

AGENDA ITEM: A-1

DATE: January 18, 2012

ACTION: APPROVED

SYNOPSIS MINUTES - MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – JANUARY 4, 2012  
VETERANS MEMORIAL HALL – 6:00 P.M.

Chairperson Grantham called the meeting to order at 6:00 p.m.

PRESENT:	Rick Grantham	Chairperson
	John Solu	Vice-Chairperson
	Jamie Irons	Commissioner
	Paul Nagy	Commissioner
	Jessica Napier	Commissioner
STAFF:	Rob Livick	Public Services Director
	Sierra Davis	Assistant Planner

ESTABLISH QUORUM AND CALL TO ORDER  
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE  
PLANNING COMMISSIONER ANNOUNCEMENTS  
PUBLIC COMMENT

Chairperson Grantham opened Public Comment period.

Betty Winholtz, resident of Morro Bay, addressed Item D-1 regarding bylaws and stated the Planning Commission cannot be compared to other City Boards and committees since it is a special body under State law with responsibilities that other Boards do not have. Policy development however, belongs with the City Council not the Planning Commission.

Chairperson Grantham closed Public Comment period.

#### PRESENTATIONS

Unless an item is pulled for separate action by the Planning Commission, the following actions are approved without discussion.

#### A. CONSENT CALENDAR

A-1 Approval of minutes from the Planning Commission meeting held on December 7, 2011

**STAFF RECOMMENDATION: Approve minutes as submitted.**

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – JANUARY 4, 2012

Commissioner Irons asked to pull Item A-1 for discussion. Irons noted that on page 3 regarding discussion of item B-3, 2 State Park Road, there was a letter and an email from a resident received which was brought forward and Commissioners discussed the concerns stated in the letter. He asked the minutes be corrected to include that we brought forth the email from the public and discussed the concerns with staff and the applicant.

**MOTION:** Commissioner Irons moved to approve the minutes as corrected. The motion was seconded by Chairperson Grantham and carried unanimously. (5-0)

B. PUBLIC HEARINGS

B-1 *Continued Item from the December 7, 2011 Meeting*

**Case No.:** #A00-013

**Site Location:** Citywide

**Applicant/Project Sponsor:** City of Morro Bay

**Request:** Zoning Text Amendment proposing to amend Section 17.48.320 (Secondary Units) modifying the section to be consistent with State regulations.

**CEQA Determination:** Mitigated Negative Declaration

**Staff Recommendation:** Forward a favorable recommendation to the City Council to approve the proposed Zoning Text Amendment and adopt the Mitigated Negative Declaration.

**Staff Contact:** Kathleen Wold, Planning and Building Manager (805) 772-6211

Wold presented the staff report.

Chairperson Grantham opened the Public Comment period.

Amy Perry, resident of Morro Bay, spoke against the zoning text amendment. She stated that on her block the secondary units have caused parking and noise problems and urged the Commission not to ease the current restrictions.

Betty Winholtz, resident of Morro Bay, spoke against the zoning text amendment. Winholtz stated that allowing second units to go from 900 to 1,200 square feet does not take into consideration the impacts to noise, parking, and circulation on neighborhoods and stated the current law is already compliant with State law; just more restrictive. Winholtz disagreed that the proposed changes will further affordable housing.

Dorothy Cutter, resident of Morro Bay, spoke against the zoning text amendment and expressed concern about allowing two large houses on one small lot. Cutter stated that residents will not want rental homes to surround them cutting off their views, light and air. Cutter stated the State law only states the granny units can be up to 1,200 square feet, but can be less. She stated this is not about affordable housing but about greed.

John Barta, resident of Morro Bay, spoke in favor of the zoning text amendment and stated as a former Planning Commissioner, he was involved with granny units. Barta read from the State law which cites that granny units can ease a rental housing shortage, maximize limited land

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – JANUARY 4, 2012

resources, infrastructure and assist low to moderate income homeowners with supplemental rental income. Barta stated he supports staff's proposal.

Dan Reddell, resident of Morro Bay, spoke in favor of the zoning text amendment, stating he supports reducing these restrictions and that rental income from a second unit could help struggling homeowners.

