



Thursday, July 23, 2020

6:30 Open Session

**AGENDA**

**REGULAR MEETING  
PLANNING COMMISSION**

Marina City Council Chambers  
211 Hillcrest Avenue  
Marina, CA

**Zoom Meeting URL: <https://us02web.zoom.us/j/88453801683>**

**Zoom Meeting Telephone Only Participation: 1-669-900-9128 - Webinar ID: 884 5380 1683**

In response to Governor Newsom’s Executive Order N.29-20 and City Council Resolution 2020-29 ratifying the Proclamation of a Local Emergency by the City Manager/Director of Emergency Services related to the COVID-19 (coronavirus) pandemic, public participation in the City of Marina City Council and other public meetings shall be electronic only and without a physical location for public participation, until further notice in compliance with California state guidelines on social distancing. 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/>

**PARTICIPATION**

You 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. 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 [marina@cityofmarina.org](mailto:marina@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. Planning Commission will have the option to modify their action on items based on comments received.

**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](http://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](http://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)**

**MSSION STATEMENT**

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)**

**1. CALL TO ORDER**

Chair David Burnett, Vice Chair Katherine Biala, Thomas Mann, Brian McCarthy, David Bielsker, Victor Jacobsen, Nancy Amadeo

**2. ROLL CALL & ESTABLISHMENT OF QUORUM**

**3. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE**

**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 – May 14, 2020 Meeting**

**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. Accessory Dwelling Unit Ordinance**

Open a Public Hearing, Take any Testimony from the Public and (1) Consider Adopting Resolution Recommending City Council Adopt an Ordinance Governing the Development of Accessory Dwelling Units in the City of Marina

**7. 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.*

**8. OTHER ACTION ITEMS**

**9. DISCUSSION ITEMS**

**10. COMMISSIONER COMMENTS AND STAFF INFORMATIONAL REPORTS**

**11. CORRESPONDENCE**

**12. ADJOURNMENT**

CERTIFICATION:

I, Erin Fernando, Administrative Assistant 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. Friday, July 17, 2020.

Signature \_\_\_\_\_

\_\_\_\_\_ Date Posted

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@cityofmarina.org](mailto:marina@cityofmarina.org) . Requests must be made at least **48 hours** in advance of the meeting.



Thursday, May 14, 2020

6:30 P.M.

**MINUTES  
REGULAR MEETING OF  
PLANNING COMMISSION**

Marina City Council Chambers  
211 Hillcrest Avenue  
Marina, CA

**1. CALL TO ORDER**

Meeting was called to order at 6:30 PM. Due to technical difficulties, the meeting was placed on hold and resumed at 6:38 PM

**2. ROLL CALL & ESTABLISHMENT OF QUORUM**

Present: Chair David Burnett, Vice Chair Katherine Biala, Thomas Mann, Brian McCarthy, David Bielsker, Victor Jacobsen, Nancy Amadeo

**3. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE**

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

Chair David Burnett opened the floor for special announcements and communications from the floor.

Mike Owen spoke to announce his attendance of the meeting, and that he would have comments for one of the items which was to be discussed later in the meeting.

Commissioner Nancy Amadeo provided information on COVID19 testing sites in the area which are open to the public and free of charge.

Chair Burnett thanked City Staff for their continued work during the COVID19 pandemic.

Seeing no others who wished to provide comment, the floor was closed.

**5. CONSENT AGENDA**

**a. Minutes – March 26, 2020 Meeting**

Commissioner Amadeo motioned to approve the minutes as presented and was seconded by Commissioner Brian McCarthy. The motion was then put to a vote:

**Ayes (6):** Burnett, Biala, Mann, McCarthy, Jacobsen, Amadeo

**Noes:** None

**Absent:** None

**Abstain (1):** Bielsker

## 6. PUBLIC HEARINGS

### a. **Commercial Cannabis Dispensary Applications**

Consider Recommendation to City Council Applications for Conditional Use Permits to Operate Commercial Cannabis Dispensaries at 3016, 3100, 3112, and 3170 Del Monte Blvd. and a Cannabis Dispensary and Cannabis Manufacturing Facility at 234 Reservation Road (Exempt from CEQA per Section 15301)

Planning Manager Christy Hopper provided a brief breakdown of the application process and the criteria which the Commissioners would use to review the applications. She then gave a PowerPoint presentation with details regarding each of the five (5) applicants' proposed locations. Following the presentation of each location, applicants then addressed the Commission.

#### i. **Element7 – 236 Reservation Rd**

Following Ms. Hopper's presentation on Element7's application, she then addressed questions from the Commission.

Commissioner Amadeo asked whether the Taco Bell Restaurant, which is located directly across from the proposed dispensary location, was also included on the same lot. Ms. Hopper explained that a minor subdivision of the lot had been completed by the property owner, so the proposed location and the Taco Bell restaurant were in fact two separate parcels.

Commissioner Brian McCarthy asked whether it was inappropriate for the Commission to discuss the proposed manufacturing space at the location at this time. He also inquired if it was accurate to say any future manufacturing permits would never be presented to Planning Commission since they fall under administrative review. Ms. Hopper confirmed that it was not appropriate to discuss manufacturing because there were currently no manufacturing permit applications being presented to the Commission at that moment. She then proceeded to state that while it isn't accurate to say that a manufacturing permit would never be presented to Planning Commission, the only applications for dispensaries require a Public Hearing.

Commissioner McCarthy then asked about the store hours, which were listed as 10:00 AM – 10:00 PM, which he thought were more restrictive than what was outlined in the ordinance. Ms. Hopper explained that the applicants had suggested the hours, but had full ability to modify their hours according to what is permissible in the ordinance.

Vice Chair Biala inquired about whether back up/alternate use plans were required for the proposed manufacturing space should the applicants choose not to pursue manufacturing in the future, and whether this would have any impact on the Commission's decisions. Ms. Hopper explained that the permits do fall under administrative review because the ordinance did not restrict the number of manufacturing operations in the City and did not require a Public Hearing. Regarding the alternate use plans for manufacturing space, the applicants were not required to provide one, but should they choose to modify the proposed use for the space, it could be done through a Plan Check and Review.

Vice Chair Biala then asked if additional security would be required for the back side of the building. Police Chief Tina Nieto responded that no additional security was required.

