

RESOLUTION 2024-116

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING THE MITIGATION MONITORING PROGRAM (MMRP), CEQA FINDINGS, AND STATEMENT OF OVERRIDING CONSIDERATIONS PREPARED FOR THE DOWNTOWN SPECIFIC PLAN; APPROVING THE DOWNTOWN SPECIFIC PLAN; ADOPTING GENERAL PLAN AMENDMENT GPA 24-003 TO IMPLEMENT THE DOWNTOWN SPECIFIC PLAN; AND RESCINDING CITY COUNCIL RESOLUTION 2008-111.

SECTION 1.

WHEREAS, the 2000 Marina General Plan directed city staff to prepare a Downtown Specific Plan pursuant to General Plan Policy 5.11; and

WHEREAS, the Downtown Specific Plan at full buildout will provide an additional 2,904 housing units and 1.3 million square feet of new retail and office space; and

WHEREAS, the Downtown Specific Plan will revitalize the urban core of Marina; and

WHEREAS, Downtown Specific Plan Land Use Goal LU-3 (Cultural Diversity) desires for the community to have a downtown where people of all incomes, ages, abilities, races and cultures feel that they belong; and

WHEREAS, through the adoption of the Downtown Specific Plan, Land Use Goal LU-5 (Economic Vitality) will be implemented by attracting businesses and supporting economic activities through innovation and business opportunities; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) Guidelines section 15082, the City prepared a Notice of Preparation (NOP) which was sent to the state Office of Planning and Research (OPR) and each responsible and trustee agency on October 20, 2023; and

WHEREAS, pursuant to Section 15087 of the CEQA Guidelines, a Notice of Availability was sent to the County Clerk and the Office of Planning and Research to begin a forty-five (45) day public review period for the Draft Environmental Impact Report (DEIR) to receive public comment; and

WHEREAS, during the public review and comment period, copies of the Draft EIR were available for review and inspection at City Hall, the Community Development Department Permit Center, and on the City's website; and

WHEREAS, after the public comment period on the DEIR ended on May 24, 2024, pursuant to CEQA Guidelines Section 15088 the City of Marina evaluated comments based on the environmental issues raised; and

WHEREAS, a Final EIR (FEIR) was prepared and completed in accordance with Section 15090 of the CEQA Guidelines; and

WHEREAS, based on this Final EIR, a Mitigation Monitoring and Reporting Plan (MMRP) has been prepared in accordance with CEQA, which ensures that any potentially significant environmental effects of the proposed Project would be sufficiently mitigated to a level of insignificance with implementation of mitigation measures specified therein, with the exception of those impacts that are significant and unavoidable and will be addressed through the adoption of a statement of overriding consideration; a complete copy of the FEIR and MMRP and all supporting exhibits and documents are on file and can be viewed at the City planning office; and

WHEREAS, during the preparation of the Draft EIR and the Final EIR certain impacts were determined to be significant and unavoidable, including Air Quality Impact AQ-1 and Transportation Impact T-2, as well as cumulative air quality, transportation, and water supply impacts; and

WHEREAS, pursuant to Section 15093 of the CEQA Guidelines, the City Council shall adopt a statement of overriding considerations finding that the legal, social, technological or other benefits of the project outweigh the unavoidable adverse environmental effects based on substantial evidence in the record, and findings of fact, identified as Exhibit B to this Resolution; and

WHEREAS, at the October 15, 2024, meeting, the City Council reviewed and considered the Final EIR (FEIR) and MMRP for the Project, any comments received to-date and the responses prepared, invited additional comments from the public; and

WHEREAS, the City Council, in its independent judgment, determined that the FEIR and MMRP are adequate under CEQA as the administrative record contains substantial evidence to support the FEIR's and MMRP's, and the statement of overriding considerations', findings regarding the Project's environmental impacts and benefits; and

WHEREAS, all relevant requirements of the Public Resources Code, the State CEQA Guidelines, and the regulations and policies of the City have been satisfied or complied with by the City in connection with the Project; and

WHEREAS, the findings and conclusions made by the City Council in this resolution are based upon the oral and written evidence presented as well as the entirety of the administrative record for the proposed Project, which is incorporated herein by this reference. The findings are not based solely on the information provided in this resolution; and

WHEREAS, the location and custodian of the documents or other materials which constitute the record of proceedings of the City Council's decision are the Office of City Clerk and Community Development Department; and

WHEREAS, City staff are directed to file a Notice of Determination (NOD) with the County Clerk within five working days of certification of the Final EIR by the City Council; and

WHEREAS, in order to implement the Downtown Specific Plan, certain General Plan Amendments must be made to the 2000 Marina General Plan; and

WHEREAS, Policies 2.63.51 and 2.41.6 of the 2000 Marina General Plan shall be removed as shown herein, as the Downtown Specific Plan now supersedes these policies:

~~2.63.51 Removed The boundaries of the Downtown Vitalization Area are illustrated in Figure 2.4. Prior to approval of any development other than temporary projects/uses or projects already entitled to be built, a specific plan shall be prepared which legally establishes development, design, and infrastructure requirements in accordance with General Plan principles and policies. 2008-111)~~

~~2.41.6-Removed A resolution of the City Council of the City of Marina approving amendment to Marina General Plan including Figure 2.4 Downtown Vitalization Area, amending Policy 5.11 to require preparation of a Specific Plan for Downtown Vitalization Area, amending Figure 1.2 adding Downtown Vitalization Area overlay to Central Marina Sub Area, removing Policy 2.41.6 requiring any development proposed in the Core Retail Area prepare a Specific Plan and adding a policy 2.63.51 defining the Downtown Vitalization Area; and~~

WHEREAS, City Council Resolution 2008-111, which established a requirement that a “specific plan” be prepared prior to approval of any development, other than temporary projects/uses or projects already entitled to be built, within the boundaries of the Downtown Vitalization Area, shall be rescinded; and

WHEREAS, Section 3.38.5 of the General Plan shall be amended, as shown herein, to reflect that parking standards for properties within the Downtown Specific Plan shall follow the Downtown Specific Plan Development Code (Appendix A) of said plan:

3.38.5 Parking Provision in Downtown Marina. New development and redevelopment within downtown Marina shall provide parking in accordance with standards set forth within the ~~Marina Municipal Code~~ Downtown Specific Plan Development Code.; and

WHEREAS, Figure 2.2 (Land Use Map) of the 2000 Marina General Plan shall be amended to change the properties identified within the Downtown Specific Plan to their corresponding new General Plan designations as identified within Appendix A (Development Code) of the Downtown Specific Plan.

WHEREAS, on September 12, 2024 the Planning Commission recommended approval of the Downtown Specific Plan to the City Council with the following edits to section 7.6.2 of the plan and to the Major/Minor Retail Sales use in the Core District:

Section 7.6.2 Nonconforming buildings. A legal nonconforming building may continue to be used as follows: Within five years of adoption of the Specific Plan, if a nonconforming structure is enlarged or expanded ~~modified or altered~~ by 25 percent or more of the existing floor space or ground area, all structures must come into full compliance with the Specific Plan. After five years from the date of adoption of the Specific Plan, nonconforming uses and structures are subject to Chapter 17.64 of the Marina Municipal Code.

5-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 25 percent of the appraised value in any one-year period.

~~Pg. 89 of the Downtown Specific Plan~~

~~Upon adoption of the Specific Plan, all structures that do not meet the standards identified in Appendix A: Development Code of the DVSP shall be considered legal nonconforming structures. A legal nonconforming structure may be altered subject to approval by the Community Development Director. Within five years of adoption of the Specific Plan, the Community Development Director may approve alterations that are modified by less than 25 percent of the floor space or ground area existing at the time the structure became nonconforming. No alterations to nonconforming structures may be approved by the Director unless they are made more nearly conforming. Any structural alteration, modification, or expansion above the 25 percent of the lawful floor space or ground area must come into full structural compliance with the design guidelines identified within the Specific Plan. After five years from the date of adoption of the Specific Plan, non-conforming uses and structures are subject to Chapter 17.64 of the Marina Municipal Code.~~

WHEREAS, the City Council directed staff to clarify the that vehicles sales and vehicle rentals are prohibited in the Core District within the Downtown Specific Plan and adult businesses are prohibited in the plan area; and

Retail Sales, Major: Includes the following:

~~Adult Businesses: As defined and regulated in the Municipal Code section 17.52.~~

Animal Sales and Adoption Services: Retail sales and adoption of small animals typically considered pets. Excludes sale of live fish for personal aquariums.

Outdoor Sales: The retail sales or rental of any merchandise where the gross floor area of the outdoor storage area exceeds 10 % of the gross floor area of the enclosed building. Vehicle sales and vehicle rentals are prohibited in the Core District.

Fuel Sales: An establishment offering the sale of motor fuel for any motor vehicle. Includes gas stations

Retail Sales, Minor: An establishment that primarily offers new or used goods for purchase by the consumer of such goods, excluding other such establishments more specifically described herein. ~~This use category includes vehicle sales if such a use is conducted completely within an enclosed building and does not include outdoor display of vehicles.~~ Vehicle sales and vehicle rentals are prohibited in the Core District.

Outdoor Sales: The retail sales or rental of any merchandise where the gross floor area of the outdoor storage area exceeds 10% of the gross floor area of the enclosed building. Vehicle sales and vehicle rentals are prohibited in the Core District.

WHEREAS, the City Council directed staff to cross reference the Cultural Design and Landscaping Elements into the Downtown Specific Plan into Section 4.1.3 of the plan;

4.1.3 Objective Design and Development Standards

In the case of Marina, the standards are intended to foster a more traditional downtown built environment as opposed to the suburban development pattern seen in Marina today (Figure 4-1). This will involve requiring that buildings in new developments are oriented toward the street and built closer to the sidewalk instead of behind large parking areas. Objective design and development standards allow for streamlined approval of certain proposed projects while still requiring these projects to further the functional and aesthetic goals of the Specific Plan. In addition to the Objective Design Standards, Developers are encouraged to reflect the cultural and ethnic diversity of Marina in new architecture, which will help to create a unique identity that will distinguish Marina from neighboring communities. See Appendix B.2 (Cultural Design and Landscaping Elements) for more details.

NOW, THEREFORE, BASED ON THE FOREGOING RECITALS, EACH OF WHICH IS HEREUPON REINCORPORATED BY REFERENCE, BE IT RESOLVED that the City Council of the City of Marina hereby:

1. Certifies the Final Environmental Impact Report, and adopts the Mitigation Monitoring and Reporting Program, CEQA findings of fact, and statement of overriding considerations prepared for the Downtown Specific Plan and corresponding General Plan and Municipal Code amendments (see Exhibit B to this Resolution);
2. Approves the Downtown Specific Plan, incorporating the revisions recommended by the Planning Commission in its September 12, 2024 resolution (PC 2024-21);
3. Adopts General Plan Amendments (GPA 24-003) to the 2000 Marina General Plan to implement the Downtown Specific Plan by removing General Plan Policies 2.63.51 and 2.41.6 from the 2000 General Plan, amending the language of General Plan Policy 3.38.5 per the corresponding recital herein, and amending the General Plan's Land Use Map per the corresponding recital herein
4. Adopts zoning text amendments to the Marina Municipal Code to implement the Downtown Specific Plan as set forth in the corresponding ordinance introduced and read on the same date.
5. Amends the Marina Zoning Map to incorporate by reference the zoning standards identified as Appendix A (Development Code) to the Downtown Specific Plan.
6. Recommends minor edits to the nonconforming section as identified above in Section 7.6.2 of the Downtown Specific Plan.
7. Rescinds City Council Motion 2008-111 regarding the preparation of a specific plan for individual projects in the downtown area.
8. Directs staff to make minor Map Amendments to the GIS Interactive Map and the Downtown Specific Plan
9. Directs staff to file a Notice of Determination with five (5) working days of approval by the City Council with the County Clerk.
10. Directs staff to study if a road diet is feasible along Reservation Road.
11. Directs staff to clarify the vehicles sale and vehicle rental provisions within the Core Business District.
12. Removes Adult Businesses from allowed uses in the plan

13. Adds a cross reference in the Design Standards (Section 4.1.3) to Appendix B of the Downtown Specific Plan.
14. Incorporates the recitals set forth above as if fully set forth herein.

SECTION 2. Severability. If any section, subsection, clause or phrase of this resolution is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this resolution. The City Council hereby declares that it would have adopted the resolution and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 3. The City Manager is directed to execute all documents and to perform all other necessary acts to implement this resolution.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Marina at a meeting thereof on October 15, 2024 by the following vote:

AYES, COUNCIL MEMBERS: McAdams, McCarthy, Biala, Delgado, Visscher

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Liesbeth Visscher, Mayor Pro Tem

ATTEST:

Anita Sharp, Deputy City Clerk

**FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)
AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE CITY OF
MARINA DOWNTOWN VITALIZATION SPECIFIC PLAN AND RELATED
GENERAL PLAN AND ZONING CODE AMENDMENTS**

A. INTRODUCTION

The City of Marina (City), as lead agency under the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.) has prepared the Final Environmental Impact Report (Final EIR) for the Marina Downtown Vitalization Specific Plan (“DVSP”), including related amendments to the General Plan and rezonings (the project), State Clearinghouse No. (SCH #2023100567), The Final EIR consists of the Draft EIR (published April 9, 2024), the August 22, 2024 Final EIR, which includes responses to comments on the Draft EIR and text revisions to the Draft EIR, and all documents incorporated therein, and the 2024 Final EIR Errata. The Final EIR is a Program EIR, as authorized by CEQA Guidelines Section 15168, which analyzes the potentially significant environmental effects of the overall development potential of the project and not the site-specific impacts of any individual development project, the details of which are not known at this time.

In determining to approve the project, which is described in more detail in Section B.1, Project Description below, the City makes and adopts the following findings of fact and statement of overriding considerations, and adopts and makes conditions of project approval the mitigation measures identified in the Final EIR, all based on substantial evidence in the whole record of this proceeding (administrative record). Pursuant to Section 15090(a) of the CEQA Guidelines, the Final EIR was presented to the City Council, the City Council reviewed and considered the information contained in the Final EIR prior to making the findings in Sections B through M, below, and the City Council determined that the Final EIR reflects the independent judgment of the City. The conclusions presented in these findings are based on the Final EIR and other evidence in the administrative record.

These CEQA findings are attached and incorporated by reference into each staff report, resolution and ordinance associated with approval of the project. These findings are based on substantial evidence in the entire administrative record and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

B. PROPOSED PROJECT

This section provides a brief project description, identifies project objectives, describes the project alternatives evaluated within the Final EIR, and describes the public review process.

1. Project Description

The project is proposed by the City of Marina (City) as a land use plan to create a unique and identifiable Downtown core that is vibrant and pedestrian oriented to reinvigorate the Downtown Marina economy and sense of place, as well as to comply with laws requiring updates to the City’s General Plan and zoning ordinance. The project includes the following components, which together are considered a “project” under CEQA:

- **Land Use Designations.** The DVSP accommodates a mix of commercial, retail, and residential uses served by an improved transportation network. During the planning process, land use designations were established to allow for increased densities throughout the Downtown area. The designations include: Core, Transition, Multifamily Residential and Mixed-use Node.
- **Design Guidelines.** The DVSP includes a Development Code (Appendix A of the DVSP) and Design Guidelines (Appendix B of the DVSP) that provide objective design and development standards, intended to make the requirements that apply to certain eligible residential projects more predictable and easier to interpret.
- **Public Service Improvements.** Future development projects in the Specific Plan area would be required to provide public improvements (i.e., wastewater, water, storm drainage, and gas/electricity) deemed necessary during the design process. The public right-of-way in the Specific Plan area encompasses 67 acres, or 21 percent of the total land area. The Specific Plan calls for the creation of smaller, more walkable blocks with mid-block crossings to increase access.
- **Mobility Elements.** To create a pedestrian-friendly Downtown core, the DVSP calls for an investment in traffic calming measures, active transportation facilities and amenities, a holistic approach to parking management, and improved public transit service in Downtown.
- **Associated General Plan Amendments.** The project includes amendments to the General Plan land use designations required to ensure consistency with land use changes introduced in the DVSP. Specifically, all subsequent projects, including commercial developments and redevelopments, subdivisions, public works projects, and zoning regulations must be consistent with the Specific Plan. The proposed DVSP also incorporates recommendations from the City’s Downtown Vision Plan, Downtown Design Guidelines, and Pedestrian and Bicycle Master Plan.

- **Associated Rezonings and Development Code Amendments.** To implement the DVSP, the City proposes Zoning Map and Code amendments regarding design review, and development standards, and making conforming amendments.

2. Project Objectives

In accordance with CEQA Guidelines Section 15124, an EIR must present a statement of project objectives. The DVSP builds on the goals and objectives established in the City of Marina General Plan and the relevant standards and regulations from the City's Municipal Code. The DVSP also implements elements of the City's Downtown Vision, Downtown Design Standards and Guidelines, and Pedestrian and Bicycle Master Plan. The objectives of the Plan are to:

- Establish a safe, walkable, and vibrant Downtown that attracts diverse business opportunities, encourages appropriate mixed uses, and integrates adjoining neighborhoods, parks, and trails.
- Provide a variety of affordable, high-quality housing options for people of all incomes, ages, abilities, races, and cultures to live in Downtown.
- Create an environment that attracts and sustains economic activity.
- Establish a Downtown with safe and efficient pedestrian and vehicular circulation that encourages alternative modes of transportation.

3. Project Alternatives

As required by the California Environmental Quality Act (CEQA), the EIR examines alternatives to the proposed project. Studied alternatives include the following two alternatives

No Project Alternative: The No Project Alternative assumes that the current land use and zoning designations would not change from the City's adopted 2005 General Plan, and the DVSP would not be adopted or implemented. Existing development in the Specific Plan area includes approximately 1,005,000 square feet of commercial, retail, and office uses and approximately 2,301 dwelling units. Under the No Project Alternative, existing land use designations would remain the same, but additional development could occur as currently allowed under these designations.

Reduced Development Alternative: The Reduced Development Alternative would reduce the number of new residential units and the total square footage of non-residential development that could be constructed in the Specific Plan area. The purpose of this alternative is to reduce significant impacts to air quality and VMT associated with the DVSP. The Reduced Development Alternative would facilitate approximately 25 percent less development than the proposed Specific Plan, and would involve a net increase of 2,178 residential units and approximately 1,039,000 square feet of non-residential development compared to existing conditions.

Based on the alternatives analysis, Alternative 2, Reduced Development, was determined to be the environmentally superior alternative.

A more detailed description of these alternatives, and required findings, are set forth in Section H: Feasibility of Project Alternatives.

4. Public Review Process

a. Environmental Impact Report

Pursuant to CEQA and the CEQA Guidelines, the City circulated a Notice of Preparation (NOP) that briefly described the project and the environmental topics that would be evaluated in the EIR. The NOP was published on May 26, 2021, and the public comment period for the scope of the EIR lasted from May 26, 2021 to July 19, 2021. The City held an EIR Scoping Meeting to provide responsible agencies, trustee agencies, and interested parties the opportunity to comment on the scope and content of the environmental analysis to be included in the EIR on June 9, 2021. The City reinitiated efforts to prepare the EIR in 2023, and the City distributed a revised NOP with a revised Initial Study for a 30-day agency and public review period starting on October 20, 2023 and ending November 20, 2023. The City held another EIR Scoping Meeting on October 26, 2023. The City received comments on both the 2021 NOP and the 2023 NOP. The 2021 NOP, 2023 NOP, comments received during each NOP comment period, and the revised Initial Study are presented in Appendix A of the EIR.

Comments received by the City on the NOP were taken into account during the preparation of the Draft EIR. Comments received included concerns related to: traffic congestion and safety, pedestrian and bicycle safety, impacts to air quality, aesthetics, biological resources, cultural resources, energy, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise, population and housing, public services, recreation, tribal cultural resources, utilities and service systems, wildfire, and economic impacts. Comments received from public agencies included Caltrans, Transportation Agency for Monterey County (TAMC) and The California Department of Fish and Wildlife (CDFW), the Native American Heritage Commission, and the Monterey County Department of Housing and Community Development.

In accordance with Sections 15087 and 15105 of the CEQA Guidelines, the Draft EIR was circulated for public review and comment to responsible agencies and interested parties as well as members of the public, for a period of 45 days (April 9, 2024 through May 24, 2024) as required by CEQA. Comment letters received on the Draft EIR are provided in their entirety in the Final EIR Chapter 2, *Responses to Comments*.

On August 23, 2022, Rincon contacted the Native American Heritage Commission (NAHC) and requested a search of the Sacred Lands File (SLF) for the DVSP Area. The NAHC emailed a response on October 4, 2022, stating that the SLF search was negative.

Under AB 52 and Senate Bill 18 of 2004 (SB 18), the City sent letters to the following Native American groups on February 13, 2023: Kakoon Ta Ruk Band of Ohlone-Costanoan Indians of the Big Sur Rancheria, Costanoan Rumsen Carmel Tribe, Amah Mutsun Tribal Band, Ohlone/Costanoan-Esselen Nation, Esselen Tribe of Monterey County, Indian Canyon Mutsun Band of Costanoan, Wuksache Indian Tribe/Eshom Valley Band, and Rumsen Am:a Tur:ataj Ohlone (Appendix G). The period to request tribal consultation under AB 52 ended on March 15, 2023, and the period to request tribal consultation under SB 18 ended on May 15, 2023. The City did not receive requests for tribal consultation under AB 52 or SB 18.

The Final EIR was issued for public review on August 22, 2024, and was distributed to appropriate state and local agencies and made available for public review at City Hall and on the City's website. Chapter 2 of the Final EIR provides responses to the comments received during the comment period on the Draft EIR. The Draft EIR, Final EIR, and associated appendices were made available for review online at: <https://www.cityofmarina.org/945/Environmental-Review> and at the City of Marina Community Development Department, 211 Hillcrest Avenue, Marina, California 93933.

As required by CEQA Guidelines Section 15088(b), at least 10 days before consideration of the Final EIR for certification, the City provided a written response (electronic copy) to each public agency that submitted written comments on the Draft EIR.

The City held a series of duly noticed public meetings to gather community feedback on and share information about the DVSP, including November 7, 2023; September 12, and October 15, 2024, at a duly noticed public hearing. On September 12, 2024, the Planning Commission recommended that the City Council certify the Final EIR.

b. Additional DVSP Public Review Process

City held a series of duly noticed public meetings to gather community feedback on and share information about the DVSP, including, Stakeholder meetings-(30), Ad Hoc Committee (15), Design Review Board (2), Pop up events (8), Planning Commission study session and City Council briefings (14) leading up to the EIR that went above and beyond the requirements. Recognizing that broad-based community participation is essential to preparing a meaningful and implementable Specific Plan, throughout the 2022, 2023 and 2024 calendar years the City carried out comprehensive community outreach activities related to the DVSP. Feedback from these activities was used to identify needs, assess constraints and develop the DVSP.

C. FINDINGS

The findings, and statement of overriding considerations set forth below (the “Findings”) are made and adopted by the Marina City Council as the City’s findings under CEQA and the CEQA Guidelines relating to the project. The Findings provide the written analysis and conclusions of this City Council regarding the project’s environmental impacts, mitigation measures, alternatives to the project, and the overriding considerations that support approval of the project despite any remaining environmental effects it may have.

These findings summarize the environmental determinations of the Final EIR and provide a summary description of and basis for each impact conclusion identified in the Final EIR, describe the applicable mitigation measures identified in the Final EIR, and state the City’s findings and rationale about the significance of each impact following the adoption of mitigation measures. A full explanation of these environmental findings and conclusions can be found in the Final EIR, and these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the Final EIR’s determinations regarding mitigation measures and the project’s impacts.

In adopting mitigation measures, below, the City intends to adopt each of the mitigation measures identified in the Final EIR. Accordingly, in the event a mitigation measure identified in the Final EIR has been inadvertently omitted from these findings, such mitigation measure is hereby adopted and incorporated into the project in the findings below by reference. In addition, in the event the language of a mitigation measure set forth below fails to accurately implement the mitigation measure in the Final EIR due to a clerical error, the language of the mitigation measure as set forth in the Final EIR shall control unless the change to the language of the mitigation measure has been specifically and expressly explained by these findings. Acronyms used in the mitigation measures shall have the meaning set forth in the Final EIR. The project includes General Plan amendments and amendments to the Development Code requiring compliance with mitigation measures adopted in connection with the DVSP.

Sections D and E, below, provide brief descriptions of the impacts that the Final EIR identifies as either significant and unavoidable or less than significant with adopted mitigation. These descriptions also reproduce the full text of the mitigation measures identified in the Final EIR for each significant impact.

D. SIGNIFICANT EFFECTS THAT CANNOT BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL RESULTING IN SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS

The Final EIR identified certain potentially significant effects that could result from the project. As described in greater detail below, after implementation of the identified mitigation measures,

the project could result in the following significant and unavoidable impacts, which will be overridden by the specific considerations that are described in this document's conclusion in Section H of this document.

1. Air Quality

Impact AQ-1. The timing of the DVSP construction and intensity is unknown at this time; therefore, it is conservatively assumed that construction activities may exceed MBARD's earth moving screening level threshold. DVSP operation would exceed MBARD thresholds for VOC, which the majority are from consumer product use. With the implementation of Mitigation Measure AQ-1, construction impacts would be reduced to less than significant. However, impacts are significant and unavoidable for operational activity. (SU)

Mitigation Measure AQ-1: Construction Dust Control Measures.

