

## CALIFORNIA COASTAL COMMISSION

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



# Th14c

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Hearing date: 12/13/07

## COASTAL DEVELOPMENT PERMIT APPLICATION

**Application number** .....3-07-002

**Applicant**.....Ken Scott (Agent: Cathy Novak)

**Project location** .....Lease sites 53 - 56 and 53 - 56 West, 501 Embarcadero, City of Morro Bay, San Luis Obispo County, APN 066-137-001. See Exhibit A.

**Project description** .....Demolition of an existing 750 square foot office and construction of a two-story mixed development project that includes five commercial lease spaces on the ground floor, a six-unit inn on the second floor, five parking spaces on site, and public access improvements to and along the bay frontage with connection to a 30' x 32' public view deck. The proposed new development will not encroach into the Morro Bay estuary and is more specifically described as follows:

- 1) Demolition of the existing 750 square foot office space and building supports on the lease site;
- 2) Construction of approximately 1,900 square feet of commercial lease space on the ground floor, an elevator, restroom, stairs, and office space for a total of 2,300 square feet of ground floor development. Development will be broken into two 23' x 48' structures with an 11' courtyard between buildings;
- 3) Construction of six overnight visitor-serving accommodations on the second floor totaling roughly 2,100 square feet;
- 4) Five parking spaces on-site (1 ADA accessible), 3 spaces in parking lot across the street, and credit for previous payment (equal to 3 parking spaces) into the City's parking in-lieu fee fund;
- 5) Construction of lateral public access along the bay frontage (6' to 8" in width) with connections to Mariner's Park (south) and a 30' x 32' view deck (north). There is also an eleven foot wide public courtyard between the buildings that provides a vertical connection between Embarcadero Road and the bay front lateral access.



**California Coastal Commission**  
**December 13, 2007 Meeting in San Francisco**

Staff: M. Watson Approved by:

**Approvals Received** .....Conditional approval of a Concept Plan for Conditional Use Permit UP0-020, City of Morro Bay City Council, May 8, 2006.

**File documents**.....CCC Coastal Development Permit file 3-07-002.

### **Staff Recommendation ..Approval with Conditions**

**Summary of Staff Recommendation:** The applicant proposes to demolish an existing office space and supporting foundational piers, and construct a new mixed-use development consisting of commercial lease space on the ground floor and a six unit visitor serving inn on the second floor. The new development includes roughly 2,300 square feet of commercial lease space, public restrooms, and elevators on the first floor and approximately 2,100 square feet of visitor-serving accommodations and storage on the second level. The mixed use development is comprised of two 23' x 48' structures each 22' in height with an 11' wide breezeway / courtyard in the middle. The remaining 48' feet of bay frontage will not have any structures and thus provide excellent visual access of the bay, sand spit, Morro Rock, and beyond.

On-site parking improvements include striping of five parking spaces (one ADA accessible space). Parking requirements will otherwise be satisfied by leasing 3 spaces in a parking lot across the street and credit for previous payment equal to 3 spaces, into the City's parking in-lieu fee fund.

The project will provide new public access opportunities, which are considered a high priority under the certified LCP and the Coastal Act. Public access improvements provided by the project will serve to expand lateral public access along 105 feet of bay frontage and represents an excellent link between Mariner's Park to the south and a 30' x 32' wide public view deck on the development site. The 6' – 8' wide lateral public access deck will be constructed over the existing rock and mortar bulkhead that slopes into the bay. Vertical access will be provided via an 11' wide breezeway between the two buildings, at Mariner's Park to the south, and the parking / driveway on the north side of the proposed structures. There currently is no lateral connection to the Morro Bay Yacht Club property directly adjacent to the north.

Surface water runoff will be collected on site, and will be discharged to coastal waters and thus the project has been conditioned by the City to provide adequate water quality controls. An oil-water separator/isolator is required between all drainage water inlets and the City's storm drain system. In addition, sediment and debris control measures are required to prevent entrainment of these materials in storm water runoff.

Notwithstanding the conditions placed on the conditional approval of the City, additional measures are necessary to ensure the project will be consistent with the coastal resource protection and public access policies of the Coastal Act. Staff therefore recommends that the **Commission approve a revised project with conditions** requiring the Applicant's to provide Revised Plans, Public Access, and Construction Best Management Practices. These conditions assure consistency with the coastal access and resource protection requirements of the Coastal Act by requiring:



- Revised Plans that illustrate greater use of building articulation and offsets to minimize second story size and massing among other ways by requiring a 5’ rear and side yard offsets for the second story element, limiting the seaward extent of the mixed use development to its existing footprint as shown in Exhibit C; show an eight foot lateral access boardwalk along the bay frontage of the proposed structures with 8’ connections to adjacent properties, reorient parking spaces to provide vertical access along the north property boundary; and submittal of plans for signing, lighting, and railings;
- Dedication of an eight foot wide lateral public access boardwalk across the entire bay fronting development with connections to the existing 30’ x 32’ view deck and Mariner’s Park. In addition, the applicant must provide vertical access along the northern property line (4’ in width) from Embarcadero Road to the 30’ x 32’ public view deck; access shall be signed, open, and available for pedestrian and general public use 24 hours each day, 365 days a year for the life of the development;
- A construction staging site located near Embarcadero Drive is required to reduce the potential for inadvertent release of fuel, oil, or other construction materials / debris into coastal waters. Brooms, drop cloths, and other absorbent materials are required to be stored on site in order to facilitate clean up and timely response to unplanned hydrocarbon spills;
- Require payment of in-lieu fees to provide for low-cost visitor serving accommodations and parking;
- Require recordation of a deed restriction that binds the applicant and all successors to the property to the terms and conditions of this permit.

