

**Local Coastal Program**  
**City of Marina**

**Volume II**

**Implementation Plan**

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

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**Prepared by**  
**EMC Planning Group**

**LOCAL COASTAL PROGRAM**

**CITY OF MARINA**

**IMPLEMENTATION PLAN**

**PREPARED FOR**

**City of Marina**

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# 1.0 Introduction

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



## 2.0 Beach Access

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

### Vertical Accessways

There are three (3) vertical access points recommended in the Marina Local Coastal Land Use Plan; two (2) are located on property owned by the California Department of Parks and Recreation. These two (2) beach accesses now exist at Lake Court and Reservation Road. The plan proposes that they be improved by the State Department of Parks and Recreation. Timing of this improvement is dependent upon available funding.

Expectations of the type and level of development at these accessways is outlined in Marina's Local Coastal Land Use Plan. Since any development on this site by the State Department of Parks and Recreation will require a Coastal Development Permit, issued by the City of Marina, standards and expectations expressed in the Plan will be complied with.

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

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

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

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

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

## **Vernal Pond Accessways**

A unique aspect of Marina's Coastal Zone are the vernal ponds. Most of these seasonal lakes support wetlands which provide wildlife habitat during the migration and breeding season of various species. Two (2) of these ponds are in public ownership and protected by fences against human intrusion. One of the ponds, Number Three, has no marsh.

Number Four, west of Dunes Drive, and Number Two, on the north side of Reservation Road, have potential for nature observation facilities. However, before such use should be considered, an environmental assessment should be undertaken to determine what level of use, if any, the habitat and pond itself can sustain. Since these vernal ponds are unique in California in their geologic character and proximity to the ocean, use even for nature observation should not be encouraged unless it can be demonstrated that it will not have an unmitigable adverse effect on the area.

Because these areas are defined as wetlands in the California Coastal Act, a 100-foot protective setback will be required from the outer edge of the wetlands and any coastal permit issued for development, including walkways for observation, will have to comply with the policies and recommendations laid out in the Local Coastal Land Use Plan (See Conclusions Section of the LCLUP and Habitats Section of the

LCIP). These ponds, their wetlands and 100-foot setbacks will also be included in the City of Marina's Coastal Permit Appeal Zone. Therefore, any local decision regarding development within this area will be appealable to the State Coastal Commission (See Appeals Section).

## Lateral Access

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

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

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

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

## Standards for Coastal Protection Structures

Except for a few facilities associated with sand mining, there currently is little capital investment to be threatened by erosion along Marina's shoreline. The face of the dunes is subject to wave erosion, so future development shall be placed beyond the area vulnerable both to wave erosion and tsunami hazard. This setback shall be great enough to protect the economic life of the proposed development (at least 50 years) and be east of the tsunami hazard zone. The exact extent of this setback shall be determined by a qualified geologist, selected from an approved list compiled and maintained by the City. Because of variation from site to site, the setback line shall be determined at the time development of a site or parcel is proposed.

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

### Specific Issues

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

6. Determine effects of protective structure on rare and endangered species in the fore dune and dune area.

## **Design Considerations**

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

## 4.0 Habitat Protection

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

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

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

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

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

1. Smith's Blue Butterfly (*Shijimiacoides enoptes smithi*)
2. Globose Dune Beetle (*Coelus globosus*)
3. Black Legless Lizard (*Anniella pulchra nigra*)
4. Salinas Kangaroo Rat (*Dipodomys Heermanni Goldmani*)

5. Seaside Painted Cup (*Castilleja latifolia* ssp. *Latifolia*)
6. Monterey Spine Flower (*Chorizanthe pungens* var. *pungens*)
7. Eastwood's Ericameria (*Ericameria fasciculata*)
8. Coast Wallflower (*Erysimum ammophilum*)
9. Menzies' Wallflower (*Erysimum menziesii*)
10. Coastal Dunes Milk Vetch (*Astragalus tener* var. *titi*)
11. Dune Gilia (*Gilia tenuiflora* var. *arenaria*)
12. Wild Buckwheat (*Eriogonum latifolium*)\*
13. Wild Buckwheat (*Eriogonum parvifolium*)\*
14. Bush Lupine (*Lupinus* ssp.)+

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

+ only within the range of the Black Legless Lizard.

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## Minimum Habitat Mitigation/Restoration Plan Requirements

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

## Habitat Restoration Plan Requirement

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

The elements of such plan shall at a minimum include:

- a) A detailed site plan of the entire habitat and buffer area, with a topographic base map;
- b) A baseline ecological assessment of the habitat and buffer area, including but not limited to, assessment of biological, physical and chemical criteria for the area;
- c) The goals, objectives, performance standards and success criteria for the site, including specific coverage and health standards for any areas to be planted. At a minimum, explicit performance

standards for vegetation, hydrology, sedimentation, water quality and wildlife and a clear schedule and procedure for determining whether they are met shall be provided. Any such performance standards shall include identification of minimum goals for each herbaceous species, by percentage of total planting and by percentage of total cover when defined success criteria are met; and specification of the number of years active maintenance and monitoring will continue once success criteria are met. All performance standards shall state in quantifiable terms the level and extent of the attributes necessary to reach the goals and objectives. Sustainability of the attributes shall be a part of every standard. Each performance standard shall identify:

1. The attribute to be achieved;
2. The condition or level that defines success; and
3. The period over which success must be sustained.

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

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



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

## 5.0 Housing

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

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

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

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

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

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

## Condominiums and Stock Cooperatives

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

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

## Administrative Procedure for Coastal Permits

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

### Overall Planning Procedures

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

1. During the first visit to the Planning Department the applicant would be advised of the project's relationship with the Coastal Land Use Plan and whether or not a Coastal Development Permit is required (See Sections on Categorical Exclusion) and if the development is located within the Coastal Permit Appeal Zone.
2. If a Coastal Development Permit is required<sup>2</sup> the procedure would not take less than 30 days and would be integrated with other review and hearings before the Planning Commission (See Coastal Development Permit Procedure Section and Coastal Permit Appeal Procedure).
3. After Planning Commission approval, the Coastal Development Permit would be issued. (If the action is located within the Permit Appeal Zone and appealed to the State Coastal Commission, the City would not issue the permit until the State has acted on the appeal).

It should be noted that the planning procedure flow chart is only a basic graphic depiction of the planning process. These steps are subject to modification pursuant to changes in

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

State and case law and administrative streamlining processes implemented pursuant to any such modifications in State and case law.

## Coastal Development Permit Procedure

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

- Permit-Issuing Responsibilities

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

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

## Exclusions

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

## Time Line on Coastal Permit Application

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

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<sup>3</sup> Information required to be included in this notice is outlined in the Local Coastal Program Regulations. November 18, 1980 and includes: Statement that the development is within the Coastal Zone; the date of filing of the application and the name of the applicant; a description of the development and its proposed location; the date, time and place at which the application will be heard by the local government body; a brief descriptor of the general procedure of the local

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

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

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

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

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

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government concerning the conduct of the hearing and local actions; the system for local & Coastal Commission appeals, including any local fees required.

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

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

## Eligibility for Coastal Permit Appeal

Any zoning or subdivision action within the Coastal Zone may be appealed to the City Council.

Only applications for property within the Local Coastal Permit Appeal Zone may be appealed to the State Coastal Commission. Specific criteria exist in law to define this Appeal Zone:<sup>6</sup>

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

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

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

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

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

## Grounds for Appeal

Not only do the Coastal Commission’s Local Coastal Program Regulations define the Coastal Permit Appeal Zone, they also clearly set out the grounds for appeal of local permit decisions within Area 1 of the Coastal Permit Appeal Zone.<sup>7</sup> (Section 00192): Appeals “shall be limited to the following:”

- Development fails to provide adequate physical access or public or private commercial use or interferes with such uses.
- Development fails to protect public views from any public road or from a recreation area to and along the coast.
- Development is not compatible with the established physical scale of the area.

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<sup>6</sup> Section 30603 of the California Coastal Act of 1976

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

- Development may significantly alter existing landforms.
- Development does not comply with shoreline erosion and geologic setback requirements.

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

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

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

## **Categorical Exclusion**

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

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

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



# Proposed Revisions to the Marina Zoning Ordinance to Implement the Local Coastal Land Use Plan

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

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

## Section 2: Purpose of Adoption of Zoning Plan

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

## Section 4: Establishment and Designation of Districts

**Section 4:** Add to list of Districts:

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

## Section 5: Combining Regulations

**Section 5:** Add:

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

## Section 9: Definitions

**Section 9:** Add the following definitions:

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

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

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

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

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

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

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

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

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

and the removal or harvesting of major vegetation other than for agricultural purposes or kelp harvesting.