Roger Ewing, resident of Morro Bay, spoke against the zoning text amendment. Ewing stated that while he agrees with Mr. Reddell, he disagrees with Mr. Barta. Ewing stated 1,200 square feet is not affordable housing and questioned why changes are proposed when this was not approved by the Coastal Commission. He said the Commission should not make changes at the expense of neighbors and urged the Commission to consider the whole community.

Hearing no further comment, Chairperson Grantham closed the Public Comment period.

Commissioner Napier stated as a renter, she appreciates the smaller size for its affordability. The increased cost of renting a secondary unit at 1,200 square feet would not be affordable.

Commissioner Solu asked staff to clarify lot size versus home size in terms of the "building envelope." Wold clarified that the State guidelines allow the density to increase, not the lot coverage to increase.

Commissioner Irons asked for Commission support on the following suggested changes:

1. Secondary units to be consistent with the primary unit noting we do not have design guidelines that require neighborhood compatibility and line out "and the neighborhood".
2. Zoning be left as "consistent" and to line out "reasonably compatible."
3. The total floor area for a detached secondary unit shall not exceed 1,200 square feet which is consistent with State law.
4. Restrict attached guest houses to not exceed 30% of the primary existing unit size and limited to owner occupied housing in the primary dwelling.

Solu and Nagy were not in support of dictating design requirements. Nagy stated regarding size, the lot size requirements are still present. Having a requirement which limits size to a percentage of the main house does not work if the main house is small.

Napier stated her support for Irons' suggestion on design requirement and also size limitations, noting that a developer is still limited to the building envelope.

Grantham stated his support and noted that reasonable compatibility provides flexibility.

**MOTION:** Grantham moved to pass as amended B-1. Solu seconded the motion.

Discussion included:

Commissioner Solu requested to amend the motion secondary unit subsection Item C to include "said unit shall be consistent and/or reasonably compatible."

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – JANUARY 4, 2012

Commissioner Irons requested to amend the motion to state the increased floor area of an attached second unit shall not exceed 30% of the existing living area to bring us into conformance with State code and also the guest unit on “A” (Section 17.48.315) for an attached unit. A detached unit shall not exceed 1,200 square feet.

Commissioner Irons amended the motion on the floor and Chairperson Grantham seconded. Rob Schultz confirmed State law.

VOTE: The motion carried 3-2 with Commissioners Napier and Irons voting no.

B-2 **Case No.:** #S00-109 and #AD0-065

**Site Location:** 821 Pacific and 700, 710 and 710 ½ Bernardo

**Applicant/Project Sponsor:** Ruth Viau/ Cathy Novak

**Request:** Requesting Planning Commission to amend the previously approved project conditions by deleting Planning Commission Condition 1, which requires parking to be provided on parcel two east of the power pole.

**CEQA Determination:** Categorically Exempt Section 15305, Class 5

**Staff Recommendation:** Conditionally approve amendment to #S00-109 and #AD0-065

**Staff Contact:** Kathleen Wold, Planning and Building Manager (805) 772-6211

Wold presented the staff report and discussed with Commissioners the non-conforming status of the property including the previously approved parking exception.

Chairperson Grantham opened the Public Comment period.

Cathy Novak, Applicant’s Representative, explained the Applicant’s request and asked the Commission to support the modified parking request.

Chairperson Grantham closed the Public Comment period.

Commissioners discussed the request with staff.

Irons stated he was not in support of the Applicant’s request to delete the parking condition as it is not an unreasonable condition. Irons addressed his concerns made known at the previous Commission meeting where he had requested the garage setback be made conforming at 5 feet from the existing 1 foot. And also his concern regarding the parking, which could be a safety issue having the parking spot straddle the right of way which he felt was not appropriate.

**MOTION:** Commissioner Nagy made a motion to approve Lot Line Adjustment #S00-109 and Variance #AD0-065, subject to the modified conditions of approval as stated in Exhibit B. The motion was seconded by Chairperson Grantham and carried 3-2 with Commissioners Napier and Irons voting no.

B-3 **Case No.:** #SP0-141

**Site Location:** Off premise signs at: Corner of Beach and Market, entry to parking lot of former Virg’s location on the Embarcadero, boat launch ramp.