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- Exhibit A      Location Map
- Exhibit B      Proposed Site Plans and Elevations
- Exhibit C      Revised Site Plan
- Exhibit D      Computer Simulation of Proposed Development

**1. Staff Recommendation on Coastal Development Permit**

The staff recommends that the Commission, after public hearing, **approve** the proposed project subject to the standard and special conditions below.

**Motion:** I move that the Commission approve Coastal Development Permit Number 3-07-002 pursuant to the staff recommendation.

**Staff Recommendation of Approval:** Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Resolution to Approve the Permit:** The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant



adverse impacts of the development on the environment.

## 2. Conditions of Approval

### A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### B. Special Conditions

1. **Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, permittee shall submit final plans to the Executive Director for review and approval. The Final Plans shall be in substantial conformance with the February 15, 2007 Site Plans, Elevations, and Foundation Plans with June 2, 2007 revisions prepared by Al Hoyt Architect, which shall be further revised and supplemented to comply with the following requirements:
  - a. **Final Site Plans.** Final plans shall show all components of project including:
    1. **Development Envelope.** The development envelope shall be limited to the area identified on Exhibit C to the staff report. No structural development shall be permitted outside the limits of the development envelope;
    2. **Development Footprint.** The maximum development footprint for the



commercial retail / visitor serving structures combined shall not exceed 2,225 square feet. No commercial structural development shall encroach further seaward than the western-most extent of the existing office structure as generally shown on Exhibit C;

3. **Building Height.** The maximum building height for all development shall be 22' from existing grade.
  4. **Building Articulation.** The following minimum development setbacks shall be maintained: 1<sup>st</sup> Floor: front yard 5 feet (average), rear yard 44 feet; 2nd floor: front yard 10 feet (average), rear yard 49 feet. The second story element shall be offset 5 feet on the exterior side yards as measured from the base walls on the first floor.
  5. **Lateral and Vertical Access.** Minimum 8' wide public access boardwalk along the entire bay fronting development with 8' connections to Mariner's Park, the 30' x 32' public view deck, and Morro Bay Yacht Club property. The final plans shall also clearly indicate a dedicated 4' wide vertical access path immediately along the northern property line between Embarcadero Road and the public view platform, and an 11' wide vertical access breezeway between the two mixed-use structures; The access plan shall also identify landscaping or other access related amenities associated with construction of the required public access paths;
  6. **Parking.** Parking plan showing all spaces, disabled access, etc., setback a minimum of 4' from the northern property line. A credit of three parking spaces shall be granted for previous payment into the City's parking in-lieu fee fund. All additional required parking must be satisfied either on-site, in an adjacent lot (by formal agreement), or by payment into the City's parking in-lieu fee fund at a rate of \$15,000 per space. Evidence of a formal parking agreement recorded at the County Recorder's Office is necessary for off-site parking.
- b. **Lighting Plans.** The lighting plan shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. All exterior lighting shall be designed and located so that only the intended area is illuminated and off-site glare is prevented. Proposed lighting shall be indicated on site plans and shall be directed downward to prevent glare on adjacent and surrounding areas (i.e., Morro Bay). Lights shall have solid sides and reflectors to further reduce lighting impacts.
2. **Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Construction Plan to the Executive Director for review and approval. The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. Construction and staging zones shall be limited to



the minimum area required to implement that approved project, and to minimize construction encroachment on the beach, among other ways by using blufftop areas for staging and storing construction equipment and materials.

The Construction Plan shall also identify the type and location of erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following:

- (a) Silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging onto the beach.
- (b) All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs. The only exception shall be for the temporary erosion and sediment controls required above.
- (c) Equipment washing, refueling, and/or servicing shall not take place on the project site. All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site.
- (d) The construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach).
- (e) All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.

A copy of the approved Construction Plan shall be kept at the construction job site at all times and all persons involved with the construction shall be briefed on its content and meaning prior to commencement of construction. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

The Permittee shall undertake construction in accordance with the approved Construction Plan. Any proposed changes to the approved Construction Plan shall be reported to the Executive Director. No changes to the approved Construction Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

- 3. Public Access.** Permittee shall ensure public access components are constructed in conformance with the approved final plans, and all facilities are open to the public concurrent with the opening of the commercial retail and visitor-serving aspects of the project. Additionally:



- a. **Public Access.** The entire eight (8) foot width of the lateral access boardwalk and all vertical access connections shall be open and available for through pedestrian access and general public use 24 hours a day, 365 days a year for the life of the development. Public restroom facilities shall be signed and opened to the public during normal business hours (e.g., 8:00 a.m. – 9:00 p.m.) for the life of the project.
  - b. **Railing Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for Executive Director review and approval, plans that show the proposed railings to be used on the public lateral access walkway and view deck. Railings shall be designed to maximize views (e.g., using vertical railings spaced sufficiently apart) to allow views of harbor, ocean and dunes across wharf while maintaining pedestrian safety.
  - c. **Signage Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for Executive Director review and approval, signage plans. Plans shall identify the location, design and content of any signs and interpretive displays used for illustrative, educational or directional purposes. Signs should be kept relatively small in size, designed in keeping with the maritime character of the area, and placed in locations that avoid disruption of scenic coastal views. Signs should clearly identify that public coastal access is available.
- 4. Shoreline Development Stipulations.** By acceptance of this permit, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns that:
- a. **No Further Seaward Encroachment.** No further seaward encroachments by development is permitted on this site.
  - b. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to hazards from episodic and long-term bluff retreat and coastal erosion, tidal scour, wave and storm events, bluff and other geologic instability, and the interaction of same; (ii) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the property owner.