Following the questions about the Staff Report, Chair Burnett the invited the applicant to address the Commission. Mr. Josh Black (Head of Operations at Element7) presented additional information about Element7 along with a PowerPoint presentation. He

provided a bit of background on the applicants, Mr. Robert DiVito and Mr. Tony Raffoul, who has been a Marina resident for over 10 years and is currently a local business owner. He also spoke about Element7's commitment to customer education as well as their endeavors to create positive impacts on the community through Element7 Cares. Mr. Black also talked about the company's desire to create careers for locals, and how the company encourages promotion from within and strives to help its employees grow.

He also addressed the proposed manufacturing. Per Mr. Black, the company was awarded a manufacturing permit in San Benito county, and intended that the manufacturing be performed there, while distribution and sales be performed at the proposed site in Marina.

Mr. Black then addressed questions from the Commission.

Vice Chair Biala inquired about the company's customer education program and whether it also included information on the effects of cannabis on children. Mr. Black then explained that in-store education is geared towards people 18 years and older, but they do currently work with California Youth Services in Southern California to provide drug & abuse education programs, and are looking to institute a similar program here in conjunction with the Police and other youth organizations. Vice Chair Biala expressed her relief and thanked the applicant for their response.

**ii. Higher Level of Care Marina – 3016 Del Monte Blvd**

Following Ms. Hopper's presentation on the location, she addressed questions from the dais.

Vice Commissioner Biala asked about the access driveways being directly located off the Del Monte Exit Ramp and whether any traffic or backup would be caused by cars trying turn into the parking lot. She also asked about any potential backup for cars coming from a southbound direction turning around onto Del Monte Blvd. to access the parking lot. Ms. Hopper explained that this application was heavily reviewed by both Planning and Engineering staff. She then further explained how the proposed improvements would help maintain the safe and steady flow of traffic, as well as increasing safety and security in case of an emergency, such as a robbery.

Vice Chair Biala then asked about the Downtown Vitalization Specific Plan (DVSP) and how it might impact any of the applications being reviewed. Ms. Hopper explained that City Staff did take into consideration the DVSP while reviewing the applications, and in turn used that to guide the recommended improvements for each of the sites. Vice Chair Biala then asked if the City would have the ability to ask for further improvements once the DVSP has been adopted. Ms. Hopper states that the City has some work to do in order to guide the applicant should their application be selected for their proposed sites. The City would need to provide a cross section for Del Monte Boulevard and adopt the DVSP.

Following questions for Staff, the applicant, Mr. Salvatore Palma presented information on his company. He provided a PowerPoint presentation outlining the layout and design renderings of the store, as well as access and security measures. He also discussed the community benefits of the store, which include:

- Local Enterprise – Mr. Salvatore lives locally and currently owns and operates a Higher Level store in Seaside. He also does preferential hiring of individuals from the city in which the store is located.

- Philanthropy – total of \$25,000 annually in donations to local organizations including Monterey Bay Aquarium, Marina PAL, Marina Youth Arts, Marina Foundation and Veterans Transition Center
- Green Practices – site specific proposals from Applied Solar energy
- Employee benefits – competitive wages, medical/dental insurance and vacation pay
- Customer Service

Mr. Palma addressed financial projections and key figures for the location, projecting that the store would produce \$3,110,856.00 in tax revenue over the course of five (5) years. Following the financial review, the applicant then proceeded to review the traffic flow, as well as site and parking lot plan previously outlined by Ms. Hopper in her presentation.

Next, Chair Burnett opened for questions from the Commission.

Commissioner Amadeo inquired about the parking breakdown & how much of it would be utilized by employees and if the remaining spots would be adequate to accommodate customers. The slide presented by Mr. Palma showed a total of 21 spaces available for the shop, which would have a total of 25 employees. Mr. Palma explained that he has been in contact with other property/business owners in the surrounding area and is looking to lease any excess parking spaces they may have in order for his employees to have parking available within walking distance.

Vice Chair Biala then touched on the outlined Philanthropy and whether any consideration had been given to supporting youth and teen education about cannabis use. Mr. Palma confirmed that he would be looking into participating in such programs. He is the President of the Greenfield Community Outreach Commission, which performs not only youth outreach, but community outreach and education as well.

Commissioner McCarthy inquired if Mr. Palma was a franchisee of an international brand. Mr. Palma explained that the store is not a part of a brand and that it is owned by him and is only located in Seaside, with some operations in Greenfield.

### **iii. Pacific Roots – 3100 Del Monte Blvd**

Ms. Hopper provided a PowerPoint presentation with information regarding the site and land use, proposed improvements to parking and staff recommendations. Following the presentation, she answered Commissioner questions.

Vice Chair Biala inquired whether there are requirements for the applicant to make upgrades/improvements the façade or building since it is in a building which is attached to other establishments. Ms. Hopper explained that while there are no requirements, the applicant has provided preliminary renderings of proposed upgrades. Vice Chair Biala then asks if this would pose a challenge in that the building would then look different from the attached establishments and create a disjointed look. Ms. Hopper then stated that it would be depended on what the applicant ultimately decided to present.

Commissioner Amadeo asked about the parking and how the other businesses might be affected to modifications to the parking lot. Ms. Hopper then explained that the parking for the site is not divided amongst the businesses, but rather shared since they are all located on the same site. She also addressed potential improvements to the parking situation on the Carmel Ave. side of the building. Commissioner Amadeo then asked if the other businesses on the site were aware of the parking changes being proposed and



how it may affect them. Ms. Hopper was unable to answer as she was not sure if the property owner had communicated it.

Commissioner McCarthy then inquired about whether the lease would include the second story and basement. He also asked if the fire exit would remain or if it would be closed off. Ms. Hopper deferred to the applicant, who would be making their presentation following the Commissioners' questions.

Mr. Aaron Johnson, the applicant for Pacific Roots, then spoke on behalf of himself and his partners, who are all from the area. He presented a PowerPoint presentation outlining the company's history, its values, and commitment to the community through outreach, education and engagement. Mr. Johnson also discussed the company's philanthropic contributions to local organizations, and their commitment to providing neighborhood support and to contribute to revitalization throughout the community. Security measures were also briefly discussed.

