

AGENDA ITEM: <u> A-1 </u>
DATE: <u> October 16, 2013 </u>
ACTION: <u> APPROVED </u>

SYNOPSIS MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – SEPTEMBER 18, 2013
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
	John Fennacy	Commissioner
	Michael Lucas	Commissioner
	Robert Tefft	Commissioner
STAFF:	Rob Livick	Public Services Department
	Kathleen Wold	Planning Manager
	Cindy Jacinth	Associate 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, seeing 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.

CONSENT CALENDAR

A-1 Approval of minutes from Planning Commission meeting of September 4, 2013
Staff Recommendation: Approve minutes as submitted.

MOTION: Commissioner Lucas moved to approve the Consent Calendar.

Commissioner Fennacy seconded and the motion passed unanimously. (5-0).

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A. PUBLIC HEARINGS

- B-1 Case No.: Coastal Development Permit #CP0-246
Site Location: 360 Cerrito in the R-1 zoning district
Proposal: Make the necessary findings for upholding the Appeal of Administrative Coastal Development Permit #CP0-246 approval for the demolition of an existing 1,183 square foot single-family residence and removal of two trees, and the subsequent construction of a 2,155 square foot single-family residence and an associated 648 square foot garage. This site is located outside of the appeals jurisdiction of the California Coastal Commission.
CEQA Determination: Categorically exempt, Class 1 and Class 3
Staff Recommendation: Adopt findings for denial of the Planning Commission's decision made on August 21, 2013.
Staff Contact: Kathleen Wold, Planning Manager, (805) 772-6211

Wold presented the staff report.

Commissioner Tefft recused himself from the discussion.

Commissioner Lucas confirmed that the staff report was written based on materials that were provided at the previous Planning Commission hearing.

Chairperson Grantham opened Public Comment period.

Cathy Novak, Applicant's representative, requested the Commission not take action on the findings presented, and instead suggested they reconsider their decision and schedule a hearing to allow applicant the opportunity to present the plans that were submitted to the City on September 3, 2013. The plans addressed the City items as well as minor modifications to further respond to public comments. Novak address the following matters:

1. *The current appeal issues.*

Novak stated the appeal that was filed has three specific issues, all of which have been resolved. They are the following:

- a. Overturn or postpone this appeal until after the Superior Court settles the boundary dispute. Novak stated the court case was settled and the boundary dispute has been resolved so there is no further action on this item.
- b. Amend to include sewer easement, removal of rooftop fire pit and change side setback interpretation. Novak stated the sewer easement was settled as part of the court case. With regard to the rooftop fire pit, the appellant asked for the removal of the fire pit because they believed it was a fire danger with open flames. The current plans reflect a gas log fireplace and no open flames. Additionally, she stated the code is clear as to the location of the setbacks for a corner lot.
- c. The request to overturn the approval due to incompatibility. Novak stated the current Commission has not discussed whether or not the proposed project is compatible, so it should not be included in the findings.

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2. *The request for reconsideration.*

Novak stated the Commission has the ability to reconsider its previous action to deny the project and uphold the appeal because it has not taken final action to adopt the findings for this project.

3. *An appeal to the City Council.*

Novak explained the applicant filed an appeal to the City Council within the allotted time frame of the Commission's action at the August 21, 2013 Planning Commission meeting.

4. *Prejudicial impacts.*

Novak explained that if the Commission denies the project without prejudice, the applicant will be allowed to resubmit an application and pay the permit fees once again, and she will not have to wait one year in order to do so.

Chairperson Grantham closed Public Comment period.

Commissioner Fennacy asked staff if the Commission has the authority to make a motion to reconsider prior findings and asked what the standard process is for doing so. Wold explained that in most cases where there is a reconsideration, some information that was pertinent to the decision was lacking at the time the decision was made, and it somehow the omitted information surfaces at a later date. Therefore, because materials have been submitted to the City which now may change the outcome of the Commission's decision, the Commission can likely reconsider the findings for this project in relation to the appeal issues and ask staff to renounce the project. Additionally, Livick stated the Planning Commission operates under same basic rules as City Council. He stated he will further investigate the rules for reconsideration and report back to the Commission later in the meeting.

Commissioner Fennacy confirmed with staff that if the Commission denies the applicant at this meeting, the applicant would not be prejudiced. In effect, she would not be required to pay additional fees and her entitlements would remain intact. Wold stated a final decision has not been reached, so the applicant would not be prejudiced. The applicant is currently vested under the original submittal date, but if the project was to be terminated and she was told to reapply, she would have a new vesting date.

Commissioner Solu expressed concern regarding the recommendation from staff to deny the project based on incompatibility with the neighborhood character because he does not recall discussing this issue. Wold explained staff did not determine the project was incompatible with the neighborhood character, but instead determined there was not sufficient information submitted in order to determine that it *is* compatible with the neighborhood. Wold stated the Planning Commission cannot make positive finding without viewing the plans.

