



Thursday, July 10, 2025

6:30 PM Regular Session

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

Marina City Council Chambers
211 Hillcrest Avenue, Marina, CA

Zoom Meeting URL: <https://us02web.zoom.us/j/84287578704>

Zoom Meeting Telephone Only Participation: 1-669-900-9128 - Webinar ID: 842 8757 8704

Participation

All meetings take place in the Council Chambers at 211 Hillcrest unless otherwise noticed. Additionally, members of the public may participate in the Planning Commission meeting in real-time by calling Zoom Meeting via the weblink and phone number provided at the top of this agenda. This meeting is being broadcast “live” on Access Media Productions (AMP) Community Television Cable 25 and on the City of Marina Channel and on the internet at <https://accessmediaproductions.org/>. Instructions on how to access, view and participate in remote meetings are provided by visiting the City’s home page at <https://cityofmarina.org/>. Attendees can make oral comments during the meeting by using the “Raise Your Hand” feature in the webinar or by pressing *9 on your telephone keypad if joining by phone only. If you are unable to participate in real-time, you may email to planning@cityofmarina.org with the subject line “Public Comment Item# ” (insert the item number relevant to your comment) or “Public Comment – Non Agenda Item.” Comments will be reviewed and distributed before the meeting if received by 5:00 p.m. on the day of the meeting. All comments received will become part of the record. The Planning Commission will have the option to modify their action on items based on comments received.

Persons Addressing the Legislative Body. Any person making impertinent, slanderous, or profane remarks, or who becomes boisterous while addressing the legislative body, shall be called to order by the Presiding Officer and, if such conduct continues, may at the discretion of the Presiding Officer be barred from further audience before the legislative during that meeting, unless permission to continue be granted by a majority of the body.

Members of the Audience. Any person in the audience who engages in disorderly conduct such as hand clapping, stamping of feet, whistling, using profane language, yelling, and similar demonstrations, which conduct disturbs the peace and good order of the meeting, or who refuses to comply with the lawful orders of the Presiding Officer, shall be guilty of an infraction, and upon instructions from the Presiding Officer, it shall be the duty of the Sergeant at Arms or Peace Officer to remove any such person from the room and to place him under arrest or otherwise cause him to be prosecuted under the law.

Agenda Materials

Agenda materials, staff reports and background information related to regular agenda items are available on the City of Marina’s website www.cityofmarina.org. Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet will be made available on the City of Marina website www.cityofmarina.org subject to City staff’s ability to post the documents before the meeting.

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 Planning Commission as an appointed body of the City Council will provide the leadership in protecting Marina's natural setting while developing the City on 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)**

Land Acknowledgement

The City recognizes that it was founded and is built upon the traditional homelands and villages first inhabited by the Indigenous Peoples of this region - the Esselen and Ohlone/Costanoan, their ancestors, and allies - and honors these members of the community, both past and present

1. **Call to Order**

2. **Roll Call & Establishment of Quorum**

Chair Glenn Woodson, Vice Chair Audra Walton, Surinder Rana, Victor Jacobsen, Galia Baron, Richard St. John, Paul Cheng

3. **Moment of Silence & Pledge of Allegiance**

4. **Special Announcements and Communications from the Floor**

Announcements of special events or meetings of interest as information to the 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 Three (3) 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. **Ex Parte Communications for Quasi-Judicial Matters**

On quasi-judicial matters, Planning Commissioners shall verbally disclose off the record contacts relating to the item, after the item is called and before Commission consideration of the matter. Disclosure shall include the identity of an individual(s) with whom the Commissioner had contact, and the nature of the contact. Written ex parte communications must be forwarded to the Community Development so they can be provided to the entire Commission and to the public.

6. **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. Approval of Minutes

Planning Commission to approve June 12, 2025, Meeting Action Minutes. Not a project under CEQA per Article 20 Section 15378 and under General Rule Article 5 Section 15061.

7. 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 three (3) minutes of public testimony.

A. Retaining Wall Variance – Dunes Development

The Planning Commission to consider adopting Resolution No. 25-09 approving Variance V25-0001 to develop rear yard retaining walls exceeding the maximum height permitted by Section 17.42.060.E of the Marina Municipal Code for the properties located on the west side of Lantern Avenue (lots 680 through 689) in Dunes Phase 3 South. The proposed variance is exempt from environmental review under Section 15303 of the CEQA Guidelines for new construction and conversion of small structures. Project Planner: Brad Evanson, Contract Planner | 650-587-7300 x 101 | bevanson@rgs.ca.gov

8. Informational Items

A. Shopping Cart Ordinance

The Planning Commission to receive an informational presentation on the proposed ordinance to amend the Marina Municipal Code (MMC) Title 8, to add Chapter 8.80 relating to shopping cart regulations. Not a project under CEQA per Article 20 Section 15378 and under General Rule Article 5 Section 15061. Staff Planner: Nicholas McIlroy, AICP, Senior Planner and Shane Doughty, Planning Intern

B. Training – CEQA Mitigation Measures

The City of Marina Planning Commission to receive training from staff on Mitigation Monitoring and Reporting Program (MMRP) for the California Environmental Quality Act (CEQA). Not a project under CEQA per Article 20 Section 15378 and under General Rule Article 5 Section 15061. Staff Planner: Guido F. Persicone, AICP, Community Development Director

9. Staff & Major Projects Update

A. Update on Projects

The City of Marina Planning Commission to receive an informational update on project (the Owahdi Project and 3298 Del Monte Blvd). Staff Planner: Nicholas McIlroy, AICP, Senior Planner

B. Certificate of Appreciation

The Planning Commission Chair to present a Certificate of Appreciation to Nicholas McIlroy, AICP, Senior Planner.

10. Correspondence

11. Adjournment

CERTIFICATION:

I, Yolanda Maciel, Administrative Assistant II 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 5:00 p.m. Friday July 4, 2025.

Signature: _____

Date Posted: _____

PLANNING COMMISSION NOTES:

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City of Marina



City of Marina
211 HILLCREST AVENUE
MARINA, CA 93933
831- 884-1278; FAX 831- 384-9148
www.cityofmarina.org

Thursday, June 12, 2025

6:30 PM Regular Session

DRAFT MINUTES

REGULAR MEETING OF THE PLANNING COMMISSION

1. Call to Order: 6:38 PM

2. Roll Call & Establishment of Quorum

Present: Woodson, Rana, Jacobsen, Baron, St. John, Cheng
Absent: Walton

3. Moment of Silence & Pledge of Allegiance

4. Special Announcements and Communications from the Floor

5. Ex Parte Communications for Quasi-Judicial Matters

6. Consent Agenda

A. Approval of Minutes

Woodson motions (2nd Cheng) to approve the April 10, 2025, Meeting Action Minutes. *On a 6-0 vote the motion was approved (6-0-0-1)*

Ayes (6): Woodson, Rana, Jacobsen, Baron, St. John, Cheng

Noes (0): None

Recuse (0): None

Absent (1): Walton

7. Public Hearings

A. Medical Facility Site-Tree Removal Permit

St. John motions (2nd Rana) to approve PC Resolution No. 25-08 determining that approximately eleven trees within Opportunity Area 4.3 (Op 4.3) may be removed to make the site suitable for medical facility use in the near term. Find that any environmental impacts from the recommended action have been previously reviewed in the environmental impact report for the University Village Specific Plan EIR (EIR NO. 2004091167). *On a 6-0 vote the motion was approved (6-0-0-1)*

Ayes (6): Woodson, Rana, Jacobsen, Baron, St. John, Cheng
Noes (0): None
Recuse (0): None
Absent (1): Walton

B. Public Hearing-Accessory Structure/Fence Ordinance

Rana motions (2nd Baron) to approve Resolution No. 25-07 recommending that the City Council adopt an ordinance to amend Title 17 adding Section 17.04.305 (Garden Structures), Section 17.42.060 (Fences), and Chapter 17.55 (Staff Approvals and Procedures) and amending Sections 17.42.020 (Use Regulations), 17.42.055 (Height), and 17.42.070 (Yards) with corresponding updates to residential districts (17.06, 17.08, 17.10, and 17.12) in the Marina Municipal Code. The proposed amendments are exempt from environmental review per Section 15061(b)(3) of the CEQA Guidelines. *On a 6-0 vote the motion was approved (6-0-0-1)*

Ayes (6): Woodson, Rana, Jacobsen, Baron, St. John, Cheng
Noes (0): None
Recuse (0): None
Absent (1): Walton

8. Informational Items

A. Informational Item – 219-221 Hillcrest Ave Objective Design Review

The Planning Commission received an informational update from staff on the ministerially approved Downtown Vitalization Specific Plan (DVSP) Objective Design Review (ODR25-001) for 219-221 Hillcrest Ave (APNs 032-303-035 & -036).

