DHCS 4022- Level of Care Designation,  
Annotated List of Community Resources( a DHCS requirement),  
Blank copies of Intake form, case management form, treatment plan form, admission agreement, policy with regard to weapons, drug screening policy, written code of employee conduct, employee and client background check forms, and client rights.

**Applicant Response: Will follow ASAM3.1 criterion.**

**DHCS 6002: Not completed a city approval for submission.**

**DHCS 5255: No supplemental treatment.**

**DHCS 4022: Level of care in accordance with ASAM criteria determined by licensing.**

**Annotated List of Community Resources, (Attached)**

**Blank copies of intake form (Attached)**

4. Further questions for the applicant include:

A. Will treatment include MAT(Medication Assisted Treatment)?

**Applicant Response: Yes**

B. Will clients with co-occurring disorders (dual diagnosis) be treated in this facility?

**Applicant Response: Yes. Only patients not in need of nursing or care assistance.**

C. What will the medical doctor availability, Mr. Organes alluded to in the meeting of 4/20/21, be comprised of on a daily/weekly basis?

**Applicant Response: The doctors' hours will be 20 hours per week and on call.**

D. How will completion of detox be determined prior to acceptance into the program?

**Applicant Response: By the doctor's notes regarding medical necessity and referral service papers**

E. How will the 20 hours of treatment a week required by The California Dept. of Health Care Services' Alcohol and/or Drug Program Certification Standard s" be met with only 10 hours of group therapy listed in the schedule? The schedule provided no allowance for individual therapy or any other individual service requirements, i.e., "8000e.1 A-F: education, vocational, job referral, legal services, physical, mental, dental, social/recreational. Nor any time allotted to 87100 recovery planning, "71 20 discharge planning & summary.

**Applicant Response:** The treatment is not only group therapy, but the treatment will also include individual therapy, recovery support groups, social rehabilitation, drug and alcohol education, family therapy and recreational therapy.

F. How will staffing ratio be maintained if a client requires transport back to County of origin? Is the facility responsible for portal to portal transport?

**Applicant Response:** Only if the facility provided the transportation to the facility.

G. What is the SOP if a patient leaves the facility? Does the staff track them down? Does MBPD have to track them down?

**Applicant Response:** Patients leaving against medical advice (AMA) will get help from the facility to get back to place of origin.

H. Based on applicants previous experience, what percentage of patients are foreseen to be local?

What percentage will be first responders?

**Applicant Response:** Only in need of substance abuse treatment.

What percentage will be from diversion program?

**Applicant Response:** No diversion program.

What types of charges will patients from the diversion program have, misdemeanor or felon?

**Applicant Response:** No diversion program.

How many patients are foreseen to be self-referred?

**Applicant Response** 30% to 40% will be self-referred.

Will patients with NO substance abuse be treated? Such as First Responders with PTSD? If so, what is the applicants general plan for treating non-substance abuse patients?

**Applicant Response:** No.



# City Council

## APPEAL OF MINOR MODIFICATION MUP20-02 FOR A CHANGE IN USE AT 2460 MAIN ST

JUNE 8, 2021



**MORRO BAY**  
PUT LIFE ON COAST

# THE PROJECT



1. The project is currently operating as a 27-room motel
2. The current owner applied for a minor use permit December 15, 2020 to change the use to supportive housing.
3. The application was reviewed, and deemed complete on February 2, 2021
4. Following a public notice period, an administrative decision for approval was made and a permit issued on February 24, 2021



**MORRO BAY**  
PUT LIFE ON COAST

# State and Federal Laws related to the approval of this project



1. People in alcohol and substance abuse recovery are considered disabled under both State and Federal Law.
2. It is unlawful to discriminate in land use practices, including decisions that prohibit housing on the basis of a population with a disability
3. Supportive housing shall be a ‘use by right’, approved administratively in all zones where multifamily and mixed uses are permitted.
4. The City’s recently adopted Housing Element includes a goal to remove constraints to the creation of housing for all income levels and for people with disabilities. Further the City shall remove constraints and provide reasonable accommodations to support housing intended for occupancy by persons with physical, developmental or mental disabilities (which specifically includes transitional and supportive housing).

