

CITY OF MORRO BAY  
PLANNING COMMISSION  
SYNOPSIS MINUTES

(Complete audio- and videotapes of this meeting are available from the City upon request)

Veteran's Memorial Building  
Regular Meeting, 6:00 p.m.

209 Surf Street, Morro Bay  
Monday, July 20, 2009

Chairperson Nancy Johnson

Vice-Chairperson Bill Woodson  
Commissioner Gerald Luhr

Commissioner Michael Lucas  
Commissioner John Diodati

Bruce Ambo, Secretary

I. CALL MEETING TO ORDER

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

II. PLEDGE OF ALLEGIANCE

Kathleen Wold led the Pledge of Allegiance.

III. ROLL CALL

Johnson asked that the record show all Commissioners were present except for Commissioner Lucas.  
Staff Present: Bruce Ambo, Kathleen Wold, Aileen Nygaard, Rob Livick and Kay Miller.

IV. ACCEPTANCE OF AGENDA

Johnson moved to have item E presented first and then proceed in order per the Agenda.

V. DIRECTOR'S REPORT/WRITTEN COMMUNICATIONS

Ambo reported at the July 13, 2009 City Council:

- Authorized the Harbor Department to request a Water Resources Control Board Grant for the low impact development of the boatyard proposal and financial assistance.
- Adopted a resolution authorizing the City's participation in the California Energy Commission Partnership Program.
- Heard the appeal for the proposal at 560 Bernardo and upheld the appeal with the condition the project be limited to 2500 sq.ft.
- Adopted amendments to Title 15 in the Municipal Code relating to pump out facilities for boats in the harbor.
- Heard consideration for reactivating the Redevelopment Agency for the City and set a special meeting date for August 10, 2009 at 5:00p.m.
- Continued an item on goal setting as a follow up to the Management Partners Report.
- Heard a status report on waterfront development fees that was continued to a special meeting.

Johnson asked Commission if they had any questions for staff: None.

VI. PUBLIC COMMENT

Johnson opened Public Comment.

- Dorothy Cutter urged the public to attend the Redevelopment Agency Meeting that the City Council will be voting on.

- Bill Martony stated he spoke before the Coastal Commission regarding the zoning south of Tidelands Park, pollution in the bay and the Los Osos Sewer Project. The Whale's Tale lease site is out for bid and Martony suggests holding back the lease.

Seeing no further comments, Johnson closed Public Comment

Johnson announced Dahlia Days on August 15, 2009

VII. CONSENT CALENDAR – None.

VIII. PRESENTATIONS – None.

IX. FUTURE AGENDA ITEMS

- A. Planning Commission interpretation on decks in the front yard setback and what elements are allowed on them.
- B. Gates on the Embarcadero Harborwalk.
- C. Downtown Visioning.

X. PUBLIC HEARINGS

- E. **Site Location:** 3390 Main Street, R-1/S.1 and MCR/R-4(SP, North Main Area A) and ESH  
**Applicant:** Johnie Medina  
**Request:** Coastal Development Permit for 2 parcel subdivision map and for a 2,497 square foot two story single-family residence with an attached two-car garage. This site is located inside the Coastal Commission Appeals Jurisdiction.  
**Recommended CEQA Determination:** Mitigated Negative Declaration  
**Staff Recommendation:** Conditionally approve.  
**Staff Contact:** Kathleen Wold, Senior Planner, 772-6211

Wold presented the Staff Report. Johnson asked if there were questions of staff.

Woodson asked about the wall.

Wold clarified the existing block wall will remain and clarified the house requires a coastal development permit.

Livick explained the CMP drain will be replaced with a curb inlet with a concrete swale out the backside of the inlet.

Wold clarified where the Environmentally Sensitive Habitat (Area), boundary and the 50 ft. setback are located, and stated weed abatement and the applicant and the City cleared vegetation. Wold stated the house is out of ESH(A).

Regarding stormwater requirements, Livick stated the Project needs to meet municipal code standards and construction is allowed in the flood zone with requirements.

There was discussion in regards to the length and width of the driveway. Livick stated the Chief of the Fire Department makes the final decision based on the California Fire Code.

