

RESOLUTION NO. 2024-122

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
APPROVING THE PHASE 3 NORTH/RESIDENTIAL FINAL MAP FOR THE
DUNES ON MONTEREY BAY DEVELOPMENT PROJECT SUBDIVISION
(FORMERLY UNIVERSITY VILLAGE), AND AUTHORIZING THE CITY
CLERK TO EXECUTE THE FINAL MAP ON BEHALF OF CITY SUBJECT
TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

WHEREAS, at the regularly scheduled meeting of May 31, 2005, the City Council adopted Resolution No. 2005-127, certifying the Final Environmental Impact Report for the University Village Development Project, and;

WHEREAS, at the regularly scheduled meeting of May 31, 2005, the City Council adopted Resolution No. 2005-128, approving the General Plan Amendments, Resolution No. 2005-130, for the Specific Plan, Resolution No. 2005-131, for the Tentative Map and Resolution No. 2005-132, Design Review for the regional retail, the Village Promenade, and all residential phases for the former University Village Development Project, and;

WHEREAS, at the regularly scheduled meeting, including December 17, 2019, the City Council adopted Resolution No. 2019-140, approving an Operating Agreement as an administrative amendment of the Development Agreement clarifying and modifying certain project approvals for Specific Plan for The Dunes on Monterey Bay including to the Conforming Clarifications to the Schedule of Performance, and;

WHEREAS, at the regularly scheduled meeting of October 6, 2022, the City Council adopted Resolution No. 2022-119, approving an amendment to Tentative Subdivision Map originally approved in 2005 creating 255 residential lots, open space and roadways in Phase 3 Residential, and;

WHEREAS, Shea Homes Limited Partnership (“Developer”) has submitted the Phase 3 North/Residential Final Map to the City for review and approval with 129 residential lots. Staff has reviewed the improvement plans for construction and approved the plans on October 22, 2024. It has been determined that the Tentative Map Conditions of Approval as amended have been met. The Community Development Director and Public Works Director will sign off on the Final Map in accordance with their respective findings, and;

WHEREAS, the Developer has also submitted a Public Improvement Agreement and will provide labor and materials and faithful performance bonds required for the recordation of the Final Map. The Agreement is on this Agenda as a separate item for consideration of approval, and;

WHEREAS, a review of water supply availability to serve Phase 3 North/Residential also been provided by Bowman Consulting Group (dated September 27, 2024) (“**EXHIBIT B**”) pursuant to Section II A of the University Villages Settlement Agreement with Save Our Peninsula Committee. The required finding is made in the draft Resolution, and;

WHEREAS, all required future phased final maps must meet all the appropriate conditions of approval and will be presented to the City Council for consideration at a future date, and;

WHEREAS, should the City Council approve this request, the City requires the developer to provide satisfactory evidence of their ability to complete the public improvements by the posting of labor and material and faithful performance subdivision improvement bonds in an amount of 100% of the City Engineer's estimate of the cost to perform the work, and;

WHEREAS, the approval and recordation of the Phase 3 North Final Map was generally anticipated and analyzed in the Environmental Impact Report (EIR) prepared for the project and certified by the City Council through its adoption of Council Resolution No. 2005-127 on May 31, 2005 (SCH # 2004091167).

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby approve the Phase 3 North/Residential Final Map for The Dunes on Monterey Bay Development Project Subdivision (“**EXHIBIT A**”), and authorizing the City Clerk to execute the Final Map on behalf of City subject to final review and approval by the City Attorney based on the following finding:

Findings:

1. Based on substantial evidence in the record, sufficient water supplies from water allocations that have been made or may be made by the City will be available for development encompassed by this Final Map.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting held on the 6th day of November 2024, by the following vote:

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

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce Delgado, Mayor

ATTEST:

Anita Sharp, City Clerk

OWNER'S STATEMENT

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN UPON THIS MAP, AND WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID PROPERTY, AND WE CONSENT TO PREPARATION AND RECORDATION OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE SUBDIVISION BOUNDARY LINES.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED IN FEE FOR PUBLIC PURPOSES:

- FOR ROAD AND UTILITY PURPOSES, THOSE PORTIONS OF LAND DESIGNATED HEREON AS 1ST AVENUE, BAYSIDE AVENUE, CATAMARAN AVENUE, DIVARTY STREET, HORIZON DRIVE, MOLLUSK CIRCLE, OCEAN BLUFF AVENUE, OSPREY AVENUE, OUTRIGGER CIRCLE, PLANK STREET, SAND DUNE AVENUE, AND SANDERLING AVENUE WITHIN THE SUBDIVISION. THIS OFFER OF DEDICATION TO THE CITY OF MARINA IS IRREVOCABLE; SUBJECT TO THE RESERVATION OF THE RIGHT TO MAINTAIN LANDSCAPING, IRRIGATION AND STORM DRAIN WITHIN SAID STREETS.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES:

- PUBLIC UTILITY EASEMENTS (PUE), WHERE DESIGNATED WITHIN THE SUBDIVISION SHOWN ON THIS MAP FOR THE CONSTRUCTION, MAINTENANCE, USE, REPLACEMENT, IMPROVEMENT, AND OPERATION OF, SANITARY SEWERS, STORM DRAINS AND WATER PIPELINES, GAS AND ELECTRICITY TRANSMISSION LINES, AND TELEPHONE LINES, AND ALL THE NECESSARY APPURTENANCES THERETO, TOGETHER WITH THE RIGHT OF INGRESS TO AND EGRESS FROM SAID EASEMENT.
- FOR INGRESS AND EGRESS OF EMERGENCY VEHICLES (EMERGENCY VEHICLE ACCESS EASEMENT, OR EVAE), WITH THE SUBDIVISION, THE AREAS DESIGNATED HEREON AS PARCELS L3N.1 L3N.2 L3N.4 AND L3N.5.
- PUBLIC UTILITY EASEMENTS (PUE) OVER, UNDER, AND UPON THE PRIVATE STREET DESIGNATED HEREON AS PARCELS L3N.1 L3N.2 L3N.4 AND L3N.5, INCLUSIVE, FOR THE CONSTRUCTION, MAINTENANCE, USE AND OPERATION OF SANITARY SEWER, STORM DRAINS AND WATER PIPELINES, GAS AND ELECTRICITY TRANSMISSION LINES, AND TELEPHONE LINES, AND ALL THE NECESSARY APPURTENANCES THERETO, TOGETHER WITH THE RIGHT OF INGRESS TO AND EGRESS FROM SAID EASEMENT.
- STORM DRAIN EASEMENT (SDE) OVER, UNDER, AND ACROSS THE DESIGNATED AREAS AS SHOWN HEREON, FOR PUBLIC STORM DRAINAGE PURPOSES, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS FOR THE PURPOSES OF REPAIR, REPLACEMENT, AND MAINTENANCE OF STORM DRAINAGE FACILITIES. UNDERGROUND PIPING ARE TO BE MAINTAINED BY THE CITY OF MARINA. SAID AREAS OF LAND ARE TO BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES NOT SERVING THE PURPOSE OF THE EASEMENT.
- FOR PEDESTRIAN ACCESS PURPOSES, PUBLIC TRAIL EASEMENTS (TE), TO THE CITY OF MARINA, WITHIN THE SUBDIVISION, OVER OF PARCELS OS3N.3, OS3N.4 AND OS3N.7, AND AREAS WHERE DESIGNATED WITHIN THE SUBDIVISION SHOWN ON THIS MAP.

THE ABOVE PUBLIC USE EASEMENT DEDICATIONS SHALL INCLUDE REASONABLE RIGHT OF INGRESS AND EGRESS OVER ADJOINING LANDS WITHIN THIS SUBDIVISION.

THE AREA DESIGNATED AS PARCEL L3N.1, L3N.2, L3N.4 AND L3N.5, INCLUSIVE, IS A PRIVATE STREET RETAINED BY OWNER FOR FUTURE TRANSFER TO AN OWNERS ASSOCIATION, SUBJECT TO THE HEREINABOVE DEDICATION OF EASEMENTS FOR PUBLIC PURPOSES.

PARCELS OS-3N.1 OS-3N.2, OS-3N.3, OS-3N.4 OS-3N.5, OS-3N.6 AND OS-3N.7 ARE "RESERVED AS PRIVATE OPEN SPACE" AND ARE TO BE OWNED AND MAINTAINED BY THE OWNERS ASSOCIATION.

WE ALSO HEREBY RELINQUISH ANY AND ALL RIGHTS OF INGRESS AND EGRESS TO VEHICULAR TRAFFIC (ABUTTER'S RIGHTS) ACROSS THE LINES AS SHOWN ON HEREON MAP AND DEPICTED AS ++++++

SUBDIVIDER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, PLANNING COMMISSION, AGENTS, OFFICERS AND EMPLOYEES FROM ANY CLAIM, ACTION OR PROCEEDING AGAINST THE CITY OR ITS CITY COUNCIL, PLANNING COMMISSION, AGENTS, OFFICERS OR EMPLOYEES, TO ATTACK, SET ASIDE, VOID OR ANNUL AN APPROVAL OF THE CITY, ITS CITY COUNCIL, PLANNING COMMISSION, OR OTHER BOARD, ADVISORY AGENCY OR LEGISLATIVE BODY CONCERNING THIS SUBDIVISION. CITY WILL PROMPTLY NOTIFY THE SUBDIVIDER OF ANY CLAIM, ACTION OR PROCEEDING AGAINST IT AND WILL COOPERATE FULLY IN THE DEFENSE. THIS CONDITION IS IMPOSED PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 66474.9.

OWNER: MARINA COMMUNITY PARTNERS, LLC.
A DELAWARE LIMITED LIABILITY COMPANY

BY: LAYNE MARCEAU, AUTHORIZED AGENT

BY: DONALD A. HOFER, AUTHORIZED AGENT

OWNER'S ACKNOWLEDGEMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT TO THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF)
COUNTY OF)
ON)
BEFORE ME,) , NOTARY PUBLIC

PERSONALLY APPEARED) , WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND, AND OFFICIAL SEAL.

SIGNATURE _____
NOTARY PUBLIC'S NAME: _____
COUNTY OF BUSINESS: _____
COMMISSION EXPIRATION DATE: _____
COMMISSION NUMBER: _____

OWNER'S ACKNOWLEDGEMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT TO THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

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COUNTY OF)
ON)
BEFORE ME,) , NOTARY PUBLIC

PERSONALLY APPEARED) , WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND, AND OFFICIAL SEAL.