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – JANUARY 4, 2012

**Applicant/Project Sponsor:** Sharon Moores (Virg's Sport Fishing) / Cathy Novak  
**Request:** Requesting sign exception to place four off-premise signs on the public right-of-way for Virg's Sport Fishing to advertise the sale of fishing licenses. The proposed signs located at Beach and Embarcadero locations will be mounted to the existing poles within the City right-of-way, the launch ramp sign will be posted on the existing wood sign, and Walker's Mobile Home Park on the existing sign supports.  
**CEQA Determination:** Categorically Exempt, Section 15305, Class 5.  
**Staff Recommendation:** Conditionally approve #SP0-141.  
**Staff Contact:** Kathleen Wold, Planning and Building Manager (805) 772-6211

Wold presented the staff report detailing each location where the off premise signs would be located.

Rob Schultz noted that Commissioner Solu may have a conflict of interest due to being within 500 feet of two of the proposed signs. Schultz recommended that the signs be deliberated separately, and have Commissioner Solu leave the dais during the deliberations for the signs located at Beach & Market and Walker's Mobile Home Park at 1105 Morro Ave.

Chairperson Grantham opened the Public Comment period.

Cathy Novak, Applicant's Representative explained the need for the proposed project.

Gary Johnson, resident of Morro Bay, spoke in favor of the proposed project.

Hearing no further comment, Chairperson Grantham closed the Public Comment period.

First discussed were the proposed sign locations of the former Virg's location, 1215 Embarcadero Road and the boat launch area.

Commissioners discussed whether granting the off-premise signs would set a precedent, and whether new businesses should also be allowed off-premise signs.

Napier and Nagy stated support for a temporary sign at the Embarcadero Road location and also stated support for a sign at the boat launch area since it is the State that requires the fishing license. Irons also stated support for signs at the Embarcadero Road location and the boat launch area.

Grantham and Irons discussed alternative sign suggestions such as a sign that directs customers to the Harbor Office for license locations or a sign that has multiple phone numbers to contact for license purchases.

**MOTION:** Chairperson Grantham moved to allow one temporary sign at the former 1215 Embarcadero Road location stating they have moved and deny a sign at the boat launch area. The motion failed for lack of a second.

Chairperson Grantham opened Public Comment period and asked Cathy Novak to return to the podium.

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – JANUARY 4, 2012

Novak clarified that the Applicant does not have permission to post a sign on the old lease site. A sign would need to be put in the public right of way.

Chairperson Grantham closed Public Comment period.

**MOTION:** Commissioner Nagy moved to approve a temporary sign at the old location, 1215 Embarcadero Road through December 2012. Grantham seconded the motion.

Commissioners discussed whether to require the sign to state “we’ve moved”, instead of “fishing licenses” and what size the sign should be. Commissioners asked Cathy Novak to return to the podium again.

Chairperson Grantham opened Public Comment period.

Cathy Novak, Applicant Representative, stated the appropriate language for the Embarcadero Road location would be “we’ve moved” and the appropriate language for the boat launch area would be “fishing licenses”. Novak further stated that if another business begins selling fishing licenses in May, that the Applicant would add their business phone number to the sign as a public service.

Chairperson Grantham closed Public Comment period.

Commissioner Nagy modified his motion to state:

**MODIFIED MOTION:** Commissioner Nagy moved to approve two temporary signs, a 24” x 24” sign at the old location, 1215 Embarcadero Road to say “we’ve moved” and a 24” x 18” sign at the boat ramp to say fishing licenses, through December 2012. Commissioner Irons seconded the motion.

Solu stated he was not in support of a sign at the boat ramp area. He stated there are other ways to locate the business or location of fishing licenses.

VOTE: Motion failed 2-3 with Grantham, Napier and Solu voting no.

**MOTION:** Chairperson Grantham moved to allow one informational sign at the old location, 1215 Embarcadero Road stating the business has moved to a new location with new location and phone number listed. Commissioner Napier seconded and motion carried unanimously. (5-0).

Commissioner Solu recused himself for the deliberation of the proposed signs at Beach and Market Streets and at Walkers Mobile Home Park, 1105 Morro Ave.

