

AGENDA ITEM: A-3

DATE: OCTOBER 2, 2018

ACTION: APPROVED

ACTION MINUTES – MORRO BAY PLANNING COMMISSION
REGULAR MEETING – JUNE 19, 2018
VETERANS MEMORIAL BUILDING – 6:00 PM

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| PRESENT: | Gerald Luhr Richard Sadowski Joe Ingraffia Jesse Barron | Chairperson Commissioner Commissioner Commissioner |
| ABSENT: | Michael Lucas | Vice-Chairperson |
| STAFF: | Scot Graham Nancy Hubbard | Community Development Director Contract Planner |

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE
PLANNING COMMISSIONER ANNOUNCEMENTS
<https://youtu.be/RbY1vhkW3No?t=2m39s>

Commissioner Sadowski notified the community about the sewer leak between Java Street and Island Street. Water was tested and showed results of chloroform bacteria.

Chairperson Luhr asked staff if he could confirm there was a vacation rental meeting tomorrow.

Graham responded City Council members Headding and McPherson will be heading the meeting at the Community Center, 6:00 p.m. – 8:00 p.m., on June 20th.

PUBLIC COMMENT PERIOD
<https://youtu.be/RbY1vhkW3No?t=3m56s>

Betty Winholtz, Morro Bay, announced there will be a gathering on June 21st, 6:00 p.m. at Triangle Park (Harbor Street and Moro Bay Blvd.), for immigrant families and people who are seeing asylum.

Eric Fore, Morro Bay, spoke about the 25-foot height limit. Fore stated the Commission or Planning Department has changed the rules. Fore doesn't think the rules should change.

Chairperson Luhr closed the Public Comment period.
<https://youtu.be/RbY1vhkW3No?t=8m24s>

PRESENTATIONS - NONE

A. CONSENT CALENDAR

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

- A-2** Approval of minutes from the Planning Commission meeting of March 20, 2018.
Staff Recommendation: Approve minutes as submitted.

MOTION: Commissioner Sadowski move to approve the Consent Calendar A-1 and A-2. Commissioner Ingraffia seconded, and the motion passed (4-0).

B. PUBLIC HEARINGS

Public testimony given for Public Hearing items will adhere to the rules noted above under the Public Comment Period. In addition, speak about the proposal and not about individuals, focusing testimony on the important parts of the proposal; not repeating points made by others.

B-1 Case No.: CP0-500, UP0-440

Site Location: 3300 Panorama Drive, Morro Bay, CA

Project Description: Coastal Development Permit and Conditional Use Permit application request. The applicant proposes to demolish and remove two large holding tanks (approximately 48 feet high and 140 feet in diameter) once used by the United States Navy to store jet fuel, one water tank with a capacity of approximately 131,600-gallons, removal or decommissioning the piping attached to the tanks, pumps and the concrete foundations beneath the tanks and shotcrete on the containment berms. The applicant will provide staging areas within the bermed areas for the equipment and trucks. The project is anticipated to require some level of disturbance over approximately 5.17 acres and is expected to take 2 to 3 months to complete. The project site is located in a Single Family Residential (R-1) zone with a Planned Development (PD) Overlay. The site contains areas of environmentally sensitive habitat and is partially located in the Coastal Commission appeals jurisdiction.

CEQA Determination: The City determined the project changes warranted an updated Mitigated Negative Declaration of Environmental Impact (MND), which was prepared and available for public comment in February 2018. Mitigation Measures are recommended in several categories to reduce potential environmental impacts to a less than significant level. Copies of the MND are available for review at the Community Development Department, 955 Shasta Avenue in Morro Bay and on the City's website at the following link:

http://www.morrobayca.gov/DocumentCenter/View/11541/Panorama-MND_Final_02_09_18

Staff Recommendation: Adopt the Mitigated Negative Declaration and Resolution 15-18 approving the demolition project subject to compliance with recommended conditions and mitigation measures.

Staff Contact: Nancy Hubbard, Contract Planner, (805) 772-6211

<https://youtu.be/RbY1vhkW3No?t=9m16s>

COMMISSIONERS DISCLOSURE OF EX PARTE COMMUNICATIONS – NONE

Hubbard announced she gave the Commissioners public comments which were received after noon today, and noted the comments were posted to the website. Hubbard also notified the public the Commissioners were also copied on emails, comments from California Coastal Commission and the applicant's comments regarding the MND.

Hubbard also introduced the consultants attending the meeting: Jaqueline McCrory, SWCA Environmental Consultants and Aaron LaBarre, San Luis Obispo County Health Services.

Hubbard presented the staff report.

The Commissioners presented their questions to staff

Chairperson Luhr opened the Public Comment period.

<https://youtu.be/RbY1vhkW3No?t=31m31s>

Chris Mathys, representative for the applicant, introduced the staff who will be answering questions tonight for him.

