

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863

**F14c**

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Staff: MW-SC  
Staff report prepared: 9/18/03  
Hearing date: 10/10/03  
Hearing item number: F14c

## APPEAL STAFF REPORT

### SUBSTANTIAL ISSUE DETERMINATION

**Appeal number** ..... A-3-MRB-03-091, Steinmann RV Park

**Applicants** ..... Ed Ewing and Joe Steinmann

**Appellant** ..... Joe and Charlotte Wallick

**Local government** ..... City of Morro Bay

**Local decision** ..... Approved with conditions on August 11, 2003

**Project location** ..... 221 Atascadero Road, Morro Bay, San Luis Obispo County (APNs 065-182-007, 065-182-008).

**Project description** ..... Development of a Recreational Vehicle (RV) Park on approximately 1.6 acres site, including utility extensions, manager's residence, and visitor parking spaces.

**File documents** ..... Morro Bay Certified Local Coastal Program (LCP); Morro Bay Coastal Development Permit 06-03R.

**Staff recommendation** ... **Substantial Issue**

#### I. Recommended Findings and Declarations for Substantial Issue:

On August 11, 2003, the City of Morro Bay approved a Coastal Development Permit for the establishment of a Recreational Vehicle (RV) park at 221 Atascadero Road, on a 71,500 square foot parcel designated for visitor-serving commercial uses (project plans and location map attached as Exhibit 1). An appeal of this decision filed with the Coastal Commission challenges changes made by the Planning Commission and City Council to the proposed 24-unit park, stating that the project was transformed into a potential 58-space extended RV parking lot/mobile home park. The appeal contends that these changes violate density standards and setback requirements, and that increased impacts on traffic, aesthetics, and nearby sensitive habitats have not been adequately evaluated. The appeal further raises concern about the precedent this would set for other RV park development proposals west of Highway 1. The submitted reasons for appeal are attached to this report as Exhibit 2.



California Coastal Commission  
October 10, 2003 Meeting in Coronado

Staff: M. Watson Approved by: *DSL*

## **Appeal A-3-MRB-03-091**

Steinmann RV Park  
Substantial Issue Staff Report  
Page 2

Staff recommends that the Commission determine that the appeal raises a **substantial issue** regarding the project's conformance to the Morro Bay certified LCP. Although the project is eligible for adjustments to standard density and setback requirements because of its location within a Planned Development overlay district, such exceptions must result in a better design or other public benefit, and be consistent with coastal resource protection (please see LCP Section 17.40.030, attached on pages 1-4 of Exhibit 3). In this case, the standard maximum density established by Section 17.24.120 of the LCP is one unit per 2,900 square feet (see Exhibit 3), which equates to a maximum of 24 RV spaces at this site. The appellant's concerns regarding the exceptions to standard zoning requirements approved by the City, such as increasing the density to a maximum of 58 RV spaces, raise a substantial issue regarding the project's consistency with LCP standards protecting sensitive habitats and visual resources, as well as with LCP priorities for visitor-serving uses, as further discussed below.

**1. Environmentally Sensitive Habitat Areas (ESHA).** The appeal asserts that the increase in RV spaces approved by the City Council has not been adequately evaluated for impacts on sensitive habitat areas, such as nearby habitat for the federally endangered Morro Shoulderband snail and Federally threatened western Snowy Plover. Other sensitive habitats in the vicinity of the project include wetlands to the west of the project site. Policy 11.02 of the City's certified Land Use Plan (Exhibit 3, page 5) requires development adjacent to ESHA to maintain the habitats functional capacity and avoid significant degradation of such areas. In addition, Policy 11.19 (Exhibit 3, page 6) prohibits development adjacent to wetlands that would result in adverse impacts due to additional runoff, sedimentation, noise, and other disturbances. As a means of implementing these standards, Policy 11.05 (Exhibit 3, page 5) requires all development that may adversely impact ESHA to undergo an environmental impact assessment by a qualified biologist. Contrary to these requirements, the adverse impacts to nearby sensitive habitat areas posed by the increased density approved by the City have not been adequately considered. For example, the potential for increased polluted runoff, traffic, noise, lights, and human activity to disrupt sensitive habitats and reduce their biological productivity is not addressed by the City's approval. Therefore the appeal raises a substantial issue regarding the project's conformance to LCP ESHA protection requirements.

**2. Visual Resources.** Similarly, appeal contentions regarding the visual impacts of the increased development intensity raise a substantial issue regarding the project's consistency with LCP visual resource protection standards, such as Section 7.48.190 and Policy 12.01 (attached in Exhibit 3), requiring that the scenic and visual qualities of coastal areas be protected and enhanced. The project site is visually significant due to its location along a primary coastal access route that links Highways 1 and 41 with Morro Strand State Beach. The exceptions to standard LCP density and setback requirements approved by the City have the potential to conflict with LCP visual resource protection requirements by blocking coastal views, reducing landscaping, and introducing a design and intensity of use that is not compatible with surrounding development. Because these impacts are not addressed by the City's approval, the appeal raises a substantial issue.