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

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

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

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

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

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

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

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

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

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

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

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

+ only within the range of the Black Legless Lizard

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## Section 10: General Provisions

**Section 10: General Provisions.** Add the following:

- a. Use:
  - (3) add at the end: except in the Coastal Zone, where the construction of utility lines shall be subject to a Coastal permit.
  - (4) Use Permit and, in the Coastal Zone, a Coastal Permit are first obtained.
  - (5) Use Permit and, in the Coastal Zone, a Coastal Permit are first secured in each case.
  - (7) Use Permit and in the Coastal Zone, a Coastal Permit in each case.
  - (8) Use Permit and in the Coastal Zone, a Coastal Permit upon first securing a Use Permit and, in the Coastal Zone, a Coastal Permit in each case.
  - (9) In the Coastal Zone such uses must be found consistent with the LUP and a Coastal Permit shall be required for these uses.
  - (10) "In the Coastal Zone such uses shall be subject to a Coastal Permit." In the next paragraph, same number "Except in the Coastal Zone where such uses shall also be subject to a Coastal Permit."

new a. (11): In the Coastal Zone the proposed use shall be consistent with the designation and policies of the General Plan and Local Land Use Plan.

a. Special Regulations

new b. (1)(a)(3) Prior to the establishment of any stable in the Coastal Zone, the Planning Commission will be required to make a finding that such use is consistent with the Local Coastal Program. Stables will also be required to obtain a Coastal Permit.

a. (2) Regulations for Guest Houses:

a. (2)(a)(2) ... Use Permit and, in the Coastal Zone, a Coastal Permit.

c. Height:

b. (1) Chimneys ... Except in the Coastal Zone where the height of such structures shall be subject to a Coastal Permit.

c. (2) ... Use Permit and, in the Coastal Zone, a Coastal Permit in each case.

# 8.0

## Zoning Districts Which Will be Applied in the Coastal Zone

### Section 12: Open Space or “O” District

Add the following:

- a. Uses Permitted:
  - a. (1) Lands to be included. All lands designated as park and open space in the Local Coastal Land Use Plan shall be included in the Open Space District and all lands designated as Open Space in the Open Space Element of the Marina General Plan may be included in the “O” District. Such lands may include, but are not limited to the following:
    - (a) Crop and tree farming, grazing of sheep, cattle and goats.
    - (b) Public parks and playgrounds, and public recreation facilities.
    - (c) Private school grounds and church grounds of a predominantly open character.
    - (d) Sandy beaches and beach accesses, sensitive habitat areas and vernal ponds and wetland setback areas.
    - (e) Golf courses and country clubs.
    - (f) Privately and jointly owned open spaces reserved for open space use as a part of Planned Development.
    - (g) Land which because of geophysical or similar hazard is unsuitable for development.
    - (h) Any other publicly or privately-owned open space which in the opinion of the Planning Commission functions as a part of the open space system of the City and is included in the Open Space Element of the General Plan.
    - (i) Open Space as a reserve for seismic safety, erosion protection, protection of view or similar appropriate purpose.
  - b. Uses Permitted Subject to First Securing a Use Permit and in the Coastal Zone a Coastal Permit:
    - (1) Buildings and structures accessory to any permitted use.

- (2) Educational and cultural uses including any structures incidental to such uses existing at the time of inclusion in the “O” District.
- (3) Uses and buildings normally incidental and accessory to the above principal uses: except in the Coastal Zone, structures shall be permitted only where they are ancillary to public recreational use or necessary to protect existing development or uses.
- (4) Beach access and, where suitable, beach access parking.
- (5) Any addition to an existing structure which will increase the coverage of the structure, or any new structure, except minor recreation or horticultural structures, such as playground equipment, trellises, fences and the like.
- (6) Shoreline erosion protection structures.

c. Reclassification:

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

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

If at the end of the ninety (90) days, or such longer period as may be agreed upon, no satisfactory arrangement has been concluded, the matter shall be remanded to the Planning

Commission for consideration of the reclassification applied for. The Commission shall thereafter proceed in accordance with the provisions of Section 35.

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

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

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

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



- g. All significant adverse environmental effects are either avoided or adequately mitigated.
- h. All major and minor subdivisions of land shall provide for sufficient size and configuration to allow for coastally dependent uses or where none are feasible visitor serving commercial uses consistent with the Local Coastal Land Use Plan or LCLUP. All parcels must contain sufficient shoreline frontage.

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

Add:

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

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

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

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

Purpose:

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

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

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

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

- j. Planning Commission Action:

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

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

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

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

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

## **P-F Public Facilities District**

- a. Uses Permitted: The following uses are permitted in the P-f District:
  - (1) None.

- b. Uses Permitted Subject to Obtaining a Use Permit or in the Coastal Zone a Coastal Development Permit in Each Case:
  - (1) Public and Private Schools
  - (2) Government offices and support facilities including public safety facilities
  - (3) Utility installations.
  - (4) Public recreation facilities.
  - (5) One single family residence in the Coastal Zone only as provided for in the Marina Local Coastal Land Use Plan
  - (6) Uses which in the opinion of the Planning Commission are similar to those listed above.
- c. Development Regulations:
  - (1) As specified in the Use Permit or Coastal Permit.

## **C-P Coastal Development Permit District**

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

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

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

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

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

c. Development Regulations:

Development regulations for the CP District shall be as specified in the district with which the CP District is combined, with whatever additional regulations the Planning Commission may add as conditions of the Coastal Development Permit in order for the application to be consistent with the Local Coastal Land Use and Implementation Plans. If necessary or desirable in order to achieve consistency with the LCLUP, the underlying district regulations, such as setbacks, may be modified.

d. Coastal Development Permits:

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

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

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

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

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

- (3) Granting:

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

The Planning Commission shall determine whether or not the establishment, maintenance and operation of the use applied for will, under the circumstances of the particular case, be

consistent with the General Plan and Local Coastal Land Use and Implementation Plans, based upon the following findings that the project will:

- (a) Not impair major view corridors towards the sea from Highway 1 parallel to the sea, including the Planning Guidelines listed in the LCLUP.
- (b) Be subject to approval of the Site and Architectural Design Review Board, including the Planning Guidelines listed in the LCLUP.
- (c) Guarantee that appropriate legal action is taken to insure vertical and lateral coastal access or fees paid in-lieu thereof as required in the LCLUP and LCIP Access Components. Required improvements shall be completed, or a bond adequate to guarantee their completion shall be posted with the City, prior to issuance of a certificate of occupancy.
- (d) Be adequately set back from the shoreline to withstand erosion to the extent that the reasonable economic life of the use would be guaranteed without need for shoreline protection structures.
- (e) Protect least disturbed dune habitat areas, primary habitat areas, and provide protection measures for secondary habitat measures consistent with the LCLUP and LCIP.
- (f) Be consistent with beach parking standards, as established in the LCLUP Access Component.
- (g) Included feasible mitigating measures which substantially reduce significant impacts of the project as prescribed in any applicable EIR.
- (h) Not interfere with public access along the beach.
- (i) Comply with the access, shoreline structure and habitat protection standards included in the Local Coastal Land Use and Implementation Plans.
- (j) Comply with the Housing Element and housing recommendations of the Local Coastal Land Use and Implementation Plans.
- (k) In the case of demolition of a residential structure, except to abate a nuisance, not detrimentally alter the character or housing mix of the neighborhood. The structure shall be move, if capable of providing comparable housing opportunities at another location. The demolition and replacement structure shall comply with applicable Local Coastal Land Use Plan policies.
- (l) In the case of new surf zone or beach sand mining operations, comply with all standards regarding such operations specified in the LCLUP including standards for significant adverse impacts on shoreline erosion, either individually or cumulatively.

(4) Effective Date outside the Coastal Appeals Zone:

The Coastal Permit shall be effective the seventh (7<sup>th</sup>) day after Planning Commission approval unless the Commission action is appealed to the City Council, in which case, the permit shall not be effective until the City Council has acted upon the appeal.

(5) Coastal Commission Appeal:

Any Coastal development permit decision of the City Council within the Local Coastal Appeal Zone is subject to appeal to the State Coastal Commission within twenty-one (21) days after the local decision, and will not become effective until after resolution of the appeal.

## Short Form Permit Procedures

### 17.43.60 Determination of Permit Requirement.

- A. The Director of Planning shall have the authority to determine whether or not any development proposed in the Coastal Zone is exempt from a Coastal Development Permit pursuant to Section 17.43.070.
- B. Any person wishing such determination shall submit to the Planning Department all plans, applications and information deemed necessary by the Planning Department to assess the development.
- C. After review, the Director of Planning, shall notify the applicant in writing that the development is:
  - 1. exempt and state the category of exemption, or
  - 2. that a Coastal Development Permit is required and, if so, whether or not it is appealable to the California Coastal Commission.

Notice of such decision shall also be submitted to the Coastal Commission.

- D. If the determination of the City is challenged by the applicant or an interested person, or if the City wishes to have a Coastal Commission determination as to the appropriate designation, the City shall notify the Coastal Commission by telephone of the dispute/question and shall request an Executive Director's opinion which shall be made pursuant to Section 13569 of the Coastal Commission's regulations.