9. Staff & Major Projects Update

10. Correspondence

11. Adjournment: 8:34 PM

June 30, 2025

Item No: 7A

Chair and Members
Of the Marina Planning Commission

Planning Commission Meeting
of July 10, 2025

CONSIDER ADOPTING PLANNING COMMISSION RESOLUTION NO. 25-09 APPROVING VARIANCE V25-0001 TO DEVELOP REAR YARD RETAINING WALLS EXCEEDING THE MAXIMUM HEIGHT PERMITTED BY SECTION 17.42.060.E OF THE MARINA MUNICIPAL CODE FOR THE PROPERTIES LOCATED ON THE WEST SIDE OF LANTERN AVENUE (LOTS 680 THROUGH 689) IN DUNES PHASE 3 SOUTH. THE PROPOSED VARIANCE IS EXEMPT FROM ENVIRONMENTAL REVIEW UNDER SECTION 15303 OF THE CEQA GUIDELINES FOR NEW CONSTRUCTION AND CONVERSION OF SMALL STRUCTURES.

RECOMMENDATION:

“I move to adopt Planning Commission Resolution No. 25-09 approving a variance to allow the development of retaining walls exceeding 6 feet in height for the rear yards along Lots 680 through 689 in Phase 3 South of The Dunes on Monterey Bay, subject to findings and conditions, and find that the proposed variance is exempt from CEQA per section 15303(e).”

GENERAL SITE INFORMATION

Business Name	Marina Community Partners, LLC
Location	The Dunes Phase 3 South 2203, 2205, 2207, 2209, 2211, 2213, 2215, and 2217 Lantern Avenue
Parcel No.	Multiple (Lots 680 through 689)
General Plan Designation	R-SF or Residential Single-Family
Zoning District	UVR or University Villages Residential
Owner	Shea Homes/Marina Community Partners, LLC
Applicant	Doug McCardle, Shea Homes

BACKGROUND

At the regular meeting of May 31, 2005, City Council adopted Resolution No. 2005-127, certifying the Environmental Impact Report for the University Villages project approving the University Village Specific Plan (Resolution No. 2005-131). Also in 2005, the City entered into a Development Agreement with Marina Community Partners, LLC (MCP) for the University Villages project.

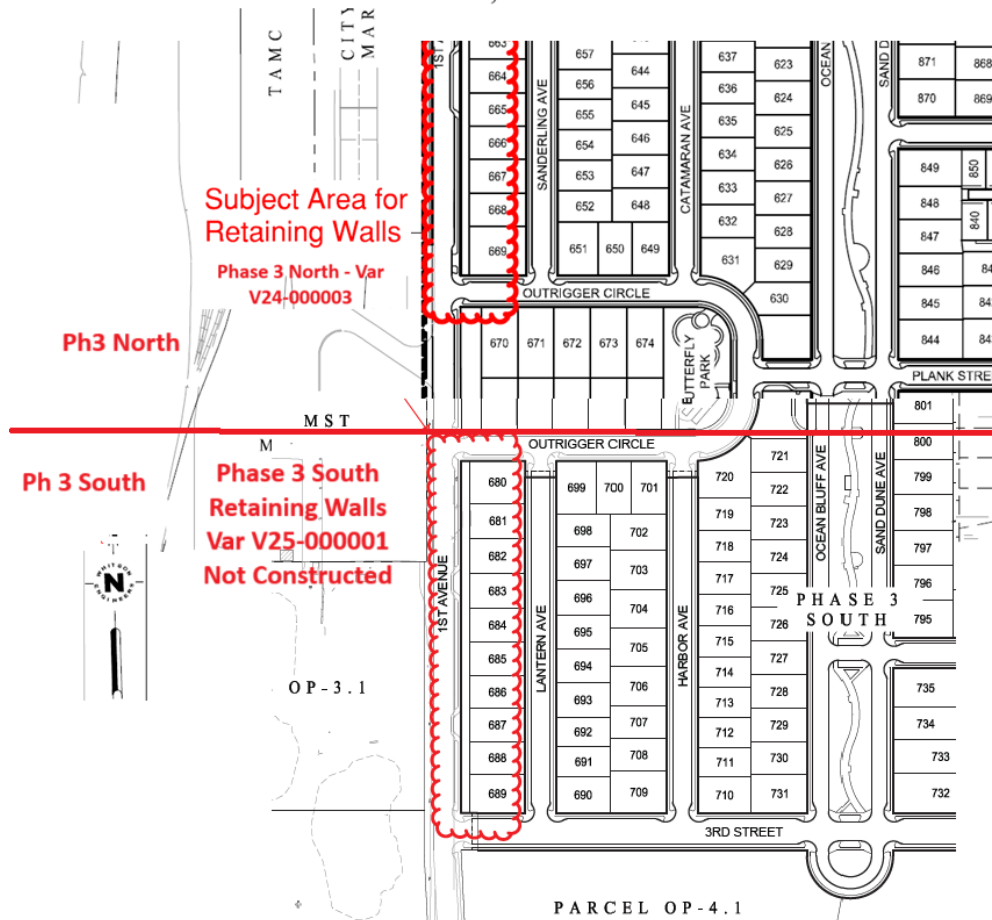
On July 19, 2024, Shea Homes (the applicant) on behalf of the owner, Marina Community Partners, submitted a variance application to the City of Marina (the City) to request height variances for a series of retaining walls within Phase 3 North on a series of lots directly north of

Phase 3 South. The Planning Commission conducted a public hearing on August 22, 2024, and adopted Resolution 2024-19 conditionally approving retaining wall height variances for Lots 661-669 within Phase 3 North of the Dunes.

On June 2, 2025, Shea Homes (the applicant) on behalf of the owner, Marina Community Partners, submitted a variance application to the City of Marina (the City) to request height variances for a series of retaining walls within Phase 3 South, similar in nature to the approved Variance V24-0003 for the corresponding retaining walls within Dunes Phase 3 North.

PROJECT LOCATION

THE DUNES ON MONTEREY BAY PHASE 3 NORTH MARINA, CALIFORNIA



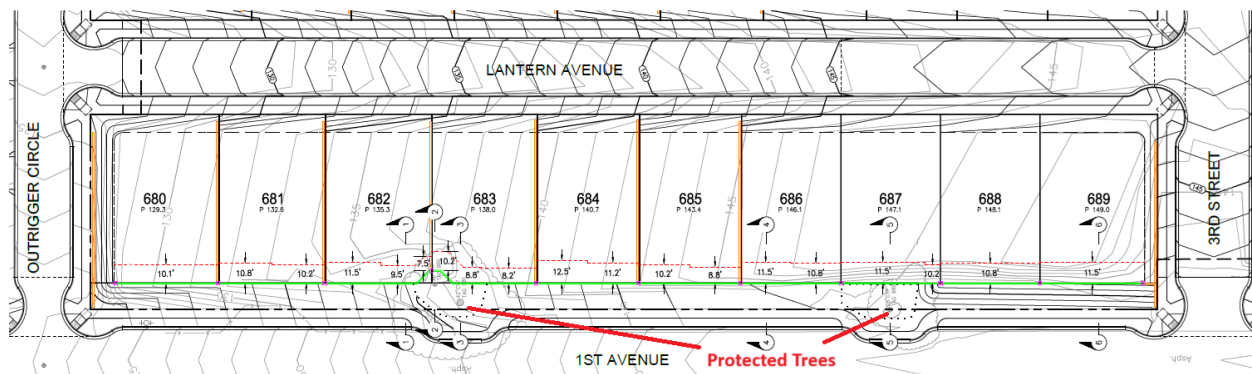
DEVELOPMENT STANDARD

The applicant proposes to develop a series of rear yard retaining walls where Lots 680 through 689 of Phase 3 South of The Dunes back up to 1st Avenue. Per Marina Municipal Code (MMC) Sec 17.42.060.E, separate fences and separate retaining walls are each limited to a maximum of 6 feet in height, and combined fences and retaining walls are limited to a maximum height of 9 feet, with the retaining wall portion limited to a maximum of 3 feet in height.

PROJECT ANALYSIS

The issue of enhanced tree preservation came to light during the processing of the Phase 2 and 3 subdivision maps in July 2022. At that point, the overall design of the subdivision had been finalized by the applicant, and sufficient space had been allocated to accommodate the grade change from the future road surface of 1st Avenue and the residential lots immediately east of 1st Avenue and south of Outrigger Circle.