## **Appeal A-3-MRB-03-091**

Steinmann RV Park  
Substantial Issue Staff Report  
Page 3

**3. Visitor-Serving Priorities.** The purpose of the visitor-serving commercial (C-VS) district in which the development is located is to provide commercial uses serving visitors to the City. Section 17.24.120 of the LCP (Exhibit 3, page 9), specifically prohibits residential commercial uses in this district. As noted by the appeal, the City's approval may set a precedent for other RV developments that may be proposed in this area. Indeed, the potential for adverse impacts to coastal resources discussed above will be exacerbated if development in the surrounding area seeks similar exceptions to the baseline density and setback standards established by the LCP. Moreover, the terms of occupancy under approved by the City sets a dangerous precedent that could enable RV parks to be used for residential purposes rather than as visitor accommodations. Specifically, the City approval allows RV spaces to be occupied for 90 days at a time, which means that one tenant could occupy a site for an entire summer or fall season, when visitor serving accommodations are most needed. This could significantly diminish the availability of overnight accommodations if other visitor-serving facilities in the area were to pursue similar terms of occupancy. Thus, the appeal raises a substantial issue regarding the project's consistency with LCP priorities for visitor-serving uses.

## **II. Recommended Motion and Resolution**

### **MOTION:**

*I move that the Commission determine that Appeal No. A-3-MRB-03-091 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

### **STAFF RECOMMENDATION:**

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

### **RESOLUTION TO FIND SUBSTANTIAL ISSUE:**

The Commission hereby finds that Appeal No. A-3-MRB-03-091 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

## **III. Appeal Procedures:**

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for



**Appeal A-3-MRB-03-091**

Steinmann RV Park  
Substantial Issue Staff Report  
Page 4

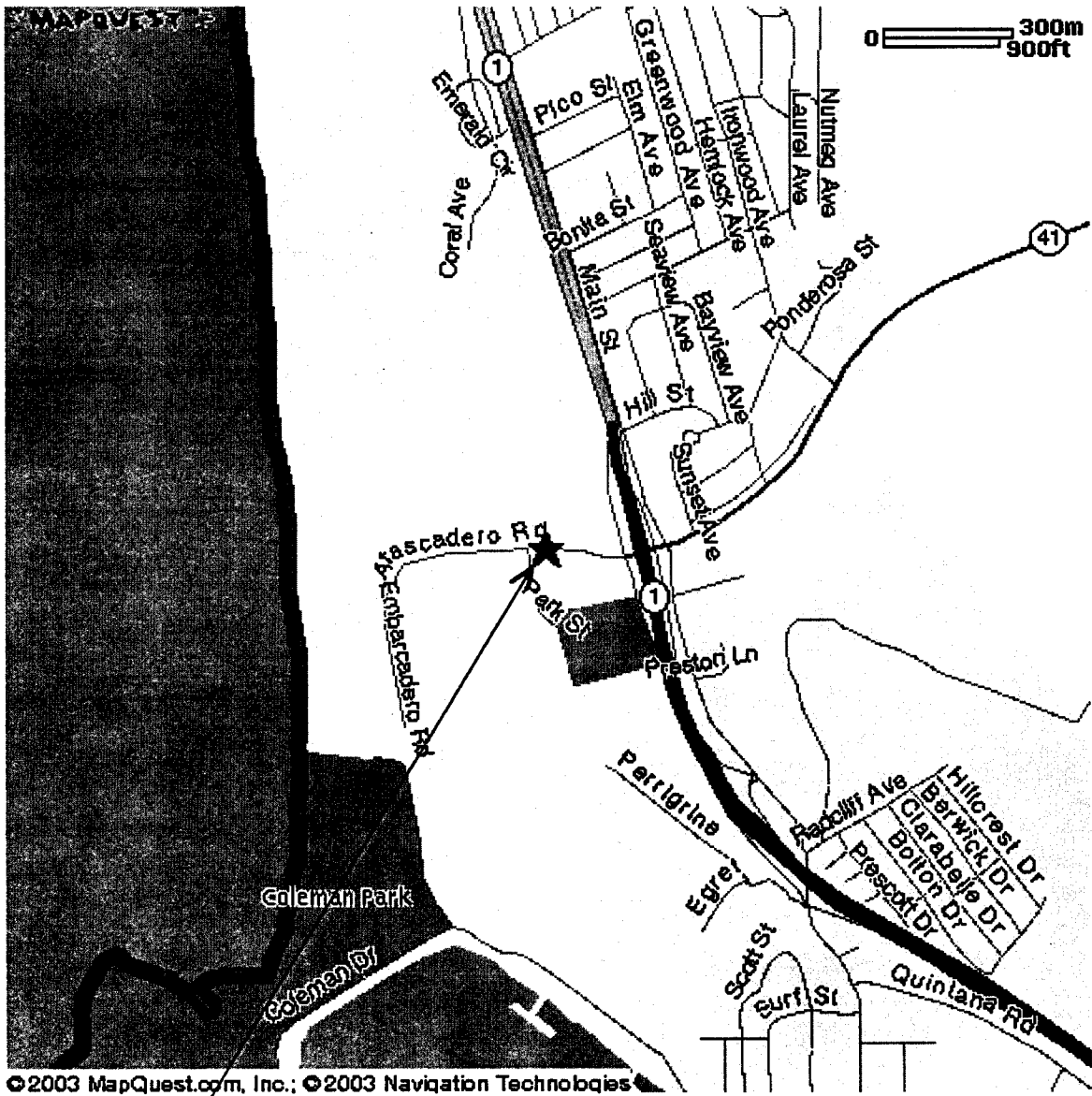
counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is between the first public road and the sea.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is located between the first public road and the sea and thus, this additional finding would need to be made in a de novo review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