# APPEAL TO PLANNING COMMISSION

- March 1, 2021 – Ashley Smith filed an appeal to PC
- April 20, 2021 – The PC held a public hearing to consider the appeal.
- The PC denied the appeal and upheld the Director's approval of the MUP20-02



**MORRO BAY**  
PUT LIFE ON COAST

# THE APPEAL TO CITY COUNCIL

An appeal was filed on April 28, 2021 by  
Ashley Smith.  
No other appeals were filed.

## Grounds for appeal and staff response:

1. The City admin and city commission did not research or provide evidence or documentation that an analysis was completed on all circumstances in which a city can deny this permit as outlined in the Housing Accountability Act (Cal Govt Code 65589.5 (D)).

***Staff response: The City permit review process involves a review by each department to ensure that the proposed project or change in use meets the criteria in the general plan, coastal land use plan and requirements stated in the zoning code. This is the same process used for any planning application for any type of project in any zone, including other residential uses in the same zone as the subject project. The city does not search for ways in which a project can be denied if the project meets the standards of the zoning code.***



# Response to grounds for appeal:

2. The appellant provided a list of facilities that they believe are affiliated with the applicant and/or operator and has demanded that the city investigate these facilities to provide evidence that these facilities did not have 'specific adverse impacts on public health and safety' as stated as one of the Housing Accountability Act grounds in which a project can be denied.



***Staff response: This is not grounds for an appeal. The experiences of other facilities in other communities does not provide relevant information for the review and approval of this subject project. Additionally, the state requirements in AB2162 and the Housing Accountability Act and the zoning code state that review of a housing application for supportive housing should not be subject to requirements or conditions that are not also imposed on other residential projects. The city does not review the background of other applicants applying for residential projects.***

***The background and related experiences of the applicant, operator and employees are all part of the State licensing review. The state license cannot be applied for until the project has final approval from the jurisdiction in which it is located.***

# Response to grounds for appeal:

3. The appellant provided a list of documents related to the State Department of Health Care Services licensing process and requested that the city obtain these documents and provide them to the PC (it is assumed she meant to say City Council) and appellant prior to the appeal hearing.



***Staff response: This is not grounds for an appeal. Not only is the licensing not relevant to the City decision on the change in use, but the applicant can't apply for the state license until the project has a valid permit approving the change in use. The permit was issued, but is not effective while appeal decisions are pending.***



# Response to grounds for appeal:

4. The appellant provided a list of detailed operational questions for the applicant.



***Staff response: This list of questions does not constitute grounds for an appeal. The responses to these questions would not result in necessary information needed by the city to issue a minor use permit. The City does not require this type of background or operational information from any other applicant applying for a permit for a residential use or a business. The licensing of the facility, the operations, staffing and services provided are all under the purview of the State of California. Requesting answers to this type of detailed questions could be construed as harassment and/or bias against housing for the disabled.***

***The applicant has, nevertheless, provided responses to the appellant's questions, which are attached to the staff report as Exhibit F.***

# Response to grounds for appeal:

5. The appellant requested that City Council hearing take place on a Thursday and be an “in-person hearing” so the appellant and the City Council have ample time to review the staff report and other information regarding this appeal.



***Staff response: This is not grounds for an appeal. City Council holds hearings every 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month and has not lifted the Covid 19 procedures that would allow an in-person hearing. Additionally, the staff report is available 3 days prior to the hearing date. The appellant did agreed to the June 8, 2021 hearing date.***

# REVIEW OF REQUESTED RELIEF OR ACTION

1. Delay permit to have public hearing with City Council decision: ***The permit has been delayed approximately 3 ½ months in total due to the back-to-back appeals filed by Ashley Smith. The Planning Commission appeal also included a requested action to delay the permit to get a PC decision.***
2. In-Person Hearing. ***The City is following Covid 19 guidelines and is not holding public in-person hearings.***



# CRITERIA RELATED TO PROJECT CONDITIONS OF APPROVAL

*State law provides that "... supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone (i.e. other multi family projects)*

*The existing MUP20-02 permit includes a condition that the facility provide the City with a copy of the final state license and notify the City of any changes in license status.*

*The City Council can add project specific conditions as long as they are not restrictive in a way that a multi-family project would not be conditioned.*

