



Downtown Vitalization Specific Plan

Final Environmental Impact Report State Clearinghouse No. 2023100567

prepared by

City of Marina

Community Development Department
211 Hillcrest Avenue
Marina, California 93933

Contact: Guido Persicone, Community Development Director

prepared with the assistance of

Rincon Consultants, Inc.

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August 2024



RINCON CONSULTANTS, INC. SINCE 1994

Table of Contents

1	Introduction	1-1
1.1	Public Review and Responses to Comments	1-1
1.2	Organization of the Responses to Comments	1-2
1.3	Project Decision Process	1-2
2	Responses to Comments on the Draft EIR.....	2-1
2.1.	Commenters on the Draft EIR.....	2-1
3	Revisions to the Draft EIR	3-1
3.1	Revisions to the Draft EIR.....	3-1
4	Mitigation Monitoring and Reporting Program.....	4-1

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1 Introduction

On April 9, 2024, the City of Marina (City) released for public review the Draft Environmental Impact Report (Draft EIR) for the proposed Downtown Vitalization Specific Plan (hereinafter referred to as the Specific Plan or the project). The Draft EIR was prepared by the City in accordance with the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code Sections 21000–21177) and the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387). The City is serving as the lead agency under CEQA for consideration of certification of the EIR and has principal responsibility for deciding whether to approve the proposed project.

1.1 Public Review and Responses to Comments

In accordance with Sections 15087 and 15105 of the CEQA Guidelines, the Draft EIR was circulated for public review and comment to responsible agencies and interested parties as well as members of the public, for a period of 45 days (April 9, 2024 through May 24, 2024) as required by CEQA. Comment letters received on the Draft EIR are provided in their entirety in Chapter 2, *Responses to Comments*.

Responses to each of the comments received are provided in Chapter 2, *Responses to Comments* of this document as part of the Final Environmental Impact Report (Final EIR). Although some of the comments have resulted in changes to the text of the Draft EIR (see Chapter 3, *Revisions to the Draft EIR*), none of the changes constitute “significant new information,” which would require recirculation of the Draft EIR. “Significant new information” is defined in Section 15088.5(a) of the CEQA Guidelines as follows:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it.
- (4) The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

None of these circumstances has arisen from comments on the Draft EIR; therefore, recirculation is not required.

The Draft EIR, Final EIR, and associated appendices are available for review online at: <https://www.cityofmarina.org/945/Environmental-Review> and at the City of Marina Community Development Department, 211 Hillcrest Avenue, Marina, California 93933.

As required by CEQA Guidelines Section 15088(b), at least 10 days before consideration of the Final EIR for certification, the City provided a written response (electronic copy) to each public agency that submitted written comments on the Draft EIR.

1.2 Organization of the Responses to Comments

CEQA requires a lead agency that has prepared a Draft EIR to consult with and obtain comments from responsible and trustee agencies that have jurisdiction by law with respect to the project, and to provide the public with an opportunity to comment on the Draft EIR (CEQA Guidelines Sections 15086 and 15087).

Sections 15088(a) and (c) of the CEQA Guidelines also require a lead agency to evaluate comments on environmental issues received from persons who reviewed the Draft EIR and to prepare written responses to comments raising significant environmental issues. The Final EIR is the mechanism for responding to these comments. Responses are not required for comments regarding merits of the proposed project or regarding issues not related to the project's environmental impacts. Several of the comments on the Draft EIR state the commenter's preferences regarding the design or approval of the proposed project, potential economic impacts, or provide general statements concerning the content of the Draft EIR. Detailed responses are not warranted or required by CEQA for comments that do not address the environmental issues related to the proposed project. Such instances are noted in the responses. The City will review all comments received, including those that do not warrant a response under CEQA, before considering certification of the Final EIR or approval of the proposed project.

Each comment has been reproduced with individual comments bracketed and numbered according to the type of commenter (agency, organization, and individual) with responses following each comment. In some instances, clarifications of the text of the Draft EIR may be required. In those cases, the text of the Draft EIR is revised and the changes compiled in Chapter 3, *Revisions to the Draft EIR*. The text deletions are shown with strikeout (~~strikeout~~), and additions are shown with underline (underline).

1.3 Project Decision Process

This document and the Draft EIR, as amended through responses to comments, together constitute the Final EIR, which will be considered by the City prior to a decision on whether to approve the project. If the City decides to approve the project, the City, as required by CEQA Guidelines Section 15090, must first certify that the Final EIR was completed in compliance with the requirements of CEQA, was reviewed and considered by the City, and reflects its independent judgment and analysis. The City would then be required to adopt findings of fact on the disposition of each significant environmental impact, as required by CEQA Guidelines Section 15091, and a statement of overriding considerations, as required by CEQA Guidelines Section 15093. A Mitigation Monitoring and Reporting Program, which is required by CEQA Guidelines Section 15091(d), has been included as part of Chapter 4, *Mitigation Monitoring and Reporting Program*, of this Final EIR and will be adopted by the City in conjunction with any project approval.

2 Responses to Comments on the Draft EIR

This chapter of the Final EIR contains the comment letters received during the public review period for the Draft EIR, which started on April 8, 2024 and concluded on May 24, 2024. In conformance with Section 15088(a) of the CEQA Guidelines, written responses were prepared to address comments received on environmental issues during this review period.

2.1 Commenters on the Draft EIR

Table 2-1 presents the list of commenters, including the numerical designation for each comment letter received, the author of the comment letter, and the date of the comment letter. Comment letters have been ordered according to the type of commenter and then numbered in the order (by date) they were received by the City of Marina and alphabetically.

Table 2-1 List of Commenters

Letter No.	Commenter	Date	Page No.
Agencies			
A1	California Department of Toxic Substances Control	May 13, 2024	2-2
A2	California Department of Transportation	May 24, 2024	2-6
A3	California Department of Fish and Wildlife	May 31, 2024	2-16
Individuals			
I1	Peter Le	May 20, 2024	2-53
I2	Matt White	May 28, 2024	2-67
Organizations			
O1	Anthony Lombardo & Associates	May 23, 2024	2-70
O2	Sierra Pacific Properties, Inc.	May 24, 2024	2-109
O3	Monterey Bay Economic Partnership	May 24, 2024	2-116

The comment letters and responses follow. The comment letters are numbered sequentially and each separate issue raised by the commenter, if more than one, has been assigned a number. The responses to each comment identify first the number of the comment letter, and then the number assigned to each issue (Response A1.1, for example, indicates that the response is for the first issue raised in Comment Letter A1).

Where a comment resulted in a change to the Draft EIR text, a notation is made in the response indicating that the text is revised. Changes in text are signified by ~~strikeout font~~ where text was removed and by underlined font where text was added. These changes in text are also included in Chapter 3, *Revisions to the Draft EIR*. As discussed further in Chapter 3, these textual revisions clarify and expand upon information in the Draft EIR, and/or revise mitigation measures to be equally or more effective. Pursuant to CEQA Guidelines Section 15088.5, these revisions do not constitute significant new information and recirculation of the Draft EIR is not required.

Letter A1



Yana Garcia
Secretary for
Environmental Protection



Department of Toxic Substances Control

Meredith Williams, Ph.D.
Director
8800 Cal Center Drive
Sacramento, California 95826-3200



Gavin Newsom
Governor

SENT VIA ELECTRONIC MAIL

May 13, 2024

Guido Persicone
Community Development Director
City of Marina
211 Hillcrest Avenue
Marina, CA 93933
gpersicone@cityofmarina.org

RE: DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR THE DOWNTOWN
VITALIZATION SPECIFIC PLAN DATED APRIL 8, 2024 STATE CLEARINGHOUSE
NUMBER [2023100567](#)

Dear Guido Persicone,

The Department of Toxic Substances Control (DTSC) received a DEIR for the Downtown Vitalization Specific Plan (project). The intended purpose of the Specific Plan is to establish a direct connection between the City of Marina's General Plan and opportunities for vitalization and enhancement within Downtown Marina. The planning horizon for the Specific Plan is the 20-year period starting with the plan's adoption date. An overall goal is the orderly development of Downtown Marina in a method consistent with the City's General Plan and, more specifically, with the community's vision as developed through the community outreach process. Based on existing land use designations and underlying zoning requirements, described under General Plan land use designations within the City's document, potential buildout of the Specific Plan could include approximately an additional 1,385,000 square feet

A1.1

of new retail and office space and 2,904 new housing units. When added to existing development, the Plan area could include a total of up to approximately 2,390,000 square feet of commercial and retail space and up to 5,205 housing units. However, the pace of future development would largely be determined by market forces, and thus it is difficult to determine at what date buildout would occur. After reviewing the project, DTSC recommends and requests consideration of the following comments:

A1.1
cont.

1. If buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition, and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with [DTSC's Preliminary Endangerment Assessment \(PEA\) Guidance Manual](#).

A1.2

2. DTSC recommends that all imported soil and fill material should be tested to ensure any contaminants of concern are within DTSC's and U.S. Environmental Protection Agency (USEPA) Regional Screen Levels (RSLs) for the intended land use. To minimize the possibility of introducing contaminated soil and fill material there should be documentation of the origins of the soil or fill material and, if applicable, sampling be conducted to ensure that the imported soil and fill material meets screening levels outlined in the [PEA](#) for the intended land use. The soil sampling should include analysis based on the source of the fill and knowledge of the prior land use. Additional information can be found by visiting [DTSC's Human and Ecological Risk Office \(HERO\) webpage](#).

A1.3

DTSC appreciates the opportunity to comment on the DEIR for the project. Thank you for your assistance in protecting California's people and environment from the harmful effects of toxic substances. If you have any questions or would like any clarification on DTSC's comments, please respond to this letter or via [email](#) for additional guidance.

A1.4

Guido Persicone

May 14, 2024

Page 3

Sincerely,

Tamara Purvis

Tamara Purvis

Associate Environmental Planner

HWMP-Permitting Division – CEQA Unit

Department of Toxic Substances Control

Tamara.Purvis@dtsc.ca.gov

cc: (via email)

Governor's Office of Planning and

Research State Clearinghouse

State.Clearinghouse@opr.ca.gov

Dave Kereazis

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HWMP - Permitting Division – CEQA Unit

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Megan Jones

Principal

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mjones@rinconconsultants.com

Letter A1

COMMENTER: Tamara Purvis, Associate Environmental Planner, California Department of Toxic Substances Control

DATE: May 13, 2024

Response A1.1

The commenter provides a summary of the project.

The provided summary is accurate. This comment does not pertain to the analysis within the Draft EIR, and no further response is necessary.

Response A1.2

The commenter states that surveys for lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk should be conducted if buildings or other structures are to be demolished as part of the project.

This comment is noted. Pursuant to CEQA and Monterey Bay Air Resources District Rule 424, development facilitated by the project would be required to undergo an evaluation to identify potentially hazardous materials in buildings or other structures proposed for demolition. This comment is general and does not pertain to the adequacy of the Draft EIR. As such, no further response is required.

Response A1.3

The commenter states that imported soil and fill material should be tested to ensure any contaminants of concern are within the Regional Screen Levels established by the Department of Toxic Substances Control and the United States Environmental Protection Agency.

This comment is noted. Future development facilitated by the DVSP that involves import or soil or fill material would be required to comply with applicable regulations pertaining to imported soil and fill material. This comment does not pertain to the adequacy of the Draft EIR, and no further response is required.

Response A1.4

The commenter expresses their appreciation for the opportunity to comment and provides contact information.

This comment does not pertain to the adequacy of the Draft EIR or CEQA process, and no response is necessary.

California Department of Transportation

CALTRANS DISTRICT 5
50 HIGUERA STREET | SAN LUIS OBISPO, CA 93401-5415
(805) 549-3101 | FAX (805) 549-3329 TTY 711
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May 24, 2024

SCH #2023100567
MON/1/R85.51

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

Dear Mr. Persicone:

COMMENTS FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) – MARINA DOWNTOWN VITALIZATION SPECIFIC PLAN

The California Department of Transportation (Caltrans), District 5, Development Review, has reviewed the Downtown Vitalization Specific Plan which proposes to establish a direct connection between the City of Marina's General Plan and opportunities for vitalization and enhancement within Downtown Marina. Caltrans offers the following comments in response to the DEIR:

1. Any proposed infrastructure improvements on the State Highway System would require going through the Intersection Safety and Operational Assessment Process (ISOAP). ISOAP is a data-driven, performance-based framework incorporating the Safe System approach to screen intersection strategies and identify an optimal solution for new or improved interchanges and intersections. ISOAP places a greater emphasis on road safety performance consistent with the strategic direction of the Department. Intersection geometry and traffic control shall be determined through a performance-based analysis that considers all users and supports the principles of the Safe System approach. ISOAP is a holistic two-stage process that is intended to be scalable, and it considers the context of the proposed project and highway facility.
 - a. Stage 1 provides a screening to identify viable alternatives and an initial planning-level assessment of safety and operations, including for pedestrians, bicyclists, transit, and freight. Stage 1 is typically done before or during the Project Initiation Document (PID) of capital projects. If there is more than one viable strategy, the process proceeds to Stage 2.
 - b. In Stage 2, each viable strategy has an engineering analysis of safety and operational performance. An economic analysis, such as calculating a benefit-cost ratio or Cost to the State, is evaluated to determine a

A2.1

recommended strategy. Stage 2 is typically done at the Project Approval and Environmental Document (PA&ED) phase of capital projects. ISOAP shall consider alternative intersection/interchange types that are proven to reduce the number of crashes or crash severity in project alternatives, including but not limited to roundabouts, median U-Turn configurations, such as Restricted U-Turn (RCUT) and Median U-Turn (MUT), Diverging Diamond Interchanges (DDI), and other emerging intersection and interchange forms. Preference should be given to viable alternatives that best embody the Safe System Intersection principles of reducing speed, reducing conflict points and conflict severity, reducing exposure, and reducing operational complexity.

A2.1
cont.

2. For Intersection improvements off the state highway system, it is recommended that the Lead Agency use the ISOAP evaluation approach to screen intersection strategies and identify optimal solutions. Roundabouts may not be the optimal solution at all major intersections.
3. Please be aware that if any future work is completed in the State's right-of-way it will require an encroachment permit from Caltrans and must be done to our engineering and environmental standards and at no cost to the State. The conditions of approval and the requirements for the encroachment permit are issued at the sole discretion of the Permits Office, and nothing in this letter shall be implied as limiting those future conditions and requirements. For more information regarding the encroachment permit process, please visit our Encroachment Permit Website at: <https://dot.ca.gov/programs/traffic-operations/ep>.
4. Future development along Hwy 1 that may impact Caltrans drainage systems flow may require subsequent approval and permits.
5. Please be aware that portions identified in the DVSP are located within an Airport Influence Area (AIA) and safety zone of the Airport Land Use Compatibility Plan (ALUCP) formed by the ALUC pursuant to the PUC, Section 21674. Density and Intensity compatibility around airports should be considered as potential impacts given the long-range nature of the plan. Given the anticipated amount of development and increased pressures of housing in the state approaching 2050, increased density surrounding airports can lead to adverse impacts on communities and should be reviewed for potential consequences to health and safety. Sensitive land uses such as residential areas, schools, hospitals, senior homes, and other facilities should also be reviewed for airport land use compatibility.
6. Per the California Public Utilities Code Section 21001 et seq. relating to the State Aeronautics Act, Section 21676(b) prior to the amendment of a general plan, within

A2.2

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the planning boundary established by the ALUC, or equivalent, pursuant to Section 21675, the local agency shall first refer the proposed action to the ALUC. If the ALUC determines that the proposed action is inconsistent with the ALUCP, the referring agency shall be notified. Any proposed development in the defined safety compatibility zones, therefore, must adhere to the criteria and restrictions defined in the ALUCP.

A2.6
cont.

7. Please consider the regional scale of the environmental impact analysis and ensure impacts to airport-related noise and safety hazards are fully mitigated, therefore project-level agencies should consider project-level mitigation measures and adherence to the local ALUCP of an airport for compatibility guidelines and restrictions.

A2.7

8. Please be aware that, Public Utilities Code, Section 21659, "Hazards Near Airports Prohibited" prohibits structural hazards near airports. To ensure compliance with Federal Aviation Regulation, Part 77, "Objects Affecting Navigable Airspace," submission of a Notice of Proposed Construction or Alteration (Form 7460-1) to the Federal Aviation Administration (FAA) may be required. This is in addition to any height compatibility policies defined in the ALUCP. Moreover, any proposed projects identified as hazardous material sites compiled pursuant to Government Code Section 65962.5, compatibility restrictions should be reviewed per the ALUCP.

A2.8

9. Caltrans supports multimodality and investment in alternate forms of transportation like active transportation and transit. Caltrans appreciates the emphasis on improving transit accessibility and collaborating with transit and transportation agencies to achieve this. In addition to collaboration, we recommend considering funding or financial investments to support the increased ridership expected from additional housing, and the asks for additional transit routes and route frequency. Quality of transit is having a transit stop nearby and having that stop/route reach the destination that riders wish to go to. Please consider resident travel planning needs while collaborating with transit providers.

A2.9

10. Caltrans appreciates the TDM measures proposed in the DEIR. Another TDM measure to consider is to implement market-price public parking (on-street). Increasing the cost of parking increases the total cost of driving to a location, incentivizing shifts to other modes and thus decreasing total VMT to and from the priced areas. In planning for the long term, this method could complement efforts to use more transit facilities, such as the SURF! Project and expanded MST services.

A2.10

11. Regarding grant opportunities, another State document to consider is the Climate Action Plan for Transportation Infrastructure (CAPTI), produced by CalSTA. Projects that are in alignment with CAPTI may be better aligned with the direction of future

A2.11

discretionary grant opportunities. Similarly, the Caltrans System Investment Strategy, or CSIS, is a new framework for how Caltrans will be scoring and selecting projects for discretionary funding opportunities. CSIS was created in response to CalSTA's CAPTI.

A2.11
cont.

Thank you for the opportunity to review and comment on the proposed project. If you have any questions or need further clarification on the items discussed above, please contact me at (805) 835-6543 or email Jacob.m.Hernandez@dot.ca.gov.

A2.12

Sincerely,



Jacob Hernandez
Transportation Planner
District 5 Local Development Review Coordinator

Letter A2

COMMENTER: Jacob Hernandez, Transportation Planner, California Department of Transportation

DATE: May 24, 2024

Response A2.1

The commenter states that any proposed infrastructure improvements to the State Highway System would require going through the Intersection Safety and Operational Assessment Process (ISOAP), and provides general information regarding ISOAP.

This comment is noted. If development facilitated by the project necessitates infrastructure improvements to the State Highway System, the City shall coordinate with the California Department of Transportation as required. This comment does not pertain to the adequacy of the Draft EIR, and no further response is necessary.

Response A2.2

The commenter recommends using the ISOAP evaluation approach for intersection improvements off the state highway system.

This comment is noted. If development facilitated by the project involves intersection improvements, the City will consider using the ISOAP evaluation approach, as appropriate. This comment does not pertain to the adequacy of the Draft EIR, and no further response is necessary.

Response A2.3

The commenter states that future work within the State's right-of-way will require an encroachment permit, and provides information regarding encroachment permits.

This comment is noted. If development facilitated by the DVSP necessitates work within the State's right-of-way, the City or project proponent would obtain an encroachment permit as required. This comment does not pertain to the analysis within the Draft EIR, and no further response is necessary.

Response A2.4

The commenter states future development along Highway 1 that may impact California Department of Transportation drainage flow systems may require approval and permits.

This comment is noted. If development facilitated by the DVSP necessitates work within Caltrans' drainage flow systems, the City or project proponent would obtain approval and permits as required. This comment does not pertain to the analysis within the Draft EIR, and no further response is necessary.

Response A2.5

The commenter indicates that the Plan area is partially within an Airport Influence Area and notes that future development should be reviewed for airport land use compatibility. The commenter further notes that increased density near airports can lead to adverse health and safety impacts.

Potential impacts associated with airports are discussed in the Initial Study prepared for the project (page 93 of Appendix A to the Draft EIR). As discussed therein, implementation of the DVSP would intensify development near the Marina Municipal Airport, but the land use types and proximity of development to the airport would be similar to existing conditions. Additionally, buildout of the DVSP would not be anticipated to introduce prohibited uses in the Airport Influence Area, such as outdoor stadiums or other hazards to flight. Development facilitated by the project would be required to evaluate its airport land use compatibility. No revisions to the Draft EIR are required in response to this comment.

Response A2.6

The commenter states that, prior to amendment of a general plan, local agencies shall refer proposed actions to the Airport Land Use Commission, which would determine if the proposed action is inconsistent with the Airport Land Use Compatibility Plan.

As discussed in Chapter 2, *Project Description*, on page 2-17 of the Draft EIR, approval of the project would require a general plan map and text amendment. The City of Marina will coordinate with the Monterey County Airport Land Use Commission as required, consistent with this comment.

Response A2.7

The commenter requests that the regional scale of the environmental impact analysis be considered and that impacts to airport-related noise and safety hazards are fully mitigated.

Potential airport-related noise impacts are discussed in the Initial Study prepared for the project (page 117 of Appendix A to the Draft EIR). As discussed therein, the Plan area is approximately 3,000 feet south of the outer edge of the 60-decibel Community Noise Equivalent level for the Marina Municipal Airport, and the Plan area would not be exposed to excessive airport noise.

Potential airport-related hazards are also discussed in the Initial Study prepared for the project (page 93 of Appendix A to the Draft EIR). As discussed therein, implementation of the DVSP would intensify development near the Marina Municipal Airport, but the land use types and proximity of development to the airport would be similar to existing conditions. Additionally, buildout of the DVSP would not be anticipated to introduce prohibited uses in the Airport Influence Area, such as outdoor stadiums or other hazards to flight.

As concluded in the Initial Study, airport-related noise and safety hazard impacts would be less than significant and no mitigation would be required. As specific development projects are proposed near the airport pursuant to the DVSP, additional project-level evaluation of airport land use compatibility would be required.

Response A2.8

The commenter states that structural hazards near airports are prohibited and submission of a Notice of Proposed Construction or Alternative to the Federal Aviation Administration may be required. The commenter states compatibility restrictions for any project sites identified as hazardous materials sites should be reviewed.

This comment is noted. Project applicants for development facilitated by the DVSP and the City would coordinate with the Federal Aviation Administration as required. As discussed on page 93 of Appendix A to the Draft EIR, implementation of the DVSP would intensify development near the Marina Municipal Airport, but the land use types and proximity of development to the airport would

be similar to existing conditions. Additionally, buildout of the DVSP would not be anticipated to introduce prohibited uses in the Airport Influence Area, such as outdoor stadiums or other hazards to flight.

The portion of the Plan area closest to the Marina Municipal Airport along Reservation Road consists of the Transition District; as stated on page A-13 of Appendix A to the DVSP, buildings in the Transition District would have a maximum height of 48 feet or four stories, whichever is less. As shown on page 22 of the Marina Municipal Airport Land Use Plan, the portion of the Plan area north of Reservation Road is within the airport's Traffic Pattern Zone and within Monterey County Airport Land Use Commission's review boundary.¹ Any structures proposed to be over 45 feet in height in this zone would be subject to the review of the Airport Land Use Commission. Accordingly, development facilitated by the DVSP within the Airport Land Use Commission's review boundary would be subject to review and project applicants and/or the City would submit a Notice of Proposed Construction or Alteration to the Federal Aviation Administration as required.

As discussed in Section 4.4.4, *Hazards and Hazardous Materials*, in Section 4.4, *Less than Significant with Mitigation* on page 4.4-21 of the Draft EIR, there are several former and open hazardous materials sites within the Plan area. As discussed in the Draft EIR, Mitigation Measure HAZ-1 would require completion of a Phase I environmental site assessment prior to issuance of grading permits or initiation of other ground-disturbing work for individual projects. If hazardous materials are identified, remediation would occur in accordance with applicable regulations and recommendations made by applicable regulatory agencies.

This comment does not pertain to the analysis within the Draft EIR, and no further response is necessary.

Response A2.9

The commenter states that the California Department of Transportation supports multimodality and recommends considering funding or financial investments to support increased transit ridership associated with the project.

