

RESOLUTION NO. 2018-152

A RESOLUTION OF THE CITY OF MARINA CITY COUNCIL AMENDING THE CITY'S LOCAL COASTAL PROGRAM TO UPDATE EXISTING CONDITIONS AND USES IN THE COASTAL ZONE INCLUDING DELETING REFERENCES TO SAND MINING AS AN ALLOWED COASTAL DEPENDENT USE AND ADDING HABITAT RESTORATION, PASSIVE RECREATION, PUBLIC ACCESS AND PUBLIC EDUCATION AS PRIMARY USES IN THE NORTH OF RESERVATION ROAD PLANNING AREA IN ACCORDANCE WITH THE CONSENT SETTLEMENT AGREEMENT AND CEASE AND DESIST ORDER ENTERED INTO BETWEEN THE CALIFORNIA COASTAL COMMISSION AND RMC PACIFIC MATERIALS LLC D/B/A CEMEX AND CHANGING THE LAND USE DESIGNATION FOR THE CEMEX PARCELS (APNS 203-011-001 AND 203-011-019) FROM COASTAL CONSERVATION AND DEVELOPMENT TO PARKS AND OPEN SPACE TO ACHIEVE CONSISTENCY WITH THE GENERAL PLAN LAND USE DESIGNATION OF HABITAT RESERVE

WHEREAS, the City Council of the City of Marina conducted a duly noticed public hearing to consider the proposed amendment to the Local Coastal Program (“**EXHIBIT A**”), considered all public testimony, written and oral, presented at the public hearing, received and considered the written information and recommendation of the staff report for the December 4, 2018, meeting related to the proposed amendment to the Local Coastal Program, and;

WHEREAS, the City Council of the City of Marina finds that the proposed amendment to the Local Coastal Program is consistent with the goals, policies and programs of the Marina General Plan and Local Coastal Program, in that the amendment consists of updates to existing conditions and uses in the coastal zone, deletion references to uses no longer extant, includes reference to the Consent Settlement Agreement and Cease and Desist Order between the California Coastal Commission and RMC Pacific Materials, removal of sand mining as an allowed coastal dependent use, adds conservation and habitat restoration, low impact passive recreation, public access, and public education as primary uses in the North of Reservation Road Planning Area in accordance with the uses outlined in the Settlement Agreement, and changes the land use designation for the CEMEX parcels (APNs 203-011-001 and -019) from Coastal Conservation and Development to Parks and Open Space to achieve consistency with the General Plan Land Use designation of Habitat Reserve, and;

WHEREAS, the Planning Commission of the City of Marina at their regular meeting of November 8, 2018, adopted Resolution 2018-19 (PC) recommending that the City Council consider approving the proposed amendment to the Local Coastal Program, and;

WHEREAS, the proposed amendment is exempt from environmental review pursuant to Section 21080.9 of the California Environmental Quality Act (CEQA) that exempts adoption of an LCP amendment is exempt from environmental review.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marina does hereby:

1. Amend the City's Local Coastal Program to update existing conditions and uses in the Coastal Zone including deleting references to sand mining as an allowed coastal dependent use and adding habitat restoration, passive recreation, public access and public education as primary uses in the north of Reservation Road Planning Area in accordance with the Consent Settlement Agreement And Cease and Desist Order entered into between the California Coastal Commission and RMC Pacific Materials LLC d/b/a CEMEX and changing the land use designation for the CEMEX parcels (APNs 203-011-001 and 203-011-019) from Coastal Conservation and Development to Parks and Open Space to achieve consistency with the General Plan land use designation of Habitat Reserve, attached hereto as “**Exhibit A**”.

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AYES, COUNCIL MEMBERS: Amadeo, Morton, O'Connell, Brown, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

City of Marina Local Coastal Program Volume I Land Use Plan

**Certified by California Coastal
Commission
April 20, 1982**

**Approved, Adopted, and Certified by
City Council Resolution No. 82-61
October 27, 1982**

**Reformatted to Include Post-
Certification Amendments
November 2013**

City of Marina Local Coastal Program Volume I Land Use Plan

Certified by the California Coastal Commission
April 20, 1982

Approved, Adopted, and Certified by City Council Resolution No. 82-61
October 27, 1982

Amended by Resolution No. 88-71 (October 11, 1988), 89-22 (June 20, 1989),
and 89-52 (September 5, 1989)
Approved by Coastal Commission via LCP No. 1-88 (Major) (October 10, 1989)

Amended by Resolution No. 2001-118 (October 16, 2001)
Approved by Coastal Commission via LCP No. 1-01 (Major) (November 14, 2001)

Amended by Resolution No. 2007-268 (November 20, 2007)
Approved by Coastal Commission via LCP No. MAR-MAJ-1-07-Part 1 (April 10, 2008)

BACKGROUND

On February 17, 1981 and June 2, 1981, the City Council of the City of Marina, California, adopted Resolution 81-8 and 81-31 approving in concept the land use and implementation plans of the City's Local Coastal Program. Amendments to the land use plan were made on January 19, 1982 and March 16, 1982. Final certification by the California Coastal Commission occurred after a public hearing on April 20, 1982.

Section 00071 of the California Coastal Commission Local Coastal Program Regulations adopted May 17, 1977, as revised November 18, 1980, lists the items which a local government must include when submitting its Local Coastal Program to the Coastal Commission for action. The list of items is: -(1) summary of public participation including a list of people and agencies contacted; (2) reproducible copy of plan being submitted; (3) analysis of plan's conformity to the Common Methodology of the Commission as set out in the Regulations (Section 00040); (4) indication of zoning measures; and (5) environmental review.

At the request of the City, Central Coastal Commission staff was responsible for preparing the Marina Local Coastal Land Use and Implementation Plans. The planning tasks were accomplished under contract: but the Commission retained the administrative and supervisorial responsibilities during plan preparation. The City as well as the Commission staffs reviewed all documents before their release for public review.

Summary of Public Participation

Focus of citizen input in developing the Marina Local Coastal Program was on a sequence of Workshops and conclusion meetings held at key points in the six month plan development process. These meetings were widely publicized by the Central Coastal Commission staff. One hundred-twenty-three interested persons, agencies and organizations were notified for the first workshop held July 19, 1980. The meeting itself was attended by 4 of the 5 City Council members, all of the Planning Commissioners as well as a large number of City staff members, who served as resource people, and interested residents. A summary report of the conclusions of the policy workshop was mailed to all participants and those on the mailing list.

A second workshop focusing on land use alternatives was held September 6, 1980. One hundred-thirty received notice of this meeting. The workshop was well attended by City officials and staff as well as by interested residents, organizations, and agencies. A conclusions report was prepared and distributed at a joint study session of the Council and Planning Commission December 19, 1980. All persons on the mailing list were notified. At the joint study session the Draft Local Coastal Land Use Plan was also presented and discussed.

On January 19, 1981, the Planning Commission held a duly noticed public hearing on the Marina Local Coastal Land Use Plan. Again those on the mailing list

received notice. Representatives of three sand companies with operations in Marina and the Sierra Club commented on the draft plan.

On February 3, 1981, the City Council held a duly noticed public hearing on the Marina Local Coastal Land Use Plan. Representatives of three sand mining companies, the Sierra Club and the California Native Plant Society as well as three interested citizens commented. The hearing was closed. The City Council approved in concept the Marina Local Coastal Land Use Plan on February 17, 1981.

On March 16, 1981 the Planning Commission held its duly noticed public hearing on the Marina Local Coastal Implementation Plan. All persons on the mailing list received notice of this meeting and of the availability of the draft document. The representatives of the three sand companies, the Sierra Club and the California Native Plant Society commented on the plan.

On June 2, 1981, the City Council held its duly noticed public hearing on the Marina Local Coastal Implementation Plan. All persons on the mailing list were notified directly of the meeting. The representatives of the three sand mining companies commented on the draft. The hearing was closed and after review the City Council adopted the revisions to the zoning ordinance (pages 20 through 35) and approved in concept for submission to the State Coastal Commission the remainder of the Implementation Plan on June 2, 1981.

The attachments to this submittal include a copy of the mailing list and correspondence received by the Planning Commission and City Council on the Land Use Plan. Responses to these written comments are also included.

Marina Local Coastal Land Use and Implementation Plans

Attached to this submittal are copies of the Marina Local Coastal Program Land Use Plan and Local Coastal Implementation Plan and the addenda which include the revisions made by the Planning Commission and City Council. The documents approved in concept for California Coastal Commission review consist of the Draft Plan documents and their addenda.

Commission Common Methodology RE Marina Local Coastal Land Use Plan

The City of Marina is a community of 14,500 located at the northern boundary of Fort Ord on Monterey Bay. The City has about 3 miles of coastline generally divided north and south by Reservation Road. The predominant coastal use in the area to the south of Reservation Road is State beach. To the north the ownership is private and the primary current uses are is sand mining at the Lapis Sand Mining Plant, chiefly from the tidal zone but also from the dunes inactive/former sand mines, the Marina Coast Water District sewage treatment plan, Vernal Pond Number 4, a park ranger's residence and a County-owned unused animal shelter. Pursuant to the terms of a Consent Settlement

Agreement and Cease and Desist Order CCC-17-CD-02 between the California Coastal Commission and RMC Pacific Materials, LLC d/b/a CEMEX, which is memorialized and incorporated into a Mutual Release and Settlement Agreement between the City of Marina and CEMEX effective on June 26, 2017, all remaining sand mining activities occurring at the Lapis Sand Mining Plant are required to be phased out and shall end by December 31, 2020. Per the terms of the Settlement Agreement and the Reclamation Plan for the Lapis Sand Plant, approved by the State Mining and Geology Board on June 15, 1992 pursuant to Resolution #92-12, allowable future uses will primarily include conservation, with other allowable uses being low-impact passive recreation purposes or activities, public access, public education, and activities to restore native habitat.

At one time the coastal zone in Marina extended inland to Del Monte Blvd., but in 1978 the boundary was redrawn retaining only the open areas and vernal ponds between Del Monte and Highway 1 within the City's coastal zone. Today only two of the vernal ponds in this area have not been protected. The plan provides for protection of these two ponds.

The critical coastal planning issues in Marina focused on the future of the dunes, including the role of former sand mining activities and suitable future uses of previously disturbed areas; the future of the vernal ponds; and on establishing uses which would be compatible with the existing environmental sensitive habitat constraints present in the City's coastal zone as well as with the 1976 Coastal Act. The policies of the plan as well as the land use designations address these concerns and resolve them in terms of the mandates of the California Coastal Act.

The plan includes clearly identifiable sections addressing local coastal program policy, public access to and along the beach (in an Access Component) and land use designations, both graphic and verbal, which are consistent with the policies of the local plan and Coastal Act.

Public facilities were not a critical issue in preparation of the Marina Local Coastal Land Use Plan. The State Coastal Commission had already reviewed and issue permits for improvements to the two major public facilities located in the City's coastal zone: Highway 1 and the Marina ~~Coastal~~ County Water District's sewer treatment plant. These improvements provided adequate capacity to meet the regional access and local sewage treatment needs anticipated by the land uses as proposed in the Local Coastal Land Use Plan. Impacts from the regional plans available at the time of preparation were also considered.

The Central Coastal Commission recently approved a permit for the location of a new City corporation yard in the Coastal Zone. This facility is the only other development in the public works facilities category anticipated in the Marina Coastal Zone.

Regional recreation facilities are an important aspect of coastal planning in Marina. Recently the State purchased about 160 acres of the Marina sand dunes for a

State Beach (area between Reservation Road and the south City Boundary). The State Department of Parks and Recreation has proposed new recreational development in this area since acquisition. But in its LCP land use plan the City is anticipating the kind and character of recreation facilities which would be suitable. The emphasis in the City's planning is maximum public access consistent with the environmental sensitivity of the dune habitat and resident rare and endangered species (plants and animals). Coordination with the State Department of Parks and Recreation was initiated. Park access would be focused at two points where present access is available but in need of improvement and possibly expansion. Developed visitor serving facilities, including an interpretive center, improved rest stop facilities and a visitor center are also proposed. However, direct access to the dune vegetation is recommended to be limited to the level of use that the vegetation can withstand.

A national wildlife preserve is located north of the City of Marina at the mouth of the Salinas River. Some dune area is included in this preserve. Monterey County proposes that the dune adjacent to the preserve be protected; and the City of Marina proposes, in its plan protection of the northern most of these dunes, adjacent to those in Monterey County. Within Marina, these northern most dunes are the best preserved of the dune habitat. The plan proposed continued preservation by public and/or private means and continued restriction of access which is so destructive to this particular area. Wide ranging public access opportunities are available at the State Beach one mile to the south of the protected dunes, further south on the Monterey Peninsula, and two or so miles to the north at the wildlife preserve. Lateral access along the sandy beach in front of the dunes will not be restricted and as a result, limited access to these dunes for the ambitious, on foot, will be possible.

The land use designations and maps and land use description and access component of the LCP Land Use Plan provide greater detail on these aspects of the Local Coastal Program in Marina as well as on the scope of the land use plan.

Zoning Indications

The specific zoning measures to implement the proposed land use designations ~~and are~~ presented in the Marina LCP Implementation Plan. The Implementation Plan also addresses specific planning issues of beach access implementation, standards for coastal protection measures, habitat protection, housing and administrative procedures for issuing coastal permits. In addition to implement the intent of the land use designations it was necessary to revise the subdivision and grading ordinances, ~~as well as to prepare a new city ordinance providing for surface mining reclamation.~~

In the zoning ordinance to implement the policies of the Marina plan a CP Coastal permit overlay district was created to. ~~To achieve balance among continuation of the coastally dependent sand mining, public access, and future uses, a Coastal Dependent zoning district was created to be applied in the area designated Coastal Dependent Development to the LCP Land Use Plan, and a Sand Mining Reclamation Ordinance was developed. The only remaining sand mining operation is at the Lapis Sand Mining Plant.~~

Pursuant to the terms of a Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02 between the California Coastal Commission and RMC Pacific Materials, LLC d/b/a CEMEX, all remaining sand mining activities occurring at the Lapis Sand Mining Plant are required to be phased out and shall end by December 31, 2020. The elimination of existing and past sand mining activities within the Coastal Zone required revisions to the Marina Local Coastal Program Implementation Plan and City Zoning Ordinance to provide for conservation, low-impact passive recreation, public access, public education, and activities to restore native habitat in previously disturbed areas, consistent with the terms of the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02. References to sand mining in the City's Zoning Ordinance were removed to address the termination of sand mining.

Protection of the vernal ponds is achieved through the revisions to the open space zoning district, revisions to the grading ordinance and through the Coastal Permit district. The Coastal Access component is implemented by the adopted land use description and maps, the detailed access component in the LCP Land Use Plan, the section on beach access in the LCP Implementation Plan, and Open Space Zoning district the revision to the Subdivision Ordinance and by the Coastal Permit overlay district.

The role of public facilities is clarified in the Implementation Plan by the creation of a Public Facilities zoning designation. These areas will be rezoned to be consistent with the Coastal Land Use map.

The long term function of local recreation resources is clarified by the amendments made to the City's Open Space Zoning district; and the subsequent rezoning of the established recreation areas to Open Space. The addition of a reclassification section to the Open Space district will allow future areas designated as open space as a dedication as a part of development to be subsequently rezoned to Open Space and clearly held for the future. In part the preservation of the vernal ponds will be achieved by use of this procedure.

Revisions to the ordinances also tie the ordinance standards clearly to the LCP Land Use Plan. This linkage will be an additional mechanism to protecting the more "pristine" coastal dune area adjacent to Monterey County.

Environmental Review

No environmental review is required. Summaries of data, conclusions of analysis and maps of habitats, hazards and other factors affecting coastal planning in Marina are included in the approved LCP land use plan report. Measures to effectuate the land use plan are included in LCP Implementation Plan.

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INTRODUCTION

In September 1978, three years after incorporation, the Marina City Council adopted the City's first General Plan. Aware of the State requirement for a Coastal Land Use and Implementation Plan, the General Plan stated that a specific plan for the Marina Coastal Zone would be prepared. The General Plan went on to say that "the Local Coastal Program will further define the (Land Use) classifications (of the General Plan) by providing development guidelines and criteria, with special attention to those areas of environmental significance."¹

The Coastal Land Use Plan as a specific or special area plan becomes, after approval, a part of the City's General Plan. Like the General Plan, it establishes appropriate land uses by type and density, as well as establishing a policy framework for plan implementation. The policy framework of the Local Land Use Plan includes the policy statements, the plan guidelines, the land use map, verbal description of the land use map and the access component. In case of conflicts between policy statements, the policy most protective of the coastal resource shall prevail. The Local Coastal Program also requires the development of an Implementation Plan. This second phase includes review and, where necessary to achieve the ends of the plan, amendment of existing ordinances zoning and other City standards.

Marina's Local Coastal Land Use Plan is organized into six basic sections: policies, planning guidelines, land use plan (map and narrative description by planning area), access component, background data, and amendment and appeals procedure. The Implementation Plan has been prepared separately. In the final draft, the two plans will be combined in a single document.

Coastal Zone Definition

The City of Marina's Coastal Zone includes Highway 1 and all lands west of Highway 1 within the incorporated limits. In addition the Zone includes two other areas: those vacant lands west of Del Monte Boulevard, between Reservation Road and the City's southern boundary, including coastal dunes, cultivated acreage, and some substantial vernal ponds with associated wetlands; and a narrow strip about two miles long west of Highway 1 within the Ford Ord boundary, including the coastal bikeway and the Southern Pacific Railroad tracks.

Plan Approval Process and Certification

The objective of the coastal planning process is "certification". This means that the local jurisdiction receives authority to issue Coastal Development Permits as per the requirements of the California Coastal Act of 1976. All development, including subdivision of land, in Marina's Coastal Zone must receive a Coastal Development Permit before the activity can legally commence.

¹ City of Marina, *Marina 2000: A General Plan*, September 5, 1978, p. 28.

In order to receive coastal permit-issuing authority, the City of Marina must have certified Local Coastal Land Use and Implementation Plans. Steps in this certification process include: review and approval of the draft plans by the Marina City Planning Commission and City Council, and review and certification by the State Coastal Commission. It is the policy of this Land Use Plan to insure that concurrent with the approval of the Coastal Development Permit, zoning for the project site shall be in conformance with the Marina Local Coastal Program.

Background Data

Marina's Local Coastal Planning program is based on substantial data. Technical reports are available for public review at the City Planning Department and the Coastal Commission offices in Santa Cruz. In addition, a synthesis of this background information was made widely available to the public at large in the Policy and Alternative Workshop workbooks: limited copies of these are available at Marina City Hall and at the Coastal Commission offices. Aspects of the background data most applicable to planning decisions have been included under land use constraints in the Planning Guidelines section of this plan.

The City of Marina's Housing Element (1980), also a part of the City's General Plan, includes an exhaustive review of demographic and other data, including population projections. A synopsis of the pertinent data from this housing report appears in the Background Data section. For a detailed analysis, readers may refer to the Housing Element.

Because of environmental constraints, currently assigned land use intensities in the City's General Plan and the character of the City's Coastal Zone, future use of the Coastal Zone land is not likely to have a substantial impact on Marina's population projects or holding capacity. For these reasons, except in the case of housing by value, the Coastal Plan is less concerned with demographic trends and is able to rely on previously completed and approved studies.

Existing Land Use

When originally designated, the Coastal Zone in Marina included the entire area west of Del Monte Boulevard. In 1979, the State Legislature passed a bill redrawing Marina's Coastal Zone boundary. The new boundary line excluded most of the area west of Del Monte Boulevard which was developed with housing. This left the vernal ponds, their associated wetlands, the coastal dune areas and some vacant and cultivated parcels with the Coastal Zone.

A review of the Existing Land Use Map shows about 12 dwelling units in the Coastal Zone. In addition, there are Marina County Water District offices and sewage treatment plant; a wastewater ocean outfall; one existing sand mining plant (the Lapis Sand Mining Plant) and three former sand mining operations that have been restored with on-site improvements, one without on-site improvements; a 6633-space recreation

vehicle park with an entitled 24-space expansion; and an unused animal shelter. About 165 acres of the Coastal Zone is owned and operated by the California Department of Parks and Recreation as Marina State Beach. There is an on-site Park Ranger but no park improvements have been made beyond what was present on the site at the time of acquisition. The City of Marina owns acreage on the east side of Lake Court and part of Vernal Pond No. 4 west of Highway 1, adjacent to the Marina ~~Coast~~ County Water District plant. The Department of Fish and Game owns about seven acres at Vernal Pond Number 1. The remainder of the area, except for CalTrans' right-of-way, is in private ownership, including the Brown Bulb Ranch, a hang glider service facility, and commercial broadcast radio towers (KIDD) in Vernal Pond Number 2.

POLICIES

These policies are statements of intent. They express the purpose and concerns of Marina in planning for its coastal zone in a broad range of areas including ~~sand mining~~, protection of rare and endangered species and their habitats, providing public access, and protecting views. Implementation of these policies will sometimes mean achieving a balance among the policies which best effectuates the City's Local Coastal Land Use Plan.

The policy of the City of Marina shall be:

1. To insure access to and along the beach, consistent with the recreational needs and environmental sensitivity of Marina's Coastal area.
2. To provide beach access and recreational opportunities consistent with public safety and with the protection of the rights of the general public and of private property owners.
3. To provide beach access in conjunction with the new development where it is compatible with public safety, military security and natural resources protection; and does not duplicate similar access nearby.
4. To provide adequate parking at designated beach access points to allow public access at a level consistent with the protection of the natural resource.
5. To encourage and place priority on passive recreational opportunities on the beach and dune areas.
6. To provide for a level of recreation use which is consistent with the ability to operate, maintain, police and protect the beach and dune environment.
7. To prohibit the use of off-road vehicles on the beach and dunes.
8. To prohibit further degradation of the beach environment and conserve its unique qualities.

9. To provide adequate public-serving beach facilities, concentrated in one area, to reduce the impact on the overall coastal area.
10. To promote housing development which is consistent with the City's Housing Element and the Coastal Act.
11. To encourage water-oriented recreational activities unique to Marina's Coast and to the ocean.
12. To provide suitable and sufficient area for recreation use and supportive public and private development.
13. To give priority to visitor-serving commercial and recreational uses in order to fully develop the unique Coastal-oriented recreational activities of Marina and still protect the natural resource.
14. To reinforce and support Coastal recreational and visitor-serving activities in the inland area, where appropriate, to the extent the support activities would complement, not destroy, the Coastal resource.
15. To consider the feasibility of a boat harbor in light of environmental and fiscal effects.
16. To insure the protection of marine resources for long-term commercial, recreational, scientific and educational purposes.
17. To insure protection and restoration of the ocean's water quality and biological productivity.
18. To encourage and support wastewater reclamation, where consistent with public health objectives.
19. To promote reclamation and protection of native dune habitat and vegetation in previously disturbed areas, including areas of former sand mining~~except in areas presently being mined.~~
20. To seek assistance and direction in protecting Marina's beach resources from destruction by oil spills and other hazardous substances.
21. To develop effective standards for cleaning up oil and other hazardous material which will affect Marina's beaches.
22. To discourage new development except for a boat harbor along the Coast which would require seawall, rip rap or other protective structure or regular dredging for maintenance.

23. ~~To support continuation of the Coastal dependent sand mining operations as long as they are economically feasible and their operations are managed with sensitivity to the adjacent dune environment.~~
24. To protect and encourage the restoration of the vernal ponds to their original state and allow only those uses adjacent which will reinforce and conserve the unique habitat qualities of these ponds.
25. To protect the habitat of recognized rare and endangered species found in the Coastal dune area.
26. To regulate development in areas adjacent to recognized rare and endangered species or their habitats so that they will not threaten continuation of the species or its habitat.
27. To encourage all future development within the Coastal Zone to be served with public water.
28. To support agricultural use in the Coastal Zone.
29. To provide incentives to retain agricultural activities within the Coastal Zone.
30. To allow conversion from agricultural use to more intensive land uses in an orderly way, progressing sequentially within and from already urbanized areas of the City.
31. To preserve and encourage those aspects of Marina's Coastal area which are cornerstones of community pride and identity.
32. To minimize adverse environmental affects, by concentrating new development within or adjacent to areas of existing development in the Coastal Zone.
33. To protect scenic and visual qualities of the Coastal area including protection of natural landforms, views to and along the ocean, and restoration and enhancement of visually-degraded areas ~~except in areas presently being mined.~~
34. To provide for local and community recreational needs within the Coastal Area.
35. To encourage continued and improved service by mass transit within the Coastal Zone.

36. To provide and promote the role of Marina as the physical and visual gateway to the Monterey Peninsula.
37. To promote bicycle, horse and other alternative modes of access, except off-road vehicles, within the Coastal Zone.
38. To regulate development in order to minimize the risks to life and property in the Coastal Zone.
39. To encourage development which keeps energy consumption to the lowest level possible.
40. To accommodate public works facilities which are consistent with the environmental capability of the Coastal area.
41. To ~~give priority to Coastal-dependent development on or near the shoreline~~ and ensure that environmental effects of any approved coastal development are mitigated to the greatest extent possible.
42. To allow oil, gas and other energy developments and/or support facilities only when they meet the requirements of public safety and adequate environmental protection, and can be shown to be economically feasible and necessary for the national good.
43. Encourage property owners to protect and conserve historic buildings and resources as unique and irreplaceable assets to the City, including features that provide present and future generations with examples of the physical surroundings in which past generations lived.
44. To allow coastal-dependent industrial uses consistent with California Coastal Act Section 30260 if: (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to maximum extent feasible.

PLANNING GUIDELINES

Planning is a continuing process that should be responsive to community needs and circumstances which change over time. Since coastal plans will be required over the years to adapt to these changes it is important to set forth the basic principles and primary objectives which the Coastal Plan seeks to protect. If the fundamental objectives of the plan are clearly understood, then future changes can be made without undermining the foundation of the plan.

Some coastal plans deal with vast acreages requiring a rather gross analysis in the land use map and text. This is not the case in Marina. The City's incorporated limits include

only three miles of coastline. As a result, the Coastal Land Use Plan text includes a high degree of specificity about use, objectives and policies for each site. However, where Marina's Coastal Zone is unique, planning objectives and some additional detail on protection or conservation is needed to guide site planning. The Planning Guidelines section provides this detail.

Rare and Endangered Species: Habitat Protection

In Marina's Coastal Zone, the foredune, dune and grassy inland areas all contain potential habitat for rare and endangered plants and animals. The precise range for each plant and animal is not known because intensive site-specific study throughout the area was not financially possible. However, the potential for various rare and endangered habitats has been identified and mapped (see Environmental Capability section) to provide a guide to the locations where more intensive study is required. Because site-specific study is needed in many areas before any development can take place the following policies apply to all of the areas indicated on the map or meeting the definitions of Exhibit "A" [primary and secondary habitat] as being potential habitats for rare and endangered plants and animals.

- Before any use or change in use, areas identified as potential habitat for rare and endangered plant or animal species shall be investigated by a qualified biologist to determine the physical extent of the primary habitat areas for the specific rare and endangered plants and animals on that site.
- Primary habitat areas shall be protected and preserved against any significant disruption of habitat values and only uses dependent on those resources shall be allowed within those areas. All development must be sited and designed so as not to interfere with the natural functions of such habitat areas. Management and enhancement opportunities should be incorporated into use or development proposals; potential impacts shall be fully mitigated, including the assurance of long term mitigation and maintenance of habitat through the use of appropriate acreage replacement/restoration ratios for any unavoidable direct impacts to habitat areas. [Resolution No. 2001-118 (October 16, 2001); approved by CCC November 14, 2001]
- Potential secondary or support habitat areas to the primary habitats identified on the site should also be defined. Secondary habitat investigation should include identification of the role and importance of the secondary area to the primary habitat area and should stress the impact of use or development in the secondary area on the primary habitat. All development in this area must be designed to prevent significant adverse impacts on the primary habitat areas. In concert with State law, City ordinances shall require environmental review and appropriate mitigation of identified impacts for all development in the Coastal Zone, including the assurance of long term mitigation and maintenance of habitat through the use of appropriate acreage replacement/restoration ratios for any unavoidable direct impacts to habitat areas. [Resolution No. 2001-118 (October

16, 2001); approved by CCC November 14, 2001]

- Development in wetlands shall be prohibited. Access for nature observation shall be the only exception; and this access should not be permitted unless a qualified biologist determines that the impacts of construction and human observation can be sufficiently mitigated to insure continuation of the rare and endangered species and/or its habitat.
- Available evidence indicates that dune vegetation is more resilient than previously thought, and areas damaged by illegal use or negligence shall be considered restorable and eligible for restoration.
- Where habitats of rare and endangered species are located on any parcel, owners and/or operators shall, at such time that development is proposed, develop and execute a Management Plan which will protect identified rare and endangered plant and animal communities. Each plan shall be drawn up by a qualified biologist in co-operation with the property owner/developer.

Wetlands Protection

Despite their seasonal nature the Vernal Ponds are considered to be coastal wetlands. There are several Vernal Ponds remaining in Marina's Coastal Zone; all but one supports a marsh. Most of the ponds are brackish and, except in the very wettest years, most are dry for some part of the year. The following shall be applied when planning in or near the Vernal Ponds:

- Because of their fragile geology, no new structures shall be allowed within the Vernal Pond itself. The only new structure allowed in the wetland area should be those designed for public access for nature observation. No access structure should be allowed without thorough investigation by a qualified biologist and geologist. Design should include mitigation for all impacts identified by these specialists.
- New development within the drainage areas of the natural Vernal Ponds should be approved without investigation by a qualified biologist. No development within the drainage areas of a Vernal Pond shall be approved without investigation by a qualified biologist as well as other necessary specialists. Grading setbacks, reduction of impervious surface coverage, siltation basins, and other appropriate measures shall be employed to protect the ponds and their wetlands.
- A 100 foot riparian setback shall be established from the edge of all wetlands.
- The City should encourage State participation in the preservation and restoration of the historic Vernal Ponds and their wetlands.

Management Plan for Marina Ponds

A comprehensive Management Plan shall be prepared for the coastal and vernal ponds within the City of Marina. The plan will identify guidelines for the preservation, management, and enhancement of the region's wetland resources and will present various techniques that can be used to achieve these objectives. The plan will incorporate the existing management plan for the KIDD pond (Pond #2) and the plan currently being prepared for the ponds at Beach Road and Reservation Road as part of the Marina Landing project. The plan will include both public and privately-owned ponds, including those owned and/or managed by the City of Marina, the California Department of Parks and Recreation, and the Marina ~~County~~ Coastal Water District.

To this objective an advisory Task Force of all resource agencies will be established by the City during the preparation of the Management Plan to give input and direction to the formation of the plan. Representatives from the California Department of Fish and Game, California Department of Parks and Recreation, California Coastal Conservancy, California Coastal Commission, City of Marina Planning Department, City of Marina Parks and Recreation Department, City of Marina Public Works Department, the Marina ~~County~~ Coastal Water District, Monterey County, and the Marina Dune Task Force shall be invited to participate. The Coastal/Vernal Pond Task Force shall meet periodically to review the results and recommendation of the Management Plan.

The Management Plan shall be reviewed by all management agencies with an interest or responsibility in the management of coastal/vernal pond resources. These agencies shall include (but are not limited to) the Coastal Commission, U.S. Fish and Wildlife Service, U.S. Corps of Engineers, California Department of Fish and Game, California Department of Parks and Recreation, California Coastal Conservancy, the Environmental Protection Agency (pursuant to Section 404, B1), and the Monterey Peninsula Regional Parks District. Other interested parties will be invited to review and comment on the Management Plan. The City shall consider all information from the reviewing agencies before approval of a recommended Management Plan. Prior to the approval of the plan by the City, it shall be approved by the Department of Fish and Game.

The City of Marina Pond Management Plan will be used as guidance to City and State agency staff and other interested parties in reviewing development plans adjacent to the ponds or within their watershed and providing the baseline information for future enhancement and management programs and regulations.

Components of City of Marina Management Plan

Seven vernal and/or coastal ponds are identified within the City of Marina's Local Coastal Plan (LCP, 1982) and will be the focus of the regional plan:

Number	Location	Current Ownership/Management
1	West of Lake Drive	City of Marina
2	Reservation Road and Seaside Avenue	City of Marina

3	Reservation Road and Beach Road	Private/City
4	North of Reservation Road, west of Hwy 1	Marina Water District
5	South of Reservation Road, west of Hwy 1	Calif. Department of Parks and Recreation
6	West of Hwy 1	Private (unincorporated land outside of City of Marina jurisdiction)
7	West of Lake Drive	City of Marina

Inventory of Resources

Existing Biotic Resources

The plan shall identify the existing biological resources of each of the ponds, utilizing information from existing documents, other local informational sources, and field observations. Information shall include:

- a) A list of existing plant and wildlife species observed and or predicted to occur within each pond area. Previous lists prepared for other projects shall be incorporated and their sources identified, as available.
- b) A description of each of the habitat types within the pond system(s) including their distribution, acreage, plant composition and wildlife use.

A series of maps showing the location of each pond. The maps will include topographic relief of 1 foot contour interval or better. The maps will be at a sufficient graphic scale to accurately portray the distribution of wetland and upland habitat. Habitats such as cat-tail marsh, riparian, brackish-water marsh, herbaceous wetland, and upland grassland will be portrayed.

- c) A review of the ponds from a historical perspective. Utilizing historic aerial photos, mapped data, and other historical accounts, as available, the historical extent of perennial wetland and/or seasonal wetland resources will be presented.

Identification of Known or Potential Occurrences of Plant or Wildlife Species of Concern

Each pond site and its environs shall be assessed for the potential occurrence of plant or animal species of concern, including locally unique, rare, threatened, or endangered species. Information on potential or known presence will be determined through consultation with the California Natural Diversity Data Base, City records, other local

informational sources, and field observations. Seasonal field surveys shall be conducted at least through a one year cycle.

Hydrologic Conditions

The plan shall include hydrological studies identifying the existing hydrologic regime of each pond. This shall include a record of seasonal inundation levels, water sources, water quality (incl. salinity) and drainage patterns. Existing water supply, including a map of each pond watershed shall be prepared for each pond. Annual fluctuations and duration in water depths shall be investigated and graphically plotted for each pond.

Enhancement and Restoration of Biotic Resources

Opportunities for the enhancement and restoration of vegetation and wildlife habitat, including habitat for species of concern, will be identified for the ponds and shown on appropriate exhibits, as applicable. Measures to be considered shall include, but shall not be limited to, the restoration and/or revegetation of degraded areas, increased diversity of habitat types, or the restoration of area to a preferred habitat type.

The enhancement measures designed and approved for the KIDD and Marina Landing ponds shall be incorporated into the management plan.

Guidelines and implementation techniques for the recommended enhancement measures will be prepared.

Water Supply, Drainage, and Sedimentation

The plan shall develop management recommendations as to appropriate amounts of water to continue to support the wetlands, identify the appropriate salinity and other water quality standards for the water supply, and other water resources concerns. The plan shall describe the following items and provide drawings as needed:

- a) Recommended water supply structures such that the wetlands will receive a dependable, sufficient supply of water, based on the type of habitat present and/or desired. Annual fluctuations and duration in water depths shall be recommended if desirable.
- b) Recommended on-site drainage structures to regulate water levels in the wetlands as per the objectives established for each pond. If the pond is vernal, drainage criteria will be such that ponded water will not be present too long for the support of seasonal wetland vegetation. Likewise, if the objective of the pond is for permanent water, drainage criteria will be established for that regime.

- c) Recommended off-site drainage structures from adjacent developed areas such that they are designed to deliver appropriate amounts of water to the ponds (if needed) and to avoid an over-supply of water.
- d) Existing and recommended measures to minimize the impacts on wetlands due to potential sedimentation and pollutants from urban run-off shall be discussed. Recommendations for additional necessary development standards (setbacks, drainage improvements, grading controls, etc.) to the Land Use Plan and additions or revisions to the implementing ordinances shall be made where necessary to support the results of the background studies.

Protection from Disturbances by People and Domestic Animals

The plan shall include the following components:

- a) Existing and recommended measures to minimize access and disturbances to wetland areas by people and domestic animals, such as fences, other barriers, vegetative screening, signs, and educational programs.
- b) Existing and recommended measures to insure habitat values of the wetland area and adjacent buffer zones, i.e. periodic patrolling of pond area, enforcement of seasonal closures or hours open to the public.
- c) Guidelines and locations, where possible, for the construction of trails and/or bicycle pathways, observation platforms, or other related facilities such that there is minimal disturbance to wildlife and wetland habitat, including recommended setback distances of trail facilities from wetlands and/or buffer zone, seasonal closures, etc.

Buffer Areas

The plan shall specify guidelines for the establishment of buffer areas between developed areas and the pond habitat (including any habitat area known to be occupied by a plant or animal species of concern), using setback guidelines specified in the Local Coastal Plan as minimum standards.

Ponds that currently have designated buffer areas will be observed as to their effectiveness in preserving habitat values.

Implementation and Management

Operations and Maintenance

The plan shall provide specifications for the following:

- a) Measures to control and/or remove concentrations of invasive non-native species of plants and animals that have the potential of degrading the wetland habitat (i.e. pampas grass, acacia, feral ducks, feral cats).
- b) Maintenance of fences, interpretive structures, trails, protective structures, etc.
- c) Maintenance and adjustment of water supply and drainage facilities.
- d) Any other measures necessary to maintain the enhanced and newly created habitats in good condition, such as monitoring programs.

Management Organization

The plan shall also identify the interim and/or long-term management organization to which the pond areas should be assigned. Recommendations for management options will be discussed for each pond.

Compliance with the Objectives of the City of Marina Local Coastal Plan

The detailed wetlands management plan shall comply with the objectives and standards of the City's Local Coastal Plan and the LCP shall be amended as necessary by the recommendations in the approved management plan. [Resolution No. 89-22 (June 20, 1989), approved by CCC on October 10, 1989].

Geotechnical

Marina's shoreline is subject to a number of hazards: wave erosion, wind erosion, tsunami inundation, and shaking from earthquakes.

Currently there is virtually no development along Marina's shoreline or within the tsunami run-up zone. Therefore, the presence of the potential hazards has little effect. However new development, if allowed on the ocean-side of the dunes, could be subject to these hazards. In addition, wind erosion is a serious problem not only where it occurs on the dunes but in inland areas where the sand settles. For these reasons some objectives are outlined:

- Structural development shall not be allowed on the ocean-side of the dunes, in the area subject to wave erosion in the next 50 years, or in the tsunami run-up zone. The only exception to this would be essential support facilities to an approved coastally-dependent industrial facility, and in these areas the city will not undertake any liability for property damage due to hazards.
- Because of the fragile character of the dune vegetation, new development in this area shall be restricted to already-disturbed areas. Development in areas where the natural dune remains shall not alter the basic configuration of the natural dune landform, and shall provide for site reclamation.

- To reduce wind erosion, disturbed areas not being actively used by coastal-dependent industries should be revegetated with native plants. Revegetation will be required of all new development on the dunes.
- Before development is permitted in the Coastal Zone, a geotechnical report appropriate to the specific proposal shall be prepared for that development in the dunes or in the vicinity of any vernal pond. The report shall include at least geologic and seismic stability, liquefaction potential, identification of an appropriate hazard setback to protect the economic life of structures, and specific recommendations on drainage, irrigation and mitigation of identified problems. Report contents shall comply with guidelines of the California Division of Mines and Geology.

Preservation and Enhancement of Coastal Views

Marina's coastal view has been called the "Gateway to the Monterey Peninsula". The coastal dunes rise high on the west side of Highway 1 virtually eliminating the view of the ocean. Inland from Highway 1 is gently rolling terrain dotted with vernal ponds, single family homes and isolated groves of trees. View protection is an important aspect of coastal planning in Marina. The primary view is from Highway 1 which is elevated through much of the City. Views from the beach are important as well. From the inland areas of the Coastal Zone east of highway, coastal views are primarily of vegetated dune ridge-lines and vernal ponds and their marshes.

- Views of the dunes from Highway 1 and the beach shall be protected by keeping development off of the primary ridgeline. Development below the ridgelines shall be limited in height and mass to blend into the face of the dunes: generally structures should be hidden from public view where physical and habitat constraints allow. Where this is not possible, structures shall be clustered and sited to be as inconspicuous as possible.
- Trails and public access across the dunes shall be designed to protect fragile vegetation and reduce effects of wind erosion.
- Revegetation of disturbed areas, particularly those which are highly visible, shall be a priority.
- ~~In areas where mining activity or blowouts have removed sand dune landforms, new development shall not extend above the height of the nearest adjacent sand dunes and shall be clustered so as to preserve access views across its site from Highway One.~~
- All off-road vehicles, except those necessary for rescue, shall be prohibited on the dunes.

- Similar measures are appropriate to protect public views centered on vernal ponds which are highly visible from Highway 1 and local coastal access roadways. These include Pond Number 1 as seen from Highway 1; Pond Number 2 as seen from Reservation Road; Pond Number 3 as seen from Beach and Reservation Roads; and Pond Number 4 as seen from Dunes Drive.

Shoreline Protection Structures

There are no shoreline protection structures along the Marina coastline.

- No new development shall be permitted which will require the construction of shoreline protection structures unless such development is in accordance with the provisions of the “Small Boat Harbor” section of this Land Use Plan, or when such structures are necessary to serve coastal dependent uses (as defined in the Coastal Act) or to protect publicly owned beaches from erosion.

Coastal Conservation and Development Uses

Existing coastal-dependent industrial and public works facilities include the Lapis Sand Mining Plant, which is required to cease sand extraction by December 31, 2020 and conduct habitat restoration in previously disturbed areas, surf zone mining operations and the Monterey Regional Water Pollution Control Agency (MRWPCA) ocean Marina County Water District outfall. Proposed new coastal-dependent uses include a commercial kelp-growing facility west of Dunes Drive. ~~While the surf zone and dredge pond sand mining operations may be coastal dependent, recent excavations of the Flandrian dunes at Lapis and west of Dunes Drive may not be coastally dependent.~~

~~Reclamation should be considered as a part of the coastal dependent use in areas where sand mining occurs in the future. Reclamation should address the combined process of land treatment which minimizes adverse effects of mining operations so that the mined areas are reclaimed to a useable condition which is readily adaptable for alternative land uses consistent with the policies and recommendation of the coastal land use and implementation plans and which create no danger to public health and safety.~~ Recreational beach use in Marina is extensive with activity focused on beachcombing, fishing, hang-gliding and horseback riding. Swimming is not suitable because of treacherous currents. The weather in Marina is also less conducive to beach activities than elsewhere in the Monterey Bay. Strong on-shore winds and fog are typical of the weather patterns.

- Coastal Conservation and Development uses shall be allowed on the west side of Dunes Drive in those areas specifically designated for this use. These activities shall include, but not be limited to, marine agriculture (Mariculture); ~~off-shore and surf zone sand mining, and other~~ commercial activities dependent for economic survival on proximity to the ocean, salt water or other elements only available in this particular environment. Coastal dependent development in this

area will be allowed in already disturbed areas (see Sensitive Habitat section).

- Coastal Conservation and Development uses shall not be allowed without thorough environmental analysis of the site by qualified professionals. Recommended mitigations from this analysis shall be included in any permitted project.
- Existing Coastal Conservation and Development uses shall comply with all State regulations governing operation and use of the site. ~~Restoration~~ ~~vegetation~~ of areas disturbed by development, including past sand mining, is a City priority for these uses (see Hazards section).
- Existing ~~surf zone~~ sand mining operations at the Lapis Sand Mining Plant, as an established coastal-dependent uses, shall be permitted to continue at their existing locations consistent with the terms of the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02 between the California Coastal Commission and RMC Pacific Materials, LLC d/b/a CEMEX, which is memorialized and incorporated into a Mutual Release and Settlement Agreement between the City of Marina and CEMEX effective on June 26, 2017. Pursuant to the Settlement Agreement, all remaining sand mining activities occurring at the Lapis Sand Mining Plant are required to be phased out and shall end by December 31, 2020. Pursuant to the terms of the Settlement Agreement and the Reclamation Plan for the Lapis Sand Plant, approved by the State Mining and Geology Board on June 15, 1992 pursuant to Resolution #92-12, allowable future uses will primarily include conservation, with other allowable uses being low-impact passive recreation purposes or activities, public access, public education, and activities to restore native habitat. ~~in substantially the same manner as they are currently being conducted, and have been conducted in the past. All provisions of the Marina Local Coastal Program (including the Implementation Plan) relating to mining shall be construed and applied in a manner that supports such continuation of existing surf zone sand mining operations for only so long and in such manner as specified by the terms of the Settlement Agreement so long as such existing surf zone sand mining operations are in accordance with this Local Coastal Program.~~

Visitor Oriented Commercial

The Marina Coastal Plan anticipates future development oriented toward less intensive, lower cost visitor facilities than those available in the more intensively developed coastal areas to the north and south. Two kinds of commercial uses are anticipated: one visitor-oriented and one exclusively dependent on ocean proximity. (See North of Reservation Road Planning Area). The objective of these designations is to provide as many opportunities to visitors as possible, while encouraging those visitor activities not requiring location on the coast itself to be located in nearby inland areas. While many tourists pass through Marina on their way to Monterey/Carmel or Santa Cruz, generally they are too close to their destination to stop. As a result, Marina's coastal activities must have a strong local attraction as well as a regional one. Over time a strong visitor base

will be developed; but local coastal activities will still be economically dependent upon City residents and residents and employees of adjacent Fort Ord.

- Visitor-oriented commercial activities shall have precedence on the east side of Dunes Drive. Priority shall be given to support facilities for the following activities which are dependent on the unique coastal recreation opportunities available in Marina because of its isolated beaches and not available elsewhere in coastal locations in the Monterey Bay area: horseback riding, overnight camping, hang-gliding, surf-fishing and individualized beach activities.
- Since it is really only accessible from Dunes Drive, any development in the meadowland area in the Monterey County Coastal Zone adjacent to the end of Dunes Drive should be compatible with uses allowed on the east side of Dunes Drive in Marina (visitor-oriented commercial). At the northern edge of this area are Vernal Ponds. Visual and habitat preservation objectives must be emphasized here; not only is this the scenic first impression of Marina, but also the best remaining example of Pre-Flandrian dune habitat in the California Coastal Zone, and an agricultural use area (grazing). Development in the dunes west of the meadowland shall be strictly regulated in accordance with these Habitat and Visual objectives as well (see North of Reservation Road and Sphere of Influence Planning Areas).
- Visitor-serving commercial uses should be located and designed so that they reinforce one another and meet a range of visitor needs.
- For economic success, visitor-oriented commercial uses should be designed and priced to be attractive and meet the needs of local and nearby residents as well as the needs of regional visitors.

Housing

As a result of a change in the Coastal Zone boundary in Marina, there are very few residential units in the City's Coastal Zone. Those which are left are scattered and most are substandard. The Local Coastal Plan applies the residential land use designation only in the area east of Highway 1 known as the Vernal Pond-Brown Bulb Ranch Planning Area. Residential land uses are appropriate as long as visual resource objectives are met and proper setbacks and protection are provided to the vernal ponds and their adjacent wetlands. (See section on Wetlands, Hazards, and Sensitive Habitats).

In 1980 over 40 percent of Marina's housing is affordable to low and moderate income households. Because of Marina's historic role in providing a significant share of affordable housing to the region, it is important that the City not become further impacted relative to its housing market area. Thus, the focus on providing affordable housing in the local Coastal Plan is on the implementation of the City's Housing Element. Targets established and adopted in this element are determined on the basis of regional need and the jurisdiction's regional obligation.

- The City of Marina's Housing Element housing programs shall be applied in the areas designated for residential use in the Coastal Zone. These include emphasis on conservation, rehabilitation, code enforcement, encouragement of higher-cost housing, and support of public and private development of housing in the 1980-85 period.
- The City shall work with agencies which subsidize affordable housing to seek out funding for qualified locations and projects in the Coastal Zone. The City is committed to meeting its regional fair share of new lower-income housing by 1985 and will assist developers to locate appropriate sites.
- Relocation of occupants of substandard housing now in the Coastal Zone to affordable housing elsewhere in the City will be encouraged when the site of the existing dwelling units are reused.
- New housing units in the Coastal Zone shall be designed on the site to protect existing sensitive habitat areas, reduce the cost of the unit and conserve energy. Clustering and other techniques of minimizing visual impacts and enhancing the feasibility of desirable forms of housing may be required.

Community Service Requirements

Water and sewer service are provided to most of the City's Coastal Zone by the Marina ~~Coastal~~ Water District. The current systems have the capability of serving all development proposed in the Local Coastal Land Use Plan. However, the dune area generally north of the end of Dunes Drive is not within the District's service area.

- All future development in Marina's Coastal Zone shall be required to have public water connections.

Small Boat Harbor

Over the years there has been discussion in Marina about a small boat harbor. Such a harbor would be primarily for recreational boaters. Difficult currents and meager knowledge about sand movement have previously deterred serious exploration of a harbor opportunity in Marina.

However, completion of necessary studies and a change in economic priorities in the future may make a harbor feasible. If a harbor is ever seriously determined to be feasible as a coastal-dependent commercial use, several factors should be considered:

- Harbor development should include adequate public parking, continuous public access to and along the waterfront, area for ocean viewing and commercial fishermen as well as recreational boating facilities, all designed to be compatible.

- Harbor-support uses and visitor-oriented commercial uses should be compatible with the harbor so that they can reinforce one another, creating a coastally-oriented visitor center.
- The extent of dredging of channels determined to be necessary for the on-going use of a harbor should be studied and clearly understood prior to development. An EIR should be prepared outlining possible impacts of off-shore protection structures on existing coastal-dependent activities and the necessary mitigations, initially and on-going, to dredging activities.
- Harbor development should be designed to enhance public access to and along the coast and adjacent sandy beach, subject only to habitat protection constraints.

Agriculture

Agriculture is not a dominant land use in Marina's Coastal Zone. Currently there is one $\pm$ 25 acre area under cultivation. The primary crop is begonias. The soil type is not prime. Local residents enjoy the colorful view of the fields of flowers in bloom and regard the bulb ranch as a point of community identity. Nearby, the visually important fields adjacent to Pond No. 2 are used for grazing sheep. In addition, the extreme westerly edges of the extensive grazing and cultivated croplands on the north side of the City fall within the Marina Coastal Zone. The following should be considered in allowing conversion of agricultural lands to other uses in Marina's Coastal Zone.

- New development shall be concentrated in urban areas adjacent to existing development and roads within the Coastal Zone, to protect the economic viability of agricultural lands in the non-urban areas.
- Prime agricultural lands and cultivatable lands which are uniquely suited to one or more crops which cannot be economically grown elsewhere in the region should be protected for such use.
- On site clustering of new development is necessary for maintaining existing urban open space now in agricultural use at the Bulb Ranch and Pond No. 2.
- Conversion of agricultural land to other uses shall be permitted only when agriculture is no longer economically feasible.

LAND USE DESCRIPTION BY PLANNING AREA

The Land Use section consists of a list of land use designation definitions, area maps which illustrate the proposed land uses, and a written description which carefully outlines the intended use of each area designated on the map. The map and the description are intended to be used together. In the case of Coastal planning, the land use description includes more than the detail of land use, it also addresses Coastal access and the policy parameters of the Coastal Act being met by each assigned use.

Land Use Designations

General Commercial – indicates land designated for a broad range of commercial uses in suitable areas for service to coastal visitors and others. These uses include retail stores and shops of light commercial character conducted within a building, such as appliance stores, banks, barber shops, beauty parlors, bookstores, food stores, furniture shops, millinery shops, offices radio sales, restaurants, shoe shops, studios, tailor shops, hotels, clubs, lodges, churches, and public and quasi-public uses and buildings, public utility uses and buildings, service stations, drive-in banks, dancing academies, retail plant nurseries, drive-in restaurants, and other uses with similar characteristics and which will not be detrimental or obnoxious to the neighborhood in which they are to be located. [Resolution No. 88-71 (October 11, 1988); approved by CCC October 10, 1989]

Low-Density Residential – indicates an average density of development five to eight dwelling units to the acre. The specific density within the range and the type of units will be determined by site conditions.

Visitor-Oriented Commercial – indicates a variety of commercial uses serving the coastal visitor, but also attractive to nearby and local residents. Among these uses would be hang-gliding equipment sales, commercial overnight campgrounds, riding stables, inns and commercial uses dependent upon existing resources and recreational opportunities available in the area.

Coastal Conservation and Development – uses, including coastal research and education uses; developed public access and other coastally dependent recreation uses; coastal dependent industrial uses that meet the requirements of California Coastal Act Section 30260, including but not limited to marine aquaculture (mariculture), ~~dredge ponds, surf zone and offshore sand extraction; in severely disturbed areas and those portions of parcels currently subject to dune mining activity, dune mining;~~ and on parcels where other coastal conservation and development uses are not feasible, visitor serving uses, such as visitor accommodations.

Agriculture – land in grazing use or under cultivation and/or suitable for cultivation where the priority planning use is agriculture.

Public Service Facilities - indicates lands suitable for location of necessary public service improvements. Among these uses would be the wastewater treatment plant and pump station(s); corporation yard; city, state, or district offices; and State Highway One.

Park and Open Space – lands both in public and private ownership on which development either will not occur or will be minimal because of habitat or scenic values or hazards present. Includes all sandy beach, dedicated portions of subdivisions, ~~and~~ portions of the Marina and Salinas River dunes, and parcels subject to the terms of the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02 between the California Coastal Commission and RMC Pacific Materials, LLC d/b/a CEMEX, which

is memorialized and incorporated into a Mutual Release and Settlement Agreement between the City of Marina and CEMEX effective on June 26, 2017. Public recreation facilities are permitted which enhance use of the open space areas, such as parking, access improvements, restrooms, interpretive center and visitor contact stations.

Marina State Beach Planning Area

The Marina State Beach planning area includes State Highway Route 1 and the area west of Highway 1 from Reservation Road south to the City limit within Fort Ord. The State has purchased $\pm$ 165 acres of coastal dunes in this area to create a State beach operated by the California Department of Parks and Recreation. Outside of the park in this planning area is a strip of City-owned land between Lake Court and the freeway right-of-way, generally 160' wide including the street and adjacent vacant land. South of this City property on Lake Court are several vacant parcels and four single-family houses in private ownership. A two mile strip of Marina's Coastal Zone extends to the south of this area on the west side of Highway 1 on to Fort Ord property. Contained within this strip, assigned to Marina's Coastal Zone, Highway 1, a bicycle pathway and the Southern Pacific railroad tracks.

The Coastal dune vegetation and animal life within the State beach area have been disturbed in the past by off-road vehicles. Recent fencing and a resident park ranger have reduced this illegal activity. Despite past abuse, the dunes still provide habitat for rare and endangered plant and animal species. Soil is thin and ground cover is sensitive to trampling. When the sand is exposed, wind erosion accelerates causing further decline in habitat potential. The landward side of the Coastal dune in this area is highly visible from Highway 1, particularly to south-bound traffic. The area on the east side of Lake Court is much less visible because the Highway is elevated adjacent to this area. On the west side of Lake Court, in the State park below the dune ridge line is a gently sloping area and a grove of trees. Generally only the tops of these trees are visible from the Highway.

Marina State Beach

The $\pm$ 165 acres now in the State Beach should be designated park and open space. A park ranger should continue to be present on the site. In addition, the State Department of Parks and Recreation should develop facilities to accommodate the public recreation activities which now occur at the beach: walking, picnicking, hang-gliding, ocean viewing, and fishing. Other beaches nearby provide ample opportunity for the more intensive, commercialized public beach experience.

At the south end of the State park ownership adjacent to Lake Court, is a less steep, sheltered area on the lee side of the dunes. Because it is the only sheltered area easily accessible by car, this area should be developed as a part of the State Beach as a picnic-play area. Because both the dune and meadow areas are potential habitats for rare and endangered species, the intensity and type of recreation development in this area must be limited, and should be justified by a site specific plan based on biological and

geotechnical study as well as access roadway capacity from Reservation Road. Among the facilities which should be considered are: parking, picnic tables, braziers, restrooms, nature interpretive facility, formal/developed dune access with viewing platform at the highest point, and a play area. A ranger residence or visitor contact station might also be appropriate on this site and/or where Lake Drive passes under the freeway bridge. Since this is a day use area, when private uses are no longer present on Lake Court, a gate could be placed across Lake Drive at the eastern edge of the freeway for management purposes.

At Reservation Road, State Beach facilities should include parking; modern restrooms; ranger residence/visitor contact station; and an interpretive center to educate beach visitors about the unique geology, vegetation and animals of the Marina Dunes Complex. New facilities should encourage beach viewing and promote more individualized and small group recreation activities including suitable developed beach access and an appropriate level of hang-gliding activity. (See also Public Access Component).

All environmentally sensitive habitat areas within Marina State Beach shall be evaluated for sensitivity to visitor use and managed accordingly; where warranted such habitat areas should receive “natural preserve” designation. Throughout the planning area, care must be given to avoid introduction of aggressive, non-native plant species which could threaten the survival of endangered native dune flora within the State Beach.

Given the land use designation and criteria outlines, the proposed use is consistent with the following Coastal Act policies: 30210 (Maximum Public Access); 30213 (Low Cost Visitor Opportunities); 30220 (Water Oriented Recreation Opportunities); 30221 (Recreation Use of Ocean Front Land); 30230 (Marine Resources); 30240 (Protect Sensitive Habitat Areas); and 30251 (Scenic and Visual Qualities).

City-Owned Land East of Lake Court

At the south end of this planning area, east of Lake Court, is an area in mixed public/private ownership. The northern portion of this area is owned by the City of Marina and is proposed for a City corporation yard which is intended to ultimately expand to the entire area on the east side of Lake Court including the street right-of-way. This use would be suitable, and compatible with a developed recreation area on the sheltered State Beach area landward of the dunes, provided the corporation yard is screened and landscaped, daytime noise levels are reasonable, and truck traffic does not compete with recreational traffic. Major beach recreation activities take place in Marina on the weekends. Equipment housed in the corporation yard would not usually be employed on these days. The corporation yard at this location also would enable shared policing of the adjacent recreation area by the City and State.

Moreover, the location of this site is minimally visible from Highway 1 and does not disturb coastal views in any way. The corporation yard should not, however, be allowed to expand on to the dune-influenced land on the west side of the existing Lake Court paving. If the city determines that the corporation yard will ultimately require space

occupied either by Lake Court or private lands, commitment to acquisition of all private lands must precede initial installation of the yard. If a corporation yard is not developed, a non-vehicular (tent) campground is the preferred use.

Private Land East of Lake Court

South of the proposed corporation yard site is a subdivided area in private ownership and partial residential use. The priority use for this area is for expansion of the City's corporation yard. This will enable protection of all the adjacent dune areas which are potential habitat for several rare and endangered species and on which development is inappropriate. Public ownership of all the lands requiring Lake Court access will, additionally, enhance possible management measures for this sensitive area, such as nighttime closure of the road. In the absence of public acquisition, this area should be permitted to build out with one residence per existing parcel provided that water requirements can be met. Low-intensity non-vehicular recreation uses should also be permitted (such as a tent campground). If the residential uses are removed, comparably priced housing elsewhere in the western portion of the City is currently available. The public service facilities designation in this area is consistent with the following Coastal Act policies: 30211 (Not Interfere with Access); 30231 (Protect Water Quality); 30240 (Protect Sensitive Habitat Areas); 30250 (Location of New Development); 30251 (Scenic and Visual Qualities); and 30253 (Public Health, Safety and Welfare).

Access

There are two Coastal access points in this planning area, both on State beach property. An undeveloped access is located at Lake Court. Currently there is a pedestrian gate in the fence. This fence is frequently cut by people illegally driving off-road vehicles to the dunes. From the gate an unimproved trail can be seen up the steep face of the dune. This trail continues across the dune to the sandy beach frontage. Just south of this access is Fort Ord. For the public's safety, the dune and beach on Fort Ord's side are posted no trespassing. The rifle range is adjacent to this Fort Ord shoreline. Because it is little known to outsiders and is unimproved and steep, the Lake Court access is infrequently used. However, the area on the landward side of the dunes in this area is one of the few sheltered areas on the State beach property; and would make an attractive picnic and play area. Parking would be required for any improvement on the lee side of the dunes (see Access Component). If recreation facilities are improved at this location, several factors should be considered: an improved trail should be designed which would encourage visitors to use it; the park area should be designed to discourage random dune scrambling and to prevent off-road vehicle use, as well as to facilitate easy policing; sufficient parking should be provided to allow no more than twenty cars unless a site-specific environmental assessment determines that a greater number will not result in degradation of the fragile dunes.

The second beach access in this planning area is at Reservation Road, about one mile north of Lake Court. Reservation Road is the main entrance to the State Beach. This access is closed from 10 p.m. to 7 a.m. daily. A ± 55 car parking lot, restrooms and

Ranger's residence are currently located here. Handicapped access is now possible because the parking lot extends to the sandy beach frontage. The existing improvements predate State beach acquisition and need improvement and/or replacement. Among the problems are inadequate number and quality of restrooms; the access road to the sewer treatment plant goes through the beach parking lot (See Reservation Road North Planning Area); parking spaces are not marked; on heavy beach use days there are not enough parking spaces; and there is no signing on approach roadways. An unused County animal shelter and the adjacent City-owned Vernal Pond No. 4 could effectively enhance beach access through renovation of the shelter as an interpretive center and observation area for the pond.

- **Bicycle Access**

Bicycle access to Marina's oceanfront should be developed along Reservation Road. Bicycle racks should be provided at the beach parking lot. A separated bicycle pathway should be extended along Reservation Road from Del Monte Boulevard to the beach parking lot. This pathway would connect at Del Monte to the City's proposed north-south route along Del Monte Boulevard and its eastern route which parallels Reservation Road east of Del Monte.

- **Vehicular Access**

Automobile access to this planning area is via Highway 1 and the Reservation Road interchange. No improvement to the newly-built four-lane freeway is foreseen in the City's regional access requirements. Much of Reservation Road in the Coastal Zone was also rebuilt as a part of Highway 1 construction; so, other than pedestrian/bicycle improvements, no other improvements are necessary at this time. Local roadway access to Lake Court is adequate to accommodate limited use. Beach access signing is needed for both the Reservation Road and Lake Court access routes.

Vernal Pond-Brown Bulb Ranch Planning Area

The Vernal Pond-Brown Bulb Ranch Planning Area includes the vacant and cultivated area east of Reservation Road, several Vernal Ponds and existing undeveloped area around the ponds and west of Lake Drive. Also in the planning area is the freeway right-of-way and dunes along the east side of Highway 1. The residentially developed sections of this neighborhood, along with the Sand Hill Nursery site and Marina Del Mar School, are excluded from the Coastal Zone.

Vernal Ponds 1, 2, 3, and 7 are within this planning area. All but Pond 3 support wetlands. Pond Number 1, the Pond closest to Highway 1 at the southern end of the planning area, has been dedicated to the State, fenced and declared an environmental preserve. KIDD, a local radio station, has built transmission towers in Vernal Pond Number 2 adjacent to Reservation Road at Lake Drive. In previous plans the Pond Number 2 area was designated for a community park. There are five single-family homes in the planning area, all but one on Seaside Avenue. Three of these houses are

associated with existing agricultural uses. The $\pm$ 25 acre Brown Bulb Ranch, a recognized local landmark, is the major cultivated acreage. The primary crop is begonia bulbs. All the existing land uses adjacent to the Coastal Zone properties are residential or residential related (church and school), except on the Sand Hill Nursery acreage where neighborhood and visitor-oriented commercial uses have been approved.

The primary area of biological and geological sensitivity in this planning area are the Vernal Ponds. These are seasonal ponds which expand during the wet season and support marshy wetlands much of the year. The fresh and brackish ponds are unique along California's Coast and occur usually when a combination of circumstances such as a depression within the fast-draining sandy soils, a lens of less pervious soil and high water table occur simultaneously. These ponds and their wetlands can be highly sensitive to human use which can break up less pervious soils or cause drainage of poor quality, oil laden water into the pond creating a different kind of seal on the pond's bottom during the dry season. The wetlands and ponds provide habitat and cover for migratory waterfowl and a number of animals, one of which is the rare and endangered Black Legless Lizard. The grasslands of this planning area and the Coastal Zone are also potential habitat of the rare and endangered Salinas Kangaroo Rat.

Highway 1 is elevated along much of the western boundary of this neighborhood. The area is more visible to northbound traffic which gets a panoramic view of the Vernal Ponds, rooftops of existing houses and flashes of color through the grove of trees on the Bulb Ranch. To the west and going south on Highway 1, the principal view is of the dunes along both sides of the highway. The remnant dunes within this planning area are generally protected as dedicated open space, and should be managed in accordance with the same standards as the open space areas in the Marina State Beach Planning Area.

Three areas within the Vernal Pond-Brown Bulb Ranch planning area are in public ownership: the Highway 1 right-of-way, Vernal Pond Number One and its marsh, and Vernal Pond Number Seven and its marsh. These areas should be given an open space land use designation to protect them. This designation is consistent with Coastal Act policies: 30212.5 (Distribute Public Facilities); 30223 (Protection of Supportive Upland Areas); 30231 (Protect Water Quality); 30240 (Protect Sensitive Habitat Areas); and 30251 (Protect Scenic and Visual Qualities).

- **Vernal Pond Number One Area**

The privately-owned area adjacent to Vernal Pond Number One should be developed in low density residential uses compatible with those nearby. This site should be developed as a unit with allowed residential uses set back from the vernal pond. The vernal pond and its support area have been conveyed to the California Department of Fish and Game and placed in an ecological reserve. Habitat protection and restoration of both the pond and adjacent dune area shall be the primary resource management objective at this location. Adjacent development shall be designed to provide adequate setbacks for habitat protection, preclude unauthorized access to the ecological reserve, and provide for

interception of street drainage and other measures required for maintenance of water quality in the pond.

The low density residential designation of this site is consistent with Coastal Act policies: 30211 (Development Not to Interfere With Public Access); 30213 (Housing Consistent With Local Housing Element); 30231 (Biological Productivity of Wetlands); 30233 (Dredging of Wetlands); 30240 (Sensitive Habitat Protection); 30251 (Scenic and Visual Qualities); 30253 (Public Health, Safety and Welfare); and 30254 (Public Facilities).

- **Vernal Pond Number Two Area**

Between Reservation Road and Seaside Avenue is a large sloping area dominated by Vernal Pond Number 2 and two radio transmission towers. The preferred use for the Pond, wetland and slope of this hillside is for a City community park. However, funding is not now available. Therefore, if development is proposed before public funds are available for acquisition, residential uses should be permitted, clustered along the Seaside Avenue/Marina Drive frontage. If such use is permitted, the entire area should be designated and developed as a unit. Vehicular access should be limited to Seaside Ave. & Marina Dr. The overall residential density of this area should be limited to low density (5-8 dwelling units to the acre). This site is suitable for moderately priced housing, which should be encouraged as a part of a clustered development. The remainder of the site, vernal pond, wetland and, as much as possible of the hillside slope, shall be left open and undeveloped as common area. There shall be at least a 100 foot wetland setback. A public access walkway compatible with the resource should be provided along the pond frontage at Reservation Road, to create an opportunity to observe the wildlife of the City's most extensive Coastal Vernal Pond. An environmental impact report shall precede site development and should address such factors as wetland setback, habitat protection, presence of rare and endangered plants and animals, scenic views from Reservation Road, drainage, water quality and appropriate level of public access.

If public purchase of the pond and the slope above is possible, an environmental assessment should be undertaken to evaluate the level of public access which the pond-wetland area can support. The remaining Seaside frontage should be allowed to develop in low-density residential uses. The low density land use proposed is consistent with the following Coastal Act policies: 30211 (Development Not Interfere With Public Access); 30213 (Encourage and Provide New Opportunities Where Feasible, Housing Consistent With Local Housing Element); 30231 (Biological Productivity of Wetlands); 30233 (Dredging of Wetlands); 30240 (Sensitive Habitat Protection); 30251 (Scenic and Visual Qualities); 30252 (Local Recreation Facilities); 30253 (Hazards) and 30254 (Public Facilities).

Brown Bulb Ranch Area

The Brown Bulb Ranch dominates the area between Seaside Avenue and Beach Road. The preferred use for the Bulb Ranch is general commercial and it should be designed and developed as a unit. Access to Reservation Road in this area is poor and the

Reservation Road slope is highly visible; development should therefore be oriented to the Beach Road, Marina Drive, and Seaside Avenue frontages. More intensive use of this property and to accommodate future traffic projected by the City's Transportation Plan may require realignment of the Beach Road and Marina Drive intersection in order to improve visibility for traffic, safety and egress and may require reconfiguration of the Beach Road and Reservation Road Intersection. [Resolution No. 88-71 (October 11, 1988) and No. 89-52 (September 5, 1989); approved by CCC October 10, 1989].

Vernal Pond Number 3, in the northwest corner of the area shall be protected from encroachment. No development should be allowed without an environmental assessment and appropriate protection and enhancement provided to Vernal Pond Number Three. Both sections of Vernal Pond Number Three, the southern portion on the northwest corner of the Brown Bulb Ranch and the northern portion across Beach Road, shall be protected from encroachment by any road improvement including protection of 100 foot buffer setbacks in which no development may take place where such undeveloped areas now exist.

Notwithstanding the above, an increase in site coverage from 25% to 30% shall be allowed and a new alignment for Beach Road providing an improved Beach Road/Reservation Road intersection shall be allowed to encroach upon the southerly portion of Pond #3 pursuant to the following provisions:

1. As part of a larger management and restoration program for the City of Marina coastal/vernal ponds as described in the Management Plan for Marina Ponds on page 11 of this Land Use Plan document (as amended August 1989) and agreed to by the City of Marina, the developer, and the Coastal Commission in a Memo of Understanding for Development of a Management Plan for Marina Ponds.
2. Pond #3 Area. Beach Road may be relocated to the south of Vernal Pond #3 provided that the area of the pond now on opposite sides of the current alignment of Beach Road be combined consistent with the Schematic Plan and Guidelines for the Marina Landing Pond Enhancement (Habitat Restoration Group, John Stanley and Associates, April 24, 1989, July 11, 1989, on file at Commission office) and that the pond across Reservation Road which currently receives overflow from the Beach Road right-of-way pond will be included as a non-contiguous but integral element of a restoration and enhancement plan for the combined ponds. Encroachment on Pond #3 will be allowed provided it is the minimal necessary (no sidewalks on the north side of Beach Road, minimal lane widths, dividers, etc.) to allow safe traffic visibility and flow.

That the City enter into an agreement, such as a Memo of Understanding, with the Department of Fish and Game for oversight of the approval, implementation and monitoring of a final, detailed pond enhancement plan for

Pond #3. [Resolution No. 88-71 (October 11, 1988) and No. 89-52 (September 5, 1989); approved by CCC October 10, 1989].

The visually prominent stands of Monterey Cypress trees on the Bulb Ranch shall be preserved whenever possible. Visitor-commercial activities will be provided opposite the Reservation Road frontage in an area adjacent to the Coastal Zone, and along Dunes Drive (see North Reservation Road Planning Area).

The park and open space and commercial designations of this area are consistent with Coastal Act policies: 30231 (Restore Quality of Coastal Wetlands); 30240 (Sensitive Habitat Protection); 30250 (Contiguous Development); 30251 (Scenic and Visual Quality); 30252 (Provide Adequate Resident Recreation); 30253 (Public Health, Safety and Welfare); and 30254 (Public Facilities) [Resolution No. 88-71 (October 11, 1988); approved by CCC October 10, 1989].

Access

Because this planning area is separated from the ocean by Highway One shoreline access is not an issue. However, the vernal ponds and wetlands present in this planning area are unique along the California Coast. For this reason public access, at levels which protect these environments, is an important Coastal issue. In the plan description of the State Beach Planning Area it is recommended that the State convert an existing animal shelter to an interpretive center and that the City and Water District allow the adjacent Vernal Pond No. 4 to be included in this facility. The center could include descriptions and directions to the other Vernal Ponds within the Coastal Zone. On their own initiative, Coastal visitors could walk, bicycle or drive to view the other ponds and wetlands. Scenic Vernal Pond Number 2 is the most extensive and most easily accessible. Because of the pond's location on Reservation Road, this would be the frontage most appropriate for observation.

Bicycle Access

A separated pedestrian/bicycle pathway is proposed along the edge of Reservation Road. This pathway would connect at its eastern end at Del Monte Boulevard with the City's north-south and eastern bicycle routes.

Vehicular Access

Reservation Road, which traverses this planning area provides direct access to Highway 1. All portions of the planning area have good access to Reservation Road. Highway 1 is recently developed in this area and needs no improvements other than beach access signing. Only the northern edge of Reservation Road right-of-way is within the Coastal Zone. This roadway shall not be expanded within the Coastal Zone in such a manner as to encroach onto or significantly impact any vernal pond.

Access to the large parcels within this planning area should be oriented to the existing collector streets, Beach, Seaside and Lake, as much as possible. Because of its curving alignment and the speed of traffic, unrestricted access to Reservation Road should be avoided. If access from development directly to Reservation Road is necessary, access for several properties should be combined as much as possible. Roadway alignments must be designed not to disrupt vernal ponds or their wetlands, and shall be designed so that storm water drains away from the vernal ponds or is first intercepted and filtered.

North of Reservation Road Planning Area

The planning area North of Reservation Road includes a large strip of land west of Highway 1, within the City limits, to the north of Reservation Road. Currently within this area is one active sand mine at the Lapis Sand Mining Plant, which pursuant to the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02, will cease all sand extraction by December 31, 2020. Pursuant to the terms of the Consent Settlement Agreement, the Lapis Sand Mining Plant will be restored for long term protection of habitat values in accordance with the Reclamation Plan for the Lapis Sand Plant approved by the State Mining and Geology Board on June 15, 1992 pursuant to Resolution #92-12. Pursuant to the terms of the Settlement Agreement, the area subject to the agreement will be subject to a Conservation and Public Access Deed Restriction, that is intended to preserve the open space and habitat values of the property and allow for primarily conservation, as well as low-impact passive recreation, public access, public education, and habitat restoration. Pursuant to the terms of the Settlement Agreement, the Lapis Sand Mining Plant and all areas subject to the agreement within the City of Marina should have the park and open space land use designation, which would be consistent with Coastal Act policies: 30210 (Public Access); 30213 (Low Cost Visitor Facilities); 30221 (Recreation Use of Oceanfront Land); 30241 (Sensitive Habitat Protection); and 30251 (Scenic and Visual Qualities).

Other structures within this planning area include an inactive sand mine, the Marina Coast~~County~~ Water District offices and sewage treatment plant, Vernal Pond Number 4, a park ranger's residence and a County-owned, unused animal shelter. East of Dunes Drive is a privately-owned and operated 6633-space recreational vehicle park with an entitled 24-space expansion. This planning area contains about two miles of the Marina Dune Complex. The portion of these dunes north of the ~~Lone Star~~ Lapis Sand Mining Plant is the best preserved.

Undisturbed portions of these dunes support a number of rare and endangered, as well as threatened plants and animals. The vegetation in the area is sensitive to trampling and damage from off-road vehicle use. Such disturbance results in increased wind erosion and blowing sand.

The height of the dunes protects the inland area from tsunami danger. In addition, the lack of structural development on the seaward side of the foredunes has eliminated wave erosion as a public safety concern. The Marina Coast~~County~~ Water District office and wastewater treatment plant is set back far enough that wave erosion is not a concern.

These massive Coastal dunes are highly visible, particularly to southbound traffic on Highway 1. This area is thought of as the scenic gateway to the Monterey Peninsula. Going north, the views are oriented more inland, and the Coastal dunes play a less dominant visual role.

Within the high Flandrian dune area, appropriate uses include primarily conservation and habitat restoration, as well as low-impact passive recreation, public access, public education, salt water aquaculture, commercial hang gliding facilities, horseback riding facilities, and other activities specifically dependent upon proximity to the ocean. In approval of appropriate activities, a number of factors must be considered, such as: retaining uninterrupted lateral access along the sandy beach frontage; protection of historic resources; ~~restricting new uses to areas already disturbed by sand mining operations~~; retaining parcel sizes adequate in size, location and accessibility for uses defined in the Coastal Conservation and Development designation or where none of these uses are feasible, viable visitor-oriented uses; all parcels must contain adequate shoreline frontage; identification and protection of rare and endangered plants and animals and their habitats found on the site at the time of reuse; visibility of new uses from Highway 1 and from the water's edge; public safety and vulnerability to wave erosion, tsunamis and other Coastal hazards; and protection and continued provision of public access from the nearest public roadway to the ocean. Structures necessary for the functioning of any approved Coastal Conservation and Development use (e.g. ~~dredgelines~~, sewer outfall lines) may cross the sandy beach designated Park and Open Space provided lateral beach access is not significantly blocked. At the same time development is proposed, site-specific Coastal planning factors as described above shall be identified and mitigated if necessary, as required in any environmental review.

North of the Water District's treatment plant, ~~the shoreline is owned by several different sand mining interests. However,~~ only informal, undeveloped beach access is currently available, through a pedestrian gate across the Standard Resources Inc. property at the north end of Dunes Drive. The preferred location for a developed accessway in this area would be at the existing informal Standard Resources access site: development of beach access at this location would eliminate the need for separate accessways on each beachfront property. Optimally, adjacent landowners would cooperate to secure dedication of the Standard Resources location for this purpose. (see Section on Access). Otherwise, those properties not providing accessways will be required to meet their Coastal Act access obligations through provision of beach-oriented parking as approved by the City or by paying a fee in-lieu instead of dedicating land and developing a formal beach access way.

The Coastal Conservation and Development designation for this area is consistent with Coastal Act policies: 30210 (Public Access); 30211 (Development Not Interfere with Access); 30212 (Access From Nearest Public Roadway); 30212.5 (Distribute Public Facilities); 30221 (Oceanfront Land for Recreation Activities); 30222 (Use of Private Lands); 30233 (Diking, Dredging and Filling); 30240 (Sensitive Habitats); 30250 (New Development Contiguous); 30251 (Scenic and Visual Qualities); 30252 (Enhance Public

Access); 30253 (Public Health, Safety and Welfare); 30255 (Coastal-Dependent Priority); and 30260 (Coastal-Dependent Industries).

The Marina County Water District offices and wastewater treatment (primary and secondary) facilities are located at the south end of this planning area. Recently expanded, the capacity of this plant is calculated to be adequate to handle all proposed new development within the existing district. Moreover, because of public purchase of land which was anticipated to be developed at the same time of plant construction, the District's service area could be expanded in most cases to serve the City's entire Coastal Zone without exceeding current plant capabilities. The only limitation would be a new use which would generate wastes of unusual composition.

Current access to the District's office and wastewater treatment facility is through the State Beach parking lot. Because of the increased potential conflicts between beach users and District vehicles in the future, another access road is recommended. One new alignment could take traffic north of the vernal pond and bring it into the north side of the treatment facility. Access to this roadway would be from Dune Drive rather than from Reservation Road. Such an alignment would entail the cooperation of the Monterey Sand Company or future users of this site located on the north side of the District's facility.

The Water District's facilities should have a land use designation of public service facility which is consistent with Coastal Act policies: 30211 (Interference With Access); 30212.5 (Distribute Public Facilities); 30231 (Protect Water Quality); 30233 (Diking, Dredging and Filling); 30253 (Public Health, Safety and Welfare); and 30254 (Public Facilities).

Adjacent to the Marina County Water District facilities is a building previously used as a County animal shelter. An adjacent single-family house serves as a park-ranger's residence. Behind this area is Vernal Pond Number 4. All of these parcels should be combined and conveyed to the State as a part of the State Beach facilities. The animal shelter structure could be renovated to serve as a visitor interpretive center. The Vernal Pond, its associated wetland and the adjacent dune area should be designated as a natural preserve; easily observable habitat for several rare and endangered plant and animal species, as well as an excellent example of coastal vernal ponds, would thereby be protected through appropriate management. (See State Beach Planning Area). These three areas should be given a park and open space land use designation which would be consistent with Coastal Act policies: 30210 (Public Access); 30213 (Low Cost Visitor Facilities); 30221 (Recreation Use of Oceanfront Land); 30241 (Sensitive Habitat Protection); and 30251 (Scenic and Visual Qualities).

Between Dunes Drive and Highway 1 is a long strip of privately owned land. A recreation vehicle park is located in the northern half of this area. The remainder of the area is vacant. Because of its proximity to Highway 1 and the Reservation Road access ramp, this area should be developed with visitor-oriented commercial uses. Following the trend already established by the existing recreation vehicle park, these uses shall include those dependent on the kind of coastal resources and recreation activities

available in Marina, such as overnight camping and other accommodations for visitors. The portion of this area north of Dunes Court is visible from Highway 1; the area south of Dunes Court is generally less visible. Development in this area shall be sited and designed to protect the view of the dunes from Highway 1, particularly to southbound traffic, and to promote the individualized beach experience opportunities available in this portion of Marina's coastal zone.

The visitor-oriented commercial use designated for this area is compatible with Coastal Act policies: 30211 (No Interference With Public Access); 30222 (Priority For Commercial Recreation); 30250 (Location of New Development); 30251 (Scenic and Visual Qualities); 30252 (Reduce Traffic); and 30253 (Public Health, Safety and Welfare).

West of Dunes Drive are three large parcels which are, or have been, mined for sand. As an existing use in this location, surf zone and beach sand mining have had priority in the past, however, all sand mining activities except one (the Lapis Sand Mining Plant) have terminated, and the Lapis Sand Mining Plant will phase out mining activities and cease all sand extraction by December 31, 2020 pursuant to the terms of the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02. ~~if such sand mining ceases, as is the case with Standard Resources, Inc. operation~~ Therefore, guidance for alternative uses is necessary. At the termination of sand mining uses, land uses at the Lapis Sand Mining Plant shall be in accordance with the Reclamation Plan for the Lapis Sand Plant approved by the State Mining and Geology Board on June 15, 1992 pursuant to Resolution #92-12, and the terms of the Settlement Agreement, which requires preservation of the open space and habitat values at the site under a Conservation and Public Access Deed Restriction. Allowable uses shall be primarily conservation, as well as low-impact passive recreation, public access, and public education. In other areas the event of termination of former sand mining that are within the coastal conservation and development land use designation, and in the event of infeasibility of other coastal dependent uses, visitor-oriented commercial uses should be allowed on the properties with frontage on the west side of Dunes Drive. Within this area visitor oriented uses shall be confined to areas where those vegetation is disturbed or natural topography substantially altered. Change of use from coastally dependent development will be subject to proper zoning, environmental analysis, submission of a site plan consistent with environmental protection, the LCP land use and implementation plans, provision of appropriate levels of public access and issuance of a Coastal Development Permit.

It is the intent of the City of Marina to require that the initial burden of proof lie with a project proponent to demonstrate by substantial evidence, that coastal dependent land use is infeasible. If the decision making body finds, upon considering the applicant's and any other evidence available to it, that a coastal dependent land use is infeasible, the burden of proof shall shift to and lie with any project opponent or other interested person to demonstrate, by submitting substantial evidence in a timely and diligent manner, that a coastal dependent land use is feasible. In the event of such a conflict, the decision making body shall consider all evidence submitted and make a final decision regarding feasibility based upon the evidence.

Coastal Conservation and Development shall include such uses that as are dependent upon salt water, the unique coastal-marine environment found in Marina, and/or on resources present only in this portion of Marina's Coastal Zone, as allowed by the California Coastal Act Section 30260. Development shall be sited in already disturbed areas. Access roadways shall be kept to the minimum necessary to serve the proposed sensitive habitats and views of the coastal dunes. No development shall be allowed in this area without proper environmental assessment by qualified professionals. The findings and recommendations of the environmental assessment shall be incorporated into project plans.

Most of the dune area north of Dunes Drive to the City limits is undeveloped. The ~~Lone Star~~ Lapis Sand Mining Plant is operating near the center of this area, but the plant is required to cease sand extraction by December 31, 2020 pursuant to the terms of the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02. A dwelling, several large structures and dredge ponds are associated with the sand mining operation, which are required to be removed pursuant to the terms of the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02. Lapis Road provides access to the Lapis Sand Mining Plant. Between the north side of the area disturbed by the sand mining operation and the City boundary is a large area of virtually undisturbed dunes. This dune area is the best preserved of the Marina Dune native habitat. Its preservation is due, in part, to its inaccessibility. Between the ~~Lone Star~~ Lapis Sand Mining Plant and the properties fronting on Dunes Drive is another undeveloped stretch of dune. The native environment of this area has been more disturbed by unauthorized use than the northernmost dunes, but still retains much of its original character. The future use of this entire area has environmental significance because of the dwindling amount of the unique, undisturbed Marina Dune plant and animal habitat. In addition there are, at the south end of this property adjacent to the Standard Resource parcel several smaller areas which are virtually undisturbed (see Exhibit "B"). These areas shown on Exhibit "B" shall be surveyed and protected.

~~Since the current sand mining operation is dependent on access to Coastal sands, it will continue to operate on this site. However, it is important to recognize the relationship of the sand mining operation to its surroundings.~~ In terms of land use, the highest priority is placed on preserving the vegetated dunes to the north of the Lapis Sand Mining Plant by public acquisition. Any future development should be consistent with the terms of the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02 and Conservation and Public Access Deed Restriction placed on the property~~focused on this property on the more disturbed area south of the Sand Plant.~~ If use of the southern area is necessary to preserve the area to the north of the ~~Lapis Sand~~ Lapis Sand Mining Plant, it should be carefully sited and designed to be as protective as possible of the fragile plant and animal habitats and visual amenities from Highway 1. Designated land use should be Park and Open Space and should be consistent with the terms of the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02 between the California Coastal Commission and RMC Pacific Materials, LLC d/b/a CEMEX, which is memorialized and incorporated into a Mutual Release and Settlement Agreement between the City of

~~Marina and CEMEX effective on June 26, 2017~~Coastal Conservation and Development. Any extension of Dunes Drive to provide access to the area should be limited to local access needs, so that it does not become a frontage road to Highway 1.

~~A recent coastal permit allowed a~~An outfall line from the regional sewer treatment plant
~~extends to be extended~~through the existing disturbed area at the Lapis Sand Mining
~~Pplant.~~Plant. This pipe ~~carries will carry~~will carry treated effluent for the entire Monterey Bay Area a mile or more off shore. The line ~~is will be~~is buried through the sand plant site.

Sand mining in this location ~~has been is~~is extensive, but sand extraction is currently limited
to the Lapis Sand Mining Plant, which will cease all sand extraction by December 31,
2020. ~~Permits for future mining activity shall incorporate appropriate dune stabilization~~
~~measures as operations need to move to a new location.~~In order to comply with the spirit
and intent of the California Coastal Act and the Consent Settlement Agreement and
Cease and Desist Order CCC-17-CD-02, conservation and habitat restoration shall be the
primary land use, and Coastal Permits shall be required for all new development mining
activities. ~~In order to limit the amount of exposed sand at any one time, mining activities~~
~~should be planned and phased to provide for revegetation in a logical progression.~~ Sand
mining operations should be directed to the surf zone and already disturbed areas
(generally south of the Lapis Sand Plant) for future sand supply.

~~New surf zone or beach sand mining (which includes but is not limited to dragline and~~
~~dredge pond mining) shall be allowed only pursuant to City approval of a Reclamation~~
~~Plan and a Mining Permit.~~ New surf zone or beach sand mining shall also be required to
obtain a Coastal Permit.

~~The City shall also establish in its Implementation Plan a method of monitoring shoreline~~
~~erosion along the Marina coast for the purpose of establishing a continuing project impact~~
~~analysis. This analysis shall consist of the submission by sand mining operations, on an~~
~~annual basis, of meaningful information on shoreline retreat by way of a benchmark~~
~~program or other equally effective measurement.~~

~~The City shall not approve or renew a Mining Permit and or Coastal Permit for new surf~~
~~zone or beach sand mining if it finds that such new sand mining, either individually or~~
~~cumulatively, will have significant adverse impacts on shoreline erosion. Such~~
~~determination shall be made upon consideration of the results of the continuing project~~
~~impact analysis, available evidence on the impact of beach and surf zone sand mining on~~
~~coastal erosion and other relevant social, economic, environmental and technological~~
~~factors.~~

~~Any Mining Permit and/or Coastal Permit shall be issue subject to a condition that will~~
~~permit the City to require that new sand mining activity be reduced to previous levels~~
~~(prior to the issuance of a Mining Permit and/or Coastal Permit) or terminated in the~~
~~event of a new sand mining operation if the continuing project impact analysis or other~~
~~available evidence on the impact of beach and surf zone sand mining on shoreline erosion~~
~~shows that such operations have a significant adverse impact on shoreline erosion.~~

~~Should mining be discontinued in this area, the future use should be other coastal conservation and development although visitor serving commercial way may be appropriate as a secondary use. To the extent possible, structures shall be placed in the areas already disturbed. Vertical public access to the dunes area north of the Lapis Sand Plant should not be provided in Marina. Vertical access is available to this area now through the Wildlife Refuge at the mouth of the Salinas River (See Access Component). Regulating human use is an important factor in preserving this dune habitat. Lateral access for the entire length of the shoreline of this site will insure Coastal visitors continued access to the area at the same level now available but will encourage increased use.~~

Priority for public acquisition along with Park and Open Space uses at the Lapis Sand Mining Plant, and the continuation of Coastal Conservation and Development uses that are dependent upon salt water, the unique coastal-marine environment found in Marina, and/or on resources present only in this portion of Marina's Coastal Zone, as allowed by the California Coastal Act Section 30260 ~~the existing land use and future Coastal Conservation and Development land use designation~~ are consistent with Coastal Act policies: 30210 (Public Access); 30211 (Development Not Interfere with Access); 30212 (Access from Nearest Public Roadway); 30213 (Low Cost Visitor Facilities); 30212.5 (Distribute Public Facilities); 30221 (Ocean Front Land for Recreation Activities); 30222 (Use of Private Lands); 30233 (Diking, Dredging and Filling); 30240 (Sensitive Habitats); 30241 (Sensitive Habitat Protection); 30250 (New Development Contiguous); 30251 (Scenic and Visual Qualities); 30252 (Enhance Public Access); 30253 (Public Health, Safety and Welfare); 30255 (Coastal-Dependent Priority) and 30260 (Coastal-Dependent Industries).

Access

There is one undeveloped vertical access in this planning area. It crosses privately-owned, but unused land. This access extends from Dunes Drive about one-quarter of a mile to the sea. Because of sensitivity to human use of the dune vegetation, no beach access is proposed north of Dunes Drive. ~~Since a primary use at this access is for horseback riders, it is important in locating the vertical access in this area that it be north of the Monterey Sand Company drag line.~~ While access across any of the properties is appropriate, development of a formal accessway at the Standard Resources site would make further accessway development unnecessary in this area. Those property owners who do not provide access shall pay to the City a fee-in-lieu of accessway development and/or shall be required to provide public beach parking.

Bicycle Access

Bicycle Access to this area is from Reservation Road. ~~Because of heavy truck traffic associated with the sand mining operations, A~~ a separated pedestrian/bicycle pathway should be placed along the east side of Dunes Drive at least as far as Dunes Court.

Vehicular Access

There is a good highway access to this planning area from Highway 1. The Reservation Road exit is one block to the east. The individual pockets of development within this area are independently served by local roadways. No connected network exists. Any future development in this area between the Lone Star Lapis Sand Plant and the north end of Dunes Drive would require roadway access. The objective in providing this access should be two-fold: provide the most direct access possible and discourage creating a frontage road through the Dunes parallel to the west side of Highway 1. The location of future development will determine whether these objectives are best achieved by a realignment of Lapis Road or an extension of Dunes Drive. Because of the circuitous route of Lapis Road and its length, an extension of Dunes Drive is preferred. Dunes Drive should not be extended through the Dunes to connect to Lapis Road.

Coastal Sphere of Influence

There is a substantial area parallel to the Marina City boundary, between the landward edge of the Dunes and Highway 1, which is located in Monterey County's Coastal Zone. Currently this area is in agricultural use and the City has no authority over it. However, the future use of this area can have a substantial impact on the objectives of Marina's Local Coastal Plan. In addition, it is very likely that the City of Marina may be asked to consider annexation of this area.

In terms of coastal planning, the critical factors in the future use of this area are that the adjacent environmentally sensitive dune habitat and agricultural resource be protected. This means that development of coastal access through the Salinas Dunes not be promoted. A frontage road traversing the dunes would be inappropriate and agricultural use, particularly of the area north of Lapis Road, should be encouraged to continue.

Highway 1 is a limited access roadway through this entire area. Appropriate future development may require access from Dunes Drive on the landward side of the dunes; this would enable development on the landward side of the dunes to be directly connected to the City of Marina. Impacts of future development can be minimized through clustering at the end of Dunes Drive. For protection of the City's investment in the visitor-oriented commercial uses along Dunes Drive, it is important that future uses of this adjacent agricultural area be designed to protect existing scenic views which are afforded from Highway 1; that the Flandrian and pre-Flandrian dune habitats and vernal ponds north of Dunes Drive be protected; and that no development be allowed unless it can be shown to progress in a timely and logical fashion.

ACCESS COMPONENT

The California Coastal Act requirement of Section 30500 is for a public access component in each local coastal program. The identification and protection of public access therefore becomes an important part of local coastal planning. The access issue will be addressed in this section in terms of movement to and along the shoreline. In Marina three east-west accessways (from the closest public roadway to the shore) have been identified. In addition, almost uninterrupted north-south access is available laterally, along the length of the Marina coastline. The kind and availability of shoreline access points elsewhere in the Monterey Bay Area also influence access choices in the City of Marina.

Within its City limits, Marina has developed specific policies to safeguard coastal access. These reflect the City's desired posture and platform for planning recommendations. The policies are:

1. To insure access to and along the beach, consistent with the recreational needs and environmental sensitivity of Marina's coastal area.
2. To provide beach access and recreational opportunities consistent with public safety and with the protection of the rights of the general public and of private

property owners.

3. To provide beach access in conjunction with new development where it is compatible with public safety, military security and natural resource protection; and does not duplicate similar access nearby.
4. To provide adequate parking at designated beach access points to allow public access at a level consistent with the protection of the natural resource.

The City of Marina has approximately three miles of coastal frontage. The southern third is State-owned beach property on which two accessways now exist: one developed and one undeveloped. Remaining ownership of beachfront property is in various private holdings. The mid-section area (immediately north of Reservation Road to the Lapis ~~Lone Star~~ Sand Mining Plant) is currently zoned for parks and open space industrial uses. Several sand mining plants formerly operated here; the last remaining plant, the Lapis Sand Mining Plant, will cease all sand extraction and mining activities by December 31, 2020, pursuant to the terms of a Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02. One informal access on private property exists in the area. The northernmost portion of the City's coast north of the Lapis ~~Lone Star~~ Sand Mining Plant is part of the Salinas Dunes and has the best preserved Flandrian dune environment. A priority for public acquisition has been placed on this property with the intent of leaving the area undeveloped.

In studying the existing conditions, the needs and character of Marina have emerged. First, the coastal area is dominated by fragile, Flandrian dunes, many of which have been severely disturbed. The need to preserve these dunes and to protect the fragile habitats is a major consideration in the City's access program. The three existing accessways provide adequate access for the City of Marina's coastline given the sensitivity of the area and visitor needs. Each accessway will be designed to accommodate and encourage specific beach uses appropriate to each location.

Regional Access

Outside of Marina's Coastal Zone there is beach access both north and south. The Salinas River Wildlife Refuge is located immediately north of the City boundary. This is a publicly owned (U.S. Fish and Wildlife) preserve operated by the California Department of Fish and Game. Picnicking and parking facilities are available, although available parking is limited to 15 spaces to regulate use. Visitors may view the habitat; gain access to the shore; and generally enjoy passive recreational experiences. Pier fishing is available further north at Moss Landing, 12 miles from Marina.