With the approval of the improvement plans for the area and the establishment of the final grades and elevations for the road surface and the specified lots, it was determined that retaining walls would be needed to account for the elevation change from the road surface to the finished lots. And the tree preservation criteria unfortunately did not allow for sufficient lateral space to develop retaining walls that were “stepped” to comply with the height limitations contained in Marina’s Zoning Ordinance. The layout of the intersection and lot lines reflecting the tree preservation requirements are shown in the following image:



The retaining wall and rear yard fences would comply with the regulations in the MMC as measured from the residential property, with a 2.5 to 3 foot retaining wall section projecting above the finish grade of the lot, capped by a 3 foot tall painted wrought iron fence section, similar to what was approved for Variance V24-0001 and shown in the actual construction images below. The overall total height for the wall sections would range from 11 feet from footing to top of wall behind portions of Lots 682, 686, 687, and 689 down to 7.6 feet from footing to top of wall behind a portion of Lot 683. In some instances, this would not necessarily exceed the maximum allowed combined height of 9 feet, but the retaining wall portion of a combined wall/fence is only allowed to be a maximum height of 3 feet, and all of these walls would exceed that maximum retaining wall height by just over 1 foot at Lot 683 and just over 5 feet at Lots 682, 686, 687, and 689.



A Variance may only be granted in a narrow set of circumstances in which the applicant has demonstrated the following:

1. That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the municipal code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; and,
2. That the grant of a variance permit would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated (Marina Municipal Code 17.46.030 A-B).

Due to the special circumstances and conditions of the site, specifically the direction to increase tree preservation within this part of The Dunes, granting the variance to allow for retaining walls that exceed the maximum permitted height along the rear of Lots 680 through 689 of Phase 3 South of The Dunes is necessary to ensure that other development standards are met, and that the developer can develop the lots.

- Two (2) additional trees were identified to be preserved and protected in the subject area, during review of the subdivision map and improvements.
- These specified trees are either located on the boundary line between the private lot and the City right-of-way, or wholly located within the private lot.
- To protect the trees in place, a radius around the tree is required to be fenced off during construction to protect the root system. Establishment of this tree protection zone results in a reduction in lateral space that would have otherwise been utilized to develop a retaining wall system that complied with the regulations contained within Marina's Zoning Ordinance (MMC Sec 17.42.060.E).

Granting the variances listed above is consistent with the purposes of Marina's zoning ordinance and will not constitute a grant of special privileges inconsistent with limitations on other properties in the vicinity.

CORRESPONDENCE

The City has not received correspondence for this project.

CONFLICT OF INTEREST

Commission members are subject to all aspects of the Political Reform Act. Commission members must not make, participate in making, or attempt to influence in any manner a governmental decision which he/she knows, or should know, may have a material effect on a financial interest. Staff is not aware that any Commissioner owns property within 500 feet of the project site.

EX PARTE COMMUNICATION DISCLOSURES

In the context of any public hearing or action items that come before the Planning Commission (PC), ex parte communications are those which occur outside the formal hearing process. If such contacts do occur, the substance of the communication must be disclosed to all interested parties in advance of any public hearing or testimony to allow rebuttal. Written ex parte communications must be forwarded to the Community Development Director so that they can be disclosed to the entire Commission and the public.

ENVIRONMENTAL REVIEW

The City of Marina Planning Division determined that this project is exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) Section 15303(e) for the construction of new accessory structures (fences and walls).

CONCLUSION

This request is submitted for Planning Commission action.

Respectfully submitted,

Brad Evanson
Contract Planning Advisor
Regional Government Services

on behalf of:
Community Development Department
City of Marina

REVIEWED/CONCUR:

Guido Persicone, AICP, Director
Community Development Department
City of Marina

DRAFT RESOLUTION NO. 2025-09

A RESOLUTION OF THE CITY OF MARINA PLANNING COMMISSION
APPROVING VARIANCE V25-0001 TO ALLOW RETAINING WALLS TO
EXCEED MAXIMUM HEIGHT REGULATIONS AT THE REAR OF LOTS 680
THROUGH 699 ON LANTERN AVENUE WITHIN PHASE 3 SOUTH OF THE
DUNES ON MONTEREY BAY

WHEREAS, residential property within Phase 3 South of The Dunes development is zoned University Villages Residential (UVR) with a General Plan designation of Residential; and,

WHEREAS, the Marina Municipal Code MH-R District limits the overall height of combined fences and retaining walls are limited to a maximum height of 9 feet, with the retaining wall portion limited to a maximum of 3 feet in height; and,

WHEREAS, the applicant is requesting that the City approve a Variance to allow for the development of combined retaining wall and rear yard fences to in some instances exceed the overall maximum allowed height of nine (9) feet and in all lots allow the retaining wall portion to exceed the maximum permitted height of three (3) feet; and,

WHEREAS, the Planning Commission, at a duly noticed public hearing July 10, 2025, carefully considered all of the information presented to it, including the staff report and information submitted at the public hearing by interested persons;

WHEREAS, notice is hereby given that decisions of the Planning Commission are appealable to the City Council within 10 days of the date of this action pursuant to Marina Municipal Code Section 17.58.050;

WHEREAS, based on the evidence in the record, including the Staff Report for this July 10, 2025 Planning Commission agenda item and associated findings, the City of Marina Planning Division determined that this project is categorically exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) Guidelines (Article 19, Section 15303.e) pertaining to the construction of accessory structures such as fences and walls; and

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of Marina hereby approves Variance V25-0001 to allow for rear yard retaining walls plus fences that exceed the maximum permitted height for Lots 680 through 689 on Lantern Avenue, within Phase 3 South of The Dunes on Monterey Bay, subject to findings, conditions of approval, as described herein and as shown on Exhibit A Findings, Exhibit B Conditions of Approval and Exhibit C Plan Set attached hereto.

PASSED AND ADOPTED by the Planning Commission of the City of Marina at a regular meeting duly held on the 10th day of July 2025, by the following vote:

AYES, COMMISSIONERS:

NOES, COMMISSIONERS:
ABSENT, COMMISSIONERS:
ABSTAIN, COMMISSIONERS:

Glenn Woodson, Chair

ATTEST:

Guido Persicone, AICP, Director
Community Development Department

Exhibits:

- A. Findings
- B. Conditions of Approval
- C. Applicant Request for Variance dated May 30, 2025
- D. Plan Set dated June 2, 2025

EXHIBIT A

FINDINGS

Consistency with the Zoning Code

General findings for consideration of a use permit (17.58.040):

1. *That the establishment, maintenance or operation of the use will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood.*

Evidence: The proposed use as conditioned herein shall not have a significant impact on neighbors.

2. *That the use will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.*

Evidence: As a conditionally permitted use in the UVR zone, the project, as conditioned herein, shall not be injurious to the property and improvements in the neighborhood or to the general welfare of the city.

General Plan Compliance

Consistency with the General Plan

- 1) General Plan Policy 2.4.4 of the Community Land Use Element states:
“Wherever possible, lands with significant agricultural, natural habitat, or scenic value shall be retained and protected from degradation.”

Evidence: The developer of The Dunes has agreed to preserve the identified trees as Phase 3 South is developed for residential uses. The proposed Variance would enable that preservation while maintaining the ability of the developer to provide new housing stock within Marina.

California Environmental Quality Act (CEQA) Findings

The project qualifies for one (1) categorical exemptions under Article 19.

Class 3, Section 15303(e) construction of new accessory structures:

- a. Residential accessory structures include fences and walls, which the requested Variance would enable.

Finding: The project is consistent with this categorical exemption because the scope of work includes approval of a Variance to enable the construction of retaining walls and

fences in conjunction with new residential development and the retention of mature trees within the project area.

Findings

1. That special circumstances applicable to subject property exist, including size, shape, topography, location or surroundings, that the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification in that due to the special circumstances and conditions of the site, specifically the significant elevation differences and location of mature trees, granting the variance is consistent with the purposes of Marina's zoning ordinance.
2. That the grant of a variance permit would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated due to the significant grade differences and location of mature trees.

