



CITY OF MORRO BAY PLANNING COMMISSION AGENDA

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

**Regular Meeting -Tuesday, June 6, 2023
Veteran's Memorial Building – 6:00 P.M.
209 Surf Street, Morro Bay, CA**

Chairperson William Roschen

Vice-Chairperson Mike Rodriguez
Commissioner Asia King

Commissioner Joseph Ingraffia
Commissioner Eric Meyer

Public Participation:

Remote public participation is allowed in the following ways:

- *Community members may attend the meeting in person at the Morro Bay Veterans Hall*
- *Members of the public may watch the meeting and speak during the 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.*

Please click the link below to join the webinar:

- <https://us02web.zoom.us/j/82722747698?pwd=aWZpTzcwTHlRTk9xaTlmWVNWRWFUQT09>

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*
- *Alternatively, members of the public may watch the meeting either on cable Channel 20 or as streamed on the City [website](#).*
- *Community members are encouraged to submit agenda correspondence in advance of the meeting via email to the Planning Commission at planningcommission@morrobayca.gov prior to the meeting. Agenda correspondence received at planningcommission@morrobayca.gov by 10 a.m. on the meeting day will be posted on the City website.*

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

PUBLIC COMMENT

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

PRESENTATIONS

A. CONSENT CALENDAR

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

B. PUBLIC HEARINGS

- B-1** **Case:** Appeal of Director's Action
Site Location: 413 Arcadia Avenue, Morro Bay, CA
Proposal: Patrick Najjar, resident of property located at 413 Arcadia, filed an appeal of the Directors decision finding a shed located in the side setback of the subject property in violation of Morro Bay Municipal Code section 17.48.040.B. Section 17.48.040.B requires accessory structures in R-1 zone districts comply with the setbacks of the zone. The appellant contends that the accessory structure (shed) is exempt from the setback requirements as it is a temporary, nonpermanent building.
Staff Recommendation: **Deny appeal, upholding Director decision**
Staff Contact: Scot Graham, Community Development Director, (805) 772-6291, sgraham@morrobayca.gov

- B-2** **Case No.:** *Plan Morro Bay: Zoning Code Amendment / Objective Design Standards (Continued from the May 16, 2023, hearing)*
Site Location: Citywide
Applicant/Project Sponsor: City of Morro Bay
Proposed Project: The Zoning Code was adopted by the City Council on November 22, 2022, via Ordinance 654. Objective Design Standards (ODS) have been developed as implementation of the 2020-2028 Housing Element goals and policies. The ODS are proposed to be added as Chapter 17.31 to the 2022 Zoning Code. The consultant work to complete the Housing Element implementation policies was funded from the award to the City of Morro Bay of grant funding from CA Department of Housing and Community Development. The Objective Design Standards was created in response to recent housing bills, to provide for a streamlined approval process for eligible residential projects (2 or more units) subject to certain conditions consistent with the objective zoning and design standards. The ODS is in final draft form and upon favorable recommendation will be forwarded to City Council for amendment to the 2022 Zoning Code.
CEQA Determination: Environmental Impact Report (SCH #2021111026)
Staff Recommendation: Review Objective Design Standards, open public hearing, engage and consider public comments, and forward a favorable recommendation for approval of the Objective Design Standards as Chapter 17.49 of the 2022 Zoning Code to City Council with finding that no further environmental review is required pursuant to State CEQA Guidelines Section 15162.
Staff Contact: Scot Graham, Community Development Director, (805) 772-6291 sgraham@morrobayca.gov

C. NEW BUSINESS

- C-1** Presentation of Annual Water Supply and Demand Assessment and Allocation of Water Equivalency Units (WEU) for Fiscal Year (FY) 2023/24
Staff recommends the Planning Commission recommend to City Council:
1. Receive and file staff findings and strategies resulting from the Annual Water Supply

and Demand Assessment;

2. Allocate 50 WEUs for residential development (30 SFR and 20 MFR) and 65 for commercial development for a total of 115 WEUs for FY2022/23.

D. UNFINISHED BUSINESS

E. PLANNING COMMISSIONER COMMENTS/FUTURE AGENDA ITEMS

F. COMMUNITY DEVELOPMENT DIRECTOR COMMENTS

G. ADJOURNMENT

Adjourn to the next regular Planning Commission meeting at the Veteran's Memorial Building, 209 Surf Street, on June 20, 2023, at 6:00 p.m.

PLANNING COMMISSION MEETING PROCEDURES

This Agenda is subject to amendment up to 72 hours prior to the date and time set for the meeting. Please refer to the Agenda posted at the Community Development Department, 955 Shasta Avenue, for any revisions, or call the Department at 805-772-6264 for further information.

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

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

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

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

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

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

APPEALS

If you are dissatisfied with an approval or denial of a project, you have the right to appeal this decision to the City Council up to 10 calendar days after the date of action. Pursuant to Government Code §65009, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Commission, at, or prior to, the public hearing. The appeal form is available at the Community Development Department and on the City's web site. If

legitimate coastal resource issues related to our Local Coastal Program are raised in the appeal, there is no fee if the subject property is located within the Coastal Appeal Area. If the property is located outside the Coastal Appeal Area, the fee is a \$277 flat fee. If a fee is required, the appeal will not be considered complete if the fee is not paid. If the City decides in the appellant's favor then the fee will be refunded.

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

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development Department at (805) 772-6264. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.



City of Morro Bay
 Community Development Department
 Current & Advanced Project Tracking Sheet
 This tracking sheet shows the status of the work being processed by the Planning & Building Divisions
 New Planning items or items recently updated are highlighted in yellow.
 Approved projects are deleted on next version of log.

Agenda No: A-1
 Meeting Date 6-06-2023

#	Applicant/ Property Owner			Application Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
Hearing or Action Ready Projects:											
1	City of Morro Bay		City-wide			Objective Design Standards draft (Zoning Code/ Implementation Plan amendment) to be added as Zoning Amendment Chapter 17.31	Objective Design Standards drafted as a result of 2020-2028 Housing Element Implementation grant funding. The Objective Design Standards are proposed to be added as an amendment to the Zoning Code (Chapter 17.31). Continued from 5/16/23 PC meeting.				nh
2	Patel	1050	Morro Ave	11/17/2022	CUP22-10/ CDP22-039	Remodel existing hotel and add second floor with kitchen and hotel dining area, plus other guest amenities. Increase from 16 rooms to 27 rooms.	Under Review. Comments provided Dec 12, 2022, requires a resubmittal. Applicant is addressing parking issued included in the PW comment letter. Project resubmitted on February 8, 2023, Planning ready to deem complete, needs resubmittal to address storm water requirements, comment letter sent 3/8/23. Public works provided additional correction comments on March 27, 2023. Planning deemed completed on April 9, 2023, will be reviewed and processed under existing zoning code due to the delay of the certification of the 2022 zoning code. Project under review by PW, will be scheduled for PC hearing following resolution of PW open items.	BLDG. - COND Approved CO			nh
3	Patel	646	Sequoia Court	2/21/2023	MIN23-001 (requires CUP)	Proposed new home with 4803 sf of living space and a 1493 sf garage/shop area. The site is 24,723 sf and is just outside of the coastal zone.	Planning comments provided March 9, 2023. Resubmittal received March 27, 2023 and is under review. Project deemed complete, scheduling for PC hearing on June 20, 2023	BLDG. - Approved 3/2/23 CO			nh
4	Morro 94 LLC	3300	Panorama	1/18/22	CUP 22-05/CDP22-003/TTM22-02	Submittal of combined concept and precise plan review for 61 unit subdivision. Project revised to 48 total housing units.	Received and under review. Notify Me account set up to provide information and publically available documents on the project. Subdivision Review committee meeting scheduled. Project comment letter sent 2/18/22, requires resubmittal and environmental review. Planning consultant team is preparing to hold a neighborhood meeting April 20, 2022 at Del Mar Elementary School at 6pm. City working with selected environmental consultant on contract and owner reimbursement agreements. TTM resubmittal received October 10, 2022, under review. Tentative Tract Map disapproved on November 2, 2022. Requires resubmittal with the CUP/CDP plans in order to be processed together. Environmental review is under contract and work has commenced. Anticipate process to take 6-9 months to complete. Resubmittal information received, planning and public works comments sent - will require a resubmittal before scheduling for PC conceptual review hearing.	BLDG. - Approved 2/14/22 CO			nh
30 -Day Review, Incomplete or Additional Submittal Review Projects:											
5	Ferrin	2772	Indigo Circle	4/20/2023	CDP23-008/CUP23-08	A new single story 2,491sf SFR with an attached 559sf garage, and a 192sf studio on a vacant lot located in the Cloisters subdivision.	Incomplete letter sent 5/15.				gc
6	Boges	640	Kings	3/30/2023	CDP23-006	New detached 908sf ADU with attached to a 720sf garage below.	Incomplete Letter sent 4/20	BLDG. - Disapproved CO			gc/st
7	Newman	961	Balboa	3/27/2023	CDP 23-005	Admin CDP for a new 2058 sf house with an attached 409 sf garage and 185 sf storage space with a 450 sf ADU .	Under review. Incomplete Letter sent 4/20.	G. - Approved 4/10/23 CO			st/cj
8	Palmer	515	Bernardo	3/9/2023	CDP23-004	Remodel and addition to existing 2,172 sf SFR and an interior studio ADU	Incomplete letter sent March 28, 2023. Resubmittal 5/17. Incomplete letter sent 5/30.	BLDG. - Disapproved 3/15/23			gc
9	Gillen	495	Embarcadero	3/7/2023	CUP23-04	Conceptual Review (no application) of potential redevelopment of city lease site at 495 Embarcadero as a mixed use development of hotel, restaurant, and retail uses.	Under review. Project needs Consent of Landowner. Applicant requested to put application on hold.	BLDG. - COND Approved CO			cj
10	Nance	595	Morro Bay	2/7/2023	CDP23-003	Admin CDP for installation of one solar carport located in the existing Chase Bank parking lot.	Under review, incomplete letter sent 2/28/23, resubmittal on 4/17. Incomplete letter sent 5/11.	BLDG. - 2/16/23 CO			gc
11	McDonald	300	Sicity St	1/31/2023	CDP23-002	New 2155 s.f. SFR w/ attached 284 s.f. garage and 409 s.f. decking on a vacant lot .	Incomplete letter sent 3/13/2023	BLDG. - Approved 2/10/23 CO			gc
12	Salbi	450	Marina	12/19/2022	CDP22-043	Admin CDP for two story single family home with garage and Accessory Dwelling Unit	Incomplete letter sent January 13th, resub on 2/7/23, under review, incomplete letter sent 3/2/23, resubmit 3/27/23, incomplete letter sent 4/10/23, Incomplete letter sent 4/12/23.	BLDG. - Approved 3/2/23 CO			gc
13	Bradley	2285	Emerald Circle	12/5/2022	CDP22-041 / CUP22-12	CDP and CUP for new construction of a 2,368sf one story single family home and 2 car garage on a vacant lot in the Cloisters subdivision.	Incomplete letter sent 1-5-2023, resubmit 3/30/23, Incomplete letter sent 4/25	BLDG. - Approved 12/8/22 CO			gc
14	Agular	351	Panay	11/2/2022	CDP22-036	Demo existing one story 849sf SFR to build a two story 1,926sf SFR with a 226sf garage and a 280sf roof deck.	Under Review, Incomplete letter sent on 12/15/22, resubmittal 2/16/23, under review, incomplete letter sent 3/2/23, Resubmit 3/30/23, Incomplete Commet Letter sent 4/12/23	BLDG. - Approved 3/2/23 CO			gc
15	Gonzalez	590	Radcliff	10/25/2022	CDP22-034	Admin CDP for a new 1,956 two story SFR with a 522sf attached garage and 640sf second story deck.	Under review. Planning disapproved and incomplete letter sent on 11/22.	BLDG. - Approved 10/27/22 CO			gc/st
17	MSA Architects	2417	Greenwood Ave.	8/24/2022	CDP22-030	Admin CDP to develop a new 562 detached ADU	Incomplete letter sent on 9/12/22, resubmittal on 10/26, under review, minor edits request on 11/17, withdrawn.	BLDG. - Approved 8/25/22 CO			gc
18	Shepler	2181	Sumset Ave	8/24/2022	CDP22-029	CDP Application for a new third dwelling and one ADU on a property with two existing homes	Comment letter sent on 9-5-22. Resubmittal received 10/24/22, planning requires minor changes and sent letter November 10, 2022. Requires resubmittal.	BLDG. - Approved 8/25/22 CO			nh

#	Applicant/ Property Owner			Application Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
19	Messer	550	Kern	8/11/2022	CDP22-027	CDP for new construction of a two story 2,411sf SFR with a 565sf garage and 1,000sf attached ADU.	Under review, Incomplete letter sent 8/31, Resubmittal on 11/16, Under review, second Incomplete letter sent 12/13/22, resubmittal on 1/09/22, minor edits request on 1/27/23, resubmittal 1/31/23, under review, minor edits request on 1/20 resubmittal on 1/31/23. Request that plans be revised to meet parking requirements 3/7/23.	BLDG. - COND Approved CO			gc
20	Kersten	1358	Prescott	7/27/2022	CDP22-024	Admin CDP for partial conversion of an existing (522sf) attached garage into a single story 276sf ADU.	Incomplete letter sent on 08/09/22	BLDG. - Approved 8/9/22 CO			gc
21	California Coastal Investments, LLC	801	Embarcadero	6/28/2022	CUP22-09	Concept/Precise Plan CUP for mixed-use redevelopment of the Libertine Brewing Co. building to convert existing second floor to 7 hotel units and first floor as mix of restaurant, coffee shop, outdoor dining, provision of new public access improvements including extension of Harborwalk	Under review. Incomplete letter sent 7/27/22. Resubmitted 1/27. Corrections letter sent 3/17/23. Resubmittal received and under review.	BLDG. - Disapproved 2/10/23 CO			cj
22	McDonald	471	Panay	6/1/2022	CDP22-019	Admin CDP for the new construction of a two story residence	Incomplete Letter Sent 6/14	BLDG. - Approved 6/14/22 CO			gc
23	Vanderbyl	531	Yerba Buena	4/20/22	CDP22-015	Admin CDP for shed conversion into 468 sf ADU	Correction Letter sent 5/12/22. Resubmittal received 7/21/22 - review comments sent on August 6, 2022, requires resubmittal. Resubmittal received and planning and building disapproved based on fire/life/safety issues. Resubmittal required.	BLDG. - COND Approved 5/11/22 CO			nh
24	Hartman	320	Orcas St	4/14/22	CUP22-07/ CDP22-010	New SFR with attached garage to replace home destroyed in fire	Correction letter sent 5/1/22. Resubmittal received March 28, 2023. Planning comments sent on April 10, 2023, project requires resubmittal with changes. Planning Comments sent - requires a resubmittal. Resubmittal received and under review.	BLDG. - Approved 3/30/23 CO			nh
25	Luhr	1140	Allesandro Ave	1/20/22	CUP22-06 / CDP22-004/ TTM22-04	Live/work mixed use, new construction of 5 residential units and 2 commercial units	Comment letter provided 2/13/22. Project deemed complete - processing will continue once Vesting Tentative Map submittal is complete. Vesting map submittal received May 12, 2022. Planning sent comment letter on 5/28/22, requires resubmittal. Resubmittal received with tentative tract map submittal on August 9, 2022, under review. PW disapproved the VTM, comment sent to applicant on 9-17-22, requires a resubmittal of the VTM. Applicant working with Public Works on some design issues in the public right of way. Once resolved, resubmittal required with any changes.	BLDG. - Approved 2/14/22 CO			nh
26	Romero	563	Zanzibar	12/6/21	CDP21-048	Admin CDP for new 1978sf 2 story SFR with 533 sf garage and 2nd level 128sf deck	Incomplete letter sent 12/22/2021, Resubmittal 7/28, under review, resub on 12/21/22, request edits on 1/19/23.	BLDG. Approved 12/15/21 CO			gc
27	Morro Bay LLC (Keller)	1108	Front Steet	11/8/21	MAJ21-007	Major Modification permit for Expansion and extensive remodel of second floor short term rental unit.	Planning comments sent 11/23/21, requires resubmittal. Applicant may put this application on hold until the adoption of the new zoning code (i.e. includes street setbacks closer to the actual placement of the building) (needs the IP sections to be final via CCC approval)	BLDG. - Approved 11/17/21 CO			nh
28	Guesno	220	Atascadero Rd	10/4/21	MIN21-012	Minor Amendment - Change temporary outdoor dining area to permanent outdoor dining	Application will apply for a TUP for outdoor dining. This application is on hold until certification of new zoning code	NA			nh
29	Shorey	545	Atascadero Rd	3/30/21	CUP21-04/CDP21-013	Proposed 16 units of new townhomes on sloped vacant parcel	Project was reviewed and comments provided in 2021. Applicant requested to keep the project open and has been working with public works and caltrans on utility requirements and frontage improvements. Project resubmitted for review on April 19, 2023 - under review by all departments.				nh
30	Vistra	1290	Embarcadero	12/28/20	CDP20-026 & CUP20-14	Battery Energy Storage System (BESS) - New proposed project to construct 600MW BESS on old tank farm north of existing Morro Bay Power Plant. BESS to be constructed as 3 separate buildings, 30 feet in height plus 10 feet of screening for rooftop equipment.	Under initial review. Project deemed incomplete and incomplete letter sent 1-21-2021. Applicant resubmittal received 2-17-2021 and under review currently. Project deemed complete for processing on 2/23/2021. Project plans and documents being evaluated. Environmental review process in progress. NOP released and two scoping meetings held on 6/21/22 and 6/29/22. Environmental review and analysis still in process.	BLDG. - Approved 3/11/21 CO			cj
31		1290	Embarcadero		Master Plan	Morro Bay Power Plant Master Plan	The Master Plan for the Power Plant property was initiated in 2022 as a result of General Plan/LCP Policy LU-5.4 which requires a master plan be developed as a result of the planning permit application for the Battery Energy Storage System Project. Master Plan community workshop was held 9/14/22. Survey on the Master Plan done and tabulations still in process. The survey was done to seek additional community feedback on development of the Master Plan. The survey focused on the community's land use preferences, circulation improvements, and design amenities for the overall property.				cj
Projects Appealed to Planning Commission or PC Continued projects - none											
Projects Appealed or Forwarded to City Council											
	Green	1175	Scott Street	6/28/21	CDP21-025 CUP21-07	New construction of 3 hotel units including one ADA unit and a residential security unit	Review comments provided on July 21, 2021. Requires a resubmittal for review. Discussed project with applicant, expected to have resubmittal ready in November 2021. Applicant is reviewing alternative designs for the project, staff provided input on 2/14/22. Resubmittal received October 25, 2022 - reviewing under both zoning codes. The project was redesigned to include only one hotel unit and one residential unit. Planning disapproved and letter was sent to applicant on November 18, 2022, requires a resubmittal. Meeting with applicant to review planning comments on Dec. 13, 2022. Applicant to revise plans and resubmit. Resubmittal received 12/14/22. Project deemed complete on 12/27/22. Applicant is required to submit an additional study prior to scheduling planning.	BLDG. - Approved 12/21/22 CO			nh
Environmental Review - none											
Final Map Under Review Projects:											