This comment is noted and will be shared with decision-makers for their consideration as part of the EIR review process. Increased transit ridership is discussed in Section 4.2, *Transportation*, of the Draft EIR on page 4.2-15. As discussed therein, the DVSP would not conflict with the City's adopted plans and policies pertaining to transit facilities. This comment does not pertain to the analysis within the Draft EIR, and no further response is necessary.

Response A2.10

The commenter suggests implementing market-price public parking to incentivize shifts to other modes of transportation. Mitigation Measure T-2 in Section 4.2, *Transportation*, requires that each individual office and residential project in the DVSP area have a corresponding transportation demand management (TDM) plan. The measure provides several examples of TDM measures that could be employed. Additional TDM measures not specifically mentioned in Mitigation Measure T-2 could be used, as warranted. To acknowledge that the commenter's suggested measure could be utilized as a TDM measure for specific development projects, and in response to this comment, the following revisions to the Draft EIR has been made:

¹ City of Marina. 2006. Marina Municipal Airport Comprehensive Land Use Plan.
https://www.cityofmarina.org/DocumentCenter/View/133/Marina-Municipal-Airport-Land-Use-Plan_April-2006 (accessed June 2024).

Executive Summary

Page ES-7, Table ES-1:

T-2 Transportation Demand Management Program

Each individual office and residential development project in the Specific Plan area shall have a corresponding transportation demand management (TDM) plan and monitoring program developed by the applicant or developer of the project. The TDM plan shall be prepared prior to issuance of building permits.

The TDM plan shall identify the TDM reductions specific to their project. The monitoring program shall establish goals and policies to ensure the efficient implementation of the TDM plan and demonstrate its effectiveness at reducing VMT such that VMT is below the significance thresholds presented in Table 4.2-2, above. The City shall review and approve the TDM plan prior to approval of building permits. Examples of TDM measures that could be employed, depending on specific project conditions and circumstances, include but are not limited to:

- Provision of bus stop improvements or on-site mobility hubs
- Pedestrian improvements, on-site or off-site, to connect to nearby transit stops, services, schools, shops, etc.
- Bicycle programs including bike purchase incentives, storage, maintenance programs, and on-site education program
- Enhancements to regional bicycle network
- Parking reductions and/or fees set at levels sufficient to incentivize transit, active transportation, or shared modes
- Cash allowances, passes, or other public transit subsidies and purchase incentives
- Enhancements to bus service
- Implementation of shuttle service
- Establishment of carpool, bus pool, or vanpool programs
- Vanpool purchase incentives
- Participation in a future County VMT fee program
- Participate in future VMT exchange or mitigation bank programs
- Carshare/scooter-share/bikeshare facilities or incentives
- On-site coordination overseeing TDM marketing and outreach
- Rideshare matching program
- Market-price public parking

Section 4.2, Transportation

Page 4.2-18:

Mitigation Measure

T-2 Transportation Demand Management Program

Each individual office and residential development project in the Specific Plan area shall have a corresponding transportation demand management (TDM) plan and monitoring program developed by the applicant or developer of the project. The TDM plan shall be prepared prior to issuance of building permits.

The TDM plan shall identify the TDM reductions specific to their project. The monitoring program shall establish goals and policies to ensure the efficient implementation of the TDM plan and demonstrate its effectiveness at reducing VMT such that VMT is below the significance thresholds presented in Table 4.2-2, above. The City shall review and approve the TDM plan prior to approval of building permits. Examples of TDM measures that could be employed, depending on specific project conditions and circumstances, include but are not limited to:

- Provision of bus stop improvements or on-site mobility hubs
- Pedestrian improvements, on-site or off-site, to connect to nearby transit stops, services, schools, shops, etc.
- Bicycle programs including bike purchase incentives, storage, maintenance programs, and on-site education program
- Enhancements to regional bicycle network
- Parking reductions and/or fees set at levels sufficient to incentivize transit, active transportation, or shared modes
- Cash allowances, passes, or other public transit subsidies and purchase incentives
- Enhancements to bus service
- Implementation of shuttle service
- Establishment of carpool, bus pool, or vanpool programs
- Vanpool purchase incentives
- Participation in a future County VMT fee program
- Participate in future VMT exchange or mitigation bank programs
- Carshare/scooter-share/bikeshare facilities or incentives
- On-site coordination overseeing TDM marketing and outreach
- Rideshare matching program
- Market-price public parking

This revision does not require recirculation of the Draft EIR because it amplifies an existing mitigation measure and does not affect the transportation impacts identified in Section 4.2, *Transportation*.

Response A2.11

The commenter suggests that projects in alignment with the Climate Action Plan for Transportation Infrastructure may be better aligned with future discretionary grant opportunities.

This comment is noted. This comment is general and does not pertain to the adequacy of the Draft EIR or CEQA process. As such, no further response is necessary.

Response A2.12

The commenter expresses appreciation for the opportunity to comment and provides contact information.

This comment is noted.



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



May 31, 2024

Guido Persicone, Community Development Director
City of Marina Community Development Department
211 Hillcrest Avenue,
Marina, California 93933
831-884-1281
gpersicone@cityofmarina.org

**Subject: Downtown Vitalization Specific Plan (Plan)
Draft Environmental Impact Report (DEIR)
SCH No.: 2023100567**

Dear Guido Persicone:

The California Department of Fish and Wildlife (CDFW) received a DEIR from the City of Marina for the Plan pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Plan that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Plan that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, projects tiered from the Plan may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of a project tiered from the Plan may result in

A3.1

Guido Persicone, Community Development Director
 City of Marina
 May 31, 2024
 Page 2

“take” as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

A3.1 cont.

Fully Protected Species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species, live capture, and relocation of a bird species for the protection of livestock, or
- They are a covered species whose conservation and management are provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515)

Additionally, specified types of infrastructure projects may be eligible for an Incidental Take Permit (ITP) for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code, §2081.15). Project proponents should consult with CDFW early in the project planning process if an ITP may be pursued for projects tiered from the Plan.

A3.2

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

A3.3

PROJECT DESCRIPTION SUMMARY

Proponent(s): City of Marina

Objective: The proposed Plan establishes a direct connection between the City of Marina’s General Plan and opportunities for vitalization and enhancement within Downtown Marina. The planning horizon for the Plan is the 20-year period starting with the Plan’s adoption date. An overall goal is the orderly development of Downtown Marina in a method consistent with the City’s General Plan and, more specifically, with the community’s vision as developed through the community outreach process. Based on existing land use designations and underlying zoning requirements described within the General Plan, potential buildout of the Plan could include approximately 1,385,000 square feet of new retail and office space and 2,904 new housing units. When added to existing development, the Plan area could include a total of up to

A3.4

Guido Persicone, Community Development Director
 City of Marina
 May 31, 2024
 Page 3

approximately 2,390,000 square feet of commercial and retail space and up to 5,205 housing units.

Location: The Plan area is Downtown Marina located in the City of Marina. The City of Marina is located in Monterey County, adjacent to Monterey Bay and along State Route 1, approximately nine miles north of the City of Monterey and 18 miles south of the City of Watsonville. The City of Marina encompasses approximately 9.8 square miles and extends for five miles along the Pacific Ocean, from former Fort Ord land and the California State University Monterey Bay (CSUMB) campus on the south, to the Salinas River on the north, and inland for four miles to the Marina Municipal Airport. The former Fort Ord Army Base, which was closed in 1994, is located in the southern portion of the City of Marina. The Plan area does not include any former Fort Ord lands. The Plan area encompasses approximately 322 acres near the center of the City of Marina.

The Plan area is generally bounded:

- On the northeast by parcels along the north side of Reservation Road
- On the south by Reindollar Avenue and various residential north-south secondary roads, such as Sunset Avenue, Carmel Avenue, and Crescent Avenue
- On the east by Salinas Avenue
- On the northwest by Del Monte Boulevard, approximately 0.5 mile east of State Route (SR) 1

Timeframe: N/A.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City of Marina in adequately identifying and/or mitigating the Plan's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document for this Plan.

CDFW previously commented on the Notice of Preparation (NOP) for the Plan in a letter dated November 27, 2023 (Attachment 1), regarding potential impacts to special-status species including, but not limited to, the State threatened tricolored blackbird (*Agelaius tricolor*); the State candidate listed endangered Crotch's bumble bee (*Bombus crotchii*) and western bumble bee (*Bombus occidentalis*); the State endangered seaside bird's-beak (*Cordylanthus rigidus ssp. littoralis*); the State threatened and federally endangered Monterey gilia (*Gilia tenuiflora ssp. arenaria*); and the State species of special concern burrowing owl (*Athene cunicularia*), coast horned lizard (*Phrynosoma blainvillii*), Monterey shrew (*Sorex ornatus salarii*), and Northern California legless lizard (*Anniella pulchra*).

A3.4 cont.

A3.5

Guido Persicone, Community Development Director
City of Marina
May 31, 2024
Page 4

The DEIR acknowledges that the Plan area is within the geographic range of several special-status animal species, including the species included in CDFW's November 27, 2023, NOP comment letter, and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of some the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for several special status animal species, including the State fully protected white-tailed kite (*Elanus leucurus*) and State candidate endangered Crotch's bumble bee and western bumble bee.

A3.5 cont.

White-tailed Kite

Comment 1: Minimum disturbance buffer for white-tailed kite

Mitigation measure BIO-1(g) states, "If fully protected White-tailed kites are documented nesting within 500 feet of construction activities, CDFW shall be consulted on appropriate avoidance and minimization methods." CDFW concurs with avoiding impacts to white-tailed kite (WTKI) and recommends a minimum no-disturbance buffer of ½-mile be delineated around active nests of WTKI until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. CDFW advises the Lead Agency not to allow reductions in no-disturbance buffer size for WTKI or any fully protected bird species absent a compelling biological or ecological reason to do so. In the event that WTKI are detected during surveys, consultation with CDFW is warranted to discuss Plan implementation and take avoidance.

A3.6

Crotch's Bumble Bee and Western Bumble Bee

Comment 2: CBB and WBB Habitat Assessment and Surveys

The DEIR states within the special status species evaluation table that the Plan area has a low potential for Crotch's bumble bee (CBB) and western bumble bee (WBB) due to lack of sightings recorded on the California Natural Diversity Database (CNDDDB). CDFW does not concur with this conclusion due to the CNDDDB being a positive occurrence database only, which can be reliable for determining presence of a species but unreliable as a primary source for concluding absence. For all future projects tiered from this Plan, CDFW recommends conducting a habitat assessment for CBB and WBB. If suitable habitat is present, CDFW recommends conducting protocol surveys following the "Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species" (CDFW 2023). If surveys indicate the presence or potential presence of CBB or WBB, consultation with the CDFW is recommended for guidance on the development of mitigation measures such as take avoidance, minimization, and mitigation.

A3.7

Guido Persicone, Community Development Director
 City of Marina
 May 31, 2024
 Page 5

Editorial Comments and/or Suggestions

California Natural Diversity Database (CNDDDB)

Please note that the CNDDDB is populated by voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record, or lack of recent occurrence records, in the CNDDDB does not mean that a species is not present. In order to adequately assess any potential Plan-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special status species are present.

A3.8

Lake and Streambed Alteration (LSA)

Activities for future projects tiered from this Plan that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial and may include those that are highly modified such as canals and retention basins.

A3.9

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (LSAA); therefore, if the CEQA documents for projects tiered from this Plan does not adequately describe the project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSAA issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593.

Environmental Data

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, Section 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during surveys to CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email

A3.10

Guido Persicone, Community Development Director
City of Marina
May 31, 2024
Page 6

address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

A3.10
cont.

Filing Fees

The Plan, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Plan approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

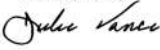
A3.11

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the City of Marina in identifying and mitigating Plan impacts on biological resources. Questions regarding this letter or further coordination should be directed to Evelyn Barajas-Perez, Environmental Scientist, at (805) 503-5738 or Evelyn.Barajas-Perez@Wildlife.ca.gov.

A3.12

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Attachment 1: CDFW Notice of Preparation comment letter

cc: California Department of Fish and Wildlife
Evelyn Barajas-Perez, Evelyn.Barajas-Perez@wildlife.ca.gov
CESA R4CESA@wildlife.ca.gov
LSA R4LSA@wildlife.ca.gov

Steve Henry, USFWS, steve_henry@fws.gov

State Clearinghouse
Governor's Office of Planning and Research
State.Clearinghouse@opr.ca.gov

Guido Persicone, Community Development Director
City of Marina
May 31, 2024
Page 7

REFERENCES

California Department of Fish and Wildlife. 2023. Survey considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. California Department of Fish and Wildlife, Sacramento, California, USA.

Guido Persicone, Community Development Director
City of Marina
May 31, 2024
Page 8

ATTACHMENT 1 – NOTICE OF PREPARATION COMMENT LETTER



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 27, 2023

Guido Persicone, Community Development Director
Community Development Department, City of Marina
211 Hillcrest Avenue,
Marina, Monterey, California 93933
831-884-1281
gpersicone@cityofmarina.org

**Subject: Downtown Vitalization Specific Plan (Plan)
Notice of Preparation (NOP)
SCH No.: 2023100567**

Dear Guido Persicone:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) to prepare a Draft Environmental Impact Report (DEIR) from the City of Marina's Community Development Department (City of Marina) for the City of Marina Downtown Vitalization Specific Plan (Plan) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Plan that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Plan that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code. While the comment period may have ended, CDFW would appreciate it if you will still consider our comments.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & Game Code, Section 711.7, subd. (a) & 1802; Pub. Resources Code, Section 21070; CEQA Guidelines Section 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., Section 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing

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Guido Persicone, Community Development Director
Community Development Department, City of Monterey
Page 2

specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, Section 21069; CEQA Guidelines, Section 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, future projects tiered from this Plan may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & Game Code, Section 1600 et seq.). Likewise, to the extent implementation of future projects tiered from this Plan may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & Game Code, Section 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

PLAN DESCRIPTION SUMMARY

Proponent: City of Marina

Objective: The purpose of the Specific Plan is to establish a direct connection between the City of Marina's General Plan and opportunities for vitalization and enhancement within Downtown Marina. The planning horizon for the Specific Plan is the 20-year period starting with the Plan's adoption date. An overall goal is the orderly development of Downtown Marina in a method consistent with the City's General Plan and, more specifically, with the community's vision as developed through the community outreach process. Based on existing land use designations and underlying zoning requirements, described under General Plan land use designations above, potential buildout of the Specific Plan could include approximately an additional 1,385,000 square feet of new retail and office space and 2,904 new housing units. When added to existing development, the Plan area could include a total of up to approximately 2,390,000 square feet of commercial and retail space and up to 5,205 housing units. However, the pace of future development would largely be determined by market forces, and thus it is difficult to determine at what date buildout would occur.

Location: The Plan area is Downtown Marina located in the City of Marina. The City of Marina is located in Monterey County, adjacent to Monterey Bay and along State Route 1, approximately nine miles north of the City of Monterey and 18 miles south of the City of Watsonville. The city encompasses approximately 9.8 square miles and extends for five miles along the Pacific Ocean, from former Fort Ord land and the California State University Monterey Bay (CSUMB) campus on the south, to the Salinas River on the north, and inland for four miles to the Marina Municipal Airport. The former Fort Ord Army Base, which was closed in 1994, is located in the southern portion of the city. The Plan area does not include any former Fort Ord lands. The Plan area encompasses approximately 322 acres near the center of the City of Marina.

Guido Persicone, Community Development Director
Community Development Department, City of Monterey
Page 3

The Plan area is generally bounded:

- On the northeast by parcels along the north side of Reservation Road
- On the south by Reindollar Avenue and various residential north-south secondary roads, such as Sunset Avenue, Carmel Avenue, and Crescent Avenue
- On the east by Salinas Avenue
- On the northwest by Del Monte Boulevard, approximately 0.5 mile east of State Route (SR) 1

Timeframe: Unspecified

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City of Marina in adequately identifying and/or mitigating the Plan's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document for this Plan.

The NOP indicates that the DEIR for the Plan will consider potential environmental effects of the proposed Plan to determine the level of significance of the environmental effects and will analyze these potential effects to the detail necessary to make a determination on the level of significance. The DEIR will also identify and evaluate alternatives to the proposed Plan. When a DEIR is prepared, the specifics of mitigation measures may be deferred, provided the lead agency commits to mitigation and establishes performance standards for implementation.

To adequately assess any potential impact to biological resources, focused biological surveys should be conducted by a qualified biologist and/or botanist during the appropriate survey period(s) in order to determine whether any special-status species may be present within the vicinity of the planning area for all future projects tiered from this Plan. Properly conducted biological surveys, and the information assembled from them, are essential to identify necessary avoidance, minimization, and mitigation measures and/or the need for additional or protocol-level surveys, and to identify any project-related impacts under CESA and to other species of concern.

Special-Status Species

Based on aerial imagery and species occurrence records from the California Natural Diversity Database (CNDDDB) (CDFW 2023), the proposed Plan area is known to and/or has the potential to support special-status species, and these resources need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities. CDFW is concerned regarding potential impacts to special status species

Guido Persicone, Community Development Director
 Community Development Department, City of Monterey
 Page 4

including, but not limited to, the State endangered Seaside bird's-beak (*Cordylanthus rigidus ssp. littoralis*); the State threatened and federally endangered Monterey gilia (*Gilia tenuiflora ssp. arenaria*); the State threatened tricolored blackbird (*Agelaius tricolor*); the State candidate listed endangered Crotch's bumble bee (*Bombus crotchii*) and western bumble bee (*Bombus occidentalis*); and the State species of special concern burrowing owl (*Athene cunicularia*), coast horned lizard (*Phrynosoma blainvillii*), Monterey shrew (*Sorex ornatus salarius*), and Northern California legless lizard (*Anniella pulchra*).

Special Status Plants

Plants listed pursuant to the federal Endangered Species Act, CESA, and the Native Plant Protection Act (NPPA), as well as other special status plants identified by the California Native Plant Society Rare Plant Ranking System may occur in many locations within the Plan. State listed species with the potential to occur include but are not limited to the State endangered Seaside bird's-beak and State threatened and federally endangered Monterey gilia.

The revised initial study on page 40 states that, "no Federal or State listed plants were observed within the Specific Plan area." However, the field reconnaissance survey did not survey for special status plants during the appropriate bloom period. As such, CDFW recommends that a qualified botanist conduct a habitat assessment for any projects tiered from this Plan well in advance of project implementation to determine if the project area or its vicinity contains suitable habitat for special-status plant species. If suitable habitat is present, CDFW recommends that individual project sites be surveyed for special-status plants by a qualified botanist following the "Protocols for surveying and evaluating impacts to special status native plant populations and sensitive natural communities" (California Department of Fish and Wildlife 2018). This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period.

If special-status plants are detected, CDFW recommends special-status plant species be avoided whenever possible by delineating and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

If a State-listed or NPPA rare plant species, such as the State endangered Monterey gilia, is identified during botanical surveys conducted as part of a project tiered from this Plan, consultation with CDFW is warranted to determine if the project can avoid take of that species. If take cannot be avoided, take authorization would need to occur through

Guido Persicone, Community Development Director
Community Development Department, City of Monterey
Page 5

issuance of an ITP pursuant to Fish and Game section 2081 subdivision (b) or California Code of Regulations, title 14, section 786.9, subdivision (b).

Crotch's Bumble Bee and Western Bumble Bee

The NOP states on page C-10, that the planning area has a low potential for these species due to lack of sightings recorded on CNDDDB. CDFW does not concur with this conclusion due to the CNDDDB being a positive occurrence database only, which can be reliable for determining presence of a species but unreliable as a primary source for concluding absence. For all future projects tiered from this Plan, CDFW recommends conducting a habitat assessment for Crotch's bumble bee (CBB) and Western bumble bee (WBB). If suitable habitat is present, CDFW recommends conducting protocol surveys following the "Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species" (CDFW 2023). This survey protocol recommends conducting three onsite surveys during biological studies to document the presence or absence of this species. "Each survey should ideally be spaced 2-4 weeks apart during the Colony Active Period to ensure that they cover a range of dates and account for variability in resource use by the candidate species and floral resource phenology within the site" (CDFW 2023).

If CBB or WBB needs to be captured or handled as part of the survey effort, please note that a 2081(a) Memorandum of Understanding (MOU) with CDFW will be needed (CDFW 2023). If CBB or WBB is found at any point during surveys or during the construction of a project, consultation with CDFW is warranted to determine if the project can avoid take. If take cannot be avoided, take authorization is warranted prior to initiating or continuing with ground-disturbing activities to comply with CESA. Take authorization would occur through issuance of an Incidental Take Permit (ITP) by CDFW, pursuant to Fish and Game section 2081 subdivision (b).

Cumulative Impacts

Given that the Plan serves primarily as a planning tool and that future project-level CEQA documents are expected to be tiered from it, CDFW recommends that a cumulative impact analysis be conducted for all potential biological resources that will either be significantly or potentially significantly impacted by implementation of the this Plan, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the any future project, even if those impacts are expected to be relatively small (i.e. less than significant). CDFW recommends cumulative impacts be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the project. An appropriate resource study area identified and utilized

Guido Persicone, Community Development Director
Community Development Department, City of Monterey
Page 6

for this analysis is advised. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

California Endangered Species Act

Reasonably foreseeable future projects tiered from this Plan may be subject to CDFW's regulatory authority pursuant to CESA. In the event that species listed under CESA are detected during surveys for these projects, consultation with CDFW is warranted to discuss how to implement the project and avoid "take," or if avoidance is not feasible, to acquire a State ITP, pursuant to Fish and Game Code section 2081 subdivision (b), prior to any ground disturbing activities. In addition, CDFW advises that mitigation measures for the CESA listed species be fully addressed in the CEQA document prepared for any future project tiered from this Plan.

CDFW also recommends that the DEIR for this Plan include the CESA recommendations above and advises that projects tiered from this Plan retain a qualified biologist to determine if potential impacts to CESA listed species may require the need to obtain a 2081 ITP.

Lake and Stream Alteration

Reasonably foreseeable future projects tiered from this Plan may be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires project proponents to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial in nature. For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration (LSA) Program at (559) 243-4593, or R4LSA@wildlife.ca.gov.

CDFW therefore recommends that the DEIR for this Plan include information related to these requirements of Fish and Game code and advise that projects tiered from this Plan retain a qualified biologist to determine if potential impacts to streams may require the need to obtain a 1600 LSA Agreement.

Nesting birds

CDFW recommends that all projects tiered from this Plan occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February 15 through September 15), each future

Guido Persicone, Community Development Director
Community Development Department, City of Monterey
Page 7

project applicant is responsible for ensuring that implementation of their project does not result in a violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes.

To evaluate future project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct an assessment of nesting habitat during biological surveys in support of each project's CEQA document, and then conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around each future project site to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from each future project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction areas would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

CEQA Alternatives Analysis

CDFW recommends that the information and results obtained from the cumulative impacts analysis conducted as part of this Plan's DEIR be used to develop and modify the Plan's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. Please note that for all future projects tiered from this Plan, when efforts to avoid and minimize have been exhausted, remaining impacts to sensitive biological resources may need to be mitigated to reduce impacts to a less than significant level, if feasible.

Guido Persicone, Community Development Director
Community Development Department, City of Monterey
Page 8

CNDDDB

Please note that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. All project's tiered from this Plan should adequately assess any potential project-related impacts to biological resources by ensuring biological surveys are conducted by a qualified wildlife biologist during the appropriate survey period(s) and using the appropriate protocol survey methodology as warranted in order to determine whether or not any special status species are present at or near the project area.

Federally Listed Species

CDFW recommends projects tiered from this Plan consult with the USFWS on potential impacts to federally listed species including, but not limited to Monterey gilia and Monterey spineflower (*Chorizanthe pungens* var. *pungens*) depending on the location of the project. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground disturbing activities.

Environmental Data

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, Section 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

Filing Fees

The Plan, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be

Guido Persicone, Community Development Director
Community Development Department, City of Monterey
Page 9

operative, vested, and final. (Cal. Code Regs, tit. 14, Section 753.5; Fish & G. Code, Section 711.4; Pub. Resources Code, Section 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City of Marina's Community Development Department in identifying and mitigating this Plan's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to Evelyn Barajas-Perez, Environmental Scientist, at (805) 503-5738 or evelyn.barajas-perez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

5343A684FF02469...