EXHIBIT B

CONDITIONS OF APPROVAL

1. Approved Use – The permittee shall execute, construct, and operate the project in accordance with the approved application materials and the plans dated June 2, 2025 received on June 2, 2025. Any deviation from approvals must be reviewed and approved by staff and may require separate approval from the Planning Commission and/or further environmental review.
2. Effective Date – This approval shall become effective immediately, except when an appeal period applies pursuant to Marina Municipal Code (MMC) Chapter 17.70 in which case actions shall become effective ten (10) days after the approval date provided that no appeal is filed.
3. Building Permits – Prior to issuance of building permits to construct the specified retaining walls, full construction drawings shall be submitted to the City of Marina for review by the Community Development Department and the Public Works Department. Plans shall include, but not be limited to: detailed and dimensioned site plans for each lot, grading and structural calculations, and final dimensions, colors, and materials to be reviewed by Planning staff prior to approval of any permits.
4. Compliance with Other Requirements – The permittee shall comply with all other applicable federal, state, regional, and local laws, codes, requirements, regulations, and guidelines. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.
5. Modifications – Any modification to the approved project, site plan, conditions of approval, or use requires consistency review and approval by Planning Staff. Major revisions may require review and approval by the original approving body or a new independent permit.
6. Compliance with Conditions of Approval – The permittee shall be responsible for compliance with all Conditions of Approval. The City reserves the right at any time during construction to require certification by a licensed professional at the permittee's expense that the as-built project conforms to all applicable requirements. Violation of any term, project description, or Condition of Approval is unlawful and prohibited. In the case of noncompliance with the requirements of a Use Permit, MMC Section 17.58.060 allows for the revocation of said permit. The City reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings where violations are present, consistent with MMC Chapters 1.08, 1.10 and 1.12.
7. Indemnification – To the extent allowable by law, the permittee agrees to hold the City harmless from costs and expenses, including attorney's fees, incurred by the City or held

to be the liability of the City in connection with the City's defense of its actions in any proceeding brought in any state or federal court challenging the City's actions with respect to the project. The permittee understands and acknowledges that the City is under no obligation to defend any legal actions challenging the City's actions with respect to the project.

8. Notice of Exemption – That within 5 days from the date of action upon the use permit of this project by Planning Commission the applicant shall submit to Planning staff a check payable to the "Monterey County Clerk" in the amount of \$50.00 to pay for the fee for filing the notice of exemption.

May 30, 2025

Guido Persicone
Community Development Director
City of Marina
211 Hillcrest Avenue
Marina, CA 93933



RE: Retaining Wall Variance Application

Dear Guido,

The Shea Homes/MCP team is requesting a variance for the height of the retaining walls at the subject location. Due to the direction to retain and preserve several trees at that location, it is not possible to construct retaining walls to support the adjacent approved development that comply with City of Marina regulations. The space needed to preserve the trees does not allow enough space to construct a series of compliant retaining walls for the development, and due to this special circumstance, the retaining walls needed to support the adjacent development must exceed the height otherwise permitted by the Marina Municipal Code.

Given these circumstances, MCP requests an approval of our Retaining Wall Variance Application.

Please let us know if you would like any additional information at this time.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug McArdle".

Doug McArdle,
Community Development Manager

CC: Don Hofer, Shea Homes
Doug Yount, Shea Homes

SUBJECT AREA FOR
PHASE 3 SOUTH
RETAINING WALLS

APPLICANT/DEVELOPER MARINA COMMUNITY PARTNERS, LLC
110 10TH STREET
MARINA, CA 93933
(831)384-1018

CIVIL ENGINEER WHITSON ENGINEERS
6 HARRIS COURT
MONTEREY, CA 93940

ANDREW HUNTER, RCE 67730
(831) 649-5225

GEOTECHNICAL ENGINEER BERLOGAR STEVENS & ASSOCIATES
1220 QUARRY LANE, SUITE C
PLEASANTON, CA 94566
(925)484-0220

1. SURVEY CONTROL IS BASED ON PROPAGATION OF AN EXISTING CONTROL NETWORK PREVIOUSLY ESTABLISHED FOR PAST PHASES OF THE DUNES ON MONTEREY BAY PROJECT. HORIZONTAL CONTROL UTILIZES A GROUND-BASED COORDINATE SYSTEM BASED ON THE CALIFORNIA COORDINATE SYSTEM, NAD 83 ZONE IV. GRID COORDINATES HAVE BEEN SCALED TO GROUND BY APPLYING AN AVERAGE COMBINED SCALE FACTOR OF 1.00006928. BEARINGS ARE GRID BEARINGS PER THE CALIFORNIA COORDINATE SYSTEM, NAD83 ZONE IV.
2. ELEVATIONS ARE RELATIVE TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88), AS VERIFIED IN OCTOBER OF 2019 BASED ON SURVEYED TIES TO THE FOLLOWING BENCHMARKS AS PUBLISHED BY THE NATIONAL GEODETIC SURVEY (NGS):

NGS PID	DESIGNATION	PUBLISHED ELEVATION	MEASURED ELEVATION	Δ
GU3210	G 1320	71.06'	71.06'	0.02'
GU2130	L 813 RESET	145.94'	145.97'	-0.03'

3. AN ESTABLISHED NAVD88 ELEVATION OF 128.39' FOR A BRASS DISC STAMPED RCE 29811 IN A MONUMENT WELL IN THE CENTERLINE OF 2ND AVENUE, DESIGNATED POINT #22136, SHOWN HEREON, IS THE LOCAL SITE BENCHMARK

[illegible]

SCALE: 1" = 120'

APPROVED FOR CONSTRUCTION

NOURDIN KHAYATA, P.E. 52446
INTERIM PUBLIC WORKS DIRECTOR



11 RESERVATION ROAD
MARINA, CA 93933
(831) 384-6131

APPROVED FOR CONSTRUCTION: _____ DATE _____
GARRETT HAERTEL, P.E. 72403, DISTRICT ENGINEER

REVIEWED BY:

THE GEOTECHNICAL ASPECTS OF THE IMPROVEMENT PLANS HAVE BEEN REVIEWED FOR SUBSTANTIAL CONFORMANCE WITH THE INTENT OF THE RECOMMENDATIONS CONTAINED IN THE GEOTECHNICAL EXPLORATION REPORT.

PROJECT

NOT TO SCALE

DESCRIPTION	PROPOSED	EXISTING
SUBDIVISION BOUNDARY	_____	_____
LOT LINE	_____	_____
RIGHT-OF-WAY	_____	_____
CENTER LINE	_____	_____
EASEMENT LINE	_____	_____
HINGE LINE/TOP SLOPE	_____	_____
TOE SLOPE	_____	_____
SAWCUT LIMIT	_____	_____
GUTTER FLOWLINE	_____	_____
EARTH DITCH	_____	_____
CONCRETE V-DITCH	_____	_____
CURB AND GUTTER	_____	_____
SIDEWALK	_____	_____
DRIVEWAY CURB CUT	_____	_____
CURB RAMP	_____	_____
DOMESTIC WATER MAIN	_____ W _____	_____ W _____
SANITARY SEWER	_____ SS _____	_____ SS _____
STORM DRAIN	_____ SD _____	_____ SD _____
RECYCLED WATER	_____ RW _____	_____ RW _____
IRRIGATION SLEVE	_____	_____
STORM DRAIN MANHOLE		
SANITARY SEWER MANHOLE		
STANDARD CURB INLET		
STORM DRAIN FIELD INLET		

AB	AGGREGATE BASE
AC	ASPHALT CONCRETE
AL	ALIGNMENT LINE
BC	BEGINNING OF CURVE
BEG	BEGIN
BFP	BACK FLOW PREVENTER
BO	BLOW OFF VALVE
BOW, BW	BACK OF WALK
BVC	BEGINNING OF VERTICAL CURVE
BWV	BACK WATER VALVE
(C)	COMMERCIAL
CATV	CABLE TELEVISION
CB	CATCH BASIN
CL	CENTERLINE
CO	CLEAN OUT
CONC	CONCRETE
CR	CROWN
C&G	CURB & GUTTER
DI	DROP INLET/DITCH INLET
DIW	DRIVEWAY LIP
DW	DRIVEWAY
EC	END OF CURVE
EVC	END OF VERTICAL CURVE
EM	EASEMENT
ED	EDGE OF PAVEMENT
ER	END OF RETURN
EX, EXIST, (E)	EXISTING
(F)	FUTURE
FC	FACE OF CURB
FF	FINISH FLOOR
FG	FINISH GRADE
FI	FIRE HYDRANT
FL	FLOW LINE
FUT	FUTURE
GB	GRADE BREAK
GFF	GARAGE FINISH FLOOR
GL	GARAGE LIP
GP	GARAGE PAD
GND	GROUND
GRT	GRATE
HGL	HYDRAULIC GRADE LINE
HL	HINGE LINE
HP	HIGH POINT
IEUE	INGRESS, EGRESS & UTILITY EASEMENT
IM	IRRIGATION METER
INTX	INTERSECTION
INV	INVERT
IS	IRRIGATION SLEEVE
L	LENGTH
LAT	LATERAL
LL	LOT LINE
LP	LOW POINT
LS	LANDSCAPE
LT	LEFT
MAX	MAXIMUM
MID	MIDDLE
MIN	MINIMUM
NE	NORTHEAST
NW	NORTHWEST
OB	OVERBUILD
OE	OVERHEAD ELECTRIC
(P)	PROPOSED
P	PAD
PCC	PORTLAND CEMENT CONCRETE
PFF	PORCH FINISH FLOOR
PIP	PROTECT IN PLACE
PL	PROPERTY LINE
POC	POINT OF CONNECTION
PR	PROPOSED
PRR	POINT OF REVERSE CURVE
PT	POINT OF TANGENT
PUE	PUBLIC UTILITY EASEMENT
PVC	POLYVINYL CHLORIDE
PVI	POINT OF VERTICAL INTERSECTION
RT	RETURN
RT	RIGHT
RW	RECYCLED WATER
R/W	RIGHT OF WAY
S	SEWER
SC	SLOW CUT
SD	STORM DRAIN
SDJMH	STORM DRAIN JUNCTION MANHOLE
SDMH	STORM DRAIN MANHOLE
SE	SOUTHEAST
SFO	SIDE OPENING
SS	SANITARY SEWER
SSE	SANITARY SEWER EASEMENT
SSMH	SANITARY SEWER MANHOLE
STA	STATION
STD	STANDARD
SW	SOUTHWEST
S/W	SIDEWALK
TC	TOP OF CURB
TD	TOP OF DIKE
TRANS	TRANSITION
TRC	TOP OF ROLLED CURB
TW	TOP OF WALL
TYP	TYPICAL
UG	UNDERGROUND GAS
UT	UNDERGROUND TELEPHONE
V	VERTICAL CURVE
W	WATER
W-ADU	DUAL WATER SERVICE MANHOLE
WSS	WATER SAMPLING STATION
WQ	WATER QUALITY
WV	WATER VALVE
XJT	EXISTING JOINT TRENCH

