

**MONTEREY COUNTY ZONING ADMINISTRATOR**

<b>Meeting:</b> July 13, 2006	<b>Agenda Item:</b>
<b>Project Description:</b> Coastal Development Permit (PLN060097) to allow a change in the intensity of use of access to public waters by increasing parking fees in and around Moss Landing Harbor. The increase in fees will fund ordinary maintenance and repair of existing parking lots. (Assessor's parcel numbers 133-241-003-000, 133-241-007-000, 133-241-009-000, 133-241-010-000, 133-241-018-000; 133-173-001-000; 133-212-009-000; 413-022-002-000; 413-022-003-000, 413-022-005-000, 413-022-009-000, 413-022-010-000; 129-212-001-000).	
<b>Project Locations:</b> Sandholdt Road cross Moss Landing Road, Highway One cross Jetty Road, Kirby Road cross Elkhorn Road, Moss Landing	
<b>Plan Area</b> North County (Coastal Zone)	<b>Flagged &amp; Staked:</b> N/A
<b>Zoning Designations</b> Light Industrial (LI) & Public Quasi Public (PQP)	
<b>CEQA Action:</b> Exempt pursuant to Section 15273(a)(1)	
<b>Date applications deemed complete:</b> May 04, 2005	
<b>Department:</b> Planning and Building Inspection (PBI)	

**RECOMMENDATION:**

Staff recommends that the Zoning Administrator APPROVE the subject Coastal Development Permit for changing the intensity of use of access to public waters by increasing parking fees (PLN060097/Moss Landing Harbor District) based on Findings and Evidence (**Exhibit “B”**) and subject to proposed conditions (**Exhibit “C”**).

**PROJECT ISSUES:**

The proposed project is to allow the Moss Landing Harbor District a change in the condition of public access by increasing parking fees in and around Moss Landing Harbor. Pursuant to a letter dated October 29, 1993, the California Coastal Commission has determined that by increasing parking fees, a local entity would in effect be changing the ability to access state waters and therefore is required to obtain a Coastal Development Permit. The District has adopted a fee increase to pay for continued resources and infrastructure to keep access areas and harbor facilities updated and maintained.

**OTHER AGENCY INVOLVEMENT**

The following agencies have reviewed the project and those that are checked (“✓”) have comments and/or recommended conditions (Exhibit “C”):

	Water Resources Agency (WRA)		Parks Department
	Environmental Health Division (EH)		North County Fire Protection District (NCFPD)
	Public Works Department (PW)		Sheriff Department
	Sheriff’s Department		California Highway Patrol

As conditioned, no unresolved issues remain.

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This report was reviewed by Jeff Main, AICP, Planning & Building Services Manager

Cc: California Coastal Commission; Zoning Administrator; County Counsel; Health Department; Public Works; North County Fire Protection District; Monterey County Water Resources Agency; Monterey County Sheriff's Department; Jeff Main, Manager; Elizabeth A. Gonzales, Planner; Applicant/Representative; Owners

Attachments:    Exhibit "A"        Discussion  
                  Exhibit "B"        Recommended Findings and Evidence  
                  Exhibit "C"        Recommended Conditions of Approval  
                  Exhibit "D"        Applicants' proposal  
                  Exhibit "E"        Vicinity Map

**Note:** This project is appealable to the Board of Supervisors and the California Coastal Commission

**EXHIBIT “A”**

**DISCUSSION**  
**PLN060097/Moss Landing Harbor District**

Project Description

In 2005, the Moss Landing Harbor District Board of Commissioners adopted an Ordinance to increase the parking and launching fee structure, however, they have not acted on it. The purpose for fees increases is to provide regular maintenance and repair of the existing parking lots and to backfill the deficit created in the District’s budget when the State withheld its real property tax allocation.

Pursuant to a letter dated October 29, 1993, the new fee structure must be reviewed by the California Coastal Commission or a local agency implementing a fully certified LCP (The County). It is the Commission’s position that any action which has the effect of changing the intensity of use of state waters or of access to such waters is a “development” for purposes of the Coastal Act and requires a Coastal Development Permit from the Commission or from the local agency implementing a fully certified LCP or the Commission on appeal. The focus of the Coastal Commission opinion is the concern over public access. Because the imposition or substantial increase of a user fee from beach access parking, pier or boat launching ramp use, or for beach or shoreline park use would result in a change in access to state waters, it requires a Coastal Development Permit. Pursuant to guidance contained in the October 29, 1993 Coastal Commission memo, “substantial increase” means any fee increase of 25% or more in any given year or 50% or more on a cumulative basis over any three consecutive year period.”