Bob Stafford for Julie A. Vance
Regional Manager

ec: California Department of Fish and Wildlife
CESA R4CESA@wildlife.ca.gov
LSA R4LSA@wildlife.ca.gov

State Clearinghouse
Governor's Office of Planning and Research
State.Clearinghouse@opr.ca.gov

U.S. Fish and Wildlife Service
FWS steve_henry@fws.gov

Guido Persicone, Community Development Director
Community Development Department, City of Monterey
Page 10

REFERENCES

California Department of Fish and Wildlife. 2018. Protocols for surveying and evaluating impacts to special status native plant populations and sensitive natural communities. California Department of Fish and Wildlife, Sacramento, California, USA.

California Department of Fish and Wildlife. 2023. Survey considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. California Department of Fish and Wildlife, Sacramento, California, USA.

Letter A3

COMMENTER: Julie A. Vance, Regional Manager, California Department of Fish and Wildlife

DATE: May 31, 2024

Response A3.1

The commenter expresses appreciation for the opportunity to comment and describes the California Department of Fish and Wildlife's (CDFW's) role as a Trustee Agency and Responsible Agency. The commenter states that CDFW has jurisdiction over fully protected species.

This comment is noted. This comment is general and does not pertain to sufficiency of the Draft EIR or CEQA process. As such, no further response is necessary.

Response A3.2

The commenter states that specified types of infrastructure projects may be eligible for an Incidental Take Permit.

This comment is noted. This comment is a general statement about Incidental Take Permits and is not specific to the Draft EIR. As such, no further response is necessary.

Response A3.3

The commenter states that CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds.

This comment is noted. This comment is a general statement about nesting bird protection and is not specific to the Draft EIR. Nesting birds are discussed in Section 4.4, *Less Than Significant with Mitigation*, of the Draft EIR and Section 4, *Biological Resources*, of the Initial Study (Appendix A of the Draft EIR). No further response is necessary.

Response A3.4

The commenter provides a summary of the project.

The provided summary is accurate. This comment does not pertain to the analysis within the Draft EIR, and no further response is necessary.

Response A3.5

The commenter refers to the CDFW comment letter submitted on the Draft EIR's Notice of Preparation (NOP), and states that CDFW has concerns about the ability of some of the Draft EIR's proposed mitigation measures to reduce impacts to white-tailed kite, Crotch's bumble bee, and western bumble bee.

As shown in Table 1-1 of Chapter 1, *Introduction*, of the Draft EIR, CDFW's comment letter on the NOP was received. Comments raised in the CDFW NOP letter are discussed in Section 4.4, *Less Than Significant with Mitigation*, of the Draft EIR and Section 4, *Biological Resources*, of the Initial Study (Appendix A of the Draft EIR). This comment does not raise concerns with a specific mitigation measure or analysis within the Draft EIR. Responses A3.6 and A3.7 include more detailed responses to specific comments pertaining to white-tailed kite, Crotch's bumble bee, and western bumble bee.

Response A3.6

The commenter recommends revising Mitigation Measure BIO-1(g) to include a delineation of a 0.5-mile minimum no-disturbance buffer around active White-tailed kite nests. The commenter requests that the required buffer remain in place until breeding season has ended or until a qualified biologist has determined birds have fledged the nest.

Mitigation Measure BIO-1(g) requires a minimum 500-foot buffer for White-tailed kites. This minimum buffer considers the level of development and terrain within 500 feet of White-tailed kite nests. The buffer distance would be established at the discretion of the qualified biologist on a case-by-case basis, and may exceed the minimum 500 feet, as appropriate. The commenter does not provide evidence that a 500-foot minimum buffer would be insufficient; therefore, this revision to Mitigation Measure BIO-1(g) has not been made.

In response to this comment, the following revisions to the Draft EIR have been made to reflect the commenter's suggested language related to fledging:

Executive Summary

Page ES-13:

BIO-1(g) Pre-Construction Nesting Birds Surveys

All projects developed under the Specific Plan shall implement Mitigation Measure BIO-1(g). Project activity shall restrict ground disturbance, building demolition, and vegetation removal activities to the non-breeding season (September 16 to January 31) when feasible. For ground disturbance, building demolition, and vegetation removal activities that must be conducted during the bird nesting season (February 1 to September 15), general pre-construction nesting bird surveys shall be conducted by a qualified biologist, including for, but not limited to, the tricolored blackbird and White-tailed kite, not more than 14 days prior to construction activities involving ground clearing, vegetation removal/trimming, or building demolition. The surveys shall include the disturbance area plus a 200-foot buffer around the site if feasible, and a 500-foot buffer for tricolored blackbird and White-tailed kite. If active nests are located, an appropriate avoidance buffer shall be established within which no work activity shall be allowed which would impact these nests. The avoidance buffer would be established by the qualified biologist on a case-by-case basis based on the species and site conditions. In no cases shall the buffer be smaller than 50 feet for non-raptor bird species, 200 feet for raptor species, or a 500 foot buffer for White-tailed kite. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. If fully protected White-tailed kites are documented nesting within 500 feet of construction activities, CDFW shall be consulted on appropriate avoidance and minimization methods. The buffer area(s) shall be closed to all construction personnel and equipment until breeding season has ended or until a City-approved biologist has determined the birds have fledged and are no longer reliant upon the nest or parental care for survival. juveniles have fledged and the nest is inactive. City-approved Biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the buffer.

Section 4.4, Less than Significant with Mitigation

Page 4.4-8:

BIO-1(g) Pre-Construction Nesting Birds Surveys

All projects developed under the Specific Plan shall implement Mitigation Measure BIO-1(g). Project activity shall restrict ground disturbance, building demolition, and vegetation removal activities to the non-breeding season (September 16 to January 31) when feasible. For ground disturbance, building demolition, and vegetation removal activities that must be conducted during the bird nesting season (February 1 to September 15), general pre-construction nesting bird surveys shall be conducted by a qualified biologist, including for, but not limited to, the tricolored blackbird and White-tailed kite, not more than 14 days prior to construction activities involving ground clearing, vegetation removal/trimming, or building demolition. The surveys shall include the disturbance area plus a 200-foot buffer around the site if feasible, and a 500-foot buffer for tricolored blackbird and White-tailed kite. If active nests are located, an appropriate avoidance buffer shall be established within which no work activity shall be allowed which would impact these nests. The avoidance buffer would be established by the qualified biologist on a case-by-case basis based on the species and site conditions. In no cases shall the buffer be smaller than 50 feet for non-raptor bird species, 200 feet for raptor species, or a 500-foot buffer for White-tailed kite. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. If fully protected White-tailed kites are documented nesting within 500 feet of construction activities, CDFW shall be consulted on appropriate avoidance and minimization methods. The buffer area(s) shall be closed to all construction personnel and equipment until breeding season has ended or until a City-approved biologist has determined the birds have fledged and are no longer reliant upon the nest or parental care for survival. juveniles have fledged and the nest is inactive. City-approved Biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the buffer.

Response A3.7

The commenter expresses disagreement with the Draft EIR's conclusion that the Plan area has a low potential for Crotch's bumble bee and western bumble bee, because the California Natural Diversity Database is a positive occurrence database and is unreliable source for concluding absence of a species. The commenter recommends conducting a habitat assessment, and protocol surveys if suitable habitat is present. If surveys indicate the presence or potential presence of Crotch's bumble bee and western bumble bee, CDFW recommends consultation.

The Biological Resources Assessment (Appendix E of the Draft EIR) utilizes results from the California Natural Diversity Database and concludes that Crotch's bumble bee and western bumble bee are not expected to occur in the DVSP area. Occurrence is not expected because there are no known occurrences of Crotch's bumble bee within five miles of the DVSP area and only one known occurrence of western bumble bee within five miles of the DVSP area. Additionally, the Biological Resources Assessment notes there is a lack of suitable habitat in the DVSP area because it is largely developed. However, the commenter is correct in that the California Natural Diversity Database is a positive occurrence database only, and the lack of previously-recorded occurrences does not eliminate the possibility that bumble bees are present in the DVSP area.

The following revisions to the Draft EIR, including additional provisions for Crotch's bumble bee and western bumble bee habitat assessments and avoidance under Mitigation Measure BIO-1(e) (Special Status Wildlife Pre-Construction Surveys), have been made in response to this comment:

Executive Summary

Page ES-11, Table ES-1:

BIO-1(e) Special Status Wildlife Pre-Construction Surveys

Projects that identify potential impacts to special status wildlife species during the biological screening and assessment under Mitigation Measure BIO-1(a) shall implement Mitigation Measure BIO-1(e).

...

Bumble Bee Habitat Assessment and Avoidance

In undeveloped areas of the DVSP, including annual grassland, sandmat manzanita, ruderal, bare, and ice plant mats, where vegetation removal and/or ground disturbance is planned, a qualified biologist, with experience differentiating bumble bees from other bee species and familiarity with bee activity and nesting behaviors, shall conduct a field habitat assessment to determine if Crotch's bumble bee or western bumble bee could occur on the site. The habitat assessment shall evaluate all work areas and access routes for bee habitat quality, and signs of presence or potential for presence, including surveying for suitable bumble bee foraging native plants, bumble bee activity, and nesting sites. The biologist shall take photos of any bumble bees or bumble bee resources observed.

- For projects within undeveloped areas that are larger than one acre, or adjacent to undeveloped areas north of Reservation Road, the habitat assessment shall be conducted during the environmental review or project planning phase to identify potential agency consultation requirements.
- For projects within undeveloped areas that are less than one acre and isolated by development, the habitat assessment can be conducted during wildlife pre-construction surveys.

If the habitat assessment determines there is suitable nesting and/or foraging habitat, prior to initial ground disturbance, a qualified biologist/entomologist familiar with the species behavior and life history shall perform a minimum of three on-site surveys prior to vegetation removal and/or grading to determine the presence/absence of Crotch's bumble bee and western bumble bee. Each survey should be spaced 2- to 4-weeks apart during the Colony Active Period (April to August) (CDFW 2023). Surveys should occur during the day (at least an hour after sunrise and at least two hours before sunset, though ideally between 9:00 a.m. to 1:00 p.m.) on warm, but not hot, sunny days (65 to 90 degrees Fahrenheit), with low wind (less than 8 miles per hour). If any Crotch's bumble bee or western bumble bee nests are observed, a 50-foot avoidance buffer shall be installed around the nest. If Crotch's bumble bee and/or western bumble bee are determined to be present, the project proponent shall consult with CDFW and obtain an Incidental Take Permit in accordance with the California Endangered Species Act prior to initiating any vegetation removal or ground disturbance on the site.

If no Crotch bumble bee or western bumble bee are found during the focused surveys, but the habitat assessment identified suitable nesting, foraging, or overwintering habitat within the work area, a biological monitor shall be onsite during vegetation or ground disturbing activities that take place during any of the Queen and Gyne Flight Period and Colony Active Period (February to November). If Crotch's bumble bee and/or western bumble bee are observed during any phase of the project, all work shall stop and CDFW shall be notified to determine the appropriate avoidance strategies and next steps.

If Crotch's bumble bee and western bumble bee have not been listed under the California Endangered Species Act and are no longer candidate species at the time of project implementation, habitat assessments and protocol surveys as described above, would not be required.

Section 4.4, Less than Significant with Mitigation

Page 4.4-4:

State and/or federally listed animal species with the potential to occur in areas of species-specific, suitable natural habitat within the Specific Plan area include tricolored blackbird and Smith's blue butterfly. Non-listed special status species that may also occur in the Specific Plan area include; 1) northern California legless lizard; 2) coast horned lizard; 3) burrowing owl; 4) white-tailed kite; 5) Monterey shrew; and 6) birds protected by CFGC. Further, while Crotch's bumble bee and western bumble bee are not expected to occur in the Specific Plan area (Appendix E) the Specific Plan area is within their current range. In addition to the construction activities described above, construction noise and human presence may also cause impacts to special status species if present. Implementation of Mitigation Measures BIO-1(a) through BIO-1(h) would reduce these impacts to a less than significant level.

Page 4.4-6:

BIO-1(e) Special Status Wildlife Pre-Construction Surveys

Projects that identify potential impacts to special status wildlife species during the biological screening and assessment under Mitigation Measure BIO-1(a) shall implement Mitigation Measure BIO-1(e).

...

BUMBLE BEE HABITAT ASSESSMENT AND AVOIDANCE

In undeveloped areas of the DVSP, including annual grassland, sandmat manzanita, ruderal, bare, and ice plant mats, where vegetation removal and/or ground disturbance is planned, a qualified biologist, with experience differentiating bumble bees from other bee species and familiarity with bee activity and nesting behaviors, shall conduct a field habitat assessment to determine if Crotch's bumble bee or western bumble bee could occur on the site. The habitat assessment shall evaluate all work areas and access routes for bee habitat quality, and signs of presence or potential for presence, including surveying for suitable bumble bee foraging native plants, bumble bee activity, and nesting sites. The biologist shall take photos of any bumble bees or bumble bee resources observed.

- For projects within undeveloped areas that are larger than one acre, or adjacent to undeveloped areas north of Reservation Road, the habitat assessment shall be conducted during the environmental review or project planning phase to identify potential agency consultation requirements.
- For projects within undeveloped areas that are less than one acre and isolated by development, the habitat assessment can be conducted during wildlife pre-construction surveys.

If the habitat assessment determines there is suitable nesting and/or foraging habitat, prior to initial ground disturbance, a qualified biologist/entomologist familiar with the species behavior and life history shall perform a minimum of three on-site surveys prior to vegetation removal and/or grading to determine the presence/absence of Crotch's bumble bee and western bumble bee. Each survey should be spaced 2- to 4-weeks apart during the Colony Active Period (April to August) (CDFW 2023). Surveys should occur during the day (at least an hour after sunrise and at least two hours before sunset, though ideally between 9:00 a.m. to -1:00 p.m.) on warm, but not hot, sunny days (65 to 90 degrees Fahrenheit), with low wind (less than 8 miles per hour). If any Crotch's bumble bee or western bumble bee nests are observed, a 50-foot avoidance buffer shall be installed around the nest. If Crotch's bumble bee and/or western bumble bee are determined to be present, the project proponent shall consult with CDFW and obtain an Incidental Take Permit in accordance with the California Endangered Species Act prior to initiating any vegetation removal or ground disturbance on the site.

If no Crotch bumble bee or western bumble bee are found during the focused surveys, but the habitat assessment identified suitable nesting, foraging, or overwintering habitat within the work area, a biological monitor shall be onsite during vegetation or ground disturbing activities that take place during any of the Queen and Gyne Flight Period and Colony Active Period (February to November). If Crotch's bumble bee and/or western bumble bee are observed during any phase of the project, all work shall stop and CDFW shall be notified to determine the appropriate avoidance strategies and next steps.

If Crotch's bumble bee and western bumble bee have not been listed under the California Endangered Species Act and are no longer candidate species at the time of project implementation, habitat assessments and protocol surveys as described above, would not be required.

REPORTING

A report of all pre-construction and pre-demolition survey results shall be submitted to the City for its review prior to the start of demolition. The report shall include a description of the survey methodology for each species, the environmental conditions at the time of the survey(s), the results of the survey, any requirements for addressing special status species identified during surveys, and the biological qualifications of the surveyors. The report shall be accompanied by maps and figures showing the location of any special status species occurrences and associated avoidance buffers.

The above revisions do not require recirculation of the Draft EIR. Impacts to special status wildlife species were already considered potentially significant in the Draft EIR, and a new significant environmental impact has not been identified; rather, the revisions amplify an existing mitigation measure in the Draft EIR.

Response A3.8

The commenter states that the California Natural Diversity Database is populated by voluntary submissions of species detections, and a lack of an occurrence record in the database does not mean a species is not present.

This comment is noted. This comment does not raise concerns with a specific mitigation measure or analysis within the Draft EIR. As such, no further response is required.

Response A3.9

The commenter notes that future projects within the DVSP area that substantially change the bed, bank, and channel of any river, stream, or lake would be subject to CDFW's regulatory authority.

This comment is noted. Development facilitated by the DVSP would comply with this requirement, if applicable. This comment does not raise concerns with a specific mitigation measure or analysis within the Draft EIR and no further response is necessary.

Response A3.10

The commenter requests that any special-status species and natural communities detected during surveys be reported to the California Natural Diversity Database.

This comment is noted. One special-status plant species, sandmat manzanita (*Arctostaphylos pumila*), was observed in the DVSP area and reported to the California Natural Diversity Database. The City will comply with this requirement for future site-specific surveys associated with specific development projects under the DVSP.

Response A3.11

The commenter notes that payment of filing fees will be required when filing the Notice of Determination for the EIR.

This comment is noted. Should the City certify the Final EIR and approve the DVSP, the City will pay filing fees as required.

Response A3.12

The commenter expresses their appreciation for the opportunity to comment and provides contact information. The commenter attached CDFW's comment letter submitted on the NOP.

This comment is noted. As shown in Table 1-1 of Chapter 1, *Introduction*, of the Draft EIR, CDFW's NOP comment letter was received. Comments raised in the CDFW NOP letter are discussed in Section 4.4, *Less Than Significant with Mitigation*, of the Draft EIR and Section 4, *Biological Resources*, of the Initial Study (Appendix A of the Draft EIR). Because this comment does not raise concerns with the Draft EIR analysis or the sufficiency of the responses to the NOP comments, no further response is required.

Kayleigh Limbach

From: Guido Persicone <gpersicone@cityofmarina.org>
Sent: Thursday, June 6, 2024 2:20 PM
To: Kayleigh Limbach; Megan Jones
Cc: Bryce Haney
Subject: [EXT] FW: Comments on Council Agenda Item, November 7, 2023 Meeting

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From: Anita Shepherd-Sharp <AShepherd@cityofmarina.org>
Sent: Tuesday, November 7, 2023 3:01 PM
To: Executive Group <ExecutiveGroup@cityofmarina.org>
Subject: FW: Comments on Council Agenda Item, November 7, 2023 Meeting

Please see Peter Le's comments

From: PETER LE <peter381@sbcglobal.net>
Sent: Tuesday, November 7, 2023 2:55 PM
To: Bruce Delgado <Bdelgado62@gmail.com>; Cristina Medina Dirksen <cmedinadirksen@cityofmarina.org>; Kathy Biala <kbiala@cityofmarina.org>; Liesbeth Visscher <councilmember_visscher@cityofmarina.org>; Brian McCarthy <bmccarthy@cityofmarina.org>
Cc: Marina <Marina@cityofmarina.org>; Layne Long <llong@cityofmarina.org>
Subject: Comments on Council Agenda Item, November 7, 2023 Meeting

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

November 7, 2023

Marina City Council
211 Hillcrest Ave
Marina, CA 93933

Dear Mayor Delgado and Councilmembers:

re: Public Comments on Item 13b, November 7, 2023 Meeting

I would like to submit comments and questions on Item 13b, Draft Downtown Vitalization Specific Plan (DRSP) of the Council agenda of the regular November 7, 2023 meeting as follows:

1. Can City staff and city consultants name a city, town, or community in California that has a vibrant and successful downtown with speed limits of 40 and 35 miles per hour (Del Monte Boulevard and Reservation Road)?

2. Several vacant and under-utilized parcels of land in the Downtown area have not been developed for over three decades for various reasons. How could this new Downtown Specific Plan realistically enable these vacant and underutilized parcels of land developed?

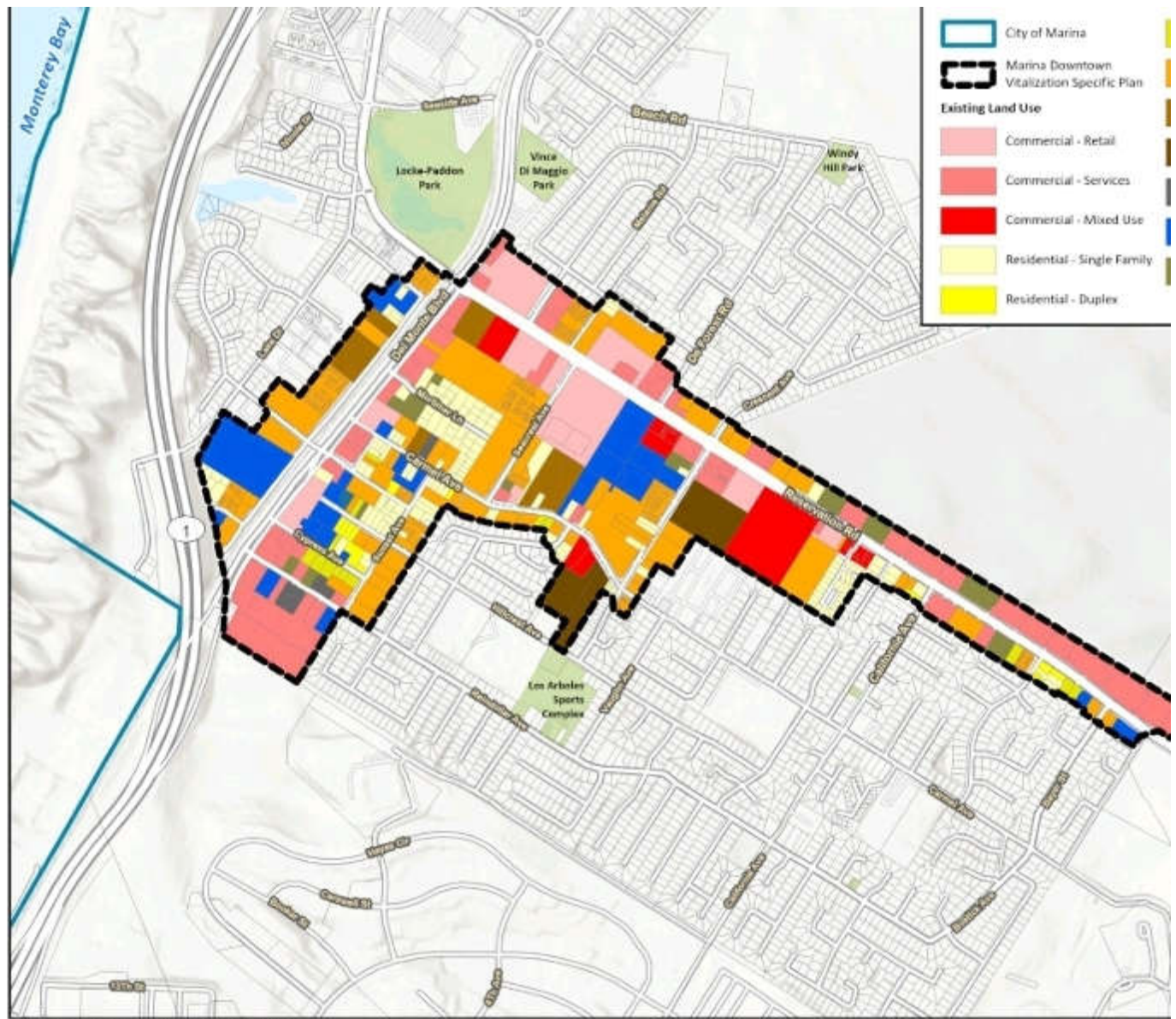
3. One example is the vacant piece of land for sale that one developer wanted to develop a second card room. For over three decades, various developers proposed apartments, storage buildings, light industrial, etc. at this site and City of Marina has denied these proposed projects.

In the Draft DVSP, this parcel is labeled Transition and zoned Commercial. Some Marina residents imagined that this site will be developed as a neighborhood commercial site such as 7-11. But the issue is whether this vision is realistic and financially viable.

Can City staff and city consultants provide some potential development for this vacant site?