SIGNATURE _____
NOTARY PUBLIC'S NAME: _____
COUNTY OF BUSINESS: _____
COMMISSION EXPIRATION DATE: _____
COMMISSION NUMBER: _____

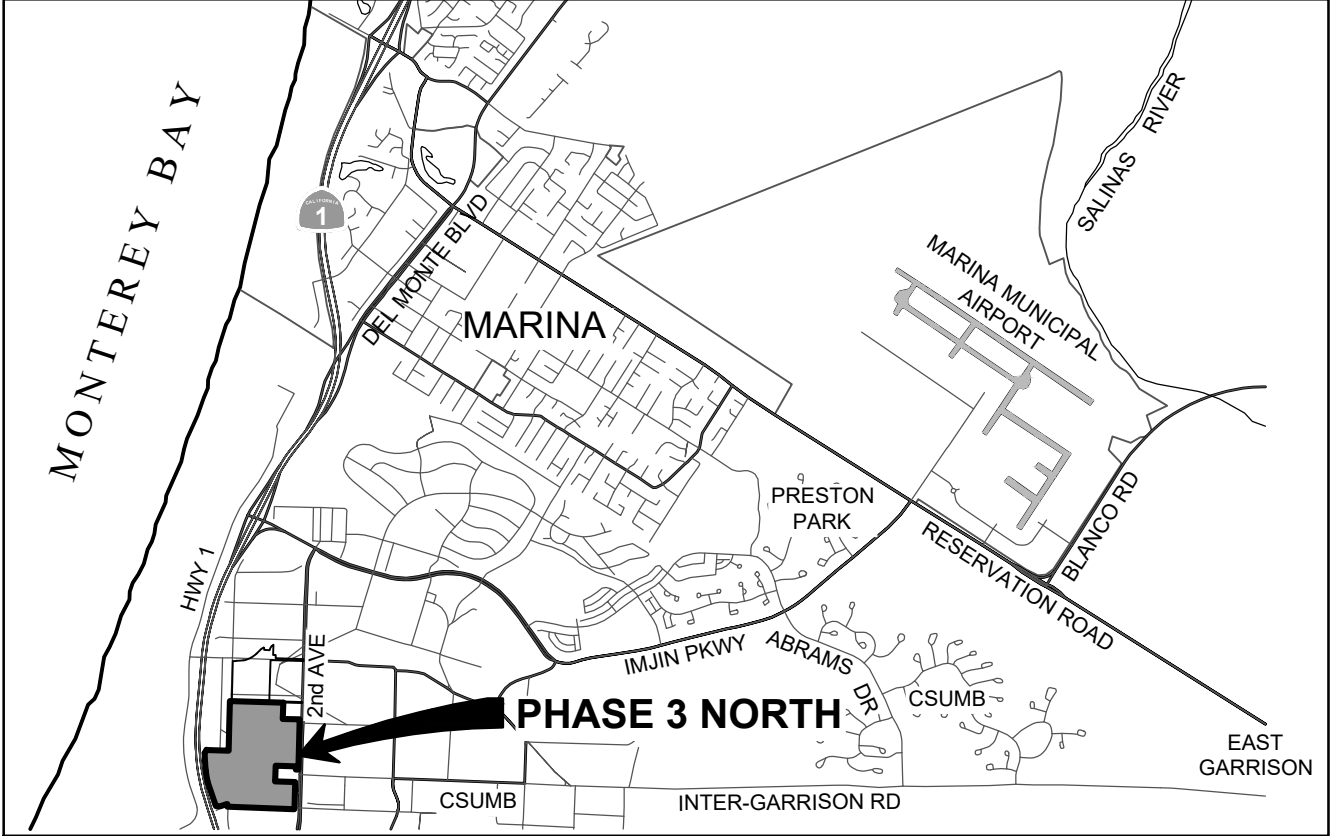
DEDICATION CERTIFICATE

THE CITY OF MARINA SHALL, AS REQUIRED BY CALIFORNIA GOVERNMENT CODE SECTION 66477.5 IN ITS PRESENT FORM OR AS IT MAY FROM TIME TO TIME BE AMENDED, RECONVEY THOSE PORTIONS OF LAND DESIGNATED HEREON AS 1ST AVENUE, BAYSIDE AVENUE, CATAMARAN AVENUE, DIVARTY STREET, HORIZON DRIVE, MOLLUSK CIRCLE, OCEAN BLUFF AVENUE, OSPREY AVENUE, OUTRIGGER CIRCLE, PLANK STREET, SAND DUNE AVENUE AND SANDERLING AVENUE WITHIN THE SUBDIVISION IN FEE FOR PUBLIC USE, TO THE SUBDIVIDER NAMED BELOW, THEIR SUCCESSORS, HEIRS OR ASSIGNEES, IF THE CITY COUNCIL OF THE CITY OF MARINA SHOULD DETERMINE THAT THE SAME PUBLIC PURPOSE FOR WHICH SAID PARCELS WERE DEDICATED NO LONGER EXISTS OR THAT SAID PARCELS OR ANY PORTION THEREOF IS NOT NEEDED FOR PUBLIC UTILITIES, EXCEPT FOR ALL OR ANY PORTIONS OF THE PROPERTY THAT IS STILL REQUIRED FOR THAT SAME PUBLIC PURPOSE OR FOR PUBLIC UTILITIES.

SUBDIVIDERS: MARINA COMMUNITY PARTNERS, LLC.
A DELAWARE LIMITED LIABILITY COMPANY
SHEA HOMES
4309 HACIENDA DRIVE, SUITE 180
PLEASANTON, CA 94588

VICINITY MAP

SCALE: 1" = 4000'



COUNTY RECORDER'S STATEMENT

FILED THIS ____ DAY OF _____ , 2024, AT ____ : ____ _M. IN VOLUME ____ OF CITIES AND TOWNS, AT PAGE ____ AT THE REQUEST OF CHICAGO TITLE COMPANY.

XOCHITL MARINA CAMACHO BY: _____
MONTEREY COUNTY CLERK-RECORDER
NAME: _____,DEPUTY

DOCUMENT NO.: _____ FEE:\$_____

TRACT NO. _____
THE DUNES ON MONTEREY BAY
PHASE 3 NORTH

A SUBDIVISION OF A PORTION OF LOT 20 & 21 AS SHOWN ON "TRACT No. 1472, "NORTH AND WEST MARINA VILLAGE", FILED IN VOLUME 23 CITIES & TOWNS, PAGE 36, OFFICIAL RECORDS OF MONTEREY COUNTY, CALIFORNIA AND CONTAINING 76.159 ACRES

PREPARED BY:
WHITSON ENGINEERS
6 HARRIS COURT, MONTEREY CALIFORNIA

SIGNATURE OMISSIONS

PURSUANT TO THE PROVISIONS OF SECTION 66436 OF THE SUBDIVISION MAP ACT THE FOLLOWING SIGNATURES HAVE BEEN OMITTED SINCE THEIR INTEREST CANNOT RIPEN INTO A FEE.

1. THE UNITED STATES OF AMERICA, HOLDER OF MINERAL RIGHTS AND RIGHT OF SURFACE ENTRY AS RESERVED IN THE QUITCLAIM DEED FROM THE UNITED STATES OF AMERICA TO THE FORT ORD REUSE AUTHORITY RECORDED MARCH 15, 2004, INSTRUMENT NO. 2004023330, OFFICIAL RECORDS OF MONTEREY COUNTY AND AMENDED AND RE-RECORDED JULY 9, 2004, INSTRUMENT NO. 2004072094, OFFICIAL RECORDS OF MONTEREY COUNTY.
2. PACIFIC GAS AND ELECTRIC, EASEMENT HOLDER UNDER DOCUMENT RECORDED APRIL 17, 1997 IN REEL 3506, PAGE 1533, OFFICIAL RECORDS OF MONTEREY COUNTY.
3. MARINA COAST WATER DISTRICT, HOLDER OF EASEMENTS AS ASSIGNED BY INSTRUMENT NO. 2001090793, OFFICIAL RECORDS OF MONTEREY COUNTY, RECORDED OCTOBER 26, 2001, AND RE-RECORDED NOVEMBER 7, 2001 AS INSTRUMENT NO. 2001094583, OFFICIAL RECORDS OF MONTEREY COUNTY.

SOILS REPORT STATEMENT

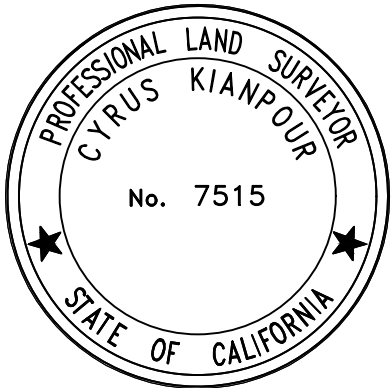
A SOILS REPORT DATED MARCH 23, 2020 PREPARED BY BERLOGAR STEVENS & ASSOCIATES HAS BEEN SPECIFICALLY PREPARED FOR THIS SUBDIVSION AND IS ON FILE WITH THE CITY OF MARINA'S PUBLIC WORKS DEPARTMENT.

CITY SURVEYOR'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND AM SATISFIED THAT IT IS TECHNICALLY CORRECT;

CYRUS KIANPOUR, PLS 7515
CITY SURVEYOR
CITY OF MARINA, CALIFORNIA

DATE: _____



CITY ENGINEER'S STATEMENT

I, NOURDIN KHAYATA, CITY ENGINEER OF THE CITY OF MARINA, HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND AM SATISFIED THAT IT IS TECHNICALLY CORRECT; THAT THE SUBDIVISION SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE APPROVED TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF, AND THAT ALL PROVISIONS OF THE CALIFORNIA "SUBDIVISION MAP ACT", AS AMENDED, AND THE CITY OF MARINA SUBDIVISION ORDINANCE, TITLE 16 OF THE MARINA MUNICIPAL CODE HAVE BEEN COMPLIED WITH.

NOURDIN KHAYATA, PE 52446
CITY ENGINEER
CITY OF MARINA, CALIFORNIA

DATE: _____



SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION IN DECEMBER 2023, AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF SHEA HOMES LIMITED PARTNERSHIP, A CALIFORNIA LIMITED PARTNERSHIP, IN MAY 2022. I HEREBY STATE THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR THAT THEY WILL BE SET IN THOSE POSITIONS ON OR BEFORE DECEMBER, 2025 AND THAT THE MONUMENTS WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

RICHARD P. WEBER
P.L.S. No. 8002

DATE: _____



PLANNING COMMISSION STATEMENT

I, GUIDO F. PERSICONE, COMMUNITY DEVELOPMENT DEPARTMENT DIRECTOR, CITY OF MARINA, HEREBY STATE THAT I HAVE EXAMINED THIS MAP; THAT THE SUBDIVISION SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATIONS THEREOF, AS APPROVED BY THE CITY COUNCIL OF THE CITY OF MARINA ON MAY 31, 2005, AND SUBSEQUENT AMENDMENTS APPROVED OCTOBER 6, 2022, THAT ALL THE PROVISIONS OF THE CALIFORNIA "SUBDIVISION MAP ACT", AS AMENDED, AND THE CITY OF MARINA SUBDIVISION ORDINANCE, TITLE 16 OF THE MARINA MUNICIPAL CODE, HAVE BEEN COMPLIED WITH.

GUIDO F. PERSICONE
COMMUNITY DEVELOPMENT DEPARTMENT DIRECTOR
CITY OF MARINA

CITY CLERK'S STATEMENT

I, ANITA SHEPHERD-SHARP, DEPUTY CITY CLERK OF THE CITY OF MARINA, HEREBY CERTIFY THAT THE CITY COUNCIL OF SAID CITY OF MARINA APPROVED THE HEREIN MAP ON _____, AND ACCEPTS ON BEHALF OF THE PUBLIC, IN FEE, SUBJECT TO IMPROVEMENTS, THOSE PORTIONS OF SAID LANDS DESIGNATED ON SAID MAP BY RESOLUTION NO. _____ AND ACCEPTS ON BEHALF OF THE PUBLIC ALL PARCELS OFFERED FOR DEDICATION, IN CONFORMITY WITH THE TERMS OF THE OFFER OF DEDICATION, AND ACCEPTS ALL PUBLIC EASEMENTS OFFERED FOR DEDICATION.

