



**AGENDA**

Thursday, June 27, 2019

**REVISED ON JUNE 20, 2019**

**6:30 P.M.**

**REGULAR MEETING  
PLANNING COMMISSION**

**Council Chambers  
211 Hillcrest Avenue  
Marina, California**

**VISION STATEMENT**

Marina will grow and mature from a small town bedroom community to a small city which is diversified, vibrant and through positive relationships with regional agencies, self-sufficient. The City will develop in a way that insulates it from the negative impacts of urban sprawl to become a desirable residential and business community in a natural setting. **(Resolution No. 2006-112 - May 2, 2006)**

**MISSION STATEMENT**

The City Council will provide the leadership in protecting Marina's natural setting while developing the City in a way that provides a balance of housing, jobs and business opportunities that will result in a community characterized by a desirable quality of life, including recreation and cultural opportunities, a safe environment and an economic viability that supports a high level of municipal services and infrastructure. **(Resolution No. 2006-112 - May 2, 2006)**

**1. CALL TO ORDER**



**2. ROLL CALL & ESTABLISHMENT OF QUORUM (Planning Commission Members)**

Katherine Biala, David Bielsker, David Burnett, Victor Jacobsen, Tom Mann, Brian McCarthy, Jeff Weekley

**3. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE (Please stand)**

**4. SPECIAL ANNOUNCEMENTS AND COMMUNICATIONS FROM THE FLOOR:**

*Announcements of special events or meeting of interest as information to Board and Public. At this time any person may comment on any item, which is not on the agenda. Please state your name and address for the record. Action will not be taken on an item that is not on the agenda. If it requires action, it will be referred to staff and/or placed on the next agenda. Planning Commission members or City staff may briefly respond to statements made or questions posed as permitted by Government Code Section 54954.2. In order that all interested parties have an opportunity to speak, please limit comments to a maximum of Four (4) minutes. Any member of the public may comment on any matter listed on this agenda at the time the matter is being considered by the Planning Commission.*

5. **CONSENT AGENDA:** *Background information has been provided to the Planning Commission on all matters listed under the Consent Agenda, and these items are considered to be routine. All items under the Consent Agenda are normally approved by one motion. Prior to such a motion being made, any member of the public or the Planning Commission may ask a question or make a comment about an agenda item and staff will provide a response. If discussion or a lengthy explanation is required, that item will be removed from the Consent Agenda and placed at the end of Other Action Items.*

**a. Minutes from May 23, 2019 Regular Meeting**

**b. Nath, 3167 Kona Circle**

Consider a Site and Architectural Design Review Application (DR 2019-20) for a pre-fabricated shed structure (produced by Tough Shed) with a height of 12 feet 6 inches to be placed in the backyard of the subject parcel, located at 3167 Kona Circle, Marina (APN: 033-212-010-000).

6. **PUBLIC HEARINGS:** *Time will be set aside during the Public Hearing to receive oral comments on all items listed as Public Hearings. Staff will present the project brought forth for Planning Commission consideration and possible action and answer questions from the Planning Commissioners. The applicant will then have the opportunity to raise any issues. The public will then be invited to approach the podium to provide up to four (4) minutes of public testimony.*

**a. 326 Reservation Road**

Consider adopting a Resolution Denying a Request for an Exception to the Requirements of Marina Municipal Code Title 16: Subdivision Ordinance (VA2019-01) for a New Parcel to Have No Street Frontage as is Required by Section 16.06.080 for the Property at 236 Reservation Road (APN: 032-181-018-000). Exempt from CEQA per Article 18, Section 15270.

7. **OTHER ACTION ITEMS:** *Action listed for each Agenda item is that which is brought forth for Planning Commission consideration and possible action. The Planning Commission may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.*

a. None

8. **DISCUSSION ITEMS:**

9. **COMMISSIONER COMMENTS AND STAFF INFORMATIONAL REPORTS:**

10. **CORRESPONDENCE:**

a. None

11. **ADJOURNMENT**

CERTIFICATION

I, \_\_\_\_\_, \_\_\_\_\_(Job Title) for the City of Marina, do hereby certify that a copy of the foregoing agenda was posted at Marina City Council Chambers bulletin board, 211 Hillcrest Avenue; City Kiosk at the corner of Del Monte Boulevard and Reservation Road; and Monterey County Free Library Marina Branch at 190 Seaside Circle on or before 6:30 p.m. on Monday, May 20, 2019.

Signature \_\_\_\_\_

PLANNING COMMISSION NOTES:

1. The Marina Planning Commission regularly meets at 6:30 P.M. on the second and fourth Thursdays of each month.
2. The Planning Commission follows procedures intended to allow for project applicants and members of the public the fullest possible opportunity to be heard, while enabling the Commission to complete its meetings within a reasonable time.
3. Copies of staff reports are available to the public on the Friday afternoon, prior to the Thursday meetings at the Community Development Department office located at 209 Cypress Avenue.
4. Planning Commission subcommittees include the Marina Design Review Board (DRB) and Tree Committee. The DRB regularly meets at 6:30 P.M. on the third Wednesday of each month and the Tree Committee meets quarterly on the 2<sup>nd</sup> Wednesday of January, April, July and October... All meetings take place in the Council Chambers unless otherwise noticed... Public notices and agendas are posted at the following locations: Monterey County Library Marina Branch, Kiosk at the corner of Del Monte Blvd. and Reservation Rd., and Marina City Council Chambers Bulletin Board.
5. The public is invited and encouraged to participate in all meetings of the Planning Commission and its subcommittees.
6. **ALL MEETINGS ARE OPEN TO THE PUBLIC. THE CITY OF MARINA DOES NOT DISCRIMINATE AGAINST PERSONS WITH DISABILITIES.** Council Chambers are wheelchair accessible. Meetings are broadcast on cable channel 25 and recordings of meetings can be provided upon request. To request assistive listening devices, sign language interpreters, readers, large print agendas or other accommodations, please call (831) 884-1278 or e-mail: [marina@ci.marina.ca.us](mailto:marina@ci.marina.ca.us). Requests must be made at least **48 hours** in advance of the meeting.

*City of Marina*



*City of Marina*

211 HILLCREST AVENUE

MARINA, CA 93933

831- 884-1278; FAX 831- 384-9148

www.ci.marina.ca.us

**MINUTES**

**Thursday, May 23, 2019**

**6:30 P.M.**

**REGULAR MEETING  
PLANNING COMMISSION**

**Council Chambers  
211 Hillcrest Avenue  
Marina, California**

**1. CALL TO ORDER**

Acting Chair Biala called the meeting to order at 6:30 p.m.