Sincerely,

Peter Le

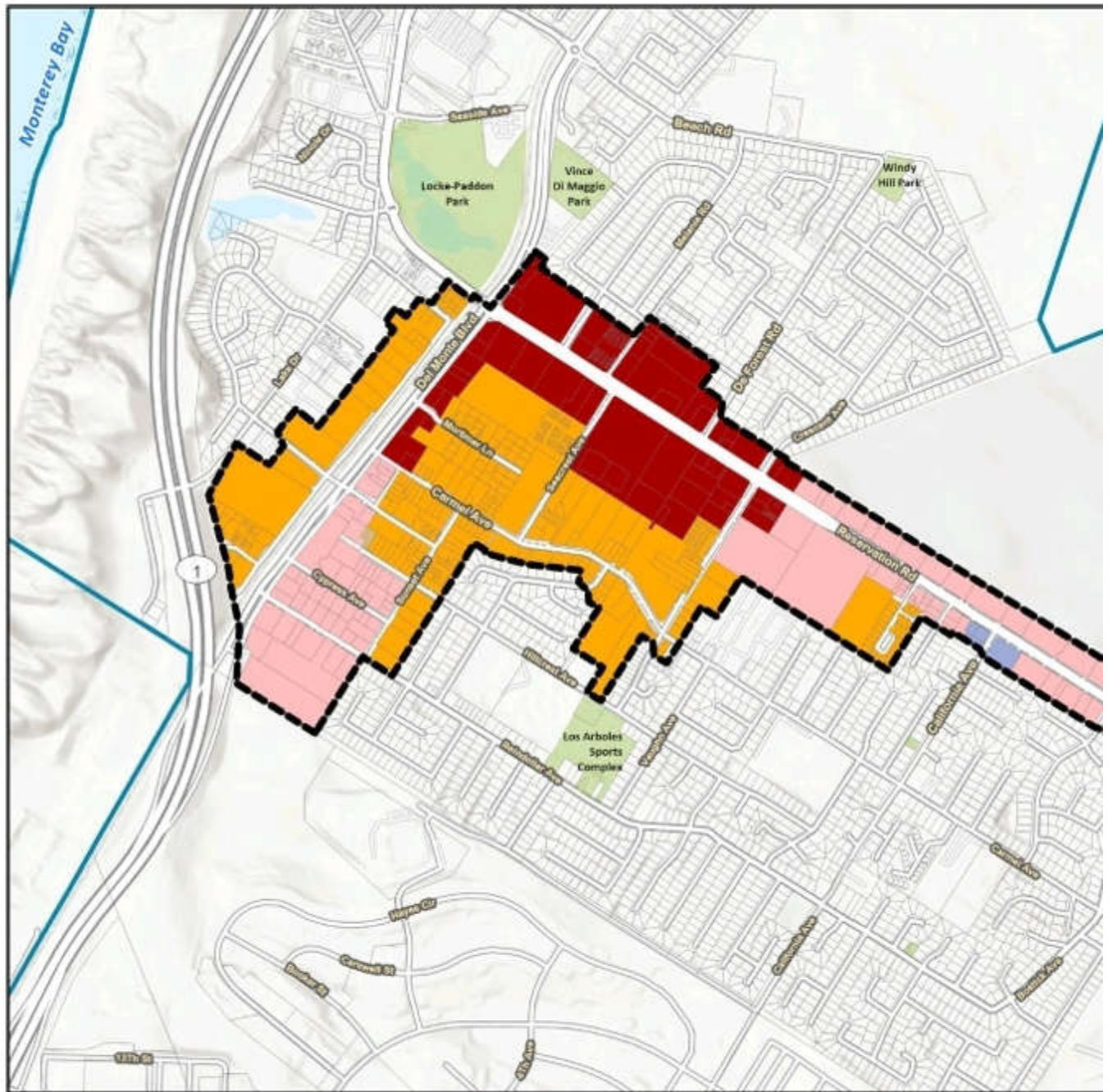


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Additional data provided by the City of Marina, 2022.

Map 2-3. Existing land uses in Downtown Marina.

October 2023





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Additional data provided by the City of Marina, 2022.

Map 4-1. Land Use Plan



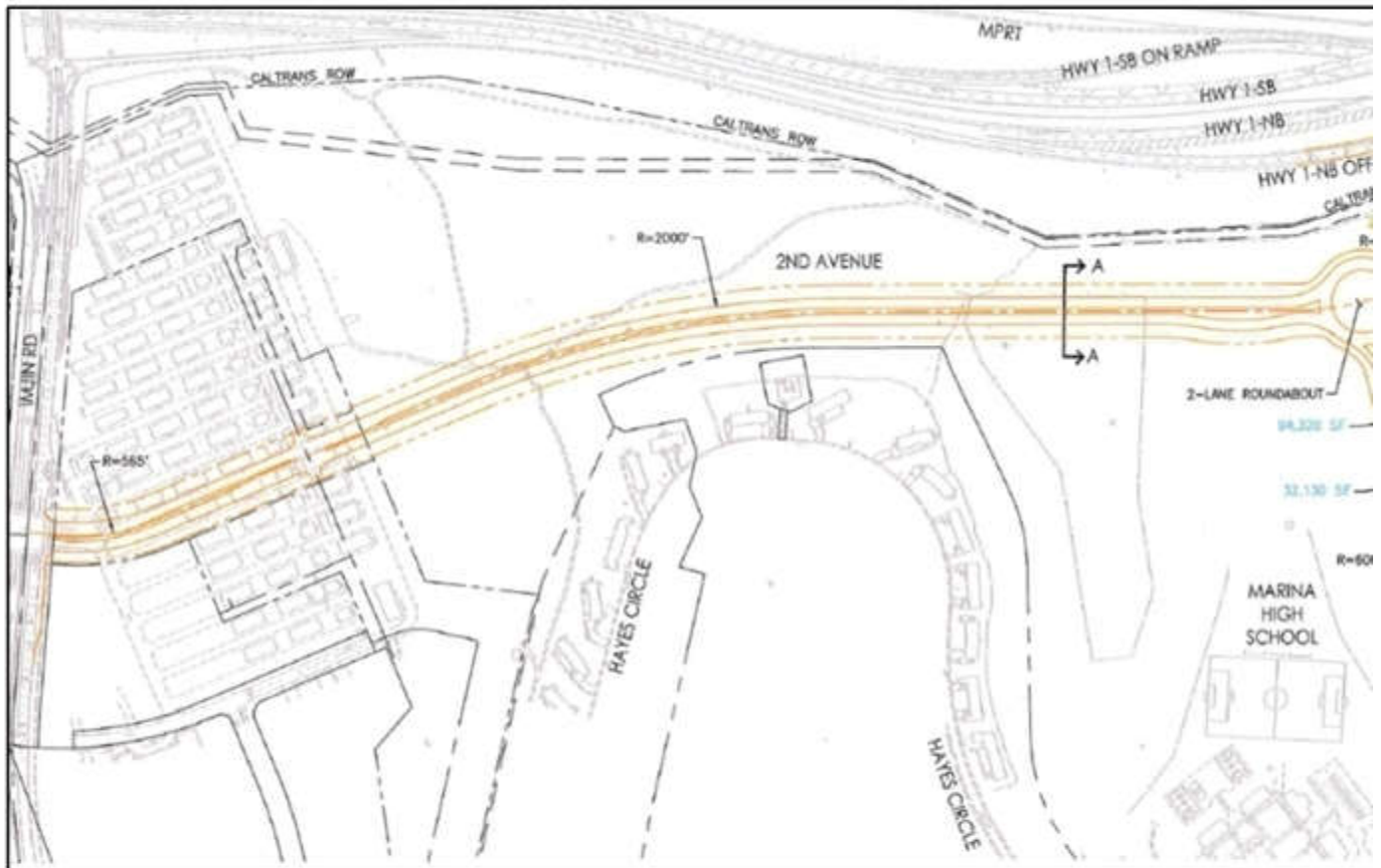
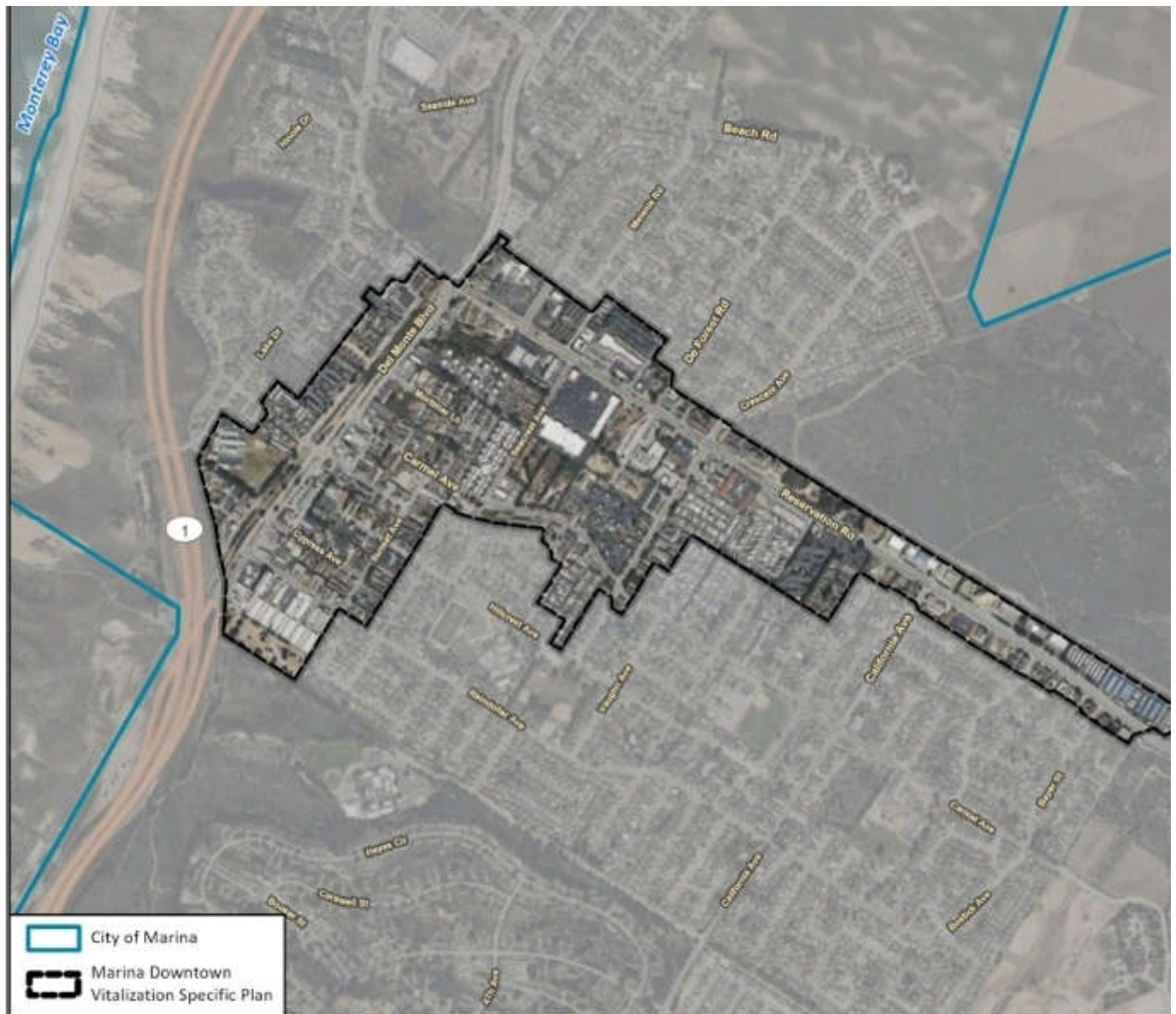


Figure 5-2. Illustrated concept of Del Monte Boulevard extension.

October 2023





Map 2-2. Specific Plan area.

April 2023



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correct our internal records. Please then delete the original message (including any attachments) in its entirety. Thank you.

Kayleigh Limbach

To: Guido Persicone
Subject: RE: [EXT] FW: Comments on Council Agenda Item, November 7, 2023 Meeting

From: PETER LE <peter381@sbcglobal.net>
Sent: Tuesday, November 7, 2023 2:55 PM
To: Bruce Delgado <Bdelgado62@gmail.com>; Cristina Medina Dirksen <cmedinadirksen@cityofmarina.org>; Kathy Biala <kbiala@cityofmarina.org>; Liesbeth Visscher <councilmember_visscher@cityofmarina.org>; Brian McCarthy <bmccarthy@cityofmarina.org>
Cc: Marina <Marina@cityofmarina.org>; Layne Long <llong@cityofmarina.org>
Subject: Comments on Council Agenda Item, November 7, 2023 Meeting

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November 7, 2023

Marina City Council
211 Hillcrest Ave
Marina, CA 93933

Dear Mayor Delgado and Councilmembers:

re: Public Comments on Item 13b, November 7, 2023 Meeting

I would like to submit comments and questions on Item 13b, Draft Downtown Vitalization Specific Plan (DRSP) of the Council agenda of the regular November 7, 2023 meeting as follows:

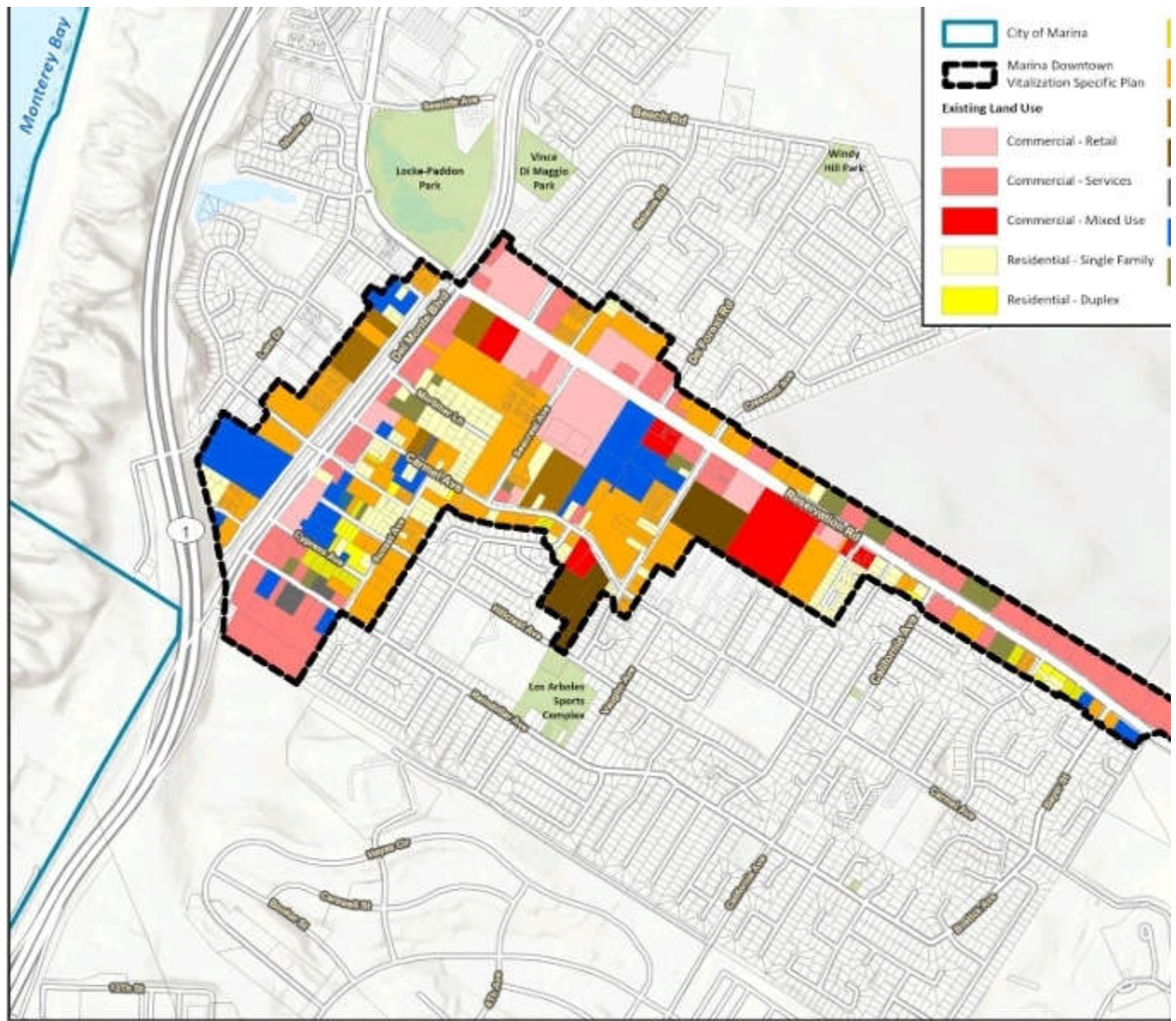
1. Can City staff and city consultants name a city, town, or community in California that has a vibrant and successful downtown with speed limits of 40 and 35 miles per hour (Del Monte Boulevard and Reservation Road)?

2. Several vacant and under-utilized parcels of land in the Downtown area have not been developed for over three decades for various reasons. How could this new Downtown Specific Plan realistically enable these vacant and underutilized parcels of land developed?

3. One example is the vacant piece of land for sale that one developer wanted to develop a second card room. For over three decades, various developers proposed apartments, storage buildings, light industrial, etc. at this site and City of Marina has denied these proposed projects. In the Draft DVSP, this parcel is labeled Transition and zoned Commercial. Some Marina residents imagined that this site will be developed as a neighborhood commercial site such as 7-11. But the issue is whether this vision is realistic and financially viable. Can City staff and city consultants provide some potential development for this vacant site?

Sincerely,

Peter Le

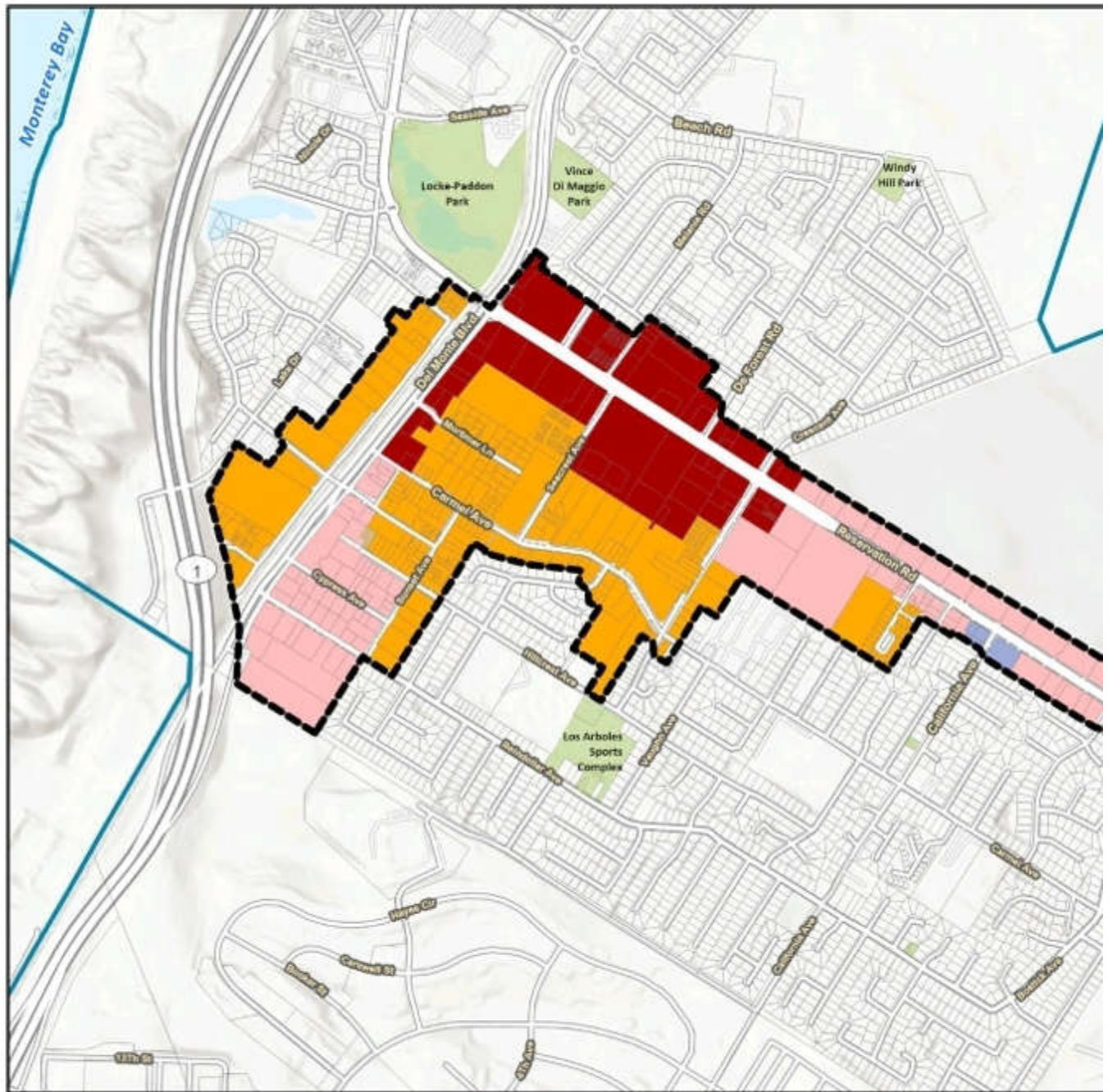


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Additional data provided by the City of Marina, 2022.

Map 2-3. Existing land uses in Downtown Marina.

October 2023





Imagery provided by Esri and its licensors © 2023.
Additional data provided by the City of Marina, 2022.

Map 4-1. Land Use Plan



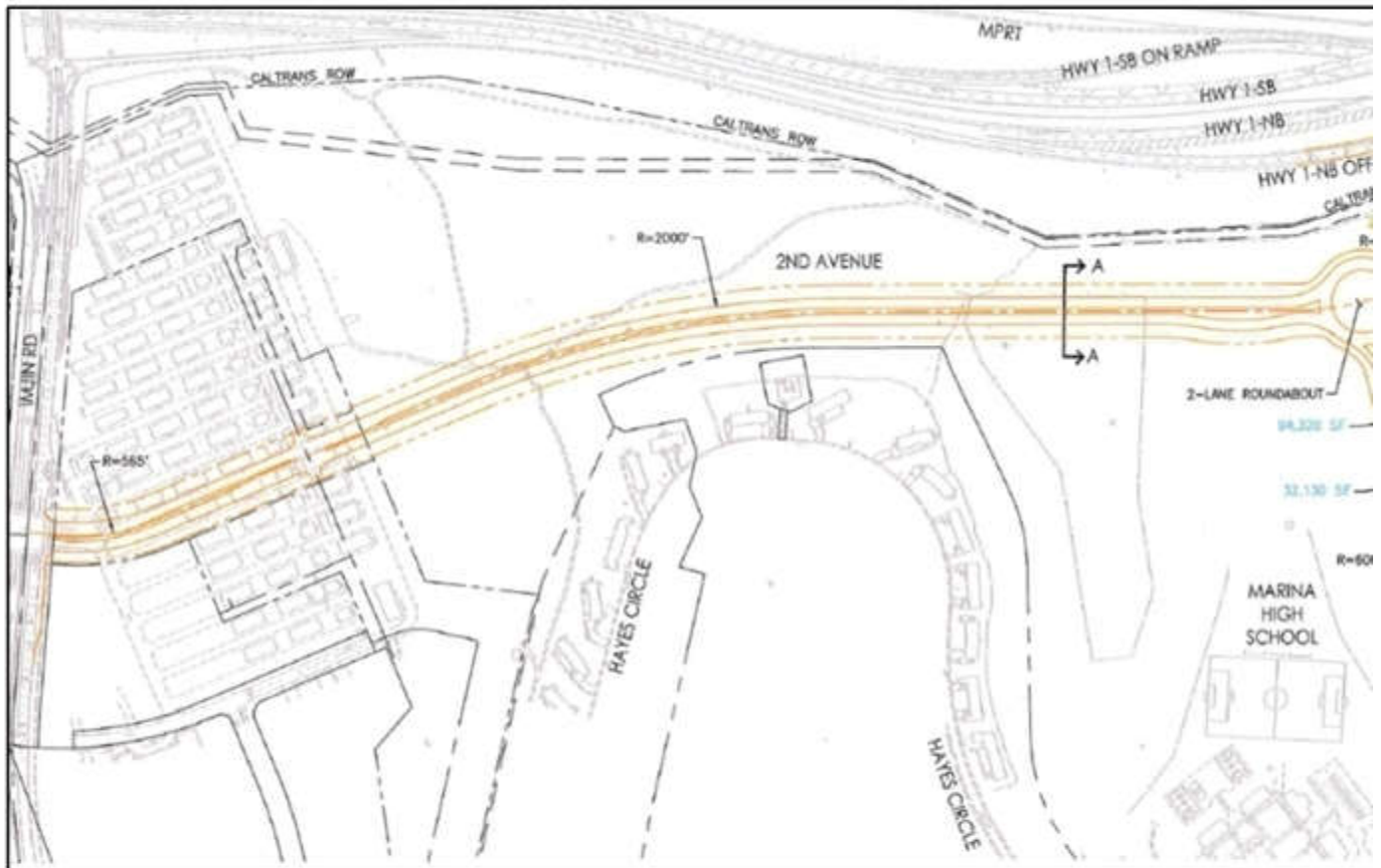


Figure 5-2. Illustrated concept of Del Monte Boulevard extension.