Applicants for future development under the DVSP shall implement Construction Dust Control Measures. Construction/demolition activities within the Specific Plan area shall be limited to 8.1 acres per day with minimal earthmoving, or 2.2 acres per day with demolition or grading/excavation, consistent with the screening-level thresholds in the MBARD's 2008 CEQA Air Quality Guidelines. Any individual construction project that would require grading, excavation, and/or soil material import or export within the Specific Plan area shall implement the following construction dust control measures:

- Water all active construction areas at least twice daily.
- Prohibit all grading activities during periods of high wind (over 15 miles per hour).
- Apply chemical soil stabilizers on inactive construction areas (disturbed lands within construction projects that are unused for at least four consecutive days).
- Apply non-toxic binders (e.g., latex acrylic copolymer) to exposed areas after cut and fill operations and hydroseed area.
- Maintain at least two feet of freeboard on haul trucks.
- Cover all trucks hauling dirt, sand, or loose materials.
- Plant tree windbreaks on the windward perimeter of construction projects, if adjacent to open land.
- Plant vegetative ground cover in disturbed areas as soon as possible.
- Cover inactive storage piles.

- Install wheel washers at the entrance to construction sites for all exiting trucks.
- Pave all roads on construction sites.
- Sweep streets if visible soil material is carried out from the construction site.
- Post a publicly visible sign which specifies the telephone number and person to contact regarding dust complaints. This person shall respond to complaints and take corrective action within 48 hours. The MBARD phone number shall be visible to ensure compliance with Rule 402 (Nuisance).
- Limit the area under construction at any one time.

Findings for Impact AQ-1: The City finds that implementation of the proposed project would result in significant DVSP-related air quality impacts during both construction and operational activities. Construction activities may exceed Monterey Bay Air Resources District's earth moving screening level threshold and operations under the Plan would exceed established thresholds for volatile organic compounds. Implementation of Mitigation Measure AQ-1 would reduce construction impacts to less than significant. However, implementation of the proposed DVSP would result in a significant and unavoidable impacts during the operation period.(SU)

2. Transportation

Impact T-2: The DVSP would result in the generation of VMT that would exceed City of Marina VMT thresholds, and would be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). Impacts would be significant and unavoidable.(SU)

Mitigation Measure T-2: Transportation Demand Management Program. Each individual office and residential development project in the Specific Plan area shall have a corresponding transportation demand management (TDM) plan and monitoring program developed by the applicant or developer of the project. The TDM plan shall be prepared prior to issuance of building permits.

The TDM plan shall identify the TDM reductions specific to their project. The monitoring program shall establish goals and policies to ensure the efficient implementation of the TDM plan and demonstrate its effectiveness at reducing VMT such that VMT is below the significance thresholds presented in Table 4.2-2, above. The City shall review and approve the TDM plan prior to approval of building permits. Examples of TDM measures that could be employed, depending on specific project conditions and circumstances, include but are not limited to:

- Provision of bus stop improvements or on-site mobility hubs
- Pedestrian improvements, on-site or off-site, to connect to nearby transit stops, services, schools, shops, etc.
- Bicycle programs including bike purchase incentives, storage, maintenance programs, and on-site education program
- Enhancements to regional bicycle network
- Parking reductions and/or fees set at levels sufficient to incentivize transit, active transportation, or shared modes
- Cash allowances, passes, or other public transit subsidies and purchase incentives
- Enhancements to bus service
- Implementation of shuttle service
- Establishment of carpool, bus pool, or vanpool programs
- Vanpool purchase incentives
- Participation in a future County VMT fee program
- Participate in future VMT exchange or mitigation bank programs
- Carshare/scooter-share/bikeshare facilities or incentives
- On-site coordination overseeing TDM marketing and outreach
- Rideshare matching program
- Market-price public parking

Findings for Impact T-2: The City finds the DVSP would facilitate multiple individual development projects and therefore is evaluated at a programmatic level in the EIR and in the VMT Analysis (EIR Appendix C). Given the programmatic level data that is available for the DVSP, a detailed TDM plan typically required for each individual project cannot be developed at this stage. Therefore, the effect of project-level and specific TDM programs that could reduce VMT cannot be accounted for fully as part of this analysis. For this reason, it cannot be guaranteed that VMT associated with future residential and employment development facilitated by the DVSP could be reduced below relevant significance

thresholds. Therefore, these measures would not be sufficient to reduce the project's significant VMT and this impact would be significant and unavoidable.

Mitigation Measure T-2, set forth above, is hereby adopted and incorporated into the project. Because Mitigation Measure T-2's effectiveness in reducing an individual project's VMT impact to a less-than-significant level cannot be determined at this time, this potential project impact would be considered significant and unavoidable after mitigation. (SU)

E. EFFECTS DETERMINED TO BE MITIGATED TO LESS-THAN-SIGNIFICANT LEVELS

The Final EIR identified certain potentially significant effects that could result from the project. However, the City finds for each of the significant or potentially significant impacts identified in this section that, based upon substantial evidence in light of the whole record, changes or alterations have been required or incorporated into the project which will reduce these significant or potentially significant effects to less-than-significant levels. Adoption of the recommended mitigation measures will effectively make the mitigation measures part of the project.

1. Biological Resources

Impact BIO-1: Development facilitated by the DVSP has the potential to directly impact special status plant and animal species in the DVSP area.(S)

Mitigation Measure BIO-1(a): Biological Resources Screening and Assessment. For individual projects proposed for development within undeveloped or partially developed areas containing natural or ruderal areas within the DVSP area (Figure 4.4-1 in Section 4.4), the City or their designee shall engage a qualified biologist to perform a preliminary biological resource screening. The purpose of the screening and assessment is to determine whether the project has any potential to impact special status biological resources, inclusive of special status plants and animals, sensitive vegetation communities, jurisdictional waters (including creeks, drainages, streams, ponds, vernal pools, riparian areas and other wetlands), or biological resources protected under local or regional ordinances. If it is determined that the project has no potential to impact biological resources, no further action is required. If the project would have the potential to impact biological resources, prior to construction, a qualified biologist shall conduct a project-specific biological analysis to document the existing biological resources within a project footprint plus a minimum buffer of 100 feet around the project footprint, as is feasible, and to determine the potential impacts to those resources. If the project would have the potential to impact biological resources, the following mitigation measures [BIO-1(b) through BIO-1(f)] shall be incorporated, as determined to be applicable by the qualified biologist, to reduce impacts to a less than significant level. Pending the results of the project-specific biological analysis, design

alterations, further technical studies (e.g., protocol surveys) and consultations with the USFWS, National Marine Fisheries Service (NMFS), CDFW, and/or other local, state, and federal agencies may be required. Note that specific surveys described in the mitigation measures below may be completed as part of the project-specific biological analysis where suitable habitat is present.

BIO-1(b) Special Status Plant Pre-Construction Survey

Projects identified as having potential to impact special status plant species during the biological screening and assessment under Mitigation Measure BIO-1(a) shall implement the Mitigation Measure BIO-1(b). Surveys for special status plants shall be completed by the project proponent prior to any vegetation removal, grubbing, or other construction activity (including staging and mobilization). The surveys shall be floristic in nature, that is, every plant observed shall be identified to species subspecies, or variety, sufficient to identify listed plants. The surveys shall be seasonally timed to coincide with the target Federal and State listed species and rare plants identified above. All plant surveys shall be conducted by a City-approved biologist during the appropriate blooming period during the year prior to initial ground disturbance. All special status plant species identified on-site shall be mapped onto a site-specific aerial photograph or topographic map with the use of Global Positioning System (GPS) unit. Surveys shall be conducted in accordance with the most current protocols established by the CDFW, USFWS, and the local jurisdictions if said protocols exist. A report of the survey results shall be submitted to the implementing agency. If impacts to federal or state-listed species are identified for an individual project, consultation with CDFW and/or USFWS, as appropriate, may be required.

BIO-1(c) Special Status Plant Species Avoidance, Minimization, and Mitigation

If Federal and/or State listed species are found during special status plant pre-construction surveys [required under Mitigation Measure BIO-1(b)], avoidance of, or mitigation for impacts to, occupied habitat shall be required. If populations of CRPR List 1B or 2 species are found during special status plant pre-construction surveys, the City-approved biologist shall evaluate whether the loss of occupied areas would result in a local or regional population-level impact (i.e., jeopardize the continued existence of a local or regional population). Mitigation for regional population level impacts to rare plants shall be required by the City. If feasible, individual development projects shall be re-designed to avoid development in locations of Federal and/or State listed or CRPR List 1B or 2 species. Federal and/or State listed or CRPR List 1B or 2 species occurrences that are not within the immediate disturbance footprint and would be avoided, but which are located within 50 feet of disturbance limits, shall have bright orange protective fencing installed at an appropriate distance (as determined by a qualified biologist) to ensure they are protected during construction activities.

If development cannot avoid Federally or State listed plants species, then mitigation shall involve either salvage and conservation for any relocated individual plants, or compensation (minimum compensation ratio of 1:1 for individuals and impact areas, with a conservation area of a similar density of individuals) for the loss of these individuals or their habitat either in an on-site or off-site preserve, through payments to an appropriate mitigation bank, or as otherwise may be determined in coordination with USFWS and CDFW permitting. Impacts to, and salvage of, individual plants would be considered a “take” under the ESA and/or CESA. “Take” of listed species is illegal under the ESA and CESA without formal authorization from USFWS and/or CDFW. Impacts to Federal and/or State listed or CRPR List 1B or 2 species would require adherence to Mitigation Measure BIO-1(c).

BIO-1(d) Restoration and Monitoring

If development cannot avoid Federal or State listed plant species, all impacts shall be mitigated by the project applicant at a minimum ratio of 1:1 for areas occupied by the species. Ratios may be higher pending consultation with CDFW and/or USFWS for listed species. Restoration areas shall be of a similar density of individuals as areas impacted project activities. A restoration plan shall be prepared by the project applicant and submitted to the City for review and approval. Documentation demonstrating consultation with CDFW and USFWS regarding impacts to federal or state listed species shall be submitted to the City. Population level impacts to CRPR List 1B or 2 species shall also be mitigated at a 1:1 ratio for occupied areas, and shall also require a restoration plan in coordination with the City. The restoration plan(s) shall include, at a minimum, the following components:

- Description of the project/affected species location(s) (i.e., location, responsible parties, areas to be impacted by habitat type)
- Compensatory mitigation (type[s] and area[s] species to be established, restored, enhanced, and/or preserved; specific functions and values of species type[s] to be established, restored, enhanced, and/or preserved)
- Description of the proposed compensatory mitigation site (location and size, ownership status, existing functions and values)
- Implementation plan for the compensatory mitigation site (rationale for expecting implementation success, responsible parties, schedule, site preparation, planting plan)
- Maintenance activities during the monitoring period, including weed removal as appropriate (activities, responsible parties, schedule)
- Monitoring plan for the compensatory mitigation site, including no less than quarterly monitoring for the first year (performance standards, target functions and values, target

acreages to be established, restored, enhanced, and/or preserved, annual monitoring reports)

- Success criteria based on the goals and measurable objectives; said criteria to be, at a minimum, at least 80 percent survival of container plants and 30 percent relative cover by vegetation type
- An adaptive management program and remedial measures to address any shortcomings in meeting success criteria
- Notification of completion of compensatory mitigation and agency confirmation
- Contingency measures (initiating procedures, alternative locations for contingency compensatory mitigation, funding mechanism)

BIO-1(e) Special Status Wildlife Pre-Construction Surveys

Projects that identify potential impacts to special status wildlife species during the biological screening and assessment under Mitigation Measure BIO-1(a) shall implement Mitigation Measure BIO-1(e).

General Wildlife Surveys

Pre-construction clearance surveys for northern California legless lizard and coast horned lizard shall be conducted within 14 days prior to the start of construction (including staging and mobilization) in areas of suitable habitat. The surveys shall cover the entire disturbance footprint plus a minimum 200-foot buffer within suitable habitat, where permissible, and shall identify all special status animal species that may occur on-site. California legless lizard and coast horned lizard shall be relocated from the site to a safe location within suitable habitat as near to the project area as possible by a qualified biologist.

Burrowing Owl Surveys

A qualified biologist shall conduct pre-construction clearance surveys prior to ground disturbance activities within suitable natural habitats and ruderal areas to confirm the presence/absence of burrowing owls. The surveys shall be consistent with the recommended survey methodology provided by CDFW (2012). Clearance surveys shall be conducted within 14 days prior to construction and ground disturbance activities. If no burrowing owls are observed, no further actions are required. If burrowing owls are detected during the pre-construction clearance surveys, the following measures shall apply:

- Avoidance buffers during the breeding and non-breeding season shall be implemented in

accordance with the CDFW (2012) and Burrowing Owl Consortium (1993) minimization mitigation measures.

- If avoidance of burrowing owls is not feasible, then additional measures such as passive relocation during the nonbreeding season and construction buffers of 200 feet during the breeding season shall be implemented, in consultation with CDFW. In addition, a Burrowing Owl Exclusion Plan and Mitigation and Monitoring Plan shall be developed by a qualified biologist in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993).

Smith's Blue Butterfly Host Plant Surveys

Prior to grading and construction in undeveloped areas, an approved biologist shall conduct surveys for seaciff buckwheat (*Eriogonum parvifolium*) and seaside buckwheat (*Eriogonum latifolium*), host plants of Smith's blue butterfly in areas of suitable habitat.

If Smith's blue butterfly host plants are not located, no further action is required. If host plants are feasible, focused surveys shall be conducted to determine presence or absence of the butterfly species. This may include surveys during the adult flight period (mid-June through early September), and/or inspection of host plants for all life forms (egg, larva, pupa, and adult). Impacts to individuals of any life stage would be considered "take" under the ESA. Relocation of Smith's blue butterfly and occupied host plants can only be legally authorized by the USFWS, and only a USFWS permitted biologist is legally allowed to relocate host plants and individuals.

Bumble Bee Habitat Assessment And Avoidance

In undeveloped areas of the DVSP, including annual grassland, sandmat manzanita, ruderal, bare, and ice plant mats, where vegetation removal and/or ground disturbance is planned, a qualified biologist, with experience differentiating bumble bees from other bee species and familiarity with bee activity and nesting behaviors, shall conduct a field habitat assessment to determine if Crotch's bumble bee or western bumble bee could occur on the site. The habitat assessment shall evaluate all work areas and access routes for bee habitat quality, and signs of presence or potential for presence, including surveying for suitable bumble bee foraging native plants, bumble bee activity, and nesting sites. The biologist shall take photos of any bumble bees or bumble bee resources observed.

For projects within undeveloped areas that are larger than one acre, or adjacent to undeveloped areas north of Reservation Road, the habitat assessment shall be conducted during the environmental review or project planning phase to identify potential agency consultation requirements.

For projects within undeveloped areas that are less than one acre and isolated by development, the habitat assessment can be conducted during wildlife pre-construction surveys.

If the habitat assessment determines there is suitable nesting and/or foraging habitat, prior to initial ground disturbance, a qualified biologist/entomologist familiar with the species behavior and life history shall perform a minimum of three on-site surveys prior to vegetation removal and/or grading to determine the presence/absence of Crotch's bumble bee and western bumble bee. Each survey should be spaced 2- to 4-weeks apart during the Colony Active Period (April–August) (CDFW 2023). Surveys should occur during the day area, a biological monitor shall be onsite during vegetation or ground disturbing activities that take place during any of the Queen and Gyne Flight Period and Colony Active Period (February to November). If Crotch's bumble bee and/or western bumble bee are observed during any phase of the project, all work shall stop and CDFW shall be notified to determine the appropriate avoidance strategies and next steps.

If Crotch's bumble bee and western bumble bee have not been listed under the California Endangered Species Act and are no longer candidate species at the time of project implementation, habitat assessments and protocol surveys as described above, would not be required.

Reporting

A report of all pre-construction and pre-demolition survey results shall be submitted to the City for its review prior to the start of demolition. The report shall include a description of the survey methodology for each species, the environmental conditions at the time of the survey(s), the results of the survey, any requirements for addressing special status species identified during surveys, and the biological qualifications of the surveyors. The report shall be accompanied by maps and figures showing the location of any special status species occurrences and associated avoidance buffers.

BIO-1(f) Biological Resources Avoidance and Minimization

Projects that identify potential impacts to special status species during the biological screening and assessment under Mitigation Measure BIO-1(a) shall implement Mitigation Measure BIO-1(f). The following measures shall be applied to avoid impacts to sensitive species and biological resources. The project applicant shall be responsible for implementing selected measures.

- Ground disturbance shall be limited to the minimum necessary to complete the project. The limits of disturbance for each construction phase shall be flagged. Areas of special

biological concern within or adjacent to the limits of disturbance shall have highly visible orange construction fencing installed between said area and the limits of disturbance.

- All construction occurring within or adjacent to natural habitats that may support Federally and/or State listed endangered/threatened species, State fully protected species, and/or special status species shall have a qualified biological monitor present during all initial ground disturbing/vegetation clearing activities.
- No endangered/threatened species shall be captured and relocated without express permission from the CDFW and/or USFWS.
- If at any time during construction an endangered, threatened, or fully protected species enters the construction site or otherwise may be impacted, all construction activities shall cease. A CDFW/USFWS-approved biologist shall document the occurrence and consult with the CDFW and USFWS, as appropriate, to determine whether it was safe for project activities to resume.
- At the end of each workday, excavations shall be secured with cover or a ramp provided to prevent wildlife entrapment.
- All trenches, pipes, culverts or similar structures shall be inspected for animals prior to burying, capping, moving, or filling.
- If night work is required, all construction lighting shall be pointed down and directed only on the work area.
- The City shall approve one or more qualified biologists to oversee and monitor biological compliance for the project. At least one qualified biologist shall be present during all initial ground disturbing activities, including vegetation removal to recover special status animal species unearthed by construction activities.

BIO-1(g) Pre-Construction Nesting Birds Surveys

All projects developed under the Specific Plan shall implement Mitigation Measure BIO-1(g). Project activity shall restrict ground disturbance, building demolition, and vegetation removal activities to the non-breeding season (September 16 to January 31) when feasible. For ground disturbance, building demolition, and vegetation removal activities that must be conducted during the bird nesting season (February 1 to September 15), general pre-construction nesting bird surveys shall be conducted by a qualified biologist, including for, but not limited to, the tricolored blackbird and White-tailed kite, not more than 14 days prior to construction activities involving ground clearing, vegetation removal/trimming, or building demolition. The surveys shall include the disturbance area plus a 200-foot buffer

around the site if feasible, and a 500-foot buffer for tricolored blackbird and White-tailed kite. If active nests are located, an appropriate avoidance buffer shall be established within which no work activity shall be allowed which would impact these nests. The avoidance buffer would be established by the qualified biologist on a case-by-case basis based on the species and site conditions. In no cases shall the buffer be smaller than 50 feet for non-raptor bird species, 200 feet for raptor species, or a 500-foot buffer for White-tailed kite. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. If fully protected White-tailed kites are documented nesting within 500 feet of construction activities, CDFW shall be consulted on appropriate avoidance and minimization methods. The buffer area(s) shall be closed to all construction personnel and equipment breeding season has ended or until a qualified biologist has determined the birds have fledged and are no longer reliant upon the nest or parental care for survival.

BIO-1(h) Worker Environmental Awareness Program (WEAP)

All projects developed under the Specific Plan shall implement Mitigation Measure BIO-1(h). Prior to initiation of construction activities (including staging and mobilization), the project proponent shall arrange for all personnel associated with project construction for the applicable phase to attend WEAP training, conducted by a qualified biologist, to aid workers in recognizing special status resources that may occur in the construction area. The specifics of this program shall include identification of the sensitive species and habitats, a description of the regulatory status and general ecological characteristics of sensitive resources, and review of the limits of construction and mitigation measures required to reduce impacts to biological resources within the work area. A fact sheet conveying this information shall also be prepared for distribution to all contractors, their employers, and other personnel involved with construction. All employees shall sign a form provided by the trainer indicating they have attended the WEAP and understand the information presented to them. The form shall be submitted to the City to document compliance.

Findings for Impact BIO-1: The City finds individual projects proposed for development within undeveloped or partially developed areas containing natural or ruderal areas within the DVSP area could result in significant impacts to special-status species. Implementation of Mitigation Measure BIO-1(a) through (h) listed above, would ensure that any potential impacts to special-status species would be reduced to a less than significant level.

Implementation of Mitigation Measures BIO-1(a) through (h), set forth above, which are hereby adopted and incorporated into the project, will reduce Impact BIO-1 to a less-than-significant level. (LTS)

Impact BIO-2: Impacts to waters of the state or waters of the United States would potentially require regulatory permitting. Impacts to these features may be significant but would be reduced to less than significant with mitigation.(S)

Mitigation Measure BIO-2: Jurisdictional Delineation. If a proposed project under the Specific Plan would impact any of the ephemeral drainages and/or the ponds (as shown in Figure 4.4-2 in Section 4.4 of the EIR), a qualified biologist shall complete a jurisdictional delineation. The jurisdictional delineation will determine the extent of the jurisdiction for CDFW, USACE, and/or RWQCB, and shall be conducted in accordance with the requirement set forth by each agency. The result will be a preliminary jurisdictional delineation report that shall be submitted to the implementing agency, USACE, RWQCB, and CDFW, as appropriate, for review and approval. Jurisdictional areas should be avoided to the maximum extent possible. If jurisdictional areas are expected to be impacted, then the RWQCB would require a Waste Discharge Requirements (WDRs) permit and/or Section 401 Water Quality Certification (depending upon whether or not the feature falls under federal jurisdiction). If CDFW asserts its jurisdictional authority, then a Streambed Alteration Agreement pursuant to Section 1600 et seq. of the CFGC would also be required prior to construction within the areas of CDFW jurisdiction. If the USACE asserts its authority, then a permit pursuant to Section 404 of the CWA would likely be required. Furthermore, a compensatory mitigation program should be implemented, and the measures set forth by the regulatory agencies during the permitting process. Compensatory mitigations for all permanent impacts to waters of the U.S. and waters of the state shall be completed at a ratio as required in applicable permits, but should not be less than a minimum ratio of 1:1. All temporary impacts to waters of the U.S. and waters of the state should be fully restored to natural condition.

Findings for Impact BIO-2: The City finds that potential alteration of the “pond” could result in adverse impacts to waters of the state and/or waters of the U.S. Impacts to this feature may be significant and could result in significant impacts to special-status species. Implementation of Mitigation Measure BIO-2 listed above, would ensure that any potential impacts to special-status species would be reduced to a less than significant level.

Implementation of Mitigation Measure BIO-2, set forth above, which is hereby adopted and incorporated into the project, will reduce Impact BIO-2 to a less-than-significant level. (LTS)

2. Cultural Resources

Impact CR-1: Development under the proposed Specific Plan could impact presently unknown historical resources through construction activities associated with buildout. Application of Mitigation Measure CR-1 would ensure impacts to historical resources are less than significant

by identifying historical resources during the project planning process and avoiding or minimizing potential impacts as needed. (S)

Mitigation Measure CR-1: Historical Resources Evaluation and Treatment Procedures.

If a project involves a built environment resource which is over the age of 45 years old, the Community Development Director or their designee, supported by an architectural historian as needed, shall make a preliminary determination as to whether the building qualifies as a historical resource. “Historical resource” shall mean a property listed or found eligible for listing in the National Register of Historic Places or the California Register of Historical Resources. A property that is eligible for listing in the National Register of Historic Places or the California Register of Historical Resources must retain its historic integrity and meet one of the following eligibility criteria:

- Is associated with events that have made a significant contribution to the broad patterns of our history.
- Is associated with the lives of persons significant in our past.
- Embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction.
- Has yielded, or may be likely to yield, information important in history or prehistory.

If the Community Development Director or their designee determines the built environment resource may have the potential to qualify as a historic resource, then a historical resources evaluation shall be required.

- **Qualified Historian.** The evaluation will be prepared by a qualified architectural historian or historian who meets the Secretary of the Interior’s Professional Qualifications Standards (PQS) in architectural history or history.
- **Guidelines for Preparation.** The qualified architectural historian or historian will conduct an intensive-level evaluation in accordance with the guidelines and best practices promulgated by the State Office of Historic Preservation to identify any potential historical resources within the proposed project area. All properties 45 years of age or older will be evaluated within their historic context and documented in a technical report. All evaluated properties will be documented on Department of Parks and Recreation Series 523 Forms. The report will be submitted to the City for review.

If the property is found ineligible for the NRHP or CRHR it shall be considered non-historical for the purposes of CEQA and no additional review or mitigation is required. If the property is identified as historical, the project applicant shall retain a qualified preservation

professional meeting the PQS in Architectural History, History, or Historic Architecture. The qualified preservation professional shall provide design input to facilitate compliance with the Secretary's Standards to lessen, avoid, or mitigate direct or indirect impacts to historical resources. The qualified preservation professional shall review design plans to identify whether the project complies with the Secretary's Standards. The results of this review and impacts screening shall be memorialized in a Secretary's Standards compliance memorandum and approved by the City prior to the schematic phase. If the project is found to comply with the Secretary's Standards, no further mitigation is required.

If the project is found not to comply, the City shall require the completion of a Relocation Study and Preservation Plan for the historical resource. The Study shall consider partial retention of the resource as well as relocation; the Plan shall identify at least two potential nearby receiver sites, with similar settings and characteristics, for the relocation. The Relocation Study and Preservation Plan shall be completed by a preservation professional meeting the Secretary of the Interior's Professional Qualifications Standards for architectural history, history, or historic architecture and approved by the City prior to issuance of building permits.