**2. ROLL CALL & ESTABLISHMENT OF QUORUM (Planning Commission Members)**

Present: Katherine Biala, David Bielsker, Tom Mann, Brian McCarthy, Jeff Weekley

Absent: David Burnett, Victor Jacobsen

**3. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE (Please stand)**

**4. SPECIAL ANNOUNCEMENTS AND COMMUNICATIONS FROM THE FLOOR: None**

**5. CONSENT AGENDA:**

a. 3200 C Imjin Rd

Consider a Site and Architectural Design Review Application (DR 2019-04) for a pre-fabricated fabric aviation structure/tent (produced by Clearspan Fabric Structures) used to conduct aeronautical activities associated with manufacturing and assembly of aircraft, located on the southwest side of the tarmac directly across from Building 507 and approximately 100 feet from the center of the taxiway. The project site is located at 3200-C Imjin Road, Marina (APN: 031-112-001-000). Exempt from CEQA per Article 19, Section 15332.

Senior Planner Mack presented Staff Report which outlined the background and layout for the proposed pre-fabricated fabric aviation structure. Following the presentation, discussion was held between the Commission and Mack.

After council questions and concerns are addressed, the floor was opened for public comment. Seeing none, Vice Chair Biala closed the floor.

Commissioner Weekley motioned to approve the item, Commissioner Bielsker seconded. The motion was passed with a 5-0-2 (Burnett, Jacobsen)-0 vote.

**6. PUBLIC HEARINGS:**

**a. 3156 – 3158 Del Monte Blvd - Las Cazuelas**

Consider Adopting a Resolution Approving Conditional Use Permit UP2019-01 to Allow the Sale of Beer and Wine for Consumption On-Site at a Full-Service Restaurant (Las Cazuelas) at 3156 and 3158 Del Monte Boulevards (APN: 032-181-020-000), subject to conditions. Exempt from CEQA per Article 19 Section 15301.

Assistant Planner Barton presented a staff report. Following the presentation, Vice Chair Biala opened and closed the floor for public comment, after which discussion was held between the Staff, the Applicant and the Commission.

Commissioner Bielsker moved to approve the issuance of the Conditional Use Permit, contingent on Staff accepting the aesthetic quality of any proposed fencing outside of Las Cazuelas.

Commissioner McCarthy expressed hesitation to approve the motion without the Commission seeing fencing before installation and proposed a substitute motion pending more information on the plan to mitigate public safety concerns and the aesthetic design of fencing. He requested Staff return with a fence plan and additional information directly to the Planning Commission rather than Design Review Board.

The substitute motion is not seconded and died.

Commissioner Bielsker repeated his motion to approve and is seconded by Commissioner Weekley. The motion carried with a vote of 4-1 (McCarthy)-2 (Burnett, Jacobsen)-0

**b. Zoning amendment of parcel at southeast corner of Healy Ave and Abdy Way**

Consider adopting a Resolution Recommending City Council Consideration of Zoning Map Amendment ZM 2019-01 to rezone the parcel at the southeast corner of Abdy Way and Healy Avenue (APN: 033-011-006-000) from General Commercial (C-2) to Single-Family Residential (R-1) to align with the General Plan Land Use Designation of Single-Family Residential. Exempt from CEQA per Article 12, Section 15183.

Assistant Planner Barton presented Staff Report for the proposed amendment changing the parcel from C2 Commercial to R1 Residential.

Vice Chair Biala opened and closed the floor for public comment. Discussion of the proposed amendment was held between the Commission and Assistant Planner Barton, after which Vice Chair Biala invited the applicant to share any comments, and Mr. Joseph Torquato, acting on behalf of the property owners, made a statement to the Commission.

Biala opened and closed the floor for public comment.

Motion by Commissioner McCarthy to approve zoning amendment is seconded by Commissioner Mann and carries with a vote of 5-0-2 (Burnett, Jacobsen)-0.

7. **OTHER ACTION ITEMS:** None

8. **DISCUSSION ITEMS:** None

9. **COMMISSIONER COMMENTS AND STAFF INFORMATIONAL REPORTS:**

- a. Ms. Hopper introduced new Planning Administrative Assistant Erin Fernando
- b. Senior Planner Mack provided updates on Cal-Am, Desalination Plant and Public Water Now

10. **CORRESPONDENCE:**

Commissioner McCarthy mentioned a review of the city's sign ordinance and the value in updating it.

11. **ADJOURNMENT**

The meeting was adjourned by Vice Chair Biala at 7:33 p.m.

**ATTEST:**

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David Burnett, Chair

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Erin Fernando, Administrative Assistant

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Date



COMMUNITY DEVELOPMENT  
City of Marina

## STAFF REPORT

Agenda Item #**6a**  
Planning Commission  
June 27, 2019

TO: Planning Commission Members

FROM: Christy Hopper, Planning Services Manager

**RE: Consider adopting a Resolution Denying a Request for an Exception to the Requirements of Marina Municipal Code Title 16: Subdivision Ordinance (VA2019-01) for a New Parcel to Have No Street Frontage as is Required by Section 16.06.080 for the Property at 236 Reservation Road (APN: 032-181-018-000). Exempt from CEQA per Article 18, Section 15270.**

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### Applicant/Owner:

Gary and Sandra Loesch  
300 Banks Grade Rd.  
Banks, ID 83602

### Summary of Issues

- Does the request meet the required findings for an exception to the requirements of the Subdivision Ordinance?

### Environmental Determination

Denial of a project is statutorily exempt from the California Environmental Quality Act (CEQA) Article 18, Section 15270, which states that CEQA does not apply to projects which a public agency rejects or disapproves.

### Alternatives

The Planning Commission may:

1. Approve the exception request with findings; or,
2. Continue the request with direction with the applicant and staff.

### Background

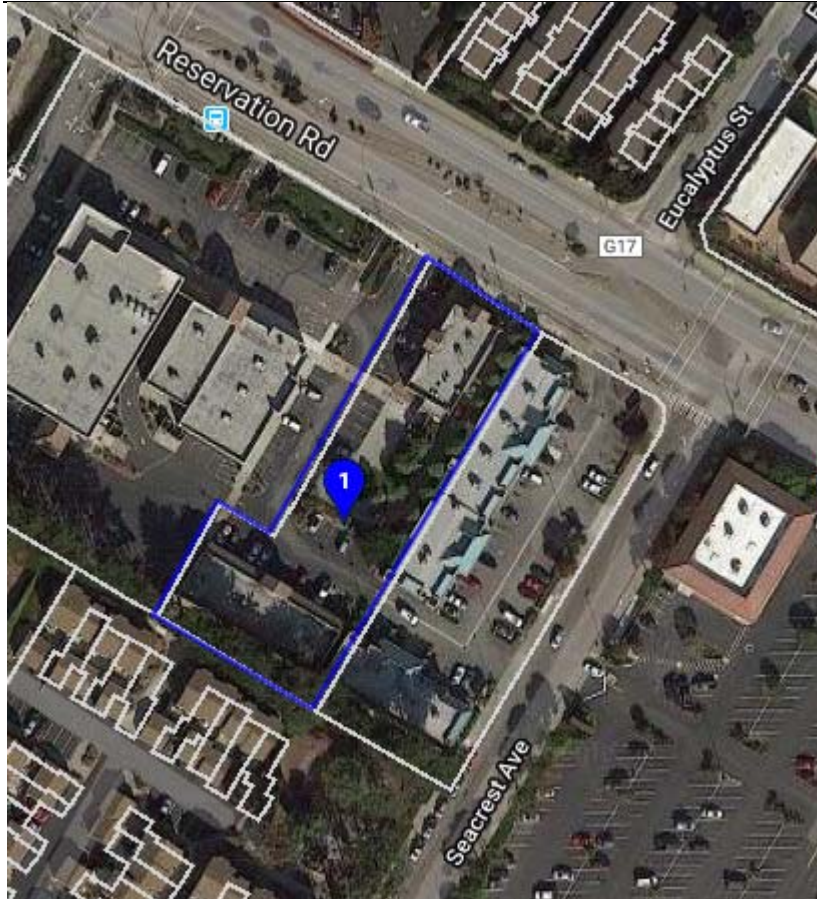
On November 18, 2016, the owner's representative, David J. Elliot applied for a Tentative Parcel Map to subdivide the parcel at 236 Reservation Road into two separate parcels. On December 8, 2016, staff sent a letter to the applicant and owner outlining materials needed for a complete application.

On March 21 and March 25, 2019, the applicant submitted revised materials in response to staff's December 8, 2016 letter. Staff reviewed the materials and determined that the application remained incomplete as the requirements from the 2016 letter had not been met. In addition, staff noted that the proposed lot split would land-lock one of the parcels as that parcel would not directly front a

street. The applicant was advised that the Subdivision Ordinance requires all parcels to front a street and that an exception to the requirements of the Ordinance would need to be requested and considered by the Planning Commission to allow staff to process the Tentative Parcel Map.

## Project Location

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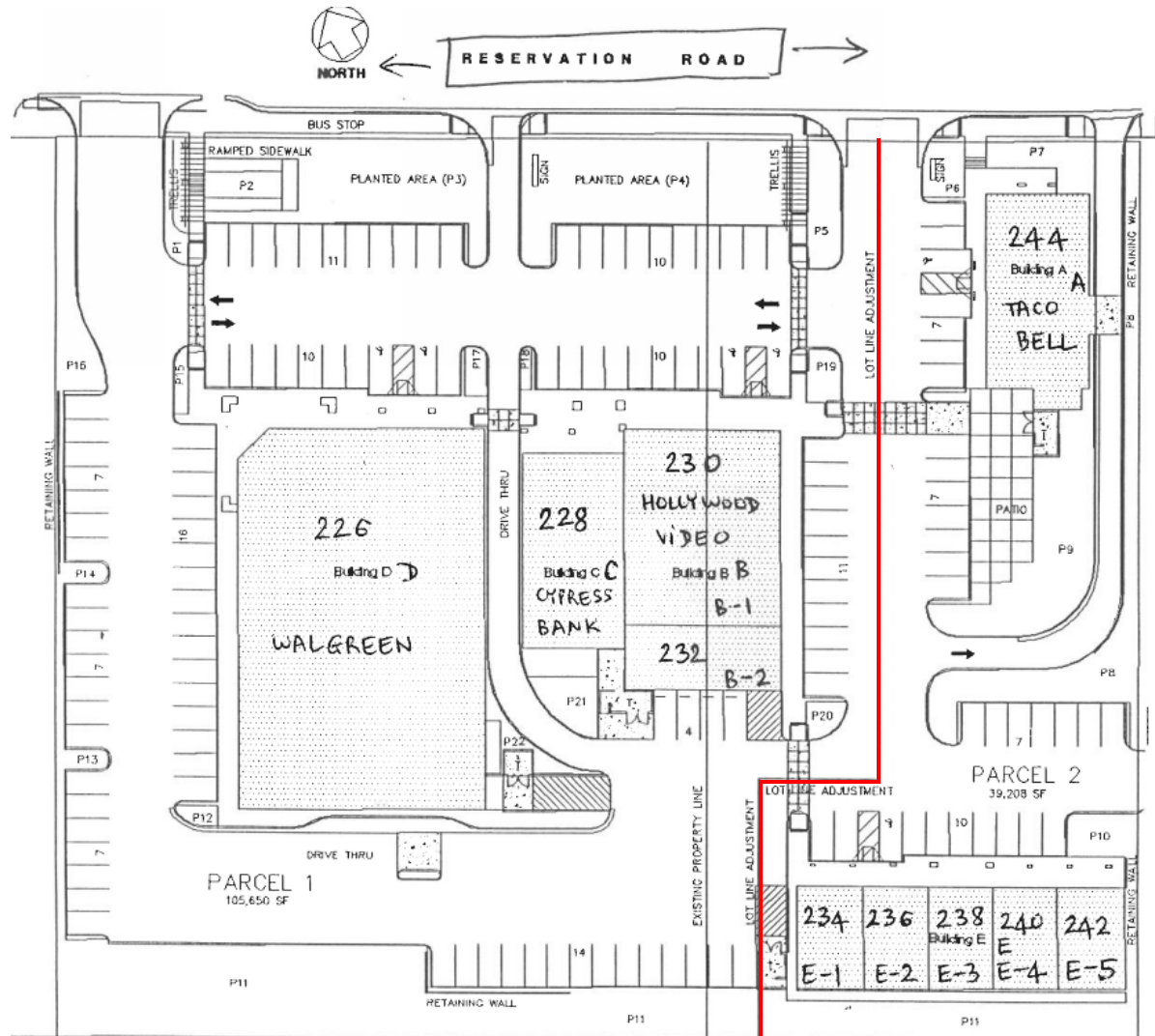
*Location and Vicinity:* The 39,227 square foot (.9 acre) site is located on the south side of Reservation Road and is the second parcel to the west of Seacrest Avenue. The site is developed with a drive-thru restaurant (Taco Bell) at the front of the site and a one-story office building at the rear of the site. The property is surrounded by shopping centers to the east and west and multi-family developments to the north and south. The property is located within the proposed Downtown Vitalization Specific Plan Planning Area.

*General Plan and Zoning:* The General Plan Land Use Designation for the property is Retail/Service and the Zoning Designation is C-1 (Retail Business).