October 2023





Letter I1

Kayleigh Limbach

From: Guido Persicone <gpersicone@cityofmarina.org>
Sent: Monday, May 20, 2024 1:31 PM
To: Megan Jones
Cc: Kayleigh Limbach
Subject: [EXT] FW: Commenting on the Draft EIR for the Downtown Vitalization Specific Plan

CAUTION: This email originated from outside of Rincon Consultants. Be cautious before clicking on any links, or opening any attachments, until you are confident that the content is safe .

From: PETER LE <peter381@sbcglobal.net>
Date: May 20, 2024 at 11:33:00 PDT
To: Guido Persicone <gpersicone@cityofmarina.org>
Cc: Bruce Delgado <Bdelgado62@gmail.com>, Liesbeth Visscher <councilmember_visscher@cityofmarina.org>, Kathy Biala <kbiala@cityofmarina.org>, Brian McCarthy <bmccarthy@cityofmarina.org>, Jenny McAdams <jmcadams@cityofmarina.org>, glenn.woodson@gmail.com, kaleolani.aw@gmail.com, hyunsoohur@gmail.com, vjacobsen@yahoo.com, srsurinder@aol.com, gbaron31@gmail.com
Subject: Commenting on the Draft EIR for the Downtown Vitalization Specific Plan

May 19, 2024

City of Marina

Attn: Guido Persicone

Community Development Director

211 Hillcrest Avenue

Marina, California 93933

gpersicone@cityofmarina.org

Dear Mr. Persicone:

re: Commenting on the Draft EIR for the Downtown Vitalization Specific Plan

I would like to submit comments on the Draft EIR for the Downtown Vitalization Specific Plan as described in the City Notice of Availability dated April 9, 2024. My comments are as shown below:

1. On November 19, 2023 I submitted written comments on the Scope of the EIR for the Downtown Vitalization Specific Plan to you by email. I also sent copies to Marina City Council and City Manager.

However, Appendix A of the Draft EIR did not show a copy of my comment letter that was sent to you on the Scope of the EIR for the Downtown Vitalization Specific Plan (DRSP).

I formally request that you include my November 19, 2023 letter in Appendix A of the Draft EIR.

2. TRANSPORTATION.

City of Marina previously hired a traffic consulting engineering firm to perform a downtown traffic study. The consulting engineer analyzed several intersections on Del Monte Blvd and Reservation Road as both signalized intersections and circular intersections (roundabouts). It appears that the consulting engineer did not perform any arterial analysis for Reservation Road or as a combined segment that included Del Monte Blvd. The analysis shows that circular intersections or roundabouts provide better levels of services or less traffic delays than signalized intersections, and generate less pollution; not counting other benefits of circular intersections.

However, the consulting engineer recommended only some signalized intersections converted to circular intersections or roundabouts. The consulting engineer recommended the signalized intersections at Del Monte Blvd and Reservation Road not to be converted to circular intersections and did not provide full explanation of the disadvantages nor complete justification on this recommendation.

This is contrary to Marina's policy of advocating the conversion of existing signalized intersections and construction of new circular intersections that are safer and produce less pollution. Therefore, the EIR needs to analyze the downtown transportation system, consider alternatives of signalized intersections versus circular intersections, evaluate alternatives that affect air qualities, traffic delays, and pollution in addition to vehicle miles travelled, and provide accurate assessments and mitigations.

On November 16, 2023 the consulting traffic engineer presented the Road Diet of Del Monte Blvd to the Public Works Commission. Again, the consulting engineer stated that circular intersections or roundabouts are safer for pedestrians. But the consulting engineer did not provide any reason why the existing signalized intersection at Del Monte Blvd and Reservation Road should not be converted to

I1.1

I1.2

I1.3

a circular intersection or roundabout to provide safety to both vehicles and pedestrians, calm traffic, and establish a corner stone of the downtown with attractive landscaping.

The consulting traffic engineer showed the traffic model runs for Del Monte Blvd under different conditions. It showed the travel times on Del Monte Blvd varies between 1 minute 11 seconds and 1 minute 39 seconds. Does that mean that vehicle speeds on Del Monte Blvd will be more than 50 miles per hour after Del Monte Blvd has been converted to a road diet?

I1.3
cont.

3. UTILITIES, FIRE PROTECTION, and AIR QUALITY.

Section 15, Public Services, of the **Initial Study** of Marina Downtown Vitalization Specific Plan discussed future construction of fire and police facilities. But the Initial Study failed to acknowledge and recognize the inadequate fire flows, inadequate residual water pressures, and inadequate peak-hour water pressures currently exist in the downtown specific plan. Future development of the downtown specific plan will worsen the inadequate fire protection services and lower the peak-hour water pressures further; especially for new 3-story and higher buildings.

The Draft EIR does not describe the current deficiencies in fire protection services and does not propose any mitigation with adequate and committed funding to make the downtown specific plan to have adequate fire flows, adequate residual water pressures, and adequate peak hour water pressures.

I1.4

Section 6.1 of the Downtown Vitalization Specific Plan (DVSP) described the 2020 Marina Coast Water District (MCWD) adopted Water Supply Assessment, the MCWD adopted 2020 Urban Water Management Plan, and the MCWD adopted 2020 Water Master Plan.

But Section 6 of DVSP fails to recognize and describe clearly the deficiencies of the existing water supply system that will serve the DVSP as shown in the 2020 adopted Water Master Plan (WMP).

The 2020 WMP shows inadequate fire flows, inadequate residual water pressures, and inadequate peak hour flows in the downtown specific plan. The 2020 Water Master Plan states that the completion of the two new reservoirs on CSUMB property in addition to several other projects, **not yet constructed**, only mitigates the above deficiencies, and does NOT solve these deficiencies entirely. Marina Coast Water District has not presented a comprehensive plan to solve the inadequate fire flows, inadequate residual water pressures, and inadequate peak hour water pressures for the downtown specific plan and Central Marina.

I1.5

Section 6.1 of the DVSP also states that “Project W5 of the 2020 MCWD Water Master Plan, the Lynscott Drive Pipeline Replacement, shown in Figure 6.1, will replace an existing 8-inch pipeline with a new 12-inch pipeline to meet the increase of demand associated with the buildout of this Specific Plan. Map 6-1 shows the existing water system and proposed improvements.” There is no supporting document or engineering analysis in the 2020 Water Master Plan that supports this statement. In fact, a new 12-inch water pipeline on Reservation Road as shown in the WMP is more likely to support the buildout of the DVSP than this Project W5.

Project W5 is a “paper” project since it is not included in the current fee program. Therefore, no money will be collected to construct this project. This typically explains why MCWD has not provided adequate fire flows, adequate residual water pressures, adequate fire storage, and adequate peak hour for over six decades. The 2020 WMP did not provide a comprehensive, realistic, sufficiently funded, and detailed plan to solve these deficiencies for the next 20 years while continuing to allow new construction in the Downtown Specific Plan.

In the meantime, will City of Marina continue to allow new construction in the Downtown Specific Plan with existing deficiencies of the fire protection as described above? City of Marina frequently claimed that there are sufficient fire flows, residual water pressures, and adequate peak-hour pressures in the Downtown Specific Plan and in Central Marina at City Council and public meetings. But City of Marina still could not back up these claims with any engineering or hydraulic analyses, any records of actual field measurements, or any records of flow tests of existing fire hydrants.

11.5
cont.

Similarly, Marina Coast Water District, as owners of all public fire hydrants, has not produced any record of inspection or any fire hydrant flow tests submitted to California State Fire Marshall for the last six decades that show adequate fire flows, adequate residual water pressures, and adequate peak-hour water pressures in the downtown specific plan or in Central Marina. Different engineering consultants hired by Marina Coast Water District to prepare Water Master Plans consistently stated deficiencies in fire protection service in Central Marina that includes Downtown Specific Plan for the last several decades.

Instead of resolving inadequate fire protection service in the downtown specific plan and in Central Marina, Marina Coast Water District committed 8 million dollars to help Castroville and another 18 million dollars to subsidize Seaside two golf courses.

The EIR needs to consider deficiencies in fire protection in the downtown vitalization specific plan such as inadequate fire flows, inadequate residual water pressures, and inadequate peak hour water pressures in the existing conditions. Development of the DVSP will exacerbate these deficiencies and cause more pollution and toxic air due to existing inadequate fire protection services as described above.

11.6

The EIR must rely on valid data and analyses, credible and validated studies, feasible and funded mitigation programs to avoid legal challenges to its assessment of environmental impacts and appropriate mitigations of the implementation of the Downtown Vitalization Specific Plan.

11.7

The Draft EIR did not describe, discuss, or analyze the above issues. The Draft EIR did not analyze nor determine the environmental impacts associated with the above-described deficiencies and propose any required mitigations.

11.8

Sincerely,

Peter Le (signed)

Sent by email to: gpersicone@cityofmarina.org

Mayor Delgado: bdelgado62@gmail.com

Mayor Pro Temp Visscher: councilmember_visscher@cityofmarina.org

Councilmember Biala: kybiala@icloud.com

Councilmember McCarthy: bmccarthy@cityofmarina.org

Councilmember Adams: mcadams@cityofmarina.org

City Manager Layne Long: marina@cityofmarina.org

Cc: Marina Planning Commission

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Kayleigh Limbach

To: Guido Persicone
Subject: RE: [EXT] FW: Comments on Council Agenda Item, November 7, 2023 Meeting

From: PETER LE <peter381@sbcglobal.net>
Sent: Tuesday, November 7, 2023 2:55 PM
To: Bruce Delgado <Bdelgado62@gmail.com>; Cristina Medina Dirksen <cmedinadirksen@cityofmarina.org>; Kathy Biala <kbiala@cityofmarina.org>; Liesbeth Visscher <councilmember_visscher@cityofmarina.org>; Brian McCarthy <bmccarthy@cityofmarina.org>
Cc: Marina <Marina@cityofmarina.org>; Layne Long <llong@cityofmarina.org>
Subject: Comments on Council Agenda Item, November 7, 2023 Meeting

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

November 7, 2023

Marina City Council
211 Hillcrest Ave
Marina, CA 93933

Dear Mayor Delgado and Councilmembers:

re: Public Comments on Item 13b, November 7, 2023 Meeting

I would like to submit comments and questions on Item 13b, Draft Downtown Vitalization Specific Plan (DRSP) of the Council agenda of the regular November 7, 2023 meeting as follows:

1. Can City staff and city consultants name a city, town, or community in California that has a vibrant and successful downtown with speed limits of 40 and 35 miles per hour (Del Monte Boulevard and Reservation Road)?

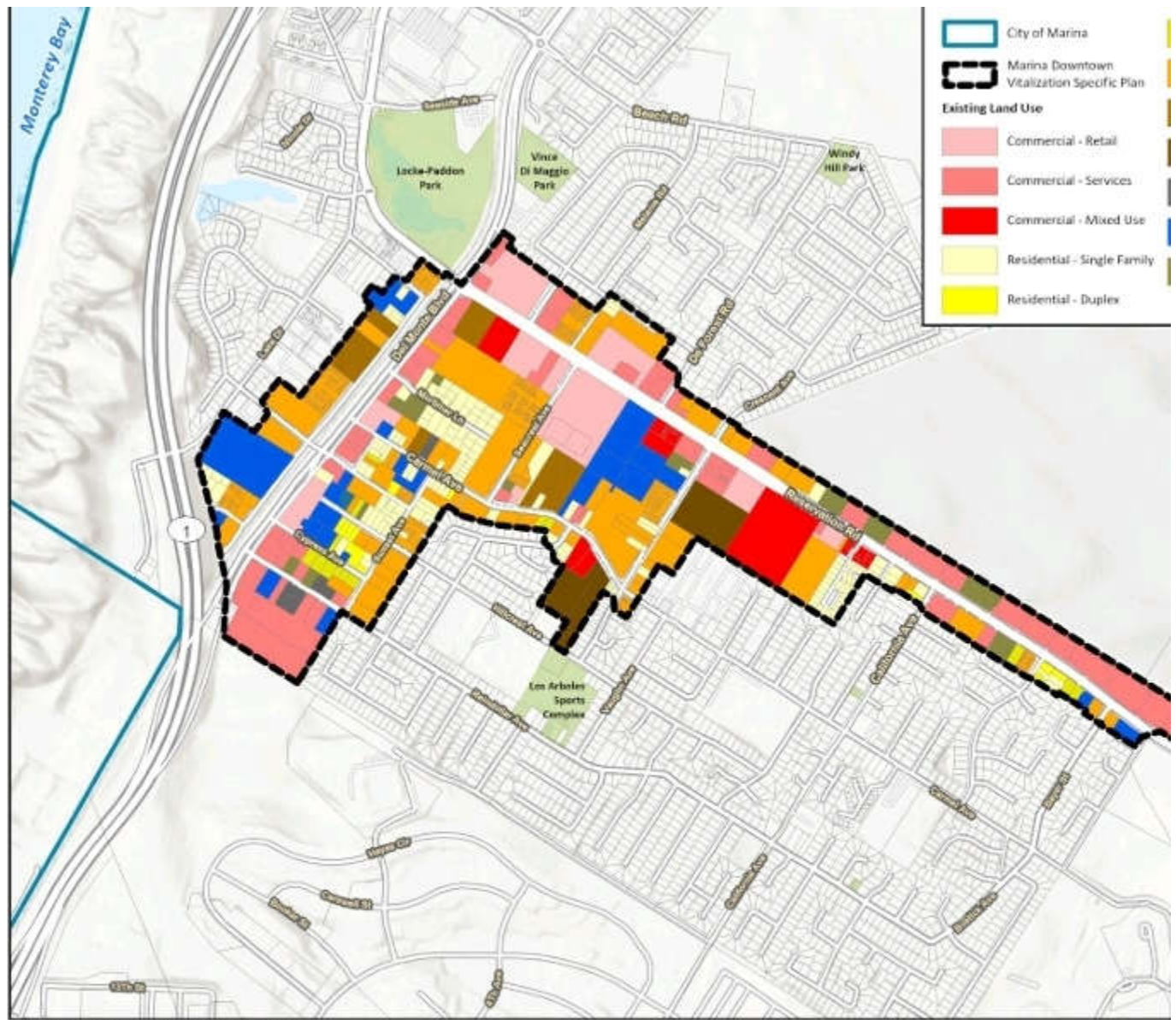
2. Several vacant and under-utilized parcels of land in the Downtown area have not been developed for over three decades for various reasons. How could this new Downtown Specific Plan realistically enable these vacant and underutilized parcels of land developed?

3. One example is the vacant piece of land for sale that one developer wanted to develop a second card room. For over three decades, various developers proposed apartments, storage buildings, light industrial, etc. at this site and City of Marina has denied these proposed projects. In the Draft DVSP, this parcel is labeled Transition and zoned Commercial. Some Marina residents imagined that this site will be developed as a neighborhood commercial site such as 7-11. But the issue is whether this vision is realistic and financially viable. Can City staff and city consultants provide some potential development for this vacant site?

Sincerely,

Peter Le

11.1
cont.

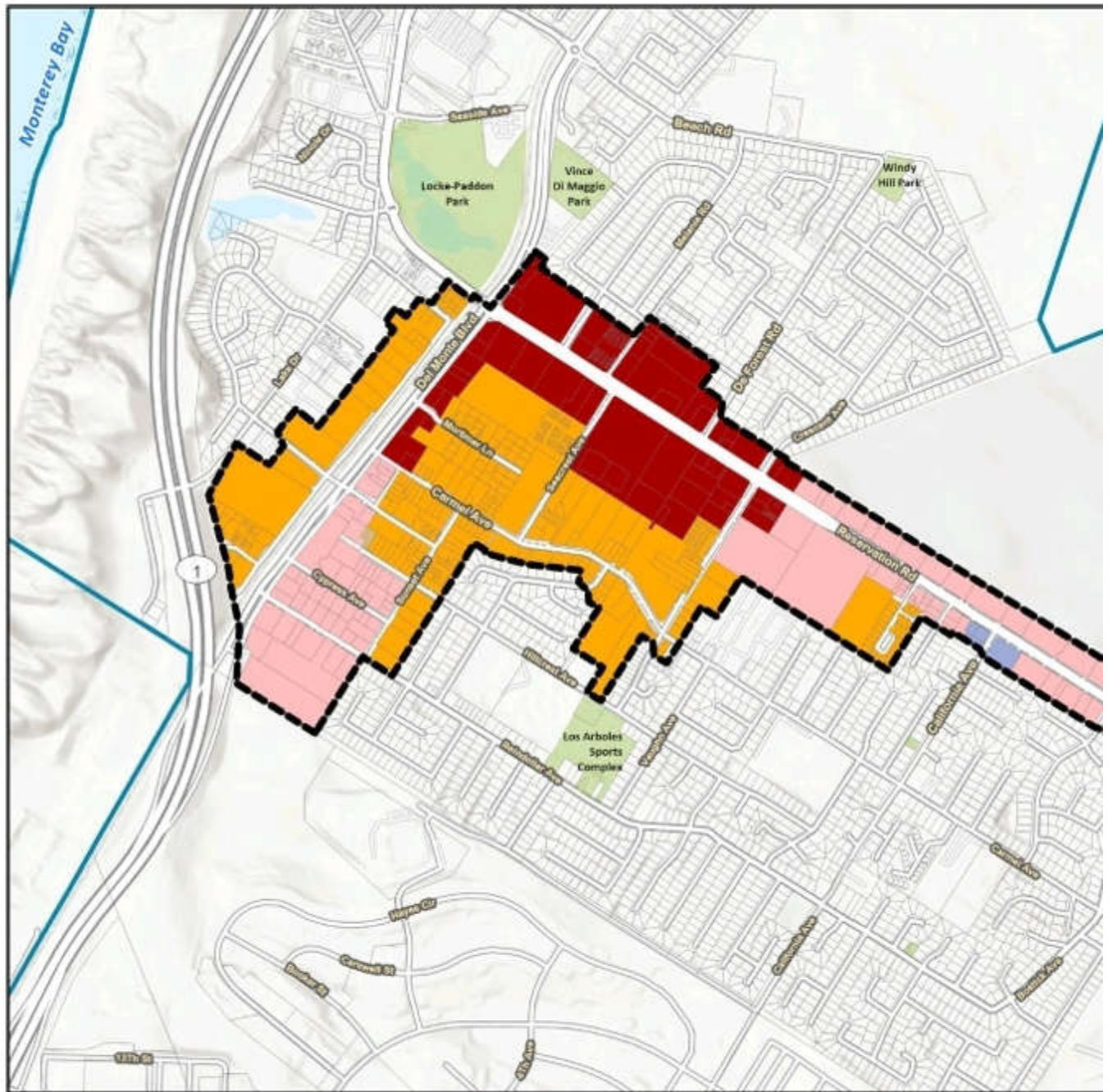


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Additional data provided by the City of Marina, 2022.

Map 2-3. Existing land uses in Downtown Marina.

October 2023





Imagery provided by Esri and its licensors © 2023.
Additional data provided by the City of Marina, 2022.

Map 4-1. Land Use Plan



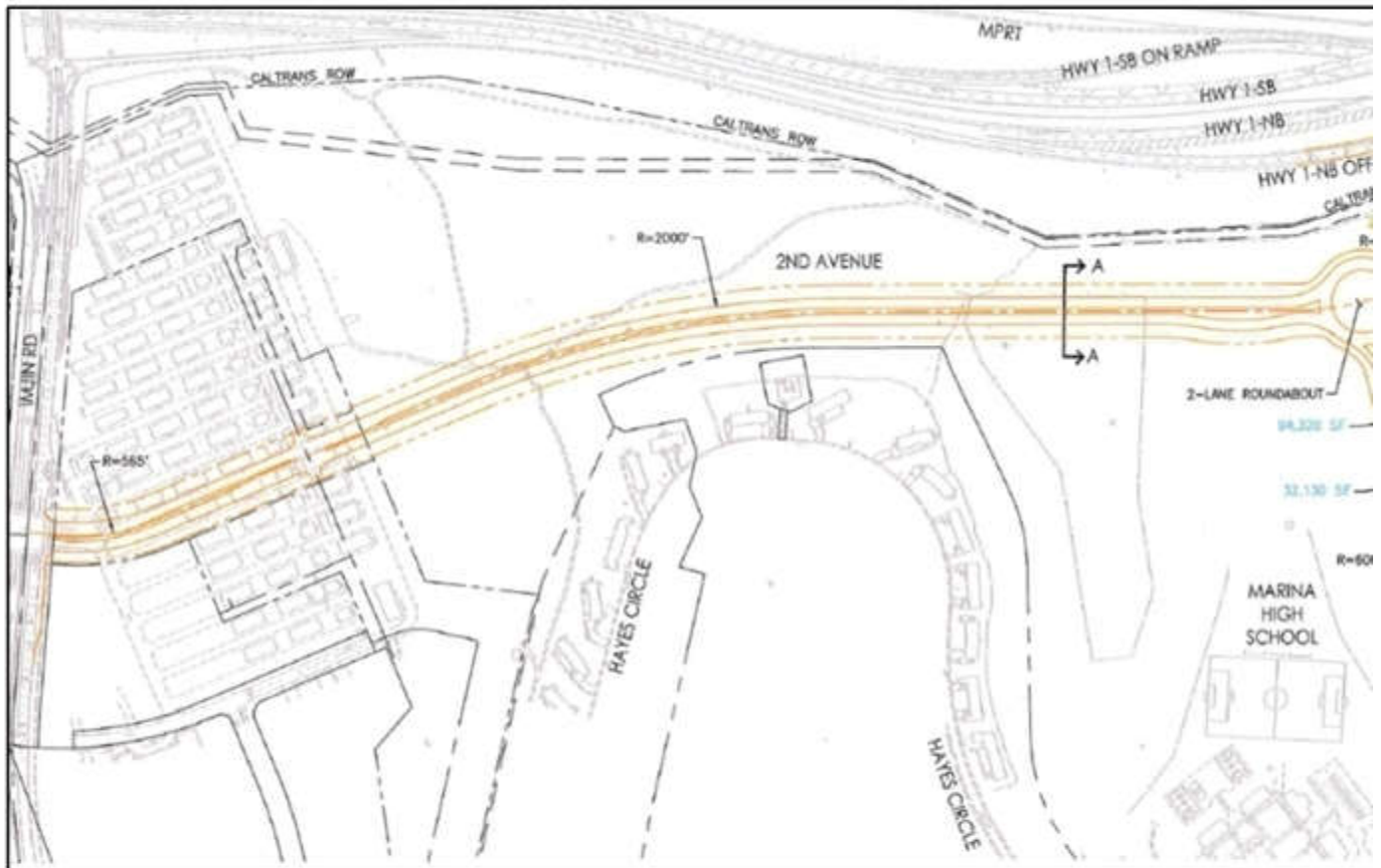


Figure 5-2. Illustrated concept of Del Monte Boulevard extension.

October 2023





Letter I1

COMMENTER: Peter Le

DATE: May 20, 2024

Response I1.1

The commenter indicates that they submitted written comments on the scope of the Draft EIR on November 19, 2023, and notes that these comments were not included in Appendix A to the Draft EIR.

The City does not have a record of receiving comments dated November 19, 2023 from this commenter, and followed up with the commenter to obtain their comments. The commenter did not respond.

The City did receive comments from this commenter on November 7, 2023, which pertain to the DVSP. The comments are attached to Letter I1. These comments do not provide input on the scope of the Draft EIR, but instead pertain to the development of the DVSP itself. These comments were considered by the City in development of the DVSP. Because the comments were not provided on the scope of the Draft EIR, nor submitted as an NOP comment letter, the letter has not been added to Appendix A.