Next, he addressed proposed upgrades to the exterior of the building, stating that the company's intent is to make changes to the façade and bring more of a modern coastal design. He also addressed other possible improvements to the building including increased lighting, the addition of a walkway in front of the building, as well as replacement and restriping of parking spaces and suggestions for improvements to Carmel Ave. Mr. Johnson also mentioned that the applicants' willingness to working with the City Staff's recommendations for any additional improvements that may be required.

Mr. Johnson then moved on to discuss the company's four (4) month opening plan should the facility be approved by the Council, security plan, day to day operations and floor plan. He then addressed Commissioner McCarthy's question regarding the second floor/basement space in the building. While the company would be able to use the second floor for ancillary storage, they have no plans to utilize the basement.

Following Mr. Jonson's presentation, Chair Burnett opened to questions from the Commission. Commissioner McCarthy inquired to Staff whether a final inspection by the Fire Department would be performed, which Ms. Hopper confirmed.

Vice Chair Biala then asked about signage and pictorial representation as utilized for Cannabis, and whether the green cross or stylized leaf are permissible. Ms. Hopper responded by stating that City Staff would work with the applicants as well as the City Attorney's office to make the final determinations.

#### **iv. JC Marina Ventures LLC/Marina Trading Co. – 3112 Del Monte Blvd**

Ms. Hopper presented a PowerPoint report with information regarding the proposed site and land use. Following the presentation, Chair Burnett opened the floor for questions from Commissioners.

Commissioner Amadeo inquired whether the proposed space was currently occupied by any businesses and if so, how many businesses would be impacted by the placement of the proposed dispensary. Ms. Hopper responded that the spaces are currently occupied, and two businesses would be affected.

Vice Char Biala then asked Ms. Hopper to speak to the property owner's ability to repurpose space or change tenants over objections from current lessees. Ms. Hopper explained that Marina is a free enterprise system and has no ability to regulate lease

rates or set regulations on property owners' ability to lease their space. She further stated that Staff's job is to ensure that any proposed uses are suitable for the space and are permissible within the zoning area. Attorney Bob Rathie then supported Ms. Hopper's statements and confirmed that the City has no ability to regulate who property owners lease to and at what rates.

Commissioner Amadeo asked if it would be possible for the Commission to recommend to City Council to look at applications that would "pose the least harm to local businesses" as they make their decisions. Attorney Rathie then responded that he did not believe the Commission could make such a recommendation.

Following questions, the applicant group then addressed the Commission. Mr. Nathan Wang, on behalf of all applicants, then made a presentation about Beyond/Hello (JC Marina Ventures/Marina Trading Company). He explained that they are part of a larger organization which is publicly traded and has locations across multiple states. Mr. Wang then went on to explain the company's "Community First" approach, as well as their mission to provide a service-focused environment and to provide premium quality products at a competitive price. He also outlined the company's "C4 Approach" – Community, Compliance, Compassion and Competency. He then introduced Mr. Wesley Clark, a founding member of Marina Trading Company, who provided more background on Marina Trading Company and its efforts to integrate itself with the Marina community. Ms. Audra Walton then spoke more on the C4 Approach.

Mr. Tyson Hunter and Mr. Blake Brower then spoke about the location and gave a project summary & floor plan details. Mr. Brower also addressed the build out timeline.

Mr. Shawn WurtSmith then discussed the proposed security plan for the site. Next, Mr. Brower proceeded to talk about quality control and compliance standards. Finally, Mr. Clark spoke about the company's commitment to community involvement and highlighted some of the contributions the company has made to local organizations. He also mentioned the two businesses which currently occupy the proposed space. The record store had already planned to transition to an online only business, and the restaurant space did not renew their lease, which allowed for the applicants to lease both spaces.

Upon completion of the presentation, Chair Burnett opened the floor for Commissioner questions.

Commissioner Amadeo thanked Mr. Clark for addressing the concerns regarding the existing businesses.

**v. SGI Marina, LLC – 3170 Del Monte Blvd**

Ms. Hopper then presented a PowerPoint with information regarding SGI Marina, LLC. Following the presentation, Chair Burnett opened the floor for Commissioner questions.

Commissioner Amadeo inquired about circulation and access to the location, and whether any plans had been proposed to make access in both directions easier. Ms. Hopper stated that she was unaware of any plans currently, but that it was a good question for the City Engineer. Commissioner Amadeo then asked about parking and what the requirements would be in order to accommodate both customers and employees. Ms. Hopper explained that there would be no change to the current parking requirements, the only exception being the requirement to be ADA complaint. Commissioner Amadeo then inquired if the requirement to provide ADA parking would

in turn cause the decrease in available spaces. Ms. Hopper stated that it is possible for modifications be made in future and upon review of the Building officials.

Commissioner McCarthy then asked staff to provide more information regarding Ordinance language regarding dispensaries near parks, and how it may or may not affect the current application, as the proposed location is located within 600 feet of two (2) parks. Ms. Hopper deferred to Attorney Rathie. Due to an inconsistency in the ordinance as it was written when it was adopted, the park in question was not included in the buffers mentioned in the ordinance. Assistant City Manager Matt Mogensen then spoke further on the wording in the ordinance regarding buffers, noting that it covered schools providing instruction for any grades K-12, daycares or youth centers which exist at the time of permit issuance. Commissioner McCarthy then inquired about the finding for public convenience or necessity, which Ms. Hopper and Attorney Rathie confirmed is only applicable by the ABC to liquor and alcohol, and there are no such findings existing for Cannabis use.

Following questions, the applicant, Mr. Eric Lightman, made a presentation on Stiiizy Marina, which will be operated by Shryne Group and Elemental Beachside. He gave information on the Stiiizy's existing locations, it's performance in different cities across the state. He also spoke to the company's desire to be a leader in the community and its commitment to giving back. He then spoke to the company's partnership with contractors and what the timeline for the building of the space would be. He also addressed the company's compliance personnel and it's commitment to hiring locally.

Mr. Lightman then addressed the company's desire to provide required improvements and updates to the property, including circulation and parking lot improvements. He also mentioned that he would continue to look to City staff for guidance, and welcomed recommendations for any improvements which would help the location.

Upon completion of the presentation, Chair Burnett opened for questions from Commissioners.

Commissioner Amadeo then asked about employee growth and how the applicant planned to accommodate parking for an increase employee pool. Mr. Lightman spoke about looking for alternatives such as leasing additional spaces from neighboring locations, as well as making adjustments to landscaping to accommodate additional parking. Commissioner Amadeo then asked if the elevation of the location in relation to the neighboring shopping center posed any issues with parking increase. Mr. Lightman did not see any issues with the elevation but would work with their builders and general contractor to find a solution to the grading differential as necessary.