Commissioner Fennacy clarified with Wold the Commission could amend Item B of the recommendation to reflect the fact that the Commission did not have sufficient information to make a finding at the August 21, 2013 Planning Commission meeting if the Commission denies the applicant's request.

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Wold clarified the Commission's decision was to uphold the appeal, and language regarding compatibility was in the appeal. Therefore, by making the motion to uphold the appeal, the Commission validated the discussion on compatibility.

Chairperson Grantham opened Public Comment period.

Roger Ewing, resident of Morro Bay, asked the Commission to only discuss the issues that are listed on the agenda, and to not deviate from what was publicly noticed. He stated the Commission was supposed to discuss only the findings for denial from the August 21, 2013 meeting, and they were not supposed to re-hear the project.

Cathy Novak, Applicant's representative, stated Ewing is correct in stating the purpose of discussing this item tonight is to determine whether or not to adopt the findings, but the Commission does have the authority to reconsider the decision, as staff explained. She stated the applicant has offered to pay for the noticing of a new hearing so that there is equal opportunity to hear and comment on the new plans.

Livick explained the process for reconsideration to the Commission:

Reconsideration of issues previously acted upon is discouraged. However, in extraordinary circumstances, a request to reconsider an action taken by City Council (or Planning Commission) may be considered. The request must be presented by a Councilmember (or Commissioner) who voted with the majority at the Council (or Planning Commission) meeting during which the original vote was taken. The vote may be reconsidered during that meeting, but no later than the next Council (or Planning Commission) meeting. Debate is limited to the question on whether there is or is not a majority of the Council (or Planning Commission) interested in reconsidering the matter. If the majority of Council (or Planning Commission) votes to reconsider an action, the matter will be placed on the next or future agenda.

In summary, if the Commission did want to reconsider this item, it would have had to happen at the September 4, 2013 Planning Commission meeting, which was the meeting after which action was taken.

Commissioner Fennacy stated he did not think the Commission had the authority to grant relief at tonight's meeting. He stated he does not believe the applicant is going to be prejudiced as long as the entitlements remain the same.

MOTION: Commissioner Fennacy moved to adopt the following findings upholding the appeal of #CP0-246:

1. That for purpose of the California Environmental Quality Act, Case Number CP0-246 is Categorically Exempt, Class 1, Section 15301 for removal of one single-family residence and Class 3, Section 15303 for construction of one single-family residence.
2. That a single-family residence is an allowable use within the R-1 zone district. However, the project as proposed is not consistent with the certified Coastal Land Use program for

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the City of Morro Bay. The applicant failed to demonstrate that the design of the project is consistent with the character of the neighborhood as it pertains to the orientation of the house on the lot, the size and design of the home.

Commissioner Solu seconded the motion and the motion passed unanimously. (4-0).

Chairperson Grantham called for a five minute break.

Commissioner Tefft rejoined the meeting.

B-2 Case No.: A00-013 (Text Amendment)

Site Location: Citywide

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 Manager (805) 772-6211

Wold presented the staff report.

Commissioner Lucas confirmed with staff the following basic operational pieces:

1. If a new secondary unit is installed, new parking spaces must be provided relative to the number of bedrooms provided.
2. The maximum square footage of the secondary unit is 900 square feet, or 50 percent of the primary unit, whichever is smaller.
3. No parking is allowed in the front yard setback.

Commissioner Solu asked staff to clarify the process for reviewing and approving this item. Wold explained the history of the text amendment and confirmed that it has been approved by Council but has not yet been sent to the Coastal Commission.

Commissioner Solu asked staff how many secondary unit permit applications the City received in 2012. Wold explained the City generally receives between two and four applications for secondary units per year. Most secondary units are built with new homes because it is more difficult to do with existing single family homes due to the configuration of the lots and the difficulties of providing parking.

Commissioner Solu confirmed with staff the demand for second units has not changed significantly in the past few years. Wold explained the lots in Morro Bay are smaller and are thus not always conducive to accommodating second units. She added the lot coverage requirements for second units have not changed. Wold explained the requirements for a use permit was removed due to state regulations and the maximum square footage was reduced to 900 square feet, or 50 percent, whichever is smaller.

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Wold discussed with the Commission the difference between a duplex and an attached second unit. She explained whether or not the unit is attached is irrelevant, and what matters is that the density standards of the Local Coastal Plan are maintained. Different zones provide different housing opportunities.

Chairperson Grantham opened Public Comment, and seeing none, closed Public Comment.

