

# RECEIVED

MAR 04 2013

W14a

W14a

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Go to original staff report

Dear Coastal Staff:

We have the following three comments regarding the staff report.

1. At the bottom of page 10, the archeological paragraph demonstrates a misunderstanding. Our intent was to say that 281 Main is within 300' of Cerrito Peak/Eagle Rock, a recorded archeological site. When 375 Acacia, within 300' of the Peak, applied for a permit to demolish a house, they were required to do an archeological survey. Since 281 Main is also within 300' of the Peak, they also should be required to do a survey.

2. At the top of page 10 is this sentence, "Thus, the requirements of the Planned Development Overlay zone were satisfied, because the approved project complies with the *base R-1 zoning district standards*" (the italics are mine). I have emphasized the phrase "base" because PD is not about satisfying the "base," but looking for something more.

"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...also intended to allow for the modification...if such action would result in better design or other public benefit....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." (17.40.030)

The area this lot is in has a PD because of its location. Complying with a base or minimum standard does not satisfy this designation..

3. At the top of page 6, you state the residence "is designed to be compatible with other residences located in the vicinity, including through the project's size and scale". I do not understand how this conclusion was reached for these reasons:

--You will not find a 60+' house wall parallel to the sidewalk anyway along this street nor will you find a house that is as large as 3529' square including garage but not decks.

--Neither are there "commercial developments" in this neighborhood (middle of page 6).

--We did not claim this is a "highly scenic area" (bottom of page 6), nor do we have to in order to satisfy 12.01 (bottom of page 5).

"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."

Sincerely,

Betty Winholtz

Dorothy Cutter

RECEIVED

MAR 01 2013

W14a

February 28, 2013

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Dear Coastal Commissioners:

Please find below information regarding Item W14a, a substantial issue determination, an appeal by myself and Dorothy Cutter. It was our belief CCC staff would received the addendum packet we presented to the Morro Bay City Council on appeal, as part of the information your staff would receive from our City staff. Apparently, this did not happen. Therefore, your staff did not have the benefit of this information when he did his staff report.

To expedite, here is an abridged version.

Betty Winholtz *Betty Winholtz*

#### VISUAL RESOURCES

Please see accompanying photos.

This neighborhood predates City incorporation. It was built in the late 1940s-early 1950s. Therefore, it has an established neighborhood character. Trees, both public and private, are a critical element of this character. Another necessary characteristic is the 1/2 mile pedestrian/bike lane through the neighborhood paralleling Main Street with consistent views of Morro Bay, its harbor, The Sandspit, and ocean. It is the route that connects Morro Bay State Park to downtown Morro Bay, and it is heavily used by campers, tourists, walkers, runners, sightseers, etc.

Note on page 16 of the staff report (unnumbered) that the directional views are not labeled. The top left drawing is what will be seen from the bike/pedestrian lane/street: a continuous 60+ foot-long back view of the house. I suggest that the photo simulations on the last two pages are not to scale. The perspective has been recessed two lots in from Main Street, not the scene from the street or sidewalk. I believe the house will stand 17' above sidewalk elevation.

When the private access road was graded with the 285 Main addition, the 281 Main lot was also graded. I questioned whether this was appropriate since 281 Main was not yet approved. The grading leveled what was a gradual hill. The natural features, which are a concern to staff, have already been altered. Therefore, changing the orientation of the building from north/south to east/west to benefit the public view neither penalizes the applicant nor further disrupts the landform.

281 Main is one of 4 lots the owner is developing. Another house is proposed just south of 281 and just as close to the street, so what is decided here will shape the viewshed on the next project.

#### OTHER ISSUES

The reference to Archeological resources may have been misunderstood. 281 Main is within 300' of Cerrito Peak/Eagle Rock, a recorded archeological site. When 375 Acacia, within 300' of the Peak, tore down a house, they were required to do an archeological survey. Since 281 Main is also within 300' of the Peak, they also should be required to do the survey. With the grading complete, perhaps the survey is preempted.

The City's Planned Development Overlay designation raises the bar of review for valued areas. This is for the benefit of public review. Even City staff noted in their staff report that while some required reports had been submitted, not all had been submitted or were incomplete in their form, i.e. landscaping, lighting, etc. That is why we requested this item be sent back to the City's Planning Commission for full public review.





281 May 182





1st north 07-28-1 mile















RESPONSE TO STAFF REPORT ON "VAILIDTY AND COMPREHENSIVENESS" OF GROUNDS  
FOR APPEAL.

1. **Inconsistencies with LCP, GP, and ZO.** Attached are 7 pages of Policies, Programs, and Ordinances pertinent to this project. Many use the word "shall,". Some topics were not mentioned like energy efficiency, water-saving devices, undergrounding utilities, bluff evaluation, proximity to environmentally sensitive habitat. Others topics were not fully addressed due to no report, incomplete plans, or not referencing the relevant policy/program/ordinance, i.e. the Planned Development (PD) overlay, Geological Hazards, Visual Resources, trees, neighborhood character compatibility, archaeological resources, and lighting.

2. **Lack of substantial analysis of PD zone.** PD requirements are specific, yet the Planning Commission (PC) did not have the benefit of all required information. For example, a Landscape Plan is one of the requirements, yet it was not submitted to the PC. A Landscape Plan has been submitted for this appeal hearing, but it is incomplete if you compare it to the stated requirements in the Zoning Ordinance and LCP.

3. The ruling made by the PC was in **violation of Zoning Code 17.48**--specifically, balcony requirements, visual resources, neighborhood compatibility, landscaping, drainage near ESH, and archaeological resources--**as well as other sections**--17.40, 17.45, and 17.52--regarding PD, bluff evaluation, geologic report, and lighting.

4. **Violation of tree requirements.** GP Programs C-7.1 and 17.1 are relevant, but were not cited at the PC hearing. Since the PC hearing, the applicant has agreed to not cut the two trees. This needs to be made a condition.

5. **Responses to my PC public comments**

1. It's good that the **grading** was permitted.

2. **Incomplete or not submitted required information.** We agree that the applicant did not submit all of the materials required. I disagree that the Landscape Plan submitted before this appeal hearing is complete: "A landscaping plan showing plant materials, type and size of plants at the time of planting, and method of maintenance." I submit that 2 seasons to promise healthy vegetation is too short for a scenic PD overlay. I request that it be conditioned for 5 years. I disagree that the engineering plan for the accessway is sufficient to cover this house plan. What does "at this time" mean? It implies to me that the plan is still needed. Again, in a PD zone, public review of the engineering is appropriate.

We agree that elevations, simulations, and lighting are still not submitted. A 60' long by 17' high back wall of a house and garage is visually inappropriate for scenic Main Street, the pedestrian/bike route of residents and visitors from MB State Park to downtown/Embarcadero.

My concern regarding the new retaining wall, and what is happening with the old retaining are unanswered. Is it allowable to have a retaining wall inside the front yard setback? The photometric plan is still required, though the PC dismissed it. It is a critical piece in a PD. Other plans listed in 17.40.030G.1.f are also not submitted.



3. Like the Landscaping Plan mentioned above, the **Lighting Plan** is incomplete.

4. The public has a right to know and comment on the **previous unaddressed items**. It is stated that neighborhood character, house length, location, and lighting and landscape have been addressed; how so?

5. If not for this appeal, the **public** would not get to see and respond to previously unsubmitted, though incomplete, plans.

6. I thank the applicant for leaving the **trees**. They are part of the character of this neighborhood and frame the scenic views. That they stay should be made a condition.

I stand by my request to send this project back to the PC for further review once all plans and relevant information is submitted for a complete analysis of the special area.

Sincerely,  
Betty Winholtz  
Appellant



*The following are direct quotes from the City of Morro Bay's Local Coastal Plan, General Plan, and Zoning Ordinance, except for the italicized text which are my words. Where there is duplication between the LCP and GP language, only one is quoted.*

## **LOCAL COASTAL PLAN**

### **Chapter II**

#### **LAND USE PLAN MAP AND GENERAL LAND USE POLICIES**

##### **Mixed Use Area B:**

For the area of the City west of Main Street and between Acacia and Barlow (ie: those parcels west of Main Street between APN 66-251-01 and 07, inclusively, the following policies shall apply:

3. The entire area shall be designated with a "P.D." overlay so that CUP's (and public hearings) are required for new development.

Policy 0.2 Where policies within the Land Use Plan overlap, the policy which is the most protective of coastal resources shall take precedence.

### **Chapter X**

#### **HAZARDS**

##### **C. HAZARD ISSUES**

##### **3. Geologic Hazards**

###### **c. Coastal Erosion**

While not bordering the water, the bluff line running from the PG&E power plant to Morro Bay State Park is being eroded in some areas. This is due to the sandy nature of the soil making up the bluff.

*The lot under consideration is along this bluff line. Evaluation of this lot in relationship to the bluff was never mentioned in a staff report. Whether it is sited correctly is unknown, specifically regarding Policy 9.06, Policy 9.08, Policy 9.10, Policy 9.14, Policy 9.15, and Policy 9.16. Some of these policies may be obsolete in light of new State law that requires runoff to stay on site.*

##### **Policy 9.06**

All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. To accomplish this, structures shall be built to existing natural grade whenever possible. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the greatest extent possible.

##### **Policy 9.08**

Sediment basins (including debris basins, desilting basins, or silt traps) shall be installed on the project site in conjunction with the initial grading operations and maintained through the development process to remove sediment from runoff waters. Sediment basins shall be in place prior to the commencement of the winter rainy season defined in Policy 9.07. All sediment shall be retained on site unless removed to an appropriate dumping location approved by the City consistent with the relevant policies of the Coastal Act and the Morro Bay Local Coastal Program.

##### **Policy 9.10**

In permitted development, drainage devices shall be required in order to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development. Water runoff shall be retained on-site whenever possible or whenever there is the capability to facilitate



groundwater discharge.

#### Policy 9.14

All development along bluffs shall be adequately set back to ensure protection of the development for its economic life and development shall not require alteration of the existing bluff land or beach. New development shall assure stability and structural integrity, and neither create nor contribute significantly to erosion or geologic instability by accomplishing the following:

- (1) Bluff-top setback shall be determined from a site-specific geology report prepared by a registered geologic engineer. The report shall set forth recommendations for building setbacks which shall ensure structural stability and integrity without altering bluff land form or necessitating the construction of protective devices such as seawalls for the life of the development (75-100 years).
- (2) The face of the bluff and vegetation or fill material stabilizing the slope shall not be altered.

#### Policy 9.15

All new development on bluff tops shall be required to install drainage systems to carry runoff inland to the nearest public street. In areas where the topography prevents such conveyance, because additional filling or grading would create greater adverse environmental or visual impacts, private bluff drainage seaward should be permitted if the drainage system is sized to accommodate drainage from adjacent parcels and the system is designed to minimize visual impacts utilizing natural coloring, natural land forms, and vegetative planting to hide the system.

#### Policy 9.16

Development shall not be permitted on the bluff face except for the above drainage systems and for engineered staircases or accessways to provide public beach access and pipelines for scientific research or coastal-dependent industry. To the maximum extent feasible, these structures shall be designed to minimize alteration of the bluff or beach

### Chapter XIII

#### VISUAL RESOURCES

##### C. ASSESSMENT OF SCENIC VALUES

"a scenic view shall be defined as something that is looked at which has significant man-made or natural qualities and which contributes to the identity of a community area."