#	Applicant/ Property Owner			Application Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
32	Huber	2783	Coral Ave	8/30/22	TTM22-03	5 unit residential subdivision	Planning approved, forwarded to PW.	BLDG. - Approved 4/14/22 CO			nh
Projects going forward to Coastal Commission for review (Pending LCP Amendments) / or State Department of Housing: - none											
Grants											
33	City of Morro Bay		City-wide			Community Development Block Grant/HOME Program - Urban County Consortium	Staff has ongoing responsibilities for contract management in coordination with County staff administration. City Council approved Cooperation Agreement for 2021-2023 CDBG Program Years at 5/26/20 Council meeting. Notice of Funding Availability for 2023 Program Year released fall 2022. Council draft recommendations considered 12/22 and final funding recommendations to be on 3-28-2023 to forward to County Board of Supervisors for inclusion in their Annual Action Plan 4/18/23. cj	No review performed.	N/R		cj
34	City of Morro Bay		City-wide			Climate Action Plan - Implementation	Staff has ongoing responsibilities for implementation of Climate Action Plan as adopted by City Council January 2014. Staff coordinating activities with other Cities and County of SLO via APCD.				cj
Projects in Building Plan Check:											
35	Castillo	1055	Allesandro St.	6/3/2021	B21-0097	250 sf addition to rear of existing SFR, addition creates two bedrooms and one full bath.	Planning disapproved 7/2/21. Resubmittal received 7/25/22. Resubmittal disapproved 8/01/22.	Bldg. - Disapproved 3/21/23			gc
36	Castillo	1055	Allesandro St.	7/25/2022	B22-0158	Jr. Accessory Dwelling Unit (JADU) - Existing bedroom in primary dwelling will be converted to JADU.	Planning disapproved 8/1/22	Bldg. - Disapproved 3/27/23			gc
37	Conway	305	Arbutus	1/4/2023	B22-0269	DIGEPLAN - 390 sf addition, expanding lower level family room and 2nd level primary bedroom & bath, the remodel includes kitchen and relocating two bathrooms to accommodate the installation of new elevator. The addition creates a 2nd level 378 sf rear deck.	Planning disapproved 1/26/23. st Waiting on resubmittal	Bldg. - Disapproved 1/25/23			st
38	Hibbard	990	Balboa	2/17/2023	B23-0028	DIGEPLAN - Kitchen and Bathroom remodel and new FAU installation in an existing 1329 sf SFR	Approved 2/23/23. st.	Bldg. - Approved 4/11/23			st
39	Goldstein	186	Bayshore Dr.	11/4/20	B20-0190	Remodel kitchen, dining & living area.	Planning disapproved 11-6-20	Bldg. - Approved 11/09/20			sg
40	Carter	2035	Bayview Ave.	8/5/21	B21-0135	New SFR, 1980 sf living, with 483 sf attached garage, 96 sf covered deck, 267 sf covered rear patio and 32 sf covered front porch.	Disapproved 8-26-21. am	Bldg. Disapproved 9/21/21			cj
41	Perry	3202	Beachcomber Dr	2/9/23	B22-0264	Demo existing, new construction of 2567 sf home iwth a 2424 sf subterranean garage on lower level and 963 sf roof deck. Home to be located on newly configured parcel (requires final TM)	Planning disapproved 2/19/23. nh	Bldg. - Disapproved 3/6/23			nh
42	Perry	3230	Beachcomber Dr	2/9/23	B22-0265	New SFR on new parcel. Home is 1816 sf with a 471 sf garage and a roof deck.	Planning disapproved 2/19/23. nh	Bldg. - Disapproved 3/6/23			nh
43	Segovia	2824	Birch Ave.	3/21/22	B22-0057	Cover patio, conversion to sunroom.	Disapproved 4/1/22	Bldg. - Approved 3/24/22			gc
44	Dillard	1256	Bolton	3/30/22	B22-0072	Convert Unfinished Underfloor Space in 986 sf of conditioned livable space	Disapproved 4/7/22. Resubmittal approved 7/29/22.	Ready to issue			am
45	Berner	2750	Dogwood Ave.	12/6/22	B22-0260	Add 235 sq of conditioned space, including a new bathroom, additions to bedroom and utility room, 297 sf, roof deck, spiral stair, ground floor deck (136 sf), less than 30" above existing adjacent grade.	Planning approved 2/28/23. st	Bldg. - Approved 3/2/23			st
46	Robinson	2940	Dogwood Ave.	7/12/22	B22-0148	Install (2) bay windows, replacing (2) windows of smaller dimension on W facing front of house. Living Room: replace 5'x5' window w/ 50"x81" bay window. Bedroom: replace 32"x44" window w/ 50"x81" window.	Planning disapproved 7/19/22	Bldg. Conditionally Approved 7/18/22			cj

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47	Davison	209	Dunes	2/21/23	B23-0040	DIGEPLAN - Interior Remodel, kitchen, fireplace, flooring.	Planning approved 3/2/23. st	Bldg. - Approved 3/27/23			st
48	Ciano	115	Easter St	1/11/23	B22-0283	DIGEPLAN: Interior remodel of existing ADU, relocate bedroom and kitchen/dinning and living area (reverse locations). Replace windows, doors, add skylights, wall mounted radiator, tankless water heater and other MEP.	Planning approved 2/2/23. st	Bldg. Disapproved 5/2/23			st
49	Gambrill	571	Embarcadero	2/22/22	B22-0035	Conversion of 839sf office space into 1 vacation rental unit. Extension of harborwalk and replacement of existing gangway and boatdocks.	Disapproved 3-8-21. Disapproved resubmittal 6-2-22. new resubmittal received 9/1/22 under review. Disapproved 10/3/22. Approved 1/20/23. cj	Ready to issue			cj
50	Redican	725	Embarcadero	3/14/22	B22-0049	The project consists of a 608 SF interior remodel of the existing arcade retail space into an extension of the commercial kitchen prep area. All work is exclusive to the interior of the lower level with no impacts to the site, exterior elevation or occupant circulation of the existing building.	Disapproved 3-17-22. Resubmittal received 6-23-22 and conditionally approved 8/25/22	Ready to issue			cj
51	TLC Family Enterprises	833	Embarcadero	3/16/22	B22-0052	Addendum #1 to B20-0220 - Removal of parapet wall which requires removing steel post below and show railing on upper level. Revert back to cantilevered floor joists for hotel access walkway upstairs.	Disapproved 3-21-22	Bldg. - Disapproved 4/18/22			cj
52	Guldenbrein	481	Estero Ave	1/5/23	B23-0003	New fencing & retaining walls, exterior electrical grading & catch basin installation w/pump in front yard. (see plans)	Disapproved 1/19/23	Bldg. - Disapproved 1/18/23			st
53	Godfrey	396	Hill St.	12/7/22	B22-0261	Addendum #2 to B21-0045 Relocate hold down along grid 1 at basement	Ready to issue	Ready to issue			
54	Wilkie	476-A	Hill St.	3/26/20	B20-0057	ATTACHED ADU - Convert existing attached garage to 344 sf Accessory Dwelling Unit.	Correction letter sent 4/30/20.	Bldg. - Approved 4/8/22			nh
55	Duffy	2865	Ironwood Ave	4/24/23	B23-0087	Addendum #1 to permit B22-0201 - 1. Lower floor existing 2x4 exterior walls were shown in new plan as 2x6, but were not shown as being "demo'd". 2. Additional SF has been built inside garage space. 3. Structural beams and corresponding footing in slab removed.	Disapproved 4/27/23	Bldg. - Disapproved 5/1/23			st
56		2990	Ironwood Ave	3/2/23	B22-0285	DIGEPLAN - New three story SFR - 3799 sf living, 926 sf attached garage, with 2nd and 3rd floor decks totaling 210 sf, 562 sf covered patios and 535 sf under floor storage area.	Disapproved 3/9/23	BLDG. - Disapproved 3/27/23			GC
57	Lent	194	Island St	1/10/23	B23-0006	Remodel existing bonus room and portion of garage to ADU, construct new rooftop deck over portion of remodel/converted ADU.	Resubmittal needed. Planning approved 4/20/23	Bldg. - Approved 4/24/23			nh
58	Johnston	2781	Juniper Ave.	6/2/21	B21-0094	New 463 sf 2nd story deck at rear of existing SFR, also replace five existing windows with three new sliding glass doors.	planning disapproved 6/3/21. Planning approved resubmittal 7-20-21.	Ready to issue			sg
59	Cook	2941	Juniper	10/26/22	B22-0243	Demo unpermitted studio at lowest level of existing SFR and convert that space with additional underfloor space to create new workout area, bathroom, theatre, storage, and stairs to access upper levels adding aprox. 906 sf to SFR.	Planning approved 10/31/22	Ready to issue			SG
60	Tarver	671	Kern Ave	12/22/22	B22-0271	DIGEPLAN: New 255 SF attached Accessroy Dwelling Unit (ADU)	Planning resubmittal approved 4/5/23	Bldg - Approved 3/28/23			gc
61	Cia	2551	Koa Ave.	2/23/22	B22-0038	New 3 bed 2.5 bath SFR w/attached 2-car garage.	Planning Approved resubmittal 6/28	Ready to issue			gc
62	Daniels	964	Las Tunas St.	8/3/21	B21-0133	Remodel the laundry room & add a bedroom, bathroom & hallway to the back of existing home in phase I. Phase 2, build a detached garage	Planning approved 5-12-22	Bldg. - Approved 5/16/21			sg
63	Castro	979	Las Tunas St.	1/19/23	B23-0013	Conversion of existing detached garage & work shop to ADU - 642 sf, no addition.	Planning approved 2/1/23. gc.	Bldg. - Approve 4/26/23			gc
64	Hansen	2485	Laurel	3/27/23	B23-0058	Repair fire damage to attached garage, kitchen & utilities room.	Planning approved 4/10/23	BLDG. - Approved 4/12/23			SG
65	Drenick	2530	Laurel Ave.	9/22/21	B21-0174	Reconstruction of 560 sf two-car garage, garage foundation and 560 sf rooftop deck over garage. See permit B21-0141 for separate demolition permit for these structures.	Disapproved and Correction Letter sent 10/5/21. Planning approved 7/27/22	Bldg. - Approved 8/4/22			am

#	Applicant/ Property Owner			Application Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
66	Kevorkian	2615	Laurel Ave.	1/10/23	B23-0005	Addendum #1 to B22-0183, Change the deck configuration to reduce square foot to below existing square foot.	Planning disapproved and sent incomplete comment letter on 1/27/23.	Bldg. - Approved 1/17/23			gc
67	Elliott	2620	Laurel Ave.	4/14/22	B22-0082	New SFR 2.5 story with attached garage.	Planning disapproved 4/16/22. Resubmittal disapproved 6/25/22. Planning approved 7/21/22	Ready to issue			nh
68	Novell/Johnson	273	Main	2/23/23	B23-0038	DIGEPLAN - 73 sf stairway addition to existing home to create interior connection between the upper and lower floors.	Planning disapproved 3/6/23. Waiting on resubmittal. Cj	BLDG. - Disapproved 3/2/23			cj
70	Peter	890	Main	3/7/23	B23-0043	DIGEPLAN -Remodel 990 sf one story commercial building, includes new floor and wall finishes, new furred wall, ADA improvements to restroom, one doorway, and new light fixtures. New ADA parking isle and space.	Planning approved 3/14.	BLDG. - Disapproved 4/10/23			sg
71	Peter	890	Main St.	2/13/19	B19-0026	ADA and parking lot improvements. ADA stall to be relocated closer to street and make van accessible.	Approved on 3/11/19 - sg	Bldg. - Approved 2/27/19	Disapproved on 4/15/19		sg
72	Sonic	1840	Main St.	10/17/17	B-	Sonic Drive-in Restaurant, 1395 sf building, 1020 sf covered patio, 2646 sf covered parking	Corrections sent 12-8-17. Resubmitted 3-2-18. Application incomplete and corrections sent 4-5-18. Resubmittal received and unaddressed corrections sent back 7-19-18. Project required to underground utilities. Utility plan and coordination with public utilities in process. cj. Requested permit extension. Awaiting resubmittal. Requested Permit Extension. Planning permit extension requested and granted to allow new permit expiration of April 2021. Emailed applicant 3-19-2021 advising them of permit expiration date and extension opportunities. No recent activity. Planning permit expires 4/18/2023.	BLDG - Disapproved by California Code Check (contract building inspection services (see memo) on 7-23-18. PB	Disapproved by jb on 11-21-17.	1-2-18 - Emailed BLDG (code ck) comments to architect. PB	cj
73	CenCal Enterprise, INC	2030	Main St.	9/21/22	B22-0232	The scope of work has changed. Applicant is now proposing to convert an existing space into an office space, and staff is awaiting the withdrawal of MIN22-005 to proceed with the Building Permit review process.	Planning approved 1/11/23	Bldg. - Disapproved 11/15/22			gc
74	Timothy and Allyson Cleath Family Trust	2790	Main St	11/8/22	B22-0248	Addendum to B22-0106, Modification to drain collection for parking lot. Sheets C-3 and C-4 revised. No change in flow to the bioswale per attached statement from civil engineer.	Approved 11-10-22. nh	Bldg - Approved 11/8/22			nh
75	Hauser	311	Mindoro St	1/3/23	B23-0001	Remove existing second floor cantilevered deck (615 sf), replace with (187 sf) deck.	Planning approved 2/3/23	Bldg. - Ready to issue			sg
76	Allen	310	Morro Bay Blvd.	5/2/23	B23-0093	Addendum #1 to permit B22-0040 - Adding two non-structural walls with doors to create office spaces within originally approved tenant space.	Approved 5/4/23	Bldg. - Disapproved 5/3/23			sg
77	Peterson	390	Morro Bay Blvd.	4/6/23	B23-0070	Addendum #1 to permit B22-0171 - Omit lower level windows in (E) openings from eastern elevation, add upper level windows in (E) openings. Add new window on northern elevation in (E) opening where ATM was formerly located.	Planning approved 4/6/23	Bldg. - Approved 4/10/23			nh
78	Orrom Properties	507	Morro Bay Blvd.	4/17/23	B23-0080	Install separation wall between this until and 828 Napa Ave, add accessible entry door and restroom.	Planning - Disapproved 4/20/23	Bldg. Disapproved 5/4/23			nh
79	JP Morgan Chase Bank	595	Morro Bay Blvd.	3/31/22	B22-0060	Installation of one solar carport, 99' 3 1/16" X 16' 7 3/8", with 15 modules, wall mounted PV equipment and four carport mounted lights, located in the existing Chase Bank parking lot.	disapproved 4/7/22	Bldg. - Disapproved 5/17/22			am
80	Orrom Properties	840	Napa	3/21/23	B23-0057	Interior renovation, replace windows, doors, electrical.	Planning approved 3/24/23	Bldg. - Approved 3/27/23			sg
81	Orrom Properties	860	Napa	3/29/23	B23-0066	New reconfigured exterior stairs and landing to replace existing, remove wood side, replace w/ stucco, new trash enclosure under stairs. Interior work consists of electrical, mechanical, range hood vent, and replace window for egress.	Planning approved 4/10/23	BLDG. - Approved 4/10/23			sg

#	Applicant/ Property Owner			Application Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
82	Mollaghaffari & Hawes	427	Oahu St.	5/5/22	B22-0087	New 2nd floor single family residence, 1048 sf living, with a 258 sf 2nd story deck, and 255 sf single car garage. (The garage and an ADU make up the 1st floor level, see permit B22-0088 for attached ADU).	Planning disapproved 5-12-22. Planning approved 1/20/23	Ready to issue			nh
83	Mollaghaffari & Hawes	427-A	Oahu St.	5/5/22	B22-0088	Attached ADU - 702 sf Accessory Dwelling Unit.	Planning disapproved 5-12-22/ Planning approved 1/20/23	Ready to issue			nh
84	Dowty	580	Olive	3/7/23	B23-0049	Removal of an existing 461 sf detached garage and construction of a new 1051 sf ADU.	Planning disapproved 4/4/23	BLDG. - Disapproved 3/30/23			st
85	Currey	154	Orcas St.	3/23/22	B22-0062	Remodel & additions to kitchen, entry, & masterbedroom.	Disapproved 4/11/22	Bldg. - Approved 12/1/22			gc
86	Currey	154-A	Orcas St	3/23/22	B22-0063	171 sf addition as an ADU	Disapproved 4-11-22	Bldg. - Approved 12/1/22			sg
87		965	Pelican	2/27/23	B23-0044	Addition to existing bathroom for a shower, 42 sf. Also reconfiguring existing bathroom.	Planning disapproved 3/2/23	BLDG. - Approved 3/2/23			st
88	Appel	400-A	Pico St	8/18/21	B21-0149	Convert existing garage to an ADU without changing the footprint of the garage.	Approved 8/25/21	Bldg. Disapproved 9/10/21			am
89	Lee	684	Piney Way	9/10/20	B20-0168	Demo existing detached 416 sf work shed with bathroom & reconstruct new 416 sf garage/shop with electrical, keeping existing bathroom on existing slab/foundation.	Planning disapproved 9/15/20. Requires a Admin CDP and Parking Exception prior to review and approval of the building permit. Planning disapproved resubmittal 2/24/21.	Bldg. - Disapproved 3/1/21			nh
90	Giannini	750	Radcliff Ave.	7/22/19	B19-0156	Remove three existing panel antennas, three radio and replace with three radio intergrated antennas and assoicated cabling. Install equipment expansions to the top of existing cabinets (approx 1'2") with associated electrical wiring.	Approved 9/26/19.	Ready to issue			cj
91	Macias/Mudge	153	Rennell	11/9/22	B22-0249	Construct new 1-story SF residence with 1,478 sf living area and 441 sf attached 2-car garage. There will be a 225 sf covered porch and 295 sf roof deck.	Planning disapproved 2/22/23. Planning approved 4/27/23	Bldg - Approved 2/23/23			gc
92	Nagy	646	Sequoia Ct.	4/20/22	B22-0085	New 2-story SFR, 3513 sf living, 1220 attached basement level garage, and 1156 sf covered patio.	Planning disapproved - project needs resubmittal to include conditions of approval and more detailed lanscape plan. Planning approved July 5, 2022.	Ready to issue			nh
93	Hanton	425	Shasta Ave	1/17/23	B23-0004	DIGEPLAN - Enclose the current breezeway to create a new 90 sf entry, a 350 sf addition creating a primary suite and bathroom, also create a valuted space in the existing garage by removing roof and replace with new composition roof.	Planning disapproved 2/16/23	Bldg. Disapproved 2/14/23			gc
94	Parker	580	Shasta Ave	8/31/20	B20-0159	Add new detached garage	Planning under review. Planning disapproved 9/8/20. Need resubmittal	Bldg. - Disapproved 9/14/20			nh
95		242	Surf St	2/23/23	B22-0282	DIGEPLAN - Demo existing 340 sf detached non-conforming garage and construct new 232 sf conforming garage with new 380 sf Accessory Dwelling Unit (ADU) atop and along side of new garage.	Planning disapprove 3/17/23. Planning approved 4/20/23	BLDG. - Disapproved 4/24/23			NH
96	Stanton	351	Trinidad	3/26/19	B19-0054	Repairs to existing 200 sf rooftop deck. Replace all dry-rot structural members, install new waterproof membrane,, new copper drip edge flashing, replace plaster, replace guardrail if needed.	Disapproved 4/11/19. Awaiting resubmittal. Permit applciation expired	Bldg. - Approved 3/27/19			wu