On the Fort Ord property, which abuts the City's southern boundary, the Stilwell Hall access is available to the public. This spot is frequented by licensed fishermen. Traveling further south, several information view points are evident. A highly visible and convenient strip of sandy beach is located off of the intersection of Highways 1 and 218 in Seaside, approximately six miles south of Marina. This is a rolling, sandy beach where swimming is possible. In the past, the beach has been abused by dune buggies.

City Access

Three identified accesses are proposed: Lake Court and Reservation Road (on State Beach lands) and Dunes Drive (in private ownership). The City will encourage specific beach uses appropriate to each of the three locations. This will allow each accessway to be developed according to its own natural character and constraints while offering beach users several different choices for beach experiences in close proximity.

Lake Court

Location: Just north of Ford Ord at the City's southern boundary. Lake Court is a cul-de-sac off Lake Drive which is approximately one mile south of Reservation Road.

Ownership: State of California; designated State Beach. CalTrans owns the right-of-way on an adjacent small strip and constructed the fence. Area between CalTrans and State Beach ownerships belong to the City south to the single-family homes. At the south end of the area are two acres of subdivided land, some lots with homes on them.

Existing Beach Use: Fishing, viewing, walking. Overall use of this access is light.

Preferred Beach Use: Walking, viewing, exploration, isolated beach experience, fishing.

Topography and Natural Environment: Steep Coastal dunes which rise to 150 feet at high points. Rugged terrain increases in steepness. The existing vegetation has been abused but the area is still habitat for rare, endangered and threatened vegetation and wildlife.

Public Safety: Hazardous. The hike is rugged, lengthy and slow. Emergency access is neither available nor feasible. Area is proximate to Fort Ord's rifle range to the south.

Existing Access: CalTrans has fenced this entire area; pedestrian access is accommodated through a special gate. The informal trail starts on flat ground, rising quickly. The one-half mile distance to the beach is long and arduous. It is evident that in order to ease the walk, users have trampled the vegetation.

Existing Parking: There is no designated parking, although there is limited parking available on the street.

Land Use: Southeast of the park of Lake Court is a subdivided area with several small single-family dwellings. Within the park area are the remains of a former stable and dwellings. The adjacent area is being considered as a possible site for a new

City corporation yard. Nearby on Fort Ord property will be a regional wastewater pumping station.

Local Roadway Access: Via Lake Drive which intersects Reservation Road.

Mass Transit: Nearest bus stop is one-sixth mile away near Marina del Mar School on Lake Drive; about 5-10 minute walk.

Recommendation

1. Focus on specific uses of picnicking, viewing, walking, exploration, isolated beach experience and fishing.
2. Encourage the State to develop a sheltered picnic/play area and public parking lot in the least sensitive portion of the site. If possible, the picnic/play area would be designed to accommodate informal recreational use (such as touch football, Frisbee, etc.) with limited facilities provided, i.e., parking, restrooms, tables and fire rings. Hedgerow plantings of Monterey cypress would shelter the site from both wind and highway views. The perimeter of the picnic area should be fenced in such a way to focus access onto the developed trail and away from the dunes in general. Access to the dune trail would be gained through a pedestrian gate. The size and intensity of recreational use and parking will be determined by site-specific geotechnical and biological studies and approved park site plan. The area might include a ranger's residence if a suitable site can be identified.
3. The State should develop a formal beach access trail which includes a viewing platform at its highest point for those interested in observing whale migration and other natural events.
4. Non-vehicular commercial overnight camping (tenting) could be encouraged on the private land adjacent to the State Beach Park on Lake Court.
5. Designate rare and endangered species habitat areas within the park as Natural Preserves.
6. Develop an access roadway and site signing program.
7. Provide a connection from the Lake Court accessway to the bicycle path parallel to Highway 1. Since lateral access is not safe along Fort Ord's coastline, regional recreationists will have to traverse Fort Ord along this pathway.

Reservation Road

Location: At the western end of Reservation Road at the north end of the Marina State Beach. The access is about mid-way along the City's Coastal Zone, one mile from Lake Court and one-half mile from Dunes Drive.

Ownership: State of California; designated State Beach.

Existing Beach Use: Ocean viewing, hang-gliding, fishing, walking, picnicking, sunbathing. Overall usage is high; estimated one-half million in 1979-80.

Topography and Natural Environment: Rolling, sandy dunes. Flatter, more compacted sand available immediately along the shore; the remaining beach area is steeply banked.

Public Safety: No special access hazard since the parking lot goes right up to the sandy beach. Dangerous surf and rip currents make the area unsuitable for swimming. Beach users are susceptible to any tsunami or high wave action that could occur.

Existing Access: Reservation Road, a signed exit from Highway 1, terminates in a beachfront parking lot. Good pedestrian, equestrian or bicyclist's access is not available along Reservation Road.

Existing Parking: Existing lot has estimated capacity for 55 automobiles. However, the lot is not striped and actual counts have been as high as 75 cars.

Land Use: Beach oriented activities; no development. The sewer treatment plant is north, adjacent to the parking lot and uses the parking lot for access.

Local Roadway Access: Reservation Road.

Mass Transit: Bus stop at corner of Beach and Cardoza which leaves a 5-10 minute walk to the beach. There are, however, no sidewalks.

Trail Access: Informal, in Reservation Road right-of-way.

Recommendations:

1. Maintain informal, non-commercial beach uses now prevalent in the area; provide additional facilities for the handicapped where possible.
2. Continue hang-gliding opportunities now available if they are proven to be compatible with the existing dune environment. State Parks is currently evaluating the effects of this sport on the Marina dune environment. If determined to be a favorable activity, provide appropriate facilities for hang-gliders.

3. Construct an adequate pathway for pedestrians and bicyclists from the intersection of Del Monte and Reservation Road to the State Beach. A bicycle parking area should be provided within the State Beach area.
4. Redesign existing restrooms to accommodate more users and the handicapped; maintain a clean and inviting appearance.
5. Redesign existing parking facility to maximize auto capacity at 100 cars. Stripe the lot. Develop an alternate access to the Marina County Water District offices and wastewater treatment plant.
6. Maintain ranger station.
7. Convert unused animal shelter to nature interpretive center; transfer management responsibility for adjacent Vernal Pond Number 4 to the State Beach; realign existing fence in Pond to location away from wetland; designate wetland, Coast wallflower, and Smith's Blue butterfly habitat as natural preserve.
8. Develop a roadway and site signing program.

Dunes Drive

Location: Northern end of Dunes Drive; one-half mile north of Reservation Road.

Ownership: Private. Land owned by Standard Resources, Inc.

Existing Beach Use: ~~Sand mining operations' drag lines cross the beach between this point and Reservation Road.~~ Beach use includes walking, viewing, horseback riding, picnicking, fishing.

Preferred Beach Use: Fishing, horseback riding, walking.

Topography and Natural Environment: Pre-flandrian and Flandrian Dunes. Compacted roadway exists for the first 50 yards; beyond the first dunes, trail across shifting sands makes foot travel slow and difficult.

Public Safety: Potential hazard from derelict buildings.

Existing Access: Although the area is fenced, an opening exists for walkers. The quarter-mile walk over the dunes to the beach is not steep, although the absence of compacted sand on half the trail makes walking difficult.

Existing Parking: No formal parking lot exists. On-street parking and parking at the end of the street is available.

Land Use: ~~Derelict buildings from closed down sand mining plant remain.~~ The rest of the area is not in use.

Local Roadway Access: Dunes Drive via Reservation Road.

Mass Transit: Bus stop at corner of Cardoza and Beach. Approximately 20 minute walk.

Trail Access: Existing informal access through the opening in the fence.

Recommendations:

1. Insure that existing access opportunity is preserved upon future development in the area.
2. Focus access point development on use by equestrians, fishing and beachcombing.
3. Designate this access area for equestrian use and restrict horses from other City accessways.
4. Pay specific attention in trail design to compatible use by pedestrians and equestrians.
5. Provide at least 15 public parking spaces. Additional spaces may be required as new beach oriented development occurs in the Dunes Drive area.

Since only one new vertical access is required and there is more than one property involved, those who are not required to provide an access easement and improvements will be required to pay an in-lieu fee. These fees will be deposited into a restricted fund established by the City Council to be used for access improvement, maintenance, beach parking and access identification.

The primary access objective in the Dunes Drive area is for the one improved access. This access may be provided by cooperation among property owners potentially required to provide access. If no cooperation occurs, at the time of development each property owner must grant an access easement to the City. The City may in turn determine at the time it issues the Coastal Development Permit, which easement or easements should be developed and which retained for future access needs. If a developed access already exists at the time a development proposal is filed, the property owner may pay a fee in lieu of providing an access easement providing the fee is determined by the City to be appropriate. These fees will be deposited into a restricted fund established by the City Council to be used for access improvement, maintenance and beach parking.

Access Guidelines

The three existing accessways that have been identified will require varying degrees of improvement. The level of development will be determined by several factors, the most significant being the native environment. The existing unofficial use of the identified accessways has already disturbed the dune area to a large degree. In an effort to preserve the area and protect it from future damage, as well as to offer various types of use, the City of Marina has set several standards for guiding new development. The following are guidelines of a general nature which should apply to all three access points:

1. A site specific environmental study must be prepared prior to any improvements to a dune area; appropriate mitigations must be included in the project.
2. Any imposed structure must meet not only the geologic criteria developed, but must maintain an aesthetic standard complementary to the dune environment. Any design developed for the dune environment must take utmost care to accommodate natural conditions, such as shifting sand, wave erosion, tsunami hazard, etc.
3. Keen development compatible with the limitations of the environment including protection of views.

These next guidelines are relevant to specific access points:

Lake Court

1. Any structural modifications to the access should be kept to an absolute minimum (e.g., boardwalk, stairway, observation deck).
2. The design should be intended to guide and maintain walking patterns towards the trail thus discouraging the easier route of trampling over adjacent vegetation.

Reservation Road

1. Any improvements made here will need to maintain the existing low profile of current beach-related facilities. Design must be made compatible with the parking lot and nearby structures.
2. Handicapped access must be provided, since this is the only City access where it's feasible.
3. Hang-gliding staging area should be designed according to the observations and studies now being pursued by State Department of Parks and Recreation.

Dunes Drive

1. Any access improvements shall be designed to the minimum standard necessary to serve the development and the public.
2. Improvements must focus on the equestrian/pedestrian use. Horses are affected by walking in soft sand, much like people. Easy walking is not hazardous, but cantering could injure the horse. Trail surfacing should not be too compact. Natural surfaces are favored; and given the use of the accessway, an access similar to the existing one could be most efficient.

Lateral Access

Lateral access easements or dedications should extend inland from the water line to include the inland edge of the sandy beach frontage. The depth and extent of this area may vary along the beach but it can be easily identified by a qualified professional. Therefore, the depth of the easements should be determined by the City at the time alternative use or development is proposed for a particular site. ~~Sand mining companies are currently extracting sand from or across this area. They should allow pedestrians through by filing a letter of permissive access with the City, but they should not be required to dedicated a defined easement in areas they are actively mining until their property is proposed for some alternative use.~~

It shall be the City's intent to require that continuous public lateral access shall be maintained along the shoreline. All beachfront parcels, including all parcels north of Dunes Drive, ~~that are presently used for sand extraction, a coastal dependent industrial development,~~ shall be required to provide lateral access from the mean high tide line to be required to provide lateral access from the mean high tide line to the inland edge of the sandy beach as a condition of any ~~mining permit and/or coastal permit issued for new beachfront development or use. New development includes, but is not limited to any significant increase in the rate of extraction or a relocation of mining activity by an existing sand mining operation.~~

So long as these beach front parcels are used for sand mining the requirement for lateral access shall be met by a deed restriction on the property. The deed restriction shall consist of a covenant executed by the property owner which shall be recorded on the title to the property and shall bind all successors-in-interest and shall run with the land until such time as a use other than sand mining is approved.

The deed restrictions shall contain provisions limiting public access to protect the safety of the public and to ensure that the use of the property for sand mining is not inhibited, but only to the extent that such limitations are reasonable and necessary for the safe conduct of the sand mining operations. At such time as a use other than sand mining is approved the property owner shall execute and record in an irrevocable offer to dedicate a lateral access easement from the mean high tide line to the inland extent of the sandy beach frontage. The depth and extent of this area may vary along the beach but it can be easily identified by a qualified professional.

Areas Where No Developed Accessways Are Proposed

The City anticipates no development in that portion of the Salinas Dunes area north of the Lone Star Lapis Sand Plant. The City's first priority choice for this area is public ownership. Any developed access provided to this environmentally sensitive area should move through the Wildlife Refuge to the north; and be carefully monitored. To protect the area no developed access is being proposed.

The State Map Act provides that the public must not be restricted in its access to the beach. However, accessways may not be required nor desired over certain property. In this event, the property owner/developer will be required to pay a fee-in-lieu of access to the City which will be applied to provide or maintain access elsewhere. These funds will be managed by the City by deposit in a restricted account and allocated only for improvement, operation and/or maintenance of Coastal accessways or directly-related support facilities.

Timing

Any improvements made at the Lake Court and Reservation Road accessways will be dependent on budget allocations of the State Parks Department. It is anticipated that the current levels of access will be maintained until the State completes its beach facility plans for Marina State Beach. The Dunes Drive access as it now exists crosses private property. However, the three owners with property fronting on Dunes Drive all share in the responsibility for the accessway from the area. Although the accessway now in use actually crosses Standard Resources, Inc. property, the developed accessway may not. Section 66477.2 of the State Map Act mandates public access to the beach. Under this provision all three landowners (Standard Resources, Inc., Monterey Sand and Granite Rock Co.) would be obliged to provide access. However, local need and desire is for only one accessway in the area. Therefore, to be equitable, the other property owners shall be required to provide support facilities such as parking or a fee-in-lieu to the City.

Any developed improvements will be timed according to any new development that takes place on any of the three properties. The accessway improvements, then, would be designed into the new development and would be a binding condition of development.

Maintenance

Two access points are within the State-owned beach property and their maintenance will be the responsibility of the State.

There are three maintenance options for the accessway over private property: 1) application of fees-in-lieu; 2) private owner maintenance; or 3) convey to City or State after construction and City or State provides maintenance. The recommended option is the first one.

Signing

Proper identification is an important aspect of public beach access, even where intensive beach use is not intended. In Marina there is a need for directional signs from regional access routes to local access trails. There is also a need for informational signing to point out features such as the head of a trail, parking and no-swimming areas. Signs should be distinctive and uniform in design, color and material to make the access signs easy for the uninitiated to follow. The following guidelines are suggested to assist the City in effective signing.

Sign Guidelines

1. Signs should be placed to allow safe pedestrian clearance and should avoid conflict with door opening or vehicular operation. Signs should be located to be easily read, and placed to provide safe stopping or turning distance. Height should normally be 40 inches from the ground to the bottom of a single sign and 36 inches from the ground to the bottom of a double sign. Signs along walkways should be set back a minimum of 18 inches.
2. Signing should be consolidated wherever possible: it is preferable to have one sign with three messages than three signs on three separate posts with separate messages. Signs can be combined with other fixtures such as lights to reduce unnecessary posts and cluttering of the landscape or view. However, types of signs should not be mixed; warning or regulatory signs especially should not be mixed with other types.
3. The abstract “person in the wheelchair” symbol is used internationally to indicate special provisions of access for handicapped people.
4. Wooden signs are most compatible with the natural environment and are economical to manufacture. Metal signs might be used where vandalism is a problem or at interfaces with public roadways. Wooden signs are normally brown with white lettering. There should be enough contrast between the background and the letters for the message to be legible.
5. The style for lettering should be standardized throughout the signing system.
6. The use of international, pictorial symbols can also be an integral part of a standardized signing program for accessways. The use of symbols rather than phrases or sentences has a number of advantages: symbols are more explicit than words; sign size can be reduced; and symbols are more explicit than words; sign size can be reduced; and symbols are universally understood. When located correctly, signs using symbols are universally understood. When located correctly, signs using symbols can stand alone, with little or no additional explanation. When used consistently throughout the accessway signing system, the symbols can be used in conjunction with additional written information to provide a quick index to the types of activity, the

regulations for use and the location of accessways which are part of the system. Symbol signs have been standardized and are readily available from most sign companies.

Types of Signs

There are four basic types of sign. The kind of information which a sign is conveying determines its placement, design and use.

Directional Signs: These signs should be used intersections with roads or trails and at trailheads. Use of too many directional signs should be avoided. However, where it is necessary to use a number of directional signs, they can be effectively clustered. To indicate a change in route or confirmation of a correct direction, an arrow should be included in a directional sign.

Informational Signs: Informational signs are used for organizing a series of elements, i.e., location of water, telephone, rest area. Informational signs should be placed at a natural gathering spots and included in the design of the accessway.

Regulatory Signs: A regulatory sign should differ in shape from other signs and give operational requirements, restrictions or warnings. Graphic symbols are useful in transmitting messages quickly. Textured paving may be used to warn of imminent hazards such as abrupt changes of grade, stairs, ramps, etc.

Identification Signs: Identification signs give specific location information, i.e. Reservation Road.

Implementation of Access Signing

The California Coastal Commission has developed a program of accessway signing. Every Coastal jurisdiction in the State is eligible to participate in this program. To extend their funds, the State Coastal Commission is cooperating with CalTrans and with the California Conservation Corps for the preparation and placement of signs.

A Coastal access signing program request must be initiated by the local jurisdiction. The program may include signing on freeways (generally at the access ramp), signing on local roadways used to reach beach access points, and signing at and on the access trails themselves. An access signing program request can include use (equestrian trail) and hazard warning (no swimming).

When participating in the State program, the local jurisdiction determines what is to be displayed on all the signs placed on local roadways and at access trails. The signs are made of redwood with contrasting yellow writing. Installation is provided, at no charge, by the California Conservation Corps. CalTrans provides and installs the signing on State Highways. These are standard reflective green and white highway signs.

Local jurisdictions are encouraged, but not required, to participate in the State-sponsored program. Each jurisdiction may develop its own signing program on local roadways. However, the cost of obtaining installing, maintaining and replacing signs is then borne by the local community.

Jurisdiction need not wait until their Local Coastal Plan is certified to participate in the State signing program for existing accessways. The Coastal Commission program will provide signing up to the property line of another State agency facility (such as the California Department of Parks and Recreation) but the responsibility of on-site signing in these cases rests with the other responsible State agency.

Sign Maintenance

For local jurisdictions participating in the State accessway signing program, replacement signs will be provided at no cost. However, the local jurisdiction, in most cases, will be responsible for installing the replacement sign. Jurisdictions will also have to keep track of the condition and replacement needs of their signs and initiate the request for replacement.

When the signing is wholly local, the cost of making the sign as well as the installation is the jurisdiction's responsibility.

BACKGROUND DATA FOR COASTAL PLANNING

Population Characteristics

Since incorporation of 1975, Marina's population has grown by an estimated 19 percent to 14,427 outside the boundaries of Fort Ord. Population projections prepared for the City in 1980² indicate that the City's population is expected to increase by another 72 percent to 24,850, outside of Fort Ord, by the year 2000. These projections indicate that not only will the City's size increase but the proportion of Monterey County's population living in Marina will also increase. In 1976, 9.45 percent of the County's population lived in Marina, outside of Fort Ord; by 2000 it is estimated that 13.27 percent of the County's total population will live in the City.

Between 1970 and 1980 the average household size in Marina declined substantially from 3.63 to an estimated 3.14 persons. There was, however, considerable variation among planning areas in located west of Del Monte Boulevard, there is considerable difference. The average household size was 3.49 in the area north of Reservation Road, west of Del Monte Boulevard (northwest Planning Area) in 1976. To the southwest of Del Monte Boulevard the household size was 3.13. The average for the City in 1976 was 3.19.³

² City of Marina, *Draft Housing Element*, June 1980.

³ City of Marina, *Draft Housing Element*, June 1980, page 2-9.

Generally Marina's population is young with an average age of 24 years. Almost 40 percent are 19 years or younger; only 5 percent are over 60. In 1976 less than three percent of the City's population was handicapped.

Based on 1976 County data, more than one-third (37.7 percent) of the City's households could be termed low and moderate income. Of these 1,419 households, 60 percent, or 865, fell into the low and very low income category. About one-third of the City's residents rent their residences; and over 40 percent of the City's dwelling units were affordable⁴ to households with low to moderate⁵ incomes in 1976.

Employers of City residents are generally located outside of the City: Fort Ord, Salinas and Monterey. As Fort Ord shifted from a training facility to a Division Headquarters, the City's population has become less transient.

Fort Ord

The City of Marina is located on the north side of Fort Ord. The military reservation surrounds the City on the south and east sides. One of the major housing areas for military personnel stationed at the base is located adjacent to the City of Marina. When the City was incorporated in 1975, this residential area was included in the City's limits; however, because of its Federal ownership, the City has no municipal authority over this area.

Generally, population projections and other City data, such as income, exclude this area. However, the presence of Fort Ord is important to Marina. The Fort is a major employer of City residents both civilian and military. On-base facilities compete with private commercial and entertainment opportunities in Marina. Many retired military personnel live in Marina in order to take advantage of the proximity to the base. The shift in the Fort's activities from training to a Division Headquarters has had a substantial settling effect on the age composition and length of time residents live in Marina.

Service Capabilities

- **Water**

Except for the area north of Dunes Drive, the Marina Coastal Zone is served by the Marina ~~County~~ Water District. New development in this area is required to be served by water lines (i.e., no new private wells).

Salt water intrusion into the underground fresh water supply is a problem in Marina. The intrusion problem has not reached major proportions and the Water District has not had to abandon any of its wells, but the District's new wells are being drilled to deeper depths. All existing Water District wells are located east of Highway 1, outside of the Coastal Zone.

⁴ Households paying 25 percent or less of gross annual income for housing.

⁵ Low income is a gross annual income of 80-120 percent of County median income.

In discussing salt water intrusion it is important to note that this is a regional problem which most directly affects the communities adjacent to the sea. The Marina Coast ~~County~~ Water District's pumping may aggravate the local problem, but it does not create a substantial problem itself. In Marina's case it is the intensive pumping of water for agricultural uses in the Salinas Valley which is thought to be the major cause in upsetting the balance of fresh and salt water along the edge where they meet underground.

Marina cannot solve this regional problem with only local action. Cooperative action must be taken. The City can assist in the management of the problem by requiring that new development be served by piped water from District wells. The effect of this would be two-fold. First, development closest to the ocean would not risk losing its water source in the near term because of salt water intrusion. Second, a larger entity has more capacity and resources to plan and take action to find alternative well locations or sources of water should this become necessary in the future.

- **Sewage Treatment**

The Marina Coast ~~County~~ Water District owns and operates a 2.0 million gallon per day (MGD) sewage treatment plant. This plant serves all of the City's Coastal Zone except the area north of the Monterey Sand Company plant. Development in this northern area is now served by septic tanks. Currently there is a 0.8 MGD excess capacity in the sewer treatment plant. This is more than enough capacity to serve the buildout of the Water District's service area as planned in the 1978 Marina General Plan.

Salinas, Castroville and the communities of the Monterey Peninsula have been actively discussing the sewage treatment and disposal issue. These communities supported the Monterey Regional Water Pollution Control Authority's application to build a regional treatment plant as a cooperative effort. The site being considered for the regional plant is in the Sanitary District's landfill. This site is located on the south side of the Salinas River in the area the City of Marina defines as potential for annexation.

Recently (1980) the California Coastal Commission approved a permit for the regional wastewater outfall line to be built through the Lone Star Lapis Sand Plant. The outfall would extend off-shore a mile or more into Monterey Bay.

It has not been determined whether the Marina Coast ~~County~~ Water District would participate as a member of this regional effort. A pumping station for the sewage transmission line would be located just south of the City on Fort Ord property probably in the area of Lake Court.

- **Police and Fire**

The City of Marina has a Public Safety Department which provides both fire and police protection. Since development in the Coastal Zone is limited, there has been little demand for regular fire protection services. However, last year the City's rescue squad

was called out about once a month. Because the treacherous waters are well known, drownings are infrequent along Marina's Coast. However, hang gliding accidents occur with increased frequency as this sport becomes more popular in the area.

In past years the greatest policing problem in Marina's Coastal Zone was controlling off-road vehicles. Since the State Park area was purchased and a full-time ranger assigned, coupled with a crackdown by local police, off-road vehicle violations have been substantially reduced. In the past year, the Marina police have been called about ten (10) times a month to back up the State Park Ranger. About 60 percent of these calls are alcohol-related, 35 percent are vehicle code violations. Vehicle theft and vandalism at beach access points, frequently cited as a problem in other north Monterey County beach areas, are not problems in Marina. More development, including public and private recreation, commercial and recreational uses in the Coastal Zone, is not anticipated by the Public Safety Department to create unusual policing problems. Some additional staffing may be necessary, but no more than would be required by additional population and development elsewhere in the City.

Environmental Capabilities

There are three areas of particular environmental concern in Coastal planning: the visual environment; the plant and animal habitat; and geological conditions, particularly existing and potential hazards. Each of these factors can present limits for development.

- **Visual**

Marina's Coastal visual qualities are important both as a local resource and as the gateway to the unique scenic character of the Monterey Peninsula. The undisturbed and visually extensive Coastal dune areas provide a distinct contrast to the pattern of urban development visible inland. This contrast, if managed properly, will contribute greatly to the overall image of the City in the future. The primary views had in Marina is from Highway 1. There are two striking features of the view from this roadway. First, the view going south differs substantially from that going north. Second, the view of the inland area, particularly around the Vernal Ponds, will become increasingly important as infill occurs within the area excluded from the Coastal Zone. The height of the Coastal dunes also offers important view of the distant edges of inland mountains and expanses of valley.

View protection involves a number of aspects. It involves protecting natural visual barriers such as edges of dunes and protecting natural ground cover and texture. In those locations where development is appropriate, it must fit in scale, mass and height with existing terrain. View protection does not preclude the symmetry of extensive urban development, but it would require that new development blend into the existing pattern and not conflict in bulk or height. Views of the water and sandy beach from inland, within Marina's Coastal Zone, are limited to a considerable extent by the height and depth of the dunes. The fundamental questions in future planning are: How should development relate to views from the beach; views of Vernal Ponds from Highway 1 and

Reservation Road; views of the dunes and water from Highway 1; views from the top of Coastal dunes?

- **Biological**

In Marina the biological data relates closely to the visual data because the groundcover is so important to the character of the dunes and Vernal Ponds. To simplify the presentation of the biological planning constraints, the information will be reviewed by area. The focus in this data collection is on habitat potential. In most cases, detailed site investigation will be necessary to determine if rare and endangered plants and animals are currently resident in these areas.

Marina State Beach. The State Beach has experienced extensive damage from uncontrolled use of recreation vehicles (RV's). Presence of a park ranger and conscientious enforcement by Marina police since incorporation has reduced RV abuse of the area.

At the water's edge in this area, there is no vegetation. At the back of the exposed sandy beach are bare sandy "blowouts" (pockets of wind erosion) alternated with what is termed "Coastal Flandrian Fore-dune". Behind this area and extending virtually to Highway 1 is Coastal Flandrian lee dune and scrub vegetation. This lee dune and scrub vegetation is visually prominent from Highway 1.

At Lake Court there are two groves of introduced trees (Monterey cypress, blue gums) within the State Park property; and two smaller groves on the east side of the road near the existing houses.

Introduced annual grasslands form a fringe along the Reservation Road-Highway 1 access. The center of this grassland area is dominated by a small Vernal Pond (Number 5), which supports a small brackish marsh.

Virtually the entire State Beach dune area is potential or known locale for rare and endangered plant and animal species. The back or lee dune area is potential habitat for the Smith's Blue Butterfly and the Black Legless Lizard, both endangered species. The grassland area is a potential habitat for the Salinas Kangaroo Rat. Finally, the front edge of the dunes, adjacent to the exposed sandy beach is a potential habitat for the Globose Dune Beetle. Threats to the State Beach habitat area include recreational overuse, encroachment by aggressive non-native plant species (e.g., Hottentot fig, statice), and possible shoreline erosion.

Vernal Pond-Brown Bulb Ranch. South of the KIDD Vernal Pond (Number 2) the area remaining in the Coastal Zone is generally undeveloped. North of the KIDD Vernal Pond the hillside is intensively grazed. This area has been proposed as the site for a housing project for the elderly. North of the pasture is the Brown Bulb Ranch used for a rotation of flower crops.

There are four Vernal Ponds located in this area. Three of these ponds have substantial brackish marsh areas around them. The large pond (Number 1) located westerly of Lake Drive, will be designated a State Ecological Reserve. The northernmost pond (Number 3), split by Beach Road, does not have a surrounding marsh. Outside of the pond marshes and the cultivated Bulb Ranch, the predominant vegetation is introduced annual grassland. Groves of Cypress/Blue Gum are interspersed throughout the Bulb Ranch and KIDD Pond areas. In addition, portions of the Flandrian lee dune habitat area, cut off during construction of the freeway, border the inland side of Highway 1.

Potential habitat for rare and endangered animals is more pervasive than plant locales in this area. Along the freeway there is potential habitat for Smith's Blue Butterfly and the Black Legless Lizard; and at the north end of the area, the Salina Kangaroo Rat. In the vicinity of the southernmost two Vernal Ponds and adjacent to the east side of Reservation Road there is potential for the Black Legless Lizard and the Salinas Kangaroo Rat. Confirmed habitat for rare and endangered flora appears limited to the Flandrian dunes bordering Highway 1. Threats to this overall habitat area include filling, dumping, sedimentation and pollution of ponds; harassment of wildlife by pets and humans; and, on the dunes, encroachment of non-native vegetation and trampling.

North of Reservation Road. About half of the dune area in Marina is located north of Reservation Road. Adjacent to Reservation Road the vegetation and habitat has been disturbed by development. However, tucked within this developed area is a very symmetrical Vernal Pond (Number 4). The dunes seaward of Dunes Drive have been disturbed both by sand mining and off-road vehicles. The principal cause of dune disturbance north of the abandoned Standard Resources sand plant to the ~~Lone Star~~ Lapis ~~Ssand Mining Plant operation~~ is off-road vehicle abuse. This abuse has been substantially reduced in recent years. The least disturbed dunes of the Marina Dune Complex exist north of the ~~Lone Star~~ Lapis Sand Mining ~~Plantoperation~~.

At the south end of this planning area in the vicinity of the sewage treatment plant the vegetation is highly varied including Coastal Flandrian lee dune scrub, Coast wallflower habitat, brackish marsh around Pond Number 4, and two small clusters of introduced Monterey Cypress.

On the east side of Dunes Drive vegetation are introduced grasses and scattered plantings of mature Monterey Cypress trees. On the west side of Dunes Drive north to the Lone Star Sand Plant the vegetation is similar to that in the State Beach area. Exposed sandy beach is packed by Coastal Flandrian foredune. Behind this is extensive Coastal Flandrian lee dune scrub intermixed, particularly at the north end, with expanses of bare sand. Introduced grasslands form the eastern edge of the area. A small Cypress Grove has been planted on the south side of Lapis Road; and dredge ponds are located at the back of the exposed sandy beach seaward of Lapis Road. North of Dunes Drive this pre-Flandrian grassland is mostly undisturbed and represents potential Salinas Kangaroo Rat habitat; however, only a small portion lies within Marina's Coastal Zone.

The Salinas Dunes area north of the area now being mined by Lone Star Lapis is one of the largest unaltered coastal dune habitat areas remaining in California. The pristine condition of these dunes is best indicated by the fact that there are fewer areas of bare sand. The vegetation character progresses logically and naturally; exposed sandy beach, Coastal Flandrian foredune, Coastal Flandrian lee dune scrub, Pre-Flandrian introduced annual grassland, rotational cropland.

The undeveloped areas within these dunes are all potential locales for rare and endangered plant species. However, the area with the greatest potential within the planning area, is the Salinas Dunes area. Habitat potential for rare and endangered animals is slightly more localized. At the south end of the planning area in the vicinity of the sewage treatment plant and Vernal Pond there is potential habitat for the Smith's Blue Butterfly and Black Legless Lizard, as well as the Salina Kangaroo Rat in the grassland area. The undisturbed dune areas within and between the sand plants and the Salinas Dunes may support the Smith's Blue Butterfly and Black Legless Lizard. The undisturbed front edge of all the dunes in this area could support the Globose Dune Beetle. In most cases, specific site investigation will be needed to determine the location, extent and quality of the habitat and location of species on any specific site.

Geotechnical and Physical Hazards

There are a number of potential geotechnical concerns in the Marina area: wave erosion, wind erosion, tsunamis, ground shaking and liquefaction, vernal pond degradation and sand mining. Each of these areas of concern has its own impacts on the Coastal user and on future land use choices. To assist in planning decision-making, each area of concern and its impact is briefly reviewed.

- **Wave Erosion**

The area most susceptible to wave erosion is the Flandrian dune sand; less susceptible is the Pre-Flandrian dune sand. ~~Although a recent storm episode destroyed important components of the Monterey Sand Company operation,~~ The overall risk to development of wave erosion on this terrain is moderate. Due to the absence of shoreline structures, there is no serious current threat to the coastal users from wave erosion. Any development approval should be preceded by geotechnical investigation. Risk can be mitigated through requiring development to be set back far enough from the shoreline that no erosion loss will occur within the economic lifetime of the project.

- **Wind Erosion**

Marina's dunes are stabilized by their native (or sometimes introduced) plant cover. When this protective mat is lost, the strong onshore winds drive the denuded dunes inland to threaten endangered species' habitats, public facilities (including Highway 1), homes, and agricultural lands adjacent to Marina's Coastal Zone.

The sands most susceptible to wind erosion are the active dune and Flandrian dune sands. Vehicle traffic, and to a lesser extent, foot traffic increases wind erosion in these areas. The most effective method of reducing aggravation of the erosion by Coastal users is to concentrate access on planned and established routes. The impact of development on areas already subject to wind erosion problems is low to moderate and can be mitigated through the permit process (e.g., geotechnical investigation prior to permitting development, revegetation with appropriate groundcovers, provision of “boardwalk” accessways, sand fences, etc.)

- **Tsunami Hazard**

Tsunamis are seismic sea waves, often erroneously called “tidal waves”. Because of the height and depth of the Coastal dunes in Marina, inland areas are not within the tsunami hazard zone. The areas most subject to tsunami in Marina are the sandy beaches and dunes. With an adequate tsunami warning system, there is no significant tsunami threat to beach users. Since there is little development within the tsunami run-up zone, there is little present threat. Future development should not occur in the tsunami run-up zone (on the sandy beaches and foredune area).

- **Ground shaking and Liquefaction Hazard**

All land in the Marina Coastal Zone is subject to potential ground shaking from earthquakes. The risk to structures is moderate and can be effectively reduced by application of the standards in the Uniform Building Code (required of all new construction). Risks to Coastal users from ground shaking are low and no special protection is needed.

Liquefaction is a condition which accompanies ground shaking when sandy soils become saturated with water. The effect is that the soil loses some of its strength to support structures. The potential for liquefaction occurring in various areas of the Coastal Zone is uncertain. Since water is an important factor in causing liquefaction, areas where there is standing water or the water table is close to the surface are more susceptible. Key among these areas are the Vernal Ponds, particularly during the wet season. However, the potential for liquefaction is highly site specific and should be determined by geotechnical investigation prior to permitting development. If development is permitted, it should be designed to account for possible ground failure.

- **Vernal Pond Degradation**

The Vernal Ponds and their surrounding wetlands are unique environments. Use of these areas either by construction or pedestrians can be very detrimental to the geologic conditions. For this reason, it is important to establish trails and restrict users to these trails. These areas are very sensitive to structural development. In addition, storm water

run-off from developed areas and roadways can affect both the percolation character⁶ of the pond and the water quality. For this reason, drainage from developed areas should not be allowed to directly enter natural Vernal Ponds; installation and regular maintenance of catch basins to intercept such non-point source pollutants would provide partial mitigation of drainage impacts.

• **Sand Mining**

~~Sand mining occurs on the beach and Flandrian dune sands along Marina's Coast. As long as movement along the beach is not obstructed and operations are safely run, the mining of sand presents no special hazard to beach users. However, the mining of sand has a significant impact on the land itself. It is interesting to note from aerial photographs that, except for the Granite Rock operation, the area disturbed by sand mining operations in Marina has not changed substantially over the past 25 years. Because of the potential impact of mining, some limits should be established for existing mining operations. In addition, the regulations of the Surface Mining and Reclamation Act should be applied to insure minimum impact, both present and future, on adjacent lands.~~

~~A related issue is the relationship between sand mining and shoreline erosion along the margin of Monterey Bay. A variety of causes have been hypothesized for beach erosion in the area, among them the loss of normal annual flood cycles on the Salinas River; prior to the construction of major dams of the river, millions of cubic yards of sediments were flushed downstream to replenish the beaches. The degree to which surf zone sand mining aggravates this shoreline erosion problem has not been firmly established and therefore, remains an unsolved issue.~~

• **Geotechnical Risk Factor**

Each area of geotechnical concern has its own probability or level of risk. The amount of potential damage in many cases is dependent upon the intensity of existing development or the occurrence of development in the future. The Geotechnical Concerns Evaluation Table indicates, for each type of hazard, the potential impacts and the kinds of actions necessary to reduce future risk from each type of hazard (See Geotechnical Concerns Evaluation Table).

⁶ Storm water from developed areas and roadways frequently carries oil and decomposing vegetation which collects on the bottom of the pond as the water evaporates and causes over time an impervious seal on the pond bottom. This seal affects the ponds' natural percolation in subsequent years.

TABLE 1: MARINA GEOTECHNICAL CONCERNS EVALUATION

Geotechnical Concern	Geologic Terrain Affected (See Map)	Level of Concern for Terrain	<u>Coastal User</u>		<u>Land Use</u>	
			Risk Level (Effect by User)	Mitigation	Risk Level	Mitigation
Wave Erosion	Sandy Beach Flandrian Dune Sand Pre-Flandrian Dune	Intermediate High Low	None	None needed	Moderate	Land planning, geotechnical investigations, adequate shoreline setbacks
Wind Erosion	Sandy Beach Active Dune Sand Flandrian Dune Sand Pre-Flandrian Dune	Low High High Low	None (Vehicular Traffic: high Foot traffic: Moderate)	None needed (Limit access to established and planned routes)	Low to Moderate on-site; High off-site	Land planning, geotechnical investigations, revegetation, boardwalks, sand fences
Tsunami Hazard	Sandy Beach Flandrian Dune Sand Pre-Flandrian Dune	High Intermediate Low	Low to Moderate	Establish effective warning system	Low to Moderate	Land planning, geotechnical investigations minimum elevation requirement
Ground Shaking Hazard	All Terrain Units	Intermediate	Low	None Needed	Moderate	Apply latest Uniform Bldg. Code based on a geotechnical investigation

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Geotechnical Concern	Geologic Terrain Affected (See Map)	Level of Concern for Terrain	<u>Coastal User</u>		<u>Land Use</u>	
			Risk Level	Mitigation	Risk Level	Mitigation
Liquefaction Hazard	Flandrian Dune Sand Pre-Flandrian Dune	Unknown	Low	None needed	Uncertain; High near ponds	Geotechnical investigation, setbacks from ponds
Vernal Pond Degradation	Pre-Flandrian Dune	High	Low (Moderate to high) Signs and patrol (Control use to established trails)		High	Intercept and filter runoff water from developed areas
Salt Water Intrusion	--	--	Uncertain	Monitor water quality	Uncertain	Relocate water wells and/or offset overdraft
Groundwater Contamination	--	--	Uncertain	Monitor water quality	Uncertain	Control sources and means of contamination
Sand Mining	Sandy Beach Flandrian Dune	Uncertain High	None	None needed	High	Limit to existing quarries and presently disturbed land; apply Surface Mining and Reclamation Act

Access

The concept of access is complex and includes Highway access; local road access; recreation access, vertical (perpendicular from closest public roadway to the ocean) and lateral (parallel to the ocean's side); and modal access—bicycle, equestrian, mass transit. In all types of access, the underlying theme is to provide unrestricted public access at a level which protects the Coastal environment and at an intensity which suits the Coastal resources. There are two (2) issues in access: the adequacy of the existing level of each of these accesses; and the future public access needs for each type. Access is reviewed here by type. Current status is reviewed and needs identified. Vertical access is detailed in the Public Access element.

- **Highway Access**

Highway access is provided to Marina's Coastal Zone by State Highway 1. The portion of this highway in Marina is new, with limited access and two lanes in each direction. The highway provides good visual access for through traffic. An off-ramp is provided on Reservation Road, the main access to Marina State Beach. Currently there are no signs on Highway 1 or Reservation Road indicating the access to Marina State Beach. Generally, views of the Coastal dunes are attractive, but erosion has caused areas of exposed sand which are less attractive and result in blowing sand.

Highway 1 is the major accessway to the Monterey Peninsula. As such, the views from the Highway in Marina are important as the gateway to this important visitor destination.

- **Local Roadway Access**

Three local roads now provide access to beach trails: Lake Court, Reservation Road and Dunes Drive. Of these three local streets, Lake Court is the most difficult to find. None of these streets, or the collectors or arterials they connect to, are signed to indicate that they provide access to the beach.

- **Modal Access: Bicycle, Equestrian, Mass Transit**

Each of these modes of access are or can be a substantial means of getting to Marina beaches in the future. The public will choose its alternative. However, consideration needs to be given to each alternative in order to ensure that the option remains for the future.

Bicycle. In addition to the formal bikeway within Fort Ord, the Marina City Council has designated two bikeways (both outside of the Coastal Zone). One bikeway extends from Highway 1 at the southerly City limit northward along Del Monte Boulevard. The second extends from Del Monte Boulevard along Reservation Road to the easterly City limit.

Currently in the Coastal Zone, bicyclists ride on the shoulder of Reservation Road from Del Monte Boulevard to the beach. Although there have been few accidents reported to the Marina Police, the winding character and fast travel speed on Reservation Road makes this a dangerous place to walk or ride.

Since a frequently used separated bicycle pathway parallels Highway 1 within the Fort Ord portion of Marina's Coastal Zone and the City's proposed bikeway will connect both to Highway 1 and Reservation Road, the City's major east-west arterial, a separated bikeway paralleling Reservation Road west to the beach would complete a core bikeway system. In addition, this western link would encourage local and inter-community bicyclists to use the coastal area. Local roadways used to reach Lake Court are not so heavily traveled that a separated bicycle path is needed. Dunes Drive intersects Reservation Road. Because Dunes Drive provides the access for truck traffic to the sand mining operations, it would be appropriate to provide a separated bicycle pathway. This could be built as a part of the future development on the east side of the Dunes Drive, connecting to the bikeway on Reservation Road. In the Coastal Zone, the bikeways could also be used by pedestrians.

Equestrian Access. Horseback riding is a frequent activity on the Marina Beach. There is little conflict with other beach uses because of the low intensity of use and the character of the beach area.

Although not strictly enforced, horseback riding is not permitted on State beaches. ~~In addition, the dragline for Monterey Sand Plant is more difficult for horses to cross than pedestrians. For these reasons, it seems appropriate to discourage equestrian access at Lake Court and Reservation Road and to encourage it at Dunes Drive, which is located north of the Monterey Sand Plant. To accomplish this focus of activity, the accessway at Dunes Drive would have to be improved to allow safe equestrian use. Riders would be able to ride north along the beach several miles to the mouth of the Salinas River if they desire. The dragline will discourage riding south of the Dunes Drive accessway on the State Beach property.~~

Mass Transit. Monterey Salinas Transit (MST) provides bus service to Marina. Lines 7 and 12 specifically serve Marina's Coastal Zone. Line 7 covers Reservation Road east of Del Monte and Seacrest. This line connects Marina with Fort Ord and Peninsula cities. Line 12 serves Marina and Fort Ord and includes west of Del Monte; DeForest, Beach, Marina, Healy, Abdy, Cardoza, Reservation Road, Lake Drive and Palm. Both lines operate hourly headways six days a week. Only Line 12 operates on Sundays; and then just on local Marina streets. Line 12 has the closest stops to the beach: Reservation Road at Cardoza and Reservation Road at Beach. These stops would place a rider one-quarter to one-half a mile from the beach. Line 12, which offers the best beach access, is also primarily a local service route. Peninsula residents outside of Marina would have a more difficult time reaching Marina's Coast by bus.

The MST anticipates expanding Line 12 to downtown Monterey and reducing headways to one-half hour on Line 7, when they receive delivery of ten new buses in 1982. These

route changes will increase recreational access. Currently MST finds demand for recreational travel by transit to Marina's beaches to be extremely low. Transit supervisors report requests for access to Marina beaches to be rare. According to MST, until the need is evidenced to be considerably greater, a high level of transit service cannot be justified. In the interim, service will continue to be oriented around local service, particularly connecting Fort Ord and Peninsula cities with Marina.

- **Recreation Access – Lateral**

Marina's entire shoreline comprises sandy beach on the shore of Monterey Bay. ~~Except for the inconvenience of crossing the Monterey Sand Company dragline, there is no physical impediment to pedestrian access along the shoreline within City limits. Because the dragline operator will slack the lines for pedestrians to cross, the sand mining operation does not presently present a barrier to pedestrian use northward from the Reservation Road vertical access.~~ However, military security and public safety concerns preclude shoreline access south of Marina State Beach; coastal hikers must use the Fort Ord bikeway to continue southward. A satisfactory connection between the Lake Court access and the north end of the Fort Ord bikeway is needed.

PLAN APPEALS

After certification, Coastal development permit-issuing authority passes from the State to the City of Marina. However, there will be an area within the City's current Coastal Zone over which the State will retain permit appeal jurisdiction. This area is called the Coastal Appeals Zone. The State Coastal Commission will map this area for the City and provide a method of determining the exact boundary on a property-by-property basis. State law establishes rules for determining this appeals area.

Any locally-issued Coastal permit within this appeals area may be appealed to the State Coastal Commission on the basis of violating one or more of six conditions established in Section 30603(b) and (c) of the Public Resources Code:

- The development fails to provide adequate physical access or public or private commercial use or interferes with such uses.
- Development fails to protect public views from any public road or from a recreation area to, and along, the Coast.
- The development is not compatible with the established physical scale of the area.
- The development may significantly alter existing natural land forms.
- The development does not comply with shoreline erosion and geologic setback requirements.

- Development is not in conformity with the certified Local Coastal Program.

If only a portion of a parcel is located within the Coastal Appeals Zone, then only the use proposed on that portion of the parcel can be appealed.

Categorical Exclusion

There is a provision in the State law which allows certain areas within the local coastal permit-issuing zone to be exempted from required coastal permits with the Coastal Commission's approval. Categorical exclusion is granted by the State Commission as a part of Implementation Plan certification. Generally, categorical exclusion is allowed in areas already fully developed at the time of LUP certification or in which the plan does not anticipate any substantial change in land use.

Categorically excluded areas located within the Appeals Zone are also exempt from appeal. However, should an owner or the City wish to change the permitted use of any property from that designated in the Local Coastal Plan, a LCP Land Use Plan amendment would be required and the categorical exclusion would lapse.

Application for categorical exclusion areas is generally initiated by the local jurisdiction during the implementation phase of the Local Coastal Program.

PLAN AMENDMENTS

Once Marina's LCP is certified, any change to the Coastal Zone Special Area Plan (Local Coastal Land Use Plan) or change to any City ordinances included in the LCP Implementation Plan will be considered an LCP amendment. All amendments will require action by the State Coastal Commission. Some will be determined to be less significant changes and will be classified as minor modifications.⁷ Minor modifications can be approved by the Executive Director of the State Commission. All other modifications, including any change in allowable land use, will be considered major and will have to be approved by action of the State Coastal Commission.

All amendments (Local Coastal Plan or related ordinances) will require action by the local jurisdiction. Public notice will be made and appropriate public hearings held. After City Council action, the amendment will be forwarded to the State Coastal Commission for action. If determined to be a minor amendment, and agreed to by the State Coastal Commission Executive Director, it will go into effect ten working days after its approval. Major changes, including any change in use, will require public hearings before the State Coastal Commission and certification according to the process used when the original LCP was certified.⁸

⁷ Specific determination of which changes will be minor and which major has not yet been decided by the State Coastal Commission

⁸ Approval of the amendment by the City Council; transmission of the approval resolution to the Coastal Commission; hearings by the Central (if still in existence) and State Coastal Commissions; and action recommending certification pending City Council action; and final action by the City Council

There are two other types of amendments to the LCP which are more unique. One is amendment to accommodate public works and energy facilities; the other is five-year evaluation of the Local Coastal Program. The State Coastal Act allows the Coastal Commission to overrule a local jurisdiction's denial of a region-serving public works or energy facility if the project was not considered and rejected during the original LCP preparation or if the Commission rules that to deny the project would adversely affect the public welfare, or that the need for the project is greater than the area served by the Local Coastal Plan, and there is no feasible, less environmentally-damaging way to meet the need.

The Coastal Act (Section 30519.5) requires that the Coastal Commission evaluate the implementation of each Local Coastal Program at least every five (5) years after certification. If the Coastal Commission determines that the Local Coastal Program is not being carried out in conformance with any Coastal Act policy, it will make recommendations to the City for action. These recommendations can include amendments to the Local Coastal Land Use Plan, zoning or other portions of the Local Coastal Program. If the amendments are not made within one year, the local jurisdiction must report its reason to the Commission. The Commission will review the response. If the reasons are not satisfactory, the Coastal Commission can request further legislative action by the State Legislature to clarify the policy and required local action. The Legislature may not amend the Local LCP directly, but could consider changes to the Coastal Act which would require local jurisdictions to comply.

State law limits the number of times a year a City's General Plan can be amended to three. A similar regulation has been adopted for Local Coastal Plan amendments. Initial adoption of the Local Coastal Program by the City of Marina however, will not limit the number of General Plan Amendments that may be adopted in 1981.

Figure 1 Existing Land Use and Ownership Map

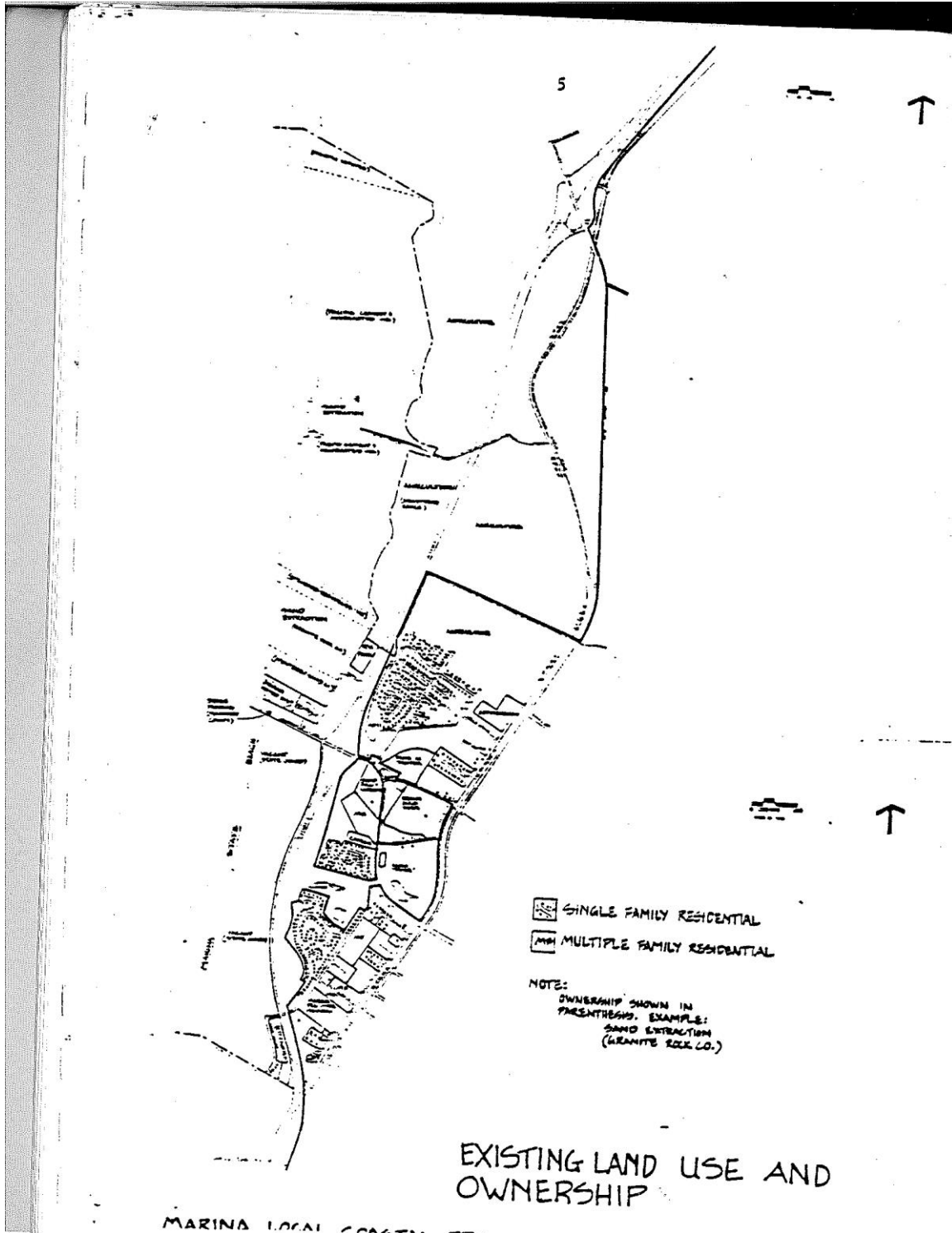


Figure 2 - Marina State Beach Planning Area Map

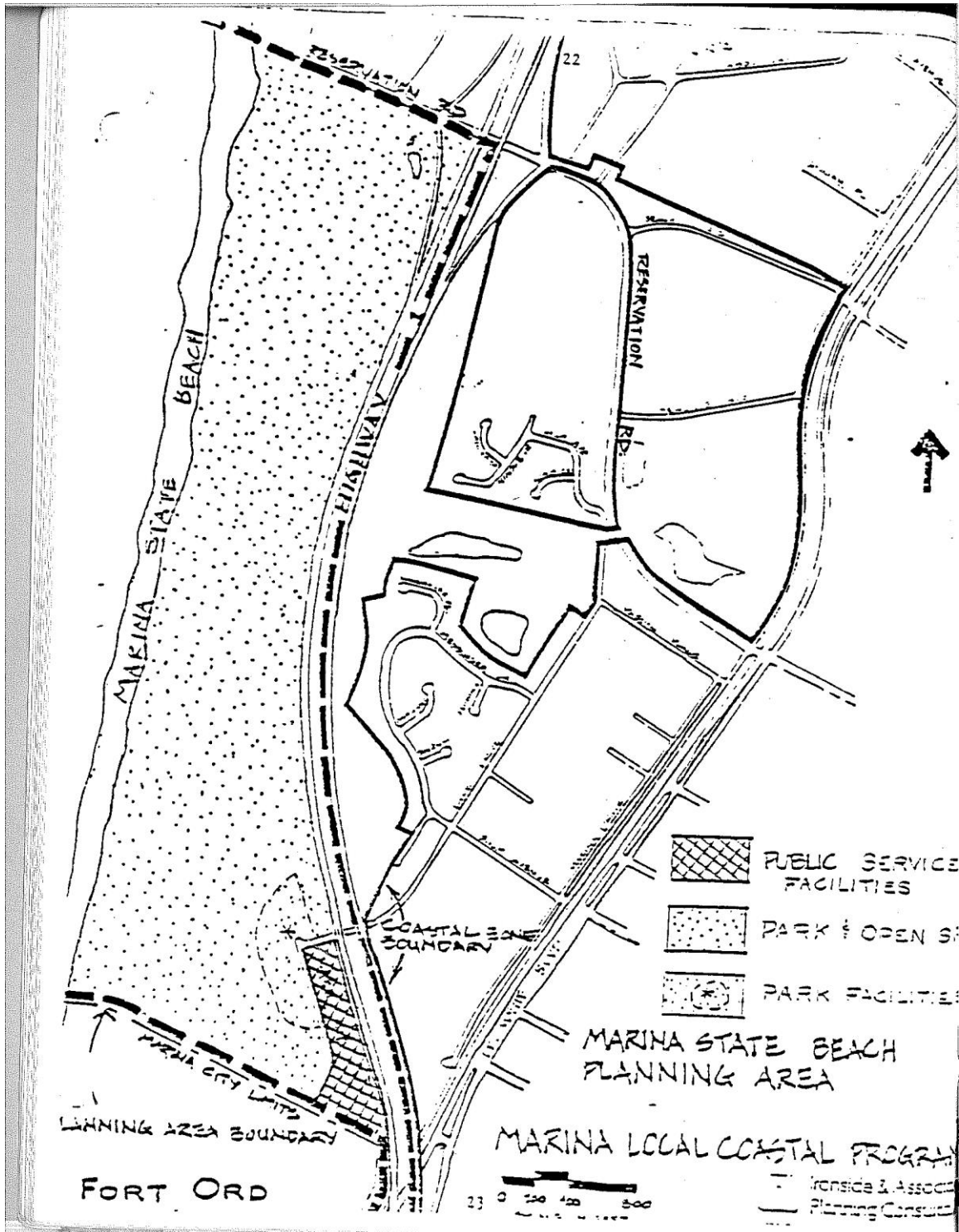


Figure 4 - North of Reservation Road Planning Area Map (Existing)

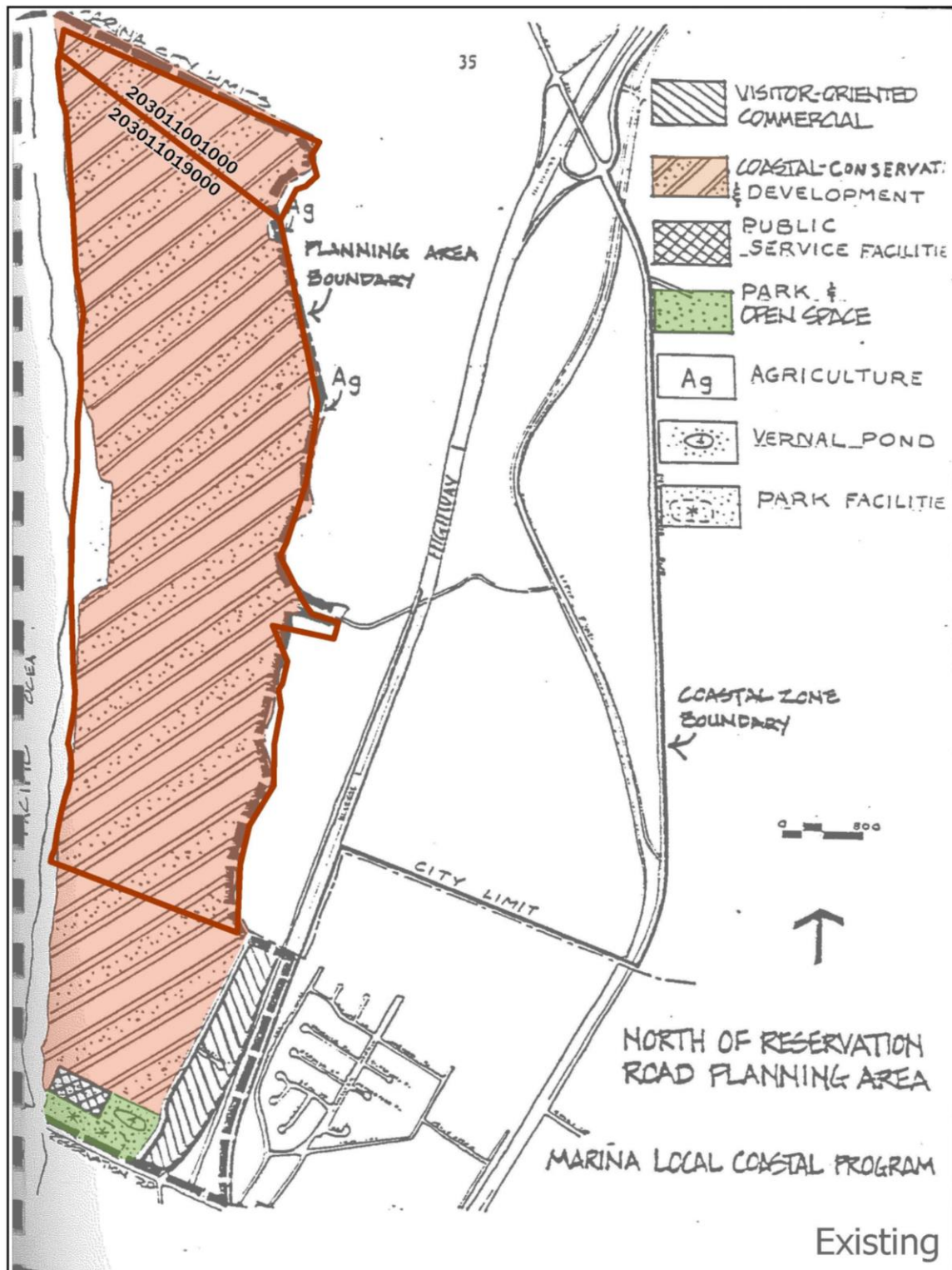


Figure 4 - North of Reservation Road Planning Area Map (Proposed)

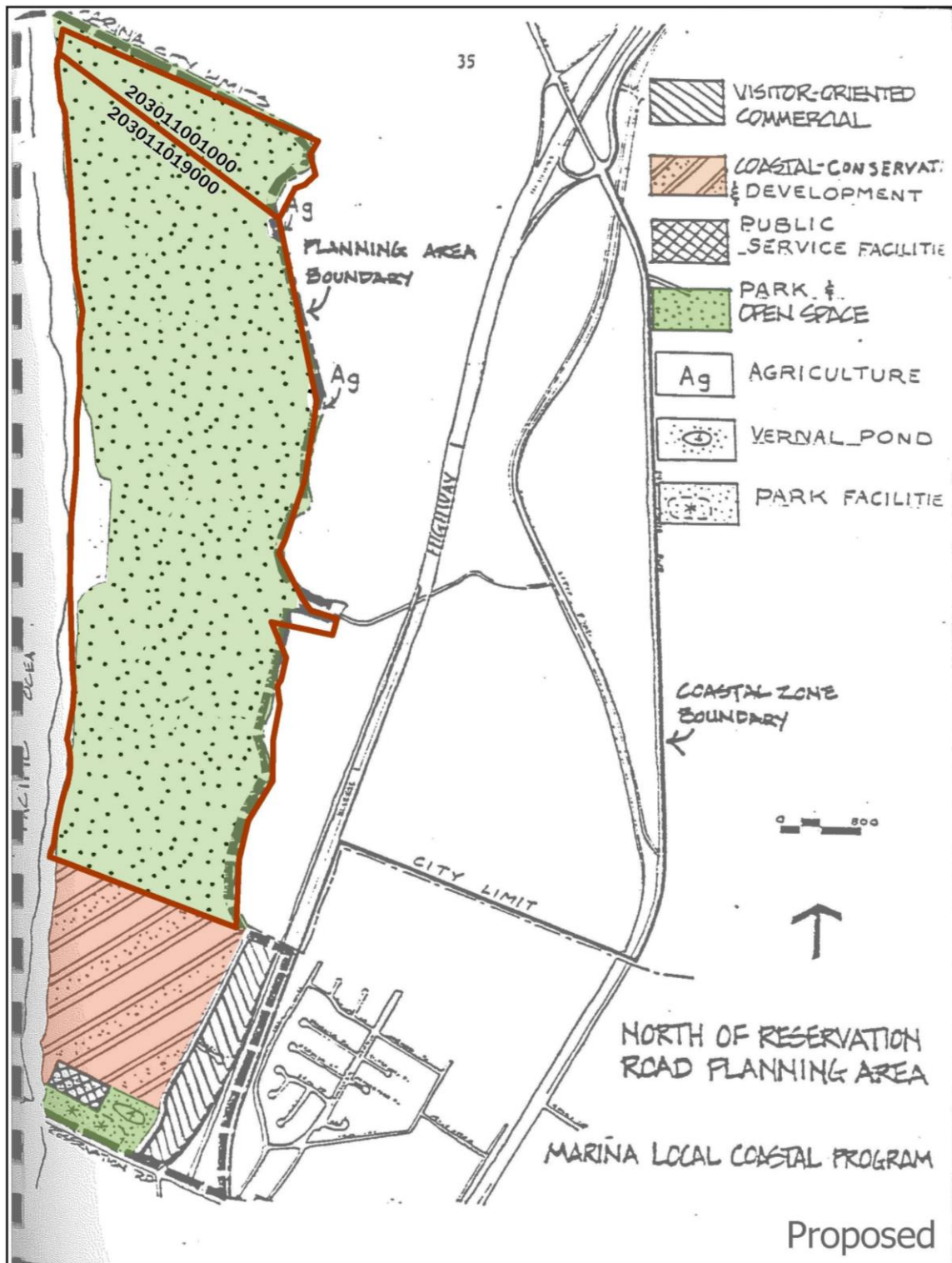


Figure 5 - Disturbed Vegetation Map

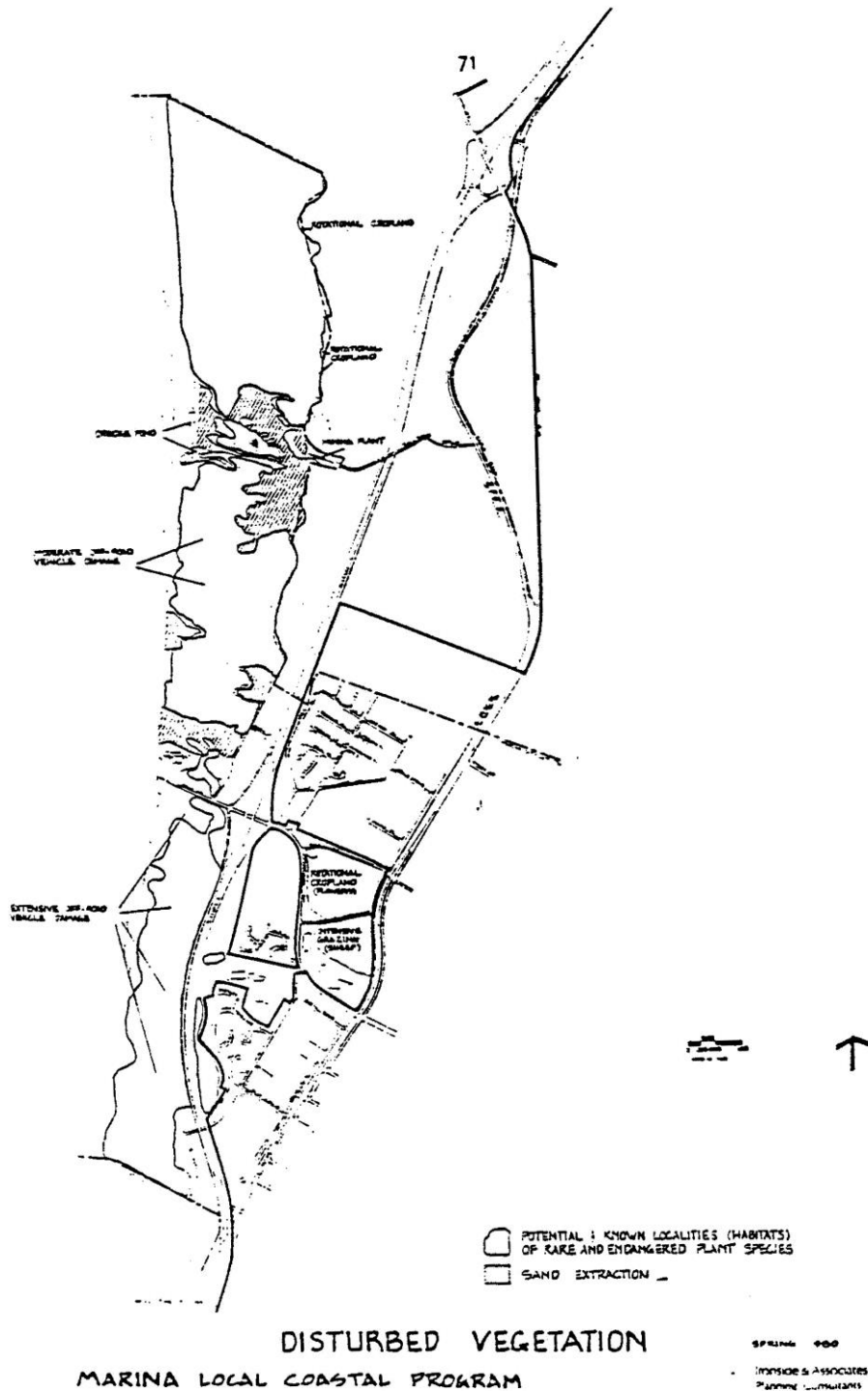


Figure 6 - Natural Habitats Map

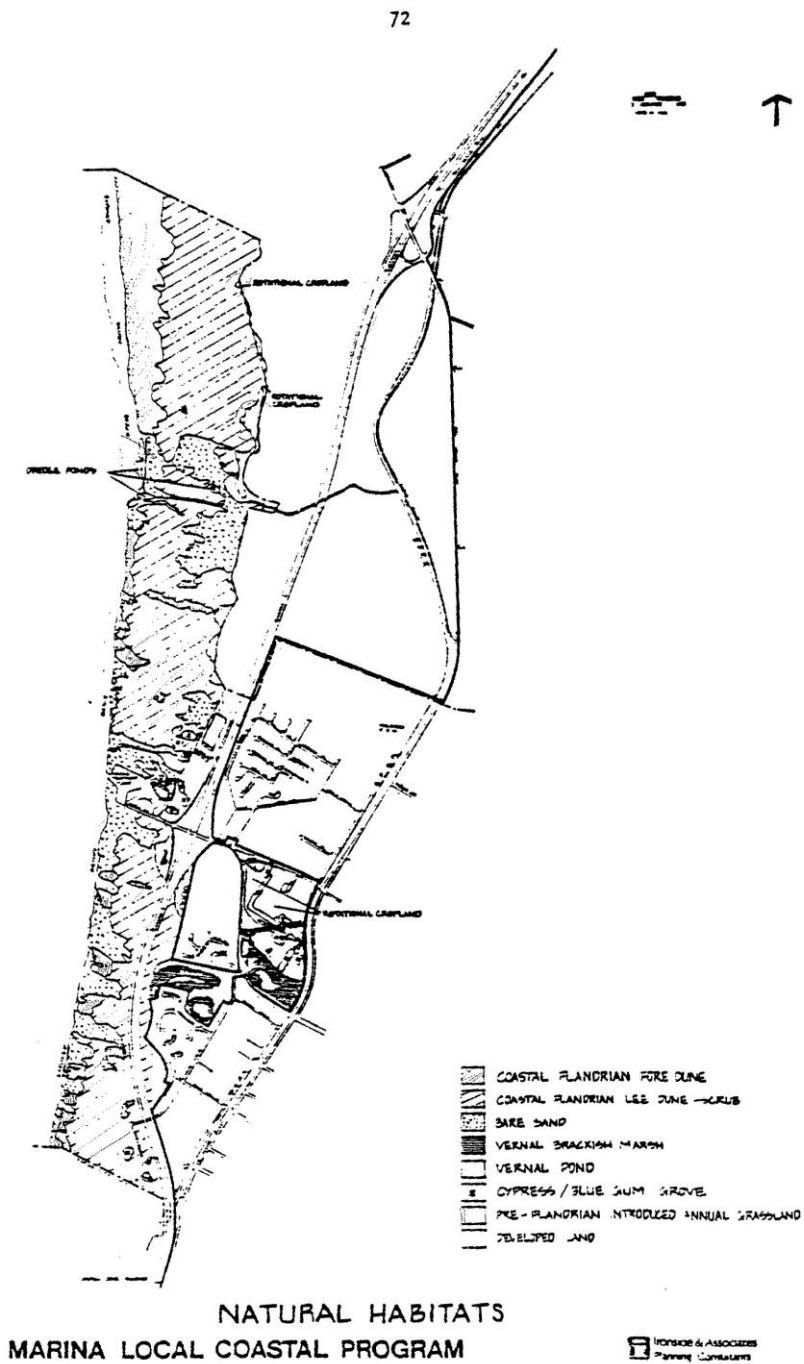


Figure 7 - Potential Wildlife Habitat Map



Figure 8 - Geology Map

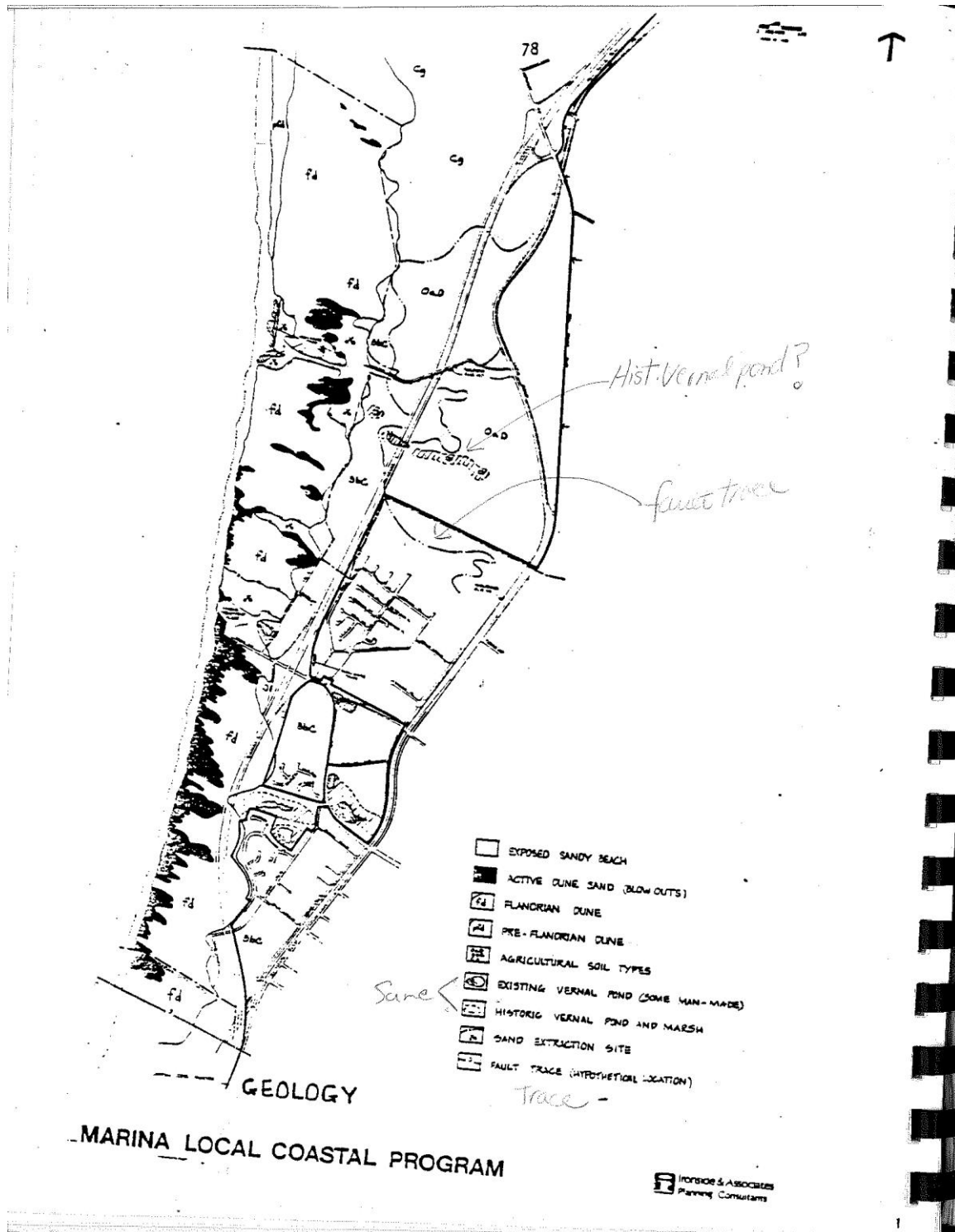


EXHIBIT A

HABITAT DEFINITIONS

Primary habitat. This term includes all of the environmentally sensitive habitat areas in Marina. These are as follows:

1. Habitat for all identified plant and animal species which are rare, endangered, threatened, or are necessary for the survival of an endangered species. These species will be collectively referred to as “rare and endangered.”
2. Vernal ponds and their associated wetland vegetation. The Statewide Interpretive Guideline for Wetlands and Other Wet Environmentally Sensitive Habitat Areas (California Coastal Commission, February 14, 1981) contains technical criteria for establishing the inland boundary of wetland vegetation.
3. All native dune vegetation, where such vegetation is extensive enough to perform the special role of stabilizing Marina’s natural sand dune formations.
4. Areas otherwise defined as secondary habitat that have an especially valuable role in an ecosystem for sensitive plant or animal life., as determined by a qualified biologist approved by the City. [Resolution No. 2001-118 (October 16, 2001); approved by CCC November 14, 2001]

Secondary habitat. This term refers to areas adjacent to primary habitat areas within which development must be sited and designed to prevent impacts which would significantly degrade the primary habitat. The secondary habitat area will be presumed to include the following, subject to more precise determination upon individual site investigation:

1. The potential/known localities of rare and endangered plant species as shown on “Disturbed Vegetation” map in the Marina Local Coastal Program.
2. The potential wildlife habitats as shown “Potential Wildlife Habitats” map in the Marina Local Coastal Program.
3. Any area within 100 feet of the landward boundary of a wetland primary habitat area.

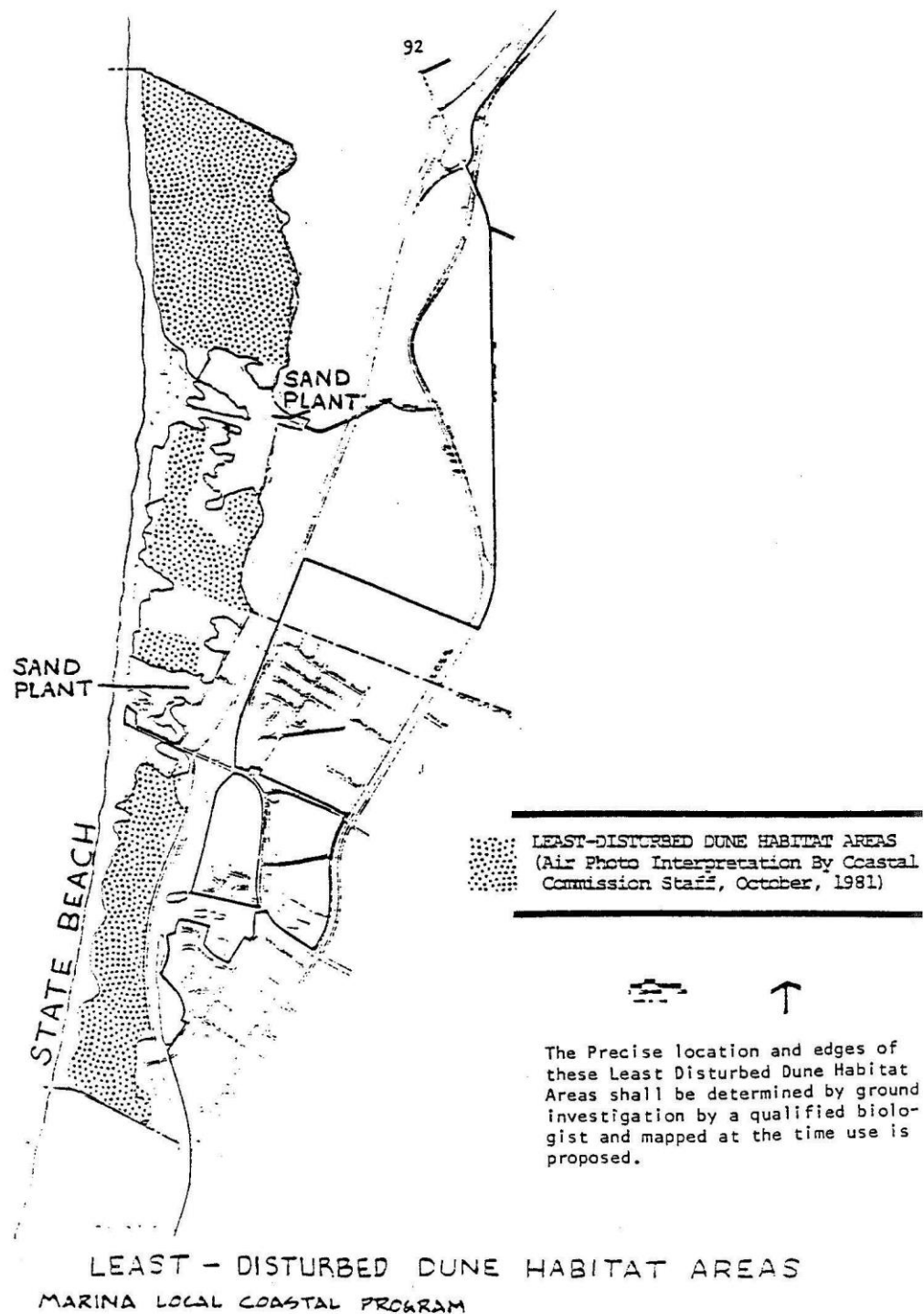
Rare and endangered species. This term will apply to those plant and animal species which are rare, endangered, threatened or are necessary for the survival of such species. The Environmental Analysis Report prepared for the Marina Local Coastal Program identified such species in the dune habitat areas. While future scientific studies may result in addition or deletion of species, the list presently includes:

1. Smith's Blue Butterfly (*Shijimiaeoides enoptes smithi*)
2. Globose Dune Beetle (*Coelus globosus*)
3. Black Legless Lizard (*Anniella pulchra nigra*)
4. Salinas Kangaroo Rat (*Dipodomys Heermanni Goldmani*)
5. Seaside Painted Cup (*Castilleja latifolia ssp. Latifolia*)
6. Monterey Spine Flower (*Chorizanthe pungens var. pungens*)
7. Eastwood's Ericameria (*Ericameria fasciculate*)
8. Coast Wallflower (*Erysimum ammophilum*)
9. Menzies' Wallflower (*Erysimum menziesii*)
10. Coastal Dunes Milk Vetch (*Astragalus tener var. titi*)
11. Dune Gilia (*Gilia tenuiflora var. arenaria*)
12. Wild Buckwheat (*Eriogonum latifolium*)*
13. Wild Buckwheat (*Eriogonum parvifolium*)*
14. Bush Lupine (*Lupinus ssp.*)+

* only within the range of Smith's Blue Butterfly.

+ only within the range of the Black Legless Lizard.

Exhibit B
Figure 9 Least Disturbed Habitat Areas Map



City of Marina Local Coastal Program Volume II Implementation Plan

**Certified by
California Coastal Commission
April 20, 1982**

**Approved, Adopted, and Certified by
City Council Resolution No. 82-61
October 27, 1982**

**Reformatted to Include Post-
Certification Amendments
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City of Marina Local Coastal Program Volume II Implementation Plan

Certified by the California Coastal Commission
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INTRODUCTION

As provided by the California Coastal Act of 1976, a Local Coastal Program consists of two (2) major parts: the land use plan, and the implementation measures needed to carry it out. Accordingly, the Marina Local Coastal Implementation Plan (LCIP) describes the various measures needed to carry out the Marina Local Coastal Land Use Plan (LCLUP). Together, the LCLUP and LCIP comprise the Local Coastal Program (LCP) for the City of Marina.

BEACH ACCESS

The California Coastal Act requires that access be provided both to and along the coast. These two (2) kinds of access are: **vertical**, perpendicularly from the nearest public road to the sandy beach frontage; and **lateral**, along the sandy beach frontage parallel to the water's edge. A third type of access discussed in the Marina Local Coastal Land Use Plan is **vernal pond** access. One purpose of the Local Coastal Implementation Plan is to identify those measures needed to carry out the access component of the LCP.

Vertical Accessways

There are three (3) vertical access points recommended in the Marina Local Coastal Land Use Plan; two (2) are located on property owned by the California Department of Parks and Recreation. These two (2) beach accesses now exist at Lake Court and Reservation Road. The plan proposes that they be improved by the State Department of Parks and Recreation. Timing of this improvement is dependent upon available funding. Expectations of the type and level of development at these accessways is outlined in Marina's Local Coastal Land Use Plan. Since any development on this site by the State Department of Parks and Recreation will require a Coastal Development Permit, issued by the City of Marina, standards and expectations expressed in the Plan will be complied with.

The third vertical access discussed in the plan is located on private property adjacent to the west side of Dunes Drive. Three (3) privately-owned parcels have frontage on the west side of the existing portion of Dunes Drive. If the road is extended, additional properties will be served and will share the proposed access. ~~The Monterey Sand Company's dragline can obstruct non-pedestrian lateral beach access in the area.~~ The Dunes Drive access is proposed to be the only equestrian beach access in the City; horseback riding is prohibited on the State beach to the south of the dragline. The Dunes Drive beach access needs to be located to provide safe equestrian use from the access north along the beach on the north side of the dragline.

The accessway easement should be at least ten (10) feet wide and should extend from Dunes Drive to the mean high water line. Title to the land and improvements within the easement area may be retained by the property owner. Only the access rights need be conveyed to a public agency.

The primary access objective in the Dunes Drive area is for one improved access. This access may be provided by cooperation among property owners potentially required to provide access. If no cooperation occurs, at the time of development each property owner must grant an access easement to the City. The City may in turn determine at the time it issues the Coastal Development Permit, which easement or easements should be developed and which retained for future access needs. If a developed access already exists at the time a development proposal is filed, the property owner may pay a fee in lieu of providing an access easement providing the fee is determined by the City to be appropriate. These fees will be deposited into a restricted fund established by the City Council to be used for access improvement, maintenance and beach parking.

An environmental assessment should precede siting and improvement of a beach accessway in this area. At a minimum, the study should address the possible impacts on rare and endangered plant and animal species, geophysical effects of construction and use, public safety, maintenance and alternative locations within the area, management and mitigation measures.

When private property owners are required by the subdivision ordinance and/or local plans to provide developed coastal vertical accessways, it is important that the facilities actually are put in place. To insure construction, the Planning Department shall make a pre-final field check to verify compliance with accessway conditions of the Local Coastal Development Permit. The pre-final inspection should not be approved and utility connection to the proposed development should not be allowed until access structures are in place and easements are recorded or in-lieu fees have been paid to the City.

Vernal Pond Accessways

A unique aspect of Marina's Coastal Zone are the vernal ponds. Most of these seasonal lakes support wetlands which provide wildlife habitat during the migration and breeding season of various species. Two (2) of these ponds are in public ownership and protected by fences against human intrusion. One of the ponds, Number Three, has no marsh. Number Four, west of Dunes Drive, and Number Two, on the north side of Reservation Road, have potential for nature observation facilities. However, before such use should be considered, an environmental assessment should be undertaken to determine what level of use, if any, the habitat and pond itself can sustain. Since these vernal ponds are unique in California in their geologic character and proximity to the ocean, use even for nature observation should not be encourage unless it can be demonstrated that it will not have an unmitigatable adverse effect on the area.

Because these areas are defined as wetlands in the California Coastal Act, a 100 foot protective setback will be required from the outer edge of the wetlands and any coastal permit issued for development, including walkways for observation, will have to comply with the policies and recommendations laid out in the Local Coastal Land Use Plan (See Conclusions Section of the LCLUP and Habitats Section of the LCIP). These ponds, their wetlands and 100 foot setbacks will also be included in the City of Marina's Coastal Permit Appeal Zone. Therefore any local decision regarding development within this area will be appealable to the State Coastal Commission (See Appeals Section).

Lateral Access

Lateral access, or access parallel to the water line on the sandy beach frontage, is presently virtually uninterrupted in Marina. ~~The only obstruction is the Monterey Sand Company's dragline. When it is not operating, a pedestrian can easily step between the cables.~~ As consistent with the Coastal Act, a balance between public access and operation of a coastal dependent use should be planned so that the needs of both are compatible.

About one-third of Marina's sandy beach frontage is already in State ownership as a part of Marina State Beach. The remaining two-thirds is in a number of private ownerships, several of these are very large.

It shall be the City's intent to require that continuous public lateral access shall be maintained along the shoreline. Lateral access easements or dedications should extend inland from the water line to include the inland edge of the sandy beach frontage. The depth and extent of this area may vary along the beach, but it can easily be identified by a qualified professional. Therefore, the depth of these easements shall be determined by the City at the time alternative use of development is proposed for a site. ~~Sand mining companies are currently extracting sand from or across this area. In accordance with the LCLUP, all beach front parcels that are used for sand mining may satisfy the requirement for lateral access by the recordation of a deed restriction on the property. The deed restriction shall consist of a covenant executed by the property owner which shall be recorded on the title to the property and shall bind all successors in interest and shall run with the land until such time as a use other than sand mining is approved. The deed restrictions shall contain provisions limiting public access to protect the safety of the public and to ensure that use of the property for sand mining is not inhibited, but only to the extent that such limitations are reasonable and necessary for the safe conduct of the sand mining operations. At such time as a use other than sand mining is approved the property owner shall execute and record an irrevocable offer to dedicate a lateral access easement.~~

Lateral access easements may be dedicated to the City or to the State. The Coastal Commission has established a process whereby such easements can be offered to State agencies. An offer to dedicate to the State would relieve the City of any potential liability for adjacent property damage as well as placing the operation and maintenance responsibility for this area with the State.

STANDARDS FOR COASTAL PROTECTION STRUCTURES

~~Except for a few facilities associated with sand mining, t~~There currently is little capital investment to be threatened by erosion along Marina's shoreline. The face of the dunes is subject to wave erosion, so future development shall be placed beyond the area vulnerable both to wave erosion and tsunami hazard. This setback shall be great enough to protect the economic life of the proposed development (at least 50 years) and be east of

the tsunami hazard zone. The exact extent of this setback shall be determined by a qualified geologist, selected from an approved list compiled and maintained by the City. Because of variation from site to site, the setback line shall be determined at the time development of a site or parcel is proposed.

Protective structures are not recommended in Marina; however, if they should ever be necessary, standards shall be established to insure that the type of protection, location, design and other factors are considered. In determining if it is suitable to issue a coastal permit for a shoreline structure, the following shall be addressed: (1) alternatives to a protective structure shall be determined and evaluated by appropriate specialists first; and (2) an EIR/EIS shall be required on the proposed structure. The EIR/EIS shall address specific issues of Local Coastal Land Use Plan concern, construction and maintenance. The environmental evaluation and mitigations shall be prepared by qualified specialists and shall address at a minimum the following specific issues and design considerations.

Specific Issues

1. Demonstrate the need for a protective structure, review alternatives and determine why each alternative is unsuitable.
2. Evaluate the impact on sand migration and replenishment, potential changes in erosion rates elsewhere along the coast resulting from the proposed construction, removal of dune vegetation, drainage, etc.
3. Evaluate the impact of the protective structure on beach use (does it block or obstruct the sandy beach, etc.; what will the shoreline look like from land and sea, etc.?).
4. Determine the effect of the structure's presence on recreation uses.
5. Determine the effect of the structure on access to and along the beach or shoreline; determine that level of access provided will be consistent with the City's local coastal policies.
6. Determine effects of protective structure on rare and endangered species in the fore dune and dune area.

Design Considerations

1. Mitigate identified environmental impacts, particularly with respect to sand migration patterns, additional shoreline and wind erosion problems which might result from the project, and loss of habitat for rare and endangered plant and animal species.
2. Safe public access shall be designed into the protective structure, so that movement along the beach parallel to the water will remain possible at all water levels. If the proposed structure will cross a vertical access corridor identified by the Access Component of the LCLUP, access from the nearest public road to the shoreline across the protective structure shall also be provided.
3. Surfaces creating an uneven, rugged or textured appearance to break the force of the water should be used as much as feasible.

4. Structures shall be designed to physically and visually blend into the area protected. Consideration shall be given to texture, materials, color, view from and to the sea, etc.
5. Drainage from land to sea shall be evaluated and necessary structural accommodations made.

Mitigations for these effects and others, identified in the EIR/EIS for each proposed shoreline structure shall be required to be met by the project prior to issuing a coastal permit for construction.

HABITAT PROTECTION

Much of the Marina Coastal Zone either is environmentally sensitive because of the presence of rare and endangered species or has the potential for supporting a rare and endangered species. In Marina, environmentally sensitive habitats include, but are not limited to area of undisturbed native due vegetation, vernal ponds and vernal pond wetlands. The Potential Habitat Map in the LCLUP reveals areas where such plant and animal habitats are to be found. The precise limits of such habitats shall be confirmed by professional on-site evaluation at the time development is proposed and before a Coastal Development permit is issued.

In addition to indicating the location of primary habitat areas for rare and endangered plant and animal species (which are to be protected), the evaluation shall address protective measures, such as setbacks, restoration of habitat areas where natural dune landform remains, and limitations to uses in secondary and/or support areas which are necessary to the health of the identified primary habitat area. Because of the variety of plants and animals involved, the secondary or support area will have to be individually identified and specifically protected on a site-by-site or case-by-case basis. For this reason, it is important that the City establish a list of biologists qualified to prepare habitat evaluation reports within the City's Coastal Zone. Developers may then choose specialists from these lists.

In the case of wetlands, the biologists will have to determine the extent and landward boundary of the wetland. The biologist will then establish a 100 foot setback line from the boundary of the wetland. This entire area, pond, wetland and setback, will be subject to Coastal Development Permit requirements as well as being in the Coastal Permit Appeal Zone.

In the case of dune habitat areas, the Environmental Analysis Report prepared for this plan identified a number of plant and animal species which are locally or generally rare, endangered, threatened, or are necessary for the survival of an endangered species. The habitats of these species, collectively referred to throughout this plan as "rare and endangered", warrant protection as environmentally sensitive.

While future scientific studies may result in addition or deletion of species, the list presently includes:

1. Smith's Blue Butterfly (**Shijimiaeoides enoptes smithi**)
2. Globose Dune Beetle (**Coelus globosus**)
3. Black Legless Lizard (**Anniella pulchra nigra**)
4. Salinas Kangaroo Rat (**Dipodomys Heermanni Goldmani**)
5. Seaside Painted Cup (**Castilleja latifolia ssp. Latifolia**)
6. Monterey Spine Flower (**Chorizanthe pungens var. pungens**)
7. Eastwood's Ericameria (**Ericameria fasciculata**)
8. Coast Wallflower (**Erysimum ammophilum**)
9. Menzies' Wallflower (**Erysimum menziesii**)
10. Coastal Dunes Milk Vetch (**Astragalus tener var. titi**)
11. Dune Gilia (**Gilia tenuiflora var. arenaria**)
12. Wild Buckwheat (**Eriogonum latifolium**)*
13. Wild Buckwheat (**Eriogonum parvifolium**)*
14. Bush Lupine (**Lupinus ssp.**)+

* only within the range of Smith's Blue Butterfly.

+ only within the range of the Black Legless Lizard.

Minimum Habitat Mitigation/Restoration Plan Requirements

All direct and potential impacts to primary and secondary habitats shall be fully mitigated. Appropriate acreage replacement/restoration ratios for any unavoidable direct impacts to habitat areas and buffer areas shall be applied to fully protect identified habitat. Habitat restoration plans shall be prepared and approved prior to issuance of any grading or building permits.

Habitat Restoration Plan Requirement

All habitat restoration, enhancement and/or buffering plans shall be prepared by a qualified biologist and where appropriate, with the assistance of a qualified hydrologist. Plans shall be developed in consultation with the Department of Fish and Game and the U.S. Fish and Wildlife Service in cases where these agencies have jurisdiction. The plans and the work encompassed in the plans shall be authorized by a coastal development permit. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the City. No changes to the approved final plans shall occur without a City-approved amendment.