Commissioner McCarthy then inquired about the colloquial meaning of "Stiiizy". M. Lightman stated that the three I's stand for Influence, Inspire, Innovate, and that "stizy" was used to describe something stylish. Commissioner McCarthy then explained that on Urban Dictionary it was defined as a west-coast term for being "high, stoned, blazed or lit" and asked if the applicant agreed that stizy also carried those meanings. Mr. Lightman stated he was not familiar with that definition, but more that it was used to describe a fashionable person's style or way they present themselves.

Following the questions from Commissioners, Chair Burnett then opened the floor for public comments or questions.

Mr. Anthony Lombardi spoke first, as a representative of the ownership group for 3100 Del Monte Blvd, the location proposed for Pacific Roots. He addressed a question posed by Commissioner McCarthy, noting that there were apartments on the second floor of

the building, but were not located above the space to be leased by Pacific Roots, and though the basement is included in the lease, did not believe the applicant had intention of using the space. He also spoke about the building's history, and the ownership's willingness to work with the City to make improvements as needed. He also noted that the current tenants have not been notified of potential loss of parking. The ownership sees the applicant as a great opportunity to help provide funding for upgrades to the building. Mr. Lombardi then notes that any loss of parking could be devastating to the businesses which have been in the location for decades.

Mr. Greg Simmons noted that two of the locations proposed are very close together, and did not think it was a good idea to have locations concentrated in one area at the south entrance to the city.

Seeing no other persons wishing to speak, Planning Assistant Erin Fernando then read correspondence received by staff from community members who were unable to participate in the meeting.

Tina Zmak wrote that she is a 20+ year resident of Marina, and while not concerned with commercial cannabis or dispensaries, but was worried about existing businesses being evicted to "make room" for these businesses to come in. Her belief is that these businesses could find a home in one of the many vacant spaces around the city. Ms. Zmak has been a client at Diva's Salon & Spa (3170 Del Monte Blvd.) for over 15 years and does not want to see the business displaced for the sake of a dispensary.

Amy Walker wrote that she has been a client of Diva's for over 10 years and is angry the business could be closed and its employees displaced. She also does not feel that cannabis or dispensaries benefit the community to the same extent as the salon. Also expressed concern regarding safety and potential DUIs for those under the influence of cannabis.

Micah Stufflebeam wrote that he is against a dispensary at 3170 Del Monte Blvd. as the tattoo shop and salon owners "worked hard to get to where they are", and that he was disappointed in the City for holding meetings during the pandemic, which has already affected these businesses and their ability to operate.

Leisha Price wrote her opposition to the dispensary at 3170 Del Monte Blvd. as she is a client at Diva's Salon.

Leila Lyke wrote her opposition to the dispensary at 3170 Del Monte Blvd.

Shelby Martin wrote her opposition to the dispensary at 3170 Del Monte Blvd. as it is too close to other large buildings with limited parking.

Terra brown wrote her opposition to the dispensary at 3170 Del Monte Blvd.

[Olys150@gmail.com](mailto:Olys150@gmail.com) wrote their opposition to the dispensary at 3170 Del Monte Blvd. Does not understand why the building is even being considered as a potential location as Diva's Salon and the tattoo shop would "be put out of business", meanwhile there are other vacant locations around the city.

Teri Vitigo wrote their opposition to a dispensary at 3170 Del Monte Blvd., and feels it shows small businesses that they can easily be replaced though they are vital members of the community.

Sheila Olson wrote, noting that she is the owner of Diva's Salon. She spoke about the business, its history and its part in the community. She also feels "it is unfair of cannabis companies to come in and offer four times the rent to property owners" and that it will displace many businesses.

Chair Burnett then closed public comment and brought discussion back to the dais.

Vice Chair Biala then asked for further clarification for application #4, stating that the application noted 3112 Del Monte Blvd., but that it would also be taking the space of Michi Restaurant, whose address is 3114 Del Monte Blvd. Ms. Hopper confirmed, noting that the applicant would be occupying two spaces. Vice Chair Biala then went on to ask if the Planning Commission should be looking at location or whether there is currently a business in the space, etc. in making their decisions. Chair Burnett then stated that he believed the ordinance to have flaws and did not include proper direction which would allow for Planning Commission to reasonable and community-based responses. He then noted Staff's recommendation that Planning Commission pass all five (5) applications to City Council, but not with recommendation for approval of any.

Commissioner Mann expressed his belief that there were no discernable differences between the applications, but that if he were to recommend any of the applications, he would prefer applicants 1, 2 and 4. He believed these applications were the most dispersed geographically and provided the most easily accessible locations. However, he believed the Commission should approve and forward all five applications to City Council.

Commissioner Amadeo talked about a presentation made by HdL while she sat on City Council which noted the belief that the community could not support 3 dispensaries. She then asked if there were any way to make recommendations to City Council to utilize other factors while making the decision to approve any of these applications. Attorney Rathie then noted that what was before the Planning Commission was confined to the land use element, and whether the applications meet the criteria for potentially having a permit granted by the Council. Commissioner Amadeo then went on to ask about parking and circulation, asking Staff if these items were appropriately addressed. Ms. Hopper confirmed that they were appropriately addressed in the conditions of approval.

Commissioner McCarthy voiced his agreement that all applications should be forwarded to City Council. He also expressed his hope that the Council would hold a more robust conversation regarding the ordinance as it pertains to parks, as well as discussions regarding signage/the green cross and the word "stizy".

Chair Burnett then provided clarification that he recommends all five applications be forwarded to City Council with the recommendation they select only one and for only one year, so as to allow the City to see how the business performs and how the community responds. He reiterates his belief that the ordinance is flawed, and wants to be respectful to the community as well as the applicants who took time to submit applications and have made significant financial commitments to their projects.

Vice Chair Biala then expresses her belief that the Planning Commission take do what Attorney Rathie said and look only at land use criteria. She fears that by discussing any items further or making any further recommendations could put the Commission at risk of unintentionally showing bias towards one or other of the applicants. Chair Burnett again explained his recommendation that all the applications be forwarded to City Council but that Planning Commission recommend the approval of only one permit for one year.