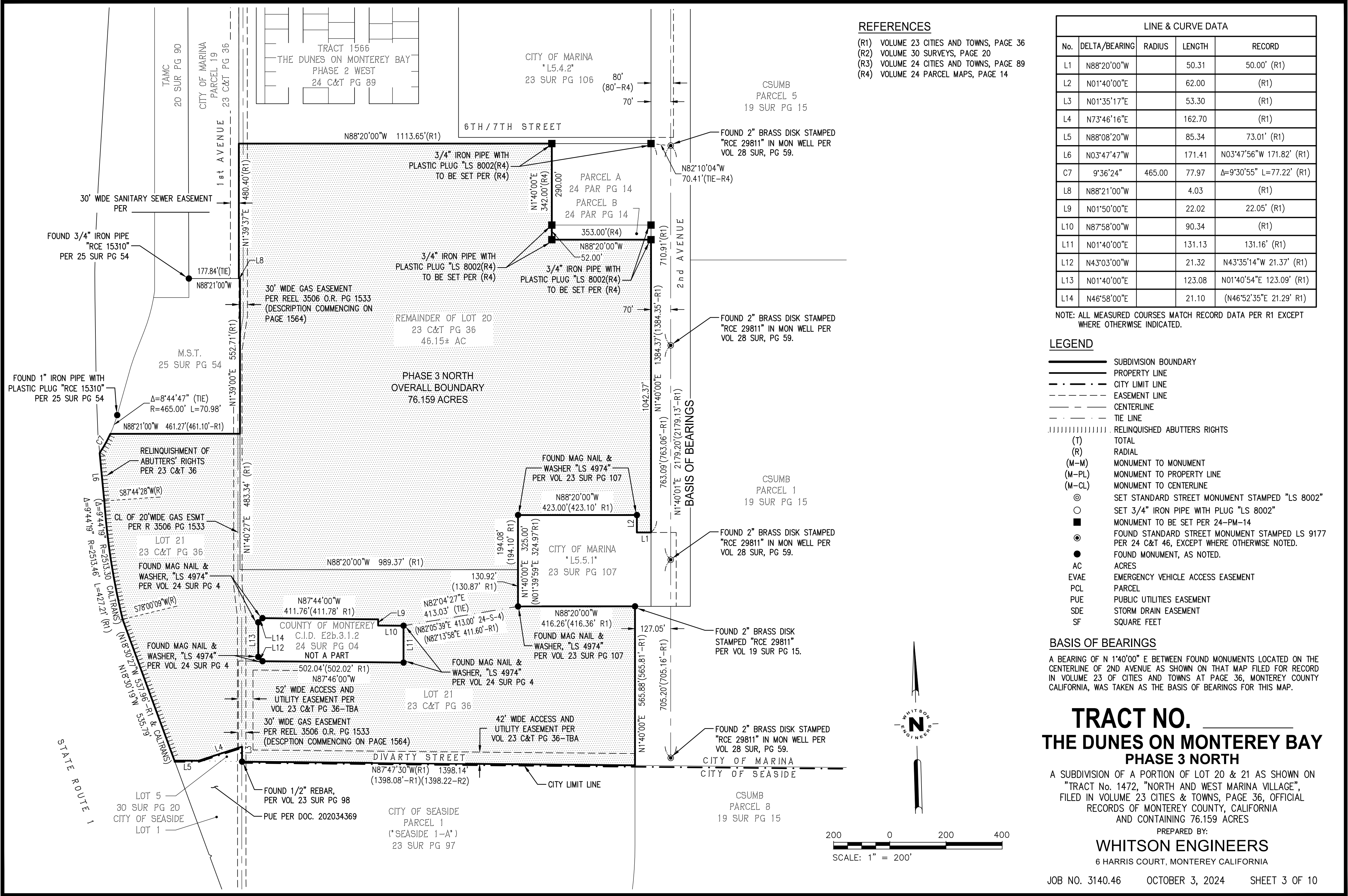
I FURTHER STATE THAT, IN ACCORDANCE WITH SECTION 66434(g) OF THE SUBDIVISION MAP ACT, THE FILING OF THIS MAP SHALL CONSTITUTE THE ABANDONMENT OF THE EASEMENT FOR ACCESS AND PUBLIC UTILITIES THAT WAS DEDICATED OVER LOT 21 BY THE MAP FILED IN VOLUME 23 OF CITIES AND TOWNS, PAGE 36, OFFICIAL RECORDS OF SAID COUNTY.

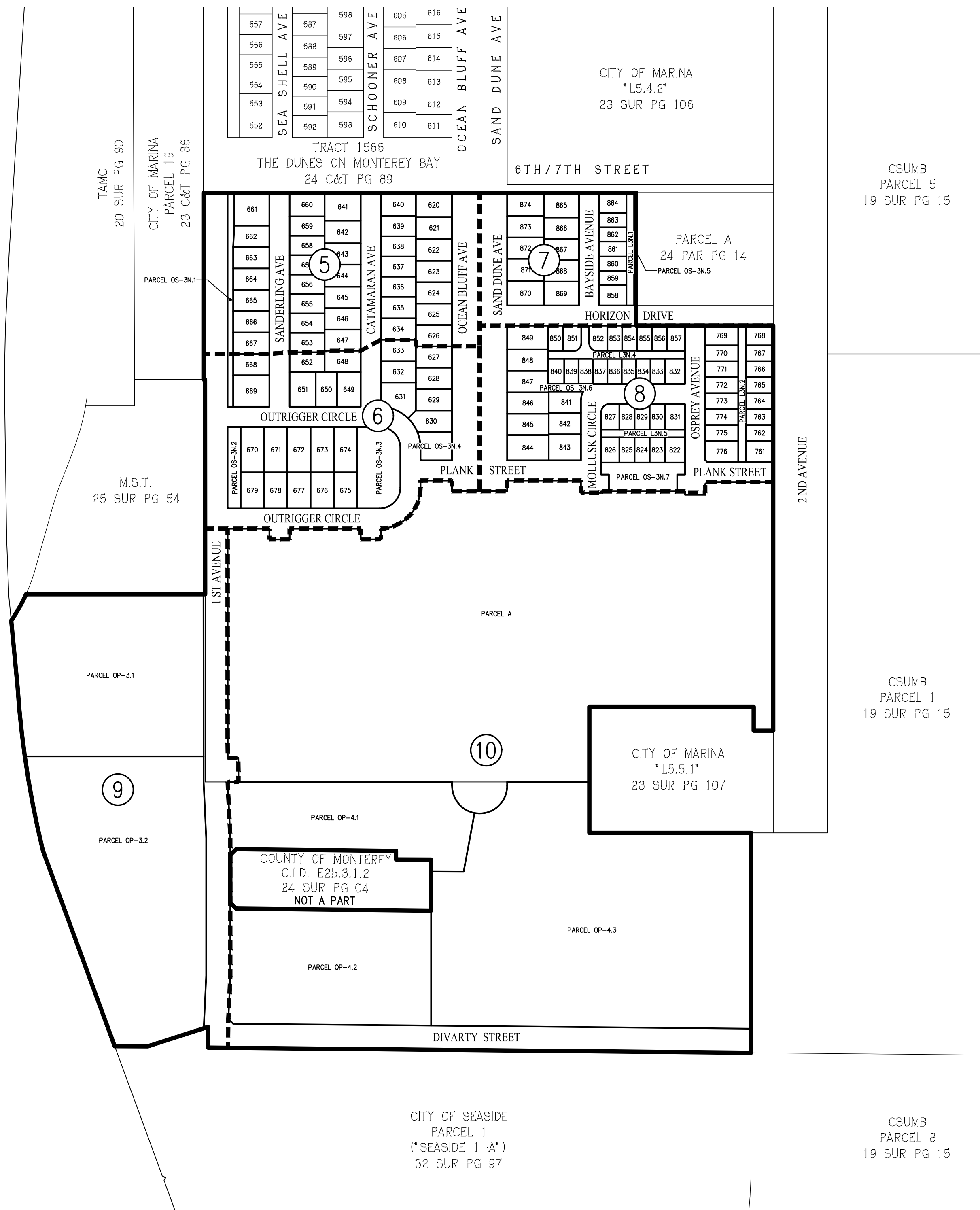
BY: ANITA SHEPHERD-SHARP
DEPUTY CITY CLERK OF MARINA

TRACT NO. _____
THE DUNES ON MONTEREY BAY
PHASE 3 NORTH

A SUBDIVISION OF A PORTION OF LOT 20 & 21 AS SHOWN ON "TRACT No. 1472, "NORTH AND WEST MARINA VILLAGE", FILED IN VOLUME 23 CITIES & TOWNS, PAGE 36, OFFICIAL RECORDS OF MONTEREY COUNTY, CALIFORNIA AND CONTAINING 76.159 ACRES

PREPARED BY:
WHITSON ENGINEERS
6 HARRIS COURT, MONTEREY CALIFORNIA





LEGEND

 SHEET BOUNDARY
 SHEET NUMBER

NOTES:

1. ALL FRONT LOT CORNERS ADJACENT TO A STREET SHALL BE REFERENCED WITH A BRASS TAG STAMPED "LS 8002" SET IN THE CONCRETE SIDEWALK, 1 FOOT INTO THE RIGHT-OF-WAY ALONG THE PROJECTED LOT SIDELINES.
2. ALL REAR LOT CORNERS ADJACENT TO A LANE SHALL BE REFERENCED WITH A CHISELED "-" IN THE LANE AT PROLONGATION OF THE LOT SIDELINE AND AN ARBITRARY DISTANCE FROM THE LOT CORNER IN THE CONCRETE CURB. FOR THIS MAP, LANES ARE REPRESENTED BY PARCELS L3N.1, L3N.2, L3N.4, AND L3N.5.



TRACT NO. _____
THE DUNES ON MONTEREY BAY
PHASE 3 NORTH

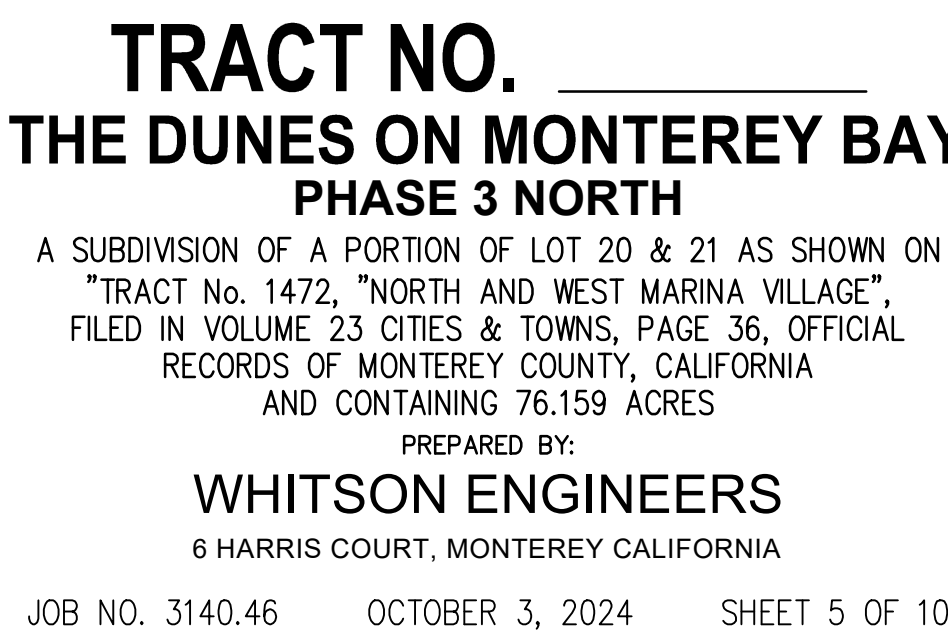
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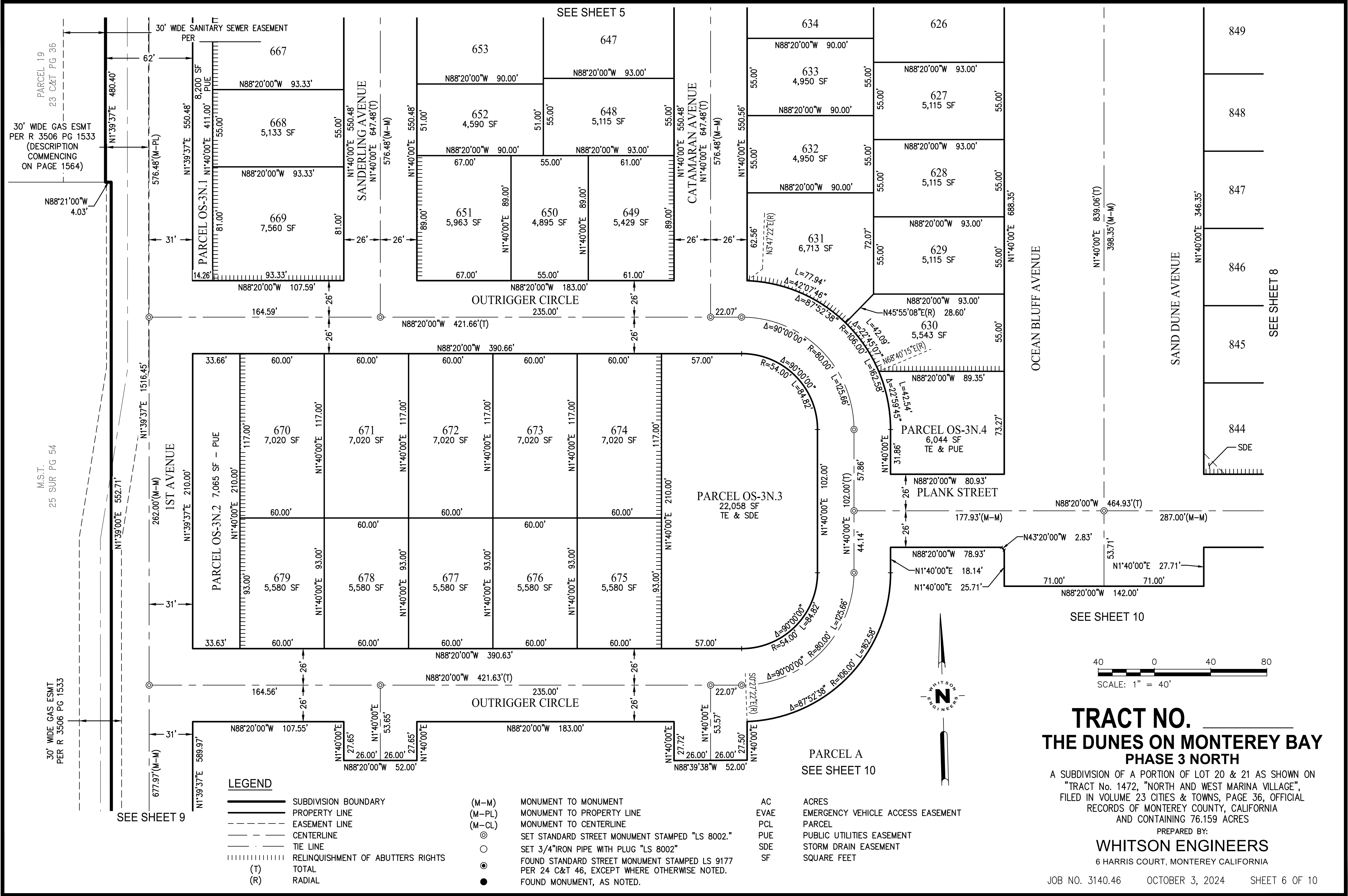
PREPARED BY:

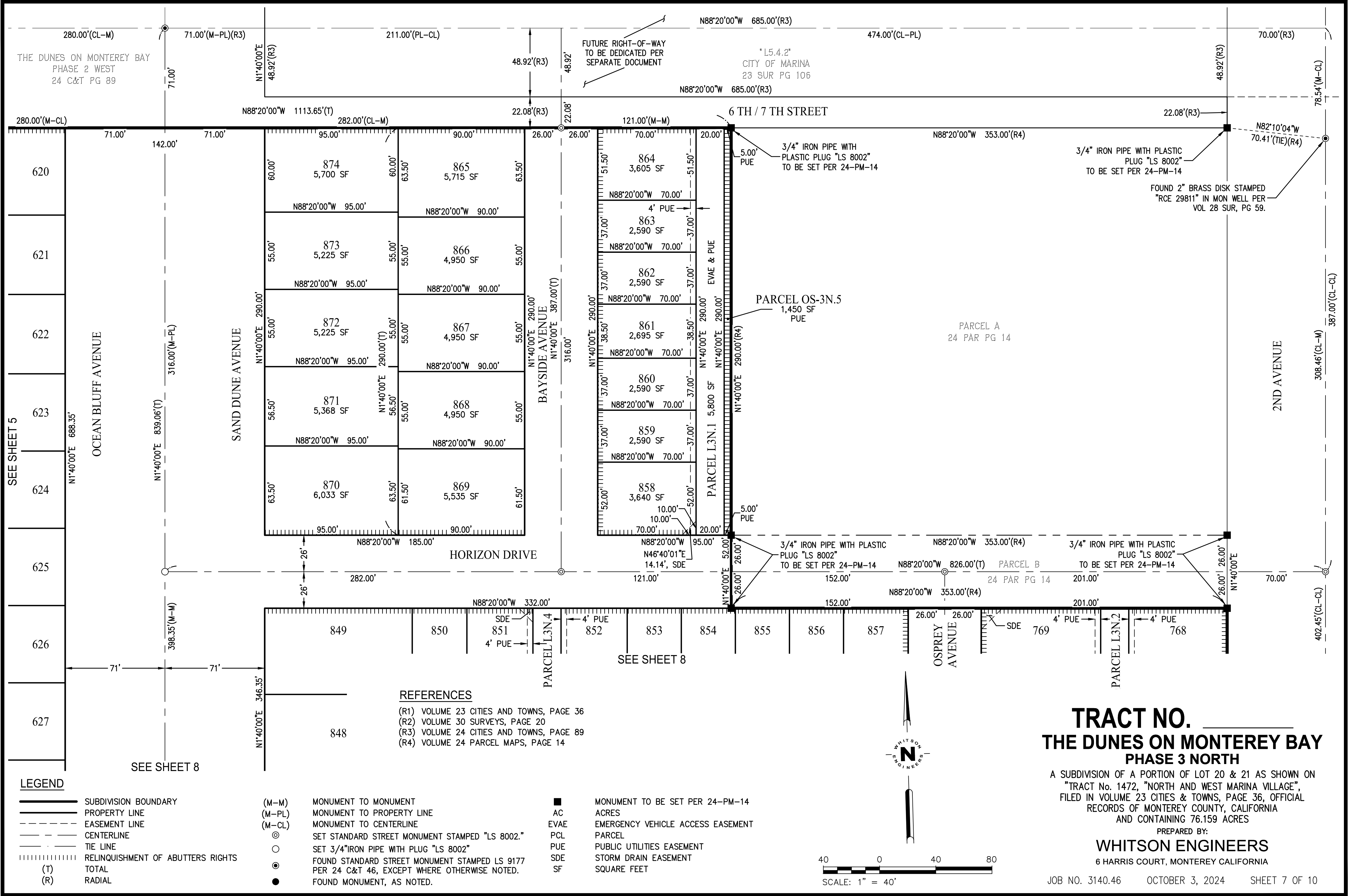
WHITSON ENGINEERS

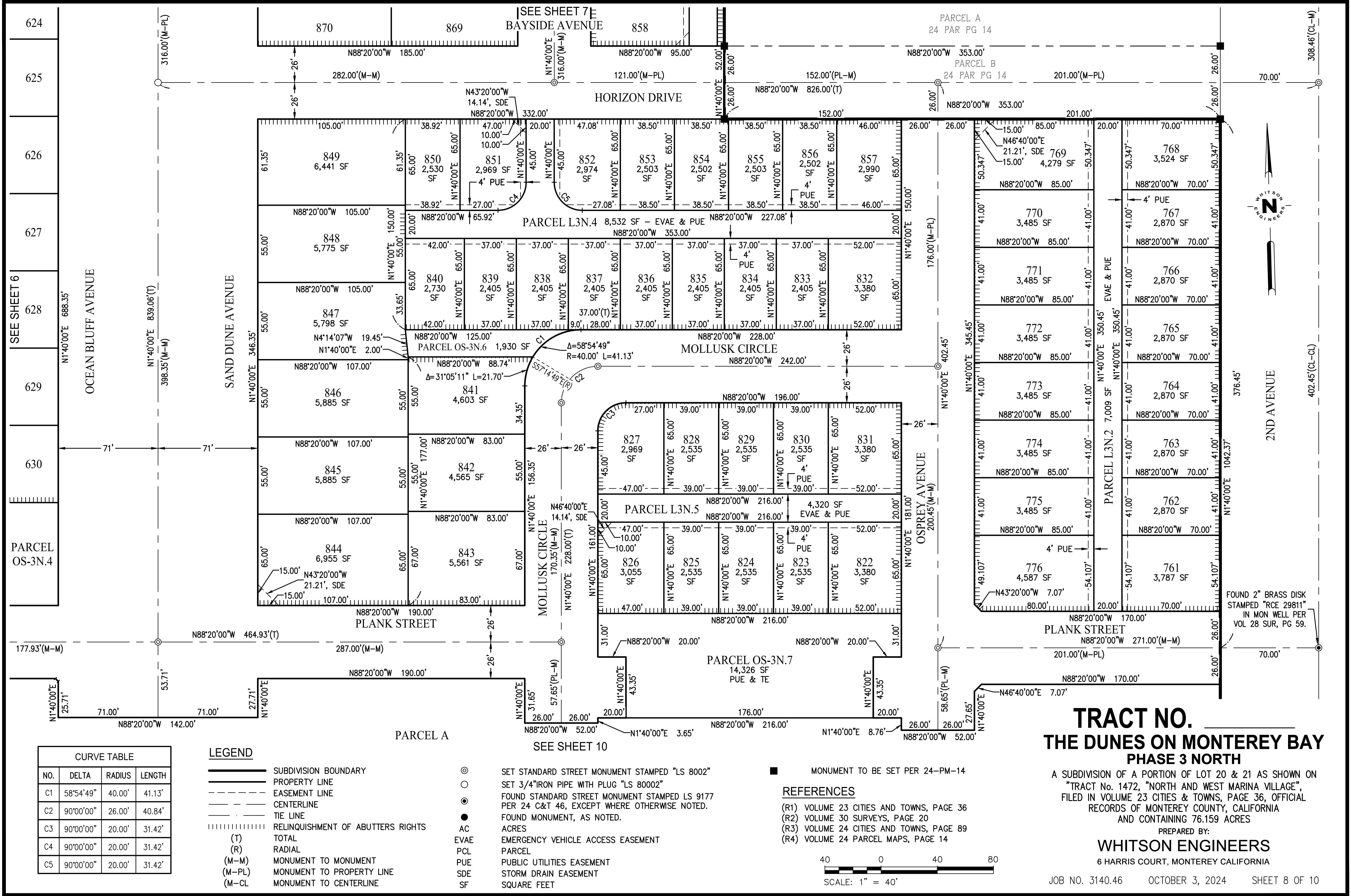
6 HARRIS COURT, MONTEREY CALIFORNIA

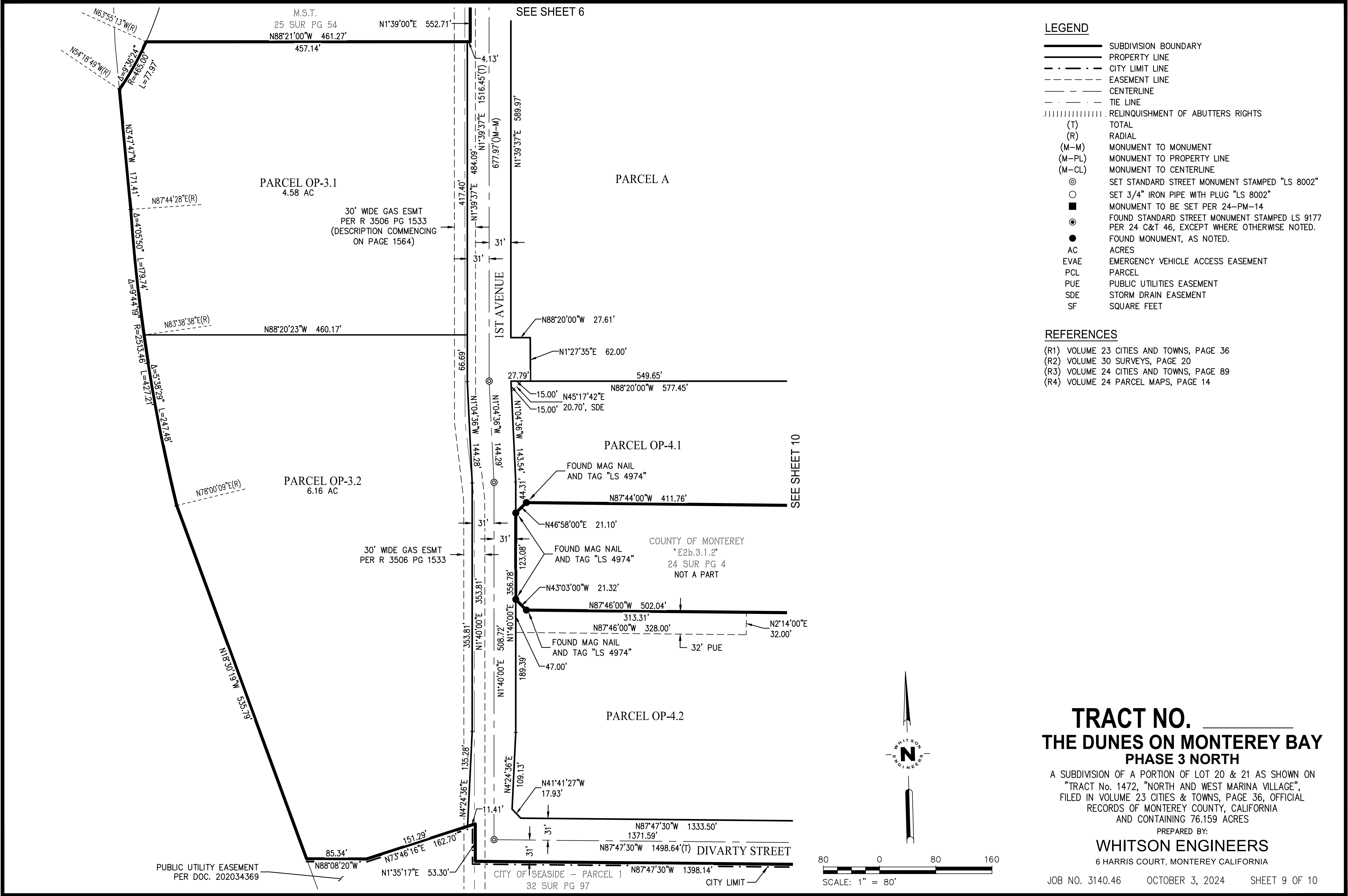
JOB NO. 3140.46 OCTOBER 3, 2024 SHEET 4 OF 10

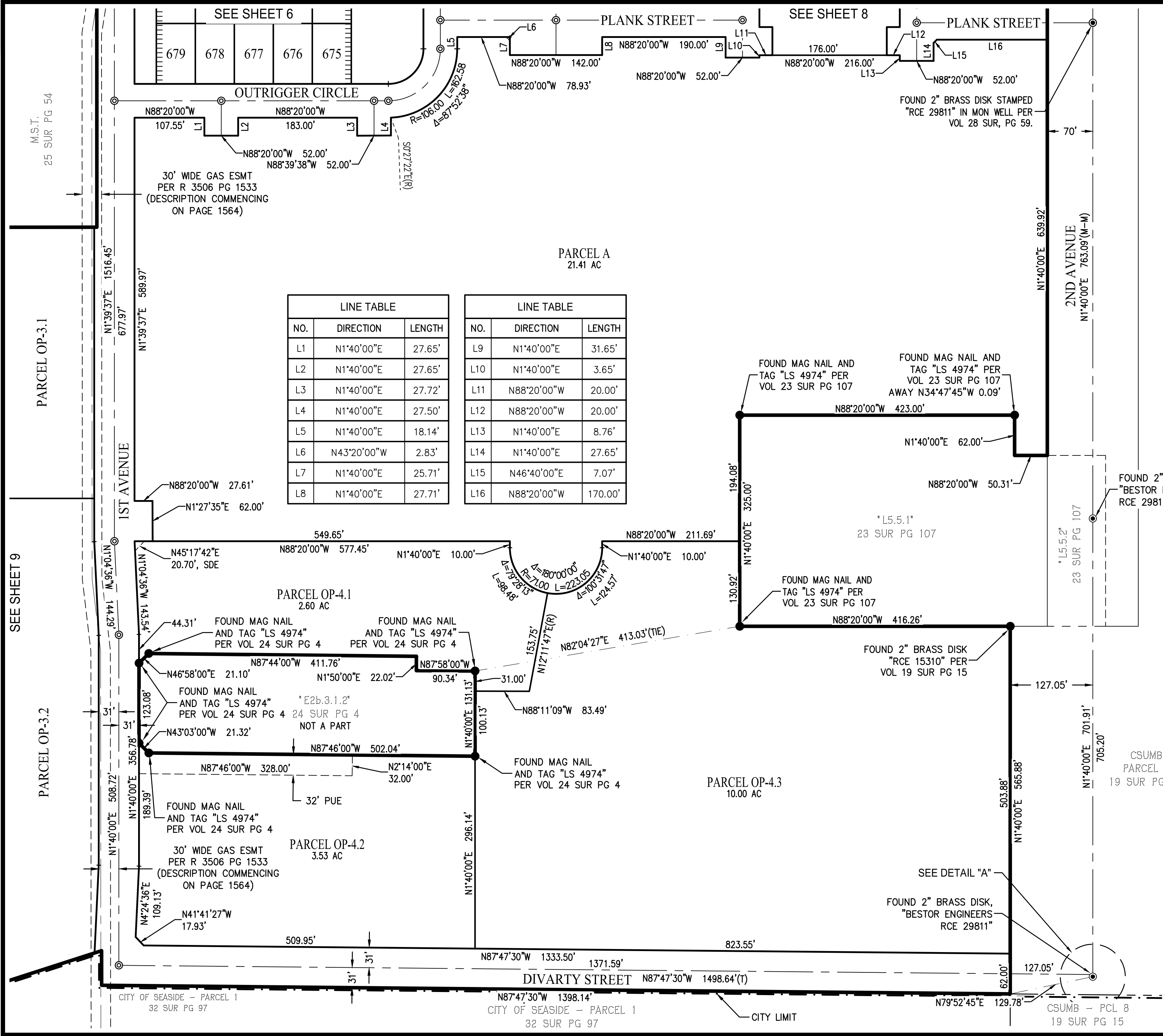




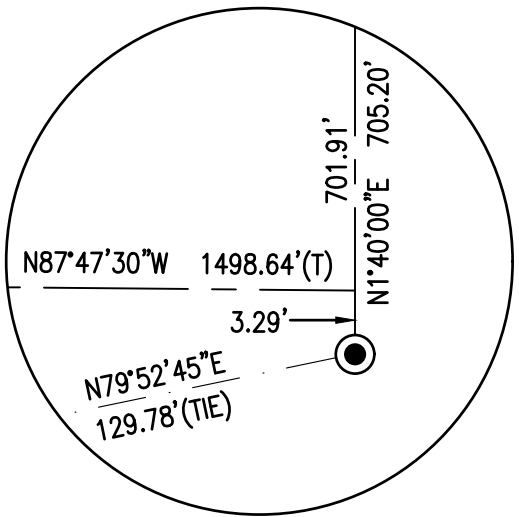




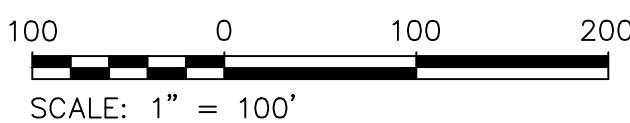
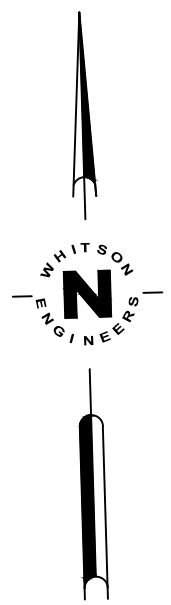




- LEGEND**
- SUBDIVISION BOUNDARY
 - PROPERTY LINE
 - CITY LIMIT LINE
 - EASEMENT LINE
 - CENTERLINE
 - TIE LINE
 - RELINQUISHMENT OF ABUTTERS RIGHTS
 - (T) TOTAL
 - (R) RADIAL
 - (M-M) MONUMENT TO MONUMENT
 - (M-PL) MONUMENT TO PROPERTY LINE
 - (M-CL) MONUMENT TO CENTERLINE
 - SET STANDARD STREET MONUMENT STAMPED "LS 8002"
 - SET 3/4" IRON PIPE WITH PLUG "LS 8002"
 - MONUMENT TO BE SET PER 24-PM-14
 - FOUND STANDARD STREET MONUMENT STAMPED LS 9177 PER 24 C&T 46, EXCEPT WHERE OTHERWISE NOTED.
 - FOUND MONUMENT, AS NOTED.
 - AC ACRES
 - EVAE EMERGENCY VEHICLE ACCESS EASEMENT
 - PCL PARCEL
 - PUE PUBLIC UTILITIES EASEMENT
 - SDE STORM DRAIN EASEMENT
 - SF SQUARE FEET



DETAIL A



TRACT NO. _____
THE DUNES ON MONTEREY BAY
PHASE 3 NORTH

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PREPARED BY:
WHITSON ENGINEERS
6 HARRIS COURT, MONTEREY CALIFORNIA

EXHIBIT A TO STAFF REPORT

PUBLIC IMPROVEMENT AGREEMENT

AGREEMENT FOR IMPROVEMENT OF STREETS, INSTALLATION OF STORM DRAINS AND OTHER PUBLIC WORKS FACILITIES

“The Dunes on Monterey Bay” Project

– Phase 3 North –

This Agreement for Improvement of Streets, Installation of Storm Drains and Other Public Works Facilities (“Agreement”) is made and entered into this ____ day of _____, 2024, by and between the City of Marina, herein called the “City,” a municipal corporation, and Shea Homes Limited Partnership, a real property owner, developer or subdivider, herein called the “Developer.”