#	Applicant/ Property Owner			Application Date	Permit Numbers	Project Description/Status	Planning Comments and Notations	Building/Fire Comments and Notations	Engineering Comments and Notations	Harbor/Admin Comments and Notations	Project Planner
97	Regan	429	Tulare Ave.	5/27/22	B22-0106	531 sf second floor addition that includes a study and bathroom, stairwell and a 200 sf second story deck.	Planning Approved 6/7	Ready to issue			gc
98	Morro Bay Ventures	201	Verdon Ct.	1/4/23	B22-0273	DIGEPLAN - New single story, single-family residence, 2,361 sf living, with 483 sf covered porch and a 450 sf attached garage.	Planning disapproved 1/11/23	Bldg. - Disapproved 2/3/23			nh
99	Morro Bay Ventures	202	Verdon Ct.	1/4/23	B22-0277	DIGEPLAN - New single story, single-family residence, 2,361 sf living, with 483 sf covered porch and a 450 sf attached garage.	Planning disapproved 2/2/23	Bldg. - Disapproved 2/3/23			nh
100	Morro Bay Ventures	205	Verdon Ct.	1/4/23	B22-0274	DIGEPLAN - New single story, single-family residence, 2,312 sf living, with 168 sf and 250 sf covered porches and a 485 sf attached garage. See permit B22-0279 for attached ADU.	Planning disapproved 1/11/23	Bldg. - Disapproved 2/3/23			nh
101	Morro Bay Ventures	205-A	Verdon Ct.	1/4/23	B22-0279	DIGEPLAN - New 517 sf attached Accessory Dwelling Unit (ADU). See permit B22-0274 for new SFR.	Planning disapproved 1/11/23	Bldg. - Disapproved 2/3/23			nh
102	Morro Bay Ventures	206	Verdon Ct.	1/4/23	B22-0276	DIGEPLAN - New single story, single-family residence, 2,312 sf living, with 168 sf and 250 sf covered porches and a 485 sf attached garage.	Planning disapproved 1/11/23	Bldg. - Disapproved 2/3/23			nh
103	Morro Bay Ventures	210	Verdon Ct.	1/4/23	B22-0275	DIGEPLAN - New single story, single-family residence, 2,312 sf living, with 168 sf and 250 sf covered porches and a 485 sf attached garage. See permit B22-0280 for attached ADU.	Planning disapproved 1/11/23	Bldg. - Disapproved 2/3/23			nh
104	Morro Bay Ventures	210-A	Verdon Ct.	1/4/23	B22-0280	DIGEPLAN - New 517 sf attached Accessory Dwelling Unit (ADU) - See permit B22-0275 for new SFR.	Planning disapproved 1/11/23	Bldg. - Disapproved 2/3/23			nh

Planning Projects & Permits with Final Action:

105	Smartlink/ AT&T	590	Morro Ave	12/5/2022	M AJ22-001	Permit amendment for proposed modifications to existing AT&T rooftop cell site	Under review. Incomplete letter sent 12/15/22. Resubmitted 1/31. Project deemed complete and scheduled for PC hearing on 5/16/23. Approved with conditions by PC on 5/16/23.	BLDG. - 12/8/22 CO			cj
106	Jasso	2515	Greenwood	2/22/22	CDP22-006	Admin CDP for new SFR with 2 car garage and detached ADU	Comment Letter Sent 3/17/22. Project resubmittal received 3/15/23 - comment letter sent on 3/27/23. Resubmittal received 3/30/23, under review. Project deemed complete, public noticing from 4/21 to 5/2/23. Permit decision to be made on May 3, 2023. Project was approved and permit issued on May 3, 2023	BLDG. - COND Approved 2/24/22 CO			nh
107	Bean	197	Main Street (formerly known as 199 Sandpiper)	12/19/19	CUP19-20, CDP19-04, VAR20-001	CUP/CDP for new home on triangular small parcel on the bluff. Proposed home is 526 sf 2-stories with access easement to Main Street	Project deemed incomplete, comment letter sent January 7, 2020. Resubmittal received 10/26/20 adding a variance request, under review. Incomplete, need resubmittal. Resubmittal received September 14, 2021, under review. Incomplete letter sent on Oct 4, 2021. Resubmittal received 10/29/21. Planning comment letter sent November 10, 2021, requires resubmittal. Project deemed complete and scheduled for planning commission on May 17, 2022. Planning Commission denied the project, and the owner has appealed. Scheduled for City Council, August 23, 2022 at the request of the applicant. City council upheld the appeal and approved the project. Project appealed to California Coastal Commission, pending review.	BLDG. - Approved 12/20/19 CO			nh
108	Orgill	3009	Beachcomber	7/19/22	CDP22-023	Demo of existing home that is structurally unsound, and rebuild new 3335 sf home with a 715 sf garage/trash area. Existing home was the Jim Maul residence.	Comments sent August 6, 2022, requires resubmittal and will require updated Architectural Historic Resource review based on the new plan and the structural report. Resubmittal received October 20, 2022, project was deemed complete November 2, 2022. Scheduled for Planning Commission hearing on December 20, 2022. Public notice to begin on December 9th, 2022. PC continued hearing to January 17, 2023. Project approved by PC on January 17, 2023, permit issued. Project appealed on January 25, 2023, but appears to be a concern around an issue unrelated to the subject property. Appeal determined to be unrelated to the project and was rejected. Project is approved with valid permit. Project appealed to Coastal Commission, pending CCC review and determination. Appeal to Coastal Commission was withdrawn, the planning permit is now final.	BLDG. - Approved 8/3/22 CO			nh

Staff Directory:
 Scot Graham - sg Chad Ouimet - co Cindy Jacinth - cj Pam Newman - pn Nancy Hubbard - nh Gabby Cortez - gc Susana Toner - st



AGENDA NO: B-1

MEETING DATE: June 6, 2023

Staff Report

TO: Planning Commission

DATE: May 31, 2023

FROM: Scot Graham, Community Development Director

SUBJECT: Appeal of Director’s decision (MSC23-001): Patrick Najjar, resident of property located at 413 Arcadia, filed an appeal on March 15, 2023, of the Directors decision finding a shed located in the side setback of the subject property in violation of Morro Bay Municipal Code section 17.48.040.B. Section 17.48.040.B requires accessory structures in R-1 zone districts comply with the setbacks of the zone. The appellant contends that the accessory structure (shed) is exempt from the setback requirements as it is a temporary, nonpermanent building. The project zoning is R-1 (Single Family Residential) and the site is not located within the coastal appeals jurisdiction.

RECOMMENDATION

1. Deny the appeal and uphold the Director’s interpretation that the shed does not comply with the five foot side yard setback requirement for accessory structures.

ALTERNATIVES

1. Continue appeal and provide direction to staff regarding desired actions
2. Uphold the appeal and provide staff with direction, including findings.

APPELLANT/OWNER: Patrick Najjar, 413 Arcadia

LEGAL DESCRIPTION/APN: 413 ARCADIA AVE/ 066-202-014

BACKGROUND:

The City of Morro Bay received a complaint regarding the construction of a shed in the side yard setback of the property located 413 Arcadia in June of 2021. Staff conducted a site visit to the address and discovered the shed had been constructed within the north side yard setback. Code enforcement staff sent Mr. Najjar a letter dated June 18, 2021, directing the shed to either be removed or relocated to an area of the outside the side setback.

Current setback requirements for accessory buildings can be found in section 17.48.040.B of the Morro Bay Municipal code (1995 zoning code). Section 17.48.040.B reads as follows:

01181.0005/718458.3

Prepared By: ____NH____ Department Review: ____ ____

17.48.040 - Accessory buildings.

A...

B. Attachment. Where an accessory building is attached to the main building, it shall be made structurally a part of and have a common roof system with the main building, and shall comply in all respects with the requirements of this title applicable to the main building. Unless so attached, an accessory building in an R district shall meet the setback, height and coverage requirements of the zone and be at least six feet from any dwelling existing or under construction on the same lot or any adjacent lot, except temporary, nonpermanent buildings. (Ord. 445 § 3 (part), 1995)

The property is located in the R-1 zone where the side yard setback requirement is **“10% of the average width of lot with 5 ft. maximum and 3’ minimum”**, pursuant to Table 17.24.040 of the Morro Bay zoning code.

Lot width for the subject property is 50 feet, resulting in a 5’ minimum side yard setback requirement for accessory structures. The shed is considered an accessory structure consistent with the definition of “Accessory Structures” found in section 17.12.015 of the Morro Bay Municipal code. See definition below.

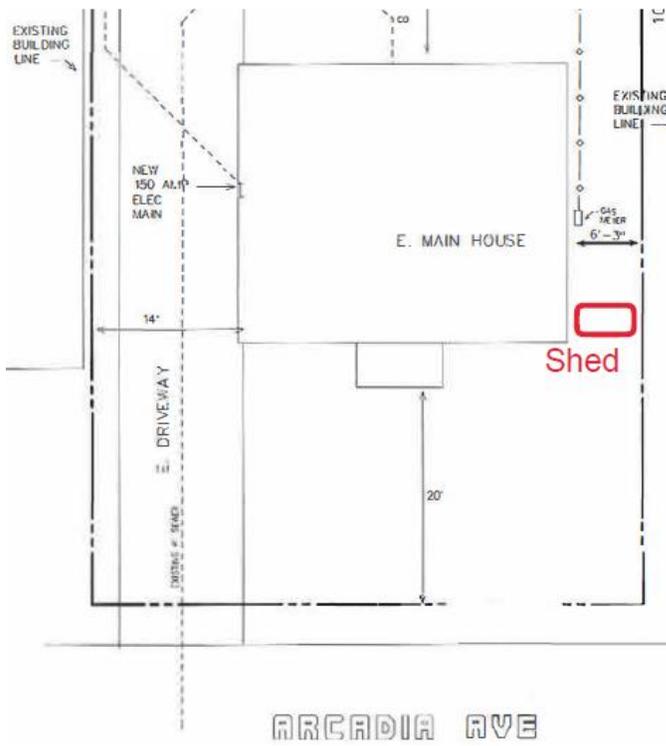
- **17.12.015 - Accessory structures.**

"Accessory structures" means a building, part of a building or structure that is detached from the main building and the use of which is incidental to the main building, such as but not limited to detached garages, detached decks, storage buildings and gazebos.

(Ord. 445 § 3 (part), 1995)

Shed Location

01181.0005/718458.3



PICTURE OF SHED



01181.0005/718458.3

GROUNDS FOR APPEAL AND STAFF RESPONSES

Staff has provided the stated grounds for appeal below, followed by a staff response. *Note: The applicant grounds for appeal letter is provided as Exhibit B to the staff report.*

1. APPELLANT GROUNDS FOR APPEAL:

Was told where/what I could build before having the pre-fab shed built, built based on the information given by planning department, that as long as it was under 120sqft and 8' tall it had no foundation and was not a permanent structure then it could go anywhere behind my backyard fence as long as it was not in the front or corner setbacks. They gave me papers showing this from old and new code and highlighted the information.

Staff response: *It appears the appellant is confusing the timing of discussions related to the allowance of small structures under 120 square feet and 8 feet in height. This language is not in our 1995 code. This language was in our draft zoning code at the time Mr. Najjar indicated he spoke with staff about shed requirements prior to construction of the shed. This was not something staff was providing to the public as an option for shed location at that time.*

2. APPELLANT GROUNDS FOR APPEAL:

Was told by Scot Graham, after telling him that I had a complaint from a neighbor that resulted in a complaint from the city that it would need to be moved, then after he asked multiple questions about the structure; asked all about it but he was most concerned if it had a permanent foundation or if it just sat on the ground. The nonpermanent structure at 413 Arcadia just sits on the ground with no foundation. He said that the nonpermanent structure was within code and to rest assured it would not need to be moved. He also asked me to hold on the phone as he went to check the new code that was being updated - to see if it would be a problem under that code. As of that time and over a year later when I checked the updated code the shed was still legal under the new code. "Shall not encroach" on front & street side setback; and; "Max extend to lot line" on interior and rear setback.

Staff response: *I did discuss options for location of the shed at length with Mr. Najjar in late June of 2021. We did discuss whether the shed could be considered a temporary non-permanent building, but there really was no way to make that finding as the shed is not a temporary non-permanent building. Staff did look into whether the new zoning code would allow for the shed in its current location. The draft code, at the time, would have allowed it in the present location and Staff made the decision to allow the shed to remain until the new zoning code was adopted. This decision was made because it did not seem fair to require the shed to be moved if the new zoning code was going to allow for the shed in its current location.*

The Planning Commission, as part of their final review of the draft zoning code, made the recommendation to City Council to change the language for location of small structures to the following:

"small structures less than 8 feet in height and 120 square feet in size may

01181.0005/718458.3

extend to lot line (for interior and side setbacks) when located behind the primary structure". Per Table 17.23.050 of the 2022 Zoning Code.

The City Council adopted the new zoning code in November of 2022 with the above reference code language included. The new zoning code is currently pending Coastal Commission certification.

3. APPELLANT GROUNDS FOR APPEAL

All facts were asked/answered in that call with Scot Graham, shed was behind my backyard fence, it sat on the side of house between my house and my neighbors house, the roof slanted all the way to the fence line, shed was located in corner of backyard up against house between house and property line and took up that whole space from house to property line. Scot Graham was complete in his questions and said many times regardless of what concerns I brought up he was sure of himself that there would not be any problems, to "Rest assured" that I would not have to worry about or move the shed.

Staff response:

I did discuss options for location of the shed, but I did not tell Mr. Najjar that the shed was considered temporary or non-permanent under our code. I did indicate staff would look into this concept further. The ultimate decision was to suspend enforcement actions until final decision was rendered on the new zoning code. Mr Najjar was aware of this decision.

4. APPELLANT GROUNDS FOR APPEAL

Was also told by Scott Collins the same information, he asked about the foundation and explained it was a nonpermanent structure and would not need to be moved. I had also talked to staff in the office before building and multiple times after who said the same things. I appealed their decisions prior in writing one by one as they came and in the end they told me to do improvements on the shed and in reliance of all the information I improved it with a gutter. That should have been the end of the story, not change the code and come after someone for what you wrote in the code after it was built.

Staff Response: *Staff cannot speak to a conversation Mr. Najjar may have had with former City Manager Collins as he is no longer employed with the City of Morro Bay.*

The shed would not be considered a temporary, non-permanent structure and staff was unable to find any examples of the City making similar interpretation in the past.

The only appeal of this issue was submitted on March 15, 2023.

As for the placement of the gutter, that was done at the direction of code enforcement staff in a letter sent to Mr. Najjar on November 10, 2021. The letter also included reference to the fact the City was holding off on enforcement of the shed location issue pending City adoption of the new zoning code.

As for the drainage issue, a portion of the shed, as originally constructed, drained rainwater onto the adjacent property to the north and Mr. Najjar was informed this was not permissible. Mr. Najjar eventually rectified this issue.

5. APPELLANT GROUNDS FOR APPEAL

They are now trying to argue they were waiting for the new code to see if it fit within that code but it did fit within that code at the time of building and all their information, they added the line 18 months later saying "When located behind primary residence". Why would they need to wait for the new code if it was not legal to begin with? It was legal to begin with and they wrote me out of the code and then try to enforce it after the fact. The shed has been looked at by the Fire department twice and the fire chief said it was not a code violation and he would not have a problem with it, there is no public danger or problem with the shed, my neighbor just does not like looking at it; or has irrational fears of fire while the shed has already been inspected by the fire department and was no issue; or of water which I put up a gutter for.

Staff Response: See response to Grounds for Appeal item 2 above.

The Fire Department does not determine compliance with the City of Morro Bay zoning code governing accessory building requirements.

APPEAL REQUESTED ACTIONS

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

1. Allowance of shed to stay in location. Legal under old code and after forcing improvements and 18 months in place legal nonconforming under new code (was legal under new code before code changed after built). To also protect my house form mold issues caused before placement of shed.

Staff response: shed is not allowed under either code, as indicated earlier in the staff report.

2. Rescind City of Morro Bay Ticket #14360. Ticket for enforcement of code that does not apply to nonpermanent structures.

Staff response: Shed is a violation of the municipal code and unless PC makes some other interpretation in relation to the shed the citation will stand. Revocation of the administrative citation is not under the purview of the Planning Commission.

3. Rescind City of Morro Bay Ticket #14365 – another ticket for same enforcement

Staff response: See staff response to item 2 above.

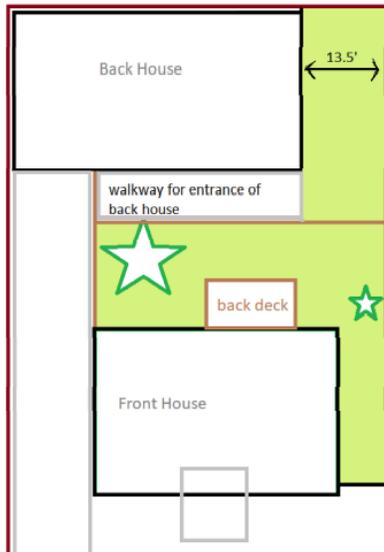
PUBLIC NOTICE

Notice of this item was published in the San Luis Obispo Tribune newspaper on May 26, 2023, 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 appeal or related to the proposed project.

CONCLUSION

The City received a code enforcement complaint regarding the construction of a shed in the side yard setback of the property located at 413 Arcadia in June of 2022. A letter was sent to Mr. Najjar informing him that the shed could not be located within the setback pursuant to Zoning Code section 17.48.040.B. Mr. Najjar corresponded with code enforcement and the Community Development Director on the issue, with staff eventually agreeing to pause enforcement on the shed until the new zoning code was adopted as the draft zoning code would have allowed for the shed in its current location. When the new zoning code was adopted in November of 2022 by City Council, the language for small structures was changed to allow them in the rear and side yard, but with the requirement that they be behind the primary structure. Code enforcement staff subsequently sent Mr. Najjar a letter on December 7, 2022, informing him that the new code would not allow the shed in its current location and directing the shed be relocated to an area behind the primary structure.

Mr. Najjar subsequently contacted the City regarding options for relocation of the shed in February of 2023, providing the figure below as an option to resolve the issue.



01181.0005/718458.3

Ultimately Mr. Najjar failed to relocate the structure as directed and citation issuance followed.

Staff recommends that the Planning Commission adopt Resolution 10-23 denying the appeal of Staff's decision and finding the shed at 413 Arcadia in violation of zoning code section 17.48.040.B. Section 17.48.040.B requires accessory structures to meet the side setback of the R-1 zone, which in this case is 5-feet. The width of the side setback in the area of the shed is approximately six feet with the shed occupying most of it.