The elements of such plan shall at a minimum include:

- a. A detailed site plan of the entire habitat and buffer area, with a topographic base map;

- b. A baseline ecological assessment of the habitat and buffer area, including but not limited to, assessment of biological, physical and chemical criteria for the area;
- c. The goals, objectives, performance standards and success criteria for the site, including specific coverage and health standards for any areas to be planted. At a minimum, explicit performance standards for vegetation, hydrology, sedimentation, water quality and wildlife and a clear schedule and procedure for determining whether they are met shall be provided. Any such performance standards shall include identification of minimum goals for each herbaceous species, by percentage of total planting and by percentage of total cover when defined success criteria are met; and specification of the number of years active maintenance and monitoring will continue once success criteria area met. All performance standards shall state in quantifiable terms the level and extent of the attributes necessary to reach the goals and objectives. Sustainability of the attributes shall be a part of every standard. Each performance standard shall identify:
 - 1. The attribute to be achieved;
 - 2. The condition or level that defines success; and
 - 3. The period over which success must be sustained.

The performance standards must be specific to provide for the assessment of habitat performance over time through the measurement of habitat attributes and functions including, but not limited to, wetland vegetation, hydrology and wildlife abundance.

- d. The final design, installation and management methods that will used to ensure the mitigation site achieves the defined goals, objectives and performance;
- e. Provision for the full restoration of any impacts that are identified as temporary necessary to install the restoration or enhancement elements;
- f. Provisions for submittal: Within 30 days of completion of initial (and subsequent phases, if any of) restoration work, of “as built” plans demonstrating that the restoration and enhancement has been established in accordance with the approved design and installation methods;
- g. Provision for a detailed monitoring program to include, at a minimum, provision for assessing the initial biological and ecological status of the site. The assessment shall include an analysis of the attributes that will be monitored pursuant to the program, with a description of the methods for making that evaluation;
- h. Provision to ensure that the site will be promptly remediated if the monitoring results indicate that the site does not meet the goals, objectives and performance standards identified in the approved mitigation program and provisions for such remediation. If the final report indicated that the mitigation project has been unsuccessful, in part or in whole, based on the approved performance standards, the applicant shall submit a revised or supplemental mitigation program to compensate for those portions of the original program which did not meet the approved performance standards.

- i. Provisions for submission of annual reports of monitoring results to the City for the first five years after all restoration and maintenance activities have concluded (including but not limited to watering and weeding, unless weeding is part of an ongoing long-term maintenance plan) and periodic monitoring after that time, beginning that first year after submission of the “as-built” assessment. Each report shall also include a “Performance Evaluation” section where information and results from the monitoring program are used to evaluate the status of the project in relation to the performance standards. [Resolution No. 2001-118 (October 16, 2001); approved by CCC November 14, 2001]

HOUSING

Residential uses in the Marina Coastal Zone are limited to the area east of Highway 1, adjacent to the vernal ponds. Residential densities of four (4) to eight (8) dwelling units to the acre are proposed. Since public purchase of all the vernal ponds, their wetlands and their protective setbacks (at least 100 feet) is unlikely, the LCLUP provides that residential uses in this area be clustered on portions of sites which would least affect the wetlands and would protect other environmentally sensitive or visually significant attributes of the sites, as described in the LCLUP.

Clustering would also provide economies of construction which would encourage moderately priced, energy-saving housing.

The City is currently in the process of approving and submitting to the State its Housing Element. This element includes a locally-recognized fair-share obligation and an action program committing the City to housing programs which will enable them to achieve their regional fair-share obligation.¹

The Housing Element applies to the entire City. So the action programs requiring dispersal of housing by value, rehabilitation, conservation of lower income housing will apply to the Coastal Zone as well as the rest of the City.

Because of the small number anticipated in the Coastal Zone (about 100), the overallly lower density required to protect environmentally sensitive areas, and the need to dedicate environmentally sensitive areas and support areas, no special housing regulations are necessary beyond those in the City’s certified Housing Element.

¹ The State Housing Element Guidelines require each jurisdiction to have a housing element which distributes the regional low and very low income housing need proportionately to all jurisdictions within the region (fair-share). The guidelines go on to require that each jurisdiction develop a program to achieve construction of their fair-share of the regional need for affordable units within an established time frame. Currently, over 40 percent of Marina’s housing is affordable to low income households and over one-third of the City’s population is qualified for this type of housing.

Condominiums and Stock Cooperatives

There are no existing multiple-family residential structures in the Marina Coastal Zone. Therefore the issue of conversion of lesser cost rentals and possibly substandard units to condominiums and/or stock cooperatives does not presently exist.

New construction in R-1 zones as modified by the City's condominium guidelines could include townhouse construction (common wall), zero lot line options and other types of clustering. Condominiums are possible, but they would have to meet the standards of the City's condominium guidelines. Clustering of various types would allow the double advantage of reducing the construction cost per unit and protecting the sensitive environment. No additional regulation appears necessary.

ADMINISTRATIVE PROCEDURE FOR COASTAL PERMITS

One of the primary objectives of local coastal planning is to transfer to each local coastal jurisdiction the responsibility for issuing the Coastal Development Permit. After LCP certification, the City of Marina will be authorized to issue these permits (currently issued by the State or Regional Coastal Commission). An important part of this responsibility is integrating Coastal Development Permit application processing with the normal planning procedures of the City in order to reduce, as much as possible, unnecessary delay on development proposals.

Overall Planning Procedures

The Planning Procedure Flow Chart indicates the major steps in Marina's processing of planning applications. The major milestones for coastal permits have been added to the chart to indicate where they fit into the existing process and what time frame is anticipated. The intent is to integrate Coastal Development Permit requirements into the existing procedure in order to minimize additional processing time. The major coastal permit milestones in the Planning Procedure Flow Chart indicate some of the modifications in the procedure that would be necessary.

1. During the first visit to the Planning Department the applicant would be advised of the project's relationship with the Coastal Land Use Plan and whether or not a Coastal Development Permit is required (See Sections on Categorical Exclusion) and if the development is located within the Coastal Permit Appeal Zone.
2. If a Coastal Development Permit is required² the procedure would not take less than 30 days and would be integrated with other review and hearings before the Planning Commission (See Coastal Development Permit Procedure Section and Coastal Permit Appeal Procedure).

² A Coastal Development Permit will be required of all development located within Marina's Coastal Zone as defined by the State Legislature in 1979, unless, in the future, a type of development or developed areas are Categorically Excluded by action of the State Coastal Commission at the request of the City.

3. After Planning Commission approval, the Coastal Development Permit would be issued. (If the action is located within the Permit Appeal Zone and appealed to the State Coastal Commission, the City would not issue the permit until the State has acted on the appeal).

It should be noted that the planning procedure flow chart is only a basic graphic depiction of the planning process. These steps are subject to modification pursuant to changes in State and case law and administrative streamlining processes implemented pursuant to any such modifications in State and case law.

Coastal Development Permit Procedure

The Coastal Development Permit Procedure Flow Chart indicates the steps and notification requirements in issuing Coastal Development Permits. On the face of it, the requirements and mechanics of this procedure are similar to many others in the City; however, the details for Coastal Development Permits vary from other permits as follows:

- Permit-Issuing Responsibilities

The Planning Commission shall be responsible for issuing Coastal Development Permits. When site development is determined by an overall plan, as in the combination of R-1/B-6 or Planned Commercial Development, the Coastal Development Permit shall be considered in conjunction with the other project review obligations of the Planning Commission.

It should be noted that the Coastal Development Permit procedure flow chart is only a basic graphic depiction of the major steps in the coastal planning process. These steps are subject to modification pursuant to changes in State and case law and administrative streamlining processes implemented pursuant to any such modifications in State and case law.

Exclusions

Any project or activity categorically excluded by the California Coastal Commission shall be excluded from Coastal Development Permit requirements in Marina. It is irrelevant whether the project or activity categorically excluded is located within the Coastal Permit Appeal Zone or not, it is the responsibility of the Planning Director each quarter to report excluded projects to the State Coastal Commission staff.

Time Line on Coastal Permit Application

Ten (10) days prior to a public hearing on any Coastal Permit, the City shall provide public notice by publication in a newspaper of general circulation and by first class mail. The mailed notice shall be provided to all persons who submit a written request for such notice along with a stamped self-addressed envelope. The mailed notice shall also be provided to the State Coastal Commission, all property owners and tenants within one hundred (100) feet of the project site.³

Within seven (7) days of the Planning Commission action on any Coastal Permit the City shall provide written notice to the State Coastal Commission and all persons who have submitted written request for such notice along with a stamped self-addressed envelope. The Planning Commission's decision on any Coastal Permit may be appealed to the City Council within seven (7) days of the Planning Commission's action.⁴

Ten (10) days prior to any City Council appeal hearing on a Coastal Permit decision the City shall provide notice of such hearing by first class mail to the State Coastal Commission and all persons who have submitted written request for such notice along with a stamped self-addressed envelope. In addition, notice of such hearing shall be published in a newspaper of general circulation at least ten (10) days prior to the hearing.

Within five (5) days of any final City Council action on an appeal of a Coastal Permit the City shall notify, by first class mail, the State Coastal Commission and all persons who have submitted a written request for such notice along with a stamped self-addressed envelope.⁵

Within twenty-one (21) days of the final City Council action on a Coastal Permit with the appeal zone, resulting in approval of a Coastal Permit, an appeal of such decision may be filed by an aggrieved party with the State Coastal Commission or an appeal may be filed by the State Coastal Commission. Therefore, within the appeal zone, twenty-one (21) days must lapse from the date of an affirmative local decision on a Coastal Permit before such action can be deemed final. After this twenty-one (21) day period expires, the Coastal Permit/Notice of Permit Decision may be issued to the applicant.

³ Information required to be included in this notice is outlined in the Local Coastal Program Regulations. November 18, 1980 and includes: Statement that the development is within the Coastal Zone; the date of filing of the application and the name of the applicant; a description of the development and its proposed location; the date, time and place at which the application will be heard by the local government body; a brief descriptor of the general procedure of the local government concerning the conduct of the hearing and local actions; the system for local & Coastal Commission appeals, including any local fees required.

⁴ When the City's action becomes final, the required notice will contain the conditions of approval, findings and the procedures for appeal to the Coastal Commission (where applicable), as specified by the Local Coastal Program Regulations.

⁵ When the City's action becomes final, the required notice will contain the conditions of approval, findings and the procedures for appeal to the Coastal Commission (where applicable), as specified by the Local Coastal Program Regulations.

The City of Marina may charge a fee for a Coastal Permit and appeal of such permit. This fee will be based on administrative costs and will be reviewed periodically by the City Council. The fee shall be established in the same manner as other City fees. If the City Council determines to charge a fee for a Coastal Permit appeal, it will then become possible to appeal any affirmative Planning Commission decision on a Coastal Permit (within the appeal zone) directly to the Coastal Commission.

Eligibility for Coastal Permit Appeal

Any zoning or subdivision action within the Coastal Zone may be appealed to the City Council. Only applications for property within the Local Coastal Permit Appeal Zone may be appealed to the State Coastal Commission. Specific criteria exist in law to define this Appeal Zone:⁶

1. Location between the sea and first public road paralleling the sea **or** within 300 feet of the inland extent of any beach **or** 300 feet of the mean high tide line of the sea where there is no beach, whichever is the greater distance;
2. Location on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream or within 300 feet of the top of seaward face of any coastal bluff and not included in item one.

Development outside the specifically designated Permit Appeal Zone may be appealed only if:

1. The development constitutes a major public works project or major energy facility.

All applicable projects, including major public works projects or major energy facilities may be appealed by an applicant, any two (2) members of the State Coastal Commission or an “aggrieved person”. An “aggrieved person” is legally defined in the Public Resources Code, Section 30801. The definition covers:

Any person who, in person or through a representative, appeared at a public hearing of the local government in connection with the decision or action appealed or who, by appropriate means prior to a hearing, informed the local government of the nature of his concerns or who for good cause was unable to do either.

Grounds for Appeal

Not only do the Coastal Commission’s Local Coastal Program Regulations define the Coastal Permit Appeal Zone, they also clearly set out the grounds for appeal of local

⁶ Section 30603 of the California Coastal Act of 1976
City of Marina
LCP Implementation Plan

permit decisions within Area 1 of the Coastal Permit Appeal Zone.⁷ (Section 00192): Appeals “shall be limited to the following:”

- Development fails to provide adequate physical access or public or private commercial use or interferes with such uses.
- Development fails to protect public views from any public road or from a recreation area to and along the coast.
- Development is not compatible with the established physical scale of the area.
- Development may significantly alter existing landforms.
- Development does not comply with shoreline erosion and geologic setback requirements.

Overriding these grounds for appeal is the consideration of whether or not the development is in conformity with the certified Local Coastal Program.

Appeals to the Coastal Commission must follow at least one local action on the application. If Marina charges a local appeal fee, Coastal Development Permits approved by the Planning Commission may be appealed directly to the State.

Whether an appeal and appellant meet these criteria will be determined by the Executive Director of the State Coastal Commission during the first two (2) working days after the ten (10) working days required for notification of the decision from the local jurisdiction to the State. After State Coastal Commission action, the City will receive a Notice of Permit Decision. If it is affirmative, the City will be able to issue a Coastal Development Permit consistent with the findings of the State Coastal Commission on the appeal.

Categorical Exclusion

The State Coastal Commission has the authority, on a jurisdiction-by-jurisdiction basis, to exempt certain kinds of development from Coastal Permit requirements. This action is called a Categorical Exclusion and must be requested by the jurisdiction. The City may seek a categorical exclusion for categories of existing development or types of actions within its Coastal Zone. In Marina’s case, there is little existing development since most of the land is undeveloped or subject to reuse. However, future structures may be subject to coastal permit regulation. Areas categorically excluded are also exempt from the Coastal Appeal process if located within the Coastal Permit Appeal Zone.

Although no categorical exclusions are recommended for the initial Local Coastal Program, as areas of the City’s Coastal Zone become developed and established, the City may wish to apply to the State Coastal Commission for a categorical exclusion, (for example, to exclude areas zoned and developed R-1.). If the State takes such an action,

⁷ Area 1 is defined in the California Coastal Act Section 30603 as: “Location between the sea and first public road paralleling the sea or within 300 feet of the inland extent of the beach or 300 feet of the mean high tide line of the sea where there is no beach, whichever is the greater distance.”

then all properties in the designated area will remain exempt from the requirement of getting a coastal permit until or unless the use of the property is changed.

The City may find the Categorical Exclusion an efficient way to reduce the administrative work load associated with the Coastal Zone and its regulatory process.

PROPOSED REVISIONS TO THE MARINA ZONING ORDINANCE TO IMPLEMENT THE LOCAL COASTAL LAND USE PLAN

[Below changes made to Zoning Ordinance via Ordinance 82-14 (November 16, 1982), except where otherwise noted. Zoning Ordinance was further amended via Resolution No. 86-49 (December 16, 1986; approved by CCC September 15, 1989), Resolution No. 89-42 (July 18, 1989; approved by CCC September 15, 1989), ~~and~~ Resolution No. 96-45 (April 19, 1996; approved by CCC June 13, 1996), ~~and~~ Resolution No. 2007-269 (November 20, 2007; approved by CCC December 10, 2008), and Resolution No. XX ([date]; approved by CCC [date]). These revisions are hereby incorporated by reference.]

Revise Zoning Ordinance Index to include Section 12.5, P-F Public Facilities Districts, Section 19.5 C-D Coastal Conservation and Development District, and Section 27.5 SU Coastal Zone Secondary Use Combining District.

Section 2: Add Purpose (3) To implement the City's Coastal Program

Section 4: Add to list of Districts:

PF	District 5	Public Facilities
CD	District 5	Coastal Conservation and Development

Section 5: Add:

CP	Coastal Development Permit District
SU	Coastal Zone Secondary Use Combining District

Section 9: Add the following definitions:

Access: An opening in a fence, wall or structure, or a walkway or driveway permitting pedestrian or vehicular approach to, or within, any structure or use.

Access, Lateral Beach: Continuous access along the beach parallel to the mean high tide line.

Access, Vertical Beach: Perpendicular access from the nearest public roadway to the sandy beach frontage and/or mean high tide line.

CEQA: The California Environmental Quality Act of 1970, setting forth requirements for governmental agencies at all levels to develop standards and procedures necessary to protect environmental quality, and setting forth regulations for environmental impact reports (EIR).

Coastal Appeal Zone: That geographical area between the sea and first public road paralleling the sea or within 300 feet of the inland extent of any beach or within 300 feet of the mean high tide line of the sea where there is no beach, whichever is the greater distance. Furthermore, tidelands; submerged lands; public trust lands; within 100 feet of any wetland, estuary, stream; or within 300 feet of the top of seaward face of any coastal bluff are also included.

Coastal Development Permit: A permit issued for development within the Coastal Zone as required by this chapter.

Coastal Scenic View Corridor: Area in which development is sited and designed to protect public views to the dunes and to and along the shoreline and, in scenic coastal areas in order to minimize the alteration of landforms so that new development will be visually compatible with the character of the surrounding areas.

Coastal Zone: That portion of the City of Marina defined by the California Public Resource Code Sections 30103 and 30160 as being in the Coastal Zone, generally State Highway Route 1, the area west of Highway 1 and portions of the area between Del Monte Boulevard and Highway 1 generally including coastal dunes, vernal ponds, and adjacent lands either undeveloped or under cultivation in 1979.

Development: Shall mean, on long, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredge materials or waste; grading, removing, dredging, mining or extraction of any materials; change in the density or intensity or use of land including subdivision and any other division of land except where division occurs as a result of purchase by a public agency for public recreational use; change in the intensity of use of water, or access thereto; construction, reconstruction, demolition, or alteration of the size of any structure; and the removal or harvesting of major vegetation other than for agricultural purposes or kelp harvesting.

Disturbed Area: Terrain that has been substantially altered by erosion, grading, mining, excavation or other natural or man-made causes to the extent that none or very little of the native vegetation and/or natural landform remains.

Feasibility: Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors as they relate to the area or land under consideration.

Habitat – Primary habitat: This term includes all of the environmentally sensitive habitat areas in Marina. These are as follows:

1. Habitat for all identified plant and animal species which are rare, endangered, threatened, or are necessary for the survival of an endangered species. These species will be collectively referred to as “rare and endangered.”
2. Vernal ponds and their associated wetland vegetation. The Statewide Interpretive Guideline for Wetlands and Other Wet Environmentally Sensitive Habitat Areas (California Coastal Commission, February 14, 1981) contains technical criteria for establishing the inland boundary of wetland vegetation.
3. All native dune vegetation, where such vegetation is extensive enough to perform the special role of stabilizing Marina’s natural sand dune formations.
4. Areas otherwise defined as secondary habitat that have an especially valuable role in an ecosystem for sensitive plant or animal life, as determined by a qualified biologist approved by the City. [Resolution No. 2001-118 (October 16, 2001); approved by CCC November 14, 2001].

Secondary habitat: This term refers to areas adjacent to primary habitat areas within which development must be sited and designed to prevent impacts which would significantly degrade the primary habitat. The secondary habitat area will be presumed to include the following, subject to more precise determination upon individual site investigation:

1. The potential/known localities of rare and endangered plant species as shown on “Disturbed Vegetation” map in the Marina Local Coastal Program.
2. The potential wildlife habitats as shown “Potential Wildlife Habitats” map in the Marina Local Coastal Program.
3. Any area within 100 feet of the landward boundary of a wetland primary habitat area.

Local Coastal Implementation Plan (LCIP): That report, adopted by the Council and certified by the State Coastal Commission, which described various administrative and legal procedures to be pursued to carry out the Local Coastal Land Use Plan.

Local Coastal Land Use Plan (LCLUP): That report, adopted by the Council and certified by the State Coastal Commission, which, in response to the Coastal Act of 1976 contains maps, planning area text, public access component policies and guidelines for land use and public access within Marina’s Coastal Zone.

Local Coastal Program (LCP): The City’s local coastal program consists of the following documents: LCP Land Use Plan and LCP Implementation Plan.

Rare and Endangered Species: This term will apply to those plant and animal species which are rare, endangered, threatened, or are necessary for the survival of an endangered species. The Environmental Analysis Report prepared for the Marina Local Coastal Program identified such species in the dune habitat areas. While future scientific studies may result in addition or deletion of species, the list presently includes:

1. Smith’s Blue Butterfly (**Shijimiaeoides enoptes smithi**)
2. Globose Dune Beetle (**Coelus globosus**)
3. Black Legless Lizard (**Anniella pulchra nigra**)
4. Salinas Kangaroo Rat (**Dipodomys Heermanni Goldmani**)
5. Seaside Painted Cup (**Castilleja latifolia ssp. Latifolia**)
6. Monterey Spine Flower (**Chorizanthe pungens var. pungens**)
7. Eastwood’s Ericameria (**Ericameria fasciculate**)
8. Coast Wallflower (**Erysimum ammophilum**)
9. Menzies’ Wallflower (**Erysimum menziesii**)
10. Coastal Dunes Milk Vetch (**Astragalus tener var. titi**)
11. Dune Gilia (**Gilia tenuiflora var. arenaria**)
12. Wild Buckwheat (**Eriogonum latifolium**)*
13. Wild Buckwheat (**Eriogonum parvifolium**)*
14. Bush Lupine (**Lupinus ssp.**)+

* only within the range of Smith’s Blue Butterfly.

+ only within the range of the Black Legless Lizard.

Section 10: General Provisions. Add the following:

- a. Use:
 - (3) add at the end: except in the Coastal Zone, where the construction of utility lines shall be subject to a Coastal Permit.
 - (4) Use Permit and, in the Coastal Zone, a Coastal Permit are first obtained.
 - (5) Use Permit and, in the Coastal Zone, a Coastal Permit are first secured in each case.
 - (7) Use Permit and in the Coastal Zone, a Coastal Permit in each case.
 - (8) Use Permit and in the Coastal Zone, a Coastal Permit upon first securing a Use Permit and, in the Coastal Zone, a Coastal Permit in each case.
 - (9) In the Coastal Zone such uses must be found consistent with the LUP and a Coastal Permit shall be required for these uses.
 - (10) “In the Coastal Zone such uses shall be subject to a Coastal Permit.” In the next paragraph, same number “Except in the Coastal Zone where such uses shall also be subject to a Coastal Permit.”
 - new a. (11): In the Coastal Zone the proposed use shall be consistent with the designation and policies of the General Plan and Local Land Use Plan.
- a. Special Regulations
 - new b. (1)(a)(3) Prior to the establishment of any stable in the Coastal Zone, the Planning Commission will be required to make a finding that such use is consistent with the Local Coastal Program. Stables will also be required to obtain a Coastal Permit.
- a. (2) Regulations for Guest Houses:
 - b. (2)(a)(2) ...Use Permit and, in the Coastal Zone, a Coastal Permit.
- c. Height:
 - b. (1) Chimneys ...Except in the Coastal Zone where the height of such structures shall be subject to a Coastal Permit.
 - c. (2) ...Use Permit and, in the Coastal Zone, a Coastal Permit in each case.

ZONING DISTRICTS WHICH WILL BE APPLIED IN THE COASTAL ZONE**Section 12: Open Space or “O” District**

Add the following:

- a. Uses Permitted:
 - a. (1) Lands to be included. All lands designated as park and open space in the Local Coastal Land Use Plan shall be included in the Open Space District and all lands designated as Open Space in the Open Space Element of the Marina General Plan may be included in the “O” District. Such lands may include, but are not limited to the following:
 - (a) Crop and tree farming, grazing of sheep, cattle and goats.
 - (b) Public parks and playgrounds, and public recreation facilities.
 - (c) Private school grounds and church grounds of a predominantly open character.

- (d) Sandy beaches and beach accesses, sensitive habitat areas and vernal ponds and wetland setback areas.
- (e) Golf courses and country clubs.
- (f) Privately and jointly owned open spaces reserved for open space use as a part of Planned Development.
- (g) Land which because of geophysical or similar hazard is unsuitable for development.
- (h) Any other publicly or privately-owned open space which in the opinion of the Planning Commission functions as a part of the open space system of the City and is included in the Open Space Element of the General Plan.
- (i) Open Space as a reserve for seismic safety, erosion protection, protection of view or similar appropriate purpose.
- b. Uses Permitted Subject to First Securing a Use Permit and in the Coastal Zone a Coastal Permit:
 - (1) Buildings and structures accessory to any permitted use.
 - (2) Educational and cultural uses including any structures incidental to such uses existing at the time of inclusion in the "O" District.
 - (3) Uses and buildings normally incidental and accessory to the above principal uses: except in the Coastal Zone, structures shall be permitted only where they are ancillary to public recreational use or necessary to protect existing development or uses.
 - (4) Beach access and, where suitable, beach access parking.
 - (5) Any addition to an existing structure which will increase the coverage of the structure, or any new structure, except minor recreation or horticultural structures, such as playground equipment, trellises, fences and the like.
 - (6) Shoreline erosion protection structures.

c. Reclassification:

The procedure for the reclassification of land set forth in Section 35 shall apply to property in the "O" Districts, subject to the following modifications:

- (1) Following a public hearing, the Planning Commission shall determine whether it is in the public's interest of the City to retain the subject property in open space use as against permitting its reclassification to the use applied for and whether the proposed reclassification is consistent with the General Plan and all applicable portions of the Local Coastal Land Use Plan. The decision on this question shall be made by resolution and shall be transmitted to the City Council together with a report setting forth reasons for said decision.
- (2) Following receipt of the recommendation of the Planning Commission the City Council shall hold a public hearing. Following such hearing the Council may decide by resolution either to:
 - a. Seek means to retain the property in question in open space use, or
 - b. Permit a reclassification of the subject property.
- (3) Should the Council's decision be the first alternative, all further proceedings for the reclassification of the property shall be halted for a period of not to exceed ninety (90) days from the date of Council action, during which time the City Council shall actively seek to negotiate arrangements, which may include purchase or other acceptable means to retain the property in open space use. The

period set forth herein may be extended by mutual agreement of the Council and the applicant for reclassification.

If at the end of the ninety (90) days, or such longer period as may be agreed upon, no satisfactory arrangement has been concluded, the matter shall be remanded to the Planning Commission for consideration of the reclassification applied for. The Commission shall thereafter proceed in accordance with the provisions of Section 35.

- (4) Should the Council's decision be the second alternative as listed in (2) b., the matter shall be returned to the Planning Commission which shall consider the reclassification applied for in accordance with the procedure set forth in Section 35.
- (5) In areas not designated in the LCP Land Use Plan for open space, reclassification of property in the Coastal Zone shall not become effective until an amendment to the Local Coastal Program has been certified by the State Coastal Commission.

Section __: Regulations for Coastal Conservation and Development or "CD" District

The following regulations shall apply in all "CD" Districts and shall be subject to the provisions of Section 10 of this Ordinance.

- a. Uses Permitted: None
- b. Conditional Uses, subject to obtaining a Coastal Development Permit in each case:
 - (1) coastal research and educational uses; developed public access and other coastally dependent recreation uses; coastal dependent industrial uses including but not limited to marine agriculture (mariculture), dredge pond, surf zone and offshore sand extraction; in severely disrupted areas and those portions of parcels currently subject to dune mining activity, dune mining; and on parcels combined with the Coastal Zone secondary use combining district or "SU" district, visitor serving uses such as visitor accommodations.
 - (2) Regulations for coastal conservation and development uses shall be specified in the Coastal Development Permit. The permit-issuing body may approve Permit applications if the following factors, where relevant, are found to apply:
 - a. There is adequate protection and/or provision of public access from the nearest roadway to the ocean, and uninterrupted lateral access.
 - b. Development is limited to already-disturbed areas.
 - c. Rare and endangered plant and animal habitats are adequately protected.
 - d. Grading and roadway construction are the minimum necessary for the development.
 - e. Views from the State Highway and from the ocean edge are protected.
 - f. There are sufficient provisions for public safety.
 - g. All significant adverse environmental effects are either avoided or adequately mitigated.
 - h. All major and minor subdivisions of land shall provide for sufficient size and configuration to allow for coastally dependent uses or where none are feasible visitor serving commercial uses consistent with the Local Coastal Land Use Plan or LCLUP. All parcels must contain sufficient shoreline frontage.

Section 13: Regulations for Agricultural-Residential or “K” Districts

Add:

- c. Uses Permitted, Subject to First Securing a Use Permit Or In the Coastal Zone a Coastal Development Permit in Each Case:
 - (5) yards, . . . except in the Coastal Zone.
 - (6) Yards, . . . except in the Coastal Zone.
 - (8) plants, . . . except in the Coastal Zone.
 - (9) equipment, . . . except in the Coastal Zone.
 - (11) aircraft, . . . except in the Coastal Zone.
 - (12) galleries, . . . except in the Coastal Zone.
 - (13) offices, . . . except in the Coastal Zone.
 - (14) clubs, . . . except in the Coastal Zone.
 - (15) fairways, . . . except in the Coastal Zone.
 - (16) purpose, . . . except in the Coastal Zone.
 - (21) camps, . . . except in the Coastal Zone.
 - (25) acres, . . . except in the Coastal Zone.
 - (27) business, . . . except in the Coastal Zone.
- c. Maximum Building Height Limit:
Thirty-five (35) feet, except in the Coastal Zone where the maximum height shall be 25 feet.
- d. Building Site Area Required:
Ten thousand square feet, except where combined with any “B” District.

Section 14: Regulations for One-Family Residence or “R-1” Districts

- b. Uses Permitted, Subject to First Securing a Use Permit or in the Coastal Zone a Coastal Permit in Each Case:
- b. (2) Ordinance, . . .except in the Coastal Zone.
- b. (8) aircraft, . . .except in the Coastal Zone.

Section 20: Regulations for Planned Commercial or “PC” Districts

Purpose:

To design and promote the orderly development of a business area as primarily a retail shopping facility to serve present and future needs of coastal visitors and the residential community, with emphasis on preserving and expanding the characteristics of the area in which the commercial use is proposed . . .

- b. (3) In the Coastal Zone the uses permitted shall be determined by the Local Coastal Land Use Plan and a Coastal Development Permit shall be required. Such uses shall include but not be limited to visitor oriented retail and service uses, accommodations and public access.
- b. Maximum Allowable Height:

Thirty-five (35) feet, except in the Coastal Zone where the maximum height shall be 35 feet unless the structure is located in a Coastal view corridor where a lesser maximum may be established in a Coastal Development Permit.

[Resolution No. 89-52].

A. Maximum building site coverage by buildings or structures in the PC District shall be thirty (30) percent of the gross area of the building site for all uses specified under Section 17.26.030 except in the Coastal Zone where the maximum building site coverage shall be twenty five (25) or a lesser percentage may be established to comply with the provision of the Local Coastal Program. In the Coastal Zone east of Highway 1 specific building site coverage shall comply with Land Use Plan provisions. [Resolution No. 89-52 (September 5, 1989); approved by CCC October 10, 1989].

j. Planning Commission Action:

Add to the end of the first paragraph: section...In the Coastal Zone the Planning Commission shall find that the application conforms to the LCLUP.

Permit approvals may also be appealed to the State Coastal Commission.

Section 27.5: Regulations for Coastal Zone Secondary Use Combining District or “SU” Combining District

The following regulations shall apply in all districts which are combined with the “SU” Combining District.

- a. At such time as it has been determined by the Planning Commission, after considering the evidence submitted, that the continuation establishment or re-establishment of coastally-dependent use is not feasible (as defined in the LCIP) on any such property combined with the “SU” District the following regulations shall become effective and be in full force and effect:
 1. Any and all such regulations specified in the Marina Municipal Code under the PC – Planned Commercial Zoning District Regulations shall govern the use of property combined with the SU District.
 2. The interpretation of the PC Regulations as they pertain to the use of property combined with the SU District shall be liberally interpreted to carry out the spirit and intent of the Marina Local Coastal Program.
 3. In the event that an applicant makes an initial showing (at a noticed public hearing before the Planning Commission), based on substantial evidence, that coastal dependent uses are not feasible; and in the event that the Planning Commission affirms this finding, any opponent or any interested party to such application must then demonstrate, by substantial evidence by the next regularly scheduled Planning Commission meeting that there is feasible coastal dependent use for the specific parcel taking into account such factors as the fair market value of the land, its size, location, shape and public access requirements. The Planning Commission at said next regularly scheduled Planning Commission meeting or any continuation thereof shall make a final determination, based on substantial evidence, as to the feasibility of coastal dependent uses. The Planning Commission’s determination may be appealed to the City Council, in writing, within five (5) days of said final determination.

P-F Public Facilities District

- a. Uses Permitted: The following uses are permitted in the P-f District:
 - (1) None.
- b. Uses Permitted Subject to Obtaining a Use Permit or in the Coastal Zone a Coastal Development Permit in Each Case:
 - (1) Public and Private Schools
 - (2) Government offices and support facilities including public safety facilities
 - (3) Utility installations.
 - (4) Public recreation facilities.
 - (5) One single family residence in the Coastal Zone only as provided for in the Marina Local Coastal Land Use Plan
 - (6) Uses which in the opinion of the Planning Commission are similar to those listed above.
- c. Development Regulations:
 - (1) As specified in the Use Permit or Coastal Permit.

C-P Coastal Development Permit District

The Coastal Development Permit District is an overlay district to be combined with the districts designated in this chapter. In case of conflict between the Coastal Permit District and the underlying district with which it is combined, the Coastal Permit District regulations shall prevail.

The Coastal Development Permit District regulations shall be applied to the area within Marina's Designated Coastal Zone except those areas and classes of development categorically excluded by actions of the California Coastal Commission.

The purpose of the Coastal Development Permit is to allow proper consideration of the Local Coastal Land Use and Implementation Plans in order to implement said Plans by achieving consistency between the Plans and developments within the CP District.

- a. Uses Permitted: None.
- b. Conditional Uses Permitted, Subject to First Securing a Use Permit or in the Coastal Zone a Coastal Development Permit in each case:

Any uses on private land or land held by the City, other municipality or public agency, or on State lands other than tidelands, which are permitted or conditional uses in the zoning district with which the CP District is combined and which are consistent with the Marina General Plan and Local Coastal Land Use and Implementation Plans are conditional uses in the CP District. Conditional Uses may be authorized by Planning Commission approval of a Coastal Development Permit.
- c. Development Regulations:

Development regulations for the CP District shall be as specified in the district with which the CP District is combined, with whatever additional regulations the Planning Commission may add as conditions of the Coastal Development Permit in order for

the application to be consistent with the Local Coastal Land Use and Implementation Plans. If necessary or desirable in order to achieve consistency with the LCLUP, the underlying district regulations, such as setbacks, may be modified.

d. Coastal Development Permits:

- (1) Issuance, Hearing. Coastal Development Permits may be issued as provided in this section for any of the uses or purposes for which such permits are required or permitted by this title upon conditions designated by the Planning Commission.

The Planning Commission may impose such conditions as it deems necessary to secure the purpose of this title and may impose such requirements and conditions with respect to location, construction, maintenance and operation, site planning, traffic control and time limits for the Coastal Development Permit as it deems necessary for the protection of adjacent properties, the public interest and the implementation of the LCLUP and LCIP. The Commission may require tangible guarantees or evidence that such conditions are being, or will be, complied with.

A public hearing shall be held on each application for a Coastal Development Permit; notices of such hearings shall be given to persons designated and in the manner prescribed in Section 65854 et. seq. of the California Government Code.

- (2) Form of Application, Fee, Plans:

Application for a Coastal Development Permit shall be made in writing by the owner of the property, or by lessee, purchaser in escrow or optionee with the consent of the owner, on a form prescribed by the City. The application shall be accompanied by a fee, set by the City Council, and plans showing the details of the proposed use.

- (3) Granting:

In considering an application for a Coastal Development Permit the Planning Commission shall consider and give due regard to the Marina General Plan and Local Coastal Land Use and Implementation Plans.

The Planning Commission shall determine whether or not the establishment, maintenance and operation of the use applied for will, under the circumstances of the particular case, be consistent with the General Plan and Local Coastal Land Use and Implementation Plans, based upon the following findings that the project will:

- (a) Not impair major view corridors towards the sea from Highway 1 parallel to the sea, including the Planning Guidelines listed in the LCLUP.
- (b) Be subject to approval of the Site and Architectural Design Review Board, including the Planning Guidelines listed in the LCLUP.
- (c) Guarantee that appropriate legal action is taken to insure vertical and lateral coastal access or fees paid in-lieu thereof as required in the LCLUP and LCIP Access Components. Required improvements shall be completed, or a bond adequate to guarantee their completion shall be posted with the City, prior to issuance of a certificate of occupancy.

- (d) Be adequately set back from the shoreline to withstand erosion to the extent that the reasonable economic life of the use would be guaranteed without need for shoreline protection structures.
 - (e) Protect least disturbed dune habitat areas, primary habitat areas, and provide protection measures for secondary habitat measures consistent with the LCLUP and LCIP.
 - (f) Be consistent with beach parking standards, as established in the LCLUP Access Component.
 - (g) Included feasible mitigating measures which substantially reduce significant impacts of the project as prescribed in any applicable EIR.
 - (h) Not interfere with public access along the beach.
 - (i) Comply with the access, shoreline structure and habitat protection standards included in the Local Coastal Land Use and Implementation Plans.
 - (j) Comply with the Housing Element and housing recommendations of the Local Coastal Land Use and Implementation Plans.
 - (k) In the case of demolition of a residential structure, except to abate a nuisance, not detrimentally alter the character or housing mix of the neighborhood. The structure shall be move, if capable of providing comparable housing opportunities at another location. The demolition and replacement structure shall comply with applicable Local Coastal Land Use Plan policies.
 - (l) In the case of new surf zone or beach sand mining operations, comply with all standards regarding such operations specified in the LCLUP including standards for significant adverse impacts on shoreline erosion, either individually or cumulatively.
- (4) Effective Date outside the Coastal Appeals Zone:
The Coastal Permit shall be effective the seventh (7th) day after Planning Commission approval unless the Commission action is appealed to the City Council, in which case, the permit shall not be effective until the City Council has acted upon the appeal.
- (5) Coastal Commission Appeal:
Any Coastal development permit decision of the City Council within the Local Coastal Appeal Zone is subject to appeal to the State Coastal Commission within twenty-one (21) days after the local decision, and will not become effective until after resolution of the appeal.

Short Form Permit Procedures

17.43.060 Determination of Permit Requirement.

- A. The Director of Planning shall have the authority to determine whether or not any development proposed in the Coastal Zone is exempt from a Coastal Development Permit pursuant to Section 17.43.070.
- B. Any person wishing such determination shall submit to the Planning Department all plans, applications and information deemed necessary by the Planning Department to assess the development.

- C. After review, the Director of Planning, shall notify the applicant in writing that the development is:
 - 1. exempt and state the category of exemption, or
 - 2. that a Coastal Development Permit is required and, if so, whether or not it is appealable to the California Coastal Commission.
 Notice of such decision shall also be submitted to the Coastal Commission.
- D. If the determination of the City is challenged by the applicant or an interested person, or if the City wishes to have a Coastal Commission determination as to the appropriate designation, the City shall notify the Coastal Commission by telephone of the dispute/question and shall request an Executive Director's opinion which shall be made pursuant to Section 13569 of the Coastal Commission's regulations.

17.43.070 Exemptions.

The types of projects listed below shall be exempt from the requirement for a Coastal Development Permit. Requirements for any other permits are unaffected by this Section.

- A. Improvements to existing single family residences. The maintenance, alteration, or addition to existing single-family dwellings which comply with the underlying district regulations, including the establishment or expansion of non-habitable accessory structures normally associated with residential uses such as garages, decks, workshops, landscaping, storage sheds, pools, fences, gazebos, patios, green houses, driveway paving and similar improvements but not including guest houses or self-contained residential units. However, the following classes of development shall require a permit because they involve a risk of adverse environmental impact:
 - 1. Improvements to a single-family structure on a beach or wetland; seaward of the mean high tide line or where the residence or proposed improvement would encroach or within fifty (50) feet of the edge of a coastal bluff. Wetland is defined in Section 30121 of the Coastal Act as: "Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fends. Specific wetlands are mapped in the Land Use Plan.
 - 2. Any significant alteration of landforms including removal or placement of vegetation, on a beach, wetland or sand dune, or within fifty (50) feet of the edge of a coastal bluff. "Coastal Bluff" is defined in the California Administrative Code Section 13577(h).
 - 3. The expansion or construction of water wells or septic systems.
 - 4. On property located between the sea and the first public road paralleling the sea or within three hundred (300) feet of the inland extent of any beach or of the mean high tide of the sea where there is

no beach, whichever is the greater distance, or in the Highway 1 scenic road corridor, improvement that would result in an increase of ten (10) percent or more of internal floor area of an existing structure, or an additional improvement of 10% or less where an improvement to the structure has previously been undertaken pursuant to this Section or a coastal permit, increase in height by more than 10% of an existing structure, the construction of an additional story (including lofts) in an existing structure, and/or significant non-attached structure such as garages, fences, shoreline protective works, docks or trees or satellite dishes.

5. In areas determined to have critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development not essential to residential use including but not limited to swimming pools, or construction or extension of any landscaping irrigation system.
 6. Additions or expansions to developments which, by conditions of previous permit issued by the City of Marina or Coastal Commission, which by conditions of such permit requires development permits for such addition or expansion.
- B. Improvements to existing structures other than single-family residences or a public works facility. The maintenance, alteration, or addition to existing structures other than single-family dwellings and public works facilities including all fixtures and structures directly attached to the structure and landscaping on the lot; however, the following classes of development shall require a permit because they involve a risk of adverse environmental effect, adversely affect public access or involve a change in use contrary to the certified LCP:
1. Improvements to any structure on a beach, wetland, stream or lake, seaward of the mean high tide line or where the structure or proposed improvement would encroach within fifty (50) feet of the edge of a coastal bluff edge. [Include definitions of beach, wetland (Coastal Act section 30121), stream (CA Admin Code section 13577)].
 2. Any significant alteration of landforms including removal or placement of vegetation, on a beach, wetland or sand dune, or within one hundred (100) feet of the edge of a coastal bluff, vernal pond or stream or in areas of natural vegetation designated as a sensitive habitat.
 3. The expansion or construction of water wells or septic systems.
 4. On property located between the sea and the first public road paralleling the sea or within three hundred (300) feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in the Highway 1 scenic road corridors an improvement that would result in an increase of ten (10) percent or more of internal floor area of the existing structure, or constitute an additional improvement of 10% or less where an

improvement to the structure has previously been undertaken pursuant to this Section or a coastal permit, and/or the increase in height by more than 10% or construction of an additional story (including lofts) in an existing structure, or satellite dishes.

5. In areas determined to have critically short water supply that must be maintained for the protection of coastal recreation or public recreational use, the construction of any specified major water using development including but not limited to swimming pools or the construction or extension of any landscaping irrigation system.
 6. Any improvement to a structure which changes the intensity of use of the structure.
 7. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor serving commercial use to a use involving a fee ownership or long-term leasehold including but not limited to a condominium conversion, stock cooperative conversion or motel/hotel time-sharing conversion.
 8. Additions or expansions to developments which by conditions of a previous permit issued by the City of Marina or Coastal Commission requires development permits for such addition or expansion.
- C. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.
- D. Repair or maintenance activities and safety improvements that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities; however, the following classes of repair and maintenance shall require a permit because they involve a risk of adverse environmental impact:
1. Any method of repair or maintenance of a seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline work that involves:
 - a. Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;
 - b. The placement, whether temporary or permanent, of riprap, artificial berms or sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, waters, streams, wetlands, estuaries, and lakes or on a shoreline protective work;
 - c. The replacement of twenty (20) percent or more of the materials of an existing structure with materials of a different kind; or
 - d. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or within twenty (20) feet of coastal water or streams.

2. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area as defined by Coastal Act Section 30107.5, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that includes:
 - a. The placement or removal, whether temporary or permanent, of riprap, rocks, sand or other beach materials or any other forms of solid materials;
 - b. The presence, whether temporary or permanent, of mechanized equipment or construction materials.
- E. Any category of development requested by the City as a Categorical Exclusion pursuant to Section 13241 of the Coastal Commission's Regulations and approved by the Coastal Commission pursuant to Coastal Act Section 13241 of the Regulations.
- F. The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this ordinance or previously granted a permit by the Coastal Commission; provided that the City may, where necessary, require reasonable conditions to mitigate any adverse impact on coastal resources, including scenic resources.
- G. The replacement of any structure, other than a public works facility, destroyed by natural disaster. Such replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than ten (10) percent and shall be sited in the same location on the affected property as the destroyed structure.

As used in this subdivision, "natural disaster" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

As used in this subdivision, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

As used in this subdivision, "structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.
- H. Harvesting of agricultural crops.
- J. Land division brought about in connection with the purchase of land by a public agency for public recreational use.
- K. Any project undertaken by a federal agency.
- L. Any project which has a valid permit from the Coastal Commission.
- M. Tree removal (which is not major vegetation), except as precluded by other section of this ordinance.
- N. Abatement of dangerous buildings.
- O. Repair and maintenance activities, and safety improvements on public roads and traffic control devices that do not result in an addition to, or enlargement or expansion of the object of such repair or maintenance activities.

- P. Routine maintenance of existing public parks is exempt including repair or modification of existing public facilities where the level or type of public use or the size of structures will not be altered.
- Q. All interior remodeling, residential and non-residential, except where use is being converted to a more intensive use.
- R. Any activity anywhere in the Coastal Zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11003.5 of the Business and Professional Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.

17.43.100 Issuance of Administrative Coastal Development Permits by the Director of Planning.

- A. Definition. An administrative coastal development permit is a coastal permit issued by the Director of Planning which does not become effective until its issuance is reported to the City Council. If 1/3 of the members of the City Council so request, issuance of the administrative permit shall not become effective and, at the applicant's request, the application shall be considered as a regular coastal development permit at the next regularly scheduled meeting of the City Council.
- B. Applicability.
 - 1. That following the review of a Coastal Permit application by the Director of Planning, said official shall have the authority to issue a Coastal Permit by virtue of Section 30624 of the California Coastal Act for the following non-emergency developments;
 - a. Improvements to any existing structure;
 - b. Any single family dwelling;
 - c. Any other developments not in excess of one hundred thousand dollars (\$100,000), other than any division of land;
 - d. Any development of four (4) dwelling units or less that does not require demolition.

However, said authority of the Director of Planning shall not apply to that development which is within the Coastal Commission's continuing permit jurisdiction pursuant to Coastal Act Section 30519 or appealable to the Coastal Commission pursuant to Coastal Act Section 30603 or any division of land. Such permit for non-emergency development shall not be effective until after reasonable public notice and adequate time for the review of such issuance has been provided, as specified in Section 17.43.120.

2. If the Planning Director receives an application that is asserted to be for improvements or other development within the criteria established in (1) above and if the Planning Director finds that the application does not qualify as such, he or she shall notify the applicant that the permit application cannot be processed administratively and must comply with procedures for coastal development permits provided in 17.43.050 of this ordinance. The Planning Director, with the concurrence of the applicant, may accept the application for filing as a regular permit and shall adjust the application fees accordingly.
 3. In the case of any development involving a structure or similar integrated physical construction which lies partly within and partly outside the Coastal Commission's appeal area, the entire structure or similar integrated physical construction must be subject to at least one public hearing and may not be processed as an administrative permit. [Resolution No. 89-63 (October 3, 1989); approved by CCC October 10, 1989]
- C. Action. The Planning Director may deny, approve or conditionally approve applications for administrative coastal development permits on the same grounds as contained in Section 17.43.050 for an ordinary CDP application and may include reasonable terms and conditions necessary to bring the project into consistency with the certified LCP.
- D. Administrative Permit Deemed Final. A decision on an administrative permit shall not be deemed final and effective until (a) the decision on the application has been made, the City Council review of the permit is complete, and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified LCP and, when applicable, the public access and recreation policies of Chapter 3 of the Coastal Act, and (b) when all rights of appeal under City ordinances have been exhausted. [Resolution No. 89-52].
- 17.43.120 Effective Date of Short Form Permits: Any administrative permit or waiver authorization issued by the Director of Planning pursuant to the provisions of this section shall be scheduled on the agenda of the City Council at its first scheduled meeting after that permit has been issued. The Planning Director shall prepare a report in writing with sufficient description of the work authorized to allow the City Council to understand the development to be undertaken. Such a report shall be available at the meeting and for administrative permits shall be mail to all persons wishing to receive such notification at the time of the regular mailing of notice for the meeting and any person who requested to be on the mailin list for the project meeting and any person who requested to be on the mailing list for the project as in 17.43.130 below. If, at the meeting, one-third of the appointed members of that governing body so request, the permit or authorization issued by the Director of Planning shall not go into effect and, if the applicant wishes to pursue the application, the application of a Coastal Development Permit shall be processed by the City of Marina pursuant to standard Coastal Permit

procedures listed in Chapter 17.43 of the Marina Zoning Ordinance. Unless the City Council indicates otherwise, the failure to object to issuance of any waiver or administrative permit shall be presumed to be based upon the findings set forth and adopted.

- 17.43.130 Public Notice. Prior to scheduling any short form permit for City Council review, with the exception of categorically excluded projects, the Director of Planning shall comply with the following public notice procedures:
- A. At the time the permit application is submitted the applicant must post, at a conspicuous place, easily read by the public and on the site, or as close as possible to the site, of the proposed development, notice that an application for the proposed development has been submitted to the City using standardized form(s) provided by the Planning Director. The notice shall contain a general description of the nature of the proposed development. If the applicant fails to post and keep posted the completed notice form until the waiver or administrative permit becomes effective, the Planning Director shall refuse to file the application or shall withdraw the application from filing if it has already been filed when he or she learns of such failure. The City shall enforce the administrative permit or waiver authorization pursuant to procedures set forth in Chapter 17.60 if it determines that the administrative permit or waiver authorization was granted without proper notice having been given, and the failure of the noticing may have caused the Planning Director to act differently in issuing said permit.
 - B. Within ten (10) calendar days of filing an application for Coastal Development Permit or at least ten (10) calendar days prior to the first public hearing or to City Council review of the Planning Director's action on the development proposal, the local government shall provide notice by first class mail of pending application for development.
 - C. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction, to all property owners and residents within one hundred (100) feet of the perimeter of the parcel on which the development is proposed, to the Coastal Commission; and in cases where public hearings are required under other provision of Marina's ordinances to property owners within 300 feet of the perimeter of the parcel on which the development is proposed, and shall also be published in a newspaper of general circulation. The notice shall contain the following information:
 - 1. a statement that the development is within the coastal zone;
 - 2. the date of filing of the application and the name of the applicant;
 - 3. the number assigned to the application;
 - 4. a description of the development and its proposed location;
 - 5. the date, time and place at which the application will be heard by the local governing body or hearing officer;
 - 6. a brief description of the general procedure of local government concerning the conduct of hearing and local actions, including the

- general procedure concerning the submission of public comments either in writing or orally prior to the decision;
7. a statement that a public comment period is sufficient time to allow for the submission of comments by mail will be held prior to the decision;
 8. the system for local approvals and appeals, including local fees required;
 9. a description of the general procedures concerning administrative permits and/or waiver authorizations.

[Resolution No. 89-52 (September 5, 1989) and Resolution No. 89-63 (October 3, 1989); approved by CCC October 10, 1989].

Section 30: Variances

- b. following (2): Add (3).
 - (3) That any variance approved for development in the Coastal Zone is found to be consistent with all applicable Local Coastal Land Use Plan recommendations and requirements.

Section 31: Use Permits

- c. Line 8: "...of Marina; and, in the Coastal Zone, the use is consistent consistent with all applicable Local Coastal Land Use Plan recommendations and requirements".

Section 32: Site and Architectural Design Review

- c. Line 8: "... the subject site, conforms with the standards included in the Local Coastal Land Use Plan and/or ..."

Section 35: Amendments

- c. following line 4: Add "Any amendment which changes the zoning within the Coastal Zone or changes in any manner the allowed uses or development regulations within the Coastal Zone shall not be effective until approved by the State Coastal Commission."

ZONING IMPLEMENTATION CHART

<u>Land Use Designation</u>	<u>Zoning District</u>
Park and Open Space	O/CP
Agriculture	K/CP
Low Density Residential	R-1/CP
Visitor-Oriented Commercial	PC/CP
Coastal Conservation and Development	CD/CP
Public Service Facilities	PF/CP
Coastal Zone Secondary Use Combining District	SU/CP

SUBDIVISION ORDINANCE AMENDMENTS

The Subdivision Ordinance [Title 16 (Subdivisions)] was deleted in its entirety and replaced via Ordinance 2009-04 (September 1, 2009). Ordinance 2009-04 was approved by Coastal Commission via LCP No. MAR-MAJ-1-07-Part 4 (Major) on October 7, 2009. The amended Title 16 is incorporated by reference.

GRADING ORDINANCE AMENDMENTS

Grading regulations in Marina re based on the most recent California Uniform Building Code (1979) as adopted by the City Council. These proposed grading amendments address the need for greater regulation in the Coastal Zone because of local conditions as stated in the Local Coastal Land Use Plan for Marina. Primary among these local conditions are the presence of rare and endangered plant and animal species and established groves of trees. The following amendments to the 1979 UBC as adopted by the City of Marina shall be approved.

Section 7005 Definitions

Coastal Zone. The land area within the City of Marina defined in the California Coastal Act of 1976, as amended by the California Legislature in 1979, as comprising the California Coastal Zone.

Construction Plan. A site plan showing grading, drainage, trees, vegetation and other site preparation activities for an entire project. Annual phasing of these activities shall be included if phased development is necessary. Construction plans will also be included if phased development is necessary. Construction plans will also include designated areas and quantities of vegetation to be removed, special habitat sites, location of trees to be protected, means of protecting existing vegetation and vegetative buffers, pre and post-construction run-off calculations and other factors involved in site preparation as designated by the City Engineer.

Contour Grading. The shaping of the final grade to complement and conform to the natural outline of the site.

Grading. Any excavation or filling or stockpiling, or combination thereof, including without limitation any act by which earth, dirt, minerals, or other similar materials, or combinations thereof which the land contain or of which the land is composed, is cut into, dug, uncovered, removed, augmented by the importation of soils bulldozed, displaced or relocated; and including excavating, processing or stockpiling of any said materials. Grading does not include operations subject to Ordinance _____ of the City of Marina (mining reclamation ordinance).

Permittee. The property owner or designated representative applying for and receiving a grading permit.

Primary Habitat Area. The area designated in the Marina Local Coastal Land Use Plan as being potential locale for rare and endangered plant and animal species and identified, at the time of development, by a qualified biologist as supporting rare and endangered plant and animal species.

Secondary Habitat Area. The area adjacent to the primary habitat area on which the primary habitat area is dependent or from which the primary area can be influenced by drainage, erosion, human, equestrian or vehicular use or other factors.

Stockpiling. Temporary depositing or storing of fill material on a site.

Wet Season. The period between November 1 and April 1 when rain is most likely to occur.

Section 7006 Grading Permit Requirements

Subsections (h), (i), (j), and (k) are hereby added to Section 7006 of said Building Code to read as follows:

- (h) Within the Coastal Zone, all development shall require a construction plan to be approved by the City Engineer. This construction plan shall show the phasing of grading and shall show designated areas of soil and vegetation to be disturbed. No soil disturbance may occur during the wet season in a designated primary and secondary wildlife habitat area. Grading in a primary habitat area will be allowed only when necessary for its restoration, enhancement and protection, or when consistent with the provisions of the Local Coastal Land Use Plan. Construction plans in secondary habitat areas shall be prepared by a qualified soils engineer in conjunction with a biologist selected from the City's list having expertise in the affected species.

Construction equipment shall be confined to the actual areas to be disturbed as shown on the approved plans. No vehicles of any kind shall pass over areas to be left in their natural state, according to the approved plans.

Topsoil to be stockpiled for revegetation on the site shall be placed in designated areas and stabilized to prevent erosion.

Vegetation not removed by the operation shall be protected with temporary barriers during construction, grading or related activities.

No grading or operation of heavy equipment shall occur within the area bounded by the dripline of any tree designated to remain on the site.

All other provisions of the UBC Appendix on Grading and Excavation, as amended by the City of Marina, shall also apply and be included in the construction plan.

- (i) **Proper Execution of Work.** It shall be incumbent upon the permittee to plan and execute the work so as to cause the least inconvenience to the general public and abutting property owners. The permittee shall, at his own expense, preserve and protect any adjoining private and public property and facilities likely to be damaged during the process of the work. The permittee shall provide all necessary work and facilities including debris and silting basins, dikes and diversion channels to protect adjoining public and private property and facilities from damage due to drainage or debris due to the work.
- (j) **Special Precautions.** If it is determined by the Building Official that further work such as authorized by an existing permit is likely to endanger any property, public way or sensitive habitat area, the Building Official may require reasonable safety precautions as a condition of work. To avoid the likelihood of danger, such things as flatter exposed slopes, erection of protective barriers, additional drainage facilities, berms, terracing, compaction, cribbing or storm damage is anticipated, work may be stopped until temporary planting, structures or other temporary measure has been taken.
- (k) **Notification of Non-Compliance.** If, in the course of fulfilling their responsibility under this Article, the Civil Engineer, the Soils Engineering, the Engineering Geologist, or the testing agency finds that the work is not being performed in conformance with this Article or with the approved grading plans, the discrepancies and recommendations for necessary corrective measures shall be reported immediately in writing to the party responsible for grading and to the Building Official.

Section 7013 Erosion Control

Add Subsection C to Section 7013 of said Building Code to read as follows:

- (c) **Planting.** The face of cut-and-fill slopes shall be prepared and maintained to control erosion. All cut-and-fill surfaces subject to erosion shall be planted with ground cover which is compatible with the native ground cover and requires little

maintenance. Landscaping which blends into the natural surrounding may be required on cut-and-fill slopes along public roads. Plant heights shall not obstruct vehicular sight distances on City streets. (Adequate sight distance shall be determined by the City Engineer). Earth slopes shall be contour graded to encourage landscaping. All plant materials shall be approved by the Planning Director.

Measures to protect slopes and exposed areas shall begin as soon as practical and prior to final grading approval. When cut slopes are determined by the Building Official not to be subject to erosion, planting precautions may be omitted, except where required as mitigation to visual impacts.

Section 7013B Stockpiling

Add a new Section, 7013B, titled “Stockpiling” to follow 7013.

Stockpiling

Where grading consists only of the deposit and storage of fill material on a site, the City Engineer may issue a temporary grading permit to be designated a stockpiling permit. This permit allows the stockpiling of such fill material without complete compaction for a limited period of time not to exceed ninety (90) days. A stockpiling permit shall not be issued in primary and secondary coastal habitat areas unless necessary for the area’s restoration, enhancement and protection. A stockpiling permit shall not be issued within the drainage area of the vernal ponds for any time during the wet season. The location, amount and length of time stockpiled material may remain on a site shall be determined by the City Engineer.

As a condition preceding the issuance of a stockpiling permit, the City Engineer shall require a cash bond from the applicant guaranteeing the removal and/or ultimate proper compaction in accordance with the foregoing. No plan-checking fee shall be required unless, at the expiration of a stockpiling permit, the permittee submits plans to obtain a regular grading permit.

Section 7014(b) Grading Designation

Subsection (b) of Section 7014 of said Building Code is hereby revised to read as follows:

- (b) Grading Designations in the Coastal Zone: Where the aggregate volume of grading on any site or contiguous group of sites is in excess of 5,000 cubic yards, of vegetative material removal exceeds by more than 15 percent of the site area to be covered by structures, the same shall be deemed to require Engineered Grading. Grading of quantities of less than 5,000 cubic yards may also be deemed Engineered Grading by the City Engineer. All other grading, 50 to 5,000 cubic yards of material shall be deemed Regular Grading.

SAND MINING RECLAMATION

In 1975 the California Legislature passed the State Surface Mining and Reclamation Act (SMARA). The purpose of the act is to protect known and undeveloped mineral resources from urban development which would preclude future mineral extraction. First, each jurisdiction which has mining activities or potential mining activities is required to adopt a mining reclamation ordinance. The purpose of this ordinance is to insure that mining activities inflict as little local short and long term environmental impacts as possible, and that the mining activity not preclude future economic, even urban, use of the site.

Second, the State Mining Board, through the Division of Mines and Geology, is required to classify all mineral resources and to designate, with local participation, those which are of Statewide significance. Those lands determined to be of Statewide significance cannot be precluded from being mined in the future by local approval of uses which would prohibit future mining. Through this designation and action, the lands designated would be protected from urbanization until after the mining activity is completed. The classification of mineral resources in Monterey County is scheduled to commence in April of 1981. However, the areas in Marina mined for specialty sands could very well be designated mineral lands of Statewide significance. If this is the case, those areas so designated will always be subject to being mined. Moreover, urban type uses which would preclude mining would be inappropriate.

This points out a potential conflict between the Local Coastal Land Use and Implementation Plans and the State Mining and Reclamation Act. The land use designation for the Coastal Dune area in Marina allows for Coastal Conservation and Development use, including sand mining and other less extensive activities such as mariculture. The development allowed within this area is expected to be limited and concentrated in such a way that it would not preclude future mineral extraction. However, the reason for concentrating the development in this area is clearly laid out in the plan as being the unique environmental quality of the area, as well as the presence of a number of rare and endangered plant and animal species present in the dune area.

The dunes themselves are a unique geologic resource which may not be replaced in our geologic time; it is probably that the conditions which existed and caused the formation of these features may never exist again. Therefore, the regulation of the future use of this area is clearly a local coastal issue. Coastally dependent sand mining is a priority use under the California Coastal Act of 1976. Additionally, SMARA allows for local participation in designating mineral lands and local regulation of surface mining activities to insure public safety and welfare as well as appropriate future use of the area.

For these reasons, the Implementation Plan includes a proposed Surface Mining and Reclamation Ordinance which would give the City the authority to issue mining permits based on compliance with Reclamation Plans, environmental assessments and EIRs drawn up by the mining operators and approved by the City.

**AN ORDINANCE _____ RELATING TO SURFACE MINING
AND RECLAMATION STANDARDS AND REQUIRING MINING
OPERATORS WITHIN THE CITY OF MARINA TO PREPARE AND
EXECUTE RECLAMATION PLANS**

**THE CITY COUNCIL OF THE CITY OF MARINA DOES ORDAIN AS
FOLLOWS:**

1. Ordinance No. _____. City of Marina Ordinance No. ____, which amends the City Code by the addition of Section ____, entitled _____ to read as follows:

Section 1: Purpose and Intent

a) This ordinance is adopted pursuant to the California Surface Mining and Reclamation Act of 1975, Chapter 9, Public Resources Code.

b) The City Council hereby finds and declares that the extraction of minerals is essential to the continued economic well-being of the City and to the needs of society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.

c) The City Council further finds that the reclamation of mined lands as provided in this ordinance will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

d) The City Council further finds that surface mining takes place in areas where the geologic, topographic, climatic, biological, and social conditions are different and that reclamation operations and the specifications therefore may vary accordingly.

Section 2: Definitions

2.1 "Exploration" or "prospecting" means the search for minerals by geological, geophysical, geochemical or other techniques, including, but not limited to, sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent, or quality of minerals present.

2.2 "Environmental Assessment" means the study of the environment of an area proposed to be mined including the flora, fauna, geologic, erosion potential and other factors deemed to be important by qualified experts of appropriate disciplines.

2.3 "Environmental Impact Report" means a report on the environmental effects of a project prepared according to the standards and provisions of the California Environmental Quality Act (CEQA).

2.4 "Local Coastal Program" means the adopted Local Coastal Land Use and Implementation Plans for the City of Marina as certified by the California Coastal Commission.

2.5 "General Plan" means the adopted General Plan for the City of Marina.

2.6 “Mined Lands” includes the surface, subsurface, and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

2.7 “Minerals” means any naturally occurring chemical element or compound or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, sand, but excluding geothermal resources, natural gas, and petroleum.

2.8 “Mining Waste” includes the residual of soil, rock, mineral liquid, vegetation, equipment, machines, tools or other materials or property directly resulting from, or displaced by, surface mining operations.

2.8(a) “New Mining” shall include any significant increase in the rate of extraction or change in location.

2.9 “Operator” any person who is engaged in surface mining operations, himself, or who contracts with others to conduct operations on his behalf.

2.10 “Overburden” soil, rock or other materials that lie above a natural mineral deposit or in between deposits, before or after their removal, by surface mining operations.

2.11 “Permit” any formal authorization from or approved by, the City without which surface mining operations cannot occur.

2.12 “Person” any individual, firm, association, corporation, organization, or partnership, or any city, county, district, or the state or any department or agency thereof.

2.13 “Reclamation” the process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

2.14 “State Board” means State Mining and Geology Board in the Department of Conservation, State of California.

2.15 “State Geologist” means the individual holding office as structured in Section 677 of Article 3, Chapter 2 of Division of the Public Resources Code.

2.16 “Surface Mining Operations” means all or any part of the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incidental to an underground mine. Surface mining operations shall include, but are not limited to: (1) in place distillation, retorting or leaching; (2) the production and disposal of mining waste; and (3) prospecting and exploratory activities.

Section 3: Scope.

3.1 The provisions of this chapter shall apply to the incorporated areas of the City of Marina.

— 3.2 The provisions of this chapter are not applicable to:

— a) Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.

b) — Such other mining operations that the City determines to be of an infrequent nature, and which involve only minor surface disturbances and are categorically identified by the State Board pursuant to Sections 2714 (d) and 2758 [c], California Surface Mining and Reclamation Act of 1975 (SMARA).

Section 4: Permit, Reclamation Plan and Reporting Requirements

4.1 Reclamation Plan Requirements: Reclamation Plans as defined in this ordinance shall be required of all mining operations undertaken since January 1, 1976. Any person who proposes to engage in new mining operations as defined in this ordinance shall also be required to prepare a Reclamation Plan prior to commencing new mining operations.

a) — Existing Mining Operations. A person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976 shall submit and receive City approval of a Reclamation Plan within two (2) years from the effective date of this Ordinance for all mining operations conducted after January 1, 1976. Nothing in this Ordinance shall be construed as requiring the filing of a Reclamation Plan for, or the reclamation of, mined lands on which surface mining operations were lawfully conducted prior to, but not after January 1, 1976.

b) — Reclamation Plan Review. Approved Reclamation Plans shall be reviewed by the Planning Commission at least every five (5) years. It shall be the sole responsibility of the operator to submit a written request to the Planning Commission prior to the expiration of each five (5) year period. Operator shall provide the Planning Commission with ample evidence that compliance is being maintained with the provisions of the approved Reclamation Plan. The Planning Commission retains the right subsequent to Reclamation Plan review to modify the terms of any Reclamation Plan to assure continuing compliance with the Local Coastal Program. Furthermore, the Planning Commission may consider and approve modification of any Reclamation Plan requested by the operator so long as it finds that the Reclamation Plan is in compliance with the Local Coastal Program.

4.2 Permit Requirements. The Planning Commission shall issue a mining permit for any new surface mining operation, which the Planning Commission finds is in conformance with the Local Coastal Program. No new mining activity shall take place prior to the issuance of a mining permit by the Planning Commission.

a) — Existing Mining Operations. Existing mining operations are hereby required to obtain a mining permit from the City of Marina in accordance with the requirements of this Ordinance within two (2) years from the date of adoption of this Ordinance except as provided in Section 4.2(d).

b) — Mining Permit Review. The Planning Commission shall review mining permits issued pursuant to this Ordinance every five (5) years. It shall be the sole responsibility

of the operator to submit a written request to the Planning Commission prior to the expiration of each five (5) year period. Operator shall provide the Planning Commission with ample evidence that compliance is being maintained with the Local Coastal Program and the approved Reclamation Plan for the site. The Planning Commission retains the right subsequent to continuing compliance with the Local Coastal Program. Furthermore, the Planning Commission may consider and approve modifications of any mining permits so long as it finds that any such modification is in compliance with the Local Coastal Program and Reclamation Plan.

~~e) Review Period Adjustment. It is the intent of the City to review mining permits concurrent with reviewing Reclamation Plans, whenever possible, for any individual mining operation. In order to assure that the City's intent is realized, the Planning Commission may permit reasonable adjustments in the timing of Mining Permit review.~~

~~d) Permit Limitations. No person who has obtained a legal vested right to conduct a surface mining operation prior to January 1, 1976, shall be required to secure a mining permit pursuant to the provisions of this chapter so long as such vested right continues, provided that no substantial change is made in that operation except in accordance with the provisions of the Ordinance.~~

~~e) Mining Permit Revocation. Mining Permits may be revoked by the Planning Commission following a hearing. Operator shall be notified in writing at least ten (10) days prior to such hearing. Grounds for revocation shall be non-compliance with the provisions of this Ordinance, the approved Reclamation Plan, Coastal Development Permit (if applicable) and the Local Coastal Program (if applicable).~~

~~f) Notification of State Geologist. The State Geologist shall be notified of the filing of all permit applications.~~

~~g) Periodic Review. This Ordinance shall be reviewed and revised, as necessary, to ensure that it is consistent with the State policy for mined lands reclamation and the City's Local Coastal Plan and General Plan.~~

~~4.3 Reporting Provision. In order to establish reference base data for the purpose of determining whether or not any particular mining activity constitutes new mining activity and to monitor shoreline erosion, it is hereby required that all operators of existing mining operations submit to the Planning Department a brief written statement specifying the approximate annual volume of sand being removed and an accurate cronaflex ortho-topographic map, at a scale of 1" = 200' with 2' contour intervals, preferably prepared by a licensed photogrammetric engineer. All elevations on said map shall be based on City of Marina datum. Said maps may also be prepared by a licensed surveyor or Civil engineer. All areas being mined shall be clearly and accurately outlined on said topographic map. The information specified above shall be certified for accuracy and be submitted by the operator to the City.~~

~~a) Initial Submittal. Initial submittal of the reference base data shall be completed by existing operators within six (6) months from the effective date of this Ordinance.~~

~~b) Subsequent Re-submittal. Updated reference base data shall be re-submitted to the Planning Department by January 1, 1984, and every January 1 thereafter.~~

~~c) New Mining Operations. New mining operations will be required to submit reference base data concurrent with the application for a Mining Permit and Reclamation Plan approval and shall also be required to re-submit updated reference base data every January 1 thereafter.~~

1. ~~If initial submittal of reference base material takes place after July 1 in any given year, operator shall be exempted for re-submitting updated reference base information the following January 1 but shall be required to re-submit updated reference base material every January 1 thereafter.~~

~~4.4 Permit and Reclamation Plan Fee. A fee shall be established by the City Council and shall be paid to the City at the time of filing a permit application or Reclamation Plan.~~

~~4.5 Reclamation Plan Requirements. The Planning Commission shall review Reclamation Plans and find that they include the following:~~

~~a) The name and address of the operator and the names and addresses of any persons designated by him as his agent for the service of process.~~

~~b) The anticipated quantity and type of minerals for which the surface mining operation is to be conducted.~~

~~c) The proposed dates for the initiation and termination of such operation.~~

~~d) The maximum anticipated depth and area of the surface mining operation.~~

~~e) The size and the legal description of the land, what will be affected by such operation, a map that includes the boundaries and topographic details of such lands, a description of the geology of the area in which surface mining is to be conducted; if, in the Coastal Zone, a line indicating the tsunami run-up line; the location of all rare and endangered plant and animal species and their habitat in the area where surface mining is to be conducted; the location of all streams, road, railroads, and utility facilities within, or adjacent to such lands; the location of all proposed access roads to be constructed in conducting such operation; and the names and addresses of the owners of all surface and mineral interests of such lands.~~

~~f) A description of the type of surface mining to be employed and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that the reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation.~~

~~g) A description of the proposed use or potential uses of the land after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses.~~

~~h) A description of the manner in which reclamation adequate for the proposed use or potential uses will be accomplished, including:~~

~~(1) a description of the manner in which contaminants will be controlled, and mining waste will be disposed; and (2) a description of the manner in which rehabilitation of affected natural habitat areas to their original condition will occur; and (3) a description of the manner in which the tsunami run-up zone will be preserved to protect the public safety of the community.~~

~~i) An assessment of the effect of implementation of the reclamation plan on future mining in the area.~~

~~j) A statement that the person submitting the plan accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan; and acknowledgement that the obligations of the plan transfer from one operator to another on a site.~~

k) ~~An environmental assessment of the area to be mined executed by at least a qualified biologist and a qualified geologist selected from the City's list.~~

l) ~~If in the environmental assessment, any rare and endangered species habitats and/or shoreline erosion are found to be present on the site, an Environmental Impact Report must be completed and all mitigations, including those for rare and endangered species and/or shoreline erosion, included in the proposed reclamation plan.~~

m) ~~Compliance and conformance with the Marina Local Coastal Program and the City's General Plan, Zoning Ordinance and any other pertinent City ordinances and regulations.~~

n) ~~Map of all areas mined prior to January 1, 1976.~~

~~Any other information which the Planning Commission may require as pertinent to the determination of the adequacy of the proposed plan.~~

4.6 Time Limits. Time limits for the approval of a Reclamation Plan or Mining Permit for existing operations may be extended for a period of up to one (1) year by the Planning Commission or City Council on appeal subject to the following conditions:

(a) ~~Written request is provided by the operator prior to expiration of initial two (2) year time period.~~

(b) ~~Operator shall submit evidence to Planning Commission or City Council showing good cause for the extension request.~~

4.7 Transferability. ~~Whenever one operator succeeds to the interest of another in any incompleated surface mining operation by sale, assignment, conveyance, exchange, or other means, the successor shall be bound by the provisions of the approved reclamation plan and the provisions of this Chapter."~~

Section 5: Review Procedure.

5.1 ~~The Planning Commission shall review the permit application and the Reclamation Plan and shall schedule a hearing within thirty (30) days of accepting the completed application. The hearing will be held for the purpose of considering a permit for the proposed surface mining operation.~~

5.2 Periodic Permit Review. ~~As a condition of approval for the Permit or Reclamation Plan, or both, a schedule for periodic inspections of the site shall be established to evaluate continuing compliance with Permit and Reclamation Plan.~~

Section 6: Performance Bond.

~~Upon finding by the Planning Commission that a supplemental guarantee for the reclamation of the mined land is necessary, and upon the determination by the City Planner of the cost of the reclamation of the mined land according to the Reclamation Plan, a surety bond, lien, or other security guarantee conditioned upon the faithful performance of the Reclamation Plan shall be filed with the City. Such surety shall be executed in favor of the City of Marina and reviewed and revised, as necessary. Such surety shall be maintained in an amount to complete the remaining reclamation of the site as prescribed in the approved or amended Reclamation Plan during the succeeding two-year period, or other reasonable term.~~

~~Section 7: Public Record.~~

~~Reclamation Plans, reports, applications and other documents submitted pursuant to this chapter are public records unless it can be demonstrated to the satisfaction of the City that the release of such information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The City shall identify such proprietary information as a separate part of each application. A copy of all permits, Reclamation Plans, reports, applications, and other documents submitted pursuant to this chapter, including proprietary information, shall be furnished upon request of the District Geologist of the State Division of Mines and Geology by the City of Marina. Proprietary information shall be made available to persons other than the mine owner in accordance with Section 2778, California Surface Mining and Reclamation Act of 1975.~~

~~Section 8: Amendments.~~

~~Amendments to an approved Reclamation Plan may be submitted to the City at any time, detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with, and approved by, the City.~~

~~Amendments to an approved Reclamation Plan shall be approved by the same procedure as is prescribed for approval of a Reclamation Plan.~~

~~Section 9: Variance.~~

~~Variances from an approved Reclamation Plan may be allowed upon request of the operator and applicant, if they are not one and the same, upon findings by the Planning Commission that each requested variance is necessary to achieve the prescribed or higher use of the reclaimed land and is consistent with the Marina Local Coastal Program if property is located within the Coastal Zone.~~

~~Section 10: Appeal.~~

~~Any person aggrieved by an act or determination of the Planning Commission in exercise of the authority granted herein shall have the right to appeal to the City Council. Any appeal must be filed, on forms provided, within ten (10) days after the rendition, in writing, of the decision.~~

~~Section 11: Enforcement.~~

~~The provisions of this chapter shall be enforced by any authorized member of the Planning Department or such other persons as may be designated by the City Council.~~

~~Section 12: Separability.~~

~~If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this chapter.~~

Figure A City of Marina Coastal Development Permit Planning Procedure

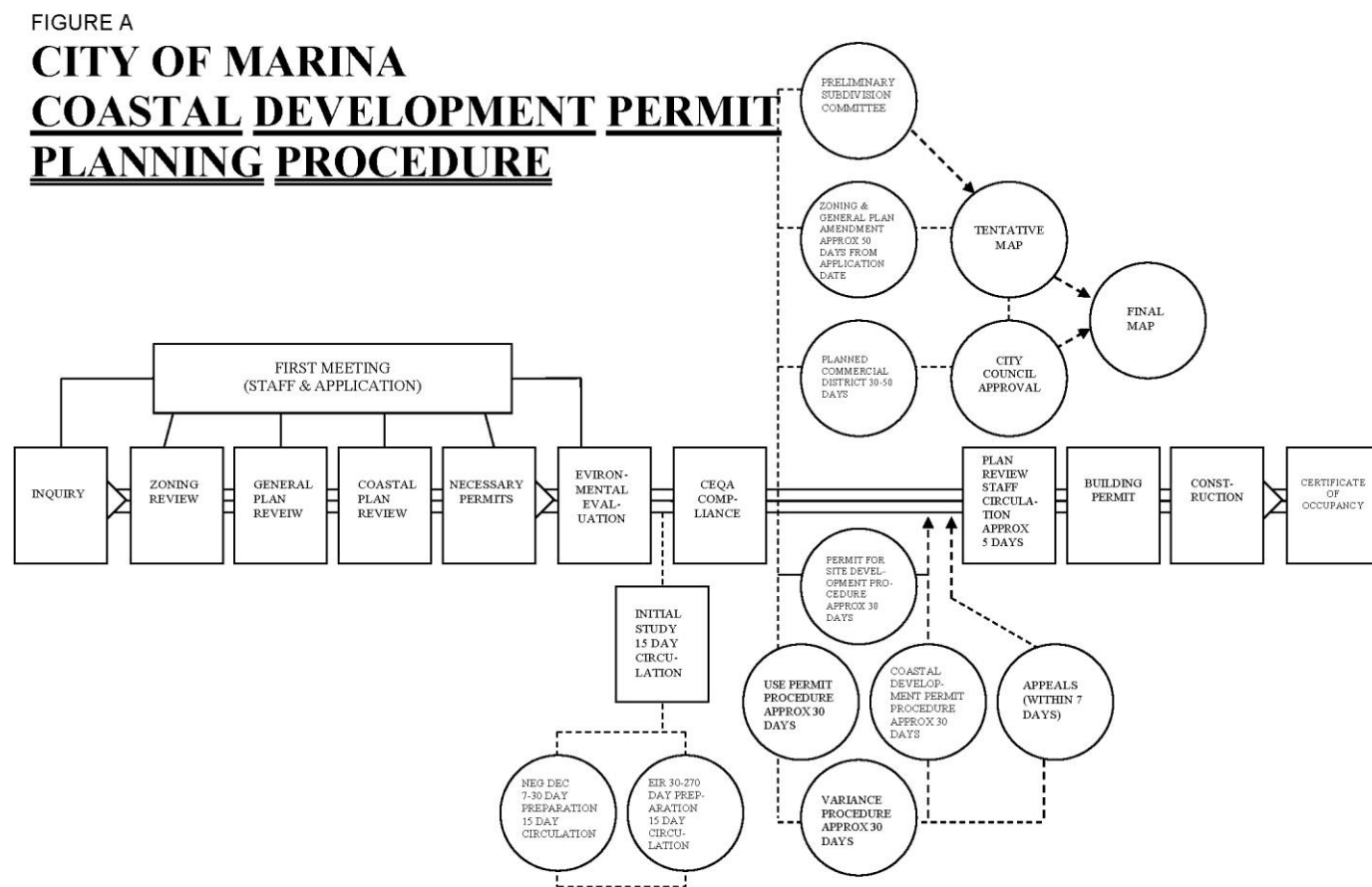


Figure B City of Marina Coastal Development Procedure Flow Chart

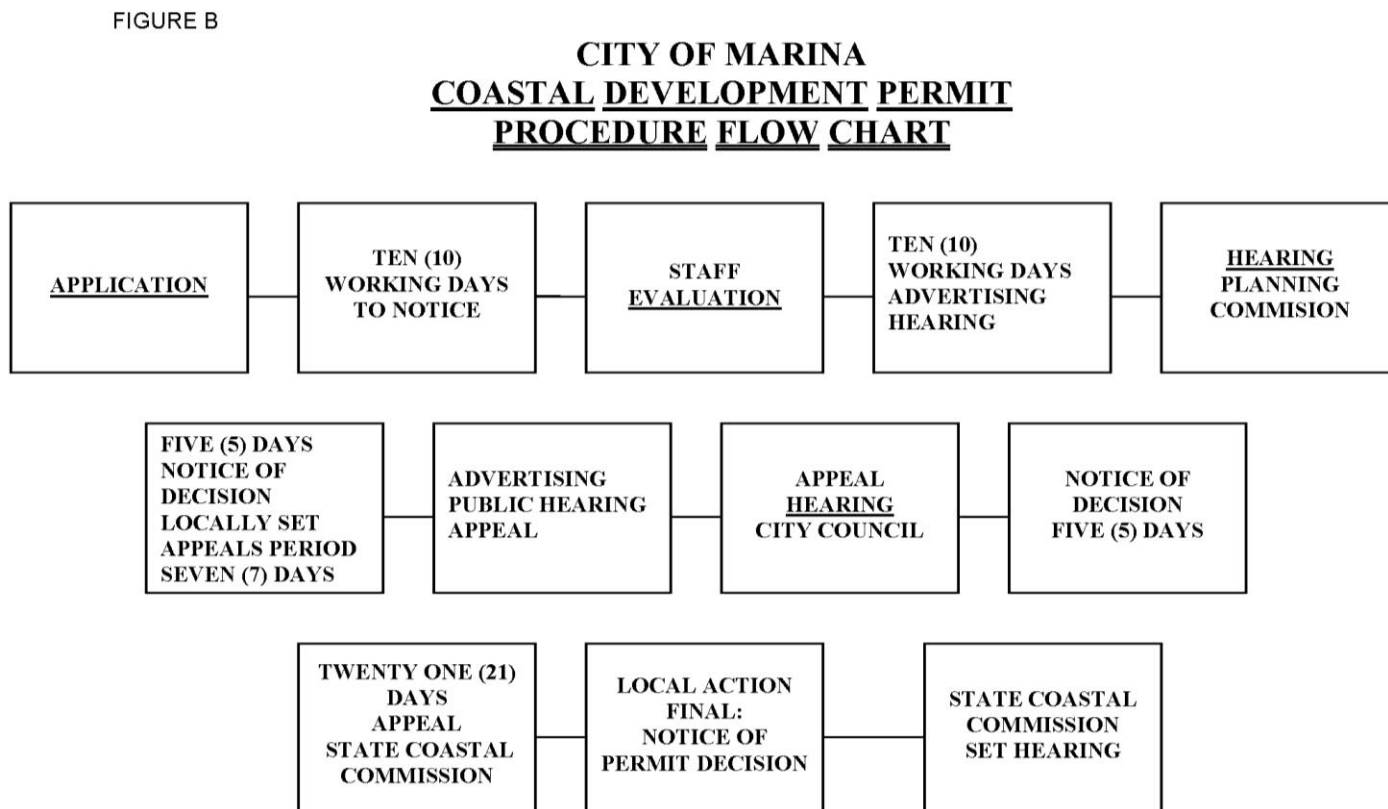


Figure C Zoning Changes to Implement Local Coastal Plan – North Marina

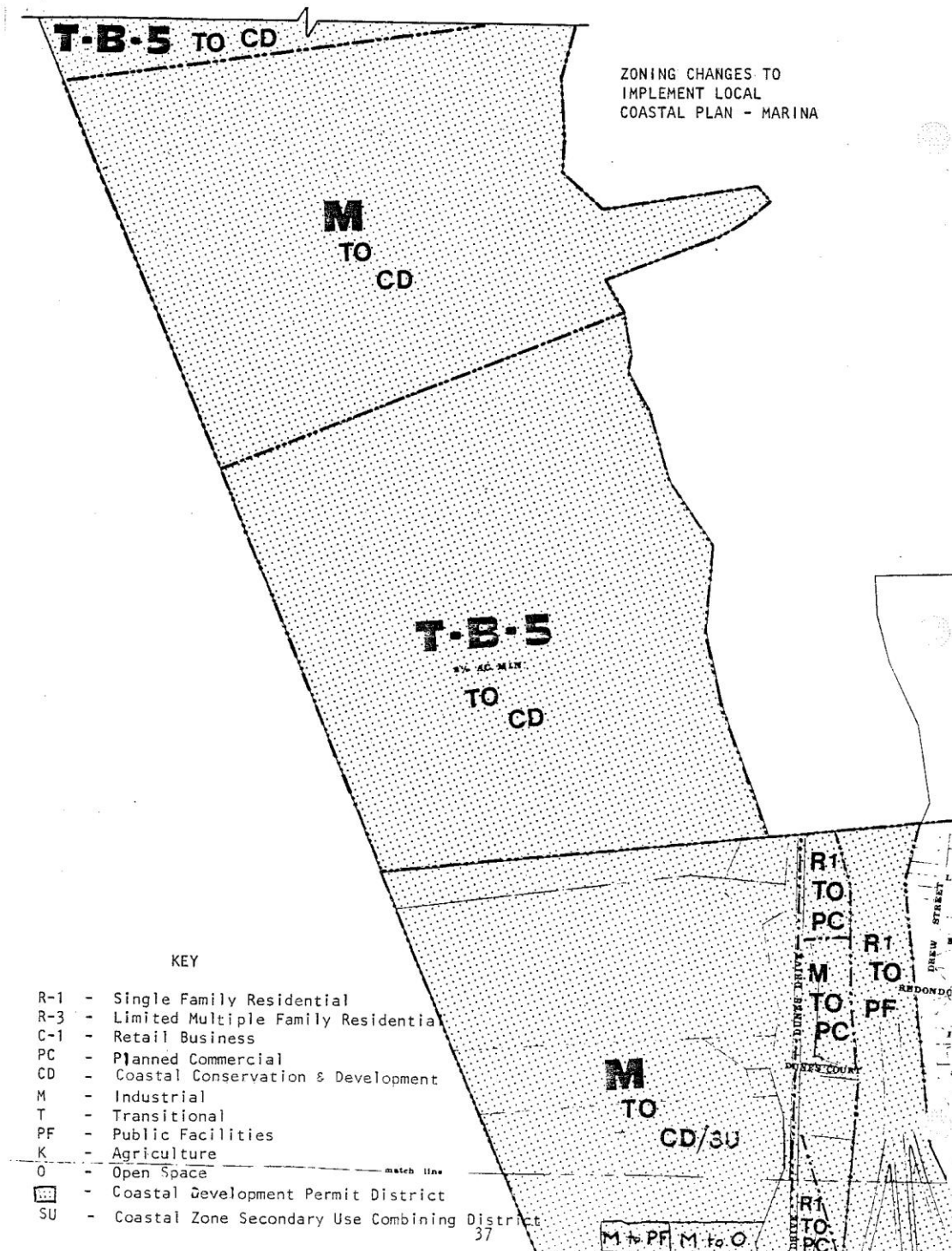


Figure D Zoning Changes to Implement Local Coastal Plan – Marina State Beach

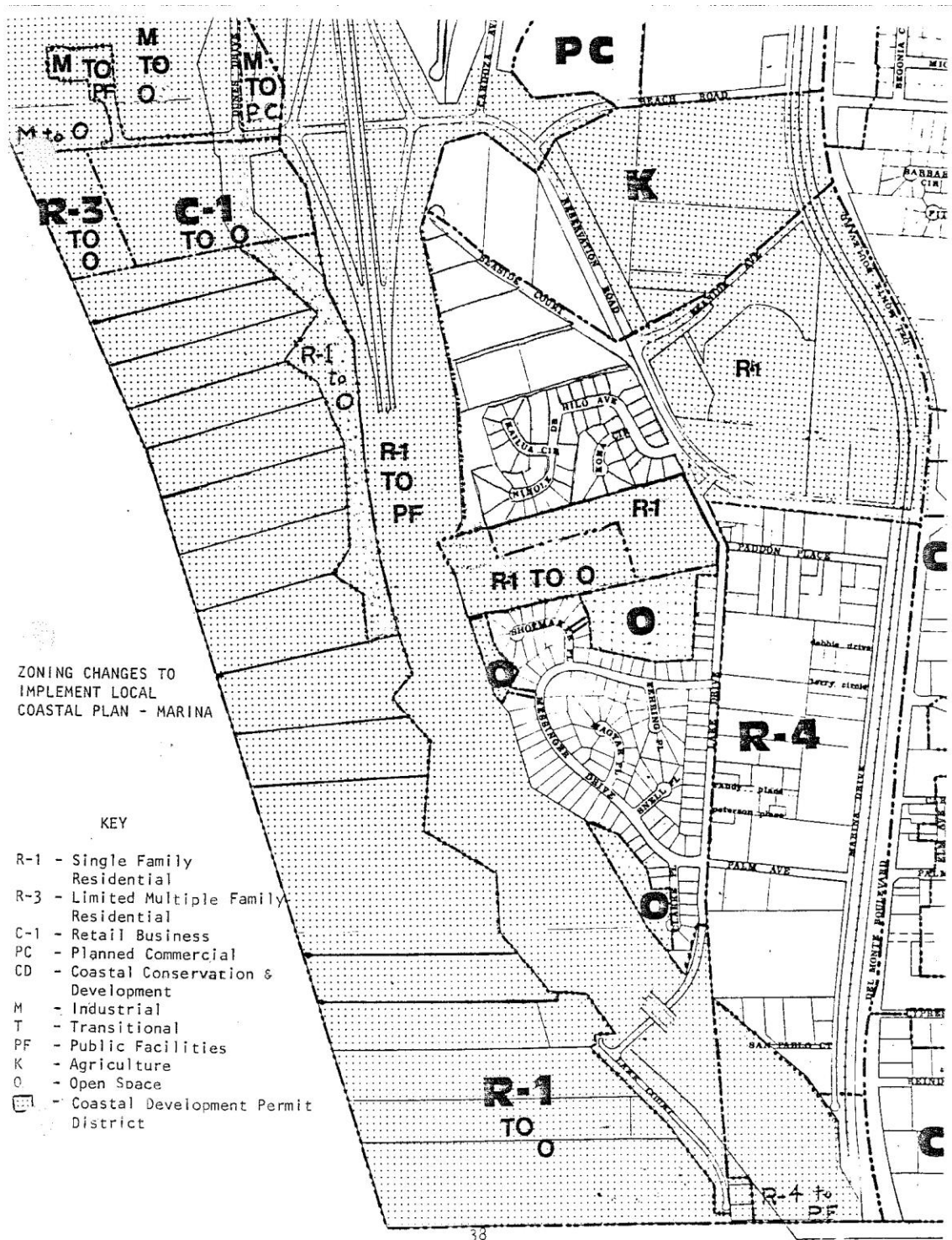


Figure D Update Resolution 88-71

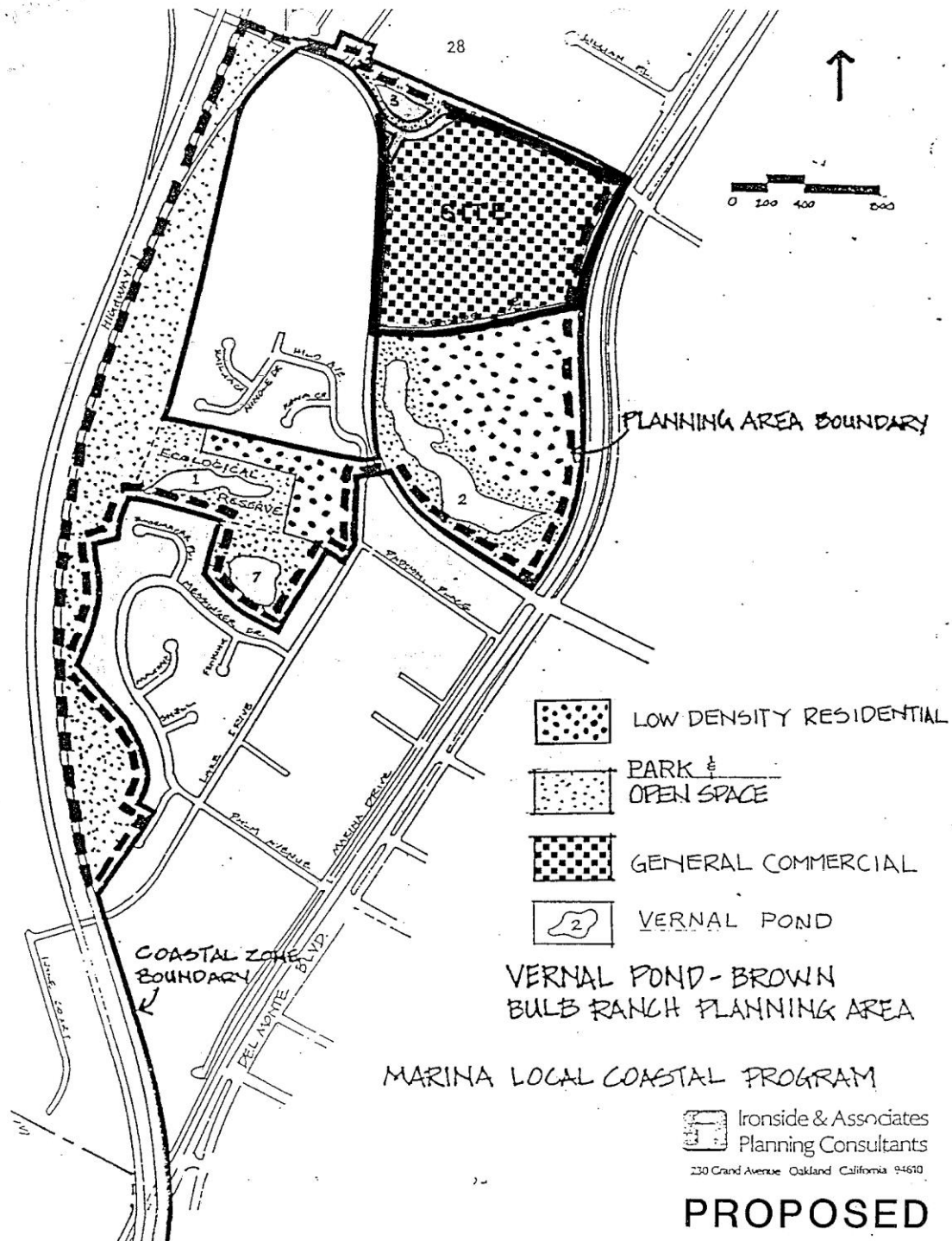
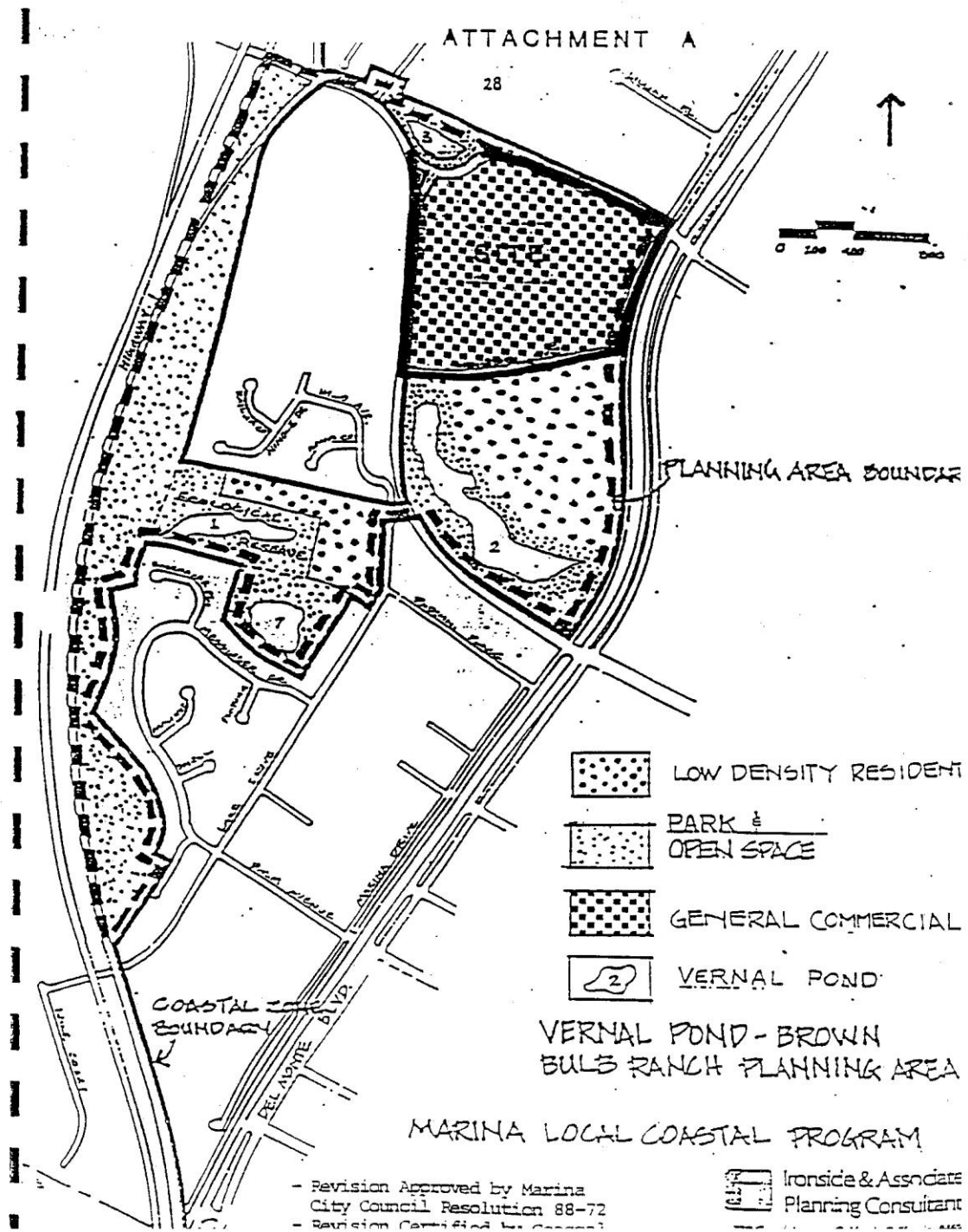
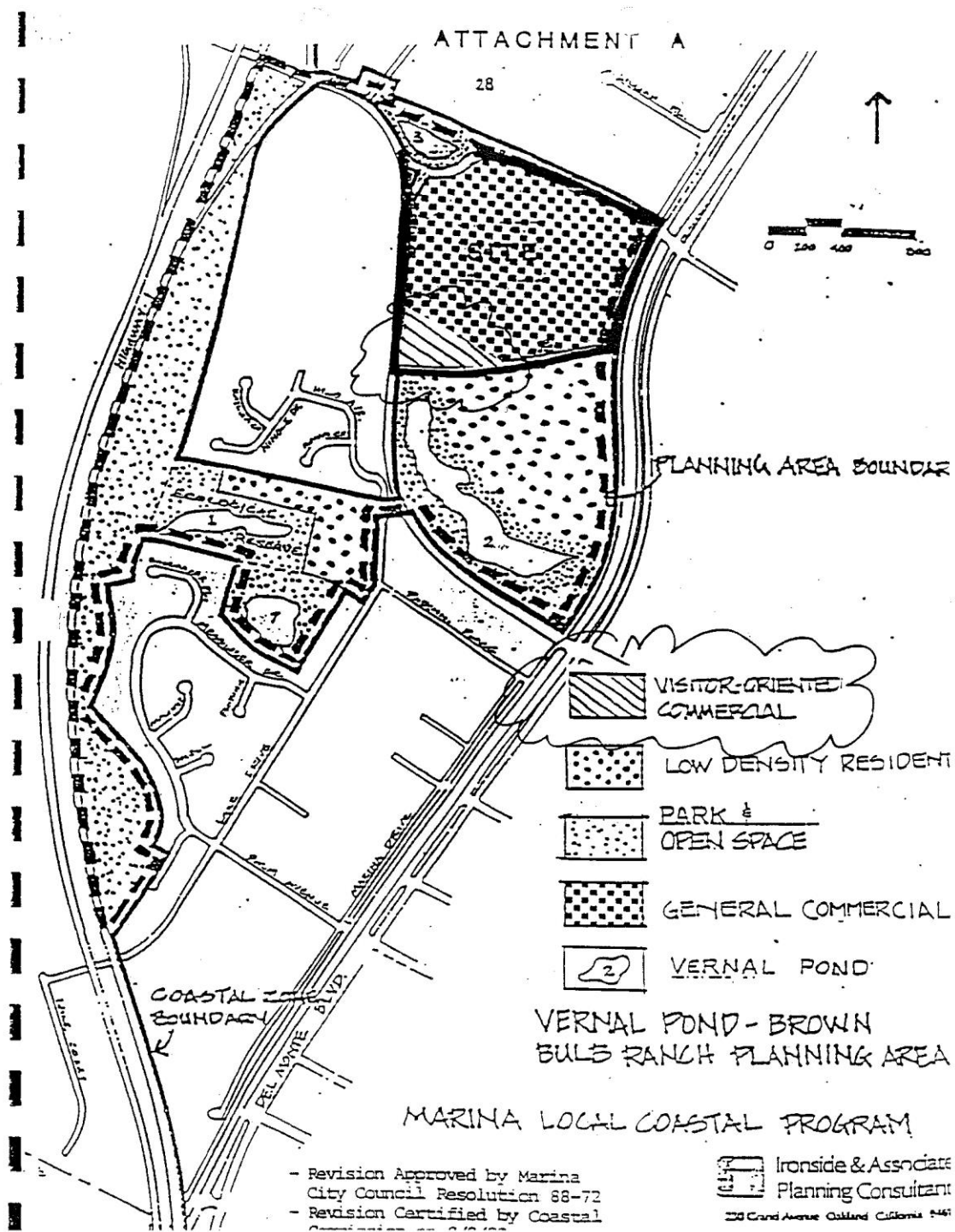
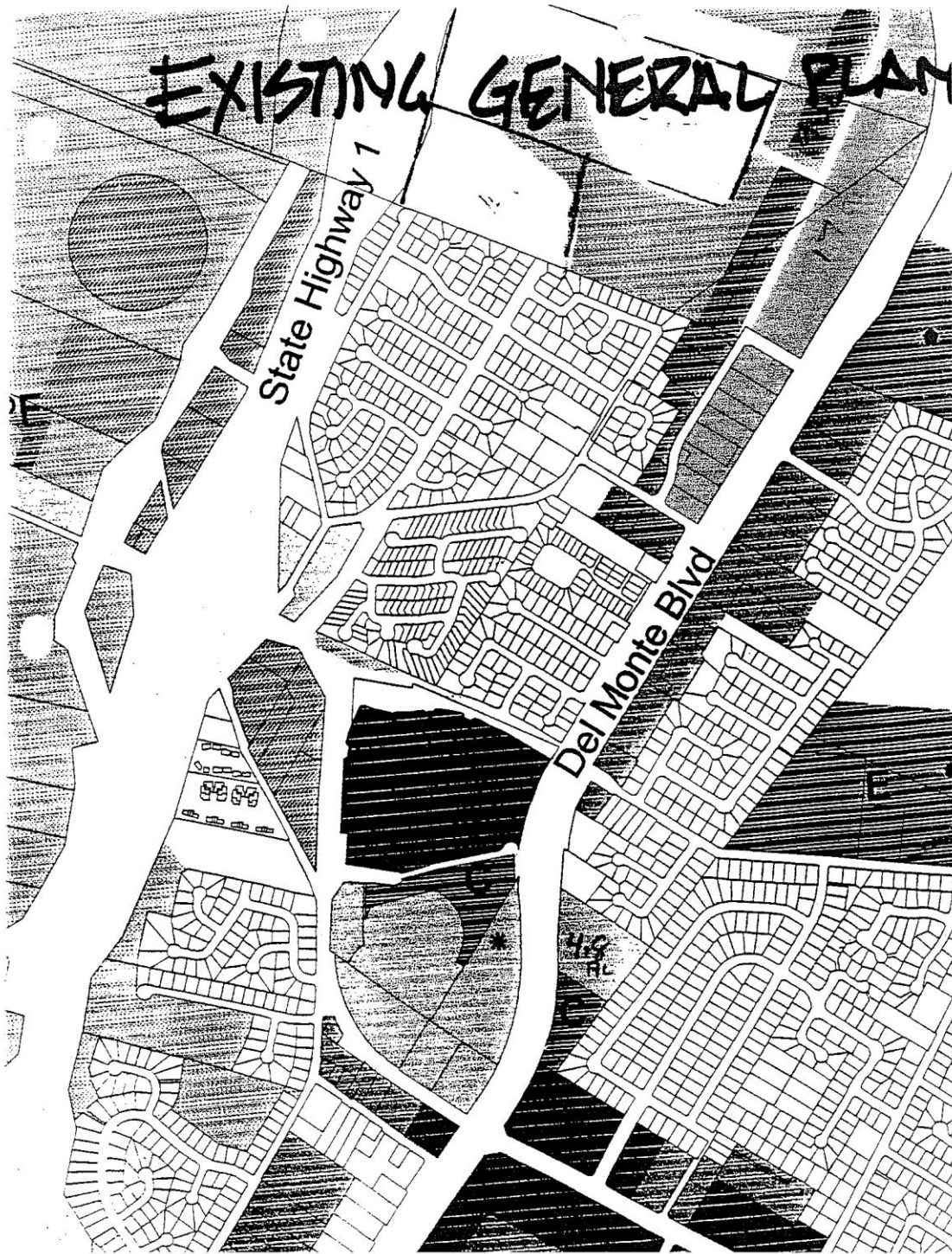
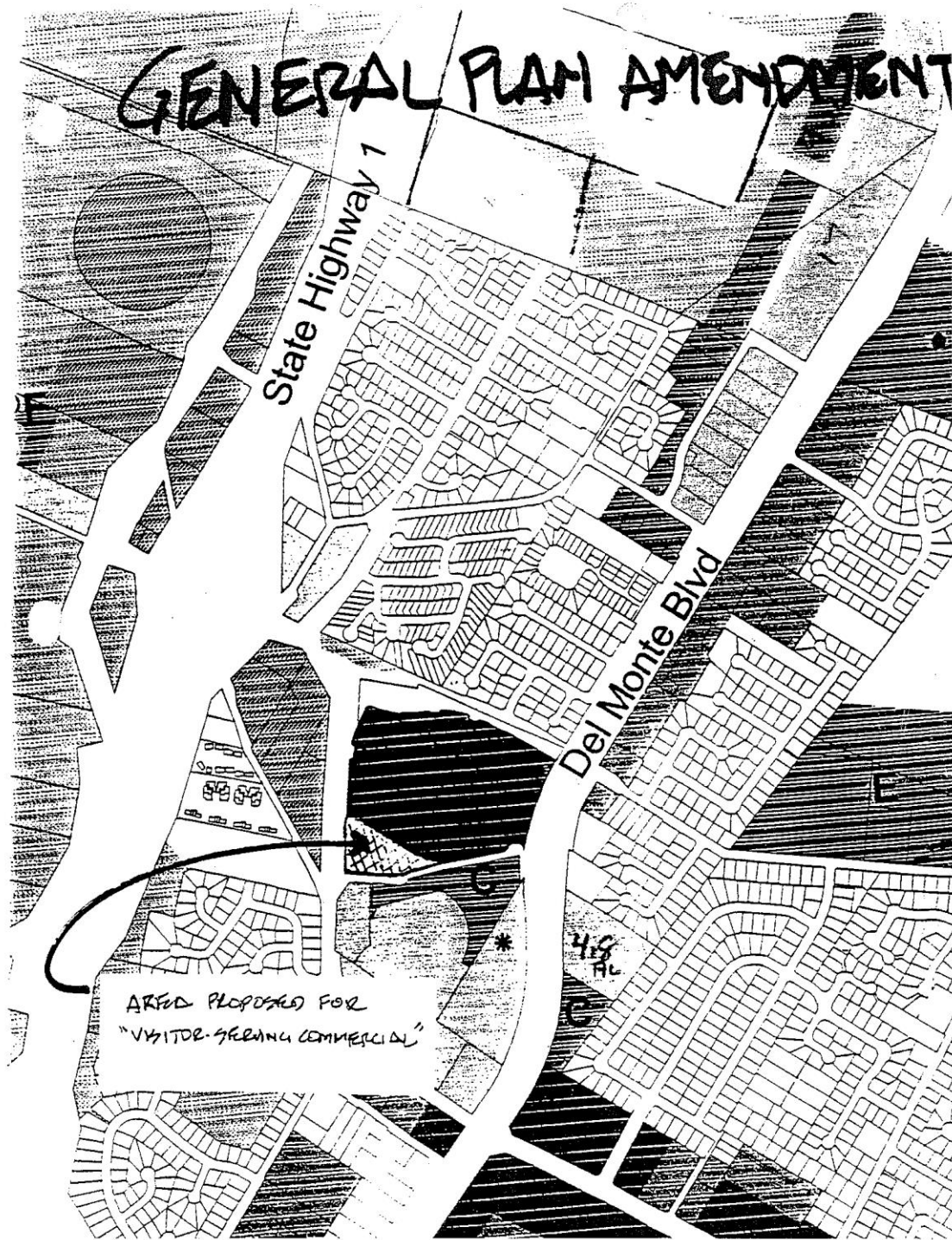