These scenic view can then be further evaluated based upon the following criteria:

- (a) the abundance and variety of form and texture;
- (b) the richness and range of color;
- (c) the distance and extent of views;
- (d) uniqueness of scenic qualities;
- (e) the availability of street furniture and public facilities;
- (f) the ease of access on foot or by motor vehicle;
- (g) the extent of public information.

The criteria used for assessing view of the urban environment include such things as:

- (a) the enhancement of the City's character through the use of building materials and scale of the structures;
- (b) the compatibility with the surrounding structures;
- (c) the compatibility with the surrounding natural features;
- (d) the preservation of public views;
- (e) the enhancement and definition of the City's image;
- (f) the uniqueness of the City's image.

Based upon these criteria, natural open space areas, residential neighborhoods, and commercial zones with significant scenic resources or community character were identified and evaluated. Figure 30 and



31 show the location of scenic views and identify areas of visual significance.

**Figure 30: SCENIC VIEWS**

*According to Figure 30, one of the streets providing views is south Main: beginning at the Caratan Property (Colmer Development) and going south, it breaks for Area B, then picks up again at the Stocking Property (Bayshore Bluffs Development) continuing south through MB State Park. Contrary to these markings, Area B now offers scenic views of the Sandspit and Bay while Bayshore Bluffs blocks views from Main Street due to development.*

**Figure 31: AREA OF VISUAL SIGNIFICANCE**

**10. Area 10 - Sandspit**

a. Morro Bay Sandspit: a pristine, windblown spit of sand dunes separating the bay from the sea, the sandspit can be seen from and provides spectacular views to the hillside residential areas in town.

**VISUAL RESOURCES**

**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.

**GENERAL PLAN**

**Program LU-84.1**

Water-saving devices shall be required in new developments. These devices may include, but are not limited to, the following:

- (1) faucets with faucet-aerators to help reduce the flow of water to 2 gallons per minute, or less;
- (2) water restrictions on shower heads to restrict water to 3 gallons per minute, or less;
- (3) water conservation toilets to restrict each flush to 3 gallons or less.

**Program C-7.1**

Trees shall be planted along all streets as a condition of development. Generally, there should be a minimum of one 15-gallon size tree provided each 60 feet, or one per each lot, whichever is more. These trees need not be located within the right-of-way but they must be of a type and species such that: a. the roots do not affect sidewalks, curbs, or gutters; b. height is compatible with overhead utilities; c. maintenance when established, is minimized; and d. adaptable to the Morro Bay climate and soil conditions.

**Program C-17.1**

New development should be required to provide plantings, including street trees in parkway areas, within and adjacent to the development.

**Program C-38.1**

All new development and major redevelopment should be required to underground new utility lines, and when feasible, underground existing utility lines on or adjacent to the project site.

**Policy H-27 (Energy efficiency requirements)**



**CALIFORNIA COASTAL COMMISSION**

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**W14a****Important Hearing Procedure Note:**

This is a substantial issue only hearing. Public testimony will be taken only on the question whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to 3 minutes total per side. Please plan your testimony accordingly.

Appeal Filed:	7/19/2012
49 <sup>th</sup> Day:	Waived
Staff:	N. Dreher - SF
Staff Report:	2/14/2013
Hearing Date:	3/6/2013

## **APPEAL STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION**

<b>Appeal Number:</b>	<b>A-3-MRB-12-026</b>
<b>Applicant:</b>	<b>John and Alair Hough</b>
<b>Appellants:</b>	Dorothy Cutter and Betty Winholtz
<b>Local Decision:</b>	Approved by the Morro Bay City Council on July 10, 2012 (City application number UP0-348/CP0-372).
<b>Project Location:</b>	281 Main Street, City of Morro Bay (APN 066-251-047).
<b>Project Description:</b>	Construction of a new 2,829 square-foot single-family residence, including a 700 square-foot garage, on an existing 7,693 square-foot property.
<b>Staff Recommendation:</b>	No Substantial Issue

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### **SUMMARY OF STAFF RECOMMENDATION**

The City of Morro Bay approved a coastal development permit (CDP) to allow construction of a new 2,829 square-foot single-family residence, including a 700 square-foot garage on an existing 7,693 square-foot undeveloped parcel, located at 281 Main Street in the City of Morro Bay in San Luis Obispo County. The Appellants contend that the City's decision is inconsistent with the City of Morro Bay Local Coastal Program (LCP) because the approved project: 1) creates a visual obstruction in a scenic corridor, 2) may not be sited safely given the lack of hazards



findings in the City’s approval, and 3) the Applicants did not submit all of the documents as required by the provisions of the Planned Development Overlay Zone.

After reviewing the local record, Commission staff has concluded that the approved project does not raise a substantial issue with respect to the project’s conformance with the City of Morro Bay LCP. The City-approved project is located about 300 feet from coastal waters and constitutes infill residential development in an urbanized area of Morro Bay. The approved project is not located in an area designated in the LCP as highly scenic, is partially screened from Main Street by existing trees, will be seen in the context of other existing development, and minimizes the alteration of natural land forms. Also, the approved residence is a principally permitted use that complies with all applicable LCP policies and standards, including height and site setback requirements. Additionally, the proposed project is not located on a bluff top lot, and the City found, based on a site-specific geologic report, that the site is an appropriate location for the project. Furthermore, the approved project incorporated the recommendations of the geologic report, which are expected to ensure site stability over the economic life of the project. Finally, the City approved the necessary precise development plan in accordance with the planned development overlay requirements.

As a result, staff recommends that the Commission determine that the appeal contentions do not raise a substantial LCP conformance issue, and that the Commission decline to take jurisdiction over the CDP for this project. The single motion necessary to implement this recommendation is found on page 3 below.

## **TABLE OF CONTENTS**

<b>I. MOTION AND RESOLUTION .....</b>	<b>3</b>
<b>II. FINDINGS AND DECLARATIONS .....</b>	<b>3</b>
A. PROJECT LOCATION AND DESCRIPTION.....	3
B. CITY OF MORRO BAY CDP APPROVAL .....	4
C. APPEAL PROCEDURES .....	4
D. SUMMARY OF APPEAL CONTENTIONS .....	5
E. SUBSTANTIAL ISSUE DETERMINATION .....	5
F. CONCLUSION.....	11

### **EXHIBITS**

- Exhibit 1 – Project Location Map
- Exhibit 2 – Approved Project Site Plan
- Exhibit 3 – Approved Project Design
- Exhibit 4 – City’s Final Local Action Notice
- Exhibit 5 – Appeal of City of Morro Bay’s CDP Decision
- Exhibit 6 – Applicable Implementation Plan Standards
- Exhibit 7 – Visual Simulations



## I. MOTION AND RESOLUTION

Staff recommends a **YES** vote on the following motion. Passage of this motion would result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission would not hear the application de novo and the local action would become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

***Motion:** I move that the Commission determine that Appeal Number A-3-MRB-12-026 raises **no substantial issue** with respect to the grounds on which the appeal has been filed under Section 30603. I recommend a **yes** vote.*

***Resolution:** The Commission finds that Appeal Number A-3-MRB-12-026 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 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.*

## II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

### A. PROJECT LOCATION AND DESCRIPTION

The City of Morro Bay-approved project authorizes a new 2,829 square-foot single family residence, including a 360 square-foot second story deck (south side of residence) and a 700 square-foot garage on an existing 7,693 square-foot undeveloped parcel, located at 281 Main Street (APN 066-251-047) in the City of Morro Bay (see **Exhibit 1** for the project location map and **Exhibits 2 and 3** for approved project plans). The subject parcel is zoned R-1/PD (Single Family Residential/Planned Development) and is designated Low to Medium Density Residential (4-7 dwelling units/acre), and is within Mixed Use Area B. R-1 is the LCP's Single-Family zoning district.

The project site is within an area that was subject to a previous lot line adjustment and subdivision. Prior to 2004, the area contained three lots running east to west. In 2004, a lot line adjustment was processed that reconfigured the lot lines from an east/west orientation to a north/south orientation. In September 2008, Tentative Parcel Map #S00-086 and CDP #CP0-272 were approved to subdivide one of the parcels, Parcel 3, into two parcels, including the subject project site, known as Parcel 3A.

The project site slopes downward from east to west. The project site is bounded on the east by Main Street and on the west by additional residential and waterfront development that is located between the subject site and the shoreline, which is approximately 300 feet from the subject property.



## **B. CITY OF MORRO BAY CDP APPROVAL**

On July 10, 2012, the Morro Bay City Council approved CDP UP0-348/CP0-372 for the proposed project. The City's notice of final local action was received in the Coastal Commission's Central Coast District office on July 23, 2012 (**Exhibit 4**). The Coastal Commission's ten-working day appeal period for this action began on July 24, 2012 and concluded at 5 pm on August 8, 2012. One valid appeal of the City's CDP decision was received during the appeal period (see below and see **Exhibit 5**).

## **C. APPEAL PROCEDURES**

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (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 tide line 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, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This project is appealable because it is located between the sea and the first public road paralleling the sea and because it is located within 300 feet of the mean high tide line.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo CDP hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations.<sup>1</sup> Under Section 30604(b), if the Commission conducts a de novo hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, 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. This project includes components that are located between the nearest public road and the sea and thus this additional finding would need to be made if the Commission were to approve the project following a de novo hearing.

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<sup>1</sup> The term "substantial issue" is not defined in the Coastal Act or in its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance. Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of a local government's CDP decision by filing a petition for a writ of mandate pursuant to the Code of Civil Procedure, Section 1094.5. In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City does not raise a substantial issue with regard to the Appellants' contentions.



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 CDP determination stage of an appeal.

#### **D. SUMMARY OF APPEAL CONTENTIONS**

The Appellants contend that the approved project is inconsistent with the City of Morro Bay LCP because: 1) the development creates a visual obstruction in a scenic corridor, inconsistent with the City's Visual Resources Chapter; 2) the City's approval did not evaluate the potential hazards to ensure the development is safely sited; and 3) the Applicants did not submit all of the documents as required by the provisions of the Planned Development Overlay Zone. The Appellants also contend that the City's review did not adequately address relevant General Plan Policies. Please see **Exhibit 5** for the full appeal document.

#### **E. SUBSTANTIAL ISSUE DETERMINATION**

##### **Visual Resources**

The LCP contains numerous policies protecting public views from scenic corridors and public recreational areas. The Appellants specifically cited the following LCP policy:

##### *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.*

The Appellants also cite the applicable Implementation Plan (IP) Section 17.48.190. Please see **Exhibit 6** for this IP Section.

LCP Policy 12.01 requires development to 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. The LCP's highly scenic areas have an additional standard, but the City-approved development is not located in a City-designated highly scenic area. LCP IP Section 17.48.190 requires that alterations to natural landforms be minimized, that new development be visually compatible with the character of the surrounding area, and that significant public views to and along the coast be protected.