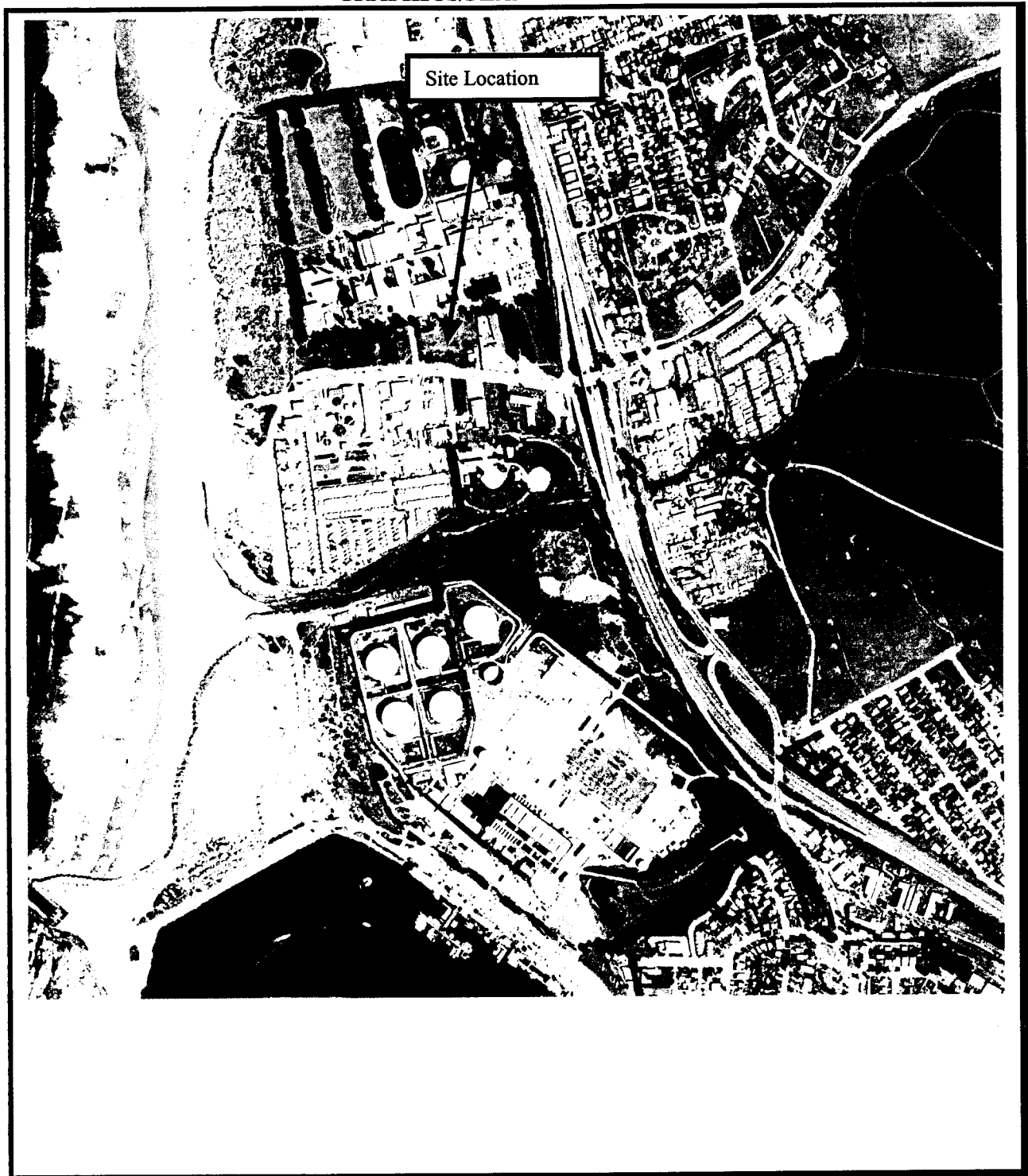






Project Location

**EXHIBIT C:**  
**GRAPHICS/PLAN REDUCTIONS**



Planning Commission  
Steinmann RV Park  
July 7, 2003



**VICINITY MAP**

**CCC Exhibit** 1  
**(page 3 of 4 pages)**





pages)

A black and white photograph of a building, likely a bank, with a sign that reads "BANK OF AMERICA" and "1000 AVENUE". The building has a modern architectural style with large windows and a flat roof. The sign is mounted on the side of the building. The photograph is oriented horizontally on the page.