<b>CURRENT FEES</b>	<b>PROPOSED INCREASE IN FEES</b>	<b>NEIGHBORING FACILITIES IN COMPARISON</b>
\$2 FOR PARKING IN ALL LOTS WITH NO TIME LIMITS	\$3 FOR 4 HOURS \$5 FOR 12 HOURS \$8 FOR 24 HOURS	MONTEREY: \$1 PER HOUR AND \$12 FOR 24 HOURS SANTA CRUZ: .75 CENTS PER HOUR AND \$10 FOR 24 HOURS
\$8 PER DAY TO LAUNCH A VESSEL AND PARK A VEHICLE WITH BOAT TRAILER	\$12 PER DAY TO LAUNCH A VESSEL AND PARK A VEHICLE WITH BOAT TRAILER	

Current and Proposed Parking Fees: Because it has been over 3 years since any increase has been implemented, the increase in fees, although less than a 50% increase if computed annually over 3 years, does represent a one time annual 50% increase. The request for the proposed park and launch fee increase is greater than the 25% annual increase, and must be included in this proposal. The Harbor District did not charge any fees for parking or launching prior to 1996.

It should be noted that there is free street parking available in a variety of places near the Harbor, which is consistent with the public access policies of the Moss Landing Community Plan (Policy 5.4.3 NCLUP). Specifically, there are numerous public access points within a 1 mile radius of

the Moss Landing Harbor's parking at both South Harbor and the launch ramp at North Harbor available free of charge (Jetty Road – State Parks; Salinas River path west of the one-lane bridge, Potrero Road Beach, beach access at the end of Sandholdt Road; Kirby Park launch ramp and parking lot). Therefore, the request to increase the District's fees does not negatively impact Coastal Act public access requirements of the Moss Landing Community Plan Public Access Map (Figure 4).

Specific to the general policies of the Moss Landing Community Plan located in the North County Land Use Plan (Policy 5.4.2), low and moderate cost recreation and visitor serving facilities are preferred to higher cost facilities. Therefore, the District's attempt to charge a nominal increased fee necessary to pay for continued resources and infrastructure is consistent with this policy.

In addition, staff has reviewed other public access policies in the North County Land Use Plan to include specifically Public Access Policies 6.4.I.1& 2, Parking and Facilities which relate to parking improvements as part of the access management plans for access locations. Staff has found that since the fee increase will provide resources to enhance public access at the harbor and given that the increase is not unreasonable compared to other access points charging a fee, that the fee increase is consistent with Coastal Act public access requirements.

#### CEQA Review

CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which for the public agency finds are for the purpose of: (1) Meeting operating expenses, including employee wage rates and fringe benefits.

As conditioned, no unresolved issues remain for this project.

**EXHIBIT “B”**

**RECOMMENDED FINDINGS AND EVIDENCE**

**PLN060097/Moss Landing Harbor District**

**1. FINDING: CONSISTENCY & SITE SUITABILITY** – The project, as conditioned, is consistent with all applicable plans and policies, including the *North County Coastal Land Use Plan* and the development standards and zoning regulations contained in the certified Coastal Implementation Plan, specifically Chapter 20.144 (*Regulations for Development in the North County Land Use Plan*), the Zoning Ordinance (Title 20), and Part 6 of the Coastal Implementation Plan (Appendices). The participating parcels are designated as “PQP (CZ)” [*Public Quasi Public (Coastal Zone)*]; which conditionally allows public and quasi-public uses. These sites are physically suitable and are all ready existing for the use proposed.

**EVIDENCE:**

- (a) Planning and Building Inspection Department (PBID) staff have reviewed the project as contained in the application and accompanying materials for conformity with the certified Monterey County Local Coastal Program and have determined that the project is consistent as conditioned. Permit application, plans, and materials contained in Project File No. PLN060097.
- (b) The requested Coastal Development Permit seeks to allow a change in the intensity of use of access to public waters by increasing parking fees in and around Moss Landing Harbor pursuant to a letter dated October 29, 1993, by the California Coastal Commission determining that “any action which has the effect of changing the intensity of use of state waters or of access to such waters is a “development” for purposes of the Coastal Act and requires a Coastal Development Permit.
- (c) Consistency with all other County requirements applicable to Title 20, Zoning Regulations for Public Quasi-Public (PQP (CZ)) have been met.
- (d) There has been no testimony received either written or oral, during the course of public hearings to indicate that the site is not suitable for the project. Necessary public facilities are available for the use proposed. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, North County Fire Department, Public Works Department, Environmental Health Division, and the Monterey County Sheriff’s Department. There has been no indication from those agencies that the site is not suitable. There are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats, or similar areas that would indicate the sites are not suitable for the use proposed, since no new development is proposed.
- (e) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File No. PLN060097.