If the Relocation Study and Preservation Plan determines that partial retention or relocation is feasible, the recommendations of the study shall be implemented. If the Relocation Study and Preservation Plan determines that such measures are infeasible, the project shall not be implemented, or the City may require project-level CEQA review, such as an EIR prior to project approval.

Findings for Impact CR-1: The City finds that, while the project does not directly propose any adverse changes to any historic resources, construction activities during development under the DVSP could impact unknown historical resources. This could have a substantial adverse impact on the resources and is therefore considered a potentially significant impact. Mitigation Measure CR-1 would require that proposed development projects conduct a Historical Resources Evaluation to determine whether or not the building qualifies as a historical resource. City would require that applicants follow prescribed treatment procedures that would avoid or minimize impacts.

Implementation of Mitigation Measure CR-1, set forth above, which is hereby adopted and incorporated into the project, will reduce Impact CR-1 to a less-than-significant level. (LTS)

Impact CR-2: Ground-disturbing activities associated with development facilitated by the Specific Plan, particularly in areas that have not previously been developed with urban uses, have not been studied through a cultural resources investigation, or when excavation depths exceed those previously attained, have the potential to damage or destroy previously-unknown historic or prehistoric archaeological resources that may be present on or below the ground

surface. Impacts are potentially significant, and Mitigation Measure CR-2 would be required to reduce potential impacts to less than significant.(S)

Mitigation Measure CR-2: Archaeological Resources Investigation. At the time of application for discretionary land use permits that involve grading, trenching, or other ground disturbance in native soil with the potential for encountering unknown archaeological resources, the project applicant shall retain a qualified archaeologist meeting the Secretary of the Interior standards in archaeology to complete a Phase 1 cultural resources assessment of the development site. A Phase 1 cultural resources assessment shall include an archaeological pedestrian survey of the development site, if possible, and sufficient background archival research and field sampling to determine whether subsurface prehistoric or historic remains may be present. Archival research shall include a current (no more than one-year old) records search from the Northwest Information Center (NWIC) and a Sacred Lands File (SLF) search conducted with the Native American Heritage Commission (NAHC).

Identified prehistoric or historic archaeological remains shall be avoided and preserved in place where feasible. Where preservation is not feasible, the significance of each resource shall be evaluated for significance and eligibility for listing in the CRHR through a Phase 2 evaluation. A Phase 2 evaluation shall include any necessary archival research to identify significant historical associations as well as mapping of surface artifacts, collection of functionally or temporally diagnostic tools and debris, and excavation of a sample of the cultural deposit to characterize the nature of the sites, define the artifact and feature contents, determine horizontal boundaries and depth below surface, and retrieve representative samples of artifacts and other remains.

Cultural materials collected from the sites shall be processed and analyzed in the laboratory according to standard archaeological procedures. The age of the materials shall be determined using radiocarbon dating and/or other appropriate procedures; lithic artifacts, faunal remains, and other cultural materials shall be identified and analyzed according to current professional standards. The significance of the sites shall be evaluated according to the criteria of the CRHR. The results of the investigations shall be presented in a technical report following the standards of the California Office of Historic Preservation publication “Archaeological Resource Management Reports: Recommended Content and Format (1990 or latest edition)” (<http://ohp.parks.ca.gov/pages/1054/files/armr.pdf>). Upon completion of the work, all artifacts, other cultural remains, records, photographs, and other documentation shall be curated an appropriate curation facility. All fieldwork, analysis, report production, and curation shall be fully funded by the applicant.

If the resources meet CRHR significance standards, the City shall ensure that all feasible recommendations for mitigation of archaeological impacts are incorporated into the final

design and permits issued for development. If necessary, Phase 3 data recovery excavation, conducted to exhaust the data potential of significant archaeological sites, shall be carried out by a qualified archaeologist meeting the SOI standards for archaeology according to a research design reviewed and approved by the City prepared in advance of fieldwork and using appropriate archaeological field and laboratory methods consistent with the California Office of Historic Preservation Planning Bulletin 5 (1991), Guidelines for Archaeological Research Design, or the latest edition thereof. As applicable, the final Phase 1 Inventory, Phase 2 Testing and Evaluation, and/or Phase 3 Data Recovery reports shall be submitted to the City prior to issuance of construction permit. Recommendations contained therein shall be implemented throughout all ground disturbance activities.

Findings for Impact CR-2: The City finds that, while the project does not directly propose any adverse changes to any historic or prehistoric archaeological resources, construction activities during development under the DVSP could potentially damage or destroy previously-unknown resources that may be present on or below the ground surface. This could have a substantial adverse impact on the resources and is therefore considered a potentially significant impact. Mitigation Measure CR-2 would require a phased Archaeological Resources Investigation to identify prehistoric or historic archaeological remains and determine their significance. The measure requires that identified prehistoric or historic archaeological remains shall be avoided and preserved in place where feasible. If avoidance is not feasible, the measure requires that the resources be processed and analyzed in the laboratory according to standard archaeological procedures and that any additional mitigation be implemented in accordance with recommendations of the project archaeologist.

Implementation of Mitigation Measure CR-2, set forth above, which is hereby adopted and incorporated into the project, will reduce Impact CR-2 to a less-than-significant level.(LTS)

3. Geology and Soils

Impact GEO-1: Ground disturbance in the DVSP area may result in the destruction, damage, or loss of undiscovered scientifically-important paleontological resources. The implementation of Mitigation Measure GEO-1 would reduce impacts to paleontological resources to a less than significant level.(S)

Mitigation Measure GEO-1: Paleontological Resources Monitoring and Mitigation. The City of Marina shall require the following specific requirements for individual projects in the DVSP that would require excavation exceeding five feet:

1. Prior to excavations exceeding five feet, a qualified professional paleontologist shall be retained to direct all mitigation measures related to paleontological resources. A qualified professional paleontologist is defined by the SVP standards as an individual preferably with

an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010).

2. The qualified professional paleontologist shall design a Paleontological Resources Mitigation and Monitoring Program (PRMMP) for the project, which outlines the procedures and protocol for conducting paleontological monitoring and mitigation. Monitoring shall be conducted by a qualified paleontological monitor who meets the minimum qualifications per standards set forth by the SVP. The PRMMP shall address the following procedures and protocols:

- Timing and duration of monitoring
- Procedures for work stoppage and fossil collection
- The type and extent of data that should be collected with any recovered fossils
- Identify an appropriate curatorial institution
- Identify the minimum qualifications for qualified paleontologists and paleontological monitors
- Identify the conditions under which modifications to the monitoring schedule can be implemented
- Details to be included in the final monitoring report.

3. Prior to the start of construction, the qualified paleontologist or his or her designee shall conduct a paleontological Worker Environmental Awareness Program (WEAP) training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff.

4. Full-time paleontological monitoring shall be conducted during ground disturbing construction activities (i.e., grading, trenching, foundation work) exceeding five feet, pursuant to the PRMMP. Paleontological monitoring is not required for any construction activities that do not exceed depths of less than five feet. If the qualified paleontologist determines that full-time monitoring is no longer warranted, based on the specific geologic conditions at the surface or at depth, he/she may recommend that monitoring be reduced to periodic spot-checking or cease entirely.

5. In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. The qualified paleontologist shall

evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the qualified paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources:

- a. The paleontological monitor shall evaluate the discovery and determine if the fossil may be considered significant. If the fossils are determined to be potentially significant, the qualified paleontologist shall recover them following standard field procedures for collecting paleontological resources as outlined in the PRMMP. If fossils are discovered, the qualified paleontologist shall recover them as specified in the project's PRMMP.
- b. Once salvaged, significant fossils shall be prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection.
- c. Upon completion of ground disturbing activity (and curation of fossils if necessary) the qualified paleontologist should prepare a final mitigation and monitoring report outlining the results of the mitigation and monitoring program. The report shall be submitted to the City of Marina.

Findings for Impact GEO-1: The City finds that ground disturbance to intact geologic units within project areas mapped as Older Quaternary sedimentary deposits (Qos) have the potential to impact paleontological resources at depths greater than five feet. Because the entire Plan area is underlain by Qos, construction activities associated with any future project pursuant to the Specific Plan may result in the destruction, damage, or loss of undiscovered scientifically-important paleontological resources. The implementation of Mitigation Measure GEO-1 would reduce impacts to paleontological resources to a less than significant level by including an implementation program requiring paleontological resource studies for projects that would require excavation greater than five feet and implementation of further requirements to avoid or reduce impacts to such resources on a project-by-project basis.

Implementation of Mitigation Measure GEO-1, set forth above, which is hereby adopted and incorporated into the project, will reduce Impact GEO-1 to a less-than-significant level.
(LTS)

4. Hazards, Hazardous Materials, and Wildfires

Impact HAZ-1: Redevelopment of portions of the Specific Plan area with known or potential contamination of soil, groundwater, and/or soil vapor (subsurface contamination) may result in the disturbance of hazardous materials, presenting a risk of human exposure. New development could also present potential risk of exposure to contamination associated with commercial and/or industrial land use. Hence, development and redevelopment pursuant to the Specific Plan would increase the potential for exposure to subsurface contamination hazards. This impact is potentially significant.(S)

Mitigation Measure HAZ-1: Project-Level Hazardous Materials Assessment. Prior to obtaining grading permits or starting other ground disturbing work for individual projects, the Community Development Director or their designee shall hire a qualified environmental professional to conduct a Phase I environmental assessment (ESA), consistent with the American Society for Testing Materials standards (ASTM E1527). The Phase I ESA shall evaluate the likelihood that hazardous chemicals are present and whether soil sampling is necessary. If the Phase I ESA indicates that contamination is unlikely, no further mitigation is necessary other than any recommendations identified in the Phase I ESA (such as stopping work if stained soil is encountered).

If the Phase I ESA indicates that additional soil sampling or other further evaluation is necessary, the City shall hire a qualified environmental professional to conduct a Phase II ESA to determine the presence and extent of contamination. If the results indicate that contamination exists at levels above regulatory action standards, then the site shall be remediated in accordance with recommendations made by applicable regulatory agencies, including RWQCB and DTSC. The agencies involved shall depend on the type and extent of contamination. If remediation is necessary, the City or their designee shall hire a qualified environmental professional prior to obtaining grading permits or ground disturbance to prepare a work plan that identifies necessary remediation activities, including excavation and removal of on-site contaminated soils, appropriate dust control measures, and redistribution of clean fill material on the project site. The plan shall include measures that ensure the safe transport, use, and disposal of contaminated soil removed from the site. The plan shall also identify when and where soil disturbing construction activities may safely commence.

Findings for Impact HAZ-1: The City finds that disturbance of contaminated soil or groundwater during construction activities could result in the disturbance of hazardous materials, presenting a health risk to any person exposed to the contaminants. New development could also present potential risk of exposure to contamination associated with commercial and/or industrial land use. Therefore, development and redevelopment pursuant to the Specific Plan would increase the potential for exposure to contamination hazards. Mitigation Measure HAZ-1 identifies steps to be taken prior to ground disturbing activities. These measures include preparation of Phase I (and potentially Phase II) ESA reports prepared by a qualified environmental assessment professional which would include recommendations for further investigation or remedial action, as appropriate, for hazardous materials contamination.

Implementation of Mitigation Measure HAZ-1, set forth above, which is hereby adopted and incorporated into the project, will reduce Impact HAZ-1 to a less-than-significant level.(LTS)

5. Noise

Impact HYD-1: Construction facilitated by the DVSP could exceed the construction noise threshold and impacts would be potentially significant. Operational activities, such as traffic and the use of mechanical equipment facilitated by the DVSP, would also exceed noise thresholds and impacts would be potentially significant. (S)

Mitigation Measure NOI-1(a): Construction Noise Reduction Measures. The following measures shall be implemented if construction is to occur within 500 feet of a residential property line:

- The City shall ensure that notes for grading plans and/or site improvement plans clearly state the noise limitation requirements of Municipal Code Section 15.04.055.
- Construction activities shall occur as to not exceed the 60 dBA LEQ noise limit at a receiving property line. Measures to reduce noise levels below the 60 dBA LEQ noise limit include, but are not limited to, the following:
 - Mufflers. During project site excavation and grading, construction equipment, fixed or mobile, shall be operated with closed engine doors and shall be equipped with properly operating and maintained mufflers consistent with manufacturers' standards.
 - Stationary Equipment. Stationary construction equipment shall be located and oriented so that emitted noise is directed away from the nearest noise sensitive receivers.
 - Equipment Staging Areas. Equipment staging shall be located in areas that will create the greatest distance feasible between construction-related noise sources and noise sensitive receivers.
 - Electrically-Powered Tools and Facilities. Where available, electrical power shall be used to run air compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.
 - Sound Barriers. Temporary noise barriers shall be implemented between the construction equipment and the receiving property lines. The noise barriers shall be constructed of material with a minimum weight of two pounds per square foot with no gaps or perforations. Noise barriers may be constructed of, but not limited to, 5/8-inch plywood, 5/8-inch oriented strand board, and hay bales. Noise barriers may consist of sound blankets affixed to construction fencing along the construction site boundary facing potentially sensitive receivers
- Idling. Construction vehicles shall be prohibited from idling in excess of five minutes.

Mitigation Measure NOI-1(b): Site-Specific Acoustic Analysis – Multi-Family

Residences. This mitigation measure applies to future multi-family residential development on Reservation Road, Del Monte Boulevard, Reindollar Avenue, Reindollar Avenue, Carmel Avenue, California Avenue, Crescent Avenue to the south of Reservation Road, Lynscott Drive, and Bayer Street. Prior to the approval of multi-family residential building permits in these locations, the City shall require an acoustical analysis demonstrating to the satisfaction of the Community Development Director (or their designee) that 1) the proposed building plans ensure that interior noise levels due to exterior noise sources will be at or below Marina's interior noise standard of 45 dBA Ldn for residential uses in any habitable room, and 2) required exterior areas are not exposed to noise levels in excess of the City's maximum acceptable exterior noise level of 60 dBA Ldn. Design-level architectural plans shall be available during design review and will permit the accurate calculation of transmission loss for habitable rooms. If necessary, the analysis shall identify measures to reduce noise levels to within City standards, which may include, but would not be limited to:

- Design of the project to include exterior areas shielded from the roadways by the project buildings;
- Sound walls to reduce noise to exterior areas; and/or
- Windows with increased Sound Transmission Class [STC] ratings for interior areas, etc.).

It is preferred that the interior noise standard be attained with open windows. However, where the interior noise standard is attainable only with closed windows and doors, mechanical ventilation shall be required.

Mitigation Measure NOI-1(c): Site-Specific Acoustic Analysis – Office Uses. Concurrent with Design Review and prior to the approval of building permits for office uses on Reservation Road and Del Monte Boulevard, the City shall require an acoustical analysis 1) demonstrating to the satisfaction of the Development Services Director (or their designee) that the required exterior areas are not exposed to noise levels in excess of the City's maximum acceptable exterior noise level of 67 dBA Ldn for office uses. If necessary, the analysis shall identify measures to reduce noise levels to within City standards, which may include, but would not be limited to design of the project to include exterior areas shielded from the roadways by the project buildings or sound walls to reduce noise to exterior areas.

Mitigation Measure NOI-1(d): HVAC Mechanical Equipment Shielding. Concurrent with Design Review and prior to the approval of building permits, the City shall require a design plan demonstrating to the satisfaction of the Development Services Director (or their designee) that the noise level from operation of mechanical equipment shall not cumulatively

exceed the following noise level limits for a designated receiving land use category as specified in Table 4.2 in the Marina General Plan:

- From 7 a.m. to 10 p.m.:
- 50 dBA Leq
- 70 dBA Lmax
- 65 dBA Lmax, impulsive
- From 10 p.m. to 7 a.m.:
- 45 dBA Leq
- 65 dBA Lmax
- 60 dBA Lmax, impulsive

Noise control measures may include, but are not limited to, the selection of quiet equipment, equipment setbacks, parapet walls, silencers, and/or acoustical louvers. Marina shall require noise attenuation features that would reduce sound levels to allowable noise levels.

Findings for Impact NOI-1: The City finds that development under the DVSP would result in noise that exceeds applicable standards during both construction and operation. This would be considered a potentially significant impact. Mitigation Measure NOI-1(a) through NOI-1(d) would reduce noise from construction activities, require site-specific acoustic analyses for future multi-family residential and office uses in affected areas, require implementation of additional measures as identified in the site-specific acoustic analyses to reduce noise levels to within City standards, and would require a design plan demonstrating that the noise level from operation of mechanical equipment shall not cumulatively exceed established noise level limits for a designated receiving land use category as specified in Table 4.2 in the Marina General Plan. Therefor Mitigation Measures NOI-1(a) through (d) listed above, would ensure that any potential impacts to special-status species would be reduced to a less than significant level.

Implementation of Mitigation Measure NOI-1(a) through (d), set forth above, which are hereby adopted and incorporated into the project, will reduce Impact NOI-1 to a less-than-significant level. (LTS)

6. Tribal Cultural Resources

Impact TCR-1: Although no known tribal cultural resources are present on the Plan area, there is the possibility of encountering unknown tribal cultural resources or known cultural resources that may be identified as tribal cultural resources. Ground disturbance associated with projects facilitated by the Specific Plan has the potential to significantly impact tribal cultural resources. Mitigation is required to ensure that any unanticipated discoveries of tribal cultural resources are avoided or, where avoidance is infeasible, mitigated to a less than significant level. (S)

Mitigation Measure TCR-1: Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during development facilitated by the DVSP, all earth-disturbing work within 50 feet of the find shall be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find as a cultural resource and an appropriate local Native American representative is consulted. If the City, in consultation with local Native American tribes, determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with local Native American group(s). The plan shall include avoidance of the resource or, if avoidance of the resource is infeasible, the plan shall outline the appropriate treatment of the resource in coordination with the appropriate local Native American tribal representative and, if applicable, a qualified archaeologist. The plan shall include measures to ensure the find is treated in a manner that respectfully retains, to the degree feasible, the qualities that render the resource of significance to the local Native American group(s). Examples of appropriate mitigation for tribal cultural resources include, but are not limited to, protecting the cultural character and integrity of the resource, protecting traditional use of the resource, protecting the confidentiality of the resource, or heritage recovery.

Findings for Impact TCR-1: The City finds that, while the project does not directly propose any adverse changes to any known tribal cultural resources, construction activities during development under the DVSP could impact unknown resources. This could have a substantial adverse impact on the resources and is therefore considered a potentially significant impact. Mitigation Measure TCR-1 would require suspension of construction activities if Native American cultural resources are encountered until an archaeologist can evaluate the resource and consult with appropriate local Native American representatives. If the City, in consultation with local Native American tribes, determines that the resources is significant under CEQA, the measure requires preparation and implementation of a mitigation plan that would avoid the resources if feasible, or outline appropriate treatment if avoidance is not feasible.

Implementation of Mitigation Measure TCR-1, set forth above, which is hereby adopted and incorporated into the project, will reduce Impact TCR-1 to a less-than-significant level. (LTS)

F. CUMULATIVE IMPACTS

An EIR is required to discuss the cumulative impacts of a project when the project's incremental effect is cumulatively considerable. CEQA Guidelines §15130(a). "Cumulatively considerable" means that the incremental effects of the project are significant when viewed in connection with the effects of past projects, other current projects, and probable future projects. CEQA Guidelines § 15065(a)(3); Pub. Resources Code § 21083(b)(2).

When evaluating cumulative impacts, CEQA allows the use of either a list of past, present, and probable future projects, including projects outside the control of the lead agency, or a summary of projections in an adopted planning document. To determine the project's potential cumulative impacts, the Final EIR considers the effects of the project over the course of the 20-year planning period (2024-2044) in conjunction with growth and development projections contained within adopted local plans in the cities of Marina and Seaside and select projects in Monterey County and in the Fort Ord area. For the purposes of analyzing the cumulative analysis of the project, these local plans and projects include the City of Marina's General Plan and Municipal Code.

The Final EIR identified certain potentially significant cumulatively considerable effects that could result from the project. As described in greater detail below, the project could result in the following significant and unavoidable impact, which will be overridden by the specific considerations that are described in this document's conclusion in Section H of this document.

Cumulative Air Quality Impact: DVSP operation would exceed MBARD thresholds for VOCs, which is considered a cumulatively considerable impact. In addition, DVSP related air pollution may combine with other cumulative projects (past, present, and reasonably foreseeable future) to violate criteria pollutant standards if the existing background sources cause nonattainment conditions. Air pollutant emissions in the DVSP area would contribute to regional air quality in the North Central Coast Air Basin (NCCAB). The NCCAB is designated a nonattainment area for the particulate matter under state standards, and nonattainment transitional for one-hour ozone under state standards and 8-hour ozone national and state standards. Therefore, DVSP project emission impacts combined with cumulative project air quality impacts related to particulate matter (PM10) and ozone are also significant.(S)

The DVSP includes Program M-1, described below to address cumulative transportation demand management, which may reduce emissions in the plan area.

Program M-1: Develop a mobility plan for the Downtown to include complete streets design, pedestrian and bicycle paths, improvements to transit, parking, electric vehicle charging, and transportation demand management measures. The plan should include a cost estimate and a financing and capital improvement program.

Findings for Cumulative Air Quality Impact: The City finds that the project, in conjunction with other foreseeable projects, would result in a cumulatively considerable impact for operational VOC emissions and would contribute to regional air quality in the NCCAB for nonattainment areas, specifically for particulate and ozone emissions. This would be considered a cumulatively considerable impact. Implementation of DVSP Program M-1 would reduce impacts by planning and implementing multi-modal transportation options that may reduce emissions, however, cumulative impacts related to cumulatively considerable contributions of VOCs, and particulate matter and ozone in non-attainment areas would remain significant and unavoidable.(SU)

Cumulative Transportation Impact:

The DVSP would have an impact on the regional roadway network within Monterey County. Buildout of cumulative development within and near the Specific Plan area, including the anticipated cumulative projects, would increase traffic volumes on local roadways and regional VMT. Although the DVSP would reduce VMT compared to future baseline conditions, development facilitated by the DVSP would result in an increase in VMT, which would exceed City thresholds. Because buildout of the DVSP would increase VMT, cumulative impacts would be potentially significant. The DVSP would contribute to this cumulative impact because it would add to countywide VMT alongside other development envisioned in the City of Marina and Monterey County. Therefore, the DVSP's contribution to significant cumulative VMT impacts would be cumulatively considerable. (SU)

Findings for Cumulative Transportation Impact: The City finds that the project, in conjunction with other foreseeable projects, would result in a cumulatively considerable impact for operational activities related to increased VMT that exceeds the City's thresholds and would add to countywide VMT. This would be considered a cumulatively considerable impact. Implementation of DVSP Program M-1 would reduce impacts by planning and implementing multi-modal transportation options that may reduce emissions, however, cumulative impacts related to cumulatively considerable contributions of VMT would remain significant and unavoidable.(SU)

Cumulative Water Supply Impact: the DVSP would increase water demand in the Specific Plan area, but would be sufficiently served by existing water supplies. However, substantial excess supply is not anticipated. There would not be sufficient water supply for all cumulative development in normal and dry years. As such, cumulative water supply impacts would be

potentially significant. While the DVSP itself would result in less than significant impacts to water supply, the DVSP would contribute to the cumulative impact. Therefore, the DVSP would result in a cumulatively considerable contribution to cumulative sustainable groundwater management and water supply impacts. This impact would be significant and unavoidable. (SU)

Findings for Cumulative Water Supply Impact: The City finds that the project, in conjunction with other foreseeable projects, would result in a cumulatively considerable impact for operational activities related to water supply during normal and dry years. This would be considered a cumulatively considerable impact that would be significant and unavoidable. (SU)

G. GROWTH INDUCING IMPACTS

An EIR is required to discuss growth inducing impacts, which consist of the ways in which the project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. CEQA Guidelines §15126.2(d); Public Resources Code § 21100(b)(5). Direct growth inducement would result, for example, if a project involves the construction of substantial new housing that would support increased population in a community or establishes substantial new permanent employment opportunities.

This additional population could, in turn, increase demands for public utilities, public services, roads, and other infrastructure. Indirect growth inducement would result if a project stimulates economic activity that requires physical development or removes an obstacle to growth and development (e.g., increasing infrastructure capacity that would enable new or additional development). It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment. CEQA Guidelines § 15126.2(d). Section VII.A of the Draft EIR analyzes the growth inducing impacts of the project. As explained in Section I, below, the findings in this Section G are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

The City of Marina proposes the DVSP for the City's 320-acre downtown area to establish a vibrant Downtown, provide a variety of affordable , high quality housing options, create an environment that attracts and sustains economic activity, and establishes a downtown area with safe and efficient multi-modal transportation. The DVSP establishes land use designations, Design Guidelines, public service improvements, mobility elements (e.g., traffic calming measures and improved public transit) and associated Development Code and General Plan amendments.

The DVSP would facilitate an increase of 2,904 residential units, 1,566,374 square feet of retail uses, and 824,581 square feet of office uses over the approximately 20-year planning horizon and beyond. DVSP buildout is accounted for in regional growth projections and would contribute to the City's projected population of 28,433 residents by 2040. Population increases associated with

the Specific Plan have been accommodated in regional growth projections, including the Association of Monterey Bay Area Governments Regional Growth Forecast released in 2022.