WHEREAS, pursuant to the Development Agreement dated July 8, 2005 (“Development Agreement”), the Disposition and Development Agreement dated May 31, 2005 (“Disposition and Development Agreement”), as amended by the Implementation Agreements (referenced below), and the Quitclaim Deed dated September 21, 2006, Marina Community Partners, LLC, as the “Master Developer” is the owner of the land known as The Dunes Phase 2W; and

WHEREAS, on May 31, 2005, by Resolution 2005-130 the Master Developer received approval from the City for: (1) the University Village (now “The Dunes on Monterey Bay”) Specific Plan (Resolution 2005-130); and (2) a Tentative Subdivision Map (“Tentative Map”) consistent with the City’s General Plan and the Specific Plan (Resolution 2005-131) subject to Conditions of Approval attached to Resolution 2005-131 including: Condition 3 requiring a subdivision improvement agreement and bonding; and Condition 18 requiring establishment of a Landscape and Lighting District (“LLD”) prior to approval of the first Final Map; and

WHEREAS, the Master Developer conducted deconstruction and demolition activities affecting the Property (as hereinafter defined) under the terms of a Right of Entry Agreement from the City dated September 30, 2005; and

WHEREAS, the Marina Redevelopment Agency and the Master Developer entered into the Implementation Agreement Regarding University Village on September 6, 2006, which provided for construction of the project in three major phases, Phases 1, 2 and 3 and which further split Phase 1 into three separate sub phases termed Phase 1A, Phase 1B and Phase 1C and established Conforming Clarification(s) to the Schedule of Performance for each sub phase; and

WHEREAS, following the Master Developer’s invocation of an excused delay in the construction of Phase 1, Phase 2 and Phase 3 due to the impact of economic conditions on the feasibility of the project, on August 5, 2008, the Marina Redevelopment Agency and the Master Developer entered into the Second Implementation Agreement Regarding University Village to provide for the Master Developer’s continued construction of the

project in spite of the economic downturn and made certain changes to the Disposition and Development Agreement and to the Conforming Clarifications to the Schedule of Performance; and

WHEREAS, on August 12, 2008, in accordance with Resolution 2008-173 the City and the Master Developer entered into a Public Improvement Agreement to provide for the improvement of streets, installation of storm drains and other public works facilities for a portion of Phase 1C and 2 designated as residential in the Specific Plan (the “Initial Phase/Residential”); and

WHEREAS, on May 18, 2010, by Resolution 2010-13, the Marina Redevelopment Agency and the City, by Resolution 2010-75, approved a modification to the Schedule of Performance, as hereinafter defined; and

WHEREAS, the Master Developer transferred ownership of the Property to Developer pursuant to a grant deed recorded on March 26th, 2021, as document number 202122155; and

WHEREAS, the Master Developer assigned, and Developer assumed, the obligations of Master Developer under the Disposition and Development Agreement and the Development Agreement between City and Master Developer with respect to the Property pursuant to a Partial Assignment and Assumption Agreement dated ____; and

WHEREAS, the Master Developer remains obligated under the Disposition and Development Agreement and Development Agreement for the balance of the Project not yet conveyed to Developer or third parties; and

WHEREAS, the Conditions of Approval of the Tentative Map, as adopted by Resolution 2005-131 and as amended by Resolution 2008-209 require the establishment of a Landscape and Lighting District prior to recording of a final map; and

WHEREAS, on June 2, 2015, by Resolution 2015-01 the City approved the formation of Community Facilities District No. 2015-01 (“The Dunes”); and

WHEREAS, by Resolution 2015-11 the Master Developer received approval from the City for an amendment to Conditions of Approval Nos. 3 and 20 (Resolution 2008-209) for the Tentative Map which provided for the establishment of a Community Facilities District in lieu of a Landscape and Lighting District and permitted the Developer to record a final map for Phase 1C First Phase/Residential prior to the establishment of the Community Facilities District but that the City shall not accept any of the infrastructure improvements or easements for Phase 1C First Phase/Residential to be maintained by the Community Facilities District, including infrastructure improvements to be completed by the Developer, until such time as the Community Facilities District is established; and

WHEREAS, the Developer will subsequently submit for approval by the City and subsequent recording with the office of the Monterey County Recorder, a final map (“Final

Map”) for Phase 3N (as referred to and defined on [reference the map that established this phase]; and

WHEREAS, revised improvement plans entitled “The Dunes on Monterey Bay, Phase 3 North” (herein the “Improvement Plans”) to be those signed by the City Engineer on September 6, 2024, and incorporated herein by reference, have been submitted to the City for approval and acceptance, including certain streets constituting a portion of Phase 3N of The Dunes on Monterey Bay Project, referred to herein as Phase 3N development area, or the “Project”, located on and along 1st Ave, from 6th Street to 8th Street, and the westerly Sand Dune Ave, herein the “Property”. Improvements are to include new storm drain system, curb, gutter, asphalt concrete pavement, streetlights and electrical facilities, sidewalk, striping, traffic signs, and survey monuments, as shown on **Exhibit A**, (herein the “Improvements”); and

WHEREAS, the City will not accept any of the Phase 3N Improvements to be constructed pursuant to this Agreement until all the conditions of this Agreement are satisfied in full including the inclusion or annexation of Phase 3N into CFD 2015-01; and

WHEREAS, the Developer requires certain utilities and public works facilities in order to service the Project under the minimum standards established by the City; and

WHEREAS, the City, by and through its City Council, has enacted certain Codes, Ordinances and Resolutions and certain Rules and Regulations have been promulgated concerning the subject matter of this Agreement; and

WHEREAS, the City has certain responsibilities for maintenance and operation of such Improvements, utilities and public service facilities after acceptance by City, and for providing the necessary connecting system, and the City has agreed to discharge those responsibilities following its acceptance of the Improvements.

NOW THEREFORE, in consideration of the foregoing and in order to carry on the intent and purpose of said Codes, Ordinances, Resolutions, Rules and Regulations, it is agreed by and between the parties as follows:

SECTION 1

The recitals to this Agreement are hereby incorporated into the terms of this Agreement. All applicable Codes, Ordinances, Resolutions, Rules and Regulations and established policies of the City and the laws of the State of California and the United States of America concerning the subject matter of this Agreement are hereby referred to and incorporated herein to the same effect as if they were set out at length herein. Said Codes, Ordinances, Resolutions, Rules and Regulations include, but are not limited to, the following: The Municipal Code of the City of Marina, including the current Zoning Ordinance, and the currently adopted California Building Code.

SECTION 2

The Developer agrees:

- a. To perform each and every provision required by the City to be performed by the Developer in each and every one of the applicable Codes, Ordinances, Resolutions, Rules and other Regulations and to comply with the foregoing and all applicable laws.
- b. To annex the Property to Community Facilities District No. 2015-01 to provide for the imposition of special assessments on the Property providing funding for the maintenance of the Improvements to be constructed by the Developer pursuant to this Agreement in a timely manner in order to ensure that the annexation to the Community Facilities District is accomplished prior to the sale or conveyance of any portion of the Property.
- c. To grant to the City or other entities entitled thereto, from property owned by the Developer, without charge and free and clear of monetary liens and encumbrances, any and all public, private, utility, drainage, construction or access easements and rights of way (herein "easements") in and to the Property necessary for the City, in order that the storm drain and street improvements to said real property may be extended; however, City shall not be obligated to accept any such easement, right-of-way or improvements thereon prior to the annexation of the Property to the Community Facilities District No. 2015-01 . At no cost to the Developer, City and Developer will work cooperatively with the owners of other real property to acquire all easements necessary to construct the Improvements. At no cost to the City, City agrees to support Developer in acquisition of easements necessary to construct the Improvements and to accept said easements upon execution of easement grant deeds to the City by grantors, subject to the condition set forth above regarding the annexation to the Community Facilities District No. 2015-01 . City also agrees to issue Developer and/or Developer's contractors encroachment permits necessary to accomplish said work.

Prior to acceptance of the Improvements by the City, to indemnify, defend with counsel of City's choice and hold the City and any of its officials, boards and commissions and members thereof, agents and employees, free and harmless from all suits, fees, claims, demands, causes of action, costs, losses, damages, liabilities and expenses (including without limitation attorney's fees) because of or arising or resulting directly or indirectly from (i) any damage done to any utility, public facility or other material or installation of the City on said real estate as a result of the Developer or any contractor or subcontractor of the Developer, or any employee of the foregoing, grading or working upon said real estate; or (ii) any act or omission of Developer or Developer's contractors, or subcontractors, or any employee of the foregoing in connection with the design, construction or other work performed by them in connection with this Agreement, including without limitation all claims relating to injury or death of any person or damage to any property, except for such claims, demands, causes of action liability, or loss arising

out of the sole active negligence of the City or any of its officials, boards and commissions and members thereof, agents and employees. City shall not be responsible for the design or construction of the Improvements pursuant to the Improvement Plans, regardless of any negligent action or inaction taken by City in approving the Improvement Plans unless the particular improvement design was specifically required by City over written objection by Developer submitted to the City Engineer before construction and acceptance of the Improvements, which objection indicated that the particular improvement design was dangerous or defective and suggested an alternate safe and feasible design. Prior to acceptance by the City through its Council, Developer shall remain obligated for routine maintenance of the Improvements. After acceptance, Developer shall remain obligated to eliminate any defect in design or dangerous condition caused by the design of a construction defect, however, Developer shall not be responsible for routine maintenance. Provisions of this Section shall remain in full force and effect for ten (10) years following acceptance by City of the Improvements. Except as set forth below, the Improvement security required under Section 2d of this Agreement shall not be required to cover the provisions of this Section 2c. Developer shall reimburse City for all costs and expenses (including but not limited to fees and charges of architects, engineers, attorneys, and other professionals, and court costs) incurred by City in enforcing the provisions of this Section.

d. To construct and improve all public works facilities and other improvements described on the Engineer's Estimate referenced in Section 3 of this Agreement and the Improvement Plans submitted to the City in furtherance of this Agreement on file with the City. All construction and improvements shall be completed in accordance with all standards established in the applicable Codes, Ordinances, Resolutions, Rules and Regulations, all applicable laws and this Agreement, and in accordance with the grades, plans, and specifications approved by the City Engineer or designee. Developer shall furnish two good and sufficient bonds, in an amount of 100% of the City Engineer's, or designee's, estimated cost of the Improvements, guaranteeing Developer's performance of this Agreement: (1) a Payment Bond on a form provided by the City; and (2) a Faithful Performance Bond, both of which must be secured from a surety company admitted to do business in California. Each bond shall set forth a time period for performance by the Developer of its obligations and the terms and conditions on which the City may obtain the proceeds of the bond. Alternatively, the Developer may provide a cash deposit in an amount of 100% of the City Engineer's, or designee's, estimated cost of the Improvements to guarantee Developer's performance of this Agreement.

The Faithful Performance Bond shall be in an amount not less than one hundred percent (100%) of the total estimated amount payable for the Improvements described in this Agreement, and shall secure payment to City of any loss due to the default of the Developer or its contractors or their inability or refusal to perform this Agreement, and to guarantee or warranty the work done pursuant to this Agreement for a period of one year following acceptance thereof by City against any defective work or labor done or defective materials furnished. The Performance Bond shall by its terms remain in full force and effect for a period of not less than one year after completion of the Improvements by Developer and acceptance of the Improvements by the City, provided that Developer may substitute for the Performance Bond securing the warranty described above with a separate warranty

bond issued by an admitted surety in the amount of ten percent (10%) of the total contract price of the Improvements (provided that amount of said bond shall not be less than One Thousand Dollars (\$1,000)) to cover the one-year warranty period. Government Code §66499.7, and as it may hereafter be amended, extended, or otherwise modified, shall apply to a request by Developer for release, in whole or in part, of the Faithful Performance Bond.

The Payment Bond shall be in an amount not less than one hundred percent (100%) of the total estimated amount payable for the Improvements described in this Agreement. The Payment Bond shall secure the payment of those persons or entities to whom the Developer may become legally indebted for labor, materials, tools, equipment or services of any kind used or employed by the contractor or subcontractor in performing the work, or taxes or amounts to be withheld thereon. The Payment Bond shall provide that the surety will pay the following amounts should the Developer, or its contractor or subcontractors fail to pay the same, plus reasonable attorneys' fees to be fixed by the court if suit is brought upon the bond: (1) amounts due to any of the persons named in California Civil Code Sections 8520, 8530 and 9100; (2) amounts due under the Unemployment Insurance Code with respect to work or labor performed to complete the improvements described in this Agreement; and (3) any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Developer, its contractors and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to the work and labor. The Payment Bond shall, by its terms, inure to the benefit of any of the persons named in Civil Code Sections 8520, 8530 and 9100 so as to give a right of action to those persons or their assigns in any suit brought upon the bond.

The Developer shall submit the following for both the surety that furnishes the Payment Bond and the surety that furnishes the Faithful Performance Bond: (1) a current printout from California Department of Insurances website (www.insurance.ca.gov) showing that the surety is admitted to do business in the State; or (2) a certificate from the Clerk of the County of Monterey that the surety's certificate of authority has not been surrendered, revoked, canceled, annulled, or suspended or in the event that it has, than renewed authority has been granted.

e. At all times during the term of this Agreement and until the Improvements constructed by Developer are accepted by City through its Council, Developer shall, at no cost to City obtain and maintain (a) a policy of general liability and property damage insurance in the minimum amount of Three Million Dollars (\$3,000,000), combined single limit for both bodily injury and property damage; (b) workers' compensation insurance as required by law; and (c) broad form "Builder's Risk" property damage insurance limits of not less than 100% of the estimated value of the Improvements to be constructed by Developer pursuant to this Agreement (Builders Risk Insurance is not required when only mass grading and roadway-related improvements consisting of no structures are to be constructed).