- Conditions, such as asking for State Licensing reports, may be acceptable as long as it does not violate resident privacy laws.*
- Restrictions such as parking, density, restrictions on the client's activities would not be allowed.*

**The City Planning Staff  
recommendation is for denial of  
the Appeal and to uphold the  
Director's approval by accepting  
City Council Resolution XX-21**



**MORRO BAY**  
PUT LIFE ON COAST



AGENDA NO: C-1

MEETING DATE: June 8, 2021

## Staff Report

**TO:** Honorable Mayor and City Council

**DATE:** June 2, 2021

**FROM:** Eric Endersby, Harbor Director

**SUBJECT:** Discussion of Revenue Opportunities and Needs for the Harbor Fund

### **RECOMMENDATION**

Staff recommends the City Council consider the Harbor Advisory Board (HAB) input and recommendations as they pertain to revenue generation opportunities and needs for the Harbor Fund as determined at their June 3, 2021 meeting and direct staff accordingly.

### **FISCAL IMPACT**

There is no fiscal impact associated with this staff report.

### **BACKGROUND**

While the Harbor Operating Fund is generally balanced with a projected ~\$96,000 surplus of revenues over expenses in the proposed FY 21/22 budget, there still exists a very significant budget deficit to properly fund the department's capital program needs. Current projections show that need to approach \$500,000 annually for the next ten years.

In past years during the Council's goal process, the HAB work plan has included various revenue generation opportunity analyses and recommendations. A recent example of this was the HAB's recommendation for the Harbor Department to establish a fee-based waterfront RV camping program, which is currently in its pilot phase of operation. Background information on the various revenue-generating opportunities and staff recommendations for discussion at the June 3<sup>rd</sup> HAB meeting is provided as Attachment 1. Staff will provide Council with an update from the HAB meeting, as appropriate, for the June 8<sup>th</sup> Council Meeting.

### **DISCUSSION & CONCLUSION**

At the June 3, 2021, HAB meeting, item B-3 is scheduled for a discussion of revenue opportunities and needs for the Harbor Fund. Results of the HAB's deliberations and any recommendations resulting therefrom will be brought to the City Council on June 8<sup>th</sup> for consideration and direction.

### **ATTACHMENT**

1. June 3, 2021 HAB Meeting Staff Report - Item B-3

Prepared By: EE

Dept Review: EE

City Manager Review: SC

City Attorney Review: CFN



AGENDA NO: B-3

MEETING DATE: June 3, 2021

# Staff Report

**TO:** Harbor Advisory Board **DATE:** May 26, 2021  
**FROM:** Eric Endersby, Harbor Director  
**SUBJECT:** Discussion of Revenue Opportunities and Needs for the Harbor Fund

## **RECOMMENDATION**

Staff recommend the HAB consider and discuss various revenue-generating and enhancing opportunities as outlined in this report.

## **BACKGROUND**

The proposed Fiscal Year (FY) 2021/22 Harbor Operating Fund budget is balanced with a slight surplus with \$2,150,000 in revenues and \$2,054,000 in expenses. This is due in large part to the master fee cost recovery measures recently enacted, as well as the City's commitment of \$150,000 in ongoing and \$50,000 in one-time funding from Measure Q/E funding. However, there still exists a structural deficit when it comes to adequate revenues to sufficiently fund the department's capital needs.

Addressing City Capital needs, for both the Harbor and General funds, has been a goal of the City Council for several years now. That goal was included in the Harbor Advisory Board (HAB) work plans over the past several years, in terms of the HAB reviewing various potential funding mechanisms.