ATTACHMENTS

Exhibit A: Resolution 10-23 (deny appeal)

Exhibit B: Appeal received from Appellant dated March 15, 2023

RESOLUTION NO. 10-23

**RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MORRO BAY DENYING AN APPEAL BY PATRICK NAJJAR OF A
DIRECTOR'S DECISION FINDING THE LOCATION OF A SHED AT 413 ARCADIA IN
VIOLATION OF MORRO BAY MUNICIPAL CODE SECTION 17.48.040.B**

WHEREAS, the Planning Commission of the City of Morro Bay (the "City") conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on June 6, 2023, conducted in a hybrid format with both an in-person meeting at the Morro Bay Veterans Memorial Building, 209 Surf Street, Morro Bay, CA 93442 as well as through virtual public participation provided telephonically through Zoom, for the purpose of considering an appeal by Patrick Najjar of a Director's decision finding a shed located in the required five-foot side setback of the property located at 413 Arcadia Ave. in violation of Morro Bay Municipal Code section 17.48.040.B; and

WHEREAS, on June 18, 2021, code enforcement staff sent a letter to Mr. Najjar informing him that the newly constructed shed violated accessory building setback requirements found in section 17.48.040.B of the Morro Bay Municipal Code; and

WHEREAS, on March 15, 2023, Patrick Najjar filed an appeal of the Director's decision finding the shed in violation of Morro Bay Municipal Code section 17.48.040.B and requesting the shed be determined a temporary non-permanent building and therefore compliant with zoning code section 17.48.040.B; and

WHEREAS, the Planning Commission conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on June 6, 2023, to consider an appeal of the administrative 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 Planning Commission has duly considered all evidence, the testimony of the Appellant 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 2: Findings. Based upon all the written and oral testimony and evidence presented to the Planning Commission at and for the above public hearing, the Planning Commission concurs with the Director's decision to find the shed in violation of Morro Bay Municipal code sections 17.48.040.B, and 17.24.040 as noted below:

- A. The shed constitutes an accessory structure as identified in section 17.12.015 of the Morro Bay Municipal Code (MBMC) which is defined as follows:

- **17.12.015 - Accessory structures.**

"Accessory structures" means a building, part of a building or structure that is detached from the main building and the use of which is incidental to the main building, such as but not limited to detached garages, detached decks, storage buildings and gazebos. (Ord. 445 § 3 (part), 1995)

- B. The side yard setback requirement in the R-1 zone is five foot pursuant to section 17.24.040 of the MBMC.
- C. The shed is considered an accessory structure in an R district and must comply with the five-foot side yard setback requirement of the zone. The shed is not considered temporary or non-permanent building and the City has no past practice of considering sheds as such. Section 17.48.040.B - Accessory buildings, reads as follows:

17.48.040.B – Accessory Structures. Attachment. Where an accessory building is attached to the main building, it shall be made structurally a part of and have a common roof system with the main building, and shall comply in all respects with the requirements of this title applicable to the main building. Unless so attached, an accessory building in an R district shall meet the setback, height and coverage requirements of the zone and be at least six feet from any dwelling existing or under construction on the same lot or any adjacent lot, except temporary, nonpermanent buildings. (Ord. 445 § 3 (part), 1995)

Section 3. Action. The Planning Commission does hereby deny the appeal filed on March 15, 2023, by Patrick Najjar, and upholds the Director’s interpretation that the shed violates the five foot side yard setback requirement for accessory structures as defined in section 17.48.040.B, and 17.24.040 of the MBMC, through approval of Resolution 10-23.

PASSED AND ADOPTED by the Planning Commission of the City of Morro Bay at a regular meeting thereof held on this 6th day of June 2023 on the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

William Roschen
Planning Commission Chair

ATTEST

SCOT GRAHAM, Secretary

744
MSC23.001



CITY OF MORRO BAY

Community Development Department
 Planning Division
 955 Shasta Avenue
 Morro Bay, CA 93442
 (805) 772-6261

APPEAL FORM

In CCC Appeals Jurisdiction?

- YES – No Fee
 NO – Fee Paid: Yes No

\$324.00 -
OK

Project Address being appealed: 413 Arcadia Ave	
Appeal from the decision or action of (governing body or City officer): <input checked="" type="checkbox"/> Administrative Decision <input type="checkbox"/> Planning Commission <input type="checkbox"/> City Council	
Appeal of action or specific condition of approval: Appealing the decision to force the movement of the nonpermanent structure	
Permit number and type being appealed (ie. coastal permit, use permit, tentative subdivision): NA	
Date decision or action rendered: 3/6/23 (@2/1/23)	
Grounds for the appeal (attach additional sheets as necessary): Attached - First sheet has grounds for the appeal, rest are information to back up statements.	
Requested relief or action: #1 Allowance of shed to stay in location. Legal under the old code and after forcing improvements and 18 months in place, legal nonconforming under the new code (was legal under new code before code changed after built). To also help protect house from mold issues caused before placement of shed. #2 Rescind City of Morro Bay Ticket #14360 - Ticket for enforcement of code that does not apply to nonpermanent structures. #3 Rescind City of Morro Bay Ticket #14365 - Another Ticket for same enforcement	
Appellant (please print): Patrick Najjar	Phone: 805-801-4361
Address: 413 Arcadia Ave, Morro Bay CA 93442	
Appellant Signature:	Date: 3/15/23

FOR OFFICE USE ONLY

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

Grounds for appeal:

Was told where/what I could build before having the pre-fab shed built, built based on the information given by planning department, that as long as it was under 120sqft and 8' tall it had no foundation and was not a permanent structure then it could go anywhere behind my backyard fence as long as it was not in the front or corner setbacks. They gave me papers showing this from old and new code and highlighted the information.

Was told by Scot Graham, after telling him that I had a complaint from a neighbor that resulted in a complaint from the city that it would need to be moved, then after he asked multiple questions about the structure; asked all about it but he was most concerned if it had a permanent foundation or if it just sat on the ground. The nonpermanent structure at 413 Arcadia just sits on the ground with no foundation. He said that the nonpermanent structure was within code and to rest assured it would not need to be moved. He also asked me to hold on the phone as he went to check the new code that was being updated - to see if it would be a problem under that code. As of that time and over a year later when I checked the updated code the shed was still legal under the new code. "Shall not encroach" on front & street side setback; and; "Max extend to lot line" on interior and rear setback.

All facts were asked/answered in that call with Scot Graham, shed was behind my backyard fence, it sat on the side of house between my house and my neighbors house, the roof slanted all the way to the fence line, shed was located in corner of backyard up against house between house and property line and took up that whole space from house to property line. Scot Graham was complete in his questions and said many times regardless of what concerns I brought up he was sure of himself that there would not be any problems, to "Rest assured" that I would not have to worry about or move the shed.

Was also told by Scott Collins the same information, he asked about the foundation and explained it was a nonpermanent structure and would not need to be moved. I had also talked to staff in the office before building and multiple times after who said the same things. I appealed their decisions prior in writing one by one as they came and in the end they told me to do improvements on the shed and in reliance of all the information I improved it with a gutter. That should have been the end of the story, not change the code and come after someone for what you wrote in the code after it was built.

They are now trying to argue they were waiting for the new code to see if it fit within that code but it did fit within that code at the time of building and all their information, they added the line 18 months later saying "When located behind primary residence". Why would they need to wait for the new code if it was not legal to begin with? It was legal to begin with and they wrote me out of the code and then try to enforce it after the fact. The shed has been looked at by the Fire department twice and the fire chief said it was not a code violation and he would not have a problem with it, there is no public danger or problem with the shed, my neighbor just does not like looking at it; or has irrational fears of fire while the shed has already been inspected by the fire department and was no issue; or of water which I put up a gutter for.

#1 They said it fit within the code repeatedly, including checking the new code which it complied with until they added the extra line "when located behind primary residence" later.

#2 I relied on the information given to me; reliance.

#3 Was told repeatedly, after they asked several details, that it was a temporary nonpermanent structure and did not need to be 6' from building or 3' from property line, it did not sit in front or corner setback and fit every section of the new and old code at the time.

#4 After 18 months they change the code, should not effect things previously built. The shed should be legal nonconforming then.

#5 Shed location was a solution to mold issues happening in the house, that side of the house gets wet from the weather/environment and the shed keeps the ground covered and moisture forms on the roof instead and very quickly dries out from wind and sun. Moisture was seeping into the crawlspace dug out by previous owners and was causing humidity issues which caused an atmosphere for mold growth inside the house. Had to solve that problem and clean the mold, since the shed was placed the humidity has stayed in a safe range and I no longer have mold issues at the house.

#5 I am being discriminated against.

#6 The building department is showing favoritism.

#7 Both sides have had the fire department out, the fire chief approved it and said it would not be an issue in any way and is not a fire hazard of any kind. Does not break any fire codes.

#8 Selective enforcement.

-More than 100 other sheds in town that would violate the new code and already violated the old code if they are going to argue against the fact that they are nonpermanent structures.

#9 Arbitrary and capricious.

#10 No legitimate public purpose.

#11 Not a public nuisance.

#12 No health and safety concern with the nonpermanent structure.

#13 Imposition of fine in amount of \$100.

#14 Imposition of new fine in amount of \$250 just received.

-Attached is more information on the subject, details the series of events dated and explanation that I sent in response to their last code violation letter sent at the end of 2022.

Patrick Najjar
413 Arcadia Ave.
Morro Bay CA 93442

February 28, 2023

Scott Collins
Scot Graham
Jason Nefores
City of Morro Bay
955 Shasta Ave.
Morro Bay CA 93442

Re: Temporary Shed at 413 Arcadia Ave.

Gentlemen:

I am in receipt of a letter from Enforcement Officer Jason Nefores dated February 1 and citation #14360 claiming that I am in violation of Morro Bay code section 17-23-050 because of a temporary storage shed on my property. This issue has been going back and forth between myself and the City for nearly two years now and I am still unable to understand how my temporary shed violates City codes or is subject to this citation.

In an attempt to clarify and hopefully finalize this matter, here is the history of the issue:

January 2021: Because both residence structures on my property at 413 Arcadia Ave. lack storage space, I went to the City Community Development Dept. and asked what the requirements were for a storage shed. I was told that if the structure was **temporary** (no foundation), less than 120 sq. ft., under 8 ft. tall, and behind the back yard fence, no permit was needed.

June 2021: I hired a contractor to construct a 7'x7'x6' prefab shed that sits directly on the ground. The shed fits in the side yard between the front residence and my neighbor's driveway, next to the fence dividing our properties.

One week after the shed was built, my neighbor, Ryan Garcia, complained that the slanted roof would shed water onto his property. I offered to add a gutter to prevent that from happening, but he insisted the shed would have to be removed.

I called the City Community Development Dept. and explained the situation and asked again if the shed was legal. I was told that if there is no foundation, it is a **temporary structure** and it can be built up to the lot line on the sides behind the backyard fence line. The shed meets those requirements.

June 23, 2021: I received a letter from Jason Nefores dated 6/18/21 about an **Accessory Building** not meeting setback requirements per MBMC 17-48-040B, and that it should be moved or removed by July 18.

June 25, 2021: I called Scot Graham in the City Community Development Dept. and explained the situation. He asked if the shed was under 120 sq.ft. and had no foundation. I said that was correct and he said, "Then it's a **temporary building** and can be anywhere in the backyard." He also said, "Hold on, let me look at the upcoming code and see if there is anything that would be a problem." He then said it did not interfere with the new code either, so I would be fine and to "rest assured you do not have to worry about it".

(2)

July 12, 2021: I received a letter from Jason Nefores, again in regard to an **Accessory building** not meeting setbacks and to be moved or removed by 7/31/21.

July 14, 2021: I received an identical letter from Jason Nefores stating the removal date as 8/4/21.

July 15, 2021: I called City Manager Scott Collins and discussed the letters from Jason Nefores with him. He agreed that the shed is a **temporary structure** and could be built anywhere in my back yard.

July 19, 2021: I sent a letter to Jason Nefores stating that I had spoken to both Scot Graham and Scott Collins and they both referenced that MBMC section 17.48.040 indicates that **accessory buildings** must meet setbacks, **temporary, nonpermanent buildings** are exempt. I also said I would be happy to discuss the matter with him at my property before the stated removal dates of 7/31/21 or 8/4/21.

August 3, 2021: I sent another letter to Jason Nefores saying I had not heard from him about coming to see that the shed is a "**temporary, nonpermanent building**" and that I was concerned that the 7/31 removal date was past and the 8/4 date was upon us. I included my phone number and said I looked forward to his call. On receiving no response to my letters, I assumed all was finally resolved.

November 10, 2021: I received a letter from Jason Nefores about **Accessory building/Water run off/Drainage** into Neighbor's property. This letter said there were changes pending in the Municipal Code that might allow the shed to remain but that water was draining off the shed onto my neighbor's property and must be prevented immediately.

November 14, 2021: As I had offered originally, I installed a gutter on the shed roof to divert water to my yard. Since this was a City request, this indicated to me that the shed was now an accepted temporary structure and that the matter was resolved.

2022: I intend to install a second temporary shed in my back yard, so I visited the Community Development Dept. three times during the year to see if there were any changes in the requirements. They were the same: Shed - 120 SqFt, 8' or shorter, no footing, behind backyard fence and can go anywhere in backyard up to back and side lot lines.

November 2022: While at my mailbox, I saw two cars drive up to the neighbor's house. From my yard I heard Ryan Garcia talking apparently with a City official, who said, "Oh I can see how you don't want to look at this, I will take care of it for you and I will follow through this time." Whoever the City official was (Jason Nefores?) he did not come to speak with me, even though he had seen that I was home.

December 7, 2022: I received a letter from Jason Nefores about **Accessory structure/Shed**, stating that a new rule was going into effect 12/22/22, section 17.23.050 re "Allowed Encroachments into Required Setbacks" indicating that my shed would need to be moved from its present location, that it "shall not encroach" any "front or corner setback", and must be placed BEHIND the primary residence with no set back restrictions. The letter said the shed was to be moved by 1/7/23.

This letter makes no sense for several reasons. My **temporary** shed had now been in place for a year and a half. At the City's direction, I added a gutter to direct water drainage into my yard. I had invited Jason Nefores to

meet me at the property and my invitation was ignored. I had been assured by Scot Graham and Scott Collins that the shed was legal and no code changes were pending that might affect it.

(3)

I looked up the code 17-14-080 referenced in the letter. It apparently changes the previous City code section 17-23-050 regarding setbacks. There was no indication of the date of these changes and the code I was given by the city and found online did not include the wording "when located behind the primary residence" an apparently new requirement.

January 2, 2023: I sent an email to Jason Nefores citing the points listed above, but again received no response.

January 18, 2023: I received another letter from Jason Nefores reiterating his 12/7/22 letter about the **accessory structure/shed**, but extending the removal date to 1/30/23 and adding that a citation might be issued if it was not removed. In this letter, he also stated that he had "made several site visits" to my property to observe that the shed had not been moved, yet he never attempted to contact me to discuss the matter on site.

February 1, 2023: I received two identical letters from Jason Nefores, one including a copy of the new 17.23.050 setback requirements and also Citation #14360 for \$100 for violation of this new section.

At this point, I feel that I am being harassed by Officer Nefores to force me to remove a **temporary shed**, in place for 19 months, with gutters added per City direction, which has eliminated a mold situation on my front residence, and which City employees and officials had repeatedly assured me was legal, all because my neighbor "doesn't want to look at this" ...from his garage viewpoint!

February 9, 2023: I called Scot Graham and asked how we got to this point. He said the **temporary shed** "was not allowed before, it's not allowed now, and so it needs to be moved." I asked why he and other City officials and employees would give incorrect information about what was allowed, and he said that he "can't control what random information they give out, so that does not matter." Yet some of that 'random information' came directly from him.

I mentioned that I wanted to add a second temporary shed on the property and he said to send him a sketch of where it would be placed. I immediately sent the sketch, which included the existing **temporary shed** location.

February 22, 2023: I sent an email to Scot Graham asking if I should take his lack of response as indication that the original **temporary shed** was allowed and that I could install a new temporary shed as indicated in the sketch I sent him.

February 23, 2023: Gabby Cortez responded to my email regarding the new shed, but she misunderstood the sketch. No mention was made regarding the existing **temporary shed**.

February 24, 2023: Gabby Cortez responds with an image stating the whole back yard behind primary residence is okay for a second shed but the rest of the property is not per the new code. I requested that she send a copy of the new code because I couldn't find it on the City website. She responded with code section 17.29.060, which must be a mistake because it applies to Downtown District Signage. Maybe the numbers are new, which makes me wonder if the new code is even valid yet. Again, no mention of the existing **temporary shed**.

(4)

February 28, 2023: The date of this letter. I have not paid, nor do I believe I am obliged to pay the \$100 fine for a temporary structure, legally built and improved at City direction, that has been in place since June of 2021.

I make this statement based on **Section 17.56.150 of the current City code on Continuation of nonconforming structures, which states: "A structure which is nonconforming with respect to this title but was legally constructed meeting the requirements in force at the time of its construction may be continued without alteration unless deemed to be a public nuisance because of health or safety conditions."**

I would appreciate a written response from the City stating that this **temporary shed** is a legal nonconforming structure per this code section and that citation #14360 is voided.

Sincerely,

Cc: Mayor Wixom

17.48.040 - Accessory buildings.

- A. Construction Timing. Accessory buildings shall be constructed with or subsequent to the construction of the main building.
 - B. Attachment. Where an accessory building is attached to the main building, it shall be made structurally a part of and have a common roof system with the main building, and shall comply in all respects with the requirements of this title applicable to the main building.
- Unless so attached, an accessory building in an R district shall meet the setback, height and coverage requirements of the zone and be at least six feet from any dwelling existing or under construction on the same lot or any adjacent lot, except temporary, nonpermanent buildings.

(Ord. 445 § 3 (part), 1995)

1 of 2

MANY COPIES OF SAME INFO/PAPER NOT ATTACHED

Exhibit B

GIVEN TO ME BY CITY WHEN I VISITED IN PERSON

* SAME PAPERS * ON MULTIPLE VISITS

TABLE 17.14.090: ENCROACHMENTS INTO REQUIRED SETBACKS

Encroachment	Front Setback	Street Side Setback	Interior Side Setback	Rear Setback
Uncovered stairs, ramps, stoops, landings, decks, porches, balconies, and platforms				
<i>All elements less than 30 inches above ground elevation</i>	No closer than 3 feet from lot line	May extend to lot line if terminates at a noncombustible wall or fence which extends at least 30 inches above the projection. Otherwise, no closer than 3 feet from lot line		
<i>Any element 30 inches or more above ground elevation</i>	Maximum 5 feet, no closer than 5 feet from lot line	No closer than 3 feet from lot line		
Wind screens/walls must be of a clear material and shall not exceed 5 feet in height above the floor of the landing or deck.				
Small structures less than 8 feet in height and 120 square feet in size	Shall not encroach		May extend to lot line	
Rain barrels and cisterns with a maximum capacity of 1,000 gallons, or other similar storm water management equipment	Shall not encroach	3 feet, must be screened pursuant to Section TBD, Screening	May extend to lot line	
Mechanical and other equipment, detached or attached, such as water heaters, air conditioners, electric meters, electric transformers, cable television or phone utility boxes	Shall not encroach	No closer than 3 feet from lot line, must be screened pursuant to Section TBD, Screening	No closer than 3 feet from lot line	No closer than 3 feet from lot line
Ramps and similar structures that provide access for persons with disabilities	Reasonable accommodation will be made, consistent with the Americans with Disabilities Act; see Chapter TBD, Reasonable Accommodation			

17.14.090 Fences and Freestanding Walls

Note: This Section carries forward existing provisions for fences, walls, dense hedges, and similar structures along with new provisions that limit the use of certain materials and require maintenance of all fences and walls. Allowable fence height in the front and street side setbacks is increased from three feet to four feet for solid fences and from four feet to five feet for open fences and an allowance for Director approval of up to two additional feet is included.