2. **FINDING: PUBLIC ACCESS** - The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see Section 20.70.050.B.4 of Title 20). Public access is required as part of the project, however, there is no substantial adverse impact on public coastal access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

**EVIDENCE** (a) The District's attempt to charge a fee necessary to pay for continued resources and infrastructure is consistent with the recreation and public access policies of the Moss Landing Community Plan located in the North County Land Use Plan (Policy 5.4.2 NCLUP).  
(b) There are numerous public access points within a 1 mile radius of the Moss Landing Harbor's parking at both South Harbor and the launch ramp at North Harbor available free of charge. Therefore, the request to increase the District's fees does not negatively affect Coastal Act public access requirements of the Moss Landing Community Plan Public Access Map ((Policy 5.4.3 NCLUP/Figure 4).  
(c) Staff has reviewed other public access policies in the North County Land Use Plan to include specifically Public Access Policies 6.4.I.1& 2, Parking and Facilities which relate to parking improvements as part of the access management plans for access locations. Staff has found that since the fee increase will provide resources to enhance public access at the harbor and given that the increase is not unreasonable compared to other access points charging a fee, that the fee increase is consistent with Coastal Act public access requirements.

3. **FINDING: CEQA (exempt)** – The proposed project will not have a significant environmental impact.

**EVIDENCE:** CEQA Guidelines Section 15273(a) (1) does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which for the public agency finds are for the purpose of: (1) Meeting operating expenses, including employee wage rates and fringe benefits.

4. **FINDING: VIOLATIONS** – Subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County's zoning ordinance. The Zoning Administrator finds that, given non-physical development nature of this proposal, no health, safety, or welfare issues exist.

**EVIDENCE:** Staff reviewed the Monterey County Planning and Building Inspection Department records and is not aware of any violations that exist on the subject property; File No. PLN060097.

5. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance or operation of the project applied for will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed

use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

**EVIDENCE:** Preceding findings and supporting evidence.

6. **FINDING: APPEALABILITY** – The project is appealable to the Board of Supervisors and the California Coastal Commission.

**EVIDENCE:** Sections 20.86.030 and 20.86.080 of the Monterey County Coastal Implementation Plan.

**Monterey County Planning and Building Inspection  
Condition Compliance Matrix**

**Project Name: MOSS LANDING HARBOR DISTRICT**

File No: PLN060097 APNs: 133-241-003-000M

Approval by: Zoning Administrator Date: July 13, 2006

<i>Permit Cond. No.</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
1.	<p><b>PBD029 - SPECIFIC USES ONLY</b>                      The subject permit approval allows a Coastal Development Permit (PLN060097) to allow a change in the intensity of use of access to public waters by increasing parking fees in and around Moss Landing Harbor. The increase in fees will fund ordinary maintenance and repair of existing parking lots. (Assessor's parcel numbers 133-241-003-000, 133-241-007-000, 133-241-009-000, 133-241-010-000, 133-241-018-000; 133-173-001-000; 133-212-009-000; 413-022-002-000; 413-022-003-000, 413-022-005-000, 413-022-009-000, 413-022-010-000; 129-212-001-000). The parcels are located at Sandholdt Road cross Moss Landing Road, Highway One cross Jetty Road, Kirby Road cross Elkhorn Road, Moss Landing, North County, Coastal Zone. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. <b>(Planning and Building Inspection)</b></p>	Adhere to conditions and uses specified in the permit.	Applicant	Ongoing unless otherwise stated	

<i>Permit Cond. No.</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
2.	<p><b>PBD025 - NOTICE-PERMIT APPROVAL</b></p> <p>The applicant shall record a notice which states: “A permit (Resolution 060097) was approved by the Zoning Administrator for an increase in fees on July 13, 2006, (Assessor’s parcel numbers 133-241-003-000, 133-241-007-000, 133-241-009-000, 133-241-010-000, 133-241-018-000; 133-173-001-000; 133-212-009-000; 413-022-002-000; 413-022-003-000, 413-022-005-000, 413-022-009-000, 413-022-010-000; 129-212-001-000).. The permit was granted subject to 3 conditions of approval that run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department.” Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. <b>(Planning and Building Inspection)</b></p>	Proof of recordation of this notice shall be furnished to PBI.	Applicant	Prior to use.	
3	<p><b>NON-STANDARD CONDITION: FEE SCHEDULE</b></p> <p>The applicant shall revise fees as follows:  For parking regular vehicles in all lots, the following fees shall be implemented: \$3 for 4 hours, \$5 dollars for 12 hours, and \$8 for 24 hours.  To launch a vessel and park a vehicle with boat trailer the fee of \$12 per day shall be implemented. This represents a fee increase of 25% or more in any given year or 50% or more on a cumulative basis over any three consecutive year period.</p>	Adhere to conditions and uses specified in the permit. Prior to any additional fee increase beyond this approval, the applicant shall submit the request to the Planning and Building Inspection Department.	Applicant	Ongoing unless otherwise stated	