Additionally, the DVSP itself anticipates and plans for this growth in the Specific Plan area. The DVSP provides guidance for development and growth within the Specific Plan area through guiding policies and goals for orderly development to ensure that growth does not outpace the capacity of existing infrastructure, services, and facilities. Additionally, the DVSP outlines the vision and framework for improving and growing the pedestrian, bicycle, vehicle, and transit network in the Specific Plan area. Lastly, the DVSP addresses the planned distribution, location, extent, and intensity of public facilities. Therefore, the DVSP would not result in significant physical effects due to population growth.

The DVSP prioritizes infill development, reuse of limited underutilized parcels, reimagined mobility options, mixed-use design, and preservation of key elements that make downtown Marina unique while supporting growth in areas already well-served by existing public facilities and services. New development would occur where existing roads, water, sewer, and other utilities are in place and in a manner that minimizes the impact of development on existing infrastructure and services. Despite the proposed change in land use designations, the Specific Plan would generally preserve the existing pattern of land uses in the Downtown area. Therefore, the DVSP would not result in significant physical effects due to a removal of obstacles to growth.

The Final EIR fully analyzes the impacts of all growth contemplated in the project. Secondary or indirect effects associated with this growth do not represent a new significant environmental impact which has not already been addressed in the Final EIR.

H. FEASIBILITY OF PROJECT ALTERNATIVES

The two project alternatives analyzed in the Final EIR include:

- **Alternative 1. No Project Alternative:** Under this alternative, the DVSP is not adopted or implemented, and instead there is continued implementation of the City's current General Plan for the plan area. Typical development assumptions are assumed for this alternative, including compliance with applicable regulations or typical City-required measures.
- **Alternative 2. Reduced Development Alternative:** Under this alternative, the Allendale/Chester Housing Site would not be developed, and 12 of the 24 units associated with development at this site would not be developed.

The Final EIR includes detailed analysis on the potential impacts of each alternative by environmental topic. After reviewing the Final EIR and other relevant information in the

administrative record, the Council determines that the two alternatives are _____ (feasible or infeasible). [The reasons for rejecting each alternative are discussed in this section. The reasons for rejecting each alternative are independent and each reason alone is sufficient to support a determination that the alternative is infeasible.]

1. Alternative 1: No Project/No Build Alternative

a. Description

The No Project Alternative assumes that the current land use and zoning designations would not change from the City's adopted 2005 General Plan, and the DVSP would not be adopted or implemented. Existing development in the Specific Plan area includes approximately 1,005,000 square feet of commercial, retail, and office uses and approximately 2,301 dwelling units. Under the No Project Alternative, existing land use designations would remain the same, but additional development could occur as currently allowed under these designations. Because the Downtown area is already largely developed, there is very little vacant land in the urban core of the city. This alternative does not preclude future development within the downtown area, but much of its development potential has already been realized. Additionally, without the DVSP, there would be no opportunity for streamlined review and approval of projects within Marina's Downtown area. Accordingly, less development would occur under this alternative than under the DVSP.

Buildout in accordance with the existing 2005 General Plan would not meet project objectives. Under the No Project Alternative, there would be no physical modifications to the downtown that would promote a walkable and vibrant downtown with mixed uses and integration with adjoining neighborhoods, parks, and trails. Additionally, the No Project Alternative would not facilitate the development of a variety of affordable, high-quality housing options. The dispersed locations of vacant and underutilized lots that would be available for development under this alternative would not be conducive to establishing a downtown core area.

b. Comparison to Project

The No Project Alternative would not achieve, or would achieve to a lesser degree, the following project goals and objectives:

Goals

- **Land Use and Development.** A community with a safe, walkable, and vibrant Downtown, that attracts diverse business opportunities, encourages appropriate mixed uses, and integrates adjoining neighborhoods, parks, and trails.
- **Community Identity.** A Downtown that complements Marina's natural setting, provides opportunities for an attractive and functional built environment, accommodates and

reflects the diversity of our community, where people gather for social, cultural, educational, and recreational experiences.

- **Cultural Diversity.** A Downtown where people of all incomes, ages, abilities, races, and cultures feel like they belong.
- **Housing Affordability.** A variety of affordable, high-quality housing options for people to live in Downtown.
- **Environment and Sustainability.** Development in Downtown that employs green building technology, employs net zero building principles, and is designed to create more comfortable indoor and outdoor environments.
- **Economic Vitality.** An environment that attracts and sustains economic activity through innovation, business and social opportunities.
- **Mobility.** A Downtown with safe and efficient pedestrian and vehicular circulation that encourages people to gather, walk, bike, or use public transportation.
- **Public Facilities and Infrastructure.** Ensure that there are adequate public services and public utilities are provided for future development, and enhance the Downtown by planning for future public facilities.

Objectives

- Establish a safe, walkable, and vibrant Downtown that attracts diverse business opportunities, encourages appropriate mixed uses, and integrates adjoining neighborhoods, parks, and trails.
- Provide a variety of affordable, high-quality housing options for people of all incomes, ages, abilities, races, and cultures to live in Downtown.
- Create an environment that attracts and sustains economic activity.
- Establish a Downtown with safe and efficient pedestrian and vehicular circulation that encourages alternative modes of transportation.

Proposed Specific Plan development and policies related to promoting non-automobile transportation and public transit would not be implemented under this alternative. As a result, VMT generated by residential and office uses would be greater than that of the DVSP and would further exceed VMT thresholds established by the City of Marina. Therefore, impacts related to VMT would be significant and unavoidable. In addition, cumulative impacts related to VMT would also be significant and unavoidable and this Alternative's cumulative contribution to VMT would be greater than that of the proposed Project.

Overall, the No Project Alternative would result in fewer emissions from both construction and operation of new development in the Specific Plan area compared to the proposed Specific Plan. Therefore this alternative would result in less than significant air quality impacts with mitigation, and impacts would be reduced compared to the DVSP.

Because adequate water supplies would be available for the proposed Specific Plan at full buildout, adequate water supplies would also be available for the reduced development that occurs under the No Project Alternative. Similarly, the No Project Alternative would involve less development and less intense buildout, and would have lesser impacts to groundwater recharge, water quality, and sustainable groundwater management compared to the proposed project. Therefore, impacts related to water supply would be reduced compared to the DVSP and would be less than significant.

Because the No Project Alternative would facilitate development currently allowed by Marina's 2005 General Plan, projected growth and development in Marina is already accounted for by the Marina Coast Water District. The No Project Alternative would not require the relocation or construction of new or expanded water facilities. Impacts related to water supply would be reduced compared to the DVSP and would be less than significant.

c. Findings

Because this alternative would not achieve most of the Project goals and objectives, and because it would worsen impacts related to VMT, Alternative 1: No Project/No Build Alternative is hereby rejected.

2. Alternative 2: Reduced Development Alternative

a. Description

The Reduced Development Alternative would reduce the number of new residential units and the total square footage of non-residential development that could be constructed in the Specific Plan area. The purpose of this alternative is to reduce significant impacts to air quality and VMT associated with the DVSP. The Reduced Development Alternative would facilitate approximately 25 percent less development than the proposed Specific Plan, and would involve a net increase of 2,178 residential units and approximately 1,039,000 square feet of non-residential development compared to existing conditions.

Based on an average of 2.65 people per household, the Reduced Development Alternative would result in a population increase of 5,772 people in the Downtown area (2.65 multiplied by 2,178 residential units). Additionally, with approximately 25 percent less non-residential development, this alternative would result in 25 percent less employment opportunities compared to the

proposed project, or 2,014 jobs. Therefore, the service population of the Reduced Development Alternative would be 4,192 people.

Although new development would be reduced by 25 percent under this alternative, the proposed Specific Plan boundary would remain the same. The reduction in buildout would be achieved through a corresponding reduction in density allowances. Goals, policies, and development standards contained in the Downtown Vitalization Specific Plan related to land use, mobility, infrastructure, and sustainability would continue to apply to this alternative. Similarly, design guidelines within the Specific Plan would also continue to apply.

Buildout facilitated by the Reduced Development Alternative would meet the project goals and objectives, but to a lesser extent than the proposed Specific Plan. The Reduced Development Alternative would promote a walkable and vibrant downtown with mixed uses and integration with adjoining neighborhoods, parks, and trails, and would facilitate the development of a variety of affordable, high-quality housing options. However, since 25 percent less development would be facilitated under this alternative compared to the DVSP, fewer improvements and less affordable housing would be developed under this alternative.

b. Comparison to Project

The Reduced Development Alternative would achieve to a slightly lesser degree than the project the following project goals and objectives:

- Housing Affordability. A variety of affordable, high-quality housing options for people to live in Downtown.
- Provide a variety of affordable, high-quality housing options for people of all incomes, ages, abilities, races, and cultures to live in Downtown.

This alternative would allow the city to establish a vibrant Downtown, though with less margin for development of some sites at lower densities. This alternative would result in 726 fewer housing units than the project and would thus achieve this objective to a slightly lesser degree. By comparison, the proposed Plan would allow up to 2,904 residential units (or 726 units more than this alternative) and approximately 1,385,200 square feet of non-residential development.

The Reduced Development Alternative would develop fewer housing units and less non-residential uses compared to existing conditions and compared to the proposed DVSP. Implementation of the Reduced Development Alternative would result in a total net reduction in development potential by 726 units at buildout and would result in 346, 200 square feet less of non-residential development when compared to the project.

This alternative would reduce significant impacts related to VMT and air quality associated with the DVSP. VMT would be reduced under this alternative compared to the proposed Specific

Plan, but impacts related to VMT would remain significant and unavoidable. The Reduced Development Alternative would result in the average emission of 132 pounds per day of VOCs, which would be below the MBARD significance threshold of 137 pounds per day, which would be a less than significant impact.

Because the Reduced Development Alternative would involve approximately 25 percent less buildout than the DVSP, this alternative would also have sufficient water supplies during all project phases. Additionally, the Reduced Development Alternative would involve less development and less intense buildout than the DVSP, and would accordingly have less impacts to groundwater recharge, water quality, and sustainable groundwater management compared to the proposed project. Therefore, impacts would be reduced compared to the DVSP and would be less than significant.

Similar to the proposed project, the Reduced Development Alternative would require new water service connections to be installed to provide the water demand associated with buildout. Construction of new connections would be required to implement Best Management Practices and comply with laws and regulations to avoid or minimize adverse effects to water supply from the installation of new water service connections, and impacts would be less than significant. The Reduced Development Alternative would have less than significant impacts associated with the construction of new water facilities, similar to the DVSP.

Similar to the DVSP, under the Reduced Development Alternative there would not be sufficient water supply for all cumulative development in normal and dry years. Therefore, the Reduced Development Alternative would result in a cumulatively considerable contribution to cumulative sustainable groundwater management and water supply impacts, but to a lesser degree than the proposed project.

Because this alternative would avoid significant unavoidable air pollutant emissions and reduce impacts related to VMT and water supply, this alternative is considered the environmentally superior alternative.

c. Findings

For the foregoing reasons, Alternative 2: Reduced Development Alternative is hereby rejected because it would provide fewer benefits than the proposed Project.

3. Environmentally Superior Alternative

In addition to the discussion and comparison of Alternatives, Section 15126.6(e)(2) of the CEQA Guidelines requires that an “environmentally superior” alternative be selected and the reasons for such a selection be disclosed. The environmentally superior alternative is the alternative that would be expected to create the least significant environmental effects. Identification of the

environmentally superior alternative is an informational procedure and the alternative selected may not be the alternative that best meets the goals or needs of the City.

Typically, the No Project Alternative is considered the environmentally superior alternative in the strict sense that environmental impacts associated with implementation of the proposed project would result in the least amount of development of all the alternatives examined. However, as noted previously, adoption of a No Project Alternative would not result in meeting many of the Project goals and objectives. Moreover, Section 15126.6(e)(2) of the CEQA Guidelines states that if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.

In either case, comparison of the environmental impacts associated with each alternative, as described above, indicates that the Reduced Development Alternative (Alternative 2) would represent the superior alternative in terms of reduced significant environmental impacts. Alternative 2 would result in a reduced level of residential development and non-residential development, compared to the proposed project, and therefore its impacts associated with VMT and cumulative water supply would be reduced and significant unavoidable air quality impacts would be avoided compared with the proposed project. However, Alternative 2 would not fully meet the project objectives set forth above.

For the foregoing reasons, Alternative 2 is considered the environmentally superior alternative.

Finding: For the foregoing reasons, Alternative 2: Reduced Development Alternative is hereby rejected because it would provide fewer benefits than the proposed Project.

I. INCORPORATION BY REFERENCE

These findings incorporate the text of the Final EIR for the project, the MMRP, City staff reports relating to the project, and other documents related to public hearings on the project, by reference, in their entirety. Without limitation, this incorporation is intended to elaborate on the scope and nature of mitigation measures, project and cumulative impacts, the basis for determining the significance of impacts, the determination of the environmentally superior alternative, and the reasons for approving the project.

J. RECIRCULATION NOT REQUIRED

CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when “significant new information” is added to the EIR after public notice is given of the availability of the Draft EIR but before certification. No significant new information was added to the Draft EIR as a result of the public comment process. The February

2024 Final EIR responds to comments and clarifies, amplifies and makes insignificant modifications to the Draft EIR. These modifications include:

- Text changes to provide clarity to the analysis, make minor text corrections, or fix grammatical or typographic errors.
- Text changes in response to comments received on the Draft EIR.
- The addition of text to Mitigation Measure BIO-1 to further reduce the impacts of development proposed by requiring assessment and avoidance of bumble habitat in undeveloped area of the DVSP.

These revisions do not constitute significant new information regarding the project description, environmental and regulatory setting, conclusions of the environmental analysis, or in the mitigation measures or requirements incorporated into the project to mitigate impacts, or otherwise provide significant new information that would require recirculation of the Draft EIR pursuant to CEQA Guidelines section 15088.5. The Final EIR analyzes the impacts of development associated with implementation of the DVSP, and does not identify any new significant effects on the environment or a substantial increase in the severity of an environmental impact. For the foregoing reasons, recirculation of the Final EIR is not required.

Finding: For the foregoing reasons, recirculation of the Final EIR is not required.

K. RECORD OF PROCEEDINGS

Various documents and other materials related to the project constitute the record of proceedings upon which the City bases its findings and decisions contained herein. The City Clerk is designated as the custodian of the documents and record of proceedings. Those documents and materials are located in the City's Clerk's office at 211 Hillcrest Avenue, Marina, CA 93933.

L. STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the decision-making agency to balance the benefits of a project against its significant unavoidable impacts when determining whether to approve a project. If the benefits of the project outweigh its unavoidable adverse environmental effects, under CEQA Guidelines section 15093(a), those effects may be considered acceptable. As set forth above, the City has found that the project will result in significant adverse project and cumulative environmental impacts related Air Quality, Transportation, and Water Supply that cannot be avoided following adoption, incorporation into the project, and implementation of mitigation measures described in the Final EIR. In addition, there are no feasible project alternatives that would mitigate or avoid all of the Project's significant environmental impacts. Section 15093(b) of the State CEQA Guidelines provides that when the decision of the public agency results in the occurrence of

significant impacts that are not avoided or substantially lessened, the agency must state in writing the reasons to support its actions. *See also* Public Resources Code Section 21081(b). Having balanced the economic, legal, social, technological or other benefits of the Project, including region-wide or statewide environmental benefits, against its significant and unavoidable environmental impacts, the City finds that the project's benefits outweigh its unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

The following statement identifies the reasons why, in the City's judgment based on substantial evidence, specific benefits of the project outweigh the significant and unavoidable effects. The substantial evidence supporting the benefits of the project can be found in the preceding sections of these Findings, in the project itself, and in the record of proceedings as defined in Section K, above. The City further finds that each of the project's benefits discussed below is a separate and independent basis for these findings. The reasons set forth below are based on the Final EIR and other information in the administrative record.

1. Comply with state requirements to accommodate anticipated population growth and unmet housing needs.

The City is mandated, pursuant to State Housing Element law, to plan for and accommodate the City's Regional Housing Needs Allocation (RHNA) of 685 units as part of the 6th Cycle Housing Element. The RHNA, prepared by HCD and AMBAG, reflects the number of housing units that must be provided to meet the forecast population growth and the need for housing among the existing population. The Project will promote development in a manner that would accommodate anticipated population growth for the City and existing need for housing, as required by the City's 6th Cycle RHNA. The Project accommodates this population, along with a buffer in the housing inventory, by incorporating goals and objectives into the General Plan and making changes to the Zoning Code necessary to accommodate the development intensity needed to satisfy the RHNA.

2. Facilitate the development of a housing stock comprising a variety of housing and tenancy types which meet the varied needs of current and future residents who represent a full spectrum of age, income, and other demographic characteristics.

The project would provide a variety of housing options for Marina residents across all income groups. The project accommodates the potential future development of up to 2,904 residential units at various income levels, which would achieve the Project's goal of facilitating the development of a housing stock comprising a variety of housing and tenancy types which meet the varied needs of current and future residents who represent a full spectrum of age, income, and other demographic characteristics. .

3. Provide zoning for residential development in close proximity to retail, services, and employment opportunities.

Adoption of the proposed amendments to the Zoning Code will allow for mixed-use residential development at greater densities, thereby promoting convenience, economic vitality, and quality of life. Without the Project, there would be lesser or no opportunity for streamlined review and approval of projects within Marina's Downtown area. Accordingly, less development would occur without the DVSP, and the dispersed locations of existing vacant and underutilized lots would not be conducive to establishing a downtown core area. There would also be fewer physical modifications to the downtown that would promote a walkable and vibrant cityscape with mixed uses and integration with adjoining neighborhoods, parks, and trails.

4. Establish a Downtown with safe and efficient pedestrian and bicycle circulation that encourages alternative modes of transportation.

The Project would create a pedestrian-friendly Downtown core by investing in traffic calming measures, active transportation facilities and amenities, a holistic approach to parking management, and improved public transit service in Downtown.

The Project would locate more residents and businesses near bicycle facilities and thereby increase usership. The DVSP would facilitate expansion of existing bicycle facilities and includes specific goals and policies (Goal M-1 and Programs M-1 and M-2) that call for providing convenient access and circulation for all modes of transportation and enhancing bicycling in the Specific Plan area.

The Project identifies opportunities to expand the pedestrian realm with parklets and curb extensions, and to increase pedestrian access in the Downtown by developing a complete pedestrian network. The DVSP includes pedestrian network improvements to address the need for safer, more visible crossings on high-speed, high-volume arterial streets and comfortable off-street facilities that provide alternative access routes to local amenities. The future pedestrian facilities improvements envisioned in the DVSP would not conflict with the existing or planned pedestrian facilities because they would either tie into or replace existing facilities. The DVSP includes specific goals (Goal M-1 and Policies M-1.3 through M-1.9) that would encourage increasing pedestrian access throughout the Downtown area, and development of a complete sidewalk system within Downtown. .

5. Invest in traffic calming measures, active transportation facilities and amenities, a holistic approach to parking management, and improved public transit service in Downtown

The DVSP would make several traffic improvements in the Downtown area, including clustering traffic signals in the Core district and constructing roundabouts at major intersections;

implementation of protected bike lanes on Reservation Road; filling in gaps along incomplete sidewalks; narrowing vehicle travel lanes; and other improvements. The DVSP would also implement traffic calming measures to reduce vehicle speeds to promote a pedestrian-oriented environment.

The Project would locate more residents and businesses near transit facilities and thereby increase ridership. In addition, as shown in the Cumulative Projects List (Section 3, Environmental Setting, Table 3-1), the SURF! rapid transit line would serve the commute route between Marina to Monterey, which is anticipated to improve transit options in Marina in the future. The DVSP includes specific goals and policies (Goal M-1 and Policies M-1.14 through M-1.16) related to transit that would encourage collaboration with MST to expand the bus routes that serve the Marina Transit Exchange, increase pedestrian access to the Marina Transit Exchange, and facilitate the SURF! bus rapid transit line to help realize downtown's potential to become a multi-modal mixed-use district.

6. Establish Marina as a destination that accommodates a mix of commercial, retail, office, and residential uses served by an improved transportation network

The Project's land use designations were established to allow for increased densities throughout the Downtown area. Districts include the Core, which would allow for residential densities of up to 70 units per acre; the Transition district and Mixed-Use Node, which would allow for up to 50 units per acre; and the Multifamily Residential district which would allow for up to 35 units per acre. Of the 2,301 existing residential units in the Downtown area, 1,638 (approximately 71 percent) are located in areas that would be designated as Multifamily Residential, 377 (approximately 16 percent) are located in areas that would be designated as Transition or Mixed-Use, and 286 (approximately 13 percent) are located in areas that would be designated as Core.

Buildout of the Project could include approximately an additional 1,385,000 square feet of new retail and office space. When added to existing development, the Plan area could include a total of up to approximately 2,390,000 square feet of commercial and retail space.

Proposed commercial and light industrial uses in the Downtown encompass roughly 860,000 square feet on 88 acres. The Downtown Core includes 407,000 square feet of commercial uses on 36 acres. Another 416,000 square feet of commercial uses can be found on 46 acres in the Transition zone. Area-wide, calculations also assume additional land would be devoted to the public right-of-way in the future.

7. Provide public improvements deemed necessary during the design process

Future development projects in the Specific Plan area would be required to provide public improvements deemed necessary during the design process. The public right-of-way in the Specific Plan area encompasses 67 acres, or 21 percent of the total land area. The Specific Plan

calls for the creation of smaller, more walkable blocks with mid-block crossings to increase access.

Based on the entire record, including the EIR, the specific economic, social, and environmental benefits of the Project, as stated above, outweigh and override any significant unavoidable environmental effects that would result from future Project implementation. The City has determined that any significant environmental effects caused by the Project have been mitigated to the extent feasible through the mitigation measures identified herein and adopted and incorporated into the Project, and, where mitigation is not feasible, has been outweighed and counterbalanced by the economic, legal, social, technological and other benefits of the Project, including region-wide or statewide environmental benefits.

M. SUMMARY

The City makes the following findings pursuant to Public Resources Code section 21081 and CEQA Guidelines section 15091:

1. Based on the foregoing Findings and the information contained in the record, the City has made one or more of the following Findings with respect to each of the significant environmental effects of the project:
 - a. Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the Final EIR.
 - b. Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the Final EIR that would otherwise avoid or substantially lessen the identified significant environmental effects of the project.
2. Based on the foregoing Findings and the information contained in the record, the City determines that:
 - a. All significant effects on the environment due to the approval of the project have been eliminated or substantially lessened where feasible.
 - b. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations, above.

N. FINDINGS OF FACT FOR ADOPTING THE DOWNTOWN SPECIFIC PLAN

That the proposed location of the development and proposed conditions under which it will be operated or maintained is consistent with the goals and policies embodied in the General Plan.

Supportive Evidence: The Downtown Specific Plan would facilitate housing production and preservation; increase retail and entertainment activity; encourage higher-density mixed-use residential projects; add visitor-oriented uses; support a greater range of civic and cultural activities; improve the safety and comfort of pedestrians; enhance bicycle infrastructure and connections; and target uses and activities that appeal to a wide range of Marina residents and employees. These conditions for downtown are in harmony with the overall intent of the Marina 2000 General Plan, including the following goals and policies regarding land use, urban design, environmental resources, transportation and circulation, public facilities, and public safety:

General Plan Policy 1.20 The following procedures are established to ensure that amendments are processed in a consistent manner and in accord with the Community Goals and Primary Policies of this Plan:

1. The City Council, or the Planning Commission with the concurrence of the City Council, may initiate general plan amendments at any time by directing staff to prepare the necessary analysis and scheduling the proposed amendment for consideration at a public hearing.

2. Any person or agency or organization may request an amendment to the general plan by filing the appropriate application and paying required fees. Such application shall include:

a. A description of the proposed amendment and why it is needed; and

An explanation of how the proposed revision(s) is or are consistent with community values and needs as articulated by the Community Goals and Primary Policies of the General Plan.

Supporting Evidence: In February 2022 the City Council directed city staff to revise an existing contract with Rincon Consulting to update the Downtown Specific Plan. The Downtown Plan is needed to implement General Plan Policy 5.11 which directs the City to prepare said plan. The Downtown Plan, at full buildout, will produce an additional 2,904 housing units and 1.3 million square feet of new office and retail space. This will directly implement General Plan Policies 4.79 and 4.71. With the adoption of the Sixth Cycle Housing Element and the Downtown Specific Plan, additional grant funding is available to make the downtown core more walkable in support of General Plan Policies 4.73.

4.71 The City shall work with property owners and businesses within this area to attract new retail uses to currently economically under-utilized parcels and to undertake area improvements which would make the area more attractive to shoppers. The overall pattern of development should be such that shoppers or business visitors will park at one location and walk to their various destinations. Specific measures relating to this goal are enumerated below and shown in Figure 4.16.

4.73 As new development and major remodeling of existing structures along this corridor occur, the pedestrian-oriented shopping experience shall be enhanced by taking the following steps: 1. A continuous pedestrian-oriented frontage shall be provided along the street face of the buildings and be integrated, where possible, with neighboring commercial buildings. 2. Commercial buildings should be located at major pedestrian entrances from Reservation Road, and a well-defined pedestrian link shall be provided to commercial uses located back from the street edge

4.79 To promote the City's objective of creating a demographically and economically balanced community, a wide range of housing options shall be provided, the cost and mix of which shall be approximately proportional to the housing needs of existing and future employed persons within the City. Housing shall be balanced with commercial uses, providing for retail and services and for office, research, commercial-service and industrial uses

That the Specific Plan and resulting development will be consistent with the provisions of Article 8 of Chapter 3 of Division I of Title 7 of the California Government Code, commencing with Section 65450.