### Existing Development

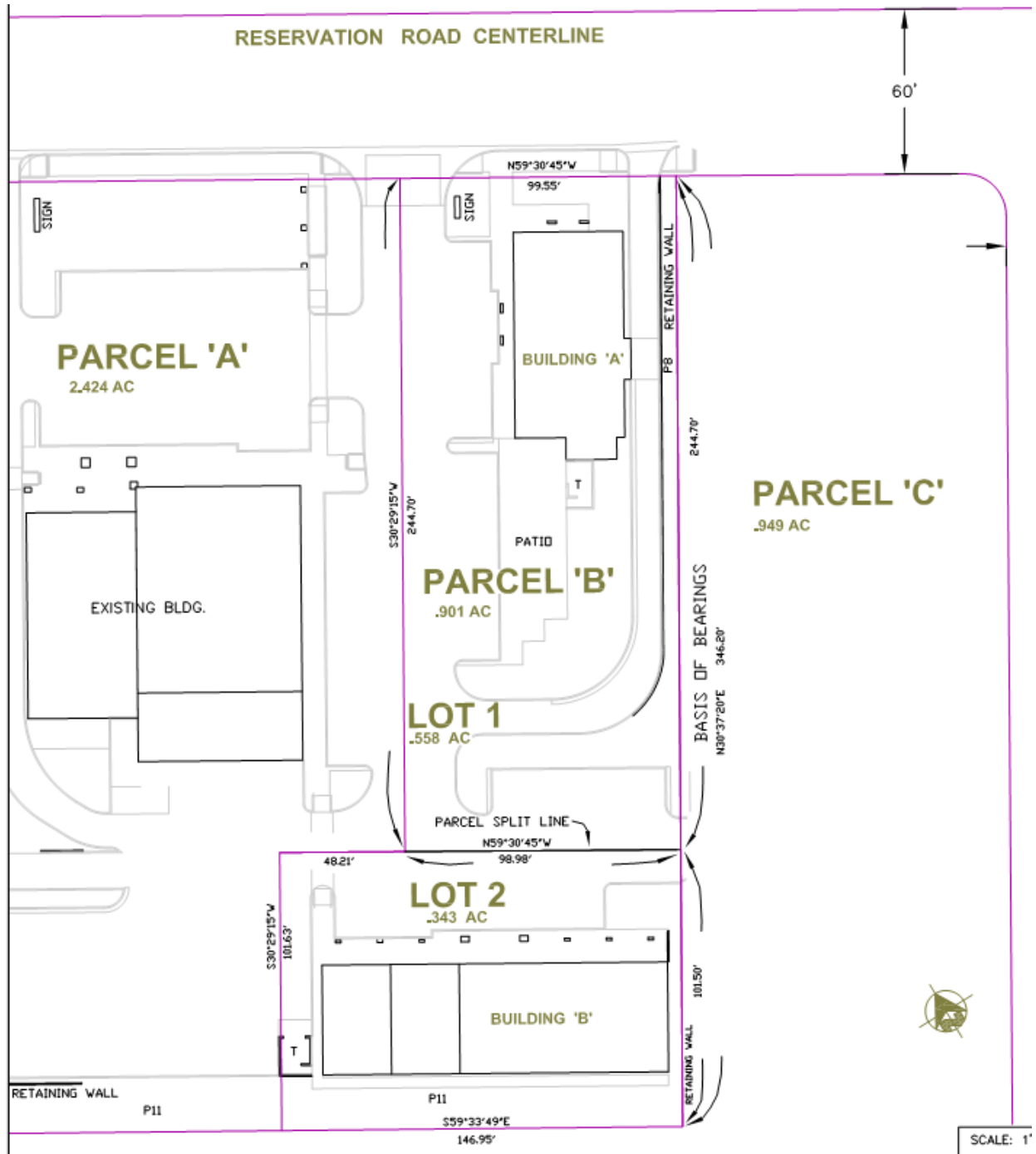
The development on the site was approved on April 13, 1998 and included the construction of a new shopping center consisting of five (5) buildings over the subject parcel and the parcel immediately to the west. The parcels are and were owned by two different owners that worked in conjunction to achieve the development that is on the sites today.



The lot lines were adjusted to run through common parking and driveway areas as shown above. Reciprocal access easements were recorded on the properties hosting the development as well as on the property immediately to the east to allow cross access to the development from Seacrest Avenue.

### Proposed Subdivision

The owner of the 236 Reservation Road property (Parcel 2 above and Parcel 'B' below), containing the Taco Bell restaurant and the offices directly behind, wishes to subdivide the property and sell off the office building (**EXHIBIT A** to Resolution).



The subdivision of the parcels was evaluated against the requirements of the Zoning and Subdivision Ordinances for compliance. The site statistics follow:

	Requirement	Proposal	Compliance?
<b>Proposed Lot 1</b>			
Lot size	Min. 2000 SF	24,290 SF	Yes

Lot width	Average 25 feet	99.55 feet	Yes
Street Frontage	35 feet	99.55 feet	Yes
<b>Proposed Lot 2</b>			
Lot size	Min. 2000 SF	14,937 SF	Yes
Lot width	Average 25 feet	146.95 feet	Yes
<b>Street Frontage</b>	<b>35 feet</b>	<b>0 feet</b>	<b>No</b>

Subdivision Ordinance Section 16.06.080 states: “All lots shall have at least thirty-five feet of street frontage. If a flag lot is necessary for the reasonable development of a parcel, the minimum width of the portion of the flag lot that provides access to the buildable portion of the lot shall be twelve feet and a length not exceeding ninety feet.” In the case of proposed Lot 2, the new parcel would not have any street frontage and would require access through Lot 1.

Section 16.02.050 allows for exceptions to the requirements of the Subdivision Ordinance in certain circumstances when parcels of land are so affected by physical conditions that it would be difficult or impractical for the subdivider to conform to the requirements.

In order for the Planning Commission to approve a request for exception, the following findings must be made:

1. That because of special circumstances applicable to the subdivision, including size, shape, topography, location or surroundings, the application of this title would deprive the subdivision of privileges enjoyed by other properties in the vicinity; and,
2. That through the granting of the subdivision exception, the project would achieve greater consistency with general plan and local coastal program goals, objectives, policies, and related provisions; and,
3. That under the circumstances of a particular case granting the exceptions, rather than the sections at issue in this title, actually carries out the intent of this title.

In addition, the following are required by the ordinance:

1. Any exception granted shall be subject to such conditions as will assure that the exception thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the same vicinity.
2. Adequate guarantees will be required to ensure that any conditions imposed as a part of any approved exception shall be carried out as specified.