5. **Compliance with Local Conditions of Approval.** All conditions imposed by the City under legal authority other than the Coastal Act continue to apply.
6. **Revisions and Amendments.** The Permittee shall undertake development in accordance with the approved final plans identified in Special Conditions 1 - 3. Any proposed changes to the approved final plans (including any changes in building design, public access walks, construction materials or methodology) shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that the change is immaterial or that no amendment is necessary.
7. **General Occupancy Requirement.** All hotel facilities shall be open to the general public. No individual ownership or long term occupancy of units shall be allowed without an amendment to this permit. Rooms may not be rented to any individual, family, or group for more than 29 days per year or for more than 14 days between Memorial Day and Labor Day.
8. **Lower Cost Overnight Accommodations Mitigation Fee.** PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITIES, the Permittee shall submit to the Executive Director for review and approval a plan to establish a Lower Cost Overnight Accommodations fund. Subsequent to Executive Director approval of the plan and prior to construction, a sum of \$27,720 shall be deposited into an interest bearing account, to be established and managed by one of the following entities as approved by the Executive Director: the City of Morro Bay, the County of San Luis Obispo Parks Department, the Port San Luis Harbor District, the California Department of Parks and Recreation, Hostelling International, or similar entity. The purpose of the account shall be to establish new lower cost overnight visitor serving accommodations, such as new hostel or tent campground units, at appropriate locations within the coastal zone of San Luis Obispo County. The entire fee and any accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of the fee being deposited into the account. Any portion of the fee that remains after ten years shall be donated to one or more of the State Parks units located along the San Luis Obispo County shoreline (e.g., Estero Bay, Morro Strand, Morro Bay, Montana de Oro, or Pismo Beach State Park), or other organization acceptable to the Executive Director, for the purpose of providing lower cost public access and recreation improvements to and along the shoreline, including improvements to the California Coastal Trail.

PRIOR TO EXPENDITURE OF ANY FUNDS CONTAINED IN THIS ACCOUNT, the Executive Director must review and approve the proposed use of the funds as being consistent with the intent and purpose of this condition. In addition, the entity accepting the in-lieu fee funds required by this condition shall enter into a memorandum of understanding (MOU) with the Commission, which shall include, but not be limited to, the following: (1) a description of how the funds will be used to create or enhance lower cost accommodations in the Coastal Zone; (2) a requirement that the entity accepting the funds must preserve these newly created lower cost accommodations in perpetuity; and (3) an agreement that the entity accepting the funds will obtain all necessary regulatory permits



and approvals, including but not limited to, a coastal development permit for development of the lower cost accommodations required by this condition.

- 9. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicants shall submit to the Executive Director for review and approval documentation demonstrating that the Applicants has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property

### 3. Recommended Findings and Declarations

The Commission finds and declares as follows:

#### A. Project Background, Location, and Description

##### 1. Project Background

Until the mid-1940's, most of the small community of Morro Bay was built on the bluff tops above the tidal flats. Between 1942 and 1945, the north and south breakwaters at the entrance to the Morro Bay harbor, two T-piers, and the inner harbor bulkhead were constructed for a Navy amphibious base. The existing navigational channel was dredged and the spoils deposited behind the inner harbor bulkhead to create a fill area along the bay that became known as the Embarcadero. In the late 1940's the Navy base, including all waterfront facilities was sold to San Luis Obispo County. Buildings began to be constructed on the Embarcadero, and various docks and piers were occupied by a growing fleet of commercial fishing boats. In 1964, the City of Morro Bay incorporated and assumed jurisdiction over the County's waterfront land and facilities including the Embarcadero. Trusteeship of the state granted tidelands was also transferred to the City at that time.

The Embarcadero is now largely developed with a variety of visitor-serving (restaurants, gift shops) and coastal-related land uses (i.e., kayak rental, commercial and recreational fishing services, icing facilities etc.). Parcels on the bayside of Embarcadero are leased to individual lessees by the City through the City's proxy relationship to the State Lands Commission and the state tidelands underlying the



Embarcadero. The Coastal Commission retains permitting jurisdiction on all tideland properties including the fill areas along the Embarcadero, and including the property that is the subject of this permit application. As a result, the standard of review for the proposed project is the Coastal Act, although the certified Morro Bay LCP may provide non-binding guidance.

The 10,604 square foot site that is the subject of this permit is located on the bayside of the Embarcadero in Morro Bay. (Please see Exhibit A) Morro Bay and the Embarcadero in particular has become *the* major tourist attraction of the community and a prime coastal visitor-serving destination with an estimated 1.5 million visitors annually. The Embarcadero is now largely developed with a variety of visitor serving (restaurants, gift shops) and coastal related (kayak rental, commercial and recreational fishing services, and icing facilities etc.) land uses. Parcels on the bayside of Embarcadero are leased out to individual lessees by the City that controls these properties through a lease from the State Lands Commission.

## **2. Project Location**

The project site is located in the LCP's Waterfront planning district at 501 Embarcadero Road on the bay side of the Embarcadero in the City of Morro Bay. Embarcadero Road is the first public through road and it parallels the Morro Bay estuary and the City's commercial and recreational boat harbor. The Embarcadero is made special by the style and character of development along the City's waterfront. In general, the surrounding district is characterized by elements of its commercial fishing roots and the visitor-serving shops, restaurants, and hotels/motels that cater to thousands of out-of-town visitors annually. The subject site is located at the south end of the Embarcadero immediately north of Mariner's Park –a public park and view platform over the water with excellent views of the bay, sandspit, and Morro Rock. Tidelands Park, a multi-acre waterfront park with picnic sites, beach access, and excellent views of the entire bay is only one-half block to the south. Morro Bay and the Embarcadero in particular has become the major tourist attraction of the community and a prime coastal visitor-serving destination with an estimated 1.5 million visitors annually.