**MOTION:** Commissioner Nagy moved to deny the sign at Beach and Market Streets and the sign at Walkers Mobile Home Park, 1105 Morro Ave. Grantham seconded and motion carried unanimously. (4-0).

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – JANUARY 4, 2012

Commissioner Solu rejoined the meeting.

B-4 **Case No.:** Amendment to #S00-089 and #CP0-276

**Site Location:** 3390 Main Street

**Applicant/Project Sponsor:** Johnnie Medina

**Request:** Amend the approved Subdivision Permit #S00-089 and Coastal Development Permit #CP0-276 for 2 parcel subdivision map and to construct a two story single-family residence with attached two car garage. The applicant requests an amendment to the previous Planning Commission approval requiring a 50 foot buffer from the ESH (Environmentally Sensitive Area) allowing only a bio swale with this area. The applicant requests a second driveway approximately 133 feet long, with an area of approximately 2,700 square feet (1,400 square feet of paved area and 1,300 square feet of pavers). The proposed driveway will encroach into the 50 foot buffer setback and 25 foot buffer setback. This site is located inside the Coastal Commission Appeals Jurisdiction.

**CEQA Determination:** Mitigated Negative Declaration has been adopted for the previously approved for the project. State Clearinghouse #2009061049

**Staff Recommendation:** Conditionally approve the amendment to #S00-089 and #CP0-276

**Staff Contact:** Sierra Davis, Assistant Planner, (805) 772-6270

Davis presented the staff report. Rob Livick clarified that the previous Commission approval did not leave enough room for a standard driveway to access the rear house and the LCP policy states that the buffer can be reduced if it renders the property unusable.

Chairperson Grantham opened Public Comment period.

Johnnie Medina Jr., Applicant, stated they have worked with staff to design the home within the requirements and get the driveway as tight as possible. The Fire Department's required driveway width is why the home goes into the buffer and he is requesting approval to access the back home.

Dennis Cook, neighbor of Applicant, spoke against the proposal and stated the Applicant must have known when the property was purchased there would not be room to put in the driveway.

Jan Zerbe, spoke against the amendment and stated buffer setbacks were put in place to protect the ESH and the Commission should not allow a private driveway to encroach into this area.

Michelle Arete, resident of Morro Bay, spoke against the amendment and was also representing 200 petition and letter signers. The LCP and Municipal Code does not provide allowances for development within the ESHA. Arete stated the Applicant has not fulfilled the original conditions from 2002. Arete urged the Commission to uphold the decision made at the July 2010 Planning Commission meeting.

Jim Ross, resident of Morro Bay, spoke against the City staff making exceptions. He stated he sent a letter to the Public Services Dept. where he opposed allowing 17 feet into the 25 foot buffer zone and stated the Applicant should be required to use the common driveway of the

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – JANUARY 4, 2012

existing residence. Ross addressed the issue of the conservation easement which should be enforced and maintained.

Roger Ewing, resident of Morro Bay, spoke against the amendment and questioned how a variance could be granted when the current requirements have still not been met. Ewing expressed concern about destroying the ESH and urged the Commission to deny the request.

Laura Mouns, resident of Morro Bay, read a letter from Abe Paregeen, past president of Bay Creek Condominiums stating the owners in the condo complex are upset over the additional requests from the Applicant. The letter further stated the Applicant was aware of the setbacks when the property was purchased. The Bay Creek Condominiums was not allowed exceptions to setbacks and urged the Commission to not allow the Applicant to bend the rules and endanger the creek area.

Betty Winholtz, resident of Morro Bay, spoke against the amendment. Winholtz noted when the law uses the word shall, it is required to be obeyed and urged the Commission to uphold the law.

William Dallick, neighbor of Applicant, spoke against the amendment and opposes any encroachment into the creek bed boundaries.

Hearing no further comment, Chairperson Grantham closed the Public Comment period.

Commissioner Solu noted that the LCP Policy 11.14 specifies the minimum buffer strip along all streams and allows an adjustment in buffer from 100 to 50 to 25 feet if the Applicant can demonstrate the parcel is rendered unusable.