Diodati stated the cultural condition has changed and Ambo stated this is a condition and the applicant needs to hire a qualified professional archaeologist.

Johnson asked for a definition for a natural creek bed and a drainage ditch.

Livick responded a natural creek bed is from natural erosion and a drainage ditch is constructed.

Wold explained, as stated in the biological assessment, the creek does not provide viable habitat for protected or endangered species.

Johnson opened the Public Hearing asking the applicant or their agent to address the Commission.

The applicant, Johnie Medina, requested the Planning Commission to approve his project.

Engineer, Terry Orton, took information the biologist had obtained from the project to the Coastal Commission and Fish & Game. The suggestion was to keep the wall dividing ESH(A) and non-ESH(A).

Mike McGovern, the biologist, studied this property and defined the ESH(A) boundary and determined the property did not have habitat that was protected or endangered. The biological habitat is significantly disturbed; there are no native species and the stream/creek supports no wild life.

Michelle Arete is representing herself, neighbors and has a petition from people that are opposed to this project. Arete voiced concern about missing willow trees on the property and asked the Commission to not approve this project.

Laura Mounce on behalf of Ms. Masterson, stated there is unresolved drainage problems at this location and requests the problem to be fixed.

Seeing no further comment, Johnson closed the Public Hearing

Johnson asked if the Planning Commission had questions for the applicant.

Woodson asked if there would be changes to the existing wall.

Orton clarified no changes will be made to the existing driveway retaining wall and the new wall will match the existing wall. The flood area will be raised, not the ESH(A). Landmarks have been delineated on the final map including bearings and distances.

Woodson questioned why is the City encroaching on private property and clearing vegetation and what type of permit does the City have?

Livick responded the City has a blanket permit with the California Fish and Game to clear creeks within the City limits. Livick also clarified the City can trim vegetation but cannot remove vegetation. Livick stated willows are trimmed on an annual basis in all the creeks in Morro Bay. Livick reiterated the City does not remove trees, the City trims trees.

Luhr questioned the drainage problem at the driveway.

Orton responded the driveway would be modified for drainage and all drainage goes to the creek.

Diodati asked how the requirements to maintain permeable surfaces and landscaping would be accomplished?

Medina stated the architect is looking into a permeable driveway and landscaping.

Diodati questioned who mapped the willows?

Wold stated the applicant's engineer, the applicant and City Staff mapped the willows and sent them to The Coastal Commission and the Fish and Game who told Orton to use the 50 ft. set back.

Livick responded to Diodati's question regarding the stormwater ordinance and Livick stated the project meets the current interim stormwater conditions.

Johnson asked if the City has cleaned the creek since last Saturday?

Livick responded no.

Johnson asked the applicant if there is energy saving features in this house?

Applicant responded the entirety of the house will have energy savings features and a tankless water heater will be installed in the garage.

Johnson asked if applicant graded the lot and his response was no.

Woodson asked if the City is liable for clearing vegetation on private property?

Livick responded the City gets permission from the property owner who holds the City harmless.

Luhr asked if there have been any complaints about drainage and should we condition this project to address drainage issues?

Livick stated the only complaints he has heard has been from tonight's meeting and he would need to research the previous project requirements on the other property and it may already be a condition.

Johnson asked if the driveway could be changed from Main Street To Tide Street and Orton replied the Coastal Commission would not allow the change.

During discussion the Commissioners expressed the following opinions and concerns:

Diodati discussed the stormwater ordinance and what the conditions are for the first property, he asked the applicant to work with LID requirements and verify setback at 50 ft. Staff concurred 50 ft. setback is accurate.

Luhr shares the same concerns as Diodati and would like staff to also investigate when and by whom the willows were taken out and check to see if the 50 ft. setback is in the historical willow grove.

Woodson agrees with Staff, the applicant has provided the Commission with adequate plans and the house meets building requirements. Woodson stated the following three items are on the table, insure that the first property conditions were met, require a run off criteria which applies to the first property and confirm the 50 ft. set back as conditioned.

Johnson is concerned about the 50' ft. setback and the willows.

Luhr asked if the building plans would require them to meet the new stormwater management practices and Livick responded that is correct and it applies to all new construction.