1 of 1



City of Morro Bay
MUNICIPAL CODE VIOLATION

14365

- Police
- Harbor
- Fire
- Com Dev
- Admin
- Admin
- Admin
- Admin
- Parking
- Warning

Date: 3-13-23 Time: 1100 Case No.: 2101451

Name (First, Middle, Last): PATRICK MASHKE

Address: 412 ACCADIA AVE.

City: MORRO BAY State: CA Zip: 93942

Phone: MORRO BAY Birthdate: 7-10-81 DL or other ID: B2778236

Location of Violation(s): 412 ACCADIA AVE. N.E. COR. 93942

Yr of Vehicle: 2014 Make: KIA Model: Body Style: Color:

Veh. Lic. No. (or VIN): 11A State:

DESCRIPTION OF VIOLATION

MBMC Section	Description	Penalty to be paid within the time period noted on reverse side.	Penalty \$
19-23-050	CHILD LEAVING IS VIOLATION	of Municipal Code.	\$ 250.00
MBMC Section	Description	Penalty to be paid within the time period noted on reverse side.	Penalty \$

I certify that the foregoing is true and correct:

Date: 3/13/23 Officer/City Employee: J. J. K. [Signature] I.D.#: 109640

Signature of Party to whom warning/citation issued, if applicable. (Without admitting responsibility, I acknowledge receipt.)

SIGNATURE

Pay the civil penalty in person or by mail to:

CITY OF MORRO BAY
P.O. Box 11923
Santa Ana, CA 92711



City of Morro Bay
MUNICIPAL CODE VIOLATION

14360

- Police
- Harbor
- Fire
- Com Dev
- Admin
- Admin
- Admin
- Admin
- Parking
- Warning

Date: 2-1-23 Time: 1010 Case No.: 2101451

Name (First, Middle, Last): PATRICK MASHKE

Address: 412 ACCADIA AVE.

City: MORRO BAY State: CA Zip: 93942

Phone: MORRO BAY Birthdate: 7-10-81 DL or other ID: B2778236

Location of Violation(s): 412 ACCADIA AVE. N.E. COR. 93942

Yr of Vehicle: 2014 Make: KIA Model: Body Style: Color:

Veh. Lic. No. (or VIN): 11A State:

DESCRIPTION OF VIOLATION

MBMC Section	Description	Penalty to be paid within the time period noted on reverse side.	Penalty \$
19-23-050	CHILD LEAVING IS VIOLATION	of Municipal Code.	\$ 100.00
MBMC Section	Description	Penalty to be paid within the time period noted on reverse side.	Penalty \$

I certify that the foregoing is true and correct:

Date: 2/1/23 Officer/City Employee: J. J. K. [Signature] I.D.#: 109640

Signature of Party to whom warning/citation issued, if applicable. (Without admitting responsibility, I acknowledge receipt.)

SIGNATURE

Pay the civil penalty in person or by mail to:

CITY OF MORRO BAY
P.O. Box 11923
Santa Ana, CA 92711

RECEIVED

Patrick Najjar
413 Arcadia Ave.
Morro Bay CA 93442

MAR 02 2023

City of Morro Bay
Community Development Dept.

February 28, 2023

Scott Collins
Scot Graham
Jason Nefores
City of Morro Bay
955 Shasta Ave.
Morro Bay CA 93442

Re: Temporary Shed at 413 Arcadia Ave.

Gentlemen:

I am in receipt of a letter from Enforcement Officer Jason Nefores dated February 1 and citation #14360 claiming that I am in violation of Morro Bay code section 17-23-050 because of a temporary storage shed on my property. This issue has been going back and forth between myself and the City for nearly two years now and I am still unable to understand how my temporary shed violates City codes or is subject to this citation.

In an attempt to clarify and hopefully finalize this matter, here is the history of the issue:

January 2021: Because both residence structures on my property at 413 Arcadia Ave. lack storage space, I went to the City Community Development Dept. and asked what the requirements were for a storage shed. I was told that if the structure was **temporary** (no foundation), less than 120 sq. ft., under 8 ft. tall, and behind the back yard fence, no permit was needed.

June 2021: I hired a contractor to construct a 7'x7'x6' prefab shed that sits directly on the ground. The shed fits in the side yard between the front residence and my neighbor's driveway, next to the fence dividing our properties.

One week after the shed was built, my neighbor, Ryan Garcia, complained that the slanted roof would shed water onto his property. I offered to add a gutter to prevent that from happening, but he insisted the shed would have to be removed.

I called the City Community Development Dept. and explained the situation and asked again if the shed was legal. I was told that if there is no foundation, it is a **temporary structure** and it can be built up to the lot line on the sides behind the backyard fence line. The shed meets those requirements.

June 23, 2021: I received a letter from Jason Nefores dated 6/18/21 about an **Accessory Building** not meeting setback requirements per MBMC 17-48-040B, and that it should be moved or removed by July 18.

June 25, 2021: I called Scot Graham in the City Community Development Dept. and explained the situation. He asked if the shed was under 120 sq.ft. and had no foundation. I said that was correct and he said, "Then it's a **temporary building** and can be anywhere in the backyard." He also said, "Hold on, let me look at the upcoming code and see if there is anything that would be a problem." He then said it did not interfere with the new code either, so I would be fine and to "rest assured you do not have to worry about it".

(2)

July 12, 2021: I received a letter from Jason Nefores, again in regard to an **Accessory building** not meeting setbacks and to be moved or removed by 7/31/21.

July 14, 2021: I received an identical letter from Jason Nefores stating the removal date as 8/4/21.

July 15, 2021: I called City Manager Scott Collins and discussed the letters from Jason Nefores with him. He agreed that the shed is a **temporary structure** and could be built anywhere in my back yard.

July 19, 2021: I sent a letter to Jason Nefores stating that I had spoken to both Scot Graham and Scott Collins and they both referenced that MBMC section 17.48.040 indicates that **accessory buildings** must meet setbacks, **temporary, nonpermanent buildings** are exempt. I also said I would be happy to discuss the matter with him at my property before the stated removal dates of 7/31/21 or 8/4/21.

August 3, 2021: I sent another letter to Jason Nefores saying I had not heard from him about coming to see that the shed is a "**temporary, nonpermanent building**" and that I was concerned that the 7/31 removal date was past and the 8/4 date was upon us. I included my phone number and said I looked forward to his call. On receiving no response to my letters, I assumed all was finally resolved.

November 10, 2021: I received a letter from Jason Nefores about **Accessory building/Water run off/Drainage** into Neighbor's property. This letter said there were changes pending in the Municipal Code that might allow the shed to remain but that water was draining off the shed onto my neighbor's property and must be prevented immediately.

November 14, 2021: As I had offered originally, I installed a gutter on the shed roof to divert water to my yard. Since this was a City request, this indicated to me that the shed was now an accepted temporary structure and that the matter was resolved.

2022: I intend to install a second temporary shed in my back yard, so I visited the Community Development Dept. three times during the year to see if there were any changes in the requirements. They were the same: Shed - 120 SqFt, 8' or shorter, no footing, behind backyard fence and can go anywhere in backyard up to back and side lot lines.

November 2022: While at my mailbox, I saw two cars drive up to the neighbor's house. From my yard I heard Ryan Garcia talking apparently with a City official, who said, "Oh I can see how you don't want to look at this, I will take care of it for you and I will follow through this time." Whoever the City official was (Jason Nefores?) he did not come to speak with me, even though he had seen that I was home.

December 7, 2022: I received a letter from Jason Nefores about **Accessory structure/Shed**, stating that a new rule was going into effect 12/22/22, section 17.23.050 re "Allowed Encroachments into Required Setbacks" indicating that my shed would need to be moved from its present location, that it "shall not encroach" any "front or corner setback", and must be placed BEHIND the primary residence with no set back restrictions. The letter said the shed was to be moved by 1/7/23.

This letter makes no sense for several reasons. My **temporary** shed had now been in place for a year and a half. At the City's direction, I added a gutter to direct water drainage into my yard. I had invited Jason Nefores to

meet me at the property and my invitation was ignored. I had been assured by Scot Graham and Scott Collins that the shed was legal and no code changes were pending that might affect it.

(3)

I looked up the code 17-14-080 referenced in the letter. It apparently changes the previous City code section 17-23-050 regarding setbacks. There was no indication of the date of these changes and the code I was given by the city and found online did not include the wording "when located behind the primary residence" an apparently new requirement.

January 2, 2023: I sent an email to Jason Nefores citing the points listed above, but again received no response.

January 18, 2023: I received another letter from Jason Nefores reiterating his 12/7/22 letter about the **accessory structure/shed**, but extending the removal date to 1/30/23 and adding that a citation might be issued if it was not removed. In this letter, he also stated that he had "made several site visits" to my property to observe that the shed had not been moved, yet he never attempted to contact me to discuss the matter on site.

February 1, 2023: I received two identical letters from Jason Nefores, one including a copy of the new 17.23.050 setback requirements and also Citation #14360 for \$100 for violation of this new section.

At this point, I feel that I am being harassed by Officer Nefores to force me to remove a **temporary shed**, in place for 19 months, with gutters added per City direction, which has eliminated a mold situation on my front residence, and which City employees and officials had repeatedly assured me was legal, all because my neighbor "doesn't want to look at this"...from his garage viewpoint!

February 9, 2023: I called Scot Graham and asked how we got to this point. He said the **temporary shed** "was not allowed before, it's not allowed now, and so it needs to be moved." I asked why he and other City officials and employees would give incorrect information about what was allowed, and he said that he "can't control what random information they give out, so that does not matter." Yet some of that 'random information' came directly from him.

I mentioned that I wanted to add a second temporary shed on the property and he said to send him a sketch of where it would be placed. I immediately sent the sketch, which included the existing **temporary shed** location.

February 22, 2023: I sent an email to Scot Graham asking if I should take his lack of response as indication that the original **temporary shed** was allowed and that I could install a new temporary shed as indicated in the sketch I sent him.

February 23, 2023: Gabby Cortez responded to my email regarding the new shed, but she misunderstood the sketch. No mention was made regarding the existing **temporary shed**.

February 24, 2023: Gabby Cortez responds with an image stating the whole back yard behind primary residence is okay for a second shed but the rest of the property is not per the new code. I requested that she send a copy of the new code because I couldn't find it on the City website. She responded with code section 17.29.060, which must be a mistake because it applies to Downtown District Signage. Maybe the numbers are new, which makes me wonder if the new code is even valid yet. Again, no mention of the existing **temporary shed**.

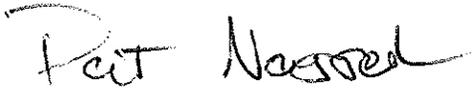
(4)

February 28, 2023: The date of this letter. I have not paid, nor do I believe I am obliged to pay the \$100 fine for a temporary structure, legally built and improved at City direction, that has been in place since June of 2021.

I make this statement based on **Section 17.56.150 of the current City code on Continuation of nonconforming structures, which states: "A structure which is nonconforming with respect to this title but was legally constructed meeting the requirements in force at the time of its construction may be continued without alteration unless deemed to be a public nuisance because of health or safety conditions."**

I would appreciate a written response from the City stating that this temporary shed is a legal nonconforming structure per this code section and that citation #14360 is voided.

Sincerely,

A handwritten signature in black ink that reads "Peter Nassred". The signature is written in a cursive style with a large initial "P".

Cc: Mayor Wixom

To the planning department, in reference to and in amendment of an appeal filed on 3/16/2023 by Patrick Najjar.

On the day I was filing pending appeal I had received an additional certified letter porporting additional payment. I had attached to appeal filed on 3/16/2023. This will confirm that the additional penalty/fine is subject to pending appeal.

Thank you,

-Patrick Najjar (zypherpn@charter.net)

RECEIVED

MAR 21 2023

City of Morro Bay
Community Development Dept.



AGENDA NO: B-2

MEETING DATE: June 6, 2023

Staff Report

TO: Planning Commissioners

DATE: June 6, 2023

FROM: Scot Graham, Community Development Director
Nancy Hubbard, Contract Planner

SUBJECT: **Hearing Continued from May 16, 2023:** Objective Design Standards – Proposed Zoning Code Amendment - New standards for inclusion as Zoning Code Chapter 17.31

RECOMMENDATION:

Continue review of the Objective Design Standards and forward a favorable recommendation for approval of the Objective Design Standards as Chapter 17.31 of the 2022 Zoning Code to City Council with finding that no further environmental review is required pursuant to State CEQA Guidelines Section 15162.

DISCUSSION:

The Planning Commission (PC) held a public hearing on May 16, 2023, to review the objective design standards to be added to the zoning code. The hearing included a presentation, questions and answers about the proposed ordinance and public comment. The public hearing was closed, and the Planning Commission was ready to start review of the policy language, and the decision was made, given the late hour, to continue the item to the next PC meeting. The Planning Commission may either start review of the policy language or the PC could choose to again open public comment on the item to receive additional public input before starting review of the draft ordinance language.

OVERVIEW OF OBJECTIVE DESIGN STANDARDS:

Why are Objective Design Standards necessary?

Most of the new State law surrounding housing seeks to streamline the permitting process while limiting local discretion. This is most commonly done through including policies in state housing law that allow local jurisdictions to only apply objective design standards to projects.

What happens if jurisdictions don't adopt objective design standards?

Jurisdictions that have not adopted objective design standards will be forced to accept

Prepared By: ___NH___

Department Review: _____

the projects “as submitted” since they will not have compliant objective review criteria in place to apply to the project and existing subjective requirements cannot be used. This would likely result in new housing developments with a recognizable deviation from the current design goals and objectives.

Won’t Objective Design Standards make all qualifying residential housing look the same?

No, it does not encourage or discourage any specific type of architecture. It just provides clarifying language describing the requirements currently in our Residential Design Guidelines, but in clear measurable terms.

Questions received from Planning Commissioners (See Exhibit D):

1. How can we be confident that these guidelines will work the way we intend them to work?

The Objective Design standards is just clarifying existing standards. It removes the personal opinions about the design, providing a clear, concise description that allows the designers/architects to proceed with clarity and assurance that they will not be redesigning the project several times to meet unknown subjective interpretations of the standards.

2. What do working/teaching architects think of the guidelines in terms of adequacy and potential for evasion of good design practices and intrusion of unintended consequences?

It remains to be seen how all architects and architectural professors feel about these standards, but certainly many designers/architects will embrace the concept of knowing what is required rather than finding out after they have completed their design. This also provides a more certain route and timing for multi-unit residential projects that qualify under the ODS criteria with the goal of resulting in more multi-unit housing to meet the housing crisis.

3. How are the objective guidelines likely to constrain the specifics of the Morro Bay downtown design district proposal before we even have a proposal?

These standards apply to only specified qualifying projects and can be amended for consistency with whatever policy direction results from the downtown design district effort.

4. What evidence that some of the quantitative choices are best-practice based and not arbitrary (for example in Section 17.31.030B– the applicant must pick 2 of the design elements – why is two the number and not more)?

The Objective Design Standards were created based on historic interpretation and staff practice reviewing projects under the provisions (objective and subjective) in

the Residential Design Guidelines that has been in effect since 2015. The ODS provides clarification and measurable standards that are informed by City past practice. Through PC review and comment, revisions can be proposed to reflect the desire of a majority of the PC.

5. I would like to see a menu of insufficiencies for each part of the guidelines to head-off ‘creative evasion’ strategies by applicants.

The Objective Design Standards were drafted by RRM Design Group, with years of experience in identifying and changing subjective standards to objective standards. Many jurisdictions have been using ODS for several years, so the Morro Bay Objective Design Standards have the advantage of earlier drafts and years of application of these standards by other jurisdictions. Insufficiencies discovered can be addressed through amendments to the document, but likely ‘creative evasion’ will be less of an issue than if there were no objective design standards in place.

CONCLUSION:

The ODS is in final draft form and upon favorable recommendation by the Planning Commission will be forwarded to City Council as part of an amendment to the 2022 Zoning Code. Once the amendments to the 2022 Zoning Code are approved by City Council, they will be forwarded to the California Coastal Commission for certification as an LCP Amendment.

ATTACHMENTS:

- A. Resolution 09-23 forwarding recommendation for approval to City Council
- B. Planning Commission Review Draft – Objective Design Standards
- C. Link to May 16, 2023, Planning Commission agenda and staff report (pages 121 – 123)
<https://www.morrobayca.gov/ArchiveCenter/ViewFile/Item/6171>
- D. Planning Commissioner comments and questions

RESOLUTION NO. PC 09-23

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION FORWARDING A FAVORABLE RECOMMENDATION TO THE MORRO BAY CITY COUNCIL FOR ADOPTION OF THE OBJECTIVE DESIGN STANDARDS FOR INCLUSION AS SECTION 17.31 OF THE MORRO BAY MUNICIPAL CODE AND AMENDMENT TO THE 2022 ZONING CODE WITH A FINDING THAT NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO STATE CEQA GUIDELINES SECTION 15162

WHEREAS, California Government Code Section 65300 requires the city adopt a comprehensive, long-term general plan for the physical development of the City; and

WHEREAS, Government Code Section 65860 requires that the city's zoning regulations be consistent with the General Plan and that in the event that zoning regulations become inconsistent with the general plan by reason of amendment to the General Plan, the zoning shall be amended so that it is consistent with the General Plan as amended; and

WHEREAS, in May 2021 the City adopted a comprehensive update to its General Plan and Local Coastal Program Coastal Land Use Plan (LCP) known as Plan Morro Bay; and

WHEREAS, on November 22, 2022 the City Council adopted Ordinance 654 which repealed and replaced Title 17 of the Morro Bay Municipal Code in its entirety and adopted the 2022 Zoning Code / Coastal Implementation Plan (IP) (also referred to herein as "Project"); and

WHEREAS, amendments to the Morro Bay Municipal Code (MBMC), including its zoning regulations, are necessary to provide consistency with the 2021 General Plan/LCP Update; and

WHEREAS, the City determined that the General Plan /LCP Update, including the Plan Morro Bay's Zoning Code/ Coastal Implementation Plan (IP) Update was a project requiring review pursuant to the California Environmental Quality Act (CEQA), Public Resources Code 21000 et seq. and that an Environmental Impact Report (EIR) should be prepared to evaluate the potential environmental effects of the Project; and

WHEREAS, on May 26, 2021, the City Council adopted Resolution 20-21, certifying the EIR for the General Plan Update (State Clearinghouse Number SCH#2021111026), adopting Findings of Fact and Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program; and

WHEREAS, amendments to the MBMC are necessary in order to provide consistency between the General Plan/LCP and MBMC;

WHEREAS, duly noticed public hearings for the Public Draft of the Objective Design Standards Zoning Amendment was held by Planning Commission on May 16, 2023 and June 6, 2023; and

WHEREAS, the Planning Commission of the City of Morro Bay (the “City”) conducted a public hearing on June 6, 2023 conducted in a hybrid format with both an in-person meeting at the Morro Bay Veterans Memorial Building, 209 Surf Street, Morro Bay, CA 93442 as well as through virtual public participation provided telephonically through Zoom, for the purpose of considering a favorable recommendation to the Morro Bay City Council for adoption of the Objective Design Standards as a Zoning Code / IP Amendment to be included as Title 17.31 of the Morro Bay Municipal Code and included as an amendment to the 2022 Zoning Code (“Project”); 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 written and oral staff report, presentation, public testimony on the Project, and whether the Project should be adopted; and

WHEREAS, the written staff report regarding the Project are found to be true and accurate in all respects and is incorporated herein by this reference;

WHEREAS, prior to the final consideration and any possible approval of any and all physical aspects of the proposed Project, the Planning Commission and all City legislative bodies involved with the proposed Project will consider the Project and the Planning Commission recommends all other governmental agencies and legislative bodies that must review or approve, if at all, the proposed Project do the same; and

WHEREAS, the Planning Commission has completed review of the Project and related materials.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Morro Bay recommends that the City Council approved inclusion of the Objective Design Standards as Title 17.31 in the amendments to the 2022 Zoning Code / Coastal Implementation Plan Update Amendment based upon the follow findings:

Section 1: California Environmental Quality Act

Finding: No further environmental review is required pursuant to State CEQA Guidelines Section 15162.