### 17.43.70 Exemptions.

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

- A. Improvements to existing single family residences. The maintenance, alteration, or addition to existing single-family dwellings which comply with the underlying district regulations, including the establishment or expansion of non-habitable accessory structures normally associated with residential uses such as garages, decks, workshops, landscaping, storage sheds, pools, fences, gazebos, patios, green houses, driveway paving and similar improvements but not including guest houses or self-contained residential units. However, the following classes of development shall require a permit because they involve a risk of adverse environmental impact:
1. Improvements to a single-family structure on a beach or wetland; seaward of the mean high tide line or where the residence or proposed improvement would encroach or within fifty (50) feet of the edge of a coastal bluff. Wetland is defined in Section 30121 of the Coastal Act as: “Wetland” means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fends. Specific wetlands are mapped in the Land Use Plan.
  2. Any significant alteration of landforms including removal or placement of vegetation, on a beach, wetland or sand dune, or within fifty (50) feet of the edge of a coastal bluff. “Coastal Bluff” is defined in the California Administrative Code Section 13577(h).
  3. The expansion or construction of water wells or septic systems.
  4. On property located between the sea and the first public road paralleling the sea or within three hundred (300) feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in the Highway 1 scenic road corridor, improvement that would result in an increase of ten (10) percent or more of internal floor area of an existing structure, or an additional improvement of 10% or less where an improvement to the structure has previously been undertaken pursuant to this Section or a coastal permit, increase in height by more than 10% of an existing structure, the construction of an additional story (including lofts) in an existing structure, and/or significant non-attached structure such as garages, fences, shoreline protective works, docks or trees or satellite dishes.
  5. In areas determined to have critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development not essential to residential use including but



not limited to swimming pools, or construction or extension of any landscaping irrigation system.

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

7. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor serving commercial use to a use involving a fee ownership or long-term leasehold including but not limited to a condominium conversion, stock cooperative conversion or motel/hotel time-sharing conversion.
  8. Additions or expansions to developments which by conditions of a previous permit issued by the City of Marina or Coastal Commission requires development permits for such addition or expansion.
- C. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.
  - D. Repair or maintenance activities and safety improvements that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities; however, the following classes of repair and maintenance shall require a permit because they involve a risk of adverse environmental impact:
    - A. Any method of repair or maintenance of a seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline work that involves:
      - a. Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;
      - b. The placement, whether temporary or permanent, of riprap, artificial berms or sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, waters, streams, wetlands, estuaries, and lakes or on a shoreline protective work;
      - c. The replacement of twenty (20) percent or more of the materials of an existing structure with materials of a different kind; or
      - d. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or within twenty (20) feet of coastal water or streams.
    - B. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area as defined by Coastal Act Section 30107.5, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that includes:
      - a. The placement or removal, whether temporary or permanent, of riprap, rocks, sand or other beach materials or any other forms of solid materials;

- b. The presence, whether temporary or permanent, of mechanized equipment or construction materials.
- E. Any category of development requested by the City as a Categorical Exclusion pursuant to Section 13241 of the Coastal Commission’s Regulations and approved by the Coastal Commission pursuant to Coastal Act Section 13241 of the Regulations.
- F. The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this ordinance or previously granted a permit by the Coastal Commission; provided that the City may, where necessary, require reasonable conditions to mitigate any adverse impact on coastal resources, including scenic resources.
- G. The replacement of any structure, other than a public works facility, destroyed by natural disaster. Such replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than ten (10) percent and shall be sited in the same location on the affected property as the destroyed structure.

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

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

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

- H. Harvesting of agricultural crops.
- J. Land division brought about in connection with the purchase of land by a public agency for public recreational use.
- K. Any project undertaken by a federal agency.
- L. Any project which has a valid permit from the Coastal Commission.
- M. Tree removal (which is not major vegetation), except as precluded by other section of this ordinance.

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

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

- A. Definition. An administrative coastal development permit is a coastal permit issued by the Director of Planning which does not become effective until its issuance is reported to the City Council. If 1/3 of the members of the City Council so request, issuance of the administrative permit shall not become effective and, at the applicant's request, the application shall be considered as a regular coastal development permit at the next regularly scheduled meeting of the City Council.
- B. Applicability.
  - 1. That following the review of a Coastal Permit application by the Director of Planning, said official shall have the authority to issue a Coastal Permit by virtue of Section 30624 of the California Coastal Act for the following non-emergency developments;
    - a. Improvements to any existing structure;
    - b. Any single family dwelling;

- c. Any other developments not in excess of one hundred thousand dollars (\$100,000), other than any division of land;
- d. Any development of four (4) dwelling units or less that does not require demolition.

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

- 2. If the Planning Director receives an application that is asserted to be for improvements or other development within the criteria established in (1) above and if the Planning Director finds that the application does not qualify as such, he or she shall notify the applicant that the permit application cannot be processed administratively and must comply with procedures for coastal development permits provided in 17.43.050 of this ordinance. The Planning Director, with the concurrence of the applicant, may accept the application for filing as a regular permit and shall adjust the application fees accordingly.
- 3. In the case of any development involving a structure or similar integrated physical construction which lies partly within and partly outside the Coastal Commission's appeal area, the entire structure or similar integrated physical construction must be subject to at least one public hearing and may not be processed as an administrative permit. [Resolution No. 89-63 (October 3, 1989); approved by CCC October 10, 1989]

C. Action. The Planning Director may deny, approve or conditionally approve applications for administrative coastal development permits on the same grounds as contained in Section 17.43.050 for an ordinary CDP application and may include reasonable terms and conditions necessary to bring the project into consistency with the certified LCP.

D. Administrative Permit Deemed Final. A decision on an administrative permit shall not be deemed final and effective until (a) the decision on the application has been made, the City Council review of the permit is complete, and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified LCP and, when applicable, the public access and recreation policies of Chapter 3 of the Coastal Act, and (b) when all rights of appeal under City ordinances have been exhausted. [Resolution No. 89-52].

17.43.120 Effective Date of Short Form Permits: Any administrative permit or waiver authorization issued by the Director of Planning pursuant to the provisions of this section shall be scheduled on

the agenda of the City Council at its first scheduled meeting after that permit has been issued. The Planning Director shall prepare a report in writing with sufficient description of the work authorized to allow the City Council to understand the development to be undertaken. Such a report shall be available at the meeting and for administrative permits shall be mail to all persons wishing to receive such notification at the time of the regular mailing of notice for the meeting and any person who requested to be on the mailing list for the project meeting and any person who requested to be on the mailing list for the project as in 17.43.130 below. If, at the meeting, one-third of the appointed members of that governing body so request, the permit or authorization issued by the Director of Planning shall not go into effect and, if the applicant wishes to pursue the application, the application of a Coastal Development Permit shall be processed by the City of Marina pursuant to standard Coastal Permit procedures listed in Chapter 17.43 of the Marina Zoning Ordinance. Unless the City Council indicates otherwise, the failure to object to issuance of any waiver or administrative permit shall be presumed to be based upon the findings set forth and adopted.

17.43.130 Public Notice. Prior to scheduling any short form permit for City Council review, with the exception of categorically excluded projects, the Director of Planning shall comply with the following public notice procedures:

- A. At the time the permit application is submitted the applicant must post, at a conspicuous place, easily read by the public and on the site, or as close as possible to the site, of the proposed development, notice that an application for the proposed development has been submitted to the City using standardized form(s) provided by the Planning Director. The notice shall contain a general description of the nature of the proposed development. If the applicant fails to post and keep posted the completed notice form until the waiver or administrative permit becomes effective, the Planning Director shall refuse to file the application or shall withdraw the application from filing if it has already been filed when he or she learns of such failure. The City shall enforce the administrative permit or waiver authorization pursuant to procedures set forth in Chapter 17.60 if it determines that the administrative permit or waiver authorization was granted without proper notice having been given, and the failure of the noticing may have caused the Planning Director to act differently in issuing said permit.
- B. Within ten (10) calendar days of filing an application for Coastal Development Permit or at least ten (10) calendar days prior to the first public hearing or to City Council review of the Planning Director's action on the development proposal, the local government shall provide notice by first class mail of pending application for development.
- C. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction, to all property owners and residents within one hundred (100) feet of the

perimeter of the parcel on which the development is proposed, to the Coastal Commission; and in cases where public hearings are required under other provision of Marina's ordinances to property owners within 300 feet of the perimeter of the parcel on which the development is proposed, and shall also be published in a newspaper of general circulation. The notice shall contain the following information:

1. a statement that the development is within the coastal zone;
2. the date of filing of the application and the name of the applicant;
3. the number assigned to the application;
4. a description of the development and its proposed location;
5. the date, time and place at which the application will be heard by the local governing body or hearing officer;
6. a brief description of the general procedure of local government concerning the conduct of hearing and local actions, including the general procedure concerning the submission of public comments either in writing or orally prior to the decision;
7. a statement that a public comment period is sufficient time to allow for the submission of comments by mail will be held prior to the decision;
8. the system for local approvals and appeals, including local fees required;
9. a description of the general procedures concerning administrative permits and/or waiver authorizations.

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

## **Section 30: Variances**

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

## **Section 31: Use Permits**

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

## **Section 32: Site and Architectural Design Review**

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

## **Section 35: Amendments**

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



# 9.0 Zoning Implementation Chart

**Table 7-1 Zoning Implementation Chart**

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

SOURCE: Company 2021  
NOTE:

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# 10.0 Subdivision Ordinance Amendments

## Subdivision Ordinance Revisions

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

## Grading Ordinance Amendments

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

### Section 7005 Definitions

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

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

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

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

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

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

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

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

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

## Section 7006 Grading Permit Requirements

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

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

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

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

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

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

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

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

## Section 7013 Erosion Control

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

- (c) Planting. The face of cut-and-fill slopes shall be prepared and maintained to control erosion. All cut-and-fill surfaces subject to erosion shall be planted with ground cover which is compatible with the native ground cover and requires little maintenance. Landscaping which blends into the natural surrounding may be required on cut-and-fill slopes along public roads. Plant heights shall not obstruct vehicular sight distances on City streets. (Adequate sight distance shall be determined by the City Engineer). Earth slopes shall be contour graded to encourage landscaping. All plant materials shall be approved by the Planning Director.