Lengthy discussion amongst the Commissioners about the willow grove.

MOTION: Woodson/Luhr 2<sup>nd</sup> to approve the project as with the following changes in Exhibit B:

On page 10 add to the extent that the proposed driveway access or other improvements might encroach on the ESHA buffer commensurate amount of restoration must be included.

Add: "plantings shall be done within 90 days after the retaining walls were installed."

Add: A new section. ESHA - The ESHA shall be defined by surveyed coordinates with markers easily identified and permanent and visible from the property line.

Luhr wants to remove from the property line.

Johnson asked Woodson if he would amend his motion, he responded yes.

Johnson asked Luhr if he would amend his second, he responded yes.

Luhr wants to add a condition that states no activity allowed in the ESHA that would be detrimental to the native habitat.

Johnson asked Woodson if he would accept that amendment, he responded yes.

Luhr wants to include in the condition: drainage to adjacent properties from parcel one and two shall be evaluated and remedied.

Johnson asked Woodson if he would accept this amendment to his motion, he responded yes.

Diodati spoke about the Salinian and Chumash Tribes and Ambo suggested this item be forwarded to an archaeologist.

VOTE: 2-2 MOTION FAILS DUE TO TIE VOTE Woodson and Luhr – Yes. Diodati and Johnson No.

MOTION: Diodati/Johnson 2<sup>nd</sup> for an indefinite continuance with the following conditions:

- Staff to investigate status of two-parcel issue.
- Staff to investigate the drainage problem to the creek.
- Wants assurance that the applicant understands what LID technology is and generate a plan to reduce urban run off into the creek.
- Have Staff research the willow trees and natural vegetation history and current status.

VOTE: 4-0

**A. Site Location:** 2930 Elm Street, R-1/S.2 zone

**Applicant:** Bill and Linda Mecum

**Request:** Conditional Use Permit to allow a 776 square foot second story addition to an existing 714 square foot nonconforming single-family residence. The existing two-car garage is to be accessed from Fir Street. This site is located outside the Coastal Commission Appeals Jurisdiction.

**Recommended CEQA Determination:** Categorically Exempt, Class 1, section 15301

**Staff Recommendation:** Conditionally approve.

**Staff Contact:** Aileen Nygaard, Associate Planner, 772-6211

Nygaard presented the Staff Report. Johnson asked if there were questions of staff.

Woodson wanted clarification on the width of the deck.

Nygaard responded a 5' width meets code.

Diodati stated this is a simple project and it has inserts and he would like to see more inserts on the more complex projects.

Luhr questioned the garage having two driveways.

Nygaard stated the applicant does not have to have two driveways and could eliminate the Elm Street driveway.

Johnson questioned the length of the driveway and Nygaard stated the applicant is going to remodel the garage from a one-car garage to a two-car garage and will be installing a rolling garage door to as required for an undersized driveway.

Johnson opened the Public Hearing asking the applicant or their agent to address the Commission.

The applicants, Bill and Linda Mecum stated the garage will be a two-car garage.

Seeing no further comment, Johnson closed the Public Hearing

Woodson asked the applicant if they had a problem changing the cantilever deck from 6' to 5', the applicant replied no.

Luhr commented the project lacked a good design and isn't keeping scale with the neighborhood.

Diodati asked if the photo provided during the presentation was provided by Staff or by the Applicant?

The Applicant responded he provided the photo.

Johnson stated this is a big box house that the City is trying to eliminate with FAR, and suggests keeping existing driveway and to install additional landscaping.

Luhr commented he would like to see a reduction to the scale of the front facade.

Discussion continued amongst the Commissioners and applicant regarding FAR.

MOTION: Woodson/Luhr 2<sup>nd</sup> to approve the project with the following condition:

The second floor deck facing Elm Street shall not exceed 5' into the front setback.