Commissioners discussed clarifications with Wold and Livick regarding:

- The driveway width requirement. Wold clarified the Fire Dept. requirement noting that it is the width, not the location or length of the driveway. Livick noted there is not enough room for a standard driveway to access the rear second house as demonstrated by the Applicant's engineer; The Fire Department condition is to require a fire apparatus road of 20 feet in width until you get within 150 feet of the residence. The Fire Chief can grant an exception to reduce this which does have precedence;
- The retaining wall and the setback of the driveway to the retaining wall. Commissioner Napier questioned if the old wall will need to come out;
- Fish and Game correspondence received;
- The status of the three underlying parcels. Livick noted instead of a lot line adjustment, the Applicant did a parcel map which the final map has not been recorded yet. All conditions would need to be met prior to the final recordation of the map.

Commissioners Irons disagreed that this renders the property unusable, since the Planning Commission worked diligently on this at the July 2010 meeting. Rob Livick stated that since there has not been a recorded map, then it would not render the property unusable.

Chairperson Grantham noted there are other properties that go through the ESH area.

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – JANUARY 4, 2012

Commissioner Nagy stated he does not support infringing on property rights, however he is not comfortable with the amount of encroachment going into the wetlands area and stated this should be minimized.

Rob Schultz clarified for the Commission that under conditions from the previous Planning Commission the project will not encroach any farther westward than the retaining wall. The driveway is not encroaching into the ESH area but it is whether to allow encroaching into the buffer area.

Chairperson Grantham reopened Public Comment period to ask the Applicant to respond.

Johnnie Medina Jr., Applicant, responded that they cannot adjust the lot line anymore in order to meet the minimum 6,000 square foot lot size. They are agreeable to have the 20 foot driveway width be thinner if Fire Dept. approves it.

Chairperson Grantham closed Public Comment period.

Commissioner Irons suggested whether to require an easement between the two properties since there is only one owner in order to require a shared driveway. Irons noted to Schultz the driveway would still be partially in the buffer anyway. By using one common driveway, it would not be as far into the ESH.

Commissioner Solu disagreed with potentially requiring an easement.

**MOTION:** Commissioner Solu moved to adopt the findings included as Exhibit A and conditionally approve amendment to Subdivision #S00-089 and Coastal Development Permit #CP0-276, subject to the Conditions included as Exhibit B and the site development plans dated November 21, 2011. The motion was seconded by Commissioner Grantham and passed 3-2 with Commissioners Nagy and Irons voting no.

UNFINISHED BUSINESS

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

Wold reviewed the Work Program with Commissioners.

C-2 Discussion on Title 16 (Subdivision Ordinance) Streamlining Procedures and Identifying Issues with Document Implementation  
**Staff Recommendation:** Per City Council direction, provide comments to staff.

Commissioner Nagy discussed the goal is to identify areas of the Housing Element and Zoning Ordinance that do not align well for future process.

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION  
REGULAR MEETING – JANUARY 4, 2012

Commissioner Irons suggested with his term expiring a replacement committee person be identified. It was agreed to discuss that under declaration of future agenda items.

NEW BUSINESS

D-1 Discussion on Planning Commission Bylaws

**Staff Recommendation:** Review bylaws in Exhibit A and provide recommendations to the City Council.

Commissioners reviewed the bylaws' recommended changes with City Attorney Rob Schultz. Schultz stated he would bring forward the Commission's recommendations to the City Council. Schultz also recommended a review of the City Council's Policies and Procedures manual be done in order to avoid conflicts, especially in regards to rules of public hearing items.

D-2 Schedule of Meeting Dates

**Staff Recommendation:** Approve schedule of 2012 meeting dates.

Commissioners reviewed the 2012 calendar and agreed to cancel the Planning Commission meetings scheduled for July 5, 2012, November 21, 2012 and December 19, 2012.

DECLARATION OF FUTURE AGENDA ITEMS

Commissioners agreed to agendaize for the next meeting nominating a subcommittee replacement person for the Subdivision Ordinance and a discussion of attending the 2012 Planners Institute to be held March 20-22, 2012 in San Jose.

ADJOURNMENT

The meeting adjourned at 10:00 pm to the next regularly scheduled Planning Commission meeting at the Veteran's Hall, 209 Surf Street, on Wednesday, January 18, 2012 at 6:00 pm.

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Rick Grantham, Chairperson

ATTEST:

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Rob Livick, Secretary