Figure D Update Resolution 2001-118









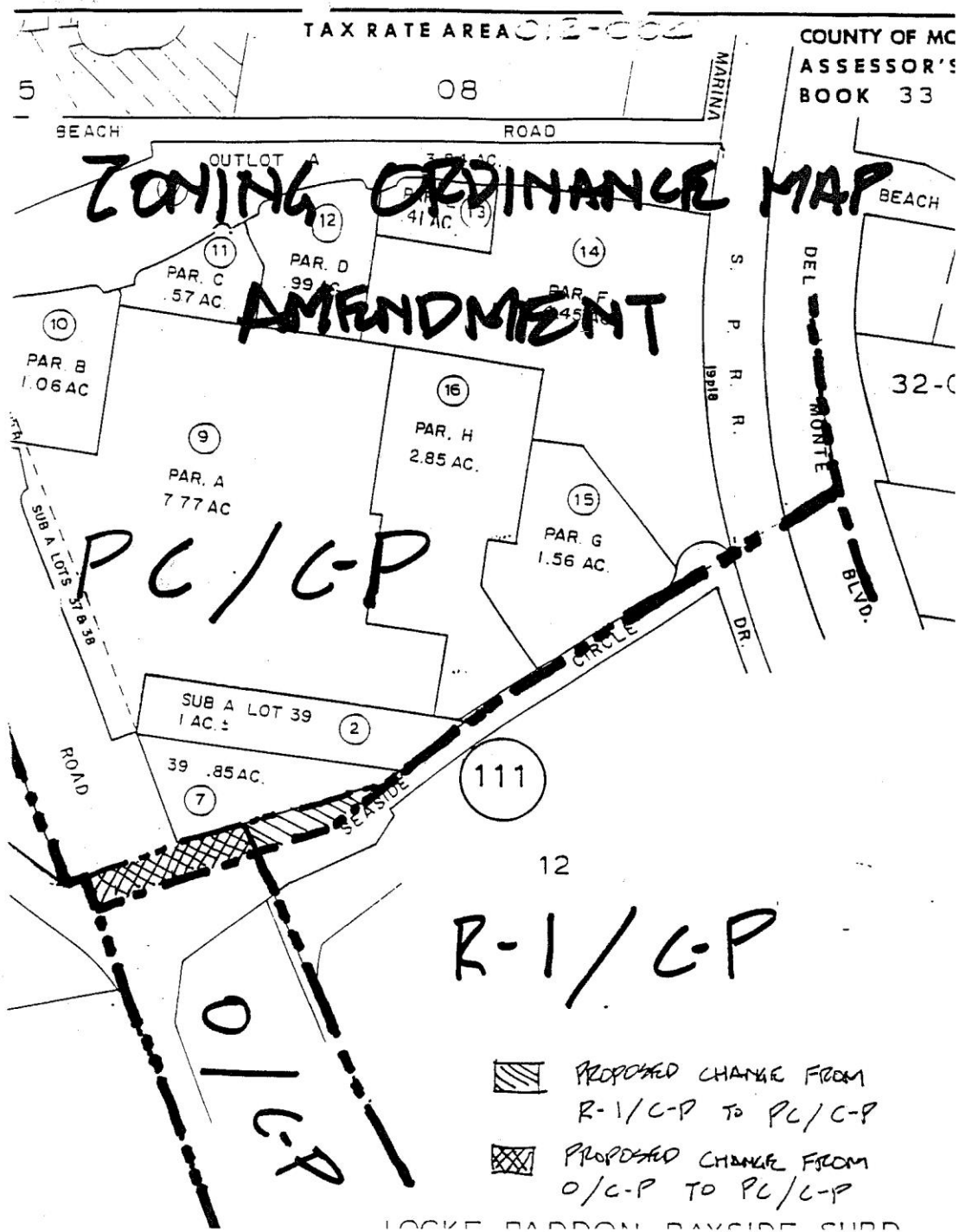
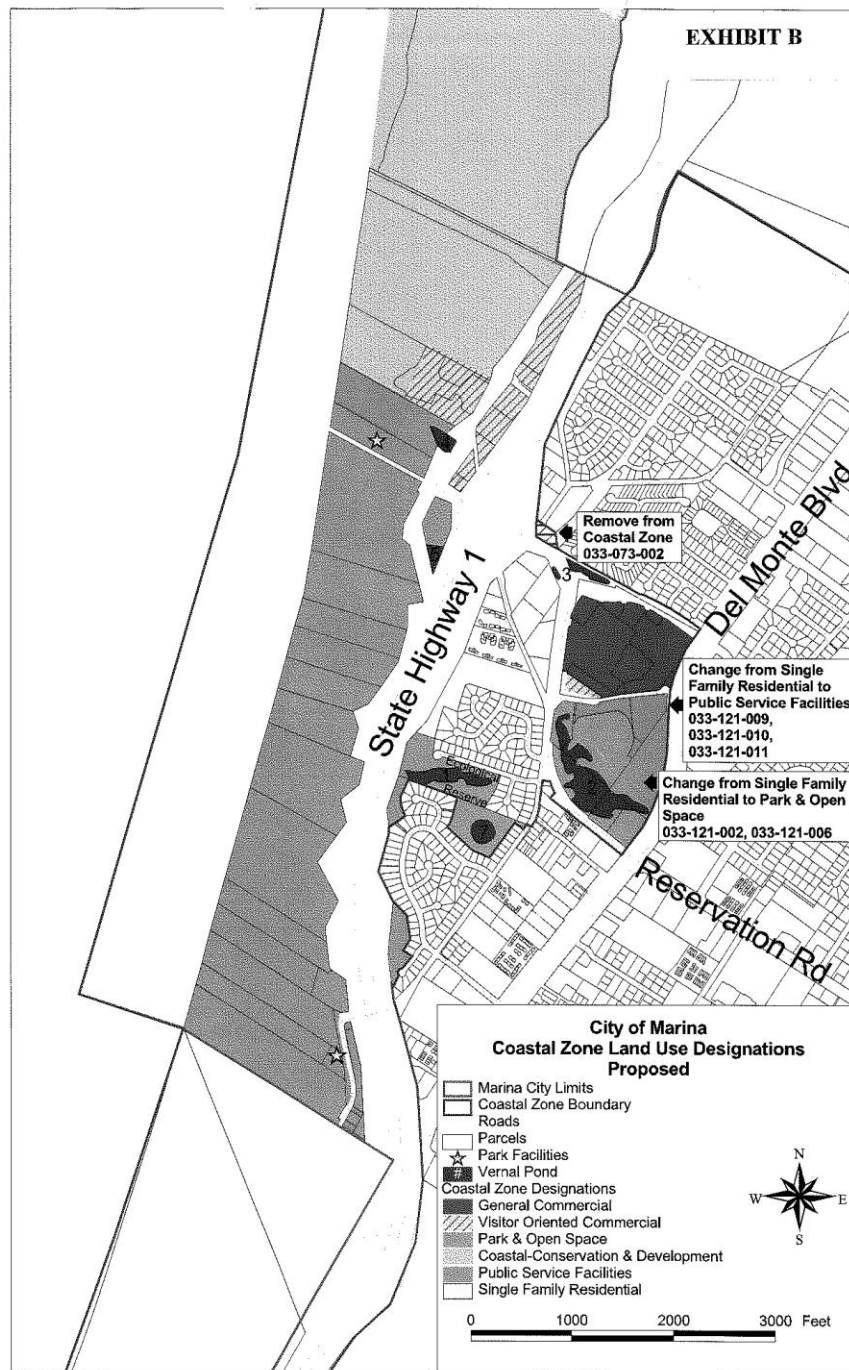
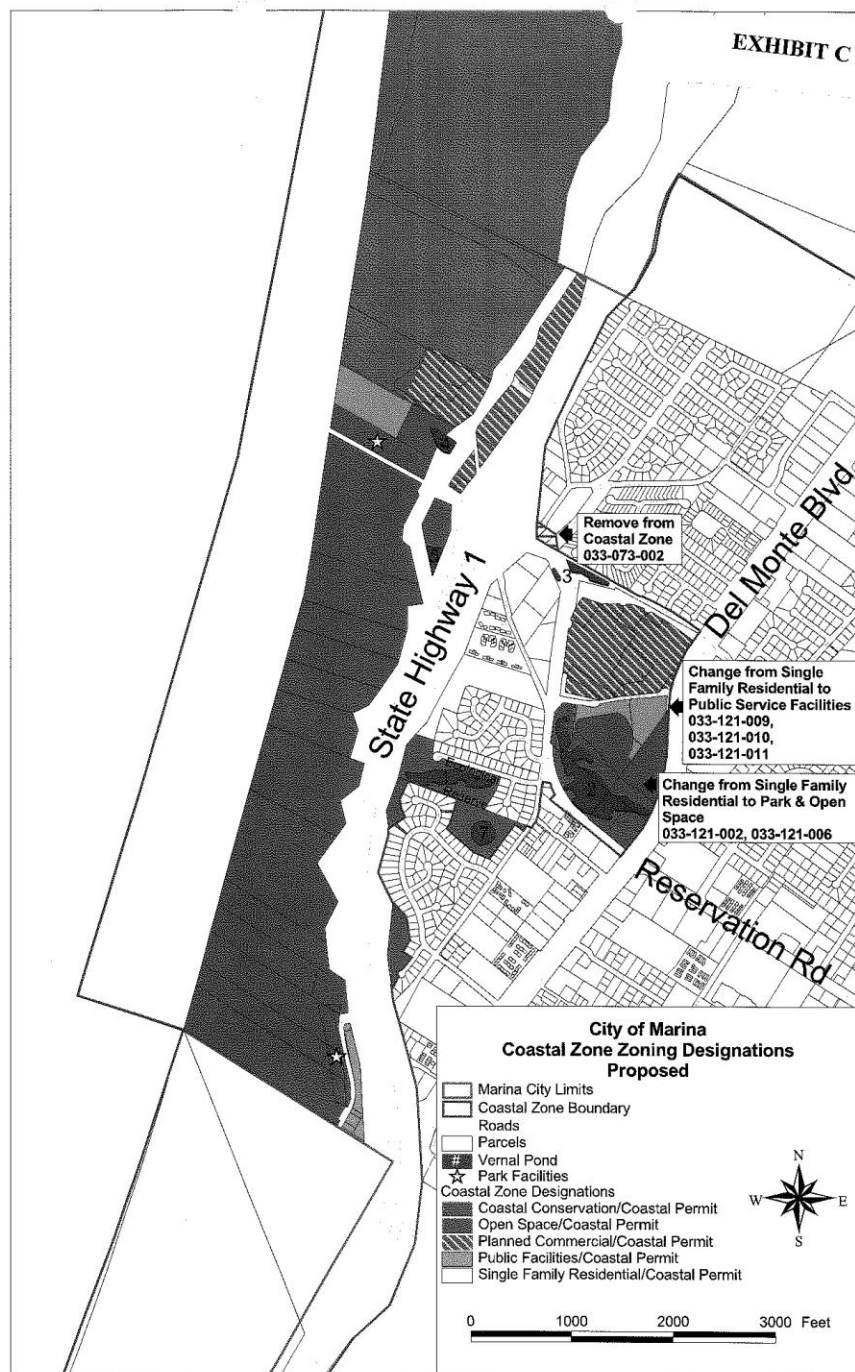


Figure D Update Resolution 2007-268





ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY OF MARINA CITY COUNCIL AMENDING
CHAPTERS 17.25 AND 17.41 OF THE CITY OF MARINA ZONING
ORDINANCE TO UPDATE EXISTING CONDITIONS AND USES IN THE
COASTAL ZONE AND DELETE USES NO LONGER IN OPERATION,
REMOVE SAND MINING AS A CONDITIONALLY PERMITTED USE IN
THE COASTAL CONSERVATION AND DEVELOPMENT ZONING
DISTRICT, AND STRIKE IN ENTIRETY SAND MINING RECLAMATION
TEXT

THE CITY COUNCIL OF THE CITY OF MARINA DOES ORDAIN THAT:

1. Consistency with the General Plan and the Local Coastal Plan. It is hereby found and determined that the proposed amended Title 17, entitled "Zoning," as shown in "**EXHIBIT A**" attached hereto ("Proposed Amended Title 17") is consistent with the goals, policies and programs of the Marina General Plan and Local Coastal Program, in that the amendment implements the policies of the Community Land Use Element with regard to preferred land uses in the North of Reservation Road Planning Area and habitat conservation.

2. Consistency with the California Environmental Quality Act. It is hereby found and determined that the Proposed Amended Title 17 is exempt from environmental review pursuant to the General Rule of the California Environmental Quality Act (CEQA) that exempts minor alterations to land use limitations that do not result in changes in land use or density pursuant to CEQA Guidelines Section 15305.

3. Title 17 Amended. Chapters 17.25 and 17.41 are hereby amended to read as shown in "**EXHIBIT A**" attached hereto.

4. Effective Date. This Ordinance shall be in full force and effect 30 days after its final passage and adoption.

5. Posting of Ordinance. Within fifteen (15) calendar days of the adoption of this Ordinance, the City Clerk shall cause it to be posted in three (3) public places designated by Resolution of the City Council.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on duly held on the 4th day of December 2018, and was passed and adopted at a regular meeting duly held on the ____ day of _____ 2018, by the following roll call vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

Chapter 17.25 C-D OR COASTAL CONSERVATION AND DEVELOPMENT DISTRICT*

Sections:

- [17.25.010](#) Generally.
- [17.25.020](#) Uses permitted.
- [17.25.030](#) Conditional uses.

* Prior ordinance history: Ord. 82-14.

17.25.010 Generally.

The following regulations shall apply in all C-D districts and shall be subject to the provisions of Chapter [17.06](#).
(Zoning ordinance dated 7/94 (part), 1994)

17.25.020 Uses permitted.

None. (Zoning ordinance dated 7/94 (part), 1994)

17.25.030 Conditional uses.

Uses subject to first obtaining a coastal development permit in each case:

A. Coastal research and educational uses; developed public access and other coastally dependent recreation uses; coastal-dependent industrial uses ~~including but not limited to marine agriculture (mariculture), including but not limited to marine agriculture (mariculture), dredge pond, surf zone and offshore sand extraction; in severely disrupted areas and those portions of parcels currently subject to dune mining activity, dune mining;~~ and on parcels combined with the Coastal Zone secondary use combining district or SU districts, visitor-serving uses such as visitor accommodations;

B. Regulations for coastal conservation and development uses shall be specified in the coastal development permit. The permit-issuing body may approve permit applications if the following factors, where relevant are found to apply:

1. There is adequate protection and/or provision of public access from the nearest roadway to the ocean, and uninterrupted lateral access,
2. Development is limited to already disturbed areas,

3. Rare and endangered plant and animal habitats are adequately protected,
4. Grading and roadway construction are the minimum necessary for the development,
5. Views from the State Highway and from the ocean edge are protected,
6. There are sufficient provisions for public safety,
7. All significant adverse environmental effects are either avoided or adequately mitigated,
8. All major and minor subdivisions of land shall provide for sufficient size and configuration to allow for coastally dependent uses or where none are feasible visitor-serving commercial uses consistent with the local coastal land use plan. All parcels must contain sufficient shoreline frontage. (Zoning ordinance dated 7/94 (part), 1994)

Chapter 17.41 COASTAL ZONING

Sections:

- [17.41.010](#) Introduction.
- [17.41.020](#) Beach access.
- [17.41.030](#) Vertical accessways.
- [17.41.040](#) Vernal pond accessways.
- [17.41.050](#) Lateral access.
- [17.41.060](#) Standards for coastal protection structures.
- [17.41.070](#) Habitat protection.
- [17.41.080](#) Housing.
- [17.41.090](#) Administrative procedures for coastal permits.
- [17.41.100](#) Minimum habitat mitigation/restoration plan requirements.
- [17.41.110](#) Definitions.
- [17.41.120](#) General coastal zoning regulations.
- [17.41.130](#) O or open space district.
- [17.41.140](#) PF or public facilities district.
- [17.41.150](#) R-1 or single-family residential district.
- [17.41.160](#) C-D or coastal conservation and development district.
- [17.41.170](#) K or agricultural residential district.
- [17.41.180](#) PC or planned commercial district.
- [17.41.190](#) SU or Coastal Zone secondary use combining district.
- [17.41.200](#) C-P or coastal development permit combining district.
- [17.41.210](#) Parking requirements.
- [17.41.220](#) Variances.
- [17.41.230](#) Use permits.
- [17.41.240](#) Site and architectural design review.
- [17.41.250](#) Nonconforming uses.
- ~~[17.41.260](#) Surface mining and reclamation standards.~~
- [17.41.270](#) Appeals.
- [17.41.280](#) Amendments.
- [17.41.290](#) Signs.

[17.41.300](#) Enforcement, legal procedures, penalties.

[17.41.310](#) Repealing.

[17.41.320](#) Validity.

[17.41.330](#) Reference.

[17.41.340](#) Enactment.

17.41.010 Introduction. SHARE

As provided by the California Coastal Act of 1976, a local coastal program consists of two major parts: the land use plan, and the implementation measures needed to carry it out. Accordingly, the Marina local coastal implementation plan (LCIP) describes the various measures needed to carry out the Marina local coastal land use plan (LCLUP). Together, the LCLUP and LCIP comprise the local coastal program (LCP) for the city of Marina. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.020 Beach access. SHARE

One purpose of the local coastal implementation plan is to identify those measures needed to carry out the access component of the LCP. The California Coastal Act requires that access be provided both to and along the coast. These two kinds of access are:

- A. Vertical, perpendicularly from the nearest public road to the sandy beach frontage; and
- B. Lateral, along the sandy beach frontage parallel to the water's edge.
- C. A third type of access discussed in the Marina local coastal land use plan is vernal pond access. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.030 Vertical accessways. SHARE

A. There are three vertical access points recommended in the Marina local coastal land use plan; two are located on property owned by the California Department of Parks and Recreation. These two beach accesses now exist at Lake Court and Reservation Road. The plan proposes that they be improved by the State Department of Parks and Recreation. Timing of this improvement is dependent upon available funding. Expectations of the type and level of development at these accessways is outlined in Marina's local coastal land use plan. Since any development on this site by the State Department of Parks and Recreation will require a coastal development permit, issued by the city of Marina, standards and expectations expressed in the plan will be complied with.

B. The third vertical access discussed in the plan is located on private property adjacent to the west side of Dunes Drive. Three privately-owned parcels have frontage on the west side of the existing portion of Dunes Drive. If the road is extended, additional properties will be served and will share the proposed access. ~~The Monterey Sand Company's dragline can obstruct nonpedestrian lateral beach access in the area.~~ The Dunes Drive access is proposed to be the only equestrian beach access in the city; horseback riding is prohibited on the state beach to the south of the dragline. The Dunes Drive beach access needs to be located on the north side of the dragline.

C. The accessway easement should be at least ten feet wide and should extend from Dunes Drive to the mean high water line. Title to the land and improvements within the easement area may be retained by the property owner. Only the access rights need be conveyed to a public agency.

D. The primary access objective in the Dunes Drive area is for one improved access. This access may be provided by cooperation among property owners potentially required to provide access. If no cooperation occurs, at the time of development each property owner must grant an access easement to the city. The city may in turn determine at the time it issues the coastal development permit, which easement or easements should be developed and which retained for future access needs. If a developed access already exists at the time a development proposal is filed, the property owner may pay a fee in lieu of providing an access easement providing the fee is determined by the city to be appropriate. These fees will be deposited into a restricted fund established by the city council to be used for access improvement, maintenance and beach parking.

E. An environmental assessment should precede siting and improvement of a beach accessway in this area. At a minimum, the study should address the possible impacts on rare and endangered plant and animal species, geophysical effects of construction and use, public safety, maintenance and alternative locations within the area, management and mitigation measures.

F. When private property owners are required by the subdivision ordinance and/or local plans to provide developed coastal vertical accessways, it is important that the facilities actually are put in place. To insure construction, the planning department shall make a prefinal field check to verify compliance with accessway conditions of the local coastal development permit. The prefinal inspection should not be approved and utility connection to the proposed development should not be allowed until access structures are in place and easements are recorded or in-lieu fees have been paid to the city. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

A. A unique aspect of Marina's Coastal Zone are the vernal ponds. Most of these seasonal lakes support wetlands which provide wildlife habitat during the migration and breeding season of various species. Two of these ponds are in public ownership and protected by fences against human intrusion. One of the ponds, Number Three, has no marsh. Number Four, west of Dunes Drive, and Number Two, on the north side of Reservation Road, have potential for nature observation facilities. However, before such use should be considered an environmental assessment should be undertaken to determine what level of use, if any, the habitat and pond itself can sustain. Since these vernal ponds are unique in California in their geologic character and proximity to the ocean, use even for nature observation should not be encouraged unless it can be demonstrated that it will not have an unmitigatable adverse effect on the area.

B. Because these areas are defined as wetlands in the California Coastal Act, a one hundred-foot protective setback will be required from the outer edge of the wetlands and any coastal permit issued for development, including walkways for observation, will have to comply with the policies and recommendations laid out in the local coastal land use plan (see conclusions section of the LCLUP and habitats section of the LCIP). These ponds, their wetlands and one hundred-foot setbacks will also be included in the city of Marina's coastal permit appeal zone. Therefore any local decision regarding development within this area will be appealable to the State Coastal Commission. (See Appeals section). (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.050 Lateral access.

A. Lateral access, or access parallel to the water line on the sandy beach frontage, is presently virtually uninterrupted in Marina. ~~The only obstruction is the Monterey Sand Company's dragline. When it is not operating, a pedestrian can easily step between the cables.~~ As consistent with the Coastal Act, a balance between public access and operation of a coastal dependent use should be planned so that the needs of both are compatible.

B. About one-third of Marina's sandy beach frontage is already in state ownership as a part of Marina state beach. The remaining two-thirds is in a number of private ownerships, several of these are very large.

C. It shall be the city's intent to require that continuous public lateral access shall be maintained along the shoreline. Lateral access easements or dedications should extend inland from the water line to include the inland edge of the sandy beach frontage. The depth and extent of this area may vary along the beach, but it can easily be identified by a qualified professional. Therefore, the depth of these easements shall be determined by the city at the time alternative use or development is proposed for a site. ~~Sand mining companies are currently extracting sand from or across this area. In accordance with the LCLUP all beach front parcels that are used for sand mining may satisfy the requirement for lateral access by the recordation of a~~

~~deed restriction on the property. The deed restriction shall consist of a covenant executed by the property owner which shall be recorded on the title to the property and shall bind all successors in interest and shall run with the land until such time as a use other than sand mining is approved. The deed restrictions shall contain provisions limiting public access to protect the safety of the public and to ensure that use of the property for sand mining is not inhibited, but only to the extent that such limitations are reasonable and necessary for the safe conduct of the sand mining operations. At such time as a use other than sand mining is approved the property owner shall execute and record an irrevocable offer to dedicate a lateral access easement.~~

D. Lateral access easements may be dedicated to the city or to the state. The coastal commission has established a process whereby such easements can be offered to state agencies. An offer to dedicate to the state would relieve the city of any potential liability for adjacent property damage as well as placing the operation and maintenance responsibility for this area with the state. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.060 Standards for coastal protection structures.

 SHARE

A. ~~Except for a few facilities associated with sand mining, t~~There currently is little capital investment to be threatened by erosion along Marina's shoreline. The face of the dunes is subject to wave erosion, so future development shall be placed beyond the area vulnerable both to wave erosion and tsunami hazard. This setback shall be great enough to protect the economic life of the proposed development (at least fifty years) and be east of the tsunami hazard zone. The exact extent of this setback shall be determined by a qualified geologist, selected from an approved list compiled and maintained by the city. Because of variation from site to site, the setback line shall be determined at the time development of a site or parcel is proposed.

B. Protective structures are not recommended in Marina; however, if they should ever be necessary, standards shall be established to insure that the type of protection, location, design and other factors are considered. In determining if it is suitable to issue a coastal permit for a shoreline structure, the following shall be addressed: (1) alternatives to a protective structure shall be determined and evaluated by appropriate specialists first; and (2) an EIR/EIS shall be required on the proposed structure. The EIR/EIS shall address specific issues of Local Coastal Land Use Plan concern, construction and maintenance. The environmental evaluation and mitigations shall be prepared by qualified specialists and shall address at a minimum the following specific issues and design considerations.

C. Specific Issues.

1. Demonstrate the need for a protective structure, review alternatives and determine why each alternative is unsuitable.

2. Evaluate the impact on sand migration and replenishment, potential changes in erosion rates elsewhere along the coast resulting from the proposed construction, removal of dune vegetation, drainage, etc.
3. Evaluate the impact of the protective structure on beach use (does it block or obstruct the sandy beach, etc.; what will the shoreline look like from land and sea, etc.?)
4. Determine the effect of the structures presence on recreation uses.
5. Determine the effect of the structure on access to and along the beach or shoreline; determine that level of access provided will be consistent with the city's local coastal policies.
6. Determine effects of protective structure on rare and endangered species in the foredune and dune area.

D. Design Considerations.

1. Mitigate identified environmental impacts, particularly with respect to sand migration patterns, additional shoreline and wind erosion problems which might result from the project, and loss of habitat for rare and endangered plant and animal species.
2. Safe public access shall be designed into the protective structure, so that movement along the beach parallel to the water will remain possible at all water levels. If the proposed structure will cross a vertical access corridor identified by the access component of the LCLUP, access from the nearest public road to the shoreline across the protective structure shall also be provided.
3. Surfaces creating an uneven, rugged or textured appearance to break the force of the water should be used as much as feasible.
4. Structures shall be designed to physically and visually blend into the area protected. Consideration shall be given to texture, materials, color, view from and to the sea, etc.
5. Drainage from land to sea shall be evaluated and necessary structural accommodations made.

E. Mitigations for these effects and others identified in the EIR/EIS for each proposed shoreline structure shall be required to be met by the project prior to issuing a coastal permit for construction. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.070 Habitat protection.

A. Much of the Marina Coastal Zone either is environmentally sensitive because of the presence of rare and endangered species or has the potential for supporting a rare and endangered species. In Marina, environmentally sensitive habitats include, but are not limited to areas of undisturbed native dune vegetation, vernal ponds and vernal pond wetlands. The potential habitat map in the LCLUP reveals areas where such plant and animal habitats are to be found. The precise limits of such habitats shall be confirmed by professional on-site evaluation at the time development is proposed and before a coastal development permit is issued.

B. In addition to indicating the location of primary habitat areas for rare and endangered plant and animal species (which are to be protected), the evaluation shall address protective measures, such as setbacks, restoration of habitat areas where natural dune landform remains, and limitations to uses in secondary and/or support areas which are necessary to the health of the identified primary habitat area. Because of the variety of plants and animals involved, the secondary or support area will have to be individually identified and specifically protected on a site-by-site or case-by-case basis. For this reason, it is important that the city establish a list of biologists qualified to prepare habitat evaluation reports within the city's Coastal Zone. Developers may then choose specialists from these lists.

C. In the case of wetlands, the biologists will have to determine the extent and landward boundary of the wetland. The biologist will then establish a one hundred-foot setback line from the boundary of the wetland. This entire area, pond, wetland and setback, will be subject to coastal development permit requirements as well as being in the coastal permit appeal zone.

D. In the case of dune habitat areas, the environmental analysis report prepared for this plan identified a number of plant and animal species which are locally or generally rare, endangered, threatened, or are necessary for the survival of an endangered species. The habitats of these species, collectively referred to throughout this plan as "rare and endangered," warrant protection as environmentally sensitive.

E. While future scientific studies may result in addition or deletion of species, the list presently includes:

1. Smith's Blue Butterfly (*Shijimiaeoides enoptes smithi*);
2. Globose Dune Beetle (*Coelus globosus*);

3. Black Legless Lizard (*Anniella pulchra nigra*);
4. Salinas Kangaroo Rat (*Dipodomys Heermanni Goldmani*);
5. Seaside Painted Cup (*Castilleja latifolia ssp. latifolia*);
6. Monterey Spine Flower (*Chorizanthe pungens var. pungens*);
7. Eastwood's Ericameria (*Ericameria fasciculata*);
8. Coast Wallflower (*Erysimum ammophilum*);
9. Menzies' Wallflower (*Erysimum menziesii*);
10. Coastal Dunes Milk Vetch (*Astragalus tener var. titi*);
11. Dune Gilia (*Gilia tenuiflora var. arenaria*);
12. Wild Buckwheat (*Eriogonum latifolium*)*;
13. Wild Buckwheat (*Eriogonum parvifolium*)*;
14. Bush Lupine (*Lupinus ssp.*)+. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

* only within the range of Smith's Blue Butterfly.

+ only within the range of the Black Legless Lizard.

17.41.080 Housing. SHARE

A. Residential uses in the Marina Coastal Zone are limited to the area east of Highway 1, adjacent to the vernal ponds. Residential densities of four to eight dwelling units to the acre are proposed. Since public purchase of all the vernal ponds, their wetlands and their protective setbacks (at least one hundred feet) is unlikely, the LCLUP provides that residential uses in this area be clustered on portions of sites which would least affect the wetlands and would protect other environmentally sensitive or visually significant attributes of the sites, as described in the LCLUP.

1. Clustering would also provide economies of construction which would encourage moderately priced, energy saving housing.

2. The city is currently in the process of approving and submitting to the state its housing element. This element includes a locally recognized fair-share obligation and an action program committing the city to housing programs which will enable them to achieve their regional fair-share obligation.¹

3. The housing element applies to the entire city. So the action programs requiring dispersal of housing by value, rehabilitation, conservation of lower income housing will apply to the Coastal Zone as well as the rest of the city.

4. Because of the small number anticipated in the Coastal Zone (about one hundred), the overall lower density required to protect environmentally sensitive areas, and the need to dedicate environmentally sensitive areas and support areas, no special housing regulations are necessary beyond those in the city's certified housing element.

B. Condominiums and Stock Cooperatives.

1. There are no existing multiple-family residential structures in the Marina Coastal Zone. Therefore the issue of conversion of lesser cost rentals and possibly substandard units to condominiums and/or stock cooperatives does not presently exist.

2. New construction in R-1 zones as modified by the city's condominium guidelines could include townhouse construction (common wall), zero lot line options and other types of clustering. Condominiums are possible, but they would have to meet the standards of the city's condominium guidelines. Clustering of various types would allow the double advantage of reducing the construction cost per unit and protecting the sensitive environment. No additional regulation appears necessary. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

¹ The State Housing Element Guidelines require each jurisdiction to have a housing element which distributes the regional low and very low income housing need proportionately to all jurisdictions within the region (fair-share). The guidelines go on to require that each jurisdiction develop a program to achieve construction of their fair-share of the regional need for affordable units within an established time frame. Currently, over forty percent of Marina's housing is affordable to low income households and over one-third of the city's population is qualified for this type of housing.

One of the primary objectives of local coastal planning is to transfer to each local coastal jurisdiction the responsibility for issuing the coastal development permit. After LCP certification the city of Marina will be authorized to issue these permits (currently issued by the State or Regional Coastal Commission). An important part of this responsibility is integrating coastal development permit application processing with the normal planning procedures of the city in order to reduce, as much as possible, unnecessary delay on development proposals.

A. Overall Planning Procedure. The planning procedure flow chart (Figure 1) indicates the major steps in Marina's processing of planning applications. The major milestones for coastal permits have been added to the chart to indicate where they fit into the existing process and what time frame is anticipated. The intent is to integrate coastal development permit requirements into the existing procedure in order to minimize additional processing time. The major coastal permit milestones in the planning procedure flow chart indicate some of the modifications in the procedure that would be necessary.

1. During the first visit to the planning department the applicant would be advised of the project's relationship with the coastal land use plan and whether or not a coastal development permit is required. (See sections on categorical exclusion) and if the development is located within the coastal permit appeal zone.
2. If a coastal development permit is required² the procedure would not take less than thirty days and would be integrated with other review and hearings before the planning commission. (See coastal development permit procedure section and coastal permit appeal procedure)
3. After planning commission approval, the coastal development permit would be issued. (If the action is located within the permit appeal zone and appealed to the State Coastal Commission, the city would not issue the permit until the state has acted on the appeal).
4. It should be noted that the planning procedure flow chart is only a basic graphic depiction of the planning process. These steps are subject to modification pursuant to changes in state and case law and administrative streamlining processes implemented pursuant to any such modifications in state and case law.

B. Coastal Development Permit Procedure. The Coastal Development Permit Procedure Flow Chart (Figure 2) indicates the steps and notification requirements in issuing coastal development permits. On the face of it, the requirements and mechanics of this procedure are similar to many others in the city; however, the details for coastal development permits vary from other permits as follows:

1. Permit-issuing Responsibilities. The planning commission shall be responsible for issuing coastal development permits. When site development is determined by an overall plan, as in the combination of R-1/B-6 or planned commercial development, the coastal development permit shall be considered in conjunction with the other project review obligations of the planning commission.

2. It should be noted that the coastal development permit procedure flow chart is only a basic graphic depiction of the major steps in the coastal planning process. These steps are subject to modification pursuant to changes in state and case law and administrative streamlining processes implemented pursuant to any such modifications in state and case law.

C. Exclusions. Any project or activity categorically excluded by the California Coastal Commission shall be excluded from coastal development permit requirements in Marina. It is irrelevant whether the project or activity categorically excluded is located within the coastal permit appeal zone or not. It is the responsibility of the planning director each quarter to report excluded projects to the State Coastal Commission staff.

D. Time Line on Coastal Permit Application.

1. Ten days prior to a public hearing on any coastal permit, the city shall provide public notice by publication in a newspaper of general circulation and by first class mail. The mailed notice shall be provided to all persons who submit a written request for such notice along with a stamped self-addressed envelope. The mailed notice shall also be provided to the State Coastal Commission, all property owners and tenants within one hundred feet of the project site.³

2. Within seven days of the planning commission action on any coastal permit, the city shall provide written notice to the State Coastal Commission and all persons who have submitted written request for such notice along with a stamped self-addressed envelope. The planning commission's decision on any coastal permit may be appealed to the city council within seven days of the planning commission's action.⁴

Ten days prior to any city council appeal hearing on a coastal permit decision the city shall provide notice of such hearing by first class mail to the State Coastal Commission and all persons who have submitted written request for such notice along with a stamped self-addressed envelope. In addition, notice of such hearing shall be published in a newspaper of general circulation at least ten days prior to the hearing.

3. Within five days of any final city council action on an appeal of a coastal permit the city shall notify, by first class mail, the State Coastal Commission and all persons who have submitted a written request for such notice along with a stamped self-addressed envelope.⁵
4. Within twenty-one days of final city council action on a coastal permit with the appeal zone, resulting in approval of a coastal permit, an appeal of such decision may be filed by an aggrieved party with the State Coastal Commission or an appeal may be filed by the State Coastal Commission. Therefore, within the appeal zone, twenty-one days must lapse from the date of an affirmative local decision on a coastal permit before such action can be deemed final. After this twenty-one day period expires the coastal permit/notice of permit decision may be issued to the applicant.
5. The city of Marina may charge a fee for a coastal permit and appeal of such permit. This fee will be based on administrative costs and will be reviewed periodically by the city council. The fee shall be established in the same manner as other city fees. If the city council determines to charge a fee for a coastal permit appeal it will then become possible to appeal any affirmative planning commission decision on a coastal permit (within the appeal zone) directly to the coastal commission.

E. Eligibility for Coastal Permit Appeal.

1. Any zoning or subdivision action within the Coastal Zone may be appealed to the city council. Only applications for property within the local coastal permit appeal zone may be appealed to the State Coastal Commission. Specific criteria exist in law to define this appeal zone:⁶
 - a. Location between the sea and first public road paralleling the sea or within three hundred feet of the inland extent of any beach or three hundred feet of the mean high tide line of the sea where there is no beach, whichever is the greater distance;
 - b. Location on tidelands, submerged lands, public trust lands, within one hundred feet of any wetland, estuary, stream or within three hundred feet of the top of seaward face of any coastal bluff and not included in subsection (E)(1)(a) of this section.
2. Development outside the specifically designated permit appeal zone may be appealed only if:

a. The development constitutes a major public works project or major energy facility.

3. All applicable projects, including major public works projects or major energy facilities may be appealed by an applicant, any two members of the State Coastal Commission or an “aggrieved person.” An “aggrieved person” is legally defined in the Public Resources Code, Section [30801](#). The definition covers:

a. Any person who, in person or through a representative, appeared at a public hearing of the local government in connection with the decision or action appealed or who, by appropriate means prior to a hearing, informed the local government of the nature of his concerns or who for good cause was unable to do either.

F. Grounds for Appeal.

1. Not only do the coastal commission’s local coastal program regulations define the coastal permit appeal zone, they also clearly set out the grounds for appeal of local permit decisions within Area 1 of the coastal permit appeal zone.⁷ (Section 00192): Appeals “shall be limited to the following”:

a. Development fails to provide adequate physical access or public or private commercial use or interferes with such uses.

b. Development fails to protect public views from any public road or from a recreation area to and along the coast.

c. Development is not compatible with the established physical scale of the area.

d. Development may significantly alter existing landforms.

e. Development does not comply with shoreline erosion and geologic setback requirements.

2. Overriding these grounds for appeal is the consideration of whether or not the development is in conformity with the certified local coastal program.

3. Appeals to the coastal commission must follow at least one local action on the application. If Marina charges a local appeal fee, coastal development permits approved by the planning commission may be appealed directly to the state.

4. Whether an appeal and appellant meet these criteria will be determined by the executive director of the State Coastal Commission during the first two working days after the ten working days required for notification of the decision from the local jurisdiction to the state. After State Coastal Commission action the city will receive a notice of permit decision. If it is affirmative the city will be able to issue a coastal development permit consistent with the findings of the State Coastal Commission on the appeal.

G. Categorical Exclusion.

1. The State Coastal Commission has the authority, on a jurisdiction-by-jurisdiction basis, to exempt certain kinds of development from coastal permit requirements. This action is called a categorical exclusion and must be requested by the jurisdiction. The city may seek a categorical exclusion for categories of existing development or types of actions within its Coastal Zone. In Marina's case, there is little existing development since most of the land is undeveloped or subject to reuse. However, future structures may be subject to coastal permit regulation. Areas categorically excluded are also exempt from the coastal appeal process if located within the coastal permit appeal zone.

2. Although no categorical exclusions are recommended for the initial local coastal program, as areas of the city's Coastal Zone become developed and established, the city may wish to apply to the State Coastal Commission for a categorical exclusion, (for example, to exclude areas zoned and developed R-1). If the state takes such an action, then all properties in the designated area will remain exempt from the requirement of getting a coastal permit until or unless the use of the property is changed.

3. The city may find the categorical exclusion an efficient way to reduce the administrative workload associated with the Coastal Zone and its regulatory process. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

² A coastal development permit will be required of all development located within Marina's Coastal Zone as defined by the State Legislature in 1979, unless, in the future, a type of development or developed areas are categorically excluded by action of the State Coastal Commission at the request of the city.

³ Information required to be included in this notice is outlined in the local coastal program regulations.

November 18, 1980 and includes: statement that the development is within the Coastal Zone; the date of filing of the application and the name of the applicant; a description of the development and its proposed location; the date, time and place at which the application will be heard by the local government body; a brief description of the general procedure of local government concerning the conduct of the hearing and local actions; the system for local and coastal commission appeals, including any local fees required.

⁴ Information required to be included in this notice is outlined in the local coastal program regulations.

November 18, 1980 and includes: statement that the development is within the Coastal Zone; the date of filing of the application and the name of the applicant; a description of the development and its proposed location; the date, time and place at which the application will be heard by the local government body; a brief description of the general procedure of local government concerning the conduct of the hearing and local actions; the system for local and coastal commission appeals, including any local fees required.

⁵ Information required to be included in this notice is outlined in the local coastal program regulations.

November 18, 1980 and includes: statement that the development is within the Coastal Zone; the date of filing of the application and the name of the applicant; a description of the development and its proposed location; the date, time and place at which the application will be heard by the local government body; a brief description of the general procedure of local government concerning the conduct of the hearing and local actions; the system for local and coastal commission appeals, including any local fees required.

⁶ Section 30603 of the California Coastal Act of 1976.

⁷ Area 1 is defined in the California Coastal Act Section 30603 as: "Location between the sea and first public road paralleling the sea or within three hundred feet of the inland extent of any beach or three hundred feet of the mean high tide line of the sea where there is no beach, whichever is the greater distance."

17.41.100 Minimum habitat mitigation/restoration plan requirements.



All direct and potential impacts to primary and secondary habitats shall be fully mitigated. Appropriate acreage replacement/restoration ratios for any unavoidable direct impacts to habitat areas and buffer areas shall be applied to fully protect identified habitat. Habitat restoration plans shall be prepared and approved prior to issuance of any grading or building permits.

A. Habitat Restoration Plan Requirement.

1. All habitat restoration, enhancement, and/or buffering plans shall be prepared by a qualified biologist and where appropriate, with the assistance of a qualified hydrologist. Plans shall be developed in consultation with the Department of Fish and Game and U.S. Fish and Wildlife Service in cases where these agencies have jurisdiction. The plans and the work encompassed in the plans shall be authorized by a coastal development permit. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the city. No changes to the approved final plans shall occur without a city-approved amendment.

2. The elements of such a plan shall include, at a minimum:

- a. A detailed site plan of the entire habitat and buffer area with a topographic base map;
- b. A baseline ecological assessment of the habitat buffer area, including but not limited to, assessment of biological, physical, and chemical criteria for the area;
- c. The goals, objectives, performance standards, and success criteria for the site, including specific coverage and health standards for any areas to be planted. At a minimum, explicit performance standards for vegetation, hydrology, sedimentation, water quality and wildlife, and a clear schedule and procedure for determining whether they are met shall be provided. Any such performance standards shall include identification of minimum goals for each herbaceous species, by percentage of total plantings and by percentage of total cover when defined success criteria are met; and specification of the number of years active maintenance and monitoring will continue once success criteria are met. All performance standards shall state in quantifiable terms the level and extent of the attributes necessary to reach the goals and objectives. Sustainability of the attributes shall be a part of every standard. Each performance standard shall identify: (1) the attribute to be achieved; (2) the condition of level that defines success; and (3) the period over which success must be sustained. The performance standards must be specific to provide for the assessment of habitat performance over time through the measurement of habitat attributes and functions including, but not limited to, wetland vegetation, hydrology, and wildlife abundance;
- d. The final design, installation, and management methods that will be used to ensure the mitigation site achieves the defined goals, objectives and performance standards;

- e. Provisions for the full restoration of any impacts that are identifiable as temporary necessary to install the restoration or enhancement elements;
- f. Provisions for submittal, within thirty days of completion of initial (and subsequent phases, if any) of restoration work, of “as built” plans demonstrating that the restoration and enhancement has been established in accordance with the approved design and installation methods;
- g. Provisions for a detailed monitoring program to include, at a minimum, provisions for assessing the initial biological and ecological status of the site. The assessment shall include an analysis of the attributes that will be monitored pursuant to the program, with a description of the methods for making that evaluation;
- h. Provisions to ensure that the site will be promptly remediated if monitoring results indicate that the site does not meet the goals, objectives and performance standards identified in the approved mitigation programs and provisions for such remediation. If the final report indicates that the mitigation project has been unsuccessful, in part, or in whole, based on the approved performance standards, the applicant shall submit a revised or supplemental mitigation program to compensate for those portions of the original program that did not meet the approved performance standards;
- i. Provisions for submission of annual reports of monitoring results to the city of the first five years after all restoration and maintenance activities have concluded (including but not limited to watering and weeding, unless weeding is part of an ongoing long-term maintenance plan) and periodic monitoring after that time, beginning the first year after submission of the “as-built” assessment. Each report shall include a “Performance Evaluation” section where information and results from the monitoring program are used to evaluate the status of the project in relation to the performance standards. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.110 Definitions.

A. All words used in the present tense shall include the future tenses; all words in the plural number shall include the singular; and all words in the singular number shall include the plural number, unless the natural construction of the wording indicates otherwise. The word “shall” is mandatory and not directory. The word

“city” shall mean city of Marina, the words “city council” shall mean city council of Marina, the words “planning commission” shall mean the planning commission of Marina.

B. For the purpose of this title, certain terms used herein are defined as follows in this chapter.

“Access” means an opening in a fence, wall or structure, or a walkway or driveway permitting pedestrian or vehicular approach to, or within, any structure or use.

“Accessory building” means a subordinate building, the use of which is incidental to that of a main building on the same building site.

“Accessory use” means a use accessory to any permitted use and customarily a part thereof, which use is clearly incidental and secondary to the permitted use and which does not change the character thereof.

“Agriculture” means the art or science of cultivating the ground, including harvesting of crops and rearing and management of livestock; tillage; husbandry; farming; horticulture; and forestry; the science and art of the production of plants and animals useful to man.

“Airport” means a place, either on land or on water, where aircraft may land and take off and where additional space may be provided to discharge or receive cargoes and passengers, make repairs or take in fuel.

“Alley” means a passage or way open to public travel, affording a secondary means of access to abutting lots and not intended for general traffic circulation.

“Apartment” means a room or suite of two or more rooms, which is designated for, intended for, or occupied by one family doing its cooking therein.

“Apartment building” means any structure containing more than two dwelling units.

“Appurtenant sign” means a sign relating only to goods sold or services rendered upon the building site on which said sign is erected or maintained.

“Auto court” means a group of two or more buildings, containing guest rooms or apartments with automobile storage space serving such rooms or apartments provided in connection therewith, which group is designed and used primarily for the accommodation of transient automobile travelers (also includes motels).

“Block” means that property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets and railroad right-of-way, unsubdivided acreage, watercourse or body of water.

“Building” means any structure built entirely of frame or more lasting type of construction, having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of any person, animal or chattel, but not including any tent or trailer.

“Building site” means a parcel of land occupied or intended to be occupied by main buildings and accessory buildings and uses, including such open spaces as are provided or are intended to be used in connection therewith or are required by the regulations for the district wherein such parcel is located.

“Bungalow courts or grouped dwellings” means a combination or group of two or more detached or semidetached dwellings or dwelling units and their accessory buildings occupying an integrally owned building site and used for nontransient living accommodations.

“Campgrounds” means land or premises which is used or intended to be used, let or rented for occupancy by campers traveling by automobile or otherwise, or for occupancy by tents or similar quarters.

“Carport” means an accessible and usable covered parking space not less than nine feet by twenty feet for the storage of automobiles.

“Cattle feed yard” means any premises on which cattle are held or maintained for the purpose of feeding and fattening for market and where sixty percent or more of the feed for such cattle is imported or purchased.

“CEQA” means the California Environmental Quality Act of 1970, setting forth requirements for governmental agencies at all levels to develop standards and procedures necessary to protect environmental quality, and setting forth regulations for environmental impact reports (EIR).

“Club” means all clubs except those, the chief activity of which is a service customarily carried on as a business.

“Coastal appeal zone” means that geographical area between the sea and first public road paralleling the sea or within three hundred feet of the inland extent of any beach or within three hundred feet of the mean high tide lines of the sea where there is no beach, whichever is the greater distance. Furthermore, tidelands; submerged lands; public trust lands within one hundred feet of any wetland, estuary, stream, or within three hundred feet of the top of seaward face of any coastal bluff are also included.

“Coastal development permit” means a permit issued for development within the Coastal Zone as required by this chapter.

“Coastal scenic view corridor” means an area in which development is sited and designed to protect public views to the dunes and to and along the shorelines and, in scenic coastal areas in order to minimize the alteration of landforms so that new development will be visually compatible with the character of the surrounding areas.

“Coastal Zone” means that portion of the city of Marina defined by the California Public Resource Code Sections 30103 and 30160 as being in the Coastal Zone, generally State Highway Route 1, the area west of Highway 1 and portions of the area between Del Monte Boulevard and Highway 1 generally including coastal dunes, vernal ponds and adjacent lands either undeveloped or under cultivation in 1979.

“Commercial hog ranch” means any premises on which hogs are raised or maintained and said hogs are fed by the purchase or import of swill, garbage, vegetables or fruit.

“Contractor’s yard” means any land and/or buildings used primarily for the storage of equipment, vehicles, materials or components used in the conduct of any building trades or craft.

“Courts” means an open, unoccupied space, other than a yard, on the same lot with a building or group of buildings and which is bounded on two or more sides by such building or buildings.

“Density” means the ratio of family living units to acreage.

“Development” means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredge materials or waste; grading, removing, dredging, mining or extraction of any materials; change in the density or intensity of use of land including subdivision and any other division of land except where division occurs as a result of purchase by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition or alteration of the size of any structure; the removal or harvesting of major vegetation other than for agricultural purposes or kelp harvesting.

“Directional and informational sign” means any sign which is confined to the giving of directions to a community or population center, or which, in addition to such directions, also gives general information as to the services, products or facilities available therein, without, however, naming or otherwise identifying any particular establishment, purveyor of goods or services, or brand or manufacturer of products.

“Disturbed area” means terrain that has been substantially altered by erosion, grading, mining, excavation or other natural or man-made causes to the extent that none or very little of the native vegetation and/or natural landform remains.

“Domestic animal” means animals normally maintained in a home as pets.

“Drive-in business” means any primary or subsidiary business in which business is transacted while the consumer is seated in or on a motor vehicle.

“Drive-in restaurants” means a restaurant where food and beverages are sold and served to customers in motor vehicles and which are regularly and customarily consumed in motor vehicles on the premises.

“Duplex” means a detached building, under one roof, designed for or occupied exclusively by, two families living independently of each other.

“Dwelling group” means a group of two or more detached or semidetached one-family, two-family or multiple-family dwellings occupying a parcel of land in one ownership and having any yard or court in common.

“Family” means one or more persons occupying a premises and living as a single nonprofit housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. A family shall be deemed to include necessary servants.

“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors as they relate to the area or land under consideration.

“Front yard” means a yard extending across the front of the lot between the side lot lines and to a depth required by the district in which said lot is situated; provided, however, that if any official plan line has been established for the street upon which the lot faces, then such measurement shall be taken from such official plan line to the nearest line of the building.

“Guest house” means a detached living quarters with permanent provisions for sleeping and sanitation, but without kitchens or cooking facilities, clearly subordinate and incidental to the main building on the same building site, and not to be rented, let or leased, whether compensation be direct or indirect.

“Guest room” means a room which is intended, arranged or designed to be occupied or which is occupied by guests, but in which no provision is made for cooking, and not including dormitories for sleeping purposes.

“Height of building” means the vertical distance from natural grade at the average of the highest and lowest points of the building site covered by the building, to the topmost point of the roof.

“Hotel” means establishments offering lodging to transient patrons. These establishments may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. This classification includes, auto courts motor lodges, motels, hostels, extended-stay hotels, and tourist courts, but does not include rooming hotels, boarding houses, or residential hotels designed or intended to be used for sleeping for a period of thirty consecutive days or longer. This classification also excludes bed and breakfast facilities and similar accommodations that an occupant of single-family housing provides on the same premises incidental to the primary residential use of the property.

“Junkyard” means the use of more than two hundred square feet of the area of any parcel, lot or contiguous lots, for the storage of junk, including scrap metals or other scrap materials, and/or for the dismantling or wrecking of automobiles or other vehicles or machinery.

“Lateral access beach” means continuous access along the beach parallel to the mean high tide line.

“Local coastal implementation plan (LCIP)” means that report, adopted by the council and certified by the State Coastal Commission, which describes various administrative and legal procedures to be pursued to carry out the local coastal land use plan.

“Local coastal land use plan (LCLUP)” means that report, adopted by the council and certified by the State Coastal Commission, which, in response to the Coastal Act of 1976 contains maps, planning area text, public access component policies and guidelines for land use and public access within Marina’s Coastal Zone.

“Local coastal program” consists of the following documents: local coastal land use plan and local coastal implementation plan.

“Main building” means a building in which is conducted the principal use of the building site on which it is situated. In any residential district, any dwelling, except for a detached secondary dwelling unit, shall be deemed to be a main building, or part of a main building, on the building site on which the same is situated.

“Mobile home” means a vehicle designed and equipped for human habitation and for being drawn by a motor vehicle.

“Mobile home park” means a parcel of land under one ownership which has been planned and improved for the placement of mobile homes for nontransient use.

“Multiple dwelling” means a building or portion thereof, used or designed as a residence for three or more families living independently of each other, and doing their own cooking in said building, including apartment houses, apartment hotels and flats, but not including automobile courts.

“Nonconforming building” means a building, structure, or portion thereof, which does not conform to the regulations of this title, for the district in which it is situated and which lawfully existed at the time of the adoption of the ordinance codified in this title.

“Nonconforming use” means a building or land occupied by a use that does not conform to the regulations as to use for the district in which it is situated.

“One ownership” means ownership of property (or possession thereof), under a contract to purchase or under a lease, the term of which is not less than ten years, by a person or persons, firm, corporation or partnership, individually, jointly, in common, or in any other manner whereby such property is under single or unified control. The term “owner” shall be deemed to mean the person, firm, corporation or partnership exercising one ownership as herein defined.

“One-family dwelling” means a detached building designed for, or occupied exclusively by, one family with facilities for living, sleeping, cooking and eating, but containing only one kitchen.

“Outdoor advertising sign” means any sign other than an appurtenant sign, or a directional and informational sign.

“Outdoor advertising structure” means any structure of any kind or character, erected or maintained for outdoor advertising sign purposes.

“Parking space” means an accessible and usable space on the building site at least nine feet by nineteen feet located on site for the parking of automobiles, not including the use of any required front or side yard setbacks.

“Poultry farms” means the raising and/or keeping of more than five hundred chickens, ducks, geese, pigeons, pheasants, peafowl or guinea fowl.

“Practice fairway golf course” means a practice and instructional facility for golf purposes. It shall not include any concessions or commercial sale of merchandise.

“Primary habitat” means and includes all of the environmentally sensitive habitat areas in Marina. These are as follows:

- a. Habitat for all identified plant and animal species which are rare, endangered, threatened, or are necessary for the survival of an endangered species. These species will be collectively referred to as “rare and endangered”;
- b. Vernal ponds and their associated wetland vegetation. The Statewide Interpretive Guideline for Wetlands and Other Wet Environmentally Sensitive Habitat Areas (California Coastal Commission, February 14, 1981) contains technical criteria for establishing the inland boundary of wetland vegetation;
- c. All native dune vegetation, where such vegetation is extensive enough to perform the special role of stabilizing Marina’s natural sand dune formations;
- d. Areas otherwise defined as secondary habitat that have an especially valuable role in an ecosystem for sensitive plant or animal life, as determined by a qualified biologist approved by the city.

“Private garage” means an accessible and usable enclosed covered parking space not less than nine feet by twenty feet for the storage of automobiles.

“Public garage” means any premises, except those herein defined as a private or storage garage, used for the storage and/or repair of motor vehicles or where any such vehicles are equipped for operation or repair, or kept for remuneration, hire, or sale.

“Public street” means a street, road or way, but not an alley, owned by or maintained by a state, county or incorporated city.

“Rare and endangered species” applies to those plant and animal species which are rare, endangered, threatened, or are necessary for the survival of an endangered species. The environmental analysis report prepared for the Marina local coastal program identified such species in the dune habitat areas. While future scientific studies may result in addition or deletion of species, the list presently includes:

- a. Smith’s Blue Butterfly, *Shijimiaeoides enoptes smithi*;
- b. Globose Dune Beetle, *Coelus globosus*;
- c. Black Legless Lizard, *Anneilla pulchra nigra*;

- d. Salinas Kangaroo Rat, *Dipodomys Heermanni* Goldmani;
- e. Seaside Painted Cup, *Castilleja latifolia* ssp. *latifolia*;
- f. Monterey Spine Flower, *Chorizanthe pungens* var. *pungens*;
- g. Eastwood's *Ericameria*, *fasciculata*;
- h. Coast Wallflower, *Erysimum ammophilum*;
- i. Menzies' Wallflower, *Erysimum menziesii*;
- j. Coastal Dunes Milk Vetch, *Astragalus tener* var. *titi*;
- k. Dune Gilia, *Gilia tenuiflora* var. *arenaria*;
- l. Wild Buckwheat, *Eriogonum latifolium**;
- m. Wild Buckwheat, *Eriogonum parvifolium**;
- n. Bush Lupine, *Lupinus* ssp.+.

"Rear yard" means a yard extending across the back of the lot between the side lines and to a depth required by the district in which said lot is situated.

"Refreshment stand" means an establishment or portion thereof, where prepared food and beverages are sold, substantial portions of which are sold on a self-service basis or are sold and served for consumption outside of buildings on the premises.

"Regulation golf course" means a golf course whose minimum total length for nine holes is three thousand yards and for eighteen holes is six thousand yards.

"Resort hotel," as distinguished from an auto court or motel, means a hotel designed primarily for the convenience of transient guests, and with a minimum of ten percent of the total area maintained for landscaping, with accessory recreational components as well as service and/or other associated uses such as a full-service restaurant and meeting rooms, and which may include a vacation club and/or kitchen or kitchenette units not limited to a percentage of total units nor limited to three hundred fifty square feet or less of gross floor area for each such unit.

“Rest home” means the rooming or boarding of any aged or convalescent persons, whether ambulatory or nonambulatory, for which a license is required by a county, state or federal agency.

“Restaurant” means a business devoted to the serving of prepared food to the public where the food is consumed on the premises while the customers are seated.

“Reverse frontage lot” means the first lot to the rear of a corner lot, the front line of which is a continuation of the side line of the corner lot exclusive of the width of any alley, and fronting on the street which intersects or intercepts the street upon which the corner lot fronts.

“Rooming or boarding house” means a dwelling other than a hotel where lodging and/or meals for three or more persons are provided for compensation.

“Secondary habitat” refers to areas adjacent to primary habitat areas within which development must be sited and designed to prevent impacts which would significantly degrade the primary habitat. The secondary habitat area will be presumed to include the following, subject to more precise determination upon individual site investigation:

- a. The potential/known localities of rare and endangered plant species as shown on “Disturbed Vegetation” map in the Marina local coastal program;
- b. The potential wildlife habitats as shown on “Potential Wildlife Habitats” map in the Marina local coastal program;
- c. Any area within one hundred feet of the landward boundary of a wetland primary habitat area.

“Short golf course” means a golf course whose minimum total length is five thousand yards, with some holes over two hundred fifty yards.

“Side yard” means a yard between the sidelines of the lot and to a width required by the district in which said lot is situated; and extending from the front yard to the rear yard.

“Sign” means anything whatsoever placed, erected, constructed, posted, painted, printed, tacked, nailed, glued, stuck, carved, or otherwise fastened, affixed or made visible for out-of-door advertising purpose in any manner whatsoever, on the ground or on any tree, wall, bush, rock, post, fence, building structure, or thing whatsoever.

For the purpose of this title, the advertising area of one side of a double-faced sign shall be used in determining the advertising area.

“Small livestock farming” means the raising and/or keeping of not more than twelve chicken hens or twelve pigeons, or twelve similar fowl and/or twelve rabbits, or twelve similar animals, or any roosters, quacking ducks, geese, guinea fowl, peafowl, goats, sheep or similar livestock, or the raising and/or keeping for commercial purposes of any cats or dogs; provided, that the term “small livestock farming” as used in this title shall not include commercial hog farming, dairying, or the raising and/or keeping of horses, mules, or similar livestock as determined by the planning commission.

“Storage garage” means any premises, except those herein defined as a private garage, used exclusively for the storage of motor vehicles.

“Story” means that portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

“Street line” means the boundary between a street and abutting property.

“Structural alterations” means any change in the supporting members of a building such as bearing walls, columns, beams or girders.

“Structural walls” means any bearing wall of a building.

“Structure” means anything constructed or erected, except fences under six feet in height, the use of which requires location on the ground or attachment to something having location on the ground but not including any trailer, tent or decks less than eighteen inches above the ground.

“Three-par golf course” means a golf course in which the longest hole does not exceed two hundred fifty yards.

“Trailer” means a vehicle designed and used for human habitation and with its wheels in place.

“Trailer camp” means any area or tract of land where space is rented or held out for rent to two or more owners or users of trailers, or where the free use of such space is permitted owners or users of trailers for the purpose of securing their trade.

“Use” means the purpose for which land or premises or a building thereon is designed, arranged or intended, or for which it is, or may be occupied or maintained.

“Vacation club” means a program for marketing transient occupancy for hotel, and/or motel accommodations to the general public through a membership agreement.

“Vertical access beach” means perpendicular access from the nearest public roadway to the sandy beach frontage and/or mean high tide lines.

“Wild animal” means any animal feral in nature, that is, any animal which must be reclaimed and made tame by art, industry or education, or which must be kept in confinement to be brought within the immediate power of the owner; it excludes any animal which has been brought into, or born in, restraint or captivity upon any farm or ranch for the purpose of cultivating or pelting its fur; bees, birds, frogs, fish, and any other animal kept for human consumption.

“Yard” means an open space other than a court on the same building site with a building, which open space is suitable for recreation, landscaping, gardens, or household service activities, such as clothes drying, but not including any portion of any street or alley or road right-of-way. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

* Only within the range of Smith’s Blue Butterfly.

+ Only within the range of the Black Legless Lizard.

17.41.120 General coastal zoning regulations.



A. Compliance with this Chapter. The regulations specified in this title shall be subject to the general provisions and exceptions of this chapter.

B. Use Regulations.

1. No dancehall, roadhouse, nightclub, commercial club, establishment where alcoholic beverages are served, commercial place of amusement or recreation, including but not limited to an amusement center or arcade, or place where entertainers are provided whether as social companions or otherwise, shall be established in any zoning district in the city unless a use permit is first secured in each case.

2. The following activities shall be permitted in any zoning district:

a. The excavation or removal of materials or trees during the normal construction of buildings, structures or underground facilities;

- b. Cutting or removal of trees for the purpose of land clearing for public roads and rights-of-way;
 - c. The cutting or removal of Christmas trees.
3. Public utility distribution and transmission line towers and poles and underground facilities for distribution of gas, water, telephone, and electricity and telephone booths shall be allowed in all districts, after first obtaining a coastal permit.
4. No accessory building or structure shall be constructed or placed, nor shall any accessory use be conducted on any property in any R district unless and until the main building is constructed or until a coastal permit is first obtained.
5. No trailer or mobile home shall be used in any zoning district for any purpose other than a single-family residence or for residential or agricultural storage purposes unless a coastal permit is first secured in each case.
6. Trailers or mobile homes used as temporary construction offices are allowed without the securing of a use permit. Such use shall be permitted only during the period of construction.
7. Trailers or mobile homes used by public utility companies for temporary emergency equipment or supplies shall be allowed in any district without the securing of a use permit; provided, however, that such use shall not exceed ninety days duration.
8. Licensed residential care homes for aged persons of not more than six people, including any permitted rooming and boarding, may be allowed in any zoning district which allows residential uses.
9. Licensed nursery schools may be permitted in any zoning district upon first securing a coastal permit in each case.
10. Mobile homes and trailers, used as living quarters, not located in mobile home parks or trailer camps shall be allowed only in conjunction with agricultural uses or for the purpose of twenty-four-hour watchman's quarters upon first securing a coastal permit in each case which will be good for a maximum period of one year, after which time permanent living quarters shall be constructed. Existing mobile homes which have been granted use permits, and which do not comply with the provisions of this title, may be allowed to continue for as long as the planning

commission may desire upon first securing a coastal permit in each case. The following regulations shall apply in all cases where a coastal permit is granted:

- a. Skirting of fireproof material shall be provided around the perimeter of the mobile home or trailer;
 - b. The face of all cut-and-fill slopes shall be planted with a groundcover approved by the director of planning to protect the slopes against erosion;
 - c. All cut-and-fill slope landscaped areas shall be continuously maintained by the applicant in a litter-free, weed-free condition, and all plant materials shall be continuously maintained in a healthy, growing condition;
 - d. The planning commission may require compliance with any other conditions or requirements which it may deem reasonable and necessary to make the mobile home compatible with the surrounding neighborhood.
11. No person, firm or corporation shall hereafter, within the city, use any land or erect, construct or use any building, structure or enclosure for the purpose of maintaining a zoo or zoological garden for the purpose of raising, maintaining, keeping or exhibiting of any wild animal unless and until a coastal permit has been first secured. A coastal permit may be applied for in any district except for R-1, R-2, R-3 and R-4 districts. Such uses must be found consistent with the local coastal land use plan.
12. Water Facilities.
- a. Water facilities, including wells and storage tanks, serving less than three domestic users are permitted in any zoning district.
 - b. Water facilities, including wells and storage tanks, serving three or four domestic users are permitted in any zoning district upon approval by the design review board as to the location, access, landscaping and color of storage tanks. Such uses shall be subject to a coastal permit.
 - c. Water facilities, including wells and storage tanks, serving five or more domestic users are permitted in any zoning district upon securing a coastal permit in each case.

13. The proposed use shall be consistent with the designation and policies of the general plan and local coastal land use plan.

14. No more than fifteen percent of the units in any motel or auto court may be provided with a kitchen or kitchenette. No unit in any motel or auto court containing a kitchen or kitchenette shall exceed three hundred fifty square feet of gross floor area. Each unit in a motel or auto court containing a kitchen or kitchenette shall be provided with one and one-half on-site parking spaces.

C. Private Stables. The following regulations shall apply in all cases where a use permit has been issued for the maintenance of a private stable:

1. The minimum lot area upon which a horse may be kept is one acre and two horses may be kept on such area. One additional horse may be kept for each twenty thousand square feet by which the parcel of land exceeds one acre;
2. Stables shall be located midway between the side lot lines and in no case closer than twenty feet from the side lines, and not closer than fifty feet to the front lot line. Paddocks shall be located on the rear half of the lot not closer than twenty feet to any property line nor closer than forty feet from any dwelling on the same or adjacent property;
3. Prior to the establishment of any stable, the planning commission will be required to make a finding that such use is consistent with the local coastal program. Stables will also be required to first obtain a coastal permit.

D. Secondary Dwelling Units and Guesthouses. The following regulations shall apply to all guest houses in "K" and "R" districts:

1. Guest House. Detached living quarters of a permanent type of construction, without kitchen or cooking facilities, clearly subordinate and incidental to the main building, on the same building site, and not be rented, lot of leased, whether compensation be direct or indirect.
2. No guest house shall be erected or enlarged and no existing accessory building shall be converted into a guest house without first obtaining a coastal permit in each case.
3. There shall be but one guest house on any one building site. No kitchen or cooking facilities shall be permitted in any such guest house.

4. All guest houses shall be located on the rear half of the building site and shall not be built closer than six feet from the nearest property line, both sides and rear. It shall not be closer than six feet from the nearest point of the main residence.
5. The guest house together with the other accessory buildings shall not exceed thirty percent of the rear yard on which it is built.
6. A guest house shall not exceed a height of sixteen feet.
7. No guest house or any part thereof shall be rented, let or leased separate from the main residence.

E. Mobile Home Parks. The following regulations shall apply in all cases where a use permit has been issued for a mobile home park, except otherwise prescribed by state law:

1. The minimum lot area for a mobile home park shall be five acres.
2. No mobile home park shall have commercial uses other than those used primarily by the residents of the park such as: coin-operated machines for laundry, soft drinks, cigarettes and similar uses on condition that the uses shall be located in the interior of the park.
3. The density of the mobile home park shall be limited to eight homes per acre with the minimum mobile home site to be not less than three thousand square feet.
4. Minimum yard setbacks from adjoining streets and properties shall be as follows: front yard setback, twenty feet; side yard setback, ten feet; and rear yard setback, ten feet, except otherwise prescribed by state law.
5. Landscaping and fences shall be provided and shall be designed to screen the mobile home park from the street and adjoining properties. Landscaping and fencing plans shall be approved by the director of planning.
6. All landscaped areas shall be continuously maintained by the applicant in a litter-free, weed-free condition and all plant material shall be continuously maintained in a healthy, growing condition.

7. No less than ten percent of the total area of the mobile home park shall be developed for recreational purposes.
8. For required parking see Section [17.41.210](#).
9. All utility distribution facilities, including but not limited to electric, communication and cable television lines installed for the purpose of supplying service within any mobile home park, shall be placed underground, except as follows: equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts, or such equipment when concealed by shrubbery, landscaping or other screening and approved by the director of planning. The planning commission may waive the requirements of this section if topographical, soil or other physical conditions make underground installation of such facilities unreasonable or impractical.

F. Height.

1. Chimneys, vents, cupolas, spires, and other architectural or mechanical appurtenances may not be erected to a greater height than the limit established for the district in which the building is located without first securing a coastal permit.
2. Towers, poles, water tanks, and similar structures may not be erected to a greater height than the limit established for the district in which they are to be located without first securing a coastal permit in each case.

G. Yards.

1. In any case, where an official plan line has been established as a part of the street and highway master plan, the required yards on the street side shall be measured from such official plan lines and in no case shall the provisions of this title be construed as permitting any structures to extend beyond such building line.
2. Cornices, eaves, canopies, and similar architectural features may extend into any required yard not exceeding two and one-half feet.
3. Uncovered porches, or stairways, fire escapes or landing places may extend into any required front or rear yard not exceeding six feet, and into any required side yard not exceeding three feet.

4. In any R or K district, where fifty percent or more of the building sites on any one block or portion thereof in the same district have been improved with buildings, the required front yard shall be of a depth equal to the average of the front yards of the improved building sites, to a maximum of that specified for the district in which such building site is located.
5. In case a dwelling is to be located so that the front or rear thereof faces any side lot line, such dwelling shall not be less than ten feet from such lot line.
6. In case a building site is less than sixty feet in width, side yards equal to ten percent of the lot width but not less than five feet shall be required, except in C districts.
7. In the case of a corner lot adjacent to a key lot, the required side yard on the street side for any building within twenty-five feet of the side line of the key lot shall be equal to the front yard required on the key lot, and if more than twenty-five feet from such side line, the required side yard shall be fifty percent of the front yard required on the key lot.
8. In case an accessory building is attached to the main building it shall be made structurally a part thereof and shall comply in all respects with the requirements of this title applicable to the main building.
9. Except as otherwise provided in subsections (G)(10) and (G)(11) of this section, detached accessory buildings not for living purposes shall not be located:
 - a. Within six feet from the main building;
 - b. Within fifty feet from the front property line;
 - c. Within six feet from the sidelines of the front one-half of the lot;
 - d. Within six feet of the sidelines of the front one-half of any adjacent lot;
 - e. Within one foot of any lot line of the rear one-half of the lot;
 - f. So as to encroach on any easement or right-of-way of record.
10. Detached accessory buildings used as guest houses or as living or sleeping quarters of any kind shall not be located within six feet from the rear and side property lines.

11. Detached accessory buildings which have access from an alley shall not be located within six feet of the alley.

12. In case of a lot abutting upon two or more streets, the main building and accessory buildings shall not be erected so as to encroach upon the front yard or the exterior side yard required on any of the streets.

13. Notwithstanding any requirements in this section, in cases where the elevation of the front half of the lot at a point fifty feet from the centerline of the traveled roadway is seven feet above or below the grade of the centerline, a private garage attached or detached, may be built to within five feet of the front line of the lot.

14. Nothing contained in the general provisions shall be deemed to reduce special yard requirements as set forth in the regulations for any R or K districts.

15. Structures, except utility poles and utility equipment appurtenant thereto, shall not be located so as to encroach on any utility or road easement or right-of-way.

I. Satellite Dish Antennae. Legislative Finding and Determination. The city council of the city of Marina does find, determine and declare as follows: that the use of satellite dish antennae is increasing throughout the city due to technological advances of such equipment; that although such equipment is large, cumbersome and can be aesthetically unattractive, it appears to be a necessary and desirable accessory use of property within the city; that at the present time the size, location and appearance of such equipment is not adequately addressed in the zoning regulations in effect in the city; that in the absence of regulation, the placement of unattractive equipment in residential and commercial locations would interfere with the use, possession and enjoyment of adjacent property; and that the public peace, health, safety and general welfare require enactment of this chapter to regulate the use of satellite dish antennae rather than prohibit them.

1. Definitions. "Satellite dish antennae" means any antennae or parabolic reflector established to receive transmissions directly from satellites, but does not include antennae established for the purpose of receiving transmissions from ground transmitters.

2. Satellite Antennae Requirements—Residential Districts. In residential districts:

- a. The site and architectural design review board shall be the primary reviewing body of applications to install satellite dish antennae. It shall ensure that each application is consistent with the provisions and intent of this chapter prior to approval.
 - b. Prior to installation of a satellite dish antennae, all appropriate permits shall be obtained from the building division.
 - c. Satellite dish antennae shall be considered accessory structures, and unless otherwise stated, shall comply with the height, setback and lot coverage requirements for buildings in the zone in which they are to be located.
 - d. All satellite dish antennae shall be located on the back half of the lot as ground-mounted units only.
3. Satellite Antennae Requirements in All Other Districts.
- a. A coastal development permit approved by the planning commission shall be required for all satellite dish antennae.
 - b. Prior to installation of satellite dish antennae, all appropriate permits must be obtained from the building division.
 - c. Antennae may be ground-mounted, roof-mounted or aboveground pole-mounted.
 - d. Roof-mounted and aboveground pole-mounted antennae shall not exceed the height of structures allowed in the district in which they are to be located.
 - e. Roof-mounted antennae shall be located on a flat portion of the roof with parapets and/or an architecturally matching screening plan.
 - f. No commercial advertising of any kind shall be allowed on large satellite dish antennae.
4. Development Standards.
- a. The planning commission and/or site and architectural design review board may add any conditions to a permit necessary to achieve the compatibility of satellite dish antennae with its neighborhood.

- b. All satellite dish antennae located in residential districts shall be located to minimize the visual impact on surrounding properties and from public rights-of-way and adjacent properties by use of screens, fences and/or landscaping without impeding the efficiency of the dish, to the satisfaction of the city council on appeal, the planning commission or site and architectural design review board.
 - c. Any readily visible satellite dish antennae shall be painted to blend with its surroundings and shall not be unnecessarily bright, shiny, garish or reflective.
 - d. Prior to installation of satellite dish antennae, all appropriate permits must be obtained from the building division.
 - e. All proposals for roof-mounted antennae shall be designed by a registered architect, or civil or structural engineer.
 - f. The installation of all satellite dish antennae shall be subject to the design of footings, anchorage and fasteners by a California registered architect, civil or structural engineer, to meet the current Uniform Building Code as adopted by the city.
 - g. The electrical system shall be designed and installed in accordance with the National Electrical Code as adopted by the city.
 - h. All electrical wiring associated with antennae shall be installed underground.
 - i. Satellite dish antennae shall be maintained in a safe and aesthetically acceptable condition for the duration of the time it exists on the property.
5. Limitation. Certain parcels of land in the city may not be able to accommodate satellite dish antennae because of unique terrain problems and/or adverse effects on the surrounding neighborhood. In such instances, the site and architectural design review board or the planning commission may withhold approval to construct, install and/or maintain a satellite dish antennae.
6. Existing Antennae.

a. All owners of antennae installed or constructed prior to the effective date of the ordinance codified in this chapter shall apply to the planning commission for a use permit no later than July 1, 1987.

b. Within sixty days after such application, the planning commission shall:

i. Issue a use permit if the antennae conforms to the provisions of this chapter; or

ii. Prior to the issuance of a use permit, require the owner to move the antennae, or to make structural and/or design changes to the antennae so that it conforms to the provisions of this chapter; or

iii. Issue an exemption, if it determines that the antennae is installed or constructed in a safe manner and is in substantial compliance with the provisions and/or intent of this chapter.

c. In granting an exemption, the planning commission may add any conditions necessary to effectuate the purpose and intent of this chapter.

7. Appeals. Any action taken by the site and architectural design review board may be appealed, in writing, to the planning commission within ten days of said action. Any action taken by the planning commission may be appealed, in writing, to the city council within ten days of said action.

J. Vacation Clubs as a Visitor-Serving Use in the Coastal Zone.

1. Any proposal for a vacation club, as defined in Section [17.41.110](#), shall be considered a visitor-serving use in the Coastal Zone subject to the following findings made by the planning commission at a duly noticed public hearing as part of the development review process and shall not be considered a visitor-serving use in the Coastal Zone without such findings:

a. Membership of the proposed vacation club is sufficiently large to insure to broad opportunity for visitor use;

b. The purchase price and on-going maintenance fees for membership are reasonably affordable;

- c. Membership in the club is easy to achieve and is documented in a membership program;
- d. The membership is available to the general public; and
- e. Permit requirements are established that will insure availability of transient accommodations to the general public who are not members of the club.

The record of proceedings on such a determination will require the applicant to provide sufficient information and program materials to demonstrate that the proposed vacation club use meets the findings noted above. The planning commission's determination shall include a written summary and analysis of this information and written findings of their decision. The planning commission may impose conditions as necessary to effect the purpose and intent of this section. All determinations by the commission are appealable as provided for under this title. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.130 O or open space district.

A. Generally. The purpose of the O district is to promote a rural atmosphere in an otherwise urban or semi-urban development, to hold for future generations open space in which trees and plants can grow. The regulations of this chapter shall apply in all O districts.

B. Lands to be Included. All lands designated as park and open space in the local coastal land use plan shall be included in the open space district and all lands designated as open space in the open space element of the Marina general plan may be included in the O district. Such lands may include, but are not limited to the following:

1. Crop and tree farming, grazing of sheep, cattle and goats;
2. Public parks and playgrounds, and public recreation facilities;
3. Private school grounds and church grounds of a predominantly open character;
4. Sandy beaches and beach accesses, sensitive habitat areas and vernal ponds and wetland setback areas;
5. Golf courses and country clubs;

6. Privately and jointly owned open spaces reserved for open space use as a part of planned development;
7. Land which because of geophysical or similar hazard is unsuitable for development;
8. Any other publicly or privately owned open space which in the opinion of the planning commission functions as a part of the open space system of the city and is included in the open space element of the general plan;
9. Open space as a reserve for seismic safety, erosion protection, protection of view or similar appropriate purpose.

C. Permitted Uses. Permitted uses in the O district shall be habitat conservation/open space, low-impact passive recreation purposes or activities, crop and tree farming, and grazing of horses and cattle, sheep and goats.

D. Conditional Uses. Uses permitted subject to first securing a coastal permit:

1. Buildings and structures accessory to any permitted use;
2. Educational and cultural uses including any structures incidental to such uses existing at the time of inclusion in the O district;
3. Uses and buildings normally incidental and accessory to the above principal uses: except in the Coastal Zone, structures shall be permitted only where they are ancillary to public recreational use or necessary to protect existing development or uses;
4. Beach access and, where suitable, beach access parking;
5. Habitat restoration, including vegetation removal, recontouring slopes, or other activities to restore native habitat;
- ~~6.~~ Any addition to an existing structure which will increase the coverage of the structure, or any new structure, except minor recreation or horticultural structures, such as playground equipment, trellises, fences and the like;
- ~~7.~~ Shoreline erosion protection structures.

E. Reclassification. The procedure for the reclassification of land set forth in Section [17.41.280](#) shall apply to property in the O districts, subject to the following modifications:

1. Following a public hearing, the planning commission shall determine whether it is in the public's interest of the city to retain the subject property in open space use as against permitting its reclassification to the use applied for and whether the proposed reclassification is consistent with the general plan and all applicable portions of the local coastal land use plan. The decision on this question shall be made by resolution and shall be transmitted to the city council together with a report setting forth reasons for said decision.
2. Following receipt of the recommendation of the planning commission the city council shall hold a public hearing. Following such hearing the council may decide by resolution either to:
 - a. Seek means to retain the property in question in open space use; or
 - b. Permit a reclassification of the subject property.
3. Should the council's decision be the first alternative as listed in subsection (E)(2)(a) of this section, all further proceedings for the reclassification of the property shall be halted for a period of not to exceed ninety days from the date of council action, during which time the city council shall actively seek to negotiate arrangements, which may include purchase or other acceptable means to retain the property in open space use. The period set forth herein may be extended by mutual agreement of the council and the applicant for reclassification. If at the end of the ninety days, or such longer period as may be agreed upon, no satisfactory arrangement has been concluded, the matter shall be remanded to the planning commission for consideration of the reclassification applied for. The commission shall thereafter proceed in accordance with the provisions of Section [17.41.280](#).
4. Should the council's decision be the second alternative as listed in subsection (E)(2)(b) of this section, the matter shall be returned to the planning commission which shall consider the reclassification applied for in accordance with the procedure set forth in Section [17.41.280](#).
5. In areas not designated in the local coastal land use plan for open space, reclassification of property in the Coastal Zone shall not become effective until an amendment to the local coastal program has been certified by the State Coastal Commission. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.140 PF or public facilities district.

A. Uses Permitted. The following uses are permitted in the PF district:

1. None.

B. Conditional Uses. Uses permitted subject to first obtaining a coastal development permit in each case:

1. Public and private schools;
2. Government offices and support facilities including public safety facilities;
3. Utility installations;
4. Public recreation facilities;
5. One single-family residence only as provided for in the Marina local coastal land use plan;
6. Uses which in the opinion of the planning commission are similar to those listed above.

C. Development Regulations. As specified in the coastal permit. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.150 R-1 or single-family residential district.

A. Generally. The regulations in this chapter shall apply in all R-1 districts and shall be subject to the provisions of Section [17.41.120](#).

B. Permitted Uses. Uses permitted in the R-1 districts shall be as follows:

1. One single-family dwelling per lot, not including tents or trailers;
2. Rooming and boarding of not over two persons;
3. The keeping of not to exceed two cats and/or dogs;
4. The keeping of domestic chickens pursuant to Section [17.06.160](#).

C. Conditional Uses. Uses permitted, subject to first securing a coastal permit in the R-1 districts shall be as follows:

1. Private nurseries and private greenhouses used only for the propagating and cultivating of plants;
2. Tract offices;
3. Country clubs and golf courses with standard lengths fairways, but not permitting miniature golf courses;
4. Servants quarters, without kitchen facilities for servants employed on the premises;
5. Public and quasi-public uses including churches, firehouses, hospitals, parks and playgrounds, schools (public and parochial), or schools accredited to State School System and public utility buildings and uses;
6. Private stables, subject to Section [17.41.120\(C\)](#) of this chapter;
7. Off-street parking when appurtenant to any permitted use in the district, or when adjacent to any "C" or "M" district.

E. Building Height.

1. Maximum building height limit in the R-1 districts shall be thirty feet for main buildings and sixteen feet for accessory buildings.