Supportive Evidence In accordance with Gov't Code Section 65450, the City may prepare specific plans for the systematic implementation of its general plan for all or part of the area covered by the general plan. The Downtown Specific Plan serve as a regulatory tool to implement the 2000 Marina General Plan and guide development in downtown Marina in direct support of General Plan Policy 5.11.

General Plan Policy 5.11 Specific plans shall be prepared for three major areas:

- 1) Armstrong Ranch;
- 2) University Village; and
- 3) the Downtown Vitalization Area. As discussed above, such plans can serve as an alternative to zoning. Given the uniqueness of each of these areas, the use of specific plans as a primary regulatory tool will be especially advantageous because specific plans permit the use of development requirements that are more location-specific than general municipal zoning. The

degree of specificity or generality of the requirements can also vary in a manner not possible with zoning, thereby allowing either greater flexibility or more specific guidance.

O. FINDINGS OF FACT-ENABLING ORDINANCE AND ZONING CODE AMENDMENTS TO IMPLEMENT THE DOWNTOWN SPECIFIC PLAN

Pursuant to Chapter 17.72 of the Marina Municipal Code 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.

Supportive Evidence: The Downtown Specific Plan would facilitate housing production and preservation; increase retail entertainment activity; encourage higher-density mixed-use residential projects; add visitor-oriented uses; support a greater range of civic and cultural activities; improve the safety and comfort of pedestrians; enhance bicycle infrastructure and connections; and target uses and activities that appeal to a wide range of Marina residents and employees. These conditions for downtown are in harmony with the overall intent of the Marina 2000 General Plan, including the following goals and policies regarding land use, urban design, environmental resources, transportation and circulation, public facilities, and public safety:

Pursuant to Section 17.72.020 of the Marina Municipal Code an amendment to the Zoning Code shall be initiated by one of three ways:

17.72.020 Initiation. *An amendment may be initiated by:*

A. *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 hereafter enacted, no part of which shall be returnable to the petitioner; or by*

B. *Resolution of intention by the city council;*

C. *Resolution of intention by the planning commission. (Ord. 2020-07 § 2, 2020; Zoning Ordinance dated 7/94, 1994)*

Support Evidence: By the adoption of City Council resolution 2022-19 City staff were directed to update the Draft Downtown Specific Plan and work with Rincon Consulting to complete all necessary project deliverables including modifications to the Zoning Code.

Exhibit C-Downtown Specific Plan

<https://www.cityofmarina.org/201/Downtown-Vitalization>

Exhibit D-Final EIR

<https://www.cityofmarina.org/945/Environmental-Review>

Exhibit E-MMRP

<https://www.cityofmarina.org/945/Environmental-Review>

Exhibit F-Consolidated Downtown Specific Plan
Comments

[https://www.cityofmarina.org/201/Downtown-
Vitalization](https://www.cityofmarina.org/201/Downtown-Vitalization)

ORDINANCE NO. 2024-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARINA
AMENDING TITLE 17 (ZONING CODE) OF THE MARINA MUNICIPAL
CODE, AND AMENDING THE CITY OF MARINA ZONING MAP, TO
IMPLEMENT THE DOWNTOWN SPECIFIC PLAN**

WHEREAS, on October 15, 2024, the Marina City Council reviewed the proposed Downtown Specific Plan, corresponding City of Marina 2000 General Plan text and Land Use Map amendments (GPA-24-003), and the associated Environmental Impact Report, Mitigation Monitoring and Reporting Program, and CEQA findings of fact and statement of overriding considerations; and

WHEREAS, the adoption of the Downtown Specific Plan requires zoning code and zoning map amendments to implement said plan; and

WHEREAS, the City of Marina desires to comply with Senate Bill SB 1333, which requires cities to ensure consistency between their General Plan and zoning ordinance;

WHEREAS, the City of Marina desires to ensure the Zoning Map is consistent with the Downtown Specific Plan

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MARINA DOES
ORDAIN AS FOLLOWS:**

Section 1. Findings.

The City Council finds and determines the recitals set forth above to be true and correct and by this reference, incorporates the same herein as findings.

Section 2. The City of Marina does hereby adopt a new Chapter of the Municipal Code (Chapter 17.37 Downtown Specific Plan Zoning Designations). **Title 17, Zoning**, of the Marina City Code is hereby amended to read as follows.

17.37 Downtown Specific Plan Zoning Designations

All properties within the Downtown Specific Plan area shall utilize the Downtown Specific Plan Appendix A (Development Code) as the zoning standards and designations.

Section 3. Zoning Map

Additionally, the Zoning Map shall be amended to incorporate the zoning designations as identified in Appendix A of the Downtown Specific Plan.

Section 4. California Environmental Act (CEQA).

A Draft Environmental Impact Report (“EIR”) was prepared for the Downtown Specific Plan (DSP) and necessary implementing amendments to the Zoning Ordinance (“Project”) in accordance with the California Environmental Quality Act (CEQA). The Draft EIR was made available for public review and comment from April 9, 2024 to May 24, 2024. Hardcopies of the Draft EIR were available for public review at the Community Development Department and the Public Library. The Final EIR provides a list of the federal, state, regional and/or local agencies along with private organizations and individuals that commented on the Draft EIR. A few minor changes were made in response to the comments received from commentors. This has been

identified in the Final EIR with strikethroughs for deletions. These revisions are not considered significant new information that would trigger Draft EIR recirculation pursuant to section 15088.5 of the State CEQA Guidelines. For example, they do not disclose a new or substantially worsened significant environmental impact, or a new feasible mitigation measure or alternative not previously proposed for adoption. A Resolution recommending consideration by the City Council to certify the Final EIR includes the required findings, in accordance with Public Resources Code section 21081 and CEQA Guidelines section 15091. The Findings adopt feasible mitigation measures to reduce the significant environmental impacts of the project. A Mitigation Monitoring and Reporting Program (MMRP) for the project will be adopted as part of the certification of the Final EIR. The purpose of the MMRP is to ensure the mitigation measures adopted in the Findings for the project are implemented, in accordance with CEQA requirements. Some of the environmental impacts do have mitigation measures which would reduce impacts but not to a level of insignificance. When an agency approves a project with significant and unavoidable environmental effects, it must prepare a written Statement of Overriding Considerations that sets forth the specific social, economic, or other reasons supporting the agency's decision and explains why the project's benefits outweigh the significant environmental effects. CEQA Guidelines § 15093.

Section 5. Severability.

It is the intent of the City Council of the City to supplement applicable state and federal law and not to duplicate or contradict such law and this ordinance shall be construed consistently with that intention. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases of this ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase independently, even if any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases were declared invalid or unenforceable.

Section 6. Effective Date.

This ordinance shall be in full force and effect thirty (30) days following its passage and adoption, as certified by the City Clerk.

This ordinance was introduced and read on the 16TH day of October 2024 and was finally adopted on the ____ day of _____ 2024, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

From: [Guido Persicone](#)
Bcc: [Nick McIlroy](#); [Galia Baron](#); [Surinder Rana](#); [Audra Walton](#); [Glenn Woodson](#); [Paul Cheng](#); [John Richard](#); [Victor Jacobsen](#)
Subject: FW: Downtown Vitalization Specific Plan
Date: Thursday, September 12, 2024 3:28:00 PM
Attachments: [image001.png](#)
[image001.png](#)

From: Martine Watkins <mwatkins@mbayaq.org>
Sent: Thursday, September 12, 2024 3:23 PM
To: Guido Persicone <gpersicone@cityofmarina.org>
Subject: Downtown Vitalization Specific Plan

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good afternoon, Guido,

I hope this email finds you well. Thank you for involving us in the engagement process with the Marina Downtown Vitalization Specific Plan (DVSP). We appreciate the opportunity to collaborate with the city to emphasize the crucial role of the Monterey Bay Aquarium's facilities in relation to the plan.

We fully support the Monterey Bay Aquarium's facilities being legally conforming within the proposed zoning plan. Outlined below are the key reasons for this support:

- Monterey Bay Aquarium purchased 206 Reindollar in 2007, and since then, significant investments have been made in the ARCC facility to uphold the highest standards of care for our animals. The ARCC facility received its final certificate of occupancy on May 4th, 2010. **This facility is indispensable to our operations, and it is irreplaceable, with no alternative location available in the region.**
- The functionality of the Monterey Bay Aquarium is closely connected to the full operation of the Reindollar facilities, which are **essential for meeting our accreditation requirements with the Association of Zoos and Aquariums. These facilities play a vital role in our operations**, directly supporting our mission to inspire ocean conservation.
- In 1989, 232 Reindollar was completed and occupied by the Monterey Bay Aquarium, serving as office and warehouse space. **The proximity of the ARCC facility to the 232 Reindollar warehouse was strategically planned to ensure that essential materials, large tools, and parts for animal services are readily accessible for time-sensitive critical infrastructure repairs.**

The Monterey Bay Aquarium plays an important role in the Monterey Bay region, contributing to both the local economy and community. In 2023, the Aquarium employed over 500 people, welcomed about 1,837,000 guests, engaged with approximately 22,700 students from preschool through college, and was supported by nearly 1,000 volunteers. Any impact on our essential facilities could significantly affect our ability to fulfill our mission and continue supporting the region.

Based on the areas outlined above, we strongly support the Monterey Bay Aquarium's facilities being legally conforming in the proposed zoning plan. These spaces are critical to our mission, and any changes to current allowances could jeopardize our operations and accreditation.

We understand the importance of the proposed plan and are committed to working collaboratively with the City of Marina. Please feel free to contact me should you have any questions or need further information.

All my best,

Martine

Martine Watkins ([Pronouns:](#) she/her/hers)
Local Government Affairs Senior Manager
P 831-648-9815 M 831-334-0399



Monterey Bay Aquarium
886 Cannery Row, Monterey, CA 93940
www.montereybayaquarium.org
Our mission is to inspire conservation of the ocean.



Martine Watkins ([Pronouns:](#) she/her/hers)
Local Government Affairs Senior Manager
O: 831.648.9815 M: 831.334.0399
MontereyBayAquarium.org

Inspiring conservation of the ocean



BROUGHT TO
MONTEREY
COUNTY BY:



September 11, 2024

RE: Support for City of Marina Downtown Specific Plan

Honorable Members of the City of Marina Planning Commission:

Blue Zones Project Monterey County (BZPMC) strongly supports the City of Marina's Downtown Specific Plan and urges you to make a recommendation for the City Council to approve. This transformative plan was shaped by years of effort encompassing extensive community input and technical studies, and when implemented it will create a healthy and vibrant downtown corridor in the City of Marina.

BZPMC is a community-wide wellbeing initiative for Monterey County, based on the award-winning research of National Geographic explorer Dan Buettner. BZP communities improve the health and well-being of their residents by encouraging healthier choices through supporting permanent changes to a city's infrastructure, policy, and social network. Blue Zones Project Monterey County began work in the City of Salinas in 2018 and has expanded countywide to include the Peninsula Cities of Marina, Seaside and Monterey in June 2021. Promoting natural movement, social connectedness, environmental sustainability, and overall well-being through transportation and land use policies is the cornerstone of our policy work in the built environment – thus our interest in this plan.

The Downtown Specific Plan prioritizes mixed-use/transit-oriented development which will reduce the vehicle miles traveled, provide 'missing middle' housing, and create local jobs, while providing vibrant public spaces filled with art to foster community connections. The Plan calls for parks and a healthy urban tree canopy, which will contribute to an improved sense of wellbeing and mental health for Marina residents and visitors alike. Traffic calming efforts and complete street designs will create a pedestrian friendly environment and encourage active transportation, translating to a healthier and more mobile community.

Throughout our policy work with the City of Marina thus far, we have supported the development of new parks in the City (Hilltop Park & Dunes City Park), the ongoing improvement of existing parks (Locke Paddon), and the passage of an Affordable Housing Overlay Policy, the Downtown Streetscape Design, Bike/Ped Improvements to the Del Monte & Reservation Road Intersection and the Del Monte Blvd Complete Streets Plan. The Downtown Specific Plan encompasses so many of the Blue Zones Project key principles for the built environment and will lay the groundwork for a vibrant downtown where residents live longer, better!

Blue Zones Project Monterey County strongly supports this important plan and asks that you recommend for Council approval. Thank you for your consideration.

Sincerely,

Tanja Roos, Director of Community Programs & Policy

Blue Zones Project Monterey County – Peninsula Cities

August 30, 2024

MARINA PLANNING COMMISSION AND
HONORABLE BRUCE DELGADO &
COUNCIL MEMBERS
CITY OF MARINA
211 HILLCREST AVENUE
MARINA, CA 93933

RE: Support of proposed Downtown Vitalization Plan
[Downtown Specific Plan | Marina, CA - Official Website \(cityofmarina.org\)](https://www.cityofmarina.org/downtown-specific-plan)

Dear Planning Commissioners, Mayor Delgado and Council Members:

My family came to the United States/Monterey County in 1957, and lived Marina in 1958-1960 before Marina was incorporated as a City in 1975. My father retired in 1957 at the Fort Ord Army base after 20 years in the US Army (former Philippine Scout).

I then returned to the City of Marina in November 1989, residing as a home owner from 1991 to October 2019.

Throughout my years as a resident for over 30 years (and as an employee of the City of Marina, as City Clerk for 21 years of those years), I've seen Marina change and grow to what it is today.

Marina is the "Gateway to the Monterey Peninsula.

Marina was dirt roads, pig farm, begonia, and strawberry fields when I first moved to Marina at the age of 3. My parents and three older brothers (and many Filipinos who came here by way of the US Army) worked in the strawberry fields off Reservation and DeForest Road for years until the land was purchased from Grandma and Grandpa Braga for a ice rink, now a Post Office and MST Transit Center.

With the closure of the Fort Ord Army base in 1994, the City's focus has been on the development for the former Fort Ord – it's booming with tons of housing (affordable and not so affordable) and businesses.

There is a need to now focus on Marina's original Downtown area along Del Monte Blvd and Reservation Road.

Section 3.1: "Plan Goals" is a great start to implementing the Specific Plan.

I lived in the Core District for 24 years ("on the other side of the tracks") walking to the other side of town was not always comfortable trying to cross 4 lanes of traffic, even with pedestrian crossing lights after the high-rise crosswalk was removed. My concern is for the children crossing Del Monte to walk to and from the Marina Del Mar Elementary School (now Marina Child Development). Families wanting to walk to the grocery stores and/or businesses on the other side of the railroad tracks may have similar fears for their safety.

Transition District: I like the idea of combining commercial, multifamily residential and mixed-use development in this area. Building parking areas behind or to the side of buildings would improve the view from the street and having larger/wider sidewalks for a walkable/wheelchair accessible community.

Marina City Council – Downtown Vitalization Plan
August 30, 2024
Page 2

Affordable housing is much needed in the Multi-family Residential District. Marina is a growing community and considered more affordable than other communities on the Monterey Peninsula. This area is within walking distance to neighborhood elementary schools.

I know there are several new parks planned in the new housing areas within the former Fort Ord area. Marina has Windy Hill, Gloria Jean Tate Bicycle Pump Track, and Vince DiMaggio Park for limited use. It would be nice to see a nice family park for public access with large bbq pits, picnic tables, a child park; and ball park for baseball, basketball, and soccer.

Although “buildout” of the development area is “expected to occur over the approximately 20-year planning horizon”, Marina will be known throughout Monterey County as the City that has grown and survived through adversity after the closure of the Fort Ord Army base.

Marina is a great place to live, work and visit because of its diversity, walkability, accessibility for bicycles and wheelchairs, and has a beautiful beach.

Thank you for listening/reading.

Yours truly,



Joy P. Junsay
Former long-time resident and employee of the City of Marina

P.S. I miss living in Marina. I moved back to the family home in Seaside after my cancer returned in 2019 and continue to fight the good fight. I still shop and eat at Marina stores/restaurants. 😊



September 12, 2024

VIA E-MAIL DELIVERY

Guido Persicone,
Community Development Director
Community Development Department
211 Hillcrest Avenue
Marina, CA 93933
gpersicone@cityofmarina.org

RE: *Letter of Conditional Support for the Proposed Downtown Vitalization Specific Plan*

Hello Mr. Persicone,

I write on behalf of Sierra Pacific Properties, Inc. (“**SPPI**”), the owner of the Seacrest Plaza Shopping Center, located at the intersection of Reservation Road and Seacrest Avenue in Central Marina (“**Seacrest Plaza**”). We understand that the City of Marina’s (“City”) Planning Commission will be meeting on September 12, 2024, and will be addressing the Downtown Vitalization Specific Plan (“**DVSP**”). Specifically, the agenda states that the Commission will consider adopting Resolution No. 24-21 recommending that the City Council:

1. Certify the Final Environmental Impact Report (FEIR), and adopt the mitigation monitoring program (MMRP), findings of fact, and statement of overriding considerations.
2. Approve the Downtown Specific Plan.
3. Adopt General Plan Amendments (GPA 24-003) to the 2000 Marina General Plan to implement the Downtown Specific Plan.
4. Adopt zoning text amendments to the Marina Municipal Code to implement the Downtown Specific Plan.
5. Amend the Marina Zoning Map to incorporate by reference the zoning standards identified as Appendix A (Development Code) to the Downtown Specific Plan.

We want to take this opportunity to **OFFER OUR SUPPORT** for the DVSP, subject to the clarifying changes staff is recommending to DVSP Section 7.6.2: Legal Nonconforming Uses and Structures. SPPI fully supports the vitalization of the City of Marina and is eager and excited to hold a central location in what is destined to be a beautiful coastal city center. The grocery store and pharmacy in Seacrest Plaza are the primary grocery store and pharmacy utilized by residents of the City of Marina, and SPPI is excited about new lifeblood entering this region.

However, SPPI does not support the DVSP without changes to Section 7.6.2. The DVSP, in its current form, includes land use provisions that will be counterproductive to the seaside oasis the City is hoping to create. Indeed, if the issues raised herein are not addressed, the City is inviting—and ultimately guaranteeing—unsightly urban decay and vacancies along the very

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thoroughfare it is seeking to beautify. The City's failure to adopt staff's clarifying language to remedy this easily addressed problem is not only shortsighted, but also renders City's Final Environmental Impact Report (which does not address urban decay and blight whatsoever) insufficient and thus open to legal challenge. We are optimistic that the City will agree to adopt the clarifying change to section 7.6.2 to rectify these concerns, thereby accomplishing our common goal of serving the community.

I. Non-Conforming Structures under the Proposed DVSP

The DVSP, in its current form, will negatively impact property owners, residents and the Seacrest Plaza. The Specific Plan proposes an urban block site layout in the Downtown Core, with building fronts brought to the lot line facing public streets and tangential with the pedestrian right of way, creating a continuous "street wall," and parking located behind or under rows of buildings. The DVSP also creates new development standards, including lot dimension requirements, minimum and maximum setback and building height requirements, landscaping, parking, fencing and other site requirements.

Significantly, it is reported that there are multiple properties that would become nonconforming if the DVSP is adopted in its present draft. In fact, very few of the blocks in the Core Area currently utilize the layout envisioned under the DVSP, and neither of the two existing shopping centers in the Core—the Shopping Center and the Marina Village Shopping Center at Reservation Road and Del Monte Boulevard—employ the contemplated urban block site layout but rather are configured in the exact opposite form with parking lots in front of the buildings. While we applaud the City's efforts to upzone the area, the commercial component of the plan in its current iteration is misguided.

If the DVSP is implemented without amendment, Seacrest Plaza would be one of many properties in Downtown Marina where the existing uses and the associated structures and improvements would no longer be permitted because they would not comply with the newly enacted zoning and use regulations. As such, Seacrest Plaza would become a non-conforming building. Under the current iteration of the DVSP, businesses operating in non-confirming buildings would have limited rights to reconfigure or update their retail spaces for future tenants. Very few businesses are willing to take on a commercial or retail lease without some modification to the existing layout. Thus, many of Marina's retail and commercial buildings would be unable to release their spaces, resulting in guaranteed vacancy and urban decay within the very area that the DVSP is attempting to beautify.

a. Current Language Applicable to Non-Conforming Uses

The proposed DVSP all but guarantees Seacrest Plaza will be vacant in the coming years because the plan effectively prohibits tenant improvements, space reconfiguration and façade updates for future tenants. Section 7.6.2 sets forth the framework for legal nonconforming use buildings:



2. Nonconforming buildings. A legal nonconforming building may continue to be used as follows: Within five years of adoption of the Specific Plan, if a nonconforming structure is ***modified or altered*** by 25 percent or more of the existing floor space or ground area,¹ all structures must come into full compliance with the Specific Plan. After five years from the date of adoption of the Specific Plan, nonconforming uses and structures are subject to Chapter 17.64 of the Marina Municipal Code.

...

5. 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 25 percent of the appraised value in any one-year period.

...

Upon adoption of the Specific Plan, all structures that do not meet the standards identified in **Appendix A: Development Code** of the DVSP shall be considered legal nonconforming structures. A legal nonconforming structure may be altered subject to approval by the Community Development Director. Within five years of adoption of the Specific Plan, the Community Development Director may approve alterations that are modified by less than 25 percent of the floor space or ground area existing at the time the structure became nonconforming. **No alterations to nonconforming structures may be approved by the Director unless they are made more nearly**

¹ Section 7.6.2 uses undefined terms and verbiage that do not have clear meanings, rendering these provisions impermissibly vague, and possibly void. *See, e.g., Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972) (“It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined.”); *see also, City of Los Altos v. Barnes*, 3 Cal. App. 4th 1193 (1992) (recognizing that undefined terms can lead to a phrase being impermissibly vague.). Section 7.6.2. subs.2 states that a nonconforming use may continue, so long as the building modification or alternation is less than 25 percent ***“of the existing floor space or ground area.”***¹ But what exactly does that mean? May alternations be made to 80 percent of the walls and ceilings so long as the floors are not affected and still keep its nonconforming legal use status? Would converting the flooring material in 100% of the building—even if everything else remains untouched—require Seacrest Plaza to come into full compliance with the proposed DVSP? And 25 percent of *what*? Is it 25% of the entire parcel? Or just 25% the individual unit? Or 25% of the building? What exactly does “floor space” and “ground area” mean here? Without more detail and clarity, this provision is all but meaningless.



conforming. Any structural alteration, modification, or expansion above the 25 percent of the lawful floor space or ground area must come into full structural compliance with the design guidelines identified within the Specific Plan. After five years from the date of adoption of the Specific Plan, non-conforming uses and structures are subject to Chapter 17.64 of the Marina Municipal Code.

Id., DVSP at p. 88-89 (emphasis added).

b. Foreseeable Impact on the Seacrest Shopping Center

The Seacrest Center is a retail shopping center. As noted above, the key current tenants are Lucky's Market and CVS Pharmacy. The center also includes Chase Bank, and AutoZone and multiple other national and local retail businesses central to the lives of the residents of Marina.

The DVSP, without the clarifying language that staff is proposing, can be understood to mean that, if a unit becomes vacant, Seacrest Plaza will be hampered significantly in the tenant improvements and facia updates it can offer prospective tenants. The DVSP in its current form poses insurmountable obstacles to Seacrest Plaza's operations. Namely, it will be all but impossible for Seacrest Plaza to relet its property should any of its existing tenants vacate given the realities of how retail leasing operates. It takes considerable time and effort to lease retail space. Space must be modified, sometimes considerably, to suit the needs of the new business. "Big box" stores, such as the Lucky's and CVS spaces within Seacrest Plaza, are very difficult to lease even under the best of circumstances. As a point of reference, for these 'big box' spaces, a standard commercial retail lease takes over a year to finalize *once the tenant is identified*. It often takes years to locate a new tenant, with time frames only increasing given the rise in online shopping for nearly all goods and groceries. It is highly unlikely that a unit can be re-rented in less than six months *particularly* if tenant improvements are largely prohibited, meaning that the space may ultimately be deemed be "abandoned" under the Municipal Code. According to the City of Marina Municipal Code § 17.64.050, "abandoned" buildings will need to comply with the current code, i.e. the proposed DVSP. Seacrest Plaza's buildings will only comply with the DVSP if it is demolished and rebuilt to within 5 feet of the street.²

Although this reading of the DVSP and the Municipal Code may sound overly dramatic, it is a potential interpretation of the plain language.

² As set forth in our May 24, 2024, letter, we also believe that implementation of the Specific Plan may constitute an unreasonable and unjust taking of the rights and property of SPPI. Implementation of the proposed Specific Plan will significantly diminish the value of SPPI's property by hindering its ability to attract future tenants, thereby ensuring it will be deemed abandoned under the Municipal Code and forced to come into compliance with the Specific Plan. The Specific Plan's prohibitions and limitations on SPPI's ability to use and enjoy its property will have a direct and substantial effect on SPPI's property interest. The City is not providing SPPI with just compensation for this taking, in violation of the Fifth and Fourteenth Amendments of United States Constitution.



c. The Final Environmental Impact Report Fails to Consider Reasonably Foreseeable Environmental Impacts

If Seacrest Plaza is not able to re-lease its center, a large and central shopping center in the proposed Core Area will sit unused and vacant, causing an increase in blight and urban decay. Other retail and commercial properties will undoubtedly be in the same position. Blight and urban decay are environmental impacts that must be evaluated under California Environmental Quality Act, Public Resources Code Section 21000, *et seq.* (“CEQA”). Additionally, the residents of Marina would need to drive a greater distance to shop for groceries and other retail services, a further impact that would require study.