All such policies shall provide that thirty (30) days written notice must be given in advance to City prior to termination, cancellation or modification. The insurance specified in (a) above shall name City as additional insured and the insurance (b) shall name the City as a loss payee, and (c) shall provide that City, although an additional insured or loss payee,

may recover for any loss suffered by reason of the acts or omissions of Developer or Developer's contractors or their respective employees. Developer hereby waives, and Developer shall cause each of its contractors and subcontractors to waive, all rights to recover against City for any loss or damage arising from a cause covered by the insurance required to be carried pursuant to this Agreement, and will cause each insurer to waive all rights of subrogation against City in connection therewith. All policies shall be written on an occurrence basis and not on a claims made basis and shall be issued by insurance companies acceptable to City. Prior to commencing any work pursuant this Agreement, Developer shall deliver to City the insurance company's certificate evidencing the required coverage, or if required by City a copy of the policies obtained.

f. Not to offer for dedication to and acceptance by the City any of the public improvements constructed by Developer and located on the Property until such time as the Property is annexed to the Community Facilities District No. 2015-1.

g. Not to convey, transfer, assign, or sell in one transaction or a series of transactions, subsequent to recordation of the Final Map for Phase 3N and prior to the annexation to the Community Facilities District No. 2015-1, any portion or interest of the Developer in the Property or the Project. Notwithstanding the foregoing, Developer may transfer, assign or sell in one transaction or a series of transactions all or any portion or interest of the Developer in the Property or the Project with written consent of the City, such consent not to be unreasonably delayed, conditioned or withheld, to any entity which controls, is controlled by or is under common control with the Developer or the Master Developer, provided that said assignee assumes, in full, the obligations of Developer under this Agreement.

SECTION 3

An estimate of the cost for construction of the Improvements and performing land development work in connection with the Improvements according to the Improvement Plans has been made and has been approved by the City Engineer or designee, as shown on Exhibit B. That estimated amount is \$3,171,173. The basis for the estimate is on file in the Office of the City Engineer and is incorporated into this Agreement by reference.

SECTION 4

Developer will commence substantial construction of the Improvements required by this Agreement within the time period set forth in the Conforming Clarifications to the Schedule of Performance ("Schedule of Performance") between City and Master Developer, as the Schedule of Performance may be subsequently amended. All the provisions of this Agreement and all work to be done pursuant to the terms of this Agreement are to be completed within the time periods set forth in such Schedule of Performance. Developer shall maintain such public works facilities and other improvements described in this Agreement at Developer's sole cost and expense at all times prior to acceptance by City in a manner which will preclude any hazard to life or health or damage to property. City shall accept the Improvements no later than six (6)

months after such time as the Improvements are (i) completed to the satisfaction of the City Engineer, (ii) the annexation to the CFD is completed and (iii) the City is in receipt of funds from the CFD to maintain the Improvements.

SECTION 5

a) Default of Developer shall include, but not be limited to: (1) failure to timely commence construction of the Improvements; (2) failure to timely complete construction of the Improvements; (3) failure to timely commence and complete the annexation of the Property to the Community Facilities District; (4) failure to timely cure any defect of the Improvements; (5) failure to perform substantial construction work for a period of sixty (60) calendar days after commencement of the work; (6) Developer's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy either voluntary or involuntary which Developer fails to discharge within thirty (30) days; (7) commencement of a foreclosure action against the project or a portion thereof, or any conveyance in lieu or in avoidance of foreclosure; or (8) failure to perform any other obligation under this Agreement. Notwithstanding the foregoing, Developer shall not be in default under this Agreement if it cures any default within thirty (30) days' written notice of such default, or if the default may not reasonably be cured within such time period, if it commences to cure within thirty (30) days and thereafter diligently proceeds to complete the cure.

b) City reserves to itself all remedies available to it at law or in equity for breach of Developer's obligations under this Agreement. City shall have the right, subject to this Section, to draw upon or utilize the appropriate security to mitigate City's damages in the event of default by the Developer. The right of City to draw upon or utilize the security is additional to and not in lieu of any other remedy available to City. It is specifically recognized that the estimated costs and security amounts may not reflect the actual cost of construction or installation of the Improvements and, therefore, City's damages for Developer's default may exceed the cost of completing the Improvements. The sums provided by the security for the Improvements may be used by City for the completion of the Improvements in accordance with the Improvement Plans referenced herein.

c) In the event of Developer's default under this Agreement, Developer authorizes City to perform such obligation sixty days after mailing written notice of default to Developer and to Developer's surety and agrees to pay the entire cost of such performance by City. City may take over the work and prosecute the same to completion by contract or by any other method City may deem advisable, for the account and at the expense of Developer, and Developer's surety shall be liable to the City for any excess cost or damages occasioned City thereby, including but not limited to fees and charges or architects, engineers, attorneys, other professionals and court costs. In such event, City without liability for doing so, may take possession of, and utilize in completing the work, such materials, appliances, plants and other property belonging to Developer as may be on the site of the work and necessary for performance of the work.

d) Failure of City to take an enforcement action with respect to a default, or to declare a breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of Developer.

SECTION 6

In addition to the other obligations, Developer shall complete the following General Stipulations and any attached stipulations, subject to the approval of the City Engineer.

1. Locate and properly dispose of any wells, septic tanks and underground fuel storage facilities.
2. Schedule the construction of improvements along existing public roads so that the work affecting vehicular traffic is complete with a minimum interruption of traffic
3. All work within the public right-of-way shall be subject to the approval of the City Engineer or designee.
4. All construction work shall be coordinated so that the existing residents and/or businesses have access to their properties.
5. All improvements shall be installed per the approved Improvement Plans.
6. The Developer shall provide to the City electronic copy of the "As Built" Improvement Plans as an AutoCAD drawing file (DWG format, AutoCAD 2002 minimum or latest version).
7. Any reimbursements due the Developer, unless specified otherwise in writing in this Agreement, will expire ten (10) years after the date of execution of this Agreement.
8. Until the roads on the Property are open to the public, Developer shall give good and adequate warning to the public of each and every dangerous condition on the existing public roads, and will take all reasonable actions to protect the public from such dangerous condition.

SECTION 7

Developer shall, at Developer's expense, obtain all necessary permits and licenses for the construction and installation of the Improvements, give all necessary notices and pay all fees and taxes required by law.

SECTION 8

Neither Developer nor any of Developer's agents, contractors or subcontractors are or shall be considered to be agents of City in connection with the performance of Developer's obligations under this Agreement.

SECTION 9

Nothing contained in this Agreement shall preclude City from expending monies pursuant to agreements concurrently or previously executed between the parties, or from entering into agreements with other developers for the apportionment of costs of water and sewer mains, or other improvements, pursuant to the provisions of the City ordinance providing therefor, nor shall anything in this Agreement commit the City to any such apportionment.

SECTION 10

Developer shall not be entitled to assign its obligations under this Agreement to any transferee of all or any part of the property within the Project or to any other third party without the express written consent of City.

SECTION 11

Acceptance of the work, or any portion of the work on behalf of the City shall be made by the City Council upon recommendation of the City Engineer after final completion and inspection of all Improvements and only after the annexation of the Property to the Community Facilities District No. 2015-1. Such acceptance shall not constitute a waiver of defects by City.

SECTION 12

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect unless amended or modified by the mutual consent of the parties.

SECTION 13

In the event that suit or arbitration is brought to enforce the terms of this Agreement, the prevailing party shall be entitled to litigation costs and reasonable attorney's fees.

SECTION 14

This Agreement shall be interpreted in accordance with the laws of the State of California. Jurisdiction of all disputes of this Agreement shall be in the County of Monterey, State of California.

SECTION 15

Time is of the essence of this Agreement.

SECTION 16

This Agreement, the Conditions, the Disposition and Development Agreement as amended by the Implementation Agreements, the Agreement for Improvement of Streets, Installation of Storm Drains and Other Public Works Facilities "The Dunes on Monterey Bay" Project A Portion of Phase 1C – First Phase Residential, the Agreement Forming Community Facilities District No. 2015-01, and the Agreement for Improvement of Streets, Installation of Storm Drains and Other Public Works Facilities "The Dunes on Monterey Bay, Phase 3N" constitute the entire agreement of the parties with respect to the subject matter. All modifications, amendments or waivers of the terms of this Agreement must be in writing and signed by an authorized representative of the parties.

SECTION 17

In the event the Schedule of Performance (including any Conforming Clarifications thereto) is tolled, the time for commencement of construction or completion of the Improvements hereunder shall be extended for the same duration as applies to the Schedule of Performance. Any such extension may be granted without notice to Developer's surety and shall not affect the validity of this Agreement or release the surety on any security given for this Agreement.

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the date first written above.

ATTEST:

CITY OF MARINA

Acting Deputy City Clerk

Layne Long
City Manager

APPROVED AS TO FORM:

City Attorney

IN WITNESS WHEREOF Developer has executed this Agreement as of

_____.

SHEA HOMES LIMITED PARTNERSHIP,
a California Limited Partnership

BY: _____

BY: _____

NOTE: If Developer is a corporation, the complete legal name and corporate seal of the corporation and the corporate titles of the persons signing for the corporation shall appear above.

State of California County of _____ On _____ before me, (here insert name and title of the officer), personally appeared _____

_____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Per GC Sec. 40814; CC Sec. 1181

EXHIBIT A

DRAFT

EXHIBIT B

DRAFT

September 27, 2024

Guido Persicone
City of Marina
211 Hillcrest Avenue
Marina, CA 93933

RE: Water Study Review – MCP Phase 3 North

Dear Mr. Persicone:

We have completed a review of the background materials provided for the entire Dunes on Monterey Bay developments and have made projections of water demands throughout. We understand that this review was required as a condition of approval of the tentative map for the proposed Phase 3 of the Project. This letter provides the results of our review and modeling.

Introduction:

The proposed project is a part of the area formerly known as the University Villages (known now as the Dunes project), and specifically is the Phase 3 North residential area (Proposed Project). The Applicant is Marina Community Partners, and the Proposed Project is located within the Dunes Specific Plan Area (Specific Plan).

Bowman was contracted by Marina Community Partners to determine the water demand projected for the Proposed Project, based on local unit water demand factors, and the adequacy of water supplies allocated to the proposed Project. Bowman staff prepared this review with assistance from and coordination with Marina Community Partners.

Bowman staff previously prepared water demand estimates for the City that are used in this evaluation. Water demand reviews for Phases 1 and 2 of 1C were completed in February and October 2015 and the review of Phase 3 of 1C was completed in March 2016. Review of Phase 2 East was completed in January of 2021. The demand review of Phase 1B Promenade and Phase 2 North was completed in December 2022. The Phase 2 West water demand review was completed in November 2023.

Water Demand Analysis

A land use spreadsheet was developed to inventory the type and amount of residential and non-residential land uses in each phase of the planned development (non-residential includes both commercial uses and landscaping in common areas). Additionally, the current Department of Real Estate exhibits (DREs), tentative maps, landscape plans, and final maps, where available, were used for each project phase to estimate the water demands. The water demand estimate was used to determine the total water demand of the project's residential and nonresidential uses with interior and exterior uses identified separately.

Baseline Conditions:

On May 17, 2005, the City approved an allocation of 593 AFY of potable water in Resolution No. 2005-129 reserving and allocating water sufficient to serve the Dunes development. The University Villages Settlement Agreement (Settlement Agreement) imposes the following requirements for the installation of water conserving facilities in residences throughout the Specific Plan Area with the objective of maximizing water conservation:

- Drought-tolerant plant materials in landscaping
- Satellite controlled Evapotranspiration-based (ET) irrigation control systems
- Tankless hot water heaters
- Dual Flush / Ultra low flow toilets
- Hot water return pumping
- Conversion to the use of recycled water for exterior non-residential demands as available.