Response I1.2

The commenter discusses a traffic study performed for the Plan area and recommends that the Draft EIR analyze the downtown transportation system, alternatives regarding signalized or circular intersections, and impacts to air quality, traffic delay, and pollution associated with intersections. The commenter suggests that the Draft EIR must provide an accurate assessment of impacts and mitigation.

It is assumed the commenter is discussing the Marina Downtown Traffic Study, which is included as Appendix D of the Draft EIR. The commenter requests that the EIR analyze intersection performance and alternative intersection designs that may affect traffic delay. Prior to 2020, transportation analyses conducted under CEQA focused on a project's impact to automobile delay (i.e., congestion) at intersections and along nearby roadway and highway segments in terms of level of service. However, Senate Bill 743 (Steinberg, 2013) required changes to the criteria for determining the significance of transportation impacts to promote the reduction of greenhouse gas emissions. These changes went into effect July 1, 2020. As a result, Public Resources Code Section 21099(b)(2) and CEQA Guidelines Section 15064.3(b) were revised, and now specifically indicate that "a project's effect on automobile delay shall not constitute a significant environmental effect." Accordingly, traffic congestion and intersection performance analyses are not required by CEQA and were not included in the Draft EIR.

The commenter requests that the EIR analyze alternative intersection designs that may affect air quality. Potential traffic-related air quality impacts are discussed on page 4.1-15 in Section 4.1, *Air Quality*, of the Draft EIR. As discussed therein, mobile sources (such as vehicles) are a primary source of volatile organic compound (VOC) emissions. As shown in Table 4.1-5 in the Draft EIR, VOC emissions associated with operation of the project would exceed VOC thresholds established by the Monterey Bay Air Resources District, and impacts would be significant and unavoidable. As discussed on page 4.1-15, the DVSP would include a Transportation Demand Management (TDM)

Plan, which would reduce operational VOC emissions. However, the effects of potential TDM measures cannot be quantified, and the impact was determined to be significant and unavoidable. The commenter does not raise specific concerns regarding the conclusions of the air quality analysis, nor suggest specific alternatives to the DVSP that would reduce air emissions.

Potential impacts to transit, roadway, bicycle, and pedestrian facilities are discussed in Section 4.2, *Transportation*, on page 4.2-15 of the Draft EIR. As discussed therein, the project would not conflict with policies pertaining to transit, roadway, bicycle, or pedestrian facilities and impacts would be less than significant. The commenter does not raise specific concerns regarding the conclusions of this analysis.

In summary, traffic-related air quality impacts are discussed in the Draft EIR, and mitigation measures are included to reduce impacts to the extent feasible. As described above, traffic congestion and intersection performance analyses are not required by CEQA and were not included in the Draft EIR. No revisions to the Draft EIR have been made in response to this comment.

Refer to Chapter 5, *Mobility*, of the DVSP. As discussed therein on page 54, the City conducted a traffic analysis of the existing Downtown and considered possible locations for several roundabouts. Additionally, the DVSP also includes Policy M-1.17, which aims for the City to support the implementation of roundabouts on Del Monte Boulevard and to continue to evaluate the feasibility of lane reductions.

Response I1.3

The commenter discusses a potential road diet of Del Monte Boulevard that was presented to the City's Public Works Commission. The commenter questions why the intersection of Del Monte Boulevard and Reservation Road should not be converted to a roundabout, and enquires about vehicle speeds on Del Monte Boulevard associated with the potential road diet.

The DVSP does not include a road diet on Del Monte Boulevard. As such, impacts associated with a road diet were not addressed in the Draft EIR. Should the City consider a road diet along Del Monte Boulevard in the future, project-specific environmental analysis associated with these improvements would be required. As this comment does not pertain to the adequacy of the Draft EIR or CEQA process, no further response is required.

Response I1.4

The commenter opines that Section 15, *Public Services*, of the Initial Study failed to acknowledge existing, inadequate water pressure in the Plan area and does not include adequate mitigation measures to address water flows for firefighting.

Section 15, *Public Services*, of the Initial Study (included in Appendix A of the Draft EIR) uses the environmental checklist language from Appendix G of the CEQA Guidelines. As stated in Section 15 of the Initial Study, the project would have significant impacts related to public services if the project would "result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services," including fire protection. In other words, the project could result in significant environmental impacts if it would require the construction or expansion of governmental facilities, including fire facilities.

As discussed in Section 15 of the Initial Study on page 122, development facilitated by the DVSP would require new or altered fire protection facilities. The Plan includes Program PF-3, which would identify the timing, location, and funding source for a new fire station to support growth within the Plan area. Additionally, should the Marina Fire Department propose to expand or construct new facilities in the future, such facilities would be subject to subsequent environmental review under CEQA in which potential environmental impacts would be addressed accordingly. Future development facilitated by the DVSP would be required to pay impact mitigation fees pursuant to the City of Marina's developer fee schedule. Payment of impact mitigation fees would constitute funding equivalent to the provision of fire protection services to offset potential impacts associated with the DVSP. Therefore, impacts related to new or physically altered fire facilities were determined to be less than significant and no mitigation was required.

The environmental checklist language from Appendix G of the CEQA Guidelines does not include questions that pertain to fire flows or water pressure. Required fire flows are typically determined by building codes and are not an environmental impact considered under CEQA. No revisions to the Initial Study or Draft EIR have been made in response to this comment.

Response I1.5

The commenter provides several comments on Section 6 of the DVSP pertaining to water supply and water pressure.

Water supply impacts are discussed in Section 4.3, *Water Supply*, of the Draft EIR. As discussed therein starting on page 4.3-13, sufficient water supply is available to meet projected demands and buildout facilitated by the project. Refer also to Response I1.4. As noted therein, fire flows and water pressure are not an environmental impact considered under CEQA. No revisions to the Draft EIR are required in response to this comment.

Response I1.6

The commenter states the Draft EIR needs to consider deficiencies in fire protection in the Plan area, and opines that development of the DVSP will cause toxic air due to inadequate fire protection services.

Refer to Response I1.4. As discussed therein, the Initial Study determined impacts related to new or physically altered fire facilities were determined to be less than significant and no mitigation was required. Additionally, it would be speculative to assume the project would result in toxic air due to inadequate fire protection services, which the commenter suggests are an existing condition and thereby not an impact of the project itself.

Response I1.7

The commenter states that the Draft EIR must rely on valid data and information to avoid legal challenges.

The commenter does not raise a specific concern regarding particular data and information used in the Draft EIR. Pursuant to CEQA Guidelines Section 15088(c), the level of detail contained in this response may correspond to the level of detail provided in the comment. As this comment is a general statement about valid data, a more specific response is not required or possible.

Response I1.8

The commenter opines that the Draft EIR did not discuss the issues raised in the above comments, determine environmental impacts associated with these issues, or include mitigation.

Refer to the Responses I1.1 through I1.7. As discussed above, the Draft EIR analyzes and identifies potential impacts and includes mitigation measures as required.

Letter I2

Kayleigh Limbach

From: Guido Persicone <gpersicone@cityofmarina.org>
Sent: Tuesday, May 28, 2024 11:26 AM
To: Megan Jones; Kayleigh Limbach
Cc: Kimiko Lizardi; Bryce Haney
Subject: [EXT] FW: Marina Downtown Vitalization Specific Plan Feedback

CAUTION: This email originated from outside of Rincon Consultants. Be cautious before clicking on any links, or opening any attachments, until you are confident that the content is safe .

From: Bruce Delgado <bdelgado62@gmail.com>
Sent: Friday, May 24, 2024 3:34 PM
To: Matthew White <mrmatthew1@gmail.com>
Cc: Jenny McAdams <jmcadams@cityofmarina.org>; Guido Persicone <gpersicone@cityofmarina.org>; Alyson Hunter <ahunter@cityofmarina.org>
Subject: Re: Marina Downtown Vitalization Specific Plan Feedback

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Great ideas Matt. Thanks for your effort and sharing them.
We're hoping DMB remodel construction begins this year or 1st part 2025.
We do expect 30-50 yr horizon for private properties to implement downtown plan. But it would take longer if we didn't have a plan.
We'll discuss ur ideas next time we discuss downtown.
Thanks again,
Bruce
P.s. Alyson and Guido can I discuss Matt's ideas with you?

On Fri, May 24, 2024, 2:54 PM Matthew White <mrmatthew1@gmail.com> wrote:

Bruce / Jenny -

I am a Marina resident and wanted to informally share some recommendations that I think would be improvements for our city. These recommendations were inspired by a review of the Marina Downtown Vitalization Specific Plan from the perspective of a young dad with pedestrian and cyclist safety in mind and channeling my inner Beach Boys..."wouldn't it be nice..." thoughts. I also drew from my experience living in Orlando, Florida for a few years in putting some of these recommendations together. I think the downtown vitalization plan has some unrealistic (or at least near-term unrealistic) visions and illustrations. I think the street changes (Del Monte), signage, and bike lanes are probably the more realistic near term (3-5 years?), and the development opportunities will follow but at a slower pace (5-15 years?). It will be interesting to see what happens to traffic on Del Monte when it goes down to 1 lane, but perhaps it will have the effect of directing more pass-through commuters towards the new Imjin

I2.1

parkway. I don't want any attribution to these slides, life gets busy with 2 kids so I just kind of threw these together and not formatted very well, but I just wanted to share my thoughts - maybe some you've heard and maybe some are new ideas. I didn't put any recommendations that I didn't think were achievable in the near term.

Also, I did not have time to throw in my recommendations and pictures for Vince DiMaggio or Windy Hill parks, but in general the play structures are a bit decrepit, rusty, and in need of repair or replacement. I have to be careful when my son plays at either park so he doesn't get cut by the play equipment. I think I read somewhere there's some funding allocated to fix up the parks a bit...

Please don't take any of these comments personally, I understand competing priorities, constraints, etc. I'm just providing some candid feedback and putting ideas out there as I feel community members should from time to time. Thanks for all that you do!

V/r,
Matt White

I2.1
cont.

Letter I2

COMMENTER: Matt White

DATE: May 24, 2024

Response I2.1

The commenter provides comments and recommendations pertaining to pedestrian and cyclist safety and playground equipment.

These comments are noted and will be considered by the City. This comment does not pertain to the sufficiency of the Draft EIR analysis or CEQA process. As such, no further response is necessary.

ANTHONY LOMBARDO & ASSOCIATES

A PROFESSIONAL CORPORATION

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KELLY MCCARTHY SUTHERLAND
JOSEPH M. FENECH
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144 W. GABILAN STREET
SALINAS, CA 93901
(831) 751-2330
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May 23, 2024

Our File No: 4865.001

Mr. Guido Periscone
Community Development Director
City of Marina Planning Services Division
209 Cypress Avenue
Marina, CA 93933

RE: Marina Downtown Vitalization Specific Plan (DVSP) and Draft Environmental Impact Report (DEIR)

Dear Mr. Periscone:

We represent Ms. Anne Russell Rudolph and her family who are the property owners at the south entrance to the City of Marina from Highway One. The Russell and Rudolph families have been supportive members of the Marina community for many years. Their properties include Marina Self Storage and Commercial Rentals (224 Reindollar) and Reindollar Crest Commercial Center (218 Reindollar). The property at 224 Reindollar is mixed use with light industrial and self-storage. Reindollar Crest is entirely light industrial. More than 45 local businesses, many which are owned and operated by Marina residents, operate from those addresses.

Our clients do not oppose the adoption of a DVSP. However, they have consistently voiced their significant concerns about the cumulative and collateral impacts as well as the unintended consequences of the proposed DVSP. The DVSP is projected to take as many as 40 years to complete, and may still fail to achieve the desired results of a vibrant and beautiful downtown. As proposed, there is a strong likelihood that existing business establishments and residences will deteriorate as a result of the Legal Non-Conforming Use (LNC) designation and onerous regulations, which severely restrict the property owner's ability to use, maintain, and repair their property. We appreciate that the DVSP has a five-year window that somewhat exempts the LNC uses from the maintenance and repair limitation, but that does not minimize the impact of the following 35 years.

We appreciate the opportunity to comment on the Downtown Vitalization Specific Plan (DVSP) and the Draft Environmental Impact Report (DEIR). As the DVSP and DEIR are intertwined, comments on the DVSP are also comments on the DEIR, both of which will require responses per CEQA Guideline Sections 15088.

O1.1

GENERAL PLAN CONSISTENCY

Specific plans, whether prepared by a general law city or county, must comply with Sections 65450 – 65457 of the Government Code. “No specific plan may be adopted or amended unless the proposed plan or amendment is consistent with the general plan.”¹ The DEIR is essentially devoid of analysis that would demonstrate consistency. The DVSP will make substantial changes in land use designations, policies, standards and regulations. For example:

Core Area:

-The current General Plan projects approximately 412,000 SF of commercial uses and 286 homes. The DVSP projects approximately 901,500 SF of commercial uses and 1,372 homes. The Commercial area more than doubles. Residential units increase by 480%.²

Transition Area:

-The current General Plan projects approximately 594,000 SF of commercial uses and 377 homes. The DVSP projects approximately 484,000 SF of commercial uses and 1,378 homes. Commercial area decreases by 20%. Residential units increase by 365%.³

Commercial Services:

-This designation is completely removed from the DVSP area. The area of Del Monte and Reindollar is by general plan policy 2.74 identified as a key area for heavier commercial uses. This includes our client’s property.

There are many more examples that could be listed, but it is clear the DVSP is not extension or implementation of the general plan. It is significant amendment to the general plan.

DVSP BASELINE

The physical environment of the entire 332 acres, as it existed at the time the Notice of Preparation was published, needs to be described in substantial detail. The DVSP, over its life-span, will have a significant effect on the environment⁴ for the entire 332 acres and potentially the surrounding neighborhoods and other areas of the City as well. The DEIR should provide a complete inventory of the specific locations, structures and uses that will become non-conforming (LNC)^{5, 6}. To adequately assess the extent of the proposed non-conforming properties, and the potential impact the DVSP will have on the use of those structures and

¹ Government Code Section 65454

² Source: DEIR Table 2.2

³ Ibid

⁴ CEQA Guidelines Section 15382 “Significant effect on the environment” means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

⁵ Marina City Code Section 17.04.490 “Nonconforming building” means a building, structure, or portion thereof which does not conform to the regulations of this title for the district in which it is situated and which lawfully existed at the time of the adoption of the ordinance codified in this title.

⁶ Marina City Code Section 17.04.500 “Nonconforming use” means a building or land occupied by a use that does not conform to the regulations as to use for the district in which it is situated.

O1.2

O1.3

properties, the inventory should include the location, use, and structures, along with the condition and life expectancy of each property.

In addition to the physical baseline, the DEIR should discuss the regulatory baseline as it currently exists and how it would affect the LNC properties, structures and uses.

URBAN DECAY AND ECONOMIC IMPACTS TO NON-CONFORMING PROPERTIES

Urban decay is the result of planning decisions which severely limit the ability of an area to sustain, maintain and improve socially and economically. While this appears to be the opposite of what the City is attempting to accomplish, the reality is there may be a significant effect on the environment⁷ as a result of adopting the proposed DVSP combined with the current LNC regulations without a full economic analysis of the DVSP and its impact in the DEIR. That analysis would identify and quantify the potential significant effect on the environment⁸ which would occur if the DVSP proves to be economically inviable.

NON-RESIDENTIAL PROPERTIES:

- There is no analysis that demonstrates there is an actual need and/or demand in the market place that supports the amount of retail and office space programmed in the DVSP.
- There is no analysis of the effect of the DVSP on the ability to finance or refinance business purchases or loans for operating expenses.
- There is no analysis of the effect of the DVSP on the ability to acquire or maintain insurance particularly given the trend for insurance companies to not write new or affordable policies in California.
- There is no analysis of the effect of the DVSP on the ability to repair or maintain an existing development, should the LNC status make it difficult or impossible to obtain financing for home improvements, major repairs, etc.
- The DEIR is devoid of any discussion of the economic data, assumptions and analysis upon which the DVSP is based, such as:
 - The potential rate at which the DVSP is expected to produce new uses and structures within the DVSP area.
 - The economic impact of the post covid shift away from store front, walk in retail to on-line shopping and home delivery.
 - The shift away from brick-and-mortar offices to home offices and virtual meetings.
 - The competitive market in the region for brick-and-mortar offices and how the anticipated costs of new offices in Marina compares to existing vacant office space.

⁷ Ibid, page 1

⁸ Ibid, page 1

RESIDENTIAL PROPERTIES:

There is no discussion, analysis, or mitigation of the adverse impact of LNC status to residential property and the potential to degrade neighborhoods throughout the entire 332 acres of the DVSP area.:

- The effect of the DVSP on the ability to finance or refinance for the purchase or improvement of properties.
- The effect of the DVSP on the ability to acquire or maintain home-owners insurance particularly given the trend for insurance companies to refuse to write new or affordable policies in California.
- The effect of the DVSP on the ability to repair or maintain an existing residential dwelling, should the LNC status make it difficult or impossible to obtain financing for home improvements, major repairs, etc. over the life of the DVSP.
- The effect of the DVSP on the property values of existing residential properties and the ability of the current homeowners to retain ownership as a result of increased cost associated with LNC status.
- The DEIR should clearly identify the number of existing housing units in the DVSP area and the number of units which are expected by the DVSP so the difference in the population of the area can be disclosed. The impact of that increased population can then be analyzed against the current baseline condition rather than against an AMBAG projection.

O1.5

Lastly, the EIR should project the impact of the DVSP on the existing environment should the DVSP not occur in the projected timeline or not be economically sustainable.

O1.6

INDIRECT PHYSICAL CHANGES

CEQA mandates the consideration of reasonably foreseeable indirect physical changes in the environment which may be caused by the project together with the “most probable development patterns” of the project (see Guidelines Section 15064; *Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 293, *as modified on denial of reh'g* (Apr. 25, 2017)). The DEIR does not however discuss the change in the physical environment that can be anticipated as older buildings and uses that are rendered LNC by the DVSP fall into disrepair either by choice or by the narrow repair and maintenance restrictions on LNC uses in the City Code.

O1.7

The potential of regulatory changes and current limitations to result in physical changes may be considered in determining the significance of an impact. The Courts in *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1182 provided:

“When there is evidence, however, that economic and social effects caused by a project, such as a shopping center, could result in a reasonably foreseeable indirect environmental impact, such as urban decay or deterioration, then the CEQA lead agency is obligated to assess this indirect environmental impact. Id.

O1.7
cont.

ECONOMIC IMPACTS TO CITY RESOURCES

The DVSP will require a major, and perhaps unprecedented, investment by the City in its infrastructure both within and outside the DVSP. The economic impact of the DVSP on the City’s resources must be examined:

- The DVSP will require a significant investment in the City infrastructure and services. The EIR should analyze the anticipated cost of that infrastructure and the services. The financing plan for the infrastructure and service requirements should be identified and be analyzed to determine its viability to meet the DVSP requirements.
- The DVSP will require a significant investment by property owners and developers to fund, on a proportional basis, the cost of their impact on the City’s infrastructure and services. That cost should be identified and estimated.
- The cost of new development should be estimated and potential tax revenues projected. Will the new development anticipated by the DVSP pay for itself or will other City revenues be required to fill a funding gap?
- Any market studies or modeling which has been done or needs to be done to demonstrate the financial feasibility of the DVSP should be included as in the DEIR.

O1.8

Once the economic impact is quantified, good or bad, the resulting physical changes to the City should be identified and the impact analyzed.

AESTHETIC IMPACTS

The DEIR concluded the physical changes will have less than a significant effect to the downtown area’s aesthetic qualities. We strongly disagree.

The DVSP will dramatically change the entire nature of 332 acres of the City including along major portions of Del Monte and Reservation Roads. The change from the current built environment to a downtown area with seven story buildings, 70 unit per acre density, retail and office uses moved to street front, along with all other potential changes should be fully disclosed and analyzed.

O1.9

ENVIRONMENTAL JUSTICE

Under California Gov. Code section 65040.12, environmental justice means: *“the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption,*

O1.10

implementation, and enforcement of environmental laws, regulations, and policies.” This includes communities designated as low income or disadvantaged.

The City of Marina, is a community designated by the State as a low income or disadvantaged community. This designation carries with it the burden of ensuring that all people are treated equitably with respect to the implementation of environmental laws, policies and regulation, yet the DEIR categorizes “Population and Housing as “Issues Not Studied in Detail”.

As previously identified above, there will be significant impacts to housing, that will be attenuated over an expansive period of time. These impacts could take an even heavier toll on a community that is already identified as disadvantaged. The absence of analysis in the DEIR appears to be a grave oversight and one that should be required as a matter of law.

O1.10
cont.

BIOLOGICAL IMPACTS

Additional biological surveys are needed as part of the EIR’s analysis of the DVSP’s biological impact. The IS identified significant areas throughout the DVSP as “Screening and Assessment” areas and targets those areas for subsequent surveys. Those surveys should be done now so the full impact of the DVSP on those resources can be disclosed. The EIR should include areas identified as degraded habitat in light of the Bolsa Chica standard which recognizes that degraded habitat is still habitat. Once those areas are clearly identified, they should be assessed as to their potential for actual development in light of the need to protect the resources rather than remove or relocate the resource.

O1.11

HISTORICAL AND CULTURAL RESOURCE IMPACTS

CEQA considers any “project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment (15064.5 (b))” and therefore requires an EIR to assess those impacts. The DVSP EIR should disclose which sites or structures there are or may be historically significant so that the EIR will inform decision makers on the impact of the DVSP on those resources. The DEIR correctly identifies the need for a “Reconnaissance Level” survey of historic resources. It is well established in the CEQA Guidelines and in case law that the analysis of the impact a project may have on a significant resource, including historic and cultural resources, cannot be deferred (see, *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 735, *as modified on denial of reh'g* (Aug. 8, 2013) [“it is inappropriate to postpone the formulation of mitigation measures.”]). Guidelines Section 15126.4(a)(1)(B) provides that:

O1.12

Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation

will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure.

O1.12
cont.

PUBLIC SERVICES/RECREATION/UTILITIES:

The DVSP EIR should fully disclose the additional resources, in staffing and capital improvements, that will be required to implement the DVSP and the cost of those improvements. The analysis should include:

- The initial cost and cumulative long-term costs.
- The plan for the purchase and maintenance of those resources should be identified.
- Anticipated DVSP revenue should be identified and how the difference between cost and revenue, if there is a difference, disclosed.
- The means of bridging the revenue gap and the impact on resources to the rest of the City should be disclosed.

O1.13

COMPREHENSIVE AND CUMULATIVE ANALYSIS OF IMPACTS

“The significance of a comprehensive cumulative impacts evaluation is stressed in CEQA.” (Schoen v. Department of Forestry & Fire Protection (1997) 58 Cal.App.4th 556, 572, 68 Cal.Rptr.2d 343.) Proper cumulative impact analysis is vital “because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.” (Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98, 114, 126 Cal.Rptr.2d 441, fns. omitted; see also Los Angeles Unified School Dist. v. City of Los Angeles (1997) 58 Cal.App.4th 1019, 1025, 68 Cal.Rptr.2d 367.)

O1.14

The aforementioned concerns independently of one another may not pose a significant environmental impact, however when examined as a whole they paint a much different picture. The insufficient analysis or abject lack of analysis raises significant concerns about the DEIR and its potential to adequately address the total impacts of the DVSP.

ALTERNATIVES

The DEIR suggests only two alternatives. The “No Project” alternative,⁹ which is required by CEQA or a smaller project. In the case of a revision to a land use plan, the “No Project” alternative should explain why the current general plan, ordinances, and implementation of them cannot achieve the purpose set forth in the proposed specific plan. The DEIR does not adequately address those issues.

O1.15

The “Reduced Development” alternative poses a 25% reduction of the development potential of the DVSP. There is no discussion of how that would be accomplished. Would it be by a smaller DVSP area, reduced density, reduced FAR and coverage or similar reductions?

