

AGENDA ITEM: A-1

DATE: October 17, 2012

ACTION: APPROVED

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – SEPTEMBER 19, 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
	Paul Nagy	Commissioner
	Jessica Napier	Commissioner
	John Fennacy	Commissioner
STAFF:	Rob Livick	Public Services Director
	Mary Reents	Contract Planner
	Cindy Jacinth	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 and hearing none closed public comment period.

PRESENTATIONS – None

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 Planning Commission meeting of August 15, 2012
Staff Recommendation: Approve minutes as submitted.

MOTION: Commissioner Solu moved to approve the Consent Calendar. Commissioner Fennacy seconded the motion and the motion passed unanimously. (5-0).

B. PUBLIC HEARINGS

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B-1 **Case No:** Variance #ADO-O67

Site Location: 3202 Beachcomber Street

Proposal: A variance to construct a new single family residence with intermediate floors and a roof deck. This item continued from the August 15, 2012 Planning Commission Meeting

CEQA Determination: Categorical Exemption Class 1.

Staff Recommendation: Denial

Staff Contact: Mary Reents, Contract Planner (805) 772-6270

Reents presented the staff report and discussed with Commissioners the inconsistencies in the ordinance language between what was presented and what is codified in the zoning ordinance. Reents also informed Commissioners that with this new information, alternative findings were also included should the Commission wish to approve the request for variance.

Reents noted Kevin Elder and Wally Arbach submitted letters regarding the status of the project after the Commission packet was distributed and should be entered into the record.

Chairperson Grantham opened the comment period to the Commissioners.

Commissioners questioned the inconsistency in the zoning language, wanting more clarification. Reents provided Commissioners with a history of the height ordinance.

Commissioner Nagy questioned grade plane and whether the project is recognized as a floor.

Chairperson Grantham opened public comment period.

John Belsher, Applicant's representative, expressed his opinion that no variance is needed for the project, depending on the Commissioner's definition of a single-story structure. He distributed information to Commissioners regarding the definition of a story and disagreed with the interpretation that the understory is defined as a story. He stated the project meets the seven requirements set forth in the overlay zone. Belsher confirmed the property would not be used as a corporate retreat, but for a family project. He also stated that there is an abundance of parking for this project (approximately 12 spaces).

David Brown, Applicant's architect, addressed the S.2A overlay zoning standards for this neighborhood. He stated the project meets or exceeds all of the setback, lot coverage, and height/story requirements. Brown expressed concern regarding the treatment of roof decks in the City. Brown also stated his definition of a story and how it relates to the grade plane. He stated that the Building Inspector, Brian Cowen, confirmed the building is consistent with the building codes. Brown provided a letter by a building code official.

Kevin Elder, Attorney representing Sally and Steve Norcross, reminded the Commission of his letter which urged the Commission to accept the staff recommendation to deny the request for a variance based on the overlay zone standards. He also stated the role of the Commission is to review the facts, apply it to law, and make a decision.

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Tim Gailey, resident of Morro Bay, spoke against the proposed project based on the two variance exceptions requested. He also stated the scope and scale of the project are inconsistent with the character of the neighborhood.

Roger Ewing, resident of Morro Bay, spoke against the proposed project based on the fact that it is inconsistent with the scope and scale of the neighborhood. He stated the ground level of this structure is habitable, and thus it constitutes a story. He also stated the available parking for the project is insufficient given the number of people utilizing the property.

Chairperson Grantham closed public comment period.

Commissioner Napier clarified the definition of levels and stories according to her professional background. She stated the project is out of conformance with the character of the neighborhood.

Chairperson Grantham asked Commissioner Napier to comment on whether she felt the project should be considered one or two stories, and also on its height.

Livick reminded Commissioners the issue of stories here is moot; the height of the roof deck is what needs to be discussed.

Commissioners discussed the issue of character with Staff.

Livick confirmed that character of the house itself will be addressed when the use permit is brought forward.

Chairperson Grantham confirmed that the discussion is being confined to the height of the building only.

Commissioner Nagy clarified handrail height versus roof height of the structure. He questioned whether clear or glass handrailing would meet the 14 foot height requirement. Nagy clarified that there is no existing language which prohibits combining three lots. He pointed out the impact that building three separate homes would have, if the applicant were to do so.

Chairperson Grantham reminded Nagy to confine the discussion to the height of the structure.

Commissioner Nagy stated he would like clarification regarding the height determination of handrailing on roof decks.

Commissioner Fennacy supported granting the variance based on the pitched roof zoning standards.

Reents clarified Staff's interpretation of S.2A overlay zone, Standard 7, as it appears in the zoning ordinance.

Livick stated the issue at hand is where the deck is in relationship to the height of other properties. He stated the height of the deck itself is more important than the railing since that is what is being occupied.

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Commissioner Solu confirmed Livick's definition.

Livick added there are allowances for increased height in the R-1 zoning district and they call for increased setbacks. He stated it is unclear whether this applies to special use areas.

Commissioner Fennacy stated he is looking primarily at the language outlined in the zoning ordinance regarding Standard 7 of the overlay zone.

Reents confirmed the Commission has the authority to interpret the zoning ordinance.

Commissioners continued to discuss the height issues associated with the structure and with the height ordinance in general, and resolved to restrict the vote to granting or denying the variance based on the height.

MOTION: Commissioner Fennacy moved to grant Variance #ADO-O67 with respect to height only, based on the fact that this is a 4 and 12 roof pitch and that the Commission grants the variance accordingly.

Livick confirmed the motion needed to be amended to address the height and that the stories, based on the staff recommendation, did not necessitate a variance.

Commissioner Solu confirmed with Livick the proposed project would return for two additional permit approvals. Commissioners wanted to be sure the character of the structure will be discussed at a later time.