City Manager Matt Mogensen then explained that all the applications would be seen by City Council regardless of whether the application is being recommended for approval or denial. Mr. Mogensen then notes that he believes it is fine for the Commission to recommend that Council review additional criteria before approving, but that Commissioners base their recommendations for approval or denial on land use only. City Council will have additional information and resources to review along the applications.

Commissioner Amadeo inquires if the initial HdL report from August 2018 would be available to the Council as they review the applications. Mr. Mogensen confirms that it would be available as it is a public document. She further inquired whether it would be appropriate for Commission to include this report in the information forwarded to Council. Attorney Rathie reiterated that the report is a public document and would be available to Council members if they requested it. Commissioner Amadeo then returned to her question regarding parking and circulation, and if the Commission could recommend the Council review these items. Attorney Rathie again stated that the applications currently meet the objective conditions for parking and advised against any commissioners getting to subjective on this item.

Vice Chair Biala agreed that the Commission should make their recommendations strictly on land use but requested that the Commissioner's discussion of all items be included in the information forwarded to City Council for them to review. Chair Burnett then asked Staff if it would be possible in the time before the next City Council meeting to create a subcommittee and draft a letter to Council to be included in the Staff Report. Ms. Hopper deferred to Mr. Mogensen and Attorney Rathie, who agreed it would be possible to do provided it occurred within the next two weeks. It was agreed on by Staff and Commission that in the interest of time, the minutes from the current meeting would be included in the Staff report for Council to review.

Following the discussion, Vice Chair Biala made a motion to recommend all 5 applications to City Council, with the addition of minutes from the current meeting and a summary of discussion for the Council to review. The motion was seconded by Commissioner Mann. Chair Burnett then opened the floor to the public for questions or comments regarding the motion. Seeing no persons who wished to comment, the floor was closed.

The motion was then put to vote:

**Ayes (7):** Burnett, Biala, Mann, McCarthy, Jacobsen, Mann, Amadeo

**Noes:** None

**Absent:** None

**Abstain:** None

The motion passed with a unanimous vote.

**b. University Villages Phase 2 Tentative Map Amendments**

Open a Public Hearing, Take Public Testimony, and Consider Approving a Tree Removal Permit for the Removal of 163 Trees Within Phase 2 University Villages East (now The Dunes on Monterey Bay) and 47 Trees Within Phase 2 University Villages West (EIR SCH No.2004091167)

Ms. Hopper gave a PowerPoint presentation with a brief history and description of the project. Following the presentation, applicant Mr. Don Hofer, addressed the Planning Commission and answered questions regarding the project.

Next, Chair Burnett opened the floor for public comment.

Fred Watson of FORTAG stood to share his appreciation for everything the applicant has done to work with and accommodate FORTAG during the development of the project.

Mike Owen requested that a designated Landmark tree near Water City Roller Rink be taken into consideration while the applicant works to develop the FORTAG trails and that the tree not be removed.

Ms. Hopper addressed Mr. Owen's concerns.

Seeing no others who wished to speak, Chair Burnett closed public comment and brought discussion back to the dais. Vice Chair Biala motioned to adopt the resolution as presented, Commissioner Jacobsen seconded.

Chair Burnett then opened for public comment on the motion. Mr. Hofer inquired if the motion included verbiage regarding CEQA. Ms. Hopper replied that CEQA had been included in the presentation and would be included. The motion was then put to a vote.

**Ayes (7):** Burnett, Biala, Mann, McCarthy, Jacobsen, Mann, Amadeo

**Noes:** None

**Absent:** None

**Abstain:** None

The motion passed with a unanimous vote.

**c. Tree Removal Permit – University Villages Phase 2 East and West**

Open a Public Hearing, Take Public Testimony, and Consider Approving a Tree Removal Permit for the Removal of 163 Trees Within Phase 2 University Villages East (now The Dunes on Monterey Bay) and 47 Trees Within Phase 2 University Villages West (EIR SCH No.2004091167)

Ms. Hopper made a presentation about the proposed tree removal project. Upon completion of the presentation, she addressed questions from the Commissioners.

Next, Chair Burnett opened the floor for public comment.

Mike Owen requested to speak but was disconnected at the request of Chair Burnett due to use of profanity at the opening of his comment.

Seeing no others who wished to speak, Chair Burnett closed public comment.

Attorney Rathie noted that a revised resolution had been distributed to the Commissioners prior to the meeting.

Commissioner Jacobsen motioned to approve the removal permit and was seconded by Commissioner Amadeo. Chair Burnett opened and closed public comment on the motion, with none wishing to speak.

.The motion was then put to a vote.

**Ayes (7):** Burnett, Biala, Mann, McCarthy, Jacobsen, Mann, Amadeo

**Noes:** None

**Absent:** None

**Abstain:** None

The motion passed with a unanimous vote.

d. **OTHER ACTION ITEMS**  
None

e. **DISCUSSION ITEMS**  
None

f. **COMMISSIONER COMMENTS AND STAFF INFORMATIONAL REPORTS**  
None

g. **CORRESPONDENCE**  
None

h. **ADJOURNMENT**  
Meeting was adjourned at 11:33 P.M.

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David Burnett, Chair

ATTEST:

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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  
July 23, 2020

TO: Planning Commissioners

FROM: Alec Barton, Assistant Planner

**RE: Open a Public Hearing, Take any Testimony from the Public and Consider a Adopting a Resolution Recommending City Council Adopt an Ordinance Governing the Development of Accessory Dwelling Units in the City of Marina.**

### **Summary of Issue**

New state laws effective January 1, 2020 permit by right the new construction of or conversion of existing space into accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in any zoning district where single-family or multifamily dwellings are a permitted or conditionally permitted land use. State laws limit local control over development standards for ADUs and JADUs but do permit municipal governments to establish site and design standards within a limited range of minimum and maximum values. In the absence of a local ordinance accounting for changes in state law, planning staff must default to more permissive state regulations when considering development applications for ADUs and JADUs.

### **Environmental Determination**

The City of Marina Planning Division has determined that this Ordinance is categorically exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines. The proposed text amendments are covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed amendments are changes to the requirements of Accessory Dwelling Units and Junior Accessory Dwelling Units contained within the Municipal Code as required by State Law pursuant to the amendments made by Assembly Bill 68, Assembly Bill 881 and Senate Bill 13 and will not result in any direct impact upon the physical environment. Any development that occurs in the future subject to such standards will undergo an independent analysis pursuant to the requirements of CEQA.