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

## Section 7013B Stockpiling

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

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

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

## Section 7014(b) Grading Designation

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

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

## 12.0 Sand Mining Reclamation

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

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

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

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

of surface mining activities to insure public safety and welfare as well as appropriate future use of the area.

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

## 13.0

# Ordinance Relating to Surface Mining and Reclamation Standards

### AN ORDINANCE \_\_\_\_\_ RELATING TO SURFACE MINING AND RECLAMATION STANDARDS AND REQUIRING MINING OPERATORS WITHIN THE CITY OF MARINA TO PREPARE AND EXECUTE RECLAMATION PLANS

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

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

#### Section 1: Purpose and Intent

- a) This ordinance is adopted pursuant to the California Surface Mining and Reclamation Act of 1975, Chapter 9, Public Resources Code.
- b) The City Council hereby finds and declares that the extraction of minerals is essential to the continued economic well-being of the City and to the needs of society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.
- c) The City Council further finds that the reclamation of mined lands as provided in this ordinance will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.
- d) The City Council further finds that surface mining takes place in areas where the geologic, topographic, climatic, biological, and social conditions are



different and that reclamation operations and the specifications therefore may vary accordingly.

## Section 2: Definitions

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

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

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

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

2.5 “General Plan” means the adopted General Plan for the City of Marina.

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

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

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

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

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

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

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

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

2.13 “Reclamation” the process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface

effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

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

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

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

### **Section 3: Scope.**

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

3.2 The provisions of this chapter are not applicable to:

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

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

### **Section 4: Permit, Reclamation Plan and Reporting Requirements**

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

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

b) Reclamation Plan Review. Approved Reclamation Plans shall be reviewed by the Planning Commission at least every five (5) years. It shall be the sole responsibility of the operator to submit a written request to the Planning Commission prior to the expiration of each five (5) year period. Operator shall provide the Planning Commission with ample evidence that compliance is being

maintained with the provisions of the approved Reclamation Plan. The Planning Commission retains the right subsequent to Reclamation Plan review to modify the terms of any Reclamation Plan to assure continuing compliance with the Local Coastal Program. Furthermore, the Planning Commission may consider and approve modification of any Reclamation Plan requested by the operator so long as it finds that the Reclamation Plan is in compliance with the Local Coastal Program.

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

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

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

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

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

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

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

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

4.3 Reporting Provision. In order to establish reference base data for the purpose of determining whether or not any particular mining activity constitutes new mining

activity and to monitor shoreline erosion, it is hereby required that all operators of existing mining operations submit to the Planning Department a brief written statement specifying the approximate annual volume of sand being removed and an accurate cronaflex ortho- topographic map, at a scale of 1" = 200' with 2' contour intervals, preferably prepared by a licensed photogrammetric engineer. All elevations on said map shall be based on City of Marina datum. Said maps may also be prepared by a licensed surveyor or Civil engineer. All areas being mined shall be clearly and accurately outlined on said topographic map. The information specified above shall be certified for accuracy and be submitted by the operator to the City.

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

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

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

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

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

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

- a) The name and address of the operator and the names and addresses of any persons designated by him as his agent for the service of process.
- b) The anticipated quantity and type of minerals for which the surface mining operation is to be conducted.
- c) The proposed dates for the initiation and termination of such operation.
- d) The maximum anticipated depth and area of the surface mining operation.
- e) The size and the legal description of the land, what will be affected by such operation, a map that includes the boundaries and topographic details of such lands, a description of the geology of the area in which surface mining is to be conducted; if, in the Coastal Zone, a line indicating the tsunami run-up line; the location of all rare and endangered plant and animal species and their habitat in the area where surface mining is to be conducted; the location of all streams, road, railroads, and utility facilities within, or adjacent to such lands; the location of all proposed access roads to be constructed in conducting such operation; and the names and addresses of the owners of all surface and mineral interests of such lands.
- f) A description of the type of surface mining to be employed and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that the reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further

disturbance by the surface mining operation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Section 5: Review Procedure.**

5.1 The Planning Commission shall review the permit application and the

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

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

#### **Section 6: Performance Bond.**

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

#### **Section 7: Public Record.**

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

#### **Section 8: Amendments.**

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

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

#### **Section 9: Variance.**

Variances from an approved Reclamation Plan may be allowed upon request of the operator and applicant, if they are not one and the same, upon findings by the Planning Commission that each requested variance is necessary to achieve the

prescribed or higher use of the reclaimed land and is consistent with the Marina Local Coastal Program if property is located within the Coastal Zone.

**Section 10: Appeal.**

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

**Section 11: Enforcement.**

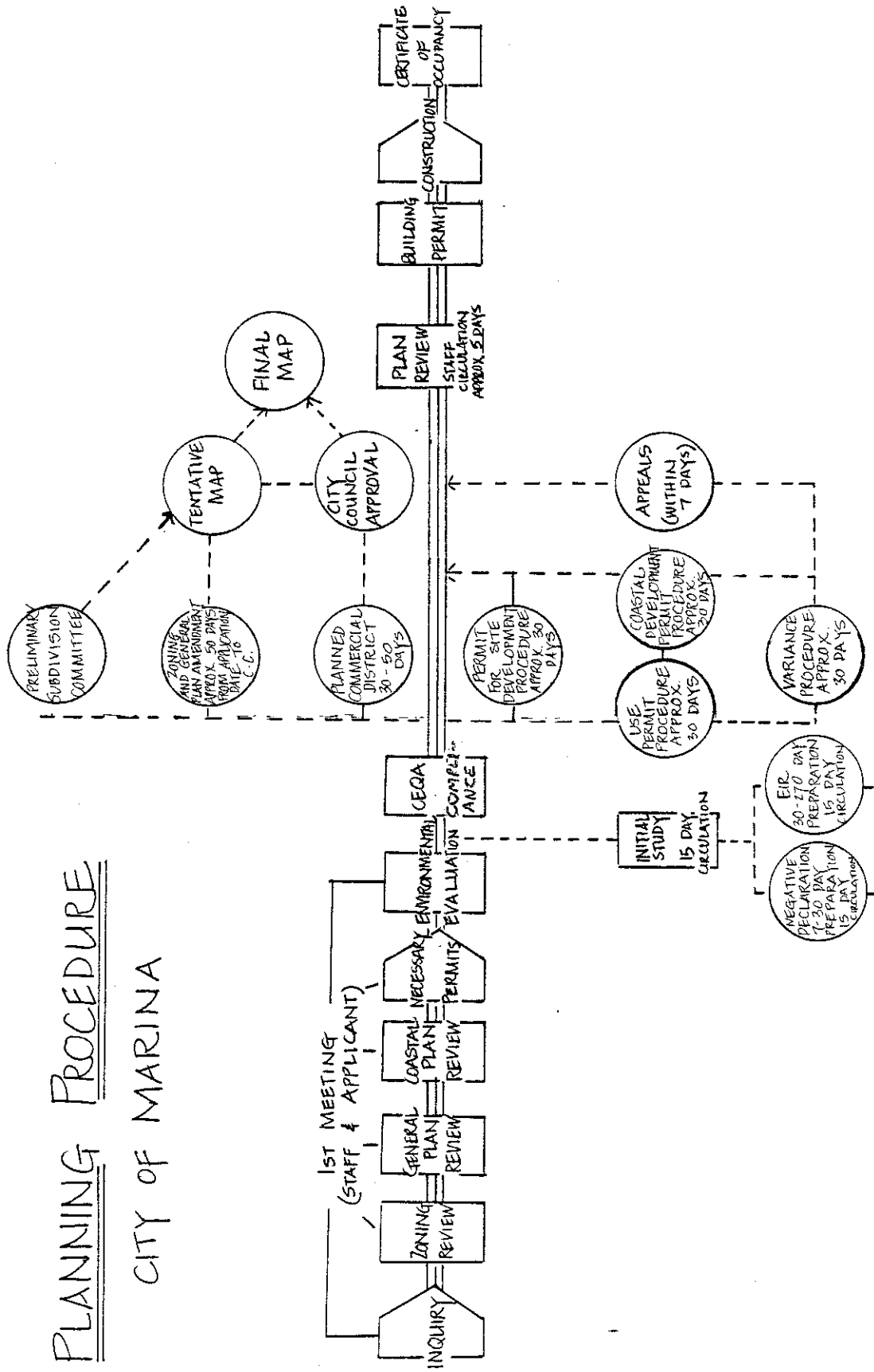
The provisions of this chapter shall be enforced by any authorized member of the Planning Department or such other persons as may be designated by the City Council.