Past revenue-generating opportunities that were considered in varying degrees by the HAB since 2017 (with their status in *italic parenthesis*) have been:

- New modern aquarium at the old aquarium lease site (*pursued by Central Coast Aquarium, but their initiative failed*)
- Paid parking on/near the Embarcadero (*HAB recommended implementation and provided a list of things for the City to consider if paid parking is implemented. City recently commissioned a parking demand study that will be brought to the Council and advisory boards sometime this year*)
- For-profit events and activities being a revenue source by way of the City receiving a percentage of the revenues (*was not deemed a revenue source with enough capacity to be worth pursuing*)
- Concessionaires for basic beach/park needs and/or food trucks at the Rock and other locations (*not pursued*)
- For-profit businesses operating on the waterfront/bay (such as boat bottom cleaners) but not in a brick-and-mortar lease site being charged a license fee and/or a percentage of their revenues (*HAB consensus that these types of operations just be required to have the necessary City business licenses*)

Prepared By: EE

Dept Review: EE

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

- Increase slip and pier fees to fully recover the City's utility costs for same (*cost recovery study completed in 2019, and fee recovery measures have been implemented per Council policy*)
- Boat and/or RV storage in the Triangle Lot until a permanent use is allocated to that location (*implemented for boats storage only*)
- Concert venue in the Triangle Lot (*not pursued*)
- Leaseholder incentives for leaseholders to diversify their products (*considered by HAB, but consensus to let the market/demand rule*)
- Aggressively pursue grant opportunities (*City staff do currently pursue and have been successful with various grant opportunities*)
- City take over full operation of the State Park Marina (*considerable discussions with State Parks have occurred in the past, however, significant turnover in Parks' staff locally and in Sacramento between ~2015 and ~2018 brought further progress to a halt. Parks and City staff have recently brought this issue back into discussion, and Parks is undertaking a new cost-benefit analysis of the marina operation to inform future discussions*)
- Expand the current mooring field (*with assistance from a Cal Poly intern, the current mooring field was mapped into the City's GIS database. No further progress made*)
- Cannabis-related sales (*current Municipal Code and zoning preclude cannabis-related businesses in the waterfront district*)
- Harbor Fund receiving a share of the City's Possessory Interest Tax, Transient Occupancy Tax (TOT) and Sales Tax revenues generated off the waterfront (*new 1% sales tax measure passed in 2020 – Measure E – with revenues now slated for the Harbor Fund in the draft FY 2021/22 budget*)
- Periodic events at the Rock (*no significant progress made*)
- Create an Embarcadero Business Improvement District, Special Assessment District or Port District (*limited research conducted by some HAB members, however, nothing yet brought back to the HAB for consideration*)
- Waterfront RV camping (*implemented in September 2020 on a pilot basis through September, 2021, as-recommended by the HAB and approved by the City Council. Staff currently pursuing necessary Coastal Commission permitting*)

## **DISCUSSION & CONCLUSION**

Although 2021 marks the start of a new two-year City Council goal-setting cycle to be undertaken later this year, it is anticipated that a goal addressing measures to ensure the long-term fiscal health of the City will continue to be on the list. Thus, revenue-generating/enhancement will likely be a key work plan item for the HAB and the Harbor Fund in the coming Council goal cycle.

Staff recommend the HAB:

- A. Start with a review of the revenue-generating and enhancement opportunities listed above to see which might be candidates for additional review and/or action.
- B. Consider new or additional revenue-generation/enhancement opportunities worth pursuing.
- C. Utilize the HAB's "SWOT" analysis results generated in 2020/2021 as they relate to fiscal sustainability (Council Goal No. 1) to help inform and guide these efforts. The top two items in each SWOT category identified by the HAB as they related to the Council's fiscal sustainability goal are below:

Council Goal No. 1 – Achieve Economic and Fiscal Sustainability

### **Strengths:**

A. Tidelands Trust lease sites, and the Tidelands Trust Act requirement that revenues derived from Tidelands Trust Lands go to the Harbor Fund.

B. The City's historic image as a quaint fishing village, and the continued presence of a commercial fishing small boat fleet.

Weaknesses:

A. Lack of a strategic long-term plan, including its capital component, relative to maintaining and augmenting existing sources of Harbor revenue.

B. Morro Bay 's aging commercial fishing fleet in terms of its operators, as well as increasing limitations on West Coast commercial fishing opportunities.

Opportunities:

A. To implement a long-term strategic plan for the Harbor, which would include planning for national and/or regional economic downturns.

B. Provide a range of waterfront services that optimizes local and visitor interest and utilization.

Threats:

A. The General Fund extracting funds from the Harbor Fund.

B. Losing sight of small-town Morro Bay, and becoming a Pismo Beach in a desire for revenue and profits.

Results of the HAB's deliberations will be carried forward as-appropriate.