Reents read the alternative findings and conditions of approval.

Commissioner Fennacy revised his motion to include the alternative findings for approval.

REVISED MOTION: Commissioner Fennacy moved to grant Variance #ADO-O67 with respect to height only and adopt the alternative findings as follows:

- A. The project is categorically exempt under CEQA, 15303(a).
- B. Not a Special Privilege: It has been determined that a special privilege would not be given if this project is approved. Zoning restrictions allow dwelling units up to 14 feet for flat roofs and top of deck railing, provided that for peak roofs, 4 and 12 or greater pitch and other architectural features a height of up to 17 feet may be permitted. The roof contains peaks of 17 feet and clear deck railings.
- C. Special Circumstances with Property: The property contains no special circumstances that would not otherwise be granted for any other property in the area.

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D. Consistency with General Plan and LCP: The residential home proposal is inconsistent with the visions of the General Plan and the Local Coastal Plan.

The revised motion included the following condition of approval:

1. The applicant shall construct a deck between the peak roof design with a glass or see-through barrier with no visible deck railings not to exceed 17 feet high.

Chairperson Grantham seconded the motion and the motion passed (4-1), with Commissioner Napier voting no.

Chairperson Grantham called for a five minute break.

B-2 Case No: Tentative Tract Map #SOO-111

Site Location: 300 Piney Lane

Proposal: Request to divide an existing one acre parcel into four parcels, the first three parcels are to be flag lots and the fourth parcel will remain in its existing use as a single family residence. Access is via a private easement to the four parcels.

CEQA Determination: Categorical Exemption Class 3.

Staff Recommendation: Approval

Staff Contact: Mary Reents, Contract Planner (805) 772-6270

Jacynth presented the staff report noting that the approval of a Coastal Development Permit is required due to the omission of the Coastal Development Permit approval at the August 15, 2012 meeting.

Chairperson Grantham opened public comment period and hearing none closed public comment period.

MOTION: Commissioner Fennacy moved to approve the Coastal Development Permit #CP0375 for approval of Tentative Parcel Map.

Chairperson Grantham seconded the motion for discussion.

Commission Solu stated he is not in favor of approval of the permit because of the lack of conditions and because it does not meet the criteria for the neighborhood .

The motion passed. (4-1), with Commissioner Solu voting no.

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- B-3 **Case No:** Amend Conditional Use Permit #02-01
 Site Location: 1205 Embarcadero
 Proposal: Amendment to existing CUP to allow construction of a second story to the Harbor Hut Restaurant. The proposed 686 sq. ft. addition will provide space for a new private office and storage. There will be a 75 sq. ft. net increase in office space when it is relocated from the first floor to the proposed area on the second floor.
 CEQA Determination: Categorical Exemption Class 1.
 Staff Recommendation: Approval
 Staff Contact: Mary Reents, Contract Planner (805)772-6270

Reents presented the staff report.

Chairperson Grantham asked Reents to clarify if the stairwell will need to be fenced off from public access. Reents clarified the stairwell will not need to be chained or locked from public access.

Commissioner Solu asked Reents to clarify communication with the Applicant involving elevators. Reents clarified an elevator is not required.

Commissioner Nagy asked staff to clarify if the square footage of the structure is in compliance with Measure D.

Livick confirmed the Applicant would not be able to lease the building to an outside party or use the structure for a use that is not authorized in Measure D.

Chairperson Grantham opened public comment period.

Cathy Novak, Applicant's representative, urged the Commission to support the project. She stated the second floor addition will not expand the actual restaurant uses, and therefore the project is consistent with Measure D. She also stated the height of the building will be below the maximum allowable height for this zoning district.

Chairperson Grantham closed public comment period.

Commissioners concurred that there are no issues with the proposed project.

MOTION: Chairperson Grantham moved staff recommendation regarding the findings in Exhibit A and the conditions of approval in Exhibit B to approve the proposed 686 sq. ft. addition for a new private office and storage. Commissioner Napier seconded the motion and the motion passed unanimously. (5-0).

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- B-4 **Case No:** Conditional Use Permit #UP0-319
Site Location: 1185 Embarcadero
Request: Applicant is requesting a permanent use of existing dock for Virg's Sport Fishing at GAFCO for both sport fishing (passenger for hire) as well as commercial fishing. GAFCO was issued a Temporary Use Permit (UPO-319); they wish to make this a permanent use.
CEQA Determination: Categorically Exempt, Section 15301, Class 1
Staff Recommendation: Continue this item to the October 17, 2012 Planning Commission Meeting.
Staff Contact: Mary Reents, Contract Planner (805) 772-6270.

Chairperson Grantham stated staff is requesting this item be continued to October 17, 2012 in order to give the City Attorney more time to research this item further.

MOTION: Chairperson Grantham moved to continue this item to October 17, 2012.
Commissioner Solu seconded the motion and the motion passed unanimously. (5-0).

UNFINISHED BUSINESS

- C-1 Current and Advanced Planning Processing List
Staff Recommendation: Receive and file.
Upcoming Projects: 589 Morro Avenue-Addition of Roof Deck to SFR
781 Quintana-Burger King signage and remodel
575-591 Embarcadero-Amend Parking Calculations
1000 Ridgeway-Parking Exception

Reents reviewed the Work Program with Commissioners and stated there are additional upcoming projects for the November and December meetings.

NEW BUSINESS – None

DECLARATION OF FUTURE AGENDA ITEMS – None

ADJOURNMENT

The meeting adjourned to the next regularly scheduled Planning Commission meeting at the Veteran's Hall, 209 Surf Street, on Wednesday, October 17, 2012 at 6:00 pm.

Rick Grantham, Chairperson

ATTEST:

Rob Livick, Secretary