Other alternatives need to be presented which, per CEQA Guidelines Section 15126.6(a), would “feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” Those alternatives might include:

- A reduced DVSP area which would allow a concentrated focus on identifying and developing a true “heart of the community” rather than a nearly two-mile-long linear configuration.
- Focused “Priority/Anchor Sites” which would identify those properties considered to be the most critical to a DVSP and the Community with clear direction on the requirements for development of the site so owners and prospective developers will have a complete understanding of what will be approved and the standards for a clear path approval.
- “DVSP Overlay District” which would require new development in the DVSP to meet the requirements of the DVSP but not render existing uses and structures LNC.
- Base improvement, repair and maintenance of LNC on appraised fair market values, not assessed value.
- Establish a threshold for mandatory implementation of the DVSP. For example, if an owner proposes improvement of their NC structure of more than 50% of the appraised fair market value, then the improvements must be consistent with the DVSP.

O1.16

INEQUITABLE TREATMENT

Specifically in regard to our client’s properties, they are being treated differently than immediate neighbors which have essentially the same use. In earlier discussions the Monterey Bay Aquarium properties, which are storage and shop facilities similar to our clients, were to be treated the same as our clients and were to face the same NC issues. However, in the latest

O1.17

⁹ 15126.6 e (3) (A) When the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the “no project” alternative will be the continuation of the existing plan, policy or operation into the future. Typically, this is a situation where other projects initiated under the existing plan will continue while the new plan is developed. Thus, the projected impacts of the proposed plan or alternative plans would be compared to the impacts that would occur under the existing plan.

version of the DVSP, the Aquarium has been classified as “Institutional” and is no longer threatened by NC regulations. While we understand the significance of the Aquarium in the community, the use has not changed.

O1.17
cont.

OVERRIDING CONSIDERATIONS¹⁰:

The DEIR concludes there are significant, unavoidable impacts from the DVSP which cannot be mitigated to an insignificant level. That will require the City to adopt a statement of overriding considerations if it is to approve the DVSP. The discussion of overriding considerations should, per CEQA Guidelines Section 15093, include measurable and quantifiable factors which are clearly identifiable and sustainable in the record so the decision makers can make an informed, supportable decision on the true impact, good or bad, of the DVSP.

O1.18

We hope you find these comments helpful. If you have any questions or wish to discuss any of our comments, please feel free to call.

Sincerely,



Dale Ellis
Director of Planning and Permit Services

¹⁰ 15093 (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

(b) When the lead agency approves a project, which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Letter O1

COMMENTER: Dale Ellis, Director of Planning and Permit Services, Anthony Lombardo & Associates

DATE: May 23, 2024

Response O1.1

The commenter states that they are representing the property owners of Marina Self Storage and Commercial Rentals and the Reindollar Crest Commercial Center, which are located in the Plan area. The commenter notes that the property owners have significant concerns regarding legal nonconforming uses, which they claim would restrict the property owner's ability to use, maintain, and repair the property.

This comment is noted. Legal nonconforming uses refer to a situation where local governments change zoning laws and allow existing properties some form of exemption from abiding by new regulations. As stated in Section 7.6.2 of the DVSP, legal nonconforming uses would be allowed to be continued, transferred, or sold in the Downtown area, provided that no such use shall be enlarged or increased. Further, ordinary maintenance and repairs of nonconforming uses would be allowed, provided that work does not exceed 25 percent of the appraised value in any one-year period. Contrary to the commenter's suggestion, the DVSP would not restrict property owners' ability to use, maintain, or repair their property.

Although economic impacts are not expected, it should be noted that potential economic impacts associated with legal nonconforming uses would not be considered environmental impacts. Pursuant to CEQA Guidelines Section 15131, economic or social effects of a project shall not be treated as a significant effect on the environment. As such, formal analysis of economic or social impacts, including legal non-conformity, when they do not also result in potential environmental impacts is not required and not included in the Draft EIR.

Responses to specific comments regarding legal nonconforming uses are provided in Responses O1.2 through O1.7, below.

Response O1.2

The commenter opines that the Draft EIR does not include analysis that demonstrates the DVSP's consistency with City of Marina General Plan. The commenter provides examples of proposed land use changes included in the DVSP.

The DVSP's consistency with the City of Marina General Plan is discussed in Section 11, *Land Use and Planning*, in Appendix A of the Draft EIR. Table 16 on page 102 of Appendix A demonstrates the consistency of the DVSP's goals with General Plan goals. As discussed therein, the DVSP would advance the goals and policies of the General Plan and would be consistent with goals, policies, and regulations that intend to avoid or mitigate environmental effects. Additionally, as discussed in Section 2, *Project Description*, on page 2-17 of the Draft EIR, approval of the project would require a General Plan Map and text amendment. Approval of these amendments would bring the DVSP land use plan into compliance with the General Plan.

The Draft EIR does consider consistency of the DVSP with General Plan policies, contrary to the commenter's assertions. The commenter does not attribute potential inconsistencies to any

environmental effects or otherwise raise deficiencies with the Draft EIR analysis or CEQA process. As such, further response is not required.

Response O1.3

The commenter suggests that the Draft EIR should describe the existing physical environment in substantial detail, and that the Draft EIR should provide information on the location, use, structures, condition, and life expectancy of each property that could become legal nonconforming.

Pursuant to CEQA Guidelines Section 15125, an EIR must include a description of the physical environmental conditions in the vicinity of the project, and the description of the environmental setting shall be no longer than is necessary to provide an understanding of the significant effects of the proposed project and its alternatives. The Draft EIR provides adequate and sufficient description of the existing environmental conditions in Chapter 3, *Environmental Setting*, of the Draft EIR. The description of existing physical environmental conditions provided in this section is adequate for the programmatic analysis of the Draft EIR and sufficiently provides a description of the environmental baseline against which significant effects have been assessed.

Additionally, it is not clear how information on the location, use, structures, condition, and life expectancy of each property that could become legal nonconforming would improve the analysis within the Draft EIR. The commenter presents no evidence that implementation of the project would result in environmental impacts associated with legal nonconforming uses. As discussed in Response O1.1, property owners of legal nonconforming uses would be able to continue, transfer, sell, operate, and maintain their properties within certain limits. It would be speculative to assume that legal nonconforming uses would result in environmental impacts. Furthermore, pursuant to CEQA Guidelines Section 15131, economic or social effects of a project are not considered significant effect on the environment. As such, formal analysis of economic or social impacts, including legal non-conformity, when they do not also result in potential environmental impacts is not required and not included in the Draft EIR. No revisions to the Draft EIR are required in response to this comment.

Response O1.4

The commenter opines that DVSP implementation could result in urban decay as legal nonconforming properties would not be able to sustain, maintain, or improve their uses. The commenter provides a list of comments pertaining to non-residential properties, which generally pertain to the commenter's opinion that the Draft EIR does not include analysis or economic data regarding actual market demand for non-residential development in the Plan area.

Refer to Response O1.1. As discussed therein, property owners of legal nonconforming uses would be able to continue, transfer, sell, operate, and maintain their properties within certain limits. It would be speculative to assume that legal nonconforming uses would result in environmental impacts. Additionally, pursuant to CEQA Guidelines Section 15131, economic or social effects of a project shall not be treated as a significant effect on the environment. As such, formal analysis of economic or social impacts, including legal non-conformity, when they do not also result in potential environmental impacts is not required and not included in the Draft EIR. The commenter presents no evidence that implementation of the project would result in urban decay. It would be speculative to assume legal nonconforming properties would fall into disrepair such that substantial urban decay would occur, as the DVSP would allow ongoing operation and maintenance of such uses. No revisions to the Draft EIR are required in response to this comment.

Response O1.5

The commenter states that there is no discussion, analysis, or mitigation of the adverse impacts associated with the legal nonconforming status of residential properties. The commenter provides a list of comments pertaining to residential properties, which generally pertain to the economic viability of the DVSP and its effects on residential properties. The commenter states that the Draft EIR should disclose the difference, or change, in population of the area.

Refer to Response O1.1. As discussed therein, legal nonconforming uses would be allowed to be continued, transferred, or sold in the Downtown area, provided that no such use shall be enlarged or increased. Further, ordinary maintenance and repairs of nonconforming uses would be allowed, provided that work does not exceed 25 percent of the appraised value in any one-year period. Contrary to the commenter's suggestion, the DVSP would not restrict property owners' ability to use, maintain, or repair their residential property. Additionally, pursuant to CEQA Guidelines Section 15131, economic or social effects of a project shall not be treated as a significant effect on the environment. As such, formal analysis of economic or social impacts, including legal non-conformity and property values, when they do not also result in potential environmental impacts is not required and not included in the Draft EIR. The commenter presents no evidence that implementation of the project would result in significant environmental impacts related to residential properties.

Refer to Section 14 of Appendix A of the Draft EIR, which provides information on the existing population of Marina and anticipated population growth that would occur as a result of the DVSP. As discussed therein, Marina has a current (2023) population of 21,457 people and the project would facilitate a population increase of approximately 7,696 new residents in the DVSP area.

Response O1.6

The commenter suggests that the EIR should evaluate the impact of the DVSP should it not occur in the anticipated timeline or not be economically sustainable.

An EIR need not consider every possible buildout horizon, nor assume that a project is going to fail. CEQA Guidelines Section 15126.6 states that an EIR is not required to consider every conceivable alternative to a project, but must consider a reasonable range of alternatives. Therefore, it is not necessary to consider a scenario in which the project is built out over a different timeline. Chapter 5, *Alternatives*, of the Draft EIR includes a discussion of alternatives (including a No Project Alternative and a Reduced Development Alternative), and a discussion of alternatives that were considered by the City but were ultimately rejected as infeasible.

Response O1.7

The commenter states the Draft EIR does not discuss changes in the physical environment that would result from buildings and uses rendered legal nonconforming that would fall into disrepair. The commenter cites *Anderson First Coalition v. City of Anderson (2005)* (130 Cal.App.4th 1173, 1182), which ruled that, when there is evidence that the economic and social effects could result in a reasonably foreseeable indirect environmental impact such as urban decay or deterioration, the CEQA lead agency must assess that impact.

Refer to Responses O1.1 and O1.4. As discussed therein, legal nonconforming uses would be able to be continued, transferred, sold, maintained, and operated within certain limits. Land uses that become legal nonconforming would be able to operate and maintain their uses. There is no evidence in the record, including in the comment letter, that urban decay or deterioration would be

reasonably expected to result from implementation of the DVSP. The commenter does not present evidence that buildings and uses rendered legal nonconforming would fall into disrepair. It would be speculative to assume legal nonconforming properties would fall into disrepair such that substantial urban decay would occur. No revisions to the Draft EIR are required in response to this comment.

Response O1.8

The commenter opines that the economic impact of the DVSP on City resources should be examined, including the anticipated cost of necessary infrastructure and services. The commenter suggests that the EIR include market studies to demonstrate the financial feasibility of the DVSP.

Pursuant to CEQA Guidelines Section 15131, economic or social effects of a project shall not be treated as a significant effect on the environment. As such, formal analysis of economic or social impacts, including the economic feasibility of the project or the cost of infrastructure or services, is not required and not included in the Draft EIR. No revisions to the Draft EIR are required in response to this comment.

Response O1.9

The commenter disagrees with the Draft EIR's conclusion that the DVSP would result in a less than significant aesthetic impact. The commenter suggests that the DVSP will dramatically change the nature of the Plan area, citing seven-story buildings, 70 unit per acre densities, and retail and office uses moved to the street front.

Section 1, *Aesthetics*, of the Initial Study (included in Appendix A of the Draft EIR) uses the environmental checklist language from Appendix G of the CEQA Guidelines. As stated therein, the DVSP is an already urban area and significant impacts would occur if the project would conflict with applicable zoning or other regulations governing scenic quality. A significant impact would not occur simply because a project would change the nature of an area. Contrary to the commenter's suggestion that seven-story buildings would be allowed, the tallest buildings allowed by the DVSP would be located in the Core District near the intersection of Del Monte Boulevard and Reservation Road, which would have a maximum building height of 60 feet or five stories (whichever is less), as stated in the Development Code of the DVSP (Appendix A). Other districts in the DVSP area would have maximum building heights of 48 feet or four stories, whichever is less. The Core District would allow a maximum residential density of 70 dwelling units per acre; however, actual buildout would be largely determined by market forces, as discussed in Chapter 2, *Project Description*, of the Draft EIR. Section 1, *Aesthetics*, of the Initial Study concludes implementation of the project would change the character of the Plan area substantially, but potential changes would be consistent with applicable plans for revitalizing the Plan area.

The commenter does not present evidence demonstrating that the aesthetics analysis included as Appendix A of the Draft EIR is insufficient, but rather states disagreement with the conclusion and the opinion that the DVSP area would change dramatically. As "change" is not an environmental impact, no revisions to the Draft EIR are required in response to this comment.

Response O1.10

The commenter provides a definition of environmental justice and states that the City of Marina is designated as a low-income or disadvantaged community. The commenter opines that the DVSP would result in significant impacts to housing, which could impact disadvantaged communities, and states the opinion that an environmental justice analysis should be required by law.

This comment's opinion that environmental justice analysis should be required by law is noted. However, CEQA does not currently mandate an analysis of environmental justice impacts. Specifically, Appendix G of the CEQA Guidelines includes 20 environmental topic areas that must be analyzed in an EIR, and environmental justice is not included as a topic area. Accordingly, a formal analysis of potential impacts related to environmental justice is not required to be included in the Draft EIR.

Response O1.11

The commenter claims that additional biological resources surveys are needed to fully disclose potential impacts to biological resources, and refers to the "Bolsa Chica standard" to suggest that degraded habitat is still habitat.

Additional biological surveys are not required to disclose impacts of the DVSP. As a program EIR, the Draft EIR is not required to analyze site specific impacts of individual projects. As a long-range planning tool, the DVSP does not propose specific development projects. Individual specific environmental analysis of each development application would be undertaken as necessary by the City prior to each project being considered for approval. The project specific environmental review may include site-specific biological resources surveys, as appropriate. This is acknowledged via Mitigation Measure BIO-1(a), which requires a biological resources screening assessment for individual projects proposed within undeveloped or partially developed areas containing natural or ruderal vegetation. If the screening assessment identifies potential for impacts to special status plants, then Mitigation Measure BIO-1(b) would further require floristic surveys. Similarly, for sites identified as having potential for special status wildlife species, Mitigation Measure BIO-1(e) would require pre-construction wildlife surveys. It is unclear what the commenter means by the "Bolsa Chica standard;" however, biological resources assessments and surveys required by these mitigation measures would include evaluation of all potential habitat that could be affected by future development facilitated by the DVSP.

While biological surveys are not required pursuant to CEQA, conducting such surveys at this stage also would not be useful, as specific projects are not currently defined to the level that would allow for such an analysis. Further, such surveys are typically valid for a few years. As biological conditions can change over time, it is more valuable to complete such surveys closer to the actual time of development to ensure that the data reflects the current state of biological resources.

No revisions to the Draft EIR are required in response to this comment.

Response O1.12

The commenter requests that the EIR disclose which sites or structures within the DVSP area may be historically significant, and states that mitigation for potential impacts cannot be deferred, pursuant to CEQA Guidelines Section 15126.4(a)(1)(B).

Potential impacts to historical resources are discussed in Section 4.4, *Less than Significant with Mitigation*, of the Draft EIR starting on page 4.4-12. As discussed therein, there are no specific development projects included in the Plan, but areas planned for future development under the DVSP potentially contain historic resources. Potential effects to historic resources can only be determined once a specific project has been proposed, because such impacts are highly dependent on individual project site conditions and the characteristics of proposed ground-disturbance. Refer to Response O1.9 for further discussion about the programmatic nature of the EIR and the reasonableness of conducting site-specific surveys closer to the time of anticipated development.

Regarding deferral of mitigation, CEQA Guidelines Section 15126.4(a)(1)(B) states that the specific details of a mitigation measure may be developed after project approval if it is impractical or infeasible to include those details during the project's environmental review. Because the Draft EIR includes a programmatic analysis, it does not incorporate site-specific surveys or evaluation of impacts to specific historic resources. Accordingly, pursuant to CEQA Guidelines Section 15126.4(a)(1)(B), the lead agency may develop the specific details of a mitigation measure after project approval provided the agency 1) commits itself to the mitigation, 2) adopts specific performance standards the mitigation measure will achieve, and 3) identifies the types of potential actions that can feasibly achieve that performance standard.

The Draft EIR includes Mitigation Measure CR-1, Historical Resources Evaluation and Treatment Procedures, to mitigate potential impacts to historic resources. This mitigation measure commits the City of Marina to implementation of the measure, establishes specific performance standards, and identifies types of potential actions that can achieve the performance standards (for example, Mitigation Measure CR-1 identifies eligibility criteria for historic resources, requirements for the evaluation of a potentially historic resource, protocol for avoidance or relocation of the historic resource, or further review under CEQA if required). Accordingly, mitigation for potential impacts to historic resources has not been inappropriately deferred. No revisions to the Draft EIR are required in response to this comment.

Response O1.13

The commenter requests that the Draft EIR disclose additional staffing and capital improvements for public services, recreation facilities, and utilities services that would be required to implement the DVSP. The commenter opines that the analysis should include the cost of these improvements, anticipated revenue sources, and the plans for purchase and maintenance of improvements.

Potential impacts to public services, recreation, utilities and service systems (impacts not related to water supply) are discussed in the Initial Study (Appendix A of the Draft EIR). Potential impacts to utilities and service systems related to water supply are discussed in Section 4.3, *Water Supply*, of the Draft EIR. The Initial Study and Draft EIR use the thresholds of Appendix G of the CEQA Guidelines to evaluate the project's potential environmental impacts, and Appendix G does not include thresholds related to staffing or the cost of capital improvements. Indeed, such impacts would not be considered environmental impacts under CEQA. In particular, thresholds related to the provision of public services focus on the need to develop new or physically altered governmental facilities, the construction of which could cause significant environmental impacts. The commenter fails to explain how the cost or revenue source for staffing or capital improvements would translate to a physical environmental effect. Further, as discussed previously, economic impacts are not considered significant effects on the environment (CEQA Guidelines Section 15131). Accordingly, revisions to the Draft EIR are not required in response to this comment.

Response O1.14

The commenter provides case law references to cumulative impacts and states the insufficient analysis or lack of analysis in the Draft EIR raises significant concerns.

Refer to Responses O1.1 through O1.13. As demonstrated therein, the analysis within the Draft EIR is sufficient and no revisions to the Draft EIR are required in response to these comments. Additionally, each section of the Draft EIR includes a discussion of cumulative impacts. Refer to page 4.1-20 in Section 4.1 for a discussion of cumulative air quality impacts; page 4.2-20 in Section 4.2 for a discussion of cumulative transportation impacts; and page 4.3-16 in Section 4.3 of the Draft EIR for

a discussion of cumulative water supply impacts. The commenter does not raise a specific concern regarding cumulative analysis within the Draft EIR. Further, it should be noted that, per CEQA Guidelines Section 15168(b), the advantages to preparing a Program EIR include: a more exhaustive consideration of effects and alternatives [subsection (b)(1)] and ensuring consideration of cumulative impacts that might be slighted in a case-by-case analysis [subsection (b)(2)]. As a Program EIR, the Draft EIR provides a comprehensive analysis of cumulative impacts.

Response O1.15

The commenter requests that the No Project Alternative explain why the current general plan, ordinances, and implementation of them cannot achieve the purposes of the DVSP. The commenter also asks how the Reduced Development Alternative would be achieved.

The analysis of alternatives included in the Draft EIR (Chapter 5 of the Draft EIR) was prepared in accordance with CEQA Guidelines Section 15126.6. The No Project Alternative analysis is not required to explain why the goals of the DVSP could not be achieved under existing conditions. The EIR analyzes and discloses environmental impacts of the DVSP as proposed, and the No Project Alternative complies with CEQA Guidelines Section 15126.6(e)(1), which states that the purpose of a no project alternative is “to allow the decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project.”

As stated on page 5-6 of Chapter 5, *Alternatives*, of the Draft EIR, the reduction in buildout under the Reduced Development Alternative would be achieved through a corresponding reduction in density allowances.

Response O1.16

The commenter states the opinion that other alternatives need to be considered and provides a list of several alternatives they believe would feasibly attain project objectives while reducing significant effects. A brief response to each suggested alternative provided is provided below.

A reduced project area alternative could reduce impacts to air quality and transportation compared to the proposed DVSP, as a reduced area would facilitate less development (and accordingly fewer vehicle trips) compared to the project as proposed. Similarly, because this suggested alternative would result in affects to a reduced area, impacts to biological resources, and historical resources could be reduced but would still likely require mitigation. However, a reduced project area would make it difficult to attain the project’s objectives (listed on page 5-1 of Chapter 5, *Alternatives*). Specifically, assuming buildout would occur at the same or reduced densities as proposed in the DVSP, a reduced project area would provide fewer opportunities for attracting diverse business opportunities and encouraging appropriate mixed-uses, and less opportunity for a variety of affordable, high-quality housing. Additionally, due to the amount of VMT expected to be generated by residential and retail uses in the Plan area, it is possible that a reduced project area may still result in significant and unavoidable impacts to transportation.

An alternative involving “priority/anchor sites” could provide owners and prospective developers with additional direction for the requirements of development at specific sites. However, the DVSP, as well as the DVSP’s design guidelines, are intended to provide direction for the requirements of development at all sites within the Plan area. Additionally, it is unclear how additional direction for project approval would reduce potential environmental impacts, assuming buildout would occur similar to the DVSP as proposed. An alternative involving “priority/anchor sites,” in addition to full buildout of the Plan area, would likely not reduce significant and unavoidable impacts to air quality

and transportation identified for the proposed project. With or without additional direction for project approval, development facilitated by the DVSP would still occur, which would still result in the environmental impacts identified in the Draft EIR. As this alternative would not avoid or reduce significant environmental impacts identified for the DVSP, it would not meet the intent of alternatives pursuant to CEQA Guidelines Section 15126.6.

Consideration of an alternative that eliminates the legal nonconforming use designation, such as the commenter's suggested "DVSP Overlay District" alternative, is not required, as economic impacts such as legal non-conformity are not considered environmental impacts under CEQA (see Response O1.1). Additionally, such an alternative would likely not reduce significant and unavoidable impacts to air quality and transportation identified for the proposed project. With or without the legal nonconforming use designation, development facilitated by the DVSP would still occur, which would still result in the environmental impacts identified in the Draft EIR. As this alternative would not avoid or reduce significant environmental impacts identified for the DVSP, it would not meet the intent of alternatives pursuant to CEQA Guidelines Section 15126.6.

It is unclear how an alternative pertaining to "base improvement" involving repair and maintenance of legal nonconforming properties based on appraised values rather than assessed values would reduce environmental impacts. As this alternative would not avoid or reduce significant environmental impacts identified for the DVSP, it would not meet the intent of alternatives pursuant to CEQA Guidelines Section 15126.6.

An alternative that includes thresholds for mandatory implementation of the DVSP for legal nonconforming structures is not required to be considered, as economic impacts such as legal non-conformity are not considered environmental impacts under CEQA (see Response O1.1). Such an alternative would likely not reduce significant and unavoidable impacts to air quality and transportation identified for the proposed project, as development facilitated by the project is assumed to still occur as evaluated in the Draft EIR. As this alternative would not avoid or reduce significant environmental impacts identified for the DVSP, it would not meet the intent of alternatives pursuant to CEQA Guidelines Section 15126.6.

In summary, none of the suggested alternatives would meet the intent of alternatives pursuant to CEQA Guidelines Section 15126.6, and consideration of these alternatives in the Draft EIR is not required. In accordance with CEQA Guidelines Section 15126.6, the Draft EIR evaluates a range of reasonable alternatives which would feasibly attain most of the basic project objectives. An EIR need not consider every conceivable alternative to a project. Accordingly, revisions to the Draft EIR are not required in response to this comment.

Response O1.17

The commenter expresses an opinion that their client is being treated differently than the nearby properties owned by the Monterey Bay Aquarium.

This comment does not pertain to the sufficiency of the Draft EIR analysis or CEQA process. As such, no further response is necessary.

Response O1.18

The commenter states that the City must adopt a statement of overriding considerations if the City approves the project, and notes that the discussion of overriding considerations should include measurable and quantifiable factors.

This comment is noted. City staff has prepared a draft statement of overriding considerations pursuant to CEQA Guidelines Section 15093, which would require adoption by the City Council at the time of approval of the DVSP.