The Appellants contend that the orientation of the approved development would create a visual obstruction in a scenic corridor, because the back of the house/garage will be a continuous wall 60-plus feet long. The Appellants also contend that the final height of the approved residence in



relation to Main Street is unknown, but is potentially 17-20 feet. The Appellants propose a solution whereby the approved development would be reoriented from east/west to north/south, to minimize the project's visual impacts. Please see **Exhibit 5** for the Appellants' contentions.

The approved project site is located within the single-family residential district zoning district (R-1) and Mixed Use Area B.<sup>2</sup> The R-1 zoning district sets the following development standards: 20-foot front yard setback, 10-foot rear yard setback, interior yard setbacks of 5 foot maximum and 3 foot minimum, 10-foot setback from accessway, 25-foot height limitation and 45% maximum allowable lot coverage. The approved single-family residence meets the zoning district setbacks, height standard, and allowable lot coverage, and is designed to be compatible with other residences located in the vicinity, including through the project's size and scale (see Exhibit 3). Thus the approved project is consistent with the development standards of the R-1 zoning district.

The approved project will be located on the seaward side of Main Street, about 300 feet from coastal waters. Heading southbound on Main Street, trees and existing development screen the project site.<sup>3</sup> Heading northbound on Main Street, the approved project will briefly obstruct views to the Bay and ocean (see **Exhibit 7** for photo simulations of the approved project). However, Main Street in this location is not designated as a highly scenic area under the LCP. In addition, the approved project will be seen in the context of numerous other existing residential, commercial and recreational developments that are located between Main Street and the waterfront.

With respect to the Appellants' contention that the project could be revised to alter the orientation of the approved residence from east/west to north/south to minimize visual impacts, the project site has steep slopes on the northeastern and southwestern portions of the parcel. Reorienting the approved project to a north/south orientation would likely require major landform alteration given the steep slopes in these areas, inconsistent with LCP Policy 12.01. The City-approved development is sited on the flattest portion of the property and will be constructed as a slab on grade. Accordingly, the approved development minimizes the alteration of landforms, consistent with LCP Policy 12.01.

The City-approved project constitutes infill residential development in an urbanized area of Morro Bay, located about 300 feet from the coastal waters. The approved project meets the development standards of the zoning district, including with respect to height, and is consistent with the requirements of the Mixed Use Area B overlay. The approved project is not located in an area designated in the LCP as highly scenic and will be seen in the context of other existing

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<sup>2</sup> Mixed Use Area B provides the following (LUP Page 24): "Existing coastal-dependent and coastal-related uses shall be protected, maintained and provided where feasible in new development. Mixed Harbor Uses shall be for recreational boating and fishing rather than commercial fishing. Visitor-serving commercial/recreational uses shall have priority over other land uses consistent with traffic, circulation and parking constraints in the Embarcadero."

<sup>3</sup> While the City-approved project recognized the Applicants' proposal to remove two trees (one on the northern part of the parcel and the other on the east side of the parcel along Main Street, the City conditioned its approval to allow these trees to be removed only if the Applicants demonstrate that the trees are hazardous. If the trees are deemed hazardous and are removed, the Applicants would be required to replace the trees at a ratio of 2:1. See **Exhibit 4**.



development. Finally, the approved project minimizes the alteration of natural land forms, consistent with LCP Policy 12.01. Given all of the above, this appeal contention does not raise a substantial LCP conformance issue.

### **Hazards**

The LCP's hazards policies require an analysis of underlying site stability to ensure that new development within geologically hazardous areas is sited safely. The Appellants contend that the approved development is on the "bluff line" described in the City's LCP Hazards chapter, and that the bluff line was not addressed in the City's approval. The Appellants also cite numerous other LCP hazards policies and standards (see below and see Exhibit 6 for IP sections 17.45.040, 17.45.050, and 17.45.070) as being relevant to the approved project, without citing any specific contentions with respect to the approved project's consistency with these policies:

#### *Policy 9.06*

*All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. To accomplish this, structures shall be built to existing natural grade whenever possible. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall remain in project open space.*

#### *Policy 9.08*

*Sediment basins (including debris basins, desilting basins, or silt traps) shall be installed on the project site in conjunction with the initial grading operations and maintained through the development process to remove sediment from runoff waters. Sediment basins shall be in place prior to the commencement of the winter rainy season defined in Policy 9.07. All sediment shall be retained on site unless removed to an appropriate dumping location approved by the City consistent with relevant policies of the Coastal Act and the Morro Bay Local Coastal Program.*

#### *Policy 9.10*

*In permitted development, drainage devices shall be required in order to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development. Water runoff shall be retained on-site whenever possible or whenever there is the capability to facilitate groundwater discharge.*

#### *Policy 9.14*

*All development along bluffs shall be adequately setback to ensure protection of the development for its economic life and the development shall not require alteration of the existing bluff land form or beach. New development shall assure stability and structural integrity, and neither create nor contribute significantly to erosion or geologic instability by accomplishing the following:*



*(1) Bluff-top setback shall be determined from a site-specific geology report prepared by a registered geologic engineer. The report shall set forth recommendations for building setbacks which shall ensure structural stability and integrity without altering the bluff land form or necessitating the construction of protective devices such as seawalls for the life of the development (75-100 years).*

*(2) The face of the bluff and vegetation or fill material stabilizing the slope shall not be altered.*

*Policy 9.15*

*All new development on bluff tops shall be required to install drainage systems to carry runoff inland to the nearest public street. In areas where the topography prevents such conveyance, because additional filling or grading would create greater adverse environmental or visual impacts. Private bluff drainage seaward should be permitted if the drainage system is sized to accommodate drainage from adjacent parcels and the system is designed to minimize visual impacts utilizing natural coloring, natural land forms, and vegetative planting to hide the system.*

*Policy 9.16*

*Development shall not be permitted on the bluff face except for the above drainage systems and for engineered staircases or accessways to provide public beach access and pipelines for scientific research or coastal dependent industry. To the maximum extent feasible, these structures shall be designed to minimize alteration of the bluff and beach.*

Within the LCP Hazards chapter on Page 166, the “Bluff Line” is described as extending from the PG&E power plant to Morro Bay State Park [a distance of about 1 ½ miles]. With respect to this “Bluff Line” the LCP states, “While not bordering the water, the bluff line running from the PG&E power plant to Morro Bay State Park is being eroded in some areas. This is due to the sandy nature of the soil making up the bluff.” This inland “Bluff Line” extends through some of the most urbanized portions of the City and may extend through or near the project site. However, there are no maps in the LCP that show the exact location of this “Bluff Line.” Additionally, the LCP does not include any specific policies or IP development standards that apply to this “Bluff Line.” Thus, even if the “Bluff Line” ran through the subject parcel, it would not change the analysis of the project’s conformance with the LCP.

The LCP Hazard Chapter policies require a geologic report demonstrating that proposed development is sited safely within hazard areas, particularly for developments located on bluff top lots. The applicable IP sections set forth more specific criteria related to the required geologic report and siting new development along bluffs. The Appellants raise the concern that given the lack of geologic stability conditions in the City’s approval, the residence may not be safely sited. However, “Bluff” is defined in IP Section 17.12.062 as the area located “between the toe of the bluff and the bluff edge.” “Bluff toe” is defined in 17.12.065 as “the point at which the landward extent of a beach or the mean high tide line of the ocean where there is no beach, meets the face of the bluff.” IP Section 17.12.066 defines “Bluff top edge” as “the upper termination of a bluff.” The approved project is located about 300 feet inland from ocean and



well inland from any potential bluff top edge. Thus, the project site is not located on a bluff as defined in the LCP and policies 9.14, 9.15, 9.16 are not applicable to the approved project. Furthermore, IP standards 17.45.040, 17.45.050, and 17.45.070 (which describe the development standards, necessary geologic reports, and permissible development for bluff properties) are also not applicable.

Moreover, the approved residence is not located within an LCP designated landslide risk area or within the 100-year flood plain. The approved development is located within the “moderate to high” liquefaction potential area and within areas of potential groundshaking, as designated under the LCP. Given the potential for earthquake-related hazards at the project site, including groundshaking and liquefaction, the City required the Applicants to submit a site specific Soils Engineering Report (prepared by Geosoils, Inc., dated April 27, 2009). This report analyzed the potential for liquefaction and assessed overall suitability for the proposed development on the site. The report found that due to the relative density of on-site soils, depth to groundwater and design of the residence, the potential for seismic liquefaction of soils appears to be low. The report contained a number of recommendations to ensure that the potential for seismically induced settlement and differential settlement is low. The recommendations have been incorporated into the project design and therefore the City did not find it necessary to impose additional conditions with regard to minimizing seismic hazards.

Also, as discussed above, the City-approved development is sited on the flattest portion of the property and will be constructed as a slab on grade. Accordingly, the approved development minimizes the alteration of landforms, consistent with the requirements of LCP Policy 9.06. Also, the City conditioned its approval to require a drainage report to ensure that the approved project controls runoff from the project site (consistent with LCP Policy 9.10), and also required an erosion and sediment control plan (consistent with LCP Policy 9.08).

The City has demonstrated the stability of the site in a manner consistent with the LCP Hazards Component. Therefore, the Commission finds that the appeal contentions with respect to hazards do not raise a substantial issue of conformance with the City’s certified LCP.

### **Planned Development Overlay Zone**

The purpose of the Planned Development (PD) overlay zone (see IP Section 17.40.030 in Exhibit 6) is to provide for analysis of development on parcels which, because of location, size, or public ownership, warrant special review. The PD overlay zone requires satisfaction of the base zoning district standards (in this case, R-1) and compliance with relevant precise plan requirements, and requires development to occur in accordance with a precise development plan, which has received discretionary City approval. The Appellants contend that not all of the documents required to satisfy the PD’s precise plan requirements were submitted by the Applicants.

Depending on the specific proposal, the PD overlay zone requires the following: total development plan, architectural elevations, landscaping plan, engineering plans, proposed site uses or activities, miscellaneous plans, and Tentative Tract of Parcel Map in the case of subdivisions/land divisions. Given the residential nature of the proposed project, the City required, and the Applicants submitted to the City, the following: a site plan, floor plans, elevations, color and material boards, and a landscape plan and a lighting plan. The City then

authorized the precise development plan through its discretionary approval of the conditional use permit for the project.

Thus, the requirements of the Planned Development Overlay zone were satisfied, because the approved project complies with the base R-1 zoning district standards, the Applicants submitted the required precise plan materials to the City, and the city authorized the precise development plan through its discretionary approval of the project. Therefore, the approved project complies with the standards of the Planned Development Overlay and this appeal contention does not raise a substantial LCP conformance issue.

### **Other Issues**

The Appellants cited a number of Implementation Plan sections (see Exhibit 5 for the appeal document and Exhibit 6 for the cited IP sections) related to decks/porches, historical resources, lighting and the development's potential for drainage from the site to flow into environmentally sensitive habitat areas. The Appellants noted that these IP Sections are relevant to the project, without stating any appeal contentions with respect to the City-approved project's lack of consistency with these provisions. Commission staff reviewed the cited IP standards in light of the City-approved project, and concluded that the City evaluated lighting<sup>4</sup> and landscape plans thoroughly, and imposed a series of conditions on the project (e.g., landscaping with native drought tolerant plants, drainage and sediment/erosion plan requirements (see findings above), that ensure the project's consistency with the LCP's development standards. In addition, the approved project is about 300 feet from Morro Bay, and the City determined that the Bay would not be adversely impacted by drainage from this development. The deck area associated with the second story of the residential development conforms to the LCP's development standards, including setback requirements.