The subject site is comprised of eight tideland lease sites (53 – 56 and 53West – 56West), 105 feet of bay frontage, and four lease sites that extend out into the bay. Current uses of the site are primarily office related, though there is a floating dock that is used to moor diesel powered tugboats and provide access for a charter boat service. The proposed development that is the subject of this application involves only those portions of the lease sites located over land. No development is proposed over or into the water at this time. The site is sandwiched between the Morro Bay Yacht Club to the north and Mariner's Park to the south. Currently, there is no lateral access across the Yacht Club property, however Mariner's Park provides excellent lateral and vertical access to the shoreline.

The subject site gently slopes down from an elevation of roughly 13 feet above mean sea level at Embarcadero Road to approximately 8 feet above mean sea level at the top of the bulkhead. This site is currently developed with a commercial office space. Structural development on the site includes a single story structure approximately 750 square feet in size. The remaining portion of the terrestrial segment of



the site is covered by pavement. The site does not currently include any formal public access.

### **3. Project Description**

The project includes the demolition of an existing single-story 750 square foot office space structure and construction of 2 two-story structures totaling 4,400 square feet approximately 22' in height, with an 11' breezeway / courtyard between the two 23' x 48' structures, and a lateral public access boardwalk 6' - 8' in width seaward of the proposed new structures with connections to Mariner's Park and the existing 30' x 32' view deck / wharf. The mixed-use development includes 5 retail/commercial spaces (380 square foot each) and one office space with elevator (375 square feet) on the ground floor, and six overnight visitor-serving rooms (345 square feet each) on the second floor. The second floor units will each have a private covered deck approximately 35 square feet in size. Public restrooms will be provided on the ground floor of the building. The proposed project also includes striping for five parking spaces including one space dedicated for ADA compatibility and customary improvements such as public benches, sidewalks, restrooms, and lighting.

These access amenities further the City's Local Coastal Land Use Plan and Waterfront Master Plan goals of providing lateral public access all along the waterfront from Morro Rock south to Tidelands Park, and may prove to be an important link in a future segment of the California Coastal Trail, as identified in the Coastal Trail working group report to the Legislature, January 31, 2003.

The City of Morro Bay conditionally approved the project on May 8, 2006 (UP0-020) subject to a number of conditions including evidence of a coastal development permit approval from the California Coastal Commission.

## **B. Consistency Analysis**

The project is located on historic public trust lands. Therefore, the standard of review is the Coastal Act. The Morro Bay LCP provides non-binding guidance.

### **1. Public Access and Recreation**

The proposed project is located on public trust lands seaward of the first through public road and is adjacent to Morro Bay. The project includes new and expanded public access improvements including overnight visitor serving accommodations, lateral public access along the bay frontage, and vertical access to the bay fronting lateral access. These public access improvements are intended to improve and increase the visitor-serving uses and recreational opportunities available at this location and provide an important link in the plan for continuous shorefront access along the Embarcadero.

#### **a. Relevant Access and Recreation Policies**



Coastal Act Sections 30210 through 30213, and 30220 require that new development maximize public access, provide low-cost accommodations, and establish visitor-serving uses as a priority over other types of residential or general commercial uses. In particular:

***Section 30210:** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***Section 30211:** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

***Section 30212(a):** Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...*

***Section 30213:** Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

***Section 30222.** The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Though not the standard of review the City's certified zoning standards also details specific uses and guidelines for development within visitor serving commercial (C-VS) zone. This policy states:

**17.24.170 Waterfront (WF) district.** *Purpose. The purpose of the waterfront district is to provide for the continued mixture of visitor-serving commercial and recreational and harbor-dependent land uses in appropriate waterfront areas...*

#### **b. Public Access Analysis**

As currently designed, the project includes both lateral vertical access to and along the 105' bay frontage, but falls short of maximizing public access consistent with Sections 30210 and 30212(a) of the Coastal Act. Although the project provides a lateral connection between the subject site and Mariner's Park –a dedicated public park located immediately south at the end of Anchor Street, the access deck in front of the southern structure is designed at 6 feet in width when an 8 foot width is the LCP minimum. Similarly the vertical connection to Mariner's Park is only 6 feet in width. Elsewhere all along the Embarcadero, lateral access along the bay is designed at a minimum of 8 feet in width. To the north of the proposed structures the lateral access connects midway to the existing wood view platform / wharf



which extends to within 10 feet of the north property line. Directly north of the view platform there is a ramp leading down to the floating dock on the lease sites over the water. Accordingly, lateral access does not extend to the north property line. Even though there currently isn't any lateral access across adjacent property to the north (i.e., the Morro Bay Yacht Club property), the current project proposal fails to preserve the opportunity to provide lateral access connectivity in the future.

Second, there is no formal vertical access proposed at the north end of the property. As currently designed the parking plan for the development includes parking spaces lined up in a row along the northern property line. Thus, in order to reach the public view platform and/or lateral access deck from the north, visitors must walk through the parking lot driveway between the proposed structures and parked cars. Section 30212(a) of the Act requires vertical access be provided in new development. Given there currently isn't any lateral access across the Morro Bay Yacht Club property, dedicated vertical access immediately adjacent to the northern property line that doesn't require traversing the Estero Landing mixed-use development parking lot is essential.