<u>SHEET</u>	<u>DESCRIPTION</u>
1	COVER SHEET
2	IMPROVEMENT PLAN NOTES
3	SHEET INDEX – STREETS
4	MCWD STANDARD NOTES AND STRUCTURE SCHEDULES
5–7	UTILITY SECTIONS & UTILITY DETAILS
8–10	IMPROVEMENT PLAN DETAILS & STREET SECTIONS
11–16	STORMWATER CHAMBER DETAILS
17–18	MCWD STANDARD WATER DETAILS
19	MCWD STANDARD SANITARY SEWER DETAILS
20–22	UTILITY SYSTEM MAPS
23	EXISTING CONDITIONS & STAGE 2 DEMOLITION PLAN
42–47	PLAN & PROFILES
47–51	CURB RETURN PROFILES
51–53	STORM DRAIN PROFILES
54–55	SIGNING AND STRIPING PLAN
TR–11–TR–6	TREE REMOVAL AND PRESERVATION PLAN

WDID No.: 3 27C344980
RISK LEVEL: 2

**Civil Engineering
Land Surveying**
6 Harris Court
Monterey, California
831.649.5225
whitsonengineers.com



Whitson
ENGINEERS

NOT VALID
WITHOUT
SIGNATURE

1	6/2/2025	1ST SUBMITTAL
	ADJ	

THE DUNES ON MONTEREY BAY - PHASE 3 SOUTH
ON-SITE IMPROVEMENT PLANS

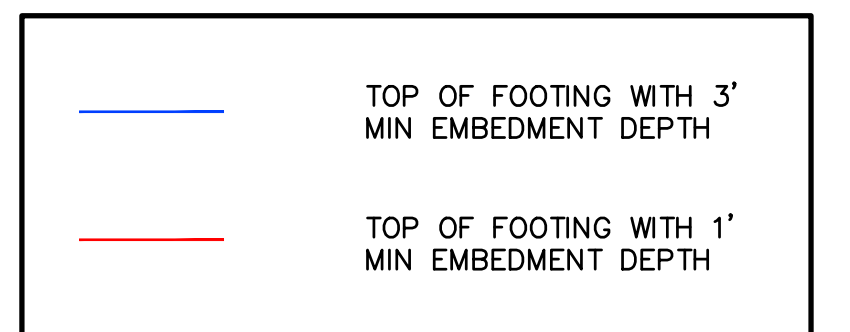
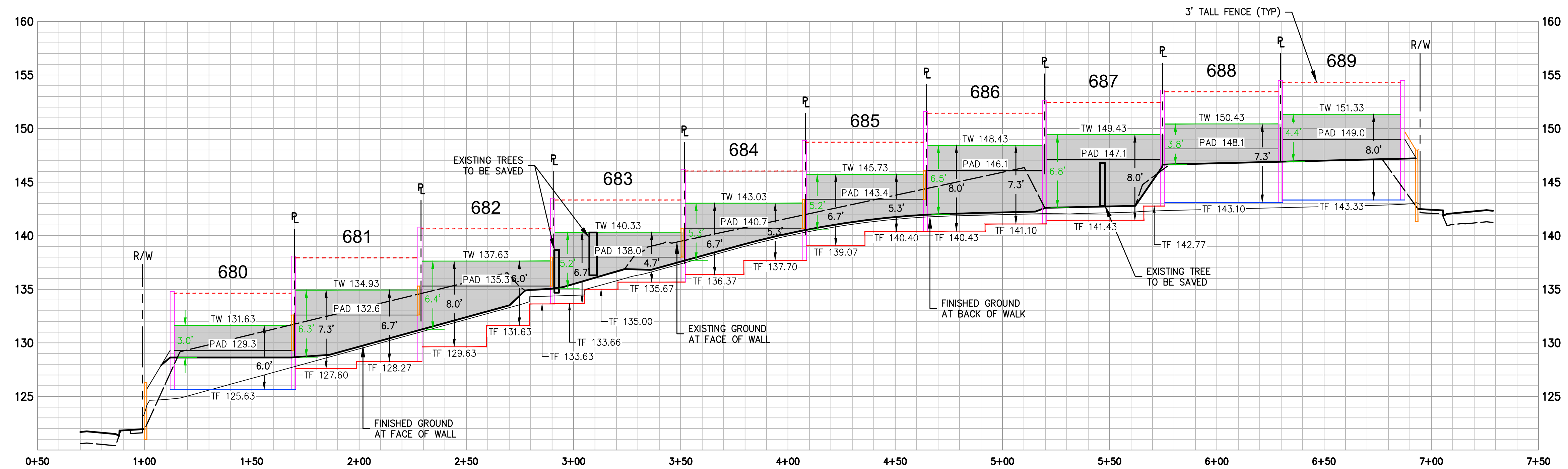
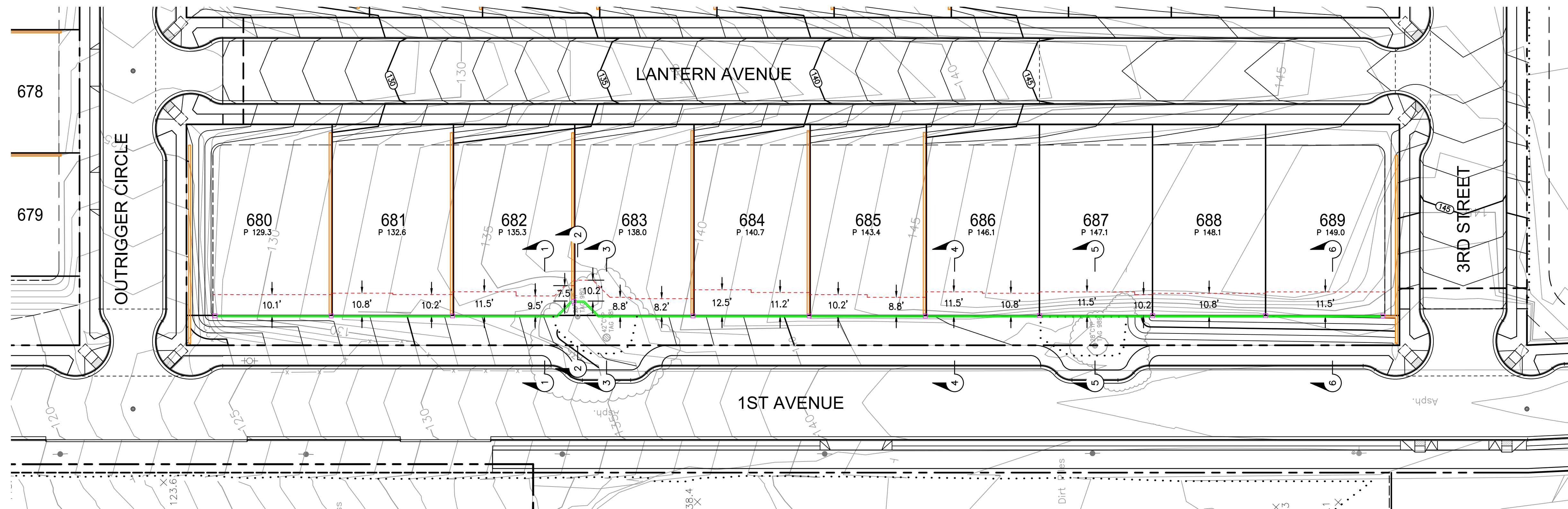
10

COVER SHEET
SITE PLAN, VICINITY MAP, INDEX, LEGEND, NOTES

SCALE:	1" = 120'
DRAWN:	APH
JOB No.:	3140-40

SHEET
1
OF 11

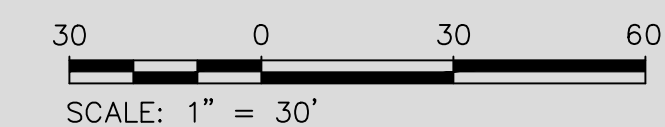
NOT FOR CONSTRUCTION



1ST AVENUE WALL EXHIBIT

THE DUNES ON MONTEREY BAY - PHASE 3 SOUTH

CITY OF MARINA, CALIFORNIA



MAY 22, 2025
No. : 3140.49

Whitson
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Monterey, California
831.649.5225
whitsonengineers.com

Sheet 1 of 3

DRAFT ORDINANCE NO.