## **Alternatives**

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The Planning Commission may:

1. Recommend the City Council adopt an ordinance governing the development of accessory dwelling units;
2. Recommend the City Council not adopt an ordinance governing the development of accessory dwelling units; or
3. Continue review of the matter for more information.

## **Background**

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Historically the City of Marina permitted guest houses in residential and agricultural residential districts (K, R-1, R-2, R-3, R-4) when these guest houses met basic site and design standards including detachment from and subordination to the main residence on site, location of the guest house on the rear half of the building site, setbacks of six feet from the rear and side property lines and from the nearest point of the main residence, and a height limitation of sixteen feet. Together with other accessory buildings, guest houses could not exceed thirty percent of the rear yard. Guest houses could not be rented, let, or leased separately from the main residence, and no kitchen or cooking facilities were permitted within the guest house. Secondary dwelling units were not permitted. These regulations were adopted in July 1994 and remained in place for ten years.

On August 5, 2003, Ordinance 2003-09 amended the zoning ordinance to define and establish standards for secondary dwelling units and additional standards for guest houses. The ordinance restricted secondary dwelling units and guest houses in the K district and eliminated a parking requirement for all secondary dwelling units and guest houses. Additional changes to the ordinance included:

- A limit of one secondary dwelling unit or guest house per building site
- A restriction on the development of secondary dwelling units and guest houses on buildings sites larger than 7,500 square feet in the R-4 district
- A restriction on the development of secondary dwelling units and guest houses within condominium or planned unit development projects, mobile home or trailer parks, and the area of the former Fort Ord Military Reservation within Marina City limits
- A requirement that maximum floor area not exceed whichever was less of:
  - Ten percent of the site area
  - Two-thirds of the living area of the main building
  - 950 square feet
- A requirement that the guest house or secondary dwelling unit incorporate or continue architectural features that were similar to and/or compatible with the main building with respect to roof pitch and style, exterior building materials, and colors

The rear setback for guest houses and detached secondary dwelling units was increased to ten feet. These structures were to be located in the rear yard only, with entrances facing the primary residence and/or interior of the rear yard. More stringent setbacks were required in situations where entryways faced the side or rear lot lines.

Attached secondary dwelling units were governed by the minimum yard and maximum height requirements for the main building on site, and entrances to these units were required to face the rear yard only.

Secondary dwelling units and guest houses were approved administratively, though an applicant could request referral to the Site and Architectural Design Review Board if they wished to appeal the Planning Director's determination regarding architectural compatibility of the secondary dwelling unit or guest house. Projects within the coastal zone required a coastal development permit.

On October 5, 2004, Ordinance 2004-12 amended the zoning ordinance to extend the maximum height of secondary dwelling units and guest houses in the R-4 district from sixteen to twenty-five feet.

On October 3, 2006, Ordinance 2006-11 amended the zoning ordinance to change all references of "secondary dwelling unit" to "secondary dwelling". The ordinance removed the restriction on the development of secondary dwellings and guest houses on the area of the former Fort Ord within Marina City limits. The ordinance also clarified that secondary dwellings and guest houses did not qualify as housing units and were not to be counted toward meeting a housing unit density requirement for a project or toward meeting an inclusionary housing requirement.

### ***Changes to State Law***

Ordinance 2006-11 marked the last modification of the portion of the zoning ordinance regulating secondary dwellings and guest houses. Regulations are contained within Section 17.06.040 of the Marina Municipal Code and were invalidated January 1, 2020 when new state laws governing the development of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) went into effect. In the absence of a local ordinance accounting for changes in state law, the City must default to the new state laws.

Senate Bill 13 and Assembly Bills 68, 587, 670, 671, and 881 tightened local controls over accessory dwellings. The bills include the following provisions for accessory dwellings:

- Development standards shall not include requirements on minimum lot size
- Local agencies shall not implement owner occupancy requirements
- The maximum size of a studio or one-bedroom ADU shall be no less than 850 square feet; the maximum size of an ADU with more than one bedroom shall be no less than 1000 square feet
- Replacement off-street parking spaces cannot be required when ADUs are created through the conversion of a garage, carport, or covered parking structure
- Local agencies have 60 rather 120 days to review ADU and JADU applications
- ADUs of up to 750 square feet are exempt from impact fees; impact fees for ADUs larger than 750 square feet shall be proportional
- JADUs are permitted within the walls of a proposed or existing single-family residence, and no existing bedroom or interior entry to the single-family residence is required

- Codes, conditions, and restrictions that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable

The bills also include definitions clarifying “public transit” and “accessory structure”, establish that local agencies may identify an ADU or JADU as an adequate site to satisfy RHNA housing needs, and require local agency housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households. Finally, the bills authorize the Department of Housing and Community Development (HCD) to notify a local agency if the department finds that their ADU ordinance is not in compliance with state law.

### ***Draft ADU Ordinance***

While new state laws drastically limit local controls over the development of ADUs and JADUs, the draft ordinance retains as much control as possible. Planning staff communicated with HCD and City attorneys to ensure the draft is compliant with state law.

The proposed ordinance establishes that accessory units consistent with local requirements are allowed by right with the issuance of a building permit. ADUs are permitted in any zoning district where single-family or multifamily dwellings are a permitted or conditionally permitted land use. JADUs are permitted in any zoning district where single-family dwellings are a permitted or conditionally permitted land use. Accessory structures are generally subject to the same requirements that apply to primary dwellings on the same lot in the applicable zoning district.

Single lots with a single-family dwelling may have no more than one JADU. Up to two ADUs may be permitted on a single lot with a single-family dwelling provided that one unit is created through the conversion of existing attached or detached space and one unit is created through the construction of a new detached space.

For lots with multifamily dwellings, the number of permitted internal or attached ADUs can be equal to up to 25% of the existing multifamily dwelling units. Fractions of 0.5 and above are rounded up. ADUs may include portions of dwelling structures that are not used as livable space, such as storage rooms, boiler rooms, passageways, attics, basements, or garages. Each unit must comply with state building standards. At least one ADU is permitted per lot within multifamily dwellings, and no more than two detached ADUs are permitted per lot containing multifamily dwellings.