- Michael Tiffany, Analytical Consulting Group, Industrial Hygienist
- Oliver Ries, Bedford Enterprises, Lead Contractor
- Jeff Reid, McCormick Barstow, Attorney
- Brian Dugas, Terra Verde, Biological Reports

Tiffany addressed concerns regarding the Environmental Sensitive Habitat Areas (ESHA) and insurance and bonding for the project.

Tiffany presented the project report.

Jeff Reid continued the applicant's presentation.

Kristen Headland, Morro Bay, spoke of possible contamination in the soils and affects the excavation would cause. Headland spoke of the CEQA requirements and the piecemealing going on between the City and the applicant.

Ed Griggs, 539 Whidbey Street, stated on October 16, 2016 Kristen Headland asked Mathys if he was going to develop the land and noted Mathys gave false information. Griggs stated CEQA does not allow piecemealing information and that the Commission has the power to protect the people and neighborhood.

Allan Belt, 499 Whidbey Street, spoke of how the project should have a set date of completion once it's approved. Belt stated he hasn't heard much about noise control and hours of operation. Belt asked the Commission to make a fair decision on the matter.

Bill Albert, Morro Bay, spoke of the environmentally sensitive areas of the project, and the unknown issues when the project starts. Albert is doubtful the applicant will be accountable for their part in the project. Albert asked the Commission to continue to protect the environment and Morro Bay's citizens.

Annie Pavarsky, Yerba Buena Street, stated the Commission is being misguided by City staff and the City Attorney regarding this project. Pavarsky also noted staff was being manipulated by the applicant and stated CEQA prohibited piecemealing environmental reviews. Pavarsky brought up the different entities listed on the documents and questioned who the actual owner was. Pavarsky

feels the project shouldn't be approved tonight and recommends a complete EIR be completed before the project is started.

Dan Sudling, Morro Bay, stated the City owes the citizenry and the environment a full EIR due to all of the hazardous materials on site. He would like the people to be protected and stated if the applicant is not going to develop the area, have them sign a Memorandum of Understanding (MOU). Sudling urged the Commission to conduct an EIR to protect the citizens.

Sean McCaffery, 442 Sicily Street, is concerned with all of the big trucks that will be traveling on his street. He asked if there would be some type of quality control for the project, a contact person for the project, the response time for complaints, and if there was a complaint, would the work continue or stop until the issue was resolved? McCaffery also asked if fines would be issued, and where would the fines be allocated to? McCaffery also wanted to know if he had to assume all of the dirt removed would be hazardous and also asked how the noise issues would be handled. McCaffery recommends a full EIR for this project.

Barry Brannon, Morro Bay, stated he used to install fuel tanks for oil companies and is experienced in hazardous waste removal. Brannon does not see in remediation being taking care of on site. He is concerned about the heavy trucks traveling on his street.

Eric Fore, Zanzibar Street, spoke of the jet fuel tanks leaking for a long time and stated he had some oil in his water. Fore stated his concerns about the sewer laterals being the property owner's responsibility and noted this was wrong.

Betty Winholtz, Morro Bay, thanked the developer for not affecting the ESHA. Winholtz showed pictures of other birds in the area which were not listed in the report. She spoke of the brown act and urged the Commissioners to read the Coastal Commission letter. Winholtz also wanted clarification on the grading and buffer areas for the project and had questions regarding the truck loads.

Tina Metzger, Morro Bay, stated the citizens who spoke earlier all have valid concerns. Metzger wanted to know who the "Human Owners" of the site were. She stated only LLC's are listed in the documents. She is concerned about the sewer video, streets and truck routes. Metzger asked if City staff would be tracking the project and wanted to know who would be the liaison for the neighbor's concerns.

Chairperson Luhr closed the Public Comment period.

<https://youtu.be/RbY1vhkW3No?t=1h27m45s>

Chairperson Luhr presented questions brought up by the citizens to staff.

Jacqueline McCrory, SWCA Consultants, spoke of the differences between an MND and an EIR report.

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Tiffany spoke of testing on tanks and noted the testing was done due to the concerns of the citizens. Tiffany stated SLO County Environmental Health was notified and did not require a work plan. Tiffany also spoke about the remediation process. Tiffany stated he and another one of his colleagues would be the point of contact if residents have any concerns, and noted one of them would be on site.

The Commissioners presented their questions and concerns to Tiffany, Neumeyer and City staff.

All questions and concerns from the Commissioners were answered.

McCrary spoke about the differences between an MND and an EIR, and explained why the MND was processed for this project.

The Commissioners presented their questions to McCrary.

McCrary answered the Commissioners questions.

Chairperson Luhr opened the Public Comment period.

<https://youtu.be/RbY1vhkW3No?t=2h38m17s>

Chairperson Luhr presented his question regarding resident's sewer laterals on the truck routes.

The applicant answered Luhr's questions and was in support of a video of the sewer laterals.