The Appellants also imply that the approved project will have impacts to an historic resource (a residence) located at 395 Acacia Avenue, which is about 300 feet from the project site. However, they have not explained how the approved project would have an adverse impact on an existing residence located on another street about 300 feet from the approved project site. In any event, while the archaeological standard cited by the Appellants mentions "historic resources," IP Section 17.48.310 is entirely geared toward protecting found or potential sites of archaeological resources. The Appellants have not identified a potential impact to archaeological resources due to the approved residential development.

In sum, while the Appellants did not pose appeal contentions along with their list of relevant IP sections, Commission staff reviewed each of the policies identified by the Appellants and concluded that the project complies with each of them.

The Appellants also cited a number of General Plan policies. The General Plan policies (LU-84.1, C-7.1, C-17.1, C-38.1 and H-27) are not the standard of review in an appeal of the City's issuance of a CDP for this development. Therefore, the General Plan policies listed do not raise valid appeal contentions.

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<sup>4</sup> The City determined that a photometric plan for this single-family residential development was not required.



For the foregoing reasons, none of these appeal contentions raises a substantial LCP conformance issue.

## **F. CONCLUSION**

When considering a project that has been appealed to it, the Commission must first determine whether the project raises a substantial issue of LCP conformity, such that the Commission should assert jurisdiction over a de novo CDP for such development. As described above, the Commission has been guided in its decision of whether the issues raised in a given case are “substantial” by the following five factors: the degree of factual and legal support for the local government’s decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government’s decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance. In this case, these five factors, considered together, support a conclusion that this project does not raise a substantial issue of LCP conformance.

First, the facts support the City’s conclusion that, as conditioned, the approved residence would not have significant adverse impacts to visual or other coastal resources. Second, the approved project is consistent with the purpose of the zoning district, qualifies as a principally permitted use within the zoning district, and complies with the LCP’s design and development standards for residential structures, including with respect to height, square footage, setbacks, and site coverage. Thus, the extent and scope of this project weigh in favor of a finding of no substantial issue. Third, the development is not located within a highly scenic area and there are a number of other developments between the City-approved development and the shoreline, and it is conditioned to minimize risks from coastal hazards. Thus, no significant coastal resources are expected to be affected by this approval. Fourth, the Commission agrees with the City that the proposed project is consistent with the LCP, so this project should not create an adverse precedent. Fifth, the decisions made here are site and LCP-specific and therefore do not raise issues of regional or statewide significance.

Therefore, given that the evidence supports the City’s action and the City’s analysis did not result in the approval of a project with significant coastal resource impacts, the Commission finds the appeal does not raise a substantial issue of conformance with the LCP and thus the Commission declines to take jurisdiction over the CDP for this project.

Approximate  
Project Location

FIGURE 5

MIXED USE AREAS

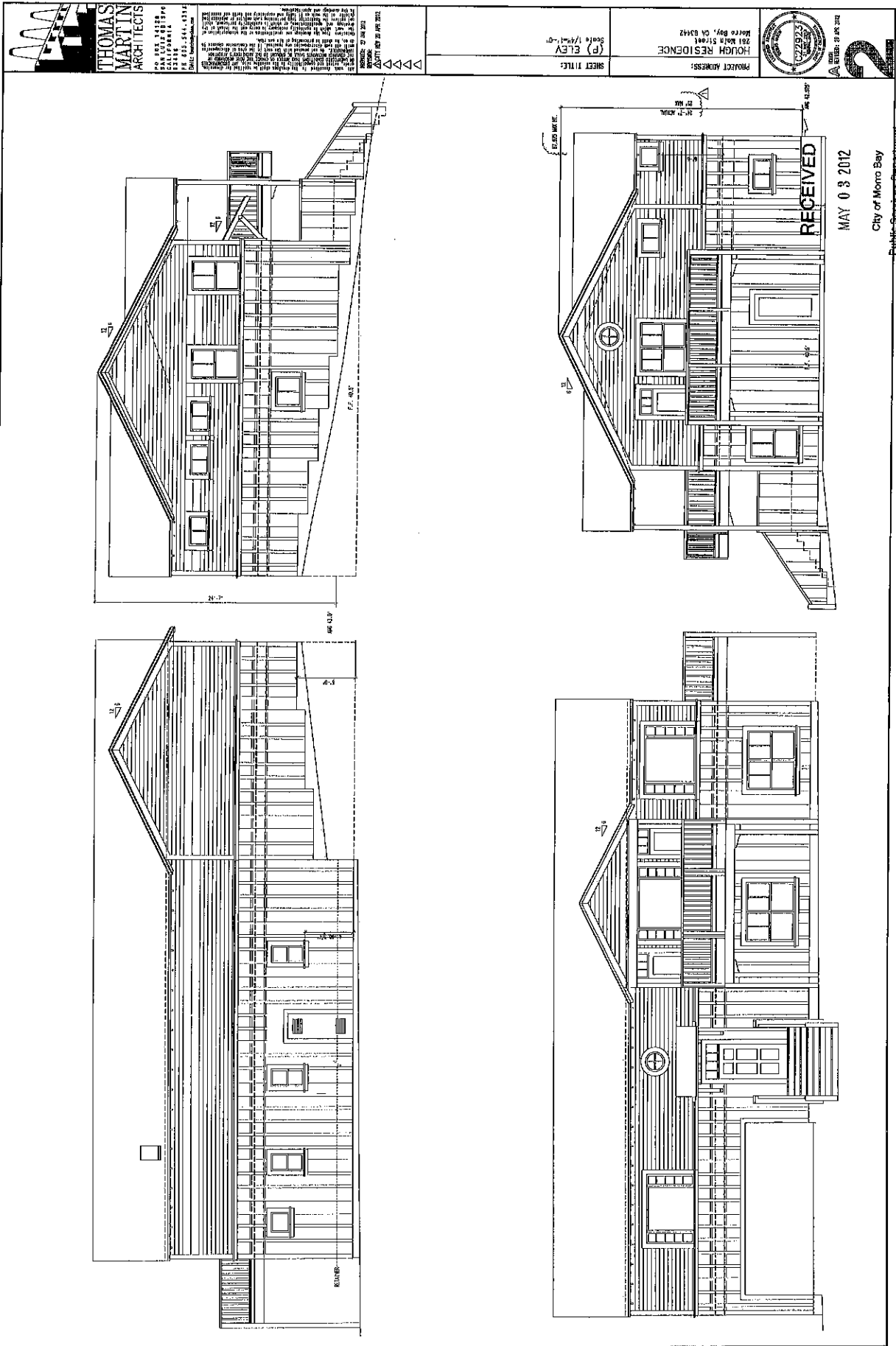






Exhibit No. 3  
A-3-MRB-12-026 (Hough)  
Approved Project Design  
Page 1 of 3





THOMAS  
MARTIN  
ARCHITECTS

PO BOX 14188  
SAN FRANCISCO, CA 94116  
415.774.1111  
www.thomasmartin.com

PROJECT ADDRESS:  
281 Main Street  
Morro Bay, CA 93942

SHEET TITLE:  
(P) ELEV

Scale 1/4"=1'-0"

DAVID A. BOWERS  
REGISTERED PROFESSIONAL ENGINEER  
STATE OF CALIFORNIA  
LICENSE NO. 50292

PROJECT ADDRESS:

HOUGH RESIDENCE

281 Main Street.

Morro Bay, CA 93442

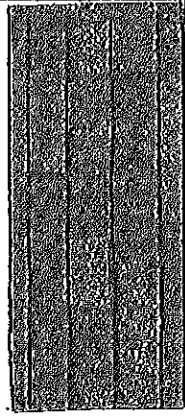
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MAY 07 2012

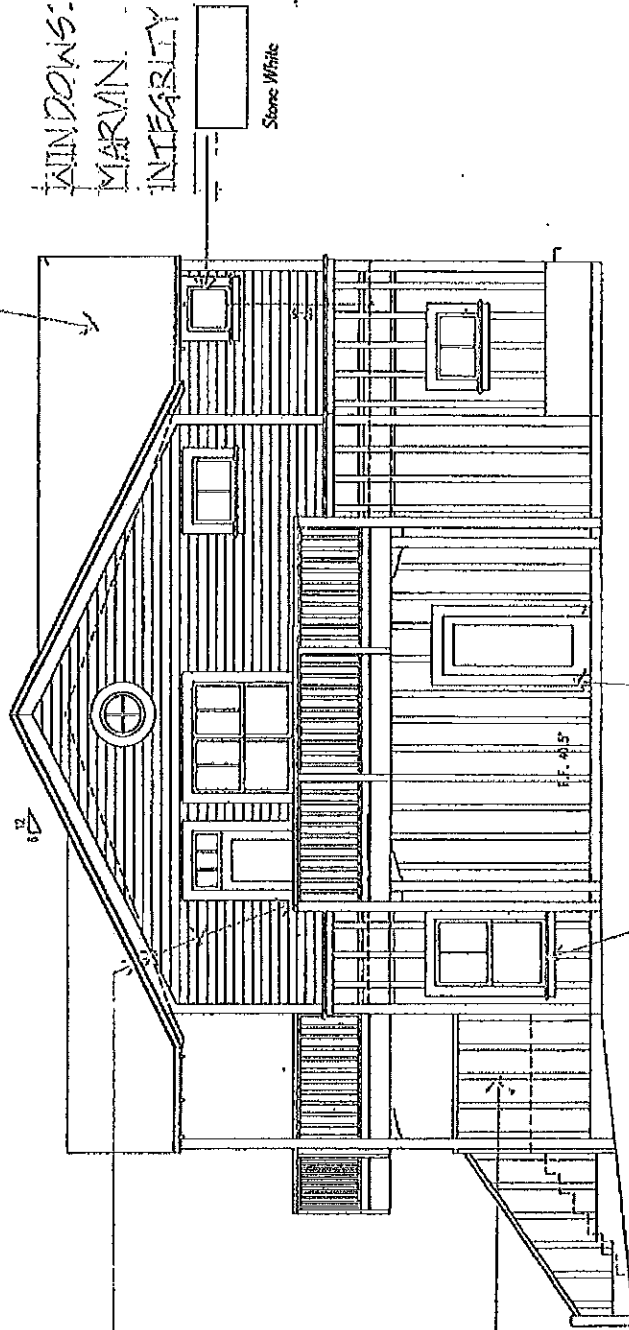
City of Morro Bay  
Public Services Department

SIDING & BOARD & BATT  
RANGE, POSSIBLE 2-TONE

TEMP ROOF:



WEATHERED WOOD



see light

471

seashell green

472

weekend getaway

473

misty blue

474

CW051W Solo White cdi

WHITE TRIM COLOR TO  
MATCH WINDOWS & DOORS



# PUBLIC SERVICES DEPARTMENT

## NOTICE OF FINAL ACTION ON COASTAL DEVELOPMENT PERMIT

NOTICE OF FINAL CITY ACTION on Coastal Development Permit No. CP0-372

THE FOLLOWING PROJECT IS LOCATED IN THE MORRO BAY COASTAL ZONE AND A COASTAL PERMIT APPLICATION HAS BEEN ACTED ON BY THE CITY.