The Final Environmental Impact Report (“FEIR”) prepared in connection with the DVSP fails to analyze this reasonably foreseeable blight and urban decay impact or the increase in traffic.

d. Proposed Alternative Language Will Moot these Concerns

However, with a minor modification to Section 7.6.2 of the DVSP, all these issues can be mooted, including the potential insufficiency of the FEIR. SPPI understands the staff is proposing the following revisions to Section 7.6.2:

7.6.2 Legal Nonconforming Uses and Structures

...

2. Nonconforming buildings. A legal nonconforming building may continue to be used as follows: Within five years of adoption of the Specific Plan, if a nonconforming structure is ~~modified or altered~~ **enlarged or expanded** by 25 percent or more of the existing floor space or ground area, all structures must come into full compliance with the Specific Plan. After five years from the date of adoption of the Specific Plan, non-conforming uses and structures are subject to Chapter 17.64 of the Marina Municipal Code.

...

5. 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 25 percent of the appraised value in any one-year period.

...

~~Upon adoption of the Specific Plan, all structures that do not meet the standards identified in Appendix A: Development Code of the~~



~~DVSP shall be considered legal nonconforming structures. A legal nonconforming structure may be altered subject to approval by the Community Development Director. Within five years of adoption of the Specific Plan, the Community Development Director may approve alterations that are modified by less than 25 percent of the floor space or ground area existing at the time the structure became nonconforming. No alterations to nonconforming structures may be approved by the Director unless they are made more nearly conforming. Any structural alteration, modification, or expansion above the 25 percent of the lawful floor space or ground area must come into full structural compliance with the design guidelines identified within the Specific Plan. After five years from the date of adoption of the Specific Plan, non-conforming uses and structures are subject to Chapter 17.64 of the Marina Municipal Code.~~

As we discussed with staff on September 11, 2024, we believe this additional language will sufficiently remedy SPPI's immediate³ concerns with the proposed DVSP. If these minor changes are incorporated, SPPI will be one of the loudest proponents of the DVSP. The Lucky's Market and CVS pharmacy located at the Seacrest Plaza are vital to the residents of the community. SPPI is honored to serve this central role in the lives of the residents of Marina and would like to continue doing so for decades to come. The DVSP, with our proposed amendment, will surely help Marina evolve, grow and become a destination in the region, something that SPPI is excited to be a part of.

II. The Final Environmental Impact Report Fails to Evaluate all Reasonably Foreseeable Environmental Impacts

As noted in a letter dated June 25, 2021, from our attorneys to the City of Marina (the "2021 Comment Letter") regarding the Notice of Preparation of the Environmental Impact Report, there are a number of potential impacts to the environment and the community that we believe the City has not properly evaluated and/or mitigated. A copy of the 2021 Comment Letter is enclosed. To the extent not properly studied or sufficiently addressed as required by CEQA, we incorporate the 2021 letter herein as objections to the FEIR.

* * * * *

³ City staff has stated that it will not interpret to the Nonconforming Use section of the existing Municipal Code to require SPPI to relocate its structures to come into full compliance with the DVSP in the event of vacancy lasting longer than six months or prevent SPPI from completing future tenant improvements to its property. City staff have indicated they will continue to work with SPPI to address the concerns SPPI has with the Nonconforming Use section of the existing Municipal Code. SPPI's support herein is premised on staff working with SPPI to codify changes to the existing Municipal Code to address SPPI's concerns.



As mentioned above, the grocery store and pharmacy located at the Seacrest Plaza are vital to the residents of the community. The DVSP will turn the Seacrest Plaza into a non-conforming use and eventually cause the closure of the Seacrest Plaza. The closure would be harmful to the residents of the City of Marina.

However, with the small changes recommended by City staff as discussed herein, SPPI believes the DVSP has the potential to positively benefit the community for future generations. If these changes are incorporated, SPPI will happily go on record in favor of this project.

Of course, if the City refuses to adopt measures to protect the Seacrest Plaza and other retail and commercial landlords, SPPI will have no choice but take action to protect its property rights and interests to the full extent possible. We remain optimistic that the City will adopt its staff's recommended clarifying language, and that SPPI can continue its cooperative and productive relationship with the City for decades to come.

Please do not hesitate to contact me with any questions.

Regards

A handwritten signature in cursive script that reads "Jacquelyn Heitman".

Jacquelyn M. Heitman
General Counsel
Sierra Pacific Properties, Inc.

Enclosures

cc: Doug Messner
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June 25, 2021

VIA ELECTRONIC MAIL ONLY

City of Marina
 Att: Fred Aegerter
 Community Development Director
 209 Cypress Avenue
 Marina, California 93933
 faegerter@cityofmarina.org

Re: Downtown Vitalization Specific Plan Notice of Preparation and Initial Study

Dear Mr. Aegerter:

On behalf of Sierra Pacific Properties Inc., we thank you for the opportunity to provide comments on the Notice of Preparation of an Environmental Impact Report and associated Initial Study for the City of Marina's proposed Downtown Vitalization Specific Plan ("DVSP" or the "Project"). Sierra Pacific Properties Inc. is the owner of the Seacrest Plaza Shopping Center located at the intersection of Reservation Road and Seacrest Avenue in Central Marina. In this letter, we provide recommendations for framing the scope of the Environmental Impact Report in a manner that is consistent with the requirements of the California Environmental Quality Act ("CEQA;" Pub. Resources Code, § 21000 et seq.) and the State CEQA Guidelines ("Guidelines;" Cal. Code Regs., tit. 14, § 15000 et seq.).

These comments are not meant to signal opposition to the City's efforts to plan for a vibrant Downtown Marina. The goals and broad policies reflected in the DVSP, including its attempt to revitalize downtown Marina and to create a pedestrian-friendly downtown district, are laudable. However, the DVSP as proposed includes prohibitions against many currently permitted and conditionally permitted uses which, together with new development standards, will render these uses and their encompassing structures nonconforming. As you might know, Sierra Pacific Properties Inc. has articulated these concerns in the past. (See April 24, 2019 Ltr. from K. Lawson to City of Marina Planning Commission.) The Initial Study ignores the potentially significant environmental effects that will foreseeably result from the prohibition of certain commercial uses in the Core Area. Likewise, the Initial Study ignores environmental effects that will result from re-classifying broad swaths of already existing downtown commercial buildings as non-conforming structures.

In theory, it might be the case that the DVSP envisions that these non-conforming commercial uses will be replaced over time by wholly new developments that will conform to the newly imposed design standards in the DVSP. In practice, local commercial centers and businesses have suffered through a punishing recession and, more recently, a pandemic. The vision of a brand-new Core Area is admirable but inattentive to practical considerations. Local businesses need help, time to adjust, and an opportunity to stabilize, and the DVSP threatens to hamstring

realistic development by preventing existing grocery stores, pharmacies, banks, and other essential commercial institutions from undergoing necessary adjustments, renovations, or expansions. The idea that local businesses will have the capital to redevelop in a complete manner during the pertinent planning horizon is not workable. If indeed the DVSP envisions nearly 8,000 new residents, this influx does not automatically generate the economic wherewithal for businesses to “redo” existing shopping centers and other commercial buildings. The more likely result is that many businesses, including our client, will take a lengthy time to adjust and redevelop according to the DVSP’s vision, and many business are likely not to redevelop at all. Under this reasonably foreseeable scenario, new and old residents would travel outside of the downtown area to fulfill their needs.

In light of these practical considerations, it is especially important for the DVSP’s Initial Study and Environmental Impact Report to “present information in such a manner that the foreseeable impacts of pursuing the project can actually be understood and weighed.” (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 448; see also Guidelines, § 15063(c) (one of the purposes of an initial study is to explain why environmental effects are significant)). While “perfection” isn’t necessary, an environmental analysis “must be ‘prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences.’ ” (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 712, quoting Guidelines, § 15151). As we will explain in further detail below, the Initial Study falls short of these standards. It fails to meaningfully or adequately analyze the full scope of potential environmental impacts associated with the DVSP, and many of its conclusions are not supported by evidence. (See *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296 (initial study’s conclusions must be supported by evidence); accord *Citizens Ass’n for Sensible Dev. v. County of Inyo* (1985) 172 Cal.App.3d 151, 171). We therefore respectfully urge the City to revise the scope of its environmental analysis to ensure that all potentially significant environmental effects are adequately disclosed, analyzed, and mitigated.

We want to reiterate: these comments are not meant to signal opposition to the City’s downtown plan. Our client, who provides a “home” for many businesses in the heart of the Core Area, wishes to understand the environmental impacts of a proposed development that envisions 8,000 new residents and more than 3,000 new employees within the City’s limits. The scale of this change is enormous, especially considering the US Census estimated the population of Marina in 2019 was 22,781. The residents alone would constitute a 35 percent increase in the City’s population and we question, respectfully, whether a focused EIR is appropriate in any respect.

Further, we do ask that the City, in moving forward, not only consider the practical environmental implications of its blueprint, but also work more closely with the business community, including Sierra Pacific Properties Inc., to adjust this blueprint to accommodate the practical needs of the commercial sector. Our client would love the opportunity to discuss this issue in more detail with decisionmakers and staff. Our client would also like the opportunity to review and comment on any economic studies that informed the DVSP. The plan refers in a vague manner to some economic reports that might be more than ten years old, and a vetting of this information, in light of the circumstances of the past decade, appears to be warranted.

Overall, the DVSP embodies a new vision and our client supports the City's desire to reinvent the downtown — we simply ask that an on-ramp for this vision be created that accounts for practical realities.

1. The Initial Study Fails to Account for Impacts associated with Displacement of Existing Commercial Businesses

Specific deficiencies in the Initial Study's analysis are set forth in further detail in the subsequent sections below, but many of these deficiencies are the result of a general failure in the environmental analysis: the omission of any discussion or analysis of the environmental impacts that will result from the designation of existing development or businesses as non-conforming, and the eventual but inevitable displacement of those uses to areas outside of downtown Marina. Whenever a structure or use becomes non-conforming, it is a very big deal. Owners of non-conforming uses and structure face strictures on their ability to expand or adjust operations to changing circumstances. Cessations in operations also become concerning, as the operator of a non-conforming use can lose that right to operate if there is a period of activity that lasts for more than 6 months – circumstances that many have faced just in the past year due to COVID-19. Meanwhile, the DVSP will not only render existing uses and structures as non-conforming, but will also disallow the establishment of a number of new commercial uses when compared to the menu of land uses allowed by existing zoning.

While the details of such activities may not be set in stone, such outcomes are the reasonably foreseeable consequence of the DVSP as proposed. The City must evaluate and consider the impacts of the “most probable development patterns” that will result from a project. (See, e.g. *Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 292-293; *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325, 1337). Even if the potential impacts are nebulous and not yet sharply defined, because actual development has not yet been proposed, potential impacts of resulting displacement should be analyzed because they are reasonably foreseeable. (*Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 292-293).

Many direct and indirect impacts occur from the displacement of land uses, and the Initial Study does not contemplate these impacts. Chief among these failures is a severe underestimation of the air quality, greenhouse gas, energy, and traffic impacts of the Project by failing to account for the additional vehicle miles traveled by residents of Marina who will now have to drive outside of the downtown area, either to the periphery of Marina or even to different cities altogether, to access key businesses which are either outright prohibited under the DVSP or rendered non-conforming (thus disallowing expansion and, in some cases, might force their closure).

In order to fully account for the potentially significant environmental impacts of the DVSP, the analysis must include an analysis of the impacts of the DVSP's designation of existing development or businesses as non-conforming, including impacts of increased construction and demolition, and increased vehicle miles traveled. As a foundational issue, the EIR's analysis must account for (1) all commercial uses and structures that would be rendered non-conforming; (2) all commercial and other land uses that are allowed under current zoning, but would be prohibited under the DVSP; and (3) a detailed phasing plan for the introduction of new residential and commercial uses. Modern economic analyses, if not already prepared, must be used to validate the phasing assumptions, as well as the scope and magnitude of all displaced activities.

2. Air Quality

The Initial Study concludes that air quality impacts will be less than significant (with the incorporation of a single mitigation measure regarding construction dust control). However, the Initial Study's methodology includes several assumptions which are not supported by evidence. A more detailed analysis of the Project's air quality effects, accounting for all potential sources of air pollutants and including a health risk assessment, is needed.

a. Construction Emissions Analysis Fails to Account for All Sources of Emissions

The Air Quality analysis uses CalEEMod to estimate construction emissions for the Project. The Initial Study stated that construction activities studied "include demolition of existing structure, site preparation and grading, building construction, installation of wet and dry utilities as needed, construction of roadway improvements, and architectural coating." (Initial Study at p. 31). Appendix AIR to the Initial Study, which contains the CalEEMod calculations supporting the analysis, provides that the assumption is "half of existing residential units and half of existing retail/office space would be demolished and redeveloped." (See Initial Study, Appendix AIR, at p. 2). The City provides no explanation for this assumption. The DVSP would render many existing commercial and residential developments in the Downtown area non-conforming. While neither the DVSP nor the Initial Study has taken steps to quantify the number of existing developments that would be affected, Marina Community Development Director Fred Aegerter has previously estimated that "the plan would result in most of the buildings in the downtown area being non-conforming buildings." (See <https://www.montereyherald.com/2019/03/08/marinas-downtown-vitalization-plan-has-some-wondering-about-the-future/>). The Project must undergo an evidence-based analysis to determine a defensible assumption for the level of demolition that will occur under the Project. Understanding the level of development and construction will, in turn, require a more thorough accounting of how many structures will be rendered non-conforming, and contemporary economic analyses demonstrating what incentives exist for redevelopment and a survey or other reasonable assessment of the business community and its needs.

The Air Quality analysis also "assume[s] that soil material import would be minimal" and therefore "does not account for haul truck trips for soil material and export." (Initial Study at p. 31). The Initial Study justifies this assumption by noting that "buildout of the DVSP would primarily result in redevelopment activities and would not include subterranean parking structures." (Initial Study at p. 31). However, other sections of the Initial Study suggest that construction of the project would necessarily involve large-scale removal of soil from the Project site. Later in the Air Quality section, the Initial Study concedes that "construction activities facilitated by the DVSP may require *substantial* grading and excavation [...]." (Initial Study at p. 36) (emphasis added). Furthermore, in the Geology and Soils section, the Initial Study contemplates "removing, replacing soil with the proper fill selection, and compacting the soil" to address any soil stability-related hazards. The current Air Quality analysis is based on an assumption that is contradicted by other sections of the study. The Project must undergo a full evaluation of potential Air Quality impacts, including those that would occur from haul truck trips for soil material and export.

Finally, the Air Quality analysis fails to undergo any meaningful threshold impacts analysis regarding ozone precursor emissions from construction, specifically VOC and NO_x emissions. As the Initial Study notes, the Project region is in non-attainment for both PM₁₀ and Ozone. The Initial Study Air Quality analysis determines that construction activities will cause a Maximum Daily Emissions level of:

- 180 pounds of VOC per day;
- 230 pounds of NO_x per day; and
- 70 pounds of PM₁₀ per day.

Though the Project area is in non-attainment for all of these pollutants, the Air Quality analysis only compares the PM₁₀ construction emissions to a numerical threshold. The Initial Study justifies this approach by citing to the Monterey Bay Unified Air Pollution Control District's (MBARD) CEQA Air Quality Guidelines, which state that ozone precursor emissions from demolition and construction activities using "typical construction equipment" would not have a significant impact on attainment and maintenance of state or federal ozone ambient air quality standards. (Initial Study at p. 35). However, the Initial Study includes no list of the construction equipment anticipated for the DVSP, but only a vague statement that "demolition and construction activities facilitated by the DVSP are anticipated to use typical construction equipment." (Initial Study at p. 35). Under the MBARD guidelines, use of certain equipment, including grinders or any portable equipment, does not fall under the definition of "typical construction equipment." (See Monterey Bay Unified Air Pollution Control District CEQA Air Quality Guidelines (2008) at p. 5-3). The analysis must at least address whether construction or demolition activities will use such equipment.

Furthermore, the MBARD guidelines are nearly 13 years old, and may not reflect the most up-to-date methodology for determining significant impacts from construction emissions. For instance, the Bay Area Air Quality Management District's CEQA Guidelines, updated in 2017, specifically state that ozone precursor emissions from construction activities involving demolition or non-greenfield development should be analyzed by comparison to a threshold. (See Bay Area Air Quality Management District CEQA Air Quality Guidelines (2017) at pp. 3-1, 3-5).

The Project must undergo further evaluation and analysis to determine whether construction activity emissions, particularly ozone precursor emissions, will have a significant environmental impact.

b. Operational Mobile Emissions Analysis is based on a Flawed Vehicle Miles Traveled Calculation, which Fails to Account for Displacement

The Project's mobile source emissions were calculated using an estimate of "net new Vehicle Miles Traveled (VMT) estimated for residential and office land uses." (Initial Study at p. 31). Retail land uses, and retail-based trips, were not considered in the analysis, under an assumption that any local-serving retail use would reduce trip lengths and generate no new trips, because local-serving retail serves people with "an existing need that was met by the retail located further away and [are] now traveling to the new retail use because it is closer to the person's origin location." (Initial Study, Appendix TRAF-2 at p. 6). This assumption fails to account for mobile source emissions from out-of-area retail employees who will commute to downtown Marina.

Furthermore, the VMT analysis as a whole does not discuss or account for trip generation or longer trips that will result from the displacement of currently existing commercial enterprises in the Project Area. Under the DVSP, a series of businesses that are currently allowed to operate under pre-DVSP zoning will be prohibited (for instance, professional office uses facing Reservation Road, drive-thru or drive-in facilities, and service stations, all of which are currently permitted under the C-1 Retail Business District zone, would be prohibited in the Core Area, per Table 3-6 of the DVSP). Additionally, many businesses that fall into use categories still allowed under the DVSP operate within buildings that would not conform to the development standards of the DVSP, thus rendering the businesses with no prospect of expanding or increasing the footprint of their current operations. For those businesses outright prohibited in an area, such as drive-thru restaurants or banks in the Core Area, residents will have to take longer mileage trips to fulfill an existing need that was previously filled by a business located closer to them. This increase in VMT would be permanent, as no such business could ever move back into the area under the DVSP. Even for those businesses that constitute a permitted use in a non-conforming building, such as a grocery store with a street-abutting parking lot in the Core Area, the inability of the business to expand its operational area will lead to an increase in VMT. While this type of stagnancy is not within the vision of the DVSP, it is a reasonably foreseeable outcome, if not the most practical outcome. As such, to the extent 8,000 new residents create new demand for services, the “paralysis” that will restrict existing business from expanding will cause coveted commercial services to become established elsewhere. As a result, new residents will be forced to take longer mileage trips to fulfill their needs, until such time that a similar business constructs and occupies a conforming building in downtown, if ever.

The VMT analysis in the Initial Study fails to account for the increase in VMT due to displacement of existing businesses and commercial services that currently are allowed under existing zoning but, under the DVSP, would be prohibited. The Project must undergo further evaluation and analysis to determine whether emissions attributable to this increase in VMT will have a significant impact. These additional trips must also be taken into account in the Transportation Section, which the Initial Study already determined will need further analysis in an EIR.

c. Failure to Include a Quantitative Health Risk Assessment for Toxic Air Contaminants

The Initial Study notes that the Project will be located adjacent to numerous sensitive receptors, including residential neighborhoods and schools, and that the Project has the potential for toxic air contaminant (TAC) emissions during demolition and constructions activities. (Initial Study at pp. 39-40). However, the Initial Study declines to evaluate the long-term cancer impacts of such TAC emissions on sensitive receptors, claiming that construction activities will occur “over a relatively short duration.” (Initial Study at p. 40). This is a mischaracterization of the proposed construction and demolition activities. Construction and demolition activities are expected to occur over a period of approximately 20 years (Initial Study at p. 35), exposing sensitive receptors to TAC emissions throughout that time period. The City must conduct a quantitative health risk assessment to determine the long-term cancer impacts of these TAC emissions on nearby sensitive receptors. This analysis must be based on realistic phasing assumptions (as discussed earlier).

Additionally, the Initial Study does not analyze whether any of the proposed commercial or office uses contemplated by the DVSP would create TAC emissions. While residential uses often are

not sources of TACs, non-residential uses are not similarly exempt from such analyses. Existing residents and business owners within and adjacent to the downtown area are entitled to know the health risks associated with the massive scope of development proposed under the DVSP, including the pertinent cancer and non-cancer risks.

The Project must undergo further evaluation and analysis to determine the effects of 20 years of construction-related TAC emissions on sensitive receptors, and to determine whether any of the commercial and office uses contemplated by the DVSP will expose sensitive receptors to further TAC emissions.

3. Aesthetics

“Aesthetic issues, such as public views, ‘are properly studied in an EIR to assess the impacts of a project.’ ” *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1337–1338. “[T]he CEQA Guidelines essentially establish a rebuttable presumption [that] any substantial, negative aesthetic effect is to be considered a significant environmental impact for CEQA purposes.” (*Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1604; *accord Ocean View Estates Homeowners Assn., Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 401 [“Any substantial negative effect of a project on view and other features of beauty could constitute a significant environmental impact under CEQA.”])).

Here, the scope of environmental analysis proposed by the Initial Study falls short of what is required by CEQA and the Guidelines. A far more expansive analysis of potential aesthetic impacts is necessary to meaningfully inform members of the public and City decisionmakers of the Project's potentially significant environmental effects.

a. Applicability of SB 743

In 2013, the California Legislature adopted Senate Bill 743 (SB 743) to streamline the review of aesthetic impacts for certain categories of projects. Specifically, aesthetic impacts “of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment.” (Pub. Resources Code, § 21099(d)(1) [unless otherwise indicated, all subsequent statutory references are to the Public Resources Code]). The City has taken the position that the Specific Plan Area “is exempt from findings greater than ‘less than significant’ ” under SB 743 because the Specific Plan Area has been designated as a potential future transit priority area by the Association of Monterey Bay Area Governments (Opportunity Area MA-1). (Initial Study at pp. 17-18).

Although the Specific Plan Area is not currently located within an area that meets the definition of a transit priority area (“current [public transit] headways fall short of 15 minutes at peak periods”), the City asserts that “with development, increased ridership will result in more frequent headways.” (*Id.* at p. 18). To be eligible for SB 743 streamlining, the City must provide substantial evidence that public transit headways at transit stops within the transit priority area will meet or exceed the 15-minute threshold “within the planning horizon included in a Transportation Improvement Program.” § 21099(a)(7). While Monterey-Salinas Transit will be releasing a comprehensive operational plan in 2021, we are not aware of any Transit Improvement Program that would implement 15-minute headways at transit stops in the vicinity of the Specific Area Plan. Indeed, it appears that Monterey-Salinas Transit will be facing

numerous operational challenges caused by the COVID-19 pandemic (including financial shortfalls that may last until the mid-2020s), which will likely make increased headways infeasible. See *Monterey-Salinas Transit 2022-2023 Fiscal Year Budget*, available at <https://mst.org/wp-content/media/Final-Adopted-FY2022-FY2023-Budgets.pdf>. One of the lines that served the Specific Plan Area was recently cancelled (Route 27), and other service reductions may occur in the future. (See *Monterey-Salinas Transit Comprehensive Operational Analysis – Choices Report* (May 27, 2020) at p. 49, available at https://mst.org/wp-content/media/MSTCOA_Choices-Report.pdf).

Moreover, SB 743 only applies to “a residential, mixed-use residential, or employment center project on an infill site within a transit priority area.” (§ 21099(d)(1)). A specific plan is not a “residential, mixed-use, or employment center project.” Here, substantial portions of the Specific Plan Area will be developed as uses that fall outside these categories, including 94.7 acres of “public uses;” 77.9 acres of “retail/services and office/other commercial uses” with no restrictions on floor area ratio to 0.75;¹ and 3.2 acres of “light industrial” uses. (Initial Study at p. 7). The Downtown Vitalization Specific Plan therefore does not qualify for SB 743 streamlining.

b. Adverse Effects on Scenic Vistas

Although the City asserts that the Project falls within the scope of SB 743, it nevertheless discusses certain potential aesthetic impacts “for the sake of full disclosure.” (Initial Study at p. 18). For potential impacts to scenic vistas, the Initial Study concludes that impacts will be less than significant because “no scenic vistas are available or would be blocked or substantially modified as a result of Specific Plan buildout.” *Id.* In the EIR, the City should provide detailed visual simulations to show the extent and severity of potential visual impacts so that the public and City decisionmakers can meaningfully assess whether impacts are less than significant. (See *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831 [lead agencies must show the extent and severity of potential impacts]; see also Guidelines, § 15150 [“An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences.”]).

“Implementation of the proposed Specific Plan could include buildings up to 60 feet high or five stories, whichever is less, in the core zone.” (Initial Study at p. 23). “Buildings currently in the Downtown area are one to two stories, so this change would increase the building height in the core zone by up to 45 feet.” (*Id.*). Aesthetic impact simulations should provide a comprehensive analysis of how these increased building heights will impact views from scenic vistas in the vicinity of the Specific Plan Area.