F. Site Area. Minimum building site area required in the R-1 districts shall be six thousand square feet, seven thousand square feet for a corner lot, except where combined with any B district.

G. Site Width. Average building site width required in the R-1 districts shall be sixty feet.

H. Site Depth. Maximum building site depth allowed in the R-1 districts shall average not to exceed three times building site width.

I. Site Coverage. Percentage of building site coverage permitted in the R-1 districts shall be thirty-five percent.

J. Front Yard. Minimum front yard required in the R-1 districts shall be twenty feet, except where combined with any B district.

K. Side Yard. Minimum side yards required in the R-1 districts shall be six feet, except where combined with any B district, and except where the side yard abuts a street, in which case such side yard shall be the same as the front yard.

L. Rear Yard. Minimum rear yard required in the R-1 districts shall be twenty feet, except where combined with any B district. (Ord. 2013-09 § 5, 2013; Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.160 C-D or coastal conservation and development district.



A. Generally. The following regulations shall apply in all C-D districts and shall be subject to the provisions of Chapter [17.06](#).

B. Uses Permitted. None.

C. Conditional Uses. Uses subject to first obtaining a coastal development permit in each case:

1. Coastal research and educational uses; developed public access and other coastally dependent recreation uses; coastal-dependent industrial uses consistent with California Coastal Act Section 30260, including but not limited to marine agriculture (mariculture), ~~dredge pond, surf zone and offshore sand extraction; in severely disrupted areas and those portions of parcels currently subject to dune mining activity, dune mining~~; and on parcels combined with the Coastal Zone secondary use combining district or SU districts, visitor-serving uses such as visitor accommodations;
2. Regulations for coastal conservation and development uses shall be specified in the coastal development permit. The permit-issuing body may approve permit applications if the following factors, where relevant are found to apply:
 - a. There is adequate protection and/or provision of public access from the nearest roadway to the ocean, and uninterrupted lateral access,
 - b. Development is limited to already disturbed areas,
 - c. Rare and endangered plant and animal habitats are adequately protected,
 - d. Grading and roadway construction are the minimum necessary for the development,
 - e. Views from the State Highway and from the ocean edge are protected,

- f. There are sufficient provisions for public safety,
- g. All significant adverse environmental effects are either avoided or adequately mitigated,
- h. All major and minor subdivisions of land shall provide for sufficient size and configuration to allow for coastally dependent uses or where none are feasible visitor-serving commercial uses consistent with the local coastal land use plan. All parcels must contain sufficient shoreline frontage. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.170 K or agricultural residential district.



A. Generally. The following regulations shall apply in all K districts and shall be subject to the provisions of Chapter [17.06](#).

B. Permitted Uses. Uses permitted in the K districts shall be as follows:

1. One-family dwellings;
2. All agricultural uses including crop and tree farming, livestock farming, and animal husbandry;
3. Rooming and boarding of not over two persons;
4. Accessory buildings and accessory uses including barns, stables, and other farm outbuildings, quarters for farm labor and/or servants employed on the premises.

C. Conditional Uses. Uses permitted in the K districts subject to first securing a coastal development permit in each case:

1. One noncommercial guest house (see Section [17.06.040](#));
2. Frog farms;
3. Commercial hog and turkey raising;
4. Cattle feed yards;
5. Dairies;

6. Stands for sale of agricultural products grown on the premises;
7. Kennels for dogs or cats;
8. Public or quasi-public uses, including churches, firehouses, parks and playgrounds, schools (public and parochial) and schools accredited to the state school system, public utility uses, and parking lots;
9. Riding academies and public stables;
10. Animal hospitals;
11. Poultry farms;
12. Riding and roping arena operations of a minimum of ten acres;
13. Commercial nurseries, greenhouses and bulb ranches.

D. Building Height. Maximum building height limit in the K districts shall be twenty-five feet.

E. Site Area. Building site area required in the K districts shall be ten thousand square feet, except where combined with any B district.

F. Site Width. Average building site width required in the K districts shall be sixty feet.

G. Site Coverage. Percentage of building site coverage permitted in the K districts shall be thirty-five percent.

H. Front Yard. Minimum front yard required in the K districts shall be twenty feet, except where combined with any B district.

I. Side Yard. Minimum side yard required in the K districts shall be six feet, except where combined with any B district.

J. Rear Yard. Minimum rear yard required in the K districts shall be twenty feet.

K. Special Yards. Accessory buildings used as guest houses or as barns, stables, or farm outbuildings, shall be not less than twenty feet from any side or rear property line and not less than fifty feet from the front property line nor less than twenty feet from any dwelling unit on the property. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.180 PC or planned commercial district. SHARE

A. Generally. The purpose of the PC district is to design and promote the orderly development of a business area as primarily a retail shopping and employment facility to serve present and future needs of coastal visitors and the residential community, with emphasis on preserving and expanding the characteristics of the area in which the commercial use is proposed. The regulations in this chapter shall apply in all PC districts and shall be subject to the provisions of Section [17.41.120](#).

B. Planning Commission Approval.

1. Prior to the establishment of any use or the construction of any building in a PC district the planning commission may adopt the proposed plan or any part thereof in such form as deemed advisable.
2. The planning commission shall submit a report of its findings and recommendations with respect to the proposed plan to the city council; the city council may adopt the proposed plan or any part thereof in such form as said council may deem advisable.
3. The adoption of a general development plan does not allow the establishment of any use, but shall be the general guide for the development of the PC district.

C. Permitted Uses.

1. Uses permitted in the PC district, subject to first securing a zoning permit and a coastal development permit in each case, shall include but not be limited to visitor-oriented retail and service uses, and accommodations and public access.

D. Conditional Uses.

1. None.

E. Height. Maximum allowable height in the PC district shall be thirty-five feet unless the structure is located in a coastal view corridor where a lesser maximum may be established in a coastal development permit.

F. Site Coverage.

1. Maximum building site coverage by buildings or structures in the PC district shall be twenty-five or a lesser percentage may be established to comply with the provision of the local coastal

program. In the Coastal Zone east of Highway 1 specific building site coverage shall comply with land use plan provisions.

G. Parking. For parking requirements in the PC district, see Section [17.41.210](#).

H. Landscaping. Landscaping required in the PC district shall be as follows: landscaping plans showing a minimum of ten percent of the gross area of the building site shall be submitted for approval of the planning director.

I. Zoning Permit—Application—Fee. Application fees for a zoning permit in the PC district shall be as follows:

1. An application for a zoning permit in a PC district shall be submitted to the planning commission accompanied by drawings showing the size and dimensions of the property of the applicant; the location and dimensions of proposed buildings and signs; distances to front, side and rear property lines from the buildings; elevations of the buildings, proposed parking layout and location, landscaping plans, and the location of buildings on adjacent property, within one hundred feet of the property of the applicant.

2. The fee for a zoning permit shall be established by resolution of the city council from time to time hereinafter enacted.

J. Zoning Permit—Planning Commission Action.

1. The planning commission shall consider such application to determine its conformity to the general development plan adopted for the PC district in which the applicant's property is located. The planning commission may require such changes in the proposed use and plans of proposed buildings, structures and other improvements as they may deem necessary to insure conformity to the general development plan and to secure the purposes of this section. The planning commission shall find that the application conforms to the local coastal land use plan.

2. The planning commission may designate such conditions in the zoning permit as they deem necessary to secure the purposes of this section. Such conditions may include, but are not limited to, architectural and site approval, time limitations, street dedications, and street and drainage improvement. The planning commission may require such bonds and other guarantees as deemed necessary to insure compliance with conditions of the zoning permit.

K. Zoning Permit—Appeal.

1. An appeal may be taken by the applicant to the city council from the decision of the planning commission. The appeal shall be in writing and must be filed with the city clerk within ten days after written notice of the decision has been mailed to the applicant. The appeal shall set forth the grounds for the appeal and shall describe any asserted error or abuse of discretion.

2. Upon receipt of the notice of appeal, the city council shall set a date for public hearing thereon. After the hearing, the city council may reverse, affirm or may modify, in whole or in part, the decision appealed from. Within the Coastal Zone, coastal permit approvals may also be appealed to the State Coastal Commission.

L. Zoning Permit—Revocation.

1. Where the conditions of the granting of a zoning permit have not been or are not being complied with, the planning commission may, following a hearing thereon, revoke or modify such zoning permit. Ten days written notice of such hearing shall be given to the permittee prior to the hearing.

2. Appeals from such revocation or modification may be taken in the same manner as provided in subsection K of this section.

M. Zoning Permit—Effect.

1. No building permit shall be issued, nor any use conducted, other than in accordance with the conditions and terms of the zoning permit granted or after granting of such zoning permit by the city council in the event of appeal.

2. All zoning permits issued by the planning commission shall be valid until the date of expiration stated on the permit. If no date of expiration is stated, unless otherwise specified by the planning commission all such permits shall expire one year from the date of granting said permit unless construction on, or use of, the subject property, pursuant to the zoning permit, has started within this period. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.190 SU or Coastal Zone secondary use combining district.

A. Generally. The following regulations shall apply in all districts which are combined with the SU combining district. At such time as it has been determined by the planning commission, after considering the evidence submitted, that the continuation, establishment or re-establishment of coastally dependent use is not feasible

(as defined under Section [17.41.110](#)) on any such property combined with the SU district, the following regulations shall become effective and be in full force and effect:

1. Any and all such regulations specified in this code under the PC planned commercial zoning district regulations shall govern the use of property combined with the SU district.
2. The interpretation of the PC regulations as they pertain to the use of property combined with the SU district shall be liberally interpreted to carry out the spirit and intent of the Marina local coastal program.
3. In the event that an applicant makes an initial showing (at a noticed public hearing before the planning commission), based on substantial evidence, that coastal-dependent uses are not feasible; and in the event that the planning commission affirms this finding, any opponent or any interested party to such application must then demonstrate, by substantial evidence by the next regularly scheduled planning commission meeting that there is a feasible coastal-dependent use for the specific parcel taking into account such factors as the fair market value of the land, its size, location, shape and public access requirements. The planning commission at said next regularly scheduled planning commission meeting or any continuation thereof shall make a final determination, based on substantial evidence, as to the feasibility of coastal-dependent uses. The planning commission's determination may be appealed to the city council, in writing, within five days of said final determination. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.200 C-P or coastal development permit combining district.



A. Generally.

1. The coastal development permit district is an overlay district to be combined with the districts designated in this chapter. In case of conflict between the coastal permit district and the underlying district with which it is combined, the coastal permit district regulations shall prevail.
2. The coastal development permit district regulations shall be applied to the area within Marina's Designated Coastal Zone except those areas and classes of development categorically excluded by actions of the California Coastal Commission.
3. The purpose of the coastal development permit is to allow proper consideration of the local coastal land use and implementation plans in order to implement said plans by achieving consistency between the plans and developments within the C-P district.

B. Uses Permitted. None.

C. Conditional Uses. Uses permitted subject to first securing a coastal development permit in each case: any uses on private land or land held by the city, other municipality or public agency, or on state lands other than tidelands, which are permitted or conditional uses in the zoning district with which the C-P district is combined and which are consistent with the Marina general plan and local coastal land use plan and coastal zoning ordinance are conditional uses in the C-P district. Conditional uses may be authorized by planning commission approval of a coastal development permit.

D. Development Regulations. Development regulations for the C-P district shall be as specified in the district with which the C-P district is combined, with whatever additional regulations the planning commission may add as conditions of the coastal development permit in order for the application to be consistent with the local coastal land use and implementation plans. If necessary or desirable in order to achieve consistency with the LCLUP, the underlying district regulations, such as setbacks, may be modified.

E. Coastal Development Permits.

1. Issuance, Hearing.

a. Coastal development permits may be issued as provided in this section for any of the uses or purposes for which such permits are required or permitted by this title upon conditions designated by the planning commission.

b. The planning commission may impose such conditions as it deems necessary to secure the purpose of this title and may impose such requirements and conditions with respect to location, construction, maintenance and operation, site planning, traffic control and time limits for the coastal development permit as it deems necessary for the protection of adjacent properties, the public interest and the implementation of the LCLUP and coastal zoning ordinance. The commission may require tangible guarantees or evidence that such conditions are being, or will be, complied with.

c. A public hearing shall be held on each application for a coastal development permit; notices of such hearings shall be given to persons designated and in the manner prescribed in Section [65854](#) et seq. of the California Government Code.

2. Form of Application, Fee, Plans. Application for a coastal development permit shall be made in writing by the owner of the property, or by lessee, purchaser in escrow or optionee with the consent of the owner, on a form prescribed by the city. The application shall be accompanied by a fee, set by the city council, and plans showing the details of the proposed use.

3. Granting. In considering an application for a coastal development permit the planning commission shall consider and give due regard to the Marina general plan and local coastal land use and implementation plans. The planning commission shall determine whether or not the establishment, maintenance and operation of the use applied for will, under the circumstances of the particular case, be consistent with the general plan and local coastal land use and implementation plans, based upon the following findings that the project will:

- a. Not impair major view corridors towards the sea from Highway 1 parallel to the sea, including the planning guidelines listed in the LCLUP;
- b. Be subject to approval of the site and architectural design review board, including the planning guidelines listed in the LCLUP;
- c. Guarantee that appropriate legal action is taken to insure vertical and lateral coastal access or fees paid in-lieu thereof as required in the LCLUP and coastal zoning ordinance access components. Required improvements shall be completed, or a bond adequate to guarantee their completion shall be posted with the city, prior to issuance of a certificate of occupancy;
- d. Be adequately set back from the shoreline to withstand erosion to the extent that the reasonable economic life of the use would be guaranteed without need for shoreline protection structures;
- e. Protect least disturbed dune habitat areas, primary habitat areas and provide protection measures for secondary habitat areas consistent with the LCLUP and coastal zoning ordinance;
- f. Be consistent with beach parking standards, as established in the LCLUP access component;

- g. Included feasible mitigating measures which substantially reduce significant impacts of the project as prescribed in any applicable EIR;
- h. Not interfere with public access along the beach;
- i. Comply with the access, shoreline structure and habitat protection standards included in the local coastal land use and implementation plans;
- j. Comply with the housing element and housing recommendations of the local coastal land use and implementation plans;
- k. In the case of demolition of a residential structure, except to abate a nuisance, not detrimentally alter the character or housing mix of the neighborhood. The structure shall be moved, if capable of providing comparable housing opportunities at another location. The demolition and replacement structure shall comply with applicable local coastal land use plan policies;
- ~~l. In the case of new surf zone or beach sand mining operations, comply with all standards regarding such operations specified in the LCLUP including standards for significant adverse impacts on shoreline erosion, either individually or cumulatively.~~

4. Effective Date Outside the Coastal Appeals Zone. The coastal permit shall be effective the seventh day after planning commission approval unless the commission action is appealed to the city council, in which case, the permit shall not be effective until the city council has acted upon the appeal.

5. Coastal Commission Appeal. Any coastal development permit decision of the city council within the local coastal appeal zone is subject to appeal to the State Coastal Commission within twenty-one days after the local decision, and will not become effective until after resolution of the appeal.

F. Determination of Permit Requirement.

- 1. The director of planning shall have the authority to determine whether or not any development proposed in the Coastal Zone is exempt from a coastal development permit pursuant to subsection G of this section.

2. Any person wishing such determination shall submit to the planning department all plans, applications and information deemed necessary by the planning department to assess the development.

3. After review, the director of planning shall notify the applicant in writing that the development is:

- a. Exempt and state the category of exemption; or
- b. That a coastal development permit is required and, if so, whether or not it is appealable to the California Coastal Commission.
- c. Notice of such decision shall also be submitted to the coastal commission.

3. If the determination of the city is challenged by the applicant or an interested person, or if the city wishes to have a coastal commission determination as to the appropriate designation, the city shall notify the coastal commission by telephone of the dispute/question and shall request an executive director's opinion which shall be made pursuant to Section 13569 of the coastal commission's regulations.

G. Exemptions. The types of projects listed below shall be exempt from the requirement for a coastal development permit. Requirements for any other permits are unaffected by this section.

1. Improvements to Existing Single-Family Residences. The maintenance, alteration or addition to existing single-family dwellings which comply with the underlying district regulations, including the establishment or expansion of nonhabitable accessory structures normally associated with residential uses such as garages, decks, workshops, landscaping, storage sheds, pools, fences, gazebos, patios, greenhouses, driveway paving and similar improvements but not including guest houses or self-contained residential units. However, the following classes of development shall require a permit because they involve a risk of adverse environmental impact:

- a. Improvements to a single-family structure on a beach or wetland; seaward of the mean high tide line or where the residence or proposed improvement would encroach within fifty feet of the edge of a coastal bluff. Wetland is defined in Section 30121 of the Coastal Act as:

“Wetland” means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

Specific wetlands are mapped in the land use plan,

- b. Any significant alteration of landforms including removal or placement of vegetation, on a beach, wetland or sand dune, or within fifty feet of the edge of a coastal bluff. “Coastal bluff” is defined in the California Administrative Code Section 13577(h),
 - c. The expansion or construction of water wells or septic systems,
 - d. On property located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in the Highway 1 scenic road corridor, improvement that would result in an increase of ten percent or more of internal floor area of an existing structure, or an additional improvement of ten percent or less where an improvement to the structure has previously been undertaken pursuant to this section or a coastal permit, increase in height by more than ten percent of an existing structure, the construction of an additional story (including lofts) in an existing structure, and/or any significant nonattached structure such as garages, fences, shoreline protective works, docks or trees or satellite dishes,
 - e. In areas determined to have critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water-using development not essential to residential use including but not limited to swimming pools, or construction or extension of any landscaping irrigation system,
 - f. Additions or expansions to developments which, by conditions of previous permit issued by the city or Coastal Commission, require development permits for such addition or expansion;
2. Improvements to existing structures other than single-family residences or a public works facility. The maintenance, alteration or addition to existing structures other than single-family dwellings and public works facilities including all fixtures and structures directly attached to the

structure and landscaping on the lot; however, the following classes of development shall require a permit because they involve a risk of adverse environmental effect, adversely affect public access or involve a change in use contrary to the certified LCP:

- a. Improvements to any structure on a beach, wetland, stream or lake, seaward of the mean high tide line or where the structure or proposed improvement would encroach within fifty feet of the edge of a coastal bluff. (For the purposes of this chapter, "beach" shall be as defined in California Administrative Code Section 13577(g); "wetland" shall be as defined in Coastal Act Section 30121; and "stream" shall be as defined in California Administrative Code Section 13577(a)),
- b. Any significant alteration of landforms including removal or placement of vegetation, on a beach, wetland or sand dune, or within one hundred feet of the edge of a coastal bluff, vernal pond or stream or in areas of natural vegetation designated as a sensitive habitat,
- c. The expansion or construction of water wells or septic systems,
- d. On property located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in the Highway 1 scenic road corridors an improvement that would result in an increase of ten percent or more of internal floor area of the existing structure, or constitute an additional improvement of ten percent or less where an improvement to the structure has previously been undertaken pursuant to this section or a coastal permit, and/or the increase in height by more than ten percent or construction of an additional story (including lofts) in an existing structure, or satellite dishes,
- e. In areas determined to have critically short water supply that must be maintained for the protection of coastal recreation or public recreational use, the construction of any specified major water-using development including but not limited to swimming pools or the construction or extension of any landscaping irrigation system,
- f. Any improvement to a structure which changes the intensity of use of the structure,

- g. Any improvement made pursuant to a conversion of an existing structure from a multiple-unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including but not limited to a condominium conversion, stock cooperative conversion or motel/hotel time-sharing conversion,
 - h. Additions or expansions to developments which by conditions of a previous permit issued by the city or coastal commission require development permits for such addition or expansion;
- 3. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers;
- 4. Repair or maintenance activities and safety improvements that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities; however, the following classes of repair and maintenance shall require a permit because they involve a risk of adverse environmental impact:
 - a. Any method of repair or maintenance of a seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline work that involves:
 - i. Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures,
 - ii. The placement, whether temporary or permanent, of riprap, artificial berms or sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, waters, streams, wetlands, estuaries and lakes or on a shoreline protective work,
 - iii. The replacement of twenty percent or more of the materials of an existing structure with materials of a different kind, or
 - iv. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or within twenty feet of coastal water or streams,

- b. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area as defined by Coastal Act Section 30107.5, any sand area, within fifty feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within twenty feet of coastal waters or streams that includes:
 - i. The placement or removal, whether temporary or permanent, of riprap, rocks, sand or other beach materials or any other forms of solid materials,
 - ii. The presence, whether temporary or permanent, of mechanized equipment or construction materials;
- 5. Any category of development requested by the city as a categorical exclusion pursuant to Section 13241 of the coastal commission's regulations and approved by the coastal commission pursuant to Coastal Act Section 13241 of the Regulations;
- 6. The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this chapter or previously granted a permit by the coastal commission; provided that the city may, where necessary, require reasonable conditions to mitigate any adverse impact on coastal resources, including scenic resources;
- 7. The replacement of any structure, other than a public works facility, destroyed by natural disaster. Such replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than ten percent and shall be sited in the same location on the affected property as the destroyed structure.
 - a. As used in this subsection, "natural disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.
 - b. As used in this subsection, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.
 - c. As used in this subsection, "structure" means and includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster;

8. Harvesting of agricultural crops;
9. Land division brought about in connection with the purchase of land by a public agency for public recreational use;
10. Any project undertaken by a federal agency;
11. Any project which has a valid permit from the coastal commission;
12. Tree removal (which is not major vegetation), except as precluded by other section of this chapter;
13. Abatement of dangerous buildings;
14. Repair and maintenance activities, and safety improvements on public roads and traffic-control devices that do not result in an addition to, or enlargement or expansion of the object of such repair or maintenance activities;
15. Routine maintenance of existing public parks is exempt including repair or modification of existing public facilities where the level or type of public use or the size of structures will not be altered;
16. All interior remodeling, residential and nonresidential, except where use is being converted to a more intensive use;
17. Any activity anywhere in the Coastal Zone that involves the conversion of any existing multiple-unit residential structure to a timeshare project, estate or use, as defined in Section 11003.5 of the Business and Professional Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a timeshare project, estate or use for purposes of this subsection.

H. Determination of Excluded Projects. (Section not effective until action by California Coastal Commission.)

I. Excluded Projects. (Section not effective until action by California Coastal Commission.)

J. Issuance of administrative coastal development permit by the director of planning.

1. Definition. An administrative coastal development permit is a coastal permit issued by the director of planning which does not become effective until its issuance is reported to the city council. If one-third of the members of the city council so request, issuance of the administrative permit shall not become effective and, at the applicant's request, the application shall be considered as a regular coastal development permit at the next regularly scheduled meeting of the city council.

2. Applicability.

a. Following the review of a coastal permit application by the director of planning, said official shall have the authority to issue a coastal permit by virtue of Section 30624 of the California Coastal Act for the following nonemergency developments;

i. Improvements to any existing structure,

ii. Any single-family dwelling,

iii. Any other developments not in excess of one hundred thousand dollars, other than any division of land,

iv. Any development of four dwelling units or less that does not require demolition. However, said authority of the director of planning shall not apply to that development which is within the coastal commission's continuing permit jurisdiction pursuant to Coastal Act Section 30519 or appealable to the coastal commission pursuant to Coastal Act Section 30603 or any division of land. Such permit for nonemergency development shall not be effective until after reasonable public notice and adequate time for the review of such issuance has been provided, as specified in subsection K of this section.

b. If the planning director receives an application that is asserted to be for improvements or other development within the criteria established in subsection (J)(2)(a) of this section and if the planning director finds that the application does not qualify as such, he or she shall notify the applicant that the permit application cannot be processed administratively and must comply with procedures for coastal development permits provided in subsection

E of this section. The planning director, with the concurrence of the applicant, may accept the application for filing as a regular permit and shall adjust the application fees accordingly.

c. In the case of any development involving a structure or similarly integrated physical construction which lies partly within and partly outside the coastal commission's appeal area, the entire structure or similar integrated physical construction must be subject to at least one public hearing and may not be processed as an administrative permit.

3. Action. The planning director may deny, approve or conditionally approve applications for administrative coastal development permits on the same grounds as contained in subsection E of this section for an ordinary CDP application and may include reasonable terms and conditions necessary to bring the project into consistency with the certified LCP.

4. Administrative Permit Deemed Final. A decision on an administrative permit shall not be deemed final and effective until:

a. The decision on the application has been made, the city council review of the permit is complete, and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified LCP and, when applicable, the public access and recreation policies of Chapter 3 of the Coastal Act; and

b. When all rights of appeal under city ordinances have been exhausted.

J. Effective Date of Short Form Permits. Any administrative permit or waiver authorization issued by the director of planning pursuant to the provisions of this section shall be scheduled on the agenda of the city council at its first scheduled meeting after that permit has been issued. The planning director shall prepare a report in writing with sufficient description of the work authorized to allow the city council to understand the development to be undertaken. Such report shall be available at the meeting and for administrative permits shall be mailed to all persons wishing to receive such notification at the time of the regular mailing of notice for the meeting and any person who requested to be on the mailing list for the project meeting and any person who requested to be on the mailing list for the project as in subsection K below. If, at the meeting, one-third of the appointed members of that governing body so request, the permit or authorization issued by the director of planning shall not go into effect and, if the applicant wishes to pursue the application, the application for a coastal development permit shall be processed by the city pursuant to standard coastal permit procedures

listed in this chapter. Unless the city council indicates otherwise, the failure to object to issuance of any waiver or administrative permit shall be presumed to be based upon the findings set forth and adopted.

K. Public Notice. Prior to scheduling any short form permit for city council review, with the exception of categorically excluded projects, the director of planning shall comply with the following public notice procedures:

1. At the time the permit application is submitted the applicant must post, at a conspicuous place, easily read by the public and on the site, or as close as possible to the site, of the proposed development, notice that an application for the proposed development has been submitted to the city using a standardized form(s) provided by the planning director. The notice shall contain a general description of the nature of the proposed development. If the applicant fails to post and keep posted the completed notice form until the waiver or administrative permit becomes effective, the planning director shall refuse to file the application or shall withdraw the application from filing if it has already been filed when he or she learns of such failure. The city shall enforce the administrative permit or waiver authorization pursuant to procedures set forth in Chapter [17.60](#) if it determines that the administrative permit or waiver authorization was granted without proper notice having been given, and the failure of the noticing may have caused the planning director to act differently in issuing said permit.
2. Within ten calendar days of filing an application for a coastal development permit or at least ten calendar days prior to the first public hearing or to city council review of the planning director's action on the development proposal, the local government shall provide notice by first class mail of pending application for development.
3. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction, to all property owners and residents within one hundred feet of the perimeter of the parcel on which the development is proposed, to the coastal commission; and in cases where public hearings are required under other provisions of Marina's ordinances to property owners within three hundred feet of the perimeter of the parcel on which the development is proposed, and shall also be published in a newspaper of general circulation. The notice shall contain the following information:
 - a. A statement that the development is within the Coastal Zone;

- b. The date of filing of the application and the name of the applicant;
- c. The number assigned to the application;
- d. A description of the development and its proposed location;
- e. The date, time and place at which the application will be heard by the local governing body or hearing officer;
- f. A brief description of the general procedure of local government concerning the conduct of hearing and local actions, including the general procedure concerning the submission of public comments either in writing or orally prior to the decision;
- g. A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the decision;
- h. The system for local approvals and appeals, including any local fees required;

A description of the general procedures concerning administrative permits and/or waiver authorizations. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.210 Parking requirements.



A. Generally. All uses permitted by this title shall provide minimum parking in accordance with the formulas in this chapter.

B. Residential. Parking requirements for residential use shall be as follows:

- 1. Single-family Dwellings. Two spaces which shall be in a garage;
- 2. Duplex Dwellings. Two spaces, per dwelling unit, one of which shall be covered;
- 3. Guest Houses. One space;
- 4. Multiple Dwellings.
 - a. One-bedroom units and efficiencies: one space for each dwelling unit which shall be covered plus one additional space for each five dwelling units or fraction thereof,

- b. Two-bedroom units: one and one-half spaces for each dwelling unit, one of which shall be covered plus one additional space for each five dwelling units or fraction thereof,
 - c. Three or more bedroom units: two spaces for each dwelling unit, one of which shall be covered plus one additional space for each five dwelling units or fraction thereof,
 - d. General Note. All required on-site parking spaces shall be uniformly distributed throughout the development to the satisfaction of the site and architectural design review board,
 - e. General Note. Twenty percent of all required parking spaces, but in no case less than one space, shall be kept unreserved and available for visitor parking. Visitor parking spaces shall be identified by a sign or other means and shall be uniformly distributed throughout the development to the satisfaction of the site and architectural design review board;
- 5. Rooming and boarding houses: one covered parking space for each bedroom;
 - 6. Hotel, resort hotel, motel and auto court accommodations: one space for each unit; one space for the manager and one and one-half spaces for any unit in a hotel, resort hotel, motel or auto court containing a kitchen or kitchenette. Separate parking requirements remain applicable to other uses which may be associated with such complexes, such as restaurants, conference centers or public coastal access;
 - 7. Mobile home parks: two parking spaces for each mobile home site plus two additional spaces for each five mobile home sites or fraction thereof;
 - 8. Recreational Vehicle Park. One parking space for each six recreational vehicle sites.

C. Commercial.

- 1. Medical and dental offices: one parking space for each three hundred square feet of gross floor area plus one space for each office unit;
- 2. Veterinary hospitals and offices: one parking space for each three hundred square feet of gross floor area;

3. Service establishments, banks, offices: one parking space for each three hundred square feet of gross floor area;
4. Restaurants: one parking space for each sixty square feet of dining area;
5. Taverns: one parking space for each four seats;
6. Retail stores: one parking space for each two hundred seventy-five square feet of gross floor area;
7. General commercial (nursery, building materials yard, etc.): one parking space for each three regular employees on the largest shift and not less than one parking space for each two thousand square feet of gross floor area;
8. Take-out food establishment: eight parking spaces plus one space for each one hundred square feet of gross floor area;
9. Loading space: one loading space for each five thousand square feet of store floor area.

D. Recreational Facilities. Recreational facilities parking requirements shall be as follows:

1. Ballparks, stadiums, outdoor recreation centers: one parking space for each eight seats;
2. Bowling alleys: five parking spaces for each alley;
3. Swimming pools: one parking space for each one hundred square feet of pool area.

E. Public Buildings. Public building parking requirements shall be as follows:

1. Theaters, churches, indoor sports arenas, assembly halls, auditoriums, and similar places of public assemblage: one parking space for each four seats, and not less than one parking space for each two hundred square feet of gross floor area;
2. Libraries, museums, art galleries: one parking space for each three hundred square feet of gross floor area;
3. Hospitals: one parking space per bed plus one parking space for each three employees, and not less than one parking space for each three hundred square feet of gross floor area.

F. General Requirements. General requirements shall be as follows:

1. Any off-street parking space, whether or not required by the terms of this title for any building or use wherein more than two automobile parking spaces are required, shall be designed so as to provide for maneuvering of the vehicles on the building site in such a way that they may leave the building site to enter any public or private road in a forward direction;
2. Required parking shall not be permitted in front or side setback areas;
3. All required parking areas and driveway surfaces shall be permanently paved and maintained to the satisfaction of the city engineer;
4. As defined by this title, a required parking space shall be a minimum of nine feet by nineteen feet. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.220 Variances. SHARE

A. Generally. Variances to the yard, height, coverage and area regulations of this title may be authorized by a variance permit granted in accordance with the provisions of this chapter.

B. Authority. The planning commission shall hear and decide all applications for variance permits.

C. Application and Fees. Application for a variance shall be made in writing on a form prescribed by the planning commission and shall be accompanied by a fee to be established by resolution of the city council from time to time hereinafter enacted, and by statements, plot plans, and other evidence showing:

1. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;
2. That the grant of a variance permit would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated; and
3. That any variance granted is found to be consistent with all applicable local coastal land use plan recommendations and requirements.

D. Public Hearing. A public hearing shall be held after filing application, and not less than ten calendar days prior thereto the planning commission shall give notice of hearing thereon by one publication in a newspaper of general circulation. In addition, the planning commission may also give notice of such hearing by mailing postage prepaid a notice of the time and place of such hearing to all persons owning property adjacent to the exterior boundaries of the area actually occupied or to be occupied by the use for which the variance was applied. Addresses shall be used from the last equalized assessment roll, or alternatively, from such other records of the assessor or the tax collector as contain more recent addresses.

E. Action by Planning Commission. After conclusion of the public hearing, the planning commission shall make its decision in writing, which decision shall include findings of fact as to whether the qualifications under Section 17.21.220(C)(1) and (C)(2) apply to the land, building or use of which variance is sought. The planning commission may include such conditions in connection with the variance as they deem reasonable and necessary under the circumstances to preserve the integrity and character of the district and to secure the general purposes of this title. Such conditions may include, but are not limited to architectural and site approval, time limitations, street dedications, and street and drainage improvements. The planning commission may also require such bonds and guarantees as they deem appropriate to assure the compliance of the conditions.

F. Appeal.

1. An appeal to the city council may be filed by any person aggrieved by a decision of the planning commission. Such appeal shall be in writing and shall be filed with the city clerk within ten days after written notice of the decision has been mailed to the applicant. At the time of the filing of the appeal, the appellant other than the applicant, shall pay a filing fee to be established by resolution of the city council from time to time hereinafter enacted. An appeal shall set forth specifically the points at issue, the reasons for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the planning commission.

2. Upon receipt of the notice of appeal, the city council shall set a date for public hearing thereon, giving notice thereof pursuant to Section 17.21.220(D). The city council may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made, and such action shall be final.

G. Revocation.

1. Where one or more of the conditions of the granting of a variance have not been, or are not being complied with, or when a variance was granted on the basis of false material information, written or oral, given wilfully or negligently by the applicant, the planning commission may revoke or modify such variance following a hearing thereon. Notice of such hearing shall be given in writing to the permittee at least ten days prior to said hearing. Notice of such hearing shall also be given as described in Section 17.21.220(D). Following the hearing, the planning commission may revoke or modify the variance.

2. An appeal may be taken from such revocation or modification in the same manner as described in Section [17.46.060](#).

3. All variances issued by the planning commission shall be valid until the date of expiration stated on the permit, or if no date of expiration is stated, or unless otherwise specified by the planning commission, all such permits shall expire one year from the date of granting said permit unless construction on, or use of, the subject property has started within this period.

H. Effects. No building permit shall be issued nor any use conditions and terms of the variance granted, until ten days after the mailing of notice of granting of such variance by the planning commission or after granting of such variance by the city council in the event of appeal. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.230 Use permits.



A. Generally.

1. Use permits, revocable, conditional, or valid for a term period may be issued for any of the uses or purposes for which such permits are required or permitted by the terms of this title.

2. The planning commission shall have the power to hear and decide applications for, and issue use permits, for all uses for which a use permit is required or permitted.

3. As used in this chapter, the words “appropriate authority” means the planning commission when the application for a use permit is one which is within its power to issue.

B. Application and Fees.

1. Application for a use permit shall be made to the appropriate authority in writing on a form prescribed by it, and shall be accompanied by statement, plans and elevations necessary to show the detail of the proposed use or building.

2. Such application shall be accompanied by a fee to be established by resolution of the city council from time to time hereinafter enacted, no part of which shall be returnable to the applicant.

C. Public Hearing. A public hearing shall be held after filing of application, and after the determination of the planning commission that the information submitted by the applicant is sufficient to consider the matter, and not less than ten calendar days prior thereto the appropriate authority shall give notice of hearing thereon by one publication in a newspaper of general circulation. In addition, the appropriate authority may also give notice of such hearing by mailing postage prepaid notice of the time and place of such hearing to all persons owning property adjacent to the exterior boundaries of the area actually occupied or to be occupied by the use for which the use permit was applied. Addresses shall be used from the last equalized assessment roll, or alternatively, from such other records of the assessor or the tax collector as contain more recent addresses in the opinion of the appropriate authority.

D. Action by Appropriate Authority.

1. In order to grant any use permit, the findings of the appropriate authority shall be that the establishment, maintenance or operation of the use or building applied for will not under the circumstances of the particular case, be detrimental to 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 city; and the use is consistent with all applicable local coastal land use plan recommendations and requirements.

2. The appropriate authority may designate such conditions in connection with the use permit as it deems necessary to secure the purposes of this title. Such conditions may include, but are not limited to, architectural and site approval, time limitations, street dedication, and street and drainage improvements. The appropriate authority may also require such bonds and guarantees as it deems appropriate to assure the compliance of the conditions.

E. Appeal.

1. An appeal to the city council may be filed by any person aggrieved by a decision of the appropriate authority. Such appeal shall be in writing and shall be filed with the city clerk within ten days after written notice of the decision has been mailed to the applicant. At the time of the filing of the appeal, the appellant shall pay a filing fee to be established by resolution of the city council from time to time hereinafter enacted. An appeal shall set forth specifically the points at issue, the reasons for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the appropriate authority.

2. Upon receipt of the notice of appeal, the city council shall set a date for public hearing thereon, giving notice thereof pursuant to subsection C of this section. The city council may reverse or affirm, wholly or partly, or may modify the order, make such order, requirements, decision, or determination as should be made, and such action shall be final.

F. Revocation.

1. Where one or more of the conditions of the granting of a use permit have not been, or are not being complied with, or when a use permit was granted on the basis of false material information, written or oral, given wilfully or negligently by the applicant, the appropriate authority may revoke or modify such use permit following a hearing thereon. Notice of such hearing shall be given in writing to the permittee at least ten days prior to said hearing. Notice of such hearing shall be given as described in subsection C of this section. Following the hearing, the appropriate authority may revoke or modify the use permit.

2. An appeal may be taken from such revocation or modification in the same manner as described in Section [17.48.050](#).

3. All use permits issued by the appropriate authority shall be valid until the date of expiration stated on the permit, or if no date of expiration is stated, or unless otherwise specified by the appropriate authority, all such permits shall expire one year from the date of granting said permit unless construction on, or use of the subject property has started within this period.

G. Effect. No building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the use permit granted, nor until ten days after the mailing of notice of granting of such use permit by the appropriate authority, or, after granting of such use permit by the city council, in the event of appeal. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.240 Site and architectural design review.

A. Site and Architectural Design Review Board—Approval Required When. The Marina planning commission shall appoint a site and architectural design review board, hereinafter referred to as the board, as a subcommittee of the Marina planning commission. The board shall have the power to review and make recommendations to the planning commission regarding all applications for developments in the city. A building permit shall not be issued for any of the following uses until site and architectural design approval has been obtained: public buildings and grounds; public and private schools; colleges, libraries, art galleries, and museums; public and private hospitals and other institutions; churches and other religious buildings and grounds; clubs, lodges, mortuaries, meeting halls, and other places of public assembly; motels and hotels; office buildings; all commercial and industrial uses; mobile home parks; parking lots; public utility structures and installations, except poles and towers carrying overhead lines; and more than one dwelling unit on a single parcel.

B. Application and Fees.

1. Applications for site and architectural design review shall be accompanied by drawings showing front, side and rear elevations of the proposed building, structure signs, fences, developments, or improvements or additions thereto. The applicant shall also submit plans or drawings showing in reasonable detail, proposed building or structural locations, topography, existing vegetation, proposed parking layout and location, proposed landscaping plans and proposed color schemes.

2. Such applications shall be accompanied by a fee to be established by resolution of the city council from time to time hereinafter enacted, no part of which shall be returnable to the applicant.

C. Board Action. The board shall consider all necessary plans, drawings and statements in an endeavor to encourage buildings, structures, or other improvements to be designed and constructed, and so located, that they will not be unsightly, undesirable or obnoxious in appearance to the extent that they will hinder the orderly and harmonious development of the city, impair the desirability of residence or investment or occupation in the city, limit the opportunity to obtain the optimum use and value of the land and improvements, impair the desirability of living conditions on or adjacent to the subject site, conform with the standards included in the local coastal land use plan and/or otherwise adversely affect the general welfare of the community.

1. Preliminary Design Review. The board shall suggest any changes in plans of such proposed buildings, structures, or other improvements, as it may deem necessary to accomplish the purposes of this section, and shall not recommend to the commission approval of any such plans until it is satisfied that such purposes will be accomplished thereby.

D. Planning Commission Action. The planning commission shall review the preliminary design review recommendation of the board in acting upon the site and architectural design approval. All improvements which have received site and architectural design approval shall be constructed substantially in accordance with the approved plans, and no change shall be made subsequently without the review and approval of the planning director.

E. Appeal. If the applicant is not satisfied with the action of the planning commission, said person may file an appeal with the city council in writing within ten days after written notice of the decision of the planning commission has been mailed to the applicant. The appeal shall set forth specifically the points of issue, the reason for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the appropriate authority. The city council shall hold a hearing on said appeal and shall render its decision thereon within thirty days after filing thereof. The city council may reverse or affirm or modify the decision of the planning commission and such action shall be final. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.250 Nonconforming uses.

A. General Guidelines. The lawful use of land, existing at the time any provisions of the ordinance codified in this title becomes applicable to such land, although such use does not conform to such provision, may be continued, except that:

1. No such use shall be enlarged or increased, nor extended to occupy a greater area than that occupied by such use at the time such provision became applicable, and except that if any such use ceases, as hereinafter provided, any subsequent use of such land shall be in conformity with the regulations specified by this title for the district in which such land is located.
2. All nonconforming outdoor advertising signs and outdoor advertising structures shall be removed entirely on or before January 1, 1979, except those in U districts and those in C-1, C-2 and M districts for which a use permit has been obtained.
3. All nonconforming outdoor advertising signs and outdoor advertising structures located on property in a U district shall be removed entirely within five years from the date such property is

reclassified into some other zoning district, unless the reclassification is to be a C-1, C-2 or M district and a use permit has been obtained within such five-year period.

4. All nonconforming wrecking yards and junkyards shall be enclosed by a solid board or masonry fence at least six feet in height for fire prevention and prevention of the spread of litter and debris, except that no junk, dismantled cars or machinery shall be stacked higher than the fence. Wrecking yards and junkyards shall comply with these special regulations.

B. Continuance of Nonconformity. The lawful use of a building existing at the time any provisions of the ordinance codified in this title becomes applicable thereto may be continued, although such building and/or use does not conform to such provision.

C. Uses Requiring a Coastal Permit. Any use for which a coastal permit is required by the terms of this title shall be considered a nonconforming use unless and until a coastal permit is obtained in accordance with Section [17.41.090](#).

D. Damaged Buildings. If at any time any building is in existence at the time any provision of the ordinance codified in this title becomes applicable to it, which does not conform to such provision, is damaged or destroyed by fire, explosion, act of God, or act of public enemy, to the extent to more than seventy-five percent of the assessed value thereof, as shown on the latest Monterey County assessment roll, prior to such destruction, the land and building shall be subject to all the regulations specified by this title for the district in which such land and building are located; provided such building may be rebuilt to a total floor area not exceeding that of the building destroyed and may continue as herein provided for nonconforming uses, if a coastal permit is first secured.

E. Abandonment. If the actual operation of a nonconforming use of a building or land ceases for a continuous period of six months, it shall be presumed that such use has been abandoned; and without further action by the planning commission, the said building or land shall be subject to all the regulations specified by this title for the district in which such building and land are located.

F. Nonconforming Buildings. The following additional regulations shall apply to nonconforming buildings:

1. The nonconforming use of a building may be changed to a use of the same or more restricted nature provided that in each case a coastal permit is first secured.

2. The nonconforming use of a portion of a building may be extended throughout the building provided that in each case a coastal permit is first secured.

3. The enlargement, extension, reconstruction or structural alteration of a nonconforming building may be permitted in circumstances and in accordance with the limitations as described below:

a. Nonconforming building, nonconforming only as to height and yard regulations, may be permitted said additions or improvements, if said additions or improvements conform to all the regulations of the district in which they are located.

4. Ordinary maintenance and repairs may be made to any nonconforming building, provided no structural alterations are made and provided that such work does not exceed twenty-five percent of the assessed value in any one-year period.

5. No nonconforming building, structure or sign shall be moved in whole or in part to any other location unless every portion of such building, structure or sign which is moved is made to conform to all the regulations of the district in which it is located.

G. Start of Construction Before Effective Date. Nothing contained in this title shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to the effective date of the ordinance codified in this title. "Actual construction" is defined to be: the actual placing of construction materials in their permanent position, fastened in a permanent manner; actual work in excavating a basement, or the demolition or removal of an existing structure begun preparatory to rebuilding; provided, that in all cases actual construction work shall be diligently carried on until the completion of the building or structure involved.

H. Changing of Districts. The foregoing provisions shall also apply to nonconforming uses in districts hereinafter changed.

I. Nonconforming Parcels. A parcel of land which does not comply with the size, shape, dimension or frontage requirements of the district in which it is located shall be deemed a lawful building site if:

1. Such parcel was a lawful building site immediately prior to the time said requirements became applicable to it; and

2. At the time said requirements became applicable to it, the owner or owners thereof owned no adjoining land, unless said parcel is:

- a. A lot in a minor subdivision which has been approved by the city and when all conditions of said minor subdivision have been complied with, or
- b. A lot in a subdivision which has been approved by the city, with the exception of lots twenty-five feet or less in width. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

~~17.41.260 Surface mining and reclamation standards.~~

~~A. Purpose and Intent.~~

- ~~1. This chapter is adopted pursuant to the California Surface Mining and Reclamation Act of 1975, Chapter 9, Public Resources Code.~~
- ~~2. The city council finds and declares that the extraction of minerals is essential to the continued economic well-being of the city and to the needs of society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.~~
- ~~3. The city council further finds that the reclamation of mined lands as provided in this chapter will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.~~
- ~~4. The city council further finds that surface mining takes place in areas where the geologic, topographic, climatic, biological and social conditions are different and that reclamation operations and the specifications therefore may vary accordingly.~~

~~B. Definitions. As used in this chapter:~~

~~“Environmental assessment” means the study of the environment of an area proposed to be mined including the flora, fauna, geologic, erosion potential and other factors deemed to be important by qualified experts of appropriate disciplines.~~

~~“Environmental impact report” means a report on the environmental effects of a project prepared according to the standards and provisions of the California Environmental Quality Act (CEQA).~~

~~“Exploration” or “prospecting” means the search for minerals by geological, geophysical, geochemical or other techniques, including, but not limited to, sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent or quality of minerals present.~~

~~“General plan” means the adopted general plan for the city of Marina.~~

~~“Local coastal program” means the adopted local coastal land use and implementation plans for the city as certified by the California Coastal Commission.~~

~~“Mined lands” means and includes the surface, subsurface and groundwater of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.~~

~~“Minerals” means any naturally occurring chemical element or compound or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, sand, but excluding geothermal resources, natural gas and petroleum.~~

~~“Mining waste” means and includes the residual of soil, rock, mineral liquid, vegetation, equipment, machines, tools or other materials or property directly resulting from, or displaced by, surface mining operations.~~

~~“New mining” means and includes any significant increase in the rate of extraction or change in location.~~

~~“Operator” means any person who is engaged in surface mining operations, himself, or who contracts with others to conduct operations on his behalf.~~

~~“Overburden” means soil, rock or other materials that lie above a natural mineral deposit or in between deposits, before or after their removal, by surface mining operations.~~

~~“Permit” means any formal authorization from or approval by, the city without which surface mining operations cannot occur.~~

~~“Person” means any individual, firm, association, corporation, organization or partnership, or any city, county, district or the state or any department or agency thereof.~~

~~“Reclamation” means the process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.~~

~~“State board” means State Mining and Geology Board in the Department of Conservation, state of California.~~

~~“State geologist” means the individual holding office as structured in Section 677 of Article 3, Chapter 2 of Division 1 of the Public Resources Code.~~

~~“Surface mining operations” means all or any part of the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incidental to an underground mine. Surface mining operations shall include, but are not limited to: (1) in-place distillation, retorting or leaching; (2) the production and disposal of mining waste; and (3) prospecting and exploratory activities.~~

~~C.—Scope.~~

~~1.—The provisions of this chapter shall apply to the incorporated areas of the city.~~

~~2.—The provisions of this chapter are not applicable to:~~

~~a.—Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster;~~

~~b.—Such other mining operations that the city determines to be of an infrequent nature, and which involve only minor surface disturbances and are categorically identified by the State Board pursuant to Sections 2714(d) and 2758(e), California Surface Mining and Reclamation Act of 1975 (SMARA).~~

~~D.—Permit, Reclamation Plan and Reporting Requirements.~~

~~1.—Reclamation Plan Requirements. Reclamation plans as defined in this chapter shall be required of all mining operations undertaken since January 1, 1976. Any person who proposes~~

to engage in new mining operations as defined in this chapter shall also be required to prepare a reclamation plan prior to commencing new mining operations.

a.— Existing Mining Operations. A person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976 shall submit and receive city approval of a reclamation plan within two years from the effective date of the ordinance codified in this chapter for all mining operations conducted after January 1, 1976. Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were lawfully conducted prior to, but not after January 1, 1976.

b.— Reclamation Plan Review. Approved reclamation plans shall be reviewed by the planning commission at least every five years. It shall be the sole responsibility of the operator to submit a written request to the planning commission prior to the expiration of each five-year period. Operator shall provide the planning commission with ample evidence that compliance is being maintained with the provisions of the approved reclamation plan. The planning commission retains the right subsequent to reclamation plan review to modify the terms of any reclamation plan to assure continuing compliance with the local coastal program. Furthermore, the planning commission may consider and approve modification of any reclamation plan requested by the operator so long as it finds that the reclamation plan is in compliance with the local coastal program.

2.— Permit Requirements. The planning commission shall issue a mining permit for any new surface mining operation, which the planning commission finds is in conformance with the local coastal program. No new mining activity shall take place prior to the issuance of a mining permit by the planning commission.

a.— Existing Mining Operations. Existing mining operations are required to obtain a mining permit from the city in accordance with the requirements of this chapter within two years from the date of adoption of the ordinance codified in this chapter except as provided in subsection (D)(2)(d) of this section.

b.— Mining Permit Review. The planning commission shall review mining permits issued pursuant to this chapter every five years. It shall be the sole responsibility of the operator to submit a written request to the planning commission prior to the expiration of each five-

year period. Operator shall provide the planning commission with ample evidence that compliance is being maintained with the local coastal program and the approved reclamation plan for the site. The planning commission retains the right subsequent to mining permit review to modify the terms of any mining permit required to assure continuing compliance with the local coastal program. Furthermore, the planning commission may consider and approve modifications of any mining permits so long as it finds that any such modification is in compliance with the local coastal program and reclamation plan.

c.— Review Period Adjustment. It is the intent of the city to review mining permits concurrent with reviewing reclamation plans, whenever possible, for any individual mining operation. In order to assure that the city's intent is realized the planning commission may permit reasonable adjustments in the timing of mining permit review.

d.— Permit Limitations. No person who has obtained a legal vested right to conduct a surface mining operation prior to January 1, 1976 shall be required to secure a mining permit pursuant to the provisions of this chapter so long as such vested right continues, provided that no substantial change is made in that operation except in accordance with the provisions of this chapter.

e.— Mining Permit Revocation. Mining permits may be revoked by the planning commission following a hearing. Operator shall be notified in writing at least ten days prior to such hearing. Grounds for revocation shall be noncompliance with the provisions of this chapter, the approved reclamation plan, coastal development permit (if applicable) and the local coastal program (if applicable).

f.— Notification of State Geologist. The State Geologist shall be notified of the filing of all permit applications.

g.— Periodic Review. This chapter shall be reviewed and revised, as necessary to ensure that it is consistent with the state policy for mined lands reclamation and the city's local coastal plan and general plan.

3.— Reporting Provision. In order to establish reference base data for the purpose of determining whether or not any particular mining activity constitutes new mining activity and to monitor shoreline erosion it is required that all operators of existing mining operations submit to

~~the planning department a brief written statement specifying the approximate annual volume of sand being removed and an accurate cronaflex ortho-topographic map, at a scale of one inch equals two hundred feet with two-foot contour intervals, preferably prepared by a licensed photogrammetric engineer. All elevations on said map shall be based on city datum. Said maps may also be prepared by a licensed surveyor or civil engineer. All areas being mined shall be clearly and accurately outlined on said topographic map. The information specified above shall be certified for accuracy and be submitted by the operator to the city.~~

~~a. Initial Submittal. Initial submittal of the reference base data shall be completed by existing operators within six months from the effective date of the ordinance codified in this chapter.~~

~~b. Subsequent Resubmittal. Updated reference base data shall be resubmitted to the planning department by January 1, 1984 and every January 1st thereafter.~~

~~c. New Mining Operations. New mining operations will be required to submit reference base data concurrent with the application for a mining permit and reclamation plan approval and shall also be required to resubmit updated reference base data every January 1st thereafter. If initial submittal of reference base material takes place after July 1st in any given year operator shall be exempted for resubmitting updated reference base information the following January 1st but shall be required to resubmit updated reference base material every January 1st thereafter.~~

~~4. Permit and Reclamation Plan Fee. A fee shall be established by the city council and shall be paid to the city at the time of filing a permit application or reclamation plan.~~

~~5. Reclamation Plan Requirements. The planning commission shall review reclamation plans and find that they include the following:~~

~~a. The name and address of the operator and the names and addresses of any persons designated by him as his agent for the service of process;~~

~~b. The anticipated quantity and type of materials for which the surface mining operation is to be conducted;~~

~~c. The proposed dates for the initiation and termination of such operation;~~

- d. ~~The maximum anticipated depth and area of the surface mining operation;~~
- e. ~~The size and the legal description of the land, that will be affected by such operation, a map that includes the boundaries and topographic details of such lands, a description of the geology of the area in which surface mining is to be conducted; a line indicating the tsunami run-up line; the location of all rare and endangered plant and animal species and their habitat in the area where surface mining is to be conducted; the location of all streams, roads, railroads and utility facilities within, or adjacent to such lands; the location of all proposed access roads to be constructed in conducting such operation; and the names and address of the owners of all surface and mineral interests of such lands;~~
- f. ~~A description of the type of surface mining to be employed and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that the reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation;~~
- g. ~~A description of the proposed use or potential uses of the land after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses;~~
- h. ~~A description of the manner in which reclamation adequate for the proposed use or potential uses will be accomplished, including:~~
 - i. ~~A description of the manner in which contaminants will be controlled, and mining waste will be disposed, and~~
 - ii. ~~A description of the manner in which rehabilitation of affected natural habitat areas to their original condition will occur, and~~
 - iii. ~~A description of the manner in which the tsunami run-up zone will be preserved to protect the public safety of the community;~~
- i. ~~An assessment of the effect of implementation of the reclamation plan on future mining in the area;~~

j. ~~A statement that the person submitting the plan accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan; and acknowledgement that the obligations of the plan transfer from one operator to another on a site;~~

k. ~~An environmental assessment of the area to be mined executed by at least a qualified biologist and a qualified geologist selected from the city's list;~~

l. ~~If in the environmental assessment, any rare and endangered species habitats and/or shoreline erosion are found to be present on the site, an environmental impact report must be completed and all mitigations, including those for rare and endangered species and/or shoreline erosion, included in the proposed reclamation plan;~~

m. ~~Compliance and conformance with the Marina local coastal program and city's general plan, zoning ordinance and any other pertinent city ordinances and regulations;~~

n. ~~Map of all areas mined prior to January 1, 1976;~~

o. ~~Any other information which the planning commission may require as pertinent to the determination of the adequacy of the proposed plan.~~

6. ~~Time Limits. Time limits for the approval of a reclamation plan or mining permit for existing operations may be extended for a period of up to one year by the planning commission or city council on appeal subject to the following conditions:~~

a. ~~Written request is provided by the operator prior to expiration of initial two-year time period.~~

b. ~~Operator shall submit evidence to planning commission or city council showing good cause for the extension request.~~

7. ~~Transferability. Whenever one operator succeeds to the interest of another in any uncompleted surface mining operation by sale, assignment, conveyance, exchange, or other means, the successor shall be bound by the provisions of the approved reclamation plan and the provisions of this chapter.~~

E. ~~Review Procedure. The planning commission shall review the permit application and the reclamation plan and shall schedule a public hearing within thirty days of accepting the completed application. The public~~

hearing will be held for the purpose of considering a permit or reclamation plan for the proposed surface mining operation.

~~F.—Performance Bond. Upon a finding by the planning commission that a supplemental guarantee for the reclamation of the mined land is necessary, and upon the determination by the city planner of the cost of the reclamation of the mined land according to the reclamation plan, a surety bond, lien, or other security guarantee conditioned upon the faithful performance of the reclamation plan shall be filed with the city. Such surety shall be executed in favor of the city and reviewed and revised, as necessary. Such surety shall be maintained in an amount to complete the remaining reclamation of the site as prescribed in the approved or amended reclamation plan during the succeeding two-year period, or other reasonable term.~~

~~G.—Public Record. Reclamation plans, reports, applications and other documents submitted pursuant to this chapter are public records unless it can be demonstrated to the satisfaction of the city that the release of such information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The city shall identify such proprietary information as a separate part of each application. A copy of all permits, reclamation plans, reports, applications, and other documents submitted pursuant to this chapter, including proprietary information, shall be furnished upon request of the district geologist of the State Division of Mines and Geology by the city. Proprietary information shall be made available to persons other than the mine owner in accordance with Section 2778, California Surface Mining and Reclamation Act of 1975.~~

~~H.—Amendments.~~

~~1.—Amendments to an approved reclamation plan may be submitted to the city at any time, detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with, and approved by, the city.~~

~~2.—Amendments to an approved reclamation plan shall be approved by the same procedure as is prescribed for approval of a reclamation plan.~~

~~I.—Variance. Variances from an approved reclamation plan may be allowed upon request of the operator and applicant, if they are not one and the same, upon findings by the planning commission that each requested variance is necessary to achieve the prescribed or higher use of the reclaimed land and is consistent with the Marina local coastal program.~~

~~J. Appeal. Any person aggrieved by an act or determination of the planning commission in exercise of the authority granted herein shall have the right to appeal to the city council. Any appeal must be filed, on forms provided, within ten working days after the rendition, in writing, of the decision.~~

~~K. Enforcement. The provisions of this chapter shall be enforced by any authorized member of the planning department or such other persons as may be designated by the city council.~~

~~L. Separability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this chapter. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)~~

17.41.270 Appeals.



A. Planning Commission Authority. The planning commission shall have the power to hear and decide appeals based on the enforcement of this title or the interpretation of the provisions thereof.

B. Application. Application for appeal or interpretation shall be made in writing to the planning commission.

C. Action by Planning Commission. The planning commission shall consider application and render its decision within sixty days after the receipt thereof.

D. Appeal. In case the applicant is not satisfied with the decision of the planning commission, he may, within ten days, appeal in writing to the city council. A copy of such appeal shall be submitted by the applicant to the planning commission. The city council shall render its decision within sixty days after receipt by said council and the planning commission of such appeal. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.280 Amendments.



A. Procedure Generally. This title may be amended by changing the boundaries of districts or by changing any other provision thereof whenever the public necessity and convenience and the general welfare require such amendment by following the procedure of this chapter.

B. Initiation. An amendment may be initiated by:

1. The verified petition of one or more owners of property affected by the proposed amendment, which petition shall be filed with the planning commission and shall be accompanied by a fee to be established by resolution of the city council from time to time hereinafter enacted, no part of which shall be returnable to the petitioner; or by

2. Resolution of intention by the city council;
3. Resolution of intention by the planning commission.

C. Public Hearings.

1. The planning commission shall hold at least one public hearing on any proposed amendment. At least ten days prior to the first public hearing, said planning commission shall give notice thereof by at least one publication in a newspaper of general circulation within the city of such public hearing.
2. In case the proposed amendment consists of a change of the boundaries of any district so as to reclassify the property from any district to any other district, the planning commission shall give additional notice of the time and place of such hearing and on the purpose thereof by mailing a notice of the time and place of such hearing to all persons owning real property within three hundred feet of the property which is the subject of the proposed zoning change.
3. Following the aforesaid hearing, the planning commission shall make a report of its findings and recommendations with respect to the proposed amendment and shall file with the city council an attested copy of such report.
4. Upon receipt of such report from the planning commission, when the planning commission has recommended a proposed amendment, the city council shall set the matter for public hearing and shall give notice thereof by one publication in a newspaper of general circulation within the city at least ten days prior to such hearing. After conclusion of the hearing, the city council may adopt the proposed amendment or any part thereof in such form as said council may deem advisable.
5. When the planning commission recommendation is to disapprove the proposed amendment, the matter shall not be set for public hearing and no further action shall be taken unless the amendment was initiated by the adoption of a resolution of intention by the city council, or unless or until the applicant requests such hearing. Such request shall be made by filing with the city clerk of the city council and with the planning commission, within ten days after written notice of the decision has been mailed, a written request for hearing before the city council. The planning commission shall thereupon forthwith transmit to the city council all of the papers constituting the record upon which the recommended action was taken. Upon receipt of

such request, the city council shall set a date for public hearing thereon, giving notice thereof pursuant to this section. After the conclusion of the hearing, the city council may adopt the proposed amendment or any part hereof in such form as said council deems advisable.

6. Upon the consent of the planning commission, any petition for an amendment may be withdrawn upon the written application of a majority of all the persons who sign such petition.

7. The city council or the planning commission, as the case may be, may by resolution of intention abandon any proceedings for an amendment initiated by its own resolution of intention; provided, that such abandonment may be made only when such proceedings are before such body for consideration and provided that any hearing of which public notice has been given shall be held.

D. Conditions. The city council may impose conditions to the zoning reclassification of property where it finds that said conditions must be imposed so as not to create problems inimical to the public health, safety and general welfare of the city. Any amendment which changes the zoning within the Coastal Zone or changes in any manner the allowed uses or development regulations within the Coastal Zone shall not be effective until approved by the State Coastal Commission. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.290 Signs.

A. Purpose and Intent.

1. It is the purpose and intent of this chapter to provide the city with a viable and practical set of sign regulations that will promote the orderly growth of the community; facilitate the continual upgrading of the community; preserve the natural beauty of Marina while simultaneously protecting the rights of property and business owners to display signs and the right of individuals to live, work and visit a city that is free from the usual blight that would result from under or nonregulation of signs.

2. These sign regulations, pursuant to the provisions of the Marina general plan, set forth the minimum acceptable standards necessary to protect and safeguard the life, peace, health, safety, property and general welfare of the public by regulating among other things the location, placement, size, number, area, type, illumination and maintenance of signs and sign structures.

3. In addition to the standards specified above, it is set forth that a primary goal of these regulations shall be to insure that signs and sign structures are considered in light of the

architectural and landscape design of the buildings and properties along with individual setting or location of the buildings and properties.

B. Application. No sign shall be placed, displayed, painted, posted, printed, tacked, fastened, erected, relocated, constructed or otherwise except as provided in this chapter.

C. Responsibility. It shall be the sole responsibility of the person making application to place, construct, erect, alter, relocate, tack, fasten, paint, post or display any sign in the city to obtain the necessary authorization from the owner or lessee of the property.

D. Design Review Board Approval Required.

1. Design review board (site and architectural design review board) approval shall be required of all signs unless otherwise specified in this chapter. A fee shall be collected by the planning department prior to consideration of any sign by the site and architectural design review board. The fee shall be established from time to time by resolution of the city council.

2. In order to facilitate the site and architectural design review, board review and approval process, any person seeking to obtain site and architectural design review board approval shall submit accurate plans, drawings, color boards, examples of materials or any such other information specified by the director of planning showing the size, shape, location, color, materials and physical relationship to the site of the sign and sign structure. Any decision of the site and architectural design review board may be appealed, in writing, to the planning commission within ten days of the decision. Any decision of the planning commission may likewise be appealed to the city council. Written appeals shall be filed with the planning department no later than ten days after the decision of the site and architectural design review board or the planning commission.

3. During the course of review and approval, the site and architectural design review board or the planning commission on appeal or the council on appeal may approve, disapprove, conditionally approve or modify the plans as submitted in order to insure compliance with the spirit and intent of this chapter.

E. Sign Permit Required.

1. In order to insure that the building department is provided with an opportunity to review the placement, construction, erection, relocation or alteration of any and all signs in the city, it is required, unless otherwise specified herein, that a sign permit shall be obtained from the building department prior to the placement, construction, erection, relocation, alteration or otherwise of the sign.

2. Any person seeking to obtain a sign permit shall provide the building department with any and all necessary plans, drawings or other materials or information required by the building department along with written evidence that the site and architectural design review board approval has been obtained for the sign. Following a review of the materials submitted, the building department may issue the sign permit or as an alternative may require that a building permit be obtained pursuant to the provisions of the Uniform Building Code (UBC) in lieu of a sign permit. A fee shall be collected by the building department prior to the issuance of any sign or building permit. The fee for a sign permit shall be established from time to time by resolution of the city council. The fee for a building permit shall be as specified in the UBC.

F. Enforcement. The regulations contained in this chapter shall be enforced as are other zoning, building and safety regulations as set forth in this code.

G. Remedies. Notwithstanding the procedures for enforcement set forth in this code, the city is authorized to proceed in any other fashion, way or procedure permitted by law.

H. Exemptions. The provisions and regulations of this chapter shall not apply to the following signs provided, however, that the following signs shall be subject to all safety provisions contained in this chapter:

1. Traffic signs as may be approved or authorized by the city council;
2. Professional nameplates not exceeding three square feet in area;
3. Temporary signs of a directional nature approved by the director of planning;
4. Legal notices, railroad crossing signs, public safety and service signs, danger or other such temporary, emergency, or other temporary nonadvertising signs as approved by the city council;
5. Memorial signs on tablets, names and dates of buildings when cut into any masonry surface or when flush mounted and constructed of bronze or other noncombustible materials.

I. Nonconforming Signs.

1. Any permanent sign lawfully existing prior to the adoption of this chapter and not conforming to the provisions contained in this chapter is declared to be a lawfully nonconforming sign and may remain as such.
2. No such nonconforming sign shall in any way be altered, relocated, replaced or reworded unless the sign can be made to conform to all provisions of this chapter. Nothing in this section shall be construed to prohibit the normal maintenance and repair of lawfully nonconforming signs.

J. Maintenance and Construction Provisions. The appropriate sections of the Uniform Building Code, (UBC) the Uniform Electric Code (UEC) or any amendment thereto adopted by the city shall apply to the construction, placement or display of signs in the city. All signs having internal or built-in illumination shall be constructed wholly of noncombustible materials or other such fire resistive materials as approved by the building department. Guy wires or exposed strut like sign structures shall not be utilized. Signs and sign structures shall at all times be maintained in a state of good repair including all braces, bolts, structural parts, supporting frames and fastenings.

K. Safety Provisions. In addition to all other maintenance and construction provisions contained in this chapter, all signs within the city shall comply with the following provisions:

1. **Obstructions to Doors, Windows or Fire Escapes.** No sign shall be erected, relocated, altered, maintained or otherwise so as to prevent ingress to or egress from any door, window or fire escape. No sign shall be attached to a standpipe, gutter, drain or fire escape, except signs referring specifically to the standpipe, gutter, drain or fire escape to which it is attached.
2. **Signs not to Obstruct Traffic Signals.** No sign regulated by this chapter shall be erected at any location where, by reason of its position, it will obstruct or confuse the view of any authorized traffic sign, signal or device.
3. **Exterior of Signs.** On all signs which are erected within five feet of a public street or sidewalk, no nails, tacks or wires shall be permitted to protrude therefrom. All structural trim maintained in conjunction with, attached to, or superimposed upon any sign shall be safely and securely built or attached to the sign structure.

L. Abandoned Signs and Abatement Thereof.

1. No person shall maintain or permit to be maintained on any premises owned or controlled by said person any sign which has been abandoned. Any such sign shall be promptly abated. Any sign which is located on property which becomes vacant for a period of six months or more and any sign which was erected for an occupant or business unrelated to the present occupant or his business and any sign which pertains to a time, event or purpose which no longer obtains, shall be presumed to have been abandoned.
2. Unless some other form of abatement is approved by the director of planning in writing, abatement of abandoned signs shall be accomplished in the following manner:
 - a. Signs painted on buildings, walls, fences, structures shall be abated by removal of the paint constituting the sign or by painting over the sign in such a way that the sign shall not thereafter become visible.
 - b. Other types of signs may be abated by removal of the sign including its dependent structures and supports, unless the sign conforms to the provisions contained in this chapter in which case all faces of the sign shall be screened from view in a manner satisfactory to the director of planning.

M. Illumination of Signs. All illuminated signs in the city shall comply with the following standards:

1. The use of high intensity, unshielded or undiffused lights shall not be permitted.
2. Lights or illumination shall be shielded, oriented or diffused so as to eliminate undue glare onto adjacent properties.
3. Lights shall be shielded or diffused in such a manner as to eliminate the possibility of conflict with safe traffic movement.
4. The site and architectural design review board or planning commission and city council, on appeal, shall retain the right to require reduction in the intensity of illumination after the installation of any illuminated sign if said illumination creates any undue glare, annoyance or hazard.

N. Abatement of Signs on Public Property and Signs Presenting Health or Safety Hazards.

1. Signs on Private Property Presenting Health or Safety Hazards. No sign may be placed upon any privately owned property in a manner which creates a public health or safety hazard. Any sign placed on, above or adjacent to any street, sidewalk or right-of-way which creates a health or safety hazard through obstructing vision or use of such street, sidewalk or right-of-way may be summarily removed by the public safety, public works or planning directors or their respective delegates. Any sign so removed shall be returned to the owner upon payment of the costs of removal and storage. Any sign placed on or about private property which creates a health or safety hazard, including obstructing vision in the public right-of-way, may be removed by the public safety, public works or planning directors or their respective delegates to a position on the private property where it does not create a health or safety hazard.

2. Signs on Public Property. Any sign, temporary or otherwise placed on public property in violation of any provision of this chapter which does not present a public health or safety hazard, shall be tagged by the planning or building directors or their respective delegates and the owner, if known, shall be notified of the violation by mail. If the sign is not removed, or the violation corrected within seventy-two hours of posting or mailing, whichever occurs last, or if the owner has not shown cause to the planning or building director within said period as to why the sign should not be removed, then the sign shall be removed by the planning or building director or their respective delegates. Any sign so removed may be redeemed by the owner upon payment of the cost of removal and storage. Both the tag and the written notice shall contain information in the preceding sentence and subsection (N)(3) below.

3. Impounded Signs. Any sign impounded under the provisions of subsection (N)(1) or (N)(2) of this section shall be stored for a period of not less than thirty days at which time the signs may be salvaged, sold or destroyed in order to defray the costs of removal and storage.

O. Definitions. As used in this chapter:

“Primary business frontage” means that frontage of a building containing the primary or most important entrance to the occupancy thereon. In such cases where there are multiple entrances, the director of planning shall determine which frontage is the primary frontage. In no case shall more than one primary business frontage be permitted.

“Secondary business frontage” means that frontage of a building containing any entrance other than a primary business frontage. In no case shall more than two secondary business frontages be permitted.

“Service station” means a business which is primarily in the business of providing service to vehicles such as gasoline, oil, tire, mechanical assistance, parts, etc., and not including convenience markets that sell gasoline, diesel fuel or oil.

“Shopping center” means commercial and retail buildings and associated facilities which have been designed and developed as an integrated unit containing more than five separately owned and operated businesses which function as an integral unit and which utilize common off-street parking.

“Sign” means any letters, figures, design, symbol, trademark or illuminating device intended to attract attention to any person, partnership, corporation or unincorporated association, or any place, subject, public performance, article, machine or merchandise, whatsoever, and painted, printed, constructed, erected or displayed in any manner whatsoever.

“Sign area” means that area enclosed by a square, rectangle, triangle or other shape which connects the extreme points or edges of the sign, excluding the supporting structure which does not form part of the sign proper. The area of a sign composed of characters, words or individual letters attached directly to a surface, shall be the smallest shape that encloses the whole group. Sign area shall include only one face of any double-faced sign and shall include all faces of any multi-faced sign containing more than two faces. For the purpose of this definition, the faces of a double-faced sign shall be parallel.

“Sign area allotment” means the maximum area of signs that may be displayed on any site, premises, business, building, parcel, lot or otherwise not including signs specifically exempted in this chapter.

“Uniform Building Code, Uniform Electrical Code, Uniform Mechanical Code” means those codes which are currently in full force and effect as adopted by the city council including any amendments or additions thereto adopted from time to time by the city council.

P. Prohibited Signs. The following signs shall be prohibited in the city. Definitions and descriptions of these signs are included in this section. Additional definitions pertaining to this chapter are contained in subsections O and Q of this section.

1. Portable Signs. Signs such as A-board or other such signs capable of standing without support or attachment to a structure or the ground.
2. Animated Signs. Signs that involve animation, rotation, flashing, projections, scintillation, or any type of movement not including barber pole signs or time, date and temperature signs.

3. **Billboard Signs.** Off-site advertising signs that are designed to direct attention to a business, commodity, service or entertainment, sold or offered elsewhere than on the premises or property on which the sign is located, not including temporary signs or banners that are approved by the city council and which are to be used for the purpose of advertising an event of general civic interest or that are to be used as temporary off-site directional signs as approved by the planning commission.

4. **Vehicle Signs.** Signs that are attached to, painted on or placed on top of any vehicle, trailer or other means of conveyance, for the purpose of advertising a commercial enterprise not including signs attached to or painted on a vehicle for the primary purpose of identifying the ownership or use of the vehicle.

5. **Roof Signs.** Signs that are attached to, supported by, mounted on or project above a roof or other architectural feature including, but not limited to mansards, parapets and the like.

6. **Projecting Signs.** Signs that are suspended from or that are supported by a wall, building or structure and project more than three feet outward therefrom or signs that project into the public right-of-way. No provision contained herein shall be construed to prohibit the display or construction of freestanding signs.

7. **Characterization Signs.** Signs characterizing a person, object, place, etc.

Q. Permitted Signs. The following signs shall be permitted in the city subject to the provisions contained in this section and this chapter. Definitions of permitted signs are included in this section. Additional definitions pertaining to this chapter are contained in subsections O and P of this section.

1. **Accessory Signs.** A sign of a secondary nature, e.g., savings stamp signs, credit card signs not exceeding one square foot. Such signs are not included in the maximum sign area allotment. Site and architectural design review board approval is not required. A sign permit is not required.

2. **Barber Pole Signs.** A striped pole characteristic of barbershops. Such signs may rotate. One such sign may be permitted per business in addition to any other signs permitted by this chapter. Site and architectural design review board approval is required. A sign permit is required.

3. Directional and Public Service Signs. Public service signs including time and temperature devices and signs indicating the location or direction of a place or area on the premises upon which the sign is located. Such signs are not included in the maximum sign area allotment if they are deemed necessary and appropriate by the director of planning. Site and architectural design review board approval is not required. A sign permit is not required.
4. Freestanding Signs. Freestanding signs of a permanent nature not attached to any portion of a building and not projecting over or through a roof, eaves of a building or any public right-of-way. Such signs may be placed within required yard or setback areas. Site and architectural design review board approval is required. A sign permit is required.
5. Awning Signs. A sign attached to the face of or supported by an awning. (Awning: a roof-like cover, usually of canvas extending over or before a place). Such signs must be parallel to the face to which attached and must not hang lower or project above the face to which attached. Site and architectural design review board approval is required. A sign permit is required.
6. Marquee or Canopy Signs. A sign attached to or supported by a marquee or canopy. Such signs must be parallel to the face to which they are attached and may not be made of cloth, canvas or other material of a similar nature nor shall such signs hang lower or project above the face to which attached. Site and architectural design review board approval is required. A sign permit is required.
7. Nameplates. Professional nameplates and occupation signs exceeding three square feet in area. Site and architectural design review board approval is required. A sign permit is required.
8. Readerboard Signs. A sign with detachable or interchangeable letters. Site and architectural design review board approval is required. A sign permit is required.
9. Under Canopy Signs. A sign attached to the underside of a canopy. The canopy must be of a permanent nature attached to and supported by a building. Such signs that do not exceed four square feet will not be included in the maximum sign area allotment. Any such sign exceeding four square feet shall be included in the maximum sign area allotment. Such signs shall have a minimum clearance of seven feet six inches above the sidewalk. Site and architectural design review board approval is required. A sign permit is required.

10. **Wall Signs.** A sign of either solid face construction or individual letters placed against the exterior wall of any building or structure. Such signs shall not extend more than one foot beyond the wall. Site and architectural design review board approval is required. A sign permit is required.
11. **Window Signs—Temporary.** Signs that are painted, placed, taped, displayed or otherwise suspended within three feet of any window that are visible from outside the place of business and that are designed to be displayed for a maximum of thirty days. Such signs are permitted to cover no more than fifty percent of the area of the window. Such signs may not be displayed more than thirty days. Such signs are not included in the maximum sign area allotment. Site and architectural design review board approval is not required. A sign permit is not required.
12. **Window Signs—Permanent.** Signs that are painted, placed, taped, displayed or otherwise suspended within three feet of any window that are visible from outside the place of business and that are designed to be displayed for more than thirty days. Such signs are permitted to cover no more than ten percent of the area of the window. Such signs are not included in the maximum sign area allotment. Site and architectural design review board approval is not required. A sign permit is not required.
13. **Monument Sign.** A low profile freestanding sign incorporating the design and building materials and accenting the architectural theme of buildings within the same development. Such signs shall be considered the same as a freestanding sign.
14. **Real Estate Signs.** Real estate signs shall be permitted as specified in subsection V of this section.
15. **Signs in General.** Any sign which is not listed under permitted or prohibited signs (subsection P and this section, respectively) shall be considered individually by the planning commission who shall determine whether the sign falls in the permitted or prohibited category. If the planning commission determines that such sign falls in the permitted category, permission to display such sign, signs or signing program shall be granted subject to any and all conditions the planning commission may find necessary to achieve the spirit, purpose and intent of this chapter. The conditions of approval may include but not be limited to requiring site and architectural design review board approval and a sign permit.

R. Sign Regulations for PC Districts. Sign Area. One and one-half square feet are permitted for every foot of primary business frontage to a maximum of two hundred square feet per business. One-half square foot is permitted for every foot of secondary business frontage to a maximum of twenty-five square feet for each secondary business frontage.

1. Number of Signs. No more than four signs may be permitted per business. Under canopy signs are not counted for the purposes of this section.

2. Type of Sign. Any sign specified under subsection Q of this section, may be displayed in accordance with the provisions of this chapter.

3. General Provisions. All signs and signing programs specified below shall be subject to review and approval by the site and architectural design review board and shall require a sign permit.

a. Shopping centers may be permitted to erect a freestanding identification sign which may also indicate the principal tenant and other services available on the site. Said sign shall be located adjacent to the principal street frontage and shall not exceed one hundred square feet in area or twenty-five feet in height. If the shopping center has more than one principal street frontage, two such signs may be permitted. The sign area and sign height specified in this section are the maximum limits and the site and architectural design review board reserves the right to approve lesser sign area or height.

b. Shopping centers containing more than twenty-five acres approved under a single development permit shall be permitted to erect two freestanding identification signs which may also indicate the principal tenants along with other pertinent information deemed appropriate by the site and architectural design review board. Such signs shall not exceed two hundred fifty square feet in area nor fifty feet in height. The sign area and height specified in this section are the maximum limits and the site and architectural design review board reserves the right to approve lesser sign area or height.

c. Industrial parks containing more than four buildings designed to be architecturally compatible, whether or not on the same parcel of land, shall be permitted to place monument signs along, at, or adjacent to principal entrances to the park. Such signs shall not exceed two hundred square feet or ten feet in height. The actual size, height and number of signs shall be specified by the site and architectural design review board.

d. Real estate signs shall be permitted subject to the provisions of subsection V of this section.

5. Master Signing Program Approval Required.

a. Any and all commercial, office or industrial developments designed to contain more than four occupancies, businesses or buildings are required to obtain approval of a master signing program from the site and architectural design review board. Said master signing program plans must be prepared, reviewed and approved by the site and architectural design review board prior to the issuance of any occupancy permit in the development. Plans for the master signing program shall include specifications, descriptions and locations of all signs to be displayed on the site including but not limited to advertising, identification, directional and public service signs. The site and architectural design review board may approve, conditionally approve or modify said plans in order to insure that the master signing program is in accordance with the purpose, spirit and intent of this chapter. Any decision of the site and architectural design review board on a master signing program may be appealed to the planning commission. Appeals shall be in writing and shall be filed with the planning department within ten days of the decision. Any decision of the planning commission may be appealed to the city council in the same manner as decisions of the site and architectural design review board are appealed.

b. Approved master signing programs may be modified from time to time by the site and architectural design review board or by the planning commission or city council through the appeal process.

S. Sign Regulations for R-1 Districts.

1. Single-Family Dwellings. One nameplate not exceeding three square feet per dwelling. Site and architectural design review board approval is not required. A sign permit is not required.

2. Church Signs. A maximum of two signs, each containing a maximum of thirty square feet. Site and architectural design review board approval is required. A sign permit is required.

3. Public, Quasi-Public, Halls, Organizations, Clubs, Lodges and All Similar Uses. Same as subsection (S)(2) of this section.

4. Nonresidential uses not otherwise specified herein including but not limited to hotels, motels, professional offices and other nonresidential uses that may be permitted in residential zoning districts. Signs for such uses shall be regulated by subsection R of this section.

5. Real Estate Signs. Real estate signs shall be permitted subject to the provisions of subsection W of this section.

6. All signs not permitted by subsections (S)(1) through (S)(6) of this section are prohibited.

T. Sign Regulations for K Districts. All signs, other than real estate signs which are regulated in subsection V of this section, shall require approval by the site and architectural design review board or the planning commission or city council through the appeal process. Appeals may be made of any decision of the site and architectural design review board or planning commission as specified in subsection D of this section. No sign shall be approved unless and until a finding is made that the proposed sign is consistent with the purpose, spirit and intent of this chapter.

U. Additional Sign Regulations.

1. Sign regulations for coastal conservation and development (CD), CD/secondary combining district (CD/SU), and planned commercial (PC).

a. The maximum total composite sign area per site for all signs shall be limited to one hundred thirty-five square feet. The maximum size per freestanding sign shall be sixty-five square feet. Only those properties that are contiguous to the Highway 1 right-of-way may develop signs sited and oriented to attract Highway 1 motorists and only one freestanding (monument) sign may be so oriented. The maximum height of freestanding signs shall be fifteen feet without exception. For purposes of the Coastal Zone Highway 1 viewshed, flags and banners shall be considered signs.

The use of the term “site” in this section shall apply to each separate ownership as defined in Zoning Code Section [17.04.510](#) which was under a single or unified control as it existed at the time of approval of this section by the California Coastal Commission and was graphically shown on the zoning map certified by the Commission in December 1983.

b. Signing must be consistent with and subordinate to the scenic qualities of the area and a lesser sign area may be required by design review board, planning commission, or city council on appeal.

c. No private or advertising signs shall be visible from the beach. Pedestrian-scale public safety, natural resource interpretive signing, public access and directional signing are allowed. Such signing will not be calculated into allowable sign area footage.

2. Sign Regulations for the Brown Bulb Ranch.

a. Sign Area. One and one-half square feet are permitted for every foot of primary business frontage to a maximum of two hundred square feet per business. One-half square foot is permitted for every foot of secondary business frontage to a maximum of twenty-five square feet for each secondary business frontage.

b. Number of Signs. No more than four signs may be permitted per business. Under canopy signs are not counted for the purposes of this section.

c. Type of Sign. Any sign specified under subsection Q of this section, may be displayed in accordance with the provisions of this chapter.

d. General Provisions. All signs and signing programs specified below shall be subject to review and approval by the site and architectural design review board and shall require a sign permit.

i. Shopping centers may be permitted to erect a freestanding identification sign which may also indicate the principal tenant and other services available on the site. Said sign shall be located adjacent to the principal street frontage and shall not exceed one hundred square feet in area or twenty-five feet in height. If the shopping center has more than one principal street frontage, two such signs may be permitted. The sign area and sign height specified in this section are the maximum limits and the site and architectural design review board reserves the right to approve lesser sign area or height.

3. Sign Regulations for Coastal Zone Public Facilities District.

a. In public facilities district, no private or advertising signs shall be erected. Department of Transportation signing shall be sized at the minimum required to provide effective directional and advisory information and to be consistent with sound safety practices.

4. Sign Regulations for Coastal Zone Open Space District.

a. In the open space district, no private or advertising signs shall be erected. One identification sign not larger than twelve square feet in area located on the site of the use shall be permitted. Pedestrian-scale public safety, natural resource interpretive signing, public access and directional signing are allowed. Such signing will not be calculated into allowable footage.

V. Real Estate Signs. The following regulations shall apply to real estate signs in the city:

1. Sale, Rental or Lease Signs. Except as provided in subsection (V)(4) of this section any property being advertised for sale, rent or lease may have one such sign on the property. Such sign shall not exceed twelve square feet in area. Site and architectural design review board approval is not required. A sign permit is not required.

2. Subdivision Signs. In the subdivision of land, the land being subdivided may have no more than two signs posted upon it advertising the subdivision. Each sign shall not exceed thirty-two square feet in area. Site and architectural design review board approval is not required. A sign permit is required.

3. Under Construction Signs. Under construction signs shall not exceed twenty square feet in area. No more than one such sign shall be permitted. Site and architectural design review board approval is not required. A sign permit is required. Such signs shall be removed prior to the issuance of the final occupancy permit.

4. Portable, Temporary Signs Displayed on Private Property. In advertising a property for sale, rental or lease, a portable sign, not exceeding six square feet in area may be placed off the site on private property for the purpose of advertising that the subject property is open for inspection. One additional such sign may be displayed on the premises that is open for inspection. Such signs shall only be displayed when the premises are open for inspection. Site and architectural design review board approval is not required. A sign permit is not required.

5. Model Home Signs. Signs identifying model homes may be displayed on the property upon which the model homes are located. Such signs shall be located adjacent to the entrance of the model home. Such signs shall not exceed eight square feet in area nor three feet in height. Site and architectural design review board approval is not required. A sign permit is not required.

6. General Provision. Any signs not specifically permitted under the provisions of this section are prohibited unless and until a use permit is secured from the planning commission.

W. Signs Expressing a Political, Sociological or Religious Viewpoint.

1. General Provisions. The following provisions apply to all signs expressing a political, religious or sociological viewpoint, including elections signs:

- a. No such sign shall be located upon any public street, alley, sidewalk, right-of-way, easement, or other governmental property.
- b. All such signs shall be erected, altered and maintained in accordance with the Uniform Building Code and the safety provisions set forth in subsection K of this section.
- c. All such signs must be stationary and unlighted.
- d. Such signs may be either attached to the outside of a window or wall of a building or may be freestanding. Any freestanding sign shall be located at least five feet from any property line.
- e. The posting of any sign regulated by this section shall not in any way affect a property owner's right to erect signs permitted by other provisions of this chapter.
- f. Site and Architectural Design Review Board Approval is Not Required. A sign permit is not required.

2. Election Signs.

- a. Defined. Election signs are those pertaining to a general or special election.
- b. Zoning. Notwithstanding any other section of this code, election signs may be erected pursuant to the provisions of this section.

- c. Area of Signs. No election sign may be posted without the consent of the owner or lawful occupant of the premises on which the sign is posted.
 - i. The total area of all such signs on any one property shall not exceed thirty square feet of sign area.
 - d. Time Limitations. Election signs may be posted not more than sixty days prior to the election to which they pertain. All election signs must be removed within five days after the election to which they pertain.
 - e. Responsibility for Removal. It shall be the property owner's responsibility to remove all election signs within the time limitations specified above, whether or not he has consented to the posting or construction of such signs.
3. Other signs expressing a political, sociological or religious viewpoint.
- a. Zoning. Notwithstanding any other section of this chapter, other signs expressing a political, sociological or religious viewpoint may be erected pursuant to the provisions of this subsection.
 - b. In all zoning districts such signs are permitted on the premises of any residence or business; however, no sign may be posted without consent of the owner or legal occupant of the premises. The total area of all such signs on any one property shall not exceed twelve square feet.
4. Greater Sign Area Allowable Pursuant to Sign Permit and Design Review Board Approval.
- a. Upon application to the planning commission for a use permit, a sign area greater than otherwise allowed by this section may be allowed so long as the planning commission finds, after receiving a recommendation from the site and architectural design review board, that:
 - i. The sign will not materially conflict with the character of the neighborhood in which it will be displayed; and
 - ii. The value of property in the zone will not be significantly decreased by the erection or maintenance of the sign.

b. Use permits for such signs shall be granted for a period of not more than one year.

X. Neighborhood Signs. Signs identifying a neighborhood or development not exceeding fifty square feet in area, may be permitted. Site and architectural design review board approval is required. A sign permit is required.

Y. Service Stations. In addition to the signing permitted under subsection R, service stations may be permitted to display two additional signs each of which shall not exceed sixteen square feet. Such signs shall be permanently affixed to the ground or a structure. Site and architectural design review board approval is required. A sign permit is required.

Z. Highway Signs. Commercially zoned properties having frontage on Highway 1 are declared to be sites of special significance and any and all signs and signing programs shall be approved by the planning commission or the city council on appeal. The site and architectural design review board shall act in an advisory capacity to the planning commission. The site and architectural design review board shall review, consider and make a recommendation to the planning commission concerning all such signs and signing programs. In considering a sign or signing program for a site of special significance, the following items shall be considered: the signing needs of the proposed use; and the location of the site in relation to the freeway access; the responsibility of the city to protect and preserve the natural beauty of Highway 1 while balancing the city's need for a healthy highway-oriented visitor-serving industry. Any decision of the planning commission concerning a site of special significance may be appealed, in writing, within ten days of the decision of the planning commission.

AA. Signs for Advertising Purposes. Unless otherwise provided in this chapter, no permanent sign shall be erected, constructed, placed, tacked, fastened, displayed, painted, posted, printed or otherwise where more than twenty-five percent of the area of such sign is used for advertising purposes. Seventy-five percent of the area of such signs shall be used solely for naming, designating or identifying the enterprise or calling.

BB. Billboard Signs. (Reserved).

CC. Severability. If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion is a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

DD. Repeal Provision. Any and all other sign regulations contained in this title, of the Marina Municipal Code are repealed. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.300 Enforcement, legal procedures, penalties.

A. Conformance Required. All departments, officials and public employees of the city which are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this title, and shall issue no such permits or licenses for uses, building or purposes where the same would be in conflict with the provisions of this title, and any such permits or licenses, if issued in conflict with the provisions of this title, shall be null and void.

B. Enforcement. It shall be the duty of the planning commission to enforce the provisions of this title pertaining to the erection, construction, reconstruction, moving, conversion, alteration or addition to any building or structure. It shall be the duty of the police department of the city and all officers of said city herein and/or otherwise charged by law with the enforcement of this title, to enforce this title, and all the provisions of the same.

C. Violation Deemed Misdemeanor—Penalty. Any person, firm or corporation, whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of this title, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment in the city jail. Such persons, firms or corporations shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this title is committed, continued or permitted by such person, firm, or corporation, and shall be punishable as herein provided.

D. Unlawful Structures—Abatement. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained, contrary to the provisions of this title, and/or any use of any land, building or premises, established, conducted, operated or maintained contrary to the provisions of this title, is unlawful and a public nuisance, and the city attorney shall, upon order of the city council, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction, to grant such relief as will abate and remove such building or structure, and restrain and enjoin any person, firm or corporation, from setting up, erecting, building, maintaining or using any such building or structure or using any property contrary to the provisions of this title.

E. Remedies to be Cumulative. The remedies provided for herein shall be cumulative and not exclusive. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.310 Repealing.

All ordinances and part of ordinances of said city in conflict with this chapter, to the extent of such conflict and not further, are repealed. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.320 Validity. SHARE

If any section, subsection, sentence, clause or phrase of this chapter, is for any reason held by a court or competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portion of this chapter. The city council declares that it would have passed this chapter and such section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.330 Reference. SHARE

This title shall be known and cited as “The Zoning Ordinance of the City of Marina.” (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

17.41.340 Enactment. SHARE

This title shall be and is declared to be in full force and effect from and after thirty days of its passage. (Ord. 2007-11 § 3 (Exh. A (part)), 2007)

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Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of December 4, 2018

CITY COUNCIL OPEN A PUBLIC HEARING FOR PUBLIC TESTIMONY, CONSIDER THE PLANNING COMMISSION'S RECOMMENDATION TO ADOPT A LOCAL COASTAL LAND USE AND IMPLEMENTATION PLAN AMENDMENT, AND CONSIDER: (1) ADOPTING RESOLUTION NO. 2018-____, AMENDING THE CITY'S LOCAL COASTAL PROGRAM TO UPDATE EXISTING CONDITIONS AND USES IN THE COASTAL ZONE INCLUDING DELETING REFERENCES TO SAND MINING AS AN ALLOWED COASTAL DEPENDENT USE AND ADDING HABITAT RESTORATION, PASSIVE RECREATION, PUBLIC ACCESS AND PUBLIC EDUCATION AS PRIMARY USES IN THE NORTH OF RESERVATION ROAD PLANNING AREA IN ACCORDANCE WITH THE CONSENT SETTLEMENT AGREEMENT AND CEASE AND DESIST ORDER ENTERED INTO BETWEEN THE CALIFORNIA COASTAL COMMISSION AND RMC PACIFIC MATERIALS LLC D/B/A CEMEX AND CHANGING THE LAND USE DESIGNATION FOR THE CEMEX PARCELS (APNS 203-011-001 AND 203-011-019) FROM COASTAL CONSERVATION AND DEVELOPMENT TO PARKS AND OPEN SPACE TO ACHIEVE CONSISTENCY WITH THE GENERAL PLAN LAND USE DESIGNATION OF HABITAT RESERVE; AND (2) INTRODUCING AND READING BY TITLE ONLY ORDINANCE 2018-____ AMENDING CHAPTERS 17.25 AND 17.41 OF THE ZONING ORDINANCE TO UPDATE EXISTING CONDITIONS AND USES IN THE COASTAL ZONE AND DELETE USES NO LONGER IN OPERATION, REMOVING SAND MINING AS A CONDITIONALLY PERMITTED USE IN THE COASTAL CONSERVATION AND DEVELOPMENT ZONING DISTRICT, AND STRIKING IN ITS ENTIRETY SAND MINING RECLAMATION TEXT. ALL ABOVE ACTIONS BEING EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PER CA PUBLIC RESOURCES CODE SECTION 21080.9 AND CEQA GUIDELINES SECTION 15305

RECOMMENDATION:

The City Council consider the Planning Commission recommendation and take the following actions:

- 1) Adopt Resolution No. 2018-____, amending the City's Local Coastal Program to update existing conditions and uses in the Coastal Zone including deleting references to sand mining as an allowed coastal dependent use and adding habitat restoration, passive recreation, public access and public education as primary uses in the north of Reservation Road Planning Area in accordance with the Consent Settlement Agreement And Cease and Desist Order entered into between the California Coastal Commission and RMC Pacific Materials LLC d/b/a CEMEX and changing the land use designation for the CEMEX parcels (APNs 203-011-001 and 203-011-019) from Coastal Conservation and Development to Parks and Open Space to achieve consistency with the General Plan land use designation of Habitat Reserve; and,
- 2) Adopt Ordinance No. 2018-, amending Chapters 17.25 and 17.41 of the City of Marina Zoning Ordinance to update existing conditions and uses in the coastal zone and delete uses no longer in operation, remove sand mining as a conditionally permitted use in the Coastal Conservation and Development zoning district, and strike in entirety sand mining reclamation text.

SUMMARY:

This action for the City Council is consideration of City of Marina Planning Commission to adopt amendments to the City of Marina Local Coastal Program (LCP) (Land Use Plan and Implementation Plan) and to Chapters 17.25 and 17.41 of the City of Marina Zoning Ordinance, the implementing ordinance for the City's LCP. The amendments are designed to address the cessation of sand mining within the Coastal Zone and to address use of the site currently occupied by the Lapis Sand Mining Plant after closure of the plant. The amendments are necessary to bring the City of Marina Zoning Ordinance into compliance with the City of Marina General Plan, to comply with Government Code 65860, and to align with the terms of a Settlement Agreement as described in the background section below.