The City's concept plan approval did not address the potential impacts of the proposed second story elements on the access and recreational experience along the public lateral access. The second story element was designed with the same rear yard setback from the west property line as the 1<sup>st</sup> (ground) floor and directly adjacent to the lateral access boardwalk. There are two parallel structures each 23 feet in width and 22' in height that would be constructed immediately adjacent to the public access path. Each structure has a 8 foot wide bay window that will extend 2 feet out over the lateral access path which itself is only 8 feet in width. Although there is an 11' break between the two structures, they will nonetheless loom over this important public amenity.

Finally, the City conditionally approved the project subject to special conditions that require the applicant to construct the aforementioned access improvements in accordance with the submitted plans, but public use and availability of the access improvements appears to be more of an informal arrangement than a clear requirement.

Accordingly, as submitted the project fails to maximize public access and recreation opportunities consistent with Sections 30210 and 30212(a) of the Coastal Act by designing required access at improper widths, not providing appropriate vertical access, providing inadequate building setbacks and offsets from the public path, and failing to ensure that the access amenities are open and available for free public use 24 hours per day, 365 days per year over the life of the project.

In order to bring the project into conformance with Chapter 3 of the Coastal Act, Special Condition 1 is attached requiring that the entire lateral access boardwalk be a minimum of 8' in width including the vertical connecting spur at Mariner's Park. Special Condition 1 also requires a 4' wide vertical access path be provided along the immediate northern property line to ensure safe entry to the newly created access amenities. Additionally, in order to minimize impacts on the lateral access boardwalk, Special Condition 1 further requires a 49' rear yard setback (5' offset from first floor) for the second story elements of the proposed structures be imposed. And finally, to ensure that both the lateral and vertical



public improvements identified on the project plans be available for maximum pedestrian access and general public use, Special Condition 3 requires the access improvements to be constructed in substantial conformance with the submitted plans, be constructed in the first phase of the project, and be available 24 hours a day, 365 days a year for the life of the project. Special Condition 3 also requires submittal of signing and railing plans consistent with Commission standards for public access.

### **Lower Cost Visitor Serving and Recreation Facilities**

Coastal Act section 30213 requires that lower cost visitor and recreational facilities be protected and where feasible, provided. In light of current trends in the market place and along the coast, the Commission is increasingly concerned with the challenge of providing lower-cost overnight accommodations consistent with the Coastal Act. Recent research in support of a Commission workshop concerning hotel-condominiums showed that only 7.9% of the overnight accommodations in nine popular coastal counties were considered lower-cost. Although statewide demand for lower-cost accommodations in the coastal zone is difficult to quantify, there is no question that camping and hostel opportunities are in high demand, and that there is on-going need to provide more lower-cost opportunities along California's coast. For example, the Santa Monica hostel occupancy rate was 96% in 2005, with the hostel being full more than half of the year. State Parks estimates that demand for camping has increased 13% between 2000 and 2005. Nine of the ten most popular campgrounds are along the coast.

The proposed development includes construction of 6 overnight visitor serving units approximately 345 square feet each. As currently designed, the proposed rooms each include bay facing decks with prime coastal views of the bay, sandspit, and Morro Rock. The applicant has indicated that the room rates will range between \$175 and \$345 per night, depending upon the season and market conditions. With a rate structure that begins at \$175 per night, it cannot reasonably be found that lower-cost overnight accommodations are being provided in the project, and the project does not otherwise promise to include low-cost overnight accommodations off-site to address the requirements of Coastal Act Section 30213. In past actions, the Commission has required that as many as one-quarter (25%) of all rooms be made available at affordable rates. Given the current proposal includes construction of a 6 suites and the Commission's past precedents, at least 2 low-cost units ( $6 \times 0.25 = 1.5$ ) should be provided.

By comparison, there are many hotel/motels in the Morro Bay area that offer more affordable rates including rooms at the Travelodge (\$49 per night), Fireside Inn (\$65 per night), Days Inn (\$74 per night), Inn at Morro Bay (\$108 per night), and Ascot Suites (\$138 per night). According to an internet hotel room guide, a hotel room rate of \$175 per night would register a rating of four out of five stars on its affordability chart. In terms of camping and hostel options, average cost data indicates perhaps a better range for what might be considered "lower cost" accommodations. For example, the average cost of a hostel is \$14. Camping at State Parks ranges from \$9-\$25 a night. Accordingly, the proposed project will not provide lower cost visitor serving accommodations. Therefore, as proposed, the project cannot be found consistent with Section 30213 of the Coastal Act which requires low-cost visitor serving accommodations be protected and provided.



Although as indicated above there are a number of hotel/motels in the City of Morro Bay that offer lower priced rooms than that proposed by the project, very few of them are located along the Embarcadero on commercial visitor-serving zoned properties. Though there hasn't been a recent comprehensive study of the location and underlying zoning designation of the existing stock of hotel/motel properties within Morro Bay, anecdotal evidence suggests that many of the hotels lie on commercially zoned properties. Therefore, many of the City's hotel/motels are not protected in that, in the future, the existing hotel use could be converted to more profitable and potentially non-visitor serving uses. Therefore, it is critical that existing and proposed hotels located on the limited number of visitor serving designated sites in Morro Bay be protected from adversely impacting the availability of low cost visitor serving accommodations.