**Section 12: Separability.**

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

# PLANNING PROCEDURE

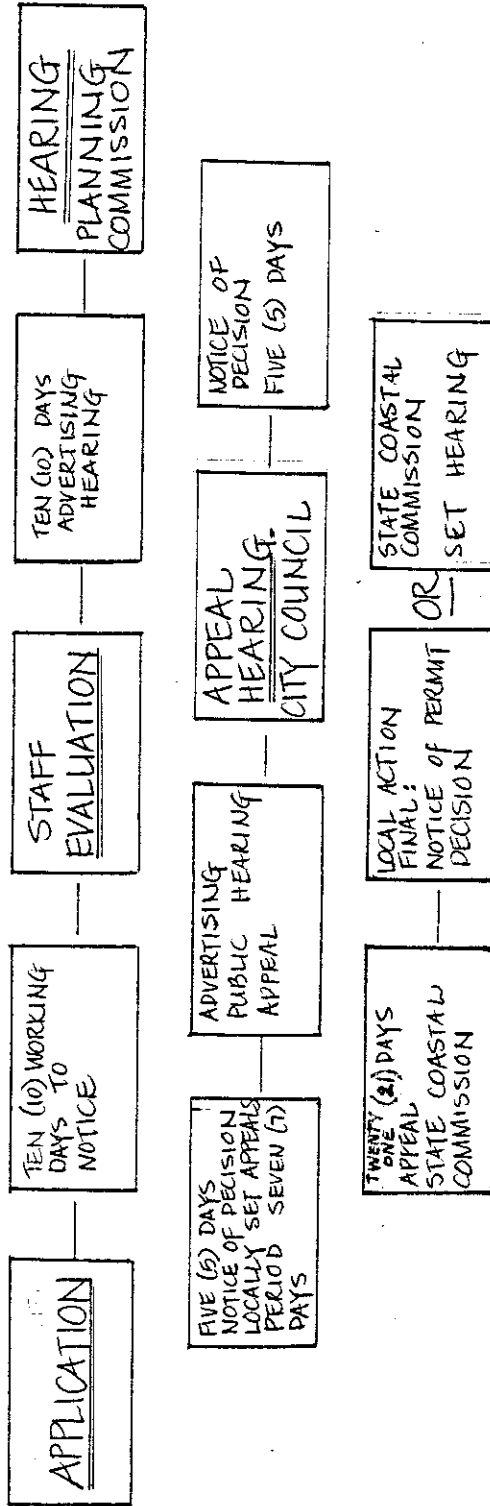
CITY OF MARINA





# COASTAL DEVELOPMENT PERMIT PROCEDURE FLOW CHART

## CITY OF MARINA




**T-B-5 TO CD**

ZONING CHANGES TO  
IMPLEMENT LOCAL  
COASTAL PLAN - MARINA

**M  
TO  
CD**

**T-B-5**  
5% AG. MIN.  
**TO  
CD**

KEY

- R-1 - Single Family Residential
- R-3 - Limited Multiple Family Residential
- C-1 - Retail Business
- PC - Planned Commercial
- CD - Coastal Conservation & Development
- M - Industrial
- T - Transitional
- PF - Public Facilities
- K - Agriculture
- O - Open Space
-  - Coastal Development Permit District
- SU - Coastal Zone Secondary Use Combining District

match line

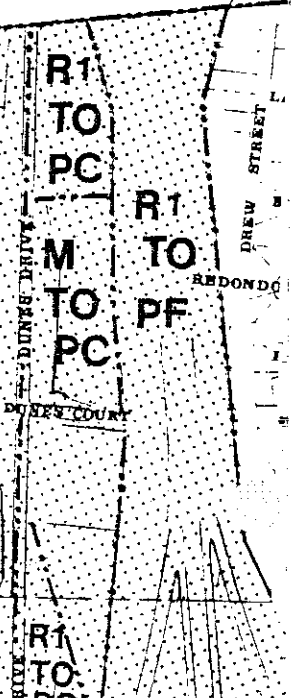
**M  
TO  
CD/SU**

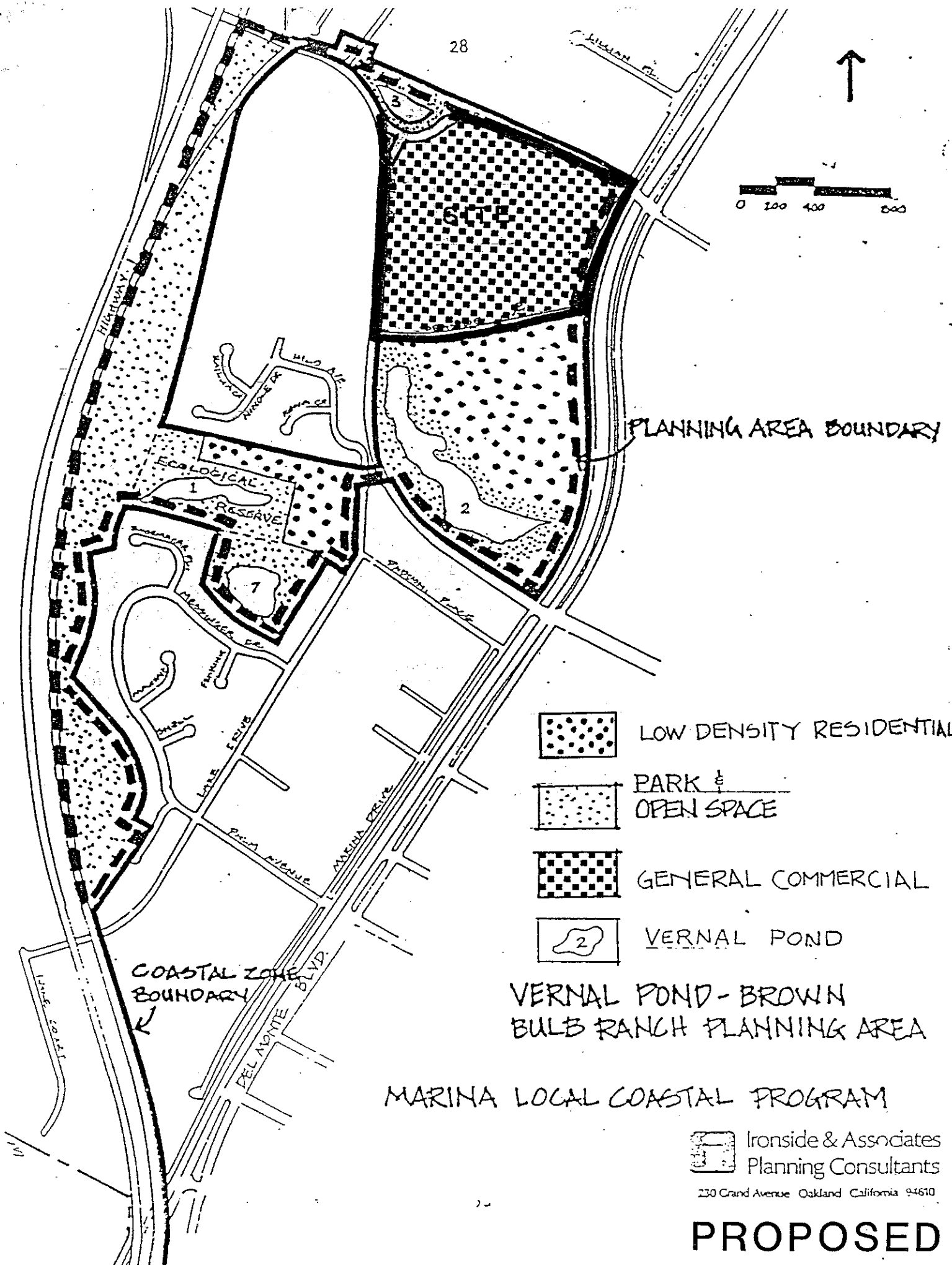
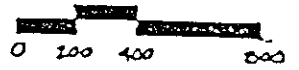
**R1  
TO  
PC  
M  
TO  
PC**