### **Analysis**

The applicant’s counsel, Hansen Reed, submitted an argument supporting the exception (**ATTACHMENT 2**). The itemized points are followed with staff’s response in *italics*.

Applicant's reason for subdivision: "The plan is to split the restaurant (Taco Bell site) from the office/retail building site. Both are commercial uses, but a fast food restaurant site is not always compatible for ownership as retail/office building. Currently with one legal lot the ownership has to be consolidated. Allowing for a subdivision in fact changes nothing to the public and would be 100% transparent. All Reciprocal Easements would remain in place and the public would have the exact same access to both buildings that they currently have."

1. That because of special circumstances applicable to the subdivision, including size, shape, topography, location or surroundings, the application of this title would deprive the subdivision of privileges enjoyed by other properties in the vicinity.

Applicant: "I can produce a list of 20 to 30 lots that are in fact landlocked with no street frontage. For example: APN 033-111-029, the Marina Center Apartments have no street frontage as defined in 16.04.010. Almost every lot on Viking Place and half of the lots on De Forest Road have no street frontage (as defined in 16-04-010. Almost all, if not all, lots on Eucalyptus have not street frontage. There is an empty lot owned by Walmart (APN 033-111-029) that has not street frontage. There are lots at the Marina Airport that also have no street frontage. Clearly this would deprive my client of privileges enjoyed by other properties in the vicinity."

*Staff Response: The parcels the applicant refers to were likely created prior to the City's incorporation in 1975 and, therefore, may not conform to current laws. A search of the subdivision ordinance as far back as 1995 revealed that all lots required street frontage. The existing parcel is not constrained by size, shape or topography. It is so located that it takes direct access off of Reservation Road and all lots surrounding also take access off of and front either Reservation Road or Seacrest Avenue. Economics are not a consideration. Therefore, this finding cannot be made.*

2. That through the granting of the subdivision exception, the project would achieve greater consistency with general plan and local coastal program goals, objectives, policies, and related provisions.

Applicant: The intent of the General Plan's commercial land use policies is as follows: (1) to provide for the shopping and service needs of local residents, businesses, and persons employed within the City; (2) to attract commercial development that will strengthen the City's fiscal base; and (3) to enhance employment and other economic opportunities for local residents." The current zoning is C-1 Retain Business District. [T]he lot split does comply with the City's general plan in that it allows for a larger number property ownership thus reducing the financial burdens of ownership and resulting lower property costs of ownership. It also allows for Taco Bell, for example to purchase the restaurant property without the added costs of purchasing and maintaining the retail/office building.

*Staff Response: Staff does not disagree that the subdivision creates more ownership opportunities, however, as stated above, economics is not a finding for granting an exception to the requirements of the ordinance. The General Plan does not address the subdivision of land but it does address development and redevelopment along Reservation Road. Policy 4.73 states: "As new*

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

*The subdivision of this property in the manner requested would prevent redevelopment on the rear parcel from meeting this policy. Both Lots 1 and 2 will be constrained for redevelopment as permanent access will be required to the rear parcel over Lot 1 and from the Cuesta Del Mar Shopping Center to the east.*

3. That under the circumstances of a particular case granting the exceptions, rather than the sections at issue in this title, actually carries out the intent of this title.

Applicant: The applicant refers to arguments for 1 and 2 above.

*Staff Response: Staff does not see that there is a case to grant the exception based on the findings above and the following staff responses.*

#### Additional Findings

- Any exception granted shall be subject to such conditions as will assure that the exception thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the same vicinity.

*Staff Response: Staff can find no conditions that could be imposed on an approval to the requested exception that would not constitute a grant of special privilege. The site is not physically constrained and the only reason for the request is to allow the proposed lots to be sold separately.*

- Adequate guarantees will be required to ensure that any conditions imposed as a part of any approved exception shall be carried out as specified.

*Staff Response: None, as staff is not recommending approval of the exception.*

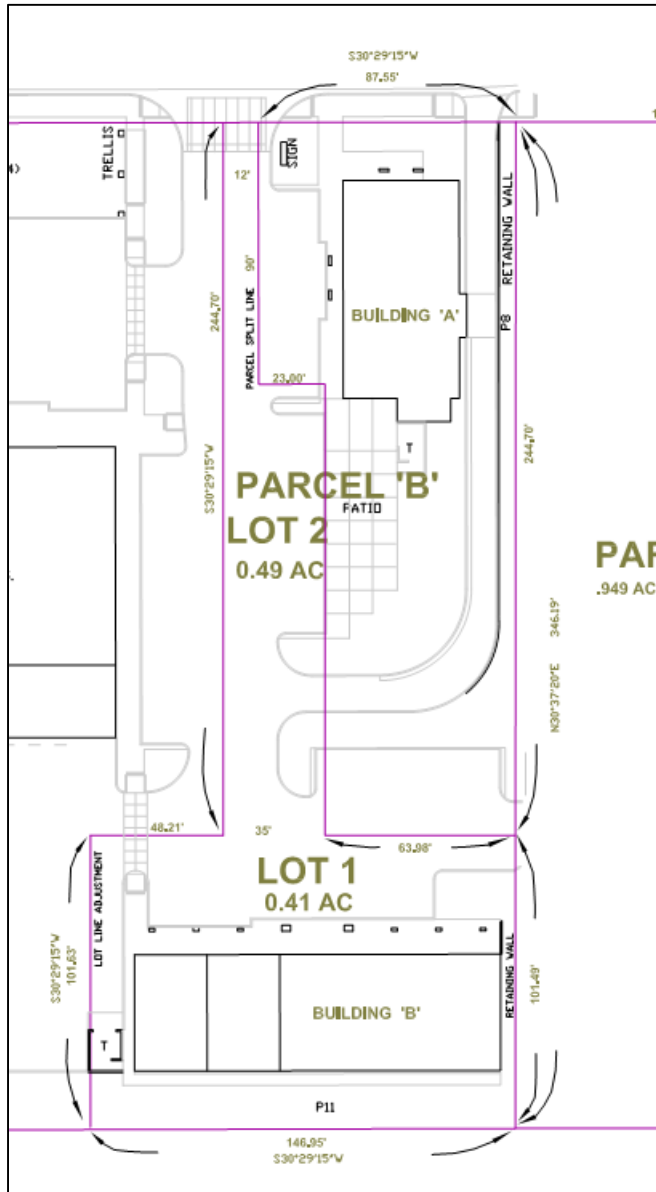
#### Additional Comments

The applicant comments: "If the City of Marina intends for the properties near the corner of Reservation and Del Monte to be the new core of the downtown, at the time (many years from now) Marina, will have to use a combination of eminent domain and lot line adjustments to effect the wanted development. Attempting to implements the proposed downtown plan before the City has even gone through the environmental analysis could be deemed a taking and or a violation of CEQA in that the plan is being implemented without the proper environmental review. Only after the environmental review has been completed and the plan fully adopted can the City actually start implementing the plan and enforcing the conditions of development. Until that time, the City should not attempt to regulate land use in anticipation of the environmental review."