[illegible]



### APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

This project deserves your attention since it is located between the mean high tide line and the first public road, and would set a precedent for other RV park developments on the ocean side of Hwy. 1.

What started out as a planned CVS 24-space RV park with visual/aesthetic improvements was transformed by the Planning Commission and City Council into a (potentially) 58-space, extended stay RV parking lot/trailer park. The RV park density requirements (2900 sq. ft. min. per space) laid out by the general plan were circumvented by the PB overlay (please see last sentence of Condition #31, Page A-1), which also overrode staff's recommendation that no more than 3 or 4 additional spaces could be added without additional environmental and traffic studies. (Morro Shoulderband Snails are 20 yards away; snowy plovers 200 yds. away, site is adjacent to Morro Bay High School.)

The General Plan's setbacks were discarded arbitrarily.

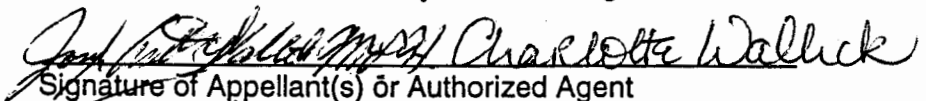
The General Plan also requires new developments to contribute aesthetically to the City. This is not served by a crowded trailer park with minimized landscaping.

The applicant has cooperated with the City by providing a 36-unit version, in which (please see site plan) even that number encroaches into the setback lines.

In summary, the City's unrequested alterations to this project serve no purpose and are of dubious legitimacy. Thank you for your consideration.  
Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

#### SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

  
Signature of Appellant(s) or Authorized Agent

Date August 27, 2003

NOTE: If signed by agent, appellant(s) must also sign below.

#### SECTION VI. Agent Authorization

I/We hereby authorize \_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date \_\_\_\_\_

EXHIBIT NO. 2

APPLICATION NO.  
A-3-MRB-03-091

Reasons for Appeal

## Chapter 17.40

SPECIAL TREATMENT OVERLAY AND COMBINING DISTRICTS  
AND SPECIFIC PLANS

## Sections:

- 17.40.010 Application of regulations.
- 17.40.020 Scope.
- 17.40.030 Planned development, (PD) overlay zone.
- 17.40.040 Environmental sensitive habitat (ESH) overlay zone.
- 17.40.050 Special treatment (S) overlay zone.
- 17.40.060 Mobilehome (M) overlay zone.
- 17.40.070 Combining mixed use overlay zone.
- 17.40.080 Interim use (I) overlay zone.
- 17.40.100 Beach Street Area specific plan (SP-BS).
- 17.40.110 North Main Street specific plan (SP-NM).

**17.40.010 Application of regulations.**

The planned development (PD), environmentally sensitive habitat (ESH), special treatment (S), mobilehome (M), interim (I), and specific plan (SP) districts are overlay zones which apply special standards to primary zoning districts. In any primary district which is combined with a "PD," "ESH," "S," "M," "I," "SP" or special treatment combining district, and in mixed use areas where a primary and secondary district are combined, this chapter shall apply in addition to those uses and regulations specified for such districts; provided, however, in the event of a conflict with the regulations applicable, the provisions of this chapter shall govern and shall take precedence over the standards and uses specified in the primary zone. (Ord. 445 § 3 (part), 1995)

**17.40.020 Scope.**

These districts may be used to require special treatment or regulations such as the application of special design criteria including architectural, structural, physical, environmental, and visual characteristics for new development in unique areas of the city. (Ord. 445 § 3 (part), 1995)

**17.40.030 Planned development, (PD) overlay zone.**

A. Purpose. The purpose of the planned development (PD) overlay zone, is to provide for detailed and substantial analysis of development on parcels which, because of location, size or public ownership, warrant special review. This overlay zone is also intended to allow for the modification of or exemption from the development standards of the primary zone which would otherwise apply if such action would result in better design or other public benefit.

B. Chapter Application. The requirements and procedures contained in this chapter shall apply to all properties which have, in addition to a primary or base zone district, the planned development (PD) overlay zone, unless otherwise provided in this chapter.

C. Permitted Uses. Subject to the granting of a conditional use permit for a conceptual and/or a precise plan of development:

1. Any principal or conditional use which is allowed by the primary zoning district is a permitted use;
2. Community housing projects as defined in Chapter 17.49, may be permitted in PD overlay residential zones. The provisions of that chapter shall, also apply to the review of such PD overlay zone projects.