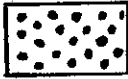



**R1  
TO  
PF**

**R1  
TO  
PC**

**M to PF M to O**






-  LOW DENSITY RESIDENTIAL
-  PARK & OPEN SPACE
-  GENERAL COMMERCIAL
-  VERNAL POND

VERNAL POND - BROWN BULB RANCH PLANNING AREA

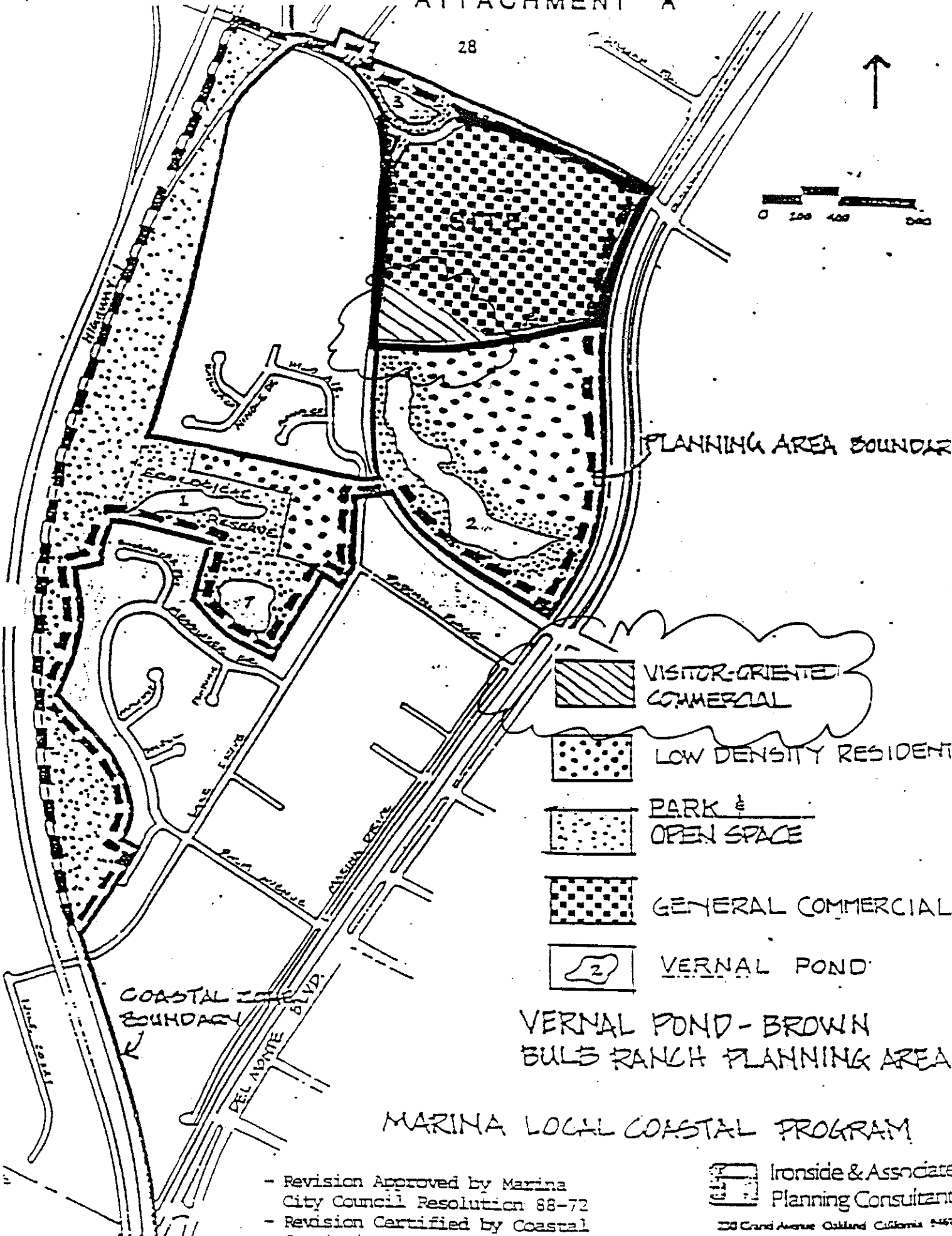
### MARINA LOCAL COASTAL PROGRAM

 Ironsides & Associates  
 Planning Consultants  
 230 Grand Avenue Oakland California 94610



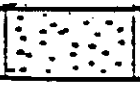


# PROPOSED

ATTACHMENT A

28



PLANNING AREA BOUNDARY

-  VISITOR-ORIENTED COMMERCIAL
-  LOW DENSITY RESIDENT
-  PARK & OPEN SPACE
-  GENERAL COMMERCIAL
-  VERNAL POND

VERNAL POND - BROWN BULLS RANCH PLANNING AREA

MARINA LOCAL COASTAL PROGRAM

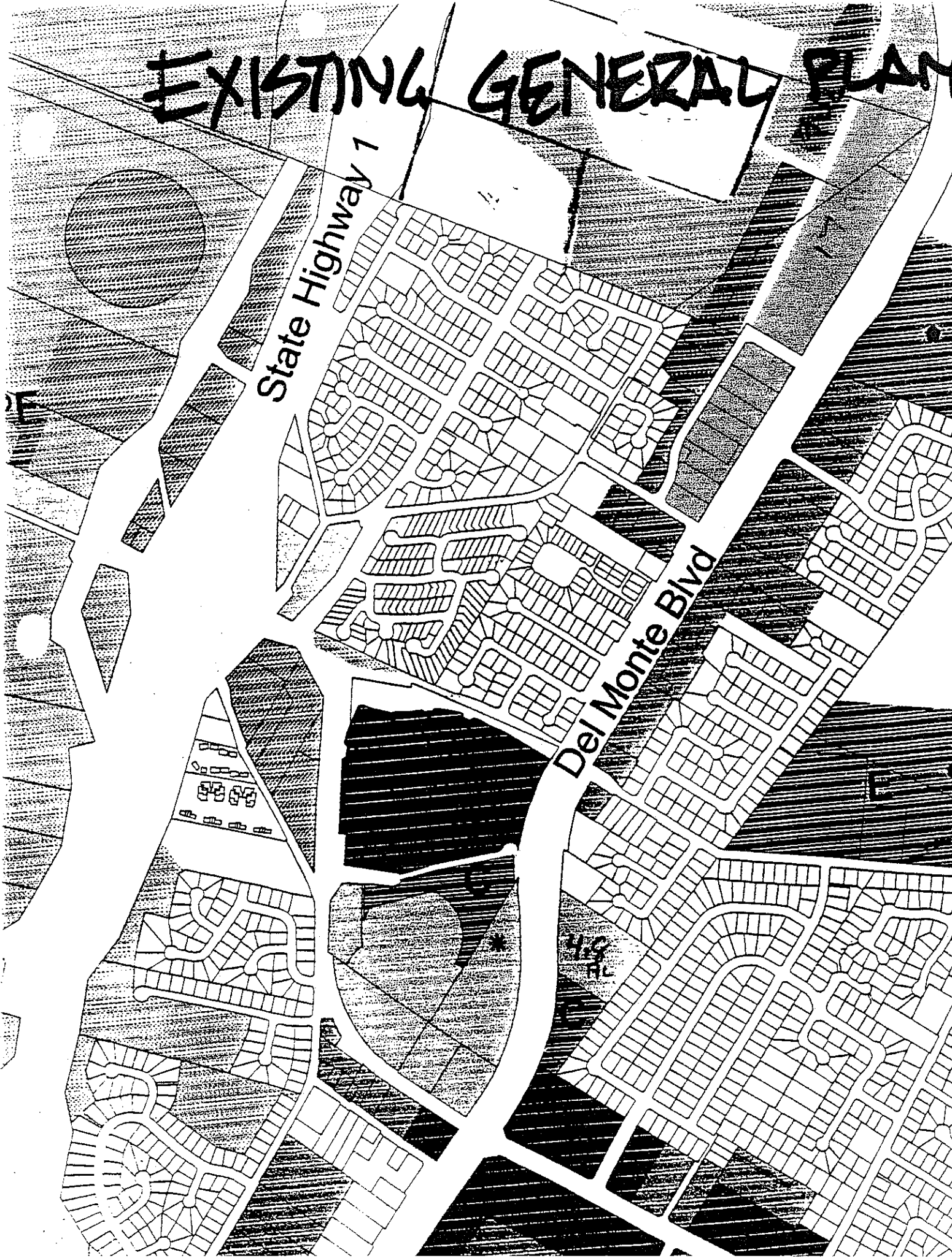
- Revision Approved by Marina City Council Resolution 88-72  
 - Revision Certified by Coastal Commission

 Ironsides & Associates  
 Planning Consultant  
 230 Grand Avenue Oakland California 94612