Therefore, in order for the proposed development to be found consistent with the Coastal Act policy requiring protection and enhancement of lower cost visitor facilities Special Condition 7 requires the applicant to provide funding for construction of such units, in lieu of providing them on-site. In lieu of providing low-cost accommodations on-site, the requirements of Coastal Act Section 30213 can be met by providing an in-lieu fee for the purpose of funding lower-cost accommodations at an off-site coastal location in the same geographic region. Although the Commission prefers the actual provision of lower-cost accommodations in conjunction with projects, where necessary, the Commission has used in-lieu fees to provide lower-cost opportunities. For example, the Commission has required an in-lieu fee in permits to convert the Highlands Inn in Monterey County and the San Clemente Inn to timeshares. In these cases, the Commission required the applicant provide funding for a hostel to offset the loss of lower-cost accommodations. More recently, the Commission required payment of an in-lieu fee associated with the construction of a new hotel in Pismo Beach (A-3-PSB-06-001, Beachwalk Resort, July 11, 2007).

Accordingly, in order to mitigate for the absence of low-cost visitor accommodations in the proposed Estero Landing mixed-use development and bring the project into conformance with Coastal Act Section 30213, which requires low cost accommodations be provided, Special Condition 7 requires the applicant to provide an in-lieu fee of \$13,860 per room for 25% of the total number of rooms proposed. In this, case, this results in a fee of \$27,720. The fee would be placed in an interest bearing account, for the specific purpose of constructing lower-cost overnight accommodations (such as a hostel, tent campsites, etc.) in the coastal zone of San Luis Obispo County.

The amount of the base fee was derived by estimating the cost of constructing seven new campsites and associated infrastructure. Based on information provided by the Department of Parks and Recreation, the creation of additional campsites within an existing State Park unit may cost up to \$5,000 per site. The typical amenities including grading to create a level parking pad and camp area, table or bench, fire pit, cook site, landscaping, and a share of utilities such as water and restrooms. However, this does not include the cost of constructing restrooms and utilities. In its evaluation of the cost of constructing a new campground at the Harbor Terrace site in Port of San Luis, including the extension of necessary utilities and the construction of restrooms and other campground amenities, the Port estimated the cost





of each new tent campsites at more than \$13,860 per site in 2002.

In summary, the applicant is proposing to construct expensive overnight visitor accommodations immediately adjacent to the bay at Morro Bay on land designated Commercial Visitor Serving. Coastal Act Policy 30213 requires that lower cost visitor and recreational facilities shall be protected and, where feasible, provided. In this case, the proposed development is not consistent with the requirements of Section 30213. Therefore in order to bring the project into conformance, the project has been conditioned to require payment of an in-lieu fee for the construction of lower cost visitor serving facilities in the area. As conditioned, the project is consistent with the lower visitor serving policies of the Coastal Act.

### **Visitor Serving Priorities**

Another issue raised by the rate structure of the proposed hotel units is the potential for the units to be sold/leased to private individuals or offered as a time-share. This type of ownership arrangement does not maximize opportunities for public coastal recreation consistent with Sections 30210 and 30222 of the Coastal Act. When the units are individually owned, they are essentially residential investments and constitute a quasi-residential land use with only the possibility of functioning part time as overnight visitor serving accommodations. Furthermore, condo-hotels generally do not offer accommodations at what could be considered “lower-cost” raising the questions about the adequacy of supply of lower-cost visitor serving accommodations in the coastal zone (see Low Cost and Visitor Serving finding above). The City’s conditional approval did not establish a limit on the length of stay or expressly prohibit private ownership of the individual rooms, and though the applicant’s have not expressed intent to sell the individual units, it is possible that it would become necessary depending upon the ability to secure adequate financing for the hotel development or to ensure full occupancy during the off-season.

Condominium hotels also are not contemplated within the specific policy language of the Waterfront or Embarcadero planning areas. Thus, condominium hotels are not currently an allowable use in these planning districts. To ensure that the overnight accommodations remain visitor serving, permit conditions prohibit private ownership of the hotel units, and limit lengths of stay for any individual, group, or family. Specifically, Special Condition 7 requires the proposed hotel rooms must remain available for public transient use in perpetuity, and places a 29 day limit on the length of stay.

### **Parking**

The estimated parking requirement for the proposed mixed use development is 11 spaces (one for each of the six hotel rooms, plus one space for every 300 square feet of commercial retail space (6 + 5 = 11)). The applicant has proposed to provide 5 spaces on-site (one ADA compatible), 3 spaces in a parking lot across the street directly east of the project site, and use a credit equal to 3 spaces for previous payment into the City’s parking in-lieu fee fund by the previous lessee. Under the City’s parking management plan, applicants are allowed to satisfy all or a portion of the parking requirement via any one or combination of the three options identified above. However, if an off-site arrangement is chose, the applicant must enter into a formal agreement with the parking provider that includes recording a deed



restriction to formally reserve the requisite parking now and at all times in the future for the life of the project. In-lieu of providing parking on or off-site, the applicant may likewise choose to submit a payment into the City's parking in-lieu fee fund of \$15,000 per space.

In this particular instance, due to the vertical access requirement which will set aside 4' of property along the northern property line for public access and a 8' wide lateral access connection with the Morro Bay Yacht Club property, it may be difficult to fit all five proposed parking spaces on-site or in the orientation proposed. The current site plan illustrates approximately 26 feet of clearance in the driveway between the north building and parking spaces. This area is reserved for vehicle entry and exit / turn-around in the parking lot. Additionally, the retail shop doors open out into the driveway and the applicant proposes to install public benches that line the north side of the building. Together, these improvements occupy approximately 2 feet of driveway space. Factoring in a 4-foot width for the vertical access requirement, there is only 20 feet of space for vehicle ingress and egress into the parking lot. The City has indicated that a minimum of 22 feet is necessary for adequate and safe entry/exit and turn-around, or 2 feet more than is available under the current building/parking/access configuration.