*Staff Response: Staff is not attempting to implement the draft Downtown Vitalization Specific Plan before the environmental review is completed and the plan is adopted. The subdivision standards do not regulate land use and the denial of the exception will not deprive the owner of continuing and establishing permitted and conditionally permitted land uses within this zoning district and land use designation.*

### **Alternative to Current Proposal**

The applicant has also provided an alternative to their current proposal as shown below and as reflected in **ATTACHMENT 3**:



This alternative, although not an ideal configuration for redevelopment in the future, meets the letter of the subdivision ordinance with regard to street frontage for 'flag' lots, lot size and lot width. This alternative would still require substantial maintenance, access and parking agreements, but would not require approval of an exception to the ordinance. A preferable solution to both alternatives would be a Planned Unit Development where each building is a condominium with the parking, driveways, etc. as a separate parcel. The applicant has not indicated that this option is preferred for their interests.

**Staff Recommendation**

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Staff recommends that the Planning Commission deny the subdivision exception.

**Recommended Motion**

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Based on the staff recommendation, a recommended motion is included.

**MOTION**

The Planning Commission recommends that the City Council take the following actions:

- 1) Adopt a Resolution Denying a Request for an Exception to the Requirements of Marina Municipal Code Title 16: Subdivision Ordinance (VA2019-01) for a New Parcel to Have No Street Frontage as is Required by Section 16.06.080 for the Property at 236 Reservation Road (APN: 032-181-018-000).

**Attachments:**

1. Draft Resolution with Exhibit
2. May 13, 2019 – Email from applicant’s counsel, Hansen Reed
3. Alternative “Flag” Lot Design

**DRAFT**  
RESOLUTION NO. 2019-

A RESOLUTION OF THE MARINA PLANNING COMMISSION DENYING A REQUEST FOR AN EXCEPTION TO THE REQUIREMENTS OF MARINA MUNICIPAL CODE TITLE 16: SUBDIVISION ORDINANCE (VA2019-01) FOR A NEW PARCEL TO HAVE NO STREET FRONTAGE AS IS REQUIRED BY SECTION 16.06.080 FOR THE PROPERTY AT 236 RESERVATION ROAD (APN: 032-181-018-000).

WHEREAS, on November 18, 2016, David J. Elliot, on behalf of the property owners, Gary and Sandra Loesch, applied for a Tentative Parcel Map to subdivide the parcel at 236 Reservation Road (APN: 032-181-018-000) into two separate parcels (**EXHIBIT A**); and,

WHEREAS, the proposed lot split would land-lock one of the parcels as that parcel would not directly front a street; and,

WHEREAS, the City's Subdivision Ordinance (Marina Municipal Code Title 16) requires all parcels to front a street and that an exception to the requirements of the Ordinance would need to be requested and considered by the Planning Commission; and,

WHEREAS, the 39,227 square foot (.9 acre) site is located on the south side of Reservation Road and is the second parcel to the west of Seacrest Avenue and the site is developed with a drive-thru restaurant (Taco Bell) at the front of the site and a one-story office building at the rear of the site; and,

WHEREAS, the property is surrounded by shopping centers to the east and west and multi-family developments to the north and south and the property is located within the proposed Downtown Vitalization Specific Plan Planning Area; and,

WHEREAS, the owner of the 236 Reservation Road property containing the Taco Bell restaurant and the offices directly behind wishes to subdivide the property and sell off the office building; and,

WHEREAS, Subdivision Ordinance Section 16.06.080 states: "All lots shall have at least thirty-five feet of street frontage. If a flag lot is necessary for the reasonable development of a parcel, the minimum width of the portion of the flag lot that provides access to the buildable portion of the lot shall be twelve feet and a length not exceeding ninety feet." In the case of proposed Lot 2, the new parcel would not have any street frontage and would require access through Lot 1; and,

WHEREAS, Section 16.02.050 allows for exceptions to the requirements of the Subdivision Ordinance in certain circumstances when parcels of land are so affected by physical conditions that it would be difficult or impractical for the subdivider to conform to the requirements; and,

WHEREAS, as reflected below, the Planning Commission cannot make findings to approve the exception; and,



WHEREAS, denial of a project is statutorily exempt from the California Environmental Quality Act (CEQA) Article 18, Section 15270, which states that CEQA does not apply to projects which a public agency rejects or disapproves.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Marina that it hereby denies the Request for an Exception to the Requirements of Marina Municipal Code Title 16: Subdivision Ordinance (VA2019-01) for a New Parcel to Have No Street Frontage as is Required by Section 16.06.080 for the Property at 236 Reservation Road (APN: 032-181-018-000). Based on the following findings:

### **Findings**

***1. That because of special circumstances applicable to the subdivision, including size, shape, topography, location or surroundings, the application of this title would deprive the subdivision of privileges enjoyed by other properties in the vicinity.***

The existing parcel is not constrained by size, shape or topography. It is so located that it takes direct access off of Reservation Road and all lots surrounding also take access off of and front either Reservation Road or Seacrest Avenue. Economics are not a consideration in the findings for exception to the requirements of the Subdivision Ordinance. Therefore, this finding cannot be made to support the request.

***2. That through the granting of the subdivision exception, the project would achieve greater consistency with general plan and local coastal program goals, objectives, policies, and related provisions.***

The General Plan does not address the subdivision of land but it does address development and redevelopment along Reservation Road. Policy 4.73 states: "As new development and major remodeling of existing structures along this corridor occur, the pedestrian-oriented shopping experience shall be enhanced by taking the following steps: 1) A continuous pedestrian-oriented frontage shall be provided along the street face of the buildings and be integrated, where possible, with neighboring commercial buildings, 2) Commercial buildings should be located at major pedestrian entrances from Reservation Road, and a well-defined pedestrian link shall be provided to commercial uses located back from the street edge.

The subdivision of this property in the manner requested would prevent redevelopment on the rear parcel from meeting this policy. Both Lots 1 and 2 will be constrained for redevelopment as permanent access will be required to the rear parcel over Lot 1 and from the Cuesta Del Mar Shopping Center to the east.

***3. That under the circumstances of a particular case granting the exceptions, rather than the sections at issue in this title, actually carries out the intent of this title.***

There is no case to grant the exception based on the findings above.