Potable water will remain in use for landscape irrigation until recycled water becomes available to the Dunes project.

Several phases of the project have occurred throughout the Specific Plan area:

- Montage Health, Marina Campus
- Veterans Administration Monterey Health Care Center
- Springhill Suites (Marriott) Hotel
 - Home 2 Suites Hotel
- Phase 1A (Marina Village Retail Center)
- Cinemark Theater
- Shops at the Dunes (Fast Casual Dining Project)
- Phase 1C Residential
- University Village Apartments
- Phase 2 East Residential
- Phase 2 West Residential
- Promenade Mixed Use
 - Terracine Site 1 and 2

A detailed breakdown of the water allocation for the Dunes project including built projects and proposed projects is included in the following table.

Table 1: Project Phase in MCP Dunes Project Area

Shea Homes - The Dunes Project TALLY TABLE Revised September 30, 2024 Water Allocation & Demand Verification Update				
	A	B	C	D
PROJECT	Allocation (AFY)	Constructed or Approved Project (AFY)	Proposed or Future Project (AFY)	Remaining Allocation (AFY)
Dunes on Monterey Bay Project Total	593.00			593.00
Constructed or Approved Projects				
Dunes Shopping Center (Planning Area 1A)		34.00		559.00
CHOMP / Montage		22.30		536.70
QSR (Shops at the Dunes)		12.90		523.80
Cinemark		9.30		514.50
UV Apartments		14.00		500.50
Phase 1C Residential		69.50		431.00
VA Clinic		20.70		410.30
Springhill Suites / Home2Suites (incl PSA Contract)		30.00		380.30
Phase 2 East Residential		46.30		334.00
Phase 1B Promenade Residential		19.80		314.20
Phase 1B Promenade Commercial		20.00		294.20
Phase 2 North Commercial		59.97		234.23
Terracina Site 1		19.79		214.44
Terracina Site 2		21.42		193.02
Phase 2 West		22.14		170.88
SUB-TOTAL OF CONSTRUCTED OR APPROVED		422.12		170.88
PROPOSED PROJECTS				
Phase 3 North Residential			36.67	
SUB-TOTAL OF PROPOSED PROJECTS			36.67	134.21
FUTURE PROJECTS				
Phase 2 North Residential			15.88	118.33
Phase 1B - MBBC Commercial			20.00	98.33
Phase 3 South Residential			36.22	62.12
Phase 3 Commercial – OP3+4			53.07	9.04
Sub-Total of Proposed or Future Project			161.84	
SUB-TOTAL REMAINING ALLOCATION				9.04
SUB-TOTAL RECYCLED WATER DEMAND (ADDED TO REMAINING ALLOCATION AS CREDIT)**				21.07
TOTAL REMAINING ALLOCATION (WITH RECYCLED WATER CREDIT)				30.11
** Recycled Water Demands derived from Table 3B				

Phase 3 North Water Supply Availability

A water demand estimate was prepared for the Proposed Project based on information provided by the project applicant. Water demands are separately identified for interior and exterior potable water uses, to facilitate an accounting of the potential future use of recycled water and potable water conservation resulting therefrom.

Provided in Exhibit 1 is the Tentative Map for the Phase 3 North Residential which constitutes the property where the residential uses will be developed. Phase 3 North Non-Residential consists of the property within the Linear Park, turf area and open space parcels. Open Space Landscape areas include Parcel OS-3.4, Parcel OS-3.5, Parcel OS-3.6 and Parcel OS-3.11. Additionally, the Linear Park area, median located between Ocean Bluff and Sand Dune Avenue. Only the Northern Residential portion of Phase 3 has been analyzed in this report.

The following tables 2A-2B provides more detail of the estimated water demands for the Proposed Phase 3 North Project, including the interior and exterior residential demands. This estimated usage is based on water demands for similar local projects and Best Management Practices (BMPs) for the installation.

Table 2A: Phase 3 North Residential Interior Demands

	Land Use	Type of Resident	Number of Units	Occupancy (People/Unit)	Interior Unit Demand (GPC/Day)	Demand (AFC/Y)	Unit Residential Demand (AFY)	Residential Interior Demand (AFY)
Phase 3 North								
	Residential Units	Bay House	50	2.75	55	0.06	0.169	8.471
	Residential Units	Light House	30	3	55	0.06	0.185	5.545
	Residential Units	Sky House	49	3	55	0.06	0.185	9.056
Total								23.07

Table 2B: Phase 3 North Residential Exterior Demands

	Land Use	Type of Resident	Lot Size (SF)	Percent Turf Planting	Turf Irrigated Area (Acres)	Percent Ornamental Planting	Ornamental Irrigated Area (Acres)	Unit Turf Demand (AFY/Unit)	Unit Ornamental Demand (AFY/Unit)	Exterior Demands (AFY)
Phase 3 North										
	Residential Units	Bay House	2,405.00	50%	0.014	50%	0.014	0.029	0.022	2.536
	Residential Units	Light House	4,000.00	50%	0.023	50%	0.023	0.048	0.036	2.531
	Residential Units	Sky House	4,950.00	50%	0.028	50%	0.028	0.060	0.045	5.116
Total										10.18

Phase 3 North Recycled Water Demand

In addition to the residential water demands, Phase 3 North has Non-Residential exterior demands that will be supplied by recycled and reclaimed water supply. Table 3A identifies the water demands needed for the Phase 3 North Non-Residential Exterior demands.

Table 3A: Phase 3 North Non-Residential Exterior Demands Using Recycled Water

	Land Use	Land Use Description	Lot Size (SF)	Lot Size (acres)	% Irrigable Area (acres)	Irrigable Area (acres)	% Turf Planting	Turf Irrigated Area (acres)	% Ornamental Plantings	Ornamental Irrigated Area (acres)	Unit Turf Demand (AFY/Unit)	Unit Ornamental Demand (AFY/Unit)	Unit Exterior Factor (AFY/Unit)
Phase 3 North													
	Common Area	Open Space Landscape Areas (POC 'B')	42,129	0.97	80%	0.77	50%	0.39	50%	0.39	0.81	0.69	1.50
	Common Area	Open Space Landscape Areas (POC 'C')	19,296	0.44	80%	0.35	50%	0.18	50%	0.18	0.37	0.32	0.69
	Common Area	Linear Park (POC 'E')	34,201	0.79	80%	0.63	50%	0.31	50%	0.31	0.66	0.56	1.22
Total													3.41

Table 3B, below, shows the total recycled water demand for the Dunes project across the different phases that are currently developed or have an approved tentative map.

Table 3B: Total Project Recycled Water Demands

Recycled Water Demand	
Constructed or Approved Projects	Recycled Demand (AFY)
Phase 1B	2.5
Phase 1C	7.55
Phase 2 East	3.15
Phase 2 North (Commercial)	0.06
Phase 2 West	4.40
Proposed Projects	Recycled Demand (AFY)
Phase 3 North	3.41
Total Recycled Demands	21.07

Phase 3 North Conclusions

An adequate supply of water is estimated to be available to the Proposed Project based on the allocation of 593 AFY of Potable Water to the MCP Dunes Project Area per City Resolution No. 2005-129 and the water currently allocated to sub-phases and/or estimated for future development. Approximately 71% (422.12 AFY) of the Specific plan water allocation has been committed to approved and/or constructed phases of the Dunes project. Approximately 29% of the Dunes project water allocation (170.88 AFY) is available for the Proposed Project and remaining future development. There remains approximately 2% (9.04 AFY) of the total water supply currently not allocated after proposed and future development (including the Proposed Project). Additionally, Phase 3 North, along with approved and constructed phases, includes exterior demands using recycled water that will be credited against the potable water allocation, thus providing additional potable allocation for future demand as noted in table 3B. Once credits are provided for this recycled water demand which replaces the potable demand, the remaining balance after full Dunes project development is estimated to be 30.11 afy. Therefore, there is adequate water available for the Dunes Phase 3 North.

Sincerely,



Bob Krallinger, PE
Water Practice Lead
Bowman



Tim Wilson, PE
Project Manager
Bowman

October 23, 2024

Item No. **10i(1)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of November 6, 2024

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2024,
APPROVING THE PHASE 3 NORTH/RESIDENTIAL FINAL MAP FOR
THE DUNES ON MONTEREY BAY DEVELOPMENT PROJECT
SUBDIVISION (FORMERLY UNIVERSITY VILLAGE), AND
AUTHORIZING THE CITY CLERK TO EXECUTE THE FINAL MAP
ON BEHALF OF CITY SUBJECT TO FINAL REVIEW AND APPROVAL
BY THE CITY ATTORNEY**

RECOMMENDATION:

It is requested that the City Council:

1. Consider approving the Phase 3 North/Residential Final Map for The Dunes on Monterey Bay Development Project Subdivision (“**EXHIBIT A**”), and;
2. Authorizing the City Clerk to execute the Final Map on behalf of City subject to final review and approval by the City Attorney.

BACKGROUND:

At the regularly scheduled meeting of May 31, 2005, the City Council adopted Resolution No. 2005-127, certifying the Final Environmental Impact Report for the University Village Development Project.

At the regularly scheduled meeting of May 31, 2005, the City Council adopted Resolution No. 2005-128, approving the General Plan Amendments, Resolution No. 2005-130, for the Specific Plan, Resolution No. 2005-131, for the Tentative Map and Resolution No. 2005-132, Design Review for the regional retail, the Village Promenade, and all residential phases for the former University Village Development Project.

At the regularly scheduled meeting, including December 17, 2019, the City Council adopted Resolution No. 2019-140, approving an Operating Agreement as an administrative amendment of the Development Agreement clarifying and modifying certain project approvals for Specific Plan for The Dunes on Monterey Bay including to the Conforming Clarifications to the Schedule of Performance.

At the regularly scheduled meeting of October 6, 2022, the City Council adopted Resolution No. 2022-119, approving an amendment to Tentative Subdivision Map originally approved in 2005 creating 255 residential lots, open space and roadways in Phase 3 Residential.

ANALYSIS:

Shea Homes Limited Partnership (“Developer”) has submitted the Phase 3 North/Residential Final Map to the City for review and approval with 129 residential lots. Staff has reviewed the improvement plans for construction and approved the plans on October 22, 2024. It has been determined that the Tentative Map Conditions of Approval as amended have been met. The Community Development Director and Interim Public Works Director will sign off on the Final Map in accordance with their respective findings.

The Developer has also submitted a Public Improvement Agreement and will provide labor and materials and faithful performance bonds required for the recordation of the Final Map. The Agreement is on this Agenda as a separate item for consideration of approval.

A review of water supply availability to serve Phase 3 North/Residential also been provided by Bowman Consulting Group (dated September 27, 2024) (“**EXHIBIT B**”) pursuant to Section II A of the University Villages Settlement Agreement with Save Our Peninsula Committee. The required finding is made in the draft Resolution.

All required future phased final maps must meet all the appropriate conditions of approval and will be presented to the City Council for consideration at a future date.

FISCAL IMPACT:

Should the City Council approve this request, the City requires the developer to provide satisfactory evidence of their ability to complete the public improvements by the posting of labor and material and faithful performance subdivision improvement bonds in an amount of 100% of the City Engineer's estimate of the cost to perform the work.

California Environmental Quality Act (CEQA)

The approval and recordation of the Phase 3 North Final Map was generally anticipated and analyzed in the Environmental Impact Report (EIR) prepared for the project and certified by the City Council through its adoption of Council Resolution No. 2005-127 on May 31, 2005 (SCH # 2004091167).

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Edrie Delos Santos, P.E.
Public Works Department
City of Marina

REVIEWED/CONCUR:

Nourdin Khayata, P.E.
Interim Public Works Director/City Engineer
City of Marina

Layne P. Long
City Manager
City of Marina