AN ORDINANCE AMENDING THE MARINA MUNICIPAL CODE (MMC), TITLE 8, BY ADDING A NEW CHAPTER 8.80 - “SHOPPING CART REGULATIONS”. THE PROPOSED ORDINANCE IS EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15061(B) (3) OF THE CEQA GUIDELINES.

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

1. The Community Development Department (CDD) of the City of Marina (City), through its regular use and implementation of the Marina Municipal Code (MMC), finds that new language should be added for clarity.
2. The addition to Title 8 of MMC Chapter 8.80 explicitly states that abandoned carts are a Health and Safety issue and gives the City of Marina the ability to impound abandoned shopping carts if necessary.
3. The adoption of these procedural standards will clarify important processes for both City staff and the general public.
4. Title 8, Chapter 8.80 entitled “Shopping Cart Regulations”, containing Sections 8.80.010 to 8.80.190, is hereby added to the Marina Municipal Code to read as set forth on the attached **Exhibit A** and incorporated herein.
5. Chapter 8.80 will become the central location for regulations pertaining to shopping cart procedures in the City of Marina. This chapter will not impact the defined terminology for an abandoned shopping cart in MMC Section 8.70.050 (“Nuisance defined”).
6. Environmental. The proposed Ordinance amendments are not subject to environmental review pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Article 5, Section 15061(b)(3) because the proposed procedural changes would not result in a direct or a reasonably foreseeable indirect physical change in the environment and the proposed ordinance

is covered by the general rule that CEQA applies only to projects which have potential for causing significant effect on the environment. Therefore, the adoption of this ordinance is exempt from CEQA, and no further environmental review is necessary.

7. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its final passage and adoption.

8. Severability. If any portion of this Ordinance is found to be unconstitutional or invalid the City Council hereby declares that it would have enacted the remainder of this Ordinance regardless of the absence of any such invalid part.

9. Posting of Ordinance. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause it to be posted in the three (3) public places designated by resolution of the City Council.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on _____, 2025, and was passed and adopted at a regular meeting duly held on _____, 2025, by the following vote:

AYES, COUNCIL MEMBERS:

NOES, COUNCIL MEMBERS:

ABSENT, COUNCIL MEMBERS:

ABSTAIN, COUNCIL MEMBERS:

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

Exhibit A

Chapter 8.80 - Shopping Cart Regulations

8.80.010 Intent and declaration of nuisance.

8.80.020 Definitions.

8.80.030 Enforcement authority.

8.80.040 Shopping cart identification signs.

8.80.050 Shopping cart containment plan required.

8.80.060 Permission for cart removal from business premises.

8.80.070 Cart containment plan review fee.

8.80.080 Shopping cart retrieval – registration and records required.

8.80.090 Cart containment plan approval, conditional approval or denial.

8.80.100 Penalties for failing to submit a prevention plan.

8.80.110 Repeat offenders – imposition of additional measures to prevent cart removal.

8.80.120 Physical containment system.

8.80.130 Unauthorized acts or possession of an abandoned shopping cart.

8.80.140 Shopping cart retrieval.

8.80.150 Impound, retrieval, and administrative costs and fines.

8.80.160 Exemptions.

8.80.170 Disposition of carts after thirty days.

8.80.180 Remedies.

8.80.190 Appeal procedure.

8.80.010 Intent and declaration of nuisance.

A. In enacting this chapter, the City of Marina (City) hereby finds that abandoned shopping carts constitute a nuisance, create potential hazards to the health and safety of the public, and interfere with pedestrian and vehicular traffic with the City. The accumulation of wrecked, abandoned, and dismantled shopping carts on public or private property also tends to create conditions that reduce property values and promote blight and deterioration.

B. The purpose of this chapter is to ensure that measures are taken by store owners to prevent the removal of shopping carts from store premises and parking lots and to facilitate the retrieval of abandoned shopping carts as permitted by State law. This chapter implements the provisions of California Business and Professions Code Section 22435 et seq.

C. To the extent any provision of this chapter is determined to be preempted by state law or otherwise held invalid, it shall be deemed severed from all other provisions of this chapter and such other provisions shall remain in full force and effect.

8.80.020 Definitions.

A. “Abandoned cart” shall mean any shopping cart that has been removed without written permission of the cart owner or on-duty manager from the premises of the business establishment, regardless of whether it has been left on either private or public property.

B. “Business premises” shall mean the entire area owned and utilized by the business establishment that provides carts for use by customers, including any parking lot or other property provided by the cart owner for customer parking.

C. “Cart owner” shall mean any person or entity, who, in connection with the conduct of a business, owns, leases, possesses, uses, or otherwise makes any cart available to customers or the public. For the purposes of this chapter, “cart owner” shall also include the owner’s on-site or designated agent that provides the carts for use by its customers.

D. “Enforcement official” shall mean the city manager or other enforcement official as designated by the city manager.

E. “Qualified cart retrieval service” shall mean a city approved commercial service operated by a third party and paid by a cart owner to retrieve and return shopping carts.

F. “Shopping cart” or “cart” shall mean a basket which is mounted on wheels or a similar device provided by a business establishment for use by a customer for the purpose of transporting goods of any kind, including, but not limited to, grocery store shopping carts.

8.80.030 Enforcement authority.

A. The city manager and their designees shall have the authority and powers necessary to determine whether a violation of this chapter exists and to take appropriate action to gain compliance with the provisions of this chapter and applicable state codes. These powers include, without limitation,

the authority to impound the shopping carts, issue administrative citations, inspect public and private property, impose civil penalties for any violation of this chapter, or pursue criminal actions. The provisions of this chapter are cumulative and in addition to any and all other procedures or remedies provided in ordinances of the City or by state law for the abatement of, or prosecutions for, nuisances.

8.80.040 Shopping cart identification signs.

A. Each cart owner shall post and maintain a sign at each customer pedestrian exit at the owner’s establishment which meets all the following minimum specifications:

1. Meet or exceed eighteen inches in width and twenty-four inches in height.
2. Using block lettering not less than one-half inch in width and two inches in height, contain a statement to the effect that unauthorized removal of a shopping cart from the business premises, or possession of a shopping cart in a location other than on the business premises, is a violation of state law and city ordinance.
3. List a local or toll-free telephone number and email for shopping cart retrieval.
4. The signs shall be conspicuously and prominently displayed on the interior walls of the building within two feet of each customer pedestrian exit.

B. Each cart owner shall include clearly legible information on each shopping cart that identifies the owner of the cart or the retailer, or both; notifies the public of the procedure to be utilized for authorized removal of the cart from the premises; notifies the public that the unauthorized removal of the cart from the premises or parking area of the retail establishment, or the unauthorized possession of the cart, is a violation of state law; and lists a valid telephone number or address for returning the cart removed from the premises or parking area to the owner or retailer.