PASSED AND ADOPTED by the Planning Commission of the City of Marina at a regular meeting duly held on the 27<sup>th</sup> day of June 2019, by the following vote:

AYES, BOARD MEMBERS:

NOES, BOARD MEMBERS:

ABSENT, BOARD MEMBERS:

ABSTAIN, BOARD MEMBERS:

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David Burnett, Chair

ATTEST:

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Christy Hopper  
Planning Services Manager  
City of Marina

**DRAFT**  
RESOLUTION NO. 2019-XX

A RESOLUTION OF THE CITY OF MARINA PLANNING COMMISSION  
APPROVING A PRE-FABRICATED SHED STRUCTURE (PRODUCED BY  
TOUGH SHED) WITH A HEIGHT OF 12 FEET 6 INCHES TO BE PLACED  
IN THE BACKYARD OF THE SUBJECT PARCEL, LOCATED AT 3167  
KONA CIRCLE, MARINA (APN: 033-212-010-000).

WHEREAS, on June 7, 2019, Edwin Nath, applicant, applied for permits to allow the placement of a pre-fabricated/kit shed structure, within the backyard of a single-family residential (R-1) parcel, located at 3167 Kona Circle, Marina (APN: 033-212-010-000); and

WHEREAS, the property's Zoning Designation is "R-1" or "Single-Family Residential", which residential accessory structures over 12-feet in height subject to approved from the Design Review Board (DRB); and

WHEREAS, the City of Marina Planning Division determined that this project is categorically exempt from environmental review in accordance with Article 19, Section 15303, Class 3 of the California Environmental Quality Act (CEQA) applicable new small accessory structures including garages, carports, patios, swimming pools, and/or fences; and

WHEREAS, the project is subject to Site and Architectural Design Review per City Code Section 17.14.050.A; and

WHEREAS, on June 19, 2019, the Site and Architectural Design Review Board (DRB) adopted a resolution (Res. No. 2019-XX) to recommend approval of the application to the Planning Commission.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Marina that it hereby approve Site and Architectural Design Review DR2019-20 to allow, the placement of a pre-fabricated/kit shed structure, within the backyard of a single-family residential (R-1) parcel, subject to the following findings and conditions of approval:

**Findings**

That the project has been designed and will be constructed, and so located, that the project, as conditioned, **will not**:

1. Be unsightly, undesirable or obnoxious in appearance to the extent that it will hinder the orderly and harmonious development of the City, in that the proposed project is located on existing developed residential parcel and the proposed structure is an allowed accessory use on the property.
2. Impair the desirability of tenancy or investment or occupation in the City, in that the project involves the construction/placement structure that would add useable space to residential property.
3. Limit the opportunity to obtain the optimum use and value of the land and improvements, in that the project site currently contains older/dilapidated sheds that would be removed and replaced with this shed (in another area), which would improve the quality of the accessory structures on the project site.

4. Impair the desirability of tenancy or conditions on or adjacent to the subject site in that the project is accessory to the residential use and is a standard use found within residential zones.
5. Otherwise adversely affect the general welfare of the community, in that the project will have an overall positive effect on the general welfare of the community.

**Conditions of Approval**

1. Substantial Compliance – All construction, colors and material shall be accomplished in substantial accordance with the attached **Exhibit A**, except as conditioned herein.
2. Building Permits – The structure is proposed to be 120 square feet or less, and a building permit is not required if the shed complies with this size limitation.
3. Permit Expiration (Design Review Board) – This permit will expire 12 months from the date of approval by the Design Review Board, unless a valid building permit has been issued and construction of the project has commenced prior to expiration. The applicant may apply for an extension of this permit, by submitting an extension request application and applicable fees, no less than 30 days prior to expiration date. No renewal notice will be sent to the applicant or property owner.

PASSED AND ADOPTED by the Planning Commission of the City of Marina at a regular meeting duly held on the 19<sup>th</sup> day of June 2019, by the following vote:

AYES, COMMISSION MEMBERS:

NOES, COMMISSION MEMBERS:

ABSENT, COMMISSION MEMBERS:

ABSTAIN, COMMISSION MEMBERS:

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David Burnett, Chair

ATTEST:

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David J. R. Mack, AICP  
Senior Planner  
Community Development Department  
City of Marina



COMMUNITY DEVELOPMENT  
City of Marina

## STAFF REPORT

Agenda Item #5B  
Planning Commission  
June 27, 2019

TO: Planning Commission Members

FROM: David J. R. Mack, AICP, Senior Planner

**RE: (CONSENT) Consider a Site and Architectural Design Review Application (DR 2019-20) for a pre-fabricated shed structure (produced by Tough Shed) with a height of 12 feet 6 inches to be placed in the backyard of the subject parcel, located at 3167 Kona Circle, Marina (APN: 033-212-010-000).**

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**Applicant/Owner:** Edwin  
Nath  
3167 Kona Circle  
Marina, California 93933

### Summary of Issues

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- Does the proposal meet the requirements of the Zoning Ordinance?
- Do the conditions developed by staff appropriately address the concerns associated with the use?

### Environmental Determination

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The City of Marina Planning Division determined that this project is categorically exempt from environmental review in accordance with Article 19, Section 15303, Class 3 of the California Environmental Quality Act (CEQA) applicable new small accessory structures including garages, carports, patios, swimming pools, and/or fences.

The proposed project is the placement of a “kit” accessory structure (shed) of approximately 120 square feet (10’ x 12’).

### Alternatives

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The Planning Commission may:

1. Approve the Design Review Application with recommended findings, evidence and conditions of approval; or
2. Deny the Design Review Application with appropriate Findings and Evidence; or

Staff recommends that the Planning Commission approve the application, as it is consistent with all applicable Land Use, Zoning and Design standards for the overall project site.

### Background

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The project site is located at 3167 Kona Circle, within an existing Single-Family Residential (R-1) zone and consists of the placement of a pre-fabricated “kit” style shed measuring 120 square feet (12’ x 10’), with proposed side walls of 6’8” in height, and a maximum height of 12’ 6”.