Evidence: The proposed Objective Design Standards to be added as amendment to the 2022 Zoning Code implements the General Plan/LCP, which

was considered through the General Plan /LCP Update Environmental Impact Report (EIR) (SCH No. 2021111026). That document provides a programmatic review of the potential impacts associated with implementation of the overall General Plan/LCP. The EIR is comprised of a Draft EIR (Draft EIR) and Final EIR (Final EIR). The Final EIR was released for public review on October 19, 2020 and certified by the City Council on May 25, 2021.

The proposed Objective Design Standards as a Zoning Code amendment are consistent with the analysis presented in the EIR and, pursuant to State CEQA Guidelines Section 15162, no subsequent analysis is required.

Therefore, there are no substantial changes in the Project, there are no substantial changes with respect to the circumstances under which the Project is undertaken, and no new information of substantial importance, which was not known and could not have been known at the time of certification of the EIR, and no further environmental review is required.

Section 2: The Local Coastal Plan Implementation Program Amendments are intended to further the goals of the California Coastal Act, as set forth in Section 30001.5 of the Public Resources Code, to:

Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.

Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

Assure priority for coastal-dependent and coastal-related development over other development on the coast.

Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

Pursuant to Morro Bay Municipal Code Section 17.64.080, no amendment to the Zoning Ordinance shall be legally effective in the coastal zone until the amendment is certified by the Coastal Commission. If the Coastal Commission certifies this Ordinance conditioned on substantive changes being made, then the Council will introduce and adopt another ordinance to incorporate those substantive changes. If the Coastal Commission certifies this Ordinance conditioned on non-substantive changes being made to this Ordinance, then the

City Clerk is authorized to amend this Ordinance to reflect those non-substantive changes.

Section 3: Municipal Code (Zoning Code /Coastal Implementation Plan Update) Amendment

Finding: The proposed municipal code amendment is consistent with the General Plan/LCP goals, policies, and implementation programs and are necessary in order to provide consistency with the 2021 General Plan / LCP.

ACTION. The Planning Commission does hereby forward a favorable recommendation to the City Council to adopt the Objective Design Standards as new Title 17.31 of the Morro Bay Municipal Code and include as an amendment to the 2022 Zoning Code/ Coastal Implementation Plan for the Plan Morro Bay Update Project.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 6th day of June 2023 on the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Bill Roschen, Chairperson

ATTEST:

Scot Graham, Planning Secretary

The foregoing resolution was passed and adopted on this 6th day of June 2023.

Chapter 17.31: Residential and Mixed-Use Objective Design Standards

17.31.010	Introduction
17.31.020	Site Design
17.31.030	Building Design
17.31.040	Additional Mixed-Use Standards
17.31.050	Parking Structures
17.31.060	Utilitarian Elements

17.31.010 Introduction

- A. **Purpose.** The purpose of these design standards is to provide the public, building and design professionals, and decision-makers with objective criteria for eligible residential and mixed-use development in Morro Bay. The intent is to provide clear design direction and an expedited planning process for residential projects that enhance an area’s unique character and sense of place, respects existing neighborhood compatibility and privacy, and ensures a high-quality living environment.
- B. **Applicability.** The provisions of this chapter apply to:
1. **Senate Bill 35 projects (California Government Code §65913.4).** In addition to criteria established by the California Government Code, the project must be a multi-unit housing development containing at least two or more new residential units, or a mixed-use project where at least two-thirds of the square footage is dedicated to residential use. SB 35 projects are subject to a ministerial, streamlined approval process.
 2. **Senate Bill 330 projects (California Government Code §65589.5 and §65920).** In addition to criteria established by the California Government Code, the project may be residential only, mixed use where at least two-thirds of the square footage is dedicated to residential use, or transitional, supportive, emergency, or farmworker housing. SB 330 projects are entitled to a preliminary application process prior to filing a complete application.
 3. **Assembly Bill 2011 projects (California Government Code §65400 and §65585).** In addition to criteria established by the California Government Code, the project must be located within a zone where office, retail, or parking is principally permitted use. AB 2011 projects are subject to a ministerial, streamlined approval process.
 4. **Assembly Bill 2162 projects (California Government Code §65583 and §65650).** In addition to criteria established by the California Government Code, the project must be a supportive housing development located in a zone where multi-unit or mixed use is permitted.
 5. **Senate Bill 6 projects (California Government Code §65913.4 and §65852.24).** In addition to criteria established by the California Government Code, the project must be located within a zone where office, retail, or parking is a principally permitted use; and no part of the project is designated for hotel, motel, or other transient lodging use.

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OBJECTIVE DESIGN STANDARDS
PUBLIC REVIEW DRAFT – MARCH 2023

6. All proposed new by-right multi-unit residential and mixed-use projects of 10 residential units or fewer.
 7. All other residential or mixed-use projects are made eligible by State law, and which are required to meet objective standards.
- C. **Compliance with Existing Standards.** In addition to meeting objective standards in this chapter, eligible residential projects shall comply with existing objective standards as established in the Morro Bay Municipal Code, other adopted City plans, and the California Building Code (CBC).
- D. **Conflicting Standards.** If there is any conflict between these objective design standards and existing City requirements, the less restrictive objective design standard applicable to the project shall apply.
- E. **Exceptions, Waivers, or Modifications.** Residential and mixed use projects seeking exceptions, waivers, or modifications to any development standards set forth in the Morro Bay Municipal Code or the design standards set forth in this chapter, excluding modifications such as concessions, incentives, parking reductions, or waivers of development standards pursuant to State Density Bonus Law, shall not be eligible for streamlined, ministerial processing per SB 35. The City’s non-streamlined, discretionary review process shall be required for any project that seeks exceptions, waivers, variances, or other modifications to objective standards.
- F. **No Design Review.** Eligible housing development projects complying with the objective standards in this chapter shall not be subject to the provisions of Chapter 17.38, Design Review.

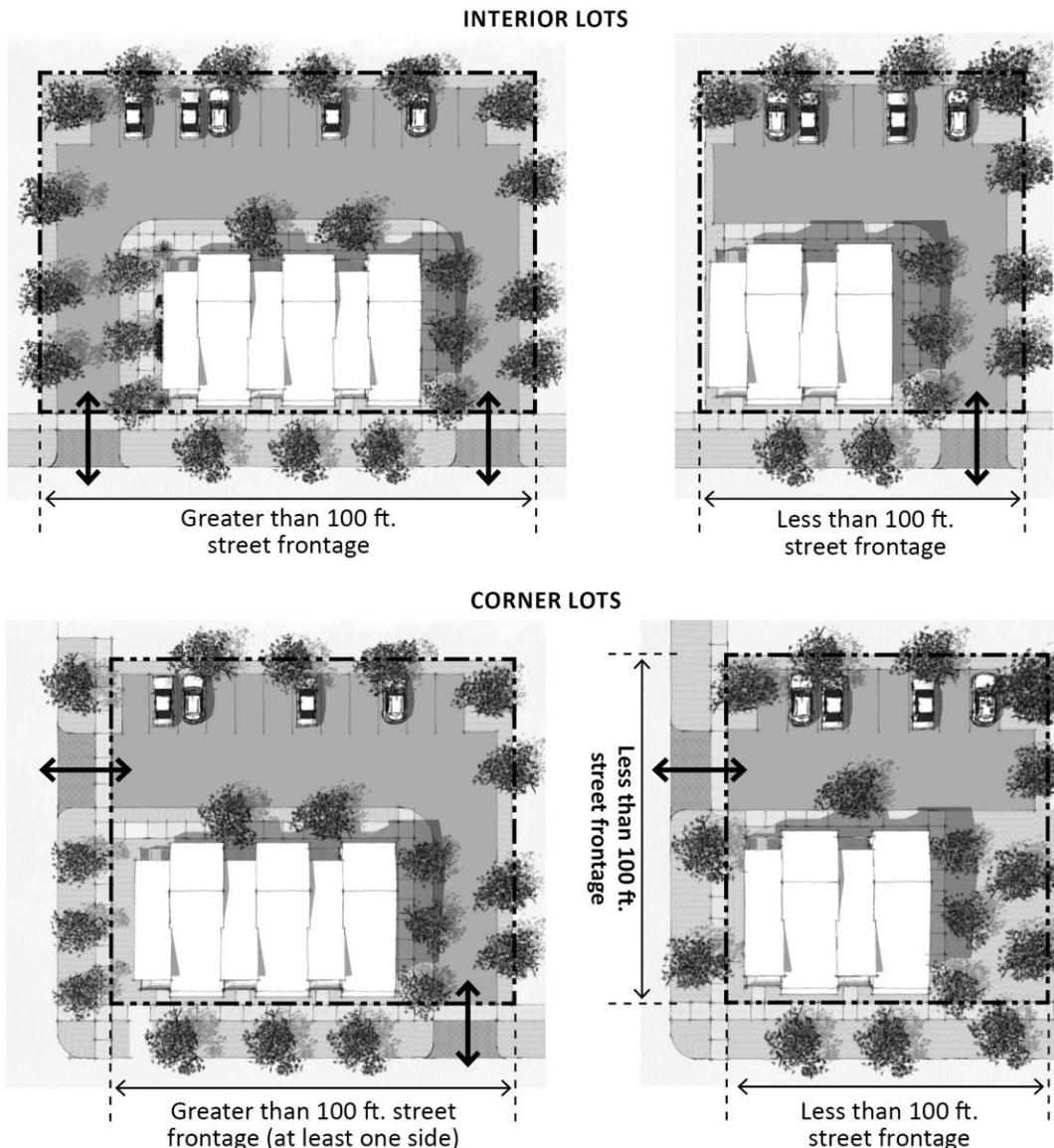
17.31.020 Site Design

- A. **Purpose.** Site planning refers to the arrangement of - and relationships between - buildings, parking areas, common and private open space, landscaping, and pedestrian connections. The site planning topics in this section include site layout and building placement, vehicular surface parking and access, pedestrian circulation and access, landscaping, and common and private open space.
- B. **Building Placement and Orientation.** Building placement and orientation shall comply with the provisions of Chapter 17.07, Residential Districts, or Chapter 17.08, Commercial and Mixed-Use Districts. In addition, if buildings on the same block establish a contiguous street wall along at least 50 percent of the primary street frontage, new buildings shall be located to maintain the contiguous street wall.
- C. **Vehicular Parking and Access.** Off-street vehicular parking and access shall comply with the provisions of Chapter 17.27, Parking and Loading. For properties in Commercial and Mixed-Use Districts, projects shall also comply with Section 17.08.040, Supplemental Regulations. In addition, projects shall comply with the following:
1. **Primary Access.** Side street or alley access shall serve as the primary vehicular access to off-street parking areas, if available. If not available, the primary street shall serve vehicular access. See Section 17.27.100, Driveways and Drive Approaches, for detailed standards related to driveway location, site layout, limits to driveway width and design.

2. **Number of Access Points.**

- a. For interior lots with less than 100 linear feet of street frontage, a maximum of one vehicular access point from the street is permitted. For interior lots with 100 linear feet or more of street frontage, a maximum of two vehicular access points from the street is permitted.
- b. For corner lots, one vehicular access point is permitted where both street frontages are less than 100 linear feet. Two vehicular access points are permitted for lots where at least one street frontage is 100 linear feet or more.
- c. The above standards assume that an access point can be a two-way connection (both ingress and egress) or a one-way connection (either ingress or egress).

FIGURE 17.31.020(C)(2): VEHICULAR ACCESS POINTS



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3. **Loading and Service Areas.** The provision, layout and design of loading and service areas shall comply with Section 17.27.090, Loading, as well as the following standards:
 - a. All required loading and service areas shall be located adjacent to a façade other than the primary building frontage.
 - b. Loading and service areas shall not be located adjacent to residential dwelling units or common open space areas. Loading areas shall be screened from public view by building walls and/or uniformly solid fencing or walls, not less than six feet in height, or evergreen trees at least 10 feet in height.
 4. **Avoid Vehicle Light Intrusion into Ground-Floor Units.** Vehicle parking areas shall be located, oriented, and/or screened so that no vehicle lights enter into ground-floor residential spaces, including private open space.
- D. **Pedestrian Circulation and Access.** On-site pedestrian circulation and access shall be provided according to the provisions of Section 17.07.040, Supplemental Regulations (Residential Districts), or Section 17.08.040, Supplemental Regulations (Commercial and Mixed Use Districts). See Section 17.27.110, Parking Area Design and Development Standards, for requirements involving pedestrian access to vehicle parking areas. The following additional standard also apply:
1. **Enhanced Paving for Building Entrances.** Primary building entryways shall provide decorative and accent paving that contrast in color and texture from any adjacent pedestrian walkway surfaces.
- E. **Common and Private Open Space.** Common and private open spaces shall be provided according to the base zoning district regulations in Chapter 17.07, Residential Districts, or Chapter 17.08, Commercial and Mixed Use Districts. Section 17.23.100, Open Space, contains objective standards regarding minimum dimensions, usability, and accessibility for both private and common open space. In addition, the following standards apply:
1. **Common Open Space.** Common open space shall be provided according to Section 17.23.100, Open Space, and shall comply with the following:
 - a. **Amenity Types.** Where required by the base zoning district, projects shall provide at least one common open space through the following amenities: play areas, common courtyards, patios, gathering spaces, multi-use paths and trails, athletic/recreational facilities, dog runs and enclosures; pools and spas; and community gardens. An applicant may provide common open space through an amenity not on this list if it is readily accessible by all residents for recreation and social purposes.
 - b. **Visibility.** Common open space shall be located and arranged to allow visibility into the space from pedestrian walkways within the development. Fencing or barriers shall be designed with opaque, nontransparent materials for a maximum of 80 percent of the surface area, to allow some visual transparency between the common open space and pedestrian walkways.
 2. **Private Open Space.** Private open space shall be provided according to Section 17.23.100, Open Space, and shall be screened with one of the following options:
 - a. **Screening with Structural Elements.** A private open space may be screened by a fence or wall complying with Section 17.23.060, Fences and Freestanding Walls.

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- b. *Screening with Landscaping and Structural Elements.* A private open space may be screened by a landscape buffer or dense evergreen shrubs/vines of minimum 5 feet width and 4 feet height, and a fence or wall complying with Section 17.23.060, Fences and Freestanding Walls. If a ground-level private open space is visible from a public right-of-way or common open space, a landscape buffer is required.

F. **Landscaping.** Landscaping shall be utilized for all outdoor areas that are not specifically used for parking, driveways, walkways, or open space. Refer to Chapter 17.25, Landscaping, for regulations applicable to all new development. In addition, projects within the Coastal Resource Protection (CRP) Overlay District shall comply with relevant regulations in Chapter 17.14, Coastal Resource Protection Overlay District. For landscaping requirements in vehicular parking areas, refer to Section 17.27.110, Parking Area Design and Development Standards. In addition, the following standards apply:

1. **Pedestrian Walkways.** Pedestrian walkways shall be flanked on both sides with landscaping, and may include a mix of turf, groundcover, or shrubs. Both sides of walkways shall provide trees spaced to shade at least 25 percent of the overall walkway length at maturity.
2. **Number of Plants.** A minimum of one 15-gallon tree or equivalent box size and 10 five-gallon shrubs shall be planted for every 1,000 square feet of required landscape area.
3. **Plant Selection.** Projects shall comply with water efficient planting standards of Section 17.25.050, General Requirements. Plants shall be selected from plants that are native to California, or plants included on the City’s Street Tree List. In addition, tree and plant species that attract and provide habitat for local fauna (e.g., birds and pollinators such as bees and butterflies) are encouraged. Artificial or synthetic plants, except for turf, are prohibited.
4. **Privacy.** Landscaping shall be provided as a buffer between adjacent individual units. Landscaping shall obscure direct sight lines, and may be used in combination with walls, fencing, and/or trellises to screen views. Plant selection and landscape screening container size shall be selected to achieve at least 50 percent of this height within three years of installation.

FIGURE 17.31.020(F)(1): PEDESTRIAN WALKWAYS

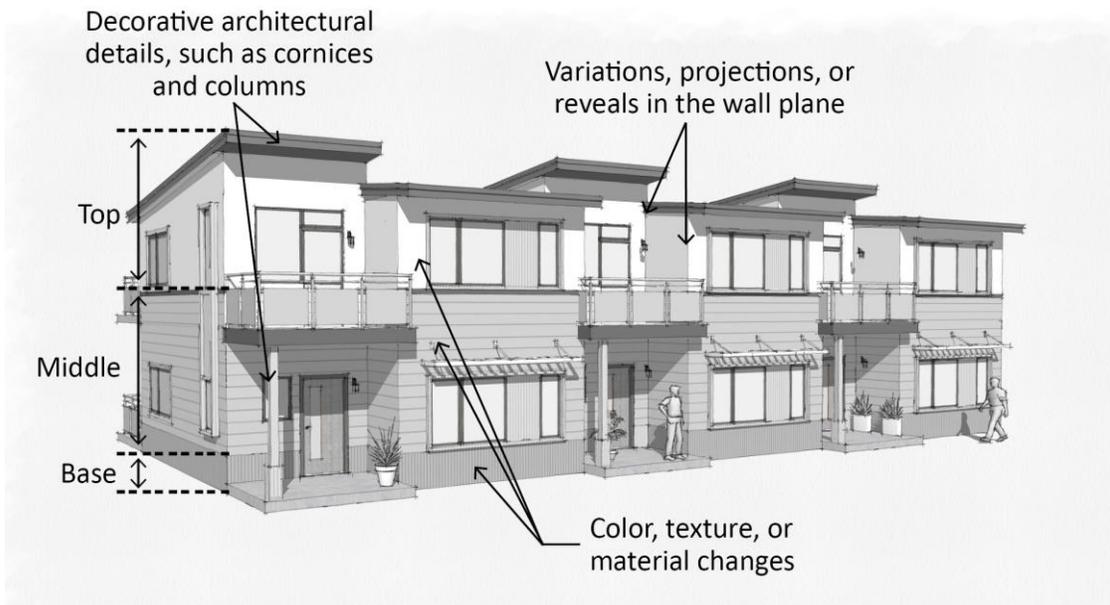


Trees spaced to shade at least 25% of the overall walkway length at maturity

17.31.030 Building Design

- A. **Purpose.** Building design incorporating variations in form, massing and façade articulation provides human scale and visual interest to a building and contributes to Morro Bay’s eclectic character and architectural diversity. Topics in this section include building massing, scale and form, façade articulation, roof forms, building and unit entryways, fenestration, parking structure design, and building materials and colors.
- B. **Building Form, Massing, and Façade Articulation.** Building form, massing and façade articulation facilitate the distinction of individual units, or groups of units, through varied heights, projections, setbacks, and recesses. Materials and colors emphasize changes and hierarchy in building form.
1. **Building Form and Vertical Hierarchy.** Buildings shall be designed to differentiate between a defined base; a middle or body; and a top, cornice, or parapet cap. Buildings two stories or less shall include a defined base and a top, cornice, or parapet cap. This effect shall be achieved through incorporating at least two of the following design elements for all buildings:
 - a. Color, texture, or material changes.
 - b. Variations, projections, or reveals in the wall plane.
 - c. Variations in fenestration size or pattern.
 - d. Decorative architectural details such as cornices and columns.