# EXISTING GENERAL PLAN

State Highway 1

Del Monte Blvd



# GENERAL PLAN AMENDMENT

State Highway 1

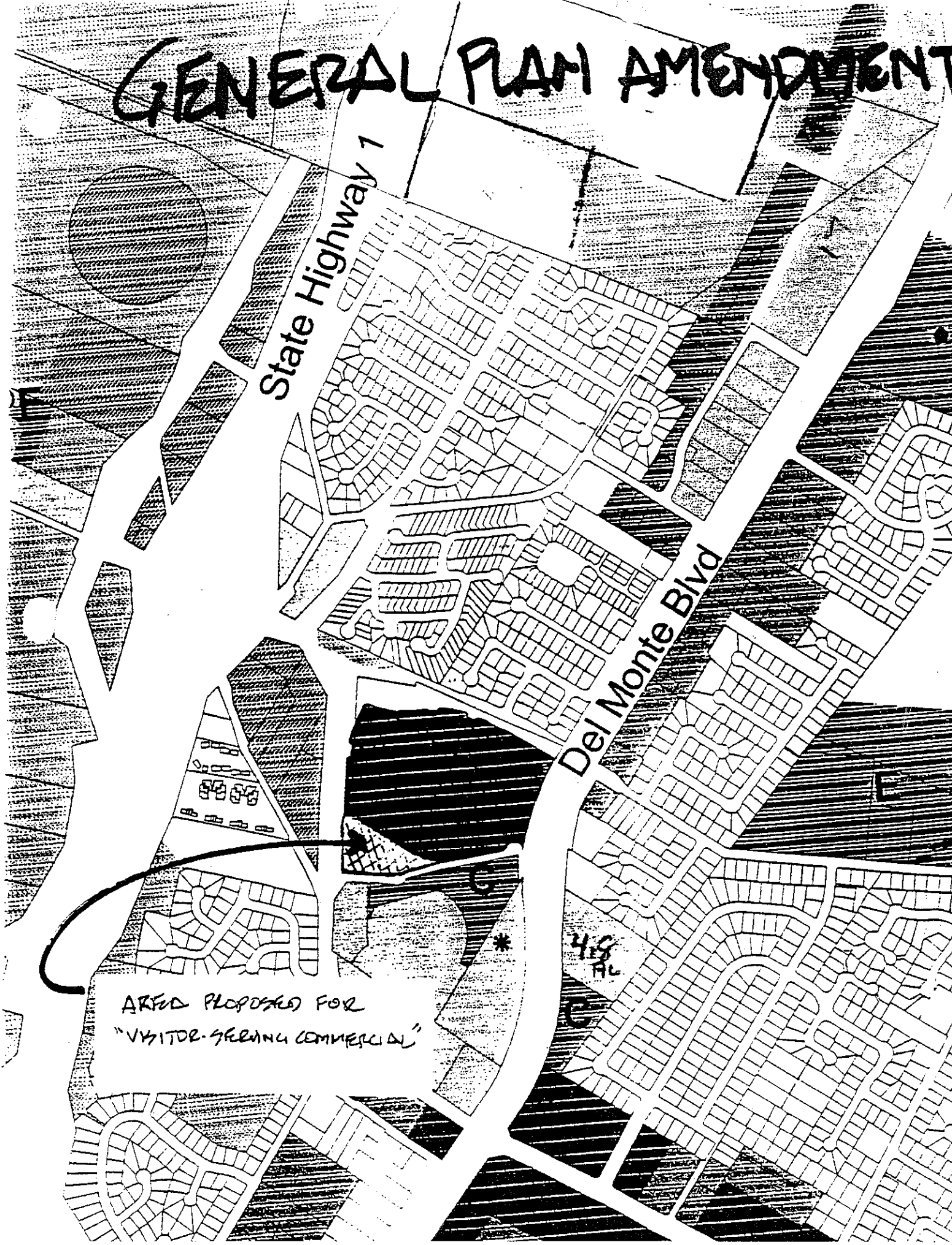
Del Monte Blvd

AREA PROPOSED FOR  
"VISITOR-SEEKING COMMERCIAL"