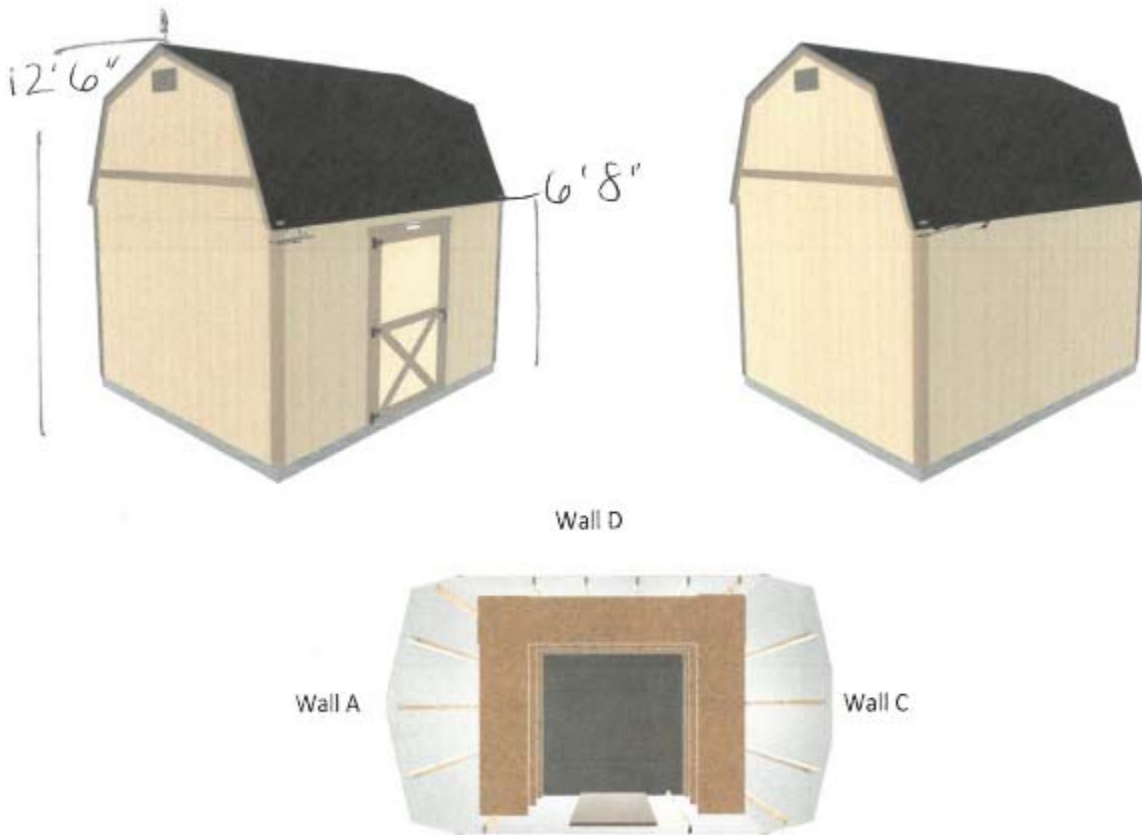
The proposed structure will be placed within the northern portion of the site, as shown on the above photo (not to scale). The applicant drawn site plan is also attached to this report (Attachment 2). The proposed location of the shed structure is consistent with all development standard within the Zoning Code, including height, setbacks, coverage, and size.

Per Marina Municipal Code, Section 17.14.050.A (Building Height) states:

*“Maximum building height limit in the R-1 districts shall be thirty feet for main buildings and sixteen feet for accessory buildings not intended for living purposes, except that approval by the site and architectural design review board shall be obtained prior to the construction of any accessory building over twelve feet in height, or if any portion within five feet of any lot line is over ten feet in height. Any action taken by the site and architectural design review board may be appealed, in writing, to the planning commission within ten days of such action. Any action taken by the planning commission may be appealed, in writing, to the city council within ten days of such action.”* (Underline added)

In this particular case, the proposed shed is located a distance greater than 5-feet from the side lot line, and the exterior walls are below 10-feet in height. However, the overall height is greater than 12-feet in height (12’6”) so review by the Site and Architectural Design Review Board (with recommendation to the Planning Commission) is required to be consistent with zoning code regulations.

The depiction below shows the proposed shed design, height, and exterior wall size(s):



#### Zoning Ordinance Development Standards

As stated above, because the overall shed height is proposed to be in excess of 12-feet, the project requires review by the Site & Architectural Design Review Board and cannot be processed administratively.

Per the City's adopted fee schedule a public hearing Site & Architectural design review application requires the payment of \$7,775.00, and requires consideration before the Design Review Board, with recommendation to the Planning Commission (consent calendar) for final approval.

Conversely, per the City's adopted fee schedule, an administrative design review application requires the payment of \$340.00 and requires a 1-week review/consideration by City Staff.

Staff believes that the permit amount required for this particular application compared to the required review time is not in keeping with the intention of public Site & Architectural Design Review applications. For this reason, the Community Development Director, made the decision to only require the administrative fee, however process the application through the public hearing process as required by the zoning code.

While not related to this particular project, per se, this is one of the many issues that the City and Staff are struggling with, regarding required fees, review, and process for the Design Review Board. Basically, should sheds require public review, for over 12-feet, if accessory structures in general are allowed to 16-feet, and in zoning classifications (R-1) that do not require public review for the construction of the main residence, and allow maximum heights of 35-feet. And if public review is required, should the applicable fee remain at \$7,775.00. Or would the City and its residents be better served by allowing administrative review of accessory structures and require a fee more in scale with time it takes to review those applications.

**Recommendation**

Staff recommends that the Planning Commission approve Site & Architectural Design Review Application DR 2019-20, as it is consistent with all application development and design standards within the City of Marina Zoning Ordinance for the construction and placement of accessory structure within the R-1 zoning classification.

**Staff-recommended findings for approval:**

That the project has been designed and will be constructed, and so located, that the project, as conditioned, **will not:**

1. Be unsightly, undesirable or obnoxious in appearance to the extent that it will hinder the orderly and harmonious development of the City, in that the proposed project is located on existing developed residential parcel and the proposed structure is an allowed accessory use on the property.
2. Impair the desirability of tenancy or investment or occupation in the City, in that the project involves the construction/placement structure that would add useable space to residential property.
3. Limit the opportunity to obtain the optimum use and value of the land and improvements, in that the project site currently contains older/dilapidated sheds that would be removed and replaced with this shed (in another area), which would improve the quality of the accessory structures on the project site.
4. Impair the desirability of tenancy or conditions on or adjacent to the subject site in that the project is accessory to the residential use and is a standard use found within residential zones.
5. Otherwise adversely affect the general welfare of the community, in that the project will have an overall positive effect on the general welfare of the community.

**Recommended Motion**

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Based on Staff recommendation, a recommended motion is included.

MOTION:

Edwin Nath  
3167 Kona Circle  
DR 2019-20



Adopt a resolution to approve Site and Architectural Design Review Application (DR 2019-20) to allow the placement/construction of 120 square foot, 12-foot-6-inch pre-fabricated/kit shed structure.

Attachments:

1. Draft Resolution to approve a portion of Site and Architectural Design Review DR 2019-20
2. Applicant Drawn Site Plan, dated June 7, 2019
3. Shed Schematic Drawings

e: Planning Commission Members; David J. R. Mack, AICP, Senior Planner; Edwin Nath, Applicant.