¹ Employment centers are exempt projects under SB 743 insofar as they have commercial uses with a FAR below 0.75. The DVSP does not appear to contain any such restrictions, and the General Plan allows for multiple-use commercial developments with a maximum FAR of 0.90. (General Plan, Community Land Use Element, Table 2.4.) Please note the EIR project description must clarify minimum and maximum FARs.

c. Impacts to Scenic Resources, Including but Not Limited to, Trees, Rock Outcroppings, and Historic Buildings

The Initial Study concludes that impacts to scenic resources will be less than significant because “overall scenic quality of views from SR 1 would not be substantially or negatively altered by the project.” (Initial Study at pp. 18-20). The Initial Study completely omits any analysis of potential impacts to scenic resources from other vantage points in the Specific Plan Area or surrounding locations. The EIR should assess potential impacts from a broad range of potential vantage points, and it should assess potential impacts to all potential scenic resources in the vicinity of the Specific Plan Area. For example, this analysis should include an assessment of potential impacts to views of Locke-Paddon Wetland Community Park from within the Specific Area Plan. (See Initial Study at p. 19 [showing view of Locke-Paddon Wetland Community Park]). The EIR should also assess potential obstructions of public views of special status trees within the Specific Plan Area, including the coast live oak trees that were observed to the north of Reservation Road. (See Biological Resources Assessment at pp. 9-10).

d. Degradation of the Existing Visual Character or Quality of Public Views of the Site and Its Surroundings and Potential Conflicts with Zoning and Other Regulations Governing Scenic Quality

Preliminarily, the Initial Study concludes that the Specific Plan Area is “already urbanized” and, therefore, the City’s CEQA analysis “focuses on whether the project would conflict with applicable zoning and other regulations governing scenic quality.” (Initial Study at p. 24). Conflict with land use regulations is more appropriately dealt with in the EIR’s land use section, and there is nothing in CEQA that exempts an aesthetic analysis of changes to an urban area. The project under review here would increase the City’s population by 35 percent, more than double building heights, and situate millions of new square feet into a fairly discrete portion of the City.² Accordingly, the EIR should provide a detailed analysis of the extent to which the visual quality of the area will be affected by the much denser urbanization that is contemplated as part of the Specific Plan Area buildout.

To this end, the EIR should provide visual simulations and other evidence to show how the scale, massing, and architectural features of the various types of proposed development in the Specific Plan Area will be consistent with the Marina Municipal Code, City of Marina Downtown Vision, Downtown Design Guidelines, and the Pedestrian and Bicycle Master Plan. (See Initial Study at p. 20; *see also See Santiago County Water Dist., supra*, 118 Cal.App.3d at p. 831). In doing so, the EIR should provide specific descriptions and illustrations that show how landscaping, streetscapes, building facades, and other design elements will conform to Design Guidelines and the City of Marina Downtown Vision. Special emphasis should be placed on the analysis of changes to the overall character of the existing low-rise community that will result

² The Initial Study asserts that “implementation of the Specific Plan would change the character of the project area substantially, but these changes would be in keeping with applicable plans for revitalizing the Downtown area and creating a sense of place for visitors and residents, in connection with multiple modes of transportation.” (Initial Study at p. 24). Respectfully, this statement does not appropriately contemplate the scale of urbanization envisioned under the DVSP, which is not in keeping with applicable plans; if such were the case, the DVSP would not be necessary in the first place.

from the construction of 2,904 new residential units and the addition of up to 1,385,197 square feet of retail and office space.

e. Light and Glare

The Initial Study asserts that “effects on daytime or nighttime views due to new sources of light and glare would be less than significant” because “the Plan Area already makes up a developed downtown area [and] conditions would not be substantially altered from existing conditions.” (Initial Study at pp. 25-26). As noted above, the proposed buildout of the Specific Plan Area will substantially change the character of the existing built environment. The construction of 2,904 new residential units and the addition of up to 1,385,197 square feet of retail and office space will produce many new sources of light and glare. In fact, the Initial Study concedes that the substantial size and scope of the new development will cause “[n]ew sources of nighttime light and daytime glare [to] be introduced and could intensify the effects of illumination and glare over existing levels.” (*Id.* at p. 25). It is imperative that the EIR provide a detailed assessment of these new sources of light and glare and, if necessary, adequately mitigate any significant environmental effects associated with light and glare.

4. Biological Resources

Protection of biological resources is a fundamental policy incorporated in CEQA. Under Section 21001(c) it is the policy of the state to “[p]revent the elimination of fish or wildlife species due to [human] activities, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities.” In addition to its analysis of direct effects on biological resources, an EIR must identify and describe the significant indirect environmental impacts that will result from the project. (Guidelines, §15126.2(a)). Both short-term and long-term effects should be included in the analysis. (*Id.*). In other words, a CEQA analysis must “take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.” (Guidelines, Appendix G, emphasis added).

Here, the Initial Study (including the July 2019 Biological Resources Assessment conducted by Rincon Consultants) only assessed direct impacts on biological resources within the Specific Plan Area. There is no analysis of indirect or cumulative impacts to potentially sensitive biological resources at off-site locations. (*Cf.* Initial Study at p. 52 [noting, in passing, the existence of “higher quality chaparral habitat to the north of Reservation Road and within the Fort Ord National Monument”]). A large undeveloped area is located immediately northwest of the Specific Plan area, but there is no discussion of impacts to potentially sensitive resources at that location, nor is there any discussion of potential impacts to resources at the Locke-Paddon Wetland Community Park. This substantial omission should be corrected through the release of a revised initial study or, at the very least, in the EIR. (See *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296 [initial study’s conclusions must be supported by evidence]; accord *Citizens Ass’n for Sensible Dev. v. County of Inyo* (1985) 172 Cal.App.3d 151, 171).

a. Habitat Modification and Effects on Protected Species

The Initial Study discloses that impacts to biological resources would be potentially significant because “construction activity associated with individual projects developed under the Specific Plan could include demolition, grading, vegetation removal, equipment and vehicle staging,

parking.” (Initial Study at p. 46). However, according to the Initial Study, “[i]mplementation of Mitigation Measures BIO-1(a) through BIO-1(h) would reduce these impacts to less than significant level.” (*Id.*).

As noted above, because the Initial Study fails to analyze potential indirect, off-site impacts, it is impossible to determine the full extent of potential impacts associated with habitat modification. Likewise, it is impossible to determine whether Mitigation Measures BIO-1(a) through BIO-1(h) will actually mitigate those indirect, off-site effects to a less than significant level. Further, the Initial Study only defines and classifies vegetation communities and land cover types for a small fraction of the Specific Plan Area. (See Biological Survey at p. 10, Figure 3; see *also* Initial Study at p. 47, Figure 10 [screening for sensitive resources will only occur in a small fraction of the entire Specific Plan Area]). It is quite possible that sensitive species could occur in undeveloped portions of properties in the Specific Plan Area (e.g., in yards, setbacks, or parkways), but there is no classification or survey of potential habitat that evaluates whether sensitive species could potentially occur at those locations. These deficiencies should be remedied in a revised initial study or in the EIR. Moreover, the proposed mitigation measures will need to be revised to ensure that the entirety of the Specific Plan Area is screened for potentially sensitive resources.

b. Adverse Effects on Riparian Habitat or Other Sensitive Natural Communities and Related Effects on Protected Species

Here, the Initial Study’s analysis of potential impacts is limited solely to potential effects on the sandmat manzanita that occurs in the eastern portion of the Specific Plan Area. (Initial Study at pp. 52-53). According to the Initial Study, “given the higher quality chaparral habitat to the north of Reservation Road and within the Fort Ord National Monument, removal of a small patch of sandmat manzanita would not represent a significant impact to this vegetation community.” (*Id.*). However, this conclusion does not address the severity or extent of direct, indirect, and cumulative impacts associated with the loss of sensitive and protected species that were observed at the sandmat manzanita, including coast live oak (*Quercus agrifolia*). (See Biological Survey at p. 9). Trees cannot migrate to the chaparral to the north, and impacts to any coast live oak at the site should be disclosed and mitigated.

The Initial Study also fails to disclose, analyze, and mitigate potential impacts associated with the loss of willow riparian habitat and other potentially sensitive habitat within the Specific Plan Area. (See Biological Survey at p. 10, Figure 3). Furthermore, as noted above, because the Initial Study fails to analyze potential indirect off-site impacts, it is impossible to determine the full extent of potential impacts associated with impacts to riparian habitat.

c. Adverse Effects on Wetlands and Related Effects on Protected Species

The Initial Study states that “[n]o CDFW or USACE jurisdictional wetlands or waters are present in the Specific Plan Area.” (Initial Study at p. 53). But the Biological Resources Assessment discloses that “[t]he edge of riparian vegetation at Locke-Paddon Park also falls within the Specific Plan and is likely to be jurisdictional under CDFW.” (Biological Resources Assessment at p. 15). This inconsistency should be addressed and clarified in the EIR.

Again, because the Initial Study fails to analyze potential indirect, off-site impacts, it is impossible to determine the full extent of potential impacts associated with impacts to riparian

habitat and sensitive species that may occur at those off site locations. Potential indirect and cumulative impacts to off-site wetlands should be disclosed, analyzed, and mitigated in a revised initial study or in the EIR. (Guidelines, §15126.2(a)).

d. Effects on Wildlife Movement and Nursery Sites

The Initial Study concludes that “[t]here would be no impacts to wildlife movement from development under the Specific Plan.” (Initial Study at p. 54). Again, this analysis fails to consider potential off-site impacts, including potential impacts to species that may migrate through coastal dunes or other coastal areas to the west of the Specific Plan Area. The Initial Study also includes no analysis of potential impacts that could potentially “impede the use of native wildlife nursery sites.” (See Guidelines, Appendix G, § IV(d)).

e. Conflicts with Local Policies Protecting Biological Resources

Here, the Initial Study’s analysis is limited to Project consistency with urban forestry standards. (Initial Study at p. 54). In the EIR, the City should expand this analysis to disclose, analyze, and mitigate direct, indirect, and cumulative impacts that may be subject to other local policies, including policies that protect sensitive biological resources in coastal areas.

5. Cultural Resources

CEQA defines a substantial adverse change in the significance of a historical resource as a significant effect on the environment. (§ 21084.1; Guidelines, § 15064.5(b)). A substantial adverse change means demolition, destruction, relocation, or alteration of the resource or its immediate surroundings resulting in the significance of the resource being materially impaired. (*Id.* at subd. (b)(1)). The significance of a resource is materially impaired when the physical characteristics that convey its historical significance and that justify its designation as a historical resource are demolished or materially altered in an adverse manner. (*Id.* at subd. (b)(2)).

The Initial Study cites “28 cultural resources studies conducted within a 0.5-mile radius of the Plan Area,” 16 of which “included all or portions of the Plan Area.” (Initial Study at pp. 56-59). But none of those studies conducted a systematic, lot-by-lot or building-by-building analysis of all potentially historic structures or sites within the Specific Plan Area. Without this systematic analysis, it will be impossible for members of the public and City decisionmakers to determine the full scope of potential environmental effects. (See Guidelines, § 15150 [“An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences.”]).

The Initial Study discloses that a full inventory of potential sensitive historic resources in the Specific Plan Area will not be conducted until *after* CEQA review is complete. (See Mitigation Measures CR-1 through CR-4). But the Initial Study and the EIR cannot insist the impact will be insignificant and defer the development of specific mitigation measures to some future time. (Guidelines, § 15126.4(a)(1)(B)). Here, the construction of 2,904 new residential units and the addition of up to 1,385,197 square feet of retail and office space could have substantial direct, indirect, and cumulative effects on the historic character of resources that could potentially be

demolished by the new development or resources located in close proximity to new development. These potential impacts should be disclosed, analyzed, and mitigated in the EIR.

Deferring analysis to a later stage is unlawful, as it leaves the public with no real idea as to the severity and extent of environmental impacts. Where, as here, an initial study fails to fully and accurately inform decisionmakers and the public of the environmental consequences of proposed actions, it does not satisfy the basic goals of CEQA and its Guidelines. (See § 21061 [“The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment”]). The evaluation of a proposed project’s environmental impacts is the core purpose of an EIR. (See Guidelines, § 15126.2(a) [“An EIR shall identify and focus on the significant effects of the proposed project on the environment.”]). It is well-established that the City cannot defer its assessment of important environmental impacts until after the project is approved. (*Sundstrom, supra*, 202 Cal.App.3d at pp. 306-07).

6. Energy

a. Failure to Compare to the Project to a Threshold

In evaluating whether the Project would result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of resources, the Initial Study quantifies the amount of gasoline and diesel fuel to be used in demolition and construction of the DVSP, the amount of gasoline and diesel fuel to be used by net new VMT, and the kilowatt hours of electricity and British thermal units of natural gas to be used in residential and non-residential buildings. However, there is no comparison of these figures to a threshold. The Initial Study does not provide any comparison to average energy usage for similar developments, or assess the energy demands of the Project in relation to regional energy production or capacity. Without such a comparison, the Initial Study’s conclusion that the Project will not result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of resources is not supported by evidence. The Project must undergo further evaluation and analysis to determine whether it will result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of resources in a manner that fully complies with *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256.

b. Failure to Account for Increased VMT Due to Displacement

The quantification of gasoline and diesel fuel to be used by automobiles relies on a VMT calculation that fails to account for an increase in VMT due to displacement of existing downtown businesses, as summarized above in the Air Quality section.

Furthermore, the determination that the Project is consistent with Community Goal 1.18 relies on the claim that “the DVSP would create a balanced land/use transportation system that would minimize excessive energy consumption.” (Initial Study at p. 73). In fact, displacement of existing downtown businesses under the DVSP would potentially lead to greater energy consumption by automobiles than would occur without the DVSP. The Project must undergo further evaluation and analysis to determine impacts due to increased automobile energy use from trips generated or lengthened by the displacement of existing downtown businesses.

7. Greenhouse Gas Emissions

a. Reliance on Flawed Emissions Calculations

The Initial Study's methodology to analyze greenhouse gas (GHG) emissions relies on flawed assumptions and calculations elsewhere in the Initial Study, which render its GHG analysis incomplete. When modeling construction emissions, the GHG analysis uses the emissions assumptions from the Air Quality Section, which fail to account for all emissions as discussed in the above Air Quality section. The calculation of GHG emissions from mobile sources uses the VMT calculation used in the Air Quality section, which fails to account for trip length and generation associated with the displacement of existing downtown businesses, as discussed in the above Air Quality section.

The Initial Study's GHG analysis also makes a series of unsupported assumptions about energy usage of the Project. First, the Initial Study assumes that residential unit energy use will produce no GHG emissions due to "the fact that the project would include solar photovoltaic systems on all low-rise residential buildings (i.e. single- and multi-family residential buildings that are three stories or less) with annual electrical output equal to or greater than the dwellings annual electrical usage [...]" (Initial Study at p. 89). The Initial Study makes no effort to quantify the residential dwelling's electrical usage, or demonstrate that it is feasible for building-localized solar photovoltaic systems to provide for all of such a dwelling's projected usage. Furthermore, it is not clear that *all* residential units will be covered by the Project's low-rise solar mandate, including units in multi-story mixed use buildings with residential units above commercial uses.

The Initial Study also assumes that 97 percent of the electricity demanded in its analysis (meaning 97 percent of electricity demanded by commercial or office tenants, as the analysis assumes no residential demands from the grid) will be provided by MBCP's carbon free electricity. The claimed basis for this assumption is that "according to MBCP, approximately 97 percent of accounts in their service area maintain their enrollment [...] the remaining 3 percent of accounts opt out and connect to PG&E." (Initial Study at p. 89). However, this 97 percent figure includes *all* current MBCP accounts, including residential. Since the GHG analysis assumes grid usage and associated GHG emissions will come from only commercial and office tenants, the Initial Study should apply the proportion of MBCP's *commercial and office accounts* that opt out and connect to PG&E. This figure may be significantly greater than 3 percent, as commercial and office accounts may demand electric service that they perceive to be more stable and responsive.

The Project must undergo further evaluation and analysis to fully account for all GHG emissions attributable to the DVSP, and determine whether there are potentially significant effects from such emissions.

b. Improper Threshold

As the Initial Study notes, CEQA Guidelines and interpretative GHG case law require a local, project-specific threshold to evaluate GHG effects. (Initial Study at p. 91). While consistency with Statewide reductions goals set forth in documents like CARB's 2017 Scoping Plan can be used as the basis to develop such a threshold, the threshold itself must take into account localized-GHG data and the Project's individual features. (*Ctr. for Biological Diversity v. Dep't of Fish & Wildlife* (2015) 62 Cal.4th 204 as modified on denial of reh'g (Feb. 17, 2016).). A proper

localized threshold should not rely entirely on statewide GHG data or statewide population data to develop the threshold. (*Golden Door Properties, LLC v. Cty. of San Diego* (2018) 27 Cal.App.5th 892).

Though the Initial Study describes its calculated threshold of 3.2 MT of CO₂ per Service Population as a “locally-appropriate” threshold, in reality it is based entirely on state-level emissions and population data. To develop this threshold, the Initial Study looks at *statewide* emissions targets regarding GHG emissions (in MMT CO_{2e}) for particular emission sectors delineated by CARB. (Initial Study at p. 92). The Initial Study then excludes emissions sectors that are not present in Marina, and sums the *statewide* targets of the remaining emissions sectors to get a total of 213,000,000 MT of CO₂, the *statewide* emissions limit for all sectors present in Marina. (*Id.*) Then, the Initial Study divides this sector-limited *statewide* emissions limit by the *statewide* service population of 65,723,654 to derive its threshold of 3.2 MT of CO₂ per Service Population. (Initial Study at p. 93).

This threshold is based entirely on the application of statewide data and numbers. There is no attempt to take into account local or regional GHG data to determine whether Marina or the Monterey region already contribute a larger proportional share of GHGs or have a proportionally higher population density than other state regions, which would require a proportionally larger reduction in GHG emissions to reach state goals. Nor is there an attempt to explain why the use of a statewide service population metric and statewide GHG emissions target numbers are appropriate for a project specifically within Marina. (See *Golden Door Properties, LLC v. Cty. of San Diego* (2018) 27 Cal.App.5th 892).

Without such an analysis, the GHG threshold is not localized or project-specific as required by CEQA Guidelines and well-established GHG case law.

8. Hazards and Hazardous Materials

The Initial Study provides an incomplete summary of all potential hazardous and contaminated sites in (and in the vicinity of) the Specific Plan Area. (See Initial Study at pp. 105-109). It does not identify, for example, potential hazards associated with gas stations on Reservation Road and Del Monte Boulevard. Nor does it discuss the potential presence of certain site-specific contaminants such as lead or asbestos, which will need to be remediated during the redevelopment of properties within the Specific Plan Area.

The Initial Study concludes that potential impacts will be mitigated to a less-than-significant level by implementing project-specific hazardous materials assessments (Mitigation Measure HAZ-1), which will include “measures that ensure the safe transport, use, and disposal of contaminated soil removed from the site.” (Initial Study at p. 108). To ensure that all impacts are adequately mitigated to a less-than-significant level, the EIR should incorporate additional mitigation to prevent the intrusion of potentially hazardous materials into groundwater, soil, and air in the Specific Plan Area. For example, if new development associated with the Specific Plan buildout could foreseeably disturb contaminated sites, then it may be necessary to preemptively remediate contaminants that could potentially infiltrate locations within the Project site or other off-site locations.

Furthermore, CEQA requires that initial studies and EIRs provide accurate and complete information pertaining to the setting of the Project and surrounding area. (*San Joaquin*

Raptor/Wildlife Center v. Stanislaus County (1994) 27 Cal.App.4th 713, 728-29 ; see also *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 875 [incomplete description of the Project's environmental setting fails to set the stage for a discussion of significant effects]). Here, the Initial Study provides an incomplete and inadequate description of the history of wildfire hazards in the vicinity of the Specific Plan Area, and the initial study fails to discuss how the effects of climate change might exacerbate such risks. (See also Initial Study Chapter 20).

9. Hydrology and Water Quality

The Initial Study states that “[t]he proposed project would result in an increase in water demand in the Plan Area, which could result in a potentially significant impact related to groundwater supplies and sustainable groundwater management.” (Initial Study at p. 112). The Initial Study then states that such impacts will be studied in the EIR, but no further information is provided. *Id.* It is crucial that the EIR provide a complete and thorough analysis of all potential direct, indirect, and cumulative demands on groundwater supplies, including demands from related projects that share the same groundwater basin. It is also crucial for this analysis to evaluate all future development that is contemplated as part of the Specific Area Plan buildout. (See *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 441).

The Initial Study also concludes that “the Plan Area is developed and consists mostly of impervious surface area” and that the development of new structures “pursuant to the Specific Plan would not substantially alter the amount of impervious surface area.” (Initial Study at p. 112). However, other portions of the Initial Study note that there are substantial portions of the Specific Plan Area that remain undeveloped. (See Biological Resources Assessment at p. 10, Figure 3). The Initial Study does not clarify whether these undeveloped areas consist of impervious or pervious surface, but review of satellite imagery demonstrates a significant portion of the DVSP planning area does consist of pervious surfaces. The conversion of those undeveloped lots (and the redevelopment of existing lots with potentially larger development footprints) through the construction of 2,904 new residential units and the addition of up to 1,385,197 square feet of retail and office space will likely lead to the introduction of a substantial amount of new impervious surfaces relative to baseline conditions. The EIR should provide specific calculations that show the amount of new impervious surfaces that will be introduced to the Specific Plan Area as a result of anticipated new development. Please also see the section below regarding impacts on recreation; any analysis of hydrology should also account for the City's strategy in dealing with potential shortages in open space.

The EIR should also carefully examine the effects of saltwater intrusion into the groundwater table that may occur as a result of climate change, as well as the effects of less-frequent groundwater recharge that will occur as a result of less-frequent precipitation. (See Safi, et al. (2018) *Synergy of climate change and local pressures on saltwater intrusion in coastal urban areas: effective adaptation for policy planning*, Water International, available at <https://www.tandfonline.com/doi/full/10.1080/02508060.2018.1434957>).

10. Noise

The goal of providing Californians with “freedom from excessive noise” is included among CEQA’s basic policies. (§ 21001(b)). Under the definition of the term “environment” in Section 21060.5, noise is included as a physical condition that may be affected by a proposed project.

According to the Initial Study, “[o]perational impacts, including traffic-related exterior and interior noise impacts to DVSP uses and stationary noise from HVAC units, [will] be potentially significant and require mitigation.” (Initial Study at p. 137). “Specific Plan-generated traffic noise impacts to existing land uses would be less than significant, as would operational impacts related to truck deliveries. Mitigation would not be required for these specific impacts.” (*Id.*) Both of these conclusions are premised upon the assumption that increased automobile traffic and increased noise from stationary sources (i.e., HVAC units) can be modeled into existing topographic conditions. As it exists today, the Specific Plan area is predominantly occupied by low-rise buildings and undeveloped lots. Under current conditions, noise is more likely to be dispersed as sound waves moves away from a source. Modifying development standards to allow for the construction of five-story buildings, substantially increased massing, and modifications to development standards that allow for increased parcel coverage will substantially change the way in which noise travels through the Specific Plan Area. The EIR will need to account for increased reverberation, echoing, and other site-specific conditions that may lead to more significant effects. Additional mitigation may be necessary to address these conditions.

Furthermore, the Initial Study fails to account for indirect and off-site noise impacts that will occur as a result of increased traffic traveling through streets in the vicinity of the Specific Plan Area. Potential indirect and cumulative impacts to off-site receptors and wetlands should be disclosed, analyzed, and mitigated in a revised initial study or in the EIR. (See Guidelines, §15126.2(a)).

11. Population and Housing

According to the Initial Study, “full buildout of the Specific Plan would result in an estimated 7,957 new residents in the Plan Area.” (Initial Study at p. 143). However, the Initial Study also reveals inconsistencies between the Project and AMBAG’s long-term growth projections. As of 2019, the City was estimated to have a population of 22,535 people. (See Initial Study at p. 2). The buildout of the Specific Plan Area would exceed the AMBAG’s 2025 population projections of 28,515 by 2030 and 29,554 by 2035. (Initial Study at p. 143). The EIR should disclose and analyze the implications of these inconsistencies, including the ability of region-wide infrastructure to accommodate greater-than-expected population growth.

CEQA requires agencies to evaluate the direct, indirect, and cumulative effects of housing displacement. (See Guidelines Appendix G, § XIV(b) [Requiring agencies to answer the question of whether a project will “[d]isplace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere”].) Likewise, CEQA mandates disclosure of a project’s direct and cumulative environmental effects on “human beings, either directly or indirectly.” (§ 21083, subd. (b)(3); Guidelines, § 15065, subd. (a)(4); see also *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.* (2006) 139 Cal.App.4th 1356, 1372 [human health is among the many “environmental values” protected by CEQA and the Guidelines].)

The adverse environmental and human health impacts of gentrification and housing displacement are well understood by scholars and urban planners. Introducing 2,904 new homes to the Specific Plan Area will significantly increase rents and the cost of living for existing residents, thereby increasing the risk that existing residents will be priced-out of the City. There is a substantial risk that low-income families and historically disadvantaged community members will be disproportionately impacted by these conditions. However, the DVSP provides no guarantee that existing residents will be given an opportunity to move into new market-rate or affordable housing that will be developed as part of the DVSP, and the Initial Study provides no analysis or mitigation of the short-term and long-term effects of housing displacement. (See Initial Study at p. 144). It is critical for the EIR to analyze and mitigate these impacts.