VOTE: 4-0

- B. Site Location:** 3460 Toro Drive, R-1/S.2a zone  
**Applicant:** Derrel Ridenour  
**Request:** Variance to increase lot coverage from 50% to 54% on R-1/S.2a zoned lot. This site is located inside the Coastal Commission Appeals Jurisdiction.  
**Recommended CEQA Determination:** Categorically Exempt, Class 5, section 15305  
**Staff Recommendation:** Deny request for variance.  
**Staff Contact:** Kathleen Wold, Senior Planner, 772-6211

Wold presented the Staff Report. Johnson asked if there were questions of staff.

Ambo clarified if the Commission approves this project, everything is approved and the project will not come back to the Planning Commission.

Woodson and Wold conversed in regards to definition of covered porch versus covered patio.

Johnson asked about zoning of this project, why are the zones different?

Ambo responded it is the same reason they are different all over the city.

Diodati is concerned about setting precedence in regards to covered patios versus covered porches.

Wold responded the City's Zoning Ordinance does not exempt a project for aesthetic reasons.

Johnson asked if it is the job of the Commission to look at exceptions for projects?

Wold responded the law states a variance is given to the property not to a home.

Johnson opened the Public Hearing asking the applicant or their agent to address the Commission.

- Marshall Ochylski, representing the applicant, is asking for an interpretation of ambiguity not for a variance. Are the areas in the project, covered porches? If Commission makes the determination they are not covered porches then no variance is needed. A variance is needed if the Commission determines them to be covered porches. The overhangs should be considered an architectural feature, not covered porches.
- Derrel Ridenour, applicant, stated the project has met all development standards requirements and has been approved on this flag lot. The City Ordinance needs to be interpreted by the Commission.
- John Pryor, design architect, spoke of the project's design and the interior courtyard. The eaves are upswept architectural features, the applicant has worked with neighbors to ensure compatibility in the neighborhood and the structure is within the 50% lot coverage.
- Jacqueline Dallairer, neighbor to the project, approves of the project and stated she was at the meeting when staff previously approved this project.
- Marshall Ochylski reiterated what John Pryor stated and asked Commission for interpretation of covered porches.

Seeing no further comment, Johnson closed the Public Hearing

Johnson asked if the Planning Commission had questions for the applicant.

Woodson asked Staff if the definition of a porch is out of the proposed LCP or from existing code and ordinances?

Ambo responded the applicant is not held to a non-certified zoning ordinance.

Luhr asked Pryor in the contested areas, are there doorways leading from the exterior to the interior?

Pryor responded there are sliding panels to the courtyard, there are no swing doors and the upswept overhang is not considered covered porches.

Diodati wanted to know what does the non-certified LCP say?

Ambo responded it should not have been referenced, and he prefers to not speculate on what it means.

Ambo suggested this project be approved as a variance.

MOTION: Woodson/Luhr 2<sup>nd</sup> to approve the project as a variance.

VOTE: 3-1 Johnson, Woodson and Luhr Yes. Diodati No.

**C. Site Location:** 600 Morro Bay Boulevard, C-1/S.4 zone

**Applicant:** Samuel Gilstrap

**Request:** Tentative tract map for the purpose of creating 19 condominiums with exterior spaces owned in common. This site is located outside the Coastal Commission Appeals Jurisdiction.

**Recommended CEQA Determination:** Mitigated Negative Declaration Adopted 6/13/2005

**Staff Recommendation:** Conditionally approve.

**Staff Contact:** Kathleen Wold, Senior Planner, 772-6211

Wold presented the Staff Report. Johnson asked if there were questions of staff.

Woodson asked if the recording of the final tract map is required before occupancy is allowed?

Ambo responded tenants can occupy now.

Woodson wants to know about the monies owed to the City from parking-in-lieu fees, affordable housing issues and parking fees?

Wold stated some of the fees have been paid and the applicant has been working with Staff and tentative agreements have been met. Occupancy would not be allowed until final inspection.

Luhr wanted to know why this tentative map expired?

Ambo stated the applicant's let it expire.

Diodati asked about the 10% parking-in-lieu fees and asked Staff if they are confident the City will see payment?

Wold stated payment is spread out over 10 years and Staff feels confident payments will be received.

Johnson asked has Commission already approved this project as condominiums?

Wold responded, yes.

Woodson inquired about the affordable housing at this project.