Applicant: John and Alair Hough

Address: 285 Main Street

Project Description: Conditional Use Permit and Coastal Development Permit for the construction of a new 2,829 square foot single family residence with an approximately 700 square foot garage. The Conditional Use Permit because the residence is located in a Planning Development (PD) overlay and requires a precise plan. The proposed residence is also located on the west side of Main Street within the appeals jurisdiction and requires a regular Coastal Development Permit.

Project Location: 281 Main Street

APN: 066-251-047

Zoning: R-1/PD Single Family Residential/Planned Development

Land Use Plan/General Plan: Mixed Use Area B, Low to Medium Density Residential (4-7 DU/Acre)

Lot Area: 7,693 Square Feet

Filing Date: July 19, 2012 Mailed to California Coastal Commission

Approval Body: Morro Bay City Council

Action Taken: Deny Appeal of Planning Commission Approval

Action Date: July 10, 2012



THIS SITE IS OUTSIDE OF THE COASTAL COMMISSION APPEAL JURISDICTION



This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. The applicant or any aggrieved person may appeal this decision to the Coastal Commission within TEN (10) working days following Commission receipt of this notice. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, #300, Santa Cruz, CA 95060, 831-427-4863.

**FINAL LOCAL  
ACTION NOTICE**

REFERENCE # 3-MRB-12-158

APPEAL PERIOD 7/24-8/6/2012

**RECEIVED**

JUL 23 2012

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

APPLICANT'S ACCEPTANCE  
OF  
CONDITIONS OF APPROVAL

CASE NO. UPD-348/CPO-372  
SITE LOCATION: 281 MAIN STREET  
APPLICANT NAME: JOHN AND ALAIR HOUGH  
APPROVAL BODY: MORRO BAY CITY COUNCIL  
DATE OF ACTION: JULY 10, 2012

I, JOHN C. HOUGH the undersigned, have read and  
(APPLICANT'S NAME - PLEASE PRINT)

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

approving Case Number. UPD-348/CPO-372

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

[Signature]  
APPLICANT'S SIGNATURE

July 19, 2012  
DATE



**CITY OF MORRO BAY**  
**NOTICE OF EXEMPTION**

**TO:**     ☒     San Luis Obispo Co. Clerk  
County Government Center  
San Luis Obispo CA 93401

**FROM:**   City of Morro Bay  
Public Services Department  
955 Shasta Avenue  
Morro Bay, CA 93442

☐     Office of Planning & Research  
1400 Tenth Street  
Sacramento, CA 95814

Project Title: New Construction of a Single Family Residence

Project Location - Specific: 281 Main Street Morro Bay, CA 93422 (Parcel 1 of PM 74-86)

Project Location - City: MORRO BAY

County: SAN LUIS OBISPO

Description  
of Project:

Conditional Use Permit and Coastal Development Permit for the construction of a new 2,829 square foot single family residence with an approximately 700 square foot garage. The Conditional Use Permit because the residence is located in a Planning Development (PD) overlay and requires a precise plan. The proposed residence is also located on the west side of Main Street within the appeals jurisdiction and requires a regular Coastal Development Permit.

Name of Public Agency Approving the Project: CITY OF MORRO BAY

Name of Person or Agency Carrying Out Project: John and Alair Hough

**Exempt Status: (Check One)**

Reasons why project is exempt: Construction of a single family home

☐     Ministerial (Sec. 21080(b)(1); 15268);

☒ Categorical Exemption:

Type and Section Number: Class 3

☐     Declared Emergency (Sec. 21080(b)(3); 15269(a))

Section 15303

☐     Declared Emergency (Sec. 21080(b)(3); 15269(a))

☐ Statutory Exemption Code No. \_\_\_\_\_

Lead Agency: City of Morro Bay

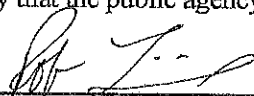
Contact Person: Rob Livick

Telephone: 805-772-6261

Has a Notice of Exemption been filed by the public agency approving the project?     ☐ Yes     ☒ No

**Certification:**

I hereby certify that the public agency has made the above finding and that the project is categorically exempt from CEQA.

Signature: 

Title: Public Services Director

Date: 7/18/2012

## **EXHIBIT A**

### **FINDINGS FOR APPROVAL**

**SITE: 281 MAIN STREET**

**PROJECT DESCRIPTION:** Conditional Use Permit and Coastal Development Permit for the construction of a new 2,829 square foot single family residence with an approximately 700 square foot garage.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

- A. Pursuant to the California Environmental Quality Act the project is categorically exempt pursuant Section 15303, Class 3 for New Construction or Conversion of Small Structures. The exemption provides for the construction of one single-family residential structure.

### **COASTAL DEVELOPMENT PERMIT FINDINGS**

- A. The project as proposed is consistent with the applicable provisions of the certified Local Coastal Plan. The Local Coastal Plan is consistent with the General Plan and the project meets minimum density requirements and therefore meets the LCP.
- B. For every development between the nearest public road and the sea or the shoreline of any body of water, the Planning Commission shall make a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. *The property is located to the east of Tidelands Park which provides public access to the water.*

### **CONDITIONAL USE PERMIT FINDINGS**

- A. The establishment, maintenance, or operation of the use applied for will, under the circumstances of the particular case, will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use. *The proposed project is a residential house and is located in a residential zone; therefore the use will not be detrimental to the surrounding uses.*
- B. The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City. *The proposed use will not be injurious or detrimental to the property and improvements in the neighborhood or general welfare, as the project meets the General Plan and Municipal Code.*

## MIXED USE AREA B FINDINGS

- A. That any proposed commercial use is generally serving a water-borne clientele or serving a water-oriented purpose. *The proposed project does not have a commercial element; therefore the finding does not apply to this project.*
- B. That the proposed commercial use, by its nature or design, will result in minimal noise, glare, odor, and traffic impacts on other nearby uses. *The proposed project does not have a commercial element; therefore the finding does not apply to this project.*
- C. That any new residential development shall be of a density and design which minimizes potential exposure to and would not unreasonably restrict water-oriented commercial activities. *The project is located on an existing residential lot that was previously subdivided and meets the minimum density. The project will not have a negative effect on water-oriented commercial activities because the property does not provide access to the water and is adjacent to Tidelands Park which provides water access.*
- D. That any new use shall not generate significant traffic/circulation impacts and shall include adequate parking, loading and access (turning and driveway) facilities. *The project is on a lot that meets minimum density with a private access easement off Main Street. Main Street can accommodate the traffic that will result from the development of one-single family residence.*
- E. That any new use shall not result in any harmful (e.g. toxic waste) discharge into the bay. *The single family residence will not discharge any harmful waste from the site nor will the bay be affected.*



## CONDITIONS OF APPROVAL

*As Revised by the Planning Commission at the May 16, 2012 Public Meeting.*

**SITE: 281 MAIN STREET**

**PROJECT DESCRIPTION:** Conditional Use Permit and Coastal Development Permit for the construction of a new 2,829 square foot single family residence with an approximately 700 square foot garage.

### STANDARD CONDITIONS

1. This permit is granted for the land described in the staff report dated May 16, 2012, for the project depicted on plans dated March 16, 2012 on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:

Site development, including all buildings and other features, shall be located and designed substantially as shown on plans, unless otherwise specified herein.

2. Inaugurate Within Two Years: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this approval and is diligently pursued thereafter, this approval will automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Said extensions may be granted by the Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Public Services Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review.
4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval, (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the

City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. Applicant understands and acknowledges that City is under no obligation to defend any legal actions challenging the City's actions with respect to the project. This condition and agreement shall be binding on all successors and assigns.

6. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
7. Compliance with Morro Bay Standards: This projects shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use plan and General Plan for the City of Morro Bay.
8. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.

### **PLANNING CONDITIONS**

1. Landscape Plan: A fully developed landscape plan shall be submitted to the Public Services Department. The plans shall include the type, location, quantity of plants, and water usage that is suitable for the Morro Bay, pursuant to *The Sunset Western Garden Book*, zone 15. All plants shall be native and drought tolerant.
2. Building Height Certification: The proposed building shall comply with the maximum height of 25 feet measured from average natural grade. A height certificate shall be provided to the Building Division verifying compliance.
3. Trees: Pursuant to previous approvals an arborist report by a certified arborist shall be submitted to the Public Services Department indicating that the two trees are hazardous. If the trees are deemed hazardous and removed the trees shall be replaced in like kind with a minimum 5 gallon tree at a ratio of two trees for every one tree removed. Trees shall be planted on site prior to the issuance of a certificate of occupancy. Provide maintenance for a period of two (2) years. Should the trees die within the maintenance period they shall be replaced and maintained for an additional two year period.

## **BUILDING CONDITIONS**

1. **Building Permit:** Prior to construction, the applicant shall submit a complete application to the building department and obtain the required building permit.

## **FIRE CONDITIONS**

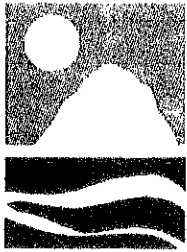
1. **Address Identification:** New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. (CFC 505.1) **Please provide approved address identification.**
2. **Automatic Fire Sprinkler System:** An automatic residential fire sprinkler system shall be installed in one- and two- family dwellings. (CRC R313.2 & MBMC 14.08.090(I)(1)) **Please provide automatic fire sprinklers, in accordance with NFPA 13-D.**
3. **Carbon Monoxide Alarms:** For new construction, an approved carbon monoxide alarm shall be installed in dwelling units and in sleeping units within which fuel-burning appliances are installed and in dwelling units that have attached garages. (CRC R315.1.1) **Please provide approved carbon monoxide alarms.**

## **PUBLIC WORKS CONDITIONS**

1. **Drainage Report:** Provide a Drainage Report prepared by a Registered Civil Engineer. The Drainage Report shall conform to Stormwater Management for New and Redevelopment Projects within the City of Morro Bay in the July 2011 amendment to the City Standard Drawings and Specifications\*. Specifically, this project shall meet the requirements of the following Parts:
  - a. Part 1: Protection of Water Quality - **Exempt**
  - b. Part 2: Runoff Volume Controls (LID) - **Tier 2 requirements**
  - c. Part 3: Peak Runoff Flow Control – **All requirements**
2. **Standard Erosion and Sediment Control Plan:** Provide a standard erosion and sediment control plan. The Plan shall show control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or ecologically sensitive area.
3. **Note:** Add the following Notes to the Plans:

Any damage to City facilities, i.e. curb/berm, street, sewer line, water line, or any public improvements shall be repaired at no cost to the City of Morro Bay.





July 18, 2012

# City of Morro Bay

Morro Bay, CA 93442

(805) 772-6200

www.morro-bay.ca.us

 **COPY**

John and Alair Hough  
285 Main Street  
Morro Bay, CA 93442

Subject : Use Permit (UP0-348) and Coastal Development Permit (CP0-372) for 281 Main Street.