FIGURE 17.31.030(B)(1): BUILDING FORM AND VERTICAL HIERARCHY



Attachment B
CITY OF MORRO BAY
OBJECTIVE DESIGN STANDARDS
PUBLIC REVIEW DRAFT – MARCH 2023

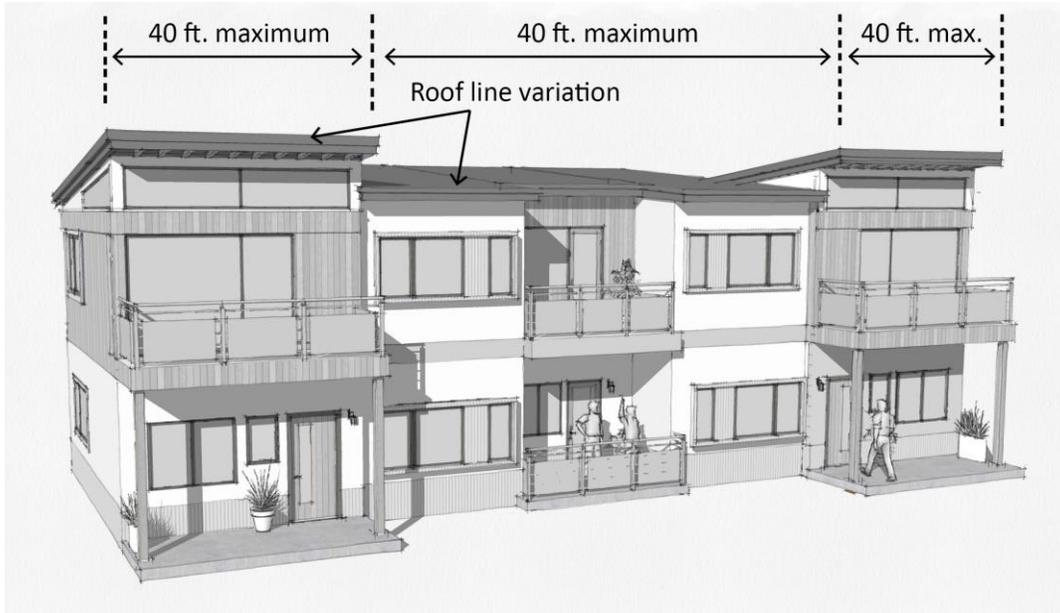
2. **Wall Plane Variation.** See Section 17.07.040, Supplemental Regulations, for building façade articulation in residential zoning districts. For mixed use projects, see Section 17.31.030 in this chapter.
3. **Four-sided Architecture.** Buildings shall be designed and articulated with common details, articulation, materials, and elements on all sides.
4. **Corner Architectural Features.** Buildings shall incorporate architectural features at corners such as towers, primary entries, enhanced materials, or roof projections to create a sense of hierarchy.
5. **Corner Facade Articulation.** Buildings located on the corner of two streets, and greater than one story, shall include one or more of the following features on both of the intersecting façades, located within 25 feet of the corner of the building:
 - a. An entry to ground-floor use or a primary building entrance.
 - b. A different material application, color, or fenestration pattern of windows and doors from the rest of the façade.
 - c. The area encompassed within 25 feet of the corner of the building shall have a change in height of at least 5 feet.

FIGURE 17.31.030(B)(5): CORNER FACADE ARTICULATION



6. **Roof Line Variation.** Roof lines shall not extend more than a length of 40 feet without at least one prominent change as described below:
- Provide variation in roof form, such as hip, gable, shed, and flat with parapet.
 - Provide variation of roof height of at least 18 inches (as measured from the highest point of each roof line).

FIGURE 17.31.030(B)(6): ROOF LINE VARIATION

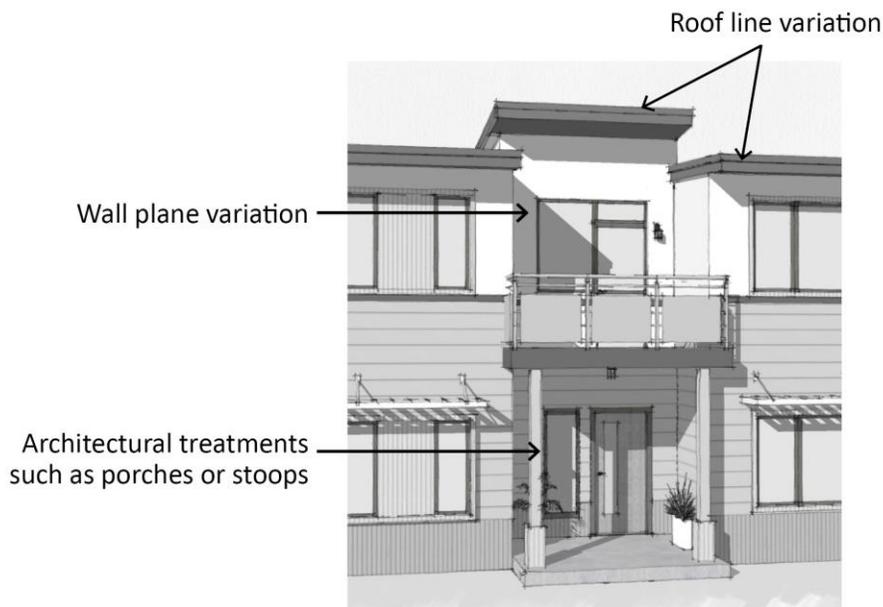


7. **Flat Roofs and Parapets.** Parapets shall be provided around the perimeter of a flat roof and shall be a minimum of six inches taller than all rooftop equipment.
- Interior side of parapet walls shall not be visible from a common open space or public right-of-way.
 - Parapets shall be capped with precast treatment, continuous banding, or projecting cornices, dentils, or similar edge treatment.
- C. **Building and Unit Entrances.** Entrance orientation and design shall comply with the provisions of Section 17.07.040, Supplemental Regulations (Residential Districts), or Section 17.08.040, Supplemental Regulations (Commercial and Mixed Use Districts). The following additional standards also apply:
- Primary Residential Building Entrances.**
 - Street-Facing Entry.** Residential buildings located adjacent to the primary street shall have a ground-level common entry facing the primary street unless units are accessed by individual entries.

Attachment B
CITY OF MORRO BAY
OBJECTIVE DESIGN STANDARDS
PUBLIC REVIEW DRAFT – MARCH 2023

- b. *Building Entry Architectural Treatments.* Common building entries shall be differentiated from the main façade through at least two of the following:
- i. Roof above the entry incorporating a change in roof line of at least 18 inches.
 - ii. Entry incorporating a variation of wall plane (recessed or projected) a minimum of 2 feet from the adjacent wall planes.
 - iii. Entry incorporating architectural treatments that vary from those on the general facade (e.g., window and/or door trim with substantial depth and detail, decorative siding, porches, stoops).

FIGURE 17.31.030(C)(1)(B): BUILDING ENTRY ARCHITECTURAL TREATMENTS



2. *Individual Unit Entrances.*

- a. *Upper-Floor Unit Entry.* Exterior entries to individual units on upper floors are permitted; however, in order to avoid a “motel-style” appearance, no exterior access corridor located above the ground floor may provide access to five or more upper-floor units.
- b. *Non Street-Adjacent Buildings.* Buildings not located adjacent to a street shall have unit front entryways oriented to face common open space areas such as landscaped courtyards, plazas, or paseos.

D. Windows.

1. **Privacy.** Windows facing adjacent buildings shall be offset to avoid direct sight lines into and from neighboring properties. This requirement is waived if opposing windows are adjacent to commercial uses. In addition, windows opposite an adjacent building shall be further screened through one or more of the following:
 - a. Utilize non-transparent or obscured glazing, such as frosted/patterned glass. Reflective glazing is not permitted.
 - b. Provide permanent architectural screens or affixed louvers at windows.
2. **Window Treatment.** All windows shall either be recessed at least 2 inches from the plane of the surrounding exterior wall or shall have trim at least 1/2 inch in depth and 3.5 inches in width. See Section 17.07.040, Supplemental Regulations (Residential Districts).
 - a. *Windows Facing a Public Street.* Windows facing a public street shall feature enhanced window treatments, such as decorative architectural brackets, trim, shutters, awnings, and/or trellises.
 - b. *Window Shutters.* Functional and decorative shutters shall be one-half-width of the associated window glazing (for paired shutters), or matching width for a single shutter

E. Materials and Colors. Exterior building materials and colors shall comply with the provisions of Section 17.07.040, Supplemental Regulations (Residential Districts), or Section 17.08.040, Supplemental Regulations (Commercial and Mixed Use Districts).

1. **Wall Material.** The primary exterior siding material for buildings shall be stone, brick, stucco, concrete block, painted wood clapboard, fiber cement clapboard, or painted metal clapboard.
2. **Window Material.** Window materials, color, and style shall be consistent on all elevations, unless used at an entry way or as an accent feature.
3. **Material Transition.** Changes in material shall occur at inside corners of intersecting walls or at architectural features that break up the wall plane, such as columns.
4. **Awnings.** Glossy finish vinyl awning material is not allowed.

17.31.040 Additional Mixed Use Standards

- A. **Façade Articulation.** Building façades visible from the primary street shall not extend more than 50 feet in length without at least one of the following: a 5-foot variation in depth in the wall plane, architectural element, or other prominent feature that provides visual interest. Building entrances, front porches, upper-story setbacks, and projections such as stoops, bays, overhangs, fireplaces, upper-story decks and trellises count towards this requirement.
- B. **Ground Floor Transparency.** Refer to Section 17.080.040, Supplemental Regulations, for standards related to exterior walls containing non-residential uses.
- C. **Street-Facing Setbacks.** Where a front setback or street-facing side setback is provided for a mixed use building, it shall be designed for pedestrian orientation with hard surface and amenities. The setback area on each lot shall contain at least two amenities per 50 linear feet such

as benches, drinking fountains, shade structure, or other design element (e.g. art or sculpture, planters, and kiosks).

D. **Entrances.**

1. **Residential Street-Adjacent Entry.** Mixed use buildings located adjacent to the primary street shall incorporate at least one residential building entrance that directly fronts the public sidewalk or right-of-way and complies with the requirements of Subsection 17.31.030(C)(1).
2. **Commercial Storefronts.** Commercial entrances adjacent to the sidewalk shall be recessed from the façade by a minimum of 2 feet from the rest of the building, creating an alcove.

17.31.050 Parking Structures.

- A. **Wall Plane Variation.** Façades visible from the primary street shall not extend more than 50 feet in length without at least one of the following: a 3-foot variation in depth in the wall plane, architectural element, or other prominent feature that provides visual interest.
- B. **Materials and Colors.** The parking structure shall utilize the same colors and materials as the primary buildings.
- C. **Articulation.** The exterior of the parking structure shall apply at least one of the following as articulation:
 1. Applied materials such as brick, stone, and/or siding which extend at least two inches from the face of the structure to the face of the applied materials. Painted concrete, smooth concrete, or stucco walls shall not be considered sufficient articulation.
 2. Decorative architectural features such as cut metal screens, awnings, trellises, louvers, and/or decorative security grills shall be used on openings facing a public street or open space.
- D. **Landscaping.** Vertical plantings shall be located between openings, entrances, and architectural accent features. At least one tree shall screen the building façade per 50 feet. Trees shall be selected from California native plants or from the City's Street Tree list. Trees shall be selected to grow to 40 feet in height at maturity, and shall grow to at least 15 feet in height within two years from time of installation.

17.31.060 Utilitarian Elements

- A. **Bicycle Parking.** Bicycle parking shall comply with the provisions of Section 17.27.080, Bicycle Parking.
- B. **Refuse Storage and Collection Areas.** Trash, recycling, and green waste container enclosures are required for residential and mixed use developments. They shall be located within a service section of the primary building, incorporated into the exterior building design, or located within a detached enclosure designed and placed as follows:
 - 1. **Location.** The enclosure shall be located to the rear or side of the building and located outside of view from a public right-of-way.
 - 2. **Screening.** The enclosure shall include a solid wall a minimum of 6 feet in height and a roof structure that fully shields the top of the container, and be located on the site in an area where the screening height required is allowed.
 - 3. **Materials.** The enclosure shall use materials that are consistent with exterior colors and materials of the primary building.
- C. **Fences and Walls.** Fences and walls shall comply with the provisions of Section 17.23.060, Fences and Freestanding Walls. In addition, where fences and walls of different materials or finishes intersect, a column or pilaster shall be provided.
- D. **Lighting.** Lighting shall comply with the provisions of Section 17.23.080, Lighting and Illumination. Projects within the Coastal Resource Protection (CRP) Overlay Zone District shall comply with additional provisions of Section 17.14.090, Visual Resource Protection. Lighting in parking areas shall also comply with Section 17.27.110, Parking Area Design and Development Standards.
- E. **Screening of Mechanical Equipment.** Equipment and utilities shall comply with the provisions of Section 17.23.130, Screening.
- F. **Vents and Exhaust.** All wall-mounted elements shall be located at interior corners of building walls or behind building or screening elements that conceal them from public view. All flashing, sheet metal vents, exhaust fans/ventilators, and pipe stacks shall be painted to match the adjacent roof or wall material and/or color.

Attachment C

Link to May 16, 2023, Planning Commission agenda and staff report (pages 121 – 123)
<https://www.morrobayca.gov/ArchiveCenter/ViewFile/Item/6171>

Thoughts on Draft Residential & Mixed Use Objective Design March, 2023

1. Because of my lack of background in architecture and because the file does not include experiences of other municipalities imposing objective standards, I have doubts about the *adequacy* of these guidelines. Are there implementation histories somewhere that demonstrate that the proposed standards, or close proximities, were judged successful? Were there failures? Were developers sometimes able to easily achieve results that would not have been acceptable had they appeared before a planning commission? I suspect that the proposed guidelines evolved from a search for best practices. I'd like to know about some of the "less good" details or rejected practices in order to have a better understanding of problem areas. We're required by state law to implement objective guidelines, but the ultimate responsibility is to have guidelines that *actually work the way we intend them to work*. How can we be confident that we have the best set of objective details, that it's not too little nor too much? How do we ensure that sacrificing planning commission oversight and replacing it with an *automatic* response will nevertheless produce good planning?

2. What do well regarded, working architects and professors of architecture think of the guidelines in terms of adequacy, the potential for *evasion of good design practices* by applicants and the intrusion of unintended consequences?

3. How are the objective guidelines likely to *constrain the specifics of the Morro Bay downtown design district proposal* before we even have a specific proposal?

4. What is the evidence that some of the quantitative choices are best-practice based and not *arbitrary*? In 17.31.030B Building Form, Massing and Facade Articulation, the applicant must incorporate at least two of the design elements. Why are two elements adequate and four presumably over-burdening? With respect to corner facade articulation, why is only one of the three listed features required? I can imagine where two of the listed features, or even three features, could enhance appearance and not be overburdening

5. In 17.31.050 Parking Structures, the guidelines explicitly state that painted concrete, smooth concrete or stucco walls are not considered sufficient articulation. I'd like to see a menu of such insufficiencies for each part of the guidelines to head off "*creative evasion*" strategies by applicants.

6. Finally, we're in an unmistakable transition period in Morro Bay, with uncertainty in the new planning code before the Coastal Commission, in the downtown design district being contemplated and in this objective multi-residential and mixed use objective guidelines proposed. Yet the certainty of a "one size fits all," new 37 feet increased commercial height maximum without design criteria is available now. The inevitability of objective guidelines will further encourage investment now. My fear is that if the height is eventually amended with its own set of contextual development guidelines, clever investors who bought early, will defeat, by suit or lobby, any attempt to make the new law retroactive.

Joe Ingraffia

5/24/23



AGENDA NO: C - 1

MEETING DATE: June 06, 2023

Staff Report

TO: Planning Commission

DATE: June 1, 2023

**FROM: Gregory Kwolek, Public Works Director
Damaris Hanson, Utilities Division Manager
Dan Heimel, Confluence Engineering Solutions**

SUBJECT: Presentation of Annual Water Supply and Demand Assessment and Allocation of Water Equivalency Units (WEU) for Fiscal Year (FY) 2023/24

RECOMMENDATION

Staff recommends the Planning Commission recommend to City Council:

1. Receive and file staff findings and strategies resulting from the Annual Water Supply and Demand Assessment;
2. Allocate 50 WEUs for residential development (30 SFR and 20 MFR) and 65 for commercial development for a total of 115 WEUs for FY2023/24.

ALTERNATIVES

As an alternative to the proposed allocation of 115 WEUs, Planning Commission could recommend to City Council to modify the allocation of WEUs for FY 2023/24 by increasing or decreasing the total amount allowed by Ordinance No. 266.

FISCAL IMPACT

There is no direct fiscal impact associated with the allocation of the WEUs. However, a moratorium on new WEUs would reduce the amount of revenue the City received through building and planning fees, property taxes, sales taxes, and other property related revenues.

ANNUAL WATER SUPPLY AND DEMAND ASSESSMENT

Updates to the California Water Code now require Urban Water Suppliers to prepare an Annual Water Supply and Demand Assessment (AWSDA) and submit an AWSDA Report to the California Department of Water Resources (DWR) by July 1st of each year. The AWSDA is an evaluation of a water utility's ability to reliably provide water to meet its customers' demands for the current year and one additional dry year. The evaluation is performed on a monthly time-step basis and compares anticipated available supply with anticipated demand to forecast potential water surpluses and shortages. The results of the AWSDA are used to help inform the City on how to implement its Water Shortage Contingency Plan and which Water Shortage Level and Demand Reduction Actions the City should require to ensure there is enough water for a potential upcoming dry year.

The summary of the City's FY 2023/24 AWSDA is presented here in the following order:

- Water Supply Background
- FY 2023/24 Projected Water Supplies
- Current Water Conservation Requirements

Prepared By: GK, DH, DH

Dept Review: GK

City Manager Review: SC

City Attorney Review: CN

- Annual Water Supply and Demand Assessment

Water Supply Background

The City of Morro Bay’s primary source of water is imported water from the State Water Project (SWP). During periods when SWP supplies are limited or unavailable (i.e., extended droughts or annual SWP shutdowns for maintenance) the City relies upon water pumped from the Morro Valley Groundwater Basin (Morro Basin). During 2022, SWP Water provided 96% of the City’s drinking water and the Morro Basin Wells provided the remaining 4%.