Regardless of the zoning district, an ADU may be within, attached to, or detached from the primary dwelling. An ADU must have its own kitchen, bathroom facilities, and entrance separate from the primary dwelling. ADUs are limited to sixteen feet in height.

Studio and one-bedroom ADUs can be no larger than 850 square feet, and ADUs with more than one bedroom can be no larger than 1,000 square feet. If an existing structure is being converted to an ADU, an additional 150 square feet are allowed for expansion beyond the physical dimensions of the ADU, limited to providing ingress and egress only.

JADUs are limited to 500 square feet and must be constructed within the walls of a proposed or existing single-family residence. Instead of a complete kitchen facility, a JADU only requires an efficiency kitchen, which consists of appliances, a food preparation counter, and storage cabinets.

No setbacks are required for existing accessory structures or living areas that are converted to ADUs. Similarly, ADUs constructed in the same location and same footprint as an existing accessory structure require no setbacks. ADUs resulting from new construction must be set back four feet from the side and rear property lines. ADUs exceeding sixteen feet in height must comply with the setback requirements of the main structure of the applicable zoning district.

No on-site parking is required for JADUs. No replacement parking is required for ADUs resulting from the conversion of an existing space. One on-site parking space is required for each accessory dwelling unit per unit or bedroom, whichever is less. However, state law effectively eliminates the City's ability to require parking for almost all ADUs, since most parcels where ADUs may be developed are within one-half mile walking distance of public transit.

All ADUs and JADUs will be permitted ministerially without administrative design review.

### **Analysis**

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Adopting an ordinance regulating ADUs will allow the City of Marina to retain the maximum allowable level of control over ADUs. Without an ordinance in place, the City must default to more permissive state laws governing ADUs.

Staff has evaluated state law and draft ordinances in several municipalities, consulted with the Department of Housing and Community Development and City attorneys, and developed a draft ordinance that both complies with state law and allows City to retain as much local control as possible. Staff recommends the Planning Commission adopt a resolution recommending the City Council adopt an ordinance governing the development of accessory dwelling units in the City of Marina.

### **Recommended Motion**

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Approve the Resolution attached hereto as **Exhibit A**. This request is submitted for Planning Commission consideration and possible action.

Attachments: 1. Exhibit A: A Resolution Recommending the City Council Adopt an Ordinance Governing the Development of Accessory Dwelling Units in the City of Marina.

**DRAFT**  
RESOLUTION NO. 2020-

A RESOLUTION OF THE CITY OF MARINA PLANNING COMMISSION  
RECOMMENDING THAT THE CITY COUNCIL CONSIDER ADOPTING AN  
ORDINANCE GOVERNING THE DEVELOPMENT OF ACCESSORY DWELLING  
UNITS IN THE CITY OF MARINA.

WHEREAS, the Planning Commission of the City of Marina conducted a duly noticed public meeting to consider initiating amendments to the Marina Zoning Ordinance, considered all public testimony, written and oral, presented at the public meeting, and received and considered the written information and recommendation of the staff report for the July 23, 2020 meeting related to the proposed amendments to the Marina Zoning Ordinance; and

WHEREAS, the Planning Commission finds that the proposed amendments to the Marina Municipal Code are consistent with the goals, policies and programs of the Marina General Plan; and

WHEREAS, the Planning Commission finds that the proposed amendments to the Marina Municipal Code are consistent with the goals and provisions of state law; and

WHEREAS, the Planning Commission finds that accessory dwelling units and junior accessory dwelling units represent an important way for the City to reach its affordable housing goals; and

WHEREAS, the Planning Commission finds that adoption of the ordinance permits the City to retain the maximum level of control permitted under state law; and

WHEREAS, the City of Marina Planning Division has determined that this Ordinance is categorically exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines. The proposed text amendments are covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed amendments are changes to the requirements of Accessory Dwelling Units and Junior Accessory Dwelling Units contained within the Municipal Code as required by State Law pursuant to the amendments made by Assembly Bill 68, Assembly Bill 881 and Senate Bill 13 and will not result in any direct impact upon the physical environment. Any development that occurs in the future subject to such standards will undergo an independent analysis pursuant to the requirements of CEQA.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Marina that it hereby recommends that the City Council adopt an ordinance governing the development of accessory dwelling units in the City of Marina.

PASSED AND ADOPTED by the Planning Commission of the City of Marina at a regular meeting duly held on the 23<sup>rd</sup> day of July 2020, by the following vote:

AYES, COMMISSIONERS:

NOES, COMMISSIONERS:

ABSENT, COMMISSIONERS:

ABSTAIN, COMMISSIONERS:

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David Burnett, Chair

ATTEST:

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Alec Barton  
Assistant Planner  
City of Marina

**Repeal Chapter 17.06.040 and replace with the following:**

**17.06.040 Accessory dwelling units**

This chapter establishes standards for the location and construction of accessory dwelling units and junior accessory dwelling units (jointly referred to “accessory units” in this chapter) in conformance with California Government Code Sections 65852.2 and 65852.22. The standards associated with accessory dwelling units and junior accessory dwelling units are intended to allow for accessory units as an important form of affordable housing and to comply with State Law.

**A. Accessory Dwelling Units**

**1. Permits required**

- a. Accessory units consistent with the requirements of this chapter are allowed by right with the issuance of a building permit.
- b. Time Limit to Act. The City shall complete its review of an accessory unit application and approve or deny the application within sixty days of receipt of the application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory unit is submitted with a permit application to create a new single-family dwelling on the lot, the City shall delay acting on the permit application for the accessory unit until the City acts on the permit application to create the new single-family dwelling. If the applicant requests a delay, the sixty-day time limit shall be extended for the period of the requested delay. In either case the application to create the accessory unit shall be considered without discretionary review or hearing.

**2. Permitted zoning districts**

- a. Accessory dwelling units are permitted in any zoning district where single-family or multifamily dwellings are a permitted or conditionally permitted land use as identified in Title 17 of the Municipal Code. Junior accessory dwelling units are permitted in any zoning district where single-family dwellings are a permitted or conditionally permitted land use as identified in Title 17 of the Municipal Code.