On August 23, 2018, the Planning Commission held a public hearing and initiated the LCP amendment as required by the Marina Municipal Code. Public notice of this initiation hearing was provided in the newspaper as well as through mailings to all property owners within the Coastal Zone. Notice was provided 10 business days prior to the hearing as required by the Marina Municipal Code (Section 17.41.280), California Government Code, and the Coastal Act (California Public Resources Code Section 30000 et seq.).

On September 13, 2018, at a properly noticed hearing, the Planning Commission opened the public hearing and continued hearing of this item to an uncertain date due to late correspondence received from the California Coastal Commission (CCC) staff, CEMEX and Latham & Watkins on behalf of California-American Water Company). This continuance was warranted to allow the Planning Commission to review the correspondence. All correspondence received is provided as attachments to this staff report (**ATTACHMENTS 4-9**)

Six weeks prior to the final decision on the LCP amendment, an additional public notice is required to be published in the newspaper and mailed to affected property owners and residents. This notice was published in the Monterey County Weekly and mailed to owners and residents on October 11, 2018. This notice outlined the hearing schedule for the proposed amendment. The anticipated final decision by the City Council is this regular meeting on December 4, 2018. The draft amendment was made available for public review on October 19, 2018. The amendment was available in hard copy at the Marina Planning Division, the City Clerk and the Marina Library and electronically on the City's website.

On November 8, 2018, the Planning Commission considered the proposed amendments and unanimously recommended City Council approval.

BACKGROUND:

RMC Pacific Materials, LLC, doing business as CEMEX, currently mines sand on approximately 100 acres of a 400-acre site within the coastal dunes in the City of Marina (the Lapis Sand Mining Plant). Historically, the dunes, beach, and tidelands of Monterey Bay have been mined for sand since the early 1900s, including at the Lapis Sand Mining Plant. Sand mining at the Lapis Sand Mining Plant has been occurring since approximately 1906. Until the 1980s, there were six active mines, including the one now operated by CEMEX, removing sand from Southern Monterey Bay. The other mines were all dragline operations that removed sand directly from below the mean high tide line and within the jurisdiction of the U.S. Army Corps of Engineers (USACE), which required operators to obtain authorization for their dragline operations pursuant to the Rivers and Harbors Act. Around 1970, when these authorizations came due for renewal, the Army Corps determined that these coastal sand mines were causing erosion and stopped issuing permits for the use of draglines. As the required permits were no longer being issued by the USACE, all of the coastal sand mining in Monterey Bay, other than the Lapis Sand Mining Plan ceased operation.

CEMEX's mining operation extracts sand from a dredge pond on the beach via a floating hydraulic dredge, rather than from a dragline below the mean high tide line. The dredge forms a pond that captures sand and retains it in the pond, rather than it returning to the beach and ocean. The sand is pumped to the upland portion of the property where the processing, storage, and sale of that sand occurs.

Although USACE did not assert jurisdiction over the Lapis Sand Mining Plant operation, the impacts from its operation have been found by the California Coastal Commission to be very similar to those of the other operations that did cease. Those impacts were determined to be significant, both in scale (the intensity of impacts caused by the sand mining) and scope (affecting not just the Lapis property, but also the coastline within Monterey Bay). The sand that is extracted by the mining operation is permanently removed from the area, altering natural shoreline processes and the local shoreline sand supply. The mining activity at Lapis Sand Mining Plant was also determined to have significantly contributed to erosion within the beach and dune system, which has led to increased shoreline retreat, dune erosion, reduced habitat, loss of beach sand, and decreased public access.

On March 15, 2016, via a resolution passed by the Marina City Council, the City requested the California Coastal Commission to assume primary enforcement responsibility regarding alleged violations of the Coastal Act resulting from the sand mining at the Lapis Sand Mining Plant. Shortly thereafter, on March 17, 2016, the Executive Director of the Coastal Commission issued a Notification of Intent to Commence Cease and Desist Order, Restoration Order, and Administrative Penalties Proceedings ("NOI"). CEMEX disagreed with the allegations contained within the NOI and contended that it has a vested right to continue its operation indefinitely. Negotiations with CEMEX and discussions regarding the sand mining operation, facts, and relevant legal issues began relatively shortly after the mailing of the NOI. Negotiations in this matter were particularly complex, as the Lapis Sand Mining Plant has been operating the dredge pond mining operation since well prior to the passage of the Coastal Act and negotiations required significant historical research and review of records from a number of other regulatory agencies.

Separately, on May 16, 2017, the State Lands Commission ("SLC") wrote a letter to CEMEX, stating that the extraction of sand by the dredge pond required a lease from SLC, that CEMEX did not have the required lease, and that the extraction of sand from the dredge pond without compensation to the state constituted expropriation of public property in violation of the California Constitution. The SLC further alleged that the sand extraction operation was a nuisance. On June 6, 2017, the Marina City Council adopted a resolution finding that the dredge pond extraction operation constitutes a public nuisance. In the meantime, Coastal Commission enforcement staff continued negotiations with CEMEX and ultimately reached an agreement to resolve the alleged Coastal Act violations on the Lapis property (Settlement Agreement).

Under the Settlement Agreement, CEMEX agreed to resolve its alleged financial liabilities under the Coastal Act and withdraw any claims it has to a vested right for continued mining on the Lapis property. The Agreement serves multiple purposes, including:

- 1) It provides interim operating conditions necessary to limit the scope of the operation and protect coastal resources while the unpermitted development is phased out;
- 2) It establishes a finite date for the sand extraction operations to cease, by December 31, 2020;
- 3) It establishes a maximum amount of sand that may be removed during the cessation period in any given year to 240,000 tons/year (approximately 177,000 cubic yards/year);
- 4) It requires CEMEX to undertake restoration and reclamation activities to restore the habitat values of the property;

- 5) It provides an additional three-year period (until 2023) to wind down operations on the upland portion of the property and to begin reclamation and restoration activities, and provide for a period of time for the transition of employees (no additional mining of sand will occur during this period);
- 6) It requires CEMEX to transfer the property, at a reduced purchase price, to a non-profit or governmental entity approved by the Coastal Commission, in consultation with the City of Marina;
- 7) It requires as part of any sale, a deed restriction be put in place to protect the property and limit the potential uses of the property to conservation-related purposes, including but not limited to public access, conservation, low-impact passive recreation, and public education, which will improve public access and habitat on the site in the future;
- 8) It provides for CEMEX to withdraw its Vested Rights Claim and Statement of Defense and agree not to sue the Coastal Commission over the issuance or enforcement of this Agreement; and
- 9) It provides for monitoring reports and significant penalties for violations of the Agreement.

To implement this agreement and achieve these varied and far-reaching objectives, CEMEX executed a Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02 on June 23, 2017, and the Coastal Commission approved and issued Consent Cease and Desist Order No. CCC-17-CD-02 at a July 13, 2017 hearing. As part of CEMEX's settlement package, SLC and the City of Marina have also entered into separate agreements with CEMEX to resolve the liabilities associated with their claims against CEMEX, and to provide mutual releases. The City of Marina approved a Mutual Release and Settlement Agreement between CEMEX and the City on June 26, 2017, and the SLC approved a Settlement Agreement between the State Lands Commission and CEMEX on August 17, 2017.

On August 30, 2018, staff submitted the proposed amendment to Coastal Commission staff for review and comment. Pending its further review, Coastal staff had indicated via prior telephone conversations and email that they were preliminarily in agreement with the proposed zoning changes and text amendments. However, following the release of the staff report for the September 13, 2018 Planning Commission meeting, the City received a letter from Coastal staff (copied to the President of California-American Water Company) that indicates the contrary. The City also received letters in opposition of the proposed amendment from the property owner (CEMEX) and California-American Water Company (**ATTACHMENTS 4 -9**).

After the City makes a decision on this LCP amendment, it will go to the California Coastal Commission (CCC) for approval. The LCP amendment will not take effect until approved or approved with changes by the CCC.

Summary of Proposed Amendments

The full text of the proposed LCP amendment can be found as **EXHIBITS A** of **ATTACHMENT 1**. The associated Zoning Ordinance amendment can be found as **EXHIBIT A** to **ATTACHMENT 2**.

LCP Amendment

The recommended LCP amendment is summarized as follows:

Land Use Plan

1. Update existing conditions and uses in the Coastal Zone. References to uses no longer in operation are deleted.
2. Inclusion of reference to the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02 between the California Coastal Commission and RMC Pacific Materials.
3. Removal of sand mining operations as an allowed coastal-dependent use.
4. Addition of conservation and habitat restoration, low impact passive recreation, public access, and public education as primary uses in the North of Reservation Road Planning Area in accordance with the uses outlined in the Settlement Agreement.
5. A change in land use designation for the CEMEX parcel containing the Lapis Sand Mining Plant and subject to the terms of the Settlement Agreement from Coastal-Conservation and Development to Parks and Open Space (APNs 203-011-001 and -019). This change in land use will also bring the Coastal Land Use in line with the General Plan Land Use designation of Habitat Reserve.

Implementation Plan

1. Update existing conditions and uses in the Coastal Zone. References to uses no longer in operation are deleted.
2. Include proposed Zoning Ordinance modifications by reference.
3. Strike Sand Mining Reclamation text in its entirety.

Zoning Ordinance Text Amendment

The recommended Zoning Ordinance amendment is summarized as follows:

1. Update existing conditions and uses in the Coastal Zone. References to uses no longer in operation are deleted.
2. Remove sand mining as a conditionally permitted use in the Coastal-Conservation and Development zoning district.
3. Strike Sand Mining Reclamation text in its entirety.

ANALYSIS:

The Local Coastal Program is a part of the City's General Plan. The Introduction of the Local Coastal Land Use Plan (LUP) states "in case of conflicts [between the General Plan and the LUP] the policy most protective of the coastal resource shall prevail." (Page 9.)

As stated in the LCP Amendment section above, the General Plan Land Use designation and the LUP designation are in conflict. The Coastal Conservation and Development designation in the LUP is much less restrictive than the General Plan Habitat Reserve designation and is in direct conflict with existing General Plan policy.

In addition, in September of 2018, Governor Jerry Brown signed into law amendments to Section 65860 of the California Government Code with respect to Charter Cities, of which Marina is one. The amendments removed many of the exemptions from Planning and Zoning Law previously enjoyed by Charter Cities. Section 65860 now requires that a Charter City's zoning ordinance be consistent with the City's General Plan. Subsection (c) states: In the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended. The proposed action will bring the zoning ordinance into compliance with the General Plan.

The proposed LCP and Zoning Ordinance amendments are consistent with the Marina General Plan in that the amendments implement the following Community Land Use Element policies and programs:

1. Policy 2.10 declares that the subject property (CEMEX APNs 203-011-001 and -019-000), currently designated Habitat Reserve, should be limited to uses that protect habitat with limited recreation use. Therefore, the change in land use designation within the LUP from Coastal Conservation and Development to Parks and Open Space is consistent with the General Plan.

2. Policy 2.10.2 states:

*Coastal Strand and Dunes. These lands adjacent to Monterey Bay provide habitat for rare, threatened wildlife and plant species. Approximately 1,600 acres west of Highway One are designated as habitat reserve for this purpose. Except for a limited number of areas where visitor-serving facilities and public park use is to be permitted, this entire area shall be retained as open space. **As part of the “Habitat Reserve” designation, a stand-alone State Park designation is recognized as an appropriate use by this plan for the 370 acre Lonestar property, with the condition that most of this site be provided with an implementing funding source for protection of its habitat values, and recreational uses be limited and subordinated to the habitat requirements of sensitive plant and wildlife species occurring here.** On both public and privately-owned lands, dune habitat shall be restored to a healthy condition. (Bold emphasis added)*

With the cessation of sand mining on the CEMEX property, the above General Plan policy should be implemented, and this land should be designated as Open Space to protect the sensitive species and special coastal habitats known to be extant throughout the property. The current zoning designation of Coastal Conservation and Development does not prioritize protection of these species and does not limit uses to habitat protection and recreational uses.

Concerns have been raised by the California Coastal Commission staff, CEMEX and Cal-Am (see attached letters) that the land use change would effectively prevent coastal dependent industrial uses from locating on the property. This is not accurate, as the Coastal Act contains an ‘override’ that would permit coastal dependent industrial uses in the proposed Parks and Open Space designation if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible (Coastal Act Section 30260). Therefore, the change in land use from Coastal Conservation and Development to Open Space does not result in a prohibition of coastal-dependent industrial uses but does allow the City to ensure that the uses on the site will not be publicly or environmentally damaging. In addition, the proposed amendment would also have the effect of preventing additional future coastal-dependent industry from locating at the site based on the LCP’s current preference for such uses.

The California Coastal Commission provided correspondence to the City on September 11, 2018 and November 7, 2018. The Coastal Commission states that, at a broad level, the proposed changes seem like appropriate changes and reflect many of the discussion the Commission has had with the City regarding an LCP update for the CEMEX site. However, the Commission claims that the amendment as proposed would result in having the LCP prohibit the use of the site for any sort of desalination-related development in the future, when California-American Water Company (Cal-Am) is currently seeking necessary permits and authorizations to construct a desalination plant (the Monterey Peninsula Water Supply Project [MPWSP]) that would include intake devices and pipelines at the CEMEX site. The Commission stated that they do not think it is appropriate at this time to amend the LCP in a way that could prejudice the approval process for the MPWSP, in either direction. The Commission further noted that the MPWSP is

“headed to that decision in the very short-term”. The Commission stated a preference for addressing the proposed LCP provisions regarding the future use of the CEMEX site in the more comprehensive LCP amendment currently being worked on by the City in conjunction with the Coastal Commission.

The proposed amendment would not prohibit coastal-dependent industrial uses at the site (including the MPWSP), as long as the stringent criteria in Coastal Act Section 30260 (listed above) are met. The proposed LCP amendment specifically provides for this type of coastal-dependent industrial development within the City’s Coastal Zone areas in the proposed language of policy 44 of the City’s Local Coastal Program Land Use Plan and in Section 17.41.160 C-D or Coastal Conservation and Development District of the City’s proposed Zoning Ordinance amendments.

On September 13, 2018, the California Public Utilities Commission issued a Certificate of Public Convenience and Necessity California –American Water Company (Cal-Am) to proceed with the Monterey Peninsula Water Supply Project (MPWSP). However, the project now requires permits or approvals from 22 other state agencies and a number of federal agencies. A desalination project to serve the Monterey Peninsula has been in the planning phase for several decades and as the current planning process for the MPWSP experienced significant delays in the past and still faces significant hurdles in the future. Delaying the City’s ability to bring its Zoning Ordinance into compliance with the City’s General Plan (as now required by Government Code 65860) would constrain the City from ensuring that coastal-dependent industrial uses on the site will not be publicly or environmentally damaging.

Cal-Am’s application for a local coastal development permit from the City for the MPWSP has been deemed complete upon certification of required environmental documentation by the California Environmental Quality Act (CEQA) by the lead agency California Public Utilities Commission. The City, as a responsible agency tasked with considering Cal-Am’s coastal development permit application, has filed a Petition in the California Supreme Court for a writ of review of the Environmental Impact Report for the MPWSP, citing factual, scientific and legal inadequacies.

Latham & Watkins, LLP, on behalf of their client Cal-Am, provided correspondence to the City on September 12, 2018 and November 7, 2018, asserting their client’s right in a permanent easement across the CEMEX site for purposes of constructing slant wells and components of the MPWSP. Latham & Watkins assert that the amendment fails to recognize Cal-Am’s right to use the CEMEX site for the MPWSP under the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02 (Consent Order). The correspondence also asserts that the City failed to disclose that Cal-Am submitted an application for a local coastal development permit to the City for those portions of the MPWSP located within the CEMEX site.

There are some important issues with Cal-Am’s assertions that it has a right to develop its project on this property. Although the settlement agreement recognizes some real estate rights and “activities consistent with existing easements or other rights of record identified by CEMEX,” the permanent easement agreement that it includes with its September 12, 2018 comment letter was not recorded until June 15, 2018, well after the settlement agreement was entered into. Accordingly, this does not appear to be an “existing easement of record” prior to the effective date of the settlement as contemplated by that document. Although there was a Memorandum of Option Agreement that was filed earlier, it did not include any signed easement agreement. Accordingly, Cal-Am may be overstating the existing rights that it has to develop the property.

It is also important to note that Section 2.1 of the settlement agreement explicitly states that “[n]othing in this Agreement guarantees or conveys any right to development on the site, other than the work and activities expressly authorized by this Agreement.” And Sections 2.1 and 2.4 require that any proposed development subject to the Coastal Act or the City’s Local Coastal Development Plan must obtain appropriate Coastal Development Permits. Although Cal-Am had some exiting option rights and did not need to remove them from title at the time of the settlement, this is far different than an absolute right to develop the property.

Cal-Am asserts that there is no reason to move forward with this LCP amendment now, when there is a comprehensive LCP update the City is preparing with grant funding from the CCC; however, the proposed amendment would allow the City to meet its obligations under Government Code Section 65860, to implement proposed land use changes that the Coastal Commission has stated, at a broad level, seem like appropriate changes for the CEMEX site, and land uses which would align with the uses agreed to by the Coastal Commission, CEMEX, and the City in the Consent Order and resulting contractual agreements which include reference to Cal-Am’s easement. Moving forward with the amendment would further allow the City to ensure existing and future proposed coastal-dependent industrial uses at the site will not be publicly or environmentally damaging, all while preserving the right under the Coastal Act for coastal-dependent industrial uses to occur (existing and proposed).

CEMEX, the property owner of lands subject to the proposed LCP amendment, submitted correspondence to the City on September 13, 2018 and November 8, 2018. CEMEX asserted that the proposed amendment would adversely affect the rights of CEMEX without just compensation and claimed that the amendment fails to recognize existing easement and other rights on the property, including those of California-American Water Company. The proposed LCP amendment would not prohibit coastal-dependent industrial uses like Cal-Am’s MPWSP; however, it would require such uses to be consistent with the City’s General Plan, the City’s responsibilities under Government Code Section 65860, and Coastal Act Section 30260.

A Zoning Map amendment is not included in this action at this time. The City will be studying the entire Coastal Conservation and Development land use as part of a larger LCP update in 2019.

ENVIRONMENTAL DETERMINATION:

The City of Marina Planning Division determined that pursuant to the California Environmental Quality Act (CEQA) Section 21080.9, adoption of an LCP amendment is exempt from environmental review and the proposed amended Title 17 is exempt from environmental review pursuant to the General Rule that exempts minor alterations to land use limitations that do not result in changes in land use or density pursuant to CEQA Guidelines Section 15305.

FISCAL IMPACT:

None.

PROCESS FOR LOCAL COASTAL PLAN AMENDMENT AND CERTIFICATION:

Following Planning Commission and City Council approval, the LCP amendment will be submitted to the California Coastal Commission (CCC) for certification. If the CCC finds no substantial issue and approves the language as submitted, the amended LCP will be certified and take effect. If the CCC finds substantial issue and requests modifications, the amendment will return to the Planning Commission and City Council for further consideration. Once approved and certified, the amendment will become part of the City’s certified LCP.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Christy Hopper
Planning Services Manager, Planning Division
Community Development Department
City of Marina

REVIEWED/CONCUR:

J. Fred Aegerter, AICP
Community Development Director
City of Marina

Layne P. Long
City Manager
City of Marina

Attachments:

1. Draft City Council Resolution Amending the Local Coastal Plan
2. Draft City Council Ordinance approving amendments to Chapters 17.25 and 17.41 of the Marina Zoning Ordinance.
3. Planning Commission Resolution No. 2018-19
4. September 13, 2018 – Letter from California Coastal Commission
5. September 13, 2018 – Letter from CEMEX
6. September 12, 2018 – Letter from Cal-Am
7. November 8, 2018 – Letter from California Coastal Commission
8. November 8, 2018 – Letter from CEMEX
9. November 7, 2018 – Letter from Cal-Am

RESOLUTION NO. 2018-19

A RESOLUTION OF THE CITY OF MARINA PLANNING COMMISSION RECOMMENDING CITY COUNCIL CONSIDER A LOCAL COASTAL LAND USE AND IMPLEMENTATION PLAN AMENDMENT TO INCLUDE AMENDING THE TEXT OF CHAPTERS 17.25 AND 17.41 OF THE CITY OF MARINA ZONING ORDINANCE, THE IMPLEMENTING ORDINANCE FOR THE CITY'S LOCAL COASTAL PROGRAM, TO ADDRESS THE CESSATION OF SAND MINING WITHIN THE COASTAL ZONE AND TO ADDRESS USE OF THE SITE CURRENTLY OCCUPIED BY THE LAPIS SAND MINING PLANT NOW OPERATED BY CEMEX (APNS: 203-011-001-000 AND -019-000) AFTER CLOSURE OF THE PLANT IN ORDER TO ALIGN WITH THE TERMS OF THE CONSENT SETTLEMENT AGREEMENT AND CEASE AND DESIST ORDER CCC-17-CD-02 BETWEEN THE CALIFORNIA COASTAL COMMISSION AND RMC PACIFIC MATERIALS, LLC D/B/A CEMEX, AND THE MUTUAL RELEASE AND SETTLEMENT AGREEMENT BETWEEN THE CITY OF MARINA AND CEMEX EXECUTED ON JUNE 26, 2017 AND TO BRING THE CITY OF MARINA ZONING ORDINANCE INTO COMPLIANCE WITH THE CITY OF MARINA GENERAL PLAN

WHEREAS, the Planning Commission of the City of Marina conducted a duly noticed public hearing to consider its recommendation to City Council on the adoption of a zoning ordinance/Local Coastal Program Land Use and Implementation Plan amendment (**EXHIBITS A - C**), considered all public testimony, written and oral, presented at the public hearing, received and considered the written information and recommendation of the staff report for the November 8, 2018 regular meeting related to the zoning ordinance/Local Coastal Implementation Plan amendment;

WHEREAS, the recommended LCP amendment is summarized as follows:

Land Use Plan

1. Update existing conditions and uses in the Coastal Zone. References to uses no longer in operation are deleted.
2. Inclusion of reference to the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02 between the California Coastal Commission and RMC Pacific Materials.
3. Removal of sand mining operations as an allowed coastal-dependent use.
4. Addition of conservation and habitat restoration, low impact passive recreation, public access, and public education as primary uses in the North of Reservation Road Planning Area in accordance with the uses outlined in the Settlement Agreement.
5. A change in land use designation for the CEMEX parcel containing the Lapis Sand Mining Plant and subject to the terms of the Settlement Agreement from Coastal-Conservation and Development to Parks and Open Space (APNs 203-011-019-000). This change in land use will also bring the Coastal Land Use in line with the General Plan Land Use designation of Habitat Reserve.

Implementation Plan

1. Update existing conditions and uses in the Coastal Zone. References to uses no longer in operation are deleted.
2. Include proposed Zoning Ordinance modifications by reference.
3. Strike Sand Mining Reclamation text in its entirety.

WHEREAS, the recommended Zoning Ordinance amendment is summarized as follows:

1. Update existing conditions and uses in the Coastal Zone. References to uses no longer in operation are deleted.
2. Remove sand mining as a conditionally permitted use in the Coastal-Conservation and Development zoning district.
3. Strike Sand Mining Reclamation text in its entirety.

WHEREAS, the Local Coastal Program (LCP) is a part of the City's General Plan and the Introduction to the Local Coastal Land Use Plan (LUP) states "in case of conflicts [between the General Plan and the LUP] the policy most protective of the coastal resource shall prevail." (page 9);

WHEREAS, as stated in the LCP Amendment section above, the General Plan Land Use designation and the LUP designation are in conflict. The Coastal Conservation and Development designation in the LUP is much less restrictive than the General Plan Habitat Reserve designation and is in direct conflict with existing General Plan policy;

WHEREAS, in September of 2018, Governor Jerry Brown signed into law amendments to Section 65860 of the California Government Code with respect to Charter Cities, of which Marina is one, and the amendments removed many of the exemptions from Planning and Zoning Law previously enjoyed by Charter Cities;

WHEREAS, Section 65860 now requires that a Charter City's zoning ordinance be consistent with the City's General Plan. Subsection (c) states: In the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended;

WHEREAS, the proposed action will bring the zoning ordinance into compliance with the General Plan;

WHEREAS, the proposed LCP and Zoning Ordinance amendments are consistent with the Marina General Plan in that the amendments implement the following Community Land Use Element policies and programs:

1. Policy 2.10 declares that the subject property (CEMEX APNs 203-011-001-000 and -019-000), currently designated Habitat Reserve, should be limited to uses that protect habitat with limited recreation use. Therefore, the change in land use designation within the LUP from Coastal Conservation and Development to Parks and Open Space is consistent with the General Plan.

2. Policy 2.10.2 states:

Coastal Strand and Dunes. These lands adjacent to Monterey Bay provide habitat for rare, threatened wildlife and plant species. Approximately 1,600 acres west of Highway One are designated as habitat reserve for this purpose. Except for a limited number of areas where visitor-serving facilities and public park use is to be permitted, this entire area shall be retained as open space. As part of the "Habitat Reserve" designation, a stand-alone State Park designation is recognized as an appropriate use by this plan for the 370 acre Lonestar property, with the condition that most of this site be provided with an implementing funding source for protection of its habitat values, and recreational uses be limited and subordinated to the habitat requirements of sensitive plant and wildlife species occurring here. On both public and privately-owned lands, dune habitat shall be restored to a healthy condition;

WHEREAS, with the cessation of sand mining on the CEMEX property, the above General Plan policy should be implemented, and this land should be designated as Open Space to protect the sensitive species known to be extant throughout the property. The current zoning designation of Coastal Conservation and Development does not prioritize protection of these species and does not limit uses to habitat protection and recreational uses;

WHEREAS, a Zoning Map amendment is not included in this recommendation at this time. The City will be studying the entire Coastal Conservation and Development land use as part of a larger LCP update in the near future; and,

WHEREAS, the City of Marina Planning Division determined that pursuant to the California Environmental Quality Act (CEQA) Section 21080.9, adoption of an LCP amendment is exempt from environmental review.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Marina that it hereby recommends City Council consideration of a Local Coastal Land Use and Implementation Plan Amendment to include amending the text of Chapters 17.25 and 17.41 of the City of Marina Zoning Ordinance, the implementing ordinance for the City's Local Coastal Program, to address the cessation of sand mining within the Coastal Zone and to address use of the site currently occupied by the Lapis Sand Mining Plant now operated by CEMEX (APNs: 203-011-001-000 and -019-000) after closure of the plant in order to align with the terms of the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02 between the California Coastal Commission and RMC Pacific Materials, LLC d/b/a CEMEX, and the Mutual Release and Settlement Agreement between the City of Marina and CEMEX executed on June 26, 2017, and to bring the City of Marina Zoning Ordinance into Compliance with the City of Marina General Plan.

PASSED AND ADOPTED by the Planning Commission of the City of Marina at a regular meeting duly held on the 8th day of November 2018, by the following vote:

AYES, BOARD MEMBERS:	Berkley, Biala, Burnett, Mann, Urrutia
NOES, BOARD MEMBERS:	None
ABSENT, BOARD MEMBERS:	Bielsker
ABSTAIN, BOARD MEMBERS:	None

David Burnett, Chair

ATTEST:

Christy Hopper
Planning Services Manager
City of Marina

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
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September 11, 2018

City of Marina Planning Commission
211 Hillcrest Avenue
Marina, CA 93933

Subject: Proposed City of Marina Local Coastal Program (LCP) Amendment regarding the Cemex Property, to be considered at the September 13, 2018 Planning Commission Meeting

Dear Chairman Burnett and Planning Commissioners:

We write today to provide our preliminary thoughts on the proposed amendment to the City's LCP regarding sand mining and future use of the Cemex property (APN 203-011-019-000) that you will be considering on September 13th. As an initial matter, we were surprised the City drafted such an amendment because we have been actively collaborating with the City on a proposed overall LCP update that includes addressing the Cemex property. A separate Cemex amendment proposal, particularly one with such a short review and decision period, had not been part of those conversations. Further, the City's staff report distributed for this matter for the September 13th hearing mistakenly states that Commission staff is in agreement with the proposed amendment. That statement is inaccurate; we do not support the proposed amendment or the process that has been identified for it.

As currently proposed, the amendment seeks to delete all LCP references regarding sand mining, to add text referencing the cessation of sand mining operations at the Cemex site via the terms of the Consent Settlement Agreement and Cease and Desist Order between the Coastal Commission and Cemex (CCC-17-CD-02), and to change the land use designation of the Cemex property from Coastal Conservation and Development to Parks and Open Space, with low-impact recreation, public access, and habitat preservation as the primary preferred uses for the site. At a very broad level, those seem like appropriate changes conceptually, and reflect many of the discussions we have been having with City staff on the LCP update related to this site. However, another effect of the amendment as proposed would be to have the LCP prohibit the use of the site for any sort of desalination-related development in the future.¹ As you know, California American Water (CalAm) is currently seeking necessary permits and authorizations to construct a desalination plant to augment Monterey Peninsula water supplies, and some currently proposed components of this project would be located on the Cemex property, including intake devices and pipelines. CalAm's proposed project is currently pending before local, State, and Federal

¹ By designating the site Parks and Open Space, which only allows for very limited recreational and open space uses (i.e., not any type of industrial or utility-type uses), the LCP would effectively stand for the premise that desalination development is not allowed.

decision-makers, including the City and the Coastal Commission, and we do not think it appropriate at this time to attempt to amend the LCP in a way that could prejudice that process, in either direction. Rather, that proposal needs to be understood on its own merits, and decisions related to it decided based on a Coastal Act and LCP analysis; one that does not modify the standard of review as it is headed to that decision in the very short-term. In addition, the Commission's Consent Orders acknowledge that CalAm may have existing rights or obligations associated with the Cemex site, which were not altered by the Commission's Consent Order, and which could potentially include a desalination-related project.

Furthermore, as indicated above and as you know, the City is currently working with us on its first comprehensive update to its entire LCP, which was first certified by the Coastal Commission in 1982. We strongly believe that LCP provisions regarding future use of the Cemex site are best addressed through that update process, including because it will allow the public a greater opportunity to comprehensively vision and plan for future use, conservation, and development of the entire City's coastal zone, and not just "spot-zoning" this one site in isolation in an abbreviated review format. The overall LCP update also allows for overlapping issues and subjects to be addressed in a manner that is internally consistent throughout the LCP, including such issues that affect not only the Cemex site but other areas that are also subject to the LCP (e.g., the manner in which the LCP addresses environmentally sensitive habitat areas and resource protection). **For these reasons, we do not support the proposed LCP amendment before you today, and recommend that you do not move forward with any LCP amendment affecting Cemex independent of the broader LCP update process.**

Please do not hesitate to contact me with any questions or concerns about this matter. We also look forward to working with you, City staff, and Marina residents on the broader LCP update moving forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Kahn". The signature is fluid and cursive, with the first name "Kevin" and last name "Kahn" clearly distinguishable.

Kevin Kahn
District Supervisor
Central Coast District
California Coastal Commission

cc: Christy Hopper, City of Marina Planning Services Manager
Richard Svindland, CalAm President



September 13, 2018

City of Marina Planning Commission
211 Hillcrest Avenue
Marina, CA 93933

RE: September 13, 2018 Planning Commission Meeting, Agenda Item 6.a. - Proposed Recommendation to Marina City Council for a Local Coastal Land Use and Implementation Plan Amendment regarding CEMEX Property located on Lapis Road in the City of Marina, Monterey County, CA

Dear Chairman Burnett and Planning Commissioners:

RMC Pacific Materials, LLC d/b/a CEMEX ("CEMEX") objects to the proposed amendment to the City of Marina's Local Coastal Program (LCP), which would adversely affect rights of CEMEX and possibly third parties without just compensation. CEMEX also disagrees with any notion that the proposed amendment is needed to "align with the terms of the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02" between the California Coastal Commission and CEMEX (the "Consent Settlement") or the Mutual Release and Settlement Agreement between CEMEX and the City of Marina executed on June 26, 2017. Indeed, among other issues, the proposed amendment fails to recognize existing easement and other rights on the property, including those of California American Water Company and attempts to require CEMEX to remove existing structures from its property.

We note a number of additional issues with the proposed amendment are set forth in the letters of the California Coastal Commission, dated 9/11/18, and California American Water Company, dated 9/12/18, regarding this matter.

CEMEX is extremely disappointed that the City has continued its practice of attempting to take actions with respect to the CEMEX site and CEMEX's rights without the courtesy of discussing such actions with CEMEX.

CEMEX urges you not to recommend an amendment to the LCP affecting CEMEX's property or to support the proposed amendment under consideration.

Given the limited time to review the proposed amendment, CEMEX reserves the right to supplement this letter.

Regards,



N. Jerae Carlson

Vice President – Sustainability & Public Affairs

cc: Kevin Kahn, California Coastal Commission
Justin Buhr, California Coastal Commission
John Del Arroz, California Coastal Commission
Ian Crooks, California American Water Company
Kathryn Horning, California American Water Company

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Dubai	Riyadh
Düsseldorf	Rome
Frankfurt	San Diego
Hamburg	San Francisco
Hong Kong	Seoul
Houston	Shanghai
London	Silicon Valley
Los Angeles	Singapore
Madrid	Tokyo
Milan	Washington, D.C.

September 12, 2018

VIA EMAIL AND FEDEX

Chair Burnett and Honorable Commissioners
 City of Marina Planning Commission
 211 Hillcrest Avenue
 Marina, California 93033

Re: September 13, 2018 Marina Planning Commission Meeting, Agenda Item #6a:
Consideration of Proposed Amendments to the City's Local Coastal Program

Dear Chair Burnett and Honorable Commissioners:

On behalf of our client California-American Water Company ("Cal-Am"), we write regarding the Planning Commission's consideration of a recommendation to the Marina City Council proposing amendments to the City's Local Coastal Program ("LCP"), including its Land Use Plan and Implementation Plan, and to Chapters 17.25 and 17.41 of the City's Zoning Ordinance, the implementing ordinance for the City's LCP (collectively, the "LCP Amendment"). Cal-Am strongly opposes the proposed LCP Amendment as currently drafted.

As the City is well aware, Cal-Am is the legal owner of a permanent easement across the site of the CEMEX Lapis Sand Mining Plant ("CEMEX Site") for purposes of constructing, operating, installing, maintaining, and accessing components of Cal-Am's proposed desalination facility, the Monterey Peninsula Water Supply Project ("MPWSP" or "Project"), including but not limited to slant wells and related pipelines and utilities, wellhead vaults, underground transmission pipelines and electrical conduit, and related appurtenances. Moreover, Cal-Am has certain legal rights to use the CEMEX Site for the MPWSP under the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02 ("Consent Order"), which are omitted entirely from the Staff Report and the proposed LCP Amendment. Instead, the proposed LCP Amendment would change the land use designation at the CEMEX Site to Park and Open Space without any recognition of Cal-Am's existing rights. The Staff Report's silence as to Cal-Am's rights is all the more troubling, as Cal-Am submitted an application for a local coastal development permit ("CDP") to the City in June for those portions of the MPWSP located within the CEMEX Site. The Staff Report should therefore have disclosed Cal-Am's rights on the CEMEX Site and CDP application.

Unfortunately, because the Staff Report makes no mention of Cal-Am or its existing rights on the CEMEX Site, City staff have failed in their duty to inform both the public and the Planning Commission of the actual effects of the proposed LCP Amendment. Further, the City's urgency in moving forward with the LCP Amendment is unnecessary, as the Consent Order already protects the allowable uses at the CEMEX Site. It is also concerning that the Planning

Commission is pursuing this abbreviated LCP Amendment in such a rushed manner now – over a year after the Consent Order was executed – instead of through the comprehensive LCP update the City is currently preparing with grant funding from the California Coastal Commission (“CCC”). Given Cal-Am’s currently pending CDP application before the City, and the California Public Utilities Commission’s (“CPUC”) anticipated decision on MPWSP on September 13, 2018, it appears that the intent of the proposed LCP Amendment and this hasty process is merely another attempt by the City to target the MPWSP and thwart the development of the Project at the CEMEX Site. Nevertheless, if the Commission feels it must proceed at this time, the LCP Amendment must be revised to recognize Cal-Am’s legal rights at the CEMEX Site. Absent that recognition, the Commission should reject LCP Amendment as drafted.

A. The Staff Report and the Proposed LCP Amendment Fail to Address Cal-Am’s Rights under the Consent Order

The Staff Report states that the City proposes the LCP Amendment “to address the cessation of sand mining within the Coastal Zone and to address the use of the [CEMEX Site] after closure of the plant.” (Staff Report at 1.) According to the City, the LCP Amendment is “necessary to align” the LCP with the Consent Order, which “requires as part of any sale, a deed restriction be put in place to protect the property and limit the potential uses of the property to conservation-related purposes.” (*Id.* at 1-2.)

However, absent from the Staff Report and the proposed text revisions in the LCP Amendment, is any mention whatsoever of Cal-Am’s rights under the Consent Order.

The Consent Order memorializes the agreement between the CCC and CEMEX regarding the future allowable uses of the CEMEX Site. Section 6.2.D.1 provides that the CEMEX Site will be subject to a deed restriction under which:

[N]o development . . . shall occur on the [CEMEX Site], provided that improvements to provide low-impact passive recreation, public access, public education, removal activities, activities to restore native habitat, ***and activities consistent with existing easements or other rights of record identified by CEMEX . . . , including those noted in Section 23.2, will not be prohibited.***

(See Consent Order, § 6.2.D.1 [emphasis added].) In other words, Section 6.2.D.1 expressly protects Cal-Am’s rights related to the CEMEX Site. Section 23.2 further protects Cal-Am’s rights, providing that the Consent Order “is not intended to and shall not be construed or deemed to supersede or interfere with any existing rights or obligations of California-American Water Company . . . related to the [CEMEX Site], including but not limited, to the recorded easement and related option.”¹ (*Id.*, § 23.2.)

¹ Notice of Cal-Am’s right to acquire permanent easements at the CEMEX Site was recorded with the Monterey County Recorder on November 25, 2014, and is attached hereto as Exhibit A. Cal-Am exercised its option to acquire the permanent easements, and on May 23, 2018, CEMEX, through its

Notwithstanding the Consent Order's explicit mandate that "activities consistent with existing easements or other rights of record" "will not be prohibited," the Staff Report and the proposed LCP Amendment misrepresent the terms of the Consent Order and wholly fail to address, much less mention, Cal-Am's rights:

Pursuant to the terms of the [Consent Order], the area . . . will be subject to a Conservation and Public Access Deed Restriction, that is intended to preserve the open space and habitat values of the property and allow for primarily conservation, as well as low-impact passive recreation, public access, public education, and habitat restoration.

(See Proposed Land Use Plan at 37; see also *id.* at 3-4.) The LCP Amendment's wholesale omission of Cal-Am's rights to the CEMEX Site under the Consent Order is troubling, especially given the LCP Amendment is purportedly necessary to align the LCP with the terms of the Consent Order.

Moreover, the proposed revisions to the City's Land Use Plan and Zoning Ordinance inexplicably limit the development of coastal-dependent industrial uses at the CEMEX Site. Both propose to designate the CEMEX Site as "Park and Open Space." (See Proposed Land Use Plan at 28-29, 37; Proposed Zoning Ordinance section 17.41.130.) By designating the CEMEX Site as "Park and Open Space," the City is preventing development on-site based on the "habitat or scenic values or hazards present." (Proposed Land Use Plan at 28-29.) The proposed revisions to Zoning Ordinance section 17.41.130 expressly limit permitted uses of the CEMEX Site to "habitat conservation/open space, low-impact passive recreation purposes or activities, crop and tree farming, and grazing of horses and cattle, sheep and goats," as well as "[h]abitat restoration, including vegetation removal, recontouring slopes, or other activities to restore native habitat." These uses fail to acknowledge Cal-Am's pre-existing property rights and the allowable uses set forth in the Consent Order.²

City staff is well aware of Cal-Am's proposed MPWSP and the fact that it would locate components of the Project at the CEMEX Site. On June 22, 2018, Cal-Am filed an application

subsidiary RMC Pacific Materials, LLC, granted to Cal-Am a permanent easement and access easement over and across the CEMEX Site for the express purposes of accessing, constructing, installing, operating, and maintaining slant wells and related pipelines and utilities for the MPWSP. The recorded Grant of Easement is attached hereto as Exhibit B.

² Moreover, the proposed amendments would constitute impermissible spot zoning in violation of state law. "Spot zoning" unfairly targets specific properties with uses disfavored by the government using zoning regulations. (See *Avenida San Juan Partnership v. City of San Clemente* (2011) 201 Cal.App.4th 1256, 1268 ["The essence of spot zoning is irrational discrimination."].) Here, the City appears to target a particular property that has been proposed for desalination use, attempting to rezone it in such a way as to render desalination a nonconforming use. The City's discriminatory intent is further evidenced by its continued vocal opposition to the MPWSP. "[W]here 'spot zoning' or other restriction upon a particular property evidences a discriminatory design against the property user, the courts will give weight to evidence disclosing a purpose other than that appearing upon the face of the regulation." (*G & D Holland Constr. Co. v. City of Marysville* (1970) 12 Cal.App.3d 989, 994-995.)

with the City for a local CDP for those portions of the MPWSP located within the City's Coastal Zone, including areas on the CEMEX Site. Further, as noted above, the City has been a vocal opponent of the Project in proceedings before the CPUC concerning the MPWSP. Accordingly, the City is fully apprised of Cal-Am's proposal and its existing rights related to the CEMEX Site. If the City was genuinely motivated by a need to align the LCP with the Consent Order, the Staff Report and the text revisions in the LCP Amendment would address the Consent Order's explicit protection of Cal-Am's property rights and plans to construct and operate portions of the MPWSP as an allowable use of the CEMEX Site.

B. The City's Urgency in Adopting the LCP Amendment Is Unwarranted

The City's urgency in pressing forward with the LCP Amendment is unwarranted given that the Consent Order already protects the CEMEX Site and conditions the allowable uses of the property.

For instance, the Consent Order requires the termination of extraction activities and development at the CEMEX Site, including "any industrial and commercial operations." (Consent Order, §§ 1.1, 1.3, 4.1.) As discussed above, the Consent Order requires the CEMEX Site to be used "primarily for conservation purposes" or "low-impact, passive recreation purposes or activities, public access, public education, removal activities, activities to restore native habitat, and activities consistent with existing easements identified by Cemex." (Consent Order, §§ 6.1, 6.2.) The Consent Order's restrictions adequately protect the CEMEX Site and limit the allowable uses thereon. The City need not amend its LCP at this very moment to address restrictions already in the Consent Order—especially when a comprehensive update of the LCP is forthcoming (Staff Report at 5 [the City is preparing "a larger LCP update in the near future"]), and especially considering that the Consent Order allows CEMEX to continue sand extraction operations until December 31, 2020, over two years from now.

In fact, the CCC contemplated a comprehensive amendment to the City's LCP when it awarded the City a grant of over \$85,000 in August 2017 specifically earmarked toward an LCP update. (See California Coastal Commission, Staff Report for Recommended Round 4 Local Coastal Program Local Assistance Grant Awards, Item W6f, at 17 (July 28, 2017).)³ The City had applied to the CCC for a grant to update its LCP "to address sustainable development, increased opportunities for coastal access and public recreation, and vulnerability to Climate Change and Sea Level Rise." (*Id.* at 18.) In its staff report, the CCC stated that because the City had not updated its LCP since it was developed in 1982, "the City needs to assess its vulnerabilities to coastal erosion and other [sea level rise]-related impacts, *especially in light of land use changes that will occur with the cessation of sand mining [at the CEMEX Site]*." (*Id.* at 18-19 [emphasis added].) As such, the CCC indicated its expected outcome for the grant is

³ See CCC, Staff Report for Recommended Round 4 Local Coastal Program Local Assistance Grant Awards, Item W6f (July 28, 2017), available at: <https://documents.coastal.ca.gov/reports/2017/8/w6f/w6f-8-2017-report.pdf>; see also Exhibit B1, Project Work Plan, Schedule, and Budget, available at: <https://documents.coastal.ca.gov/assets/lcp/grants/round-4-apps-16-17/Marina.pdf>.

the “completion of a sea level rise vulnerability assessment and adaption plan, and development and submittal of an LCP update.” (*Id.* at 19.)

The City then acknowledged these conditions in a resolution accepting the grant. (See City of Marina Resolution 2017-97 (“Resolution”), at 1, attached hereto as Exhibit C.) As stated in the Resolution, the updated LCP is to have a “special emphasis on effects of climate change and sea-level rise.” (See *ibid.*) The Resolution further acknowledges that the City was awarded a grant by the CCC to prepare an LCP update “that includes vulnerability and risk assessment and [an] adaptation report to address the effects that sea level rise could have on coastal resources along the shoreline of Marina.” (*Ibid.*) Yet climate change and sea-level rise are mentioned nowhere in the proposed LCP Amendment. The LCP Amendment falls far short of the comprehensive update the CCC contemplated, contradicts the City’s prior commitments concerning the LCP update, and is merely a piecemeal attempt to amend the LCP in order to try to block the MPWSP.

The LCP Amendment does not satisfy the CCC’s express conditions for the grant and is wholly unnecessary at this time. Accordingly, the Planning Commission should not move to recommend the LCP Amendment to the City Council for consideration and adoption.

C. The Proposed LCP Amendment Contains Additional Flaws

In addition to the Staff Report’s shortcomings and the proposed LCP Amendment’s failure to address Cal-Am’s existing rights under the Consent Order, the proposed LCP Amendment is fatally flawed because it is inconsistent with the Coastal Act and impermissibly limits and conditions the development at the CEMEX Site.

The LCP Amendment impermissibly attempts to constrain the allowable uses set forth in Coastal Act section 30260 for coastal-dependent industrial uses. Under the LCP Amendment, Coastal Act section 30260 applies only in areas zoned Coastal Conservation and Development, to the exclusion of all other zoning designations, such as Park and Open Space. (Compare Proposed Zoning Ordinance section 17.41.130, with Proposed Zoning Ordinance section 17.41.160.) As a consequence, it appears that the LCP Amendment intends that Coastal Act section 30260 should not apply to Cal-Am’s proposed Project on the CEMEX Site since that property is proposed to be zoned Park and Open Space. (See Proposed Land Use Plan at 28-29.) But Coastal Act section 30260 applies to all development subject to the Coastal Act. (See Pub. Resources Code, § 30260.) Put differently, the Coastal Act does not limit the applicability of Coastal Act section 30260 to a specific zoning designation. As such, the City’s attempt to constrain section 30260’s broad allowance for coastal-dependent industrial uses is impermissible under the Coastal Act.

In addition, the LCP Amendment adds “protection of historic resources” as a factor that the City must consider in approving activities for the area North of Reservation Road (Proposed Land Use Plan at 38), as well as adds Policy 43, which “[e]ncourage[s] property owners to protect and conserve historic buildings and resources.” (Proposed Land Use Plan at 14.) Throughout the CPUC’s proceedings on the MPWSP, the City has argued that the Project would result in significant and unavoidable impacts to the Lapis Siding within the CEMEX Site.

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However, the FEIR/EIS and other evidence in the CPUC's record of proceedings makes clear that no such impacts would result. As set forth in the State Historic Preservation Officer's letter attached to Cal-Am's CDP application on file with the City, development at the CEMEX Site will not adversely impact any historic resources. Given the City's past focus on the Lapis Siding in the CPUC process, and the fact that the Consent Order says nothing about historic resources, it appears that the renewed focus on historic resources policies in the proposed LCP Amendment is intended to manufacture an inconsistency between the LCP and the Project.

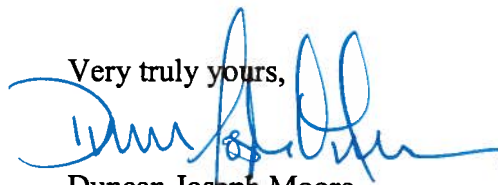
Finally, the LCP Amendment revises Policy 41 to remove the priority given to coastal-dependent development on or near the shoreline (Proposed Land Use Plan at 14), but this revision renders Policy 41 wholly inconsistent with the Coastal Act. Coastal Act section 30255 explicitly states that "[c]oastal-dependent developments shall have priority over other developments on or near the shoreline." The Coastal Act further provides that LCPs must be consistent with the Coastal Act. (See Pub. Resources Code, §§ 30200, 30512, 30512.2, 30513; see also *McAllister v. Cal. Coastal Com.* (2008) 169 Cal.App.4th 912, 931 ["when the Commission reviews a local coastal program . . . its task is to determine whether it conforms to the minimum policies established in the Coastal Act"].) The LCP Amendment's removal of language expressly provided in the Coastal Act necessarily fails to meet the minimum policies established in the Coastal Act regarding coastal-dependent development, and is nothing more than an attempt to block the Project.

Given these significant infirmities with the LCP Amendment, the Planning Commission should not recommend that the City Council consider and adopt the LCP Amendment.⁴

* * *

We appreciate the Planning Commission's consideration of Cal-Am's comments on the LCP Amendment. Pursuant to Coastal Act regulation section 13515, subdivision (c), the City cannot take final action on the LCP Amendment for at least six weeks following the notice of availability of the LCP Amendment, issued on August 30, 2018. Although the City cannot take final action at the September 13, 2018 meeting, Cal-Am respectfully requests that the Planning Commission decline to recommend that the City Council approve the LCP Amendment at its planned October 16, 2018 meeting.

Very truly yours,



Duncan Joseph Moore
of LATHAM & WATKINS LLP

cc: Alison Dettmer, California Coastal Commission
Tom Luster, California Coastal Commission
Kevin Kahn, California Coastal Commission

⁴ The foregoing is not intended to be a statement of all of Cal-Am's concerns with the text revisions proposed in the LCP Amendment. Cal-Am reserves the right to provide additional comments regarding the proposed changes to the LCP.

LATHAM & WATKINS LLP

Ian Crooks, California-American Water Company
Kathryn Horning, California-American Water Company
Susan McCabe, McCabe & Company
Anthony Lombardo, Anthony Lombardo & Associates, Inc.
Jerae Carlson, CEMEX

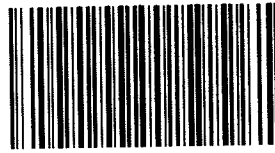
EXHIBIT A

Stephen L. Vagnini
Monterey County Recorder
Recorded at the request of
Filer

CRSUSY
11/25/2014
14:55:33

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:
California-American Water Company
1033 B Avenue, Suite 200
Coronado, CA 92118
Attn: Vice President, Legal

DOCUMENT: **2014059480**



Titles: 1/ Pages: 4

Fees....	30.00
Taxes....	
Other....	2.00
AMT PAID	\$32.00

MEMORANDUM OF OPTION AGREEMENT

THIS MEMORANDUM OF OPTION AGREEMENT ("**Memorandum**") is effective as of November 6, 2014, by and between RMC Pacific Materials, LLC ("**CEMEX**") and California- American Water Company ("**California American Water**").

WITNESSETH:

CEMEX hereby grants to California American Water the right to acquire easements on the land (the "**Option Property**") more particularly described on Exhibit "1" attached hereto and incorporated herein by this reference, pursuant to the terms of that certain unrecorded Agreement For Temporary Investigatory Easement, Option For Permanent Easements, And Joint Escrow Instructions ("**Option Agreement**") of even date herewith between CEMEX and California American Water. The sole purpose of preparing and recording this Memorandum is to give notice of the Option Agreement. If any conflict or inconsistency between the terms of this Memorandum and the Option Agreement, the terms of the Option Agreement shall control. All provisions of the Option Agreement, including those pertaining to the exercise of the option contained therein and the terms and conditions pertaining thereto, shall be as set forth in the Option Agreement which is incorporated herein by this reference. This Memorandum may be executed in counterparts, each of which shall be an original, and all of which together shall constitute a single instrument. If not sooner terminated, this Memorandum shall automatically expire and be of no further force or effect as of November 21, 2018.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the date set forth herein above.

RMC PACIFIC MATERIALS, LLC

By: 
Oscar Frias, Vice President

ACKNOWLEDGMENT

State of Arizona)
County of Maricopa)

The foregoing instrument was acknowledged before me this November 13, 2014, by OSCAR FRIAS, Vice President of RMC Pacific Materials, LLC.

Signature _____

Notary Public

My commission expires:



November 12, 2014

EXHIBIT "1"
LEGAL DESCRIPTION
MEMORANDUM OF AGREEMENT
(OPTION PROPERTY)

Those portions of the Monterey City Lands Tract No. 1 in the County of Monterey, State of California described in deed to Lonestar California Inc. in Grant Deed recorded April 3, 2000 as document no. 2000-021049 (hereinafter referred to as Lonestar land). Said land is also shown as a 399.70 acre Parcel on Record of Survey volume 7, page 102 recorded October 27, 1965 as serial no. 95161, described as follows:

Parcel 1

That portion being a strip of land 30.00 feet in width, being 15.00 feet on each side of the following described centerline:

BEGINNING at the intersection of the Westerly Right of Way Line of 100.00 foot wide South Pacific Railroad and a line 35.00 feet South of and parallel to the Northerly line of the land described as Parcel 2 in said deed to Lonestar California Inc. in Grant Deed recorded April 3, 2000 as document no. 2000-021049, being also shown as assessor's parcel no's 203-011-16 on the assessors plat thereof and also shown as the 6.804 acre parcel on said Record of Survey 7-102; thence along said parallel line the following courses: South $13^{\circ}00'23''$ West 70.33 feet to the beginning of a tangent curve concave Westerly and having a radius of 1116.00'; thence Southwesterly along said curve 1105.55 feet through a central angle of $56^{\circ}45'32''$; thence along said parallel line and its prolongation South $69^{\circ}45'55''$ West 882.34 feet to the beginning of a tangent curve concave Northwesternly and having a radius of 485.00 feet, said curve being tangent with a line that is 15.00 north of and parallel to Course number 11 as shown on said Record of Survey 7-102; thence Westerly along said curve 294.46 feet through a central angle of $34^{\circ}47'10''$; thence along said line parallel to course number 11 North $75^{\circ}26'55''$ West 763.93 feet; thence leaving said parallel line North $55^{\circ}39'00''$ West 187.75 feet; thence North $73^{\circ}02'48''$ West 171.26 feet; thence North $71^{\circ}10'25''$ West 545.38 feet to a point hereon referred to as **POINT 'A'**; thence continuing North $71^{\circ}10'25''$ West 353.00 feet to a **POINT OF TERMINUS**.

TOGETHER WITH that portion being a strip of land 30.00 feet in width, being 15.00 feet on each side of the following described centerline:

BEGINNING at **POINT 'A'**; thence South $16^{\circ}57'12''$ West 137.23 feet to a **POINT OF TERMINUS**.

EXCEPTING THEREFROM that portion of Parcel 2 in deed to Lonestar California Inc. in Grant Deed recorded April 3, 2000 as document no. 2000-021049 that was granted to the State of California by deed recorded August 19, 1974 on reel 930 official

November 12, 2014

records at page 909, Monterey County records.

CONTAINING 2.421 acres, more or less.

Parcel 2

BEGINNING at the Southerly terminus of that certain centerline course of **Parcel 1** that is described as "South 16°57'12" West 137.23 feet", said point being a **POINT OF TERMINUS**; thence perpendicular to said course along the Southerly line of said **Parcel 1** South 73°02'48" East 15.00 feet to the Easterly line of **Parcel 1**; thence leaving said Southerly line of **Parcel 1** South 16°58'12" West 1,460.84 feet; thence South 88°58'31" West 843.51 feet to the Westerly boundary of said Lonestar Land, thence Northerly along said Westerly boundary to a point, referred to hereon as **POINT 'B'**, that is Northwest of the **POINT OF BEGINNING** the following courses: thence along said Southerly line of **Parcel 1**, and it's Westerly prolongation, North 73°02'48" West 357.68 feet; thence leaving said line along the Westerly line of **Parcel 1**, and it's southerly prolongation, North 18°49'35" East 163.85 feet to the Westerly terminus of the Northerly line of said **Parcel 1**; thence leaving said line North 74°19'45" West 25.82 feet to the beginning of tangent curve, concave Southerly and having a radius of 100.00 feet; thence Westerly along said curve 36.13 feet through a central angle of 20°42'12"; thence South 84°58'03" West 113.23 feet; thence North 65°00'00" West 453.18 feet to a point on the Westerly boundary of said Lonestar Land, described hereon as **POINT 'B'**; thence retracing South 65°00'00" East 453.18 feet; thence North 84°58'03" East 113.23 feet to the beginning of tangent curve, concave Southerly and having a radius of 100.00 feet; thence Easterly along said curve 36.13 feet through a central angle of 20°42'12"; thence South 74°19'45" East 25.82 feet to the Westerly terminus of the Northerly line of said **Parcel 1**; thence along the Westerly line of said **Parcel 1**, and it's southerly prolongation, South 18°49'35" West 163.85 feet to the Westerly prolongation of said southerly line of **Parcel 1**; thence leaving said Westerly line and it's Southerly prolongation along said Southerly line and it's Westerly prolongation South 73°02'48" East 357.68 feet to the **POINT OF BEGINNING**.

CONTAINING 33.580 acres, more or less.

PRELIMINARY

Ernest Wade LS 6052 11/12/2014
JN 136410 (25-105612)

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EXHIBIT B

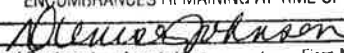
Stephen L. Vagnini
Monterey County Clerk-Recorder
Recorded at the request of:
CHICAGO TITLE SALINAS - 50 W

2018026483

06/15/2018 08:47:28
Titles: 1 Pages: 26

Fees: \$86.00
Taxes: \$1815.00
AMT PAID: \$1901.00

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
California-American Water Company
655 West Broadway, Suite 1410
San Diego, CA 92101
Attn: Kathryn Horning, Corporate
Counsel

DOCUMENTARY TRANSFER TAX \$	<u>1815.00</u>
☒	COMPUTED ON FULL VALUE OF PROPERTY CONVEYED.
☐	OR COMPUTED ON FULL VALUE LESS LIENS AND ENCUMBRANCES REMAINING AT TIME OF SALE.
	
Signature of Declarant or Agent determining tax. Firm Name	

Unincorporated Area

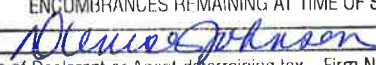
(Space above this line for County
Recorders Use Only)

GRANT OF EASEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, RMC Pacific Materials, LLC ("**Grantor**"), a Delaware limited liability company, successor by conversion of RMC Pacific Materials, Inc., a Delaware corporation, successor by merger with Lonestar California, Inc., a Delaware corporation, the conversion and merger documents evidencing this corporate history are attached as **Exhibit G** hereby GRANTS without warranty to California-American Water Company, a California corporation ("**Grantee**"), a permanent easement over and across the property described in **Exhibit A** ("**Permanent Easement Area**") and depicted in **Exhibit B**, and an access easement over and across the property described in **Exhibits C and E** ("**Access Easement Area**") and depicted in **Exhibits D and F**, subject to the terms and conditions herein. The permanent easement and the access easement are together referred to herein as the "**Easement**". **Exhibits A, B, C, D, E, F and G** attached hereto are incorporated herein by reference.

Grantor and Grantee have identified the Access Easement Area in fulfillment of their obligation to determine a route for a vehicular access easement across Grantor's property to the Permanent Easement Area, as set forth in that certain Agreement For Temporary Investigatory Easement, Option For Permanent Easements, And Joint Escrow Instructions dated as of November 4, 2014, by and between Grantor and Grantee, as amended by that certain First Amendment to Agreement for Temporary Investigatory Easement, Option for Permanent Easements, and Joint Escrow Instructions dated as of May 18, 2016 by and between Grantor and Grantee, (together, the "Option Agreement"); said Easement over and across the Access Easement Area shall be solely for the purpose of vehicular access to the Permanent Easement Area, and shall be subject to Grantor's continuing right to relocate such Access Easement Area at any time so long as such new easement area provides Grantee equivalent access to the Permanent Easement Area.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
California-American Water Company
655 West Broadway, Suite 1410
San Diego, CA 92101
Attn: Kathryn Horning, Corporate
Counsel

DOCUMENTARY TRANSFER TAX \$	<u>1815.00</u>
☒	COMPUTED ON FULL VALUE OF PROPERTY CONVEYED.
☐	OR COMPUTED ON FULL VALUE LESS LIENS AND ENCUMBRANCES REMAINING AT TIME OF SALE.
	
Signature of Declarant or Agent determining tax. Firm Name	

Unincorporated Area

(Space above this line for County
Recorders Use Only)

GRANT OF EASEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, RMC Pacific Materials, LLC ("**Grantor**"), a Delaware limited liability company, successor by conversion of RMC Pacific Materials, Inc., a Delaware corporation, successor by merger with Lonestar California, Inc., a Delaware corporation, the conversion and merger documents evidencing this corporate history are attached as **Exhibit G** hereby GRANTS without warranty to California-American Water Company, a California corporation ("**Grantee**"), a permanent easement over and across the property described in **Exhibit A** ("**Permanent Easement Area**") and depicted in **Exhibit B**, and an access easement over and across the property described in **Exhibits C and E** ("**Access Easement Area**") and depicted in **Exhibits D and F**, subject to the terms and conditions herein. The permanent easement and the access easement are together referred to herein as the "**Easement**". **Exhibits A, B, C, D, E, F and G** attached hereto are incorporated herein by reference.

Grantor and Grantee have identified the Access Easement Area in fulfillment of their obligation to determine a route for a vehicular access easement across Grantor's property to the Permanent Easement Area, as set forth in that certain Agreement For Temporary Investigatory Easement, Option For Permanent Easements, And Joint Escrow Instructions dated as of November 4, 2014, by and between Grantor and Grantee, as amended by that certain First Amendment to Agreement for Temporary Investigatory Easement, Option for Permanent Easements, and Joint Escrow Instructions dated as of May 18, 2016 by and between Grantor and Grantee, (together, the "Option Agreement"); said Easement over and across the Access Easement Area shall be solely for the purpose of vehicular access to the Permanent Easement Area, and shall be subject to Grantor's continuing right to relocate such Access Easement Area at any time so long as such new easement area provides Grantee equivalent access to the Permanent Easement Area.

Said Easement over and across the Permanent Easement Area shall be solely for the purpose of accessing, constructing, installing, operating, and maintaining slant wells and related pipelines and utilities for a desalination facility to be constructed by Grantee, including such items as wellhead vaults, underground electrical conduit, underground water transmission pipelines, electrical panels, and related appurtenances, as well as signs, markers, and similar notices and warnings as may be necessary to identify the location of any underground pipelines, utilities, or equipment.

In addition, said Easement shall be subject to the following requirements:

- i. Unless otherwise agreed to by the Grantor and Grantee in advance, Grantee and Grantee's employees, agents, contractors, and subcontractors shall not disrupt or interfere with Grantor's business operations on Grantor's property, including during the construction, operation, maintenance, or monitoring of Grantee's test well.
- ii. Grantee shall obtain, maintain, and comply with all applicable permits, and shall comply with all applicable ordinances, rules, laws, and regulations, including, without limitation, water extraction laws, ordinances, rules, and regulations. In addition, prior to construction, Grantee shall also obtain any necessary easement or other property rights, or the license or consent, of any third-party easement holders on Grantor's property.
- iii. Grantee's employees, agents, contractors, and subcontractors shall be properly trained per Mine Safety and Health Administration rules and regulations, including, but not limited to, Part 46 training as may be applicable to the work to be conducted, as well as any site-specific training required by Grantor.
- iv. Grantee shall provide Grantor with notice at least twenty-four (24) hours prior to the commencement of any new construction activities.
- v. Grantee shall monitor water levels in Grantor's well, dredge pond, and settling ponds.
- vi. Grantee shall reduce or cease its pumping operations if the levels in Grantor's well, dredge pond, or settling ponds fall below a level that would impair Grantor's normal mining operations.
- vii. Grantee shall obtain, maintain, and comply with all applicable permits, and Grantee shall comply with all water extraction laws, as well as, all other applicable ordinances, rules, laws, and regulations.
- viii. Prior to Grantee's commencement of construction activities on the Easement, Grantee shall comply with all mitigation measures approved by City of Marina or the California Coastal Commission, as applicable.
- ix. During Grantee's construction activities on the Easement, Grantee shall not impair

access to Grantor's mining operations on the Grantor's property.

- x. During Grantee's construction activities, Grantee's employees and contractors shall cooperate with Grantor in parking any vehicles needed to access the site in a location that will not interfere with Grantor's operations on its property.
- xi. During Grantee's construction activities, Grantee shall have progress meetings with Grantor at least once per week to inform Grantor of any recent developments and to address any questions or concerns Grantor may have, unless the Parties otherwise mutually agree any such meeting or meetings are unnecessary. In addition, Grantee shall provide Grantor with its construction schedule prior to commencing work on Grantor's property, and Grantee shall provide Grantor with any revised construction schedules. Grantee shall further cooperate with Grantor to coordinate the day-to-day timing of any construction with Grantor to accommodate any reasonable requests of Grantor.
- xii. Grantee's electrical usage relating to the Easement shall be separately metered and billed, and all connections to electric utilities or service interruptions shall be completed in a manner that does not interfere with the operation of Grantor's business.

Nothing herein is intended to supersede, amend, modify, or delete any of the terms and conditions of the Option Agreement, which terms and conditions shall remain in full force and effect as provided therein.

The rights, obligations, conditions, and restrictions contained herein shall inure to the benefit of and be binding upon the successors-in-interest, agents, employees, assigns, and transferees of the parties hereto.

This Grant of Easement exercises and completes the Memorandum of Option Agreement recorded in the office of the Monterey County Recorder on November 25, 2014 as Document No. 2014059480.

IN WITNESS WHEREOF, Grantor has executed this Grant of Easement as of this 23rd day of May, 2018.

Grantor:

RMC PACIFIC MATERIALS, LLC,

a Delaware limited liability company,
successor by conversion of RMC Pacific Materials, Inc.,
a Delaware corporation, successor by merger with
Lonestar California, Inc., a Delaware corporation

By:



Trpimir Renic, Vice President

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Texas)
County of Harris)

On May 23, 2018, before me, Claudia Hueitt, Notary Public, personally appeared Trpimir Renic, Vice President of RMC Pacific Materials, LLC, a Delaware limited company, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Gaudin Street

(Seal)

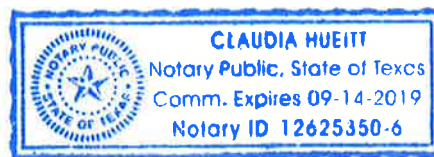


EXHIBIT "A"

LEGAL DESCRIPTION

PERMANENT EASEMENT

THOSE PORTIONS OF THE MONTEREY CITY LANDS TRACT NO. 1 IN THE COUNTY OF MONTEREY, STATE OF CALIFORNIA DESCRIBED IN DEED TO LONESTAR CALIFORNIA INC. IN GRANT DEED RECORDED APRIL 3, 2000 AS DOCUMENT NO. 2000-021049 (HEREINAFTER REFERRED TO AS LONESTAR LAND). SAID LAND IS ALSO SHOWN AS A 399.70 ACRE PARCEL ON RECORD OF SURVEY VOLUME 7, PAGE 102 RECORDED OCTOBER 27, 1965 AS SERIAL NO. 95161, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERLY END OF COURSE (10) OF THE WESTERLY BOUNDARY LINE OF PARCEL "B" OF THE 308.924 ACRE PARCEL OF SAID RECORD OF SURVEY VOLUME 7, PAGE 102; THENCE ALONG SAID COURSE 10; NORTH 04°35'45" WEST, 194.98 FEET TO AN ANGLE POINT IN SAID PARCEL "B"; THENCE LEAVING SAID PARCEL "B" BOUNDARY, NORTH 04°35'45" WEST, 51.48 FEET; THENCE NORTH 73°09'17" WEST, 41.19 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE NORTH 84°17'48" WEST 134.25 FEET; THENCE NORTH 55°39'00" WEST 147.82 FEET; THENCE NORTH 73°02'48" WEST 169.21 FEET; THENCE NORTH 71°10'25" WEST 358.93 FEET; THENCE SOUTH 16°57'12" WEST 121.73 FEET; THENCE SOUTH 16°58'12" WEST 1,460.84 FEET; THENCE SOUTH 88°58'31" WEST 843.51 FEET; THENCE NORTH 13°29'55" EAST 1,278.73 FEET; THENCE NORTH 07°36'55" EAST 630.12 FEET; THENCE SOUTH 65°00'00" EAST 453.18 FEET; THENCE NORTH 84°58'03" EAST 113.23 FEET; TO THE BEGINNING OF A TANGENT 100.00 FOOT RADIUS CURVE, CONCAVE SOUTHERLY, THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 20°42'12" AN ARC DISTANCE OF 36.13 FEET; THENCE SOUTH 74°19'45" EAST 25.82 FEET TO A POINT HEREON REFERRED TO AS **POINT "A"**; THENCE SOUTH 71°10'25" EAST 726.94 FEET; THENCE SOUTH 73°02'48" EAST 173.31 FEET; THENCE SOUTH 55°39'00" EAST 144.75 FEET; THENCE SOUTH 84°17'48" EAST 129.52 FEET; THENCE SOUTH 73°09'17" EAST 595.75 FEET, TO THE BEGINNING OF A TANGENT 770.00 FOOT RADIUS CURVE, CONCAVE NORTHERLY, THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°04'48" AN ARC DISTANCE OF 498.32 FEET; THENCE NORTH 69°45'55" EAST 747.45 FEET, TO THE BEGINNING OF A TANGENT 1,116.01 FOOT RADIUS CURVE, CONCAVE NORTHWESTERLY, THENCE NORTHEASTERLY AND NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 56°45'32" AN ARC DISTANCE OF 1,105.55 FEET; THENCE NORTH 13°00'23" EAST 70.33 FEET TO THE WESTERLY RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD 100.00 FOOT RIGHT OF WAY AND THE BEGINNING OF A NON-TANGENT 868.64 FOOT RADIUS CURVE, CONCAVE EASTERLY, THROUGH WHICH POINT A RADIAL LINE BEARS SOUTH 82°25'47" WEST, THENCE SOUTHERLY ALONG SAID CURVE AND RIGHT OF WAY, THROUGH A CENTRAL ANGLE OF 05°02'43" AN ARC DISTANCE OF 76.49 FEET TO A LINE THAT IS 30.00 FEET SOUTHERLY OF AND PARALLEL WITH THE NINE COURSES OF THE LAND DESCRIBED HEREIN AFTER SAID POINT "A" OF THIS DESCRIPTION, SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT 1,146.01 FOOT RADIUS CURVE, CONCAVE NORTHWESTERLY, THROUGH WHICH POINT A RADIAL LINE BEARS SOUTH 76°59'36" EAST, THENCE SOUTHERLY AND SOUTHWESTERLY ALONG SAID CURVE AND PARALLEL LINE, THROUGH A CENTRAL ANGLE OF 56°45'31" AN ARC DISTANCE OF 1,135.27 FEET; THENCE SOUTH 69°45'55" WEST 747.45 FEET; TO THE BEGINNING OF AN 800.00 FOOT RADIUS CURVE, CONCAVE NORTHERLY, THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°04'48" AN ARC DISTANCE OF 517.73 FEET; THENCE NORTH 73°09'17" WEST 592.83 FEET TO THE **TRUE POINT OF BEGINNING**.

EXCEPTING THEREFROM ANY PORTION THEREOF LYING WESTERLY OF THE MEAN HIGH TIDE LINE.

TOGETHER WITH ANY PORTION OF SAID LONESTAR LAND LYING WESTERLY OF THE ABOVE DESCRIBED PARCEL LYING SOUTHERLY OF THE WESTERLY PROLONGATION OF THE NORHTERLY LINE THEREOF, SAID COURSE BEING NORTH 65°00'00" WEST, AND NORTHERLY OF THE WESTERLY PROLONGATION OF THE SOUTHERLY LINE THEROF, SAID COURSE BEING SOUTH 88°58'31" WEST AND EASTERLY OF THE MEAN HIGH TIDE LINE.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF LYING WITHIN THAT PORTION OF LAND GRANTED TO THE STATE OF CALIFORNIA BY DEED RECORDED AUGUST 19, 1974 ON REEL 930, PAGE 909 OFFICIAL RECORDS OF MONTEREY COUNTY RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF LYING WITHIN THE FOLLOWING DESCRIBED AREA:

COMMENCING AT POINT "A"; THENCE SOUTH 18°49'35" WEST, 30.00 FEET TO THE **TRUE POINT OF BEGINNING;** THENCE SOUTH 71°10'25" EAST 338.49 FEET; THENCE SOUTH 16°57'12" WEST 122.71 FEET; THENCE NORTH 73°02'48" WEST 342.68 FEET; THENCE NORTH 18°49'35" EAST 133.85 FEET TO THE **TRUE POINT OF BEGINNING.**

SEE EXHIBIT "B" ATTACHED HERETO AND THEREBY BEING MADE A PART HEREOF.

CONTAINS 1,565,341 SQUARE FEET (35.935 ACRES) MORE OR LESS.



MARK D. MACFARLANE, P.L.S. 8960

05-15-18

DATE:



EXHIBIT "B"

LINE TABLE

NO.	DIRECTION	LENGTH	NO.	DIRECTION	LENGTH
L1	S71°10'25"E	726.94'	L9	N73°02'48"W	342.68'
L2	S73°02'48"E	173.31'	L10	N18°49'35"E	133.85'
L3	S55°39'00"E	144.75'	L11	N71°10'25"W	358.93'
L4	S84°17'48"E	129.52'	L12	N73°02'48"W	169.21'
L5	S73°09'17"E	595.75'	L13	N55°39'00"W	147.82'
L6	S18°49'35"W	30.00'	L14	N84°17'48"W	134.25'
L7	S71°10'25"E	338.49'	L15	N73°09'17"W	41.19'
L8	S16°57'12"W	122.71'	L16	N04°35'45"W	51.48'
			L17	N73°09'17"W	592.83'

LEGEND



INDICATES EASEMENT
1,565,341 SF
(35.935 AC)

P.O.C.

POINT OF
COMMENCEMENT

T.P.O.B.

TRUE POINT OF
BEGINNING



NOTE

BEARINGS AND DISTANCES DEPICTED HEREON ARE BASED ON RECORD INFORMATION IN TERMS OF R.O.S. VOL. 7, PG. 102 AND ARE NOT THE RESULT OF A BOUNDARY SURVEY

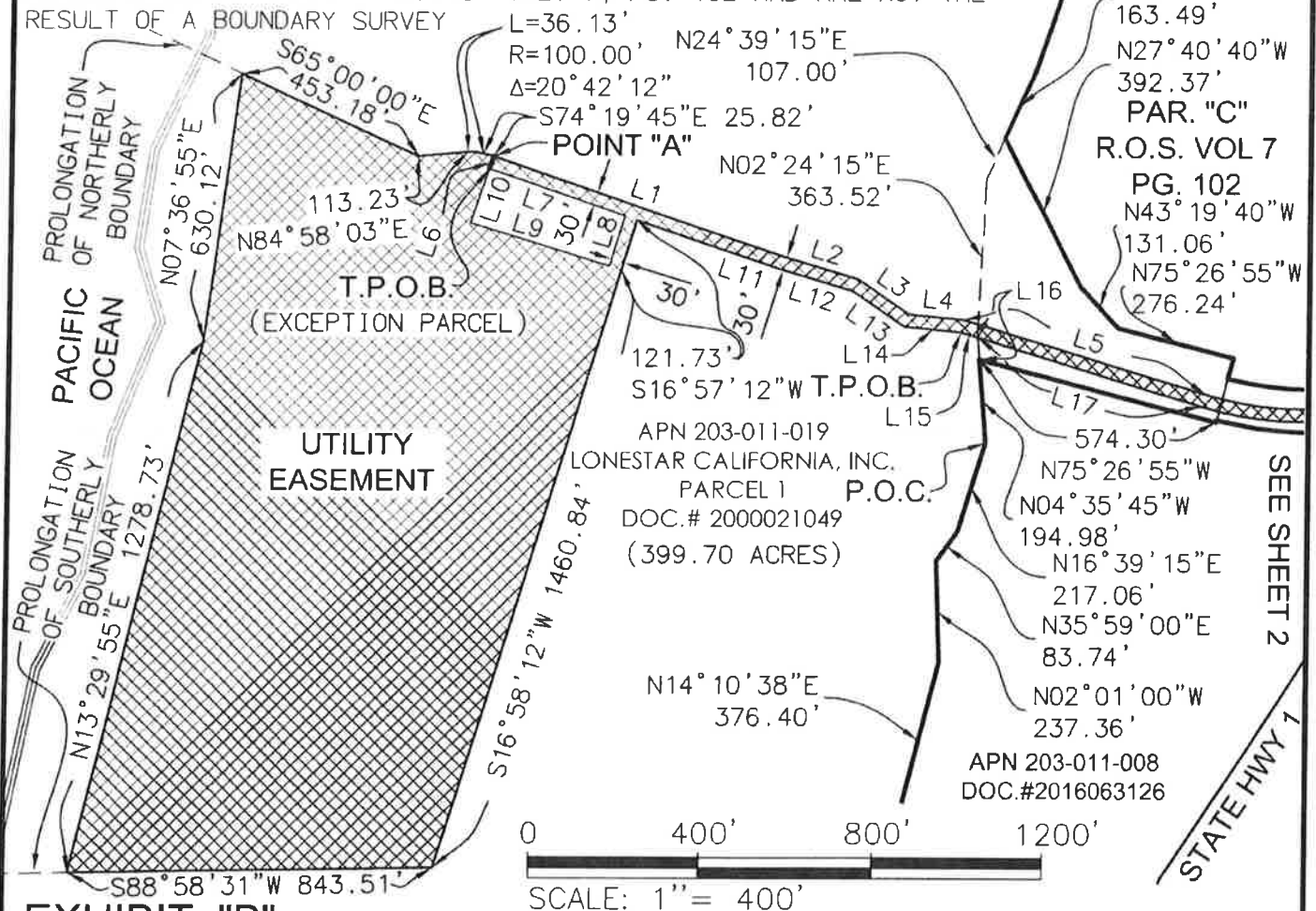


EXHIBIT "B"

SKETCH TO ACCOMPANY A LEGAL DESCRIPTION FOR:
UTILITY EASEMENT PORTION OF
MONTEREY CITY LANDS TRACT NO. 1
SEE EXHIBIT "A" FOR LEGAL DESCRIPTION
(APN BOOK 203, PAGE 01, PARCELS 16, 19, 20)
COUNTY OF MONTEREY, STATE OF CALIFORNIA

SHEET 1 OF 2 SHEETS
Michael Baker International
9755 Clairemont Mesa Blvd.,
San Diego, CA 9212
(858)614-5000

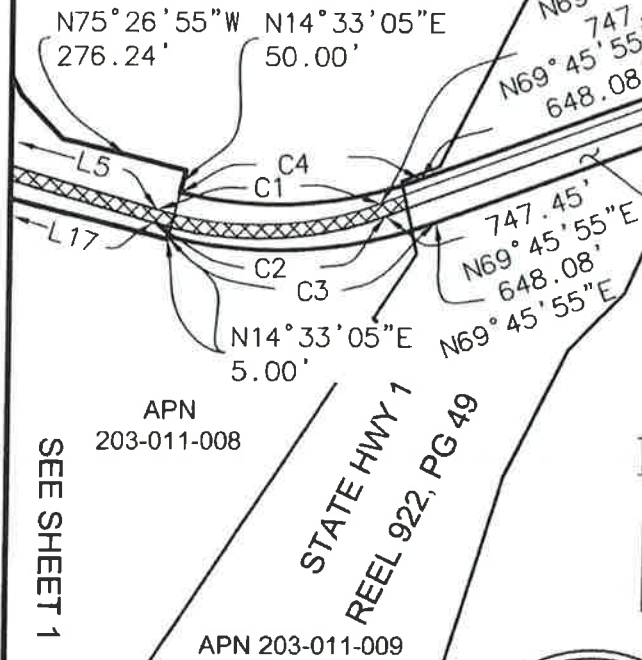
DATE: 05-15-18 JN 148903

EXHIBIT "B"

0 400' 800' 1200'
SCALE: 1" = 400'

LINE TABLE		
NO.	DIRECTION	LENGTH
L18	N13°00'23"E	70.33'
L19	N13°00'23"E	130.14'

APN 203-011-011
DOC. # 9775712
POR. PAR, "C"
R.O.S. VOL 7, PG. 102
(225.411 ACRES)



S86°35'23"W(R)
(R=868.64')

APN
203-011-010

S82°25'47"W(R)
(R=868.64')

S77°23'04"W(R)
C13(R=868.64')

S76°59'36"E(R)
(R=1146.01')

S70°57'33"W(R)
(R=868.64')

S72°54'15"E(R)
(R=1196.01')

APN 203-011-012

APN
203-011-016

REEL 930, PG 909
APN 203-011-017
PAR, "B"

R.O.S. VOL 7, PG. 102
(308.924 ACRES)
APN 203-011-021

APN
203-011-008

SEE SHEET 1

STATE HWY 1
REEL 922, PG 49

APN 203-011-009

PREPARED BY:



EXHIBIT "B"

SKETCH TO ACCOMPANY A LEGAL DESCRIPTION FOR:
UTILITY EASEMENT PORTION OF
MONTEREY CITY LANDS TRACT NO. 1

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION
(APN BOOK 203, PAGE 01, PARCELS 16, 19, 20)
COUNTY OF MONTEREY, STATE OF CALIFORNIA

CURVE TABLE

NO.	DELTA	RADIUS	LENGTH
C1	37°04'48"	770.00'	498.32'
C2	37°04'48"	800.00'	517.73'
C3	33°56'30"	1005.04'	595.38'
C4	33°50'55"	905.04'	534.67'
C6	04°09'36"	868.64'	63.07'
C7	05°02'43"	868.64'	76.49'
C8	06°25'31"	868.64'	97.41'
C9	56°45'32"	1096.01'	1085.74'
C10	56°45'32"	1116.01'	1105.55'
C11	56°45'31"	1146.01'	1135.27'
C12	52°40'10"	1196.01'	1099.44'
C13	15°37'50"	868.64'	236.97'

SHEET 2 OF 2 SHEETS
Michael Baker International
9755 Clairemont Mesa Blvd.,
San Diego, CA 9212
(858)614-5000

DATE: 05-15-18 JN 148903

EXHIBIT "C"

LEGAL DESCRIPTION

ACCESS EASEMENT

THAT PORTIONS OF THE MONTEREY CITY LANDS TRACT NO. 1 IN THE COUNTY OF MONTEREY, STATE OF CALIFORNIA DESCRIBED IN DEED TO LONESTAR CALIFORNIA INC. IN GRANT DEED RECORDED APRIL 3, 2000 AS DOCUMENT NO. 2000-021049 (HEREINAFTER REFERRED TO AS LONESTAR LAND). SAID LAND IS ALSO SHOWN AS A 399.70 ACRE PARCEL ON RECORD OF SURVEY VOLUME 7, PAGE 102 RECORDED OCTOBER 27, 1965 AS SERIAL NO. 95161, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERLY END OF COURSE (10) OF THE WESTERLY BOUNDARY LINE OF PARCEL "B" OF THE 308.924 ACRE PARCEL OF SAID RECORD OF SURVEY VOLUME 7, PAGE 102; THENCE ALONG SAID COURSE 10; NORTH 04°35'45" WEST, 194.98 FEET TO AN ANGLE POINT IN SAID PARCEL "B"; THENCE LEAVING SAID PARCEL "B" BOUNDARY, NORTH 04°35'45" WEST, 51.48 FEET; THENCE NORTH 73°09'17" WEST, 41.19 FEET; THENCE NORTH 84°17'48" WEST 134.25 FEET; THENCE NORTH 55°39'00" WEST 147.82 FEET; THENCE NORTH 73°02'48" WEST 169.21 FEET; THENCE NORTH 71°10'25" WEST 358.93 FEET; THENCE SOUTH 16°57'12" WEST 121.73 FEET; THENCE SOUTH 16°58'12" WEST 406.54 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE CONTINUING SOUTH 16°58'12" WEST 1,054.30 FEET; THENCE NORTH 88°58'31" EAST 52.57 FEET; THENCE NORTH 16°58'12" EAST 154.73 FEET; TO THE BEGINNING OF A TANGENT 50.00 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY, THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 87°30'20" AN ARC DISTANCE OF 76.36 FEET; TO THE BEGINNING OF A REVERSE 375.00 FOOT RADIUS CURVE, CONCAVE NORTHWESTERLY, THENCE EASTERLY NORTHEASTERLY AND NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 99°41'39" AN ARC DISTANCE OF 652.50 FEET TO A POINT HEREON REFERRED TO AS **POINT "A"**; SAID POINT ALSO BEING THE BEGINNING OF A REVERSE 210.00 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY, THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 38°10'34" AN ARC DISTANCE OF 139.92 FEET; THENCE NORTH 42°57'27" EAST 803.22 FEET TO A LINE THAT IS 20.00 FEET SOUTHERLY OF AND PARALLEL WITH THE THIRD AND FOURTH COURSES OF THIS DESCRIPTION; THENCE ALONG SAID PARALLEL THE FOLLOWING TWO COURSES NORTH 73°09'17" WEST 13.85 FEET; THENCE NORTH 84°17'48" WEST 47.19 FEET; THENCE LEAVING SAID PARALLEL LINE

SOUTH 42°57'27" WEST 768.56 FEET; TO THE BEGINNING OF A TANGENT 260.00 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY, THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°10'03" AN ARC DISTANCE OF 50.68 FEET; TO THE BEGINNING OF A REVERSE 50.00 FOOT RADIUS CURVE, CONCAVE NORTHERLY, THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 93°59'22" AN ARC DISTANCE OF 82.02 FEET; THENCE NORTH 54°13'14" WEST 267.93 FEET; TO THE BEGINNING OF A TANGENT 50.00 FOOT RADIUS CURVE, CONCAVE EASTERLY, THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 71°11'26" AN ARC DISTANCE OF 62.13 FEET; THENCE NORTH 16°58'12" EAST 169.54 FEET; THENCE NORTH 73°01'48" WEST 50.00 FEET TO THE **TRUE POINT OF BEGINNING**.

EXCEPTING THEREFROM ANY PORTION THEREOF LYING WITHIN THE FOLLOWING DESCRIBED PARCEL:

COMMENCING AT SAID **POINT "A"**; THENCE SOUTH 76°58'44" WEST 52.94 FEET; TO THE BEGINNING OF A NON-TANGENT 325.00 FOOT RADIUS CURVE, CONCAVE NORTHWESTERLY, THROUGH WHICH POINT A RADIAL LINE BEARS SOUTH 81°21'51" EAST; THENCE SOUTHWESTERLY AND WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 95°28'38" AN ARC DISTANCE OF 541.58 FEET; TO THE BEGINNING OF A 50.00 FOOT RADIUS COMPOUND CURVE, CONCAVE NORTHEASTERLY, THENCE NORTHWESTERLY AND NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 93°51'25" AN ARC DISTANCE OF 81.91 FEET; THENCE NORTH 16°58'12" EAST 405.11 FEET; TO THE BEGINNING OF A TANGENT 50.00 FOOT RADIUS CURVE, CONCAVE SOUTHERLY, THENCE NORTHEASTERLY, EASTERLY, AND SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 108°48'34" AN ARC DISTANCE OF 94.95 FEET; THENCE SOUTH 54°13'14" EAST 267.13 FEET; TO THE BEGINNING OF A TANGENT 50.00 FOOT RADIUS CURVE, CONCAVE SOUTHWESTERLY, THENCE SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 61°51'23" AN ARC DISTANCE OF 53.98 FEET TO THE **TRUE POINT OF BEGINNING**.

SEE EXHIBIT "D" ATTACHED HERETO AND THEREBY BEING MADE A PART HEREOF
CONTAINS 153,767 SQUARE FEET (3.530 ACRES) MORE OR LESS.


MARK D. MACFARLANE, P.L.S. 8960

05-15-18

DATE:



EXHIBIT "D"

LINE TABLE

NO.	DIRECTION	LENGTH	NO.	DIRECTION	LENGTH
L1	N04°35'45"W	51.48'	L8	S73°02'48"E	173.31'
L2	N73°09'17"W	41.19'	L9	S55°39'00"E	144.75'
L3	N84°17'48"W	134.25'	L10	S84°17'48"E	129.52'
L4	N55°39'00"W	147.82'	L11	S73°09'17"E	595.75'
L5	N73°02'48"W	169.21'			
L6	N71°10'25"W	358.93'			
L7	S71°10'25"E	726.94'			

LEGEND



INDICATES EASEMENT
153,767 SF
(3.530 AC)

P.O.C. POINT OF COMMENCEMENT

T.P.O.B. TRUE POINT OF BEGINNING



NOTE

BEARINGS AND DISTANCES DEPICTED HEREON ARE BASED ON RECORD INFORMATION IN TERMS OF R.O.S. VOL. 7, PG. 102 AND ARE NOT THE RESULT OF A BOUNDARY SURVEY

APN 203-011-019
LONESTAR CALIFORNIA, INC.
PARCEL 1
DOC.# 2000021049
(399.70 ACRES)

APN 203-011-011
DOC. # 9775712
N24°39'15"E
163.49'
N27°40'40"W
392.37'
PAR. "C"
R.O.S. VOL 7
PG. 102
N43°19'40"W
131.06'
N75°26'55"W
276.24'

SEE SHEET 2

STATE HWY 1

APN 203-011-008
DOC.#2016063126

SHEET 1 OF 2 SHEETS
Michael Baker International
9755 Clairemont Mesa Blvd.,
San Diego, CA 9212
(858)614-5000

DATE: 05-15-18 JN 148903

EXHIBIT "D"

SKETCH TO ACCOMPANY A LEGAL DESCRIPTION FOR:

**ACCESS EASEMENT PORTION OF
MONTEREY CITY LANDS TRACT NO. 1**

SEE EXHIBIT "C" FOR LEGAL DESCRIPTION
(APN BOOK 203, PAGE 01, PARCELS 16, 19, 20)
COUNTY OF MONTEREY, STATE OF CALIFORNIA

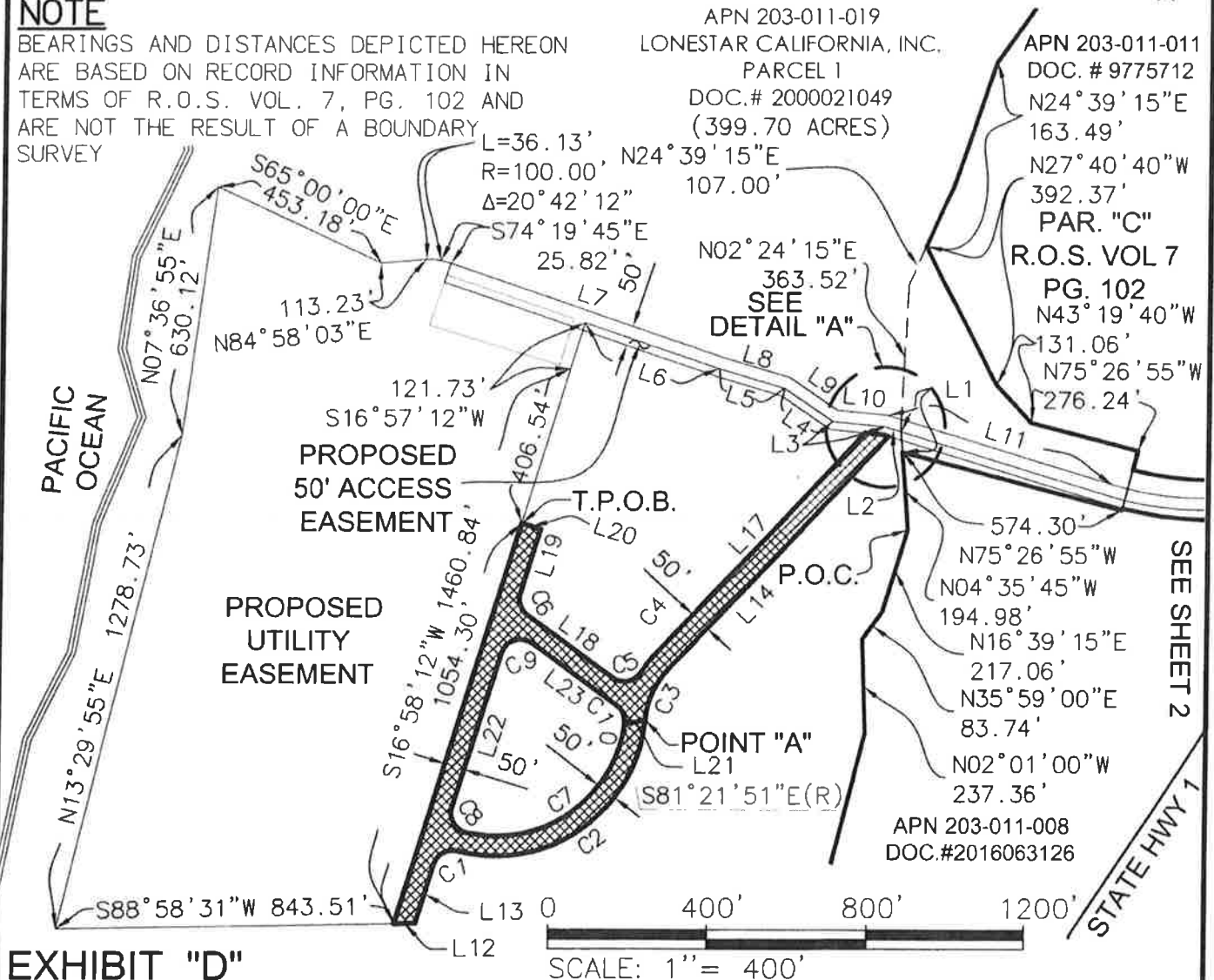
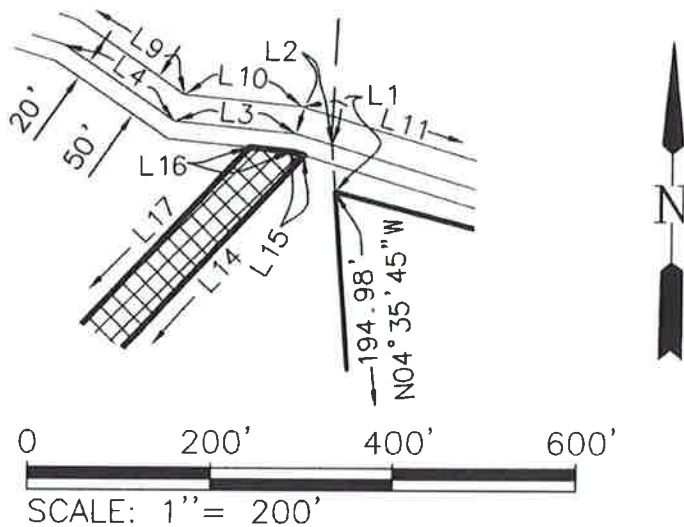


EXHIBIT "D"

DETAIL "A"



CURVE TABLE

NO.	DELTA	RADIUS	LENGTH
C1	87°30'20"	50.00'	76.36'
C2	99°41'39"	375.00'	652.50'
C3	38°10'34"	210.00'	139.92'
C4	11°10'03"	260.00'	50.68'
C5	93°59'22"	50.00'	82.02'
C6	71°11'26"	50.00'	62.13'
C7	95°28'38"	325.00'	541.58'
C8	93°51'25"	50.00'	81.91'
C9	108°48'34"	50.00'	94.95'
C10	61°51'23"	50.00'	53.98'

LINE TABLE

NO.	DIRECTION	LENGTH
L12	N88°58'31"E	52.57'
L13	N16°58'12"E	154.73'
L14	N42°57'27"E	803.22'
L15	N73°09'17"W	13.85'
L16	N84°17'48"W	47.19'
L17	S42°57'27"W	768.56'
L18	N54°13'14"W	267.93'
L19	N16°58'12"E	169.54'
L20	N73°01'48"W	50.00'
L21	S76°58'44"W	52.94'
L22	N16°58'12"E	405.11'
L23	S54°13'14"E	267.13'

PREPARED BY:


MARK D. MACFARLANE, PLS 8960



EXHIBIT "D"

SKETCH TO ACCOMPANY A LEGAL DESCRIPTION FOR:

**ACCESS EASEMENT PORTION OF
MONTEREY CITY LANDS TRACT NO. 1**

SEE EXHIBIT "C" FOR LEGAL DESCRIPTION

(APN BOOK 203, PAGE 01, PARCELS 16, 19, 20)
COUNTY OF MONTEREY, STATE OF CALIFORNIA

SHEET 2 OF 2 SHEETS
Michael Baker International
9755 Clairemont Mesa Blvd.,
San Diego, CA 9212
(858)614-5000

DATE: 05-15-18 JN 148903

EXHIBIT "E"
LEGAL DESCRIPTION
ACCESS EASEMENT

THOSE PORTIONS OF THE MONTEREY CITY LANDS TRACT NO. 1 IN THE COUNTY OF MONTEREY, STATE OF CALIFORNIA DESCRIBED IN DEED TO LONESTAR CALIFORNIA INC. IN GRANT DEED RECORDED APRIL 3, 2000 AS DOCUMENT NO. 2000-021049 (HEREINAFTER REFERRED TO AS LONESTAR LAND). SAID LAND IS ALSO SHOWN AS A 399.70 ACRE PARCEL ON RECORD OF SURVEY VOLUME 7, PAGE 102 RECORDED OCTOBER 27, 1965 AS SERIAL NO. 95161, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION BEING A STRIP OF LAND 50.00 FEET IN WIDTH LYING SOUTHERLY OF AND PARALLEL WITH THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE SOUTHERLY END OF COURSE (10) OF THE WESTERLY BOUNDARY LINE OF PARCEL "B" OF THE 308.924 ACRE PARCEL OF SAID RECORD OF SURVEY VOLUME 7, PAGE 102; THENCE ALONG SAID COURSE 10; NORTH 04°35'45" WEST, 194.98 FEET TO AN ANGLE POINT IN SAID PARCEL "B"; THENCE LEAVING SAID PARCEL "B" BOUNDARY, NORTH 04°35'45" WEST, 51.48 FEET; THENCE NORTH 73°09'17" WEST, 41.19 FEET; THENCE NORTH 84°17'48" WEST 134.25 FEET; THENCE NORTH 55°39'00" WEST 147.82 FEET; THENCE NORTH 73°02'48" WEST 169.21 FEET; THENCE NORTH 71°10'25" WEST 358.93 FEET; THENCE SOUTH 16°57'12" WEST 121.73 FEET; THENCE SOUTH 16°58'12" WEST 1,460.84 FEET; THENCE SOUTH 88°58'31" WEST 843.51 FEET; THENCE NORTH 13°29'55" EAST 1,278.73 FEET; THENCE NORTH 07°36'55" EAST 630.12 FEET; THENCE SOUTH 65°00'00" EAST 453.18 FEET; THENCE NORTH 84°58'03" EAST 113.23 FEET TO THE BEGINNING OF A TANGENT 100.00 FOOT RADIUS CURVE, CONCAVE SOUTHERLY, THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 20°42'12" AN ARC DISTANCE OF 36.13 FEET; THENCE SOUTH 74°19'45" EAST 25.82 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE SOUTH 71°10'25" EAST 726.94 FEET; THENCE SOUTH 73°02'48" EAST 173.31 FEET; THENCE SOUTH 55°39'00" EAST 144.75 FEET; THENCE SOUTH 84°17'48" EAST 129.52 FEET; THENCE SOUTH 73°09'17" EAST 595.75 FEET, TO THE BEGINNING OF A TANGENT 770.00 FOOT RADIUS CURVE, CONCAVE NORTHERLY, THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°04'48" AN ARC DISTANCE OF 498.32 FEET; THENCE NORTH 69°45'55" EAST 747.45 FEET, TO THE BEGINNING OF A TANGENT 1,116.01 FOOT RADIUS CURVE, CONCAVE NORTHWESTERLY, THENCE NORTHEASTERLY AND NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 56°45'32" AN ARC DISTANCE OF 1,105.55 FEET; THENCE NORTH 13°00'23" EAST 70.33 FEET TO THE WESTERLY RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD 100.00 FOOT RIGHT OF WAY AND THE **POINT OF TERMINUS**.