D. General Development Standards. The standards for development within a PD overlay zone shall be those of the base zoning district, provided however, that standards may be modified by the planning commission or city council as they relate to: building heights; yard requirements; and minimum lot area for dwelling units in the density range provided that any specific design criteria of the general plan and coastal land use plan, applicable to the property, is not exceeded. For those areas of the city

which are covered by the waterfront master plan, all new development projects requiring discretionary permits (conditional use permits, etc.) shall be consistent with the design guidelines contained in Chapter 5 of the waterfront master plan. Modifications of standards shall only be approved upon a finding that greater than normal public benefits may be achieved by such deviations. Such benefits may include, but are not limited to improved or innovative site and architectural design, greater public or private usable open space and provisions of housing for the elderly or low/moderate income families, provision of extraordinary public access, provision for protecting environmentally sensitive habitat (ESH) areas, but in all cases these provisions shall meet the coastal land use policies.

E. Consistency With General Plan And Local Coastal Program. New development and uses may be permitted only if found to be consistent with the applicable policies of the Morro Bay general plan and local coastal program.

F. Conceptual Plans Required For Proposal Involving Public Lands Or Large Parcels. A concept plan shall be submitted and approved pursuant to this chapter prior to submittal of any new development; new use or change in use; or subdivisions of a series of two or more commonly held contiguous parcels of land, on property within a PD overlay zone which: is publicly owned, including tidelands, or in its gross or aggregate area exceeds one acre.

1. Contents of the Conceptual Plan. The concept plan shall be a general development plan and shall not include construction plan drawings such as complete engineering or tentative maps. The following information shall be included in the concept plan:

a. Plot Plan. A proposed plot plan for the development, including project boundary designation, perimeter of the ownership, location and dimensions of any existing property lines and easements within the site, tentative location of buildings, roads, parking and open areas;

b. Streets. The width and location of surrounding and adjoining streets and proposed street alignments within the site, and connections to existing streets;

c. Adjoining Properties. The use of adjoining properties, any building within fifteen feet of the property line shall be precisely located;

d. Topography. The existing and proposed changes in topography of the site, including the degree of land disturbance, the location of drainage channels or water courses and the direction of drainage flow;

e. Utilities. The locations and capacities of existing utilities in the vicinity of the site, and tentative extensions to the site;

f. Structures and Existing Trees. The location of any structures and existing trees in excess of six inches in diameter upon the site designated for retention or removal;

g. Phased Development. The approximate timetable and priorities of any phased development;

h. Architectural Concepts. Sketches showing architectural concepts of the proposed building, including heights, design, exterior materials of proposed buildings, other structures, fencing and signing;

i. Open Space Plan. Proposed open space plan including landscape concept and type of plant materials, recreation area, parking, service and other public area used in common on the property; a description of intended improvements to the open area of the property.

j. Other Information. The planning commission and city council may require such other information as deemed necessary, which may include but not be limited to, economic analysis, habitat analysis, archaeological analysis, visual quality analysis, public access analysis, thoroughfare plans, public services and facilities plans, utilities service plans, and conceptual method of land subdivision or ownership arrangement described by a preliminary parcel or tract map, pursuant to the provisions of Title 14 of this code.

2. Concept Plan Approval. In addition to the review provisions of Chapter 17.60 describing the processing of conditional use permits, concept plans for PD overlay zone properties shall receive final approval from the city council at a duly noticed public hearing. The planning commission shall first review the concept plan by conducting a public hearing. If the commission consideration is to approve the plan, it shall report such findings and recommendation to the city council. If the commission determines to deny the plan, it need not be forwarded to the council and the commission decision shall become final unless appealed.

G. **Precise Plans Required.** Upon approval by the city council of a concept plan, or where no conceptual approval is required, a precise plan of development shall be submitted to the planning commission showing the details of property improvement and uses or activities to be conducted on the site, and any subdivision proposals. Precise plans shall be processed in accordance with procedures for a conditional use permit as contained in Chapter 17.60.

1. **Precise Plan Content.** Plans shall be prepared containing all the general information required of concept plans, which has been further developed to a precise level of detail. Any data or calculations necessary to evaluate the precise plan proposal, shall accompany such plans. A precise plan shall contain the following minimum information:

a. **Total Development Plan.** The total development plan showing the precise dimensions and locations of proposed structures, buildings, streets, parking, yards, pathways, open spaces and other public or private facilities;

b. **Architectural Elevations.** Fully developed architectural elevations of all buildings, structures, signs and fencing, showing colors and materials of construction;

c. **Landscaping Plan.** A landscaping plan showing plant materials, type and size of plants at the time of planting, and method of maintenance;

d. **Engineering Plans.** Engineering plans showing site grading, and amount of cut and fill, including finished grades and proposed drainage facilities;

e. **Proposed Site Uses or Activities.** Listing all of proposed site uses or activities to be conducted on the site, with related floor area depicted or calculations of site area to be devoted to such uses;

f. **Miscellaneous Plans.** Miscellaneous plans (as appropriate) showing any exterior lighting, roof plans, site cross-sections, view sight lines, ESH mitigation plans, archaeological mitigation plans, visual quality plans, public access mitigation plans, or other features necessary to evaluate the specific proposal including the information required of community housing projects;

g. **Tentative Tract or Parcel Map.** Tentative tract or parcel map, where lands involved in the proposal are to be divided or joined together.