8.80.050 Shopping cart containment plan required.

A. Each cart owner must contain all shopping carts on the business premises except as provided by this chapter.

B. Every cart owner shall operate and maintain a shopping cart containment program pursuant to a shopping cart containment plan. Every cart owner shall submit a proposed plan no later than ninety days after the effective date of this chapter. Any cart owner which opens operations after the effective date of this chapter shall submit a proposed plan no later than sixty days after the issuance of their business license under MMC Chapter 5.16. The shopping cart containment plan must contain all of the following provisions:

1. Name of the Owner. The name of the business owner, the physical address of the owner's establishment, and the name, address and phone number(s) if different from the business owner.
2. Inventory of Carts. A complete inventory of carts maintained on or in the business premises.
3. Cart Identification. Shopping cart identification requirements as listed in Section 8.80.040(B).
4. Loss Prevention Measures. A description of the specific measures that the cart owner shall implement to prevent cart removal from the business premises. These measures may include, but are not limited to:
 - a. Placing signs directing customers not to remove the shopping carts from the business premises without express written consent of the cart owner;
 - b. Using courtesy clerks to accompany customers and return the carts to the owner's establishment;
 - c. Using security personnel to prevent shopping carts from being removed from the business premises or requiring a security deposit for use of a cart;
 - d. Providing small, two-wheeled shopping carts that a customer may rent or purchase for the customer's personal use;
 - e. Providing a neighborhood shuttle or other service to transport purchased goods for a customer;
 - f. Installing on shopping carts electronic disabling devices, such as wheel locks, which disable the cart upon crossing a barrier at the perimeter of the business premises;
 - g. Installing barriers on carts or at the doors, near the loading areas, or at other defined perimeters of the business premises to prevent the passage of a cart beyond such barrier.

C. A cart owner shall submit a plan amendment to address any changed circumstances no later than sixty days after the change occurs. The addition of more than ten carts to a cart owner's inventory constitutes a changed circumstance; the cart owner shall notify the Community Development Department of this addition no later than ten days after the addition, and submit a plan amendment as required by this section.

8.80.060 Permission for cart removal from business premises.

No person shall be deemed to be authorized to remove a shopping cart from the business premises unless such person possesses express written authorization from the cart owner. Written permission shall be valid for a period of time not to exceed seventy-two hours. A contract between the cart owner and a person to provide repair or maintenance of the owner's carts constitutes express written authorization for such person to remove the owner's carts for the purpose of repair or maintenance.

8.80.070 Cart containment plan review fees.

A cart owner must submit a shopping cart containment plan that complies with the requirements established in Section 8.80.050, and any amendments to a shopping cart containment plan previously approved. The cart owner shall pay a fee upon submitting the plan or plan amendment for review of the plan or plan amendment in an amount established by ordinance of the City Council.

8.80.080 Shopping cart retrieval—Registration and records required.

Any person or business who engages in shopping cart retrieval must be registered with the city so as to provide contact names and phone numbers to city enforcement staff. Each shopping cart retrieval business shall retain records showing written authorization from the shopping cart owner, or any agent thereof, to retrieve the cart or carts and to be in possession of the cart or carts retrieved. A copy of the record showing written authorization shall be maintained in each vehicle used for shopping cart retrieval and presented to enforcement personnel upon request.

8.80.090 Cart containment plan approval, conditional approval or denial.

A. The city manager or their designee shall approve, conditionally approve, or deny a proposed shopping cart containment plan, and shall notify the cart owner of such decision within thirty days of receipt of the plan and payment of the fee required pursuant to Section 8.80.070. If approved, the cart containment plan shall be implemented by the cart owner no later than thirty days from the date of approval.

B. A shopping cart containment plan or an amendment to a plan may be approved subject to conditions, or denied based upon one or more of the following grounds:

1. Implementation of the plan violates any provision of the building, zoning, health, safety, fire, police, or other provision of this code or any county, state or federal law which substantially affects public health, welfare, or safety;
2. The plan fails to include all of the information required by this chapter;
3. The plan is insufficient or inadequate to prevent removal of shopping carts from the business premises as evidenced by data regarding the cart owner's abandoned shopping carts;
4. The plan fails to address any special or unique conditions due to the geographical location of the business premises as they relate to cart retention and prevention efforts;
5. Implementation of the plan violates another provision of the Municipal Code;
6. The cart owner knowingly makes a false statement of fact or omits a material fact required to be submitted for the plan, or for any amendment to the plan or in any other information required by the city.

C. Within fifteen (15) days of the written decision of the city manager or their designee that a plan or amendment is incomplete or denied, the cart owner shall submit a revised or complete plan, as appropriate. The city may require specific measures to be included in the plan, including mandatory electronic disabling devices.

D. The city manager may revoke any prior approval of a plan based on one or more of the grounds listed in subsection B of this section.

8.80.100 Penalties for failing to submit a prevention plan.

Any cart owner that fails to submit a plan, implement the proposed plan measures, or implement any required modifications to the plan by the city within the time frames specified in this chapter

shall be subject to a five-hundred-dollar civil penalty, plus an additional penalty of fifty dollars for each day of noncompliance.

8.80.110 Repeat offenders—Imposition of additional measures to prevent cart removal.

Specific measures may be required by the city to prevent cart removal from the business premises if the business has had more than three carts impounded in any six-month period. These measures may include, but are not limited to: ordering the business to immediately install disabling devices on all of their shopping carts, requiring the posting of a security guard to deter and stop customers who attempt to remove carts from the premises, installation of bollards, chains or similar devices around the premises to prevent cart removal, or requiring that the business provide for the rental or sale of carts that can be temporarily or permanently used by customers for transport of purchases to a location outside the premises.

8.80.120 Physical containment system.

- A. A cart owner shall be required to install a physical containment system to the satisfaction of the planning director when the cart owner establishes a facility consisting of more than five thousand square feet or more of new construction.
- B. A cart owner shall be required to install a physical containment system to the satisfaction of the planning director and the city manager following the issuance of more than ten administrative citations in a thirty-day period.
- C. Mandatory locking of carts after hours. Carts stored outdoors shall be locked after business hours in a manner that prevents theft.

8.80.130 Unauthorized acts or possession of an abandoned shopping cart.

It is unlawful for any person to do any of the following:

- A. To either temporarily or permanently remove a cart that has a permanently affixed sign as provided in MMC Section 8.80.040.B from the premises or parking area of a business establishment without the express prior written approval of the cart owner or on-duty manager of the business establishment. Written permission shall be valid for a period of time not to exceed seventy-two hours.
- B. Except in cases where written permission is granted, to be in possession of a cart that has been removed from the premises or parking area of a business establishment unless it is in the process of being immediately returned to the cart owner or business establishment.
- C. To alter, convert, or tamper with a shopping cart, or to remove any part or portion thereof, or to remove, obliterate or alter serial numbers on a shopping cart or to be in possession of any shopping cart with serial numbers removed, obliterated, or altered, with the intent to temporarily or permanently deprive the cart owner of possession of the cart.
- D. To leave or abandon a shopping cart at a location other than the business premises with the intent to temporarily or permanently deprive the cart owner of possession of the shopping cart. This section shall not apply to shopping carts that are removed for the purposes of repair or maintenance.

8.80.140 Shopping cart retrieval.

- A. The city may retrieve an abandoned cart from public property (or private property with the consent of the property owner) in the following circumstances:

1. Where the location of the shopping cart will impede emergency services;
 2. When the abandoned shopping cart does not identify the owner of the cart, as required in Section 8.80.040;
 3. When the city has contacted either the cart owner, the cart owner's agent, or the entity contracted by the cart owner under the abandoned cart prevention plan, and actually notified them of the abandoned cart and the cart has not been retrieved within seventy-two hours;
 4. When the shopping cart is in a public right-of-way.
- B. Alternatively to subsection A of this section, the city shall immediately abate, remove, and impound an off-site shopping cart that has identifying information affixed to it, as set forth in Section 8.80.040, if the city provides the cart owner, or whoever is identified by the cart owner as the party responsible for retrieval of the carts, with actual notice within twenty-four hours following the impound and informs the cart owner or responsible party of the location where the off-site shopping cart may be claimed.

8.80.150 Impound, retrieval, and administrative costs and fines.

- A. In the event the city retrieves a shopping cart, the city shall notify the cart owner or the responsible party, as identified in Section 8.80.080, of the following:
1. The location of the shopping cart(s).
 2. How the shopping cart(s) may be retrieved.
 3. Failure to retrieve the shopping cart(s) may result in the sale or destruction of the impounded shopping cart(s), and that the cart owner will be responsible for the city's costs, and that the city may fine owners fifty dollars after the city has picked up shopping carts belonging to the cart owner more than three times in a calendar year.
 4. If the shopping cart does not provide adequate identification or markings to determine its owner, the city shall only be required to notify the cart owner if the city obtains actual knowledge of the cart owner's identity.
- B. The city's enforcement officer may issue an administrative citation as stipulated in California Code, Business and Professions Code - BPC § [22435.7](#).
- C. The enforcement officer or Public Works Department that impounds a shopping cart under the authority of this ordinance and under State Law is authorized to recover its actual costs for providing this service as stipulated in BPC § [22435.7](#).
- D. Notwithstanding Section 8.80.160, the city is not obligated to release an impounded shopping cart to the cart owner unless the owner pays all applicable administrative citation and impound fees.