## Project Description:

Conditional Use Permit and Coastal Development Permit for the construction of a new 2,829 square foot single family residence with an approximately 700 square foot garage. The Conditional Use Permit because the residence is located in a Planning Development (PD) overlay and requires a precise plan. The proposed residence is also located on the west side of Main Street within the appeals jurisdiction and requires a regular Coastal Development Permit.

Dear Mr. and Mrs. Hough:

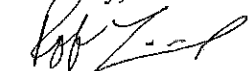
The City of Morro Bay City Council upheld the Planning Commission's approval of your Conditional Use Permit and Coastal Development Permit. This action does not constitute a building permit. Any further processing of this project must be initiated by the applicant, subject to the applicable rules and regulations of the Morro Bay Municipal Code. *Please be advised that you must return the enclosed Acceptance of Conditions form, signed, to this department or the action is null and void.*

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

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

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

Sincerely,



Rob Livick  
Director Public Services Department

cc: Stephanie Rexing, California Coastal Commission

**RECEIVED**

JUL 23 2012

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

FINANCE  
595 Harbor Street

ADMINISTRATION  
595 Harbor Street

FIRE DEPT.  
715 Harbor Street

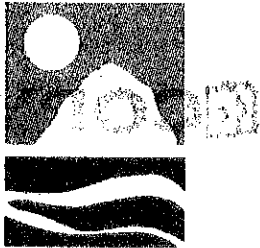
PUBLIC SERVICES  
955 Shasta Avenue

HARBOR DEPT.  
1275 Embarcadero Road

CITY ATTORNEY  
595 Harbor Street

POLICE DEPT.  
870 Morro Bay Boulevard

RECREATION & PARKS  
1001 Kennedy Way



# City of Morro Bay

Morro Bay, CA 93442

(805) 772-6200

www.morro-bay.ca.us

## Coastal Development Permit and Conditional Use Permit

This approval is based upon the attached findings and is valid only if the attached conditions are met and only after the applicable appeal period. Failure to comply with the conditions of this permit shall, at the discretion of the Public Services Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void.

CASE NO: UP0-348 & CP0-372

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

SITE ADDRESS: 281 Main Street

APPLICANT: John and Alair Hough

APN/LEGAL: 066-251-047

DATE APPROVED: July 10, 2012

APPROVED BY: City Council

CEQA DETERMINATION: Class 3 for New Construction/Conversion of Small Structures

DESCRIPTION OF APPROVAL: Conditional Use Permit and Coastal Development Permit for the construction of a new 2,829 square foot single family residence with an approximately 700 square foot garage. The Conditional Use Permit because the residence is located in a Planning Development (PD) overlay and requires a precise plan. The proposed residence is also located on the west side of Main Street within the appeals jurisdiction and requires a regular Coastal Development Permit.

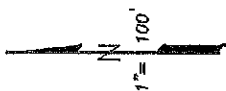
☐ YOUR PROPERTY IS LOCATED IN THE CITY OF MORRO BAY JURISDICTION, THERE IS AN APPEAL PERIOD OF TEN (10) Calendar days, WITHIN WHICH TIME YOUR PERMIT IS APPEALABLE TO THE CITY COUNCIL/PLANNING COMMISSION

☒ YOUR PROPERTY IS LOCATED IN THE COASTAL COMMISSION APPEALS JURISDICTION: THE FOLLOWING COASTAL COMMISSION APPEAL PERIOD APPLIES TO YOUR PROJECT: This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. The applicant or any aggrieved person may appeal this decision to the Coastal Commission within TEN (10) Working days following Commission receipt of this notice and after expiration of the City of Morro Bay appeal period. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, Ste. 300, Santa Cruz, CA 95060, Phone: 415-427-4863. If you have any questions, please call the City of Morro Bay Public Services Department, 772-6270.

**IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE:** Subject to Appeal Period Listed Above

ATTEST: [Signature] DATE: 07/18/2012

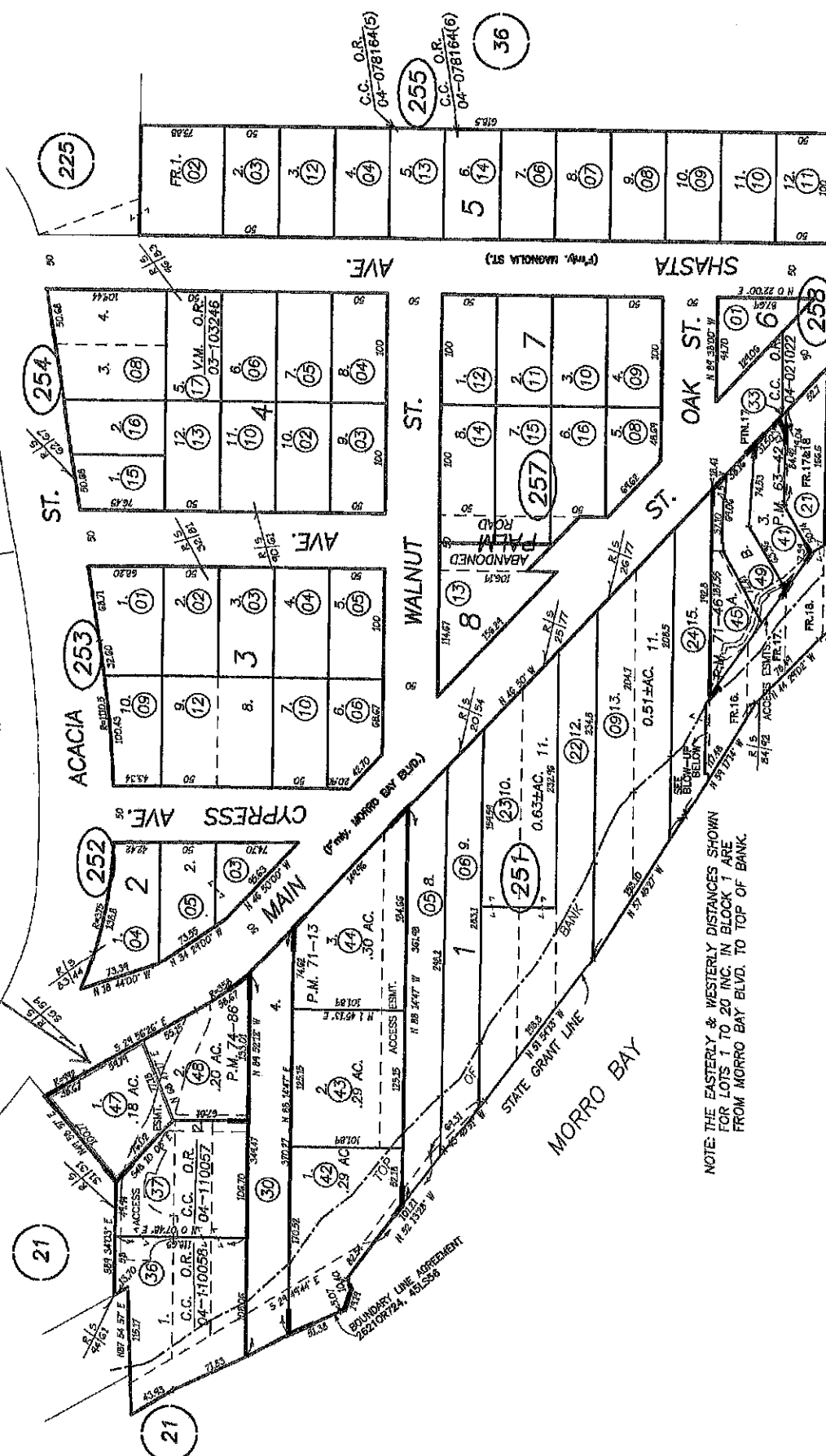
066-2E



Subject Property  
(CP0-372/UP0-348)

34

222



BLOW-UP: PORTION APN 25

50' 0 100' 200'

THIS MAP IS PREPARED FOR  
ASSESSMENT PURPOSES ONLY.

REVISIONS	DATE
09-28-09	02-28-09
10-14-09	02-28-10
11-15-09	02-28-11
12-03-09	07-25-11
12-08-11	11-08-11

NOTE: THE EASTERLY & WESTERLY DISTANCES SHOWN  
FOR LOTS 1 TO 20 INC. IN BLOCK 1 ARE  
FROM MORRO BAY BLVD. TO TOP OF BANK.

CITY OF MORRO BAY  
ASSESSOR'S MAP COUNTY OF  
SAN LUIS OBISPO, CALIF.  
BOOK 086 PAGE 25

MORRO ROCK PARK, R.M. Blk. 3, Pg. 36.





**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060-4508

VOICE (831) 427-4863 FAX (831) 427-4877

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT****Please Review Attached Appeal Information Sheet Prior To Completing This Form.****SECTION I. Appellant(s)**

Name: Dorothy Cutter and Betty Winholtz

Mailing Address: 290 Cypress St. and 405 Acacia St.

City: Morro Bay

Zip Code: 93442

Phone: (805)772-7232 and  
(805)772-5912**SECTION II. Decision Being Appealed**

1. Name of local/port government:

City of Morro Bay

2. Brief description of development being appealed:

New construction of a single family residence in a Planning Development (PD) overlay zone.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

281 Main Street, Morro Bay

4. Description of decision being appealed (check one.):

- ☒ Approval; no special conditions
- ☐ Approval with special conditions:
- ☐ Denial

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**APPEAL NO: ☐☐☐☐ A-3-MRB-12-026DATE FILED: ☐☐☐☐ July 24, 2012DISTRICT: ☐☐☐☐ Central**RECEIVED**

JUL 19 2012

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator  
☒ City Council/Board of Supervisors  
☐ Planning Commission  
☐ Other

6. Date of local government's decision: July 10, 2012

7. Local government's file number (if any): CUP #UPO-348 and CDP #CPO-372

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Alair and John Hough  
285 Main St.  
Morro Bay, CA 93442

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Don Wadleigh  
280 Main St.  
Morro Bay, CA 93442

(2) □□□□□

(3) □□□□□

(4) □□□□□



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

### SECTION IV. Reasons Supporting This Appeal

#### **PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- 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 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.

The current orientation of this development creates a visual obstruction in a scenic corridor. The City's LCP Visual Resources Chapter XIII Policy 12.01 protects scenic public views. It appears that the back of the house/garage is a continuous wall 60-plus feet long. The final height above the scenic bikeway/walkway/street is unknown, potentially 17-20 feet. One possible solution is reorienting the development from east/west to north/south. When one council member asked for a simulation, the rest of the council said no. See pictures.

The development is on the bluff line described in the City's LCP Hazards Chapter XC3c. The bluff was not mentioned in either the planning commission nor the city council staff report. We contend it is unknown whether the development is sited correctly. In addition, Policies 9.06, 9.08, 9.10, 9.14, 9.15, and 9.16 are relevant.

This development is in a Planned Development (PD) overlay zone. Zoning Ordinance 17.40.030 defines the purpose of a PD and outlines what specific documents shall be evaluated when permitting in this zone. We contend that not all documents were submitted and some of those which were submitted were incomplete. Therefore, this development did not receive the special review warranted by its zone.