2. **Precise Plan Approval.** The planning commission, in granting a conditional use permit for PD overlay zone precise plans, shall make the findings required by Section 17.60.030; and, further find that precise plans are in substantial conformance with any conceptual plan approval granted by the city council.

#### H. **Expiration Of Plan And Permit Approvals.**

1. **Precise Plans.** Where a conceptual plan is required, precise plans must be submitted to the planning commission within one year from the date of city council approval or approval of the State Coastal Commission where said plan requires their approval. Without further action, concept plans shall automatically become null and void after one year has elapsed.

2. **Precise Plan Expiration.** Precise plans shall expire two years from the date of approval if not initiated, except where a tentative subdivision map has been approved in conjunction with a PD overlay zone project, in which case, the conditional use permit shall expire upon the expiration of the tentative map.

3. **Extensions of Time.** The planning commission may grant extensions of time as provided for use permits, coastal development permits and subdivisions.

I. **Phased Development.** In the event that the applicant intends to develop the proposal in phases, and the planning commission or city council as applicable, approves phased development, said plans shall remain in effect so long as not more than one year lapses between the end of one phase and the beginning of the next phase.

J. **Minor Improvements To PD Overlay Zone Properties.** Other provisions of this chapter notwithstanding, a minor use permit shall be required for PD overlay zone development involving any of the following:

1. An increase in existing building floor area or building height, of not more than ten percent or five thousand square feet whichever is less, and the construction of minor accessory buildings or appurtenances;

2. Minor changes to architectural facades, or other embellishments;

3. Minor revisions to parking layout;

4. A change in signing programs;
5. Revisions to site landscaping;
6. A change in property use to add or replace an existing use with one permitted in the base zone, if associated improvements are no more intensive than previously approved uses. (Ord. 445 § 3 (part), 1995)

**17.40.040 Environmental sensitive habitat (ESH) overlay zone.**

**A. Purpose.**

1. The purpose of the environmentally sensitive habitat overlay zone or "ESH" overlay zone is to protect and preserve areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities and development. Environmentally sensitive habitat overlay zones shall extend not only over an ESH area itself but shall also include buffers necessary to ensure continued protection of the habitat areas. Only uses dependent on the sensitive resources and which do not result in significant disruption of habitat values shall be permitted in the ESH overlay zone. The ESH overlay zone may apply to areas not currently mapped as ESH designation.

2. New uses and expansions of existing uses allowed in the primary zone classification shall not be permitted unless specifically listed as allowed in the ESH overlay district. Proposed uses may require review and approval by the State Department of Fish and Game. Proposed uses may require permits from the Department of Fish and Game or may be prohibited.

**B. Uses Allowed Without a Conditional Use Permit.**

1. Wetlands. The following uses are permitted in wetlands: wildlife refuge; wildlife habitat management; noncommercial clamming and related activities on mudflats; passive recreation; noncommercial fishing and other educational or scientific activities including bird watching and nature study on the waters covering mudflats during high tides.

2. Estuary. The following uses are permitted in estuaries: wildlife refuge; wildlife habitat management; educational or scientific studies including bird watching and nature study; passive recreational uses, including boating and fishing.

3. Sand Dunes, Sandspits. The following are permitted uses on sand dunes and sandspits: wildlife refuge; wildlife habitat management; passive recreation that does not significantly impair dune vegetation; scientific and educational activities.

4. Stream Corridors. The following are permitted uses in stream corridors: wildlife refuge; wildlife habitat management; educational and scientific activities.

5. Restricted. The following are permitted uses in restricted areas: wildlife refuge; wildlife habitat management; scientific and educational activities.

6. Other Environmentally Sensitive Habitat Areas. The following are conditionally permitted in other environmentally sensitive area; wildlife refuge; wildlife habitat management; scientific and educational activities; controlled public access and passive recreational activities.

**C. Uses Allowed Only with a Conditional Use Permit.**

1. Wetlands. The following are conditionally permitted uses in wetlands: road and bridge replacements, very minor, incidental public facilities when there is no other feasible, environmentally less-damaging alternative; other scientific and educational work; restorative measures; and commercial mariculture where no alteration of the wetland is necessary.

2. Estuaries. The following are conditionally permitted in estuaries: road and bridge replacements, restorative measures; commercial mariculture; and diking, dredging or filling, where there is no feasible, less environmentally damaging alternative, where feasible mitigation measures have been provided to minimize adverse environmental effects and where the functional capacity of the estuary is maintained or enhanced for the following purposes only:

- a. New or expanded energy or coastal dependent industrial facilities;
- b. Maintaining existing, or restoring, previously dredged depths in existing navigational channels, berthing and mooring areas and boat launching ramps;
- c. New or expanded boating facilities;