To address this issue, staff has identified a maximum development footprint within which the applicant could reorient the proposed mixed use structures as needed to accommodate the development and associated parking and access (See Exhibit C). However, reorienting the structures would result in a reduced space between buildings, meaning less building articulation and less area available for public vertical access. Alternatively, there are several public and private parking lots in the immediate vicinity of the project site that could provide feasible options to satisfy the project parking requirement off-site without having to reorient the structures or encroach into areas reserved for public access. In fact, the applicant has indicated that it will lease 3 spaces from the retail establishment directly across Embarcadero Road and the City has indicated that the entire portion of the parking requirement could be satisfied via off-site or through an in-lieu fee payment. Because of the obvious greater public access benefits associated with an off-site parking configuration, the Commission encourages the applicant to pursue these alternatives and reserve the driveway area for public access improvements and loading and off-loading of persons and merchandise only. Special Condition 1 establishes the parameters within which the applicant may deviate the project design to accommodate the development and satisfy the requirements for parking and public access amenities.

Finally, with respect to the credit for previous in-lieu parking fee payment, the applicant has provided information indicating that the previous lease-holder paid approximately \$14,550 into the City's parking in-lieu fee fund, and thus requests a credit of 3 parking spaces. At the time the payment was remitted to the City, the parking in-lieu fee was \$4,000 per space, and the previous sum paid was roughly equivalent to 3.5 spaces. The fee has since risen to \$15,000 per space. It is customary for the City to grant a one-time credit for past payment into the parking in-lieu fee fund as is requested here. As noted above, the Commission is encouraging the applicant to pursue alternatives to on-site parking with the expectation that it will provide a better access experience on the site without vehicles. Accordingly, a credit of three



parking spaces as approved by the City is appropriate. The remaining parking requirement must be satisfied by some combination of on-site, parking in-lieu, or formal parking agreement off-site.

### **c. Conclusion**

As proposed and conditioned by this permit, the project provides visitor serving and enhances public access opportunities consistent with Coastal Act Sections 30210 - 30213, and 30220. Permit conditions refine and secure these public access and visitor-serving elements, and provide for low-cost accommodations. As so conditioned, the project can be found consistent with the certified LCP and Coastal Act access and recreation policies discussed in this finding.

## **2. Visual Resources**

The project involves demolition of an existing single story structure and construction of new structures including 2 two-story mixed-use buildings and a new lateral public access boardwalk that may change the visual aspects of the project area.

### **a. Relevant Regulatory Policies**

Coastal Act Section 30251 requires that:

*Section 30251. 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 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 in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Additionally, Coastal Act Section 30253(5) states that:

*Section 30253(5). Where appropriate, protect special communities and neighborhoods, which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

The LCP contains policies related to protection of public views along the Embarcadero and of the unique geographic features surrounding the City's working harbor including Morro Rock, the bay and sandspit. Building height and bulk relationships must be compatible with existing development and coastal views may not be impaired or degraded. Through the Waterfront Master Plan, the LCP provides clear guidance with respect to visual compatibility of new development with both existing development and surroundings natural features. New development must incorporate an architectural character consistent with the maritime theme of the waterfront, be pedestrian oriented in form and scale, and avoid excessive height and massing.



**b. Analysis of Visual Resources**

The flat site lies between the bay and Embarcadero Road – the first through public road along the bay. The site currently only has a minimal amount of structural development including a single-story commercial office building roughly 750 square feet in size, an existing wooden platform/pier, a floating dock on the western lease sites, a significant amount of paving, and a six foot fence around the south and east perimeters of the site. With the exception of the driveway access along Embarcadero Road (approximately 45'), the entire Embarcadero Road frontage is walled off. The existing structure is no more than 14 feet in height at the top of the ridge and located directly inside the fence on the south property line. This current configuration obstructs most of the public views of the bay, sandspit, and Morro Rock across all but the northern 45 feet of the property (i.e., driveway access) along Embarcadero Road.

Inland of the project site, there are a few commercial retail and restaurant establishments, parking lots, and a multi-story visitor serving hotel. Single-family residences line the bluff tops directly east and south of the project site. There are no significant scenic vantages from these locations. On the bluffs about a block to the north however, is a street end that provides some nice views across the site of bay, Montana de Oro, and Point Buchon in the distance.

Construction of the proposed mixed-use building, like the existing structure and fencing, is sure to obstruct public views over a significant portion of the site, but the new design also includes an 11' wide view corridor to the bay between the 2 structures. In addition, the design includes construction of an eight-foot wide lateral public access boardwalk across approximately 60 linear feet of bay frontage that will connect with the existing 34' wide view platform/pier. (Please see Exhibit C) The view corridor will provide pedestrians previously unavailable peeks of the bay and sandspit when walking along Embarcadero Road. The boardwalk will provide the public with unobstructed views of the bay, sandspit, and Morro Rock, and is consistent with the City's policies to provide visual and pedestrian access along the Morro Bay shoreline in all new requests for bayside development. As required by Special Condition 1, access to the view platform and lateral access boardwalk from Embarcadero Road will be via a dedicated 4' wide vertical access along the northern property boundary and through the 11 foot wide view corridor/breezeway between the two parallel structures.