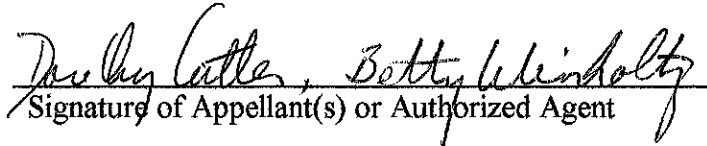
Relevant General Plan Programs not addressed were LU-84.1, C-7.1, C-17.1, C-38.1, and Policy H-27.

Zoning Ordinances which are relevant and fulfill the above mentioned LCP and GP policies and programs are 17.45.040, 17.45.050, 17.45.070, 17.48.120, 17.48.190, 17.48.290, 17.48.300 (the relevant ESH is the bay/estuary), 17.48.310 (the City declared 395 Acacia a "historical resource", and 281 Main is within 300 feet of 395 Acacia), and 17.52.080.

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**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: July 16, 2012

**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: □□□□

## Implementation Plan Standards Cited by Appellants

### 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.

#### **17.45.040 - Development standards**

*In addition to the primary base zoning district, and suffix zones, combining districts, specific plan requirements, the following standards shall apply within the bluff buffer area for development on coastal bluff properties:*

- A. *Development Within The Bluff Buffer Area.* Except as provided for in Section [17.45.070](#), no development is permitted within the bluff buffer area. The bluff buffer may be reduced for existing subdivided parcels where said setback would render that parcel unusable for its designated use. Said buffer may not be reduced, in any case, to less than twenty feet.

- B. New Development Located Within Fifty Feet Of The Bluff Edge. New development located within fifty feet of the bluff edge shall not exceed a height limit of fourteen feet; provided, however, that for peaked roofs (4 in 12 or greater pitch) and other architectural features, a height of up to seventeen feet may be permitted.*
- C. Permitted Development. Permitted development shall be sited and designed to protect public views to and along the ocean and scenic coastal areas, and shall be subordinate to the character of the setting. Development shall not impair but facilitate public access, environmental concerns, and public views as provided in the general and local coastal plans. Development shall be coordinated with existing or planned future public facilities.*
- D. Underground Utility Lines. Notwithstanding the provisions of [Chapter 17.48](#), all service and distribution utility lines for coastal bluff properties shall be installed underground.*
- E. Erosion Or Geologic Instability. New development shall neither create nor contribute significantly to erosion or geologic instability of bluffs.*
- F. Drainage Systems. New development on coastal bluff properties shall be required to install drainage systems to carry runoff inland to the nearest public street, except in areas where the topography prevents such conveyance because additional filling or grading would create greater adverse environmental or visual impacts. In such case, private bluff drainage seaward may be permitted if:*
- 1. Drainage System. The drainage system is sized to accommodate drainage from adjacent parcels; and*
  - 2. Visual Impacts. The system is designed to minimize visual impacts utilizing natural coloring, natural land forms and vegetative planting to hide the system; and*
  - 3. System and Outfall Design. The system and outfall design shall be subject to the approval of the city engineer and other necessary government agencies.*
- G. Landscaping. Landscaping shall be designed to minimize ecological and geological disturbances. Only plant materials recognized for their drought tolerance or erosion controlling properties shall be authorized on bluffs or bluff tops.*

#### **17.45.050 - Geologic report**

- A. Conditional Use Permit Applications. Applications for a conditional use permit as required herein for development on bluff faces and bluff tops shall be accompanied by a geologic report prepared by a licensed engineering geologist or a professional civil engineer with expertise in soils and foundation engineering, or a registered geologist with a background in engineering applications. Such report shall include a scaled map showing location of the bluff edge, the toe of the bluff, and other significant geologic features by distance from readily identified fixed monuments such as the property line,*



*centerline of the road nearest the bluff, or inside of curb face. Such report shall assess the stability of bluffs in the vicinity of the applicant's property and describe and analyze the following:*

- 1. Demonstration of Stability. The area of demonstration of stability shall include the base, face, and top of all bluffs. The extent of the bluff top considered shall include the area between the face of the bluff and a line described on the bluff top by the intersection of a plane inclined at a 20.25 degree angle from the horizontal passing through the top of the bluff, or fifty feet inland from the edge of the bluff, or whichever is greater, (see [Section 17.12.063](#)).*
- 2. Bluff Geometry and Site Topography. Bluff geometry and site topography, extending the investigation beyond the site as needed to depict unusual geomorphic conditions that might affect the site.*
- 3. Bluff Erosion. Historic, current and foreseeable bluff erosion and possible changes in shore configuration and sand transport.*
- 4. Geologic Conditions. Geologic conditions, including soil, sediment and rock types and characteristics, in addition to structural features such as bedding, joints, faults, strike and dip.*
- 5. Past or Potential Landslide Conditions. Evidence of past or potential landslide conditions, the implications of such conditions for the proposed development, and the potential effects of the development on landslide activity.*
- 6. Construction Activity. Impact of construction activity on the stability of the site and adjacent area.*
- 7. Water Conditions. Ground and surface water conditions and variations, including hydrologic changes caused by the development.*
- 8. Site Erodibility. Potential erodibility of the site and mitigating measures to minimize erosion problems during and after construction, (e.g. landscaping and drainage design).*
- 9. Marine Erosion. Effects of marine erosion on coastal bluffs.*
- 10. Seismic Forces. Potential effects of seismic forces resulting from a maximum credible earthquake.*
- 11. Other Factors. Any other factors that might affect slope impacts.*
- 12. Off-Site Impacts. Evaluation of the off-site impacts of development (e.g., development contributing to geological instability) and the additional impacts that might occur due to the proposed development (e.g., increased erosion along a footpath).*

13. *Site Suitability and Seventy-Five Year Safety Period.* An evaluation of the suitability of the site and development during all foreseeable normal and unusual conditions, including ground saturation and maximum credible earthquake. A minimum project life of seventy-five years shall be assumed for all coastal bluff development standards, unless special consideration warrants the imposition of higher standards.
  14. *Building Setbacks.* Recommendations for building setbacks which shall ensure structural stability and integrity without altering bluff landforms or beach or which necessitate the construction of protective devices such as seawalls for the economic life of the development (seventy-five to one hundred years).
  15. *Mitigation Measures.* Mitigation measures for any potential impacts.
  16. *Other Matters.* Other matters as determined relevant to the property by the preparing engineering geologist or city engineer.
- B. *Geologic Report Standards.* Geologic reports shall be prepared in accordance with the state of California, Division of Mines and Geology Guidelines for Geologic/Seismic Reports, publications numbers 37, 43, 44, 46, and 49, or successors, as applicable.
  - C. *Engineering Geologist Certifications.* The preparing engineering geologist shall sign and affix a certification seal inclusive of license number to such geologic report.

#### **17.45.070 - Permissible development on bluff face and in bluff buffer**

*Where new development must be located or is permitted on bluff faces, it shall be designed to minimize physical alteration of the bluffs, provide restorative work to the bluff, provide native drought tolerant landscaping, temporary irrigation, and where feasible, to step down bluff faces or located below grade.*

- A. *Planning Commission Approval Required.* Notwithstanding other provisions of this chapter, the following improvements may be constructed in the bluff face and the bluff buffer areas, subject to approval of a conditional use permit as provided in [Chapter 17.60](#) and in Section [17.40.030](#) for P-D suffix zones.
  1. *Embarcadero Area Between Surf Street and Anchor Street.* In the Embarcadero area between Surf Street and Anchor Street, new development is allowed within the bluff buffer area and may be stepped down the bluff face provided the development shall not require the construction of protective devices or retaining walls that would alter natural landforms or impeded public access.
  2. *Existing Development Within the Bluff Buffer.* Existing development and structures located within the bluff buffer may expand its occupancy and floor area by not more than ten percent. An expansion of said structure shall not be permitted unless the structure is brought into conformance with Title 14 and may be expanded in accordance with this chapter one time only.

3. *Bluff Face Development.* Except as provided in Section [17.45.070\(A\)\(1\)](#), development shall not be permitted on bluff faces, except for the following:
  - a. *Drainage systems as required herein;*
  - b. *Staircases or accessways to provide public beach access; and*
  - c. *Pipelines for scientific research or coastal-dependent industry.*
- B. *Administrative Approval Required.* Notwithstanding other provisions of this chapter, the following improvements may be constructed in bluff setback and buffer areas, subject to review and approval by the director and city engineer of a minor use permit as provided in this chapter.
  1. *Existing Retaining Walls.* The repair or replacement of existing retaining walls shall be permitted only where necessary to stabilize bluffs adjacent to the coastline where no less environmentally damaging alternative exists, or where necessary for coastal-dependent projects, protection of existing development, and public recreation uses.
  2. *Existing Public Access Stairways.* The repair or replacement of existing public access stairways will be allowed if the repair does not require the construction of bluff protection devices, necessitate the destruction of any bluff by excavation or any other means, or significantly contribute to bluff erosion.
  3. *Public Recreation Improvements.* The construction of new improvements designed to facilitate public recreation or access may be constructed within bluff setback and buffer areas if it can be demonstrated that the improvement will not hasten the natural erosion of the bluff.

#### **17.48.120 - Porch, landing place or stairway projections**

- A. *Open, uncovered, raised porches, landing places or outside stairways in excess of thirty inches above ground elevation may project not closer than three feet to any interior side yard or rear lot line and not exceeding five feet into any required front yard or street side yard setback and no closer than five feet to said lot line. Wind screens/walls must be of a clear material and shall not exceed five feet in height above the floor of the landing or deck. Projections which are less than thirty inches above ground elevation may project closer than three feet to any lot line, provided however, that such projections which are made of combustible material may extend to the rear and interior side property line if they terminate at a noncombustible wall or fence which extends at least thirty inches above the projection.*
- B. *For downslope lots, stairs, decks or porches located in the front and exterior side yard setback may be permitted to exceed thirty inches above grade provided that:*

1. *They do not extend above the height of the top of the curb (or height of the edge of pavement where there is no curb); and*
2. *They do not extend into the interior side yard or rear yard setbacks.*

#### **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.*
- B. *Natural landform protection: alterations to natural landforms are minimized.*
- C. *Compatibility: the development is visually compatible with the character of the surrounding area and any design themes adopted for the area by the city.*
- D. *Visual quality: restores and enhances visual quality in visually degraded areas.*
- E. *Scenic area standards: in highly scenic areas, as depicted in the Morro Bay coastal land use plan/coastal element, the following additional standards shall also apply:*
  1. *Character: the proposed development shall be subordinate in character to its surroundings.*
  2. *Height/bulk: the height/bulk relationships in the development shall be compatible with the surrounding area.*
  3. *Parks or open space: parks or open space shall be designated and incorporated into new developments.*
  4. *View corridors: view corridors shall be incorporated into the development to protect significant public views to and along the shoreline and other scenic areas.*
  5. *Landscaping: landscaping shall be provided to restore and enhance visually degraded areas using native, if feasible, and drought-resistant plant and tree species.*
  6. *Preservation and enhancement: preservation and enhancement of views of the ocean, bay, sandspit and Morro Rock.*

#### **17.48.290 – Landscaping**

*The purpose of landscaping standards include the following: to provide areas on sites which can absorb rainfall to assist in reducing storm water runoff; to control erosion; to enhance*



*the appearance or architectural composition of all development; to provide shade or wind break; to restore visually degraded areas; to decrease glare; to encourage lower water consumption; and to help provide privacy.*