E. ENVIRONMENTALLY SENSITIVE HABITAT AREA POLICIES

- Policy 11.01 Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. The City shall either prepare a wetlands/estuarine map or, if funding does not permit such preparation, adopt the National Wetland Inventory by U.S. Fish and Wildlife Service dated 1979, as the mapping illustration of the wetland and estuarine areas contained within City boundaries. If the City adopts the National Wetland Inventory Mapping as their LUP wetlands map, then because that map does not precisely delineate the extent of wetland habitats and types, all proposed development located within 1000 feet of the mapped wetland boundaries shall be required to submit additional mapping based on U.S. Fish and Wildlife and Coastal Commission Statewide Interpretive Guidelines done by a qualified biologist. The additional mapping will be submitted for review and approval from U.S. Fish and Wildlife and the California Department of Fish and Game. After public agency approval has been obtained, the City shall define buffer areas around the wetland areas. The buffer areas shall be 100 feet around all wetland areas except where biologists identify the need for a greater buffer to protect the overall wetland system or a particular resource. Developments permitted within wetland and/or buffer areas are limited to the uses listed in Section 30233(c) of the Coastal Act.
- Policy 11.02 Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall maintain the habitats' functional capacity.
- Policy 11.04 No land division shall be allowed in the environmentally sensitive habitat areas of wetlands, sand dunes, stream beds and endangered wildlife habitats as designated on Figures 6 and 28, unless the land division is for the express and sole purpose of transferring the property to a public management agency or for some other bona-fied conservation purpose.
- Policy 11.05 Prior to the issuance of a coastal development permit, all projects on parcels containing environmentally sensitive habitat as depicted on the Land Use Plan map or habitat map included within the LUP and on the adopted U.S. Fish and Wildlife wetland inventory map, or projects on parcels within 250 feet of all designated areas (except wetlands where projects on parcels within 1000 feet is the criterion), or projects having the potential to affect an environmentally sensitive habitat area must be found to be in conformity with the applicable habitat protection policies of the Land Use Plan. All development plans, grading plans, etc., shall show the precise location of the habitat(s) potentially affected by a proposed project. Projects which could adversely impact an environmentally sensitive habitat area shall be subject to adequate environmental impact assessment by a qualified biologist(s). In areas of the City where sensitive habitats are suspected to exist but are not presently mapped or identified in the city's Land Use Plan, projects shall undergo an initial environmental impact assessment to determine whether or not these habitats exist. Where such habitats are found to exist, they shall be included in the City's environmentally sensitive habitat mapping included within the LUP.



enhancement of the quantity and quality of Morro and Chorro groundwater basins and through prevention of interference with surface water flow. Stream flows adequate to maintain riparian and fisheries habitat shall be protected.

- Policy 11.18 New subdivisions shall be prohibited in areas designated as environmentally sensitive habitat areas. New subdivisions proposed adjacent to wetland areas shall not be approved unless the to-be-created parcels contain building sites entirely outside the maximum applicable buffer (i.e., 100 feet for wetlands and rural streams, and 50 feet for urban streams).
- Policy 11.19 No vehicle traffic shall be permitted in wetlands and pedestrian traffic shall be regulated and incidental to the permitted uses. New development adjacent to wetlands shall not result in adverse impacts due to additional sediment, runoff, noise, and other disturbances.
- Policy 11.20 Coastal dune habitats shall be preserved and protected from all but resource-dependent, scientific, educational and passive recreational use. Disturbance or destruction of any dune vegetation shall be prohibited, unless no feasible alternative exists, and then only if revegetation is made a condition of project approval. Such revegetation shall be with native plants propagated from the disturbed sites or from the same species at adjacent sites.

All non-authorized motor vehicles shall be prohibited in beach and dune areas. A buffer strip, a minimum of 50 feet in width in urban areas and 100 feet in non-urban areas shall be maintained between the dune habitat and adjacent development. All permitted uses shall be regulated and restrictions enforced to protect critical bird habitats during breeding and nesting seasons. Controls may include restriction of access, noise abatement, restriction of hours of operations of public or private facilities. For all permitted uses within dune habitat areas, including recreation, foot traffic on vegetated dunes shall be minimized. Where access through dunes is necessary or established through historical public use, well-defined footpaths or boardwalks shall be developed and used.

- Policy 11.21 The following environmental standards shall apply to development of the large privately owned parcel located between Morro Bay High School and Azure Street on the west side of Highway One referred to herein as Mixed Use Area G and formerly known as the VRM property.

The sand and dunes area between the mean high tide line and the easternmost line of dunes, and the marshy lowland habitat areas shall be adequately identified and mapped as part of the information submitted with any development plans for the area. The sandy beach portion of the parcel shall be designated as open space/recreation. The dunes areas and marshy lowland habitat area shall be designated as environmentally sensitive habitat. A buffer setback of no less than 50 feet, if fenced (or 100 feet if not fenced) shall be established after mapping of the habitat boundaries has taken place. The mapping and proposed buffers shall be subject to review and comment by U.S. Fish and Wildlife and California Department of Fish and Game. Recreational use of this portion of the site shall be limited to passive recreational uses which do not conflict with the habitat values. Dedication of beach and dune area to the state is encouraged for proper management. Prior to commencement of any development, the applicant shall



## E. VISUAL RESOURCES POLICIES

Policy 12.01 The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic and coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated on Figure 31, shall be subordinate to the character of its setting.