12. Public Services

a. Police and Fire Services

The Initial Study fails to provide any analysis of whether the Project would require new fire or police facilities in order to maintain acceptable response times. The Marina General Plan Community Land Use Element 2.106 sets forth clear response time standards: “As the population of Marina grows, the police force should be sufficiently staffed and deployed to maintain an average emergency response time of four minutes. Similarly, a maximum response time for fire protection of three to four minutes should be maintained.” Community Land Use Element 2.106 continues: “Where new development would be located beyond a three-to-four-minute response time, consideration should be given to the need for Class A fire-resistant roofing.”

While the analysis of fire services concludes that one new fire station will likely be required to maintain service ratios, it does not analyze where this station would need to be located in order to maintain a maximum response time of three to four minutes, or whether even further infrastructure would be required to comply with the response time standard. The analysis of police service is entirely deferred, stating that “service ratios and response time would be reassessed and adjusted as the population grows in an ongoing process over the course of DVSP buildout.” (Initial Study at p. 146). No attempt is made to assess whether further police resources would be needed to maintain an average response time of four minutes.

Deferring analysis to a later stage is unlawful, as it leaves the public with no real idea as to the severity and extent of environmental impacts. Where, as here, an initial study fails to fully and accurately inform decisionmakers and the public of the environmental consequences of proposed actions, it does not satisfy the basic goals of CEQA and its Guidelines. (See § 21061 [“The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment”]). The evaluation of a proposed project’s environmental impacts is the core purpose of an EIR. (See Guidelines, § 15126.2(a) [“An EIR shall identify and focus on the significant effects of the proposed project on the environment.”]). It is well-established that the City cannot defer its assessment of important environmental impacts until after the project is approved. (*Sundstrom*, supra, 202 Cal.App.3d at pp. 306-07).

The Project must undergo further evaluation and analysis to determine whether further construction or expansion of fire and police facilities would be needed to maintain mandated

response times, and whether such construction or expansion will have potentially significant impacts.

b. Indirect Effects of Increased Demand For School Facilities

The Initial Study, citing California Government Section 65996, concludes that payment of school impact fees will constitute full and complete mitigation for potential impacts to schools caused by developments. However, a Project's indirect impacts on parts of the physical environment that are not school facilities, but that result from increased demand for schools, are not excused from being considered and mitigated. (*Chawanakee Unified Sch. Dist. v. Cty. of Madera* (2011) 196 Cal.App.4th 1016, 1028, as modified on denial of reh'g (July 19, 2011)). Such indirect impacts include impacts on traffic and VMT from new students residing in the residential portions of the Project taking trips to and from school, and any impacts on the surrounding environment from school-related construction to expand existing facilities or develop new facilities. Per the Initial Study, existing public schools in Marina have capacity for only 500 additional students above current enrollment, meaning that full buildout of the DVSP will require expansion of existing schools, construction of new schools, or for students to travel outside of Marina for schooling.

The Project must undergo further evaluation and analysis to determine the indirect effects of the Project exceeding existing Marina public school capacity, including potential effects from additional construction and new or increased VMT.

13. Recreation

As the Initial Study notes, the DVSP does not specify new park sites within the Plan Area. (Initial Study at p. 147). However, the Initial Study fails to account for the effect of the Project on existing parks, or the effects of construction of the known amount of acreage of new parks needed to satisfy City standards. The City of Marina General Plan establishes a standard of 5.3 acres of City park and recreation land for every 1,000 residents, while the Marina Parks and Recreation Master Plan identifies an even higher standard of 10 acres per 1,000 residents. (Initial Study at p. 149). Currently, the existing ratio is 5.3 acres per 1,000 residents. (*Id.*). The current population of Marina is estimated to be 22,535 people, and full buildout of the DVSP projects adding 7,957 new residents. In order to maintain the 5.3 acres per 1,000 residents ratio, the City would need to construct an additional 42 acres of parks. In order to meet the goals of the Marina Parks and Recreation Master Plan, the City would need to construct an additional 185 acres.

The DVSP should include specific provisions for the construction of parks and green spaces in order to adequately serve the Project's new residents. The environmental review of the Project should also study the potential effects of new park construction on the surrounding environment. If the DVSP proceeds without such provisions, then the effect of an increase of nearly 8,000 residents on the City's already strained public park system must be analyzed.

14. Tribal Cultural Resources

As noted above, an EIR must identify and describe the significant indirect environmental impacts that will result from the project. (Guidelines, §15126.2(a)). A CEQA analysis must "take account of the whole action involved, including *off-site* as well as on-site, cumulative as well as

project-level, indirect as well as direct, and construction as well as operational impacts.” (Guidelines, Appendix G, emphasis added). Here, the Initial study analyzes potential impacts within the Specific Plan Area, but it does not mention potential impacts to sensitive resources in off-site areas. The EIR should carefully analyze and mitigate potential indirect Project effects that could disturb tribal cultural resources at off-site locations.

15. Utilities & Service

The Initial Study states that “[t]he project could result in potentially significant impacts related to water supply.” (Initial Study at p. 156). The Initial Study then states that such impacts will be studied in the EIR, but no further information is provided. (*Id.*). It is crucial that the EIR provide a complete and thorough analysis of all potential direct, indirect, and cumulative demands on water supplies, including demands from related projects that share the same groundwater basin and other municipal water sources. It is also crucial for this analysis to evaluate all future development that is contemplated as part of the Specific Area Plan buildout. (See *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 441). A similar cumulative demand analysis is required for other utilities, including wastewater and electricity.

16. Wildfire

As noted above, CEQA requires that initial studies and EIRs provide accurate and complete information pertaining to the setting of the Project and surrounding area. (*San Joaquin Raptor/Wildlife Center, supra*, 27 Cal.App.4th at pp. 728-29). Here, the Initial Study provides an incomplete and inadequate description of the history of wildfire hazards in the vicinity of the Specific Plan Area, and the initial study fails to discuss how the effects of climate change may exacerbate such risks. (See Initial Study at p. 160). Multiple urbanized areas within the State of California have been decimated by wildfires in the past few years, demonstrating that an “urban character” does not exempt a community from risk. Here, the DVSP planning area is located adjacent to significant open space, potentially heightening risks.

Without key contextual information regarding wildfires and associated risks, it is impossible to meaningfully assess the full extent of potential environmental impacts.

* * *

The City, in proposing the DVSP, is contemplating a massive change to the community — 8,000 new residents, more than 3,000 new employees, and associated construction to accommodate these new community members. Sierra Pacific Properties Inc. has been a member of the Marina community for years and appreciates the City’s commitment to innovation. As a member of the business community, however, our client has concerns about the DVSP’s environmental impacts on its tenants and their customers, and concerns that the grandiosity of the DVSP does not account for economic realities facing the downtown commercial sector. To this end, we have concerns that the commercial land use provisions of the DVSP might rest on assumptions and determinations located in economic studies that are many years out of date. Sierra Pacific Properties Inc. welcomes further discussion on these issues.

City of Marina
June 25, 2021
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Thank you again for the opportunity to provide these comments. If you have any questions or would like to arrange a meeting with our client team, please do not hesitate to contact our office.

Very truly yours,

A handwritten signature in black ink, appearing to read "Niran Somasundaram".

Niran S. Somasundaram
Attorney

A handwritten signature in blue ink, appearing to read "Ellis Raskin".

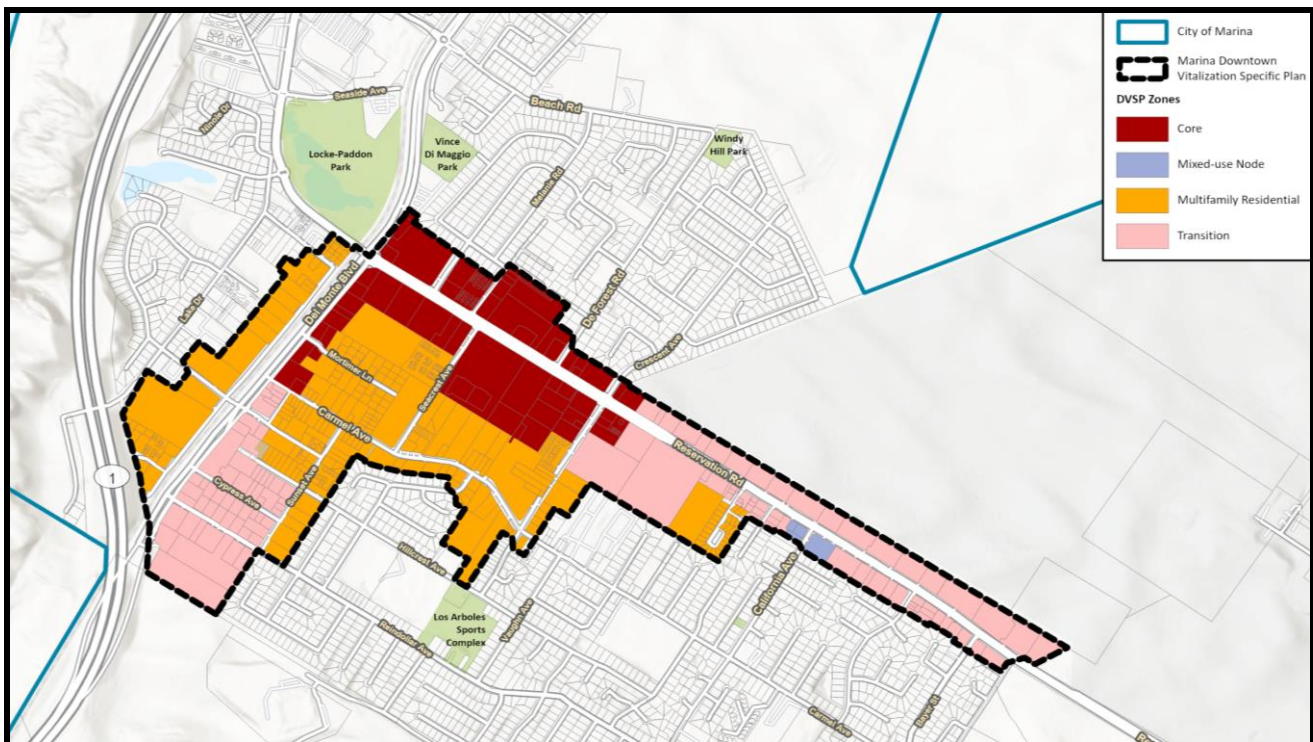
Ellis F. Raskin
Attorney

CC: Sean Marciniak, Hanson Bridgett LLP
Client

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of October 15, 2024

CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2024-, CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (FEIR), AND ADOPT THE MITIGATION MONITORING PROGRAM (MMRP), FINDINGS OF FACT, AND STATEMENT OF OVERRIDING CONSIDERATIONS, APPROVE THE DOWNTOWN SPECIFIC PLAN, ADOPT GENERAL PLAN AMENDMENTS (GPA 24-003) TO THE 2000 MARINA GENERAL PLAN TO IMPLEMENT THE DOWNTOWN SPECIFIC PLAN, ADOPT ZONING TEXT AMENDMENTS TO THE MARINA MUNICIPAL CODE TO IMPLEMENT THE DOWNTOWN SPECIFIC PLAN. AMEND THE MARINA ZONING MAP TO INCORPORATE BY REFERENCE THE ZONING STANDARDS IDENTIFIED AS APPENDIX A (DEVELOPMENT CODE) TO THE DOWNTOWN SPECIFIC PLAN AND RESCIND CITY COUNCIL RESOLUTION 2008-111



RECOMMENDATION: It is recommended that the City Council consider:

1. Certify the Final Environmental Impact Report (FEIR), and adopt the mitigation monitoring program (MMRP), findings of fact, and statement of overriding considerations.
2. Approve the Downtown Specific Plan, incorporating the revisions recommended by the Planning Commission in its September 12, 2024 resolution.

3. Adopt General Plan Amendments (GPA 24-003) to the 2000 Marina General Plan to implement the Downtown Specific Plan.
4. Adopt zoning text amendments to the Marina Municipal Code to implement the Downtown Specific Plan.
5. Amend the Marina Zoning Map to incorporate by reference the zoning standards identified as Appendix A (Development Code) to the Downtown Specific Plan.
6. Rescind City Council Motion 2008-111 regarding the preparation of a specific plan for individual projects in the downtown area.

BACKGROUND

Below is a brief summary of documents and the project history that relate to the community's desire for a vibrant downtown area:

- 1978-first General Plan encouraged a downtown
- 1982-updated General Plan encouraged more commercial space in Marina
- 1986-establishment of the Redevelopment Agency with a focus on a downtown area
- 1994-Fort Ord closed. Marina loses 21% of its population, negatively impacting the downtown area.
- 1998- A "retail leakage" report recommends a need for a downtown and more commercial development.
- 2001-Council identifies revitalization of the commercial core as a key priority
- 2005-Downtown Vision and Design Guidelines adopted.
- 2006-traffic study prepared for the downtown area, which discusses reducing Del Monte Blvd down to two lanes
- 2011-Draft Downtown Plan presented to the City Council
- 2018-2019-Development of a Downtown Specific Plan. Several community meetings occur in this time frame (15 Ad Hoc Meetings; 6-PC Hearings; 2 DRC meetings; 2 Council meetings)
- 2021-Present-City holds six public hearings about the draft plan; 3,600 postcards sent out by city staff; multiple check in meetings with the Chamber of Commerce, Marina Foundation and interested parties.

Specific Plans

A Specific Plan is a planning tool that local governments can use to implement their General Plan and to guide development in a localized area. While the General Plan is the overall guide for growth and development in a community, the goal of a Specific Plan is to focus on the unique characteristics of a special area by customizing the planning process and land use regulations to that area. The authority for preparation and adoption of specific plans is set forth in the California Government Code, Sections 65450 through 65457. The law allows adoption of Specific Plans as may be required for the implementation of the General Plan. A Specific Plan is intended to be a tool for developers, property owners, City staff and decision makers by providing strong and clear policies, development standards, and a vision that guides land use decisions, infrastructure improvements, design, and economic development activities in the project area.

Specific Plan Process

The City Council, upon recommendation of the Planning Commission, shall be the final hearing body for Specific Plans. The Planning Commission shall prepare its recommendation, and the Council shall render its decision in accordance with Section 1.20 of the 2000 Marina General Plan and pursuant to Sections 65358 of the Government Code.

Specific Goals of the Downtown Plan

The Downtown Specific Plan builds on the goals and objectives established in the City of Marina General Plan and the relevant standards and regulations from the City's Municipal Code. The DSP also implements elements of the City's Downtown Vision, Downtown Design Standards and Guidelines, and Pedestrian and Bicycle Master Plan. At full buildout, the plan will allow for the development of 1.3 million square feet of new office and retail space while also providing enhanced density with another 2,904 residential units being built. More importantly, the plan will help spur economic development in the urban core of Marina. The objectives of the DSP are set forth as follows:

Land Use and Development-A community with a safe, walkable, and vibrant downtown, that attracts diverse business opportunities, encourages appropriate mixed uses, and integrates adjoining neighborhoods, parks, and trails.

Community Identity-A Downtown that supports innovation in design and employs environmentally responsible building practices, net-zero building principles, and is designed to create more comfortable, environmentally responsible, energy efficient, and healthier indoor and outdoor environments.

Cultural Diversity-A Downtown where people of all incomes, ages, abilities, races, and cultures feel like they belong.

Housing Affordability-A variety of affordable, high-quality and high-performance housing options for people to live in Downtown.

Environmental Responsibility and Sustainability-A Downtown that supports innovation in design and employs high-performance building technology, net zero-energy and net zero carbon principles, and is designed to create more comfortable, environmentally responsible, energy efficient, and healthy indoor and outdoor environments.

Economic Vitality-An environment that attracts and sustains economic activity through innovation, business, and social opportunities.

Mobility-A Downtown with safe and efficient pedestrian and vehicular circulation that encourages people to gather, walk, cycle, or use public transportation.

Public Facilities and Infrastructure-Ensure that adequate public services and public utilities are provided for future development, and enhance the Downtown by planning for future public facilities

Downtown Specific Plan Document

The Downtown Specific Plan is divided into seven (7) chapters with appendices:

Chapter 1 Introduction contains project background, a review of community engagement efforts, and considers opportunities and constraints present in the Downtown.

Chapter 2 Setting and Existing Conditions contains an overview of background conditions such as Marina's history, regional context, economic context, existing land use, and existing transportation network and facilities.

Chapter 3 Downtown Vision puts forth a desired vision of Downtown Marina (Downtown) that will result with the implementation of the Specific Plan and enumerates the Specific Plan's main goals.

Chapter 4 Land Use describes land use goals, policies, and implementation measures to guide future development within the Downtown. The mixed-use portions of the area are divided into “core” and “transitional” areas, with the core being more urban in design and transitional moving towards suburban. The land use districts identified in this plan are intended to function as implementing zoning in accordance with Appendix A (Development Code).

Chapter 5 Mobility describes the circulation and parking goals, policies, and development standards to help implement the vision for Downtown Marina. This chapter also establishes the basis for the plan’s proposed multimodal circulation system that integrates an interconnected network of vehicular, pedestrian, and bicycle traffic.

Chapter 6 Public Facilities and Infrastructure includes policies for the planned distribution, location, extent, and improvement of water, sewer, and storm drainage infrastructure and solid waste disposal facilities.

Chapter 7 Implementation provides a framework to successfully implement the Plan and ensure its objectives are integrated effectively with the goals of existing documents, including the City’s General Plan and Municipal Code.

The Downtown Specific Plan (DSP) also relies on **Appendix A (Development Code)** and **Appendix B (Design Guidelines)** to guide buildout of the community.

Community Outreach

The Specific Plan process presented a unique and important opportunity for community members to participate and share their ideas to guide Downtown’s future. A primary objective of the Plan was to accurately reflect community aspirations. The city highly prioritized having a community engagement process that was structured to provide multiple opportunities and avenues for engagement, and to increase inclusion and participation in sharing input about potential Plan recommendations. This Plan has been developed with extensive input from a broad range of stakeholders which included residents, business owners, workers, property owners, Caltrans, and representatives of community organizations and associations.

In more recent years, city staff have tabled at Farmers Market, held focused group meetings with business owners, members of Downtown faith-based organizations, the Korean Business Association, and the Asian Community of Marina (ACOM). Additionally, within the past 18 months over 2,000 postcards have been sent to all property owners about the plan. Detailed descriptions of each meeting can be found in Section 1.2.1 of the Downtown Specific Plan which provides information about meeting format, location, content, and purpose. In summary, the engagement process included the following activities and events:

- Project information webpage
- Stakeholder meetings (30)
- Ad Hoc Committee (15)
- Design Review Board (2)
- Pop up events (8)
- Planning Commission study session and City Council briefings (14)

General Plan Amendments and Consistency

The provisions of the General Plan and the General Plan land use diagram may be amended by the Council by resolution and according to procedures established in Section 1.20 of the 2000 Marina General Plan and pursuant to Section 65358 of the Government Code, whenever the public necessity, the general community welfare, and good zoning practices permit such

amendment to implement the Downtown Specific Plan. The specific General Plan Amendments to implement the Downtown Specific Plan are included as **Exhibit A** but include the following:

- Removing the requirement that a specific plan be prepared and approved for discretionary development approvals on every property in the Downtown prior to adoption of the Specific Plan (General Plan Policy 2.63.51, 2.41.6 and City Council Resolution 2008-111)
- Modifying General Plan language to require that the new Downtown Specific Plan parking standards will apply (General Plan Policy 3.38.5)

Zoning Text and Map Amendments

Pursuant to Marina Municipal Chapter 17.72, the Zoning Code will be amended to implement the Downtown Specific Plan. A new chapter of the Municipal Code will be added (Chapter 17.37) to codify the Specific Plan's zoning standards. See **Exhibit G (Enabling Ordinance)** for the specific zoning text amendments. Additionally, the Zoning Map will be modified to incorporate by reference the zoning standards identified as **Appendix A (Development Code)** to the Downtown Specific Plan.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Draft EIR (DEIR)

A Draft Environmental Impact Report ("EIR") was prepared for the Downtown Specific Plan (DSP) ("Project") in accordance with the California Environmental Quality Act (CEQA). The Draft EIR was made available for public review and comment from April 9, 2024 to May 24, 2024. Hardcopies of the Draft EIR were available for public review at the Community Development Department and the Public Library.

Final EIR (FEIR)

The Final EIR provides a list of the federal, state, regional and/or local agencies along with private organizations and individuals that commented on the Draft EIR¹. A few minor changes were made in response to the comments received from commentors. This has been identified in the Final EIR with strikethroughs for deletions. These revisions are not considered significant new information that would trigger Draft EIR recirculation pursuant to section 15088.5 of the State CEQA Guidelines. For example, they do not disclose a new or substantially worsened significant environmental impact, or a new feasible mitigation measure or alternative not previously proposed for adoption. A Resolution recommending consideration by the City Council to certify the Final EIR includes the required findings, in accordance with Public Resources Code section 21081 and CEQA Guidelines section 15091. The Findings adopt feasible mitigation measures to reduce the significant environmental impacts of the Project. A Mitigation Monitoring and Reporting Program (MMRP) for the Project would be adopted as part of the certification of the Final EIR. The purpose of the MMRP is to ensure the mitigation measures adopted in the Findings for the Project are implemented, in accordance with CEQA requirements.²

Statement of Overriding Consideration

Some of the environmental impacts do have mitigation measures which would reduce impacts but not to a level of insignificance (see, e.g., Air Quality Impact AQ-1 and Transportation Impact T-2). When an agency approves a project with significant and unavoidable environmental effects, it

¹ See **Exhibit D (Final EIR)**.

² The MMRP provides a summary of the environmental issues evaluated in the EIR, the identified environmental impacts, proposed mitigation measures, and residual impacts (i.e., the impact after application of mitigation, if required). See **Exhibit E** for the Mitigation and Monitoring Program (MMRP).

must prepare a written Statement of Overriding Considerations that sets forth the specific social, economic, or other reasons supporting the agency's decision and explains why the project's benefits outweigh the significant environmental effects. CEQA Guidelines § 15093. The Statement of Overriding Consideration is included as **Exhibit B (Findings of Fact)** to this staff report.

Council and Commission Considerations

On October 26, 2023, a Notice of Preparation (NOP) study session occurred with the Planning Commission. On November 7, 2023, an additional study session occurred to update the Council on the staff work on the draft plan. City staff has compiled a list of approximately 120 comments received during this timeframe. **Exhibit F (Consolidated Downtown Plan Comments)** has been inserted to give assurance to the members of the Commission, Council and public that these comments were inserted into the Downtown Specific Plan.

Planning Commission Deliberation

On September 12, 2024 the Planning Commission voted 7-0 to recommend approval of the Downtown Specific Plan. After publication of the Planning Commission staff report a few minor edits were suggested to the nonconforming section of the Specific Plan (Section 7.6.2) by Sierra Pacific Properties, owners of the Luckys and Chase bank commercial property. The proposed edits clarify Section 7.6.2 (nonconforming), remove duplicative language, and are consistent with staff's recommendations regarding nonconforming uses in the DVSP. The proposed edits were supported by the Planning Commission. The Commission also recommended that outdoor car sales be prohibited moving forward in the Core District. The proposed edits are incorporated by reference and included in Exhibit A (City Council Resolution) to this staff report.

Community Comments

After production of the Planning Commission report but prior to the meeting, project comment letters were received from members of the public (see **Exhibit H**) for more details.

IMPLEMENTATION

Over the course of the next 18-24 months a few key projects will break ground to implement the Downtown Specific Plan, including but not limited to:

- *Del Monte Road Diet*-If awarded the ATP funds, a "road diet" of Del Monte Blvd with roundabouts and traffic calming devices will be installed.
- *Del Monte/Reservation Road Intersection*-On September 4, 2024, the Council received a presentation on the proposed improvements to the Del Monte/Reservation Road Intersection. Construction of this project is expected to start in the Spring of 2025.
- *Special Event Ordinance*-city staff will be working on a Special Event Permit Ordinance to identify ways to activate the Downtown Core.

FISCAL IMPACT

With the certification of the Sixth Cycle Housing Element, and the adoption of the Downtown Specific Plan, a series of grant opportunities would become available to implement the Plan.

- *Active Transportation Program (ATP) Funds* – In June of 2024 the City filed for an eleven (11) million dollar ATP grant to implement the "road diet" along Del Monte and to make the potential downtown area look and feel more like an active urban core with enhanced medians and wider sidewalks. The City will be informed if the grant application was approved in January 2025.

- *Pro Housing Designation* –on August 9, 2024, the City filed with HCD to receive the Pro Housing Designation. If this designation is granted by the State, additional infrastructure grants can be awarded to implement the Downtown Specific Plan. If the Pro Housing Designation is received, the City is eligible for enhanced points from the Affordable Housing and Sustainable Communities (AHSC) Program. This program could be used to help with the production of affordable housing units within the Marina Station Project.
- *Infill and Infrastructure Grant*- The objective of the IIG program is to promote infill housing development by providing financial assistance for Capital Improvement Projects that are an integral part of, or necessary to facilitate the development of affordable and mixed income housing. City of Santa Cruz staff have indicated that they received a 20-million-dollar IIG grant to revitalize their downtown area.

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City of Marina

REVIEWED BY:

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City Manager
City of Marina

Exhibit A-Draft City Council Resolution
Exhibit B-Findings of Fact
Exhibit C-Downtown Specific Plan
Exhibit D-Final EIR
Exhibit E-Mitigation Monitoring Program
Exhibit F-Consolidated Downtown Specific Plan Comments
Exhibit G-Zoning Text Amendment to Implement the Downtown Specific Plan Designations
Exhibit H-Comment Letters