*A. Required Landscaping. Landscaping which meets the provisions of this section shall be required for the following:*

- 1. General. For commercial, industrial, mixed use and residential development or redevelopment (see definition in [Chapter 17.12](#)), (except for single-family dwellings) as required by [Chapter 17.24](#)*
- 2. In parking and loading areas as provided in [Chapter 17.44](#)*
- 3. In planned development (PD) suffix zones as provided in Section [17.40.030](#)*
- 4. In community housing projects as provided in Chapter 17.49;*
- 5. Condition of Approval. Where required as a condition of approval for the following:*
  - a. Permits: a use permit, conditional, special or interim, as provided in [Chapter 17.60](#)*
  - b. Variance: a variance as provided in [Chapter 17.60](#)*
- 6. In mobilehome parks;*
- 7. In bluff areas as provided in [Chapter 17.45](#)*
- 8. In setback areas fronting on an adjacent public street;*
- 9. City entryways and along scenic roadways: for new development or redevelopment at city entryways and along scenic roadways as defined in the scenic highway element of the general plan.*
- 10. On cut and fill slopes for erosion control purposes and/or slope stability*

*B. Exceptions. The following exceptions shall apply to the provisions of this section:*

- 1. Agriculture District. Except as may be required by conditions for permitted commercial uses as provided in Section [17.24.020](#) of this title, landscaping is not required in areas cultivated or maintained in native vegetation.*
- 2. Modifications to Standards. When it is found that characteristics particular to the property, vicinity or use would render required landscaping ineffective or unnecessary, the authority granting approval may waive, modify or increase the landscaping requirements so long as such modifications do not violate the intent of this section.*

- C. Standards For Landscaping. Landscaping required by this chapter, including the materials used, manner of installation and maintenance methods, shall conform to the following standards:*
- 1. Allowable Materials. Landscaping shall include a combination of the following materials, as appropriate, to provide a well balanced landscape environment, to achieve low water consumption, and to achieve the intended or required functions as provided herein:*
    - a. Trees, shrubs, hedges, groundcover, vines, flowers or lawns: a variety of native and drought resistant plant and tree species shall be used wherever possible.*
    - b. Other decorative materials: brick, bark, timber, decorative rock or other decorative materials, provided that materials other than plantings are not to exceed fifty percent of the total area of landscaping.*
    - c. Natural features: natural features such as rock or stone outcrops.*
    - d. Structural features: structural features including fountains, pools, artwork, walls and fences.*
  - 2. Excluded Materials. Landscaping proposed to satisfy the requirements of this chapter shall not include plant materials with the following characteristics:*
    - a. Root Structure. Having root structures, which in their mature state may damage or interfere with the normal use of the following:*
      - i. Existing public or private underground electrical lines, cables, conduits, pipes or other underground structures,*
      - ii. Public or private sidewalks, curbs, gutters or paved parking areas,*
      - iii. Drainage improvements, or adjacent structures, foundations or other landscape materials.*
    - b. Unsuitable combinations: will be an unsuitable combination of species and/or location and thereby jeopardize health or growth;*
    - c. Fire: will create, because of proposed location and type, a potential hazard of fire;*
    - d. Obstruction of vision: will obstruct the vision of vehicle operators or pedestrians, on public right-of-ways or at points of intersection;*
    - e. Sight lines and view corridors: will negatively intrude upon sight lines and view corridors as defined and identified in the coastal land use plan/coastal element.*

3. *City Entryways and Scenic Roadways.* For proposed development or redevelopment at city entryways and along scenic roadways as specified in the scenic highway element of the general plan, the authority granting approval shall review landscape plans to insure that the following elements have been incorporated as appropriate into the project:
  - a. *Use and placement:* use and placement of landscaping materials which will protect, frame and enhance views.
  - b. *Screening:* use of landscaping materials to screen unsightly views and enhance the appearance of structures and uses.
  - c. *Harmonious and balanced site design:* use of landscaping to integrate all site elements including structures, signing, parking and lighting in a harmonious and balanced site design.
4. *Irrigation Required.* Landscaping plans as required herein shall include provisions for permanent irrigation of all landscaped areas. Drip irrigation shall be utilized in lieu of sprinkler or bubbler heads wherever feasible. Hand watering from hose bib connections shall not substitute for the irrigation system required herein unless specifically authorized.
5. *Timing of Installation.* All required plantings shall be in place prior to establishment of a use or issuance of a certificate of occupancy as provided by Section 14.16.010 of this code. Any landscaping not installed prior to occupancy shall be bonded in the amount of the estimated cost of landscaping and irrigation materials and installation.
6. *Proper Maintenance Required.* All required plant materials shall be maintained in a clean and neat condition. All landscaping shall be cared for, maintained, watered, fertilized, fumigated, pruned and kept in healthy growing condition. Where a required planting has not survived, it shall be promptly replaced with new plant materials having similar functional characteristics and of a size either equivalent to or exceeding the original size.
- D. *Landscaping Plans.* A landscaping plan, identifying the placement and type of plant materials as features of project design, shall accompany all applications for development where landscaping is required in accordance with the provisions of this section.
  1. *Landscaping Plan Content.* Landscaping plans shall be drawn at an appropriate scale to enable ready identification and recognition of information submitted. Where a development project involves only a portion of a site, the landscaping plan need only show the areas where existing soil contours and vegetation will be disturbed by construction or use, or other areas where landscaping is required. Submitted plans shall include the following:

- a. *Trees: the location of all trees existing on-site with trunks over six inches in diameter, or over two inches in diameter for oak trees, measured four feet above the ground. Trees proposed for removal shall be identified.*
  - b. *Landscaping details: proposed landscaping details, including the number, location, species and size of plant material.*
  - c. *Details and location of proposed fencing, entries, refuse collectors and free-standing or monument signs.*
  - d. *Walkways, plazas and sitting areas, play areas, street furniture and other existing or proposed permanent outdoor equipment or decorative landscape features, if any.*
  - e. *Outdoor light fixtures: outdoor light fixtures, including their location, height, intensity, and type.*
  - f. *Irrigation: proposed method and location of irrigation.*
  - g. *Interim landscaping: interim landscaping for future phases where deemed necessary by the city.*
  - h. *Evaporation reduction: mulch material and location to reduce evaporation.*
2. *Plan Review and Approval. Landscape plans as required herein shall be subject to review and approval as follows:*
    - a. *Review. Such plans shall be subject to approval by the planning commission or city council in accordance with the provisions of this title, except that such plans which are components of applications requiring only administrative approval shall be reviewed and approved by the director. Said plans shall be prepared by persons knowledgeable in drought resistant plantings and low water use irrigation systems.*
    - b. *Approval. Such plans shall be approved when they are found to satisfy the requirements for landscape materials and placement, irrigation and maintenance as required by this section.*

**17.48.300 - Review of projects which drain into nearby environmentally sensitive habitat areas**

*The following special review procedures shall be applied to any development within one thousand feet of any wetland or within two hundred fifty feet of any other environmentally sensitive habitat area as depicted in the Morro Bay coastal land use plan/coastal element, or which the director has determined could adversely affect sensitive habitats.*



- A. *Information Required.* For any development which would result in runoff or other surface waters to drain into wetlands, streams or other environmentally sensitive habitat area, or increased pedestrian or vehicular access or other human activities in environmentally sensitive habitats or their prescribed buffer areas, or any other activity which the director has determined could produce significant adverse impacts on environmentally sensitive habitats, submission of the following information, as applicable, shall be required:
  - 1. *Run-off:* estimated volume of run-off, type and location of drainage facilities, and possible pollutants or contaminants.
  - 2. *Pedestrian or vehicular intrusions:* the nature of possible pedestrian or vehicular intrusions, estimated traffic volumes and their probable locations.
  - 3. *Any other information required by the director.*
- B. *Project Assessments.* The director shall review the project for possible impacts on sensitive habitat areas. If the director determines that the project could adversely affect sensitive habitats, an impact assessment conducted by a qualified biologist shall be prepared and submitted to the director for approval. Such impact assessments shall include an analysis of measures to avoid or mitigate possible adverse impacts.
- C. *Project Approval.* A project may be approved only if it is designed to minimize adverse effects on sensitive habitat areas and will not result in significant disturbance to or degradation of such areas, and is consistent with all ESH protection policies.

#### **17.48.310 - Protection of archaeological resources**

- A. *Intent.* It is the city's intent that significant archaeological and historic resources shall be protected, to the greatest extent possible, both on public and privately held lands.
- B. *Archaeological Reconnaissance.* An archaeological reconnaissance by a qualified archaeologist shall be required as part of initial review for application submission for the following proposed development projects:
  - 1. *Potential archaeological sites:* projects located within three hundred feet of areas identified by the city through an archaeological resource inventory as having potential archaeological sites.
  - 2. *Archaeological resources:* where evidence of potentially significant archaeological resources is found in an initial study conducted pursuant to the California Environmental Quality Act (CEQA).
- C. *Mitigation Plans for Archaeological Sites.* Mitigation plans for the protection of archaeological resources during development and related activities shall be required in accordance with the following provisions:

1. *Site Reconnaissance.* Where unique, significant or valuable archaeological resources are found as a result of a site reconnaissance as required above, the city shall either require a mitigation plan to protect the site, or to recover the resources.
2. *Construction.* Where archaeological resources are discovered during construction of new development (including otherwise ministerial activities such as repair and maintenance of certain public utility facilities) all activities shall cease. Such activities may resume when the director finds the following:
  - a. *Determination of Significance.* That a qualified archaeologist knowledgeable in Chumash culture has determined the significance of the resource and the designated mitigation measures for the protection of such resources;
  - b. *Potential Impacts.* That the potential impacts of the development will be mitigated in the manner recommended by the archaeologist, and/or by one of the following techniques:
    - i. *Removal of artifacts;*
    - ii. *Dedication of impacted area as permanent open space;*
    - iii. *Coverage of the archaeological site by at least twenty-four inches of sterile sand;*
    - iv. *Any other available measures to avoid development of significant archaeological sites, including purchase tax relief and transfer of development rights.*
- D. *Activities Other Than Development.* Activities other than development which could damage or destroy archaeological resources including but not limited to off-road vehicle activity and unauthorized collecting of artifacts, shall be prohibited unless specifically permitted by the planning commission with provisions for adequately protecting any archaeological resources.

#### **17.52.080 - Lighting, illuminated signs and glare**

- A. *Other sections of this title notwithstanding, no illumination may be directed toward the adjacent residential uses and onto streets. Lighting glare shall be screened from the residences, hotels, streets, and other glare sensitive uses.*
- B. *No direct or reflected glare, whether produced by floodlight, high temperature processes such as combustion or welding, or other processes, so as to be visible from any boundary line of property on which the same is produced shall be permitted. Sky-reflected glare from buildings or portions thereof shall be so controlled by such reasonable means as are practical to the end that the said sky reflected glare will not inconvenience or annoy persons or interfere with the use and enjoyment of property in and about the area where it occurs.*

**HOUGH RESIDENCE**  
**281 MAIN STREET**  
**MORRO BAY, CALIF.**



**EXISTING**



**PROPOSED**



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**EXISTING**

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**PROPOSED**

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