Policy 12.02 Permitted development shall be sited and designed to protect views to and along the coast and designated scenic areas and shall be visually compatible with the surrounding areas. Specific design criteria shall be established for the following areas:

- a. The Embarcadero (as defined in Policy 2.03)
- b. Downtown commercial area.

The criteria shall include the following specific requirements and shall be applied to proposed projects on a case-by-case basis during architectural review:

- a. Building height/bulk relationship compatible with existing surrounding uses;
- b. Landscaping to restore and enhance visually degraded areas using native and drought resistant plant and tree species;
- c. Preservation and enhancement of views of the ocean, bay, sandspit and Morro Rock;
- d. Any other requirements applicable from Coastal Commission conceptual approval of the Urban Waterfront Restoration Plan.

Policy 12.02A The City shall develop special design criteria for the development of the Coleman Drive planning area to include the following:

- (1) Development of the landward portion of the area shall be limited to only low profile structures necessary to support development of commercial fishing facilities. Structures shall be sited to protect existing views available to Morro Rock and to and along the ocean and structures shall be subordinate to the character of the setting.
- (2) New development shall not encroach within the setback areas of the sensitive habitat located on Morro Rock.

**17.48.140 Building lines.**

A. In cases where there is no public area or street dedication or offers for dedication, setbacks shall be required when any land borders on a future street as designated within the adopted circulation element of the general plan, or any future local street right-of-way or a future public area designated by the city's plans and ordinances.

B. In any zoning district where right-of-ways are not dedicated or offered for dedication, building line setbacks on major or collector highways shall be determined by the city engineer. Dedication of land required for development of a major or secondary street shall be required at time of the subdivision of any land, or where no subdivision is involved, at time of development. Improvement shall be required as a condition of any conditional use permit or variance and preceding any change of land use. (Ord. 445 § 3 (part), 1995)

**17.48.150 Swimming pools, hot tubs and spas.**

A. Single-Family Residential And R-2 Districts. In R-1 and R-2 districts, the minimum front yard setback for swimming pools, hot tubs or spas shall be the required building setback plus five feet. Side and rear setback shall be five feet except that on a corner lot, the setback from the side street shall be the required building setback plus five feet. In all other districts, the setback shall be the same as the required building setback.

B. Filter And Heating Systems. Filter and heating systems, for such pools, tubs or spas shall not be located closer than twenty-five feet to any property line, except if enclosed and soundproofed in a manner approved by the building official.

C. Coverage. Coverage by an unenclosed swimming pool, tub or spa shall not be considered in measuring maximum lot coverage. (Ord. 445 § 3 (part), 1995)

**17.48.160 Reduced setback in single-family residential districts with improved lots.**

In single family residential districts, where not less than one half or more of the lots in a block have been improved with buildings (not including accessory buildings other than garages) and where a minimum of fifty percent of those residences have setbacks which are less than that required by the zoning regulations the minimum required front setback for the main building and the garage or carport (but not including decks) shall be the average of the improved lots, if said setback is less than the stated requirements of the districts but in no case less than fifty percent of the code required setback. (Ord. 445 § 3 (part), 1995)

**17.48.170 Side yard width on narrow R-1 lots.**

A. Interior Side Yard Setbacks. The width of interior side yard setbacks for dwellings constructed on R-1 lots of less than stated minimum required widths may be reduced to ten percent of the width of such parcel, but in no case to less than three feet.

B. Exterior Side Yard Setbacks. The width of exterior street side yard setbacks shall be twenty percent of the width of such parcel but not less than six feet. (Ord. 445 § 3 (part), 1995)

**17.48.180 Street to street R-1 lots.**

These special criteria apply where the majority of lots in a block are street-to-street lots. On any existing east-west oriented R-1 lot whose front and rear yards are both adjacent to a public street, the western frontage shall be considered the front of the lot and the eastern frontage shall be considered the rear of the lot unless otherwise determined by the planning commission. Front and rear yards of north-south oriented lots shall be determined by the director. Said decision shall be based upon the majority of existing building setbacks along the street frontage. (Ord. 445 § 3 (part), 1995)

**17.48.190 Protection of visual resources and compatible design.**

New development shall project and, where feasible, enhance the visual quality of the surrounding area. New development may be permitted only if the siting and design meet the following standards:

A. Protection of public views: significant public views to and along the coast are protected.

**17.24.120 Visitor-serving commercial (C-VS) district.**

**Purpose.** The purpose of the visitor-serving commercial (C-VS) district is to provide a district for commercial uses intended primarily to serve the needs of tourists and other visitors to the city and not to include commercial uses of a more general nature which are oriented towards residents. Uses in this tourist-oriented district shall also provide for landscaping and related aesthetic improvements which create and enhance the visual attractiveness of the city. (Ord. 445 § 3 (part), 1995)