Commissioner Sadowski presented his question regarding sewer main videotaping to the applicant.

The applicant responded to Sadowski's question.

Chairperson Luhr closed the Public Comment period.

<https://youtu.be/RbY1vhkW3No?t=2h42m3s>

Discussion and comments made by the Commissioners.

Chairperson Luhr opened the Public Comment period.

<https://youtu.be/RbY1vhkW3No?t=2h39m22s>

Discussion between Commissioners & applicant.

Chairperson Luhr closed the Public Comment period.

<https://youtu.be/RbY1vhkW3No?t=3h2m45s>

Discussion and comments made by the Commissioners.

Hubbard read the added conditions to the Commissioners.

Discussion between Commissioners and staff.

Chairperson Luhr opened the Public Comment period.
<https://youtu.be/RbY1vhkW3No?t=3h17m53s>

Reid commented on the conditions for the Environmental Hygienist.

Chairperson Luhr closed the Public Comment period.
<https://youtu.be/RbY1vhkW3No?t=3h18m45s>

The Commissioners presented their questions to staff.

Chairperson Luhr opened the Public Comment period.
<https://youtu.be/RbY1vhkW3No?t=3h21m16s>

Tiffany responded to the Commissioners questions.

Aaron LaBarre, Supervisor of the Hazmat Program for the County of SLO, spoke of what his department would be doing and the requirements needed for the project.

Chairperson Luhr closed the Public Comment period.
<https://youtu.be/RbY1vhkW3No?t=3h30m39s>

Discussion between Commissioners and staff.

Tiffany presented some options for other consultant services.

Discussion between Commissioners and staff.

Reid confirmed the applicant has accepted all of the revised conditions and consent to an approval of the other conditions set forth in the draft resolution which was distributed.

Neumeyer spoke of the Performance Agreement and noted the applicant was in agreement. Neumeyer specified the requirements for a bond and great insurance were discussed.

Discussion between Commissioners and staff.

MOTION: Commissioner Ingraffia moved to an approve PC Resolution 15-18 as amended. Commissioner Barron seconded, and the motion passed (3-1) with Commissioner Sadowski voting no.

Standard Conditions - Modified by Planning Commission June 19, 2018.

2. Inaugurate Within Two Years: The time limits provided in this Standard Condition No. 2 upon written request from the applicant will be tolled from the commencement of any appeal of the approval of this Resolution, or commencement of other legal action by a third party challenging this approval in a court of law, and until the conclusion of any such appeal (e.g. appeal exhausted) or legal action (e.g. settlement, final judgement, dismissal).

Planning Conditions - Modified by Planning Commission June 19, 2018.

11. **Environmental Compliance Monitor**: The applicant shall retain a qualified independent Environmental Compliance Specialist, to *be contracted with the City of Morro Bay, and paid for by applicant through reimbursement to the city of Morro Bay*, to oversee and document compliance with all approved project-related mitigation measures as well as environmental regulatory requirements pertaining to the proposed demolition activities. Job duties and reporting protocols shall be subject to approval of the Community Development Director, *and City of Morro Bay will make best efforts to reduce or waive applicable fees.*

Public Works Conditions - Modified by Planning Commission June 19, 2018.

8. Add the following Notes to the Plans for Building Permit for Demolition:

a. Applicant agrees that issuance and acceptance of a building permit for demolition is conditioned on applicant guarantees and warrants that any damage caused by, or arising from, such demolition activities, to City facilities (e.g. curb/berm, street, sewer line, water line), or any public improvements, *sewer laterals, or water line laterals in the right of way*, shall be repaired by applicant at no cost to the City of Morro Bay *or any other party.*

C. NEW BUSINESS - NONE

D. UNFINISHED BUSINESS - NONE

E. PLANNING COMMISSIONER COMMENTS

Commissioners Ingraffia stated the concert for save Cerrito Peak was a success.

Commissioner Barron thanked the City Council for appointing him to the Water Reclamation Facility Citizens Advisory Committee (WRFCAC). Barron notified the public of the WRFCAC Joint Community Development Workshop on June 23rd, 1:30 p.m. at the Community Center.

Commissioner Sadowski requested if a discussion between the Commissioners could be agendized regarding the property where the existing Wastewater Treatment Plant is located for placing a warming mobile room for the homeless.

Chairperson Luhr questioned staff about the Joint meeting with the WRFCAC.

Graham responded to Luhr's question and updated the Commissioners with upcoming meetings.

F. COMMUNITY DEVELOPMENT DIRECTOR COMMENT - NONE

G. ADJOURNMENT

The meeting adjourned at 9:57 p.m. to the regular Planning Commission meeting at the Veteran's Memorial Building, 209 Surf Street, on July 3, 2018, at 6:00 p.m.

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Gerald Luhr, Chairperson

ATTEST:

Scot Graham, Secretary