EXCEPTING THEREFROM ANY PORTION THEREOF LYING WITHIN SAID SOUTHERN PACIFIC RAILROAD 100.00 FOOT RIGHT OF WAY.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF LYING WITHIN THAT PORTION OF LAND GRANTED TO THE STATE OF CALIFORNIA BY DEED RECORDED AUGUST 19, 1974 ON REEL 930, PAGE 909 OFFICIAL RECORDS OF MONTEREY COUNTY RECORDS.

SEE EXHIBIT "F" ATTACHED HERETO AND THEREBY BEING MADE A PART HEREOF
CONTAINS 164,806 SQUARE FEET (3.783 ACRES) MORE OR LESS.



MARK D. MACFARLANE, P.L.S. 8960

05-15-18

DATE:



EXHIBIT "F"

LINE TABLE

NO.	DIRECTION	LENGTH	NO.	DIRECTION	LENGTH
L1	N04°35'45"W	51.48'	L8	S73°02'48"E	173.31'
L2	N73°09'17"W	41.19'	L9	S55°39'00"E	144.75'
L3	N84°17'48"W	134.25'	L10	S84°17'48"E	129.52'
L4	N55°39'00"W	147.82'	L11	S73°09'17"E	595.75'
L5	N73°02'48"W	169.21'	L12	N13°00'23"E	70.33'
L6	N71°10'25"W	358.93'	L13	N13°00'23"E	130.14'
L7	S71°10'25"E	726.94'			

LEGEND



INDICATES EASEMENT
164,806 SF
(3.783 AC)

P.O.C. POINT OF COMMENCEMENT

T.P.O.B. TRUE POINT OF BEGINNING



NOTE

BEARINGS AND DISTANCES DEPICTED HEREON ARE BASED ON RECORD INFORMATION IN TERMS OF R.O.S. VOL. 7, PG. 102 AND ARE NOT THE RESULT OF A BOUNDARY SURVEY

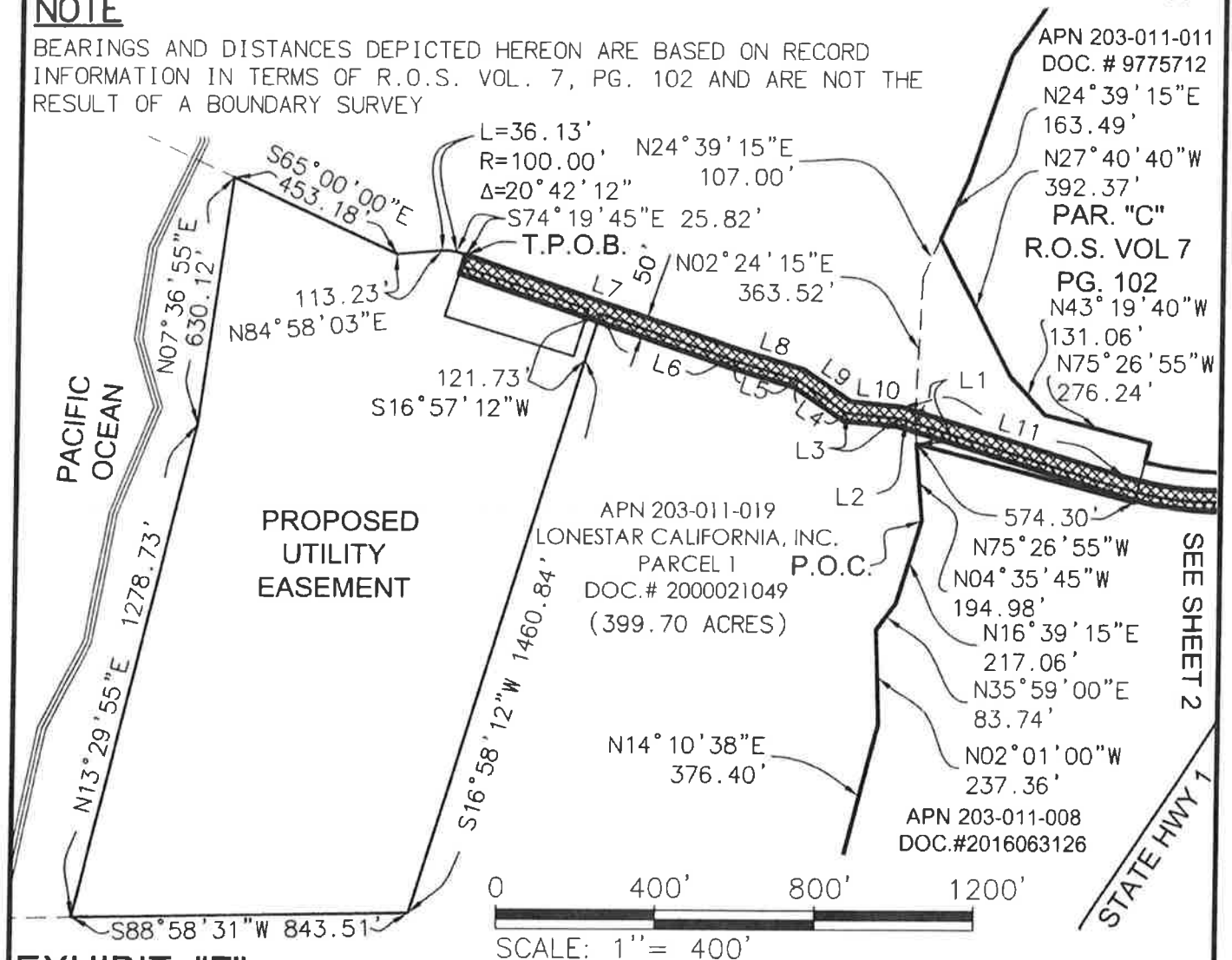


EXHIBIT "F"

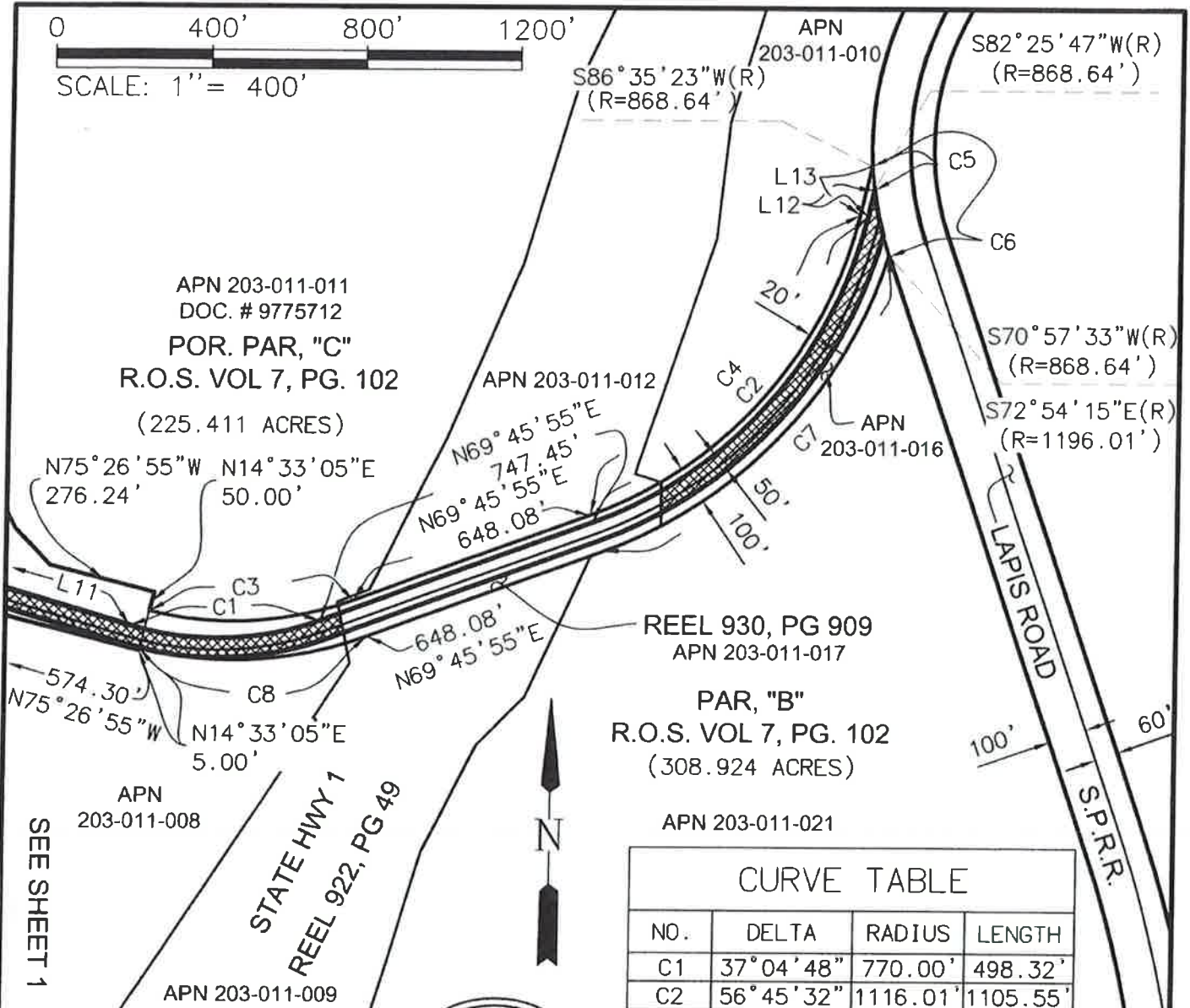
SKETCH TO ACCOMPANY A LEGAL DESCRIPTION FOR:
ACCESS EASEMENT PORTION OF
MONTEREY CITY LANDS TRACT NO. 1
SEE EXHIBIT "E" FOR LEGAL DESCRIPTION
(APN BOOK 203, PAGE 01, PARCELS 16, 19, 20)
COUNTY OF MONTEREY, STATE OF CALIFORNIA

SHEET 1 OF 2 SHEETS
Michael Baker International
9755 Clairemont Mesa Blvd.,
San Diego, CA 9212
(858)614-5000

DATE: 05-15-18 JN 148903

EXHIBIT "F"

0 400' 800' 1200'
SCALE: 1" = 400'



CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	37°04'48"	770.00'	498.32'
C2	56°45'32"	1116.01'	1105.55'
C3	33°50'55"	905.04'	534.67'
C4	56°45'32"	1096.01'	1085.74'
C5	04°09'36"	868.64'	63.07'
C6	15°37'50"	868.64'	236.97'
C7	52°40'10"	1196.01'	1099.44'
C8	33°56'30"	1005.04'	595.38'

PREPARED BY:

MARK D. MACFARLANE, PLS 8960



EXHIBIT "F"

SKETCH TO ACCOMPANY A LEGAL DESCRIPTION FOR:
**ACCESS EASEMENT PORTION OF
MONTEREY CITY LANDS TRACT NO. 1**
SEE EXHIBIT "E" FOR LEGAL DESCRIPTION
(APN BOOK 203, PAGE 01, PARCELS 16, 19, 20)
COUNTY OF MONTEREY, STATE OF CALIFORNIA

SHEET 2 OF 2 SHEETS
Michael Baker International
9755 Clairemont Mesa Blvd.,
San Diego, CA 9212
(858)614-5000

DATE: 05-15-18 JN 148903

Exhibit G

{See attached conversion and merger documents.}

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT
COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"LONE STAR CALIFORNIA, INC.", A DELAWARE CORPORATION,
WITH AND INTO "RMC PACIFIC MATERIALS, INC." UNDER THE NAME
OF "RMC PACIFIC MATERIALS, INC.", A CORPORATION ORGANIZED AND
EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED
AND FILED IN THIS OFFICE THE TWENTY-EIGHTH DAY OF DECEMBER, A.D.
2009, AT 4:18 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF
THE AFORESAID CERTIFICATE OF MERGER IS THE THIRTY-FIRST DAY OF
DECEMBER, A.D. 2009, AT 12:45 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE
NEW CASTLE COUNTY RECORDER OF DEEDS.

2961643 8100M

091141039

You may verify this certificate online
at corp.delaware.gov/authver.shtml




Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 7726846

DATE: 12-29-09

CERTIFICATE OF MERGER

MERGING

LONE STAR CALIFORNIA, INC.

(a Delaware corporation)

INTO

RMC PACIFIC MATERIALS, INC.

(a Delaware corporation)

The undersigned corporation, duly organized under and by virtue of the General Corporation Law of the State of Delaware (the "*General Corporation Law*"), does hereby certify that:

FIRST: The name and jurisdiction of incorporation of each of the constituent corporations in the merger are as follows:

<u>Name</u>	<u>State</u>
RMC PACIFIC MATERIALS, INC.	Delaware
Lone Star California, Inc.	Delaware

SECOND: An Agreement of Merger, dated as of December 18, 2009 (the "*Agreement of Merger*"), by and between Lone Star California, Inc. and RMC PACIFIC MATERIALS, INC. ("*Acquiring Company*") has been approved, adopted, executed and acknowledged by each of the constituent corporations in accordance with the requirements of Section 251 and by the unanimous written consent of their respective stockholders in accordance with Section 228 of the General Corporation Law.

THIRD: The name of the surviving corporation is RMC PACIFIC MATERIALS, INC. (the "*Surviving Company*").

FOURTH: The certificate of incorporation of Acquiring Company as in effect immediately prior to the effective time of the merger shall be, from and after the effective time of the merger, the certificate of incorporation of the Surviving Company.

FIFTH: The merger shall be effective at 12:45 p.m. EST on December 31, 2009.

SIXTH: The executed Agreement of Merger is on file at the principal place of business of the Surviving Company. The address of the principal place of business of the Surviving Company is 920 Memorial City Way, Suite 100, Houston, Texas 77024.

SEVENTH: A copy of the Agreement of Merger will be furnished by the Surviving Company on request and without cost, to any stockholder of any constituent corporation:

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has caused this Certificate of Merger to be
duly executed in its name this 18 day of December, 2009.

RMC PACIFIC MATERIALS, INC., a
Delaware corporation

By: Leslie S. White
Name: Leslie S. White
Title: General Counsel and Assistant
Secretary

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF CONVERSION OF A DELAWARE CORPORATION UNDER THE NAME OF "RMC PACIFIC MATERIALS, INC." TO A DELAWARE LIMITED LIABILITY COMPANY, CHANGING ITS NAME FROM "RMC PACIFIC MATERIALS, INC." TO "RMC PACIFIC MATERIALS, LLC", FILED IN THIS OFFICE ON THE NINETEENTH DAY OF DECEMBER, A.D. 2012, AT 3:20 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF CONVERSION IS THE THIRTY-FIRST DAY OF DECEMBER, A.D. 2012, AT 11:59 O'CLOCK P.M.

2961643 8100V

121365247



You may verify this certificate online
at corp.delaware.gov/authver.shtml


Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 0092976

DATE: 12-21-12

**CERTIFICATE OF CONVERSION TO LIMITED LIABILITY COMPANY
OF**

RMC PACIFIC MATERIALS, INC.

(a Delaware corporation)

TO

RMC PACIFIC MATERIALS, LLC

(a Delaware limited liability company)

(Under Section 18 of the Delaware Limited Liability Company Act)

This Certificate of Conversion to Limited Liability Company, dated as of December 14, 2012 (the "Certificate"), is being duly executed and filed by MIKE F Egan, as an authorized person of RMC Pacific Materials, LLC, a Delaware limited liability company (the "LLC"), to convert RMC Pacific Materials, Inc., a Delaware corporation (the "Corporation"), to the LLC, under the General Corporation Laws of the State of Delaware and the Delaware Limited Liability Company Act, 6 Del. C. sections 18-101, et seq. (the "Act").

1. The Corporation was originally incorporated as a Delaware corporation under the name "RMC Pacific Materials, Inc." by filing of its Certificate of Incorporation on December 17, 1998 with the Secretary of State of the State of Delaware, and continued to be incorporated under the laws of the State of Delaware immediately prior to the filing of this Certificate.

2. The Corporation's name immediately prior to filing this Certificate was "RMC Pacific Materials, Inc."

3. The name of the Delaware limited liability company into which the Corporation shall be converted as set forth in the certificate of formation as filed in accordance with Section 18-214(b) of the Act is "RMC Pacific Materials, LLC".

4. The conversion of the Corporation to the LLC shall be effective at 11:59 p.m. EST on December 31, 2012.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of December
14, 2012.

md-7 Egan
Name: md-7 Egan
Authorized Person

Delaware

PAGE 2

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND CORRECT COPY OF CERTIFICATE OF FORMATION OF "RMC PACIFIC MATERIALS, LLC" FILED IN THIS OFFICE ON THE NINETEENTH DAY OF DECEMBER, A.D. 2012, AT 3:20 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF FORMATION IS THE THIRTY-FIRST DAY OF DECEMBER, A.D. 2012, AT 11:59 O'CLOCK P.M.



2961643 8100V

121365247

You may verify this certificate online
at corp.delaware.gov/authver.shtml


Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 0092976

DATE: 12-21-12

CERTIFICATE OF FORMATION

OF

RMC PACIFIC MATERIALS, LLC

This Certificate of Formation of RMC Pacific Materials, LLC (the "Company"), dated as of December 14, 2012, is being duly executed and filed by Mike F. Egan, as an authorized person, to form a limited liability company under the Delaware Limited Liability Company Act, 6 Del. C. §§ 18-101 *et seq.*

1. Name. The name of the limited liability company formed hereby is RMC Pacific Materials, LLC.

2. Registered Office. The address of the registered office of the Company in the State of Delaware is Corporate Creations Network Inc., 3411 Silverside Road, Rodney Building No. 104, Wilmington, New Castle County, Delaware 19810.

3. Registered Agent. The name and address of the registered agent for service of process on the Company in the State of Delaware is Corporate Creations Network Inc., 3411 Silverside Road, Rodney Building No. 104, Wilmington, New Castle County, Delaware 19810.

4. Effective Date. The Certificate of formation of the Company shall be effective at 11:59 p.m. EST on December 31, 2012.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation as of the date first written above.

Mike F. Egan
Name: Mike F. Egan
Title: Authorized Person

EXHIBIT C

RESOLUTION NO. 2017-97

ACCEPTING GRANT AWARD FROM THE CALIFORNIA COASTAL COMMISSION, LOCAL COASTAL PROGRAM ASSISTANCE GRANT TO FUND A COMPREHENSIVE UPDATE TO THE CITY OF MARINA LOCAL COASTAL PROGRAM (LCP); AUTHORIZING RELEASE OF A REQUEST FOR PROPOSALS FOR CONSULTANT SERVICES TO PREPARE THE UPDATE TO THE LCP; AUTHORIZING THE FINANCE DIRECTOR TO MAKE NECESSARY ACCOUNTING AND BUDGETARY ENTRIES; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

WHEREAS, the Budget Act of 2016 provides \$550,000 for Coastal Commission grant in FY 16-17 to local governments to support Local Coastal Program (LCP) planning, and;

WHEREAS, the California Coastal Commission (CCC), under the authority of the California Coastal Act, may provide financial assistance to support coastal planning and has approved a competitive grant program to provide such financial assistance for LCP planning; and

WHEREAS, the goal of the grant program is to develop new or updated LCPs in conformance with the California Coastal Act and to reflect current circumstances and new scientific information, including new understandings and concern for the effects of climate change, and

WHEREAS, grant proposals submitted under this grant program must complete land use plan and/or zoning work to either achieve submittal for certification of a Local Coastal Program (LCP) or an Area of Deferred Certification (ADC) or of an LCP Amendment to significantly update a certified LCP or LCP segments, including with special emphasis on effects of climate change and sea-level rise; and,

WHEREAS, the City of Marina, has an effectively certified LCP; and

WHEREAS, the City of Marina, desires to pursue a project that would result in the completion and submittal for certification by the CCC of an Amendment to update the LCP; and,

WHEREAS, at a regular meeting on June 6, 2017, the City Council adopted Resolution No. 2017-51 directing staff to submit an application to the CCC for a Local Coastal Program Assistance Grant to fund a comprehensive update to the City of Marina LCP; and,

WHEREAS, to complete the update, \$300,000 was requested from this year's CCC grant program. In addition, the City offered \$75,000 in in-kind services for staff time and materials for project management and outreach. The total cost of the update was estimated at \$375,000; and,

WHEREAS, due to limited available funds and the number of qualified grant applicants, the City of Marina was awarded \$85,685 by the CCC on August 9, 2017 to prepare an abbreviated LCP update that includes vulnerability and risk assessment and adaptation report to address the effects that sea level rise could have on coastal resources along the shoreline of Marina. The City will continue to offer \$50,000 in in-kind services as well as up to \$25,000 in matching funds that is included in the FY 2017-18 budget; and,

WHEREAS, in order to complete the LCP update, the City will hire a qualified consultant to provide significant assistance in the preparation for and hosting of workshops; the preparation of the vulnerability assessment and development of adaptation strategies reports; and updating the LCP. 100% of the grant funding and up to a maximum of \$25,000 from the General Fund will provide the necessary funds to hire the consultant and complete the update; and,

WHEREAS, the City of Marina commits to and agrees to fully support a planning effort intended to update a certified LCP pursuant to the provisions of the California Coastal Act, with full public participation and coordination with the Coastal Commission staff; and,

WHEREAS, the City of Marina determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Marina hereby:

1. Accepts a grant award from the California Coastal Commission, Local Coastal Program Assistance Grant to in the amount of \$85,685 to fund an update to the City of Marina Local Coastal Program (LCP) ("**EXHIBIT A**");
2. Authorizing release of a Request for Proposals for Consultant Services to prepare the update to the LCP ("**EXHIBIT B**"); and authorizing the Finance Director to make necessary budget and accounting entries; and,
3. Authorizing the City Manager to execute agreement on behalf of the City subject to final review and approval by the City Attorney.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7th day of November 2017, by the following vote:

AYES, COUNCIL MEMBERS: Amadeo, Morton, O'Connell, Brown, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105- 2219
VOICE AND TDD (415) 904- 5200
FAX (415) 904- 5400

August 17, 2017

Christy Hopper
211 Hillcrest Ave.
Marina, CA 93933

Dear Ms. Hopper,

On August 9, 2017, the Coastal Commission voted to award a Local Coastal Program Local Assistance Grant to the City of Marina in the amount of \$85,685. Congratulations on successfully receiving funding in this very competitive process. This LCP planning work is of the highest priority for the Coastal Commission, and Commission staff is ready to work with you on your project.

To execute the grant agreement, your grant application now needs to be revised to reflect the general and special conditions of approval of your award. This letter contains those conditions as well as a template work program.

AWARD CONDITIONS

This award was adopted with both general conditions and special conditions, which can be reviewed in detail in the Commission-approved recommendation at:

<https://www.coastal.ca.gov/meetings/agenda/#/2017/8>. (Click on item #6g.)

The general conditions of approval of the grant awards include the following:

1. Prior to the Executive Director's determination and reporting of certification pursuant to Section 13544 of the California Code of Regulations of a grant-funded LCP project, grantees shall submit LCP documents and maps in both paper and editable digital format to the Coastal Commission.
2. Grantees shall use the Coastal Commission's [Sea Level Rise Policy Guidance document](#), and any other available Commission guidance related to sea level rise, to inform the development of Sea Level Rise impact assessments, vulnerability assessments, and LCP Land Use Plan and Implementation Plan completion or updates.
3. In addition to the general recommendations contained within the Coastal Commission's Sea Level Rise Policy Guidance, Vulnerability Assessments shall include: (1) storm and non-storm scenarios, including maximum daily and annual tidal inundation, (2) assessment of sea level rise vulnerability with and without key development that is currently vulnerable and/or protected by a revetment, such as Highway 1, railroad tracks, and/or a row of residences, (3) anticipated changes in beach width under future sea level rise scenarios, (4) evaluation of the feasibility and effectiveness of sediment management and beach nourishment, and (5) evaluation of sea level rise vulnerability of existing and

planned segments of the California Coastal Trail (6) incorporate the subject of environmental justice by, to the extent feasible, analyzing the differential impacts of sea level rise upon various demographics and community groups, and (7) consider the latest reports on sea level rise science and recommendations from the state of California, including *Rising Seas in California* (Griggs et al. 2017)¹ and the most recently adopted update to the State Sea Level Rise Guidance. These scenarios and topics should be modelled or quantitatively analyzed where feasible and applicable, or at a minimum thoroughly discussed in a qualitative manner.

4. Sea Level Rise work completed under the grant program shall be coordinated regionally to the extent feasible with other jurisdictions and entities working on sea level rise projects within the same county or broader regional area relevant for sea level rise adaptation, such as the watershed, littoral cell, or area with similar geologic characteristics. Entities working on sea level rise projects include the State Coastal Conservancy, the Ocean Protection Council, The Nature Conservancy, NOAA, and USGS. Coordination includes early coordination meetings among the different entities, sharing of technical analyses and lessons learned, and consideration of regional adaptation policies.
5. Grant-funded work shall be guided by the [Safeguarding California Plan for Reducing Climate Risk](#)'s recommended climate change preparedness actions and principles,² as listed below and as described in the adopted [2014 Ocean Protection Council Resolution](#) to support implementation of the *Safeguarding Plan*³. The *Plan* states that projects or programs implemented with state funds should:
 - Encourage innovative design of new structures and infrastructure in areas vulnerable to sea level rise, storms, and erosion and priority should be given to green or nature-based solutions that use natural processes and habitats to reduce risk from flooding and erosion;
 - Reduce risk from climate impacts to the coast and ocean, by implementing the *Safeguarding Plan*'s recommendation to incorporate climate risk considerations into all relevant decision-making, including related to infrastructure, in such a way that it:
 - Encourages iterative approaches;
 - Protects California's most vulnerable populations;
 - Achieves multiple benefits from efforts to reduce climate risks and prioritizes green infrastructure solutions;
 - Integrates climate risk reduction with emissions reductions to the fullest extent possible; and

¹ California Ocean Protection Council Science Advisory Team Working Group 2017. Available: <http://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-an-update-on-sea-level-rise-science.pdf>
Accessed 28 July 2017.

² California Natural Resources Agency 2014. Available: http://resources.ca.gov/docs/climate/Final_Safeguarding_CA_Plan_July_31_2014.pdf.
Accessed 27 July 2017.

³ Ocean Protection Council 2014. Available: http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20140827/Item5_OPC_Aug2014_Exhibit_1_Safeguarding_Resolution_ADOPTED.pdf.
Accessed 27 July 2017.

- Develops metrics and indicators to track progress on efforts to reduce climate risk.
 - Adhere to the *Safeguarding Plan* principles:
 - Use the best available science to identify risks and adaptation strategies;
 - Understand that an effective strategy for preparing for climate risks should evolve as new information is available;
 - Involve all relevant stakeholders;
 - Establish and maintain strong partnerships across all levels of government, tribes, businesses, landowners, and non-governmental organizations;
 - Give priority to strategies that also achieve benefits other than climate risk reduction benefits, including additional benefits to public health, the economy, environmental justice, and conservation of natural resources; and
 - Ensure that strategies to reduce climate risk are coordinated, to the extent possible, with the state's efforts to reduce GHG emissions and other local, national and international efforts.
6. Work programs shall be revised to ensure there is sufficient time for coordination with Commission staff on each deliverable, including time for review and comment by Commission staff, and time for grantees to revise deliverables where necessary. For major deliverables, there shall be sufficient time for multiple rounds of review and revision. Such coordination shall take place prior to public release of the deliverable.
 7. Work programs shall be revised to exclude any and all work that has been funded through previously awarded grants or the matching funds identified through previously awarded grants. Such grants include, but are not limited to, Coastal Commission LCP Grants awarded through Round 1, Round 2 and Round 3, grants awarded by the Ocean Protection Council, and grants awarded by the State Coastal Conservancy.
 8. State Coastal Conservancy funding shall be acknowledged in all written or published materials related to the grant program, in a manner approved by the Executive Director.
 9. For grant projects that do not include certification of proposed LCP planning work, work programs shall be revised to include a description of the future steps that will be taken to achieve certification after grant work is complete.
 10. All interested members of the public, including visitors and other non-residents, shall have opportunities to meaningfully engage in policy development, technical studies, and other tasks conducted pursuant to the grant work program. All public outreach activities related to the work program shall, to the maximum extent feasible, proactively engage those who already face disproportionate environmental burdens or vulnerabilities to environmental hazards, and/or those who come from communities of existing social

Round 3 California Coastal Commission LCP Grant Program

inequalities, including members of the public and organizations from the following communities: disadvantaged communities, communities of color and/or low income, communities with low capacity to adapt to climate change, and communities not in close proximity to the shoreline but who visit and recreate there. Outreach activities shall seek to provide maximum opportunities for these groups to engage with and provide input on the tasks of the work program.

The special conditions attached to your award include the following. Again, please consult the Commission-approved staff recommendation for additional information.

By September 15, 2017, the grantee shall submit a revised work program and budget for review and approval by the Executive Director that reflects an award of \$85,685 and includes the necessary detail to complete execution of the grant agreement consistent with the terms and conditions of the approval. Task 2, "Identify Existing Conditions, Issues" shall rely on the available sea level rise tools and existing vulnerability assessment work that has been completed for the Monterey Bay Region, and the associated budget shall be revised to reflect the availability of these resources.

NEXT STEPS

We now need to prepare a grant agreement for you. In order to do so, please submit the following information in .docx format (please do not submit PDFs):

- **A revised work program, timeline, and budget for the project, reflecting the conditions listed above, and with the necessary detail to complete grant agreement execution.** Please provide the information via e-mail to Kelsey Ducklow at kelsey.ducklow@coastal.ca.gov by **Thursday, September 15, 2017.**
- For any identified consultants, please include the names of the consultants and a copy of the scope of work and budget for each consultant. All consultants must be selected pursuant to a bidding and procurement process that complies with all applicable laws.

Please see the attached work program template. In cases where modifications are not needed, you can copy the work program, timeline, and budget directly from your grant application. The budget should clearly show which tasks or portions of tasks the LCP grant funds will be supporting. Please note that all items invoiced must correspond to a line item in the budget and work program.

There are several important aspects to remember about the grant process:

1. **Please do not begin incurring costs that will be charged to this grant before the date of execution of the grant agreement. This is the date that the grant agreement is signed by both parties.**
2. As stated in Grant Administration Section of the LCP Grants Staff Report, funds will only be provided on a reimbursement basis for expenses already incurred. The Coastal Commission can only reimburse expenses that are incurred after the start date of the grant agreement, and that have adequate documentation accompanying the invoice. In addition,

Round 3 California Coastal Commission LCP Grant Program

the Commission can only reimburse invoices from the local jurisdiction as indicated on the grant agreement, not an individual person or private entity.

3. All funded tasks should be completed by December 31, 2019.

Detailed invoicing instructions will be included in your grant agreement ("Exhibit B – Budget" section).

Please do not hesitate to contact me at (415) 904-2335 if you have any questions, either now or in the future as your project progresses. I look forward to working with you.

Sincerely,

Kelsey Ducklow,
LCP Grant Coordinator

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

Work Program and Budget Template

[Name of local government] – *Note that the name of the local government will be used throughout the grant agreement and will be the name that the State Controller uses when issuing checks*

[Name of project]

Grantee Contact Information

Person Authorized to sign grant agreement and any amendments:

[Name]

[Address]

[Telephone | Email]

Main Project Manager/Point of Contact:

[Name]

[Address]

[Telephone | Email]

Federal Employer Identification Number: *[FEIN]*

Budget Summary:

CCC funding: *[xx]*

Other funding: *[xx]*

Total project cost: *[xx]*

Term of Project: *[start date – end date]*

A. PROJECT DESCRIPTION *[brief paragraph on what will be accomplished]*

B. TASKS *[narrative description of each task and subtask, including deliverables. All deliverables listed here must match the deliverables listed in Section C, below. You may attach portions of your application as applicable]*

Round 3 California Coastal Commission LCP Grant Program

- C. **SCHEDULE** *[begin/end dates by task, including deliverables. This can be copied directly from the application and modified as needed. Specify dates for interim drafts as well as final deliverables as applicable (e.g., draft vulnerability assessment, final vulnerability assessment; administrative draft LUP, public review draft LUP)]*

Project start/end dates:

Task 1. Title	Begin date:	End Date:
1.1 Subtask Name	Begin date:	End Date:
1.2 Subtask Name	Begin date:	End Date:
Outcome/Deliverables	Completion Date:	
Task 2. Title	Begin date:	End Date:
2.1 Subtask Name	Begin date:	End Date:
2.2 Subtask Name	Begin date:	End Date:
Outcome/Deliverables	Complete Date:	
....Continue for all required Tasks		

- D. **BENCHMARK SCHEDULE** *[Please include a list of benchmarks, or milestones, with completion date, that can be used to track whether the project is progressing according to the schedule. This can be copied directly from the application and modified as needed.]*

BENCHMARK SCHEDULE

ACTIVITY	COMPLETION DATE
	Completion Date:
	Completion Date:
	Completion Date:
	Completion Date:
	Completion Date:
	Completion Date:

Round 3 California Coastal Commission LCP Grant Program

- E. BUDGET** [Please include a task-by-task budget for both county/city staff labor and for consultants. Budget detail on sub-tasks is not necessary. Note that consultant costs must be listed by task and include all costs relating to consultant labor, travel, supplies, overhead etc. If consultants will be hired at a later date, please include a budget estimate per task that can be updated after hiring the consultants]

	CCC Grant Total	Match/ Other Funds (Source #1)	Match/ Other Funds (Source #2)	Total (LCP Grant Funds + Match/ Other Funds)
LABOR COSTS⁴				
County/City Staff Labor				
Task 1 – Task name				
Task 2 – Task name				
Task 3 – Task name				
Task 4 – Task name				
Task 5 – Task name, etc.				
Total Labor Costs				
DIRECT COSTS				
County/City Staff Project Supplies				
A				
B, etc.				
Total				
County/City Staff Travel In State⁵				
Mileage				
Hotel, etc.				
Total				
Consultants⁶				
Consultant A				
Task 1 – Task 1 Name				
Task 2 – Task 2 Name				
Task 3 – Task 3 Name				
Consultant B, etc.				
Task 1 – Task 1 Name				
Task 2 – Task 2 Name				
Task 3 – Task 3 Name				
Total				
Total Direct Costs				

⁴ Amount requested should include total for salary and benefits.

⁵ Travel reimbursement rates are the same as similarly situated state employees.

⁶ All consultants must be selected pursuant to a bidding and procurement process that complies with all applicable laws.

Round 3 California Coastal Commission LCP Grant Program

	<i>CCC Grant Total</i>	<i>Match/ Other Funds (Source #1)</i>	<i>Match/ Other Funds (Source #2)</i>	<i>Total (LCP Grant Funds + Match/ Other Funds)</i>
OVERHEAD/INDIRECT COSTS⁷				
Total County/City Staff Overhead/Indirect Costs				
TOTAL PROJECT COST				

⁷ Indirect costs include, for example, a pro rata share of rent, utilities, and salaries for certain positions indirectly supporting the proposed project but not directly staffing it. Amount requested for indirect costs should be capped at 10% of amount requested for "Total Labor."

November, 2017

Request for Proposals

Professional Consultant Services

Local Coastal Plan Update

Preparation of Sea Level Rise Vulnerability
Assessment, Risk Assessment, and
Adaptation Planning



City of Marina
211 Hillcrest Avenue
Marina, CA 93933

INTRODUCTION

The City of Marina ("City") is seeking qualified consultants to submit proposals demonstrating the professional ability to prepare a comprehensive update to the City's Local Coastal Program (LCP) to address sustainable development, increased opportunities for coastal access and public recreation, and vulnerability to Climate Change and Sea Level Rise (SLR).

BACKGROUND

The California Coastal Commission certified the City's LCP in 1982. Various amendments were adopted over the years until 2009. The City of Marina goal is to update to its LCP for certification by the California Coastal Commission to address, at minimum, coastal erosion, sea level rise, land uses within the zone, updated maps, and verification of the coastal boundary.

Coastal Commission Local Assistance Grant

The City was awarded \$85,685 Local Assistance Grant by the California Coastal Commission on August 9, 2017 to prepare an update to the LCP that includes vulnerability and risk assessment and adaptation report to address the effects that sea level rise could have on coastal resources along the shoreline of Marina. Work to be completed by the subcontractor constitutes 100% of the grant and may include additional City funds, if necessary to complete the project. Firms submitting proposals should carefully review the City's original grant application (Attachment C) and the final grant agreement Work Program and Budget (Attachment B) to ensure that work scopes are consistent.

SCOPE OF SERVICE

The consultant would be expected to provide significant assistance in the preparation for and hosting of workshops; the preparation of the vulnerability assessment and development of adaptation strategies reports; and updating the LCP. The City is dedicated to providing in-kind services in the form of staff time. Work must be completed on or before November 1, 2019. A summary of the grant Work Program is provided below. Please see the complete Work Program (Attachment B) for full details of required scope. Please note that services would also include regular coordination via phone and email with City staff throughout contract and several meetings with Coastal Commission staff.

Task 1: The City and consultant will develop a robust public outreach program. The program will include at least four public workshops where the public will participate in hands-on/table top exercises.

The City and consultant will solicit stakeholders to help in this public outreach process (i.e. Monterey Bay National Marine Sanctuary (MBNMS), establish a stakeholder subcommittee, and create a community support strategy. A sea-level rise walk will highlight for community participants areas where flooding is anticipated in the future to increase public awareness of the unique challenges that climate change pose for our community. The City and consultant will also meet with Coastal Commission staff.

The City and consultant will also create a web page, social media interface, and newsletters to obtain public input and update the public about upcoming meetings, draft documents, and the project's overall schedule and progress.

Deliverables will include a community support strategy that includes information on the stakeholders and outreach program.

Task 2: The City believes that early and regular interaction with the Commission is critical to project success. The City and consultant will participate in an initial meeting with its regional Commission contact to discuss the LUP update and the drafting of the plan. Initial meeting topics will include the scope and direction of the LCP update, boundary confirmation, primary coastal resources, specific planning issues, document format, and other issues that are important at the early stages of the project. The City intends to obtain Commission staff's early review and acceptance on the scope and to have a thorough understanding of Commission priorities to ensure that the LCP document, as reviewed and forwarded to the Coastal Commission by the City Council, will not require extensive revision and/or recirculation. Pending Commission staff availability, the City proposes to have a status check-in every other month with the Commission to monitor progress and ensure project success. The City and consultant will develop a regular coordination schedule with CCC staff with benchmarks for review of deliverables as outlined in the Schedule below.

Task 3: The first major project objective will be to develop an existing conditions and issues and sea level rise vulnerability assessment report for public review based on technical data, stakeholder input (NOAA, Coastal Commission staff, etc) and public workshops.

The report will include a land use and infrastructure inventory and will identify major planning issues including sea level rise vulnerabilities. A range of sea-level rise projections relevant to the planning area will be identified based on the 2012 National Research Council Report. These projections will be modified to account for local conditions, as necessary. In addition, the City will utilize existing studies created by the Southern Monterey Coastal Erosion Workgroup and the Monterey Bay Sea Level Rise Vulnerability Assessment with additional review of the City's local asset vulnerability. This additional review will also incorporate new data generated by studies created as part of the City of Monterey the City of Pacific Grove's LCP updates (currently in draft format) and other available sea level rise tools and existing vulnerability assessment work that has been completed for the Monterey Bay Region.

The project team will create parcel-specific maps that detail all risk factors such as inundation, storm flooding, wave impacts, erosion, sea level rise and tsunamis. These various risk factors will then be analyzed for their impact on coastal resources and development.

A draft existing conditions report, including hazards maps as described above, will be developed and reviewed by Coastal Commission staff, the stakeholder subcommittee, and the City Council and Planning Commission. A public workshop will also be held. The report will then be revised to address feedback and finalized.

The Vulnerability Assessment will use the Coastal Commission's [Sea Level Rise Policy Guidance document](#), and any other available Commission guidance related to sea level rise (SLR), to inform the development of the Sea Level Rise impact assessments, vulnerability assessments and LCP Land Use Plan and Implementation Plan update.

The Vulnerability Assessment will include: (1) storm and non-storm scenarios, including maximum daily and annual tidal inundation, (2) assessment of sea level rise vulnerability with and without key development that is currently vulnerable and/or protected by a revetment, such as Highway 1, railroad

tracks, and/or a row of residences, (3) anticipated changes in beach width under future sea level rise scenarios, (4) evaluation of the feasibility and effectiveness of sediment management and beach nourishment, and (5) evaluation of sea level rise vulnerability of existing and planned segments of the California Coastal Trail (6) incorporate the subject of environmental justice by, to the extent feasible, analyzing the differential impacts of sea level rise upon various demographics and community groups, and (7) consider the latest reports on sea level rise science and recommendations from the state of California, including Rising Seas in California and the most recently adopted update to the State Sea Level Rise Guidance. These scenarios and topics will be modelled or quantitatively analyzed where feasible and applicable, or at a minimum thoroughly discussed in a qualitative manner.

Deliverables will include a draft and final existing conditions and issues and vulnerability assessment report.

Task 4: The second project objective will be to draft a vision, goals, and objectives report that addresses topics including coastal erosion, sea level rise, public access, sensitive habitat, land uses and reuse of the CEMEX sand mine. This task will include a public workshop, subcommittee meeting, and meetings with coastal staff. The draft vision, goals, and objectives report will be revised to address feedback, and the Planning Commission and City Council will also be asked to accept the vision, goals, and objectives report.

Deliverables will include a draft vision, goals, and objectives report, and a finalized report completed by March 2019.

Task 5: The third project objective is to prepare an Adaptation Plan report that will analyze a variety of approaches to address impacts from sea level rise and coastal erosion (including coastal erosion resulting from sand mining). This effort will include identification of priorities, consideration of the pro and cons of different strategies, and an economic analysis that evaluates costs versus benefits of different strategies. The final report will include a discussion of these topics, as well as identification of a preferred set of strategies to address sea level rise impacts.

A draft Adaptation Report will be developed that includes a discussion of the range of possible SLR adaptation strategies and analysis of the pros/cons and costs/benefits. Coastal Commission staff will have an opportunity to review and provide comments on the adaptation plan. Sea level rise adaptation strategies and their various pros and cons will be presented at a public workshop where participants will provide feedback through tabletop exercises. A preferred set of SLR adaptation strategies will be identified, and the draft Adaptation Plan Report will be revised before being presented to the Planning Commission and City Council. The Planning Commission and City Council will be asked to approve a preferred set of adaptation strategies and the Adaptation Report will be finalized.

Sea Level Rise work will be coordinated regionally to the extent feasible with other jurisdictions and entities working on sea level rise projects within the same county or broader regional area relevant for sea level rise adaptation, such as the watershed, littoral cell, or area with similar geologic characteristics.

Deliverables will include a draft and final Adaptation Report.

Task 6: The LCP will be prepared based on the extensive input provided during the earlier project tasks. This project stage will include multiple meetings with the Coastal Commission staff, including iterative review of LCP drafts (ensuring adequate time for CCC staff to review and provide comments on draft

RFP for Professional Consultant Services: Local Coastal Plan Update, Preparation of Sea Level Rise Vulnerability Assessment, Risk Assessment, and Adaptation Planning

policies prior to presentations at the Planning Commission/City Council). The Draft LCP will also be reviewed by the stakeholder subcommittee and will be presented at a public workshop. Feedback from stakeholders will be incorporated into a revised Draft LCP which will be presented for Planning Commission/City Council review and adoption.

The City anticipates the following work to be done on the LCP:

1. Review and update existing policies;
2. Review and update Planning Guidelines in accordance with current community needs and circumstances;
3. Verify existing and possibly redefine the Coastal Zone boundary;
4. Revise land use section to align with current community needs and circumstances;
5. Revise and update Access Component in accordance with any revisions to land uses and planning guidelines;
6. Update and digitize maps;
7. Updates to the Implementation Plan (IP) will be done concurrently the updates to the Land Use Plan (LUP), as necessary.

Deliverables will include the LCP documents and maps in both paper and editable digital format to the Coastal Commission

SUBMITTAL FORMAT AND CONTENT

All respondents are required to follow the format specified below. The contents of the submittal must be clear, concise, and complete. Each section of the submittal shall be tabbed according to the numbering system shown below to aid in expedient information retrieval. Submittals should be double-sided. Provide ten (10) bound copies; one (1) unbound copy; and, one (1) electronic copy in PDF format.

- I. **Cover Letter** – The cover letter should be brief (1 page, front and back, maximum) and any changes to the format or deletions of the RFP should be explained in the cover letter. Identify the project manager for the study including the location of the firm's offices and the project manager's contact information. Identify any conflicts of interest that the firm and any of its sub-consultants may have with officials of the City of Marina.
- II. **Scope of Work** – Describe how the firm will approach and carry out the Scope of Work within the budget and schedule provided by the terms of the Local Assistance Grant. Provide a list of tasks that would be consistent with those proposed for the Local Assistance Grant.
- III. **Qualifications and Experience** – This section shall contain the following: a description of the consultant's experience in providing climate change and sea level rise or other relevant consulting services for public entities and/or the private sector. The firms' experiences specifically related to the scope of work shall be listed consecutively with the awarding and completion dates noted. Each listed experience shall include the name(s) and telephone number(s) of the firm's project manager and the client's project manager for each listing. Describe the experience and the tasks that each sub-consultant will perform. At least two references shall be provided for each firm's project manager from previous assignments.

- IV. **List of Project Personnel** – This list should include the identification of the contact person with primary responsibility for this project, other project personnel, including partners and/or sub-consultants, and their individual areas of responsibility. The persons listed will be considered as committed to the project.
- V. **Organization Chart** – An organization chart containing the names of all key personnel, joint venture partners, and sub-consultants with titles and their specific task assignment for this project shall be provided in this section.
- VI. **City's Consultant Contract and Insurance Coverage** – Provide a statement indicating agreement with the content of the City's standard consultant contract (Attachment A). If no exceptions are indicated, then the consultant will be deemed to have accepted the City's agreement form without deviation. Description of insurance coverage for prime respondent and co-venture partner(s) (types of coverage and policy limits, deductible, exclusions, and outstanding claims);
- VII. **Schedule of Rates** – The respondent shall provide an outline of the hourly fee structure for the key team members identified in Item IV and associated administrative/technical support fee structure.
- VIII. **Appendix** – Firm brochure with background information (if available); a resume for each project personnel listed in Item IV shall be submitted. Resumes shall be limited to 1 page (front and back) per person.

SUBMITTAL SELECTION PROCESS AND EVALUATION CRITERIA

A selection committee composed of representatives of the City that are involved with sea level rise studies may be convened to review and evaluate the proposals. The selection committee may "short-list" the most qualified firms, utilizing the selection criteria listed below. In the event that an interview is required by the selection committee, it is mandatory that all principal firms and the designated project manager attend.

Evaluation of the submittals will consider the following:

- Responsiveness to this RFP.
- Demonstrated competency in the sea level rise planning process, including vulnerability assessment and adaptation strategy;
- Familiarity with the scenario planning approach;
- Skilled at communicating (verbally and written) complex science concepts in a public presentation context;
- Specialized experience and technical competence of the firm(s), (including principal firms, joint venture-partners, and sub-consultants), considering the types of service required; the complexity of the project; record of performance; and the strength of the key personnel who will be dedicated to the project;
- Proposed methods and overall strategic plan to accomplish the work in a timely and competent manner, while demonstrating the ability to be adaptive and dynamic throughout the process;

- Knowledge and understanding of the local, social, economic, and political environment;
- Reference checks, financial stability of the principal consultant and/or a consultant team;
- The consultant's hourly rate and fee structure;
- Acceptance of the City's standard contract for professional services (Attachment A); and
- Distance of consultant's office from the City.

The tentative schedule for the solicitation, receipt, evaluation of the submittals, and the selection of the consultant is provided as follows. (Note: Dates are subject to change.)

RFP Distribution	November 13, 2017
Deadline for Submittal of Proposals	December 18, 2017
Submittal Review, Interview, and Negotiation	December 21, 2017 –
Notice to Proceed	January 19, 2018
Submit LCP Amendment Package to CCC	December 2019

Submission: Ten (10) bound copies; one (1) unbound copy; and, one (1) electronic copy in PDF format on a flash drive of the RFP shall be delivered no later than 5:00 p.m. on the proposal deadline listed above to the contact person below. Copies received by email or fax shall not be deemed received. Incomplete submittals, incorrect information, or late submittals shall be cause for disqualification.

Please address the proposal to the following contact:

Christy Hopper
Planning Services Manager
City of Marina
211 Hillcrest Avenue
Marina, CA 93933

Any questions regarding this Request for Proposals should be directed to Christy Hopper at (831) 884-1238; or chopper@cityofmarina.org.

TERMS AND CONDITIONS

Issuance of this RFP does not commit the City of Marina to award a contract, to pay any costs incurred in the preparation of a response to this request, or to procure a contract for services. All respondents should note that the execution of any contract pursuant to this RFP is dependent upon the approval of the City Council of the City of Marina.

The City retains the right to reject any or all submittals. Selection is also dependent upon the negotiation of a mutually acceptable contract with the successful respondent. A sample contract is attached hereto as Attachment A. Each submittal shall be valid for not less than ninety (90) days from the date of receipt.

EQUAL OPPORTUNITY PROGRAM REQUIREMENTS

RFP for Professional Consultant Services: Local Coastal Plan Update, Preparation of Sea Level Rise Vulnerability Assessment, Risk Assessment, and Adaptation Planning

The City of Marina is committed to equal opportunity in solicitation of professional service consultants to assure that consultants doing business with, or receiving funds from, the City is equal opportunity contractors and employers. The City encourages prime consultants to share this commitment.

The selected respondent(s) and each of its (their) Sub-consultants and/or co-venture partners, shall comply with Title VII of the Civil Rights Act of 1964, as amended, Executive Orders 11246, 11375, and 12086, the California Fair Employment Practices Act, and any other applicable federal and state laws and regulations hereinafter enacted. The respondent shall not discriminate against any employee or applicant for employment based on race, religion, color, ancestry, age, gender, sexual orientation, medical condition or place of birth.

ATTACHMENTS

- A. City of Marina standard consultant contract.
- B. Grant Work Program
- C. City's Original Grant Proposal

Attachment A

**CITY OF MARINA
AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES**

THIS AGREEMENT is made and entered into on _____, 20____, by and between the City of Marina, a California charter city, hereinafter referred to as the "City," and _____, a _____, [a California corporation, general partnership, LLC, sole proprietorship or an individual "doing business as "] hereinafter referred to as the "Contractor." City and Contractor are sometimes individually referred to as "party" and collectively as "parties" in this Agreement.

Recitals

- A. City desires to retain Contractor to:
- _____
- _____
- _____
- hereinafter referred to as the "Project."
- B. Contractor represents and warrants that it has the qualifications, experience and personnel necessary to properly perform the services as set forth herein.
- C. City desires to retain Contractor to provide such services.

Terms and Conditions

For of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and in consideration of the mutual promises contained herein, City and Contractor agree to the following terms and conditions:

1. Scope of Work.

(a) Contractor is hereby hired and retained by the City to work in a cooperative manner with the City to fully and adequately perform those services set forth in Exhibit "A" attached hereto ("Scope of Work") and by this reference made a part hereof. With prior written notice to Contractor, City may elect to delete certain tasks of the Scope of Work at its sole discretion.

(b) Contractor shall perform all such work with skill and diligence and pursuant to generally accepted standards of practice in effect at the time of performance. Contractor shall provide corrective services without charge to the City for work which fails to meet these standards and which is reported to Contractor in writing within sixty days of discovery. Should Contractor fail or refuse to perform promptly its obligations under this Agreement, the City may render or undertake the performance thereof and the Contractor shall be liable for any expenses thereby incurred.

(c) If services under this Agreement are to be performed by a design professional, as that term is defined in California Civil Code §2782.8(b)(2), design professional certifies that all design professional services shall be provided by a person or persons duly licensed by the State of California to provide the type of services described in Section 1(a). By delivery of completed work, design professional certifies

that the work conforms to the requirements of this Agreement and all applicable federal, state and local laws, and the professional standard of care in California.

(d) Contractor is responsible for making an independent evaluation and judgment of all relevant conditions affecting performance of the work, including without limitation site conditions, existing facilities, seismic, geologic, soils, hydrologic, geographic, climatic conditions, applicable federal, state and local laws and regulations and all other contingencies or considerations.

(e) City shall cooperate with Contractor and will furnish all information data, records and reports existing and available to City to enable Contractor to carry out work outlined in Exhibit "A." Contractor shall be entitled to reasonably rely on information, data, records and reports furnished by the City, however, the City makes no warranty as to the accuracy or completeness of any such information, data, records or reports available to it and provided to Contractor which were furnished to the City by a third party. Contractor shall have a duty to bring to the City's attention any deficiency or error it may discover in any information provided to the Contractor by the City or a third party.

2. Term of Agreement & Commencement of Work.

(a) Unless otherwise provided, the term of this Agreement shall begin on the date of its full execution and shall expire on _____, 20____, *[Insert expiration date.]* unless extended by amendment or terminated earlier as provided herein. The date of full execution is defined as the date when all of the following events have occurred:

(i) This Agreement has been approved by the City's Council or by the board, officer or employee authorized to give such approval; and

(ii) The office of the City Attorney has indicated in writing its approval of this Agreement as to form; and

(iii) This Agreement has been signed on behalf of Contractor by the person or persons authorized to bind the Contractor hereto; and.

(iv) This Agreement has been signed on behalf of the City by the person designated to so sign by the City's Council or by the officer or employee authorized to enter into this Contract and is attested to by the Marina City Clerk.

(b) Contractor shall commence work on the Project on or by _____, 20____. *[Insert date work is to commence]* This Agreement may be extended upon written agreement of both parties. Contractor may be required to prepare a written schedule for the work to be performed, which schedule shall be approved by the City and made a part of Exhibit A, and to perform the work in accordance with the approved schedule.

3. Compensation.

(a) City liability for compensation to Contractor under this Agreement shall only be to the extent of the present appropriation to fund this Agreement. For services to be provided under this Agreement City shall compensate Contractor in an amount not to

exceed _____ Dollars (\$_____.00) *[Insert written and numerical amounts]* in accordance with the provisions of this Section and the Fee Schedule attached hereto as Exhibit B and incorporated herein by this reference.

(b) Invoice(s) in a format and on a schedule acceptable to the City shall be submitted to and be reviewed and verified by the Project Administrator (see Section 5(a)) and forwarded to the City's Finance Department for payment. City shall notify Contractor of exceptions or disputed items and their dollar value within fifteen days of receipt. Payment of the undisputed amount of the invoice will typically be made approximately thirty days after the invoice is submitted to the Finance Department.

(c) Contractor will maintain clearly identifiable, complete and accurate records with respect to all costs incurred under this Agreement on an industry recognized accounting basis. Contractor shall make available to the representative of City all such books and records related to this Agreement, and the right to examine, copy and audit the same during regular business hours upon 24-hour's notice for a period of four years from the date of final payment under this Agreement.

(d) Contractor shall not receive any compensation for Extra Work without the prior written authorization of City. As used herein, "Extra Work" means any work that is determined by the City to be necessary for the proper completion of the Project but which is not included within the Scope of Work and which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Compensation for any authorized Extra Work shall be paid in accordance with Exhibit B.

(e) Expenses not otherwise addressed in the Scope of Services or the Fee Schedule incurred by Contractor in performing services under this Agreement shall be reviewed and approved in advance by the Project Administrator (Section 5(a)), be charged at cost and reimbursed to Contractor.

(f) There shall be no charge for transportation within Monterey, Santa Cruz and San Benito Counties required for the performance of the services under this Agreement; travel to other locations must be approved in writing and in advance by the City, mileage will be charged at the then current standard rate for business travel as set by the U.S. Internal Revenue Service for such approved travel.

4. Termination or Suspension.

(a) This Agreement may be terminated in whole or in part in writing by either party in the event of a substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten days written notice of intent to terminate, and (2) provided an opportunity for consultation with the terminating party prior to termination.

(b) If termination for default is effected by the City, an equitable adjustment in the price provided for in this Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due the Contractor at the time of termination may be adjusted to cover any additional costs to the City because of the Contractor's default. If after the termination for failure of Contractor to fulfill its contractual obligations, it is determined that the Contractor had not

failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the City.

(c) The City may terminate or suspend this Agreement at any time for its convenience upon not less than thirty days prior written notice to Contractor. Not later than the effective date of such termination or suspension, Contractor shall discontinue all affected work and deliver all work product and other documents, whether completed or in progress, to the City.

(d) If termination for default is effected by the Contractor or if termination for convenience is effected by the City, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for termination shall provide for payment to the Contractor for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by Contractor relating to written commitments that were executed prior to the termination.

5. Project Administrator, Project Manager & Key Personnel.

(a) City designates as its Project Administrator _____ *[Insert name of person who will represent the City]* who shall have the authority to act for the City under this Agreement. The Project Administrator or his/her authorized representative shall represent the City in all matters pertaining to the work to be performed pursuant to this Agreement.

(b) Contractor designates _____ *[Insert name of person who will represent the Contractor]* as its Project Manager who shall coordinate all phases of the Project. The Project manager shall be available to City at all reasonable times during the Agreement term.

(c) Contractor warrants that it will continuously furnish the necessary personnel to complete the Project on a timely basis as contemplated by this Agreement. Contractor, at the sole discretion of City, shall remove from the Project any of its personnel assigned to the performance of services upon written request of City. Contractor has represented to City that certain key personnel will perform and coordinate the work under this Agreement. Should one or more of such personnel become unavailable, Contractor may substitute other personnel of at least equal competence upon written approval of the City. In the event that City and Contractor cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. The key personnel for performance of this Agreement are as follows: _____

6. Delegation of Work.

(a) If Contractor utilizes any subcontractors, consultants, persons, employees or firms having applicable expertise to assist Contractor in performing the services under this Agreement, Contractor shall obtain City's prior written approval to such employment. Contractor's contract with any subcontractor shall contain a provision making the subcontract subject to all provisions of this Agreement. Contractor will be fully responsible and liable for the administration, completion, presentation, and quality of all work performed. If such persons are utilized, they shall be charged at cost. City

reserves its right to employ other contractors in connection with this Project.

(b) If the work hereunder is performed by a design professional, design professional shall be directly involved with performing the work or shall work through his, her or its employees. The design professional's responsibilities under this Agreement shall not be delegated. The design professional shall be responsible to the City for acts, errors or omissions of his, her or its subcontractors. Negligence of subcontractors or agents retained by the design professional is conclusively deemed to be the negligence of the design professional if not adequately corrected by the design professional. Use of the term subcontractor in any other provision of this Agreement shall not be construed to imply authorization for a design professional to use subcontractors for performance of any professional service under this Agreement.

(c) The City is an intended beneficiary of any work performed by a subcontractor for purposes of establishing a duty of care between the subcontractor and the City.

7. Skill of Employees. Contractor shall ensure that any employees or agents providing services under this Agreement possess the requisite skill, training and experience to properly perform such services.

8. Confidential and Proprietary Information. In the course of performing services under this Agreement Contractor may obtain, receive, and review confidential or proprietary documents, information or materials that are and shall remain the exclusive property of the City. Should Contractor undertake the work on behalf of other agencies, entities, firms or persons relating to the matters described in the Scope of Work, it is expressly agreed by Contractor that any such confidential or proprietary information or materials shall not be provided or disclosed in any manner to any of Contractor's other clients, or to any other third party, without the City's prior express written consent.

9. Ownership of Data. Unless otherwise provided for herein, all documents, material, data, drawings, plans, specifications, computer data files, basis for design calculations, engineering notes, and reports originated and prepared by Contractor, or any subcontractor of any tier, under this Agreement shall be and remain the property of the City for its use in any manner it deems appropriate. Contractor agrees that all copyrights which arise from creation of the work pursuant to this Agreement shall be vested in the City and waives and relinquishes all claims to copyright or intellectual property rights in favor of the City. Contractor shall provide two (2) sets of reproducible of the above-cited items, except for the computer data files which shall consist of one (1) set. Contractor shall use all reasonable efforts to ensure that any electronic files provided to the City will be compatible with the City's computer hardware and software. Contractor makes no representation as to long-term compatibility, usability or readability of the format resulting from the use of software application packages, operating systems or computer hardware differing from those in use by the City at the commencement of this Agreement. Contractor shall be permitted to maintain copies of all such data for its files. City acknowledges that its use of the work product is limited to the purposes contemplated by the Scope of Work and, should City use these products or data in connection with additions to the work required under this Agreement or for new work without consultation with and without additional compensation to Contractor, Contractor makes no representation as to the suitability of the work product for use in or application

to circumstances not contemplated by the Scope of Work and shall have no liability or responsibility whatsoever in connection with such use which shall be at the City's sole risk. Any and all liability arising out of changes made by the City to Contractor's deliverables is waived against Contractor unless City has given Contractor prior written notice of the changes and has received Contractor's written consent to such changes.

10. Conflict of Interest.

(a) Contractor covenants that neither it, nor any officer or principal of its firm has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of the City or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of the City in the performance of this Agreement. Contractor shall represent the interest of the City in any discussion or negotiation with _____, and as such, may not accept compensation, commission or payment of any type from any such party _____ or such party's agent.

(b) City understands and acknowledges that Contractor may be, as of the date of commencement of services under this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Contractor is unaware of any stated position of the City relative to such projects. Any future position of the City on such projects may result in a conflict of interest for purposes of this section.

(c) No official or employee of the City who is authorized in such capacity on behalf of the City to negotiate, make, accept, or approve, or take part in negotiating, making accepting or approving this contract, shall become directly or indirectly interested in this contract or in any part thereof. No officer or employee of the City who is authorized in such capacity and on behalf of the City to exercise any executive, supervisory, or similar function in connection with the performance of this contract shall become directly or indirectly interested personally in this contract or any part thereof.

11. Disclosure. Contractor may be subject to the appropriate disclosure requirements of the California Fair Political Practices Act, as determined by the City Manager.

12. Non-Discrimination.

(a) During the performance of this Agreement the Contractor shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California and the City. In performing this Agreement, Contractor shall not discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), medical condition (including cancer), age, marital status, denial of family and medical care leave and denial of pregnancy disability leave. Contractor shall give written notice of its obligations under this clause to labor organizations with which it has a collective bargaining or other

agreement.

(b) Contractor shall include the nondiscrimination and compliance provisions of this Section in all subcontracts.

13. Indemnification.

(a) Other than in the performance of professional services by a design professional, which shall be solely as addressed by subsection (b) below, and to the full extent permitted by law, Contractor shall (1) immediately defend (with independent counsel reasonably acceptable to the City) and (2) indemnify the City, its Council, boards, commissions, employees, officials and agents ("Indemnified Parties" or in the singular "Indemnified Party") from and against all liabilities regardless of nature or type arising out of or resulting from Contractor's performance of services under this contract, or any negligent or wrongful act or omission of the Contractor or Contractor's officers, employees, agents or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines and judgments, associated investigation and administrative expenses; defense costs including but not limited to reasonable attorney's fees; court costs; expert witness fees; and costs of alternate dispute resolution ("Liabilities"). The Contractor's obligation to indemnify applies unless it is adjudicated that its liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an Indemnified Party, the Contractor's indemnification obligation shall be reduced in proportion to the established comparative liability of the Indemnified Party.

(b) To the fullest extent permitted by law (including without limitation California Civil Code Sections 2782.8), when the services to be provided under this Agreement by Contractor are design professional services to be performed by a design professional, as that term is defined under said section 2782.8, the design professional shall (1) immediately defend (with independent counsel reasonably acceptable to the City) and (2) indemnify the City and any Indemnified Party for all Liabilities regardless of nature or type that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of design professional, or the acts or omissions of an officer, employee, agent or subcontractor of the design professional. The design professional's obligation to indemnify applies unless it is finally adjudicated that the liability was caused by the sole active negligence or sole willful misconduct of an Indemnified Party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an Indemnified Party, then design professional's indemnification obligation shall be reduced in proportion to the established comparative liability of the Indemnified Party.

(c) All obligations under this section are to be paid by Contractor as incurred by City. The provisions of this Section are not limited by the provisions of sections relating to insurance including provisions of any worker's compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its employees and officials. An allegation or determination of comparative active negligence or willful misconduct by an Indemnified Party does not relieve the Contractor from its separate and distinct obligation to defend the City. Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor, sub tier contractor or any other person or

entity involved by, for, with or on behalf of Contractor in the performance or subject matter of this Agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder.

(d) If any action or proceeding is brought against any Indemnified Party by reason of any of the matters against which the Contractor has agreed to defend the Indemnified Party, as provided above, Contractor, upon notice from the City, shall immediately defend any Indemnified Party at Contractor's expense by counsel reasonably acceptable to the City. An Indemnified Party need not have first paid for any of the matters to which it is entitled to indemnification in order to be so defended.

(e) The review, acceptance or approval of the Contractor's work or work product by any Indemnified Party shall not affect, relieve or reduce the Contractor's indemnification or defense obligations. This obligation to indemnify and defend City, as set forth herein, is binding on the successors, assigns, or heirs of Contractor and shall survive the completion of the services or the termination of this Agreement or this Section.

14. Insurance.

(a) As a condition precedent to the effectiveness of this Agreement and without limiting Contractor's indemnification of the City, Contractor agrees to obtain and maintain in full force and effect at its own expense the insurance policies set forth in Exhibit "C" "Insurance" attached hereto and made a part hereof. Contractor shall furnish the City with original certificates of insurance, manually autographed in ink by a person authorized by that insurer to bind coverage on its behalf, along with copies of all required endorsements. All certificates and endorsements must be received and approved by the City before any work commences. All insurance policies shall be subject to approval by the City Attorney and Risk Manager as to form and content. Specifically, such insurance shall: (1) protect City as an additional insured for commercial general and business auto liability; (2) provide City at least thirty days written notice of cancellation, material reduction in coverage or reduction in limits and ten days written notice for non-payment of premium; and (3) be primary with respect to City's insurance program. Contractor's insurance is not expected to respond to claims that may arise from the acts or omissions of the City.

(b) City reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required herein by giving Contractor ninety days advance written notice of such change. If such change should result in substantial additional cost of the Contractor, City agrees to negotiate additional compensation proportional to the increased benefit to City.

(c) All required insurance must be submitted and approved the City Attorney and Risk Manager prior to the inception of any operations by Contractor.

(d) The required coverage and limits are subject to availability on the open market at reasonable cost as determined by the City. Non availability or non affordability

must be documented by a letter from Contractor's insurance broker or agency indicating a good faith effort to place the required insurance and showing as a minimum the names of the insurance carriers and the declinations or quotations received from each. Within the foregoing constraints, Contractor's failure to procure or maintain required insurance during the entire term of this Agreement shall constitute a material breach of this Agreement under which City may immediately suspend or terminate this Agreement or, at its discretion, procure or renew such insurance to protect City's interests and pay any and all premium in connection therewith and recover all monies so paid from Contractor.

(e) By signing this Agreement, Contractor hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provision of that Code, and that it will comply with such provisions at all such times as they may apply during the performance of the work pursuant to this Contract. Unless otherwise agreed, a waiver of subrogation in favor of the City is required.

15. Independent Contractor. The parties agree that Contractor, its officers, employees and agents, if any, shall be independent contractors with regard to the providing of services under this Agreement, and that Contractor's employees or agents shall not be considered to be employees or agents of the City for any purpose and will not be entitled to any of the benefits City provides for its employees. City shall make no deductions for payroll taxes or Social Security from amounts due Contractor for work or services provided under this Agreement.

16. Claims for Labor and Materials. Contractor shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Agreement, so as to prevent any lien or other claim under any provision of law from arising against any City property (including reports, documents, and other tangible matter produced by the Contractor hereunder), against the Contractor's rights to payments hereunder, or against the City, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

17. Discounts. Contractor agrees to offer the City any discount terms that are offered to its best customers for the goods and services to be provided herein, and apply such discounts to payment made under this Agreement which meet the discount terms.

18. Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

19. Dispute Resolution. If any dispute arises between the parties as to proper interpretation or application of this Agreement, the parties shall first meet and confer in a good faith attempt to resolve the matter between themselves. If the dispute is not resolved by meeting and conferring, the matter shall be submitted for formal mediation to a mediator selected mutually by the parties. The expenses of such mediation shall be shared equally between the parties. If the dispute is not or cannot be resolved by mediation, the parties may mutually agree (but only as to those issues of the matter not resolved by mediation) to submit their dispute to arbitration. Before commencement of the arbitration, the parties may elect to have the arbitration proceed on an informal basis; however, if the parties are unable so to agree, then the arbitration shall be conducted in

accordance with the rules of the American Arbitration Association. The decision of the arbitrator shall be binding, unless within thirty days after issuance of the arbitrator's written decision, any party files an action in court. Venue and jurisdiction for any such action between the parties shall lie in the Superior Court for the County of Monterey.

20. Compliance with Laws.

(a) Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California and the City including but not limited to laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Agreement shall be governed by, enforced and interpreted under the laws of the State of California. Contractor shall comply with new, amended or revised laws, regulations or procedures that apply to the performance of this Agreement.

(b) If the Project is a "public work," or prevailing wages are otherwise required, Contractor shall comply with all provision of California Labor Code section 1720 *et seq.*, as applicable, and laws dealing with prevailing wages, apprentices and hours of work.

(c) Contractor represents that it has obtained and presently holds all permits and licenses necessary for performance hereunder, including a Business License required by the City's Business License Ordinance. For the term covered by this Agreement, the Contractor shall maintain or obtain as necessary, such permits and licenses and shall not allow them to lapse, be revoked or suspended.

21. Assignment or Transfer. This Agreement or any interest herein may not be assigned, hypothecated or transferred, either directly or by operation of law, without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

22. Notices. All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, sent by facsimile ("fax") or certified mail, postage prepaid with return receipt requested, addressed as follows:

To City: City Manager
 City of Marina City Hall
 211 Hillcrest Avenue
 Marina, California 93933
 Fax: (831) 384-9148

To Contractor:

Fax (____) _____

Notice shall be deemed effective on the date personally delivered or transmitted by

facsimile or, if mailed, three days after deposit in the custody of the U.S. Postal Service. A copy of any notice sent as provided herein shall also be delivered to the Project Administrator and Project Manager.

23. Amendments, Changes or Modifications. This Agreement is not subject to amendment, change or modification except by a writing signed by the authorized representatives of City and Contractor.

24. Force Majeure. Notwithstanding any other provisions hereof, neither Contractor nor City shall be held responsible or liable for failure to meet their respective obligations under this Agreement if such failure shall be due to causes beyond Contractor's or the City's control. Such causes include but are not limited to: strike, fire, flood, civil disorder, act of God or of the public enemy, act of the federal government, or any unit of state or local government in either sovereign or contractual capacity, epidemic, quarantine restriction, or delay in transportation to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

25. Attorney's Fees. In the event of any controversy, claim or dispute relating to this Agreement, or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

26. Successors and Assigns. All of the terms, conditions and provisions of this Agreement shall apply to and bind the respective heirs, executors, administrators, successors, and assigns of the parties. Nothing in this paragraph is intended to affect the limitation on assignment

27. Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind each respective party.

28. Waiver. A waiver of a default of any term of this Agreement shall not be construed as a waiver of any succeeding default or as a waiver of the provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

29. Severability. Should any portion of this Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Agreement will continue as modified.

30. Construction, References, Captions. Since the parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. The captions of the various sections are for convenience and ease of reference only, and do not define, limit, augment or describe the scope, content or intent of this Agreement.

31. Advice of Counsel. The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of

this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor or against either party by reason of the extent to which each party participated in the drafting of this Agreement.

32. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

33. Time. Time is of the essence in this contract.

34. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the matters as set forth in this Agreement, and no other agreement, statement or promise made by or to any party or by or to any employee, officer or agent of any party, which is not contained in this Agreement shall be binding or valid.

IN WITNESS WHEREOF, Contractor and the City by their duly authorized representatives, have executed this Agreement, on the date first set forth above, at Marina, California.

CITY OF MARINA

CONTRACTOR

By: _____
Name: _____
Its: _____
Date: _____

By: _____
Name: _____
Its: _____
Date: _____

Attest: (Pursuant to Reso: 20____ - ____)

By: _____
City Clerk

Approved as to form:

By: _____
City Attorney

INSERT EXHIBIT A

Section 1 (a)

- SCOPE OF WORK -

[Include Work Schedule if required.]

INSERT EXHIBIT B

Section 3 (a)

- FEE SCHEDULE -

Exhibit C - Insurance

Contractor agrees to provide insurance in accordance with the requirements set forth herein. If Contractor uses existing coverage to comply with these requirements and that coverage does not meet the requirements set forth herein, Contractor agrees to amend, supplement or endorse the existing coverage to do so. Contractor shall furnish the City with original certificates of insurance, manually autographed in ink by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the City before any work commences. The City reserves its right to require complete, certified copies of all required insurance policies at any time. The following coverage will be provided by Contractor and maintained on behalf of the City and in accordance with the requirements set forth herein.

Commercial General Liability (primary). Commercial general liability insurance covering Contractor's operations (and products where applicable) is required whenever the City is at risk of third party claims which may arise out of Contractor's work or presence on City premises. Contractual liability coverage is a required inclusion in this insurance.

General liability insurance coverage shall be at least as broad as ISO form CG 00 01 10 01 and approved in advance by the City Attorney and Risk Manager. Total limits shall be no less than one million dollars (\$1,000,000) combined single limit per occurrence for general liability, bodily injury, personal injury and property damage. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project or the general aggregate limit shall be two million dollars (\$2,000,000). Contractor must give written notice to the City of any pending claim, action or lawsuit which has or may diminish the aggregate. If any such claim or lawsuit exists, Contractor shall be required, prior to commencing work under this Agreement, to restore the impaired aggregate or prove it has replacement insurance protection to the satisfaction of the City Attorney and Risk Manager.

City, its Council, boards and commissions, officers, employees, agents and volunteers shall be added as additional insured, and the policy shall be endorsed with a form equivalent to ISO form CG 20 10 10 93, that contains the provisions required by this contract. Coverage shall apply on a primary, non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to the City or any agent of City. Coverage is not expected to respond to the claims which may arise from the acts or omissions of the City. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Coverage shall contain no contractors' limitation endorsement. There shall be no endorsement or modification limiting the scope of coverage for liability arising from pollution, explosion, collapse, underground property damage or employment-related practices.

Umbrella Liability Insurance. Umbrella liability insurance (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum, and shall include a "drop down" provision providing primary coverage above a maximum \$25,000.00 self-insured retention for liability not covered by primary policies but covered by the umbrella policy. Coverage shall be following form to any underlying coverage.

Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion and no contractor's limitation endorsement. Policies limits shall be not less than one million dollars (\$1,000,000) per occurrence and in the aggregate, above any limits required in the underlying policies shall have starting and ending dates concurrent with the underlying coverage.

Business Auto. Automobile liability insurance is required where vehicles are used in performing the work under this Agreement or where vehicles are driven off-road on City premises, it is not required for simple commuting unless City is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

If automobile insurance is required for work under this Agreement coverage shall be at least as broad as ISO form CG 00 01 10 01 including symbol 1 (Any Auto) approved by the City Attorney and Risk Manager. Coverage shall be endorsed to stated that the City, its Council, boards and commissions, officers, employees, agents and volunteers shall be added as additional insured with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible with a form equivalent to ISO form CG 20 10 10 93. Limits shall be no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage. Starting and ending dates shall be concurrent. If Contractor owns no autos, a non-owned auto endorsement to the commercial general liability policy described above is acceptable.

Workers' Compensation/Employers' Liability. Workers' Compensation and Employer's Liability insurance are not required for single-person contractors. However, under California law these coverages (or a copy of the State's Consent to Self-Insure) must be provided if Contractor has any employees at any time during the period of this Agreement. Policy(s) shall be written on a policy form providing workers' compensation statutory benefits as required by law. Employers' liability limits shall be no less than one million dollars (\$1,000,000) per accident or disease and shall be scheduled under any umbrella policy described above. Unless otherwise agreed, policy(s) shall be endorsed to waive any right of subrogation as respects the City, its Council, boards and commissions, officers, employees, agents and volunteers.

Property Insurance. Property insurance, in a form and amount approved by the City Attorney and Risk Manager, is required for Contractors having exclusive use of premises or equipment owned or controlled by the City. City is to be named a Loss Payee "As Its Interest May Appear" in property insurance in which the City has an interest, e.g., as a lien holder. Fire damage legal liability is required for persons occupying a portion of City premises.

Errors and Omissions/Professional Liability. Errors and Omissions or professional liability coverage appropriate to Contractor's profession, in a form and amount approved by the City Attorney and Risk Manager, will be specified on a project-by-project basis if Contractor is working as a licensed professional. Contractor shall maintain such insurance for a period of five years following completion of the project. Such insurance shall be in an amount of not less than one million dollars (\$1,000,000) per claim and in annual aggregate. Design professionals shall maintain such insurance in place until the expiration of the warranty period of the Project.

Contractor and City further agree as follows:

a) This Exhibit supersedes all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Exhibit.

b) Nothing contained in this Exhibit is to be construed as affecting or altering the legal status of the parties to this Agreement. The insurance requirements set forth in this Exhibit are intended to be separate and distinct from any other provision in this Agreement and shall be interpreted as such.

c) All insurance coverage and limits provided pursuant to this Agreement shall apply to the full extent of the policies involved, available or applicable. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.

d) Requirements of specific coverage features or limits contained in this Exhibit are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any party to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

e) For purposes of insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or toward performance of this Agreement.

f) All general or auto liability insurance coverage provided pursuant to this Agreement, or any other agreements pertaining to the performance of this Agreement, shall not prohibit Contractor, Contractor's employees, or agents from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against the City.

g) Contractor's insurance shall be written by an acceptable insurance provided, as determined by the City, which satisfies the following minimum requirements: An insurance carried authorized and admitted to do business in the State of California and maintaining an agent for service of process within the state. Such insurance carrier shall maintain a current "A.M. Best" rating classification of "A-" or better and a financial size of \$10 million to \$24 million (Class V) or better, or a Lloyds of London program provided by syndicates of Lloyds of London and other London insurance carriers, providing all participants are qualified to do business in California and the policy provides for an agent for process in the state. Self-insurance will not be considered to comply with these insurance specifications. Workers Compensation and Employer's Liability shall be provided by an A-V rated carrier or by the California State Compensation Fund. If provided by a carrier other than California State Compensation Fund, Contractor shall provide proof of the carrier's A-V rating to the City.

h) In the event any policy of insurance required under this Agreement does not comply with these requirements or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Contractor.

i) Contractor agrees to provide evidence of the insurance required herein, satisfactory to City Attorney and Risk Manager, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional endorsement to Contractor's general liability and umbrella liability policies. Certificate(s) are to reflect that the insurer will provide at least thirty days written notice of cancellation, material reduction in coverage or reduction in limits and ten days written notice for non-payment of premium. Contractor agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions. Contractor agrees to provide complete copies of policies to City within ten days of City's request for said copies.

j) Contractor shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

k) Any actual or alleged failure on the part of the City or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of City or any additional insured, in this or any other regard.

l) Contractor agrees to require all subcontractors or other parties hired for this Project to provide workers' compensation insurance as required herein and general liability insurance naming as additional insureds all parties to this Agreement. Contractor agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Contractor agrees to require that no contract used by any subcontractor, or contracts Contractor enters into on behalf of City, will reserve the right to charge back to City the cost of insurance required by this Agreement. Contractor agrees that upon request, all agreements with subcontractors or others with whom Contractor contracts with on behalf of City will be submitted to City for review. Contractor acknowledges that such contracts or agreements may require modification if the insurance requirements do not reflect the requirements herein. Failure of City to request copies of such agreements will not impose any liability on City, its Council, boards and commissions, officers, employees, agents and volunteers.

m) If Contractor is a Limited Liability Company, general liability coverage must be amended so that the Limited Liability Company and its Managers, Affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

n) Contractor agrees to provide immediate notice to City of any claim or loss against Contractor that includes City as a defendant. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

o) Coverage will not be limited to the specific location or individual entity designated as the address of the Project. Contractor agrees to have its coverage endorsed so that all coverage limits required pursuant to this requirement are available separately for each and every location at which Contractor conducts operations of any type on behalf of City. Contractor warrants that these limits will not be reduced or exhausted except for losses attributable to those specific locations and not by losses attributable to any other operations of Contractor.

p) Contractor agrees not to attempt to avoid its defense and indemnity obligations to City, its Council, boards and commissions, officers, employees, agents and volunteers by using as a defense Contractor's statutory immunity under workers' compensation or similar statutes.

r) Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and that there will be no cross liability exclusions that preclude coverage for suits between Contractor and City or between City and any other insured or Named Insured under the policy, or between City and any party associated with City or its employees.

s) Contractor shall maintain commercial general liability, and if necessary, commercial umbrella liability insurance, with a limit of not less than one million dollars (\$1,000,000) each occurrence for at least three years following substantial completion of the work.

Attachment B

Work Program and Budget

City of Marina

City of Marina Local Coastal Program Comprehensive Update

Grantee Contact Information

Person Authorized to sign grant agreement and any amendments:

Layne Long, City Manager
211 Hillcrest Avenue
Marina, CA 93933
831-884-1224 *llong@cityofmarina.org*

Main Project Manager/Point of Contact:

Christy Hopper, Planning Services Manager
211 Hillcrest Avenue
Marina, CA 93933
831-884-1238 *chopper@cityofmarina.org*

Federal Employer Identification Number: 94-2321991

Budget Summary:

<i>CCC funding:</i>	<i>\$85,685</i>
<i>General Fund</i>	<i>\$25,000</i>
<i><u>In-kind funding:</u></i>	<i><u>\$50,000</u></i>
Total project cost:	\$160,685

Term of Project: 12/01/2017 – 12/31/2019

-
- A. PROJECT DESCRIPTION** A comprehensive update to the City of Marina's Local Coastal Program (LCP) to address sustainable development, increased opportunities for coastal access and public recreation, and vulnerability to Climate Change and Sea Level Rise (SLR). The City will leverage existing SLR work, such as the Monterey Bay SLR Vulnerability Assessment and studies by the Southern Monterey Coastal Erosion Workgroup. A public outreach program will be developed to solicit public input on the LCP update. An Existing Conditions and Issues report will also be developed based on technical data, stakeholder input, and public workshops, which will be followed by the preparation of a Vision, Goals and Objectives report that will guide the LCP update process. A Sea Level Rise Vulnerability and Adaptation Plan will then be developed that will analyze a variety of strategies to address SLR impacts along with the development and submittal of a LCP update.

B. TASKS

Task 1: The City will develop a robust public outreach program. The program will include at least four public workshops where the public will participate in hands-on/table top exercises.

The City will solicit stakeholders to help in this public outreach process (i.e. Monterey Bay National Marine Sanctuary (MBNMS), establish a stakeholder subcommittee, and create a community support strategy. A sea-level rise walk will highlight for community participants areas where flooding is anticipated in the future to increase public awareness of the unique challenges that climate change pose for our community. The City will also meet with Coastal Commission staff.

The City will also create a web page, social media interface, and newsletters to obtain public input and update the public about upcoming meetings, draft documents, and the project's overall schedule and progress.

Deliverables will include a community support strategy that includes information on the stakeholders and outreach program completed by February 2018.

Task 2: The City believes that early and regular interaction with the Commission is critical to project success. The City will participate in an initial meeting with its regional Commission contact to discuss the LUP update and the drafting of the plan. Initial meeting topics will include the scope and direction of the LCP update, boundary confirmation, primary coastal resources, specific planning issues, document format, and other issues that are important at the early stages of the project. The City intends to obtain Commission staff's early review and acceptance on the scope and to have a thorough understanding of Commission priorities to ensure that the LCP document, as reviewed and forwarded to the Coastal Commission by the City Council, will not require extensive revision and/or recirculation. Pending Commission staff availability, the City proposes to have a status check-in every other month with the Commission to monitor progress and ensure project success. The City will develop a regular coordination schedule with CCC staff with benchmarks for review of deliverables as outlined in the Schedule below.

Task 3: The first major project objective will be to develop an existing conditions and issues and sea level rise vulnerability assessment report for public review based on technical data, stakeholder input (NOAA, Coastal Commission staff, etc) and public workshops.

The report will include a land use and infrastructure inventory and will identify major planning issues including sea level rise vulnerabilities. A range of sea-level rise projections relevant to the planning area will be identified based on the 2012 National Research Council Report. These projections will be modified to account for local conditions, as necessary. In addition, the City will utilize existing studies created by the Southern Monterey Coastal Erosion Workgroup and the Monterey Bay Sea Level Rise Vulnerability Assessment with additional review of the City's local asset vulnerability. This additional review will also incorporate new data generated by studies created as part of the City of Monterey the City of Pacific Grove's LCP updates (currently in draft format) and other available sea level rise tools and existing vulnerability assessment work that has been completed for the Monterey Bay Region.

The project team will create parcel-specific maps that detail all risk factors such as inundation, storm flooding, wave impacts, erosion, sea level rise and tsunamis. These various risk factors will then be analyzed for their impact on coastal resources and development.

A draft existing conditions report, including hazards maps as described above, will be developed and reviewed by Coastal Commission staff, the stakeholder subcommittee, and the City Council and Planning Commission. A public workshop will also be held. The report will then be revised to address feedback and finalized.

The Vulnerability Assessment will use the Coastal Commission's [Sea Level Rise Policy Guidance document](#), and any other available Commission guidance related to sea level rise (SLR), to inform the development of the Sea Level Rise impact assessments, vulnerability assessments and LCP Land Use Plan and Implementation Plan update.

The Vulnerability Assessment will include: (1) storm and non-storm scenarios, including maximum daily and annual tidal inundation, (2) assessment of sea level rise vulnerability with and without key development that is currently vulnerable and/or protected by a revetment, such as Highway 1, railroad tracks, and/or a row of residences, (3) anticipated changes in beach width under future sea level rise scenarios, (4) evaluation of the feasibility and effectiveness of sediment management and beach nourishment, and (5) evaluation of sea level rise vulnerability of existing and planned segments of the California Coastal Trail (6) incorporate the subject of environmental justice by, to the extent feasible, analyzing the differential impacts of sea level rise upon various demographics and community groups, and (7) consider the latest reports on sea level rise science and recommendations from the state of California, including Rising Seas in California and the most recently adopted update to the State Sea Level Rise Guidance. These scenarios and topics will be modelled or quantitatively analyzed where feasible and applicable, or at a minimum thoroughly discussed in a qualitative manner.

Deliverables will include a draft and final existing conditions and issues and vulnerability assessment report completed by October 2018.

Task 4: The second project objective will be to draft a vision, goals, and objectives report that addresses topics including coastal erosion, sea level rise, public access, sensitive habitat, land uses and reuse of the CEMEX sand mine. This task will include a public workshop, subcommittee meeting, and meetings with coastal staff. The draft vision, goals, and objectives report will be revised to address feedback, and the Planning Commission and City Council will also be asked to accept the vision, goals, and objectives report.

Deliverables will include a draft vision, goals, and objectives report, and a finalized report completed by March 2019.

Task 5: The third project objective is to prepare an Adaptation Plan report that will analyze a variety of approaches to address impacts from sea level rise and coastal erosion (including coastal erosion resulting from sand mining). This effort will include identification of priorities, consideration of the pro and cons of different strategies, and an economic analysis that evaluates costs versus benefits of different strategies. The final report will include a discussion of these topics, as well as identification of a preferred set of strategies to address sea level rise impacts.

A draft Adaptation Report will be developed that includes a discussion of the range of possible SLR adaptation strategies and analysis of the pros/cons and costs/benefits. Coastal Commission staff will have an opportunity to review and provide comments on the adaptation plan. Sea level rise adaptation strategies and their various pros and cons will be presented at a public workshop where participants will provide feedback through tabletop exercises. A preferred set of SLR adaptation strategies will be identified, and the draft Adaptation Plan Report will be revised before being presented to the Planning Commission and City Council. The Planning Commission and City Council will be asked to approve a preferred set of adaptation strategies and the Adaptation Report will be finalized.

Sea Level Rise work will be coordinated regionally to the extent feasible with other jurisdictions and entities working on sea level rise projects within the same county or broader regional area relevant for sea level rise adaptation, such as the watershed, littoral cell, or area with similar geologic characteristics.

Deliverables will include a draft and final Adaptation Report completed by May 2019.

Task 6: The project team will prepare the LCP based on the extensive input provided during the earlier project tasks. This project stage will include multiple meetings with the Coastal Commission staff, including iterative review of LCP drafts (ensuring adequate time for CCC staff to review and provide comments on draft policies prior to presentations at the Planning Commission/City Council). The Draft LCP will also be reviewed by the stakeholder subcommittee and will be presented at a public workshop. Feedback from stakeholders will be incorporated into a revised Draft LCP which will be presented for Planning Commission/City Council review and adoption.

The City anticipates the following work to be done on the LCP:

8. Review and update existing policies;
9. Review and update Planning Guidelines in accordance with current community needs and circumstances;
10. Verify existing and possibly redefine the Coastal Zone boundary;
11. Revise land use section to align with current community needs and circumstances;
12. Revise and update Access Component in accordance with any revisions to land uses and planning guidelines;
13. Update and digitize maps;
14. Updates to the Implementation Plan (IP) will be done concurrently the updates to the Land Use Plan (LUP), as necessary.

Deliverables will include the LCP documents and maps in both paper and editable digital format to the Coastal Commission and will be completed by December 2019.