8.80.160 Exemptions.

No administrative citation fine shall be levied against:

- A. A cart owner who installs and maintains a security system that causes at least one of the wheels of the shopping cart to lock when the conveyance is moved across an antenna located at the perimeter of the establishment's parking area.
- B. A business that owns or maintains fifteen or less shopping carts for use by customers.
- C. Nothing in this section shall preclude the city from imposing and collecting an impound fee prior to releasing any impounded shopping cart.

8.80.170 Disposition of carts after thirty days.

If a shopping cart is not retrieved by its owner within thirty days after the cart owner has received notice of the cart being impounded, or if the cart's owner cannot be determined within thirty days after the cart has been impounded, the cart, pursuant to state law, may be sold or destroyed by the city, its agents, or contractors.

8.80.180 Remedies.

Any person who violates any provisions of this chapter shall be subject to any civil, criminal, or administrative remedies as provided by law. Unless otherwise stated in this chapter, a violation of this chapter shall be assessed as an infraction pursuant to [MMC Chapter 1.08](#) (Code Violations – Penalties) with a fine not exceeding one hundred dollars for the first conviction. If the violation is on private property, then the enforcement official shall issue an administrative citation pursuant to [MMC Chapter 1.12](#) (Administrative Fines).

8.80.190 Appeal procedure

The business owner may appeal administrative citations as provided for appeal of administrative fines in Chapter 1.12.

1932987.1

Shopping Cart Regulations

Proposed Ordinance

July 1, 2025

Planning Commission Informational Item

Nicholas McIlroy, AICP, Senior Planner &

Shane Doughty, Planning Intern



Background

- Staff received a request from the City Council to begin examining this policy issue in January 2025.
- Staff reviewed other cities' shopping cart regulations and crafted the proposed ordinance based on the needs of the City of Marina.
- Staff conducted an outreach meeting via zoom on May 2, 2025, for the businesses and shopping centers impacted by this ordinance. Staff received input related to different impacts and concerns that were addressed prior to meeting with the Public Works Commission on June 6, 2025.



Shopping Cart Examples



Photos Taken By Marisa Huntley –
Code Enforcement Officer



Shopping Cart Examples Continued



Context

- Currently, shopping carts are considered a blight condition on private property under MMC Chapter 8.70.
- If a shopping cart is in the public right-of-way and a safety hazard or obstructs pedestrian or vehicular traffic, then PW Staff / Police can remove and impound them.
- California Business and Professions Code Sections 22435-22435.13 regulate removal and possession of shopping carts. This code permits local governments to develop complementary regulations through the adoption of an ordinance.
- The proposed shopping cart ordinance is consistent with State law and puts the responsibility on the business to ensure the carts are contained on site.

Examples of Businesses



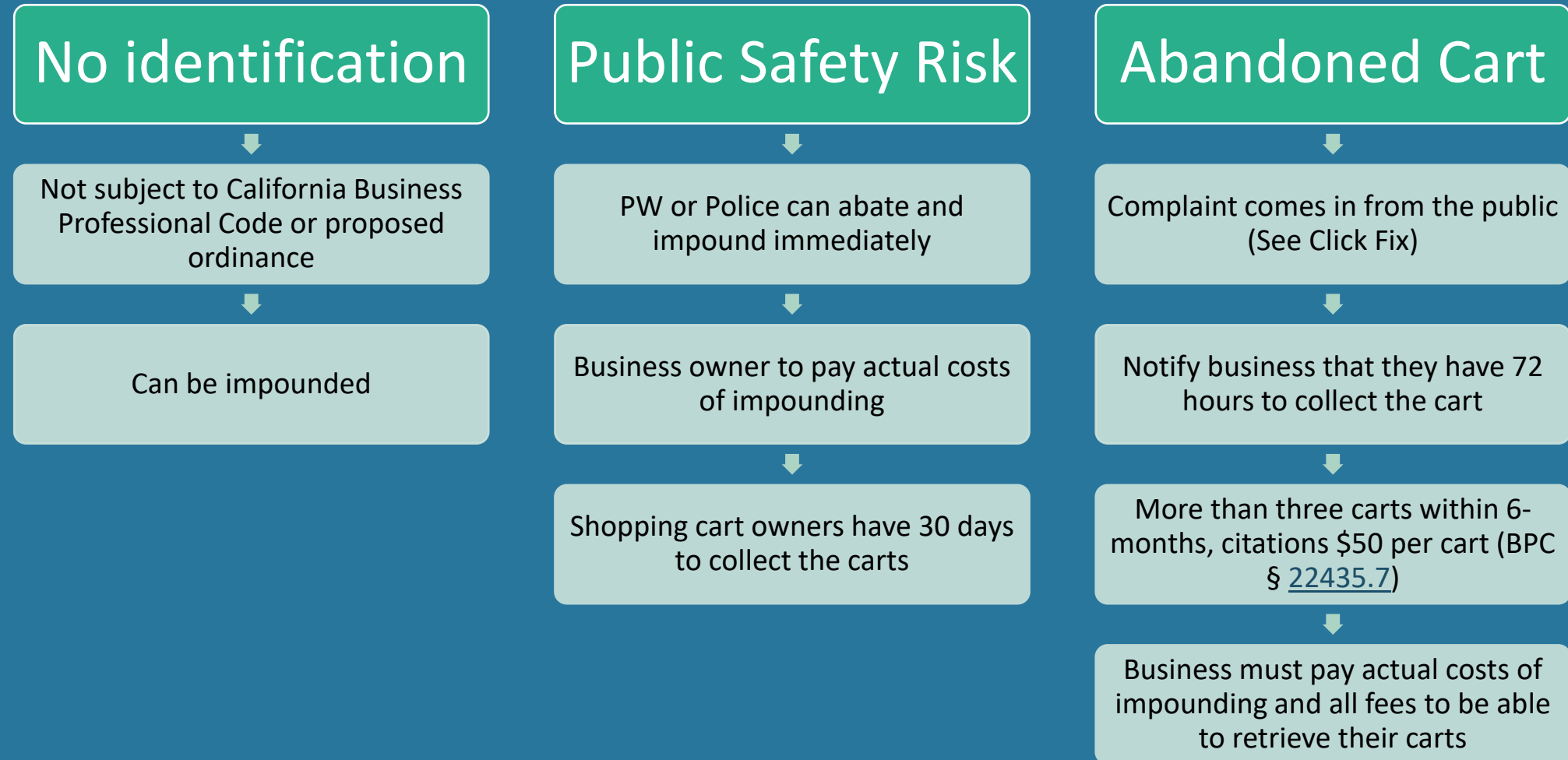
Project Analysis - Shopping Cart Regulations

- Creates clear rules for shopping carts removed from their place of origin
- Responsibility of business owners to keep carts onsite
- Supports the goal of preventing shopping carts from being removed and abandoned
- Shopping Cart Containment Plan

Shopping Cart Containment Plan

- Required for businesses with more than 15 carts
- Inventory carts
- Cart identification
- Loss Prevention Measures
 - Placing signs at business
 - Courtesy clerks to accompany customers and return carts
 - Security personnel
 - Provide small, two-wheeled shopping carts that customers can rent or buy
 - Provide neighborhood shuttle or transport
 - Install electronic disabling devices such as wheel locks
 - Installing barriers at the doors near loading areas

Timeline For Abandoned Carts



Citation Amounts and Fees

- Review Cart Retrieval Program – proposed fee to be \$220
- \$500 civil penalty and up to \$50 per day for failure to submit a plan within 90 days of adoption of this ordinance.
- Cart Retrieval – \$50 per cart (after 3 carts) for abandoned carts that must be retrieved by Public Works subject to State Law
- Actual costs of P/W staff impounding carts that have remained in the public right-of-way for 72 hours or are a public safety hazard.

Exemptions

No administrative citation fine shall be levied against:

- A business with a wheel locking system for their carts
- A business with fifteen (15) or fewer shopping carts
- The City can impose and collect impound fees prior to releasing any impounded shopping cart, even if the business is exempt from citations

Unauthorized Possession of a Shopping Cart

- Ordinance includes a section for unauthorized possession of a shopping cart.
- If there is a permanently affixed sign that identifies the cart, then it is unlawful to be in possession of a cart off site unless there is written permission from the business owner.
- Those found in possession of carts without permission can be cited as an infraction or with admin citations, which both start at \$100 for the first offense.
- It is up to the business owner if they want to press charges.

Recommended Motion

“I move to amend the Marina Municipal Code (MMC) Title 8, to add Chapter 8.80 relating to shopping cart regulations as directed and find this action exempt from environmental review pursuant to Section 15061(b)(3) of the CEQA Guidelines.”