Ambo responded affordable housing gets recorded and a fee is paid or a unit is reserved and another unit is held until the issue is resolved.

Johnson opened the Public Hearing asking the applicant or their agent to address the Commission.

Samuel Gilstrap, the applicant, clarified the parking-in-lieu fees will be paid when people move in. The applicant has elected to have two affordable housing units.

Seeing no further comment, Johnson closed the Public Hearing.

Johnson asked if the Planning Commission had questions for the applicant.

Luhr wanted confirmation that the City will be paid.

Diodati was concerned about repetitive writings in the Staff Report.

Wold will correct.

MOTION: Diodati/Luhr 2<sup>nd</sup> to approve the project as presented.

VOTE: 4-0

Johnson made a motion to continue Planning Commission Meeting past 10:00 p.m.

MOTION: Woodson/Diodati 2<sup>nd</sup>

Vote: 4-0

- D. Site Location:** 850 Quintana Road, C-1 zone  
**Applicant:** Bob's Big Boy Restaurant  
**Request:** Conditional Use Permit for Signage Program to include a program of wall and monument signs, and to increase the allowable sign area. This site is located outside the Coastal Commission Appeals Jurisdiction.  
**Recommended CEQA Determination:** Categorically Exempt, Class 11, section 15311  
**Staff Recommendation:** Conditionally approve.  
**Staff Contact:** Aileen Nygaard, Associate Planner, 772-6211

Nygaard presented the Staff Report. Johnson asked if there were questions of staff.

Diodati asked if the tree is going to be removed?

Luhr asked does the tree belong to the gas station or the restaurant?

Nygaard replied the tree is on the restaurant's property.

Luhr asked is LED strip lighting considered signage?

Nygaard replied no, not in this instance.

Luhr asked about the yellow architectural element underneath the checkerboard. Is it an awning or stucco projection?

Nygaard replied the applicant can answer that question.

Luhr asked are changeable text signs allowed?

Nygaard stated the code is silent to restaurants and the code applies to movie theatres and motels.

Luhr stated concern about keeping the landscape trimmed.

Diodati asked what was the conclusion in the Staff Report regarding sign two?

Nygaard replied she presented both sides in the report and it is up to the Commission to make a decision.

Woodson asked, where is the tree?

Johnson stated let's open Public Hearing and ask the applicant questions.

Johnson opened the Public Hearing asking the applicant or their agent to address the Commission.

Luis Rodriquez, representative for the owner stated the tree needs to be trimmed and maintained by the applicant.

Rodriquez stated the checkerboard pattern and the yellow stripe are very important to the applicant's branding and identity.

Seeing no further comment, Johnson closed the Public Hearing.

Johnson asked if the Planning Commission had questions for the applicant.

Diodati asked if continuation of the checkerboard and yellow stripe around the entire building could be done?

Rodriquez replied, yes.

Woodson asked about alternative two and wants the tree trimmed and maintained by applicant.

Luhr was concerned about the size of the sign and restaurants in the area that have signs that are 125 sq.ft but this one is 500 sq. ft.

Wold replied sign footage is to attract people to the restaurant.

Johnson stated there is a need to encourage business in this town. We need to differentiate between a sit down restaurant and a fast food restaurant. A sit down restaurant qualifies for a larger sign versus a fast food restaurant. Johnson would like a continuation of the checkerboard and yellow stripe around the entire building.

MOTION: Woodson/Johnson 2<sup>nd</sup> to approve the project with the following conditions:

- Wall sign two to have continuation of the checkerboard and yellow stripe around the entire building and to be consistent with the overall design of the perimeter of the building.
- The tree stays and is trimmed and maintained by applicant.

VOTE: 3-1 Johnson, Diodati and Woodson Yes. Luhr No.

XI. OLD BUSINESS

A. Current Planning Processing List

XII. NEW BUSINESS

A. None

XIII. ADJOURNMENT

Johnson adjourned the meeting at 10:35p.m. to the next regularly scheduled Planning Commission meeting at the Veterans Hall, 209 Surf Street, on Monday, August 3, 2009 at 6:00 p.m.

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Nancy Johnson, Chairperson

ATTEST:

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Bruce Ambo, Secretary