\*

HIS  
AL

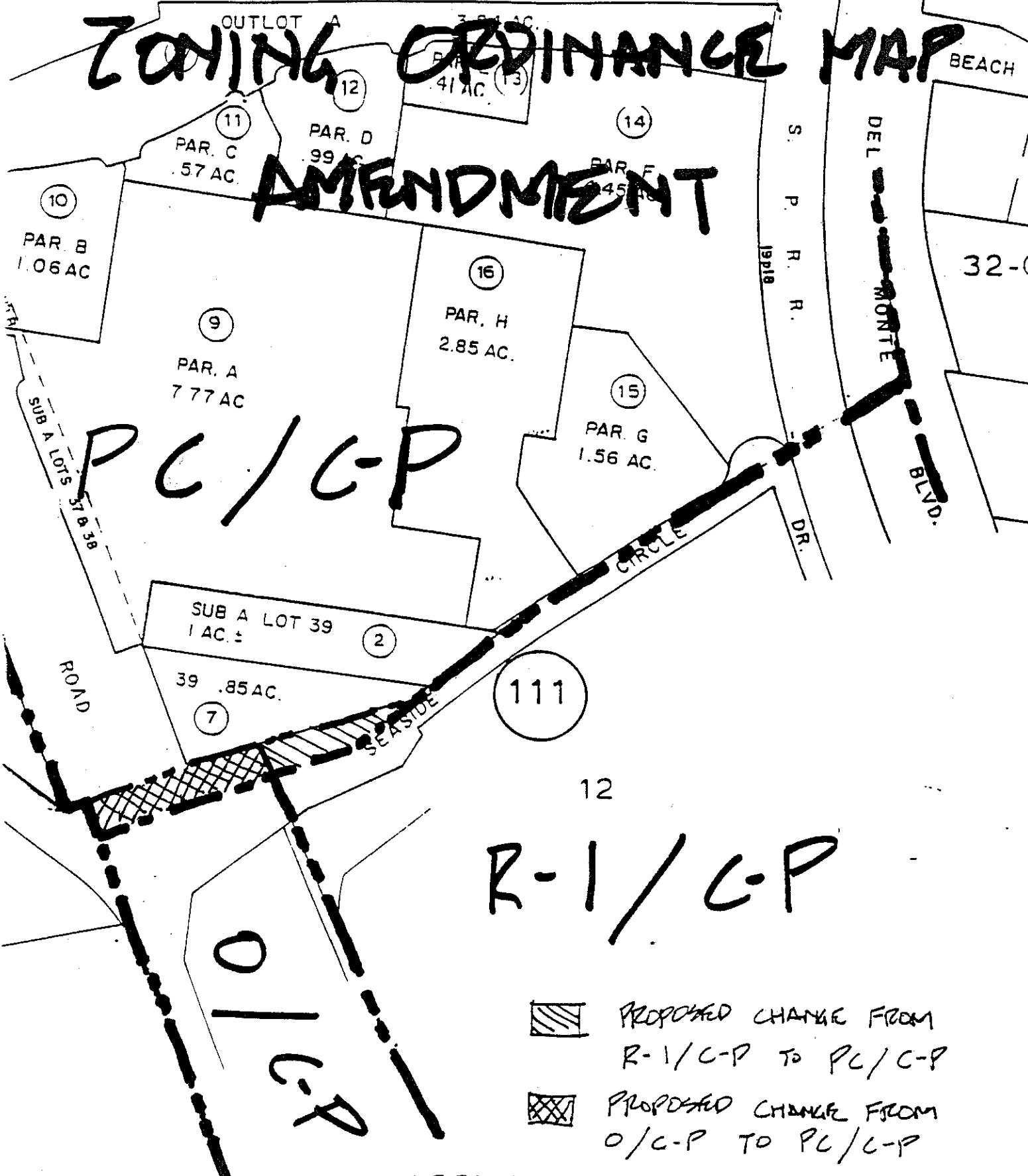
C





08

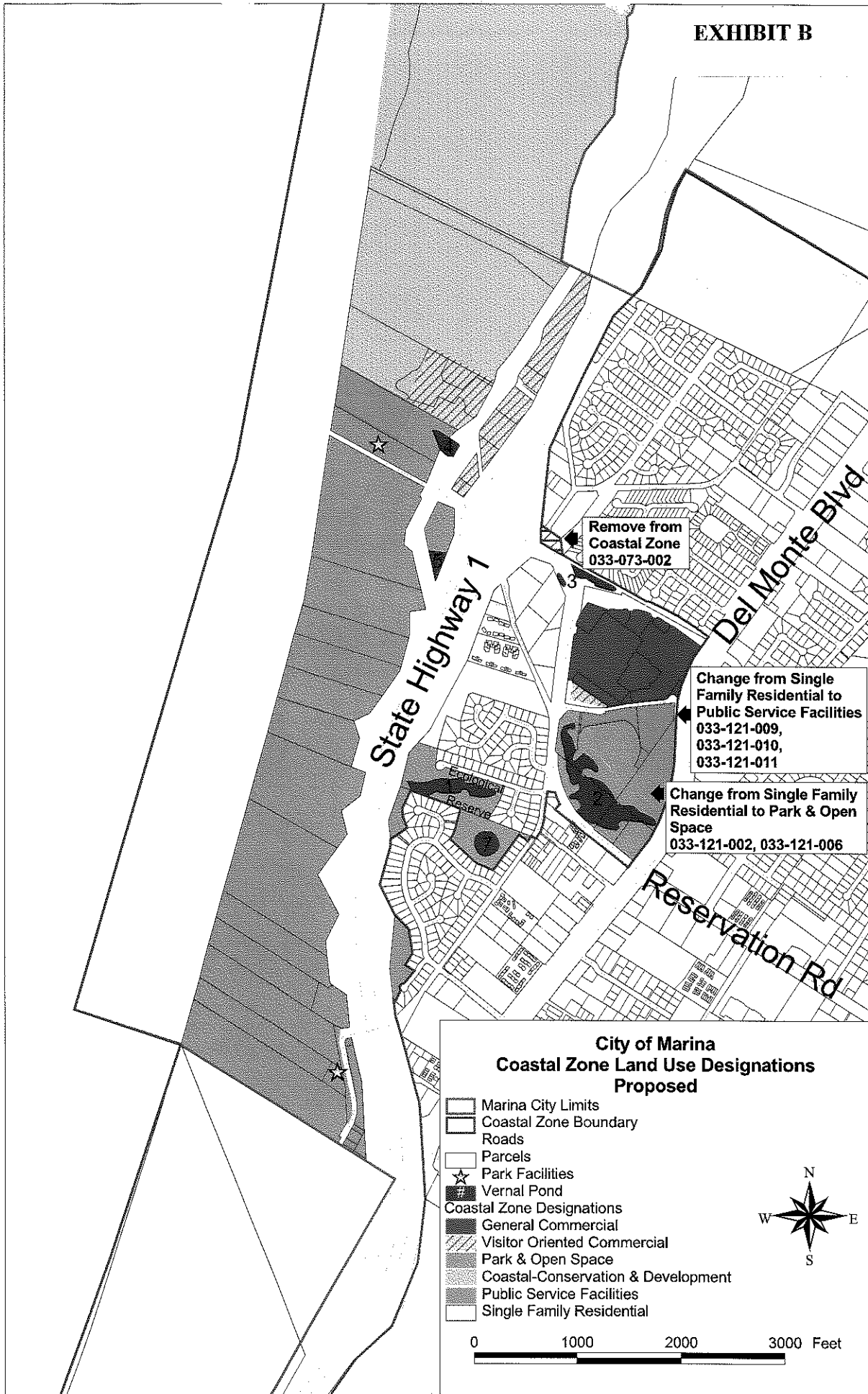
# ZONING ORDINANCE MAP

## AMENDMENT

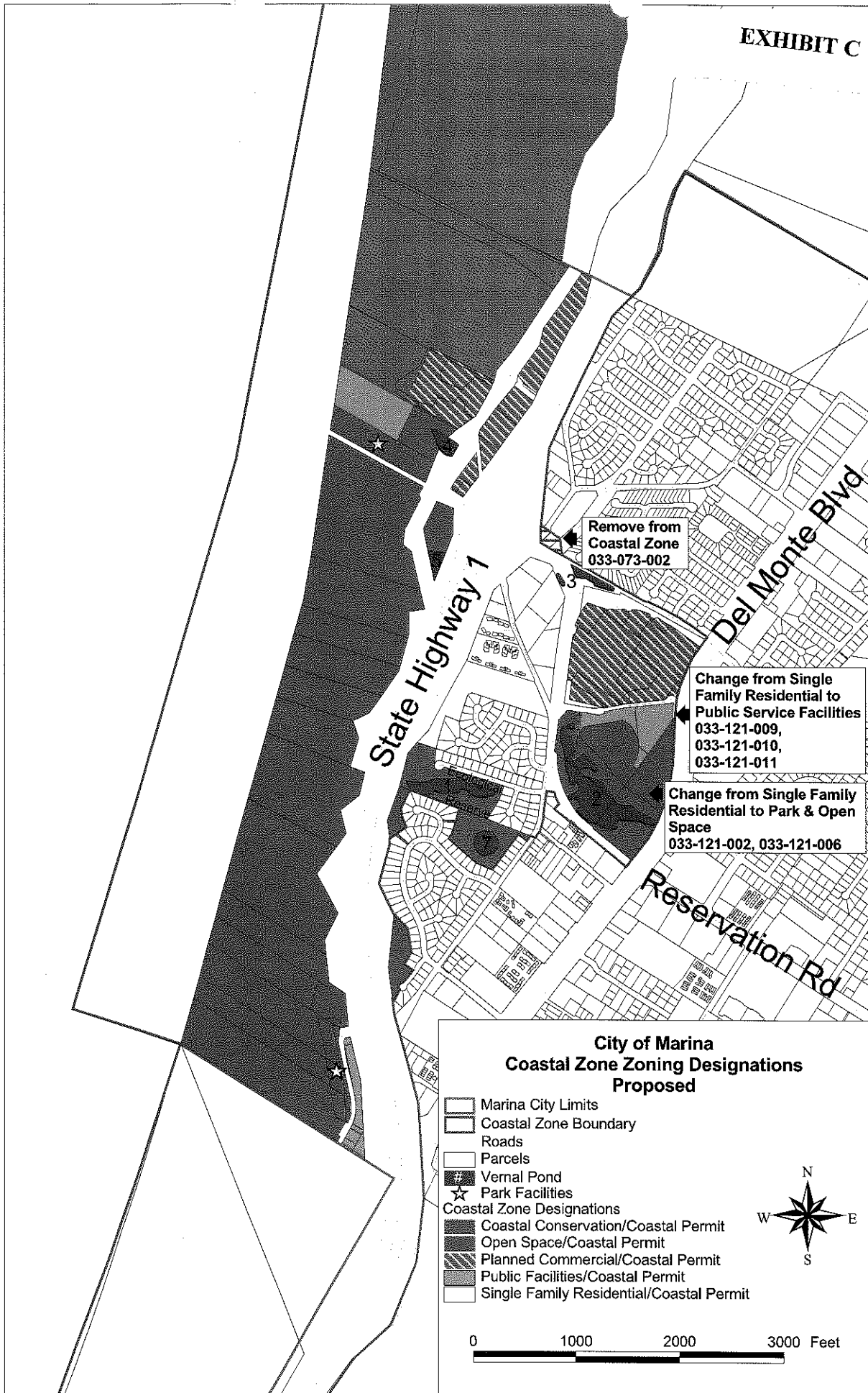


-  PROPOSED CHANGE FROM R-1/C-P TO PC/C-P
-  PROPOSED CHANGE FROM O/C-P TO PC/C-P

**EXHIBIT B**

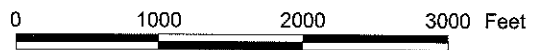
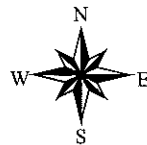


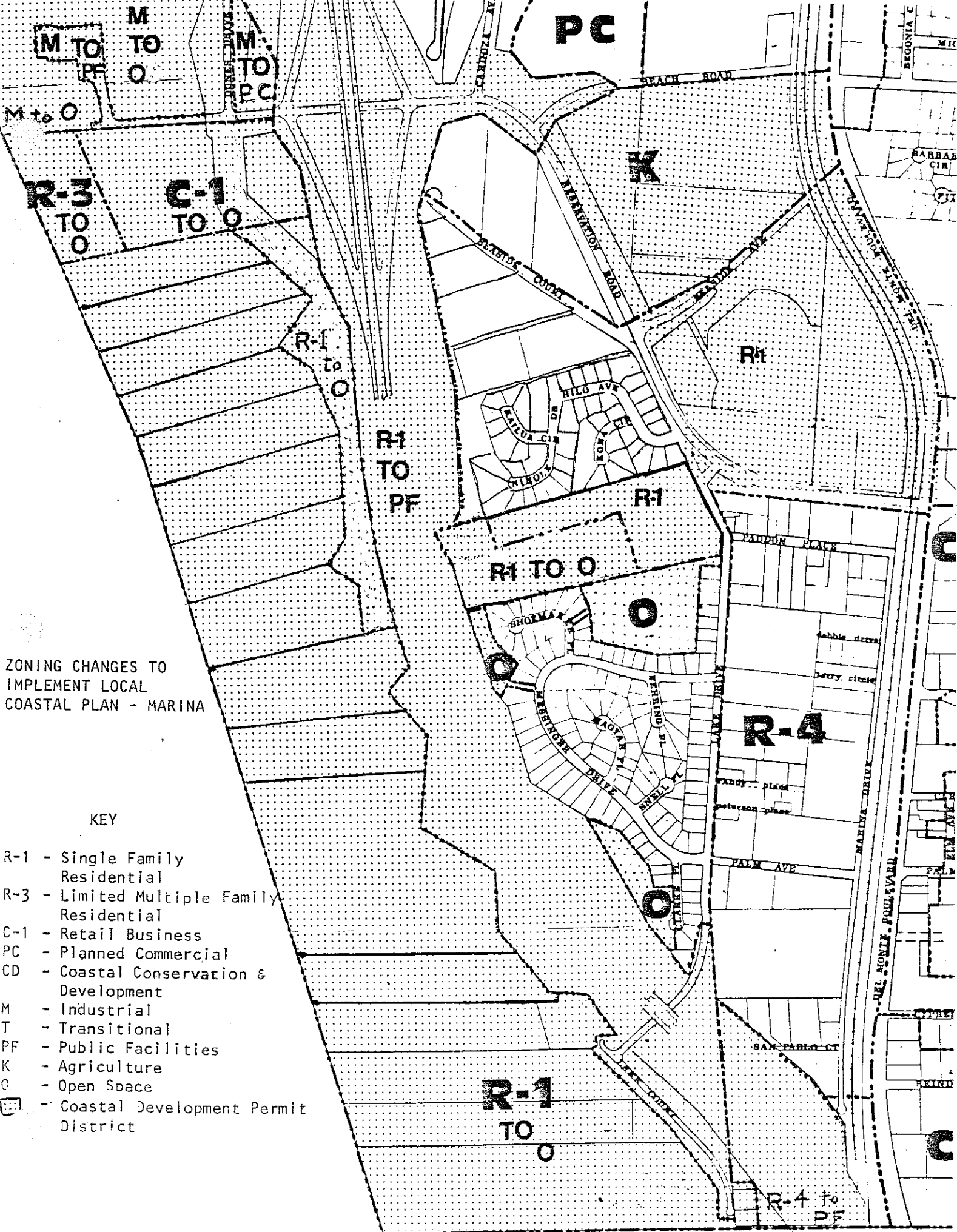




**City of Marina  
Coastal Zone Zoning Designations  
Proposed**

- Marina City Limits
- Coastal Zone Boundary
- Roads
- Parcels
- Vernal Pond
- Park Facilities
- Coastal Zone Designations**
- Coastal Conservation/Coastal Permit
- Open Space/Coastal Permit
- Planned Commercial/Coastal Permit
- Public Facilities/Coastal Permit
- Single Family Residential/Coastal Permit





ZONING CHANGES TO IMPLEMENT LOCAL COASTAL PLAN - MARINA

KEY

- R-1 - Single Family Residential
- R-3 - Limited Multiple Family Residential
- C-1 - Retail Business
- PC - Planned Commercial
- CD - Coastal Conservation & Development
- M - Industrial
- T - Transitional
- PF - Public Facilities
- K - Agriculture
- O - Open Space
- Coastal Development Permit District