State Water Project

In 1963, the San Luis Obispo County Flood Control and Water Conservation District (District) entered into a long-term water supply contract (Contract) with DWR for a Table A Allocation of up to 25,000 acre-feet per year (AFY) of water from the SWP¹. In the 1990s, the City and 10 other agencies (Subcontractors) entered into contracts with the District to take delivery of up to 4,830 AFY of treated SWP water, referred to as their Water Service Amount (WSA). The District then entered into an agreement with the Central Coast Water Authority (CCWA) for the construction and operation of a water treatment plant to treat the Subcontractors SWP water prior to delivery in San Luis Obispo County. The Subcontractors additionally entered into agreements with the District for an additional 5,707 AFY of SWP Water, referred to as drought buffer, to provide additional water supply reliability for years when SWP allocations are less than 100%² (see table below). The remaining 14,463 AFY of District SWP Allocation is referred to as the District’s unsubscribed allocation.

The City’s SWP Water is conveyed from the San Joaquin-Sacramento Delta via the California and Coastal Branch Aqueducts. The water is then pumped up to and treated at the Polonio Pass Water Treatment Plant, which is near the junction of Highways 41 and 46. From the water treatment plant, the water is then delivered via gravity to the City through the Coastal Branch and Chorro Valley Pipelines (see map below)³.

Subcontractor	WSA (AFY)	Drought Buffer (AFY)	Total Allocation
CSA 16 (Shandon)	100	-	100
CMC	400	400	800
County Ops Center	425	425	850
Cuesta College	200	200	400
City of Morro Bay	1,313	2,290	3,603
City of Pismo Beach	1,240	1,240	2,480
Oceano CSD	750	750	1,500
SMMWC	275	275	550
Avila Beach CSD	100	100	200
Avila Valley MWC	20	20	40
San Luis Coastal USD	7	7	14
District Unsubscribed Allocation		14,463	14,463
Total	4830	21,170	25,000

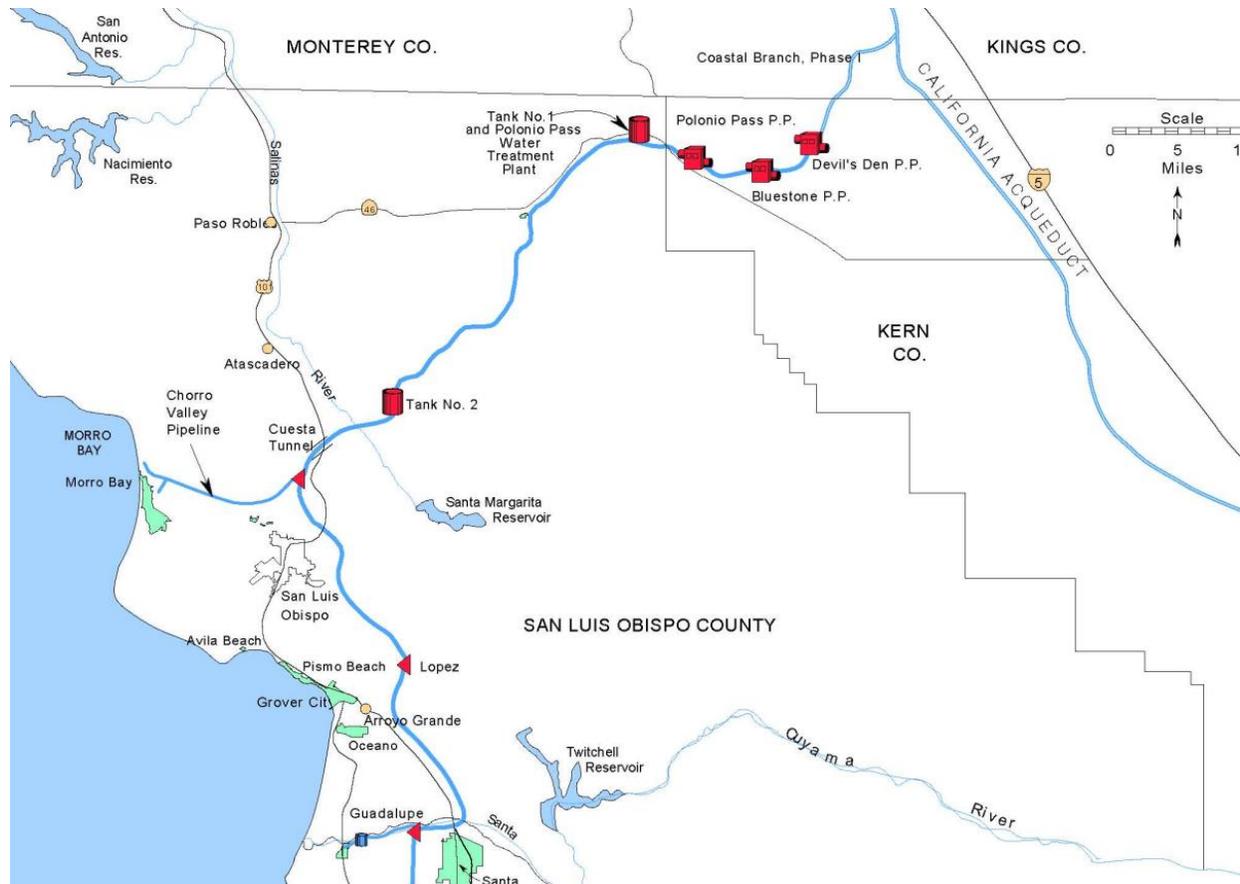
The City has a WSA of 1,313 AFY and a Drought Buffer of 2,290 AFY, as shown in the above table. To calculate the amount of SWP Water available to the City in a given year, its WSA and Drought Buffer are summed and multiplied by DWR’s Annual Allocation (e.g. 5% for 2022).

¹The District is one of 29 agencies that entered into substantially similar contracts with DWR. They are collectively known as “SWP Contractors”.

²DWR establishes an annual amount of SWP water (Annual Allocation) available to SWP Contractors prior to and during each calendar year. The analysis used to establish the allocation includes, but is not limited to, predicted and actual hydrologic conditions and legal requirements. <https://water.ca.gov/Programs/State-Water-Project/Operations-and-Maintenance>

³Additional information on the SWP in San Luis Obispo County is available on the District’s website here: <https://www.slocounty.ca.gov/Departments/Public-Works/Committees-Programs/State-Water-Project-and-Subcontractors-Advisory-Co.aspx>.

Though City SWP deliveries within a given year cannot exceed its WSA, the City has the ability to store a portion of its unused SWP water in San Luis Reservoir for use in future dry years (Stored SWP).



Morro Basin

The Morro Basin Wellfield is located near Lila Kaiser Park, consists of 7 wells, and can provide sufficient water from the Morro Basin to meet the City's water demand for a limited period of time. The City has permits with the State Water Resource Control Board that allow for the extraction of up to 581 AFY of water from the Morro Basin, which by itself does not meet the City's current water demands of approximately 1,100 AFY. The water pumped from the Morro Basin has elevated levels of nitrates that require treatment through the City's Brackish Water Reverse Osmosis (BWRO) facility prior to entering the distribution system. Approximately 25% of the water extracted from Morro Basin is rejected as concentrate during the treatment process and discharged into the ocean.

FY2023/24 Projected Water Supplies

In 2022, the City had utilized all the SWP Water it had allocated for that year (i.e. 180 AF due to a 5% Annual Allocation) and its stored water in San Luis Reservoir and was reliant upon District stored water for its SWP supplies. However, due to historic precipitation in 2023, DWR has set the Annual Allocation for SWP water deliveries at one hundred percent (100%) for this year. Due to this maximum allocation from the SWP this year the City has access to 3,603 AF in 2023 (i.e. 1,313 + 2,290) * 100%). This far exceeds the City's anticipated demand for water this year of approximately 1,100 AF and therefore the City anticipates being able to meet its demands for 2023 and by storing the surplus water have sufficient water remaining for 2024, even if the 23/24 rain season is dry and the annual allocation from the SWP is low. As described, the City as a

District Subcontractor has the ability to store SWP Water in San Luis Reservoir for future years. The equations that govern how much SWP Water the City can store in San Luis Reservoir are shown here:

Where:

- W = Available SWP Water
- T = Table A Water
- B = Drought Buffer
- A = Annual Allocation
- W = (T + B) x A
- S = Amount Eligible for Storage

For deliveries from 0% to 50% the maximum storage allowed is 25% of the available water as shown in Equation 1.

Equation 1: $0 \leq A \leq 50\%$, $S \leq 25\% \times W$

For deliveries from 51% to 74% the maximum storage allowed is 25% plus 1% for every percentage point over 50% that is delivered as shown in Equation 2.

Equation 2: For $50\% < A < 75\%$, $S \leq [(A - 50\%) + 25\%] \times W$

For deliveries 75% and over the maximum storage allowed is 50% of the available water as shown in Equation 3.

Equation 3: For $A \geq 75\%$, $S = 50\% \times W$

Sample Calculations:

A = 20%		
Maximum Storage,	$S = 25\% \times W$	Equation 1
$S = 25\% \times W$		
$S = 25\% \times [(T + B) \times A]$		
$S = 25\% \times [(1,313 + 2,290) \times 20\%]$		
$S = 180 \text{ AF}$		

A = 65%		
Maximum Storage,	$S = [(A - 50\%) + 25\%] \times W$	Equation 2
$S = [(A - 50\%) + 25\%] \times W$		
$S = [(A - 50\%) + 25\%] \times (T + B) \times A$		
$S = [(65\% - 50\%) + 25\%] \times [(1,313 + 2,290) \times 65\%]$		
$S = 937 \text{ AF}$		

A = 85%		
Maximum Storage,	$S = 50\% \times W$	Equation 3
$S = 50\% \times W$		
$S = 50\% [(T + B) \times A]$		
$S = 50\% [(1,313 + 2,290) \times 85\%]$		
$S = 1,531$		

Actual Calculation for the maximum storable City water in 2023:

The calculation for the amount of SWP water the City can store in San Luis Reservoir in 2023 is shown below.

2023 Annual Allocation (A) = 100%		
Maximum Storage,	$S = 50\% \times W$	Equation 3
$S = 50\% \times W$		

$$S = 50\% [(T + B) \times A]$$

$$S = 50\% [(1,313 + 2,290) \times 100\%]$$

$$S = 1,802$$

Of note, SWP water is an interruptible source of supply. For example, if there is an infrastructure failure or other emergency, the City could be without water from this source. Additionally, there are scheduled “shutdowns” once a year for routine maintenance, typically in November with a duration from 1-2 weeks, but which can extend up to a month. During these periods the City relies upon water from its Morro Basin wells and BWRO facility. Included in the AWSDA is an assumption that the SWP will be shut down for two weeks in November 2023.

Current Water Conservation Requirements

On March 24, 2023, Governor Newsom announced the easing of drought restrictions that were in place since 2021. The Winter Storms of 2023 have dramatically changed the drought conditions in the State of California, and locally, for the County of San Luis Obispo. The State announced increased water deliveries to 29 public agencies that serve 27 million Californians, now expecting to deliver 100% of requested water supplies.

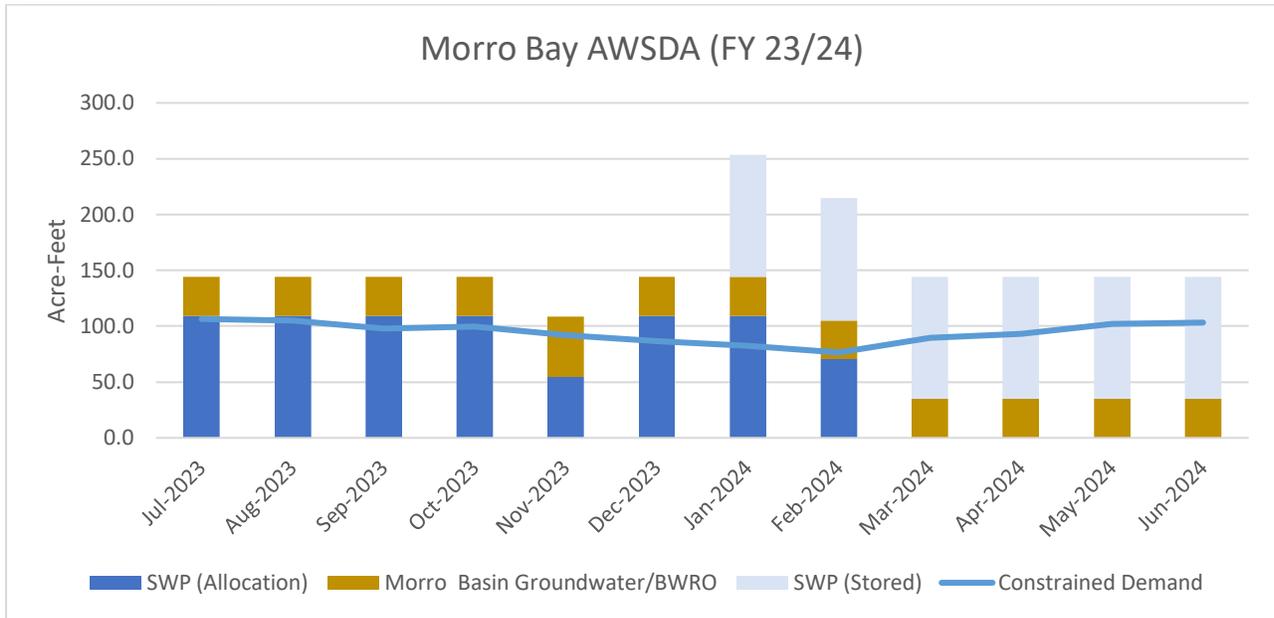
Due to the rainy winter season and subsequent increase in State Water allocation, as well as the Governor’s proclamation to easing of water restrictions, the City Council reduced the water conservation requirements from Severely Restricted Conditions to Moderately Restricted Conditions at the April 25, 2023, meeting.

Annual Water Supply and Demand Assessment

To comply with new State requirements mentioned above, City Staff prepared a draft AWSDA that included the following assumptions:

- SWP supply availability for 2023 is based on current conditions (i.e., 100% Annual Allocation).
- SWP supply availability for 2024 assumes a 5% Annual Allocation (Drought Year) and access to 1,802 AF of Stored SWP Water in San Luis Reservoir.
- SWP shutdown occurring in November 2023 is assumed to last 2 weeks.
- Morro Basin supply availability based on amount of water available under City’s water rights permit.
- Unconstrained demand estimates (i.e., anticipated demand without demand reduction actions in place) were obtained from the 2020 UWMP. Seasonal demand patterns were based on historical demands.
- Constrained demand estimates assumed to be based on Water Shortage Contingency Plan Level 2 implementation and an associated reduction in demand of 10%.

A summary graph illustrating the City’s FY 23/24 AWSDA is provided below. The colored columns represent the anticipated amount of water available from each of the City’s sources of supply and the colored lines represent the amount of anticipated demand. The relative position of the supply columns and the demand lines indicate whether there is an anticipated surplus (i.e., supply columns greater than demand lines) or a shortage (i.e., demand lines greater than supply columns).



The following table summarizes City’s anticipated available supply and utilization of water in 2023.

Supply Source	Available Supply (AF)	Anticipated Usage (AF)	Remaining Supply (AF)	Supply Eligible for Storage (AF)	Anticipated Unused Water (AF)
SWP	3,603	1,097	2,506	1,802	704
Morro Basin/BWRO	436	37	398		398
Total	4,039	1,134	2,904	1,802	1,103

Based on the results of AWSDA, it is anticipated that the City will have sufficient water to meet its customers’ demands for FY 23/24 through use of the following strategies:

1. Maintain Water Shortage Contingency Plan Stage 2
2. Utilize City SWP Water Allocation for 2023 to meet majority of anticipated demand
3. Utilize Morro Basin Water through the BWRO during the November 2023 SWP Shutdown

WATER EQUIVALENCY UNITS (WEU)

Background

In 1984 the citizens of Morro Bay adopted Measure F, codified as Ordinance 266 in MBMC as Chapter 13.20, as 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 the WEU allocation mix to consist of 60% single family residential dwellings and 40% multi-family residential dwellings. Since housing and population growth has not increased to the Measure F projected population of 12,200, new housing units can still be issued. The population growth estimates in the General Plan predict reaching the Measure F established population in 2040.

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. Based on calculations completed in 2016, a WEU is 8,732 cubic feet (0.2 AF) of water or 90 gallons per capita per day (GPCD). This amount was lowered in the 2016 calculation from previous years due to the historical trend of lower water use per capita 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 shall not exceed available water supply.

Water Equivalency Unit Program

WEUs are issued to new projects based on the projects potential water use. WEU are issued with planning permit approvals, therefore this water use is projected to be in the future demands, not within the current or even next fiscal year water demands. Due to this water use being "delayed", the City relies on its Urban Water Management Plan's supply and demand comparisons for future multiple dry year droughts to test adequacy of its water supply portfolio to meet future demands, including new developments that require WEUs.

The City performed a water service reliability forecast as part of its Urban Water Management Plan to determine water supply availability in a hypothetical 5-year drought scenario that was based on real world data from the worst 5-year consecutive drought period on record. This forecast showed that with City stored SWP water and the IPR program, the City's future water supply portfolio will be sufficiently reliable to provide water during such a scenario. This further demonstrates that there is water available for future development in the City.

Summary of WEU FY 2022-23 activity:

The City Council authorized 115 WEUs for FY 2022-23, including 30 WEUs to be used for single-family dwellings, 20 for multiple-family dwellings, and 65 allowed for commercial/industrial uses. Those WEUs were allocated on a first-come, first-serve basis. The tracking of the WEUs utilized for FY 2022-23 indicates only 1 of the 115 WEUs allocated were used:

- Single-Family Residential: 1
- Multi-Family Residential: 0
- Commercial: 0

This is not a comprehensive list of all building activity, but rather a list of those activities which required a WEU allocation in the past fiscal year. A WEU is only required for single family residential and multi-family residential when development is on an empty lot or when a change in use is proposed, i.e., changing from office building to apartment. Many of the projects for FY 2022/23 are Accessory Dwelling Units (ADU) and per State Law these units are to be treated the same as the existing residence with no greater impact than the existing residence, and as such, ADUs do not require allocation of WEUs.

Looking ahead at the planning projects in the que for remainder of FY 2022/23, staff sees no need to adjust the number of WEUs for next fiscal year. Looking forward to next fiscal year, the Community Development Department is expecting one larger scale development to potential begin the planning process towards the end of the fiscal year. It is anticipated that the staff recommended WEUs will be sufficient to move that project and other projects forward. As such, staff recommends the FY 2023-24 WEU allocation include 50 WEUs for residential development and 65 WEUs for commercial development for a total of 115 WEUs.

CONCLUSION

Staff recommends the Planning Commission recommend to City Council:

1. Receive and file staff findings and strategies resulting from the Annual Water Supply and Demand Assessment;
2. Allocate 50 WEUs for residential development (30 SFR and 20 MFR) and 65 for commercial development for a total of 115 WEUs for FY2023/24.