Commissioner Tefft stated parking in the front yard setback should be allowed with certain standards, but it should not be allowed where there is a sidewalk or public path as it would obstruct pedestrian access. Tefft also stated it is important for the character of residential neighbors to keep the distinction between primary and secondary units.

Commissioner Fennacy asked staff if they had any comments on Mr. Barta's letter regarding the relevance of the state mandated secondary housing on the text amendment as it exists now. Staff did not receive the letter in enough time before the meeting to fully review and comment on it.

Commissioner Fennacy expressed concern about the lack of opportunity for public comment for this item. Grantham asked staff if the item needs to be re-noticed to the public and to interested groups in order to provide another opportunity for public comment. Wold explained that whenever there is an ordinance that affects over one thousand people, it gets notices as a display advertisement in The Tribune. She also stated staff's intention at the meeting as to discuss the old ordinance and provide additional opportunities, but a new ordinance has not been drafted.

Commissioner Fennacy stated, with the lack of additional public input, the City should send to the Coastal Commission what was previously discussed in 2013. He also expressed concern about the difficulty of enforcing parking requirements for secondary units.

Commissioner Solu expressed concern that the parking issues are not being resolved in the current discussion.

Wold elaborated on the parking issues and stated the only chronic complaint is about parking. She stated there are ways to be flexible and allow additional opportunities to have second units without impacting the neighborhood or drastically changing the streetscape of the city.

The Commission asked for clarification regarding the tandem parking configuration for primary and secondary units. Wold explained that the primary unit would be in tandem with itself, while the secondary unit would be parallel to the primary unit and would be able to park in the garage or in the driveway, but it would not be in tandem. This configuration would allow the primary unit to use their driveway and to also provide a secondary unit. Solu expressed support for this idea.

Commissioner Tefft stated he does not support the idea of tandem parking in any situation. He would prefer to park the secondary unit in the front yard setback in a parallel fashion.

Chairperson Grantham stated he would like staff to continue the item so that staff can collect additional information and provide graphics that would further explain the parking issues.

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Commissioner Lucas stated he supports the 900 square foot maximum and the idea of imposing parking restrictions but expressed concern about the denigrating impacts of allowing cars to park in the front yard setback. Lucas expressed support for permitting Parking Exceptions which would allow the neighborhood to decide whether or not a particular project is appropriate. He does not want to restrict parking in the front yard setback outright but would like there to be more scrutiny.

Commissioner Tefft asked staff if an encroachment permit would be required if the City were to allow parallel parking in the front yard setback. Livick clarified the difference between the City's right of way (where encroachment permits are applicable) and a property's front yard setback. He explained that often in Morro Bay, a property's front yard setback will not start until about 25 feet from the edge of the street. Additionally, parking in the right of way is a convenience and typically does not satisfy the parking requirements for a property.

Commissioner Solu stated the public may not be aware of their rights regarding parking in the public right of way versus parking on private property, and would like to discuss this issue in more detail at another meeting.

Livick suggested the City examine ways in which the excess right of way space in residential areas could be utilized to provide parking for secondary units.

Commissioner Fennacy stated he would like additional direction from staff relative to parking issues.

Commissioner Tefft suggested considering a smaller minimum square footage requirement for secondary units in order to accommodate all possible uses for such spaces.

Commissioner Lucas stated guidelines should be included in the ordinance which would stipulate how parking in the front yard setback would be regulated if it is to be allowed.

Chairperson Grantham opened Public Comment period.

Jim Polly, resident of Morro Bay, expressed concern that single family residential neighborhoods would be negatively impacted by less restrictive parking requirements for secondary units as there is already much congestion on the City's residential streets.

Chairperson Grantham closed Public Comment period.

MOTION: Chairperson Grantham moved to continue the item to the October 16, 2013 Planning Commission meeting and provided staff with direction to bring back plans, illustrations, and options regarding parking for secondary units.

Commissioner Fennacy seconded and the motion passed unanimously. (5-0).

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UNFINISHED BUSINESS

C-1 Current and Advanced Planning Processing List

Staff Recommendation: Receive and file.

Upcoming Projects: Morro Creek Pedestrian Bike Bridge, Urban Forest Management Plan,

901 Embarcadero (Amendment to CUP & MND Adoption), Climate Action Plan, Coastal Commission LCP Assistance Grant Application.

Wold reviewed the Work Program with the Commission.

NEW BUSINESS

D-1 Joint Meeting City Council/Planning Commission Discussion Items

DECLARATION OF FUTURE AGENDA ITEMS

None.

ADJOURNMENT

The meeting adjourned at 7:43 pm to the next regularly scheduled Planning Commission meeting at the Veteran's Hall, 209 Surf Street, on Wednesday, October 16, 2013 at 6:00 pm.

Rick Grantham, Chairperson

ATTEST:

Rob Livick, Secretary