With respect to views from the bluff top street end, construction of the new two-story development will not significantly alter the views of the bay and points beyond. Though it is true some blue water views will be affected by the new structures, it will occur along a very narrow band of the 180 degree view afforded by the street end. Furthermore, because of the significant differences in height between the proposed new structures and bluff top elevation (almost 20 feet), only a small portion of the inner harbor will be obstructed. The more significant and visually prominent geologic features (e.g., Morro Rock, sandspit, Point Buchon headland) will be unaffected by the new structures.

The architectural character of the mixed-use development is generally consistent with the commercial fishing theme established along the Embarcadero, though the size and design appears overly massive. The design does incorporate building articulation especially on the second level, but it is masked by the



simple rectangular outline of the roof and there is little in the way of a second story offset from the first floor. The second story decks appear to extend out beyond the first floor walls, which makes it appear larger than the first floor altogether. The two structures are designed at the same height, length, and width. The roof design lacks articulation and thus the overall appearance is of a large rectangular box. Especially when viewed from up and down-coast of the site, it would be difficult to tell there is actually two structures separated by a breezeway. Though this feature is a public access benefit, in many ways it adds to the boxy feel of the structures. Overall height is 22 feet, which is compatible with the size and height of the structures seen all along the Embarcadero. The primary concern is with the lack of second story offsets and the massing along the rear (east) and side yard elevations, and immediately adjacent to the proposed lateral public access.

As described in the Public Access finding above, there is no second story offset from the ground floor development and the applicant has proposed to construct bay windows, which will overhang the new lateral access. Though there is an 11' break between the two structures, the combined first and second story height and mass will loom over this important public access amenity.

In order to break up the mass of the second story and eliminate the perceived overhang on the exterior side yards as well as minimize impacts on the lateral access boardwalk, Special Condition 1 is attached which requires a 5' offset for all second story elevations (measured from first floor) be imposed. This will introduce a bit more articulation and reduce horizontal massing directly above the lateral access path. Accordingly, as conditioned the project can be found consistent with Section 30251 of the Coastal Act.

### **c. Conclusion**

Coastal Act Policy 30251 requires new development to protect views to and along the shoreline, be visually compatible with the character of the area and, where feasible, to restore and enhance visual quality in visually degraded areas. As discussed in the preceding paragraphs, the proposed project includes a boardwalk across the entire bayside frontage that will provide unobstructed views for the public to and along the Morro Bay shoreline. Additionally, a public view corridor is proposed that will provide peeks to the bay and sandspit and serve to break up the mass of the buildings along the Embarcadero. The design of the proposed project is compatible in height and mass with the surrounding development, and the architecture follows the maritime theme established elsewhere along the Embarcadero. The project, as conditioned herein is, therefore consistent with the policy direction of PRC Section 30251.

### **3. Water Quality**

Section 30231 of the Coastal Act requires that water quality be protected and, if possible enhanced by controlling storm water runoff and minimizing entrainment.

### **a. Relevant Regulatory Policies**



Coastal Act Section 30231 provides:

***Section 30231***

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

**b. Analysis**

The site is located immediately adjacent to and over the waters of Morro Bay. Construction activities associated with the development of the site and drainage and run off from the completed project could potentially result in adverse impacts on Morro Bay water quality. In particular, those activities include the demolition of existing waterfront structures (office building and foundation pilings), construction of the new commercial retail/visitor-serving building, and construction of the new lateral access boardwalk. Since the project requires work over and adjacent to open coastal waters, which could lead to potential adverse water quality impacts, the City attached a number of conditions to its permit to address this issue. These conditions require the following measures to be implemented to ensure that water quality will be adequately protected:

- installation of an oil/water separator at all drainage inlets,
- installation of an outlet structure to address silt and hydrocarbon containment,
- direct all run off to the street rather than the bay,
- implementation of silt and sediment control measures during construction,
- daily removal and containment of all trash and debris during construction.

Though these measures are appropriate and necessary to protect coastal water quality, they can be made more effective with the addition of other customary construction best management practices (BMP), such as:

- avoidance of use of the west side of the site closest to the bay for stockpiling of soil, and cleaning and refueling of equipment,
- on site storage of absorbent materials for use in the event of a fuel spill during construction., training for construction workers in how to contain a spill,



- use of a floating boom and netting to collect/contain scraps and floatable debris in construction area
- procedures for concrete work to avoid contamination of coastal waters

Accordingly, impacts to water quality can be minimized through the development and implementation of a construction plan (see Special Condition 2). The project construction will be of limited duration, and construction methods have been conditioned to require use of best management practices to avoid oil spills and eliminate construction materials from entering the water. The project is not otherwise expected to adversely affect water quality or any other aquatic or marine mammal species. The City's approval includes incorporation of mitigation measures that provide improvements to the existing drainage system on-site, including the use of oil/water separators and sediment traps to ensure that storm water runoff from the parking lot and the rest of the project does not adversely affect water quality in the surrounding bay. In order to fully take advantage of these proposed measures, Special Condition 5 is attached to require that all special conditions of the City's permit be incorporated into the conditions and requirements of this Coastal Development Permit.

### **c. Conclusion**

As conditioned and incorporated into this recommendation, the construction and use of the proposed development will not adversely affect water quality of the bay and is therefore consistent with Coastal Act Section 30231.

### **C. California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The City of Morro Bay conducted an environmental review for the proposed project per the requirements of CEQA and issued a Negative Declaration with Mitigations.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has analyzed the environmental impacts posed by the project and identified changes to the project that are necessary to reduce such impact to an insignificant level. Based on these findings, which are incorporated by reference as if set forth herein in full, the Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA.