C. SCHEDULE

Project start/end dates: 12/01/2017 – 12/31/2019

Tasks	Projected Start/ End Dates
Task 1. Identify Stakeholders and Develop Outreach Program	December 1, 2017 – February 1, 2018
1.1 Establish Subcommittee and Define Stakeholders	
1.2 Conduct Sea Level Rise walk	
1.3 Meet with Coastal Staff #1	
1.4 Establish email notification lists, and identify key links to community cross sections to facilitate information flow and participation	
1.5 Create web page	
1.6 Create social media platforms and newsletter template	
1.7 Create web-based community questionnaire	
Outcome Deliverables: Web Page, Social Media Pages, Newsletter Template, Community support strategy	February 1, 2018
Task 2. Coordination with Coastal Commission Staff	December 1, 2017 through Certification
Task 3. Identify Existing Conditions, Issues	February 1 – October 1, 2018
2.1 Conduct land use and infrastructure inventory; determine range of sea-level rise projections relevant to the planning area (2012 NRC Report) and modify those projections to account for local conditions; identify potential physical sea-level rise impacts (inundation, storm flooding, wave impacts, erosion and saltwater intrusion into freshwater resources, etc.); and assess potential risks from sea-level rise to coastal resources and development.	February/March 2018
2.2 Draft Existing Conditions Report	March 2018
2.3 CCC staff review of draft existing conditions report; Meet with Coastal Staff #2 – review report, identify issues	April/May 2018
2.4 Subcommittee Meeting #1 – review report, identify issues	May 2018
2.5 Workshop #1 – review EC report, identify issues	June 2018
2.6 Conduct stakeholder interviews as needed	May/June 2018
2.7 Post web-based community questionnaire	May 2018
2.9 Report progress to City Council and Planning Commission and receive input	July 2018
2.10 Report progress to Coastal Staff and receive input	August/September 2018
2.11 Revise and finalize Existing Conditions Report (???)	September 2018
Outcome/Deliverables: a. Draft Existing Conditions Report, b) final Existing Conditions Report	a. May 1, 2018 b. October 1, 2018

Task 4. Establish Vision, Goals, and Objectives	October 1, 2018 – March 31, 2019
3.1 Draft Vision and Goals based on issue identification	October 2018
3.2 CCC staff reviews of vision, goals, and objectives report; Meet with Coastal Staff #3	October/November 2018
3.3 Workshop #2 – Review vision and goals, define alternatives	November 2018
3.4 Subcommittee Meeting #2 – Review refined vision, goals, define alternatives	November 2018
3.5 Meet with Coastal Staff #4	December 2018
3.6 Revise Draft Vision, Goals, and Objectives report to incorporate feedback	January 2019
3.7 Pursue Council and Planning Commission acceptance of vision and goals	February 2019
3.8 Finalize the Visions, Goals, and Objectives Report	March 2019
Outcome/Deliverables: Draft (a.) and Final (b.) Vision, Goals and Objectives Report	a. November 1, 2018 b. March 31, 2019
Task 5: Prepare Adaptation Plan and Vulnerability Assessment	October 1, 2018 – May 31, 2019
4.1 Identify a range of SLR adaptation strategies, analyze pros/cons and costs/benefits, and develop a draft Adaptation Plan Report	October-December 2018
4.2 CCC staff review of draft Adaptation Plan Report; Meet with Coastal Staff #5	January 2019
4.3 Workshop #3 – Review SLR adaptation alternatives, including pros/cons and costs/benefits; select preferred set of strategies	February 2019
4.4 Subcommittee Meeting #3 to review preferred set of strategies	February 2019
4.5 Revise Adaptation Plan Report to incorporate feedback	March 2019
4.5 Solicit Planning Commission recommendation on preferred set of strategies	March/April 2019
4.6 Pursue Council acceptance of preferred set of strategies	April 2019
4.7 Finalize Adaptation Plan Report	April/May 2019
Outcome/Deliverables: Adaptation Plan and Vulnerability Assessment	May 31, 2019
Task 6: Develop Policies, Programs, and Implementation	February 2019 – December 31, 2019
5.1 Develop draft Local Coastal Program	February 2019 – June 2019
5.2 Refine Local Coastal Program	July 2019
5.3 CCC review of draft LCP; Meet with Coastal Staff #6	August 2019
5.4 Subcommittee Meeting #4	August 2019
5.5 Workshop #4	September 2019
5.6 Council/Planning Commission study session on draft Local Coastal Program	October 2019
5.7 Develop revised draft LCP that addresses feedback	October 2019
5.8 CCC review of revised draft LCP; Meet with Coastal Staff #7	November 2019
5.9 Planning Commission recommendation	November 2019
5.10 Pursue Council Adoption	November 2019
5.11 Submit LCP Update to Coastal Commission for review and certification	December 2019
Outcome/Deliverables: a. Draft LCP, b. Revised Draft LCP, c. Final LCP	a. June 2019 b. September 2019

	c. December 31, 2019

D. BENCHMARK SCHEDULE

BENCHMARK SCHEDULE

ACTIVITY	COMPLETION DATE
Community Support Strategy	2/1/2018
Final Existing Conditions Report	10/1/2018
Final Vision, Goals, and Objectives Report	3/31/2019
Final Adaptation Plan and Report	5/31/2019
Draft LCP	6/1/2019
Final LCP (LCP submittal)	12/31/2019

E. BUDGET

Note: Task 2 involves coordination with Coastal Commission Staff that will be ongoing throughout project and is not listed as a budget item.

	CCC Grant Total	Match (In-Kind Services)	Other Funds (General Fund)	Total (LCP Grant Funds + Match/ Other Funds)
LABOR COSTS¹				
City Staff Labor				
Task 1 – Identify Stakeholders and Develop Outreach Program		\$2,000		\$2,000
Task 3 – Identify Existing Conditions, Issues		\$10,000		\$10,000
Task 4 – Establish Vision, Goals, and Objectives		\$8,000		\$8,000
Task 5 – Develop Alternatives		\$9,000		\$9,000
Task 6 – Develop Policies, Programs, and Implementation		\$15,000		\$15,000
Total Labor Costs		\$44,000		\$44,000
DIRECT COSTS				
City Staff Project Supplies				
Task 1 – Identify Stakeholders and Develop Outreach Program		\$1,000		\$1,000
Task 3 – Identify Existing Conditions, Issues		\$1,000		\$1,000
Task 4 – Establish Vision, Goals, and Objectives		\$1,000		\$1,000
Task 5 – Develop Alternatives		\$1,000		\$1,000
Task 6 – Develop Policies, Programs, and Implementation		\$1,000		\$1,000
Total		\$5,000		\$5,000
City Staff Travel In State²				
Mileage		\$1,000		\$1,000
Hotel, etc.				
Total		\$1,000		\$1,000
Consultants³				
Consultant - TBD				

¹ Amount requested should include total for salary and benefits.

² Travel reimbursement rates are the same as similarly situated state employees.

³ All consultants must be selected pursuant to a bidding and procurement process that complies with all applicable laws.

	<i>CCC Grant Total</i>	<i>Match (In-Kind Services)</i>	<i>Other Funds (General Fund)</i>	<i>Total (LCP Grant Funds + Match/ Other Funds)</i>
Task 1 – Identify Stakeholders and Develop Outreach Program	\$5,000			\$5,000
Task 3 – Identify Existing Conditions, Issues	\$10,000			\$10,000
Task 4 – Establish Vision, Goals, and Objectives	\$20,000			\$20,000
Task 5 – Develop Alternatives	\$30,000			\$30,000
Task 6 – Develop Policies, Programs, and Implementation	\$20,685		\$25,000	\$45,658
Total	\$85,685		\$25,000	\$110,685
Total Direct Costs	\$85,685	\$6,000	\$25,000	\$116,685
OVERHEAD/INDIRECT COSTS⁴				
Total City Staff Overhead/Indirect Costs				
TOTAL PROJECT COST	\$85,685	\$50,000	\$25,000	\$160,685

⁴ Indirect costs include, for example, a pro rata share of rent, utilities, and salaries for certain positions indirectly supporting the proposed project but not directly staffing it. Amount requested for indirect costs should be capped at 10% of amount requested for "Total Labor."

Attachment C

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



CALIFORNIA COASTAL COMMISSION

LCP PLANNING

GRANT APPLICATION FORM

MAY 30, 2017

APPLICANT INFORMATION

Applicant name (agency): City of Marina

Address: 211 Hillcrest Avenue, Marina, CA 93933

Contact name: Christy Hopper

Title: Planning Services Manager

Telephone: 831-884-1238

Fax: 831-384-0425

Email: chopper@cityofmarina.org

Federal Tax ID#: 94-2321991

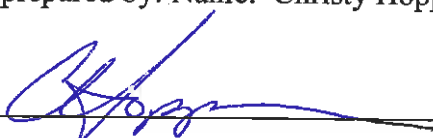
Person authorized to sign grant agreement and amendment:

Name: Layne Long

Title: City Manager

Application prepared by: Name: Christy Hopper

Title: Planning Services Manager

Signature: 

Date: [Click here to enter a date.](#)

PROJECT INFORMATION

Project title: City of Marina Local Coastal Plan Comprehensive Update

LCP/ LCP Segment: City of Marina (City Segment)

Project location: City / Geographic area: City of Marina

County: Monterey

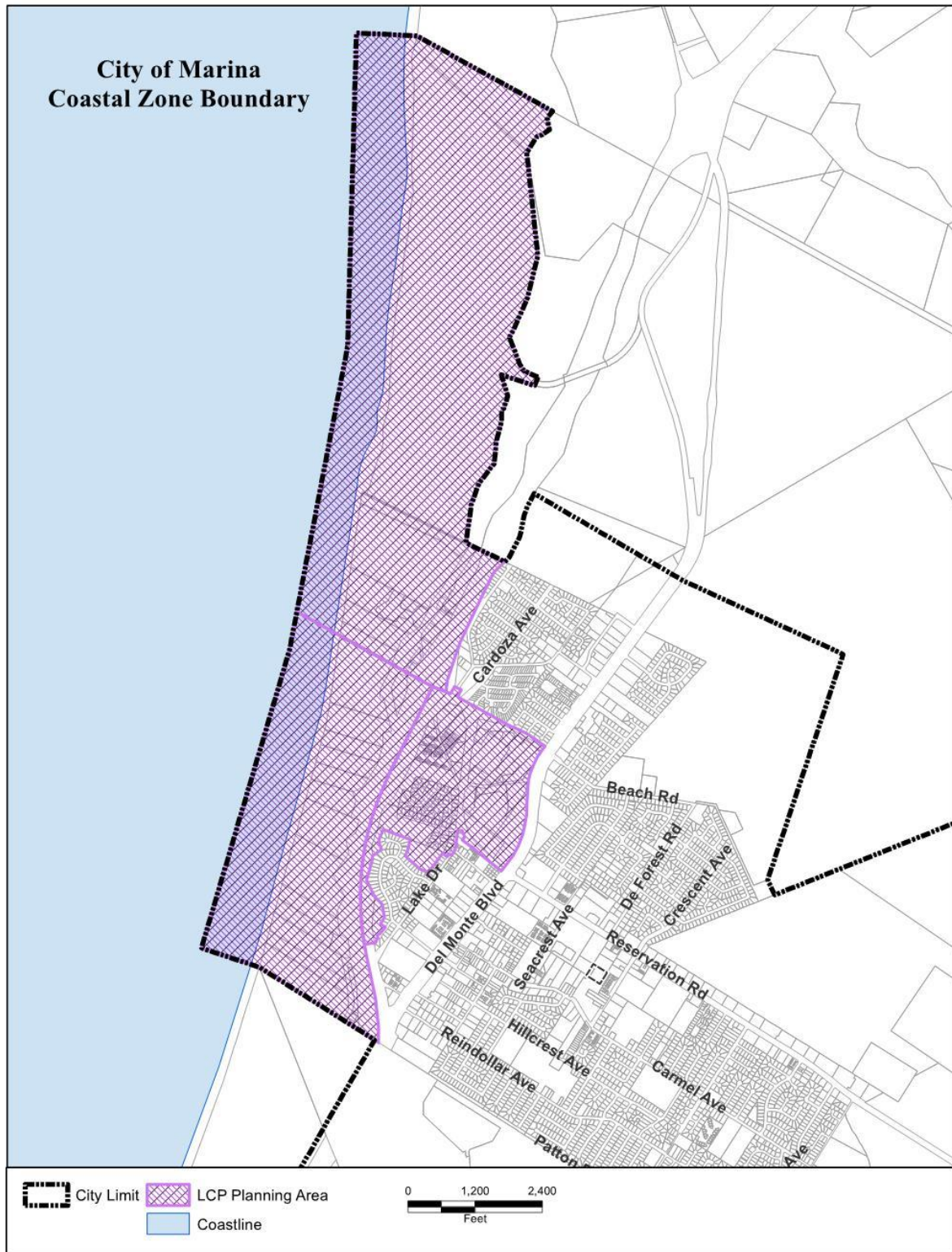
Project timeline: Start date: 12/1/2017

End date: 12/31/2019



MAPS AND PHOTOS

A map of the planning area is below.





APPLICATION MATERIALS

1. PROJECT DESCRIPTION.

The City of Marina proposes a comprehensive update to its certified Local Coastal Program (LCP), including both the Land Use and Implementation Plans to address sustainable development, increased opportunities for coastal access and public recreation, vulnerability to climate change and sea level rise, coastal erosion and conservation of coastal resources consistent with the California Coastal Commission's priorities and the City's General Plan. The California Coastal Commission certified the City's Local Coastal Program (LCP) in 1982 and a comprehensive review of the program has not been accomplished to date.

Of particular concern is the impact that the CEMEX sand mine, the last remaining coastal sand mine in the United States, is having on the eroding coast. The cessation of sand mining is listed as the highest priority Coastal Regional Sediment Management Plan prepared for the Association of Monterey Bay Area Governments in 2008. This update will redefine the vision of the city for the reuse of the CEMEX site if sand mining were to cease and include an evaluation of sand mining impacts on biological and mineral resources, appropriate zoning and alternative uses.

a. Goals and Objectives

Goal 1: Update the Local Coastal Program (LCP)

Objective: Execute a public outreach program that includes at least four public workshops (October 2018, November 2018, December 2018, January 2019), a web page, social media, and newsletters to obtain public input and update the public about upcoming meetings, draft documents, and the project's overall schedule and progress.

Objective: Prepare list of issues and updates reflective of the Coastal Act and the City's vision for its Coastal Zone. (October 2018)

Objective: Prepare draft LCP that implements the City's vision and the Coastal Act through updated LCP policies, programs, and figures, and provides an updated implementation plan to be incorporated into the zoning ordinance. (December 2019)

Goal 2: Obtain Coastal Commission certification of the Updated Local Coastal Program.

Objective: Meet with local Coastal Commission staff representative a minimum of seven times throughout the planning process to review issues and progress and identify and address issues early in the process.

Goal 3: Integrate Coastal Erosion and Sea Level Rise Strategies into the Local Coastal Program



Objective: Consider the studies created by the Southern Monterey Coastal Erosion Workgroup and incorporate into the Coastal Plan. Ensure consistency with larger regional vulnerability assessment efforts, including the Monterey Bay Sea Level Rise Vulnerability Assessment (2014). The vulnerability and risk assessments will be used to prioritize key areas with sea level rise strategies as part of the adaptation plan. Measure the degree of vulnerability posed to Marina's social, economic, and physical coastal resources, including beaches, roadways, residences, businesses, sensitive habitat, and other critical infrastructure, by examining the risks and sensitivities associated with sea level rise, erosion, and coastal flooding. (October 2018)

Objective: Create parcel-specific maps that detail all risk factors such as sea level rise, tsunamis, and flooding, and conduct risk assessment to general City infrastructure, land uses and transportation corridors. (October 2018)

Objective: Create an adaptation plan that identifies effective shoreline accommodation, protection, and retreat strategies through sea level rise scenarios and community/stakeholder input. Once designed, the adaptation plan will be designed to work as a standalone strategic plan, including short-term prioritized actions and will include specific measures and language to be included in the City's LCP. The adaptation plan will include the following components that the City will draw on to update its LCP: Existing Conditions Report, Key Asset Manager Surveys/Responses, Technical Studies, Adaptation Strategies, and Prioritized Implementation Plan. (April 2019)

b. Adopted Priorities and Criteria

i. Public Benefit Significance

A significant public benefit would be realized by studying and planning for the long-range impacts of climate change on Marina's coastal resources. Understanding existing vulnerabilities in the face of future impacts and incorporating comprehensive adaptation actions into a robust LCP update will provide the City with the tools to protect residents, businesses, habitat and the character of the coastal community. The key benefits of incorporating a vulnerability assessment and adaptation plan into Marina's local coastal plan are as follows:

Respond to climate change. The results of technical studies (vulnerability and risk assessments) conducted through the project will allow Marina to adequately prepare for sea level rise and climate change impacts. The project will identify policies that enhance the coastal zone's adaptive capacity to climate change, through shoreline accommodation, protection, and/or retreat. The City may use tools such as overlay zoning, performance criteria, or other mitigation to anticipate future impacts from climate change.



Preserve and enhance coastal access. Beach access to the coastline is a crucial element of Marina's coastal character. These points have been surveyed and assessed as part of the original LCP, taking into account areas where additional infrastructure and facilities would support public access to the coast. Incorporating vulnerability assessment and adaptation plan findings into this analysis will allow the city to identify where coastal erosion and sea level rise may threaten coastal access. Identification of effective shoreline accommodation, protection, and retreat strategies will be developed to include coastal access considerations.

ii. Relative Need for LCP Amendment

The Marina LCP was adopted in 1982 and has had only minor revisions and updates. The 35-year gap between this adoption and the present means that the city's LCP misses crucial opportunities for consistency with California Coastal Commission (CCC) guidance on topics such as coastal access and sea level rise. The coastal zone land use maps in the existing LCP do not recognize land use changes in the coastal zone nor a clear vision of the City for reuse of the CEMEX sand mine site. This leaves Marina with a guide to development in the coastal zone that does not include existing conditions, best practices, or available science about existing and future impacts.

With the availability of CCC guidance on sea level rise and a community that continues to be interested in how it can adapt to climate change, the City wishes to complete technical studies and engage the community around the new sea level rise modeling and strategies to ensure the LCP is built on community consensus and best available practices. The City will build upon the existing LCP to incorporate a sea level rise assessment (vulnerability/risk assessments) and adaptation strategies. This grant funding provides an opportunity for the City to leverage the work already completed, and focus on building resiliency and consistency with the latest CCC guidance and conducting necessary community engagement.

iii. Addressing the Effects of Climate Change

This project will assess vulnerability and risk to key infrastructure and populations as a result of sea level rise, flooding, and erosion, and develop sea level rise strategies for inclusion in the Marina LCP. The city needs additional information on how sea level rise can worsen existing issues with coastal erosion and flooding. An increase in the mean high tide line leaves coastal infrastructure, beaches, key coastal access points, state and local transportation, utility infrastructure, homes, businesses, and parks vulnerable to inundation. The city will analyze and include existing studies on climate change, including studies created by the Southern Monterey Coastal Erosion Workgroup and the Monterey Bay Sea Level Rise Vulnerability Assessment.

iv. Likelihood of success/effectiveness

Marina has experienced extensive staff turnover and changes in leadership. These changes have delayed this critical LCP update; however, the city has increased its internal capacity by hiring new staff, including a Community Development Director,



Public Works Director, Planning Services Manager and City Manager that are committed to working with CCC staff to incorporate sea level rise analysis and strategies and updated land uses into the LCP and then submit for certification. Throughout the LCP update process, City of Marina staff will facilitate community and stakeholder outreach to obtain input on technical findings about vulnerability, risk, and adaptation approaches. This outreach will include conversations about accommodation, protection, and retreat scenarios, and will be able to focus on a comprehensive integration of LCP and adaptation topics into the larger conversations about land use in the city. The community is already aware of pending General Plan and LCP updates and there is a general base of knowledge, understanding and concern around some of the key issues, including coastal erosion and appropriate land uses in the coastal zone. The city will leverage this awareness and engage representatives from across the community and region, including Monterey County; the Cities of Seaside, Sand City, Monterey and Pacific Grove; environmental groups, the City of Marina businesses and residents.

v. Workload and Permit Streamlining

The City of Marina currently suffers inefficiencies in issuing coastal development permits due to inconsistencies and old data contained in the General Plan, Zoning Ordinance, and LCP. Updating the LCP and actively engaging the public will achieve streamlined permit processing by providing a transparent framework and new regulations based on current best practices and updated technical data that will ensure that processing is consistent with the Coastal Act and CCC guidance. The existing LCP is dated and maps almost illegible, which is disorienting for project applicants and staff and leads to uncertainty and delays in the coastal development permit review and approval process. In addition, the review process for amendments to existing Coastal Permits is unclear. This creates additional labor for both city staff and the CCC, requiring extensive revisions to applications submitted to the city. By updating LCP policies to reflect new guidance and land use issues, city staff and the CCC can reduce the staff time necessary to analyze projects and process permits.

vi. Project Integration/Leveraging/Matching Funds

To complete the update, \$300,000 is requested from the CCC in funding from this grant program. In addition, Marina is able to offer \$75,000 in in-kind services for staff time and materials for project management and outreach. The total cost of the update is estimated at \$375,000.

No other funding sources have been identified or committed to date, and the City has not previously applied for grant funding to plan for sea level rise impacts. This grant application is the first submitted by the City of Marina to comprehensively address the threats to the community posed by climate change.



2. TASK DESCRIPTIONS AND SCHEDULE.

A. TASK DESCRIPTIONS:

Task 1: The City will develop a robust public outreach program. The program will include at least four public workshops where the public will participate in hands-on/table top exercises. A sea-level rise walk will highlight for community participants areas where flooding is anticipated in the future to increase public awareness of the unique challenges that climate change pose for our community. The City will solicit stakeholders to help in this public outreach process (i.e. Monterey Bay National Marine Sanctuary (MBNMS)).

The City will also create a web page, social media interface, and newsletters to obtain public input and update the public about upcoming meetings, draft documents, and the project's overall schedule and progress.

Deliverables will include a sea level rise walk public event, web page, social media pages, newsletter template and community support strategy completed by January 2018.

Task 2: The City believes that early and regular interaction with the Commission is critical to project success. The City will participate in an initial meeting with its regional Commission contact to discuss the LUP update and the drafting of the plan. Initial meeting topics will include the scope and direction of the LCP update, boundary confirmation, primary coastal resources, specific planning issues, document format, and other issues that are important at the early stages of the project. The City intends to obtain Commission staff's early review and acceptance on the scope and to have a thorough understanding of Commission priorities to ensure that the LCP document, as reviewed and forwarded to the Coastal Commission by the City Council, will not require extensive revision and/or recirculation. Pending Commission staff availability, the City proposes to have a status check-in every other month with the Commission to monitor progress and ensure project success. The City will develop a regular coordination schedule with CCC staff with benchmarks for review of deliverables as outlined in the Schedule below.

Task 3: The first major project objective will be to develop an existing conditions and issues report for public review based on technical data, stakeholder input (NOAA, Coastal Commission staff, etc) and public workshops.

The report will include a land use and infrastructure inventory as well as major planning issues will be identified and explored such as the range of sea-level rise projections relevant to the planning area based on the 2012 National Research Council Report. These projections will be modified to account for local conditions. In addition, the City will utilize existing studies created by the Southern Monterey Coastal Erosion Workgroup and the Monterey Bay Sea Level Rise Vulnerability Assessment with additional review of the City's local asset vulnerability. This additional review will also incorporate new data generated by studies created as part of the City of Monterey the City of Pacific Grove's LCP updates (currently in draft format).



The project team will create parcel-specific maps that detail all risk factors such as inundation, storm flooding, wave impact, erosion, and tsunamis. These various risk factors will then be analyzed for their impact on coastal resources and development.

Deliverables will include an existing conditions and issues report and web-based community questionnaire completed by October 2018.

Task 4: The second project objective will be to draft vision and specific goals regarding coastal erosion, sea level rise, public access, sensitive habitat, land uses and reuse of the CEMEX sand mine. This work will include a public workshop, subcommittee meeting, and meeting with coastal staff. The Planning Commission and City Council will also be asked to accept the vision and goals. Deliverables will include a vision, goals, and objectives report completed by December 2018.

Task 5: The third project objective is to prepare an Adaptation Plan and report that will analyze a variety of approaches to sea level rise and coastal erosion (including coastal erosion resulting from sand mining), identify priorities, consider pro and cons, an economic analysis to evaluate costs versus benefits and then identifies a preferred set of strategies.

The project alternatives will be presented at a public workshop where participants will provide feedback through tabletop exercises. The Planning Commission and City Council will also be asked to approve a preferred alternative. Deliverables will include an alternatives report completed by March 2019.

Task 6: The project team will prepare the LCP based on the extensive input provided during the earlier project tasks. This project stage will include multiple meetings with the Coastal Commission staff as well as Planning Commission/City Council review. Deliverables will include the LCP completed by December 2019.

B. SCHEDULE:

Proposed starting date: 12/1/2017

Estimated completion: 12/31/2019

WORK PROGRAM

Tasks	Projected Start/ End Dates
Task 1. Identify Stakeholders and Develop Outreach Program	December 1, 2017
1.1 Establish Subcommittee and Define Stakeholders	
1.2 Meet with Coastal Staff #1	
1.2 Establish email notification lists, and identify key links to community cross sections to facilitate information flow and participation	



1.3 Create web page	
1.4 Create social media platforms and newsletter template	
1.5 Create web-based community questionnaire	
Outcome Deliverables: Web Page, Social Media Pages, Newsletter Template, Community support strategy	January 1, 2018
Task 2. Coordination with Coastal Commission Staff	December 1, 2017 through Certification
Task 3. Identify Existing Conditions, Issues	
2.1 Conduct land use and infrastructure inventory; determine range of sea-level rise projections relevant to the planning area (2012 NRC Report) and modify those projections to account for local conditions; identify potential physical sea-level rise impacts (inundation, storm flooding, wave impacts, erosion and saltwater intrusion into freshwater resources, etc.); and assess potential risks from sea-level rise to coastal resources and development.	
2.2 Draft Existing Conditions Report	
2.3 Meet with Coastal Staff #2 – review report, identify issues	
2.4 Subcommittee Meeting #1 – review report, identify issues	
2.5 Workshop #1 – review EC report, identify issues	
2.6 Conduct stakeholder interviews as needed	
2.7 Post web-based community questionnaire	
2.9 Report progress to City Council and Planning Commission and receive input	
2.10 Report progress to Coastal Staff and receive input	
Outcome/Deliverables: Existing Conditions Report, Web-Based Community Questionnaire	October 1, 2018
Task 4. Establish Vision, Goals, and Objectives	
3.1 Draft Vision and Goals based on issue identification	
3.2 Meet with Coastal Staff #3	
3.3 Workshop #2 – Review vision and goals, define alternatives	
3.4 Subcommittee Meeting #2 – Review refined vision, goals, define alternatives	
3.5 Meet with Coastal Staff #4	
3.6 Pursue Council and Planning Commission acceptance of vision and goals,	
Outcome/Deliverables: Vision, Goals and Objectives Report	December 1, 2018
Task 5: Prepare Adaptation Plan and Report	
4.1 Develop alternatives for Local Coastal Program, including adaption measures and LCP policies addressing climate change	
4.2 Meet with Coastal Staff #5	
4.3 Workshop #3 – Review alternatives select preferred	



4.4 Subcommittee Meeting #3 to review preferred alternative	
4.5 Solicit Planning Commission recommendation on preferred alt.	
4.6 Pursue Council acceptance of preferred alternative	
Outcome/Deliverables: Adaptations Plan and Report	March 1,2019
Task 6: Develop Policies, Programs, and Implementation	
5.1 Develop draft Local Coastal Program	
5.2 Refine Local Coastal Program	
5.3 Meet with Coastal Staff #6	
5.4 Subcommittee Meeting #4	
5.5 Workshop #4	
5.6 Study session on draft Local Coastal Program	
5.7 Solicit Planning Commission acceptance of project description	
5.8 Meet with Coastal Staff #7	
5.9 Planning Commission recommendation	
5.10 Pursue Council Adoption	
5.11 Coastal Commission review and certification	
Outcome/Deliverables: Draft LCP and Final LCP	December 31, 2019

BENCHMARK SCHEDULE

ACTIVITY	COMPLETION DATE
Web Page, Social Media Pages, Newsletter Template	1/1/2018
Existing Conditions Report, Web Based Community Questionnaire	10/1/2018
Vision, Goals, and Objectives Report	12/1/2018
Adaptation Plan and Report	3/1/2019
Develop Policies, Programs, and Implementation	12/31/2019

- BUDGET.** Please include a task-by-task budget for both County/City staff labor and for potential consultants. Budget detail on sub-tasks is not necessary. Note that consultant costs must be listed by task and must include all costs relating to consultant labor, travel, supplies, overhead, etc. If consultants will be hired at a later date, please include a budget estimate per task that can be updated after hiring the consultants.



APPLICATION BUDGET INFORMATION

Funding Request: \$300,000.00

Total Project Cost: \$375,000

	CCC Grant Total	Match (In-Kind Services)	Other Funds (General Fund)	Total (LCP Grant Funds + Match/ Other Funds)
LABOR COSTS¹				
City Staff Labor				
Task 1 – Identify Stakeholders and Develop Outreach Program		\$2,000		\$2,000
Task 2 – Identify Existing Conditions, Issues		\$10,000		\$10,000
Task 3 – Establish Vision, Goals, and Objectives		\$8,000		\$8,000
Task 4 – Develop Alternatives		\$9,000		\$9,000
Task 5 – Develop Policies, Programs, and Implementation		\$15,000		\$15,000
Total Labor Costs		\$44,000		\$44,000
DIRECT COSTS				
City Staff Project Supplies				
Task 1 – Identify Stakeholders and Develop Outreach Program		\$1,000		\$1,000
Task 2 – Identify Existing Conditions, Issues		\$1,000		\$1,000
Task 3 – Establish Vision, Goals, and Objectives		\$1,000		\$1,000
Task 4 – Develop Alternatives		\$1,000		\$1,000

¹ Amount requested should include total for salary and benefits.



	CCC Grant Total	Match (In-Kind Services)	Other Funds (General Fund)	Total (LCP Grant Funds + Match/ Other Funds)
Task 5 – Develop Policies, Programs, and Implementation		\$1,000		\$1,000
Total		\$5,000		\$5,000
City Staff Travel In State²				
Mileage		\$1,000		\$1,000
Hotel, etc.				
Total		\$1,000		\$1,000
Consultants³				
Consultant - TBD				
Task 1 – Identify Stakeholders and Develop Outreach Program	\$15,000			\$15,000
Task 2 – Identify Existing Conditions, Issues	\$65,000			\$65,000
Task 3 – Establish Vision, Goals, and Objectives	\$60,000			\$60,000
Task 4 – Develop Alternatives	\$90,000			\$90,000
Task 5 – Develop Policies, Programs, and Implementation	\$70,000		\$25,000	\$95,000
Total				
Total Direct Costs	\$300,000	\$6,000	\$25,000	\$331,000
OVERHEAD/INDIRECT COSTS⁴				
Total City Staff Overhead/Indirect Costs				
TOTAL PROJECT COST	\$300,000	\$50,000	\$25,000	\$375,000

² Travel reimbursement rates are the same as similarly situated state employees.

³ All consultants must be selected pursuant to a bidding and procurement process that complies with all applicable laws.

⁴ Indirect costs include, for example, a pro rata share of rent, utilities, and salaries for certain positions indirectly supporting the proposed project but not directly staffing it. Amount requested for indirect costs should be capped at 10% of amount requested for "Total Labor."



4. **A RESOLUTION FROM THE APPLICANT'S GOVERNING BODY.** Please submit a resolution that contains the following authorizations: 1) authority to submit the proposal, 2) authority to enter into a grant agreement with the California Coastal Commission if the grant is awarded, and 3) designation of the applicant's authorized representative (name and title). A sample resolution is provided as Attachment A. Resolutions should also contain clear statements of commitment to full completion of the intended grant process, including submission of applicable LCP products (LCP submittal or amendment) to the Commission for review.

SUBMISSION DATES

Applications are due May 31, 2017. Application packets must be RECEIVED by 5pm May 31, 2017. Proposals must be emailed or mailed; faxed responses will not be considered.

If the governing body of an applicant cannot adopt a resolution similar to Attachment A of the application by this date, the applicant can submit the proposal with a draft resolution, provide a date for when the governing body will consider adoption of the resolution and **submit the adopted resolution by 5pm June 30, 2017**. All other materials must be submitted by the May 31, 2017 deadline. Applications will not be deemed complete until an adopted resolution is received. **Applications that do not contain a final, adopted resolution by June 30, 2017 will not be considered for funding.**

The Commission anticipates awarding the fourth round of grants in August of 2017.

SUBMISSION REQUIREMENTS

Please submit the completed application form, including all attachments, via email to LCPGrantProgram@coastal.ca.gov. Please submit all application materials as **a single PDF file AND submit the Project Description, Task Descriptions, Schedule, and Budget as a Word document**. See Attachment B for a checklist of required application materials.

If you are unable to submit via email, you may mail a CD and hard copy to the Coastal Commission:

Daniel Nathan
Coastal Program Analyst - LCP Grants
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105



415-904-5251

Please note: all information that you submit is subject to the unqualified and unconditional right of the Coastal Commission to use, reproduce, publish, or display, free of charge. All documents submitted will be considered a public record upon submittal. Please indicate if credit is requested for any of the photos and/or maps.

QUESTIONS

Coastal Commission staff are pleased to assist local governments during preparation of LCP grant applications. Please send questions on the grant application process to:

Daniel Nathan, at LCPGrantProgram@coastal.ca.gov, or call **(415) 904-5251**.

Questions regarding the LCP process and update approach should be directed to the LCP grant coordinator for Northern or Southern California. For Northern California counties (Del Norte through San Luis Obispo), please contact **Kelsey Ducklow** at: Kelsey.Ducklow@coastal.ca.gov or call **(415) 904-2335**. For Southern California counties (Santa Barbara through San Diego), please contact **Carey Batha** at: Carey.Batha@coastal.ca.gov or call **(415) 904-5268**

For District-specific questions, contact information for each district office is listed below.

North Coast (Del Norte, Humboldt, Mendocino Counties)

- Alison Dettmer, Deputy Director
Email: Alison.Dettmer@coastal.ca.gov, Phone: (415) 904-5200
- Bob Merrill, District Manager
Email: Bob.Merrill@coastal.ca.gov, Phone: (707) 826-8950

North Central Coast (Sonoma, Marin, San Francisco, San Mateo Counties)

- Dan Carl, Deputy Director
Email: Dan.Carl@coastal.ca.gov, Phone: (831) 427-4863
- Nancy Cave, District Manager
Email: Nancy.Cave@coastal.ca.gov, Phone: (415) 904-5260

Central Coast (Santa Cruz, Monterey, San Luis Obispo Counties)

- Dan Carl, Deputy Director
Email: Dan.Carl@coastal.ca.gov, Phone: (831) 427-4863



- Susan Craig, District Manager
Email: Susan.Craig@coastal.ca.gov, Phone: (831) 427-4863

South Central Coast (Santa Barbara and Ventura Counties, and the Malibu portion of Los Angeles Counties)

- Steve Hudson, Deputy Director
Email: Steve.Hudson@coastal.ca.gov, Phone: (805) 585-1800
- Barbara Carey, District Manager
Email: Barbara.Carey@coastal.ca.gov, Phone: (805) 585-1800

South Coast (Los Angeles (except Malibu) and Orange Counties)

- Karl Schwing, Deputy Director
Email: Karl.Schwing@coastal.ca.gov, Phone: (562) 590-5071
- Teresa Henry, District Manager
Email: Teresa.Henry@coastal.ca.gov, Phone: (562) 590-5071

San Diego (San Diego County)

- Karl Schwing, Deputy Director
Email: Karl.Schwing@coastal.ca.gov, Phone: (619) 767-2370
- Deborah Lee, District Manager
Email: Deborah.Lee@coastal.ca.gov, Phone: (619) 767-2370



ATTACHMENT A

RESOLUTION NO. 2017-

CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2017-AUTHORIZING STAFF TO SUBMIT A GRANT APPLICATION TO THE CALIFORNIA COASTAL COMMISSION AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE APPLICATIONS, CONTRACTS, AGREEMENTS, AND AMENDMENTS NECESSARY TO IMPLEMENT THE GRANT APPLICATION PACKAGE

WHEREAS, the Budget Act of 2016 provides \$550,000 for Coastal Commission grant in FY 16-17 to local governments to support Local Coastal Program (LCP) planning, and;

WHEREAS, the California Coastal Commission, under the authority of the California Coastal Act, may provide financial assistance to support coastal planning and has approved a competitive grant program to provide such financial assistance for LCP planning; and

WHEREAS, the goal of the grant program is to develop new or updated LCPs in conformance with the California Coastal Act and to reflect current circumstances and new scientific information, including new understandings and concern for the effects of climate change, and

WHEREAS, grant proposals submitted under this grant program must complete land use plan and/or zoning work to either achieve submittal for certification of a Local Coastal Program (LCP) or an Area of Deferred Certification (ADC) or of an LCP Amendment to significantly update a certified LCP or LCP segments, including with special emphasis on effects of climate change and sea-level rise;

WHEREAS, the City of Marina, has an effectively certified LCP; and

WHEREAS, the City of Marina, desires to pursue a project that would result in the completion and submittal for certification by the California Coastal Commission of an Amendment to update the LCP in whole;

WHEREAS, the City of Marina commits to and agrees to fully support a planning effort intended to update a certified LCP pursuant to the provisions of the California Coastal Act, with full public participation and coordination with the Coastal Commission staff.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Marina hereby:

1. Directs City of Marina staff to submit the grant application package attached hereto as Attachment 1 to the California Coastal Commission to provide financial and planning assistance, under authority of the California Coastal Act, in the amount of \$300,000 to fund the project more particularly described in the grant application package ("**EXHIBIT A**").



2. Authorizes the City Manager to execute, in the name of the City of Marina, all necessary applications, contracts and agreements and amendments thereto to implement and carry out the grant application package attached hereto and any project approved through approval of the grant application.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 6th day of June, 2017, by the following vote:

AYES, COUNCIL MEMBERS:

NOES, COUNCIL MEMBERS:

ABSENT, COUNCIL MEMBERS:

ABSTAIN, COUNCIL MEMBERS:

ATTEST:

Bruce C. Delgado, Mayor

Anita Sharp, Deputy City Clerk



ATTACHMENT B - APPLICATION CHECKLIST

A complete Grant Application Packet includes the following components. Please submit all documents in a single PDF file and the Project Description, Task Descriptions, Schedule, and Budget as a Word document, as noted below. **It is very important to receive the PDF file and a Word document for efficiency in preparing grant agreement documents.** Thank you for your attention to these important components of the application.

X Signed LCP Grant Application Form (.pdf)

X Project Description (.doc)

X Task Descriptions, Schedule, and Budget (.doc)

☐ Signed Resolution (.pdf) (**TO FOLLOW BEFORE JUNE 30, 2017**)

X All documents combined into a single PDF file (.pdf)



"EXHIBIT B"

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of November 7, 2017

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2017-
ACCEPTING GRANT AWARD FROM THE CALIFORNIA COASTAL
COMMISSION, LOCAL COASTAL PROGRAM ASSISTANCE GRANT
TO FUND A COMPREHENSIVE UPDATE TO THE CITY OF MARINA
LOCAL COASTAL PROGRAM (LCP); AUTHORIZING RELEASE OF A
REQUEST FOR PROPOSALS FOR CONSULTANT SERVICES TO
PREPARE THE UPDATE TO THE LCP; AUTHORIZING THE FINANCE
DIRECTOR TO MAKE NECESSARY ACCOUNTING AND
BUDGETARY ENTRIES; AND AUTHORIZING THE CITY MANAGER
TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY
SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY
ATTORNEY**

REQUEST:

It is requested that City Council consider

1. Adopting Resolution No. 2017- accepting grant award from the California Coastal Commission, Local Coastal Program Assistance Grant to fund a comprehensive update to the City of Marina Local Coastal Program (LCP);
2. Authorizing release of a Request for Proposals for Consultant Services to prepare the update to the LCP; and authorizing the Finance Director to make necessary budget and accounting entries; and,
3. Authorizing the City Manager to execute agreement on behalf of the City subject to final review and approval by the City Attorney.

BACKGROUND:

The California Coastal Commission (CCC) certified the City's Local Coastal Program in 1982. Various amendments were adopted over the years until 2009. The City of Marina goal is to update to its LCP for certification by the CCC to address, at minimum, coastal erosion, sea level rise, land uses within the zone, updated maps, and verification of the coastal boundary.

At a regular meeting on June 6, 2017, the City Council adopted Resolution No. 2017-51 directing staff to submit an application to the CCC for a Local Coastal Program Assistance Grant to fund a comprehensive update to the City of Marina LCP.

To complete the update, \$300,000 was requested from this year's CCC grant program. In addition, the City offered \$75,000 in in-kind services for staff time and materials for project management and outreach. The total cost of the update was estimated at \$375,000.

Due to limited available funds and the number of qualified grant applicants, the City of Marina was awarded \$85,685 by the CCC on August 9, 2017 to prepare an abbreviated LCP update that includes vulnerability and risk assessment and adaptation report to address the effects that sea level rise could have on coastal resources along the shoreline of Marina (“**EXHIBIT A**” to the Resolution). The City will continue to offer \$50,000 in in-kind services as well as up to \$25,000 in matching funds that is included in the FY 2017-18 budget.

ANALYSIS:

In order to complete the LCP update, the City will hire a qualified consultant to provide significant assistance in the preparation for and hosting of workshops; the preparation of the vulnerability assessment and development of adaptation strategies reports; and updating the LCP. 100% of the grant funding and up to a maximum of \$25,000 from the General Fund will provide the necessary funds to hire the consultant and complete the update.

Staff recommends that the City Council accept the grant award and authorize staff to release a Request for Proposals to hire a qualified consultant to prepare the LCP update (“**EXHIBIT B**” to the Resolution).

FISCAL IMPACT:

It is estimated that the total cost for the update to the certified LCP will be \$160,685. The CCC granted \$85,685 in funding and with City has budgeted up to \$25,000 in General Funds. In kind-services of up to \$50,000 will be provided in staff time.

ENVIRONMENTAL DETERMINATION

The City of Marina determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CCR, Title 14, Chapter 3 (“CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

CONCLUSION:

This request is submitted for City Council discussion and possible action.

Respectfully submitted,

Christy Hopper
Planning Services Manager
Community Development Department
City of Marina

REVIEWED/CONCUR:

J. Fred Aegerter, AICP
Community Development Director
Community Development Department
City of Marina

Layne P. Long
City Manager
City of Marina

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV



November 7, 2018

City of Marina Planning Commission
211 Hillcrest Avenue
Marina, CA 93933

Subject: Proposed City of Marina Local Coastal Program (LCP) Amendment regarding the Cemex Property, to be considered at the November 8, 2018 Planning Commission Meeting

Dear Chairman Burnett and Planning Commissioners:

Thank you for the opportunity to provide comments on the proposed amendment to the City's LCP regarding sand mining and future use of the Cemex property (APN 203-011-019-000) that you will be considering on November 8th. The proposed amendment is the same as what was previously brought forward for your September 13th hearing, but was postponed at that time. We provided comments for your consideration prior to that hearing, which are attached and incorporated herein by reference.

As we noted then, and as we continue to note now, we do not think it appropriate at this time to attempt to amend the LCP in a way that could prejudice the process and decision for California American Water's proposed desalination project, in either direction. Rather, that proposal needs to be understood on its own merits, and decisions related to it decided based on a Coastal Act and LCP analysis; one that does not modify the standard of review as it is headed to that decision in the very short-term. Furthermore, as you know, the City is currently working with us on its first comprehensive update to its entire LCP, which was first certified by the Coastal Commission in 1982. We continue to believe that LCP provisions regarding future use of the Cemex site are best addressed at this point through that update process, including because it will allow the public a greater opportunity to comprehensively vision and plan for future use, conservation, and development of the entire City's coastal zone, including the ways in which the Cemex site fits into that vision, especially given the Commission's Cease and Desist and Restoration Orders that require sand mining to cease at the site by 2020. **For these reasons, we do not support the proposed LCP amendment before you today, and recommend that you do not move forward with any LCP amendment affecting Cemex independent of the broader LCP update process.**

Finally, the City's staff report for your Planning Commission hearing on this topic indicates that Commission staff indicated preliminary agreement with the proposed LCP amendment, but that we subsequently changed our minds prior to the September hearing. These statements are inaccurate, including because the Commission has given grant funds to the City for a comprehensive LCP update, and because we have maintained that *that* is the appropriate process

to address long-term development and conservation not only at Cemex, but across the City's entire coastal zone.

Please do not hesitate to contact me with any questions or concerns about this matter. We also look forward to working with you, City staff, and Marina residents on the broader LCP update moving forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Kahn". The signature is fluid and cursive, with the first name "Kevin" and last name "Kahn" clearly distinguishable.

Kevin Kahn
District Supervisor
Central Coast District
California Coastal Commission

Enclosure: Coastal Commission letter to City Planning Commission regarding proposed Cemex LCP Amendment dated September 11, 2018

cc: Christy Hopper, City of Marina Planning Services Manager
Richard Svindland, California American Water Company President

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
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WEB: WWW.COASTAL.CA.GOV



September 11, 2018

City of Marina Planning Commission
211 Hillcrest Avenue
Marina, CA 93933

Subject: Proposed City of Marina Local Coastal Program (LCP) Amendment regarding the Cemex Property, to be considered at the September 13, 2018 Planning Commission Meeting

Dear Chairman Burnett and Planning Commissioners:

We write today to provide our preliminary thoughts on the proposed amendment to the City's LCP regarding sand mining and future use of the Cemex property (APN 203-011-019-000) that you will be considering on September 13th. As an initial matter, we were surprised the City drafted such an amendment because we have been actively collaborating with the City on a proposed overall LCP update that includes addressing the Cemex property. A separate Cemex amendment proposal, particularly one with such a short review and decision period, had not been part of those conversations. Further, the City's staff report distributed for this matter for the September 13th hearing mistakenly states that Commission staff is in agreement with the proposed amendment. That statement is inaccurate; we do not support the proposed amendment or the process that has been identified for it.

As currently proposed, the amendment seeks to delete all LCP references regarding sand mining, to add text referencing the cessation of sand mining operations at the Cemex site via the terms of the Consent Settlement Agreement and Cease and Desist Order between the Coastal Commission and Cemex (CCC-17-CD-02), and to change the land use designation of the Cemex property from Coastal Conservation and Development to Parks and Open Space, with low-impact recreation, public access, and habitat preservation as the primary preferred uses for the site. At a very broad level, those seem like appropriate changes conceptually, and reflect many of the discussions we have been having with City staff on the LCP update related to this site. However, another effect of the amendment as proposed would be to have the LCP prohibit the use of the site for any sort of desalination-related development in the future.¹ As you know, California American Water (CalAm) is currently seeking necessary permits and authorizations to construct a desalination plant to augment Monterey Peninsula water supplies, and some currently proposed components of this project would be located on the Cemex property, including intake devices and pipelines. CalAm's proposed project is currently pending before local, State, and Federal

¹ By designating the site Parks and Open Space, which only allows for very limited recreational and open space uses (i.e., not any type of industrial or utility-type uses), the LCP would effectively stand for the premise that desalination development is not allowed.

decision-makers, including the City and the Coastal Commission, and we do not think it appropriate at this time to attempt to amend the LCP in a way that could prejudice that process, in either direction. Rather, that proposal needs to be understood on its own merits, and decisions related to it decided based on a Coastal Act and LCP analysis; one that does not modify the standard of review as it is headed to that decision in the very short-term. In addition, the Commission's Consent Orders acknowledge that CalAm may have existing rights or obligations associated with the Cemex site, which were not altered by the Commission's Consent Order, and which could potentially include a desalination-related project.

Furthermore, as indicated above and as you know, the City is currently working with us on its first comprehensive update to its entire LCP, which was first certified by the Coastal Commission in 1982. We strongly believe that LCP provisions regarding future use of the Cemex site are best addressed through that update process, including because it will allow the public a greater opportunity to comprehensively vision and plan for future use, conservation, and development of the entire City's coastal zone, and not just "spot-zoning" this one site in isolation in an abbreviated review format. The overall LCP update also allows for overlapping issues and subjects to be addressed in a manner that is internally consistent throughout the LCP, including such issues that affect not only the Cemex site but other areas that are also subject to the LCP (e.g., the manner in which the LCP addresses environmentally sensitive habitat areas and resource protection). **For these reasons, we do not support the proposed LCP amendment before you today, and recommend that you do not move forward with any LCP amendment affecting Cemex independent of the broader LCP update process.**

Please do not hesitate to contact me with any questions or concerns about this matter. We also look forward to working with you, City staff, and Marina residents on the broader LCP update moving forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Kahn". The signature is fluid and cursive, with the first name "Kevin" and last name "Kahn" clearly distinguishable.

Kevin Kahn
District Supervisor
Central Coast District
California Coastal Commission

cc: Christy Hopper, City of Marina Planning Services Manager
Richard Svindland, CalAm President



November 8, 2018

City of Marina Planning Commission
211 Hillcrest Avenue
Marina, CA 93933

RE: November 8, 2018 Planning Commission Meeting, Agenda Item 6.a. - Proposed Recommendation to Marina City Council for Amendments to the Local Coastal Land Use and Implementation Plan and Zoning Ordinances regarding CEMEX Property located on Lapis Road in the City of Marina, Monterey County, CA

Dear Chairman Burnett and Planning Commissioners:

RMC Pacific Materials, LLC d/b/a CEMEX ("CEMEX") reiterates its objections to the proposed amendment to the City of Marina's Local Coastal Program (LCP), which would adversely affect rights of CEMEX and possibly third parties without just compensation. CEMEX further objects to the related proposed amendments to the City of Marina's Zoning Ordinance.

As set forth in CEMEX's letter of September 13, 2018, which is incorporated by reference and enclosed for your convenience, CEMEX disagrees with any notion that the proposed LCP amendment is needed to "align with the terms of the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02" between the California Coastal Commission and CEMEX (the "Consent Settlement") or the Mutual Release and Settlement Agreement between CEMEX and the City of Marina executed on June 26, 2017. As previously noted, the proposed LCP amendment fails to recognize existing easement and other rights on the property, including those of California American Water Company and attempts to require CEMEX to remove existing structures from its property.

CEMEX's concerns in these regards have gone unaddressed as no substantive changes to the amendments originally proposed in September 2018 have been made. Instead, City Staff have made a thinly veiled attempt to create the appearance of an alleged inconsistency with the City of Marina General Plan necessitating the proposed amendments right now. No General Plan amendment has occurred that would render the zoning ordinance inconsistent with the General Plan, as amended. For that and other reasons, California Government Code section 65860 does not dictate any amendment at this time.

Moreover, CEMEX objects to the piecemeal approach of the proposed amendments, which are clearly designed to prejudice its property rights and possibly others' rights at the Lapis site. There is an appropriate mechanism for amending the City's LCP to advance the City's policy objectives,

as well as a grant and associated schedule in place. This attempt to make piecemeal amendments in parallel would appear to run counter to the terms of the Work Program and Budget and the City's Grant Application Form, Attachments B and C to the Staff Report, respectively.

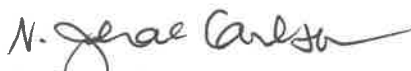
The California Coastal Commission and California American Water Company have set forth additional issues in their letters to you, dated November 7, 2018, regarding this matter, to which CEMEX urges the Planning Commission give due consideration.

CEMEX objects to the "Background" section of the Staff Report to the extent it mischaracterizes allegations made against CEMEX as findings or determinations. CEMEX denies the allegations set forth therein.

CEMEX respectfully asks you not to recommend an amendment to the LCP, including its Land Use Plan and Implementation Plan or the City's Zoning Ordinance affecting CEMEX's property or to support the proposed amendments under consideration.

CEMEX reserves the right to supplement this letter.

Regards,



N. Jerac Carlson

Vice President – Sustainability & Public Affairs

cc via email:

Kevin Kahn, California Coastal Commission

Justin Buhr, California Coastal Commission

John Del Arroz, California Coastal Commission

Ian Crooks, California American Water Company

Kathryn Horning, California American Water Company

Encl.: CEMEX Letter to City of Marina Planning Commission, dated September 13, 2018



September 13, 2018

City of Marina Planning Commission
211 Hillcrest Avenue
Marina, CA 93933

RE: September 13, 2018 Planning Commission Meeting, Agenda Item 6.a. - Proposed Recommendation to Marina City Council for a Local Coastal Land Use and Implementation Plan Amendment regarding CEMEX Property located on Lapis Road in the City of Marina, Monterey County, CA

Dear Chairman Burnett and Planning Commissioners:

RMC Pacific Materials, LLC d/b/a CEMEX ("CEMEX") objects to the proposed amendment to the City of Marina's Local Coastal Program (LCP), which would adversely affect rights of CEMEX and possibly third parties without just compensation. CEMEX also disagrees with any notion that the proposed amendment is needed to "align with the terms of the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02" between the California Coastal Commission and CEMEX (the "Consent Settlement") or the Mutual Release and Settlement Agreement between CEMEX and the City of Marina executed on June 26, 2017. Indeed, among other issues, the proposed amendment fails to recognize existing easement and other rights on the property, including those of California American Water Company and attempts to require CEMEX to remove existing structures from its property.

We note a number of additional issues with the proposed amendment are set forth in the letters of the California Coastal Commission, dated 9/11/18, and California American Water Company, dated 9/12/18, regarding this matter.

CEMEX is extremely disappointed that the City has continued its practice of attempting to take actions with respect to the CEMEX site and CEMEX's rights without the courtesy of discussing such actions with CEMEX.

CEMEX urges you not to recommend an amendment to the LCP affecting CEMEX's property or to support the proposed amendment under consideration.

Given the limited time to review the proposed amendment, CEMEX reserves the right to supplement this letter.

Regards,

A handwritten signature in dark ink, appearing to read "N. Jerae Carlson", with a long horizontal flourish extending to the right.

N. Jerae Carlson

Vice President – Sustainability & Public Affairs

cc: Kevin Kahn, California Coastal Commission
Justin Buhr, California Coastal Commission
John Del Arroz, California Coastal Commission
Ian Crooks, California American Water Company
Kathryn Horning, California American Water Company

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November 7, 2018

VIA EMAIL AND FEDEX

Chair Burnett and Honorable Commissioners
 City of Marina Planning Commission
 211 Hillcrest Avenue
 Marina, California 93033

Re: November 8, 2018 Marina Planning Commission Meeting, Agenda Item #6a:
Consideration of Proposed Amendments to the City's Local Coastal Program

Dear Chair Burnett and Honorable Commissioners:

On behalf of our client California-American Water Company ("Cal-Am"), we again write regarding the Planning Commission's consideration of a recommendation to the Marina City Council proposing amendments to the City's Local Coastal Program ("LCP"), including its Land Use Plan ("LUP") and Implementation Plan, and to Chapters 17.25 and 17.41 of the City's Zoning Ordinance, the implementing ordinance for the City's LCP (collectively, the "LCP Amendment"). Cal-Am continues to strongly oppose the LCP Amendment as currently drafted.

As a reminder, and as we explained in our September 12, 2018, letter, Cal-Am is the legal owner of a permanent easement across the site of the CEMEX Lapis Sand Mining Plant ("CEMEX Site") for purposes of constructing, operating, installing, maintaining, and accessing components of Cal-Am's proposed desalination facility, the Monterey Peninsula Water Supply Project ("MPWSP" or "Project"). Cal-Am has certain legal rights to use the CEMEX Site for the MPWSP under the Consent Settlement Agreement and Cease and Desist Order CCC-17-CD-02 ("Consent Order"). Although the California Public Utilities Commission ("CPUC") approved the MPWSP and certified its Final Environmental Impact Report/Environmental Impact Statement on September 13, 2018, the proposed LCP Amendment and the Staff Report for the November 8, 2018, Planning Commission hearing (the "November Staff Report") continue to willfully ignore Cal-Am's legal rights to use the CEMEX Site for the MPWSP.

Indeed, despite Cal-Am's September 12, 2018, letter describing in detail its many concerns about the proposed LCP Amendment and opposing the Planning Commission's consideration of the LCP Amendment as drafted, as well as similar letters from California Coastal Commission ("CCC") staff and CEMEX, ***City staff has made no modifications whatsoever to the proposed LCP Amendment's text.*** City staff simply presents the same document that was prepared for the Planning Commission to consider at its September 13, 2018, meeting.

Rather than meaningfully address the many concerns raised by Cal-Am, CCC staff, and CEMEX, City staff has elected to ignore or summarily dismiss those concerns in the November Staff Report. Instead, City staff has simply manufactured new, but artificial, reasons why it believes the LCP Amendment, directed solely at one property in the City's Coastal Zone—the CEMEX Site—is necessary at this time. The November Staff Report's rationale for pushing the LCP Amendment forward so quickly is unconvincing.

City staff now claims the LCP Amendment is necessary to make the LCP consistent with the Marina General Plan's land use designation of the CEMEX Site as a "Habitat Reserve" and to comply with a recent amendment to California Government Code section 65860. But the provisions of the LCP that are now claimed by the City to be inconsistent with the General Plan, which was adopted in 2000, *have been in effect since 2001*. There is no urgency to correct this alleged inconsistency. Further, the proposed changes to Figure 4 in the LUP, which would change the land use designation at the CEMEX Site from Coastal Conservation & Development to Park & Open Space, reveal the fallacy of staff's inconsistency argument. The proposed changes to Figure 4 show properties in the Coastal Zone south of the CEMEX Site that would remain designated as Coastal Conservation & Development, despite those same properties' designation as "Habitat Reserve" in the General Plan. Staff's willingness to leave these adjacent properties in the Coastal Conservation & Development zone despite the urgency staff claims is needed to correct the alleged inconsistency on the CEMEX site is telling – and further demonstrates that the LCP Amendment is really an attempt to block the MPWSP. In addition, as explained further below, Government Code section 65860 does not apply to the LCP Amendment. In sum, the November Staff Report's new justifications for proceeding with the LCP Amendment are nothing but post-hoc rationalizations designed to make this process appear like it is not about CalAm and the MPWSP. Staff's misguided efforts are unconvincing.

Cal-Am again directs the Planning Commission and City staff to our September 12, 2018, letter, which remains applicable and relevant to the proposed LCP Amendment, and is incorporated to this letter by this reference. We strongly urge the Commission to take that letter and its objections to the LCP Amendment seriously, which thus far City staff has failed to do. If the LCP Amendment is not revised to recognize Cal-Am's legal rights at the CEMEX Site and to allow coastal dependent development on the site consistent with the Coastal Act and the Consent Order, the Commission should reject the LCP Amendment as currently drafted. If the City pursues the LCP Amendment as drafted, to the extent the City's actions interfere with rights afforded to Cal-Am by the Consent Order, the City could be exposed to claims for damages.

A. The Purported "Inconsistency" Between the LCP and General Plan Has Existed for Over Seventeen Years, and the LCP Amendment Would Not Correct "Inconsistencies" For Similar Properties South of the CEMEX Site

In the November Staff Report, City staff now states that "the General Plan Land Use designation [for the CEMEX Site] and the LUP designation [for the CEMEX Site] are in conflict," necessitating the proposed LCP Amendment. (See November Staff Report at pp. 5, 6.) Specifically, staff argues that the CEMEX Site's current Coastal Conservation & Development designation in the LUP conflicts with Policy 2.10.2 of the City's General Plan, which states that except for a few limited areas, the entire 1,600-acre area west of Highway One in the City shall

be retained as open space with a “Habitat Reserve” designation. (*Id.* at p. 6.) City staff ignores, however, that this purported inconsistency *has existed for at least seventeen years*.

The City adopted its most recent General Plan in October 2000, and, according to the version of the General Plan available on the City’s website, the City last amended the General Plan in 2010. (See City of Marina General Plan at p. 10.)¹ Policy 2.10.2, however, has not been amended since the General Plan was adopted in 2000. (See City of Marina General Plan at pp. 1-5.) In 2001, the City amended its LCP to add and revise provisions concerning habitat protection in response to the 2000 General Plan and in connection with the proposed development of a hotel. (See City of Marina Resolution No. 2001-118 at p. 1, attached hereto as Exhibit A.) Thus, the supposed inconsistency that City staff now claims exists and needs to be corrected has in fact existed since at least 2001. Further, if any real inconsistency did exist between the LCP and the General Plan, the City could have corrected it as part of the LCP revisions in 2001 or as part of the subsequent amendments to its LCP,² but it chose not to do so. That City staff seeks to do so now suggests that staff is simply manufacturing a false reason to justify the LCP Amendment.

Moreover, the proposed revisions to Figure 4 of the LUP in the proposed LCP Amendment reveal that City staff’s alleged inconsistency argument is a fabrication. Currently, consistent with Policy 2.10.2, the City’s General Plan Land Use Map shows the vast majority of the properties west of Highway One to be “Habitat Preserve.” (See General Plan Land Use Map, Figure 2.2, updated May 27, 2011, attached hereto as Exhibit B.)³ However, the proposed revisions to Figure 4 (see Exhibit C attached hereto) would only modify the land use designation for the CEMEX Site, leaving properties south of the CEMEX Site with the Coastal Conservation & Development designation. Those properties also contain coastal dunes. In fact, the property directly south of the CEMEX Site is the Marina Dunes Preserve (see Exhibit D attached hereto), which has been owned and managed by the Monterey Peninsula Regional Parks District since 1990. That the Marina Dunes Preserve would remain designated as Coastal Conservation & Development in the LUP, but the CEMEX Site’s designation would be changed to Park & Open Space despite both properties having the same General Plan land use designation, reveals that staff’s claim of inconsistency is meritless.

In addition, the November Staff Report claims that in the case of a conflict between the General Plan and the LCP, “the policy most protective of the coastal resource shall prevail.” (November Staff Report at p. 5 [citing LUP at p. 9].) This is not a correct reading of the LUP. The LUP states: “The policy framework of the Local Land Use Plan includes the policy

¹ The General Plan is available at: <https://www.ci.marina.ca.us/DocumentCenter/View/22/General-Plan?bidId> (last visited Nov. 3, 2018). If the City has amended the General Plan since 2010, the City fails to maintain a current version of the General Plan for public review.

² The City most recently amended the LCP in 2007, and the CCC approved that amendment in 2008. (City of Marina LCP Land Use Plan at p. 1.)

³ The General Plan Land Use Map is available at: <http://www.ci.marina.ca.us/DocumentCenter/View/1421/Figure-2-2---5-27-2011?bidId> (last visited Nov. 6, 2018).

statements, the plan guidelines, the land use map, verbal description of the land use map and the access component. In case of conflicts between policy statements, the policy most protective of the coastal resource shall control.” (City of Marina LCP Land Use Plan at p. 9.) Put differently, as between conflicting policies *within the LUP itself*, the most protective policy controls. In fact, City staff ignores that the General Plan itself states in Policy 2.55 states that “[i]n the event of any apparent inconsistency between the LCP and General Plan, *the LCP shall prevail for that portion of Marina within the Coastal Zone.*” (City of Marina General Plan Policy 2.55 [emphasis added].)⁴

The LUP designates the CEMEX Site as Coastal Conservation & Development. That designation controls. Any purported inconsistency between the General Plan and the City’s LUP is a post-hoc rationalization for the LCP Amendment. To the extent any inconsistency exists, the provisions of the LCP, including those regarding Coastal Conservation & Development uses, control.

B. Government Code Section 65860 Does Not Warrant an Amendment to the LCP at This Time

City staff also asserts that the LCP Amendment is necessary “to comply with Government Code 65860.” (November Staff Report at p. 1.) But Government Code section 65860 does not apply here.

As an initial matter, Government Code section 65860 does not apply to the City until January 1, 2019. Current section 65860, subdivision (d), provides that the section applies to charter cities with populations of 2 million or more. Section 65860, subdivision (d), as amended, removes the population threshold, making the section applicable to all charter cities, including the City.

Even if the City were subject to the requirements of Government Code section 65860 today, the provision on which the City relies—subdivision (c)—still does not justify the LCP Amendment. Government Code section 65860, subdivision (c), provides that “[i]n the event that a zoning ordinance becomes inconsistent with a general plan *by reason of amendment to the plan*, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is *consistent with the general plan as amended.*” (Gov. Code, § 65860, subd. (c) [emphasis added].) Here, the City’s General Plan has not been amended since 2010, and the pertinent provision, Policy 2.10.2, has not been amended since the General Plan was adopted in

⁴ To the extent that City staff believes the LUP must be amended consistent with the policies in the General Plan in order to conform to the Coastal Act, those portions of the General Plan Land Use Element that purport to regulate uses in the Coastal Zone (i.e., that designate uses in the Coastal Zone as “Habitat Reserve”) may not even be valid. The Coastal Act defines “land use plan” as “relevant portions of a local government’s general plan . . . which are sufficiently detailed to indicate the kinds, location, and intensity of land uses . . .” in the Coastal Zone. (Pub. Resources Code, § 30108.5; see also *id.* § 30108.6 [defining LCP to include “land use plans”].) The portions of the Land Use Element that purport to regulate the Coastal Zone clearly fit the definition of “land use plan” in the Coastal Act. It is Cal-Am’s understanding that the Land Use Element has never been submitted to the CCC for review and certification.

2000. As such, the City's current Zoning Ordinance has not become inconsistent with the General Plan as a result of any amendment to the General Plan.

Because no recent amendment to the City's General Plan, particularly Policy 2.10.2 or Figure 2.2 (the General Plan Land Use Map), has rendered the City's Zoning Ordinance inconsistent with the General Plan, Government Code section 65860 does not justify City staff's proposed LCP Amendment here.

C. The November Staff Report Does Not Meaningfully Respond to Concerns that the LCP Amendment Would Preclude Development of the MPWSP

As part of their comments on the staff report for the September 13, 2018, Planning Commission hearing (the "September Staff Report"), the CCC, Cal-Am, and CEMEX expressed concerns that the proposed LCP Amendment would impact the rights of Cal-Am and CEMEX and would preclude the use of the CEMEX Site for any desalination-related development in the future, such as the MPWSP. In response to these concerns, the November Staff Report contends that the proposed LCP Amendment would still permit coastal-dependent industrial uses, such as the MPWSP, so long as Coastal Act section 30260 is satisfied. (November Staff Report at pp. 6-7.) This response, however, is at odds with the plain text of the proposed LCP Amendment.

Under the proposed LCP Amendment, the CEMEX Site is proposed to be designated Park and Open Space. (See Proposed LUP at pp. 28-29, 37, 76-77.) In addition, the LCP Amendment provides that Coastal Act section 30260 would apply only in areas zoned Coastal Conservation and Development, *to the exclusion of all other zoning designations, such as Park and Open Space*. (Compare Proposed Coastal Zoning Ordinance section 17.41.160 [C-D or coastal conservation and development district], with Proposed Coastal Zoning Ordinance section 17.41.130 [O or open space district].) As a consequence, by the LCP Amendment's plain terms, Coastal Act section 30260 would not apply to Cal-Am's proposed Project on the CEMEX Site. (See Proposed LUP at pp. 28-29.) The November Staff Report recognizes this, stating, "[i]n addition, the proposed amendment would also have the effect of preventing additional future coastal dependent industry from locating at the [CEMEX] site based on the LCP's current preference for such uses." (November Staff Report at p. 6.) In sum, the proposed revisions to the City's LUP and Coastal Zoning Ordinance inexplicably limit the development of coastal-dependent industrial uses at the CEMEX Site.

As Cal-Am explained in its September 12 letter, Coastal Act section 30260 applies to all development subject to the Coastal Act. (See Pub. Resources Code, § 30260.) The Coastal Act does not limit the applicability of Coastal Act section 30260 to a specific zoning designation. As such, City staff's attempt to constrain section 30260's broad allowance for coastal-dependent industrial uses to the Coastal Conservation & Development district is impermissible under the Coastal Act.

The November Staff Report also fails to respond to the concerns raised by CCC staff in its September 11, 2018, letter concerning City staff's pursuit of an LCP amendment now, instead of as part of the ongoing comprehensive update. CCC staff expressed a preference that the City amend its LCP provisions regarding the future use of the CEMEX Site as part of the more

comprehensive LCP update. In fact, CCC staff strongly stated: **“we do not support the proposed LCP amendment before you today, and recommend that you do not move forward with any LCP amendment affecting Cemex independent of the broader LCP update process.”** (CCC Staff September 11, 2018 Letter at p. 2 [emphasis in original].) Not only will the comprehensive update “allow the public a greater opportunity to comprehensively vision and plan for future use, conservation, and development of the entire City’s coastal zone,” but it “also allows for overlapping issues and subjects to be addressed in a manner that is internally consistent throughout the LCP.” (*Ibid.*)

Further, the November Staff Report disagrees with CCC staff’s interpretation of the LCP Amendment, ignoring that the CCC has the ultimate say in whether an LCP is consistent with the Coastal Act. (See *San Mateo County Coastal Landowners’ Assn. v. County of San Mateo* (1995) 38 Cal.App.4th 523, 539 fn. 9 [“The Commission is the sole agency with statutory authority to review LCP submittals for consistency with the Coastal Act”]; *Beach & Bluff Conservancy v. City of Solana Beach* (2018) 28 Cal.App.5th 244, 261 [same].) City staff’s refusal to acknowledge CCC staff’s expertise suggests that the City has ulterior motives (i.e., blocking the MPWSP) in proposing the LCP Amendment at this time.

Because City staff’s contention in the November Staff Report that the proposed LCP Amendment would not prohibit coastal-dependent industrial uses at the CEMEX Site is contradicted by the LCP Amendment itself, the Planning Commission should not move to recommend the LCP Amendment to the City Council for consideration and adoption until it is appropriately revised.

D. The Proposed LCP Amendment Is Deficient for the Reasons Identified in Cal-Am’s September 12 Letter

1. *The Proposed LCP Amendment Still Fails to Address Cal-Am’s Rights under the Consent Order*

Just as City staff asserted in its September Staff Report, staff maintains that the LCP Amendment is “necessary to align” the LCP with the Consent Order, which “requires as part of any sale, a deed restriction be put in place to protect the property and limit the potential uses of the property to conservation-related purposes.” (November Staff Report at pp. 1, 3.) However, as Cal-Am previously explained, absent from the proposed LCP Amendment’s text revisions is any mention whatsoever of Cal-Am’s rights to use the CEMEX Site for the MPWSP. Not one change was made to the LCP Amendment in response to Cal-Am’s September 12 letter.

For example, the November Staff Report does not respond to Cal-Am’s point that, by designating the CEMEX Site as “Park and Open Space,” City staff is preventing development on-site based on the “habitat or scenic values or hazards present.” (Proposed LUP at pp. 28-29.) As stated in Cal-Am’s September 12 letter, the proposed revisions to Zoning Ordinance section 17.41.130 expressly limit permitted uses of the CEMEX Site to “habitat conservation/open space, low-impact passive recreation purposes or activities, crop and tree farming, and grazing of horses and cattle, sheep and goats,” as well as “[h]abitat restoration, including vegetation removal, recontouring slopes, or other activities to restore native habitat.” These uses fail to

acknowledge Cal-Am's pre-existing property rights and the allowable uses set forth in the Consent Order.

If City staff was genuinely motivated by a need to align the LCP with the Consent Order, the LCP Amendment's text revisions would address the Consent Order's explicit protection of Cal-Am's property rights and plans to construct and operate portions of the MPWSP as an allowable use of the CEMEX Site. Thus, the Planning Commission should not move to recommend the LCP Amendment to the City Council for consideration and adoption.

2. *The Proposed LCP Amendment Is Still Inconsistent with the Coastal Act*

The proposed LCP Amendment also remains fatally flawed because the City has not revised the LCP Amendment to remove any inconsistencies with the Coastal Act or impermissible limits and conditions on development at the CEMEX Site. Cal-Am largely addressed these issues in its September 12, 2018, letter, but we point them out briefly again here.

First, the LCP Amendment adds "protection of historic resources" as a factor that the City must consider in approving activities for the area North of Reservation Road (Proposed LUP at p. 38), and adds Policy 43, which "[e]ncourage[s] property owners to protect and conserve historic buildings and resources." (*Id.* at p. 14.) As set forth in the State Historic Preservation Officer's letter attached to Cal-Am's coastal development permit application for the MPWSP, which the November Staff Report acknowledges as being "deemed complete," development at the CEMEX Site will not adversely impact any historic resources. City staff's focus on historic resources policies in the proposed LCP Amendment is intended to manufacture an inconsistency between the LCP and the MPWSP.

Further, the LCP Amendment revises Policy 41 to remove the priority given to coastal-dependent development on or near the shoreline (Proposed LUP at p. 14), which renders Policy 41 inconsistent with the Coastal Act. Coastal Act section 30255 explicitly states that "[c]oastal-dependent developments shall have priority over other developments on or near the shoreline."⁵ The LCP Amendment's removal of language expressly provided in the Coastal Act necessarily fails to meet the minimum policies established in the Coastal Act regarding coastal-dependent development, and is nothing more than an attempt to block the Project.

Given that these significant infirmities with the LCP Amendment remain, the Planning Commission should not recommend that the City Council consider and adopt the LCP Amendment.

E. *The Planning Commission Should Reject the LCP Amendment*

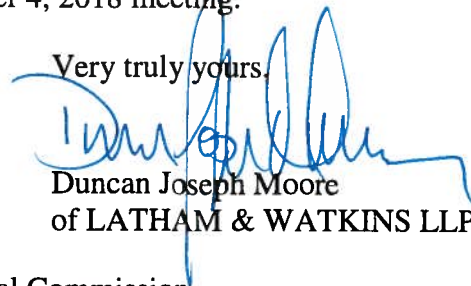
We appreciate the Planning Commission's consideration of Cal-Am's additional comments on the LCP Amendment and the November Staff Report. Pursuant to Coastal Act regulation section 13515, subdivision (c), the City cannot take final action on the LCP

⁵ LCPs must be consistent with the Coastal Act. (See Pub. Resources Code, §§ 30200, 30512, 30512.2, 30513; see also *McAllister v. Cal. Coastal Com.* (2008) 169 Cal.App.4th 912, 931.)

LATHAM & WATKINS LLP

Amendment for at least six weeks following the notice of availability of the LCP Amendment, which was issued on October 19, 2018. Although the City cannot take final action at the November 8, 2018 meeting, based on the concerns outlined in this letter, Cal-Am's September 12, 2018, letter, and the correspondence from CCC staff and CEMEX, Cal-Am respectfully requests that the Planning Commission decline to recommend that the City Council approve the LCP Amendment at its planned December 4, 2018 meeting.

Very truly yours,



Duncan Joseph Moore
of LATHAM & WATKINS LLP

cc: Alison Dettmer, California Coastal Commission
Tom Luster, California Coastal Commission
Kevin Kahn, California Coastal Commission
Ian Crooks, California-American Water Company
Kathryn Horning, California-American Water Company
Susan McCabe, McCabe & Company
Anthony Lombardo, Anthony Lombardo & Associates, Inc.
Jerae Carlson, CEMEX

EXHIBIT A

RESOLUTION NO. 2001-118

RESOLUTION OF THE MARINA CITY COUNCIL TO ACCEPT MODIFICATIONS OF AMENDMENTS TO MARINA'S LOCAL COASTAL PROGRAM (LAND USE PLAN AND IMPLEMENTATION PLAN) ADOPTED BY COUNCIL RESOLUTION NO. 2001-06 ASSOCIATED WITH THE DEVELOPMENT OF THE HOLIDAY INN EXPRESS HOTEL 189 SEASIDE CIRCLE (BRUNO) AS APPROVED BY THE CALIFORNIA COASTAL COMMISSION OCTOBER 10, 2001

WHEREAS, on March 6, 2001, the City Council adopted Resolution No. 2001-06 amending Marina's Local Coastal Program (LCP) (1) to incorporate amendments to the Marina General Plan into the (LCP) Land Use Plan to change the designation of the 1.56 acre site proposed for hotel development at the northeast corner of Reservation Road and Seaside Circle from General Commercial to Visitor/Serving Commercial and (2) to incorporate amendments to the Marina Zoning Ordinance into the (LCP) Implementation Plan to change the O or Open Space District and the R-1 or Single Family Residential District designations of portions of the proposed 1.56 acre site located in the former street right of way of Seaside Circle to PC or Planned Commercial District; and

WHEREAS, on October 10, 2001, the California Coastal Commission denied said amendments as proposed by the City and instead approved said amendments if they are modified as suggested by the Coastal Commission in Attachment "A" to this resolution, and

WHEREAS, in compliance with Section 13551.b.2. of the California Coastal Commission Administrative regulations, if the Coastal Commission suggests any modifications to amendments requested by local jurisdictions said amendments become effective only upon the local jurisdiction's acceptance of said modifications by resolution.

NOW, THEREFORE, BE IT RESOLVED, that the Marina City Council hereby accepts the modifications to Marina's Local Coastal Program amendment adopted by Council Resolution 2001-06 as described in the Attachment A to this resolution and transmits this action to the Coastal Commission to confirm the City's acceptance of these modifications.

PASSED, APPROVED AND ADOPTED by the Marina City Council at their regular meeting held on October 16, 2001, by the following vote, with such action to take effect immediately after the California Coastal Commission's acknowledgement of the City's acceptance of said modifications:

AYES: COUNCIL MEMBERS: H. GUSTAFSON, M. MORRISON, I. METTER, McCUTCHON, J. PERRINE

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: B. DELGADO


James Perrine, Mayor

ATTEST:


Joy Jungay, City Clerk

ATTACHMENT A

Revise the City's 1982 certified Local Coastal Program Land Use Plan as follows:

1. Amend sections 1 and 4 of the LUP definition of "primary habitat" in Exhibit A as follows (additions underlined and bold):

Habitat - Primary habitat: This term includes all of the environmentally sensitive habitat areas in Marina. These are as follows:

1. Habitat for all identified plant and animal species which are rare, endangered, threatened, or are necessary for the survival of an endangered species. These species will be collectively referred to as "rare and endangered."

....

4. Areas otherwise defined as secondary habitat that have an especially valuable role in an ecosystem for sensitive plant or animal life, as determined by a qualified biologist approved by the City.

2. Amend LUP Planning Guidelines on page 10 as follows (additions underlined and bold):

Because site-specific study is needed in many areas before any development can take place the following policies apply to all of the areas indicated on the map or meeting the definitions of Exhibit "A" (primary and secondary habitat) as being potential habitats for rare and endangered plants and animals.

....

- Primary habitat areas shall be protected and preserved against any significant disruption of habitat values and only uses dependent on those resources shall be allowed within those areas. All development must be sited and designed so as not to interfere with the natural functions of such habitat areas. Management and enhancement opportunities should be incorporated into use or development proposals; potential impacts shall be fully mitigated, including the assurance of long term mitigation and maintenance of habitat through the use of appropriate acreage replacement/restoration ratios for any unavoidable direct impacts to habitat areas.
- Potential secondary or support habitat areas to the primary habitats identified on the site should also be defined. Secondary habitat investigation should include identification of the role and importance of the secondary area to the primary habitat area and should stress the impact of use or development in the secondary area on the primary habitat. All development in this area must be designed to prevent significant adverse impacts on the primary habitat areas. In concert with State Law, City ordinances shall require environmental review and appropriate mitigation of identified impacts for all development in the Coastal Zone, including the assurance of long term mitigation and maintenance of habitat through the use of appropriate acreage replacement/restoration ratios for any direct impacts to habitat areas.

....

Revise the City's certified Local Coastal Program Implementation Plan as follows:

1. Amend the IP definition of "primary habitat" and corresponding Ordinance 17.04.391 as follows additions underlined and bold):

17.04.391 Habitat, primary. This term includes all of the environmentally sensitive habitat areas in Marina. These are as follows:

1. Habitat for all identified plant and animal species which are rare, endangered, threatened, or are necessary for the survival of an endangered species. These species will be referred to as "rare and endangered."

4. Areas otherwise defined as secondary habitat that have an especially valuable role in an ecosystem for sensitive plant or animal life, as determined by a qualified biologist approved by the City.

2. Amend the Implementation Plan and zoning ordinances as necessary to incorporate the following new habitat mitigation requirements:

a. Minimum Habitat Mitigation/Restoration Plan Requirements. All direct and potential impacts to primary and secondary habitats shall be fully mitigated. Appropriate acreage replacement/restoration ratios for any unavoidable direct impacts to habitat areas and buffer areas shall be applied to fully protect identified habitat. Habitat Restoration Plans shall be prepared and approved prior to issuance of any grading or building permits.

b. Habitat Restoration Plan Requirement. All habitat restoration, enhancement, and/or buffering plans shall be prepared by a qualified biologist and where appropriate, with the assistance of a qualified hydrologist. Plans shall be developed in consultation with the Department of Fish and Game and U.S. Fish and Wildlife Service in cases where these agencies have jurisdiction. The plans and the work encompassed in the plans shall be authorized by a coastal development permit. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the City. No changes to the approved final plans shall occur without a City-approved amendment.

The elements of such a plan shall at a minimum include:

(a). A detailed site plan of the entire habitat and buffer area with a topographic base map;

(b). A baseline ecological assessment of the habitat and buffer area, including but not limited to, assessment of biological, physical, and chemical criteria for the area;

(c) The goals, objectives, performance standards, and success criteria for the site, including specific coverage and health standards for any areas to be planted. At a minimum, explicit performance standards for vegetation, hydrology, sedimentation, water quality, and wildlife, and a clear schedule and procedure for determining whether they are met shall be provided. Any such performance standards shall include identification of minimum goals for each herbaceous species, by percentage of total plantings and by percentage of total cover when defined success criteria are met; and specification of the number of years active maintenance and monitoring will continue once success criteria are

met. All performance standards shall state in quantifiable terms the level and extent of the attributes necessary to reach the goals and objectives. Sustainability of the attributes shall be a part of every standard. Each performance standard shall identify: (1) the attribute to be achieved; (2) the condition or level that defines success; and (3) the period over which success must be sustained. The performance standards must be specific to provide for the assessment of habitat performance over time through the measurement of habitat attributes and functions including, but not limited to, wetland vegetation, hydrology, and wildlife abundance.

(d) The final design, installation, and management methods that will be used to ensure the mitigation site achieves the defined goals, objectives, and performance standards;

(e) Provisions for the full restoration of any impacts that are identified as temporary necessary to install the restoration or enhancement elements;

(f) Provisions for submittal, within 30 days of completion of initial (and subsequent phases, if any of) restoration work, of "as built" plans demonstrating that the restoration and enhancement has been established in accordance with the approved design and installation methods;

(g) Provisions for a detailed monitoring program to include at a minimum provisions for assessing the initial biological and ecological status of the site. The assessment shall include an analysis of the attributes that will be monitored pursuant to the program, with a description of the methods for making that evaluation;

(h) Provisions to ensure that the site will be promptly remediated if monitoring results indicate that the site does not meet the goals, objectives, and performance standards identified in the approved mitigation program and provisions for such remediation. If the final report indicates that the mitigation project has been unsuccessful, in part, or in whole, based on the approved performance standards, the applicant shall submit a revised or supplemental mitigation program to compensate for those portions of the original program which did not meet the approved performance standards.

(i) Provisions for submission of annual reports of monitoring results to the City for the first five years after all restoration and maintenance activities have concluded (including but not limited to watering and weeding, unless weeding is part of an ongoing long term maintenance plan) and periodic monitoring after that time, beginning the first year after submission of the "as-built" assessment. Each report shall also include a "Performance Evaluation" section where information and results from the monitoring program are used to evaluate the status of the project in relation to the performance standards.

EXHIBIT B

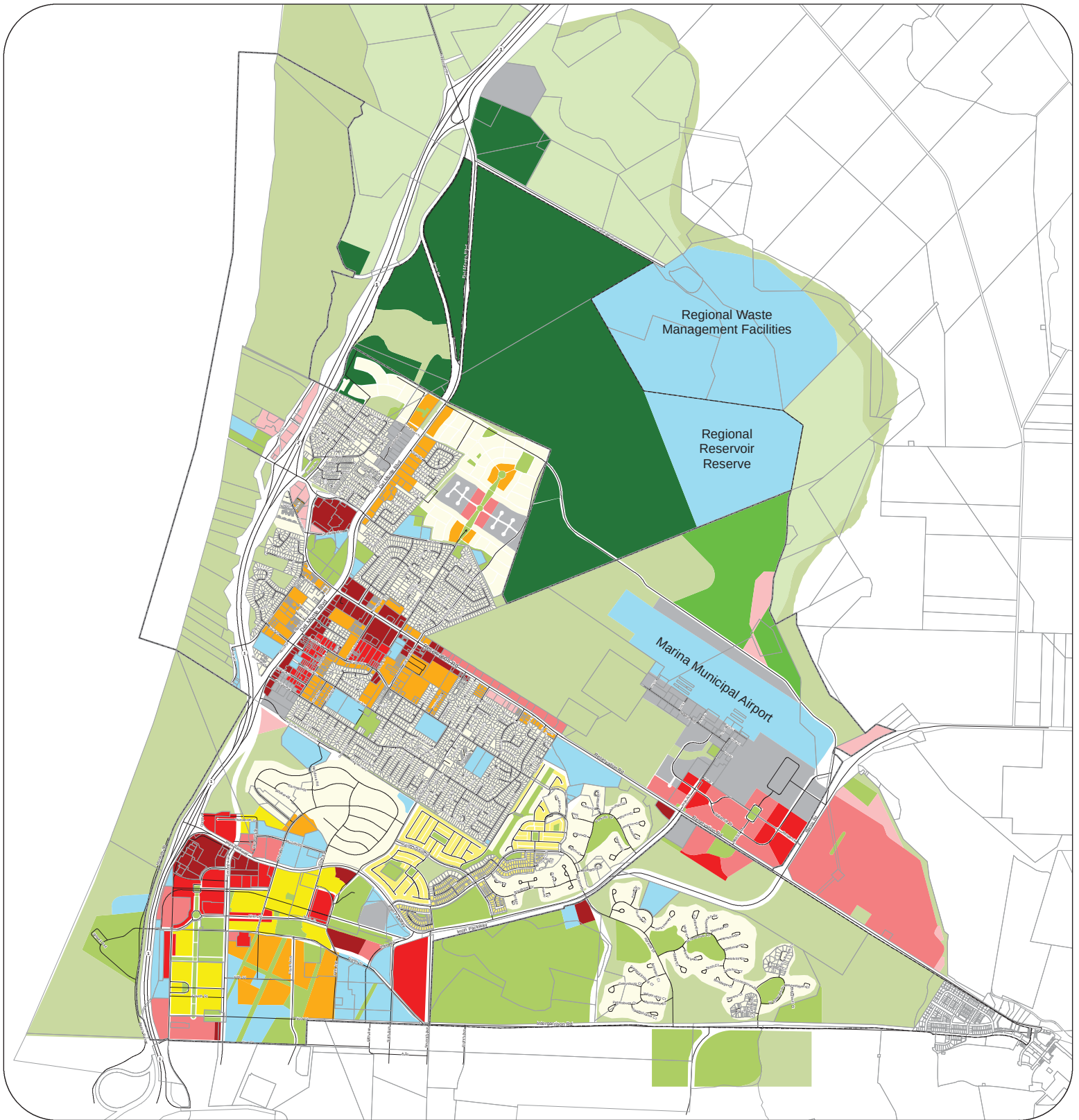


Figure 2.2.
Updated: 5-27-2011



GENERAL PLAN LAND USE MAP

Legend

- City Limits
- Marina Sphere of Influence
- Parcels
- Streets & Highways

Commercial

- Multiple Use
- Retail/Service
- Office/Research
- Visitor-Serving
- Light Industrial/Service Commercial
- Light Industrial/Service Commercial

Parks & Open Space/Public Facilities

- Agriculture
- Parks & Recreation
- Habitat Preserve & Other Open Space
- Golf Course
- UGB Open Space
- Public Facilities
- Public Facilities

Residential

- Single Family Residential (5 dwelling units/acre)
- Marina Heights Residential (5.5 to 6.5 dwelling units/acre)
- University Villages Residential
- Multi-Family Residential (15-35 dwelling units/acre)
- High Density Residential

Amended by:

- Resolution No. 2001-07 (March 6th, 2001)
- Resolution No. 2001-80 (July 17th, 2001)
- Resolution No. 2001-120 (November 6th, 2001)
- Resolution No. 2002-128 (July 2nd, 2002)
- Resolution No. 2004-29 (January 20th, 2004)
- Resolution No. 2004-42 (March 3rd, 2004)
- Resolution No. 2005-82 (April 5th, 2005)
- Resolution No. 2005-128 (May 31st, 2005)
- Resolution No. 2005-265 (December 20th, 2005)
- Resolution No. 2006-284 (November 8th, 2006)
- Resolution No. 2008-42 (March 4th, 2008)
- Resolution No. 2008-224 (December 2nd, 2008)
- Resolution No. 2010-125 (August 4th, 2010)

Notes: The City of Marina assumes no warranty or legal responsibility for the information contained on this map. Data and information represented on this map is subject to updates/modifications and may not be complete or appropriate for all purposes. The City of Marina and Monterey County GIS should be consulted for the most current information. Parcel data is of mapping grade only and does not represent reliable location or legal boundaries.

Map Projection: California State Plane Zone 10, NAD 83 (feet)
Source: City of Marina GIS, County of Monterey GIS



EXHIBIT C

Figure 4 - North of Reservation Road Planning Area Map (Existing)

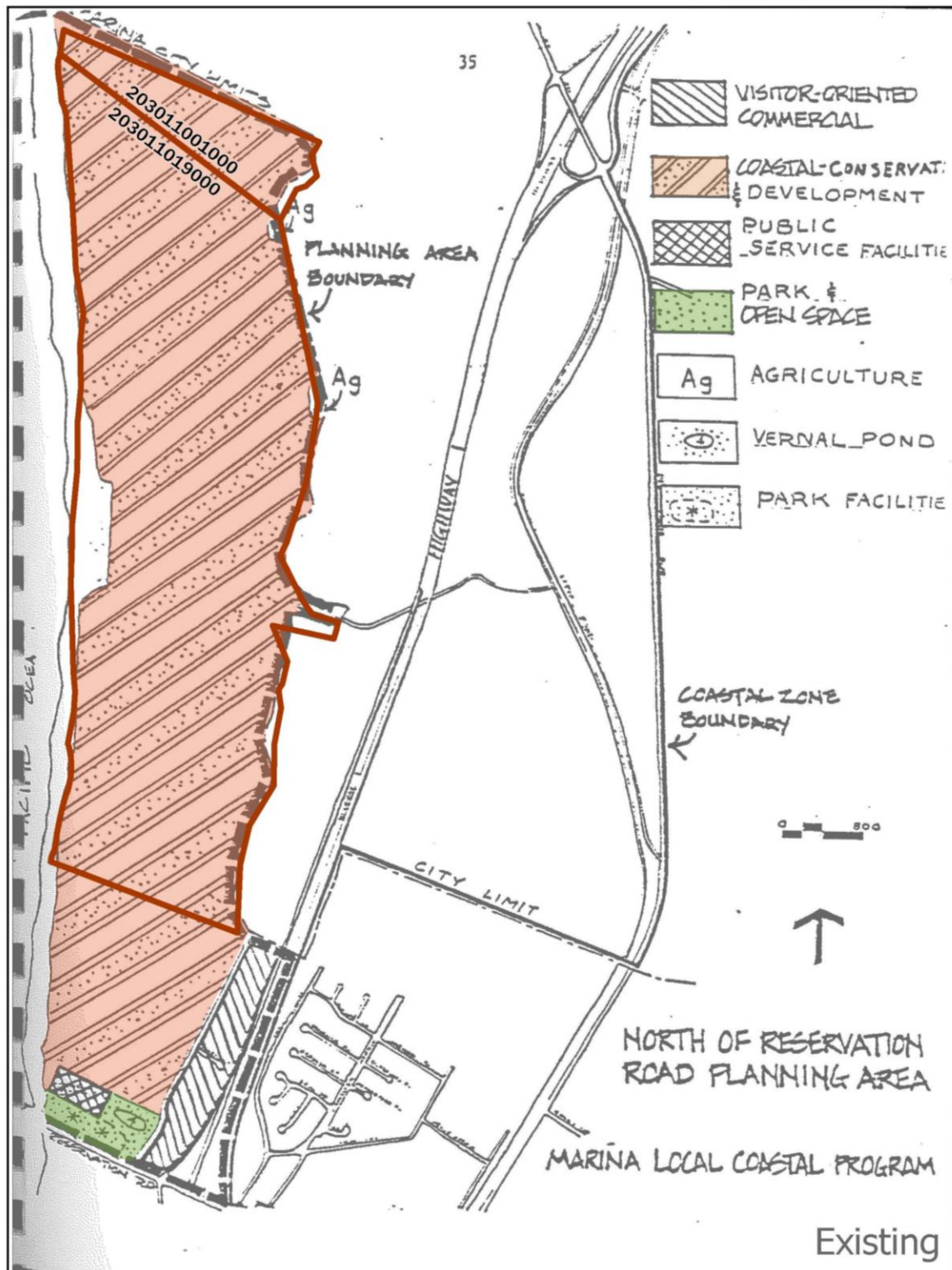


Figure 4 - North of Reservation Road Planning Area Map (Proposed)

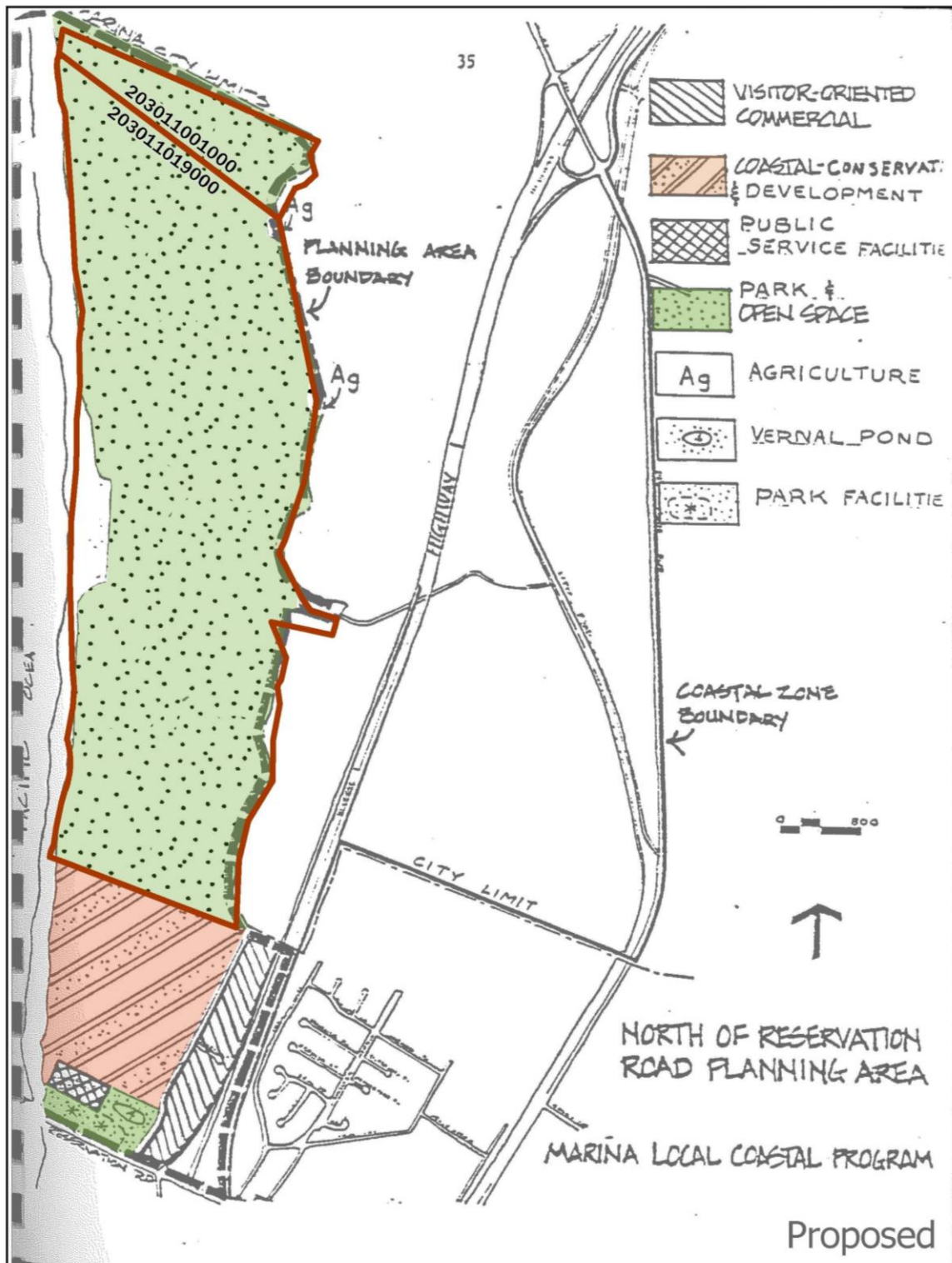
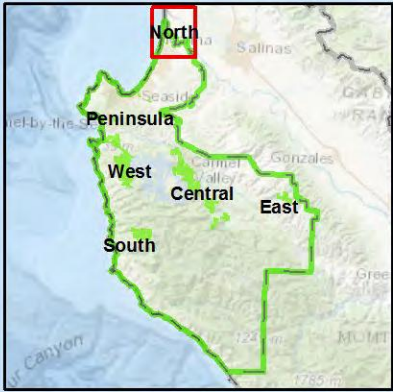


EXHIBIT D



**Marina Dunes
Preserve**

**Lock-Paddon
Community Park**