**3. Site and design standards**

- a. General. Accessory units are subject to the same requirements that apply to primary dwellings on the same lot in the applicable zoning district except as specified in this section.
- b. Number of Accessory Units. No more than one junior accessory dwelling unit is permitted on a single lot with a single-family dwelling. Up to two accessory dwelling units may be permitted on a single lot with a single-family dwelling provided that one unit is created through the conversion of existing attached or detached space and one unit is created through the construction of a new detached space. Lots with multifamily dwellings shall have a number of internal or attached accessory dwelling units equal to 25% of the existing multifamily dwelling units. Fractions of units of 0.5 and above shall be rounded up. Accessory dwelling units may include portions of dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided that each unit complies with state building



standards for dwellings. At least one accessory dwelling unit shall be permitted per lot within multifamily dwellings. Not more than two detached accessory dwelling units shall be permitted on lots with multifamily dwellings.

- c. Relationship to Primary Dwelling.
  - 1. An accessory dwelling unit may be within, attached to, or detached from the primary dwelling. Attachment to the primary dwelling shall be by sharing a common interior wall or common roof. No passageway (as defined in California Government Code Section 65852.2) is required in conjunction with the construction of an accessory dwelling unit.
  - 2. An accessory dwelling unit shall have its own kitchen, bathroom facilities, and entrance separate from the primary dwelling.
  - 3. The City shall allow junior accessory dwelling units as defined in California Government Code Section 65852.22 to be constructed within the walls of the proposed or existing single-family residence with a separate entrance from the main entrance to the primary dwelling, an efficiency kitchen as defined herein, and shared or independent bathroom facilities.
- d. Height
  - 1. An accessory dwelling unit is limited to sixteen feet in height.
- e. Maximum Unit Size.
  - 1. The maximum floor area for a studio or 1-bedroom accessory dwelling unit shall be 850 square feet, except accessory dwelling units which do not conform to Sections d.1 and f.3 of this code which shall be limited to 800 square feet. The maximum floor area for an accessory dwelling unit of 2 bedrooms or more shall be 1,000 square feet. In situations where an existing accessory structure is being converted to an accessory dwelling unit, an additional 150 square feet are allowed for expansion beyond the physical dimensions of the accessory dwelling unit, limited to providing ingress and egress only.
  - 2. The maximum floor area of a junior accessory dwelling unit shall be five hundred square feet.
- f. Property Line Setbacks.
  - 1. No setback is required for an existing accessory structure or living area as defined herein that is converted to an accessory dwelling unit.
  - 2. No setback is required for an accessory dwelling unit constructed in the same location and the same footprint as an existing accessory structure.
  - 3. A minimum setback of four feet from the side and rear property lines is required for an accessory dwelling unit sixteen feet in height or less. Front and street side yard setbacks shall be the same as the underlying zoning district. An accessory dwelling unit in excess of sixteen feet shall comply with setback requirements of the main structure of the applicable zoning district.

**g. Parking.**

1. Except as specified in this subsection, on-site parking for accessory dwelling units shall comply with all parking requirements in Chapter 17.44 of the Municipal Code.
2. On-site parking is not required for junior accessory dwelling units.
3. In addition to on-site parking spaces required for the primary dwelling, one on-site parking space shall be provided for each accessory dwelling unit per unit or bedroom, whichever is less.
4. On-site parking spaces for accessory dwelling units may be covered or uncovered, may be tandem, and may be located within the front, side, or rear setbacks areas unless there is a specific site or regional condition related to fire or life safety that would make parking in setback areas unsafe.
5. No on-site parking is required for an accessory dwelling unit in the following cases:
  - a. The accessory dwelling unit is located within one-half mile walking distance of public transit.
  - b. The accessory dwelling unit is located within a National Register Historic District or other historic district officially designated by the City Council.
  - c. The accessory dwelling unit is constructed within the primary residence or within an accessory structure.
  - d. On-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
  - e. A car-share vehicle pick-up/drop-off location is located within one block of the accessory dwelling unit.

**h. Utility Connections.**

1. **General.** An accessory unit shall not be considered a new residential use for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service unless constructed in conjunction with a new single-family residence.
2. **Accessory Units in Existing Space.** For accessory units within an existing primary dwelling, garage, or other accessory structure, the City shall not require an applicant to install a new or separate utility connection directly between the accessory unit and utility or impose a related connection fee or capacity charge.
3. **Attached and Detached Accessory Dwelling Units.** Consistent with California Government Code Section 66013, a utility connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
4. **Fire Sprinklers.** The installation of fire sprinklers shall not be required in an accessory unit if sprinklers are not required for the primary residence.

- i. Septic Tank Disposal System.
  - 1. In areas where septic tank disposal systems are allowed due to lack of sanitary sewer lines, detached accessory dwelling units shall be served by separate and independent septic tank sewage disposal systems. All leach lines shall be designed and installed in accordance with current septic system requirements of the County of Monterey Health Department.
  - 2. In other areas of the City, accessory dwelling units shall be connected to the sanitary sewer system through the existing lateral line serving the primary dwelling.
  
- j. Deed restrictions.
  - 1. Deed Restriction Required. Before obtaining a building permit for an accessory unit, the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:
    - a) The accessory unit may not be sold separately from the primary dwelling.
    - b) The accessory unit is restricted to the approved size as set forth in subsection e.1.
    - c) The accessory unit shall not be rented for a period of less than thirty-one days.
  - 2. Binding on Future Owners. The above declarations shall be binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement and/or revoking the City's approval of the accessory unit.
  
- k. Fees.
  - 1. Impact fees shall not be imposed on an accessory dwelling unit less than seven hundred fifty square feet in size.
  - 2. Impact fees charged for an accessory dwelling unit of seven hundred fifty square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling.

**Adding the following definitions:**

**17.04 Definitions**

“Accessory dwelling unit”, as defined in California Government Code Section 65852.2, means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following (A) an efficiency unit; (B) a manufactured home, as defined in Section 18007 of the Health and Safety Code.

“Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

“Accessory unit” means an accessory dwelling unit or junior accessory dwelling unit.

## EXHIBIT A

“Efficiency kitchen” means a cooking facility with appliances, a food preparation counter, and storage cabinets.

“Efficiency unit”, as defined in California Government Code Section 17958.1, has the same meaning specified in the International Building Code of the International Code Council, as incorporated by reference in Part 2 of Title 24 of the California Code of Regulations.

“Junior accessory dwelling unit”, as defined in California Government Code Section 65852.22, means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence.

“Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.