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June 25, 2021

VIA ELECTRONIC MAIL ONLY

City of Marina
Att: Fred Aegerter
Community Development Director
209 Cypress Avenue
Marina, California 93933
faegerter@cityofmarina.org

Re: Downtown Vitalization Specific Plan Notice of Preparation and Initial Study

Dear Mr. Aegerter:

On behalf of Sierra Pacific Properties Inc., we thank you for the opportunity to provide comments on the Notice of Preparation of an Environmental Impact Report and associated Initial Study for the City of Marina's proposed Downtown Vitalization Specific Plan ("DVSP" or the "Project"). Sierra Pacific Properties Inc. is the owner of the Seacrest Plaza Shopping Center located at the intersection of Reservation Road and Seacrest Avenue in Central Marina. In this letter, we provide recommendations for framing the scope of the Environmental Impact Report in a manner that is consistent with the requirements of the California Environmental Quality Act ("CEQA;" Pub. Resources Code, § 21000 et seq.) and the State CEQA Guidelines ("Guidelines;" Cal. Code Regs., tit. 14, § 15000 et seq.).

These comments are not meant to signal opposition to the City's efforts to plan for a vibrant Downtown Marina. The goals and broad policies reflected in the DVSP, including its attempt to revitalize downtown Marina and to create a pedestrian-friendly downtown district, are laudable. However, the DVSP as proposed includes prohibitions against many currently permitted and conditionally permitted uses which, together with new development standards, will render these uses and their encompassing structures nonconforming. As you might know, Sierra Pacific Properties Inc. has articulated these concerns in the past. (See April 24, 2019 Ltr. from K. Lawson to City of Marina Planning Commission.) The Initial Study ignores the potentially significant environmental effects that will foreseeably result from the prohibition of certain commercial uses in the Core Area. Likewise, the Initial Study ignores environmental effects that will result from re-classifying broad swaths of already existing downtown commercial buildings as non-conforming structures.

In theory, it might be the case that the DVSP envisions that these non-conforming commercial uses will be replaced over time by wholly new developments that will conform to the newly imposed design standards in the DVSP. In practice, local commercial centers and businesses have suffered through a punishing recession and, more recently, a pandemic. The vision of a brand-new Core Area is admirable but inattentive to practical considerations. Local businesses need help, time to adjust, and an opportunity to stabilize, and the DVSP threatens to hamstring

realistic development by preventing existing grocery stores, pharmacies, banks, and other essential commercial institutions from undergoing necessary adjustments, renovations, or expansions. The idea that local businesses will have the capital to redevelop in a complete manner during the pertinent planning horizon is not workable. If indeed the DVSP envisions nearly 8,000 new residents, this influx does not automatically generate the economic wherewithal for businesses to “redo” existing shopping centers and other commercial buildings. The more likely result is that many businesses, including our client, will take a lengthy time to adjust and redevelop according to the DVSP’s vision, and many business are likely not to redevelop at all. Under this reasonably foreseeable scenario, new and old residents would travel outside of the downtown area to fulfill their needs.

In light of these practical considerations, it is especially important for the DVSP’s Initial Study and Environmental Impact Report to “present information in such a manner that the foreseeable impacts of pursuing the project can actually be understood and weighed.” (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 448; see also Guidelines, § 15063(c) (one of the purposes of an initial study is to explain why environmental effects are significant)). While “perfection” isn’t necessary, an environmental analysis “must be ‘prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences.’ ” (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 712, quoting Guidelines, § 15151). As we will explain in further detail below, the Initial Study falls short of these standards. It fails to meaningfully or adequately analyze the full scope of potential environmental impacts associated with the DVSP, and many of its conclusions are not supported by evidence. (See *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296 (initial study’s conclusions must be supported by evidence); accord *Citizens Ass’n for Sensible Dev. v. County of Inyo* (1985) 172 Cal.App.3d 151, 171). We therefore respectfully urge the City to revise the scope of its environmental analysis to ensure that all potentially significant environmental effects are adequately disclosed, analyzed, and mitigated.

We want to reiterate: these comments are not meant to signal opposition to the City’s downtown plan. Our client, who provides a “home” for many businesses in the heart of the Core Area, wishes to understand the environmental impacts of a proposed development that envisions 8,000 new residents and more than 3,000 new employees within the City’s limits. The scale of this change is enormous, especially considering the US Census estimated the population of Marina in 2019 was 22,781. The residents alone would constitute a 35 percent increase in the City’s population and we question, respectfully, whether a focused EIR is appropriate in any respect.

Further, we do ask that the City, in moving forward, not only consider the practical environmental implications of its blueprint, but also work more closely with the business community, including Sierra Pacific Properties Inc., to adjust this blueprint to accommodate the practical needs of the commercial sector. Our client would love the opportunity to discuss this issue in more detail with decisionmakers and staff. Our client would also like the opportunity to review and comment on any economic studies that informed the DVSP. The plan refers in a vague manner to some economic reports that might be more than ten years old, and a vetting of this information, in light of the circumstances of the past decade, appears to be warranted.

Overall, the DVSP embodies a new vision and our client supports the City's desire to reinvent the downtown — we simply ask that an on-ramp for this vision be created that accounts for practical realities.

1. The Initial Study Fails to Account for Impacts associated with Displacement of Existing Commercial Businesses

Specific deficiencies in the Initial Study's analysis are set forth in further detail in the subsequent sections below, but many of these deficiencies are the result of a general failure in the environmental analysis: the omission of any discussion or analysis of the environmental impacts that will result from the designation of existing development or businesses as non-conforming, and the eventual but inevitable displacement of those uses to areas outside of downtown Marina. Whenever a structure or use becomes non-conforming, it is a very big deal. Owners of non-conforming uses and structure face strictures on their ability to expand or adjust operations to changing circumstances. Cessations in operations also become concerning, as the operator of a non-conforming use can lose that right to operate if there is a period of activity that lasts for more than 6 months – circumstances that many have faced just in the past year due to COVID-19. Meanwhile, the DVSP will not only render existing uses and structures as non-conforming, but will also disallow the establishment of a number of new commercial uses when compared to the menu of land uses allowed by existing zoning.

While the details of such activities may not be set in stone, such outcomes are the reasonably foreseeable consequence of the DVSP as proposed. The City must evaluate and consider the impacts of the “most probable development patterns” that will result from a project. (See, e.g. *Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 292-293; *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325, 1337). Even if the potential impacts are nebulous and not yet sharply defined, because actual development has not yet been proposed, potential impacts of resulting displacement should be analyzed because they are reasonably foreseeable. (*Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 292-293).

Many direct and indirect impacts occur from the displacement of land uses, and the Initial Study does not contemplate these impacts. Chief among these failures is a severe underestimation of the air quality, greenhouse gas, energy, and traffic impacts of the Project by failing to account for the additional vehicle miles traveled by residents of Marina who will now have to drive outside of the downtown area, either to the periphery of Marina or even to different cities altogether, to access key businesses which are either outright prohibited under the DVSP or rendered non-conforming (thus disallowing expansion and, in some cases, might force their closure).

In order to fully account for the potentially significant environmental impacts of the DVSP, the analysis must include an analysis of the impacts of the DVSP's designation of existing development or businesses as non-conforming, including impacts of increased construction and demolition, and increased vehicle miles traveled. As a foundational issue, the EIR's analysis must account for (1) all commercial uses and structures that would be rendered non-conforming; (2) all commercial and other land uses that are allowed under current zoning, but would be prohibited under the DVSP; and (3) a detailed phasing plan for the introduction of new residential and commercial uses. Modern economic analyses, if not already prepared, must be used to validate the phasing assumptions, as well as the scope and magnitude of all displaced activities.

2. Air Quality

The Initial Study concludes that air quality impacts will be less than significant (with the incorporation of a single mitigation measure regarding construction dust control). However, the Initial Study's methodology includes several assumptions which are not supported by evidence. A more detailed analysis of the Project's air quality effects, accounting for all potential sources of air pollutants and including a health risk assessment, is needed.

a. Construction Emissions Analysis Fails to Account for All Sources of Emissions

The Air Quality analysis uses CalEEMod to estimate construction emissions for the Project. The Initial Study stated that construction activities studied "include demolition of existing structure, site preparation and grading, building construction, installation of wet and dry utilities as needed, construction of roadway improvements, and architectural coating." (Initial Study at p. 31). Appendix AIR to the Initial Study, which contains the CalEEMod calculations supporting the analysis, provides that the assumption is "half of existing residential units and half of existing retail/office space would be demolished and redeveloped." (See Initial Study, Appendix AIR, at p. 2). The City provides no explanation for this assumption. The DVSP would render many existing commercial and residential developments in the Downtown area non-conforming. While neither the DVSP nor the Initial Study has taken steps to quantify the number of existing developments that would be affected, Marina Community Development Director Fred Aegerter has previously estimated that "the plan would result in most of the buildings in the downtown area being non-conforming buildings." (See <https://www.montereyherald.com/2019/03/08/marinas-downtown-vitalization-plan-has-some-wondering-about-the-future/>). The Project must undergo an evidence-based analysis to determine a defensible assumption for the level of demolition that will occur under the Project. Understanding the level of development and construction will, in turn, require a more thorough accounting of how many structures will be rendered non-conforming, and contemporary economic analyses demonstrating what incentives exist for redevelopment and a survey or other reasonable assessment of the business community and its needs.

The Air Quality analysis also "assume[s] that soil material import would be minimal" and therefore "does not account for haul truck trips for soil material and export." (Initial Study at p. 31). The Initial Study justifies this assumption by noting that "buildout of the DVSP would primarily result in redevelopment activities and would not include subterranean parking structures." (Initial Study at p. 31). However, other sections of the Initial Study suggest that construction of the project would necessarily involve large-scale removal of soil from the Project site. Later in the Air Quality section, the Initial Study concedes that "construction activities facilitated by the DVSP may require *substantial* grading and excavation [...]." (Initial Study at p. 36) (emphasis added). Furthermore, in the Geology and Soils section, the Initial Study contemplates "removing, replacing soil with the proper fill selection, and compacting the soil" to address any soil stability-related hazards. The current Air Quality analysis is based on an assumption that is contradicted by other sections of the study. The Project must undergo a full evaluation of potential Air Quality impacts, including those that would occur from haul truck trips for soil material and export.

Finally, the Air Quality analysis fails to undergo any meaningful threshold impacts analysis regarding ozone precursor emissions from construction, specifically VOC and NO_x emissions. As the Initial Study notes, the Project region is in non-attainment for both PM₁₀ and Ozone. The Initial Study Air Quality analysis determines that construction activities will cause a Maximum Daily Emissions level of:

- 180 pounds of VOC per day;
- 230 pounds of NO_x per day; and
- 70 pounds of PM₁₀ per day.

Though the Project area is in non-attainment for all of these pollutants, the Air Quality analysis only compares the PM₁₀ construction emissions to a numerical threshold. The Initial Study justifies this approach by citing to the Monterey Bay Unified Air Pollution Control District's (MBARD) CEQA Air Quality Guidelines, which state that ozone precursor emissions from demolition and construction activities using "typical construction equipment" would not have a significant impact on attainment and maintenance of state or federal ozone ambient air quality standards. (Initial Study at p. 35). However, the Initial Study includes no list of the construction equipment anticipated for the DVSP, but only a vague statement that "demolition and construction activities facilitated by the DVSP are anticipated to use typical construction equipment." (Initial Study at p. 35). Under the MBARD guidelines, use of certain equipment, including grinders or any portable equipment, does not fall under the definition of "typical construction equipment." (See Monterey Bay Unified Air Pollution Control District CEQA Air Quality Guidelines (2008) at p. 5-3). The analysis must at least address whether construction or demolition activities will use such equipment.

Furthermore, the MBARD guidelines are nearly 13 years old, and may not reflect the most up-to-date methodology for determining significant impacts from construction emissions. For instance, the Bay Area Air Quality Management District's CEQA Guidelines, updated in 2017, specifically state that ozone precursor emissions from construction activities involving demolition or non-greenfield development should be analyzed by comparison to a threshold. (See Bay Area Air Quality Management District CEQA Air Quality Guidelines (2017) at pp. 3-1, 3-5).

The Project must undergo further evaluation and analysis to determine whether construction activity emissions, particularly ozone precursor emissions, will have a significant environmental impact.

b. Operational Mobile Emissions Analysis is based on a Flawed Vehicle Miles Traveled Calculation, which Fails to Account for Displacement

The Project's mobile source emissions were calculated using an estimate of "net new Vehicle Miles Traveled (VMT) estimated for residential and office land uses." (Initial Study at p. 31). Retail land uses, and retail-based trips, were not considered in the analysis, under an assumption that any local-serving retail use would reduce trip lengths and generate no new trips, because local-serving retail serves people with "an existing need that was met by the retail located further away and [are] now traveling to the new retail use because it is closer to the person's origin location." (Initial Study, Appendix TRAF-2 at p. 6). This assumption fails to account for mobile source emissions from out-of-area retail employees who will commute to downtown Marina.

Furthermore, the VMT analysis as a whole does not discuss or account for trip generation or longer trips that will result from the displacement of currently existing commercial enterprises in the Project Area. Under the DVSP, a series of businesses that are currently allowed to operate under pre-DVSP zoning will be prohibited (for instance, professional office uses facing Reservation Road, drive-thru or drive-in facilities, and service stations, all of which are currently permitted under the C-1 Retail Business District zone, would be prohibited in the Core Area, per Table 3-6 of the DVSP). Additionally, many businesses that fall into use categories still allowed under the DVSP operate within buildings that would not conform to the development standards of the DVSP, thus rendering the businesses with no prospect of expanding or increasing the footprint of their current operations. For those businesses outright prohibited in an area, such as drive-thru restaurants or banks in the Core Area, residents will have to take longer mileage trips to fulfill an existing need that was previously filled by a business located closer to them. This increase in VMT would be permanent, as no such business could ever move back into the area under the DVSP. Even for those businesses that constitute a permitted use in a non-conforming building, such as a grocery store with a street-abutting parking lot in the Core Area, the inability of the business to expand its operational area will lead to an increase in VMT. While this type of stagnancy is not within the vision of the DVSP, it is a reasonably foreseeable outcome, if not the most practical outcome. As such, to the extent 8,000 new residents create new demand for services, the “paralysis” that will restrict existing business from expanding will cause coveted commercial services to become established elsewhere. As a result, new residents will be forced to take longer mileage trips to fulfill their needs, until such time that a similar business constructs and occupies a conforming building in downtown, if ever.

The VMT analysis in the Initial Study fails to account for the increase in VMT due to displacement of existing businesses and commercial services that currently are allowed under existing zoning but, under the DVSP, would be prohibited. The Project must undergo further evaluation and analysis to determine whether emissions attributable to this increase in VMT will have a significant impact. These additional trips must also be taken into account in the Transportation Section, which the Initial Study already determined will need further analysis in an EIR.

c. Failure to Include a Quantitative Health Risk Assessment for Toxic Air Contaminants

The Initial Study notes that the Project will be located adjacent to numerous sensitive receptors, including residential neighborhoods and schools, and that the Project has the potential for toxic air contaminant (TAC) emissions during demolition and constructions activities. (Initial Study at pp. 39-40). However, the Initial Study declines to evaluate the long-term cancer impacts of such TAC emissions on sensitive receptors, claiming that construction activities will occur “over a relatively short duration.” (Initial Study at p. 40). This is a mischaracterization of the proposed construction and demolition activities. Construction and demolition activities are expected to occur over a period of approximately 20 years (Initial Study at p. 35), exposing sensitive receptors to TAC emissions throughout that time period. The City must conduct a quantitative health risk assessment to determine the long-term cancer impacts of these TAC emissions on nearby sensitive receptors. This analysis must be based on realistic phasing assumptions (as discussed earlier).

Additionally, the Initial Study does not analyze whether any of the proposed commercial or office uses contemplated by the DVSP would create TAC emissions. While residential uses often are

not sources of TACs, non-residential uses are not similarly exempt from such analyses. Existing residents and business owners within and adjacent to the downtown area are entitled to know the health risks associated with the massive scope of development proposed under the DVSP, including the pertinent cancer and non-cancer risks.

The Project must undergo further evaluation and analysis to determine the effects of 20 years of construction-related TAC emissions on sensitive receptors, and to determine whether any of the commercial and office uses contemplated by the DVSP will expose sensitive receptors to further TAC emissions.

3. Aesthetics

“Aesthetic issues, such as public views, ‘are properly studied in an EIR to assess the impacts of a project.’ ” *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1337–1338. “[T]he CEQA Guidelines essentially establish a rebuttable presumption [that] any substantial, negative aesthetic effect is to be considered a significant environmental impact for CEQA purposes.” (*Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1604; *accord Ocean View Estates Homeowners Assn., Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 401 [“Any substantial negative effect of a project on view and other features of beauty could constitute a significant environmental impact under CEQA.”])).

Here, the scope of environmental analysis proposed by the Initial Study falls short of what is required by CEQA and the Guidelines. A far more expansive analysis of potential aesthetic impacts is necessary to meaningfully inform members of the public and City decisionmakers of the Project's potentially significant environmental effects.

a. Applicability of SB 743

In 2013, the California Legislature adopted Senate Bill 743 (SB 743) to streamline the review of aesthetic impacts for certain categories of projects. Specifically, aesthetic impacts “of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment.” (Pub. Resources Code, § 21099(d)(1) [unless otherwise indicated, all subsequent statutory references are to the Public Resources Code]). The City has taken the position that the Specific Plan Area “is exempt from findings greater than ‘less than significant’ ” under SB 743 because the Specific Plan Area has been designated as a potential future transit priority area by the Association of Monterey Bay Area Governments (Opportunity Area MA-1). (Initial Study at pp. 17-18).

Although the Specific Plan Area is not currently located within an area that meets the definition of a transit priority area (“current [public transit] headways fall short of 15 minutes at peak periods”), the City asserts that “with development, increased ridership will result in more frequent headways.” (*Id.* at p. 18). To be eligible for SB 743 streamlining, the City must provide substantial evidence that public transit headways at transit stops within the transit priority area will meet or exceed the 15-minute threshold “within the planning horizon included in a Transportation Improvement Program.” § 21099(a)(7). While Monterey-Salinas Transit will be releasing a comprehensive operational plan in 2021, we are not aware of any Transit Improvement Program that would implement 15-minute headways at transit stops in the vicinity of the Specific Area Plan. Indeed, it appears that Monterey-Salinas Transit will be facing

numerous operational challenges caused by the COVID-19 pandemic (including financial shortfalls that may last until the mid-2020s), which will likely make increased headways infeasible. See *Monterey-Salinas Transit 2022-2023 Fiscal Year Budget*, available at <https://mst.org/wp-content/media/Final-Adopted-FY2022-FY2023-Budgets.pdf>. One of the lines that served the Specific Plan Area was recently cancelled (Route 27), and other service reductions may occur in the future. (See *Monterey-Salinas Transit Comprehensive Operational Analysis – Choices Report* (May 27, 2020) at p. 49, available at https://mst.org/wp-content/media/MSTCOA_Choices-Report.pdf).

Moreover, SB 743 only applies to “a residential, mixed-use residential, or employment center project on an infill site within a transit priority area.” (§ 21099(d)(1)). A specific plan is not a “residential, mixed-use, or employment center project.” Here, substantial portions of the Specific Plan Area will be developed as uses that fall outside these categories, including 94.7 acres of “public uses;” 77.9 acres of “retail/services and office/other commercial uses” with no restrictions on floor area ratio to 0.75;¹ and 3.2 acres of “light industrial” uses. (Initial Study at p. 7). The Downtown Vitalization Specific Plan therefore does not qualify for SB 743 streamlining.

b. Adverse Effects on Scenic Vistas

Although the City asserts that the Project falls within the scope of SB 743, it nevertheless discusses certain potential aesthetic impacts “for the sake of full disclosure.” (Initial Study at p. 18). For potential impacts to scenic vistas, the Initial Study concludes that impacts will be less than significant because “no scenic vistas are available or would be blocked or substantially modified as a result of Specific Plan buildout.” *Id.* In the EIR, the City should provide detailed visual simulations to show the extent and severity of potential visual impacts so that the public and City decisionmakers can meaningfully assess whether impacts are less than significant. (See *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831 [lead agencies must show the extent and severity of potential impacts]; see also Guidelines, § 15150 [“An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences.”]).

“Implementation of the proposed Specific Plan could include buildings up to 60 feet high or five stories, whichever is less, in the core zone.” (Initial Study at p. 23). “Buildings currently in the Downtown area are one to two stories, so this change would increase the building height in the core zone by up to 45 feet.” (*Id.*). Aesthetic impact simulations should provide a comprehensive analysis of how these increased building heights will impact views from scenic vistas in the vicinity of the Specific Plan Area.

¹ Employment centers are exempt projects under SB 743 insofar as they have commercial uses with a FAR below 0.75. The DVSP does not appear to contain any such restrictions, and the General Plan allows for multiple-use commercial developments with a maximum FAR of 0.90. (General Plan, Community Land Use Element, Table 2.4.) Please note the EIR project description must clarify minimum and maximum FARs.

c. Impacts to Scenic Resources, Including but Not Limited to, Trees, Rock Outcroppings, and Historic Buildings

The Initial Study concludes that impacts to scenic resources will be less than significant because “overall scenic quality of views from SR 1 would not be substantially or negatively altered by the project.” (Initial Study at pp. 18-20). The Initial Study completely omits any analysis of potential impacts to scenic resources from other vantage points in the Specific Plan Area or surrounding locations. The EIR should assess potential impacts from a broad range of potential vantage points, and it should assess potential impacts to all potential scenic resources in the vicinity of the Specific Plan Area. For example, this analysis should include an assessment of potential impacts to views of Locke-Paddon Wetland Community Park from within the Specific Area Plan. (See Initial Study at p. 19 [showing view of Locke-Paddon Wetland Community Park]). The EIR should also assess potential obstructions of public views of special status trees within the Specific Plan Area, including the coast live oak trees that were observed to the north of Reservation Road. (See Biological Resources Assessment at pp. 9-10).

d. Degradation of the Existing Visual Character or Quality of Public Views of the Site and Its Surroundings and Potential Conflicts with Zoning and Other Regulations Governing Scenic Quality

Preliminarily, the Initial Study concludes that the Specific Plan Area is “already urbanized” and, therefore, the City’s CEQA analysis “focuses on whether the project would conflict with applicable zoning and other regulations governing scenic quality.” (Initial Study at p. 24). Conflict with land use regulations is more appropriately dealt with in the EIR’s land use section, and there is nothing in CEQA that exempts an aesthetic analysis of changes to an urban area. The project under review here would increase the City’s population by 35 percent, more than double building heights, and situate millions of new square feet into a fairly discrete portion of the City.² Accordingly, the EIR should provide a detailed analysis of the extent to which the visual quality of the area will be affected by the much denser urbanization that is contemplated as part of the Specific Plan Area buildout.

To this end, the EIR should provide visual simulations and other evidence to show how the scale, massing, and architectural features of the various types of proposed development in the Specific Plan Area will be consistent with the Marina Municipal Code, City of Marina Downtown Vision, Downtown Design Guidelines, and the Pedestrian and Bicycle Master Plan. (See Initial Study at p. 20; *see also See Santiago County Water Dist., supra*, 118 Cal.App.3d at p. 831). In doing so, the EIR should provide specific descriptions and illustrations that show how landscaping, streetscapes, building facades, and other design elements will conform to Design Guidelines and the City of Marina Downtown Vision. Special emphasis should be placed on the analysis of changes to the overall character of the existing low-rise community that will result

² The Initial Study asserts that “implementation of the Specific Plan would change the character of the project area substantially, but these changes would be in keeping with applicable plans for revitalizing the Downtown area and creating a sense of place for visitors and residents, in connection with multiple modes of transportation.” (Initial Study at p. 24). Respectfully, this statement does not appropriately contemplate the scale of urbanization envisioned under the DVSP, which is not in keeping with applicable plans; if such were the case, the DVSP would not be necessary in the first place.

from the construction of 2,904 new residential units and the addition of up to 1,385,197 square feet of retail and office space.

e. Light and Glare

The Initial Study asserts that “effects on daytime or nighttime views due to new sources of light and glare would be less than significant” because “the Plan Area already makes up a developed downtown area [and] conditions would not be substantially altered from existing conditions.” (Initial Study at pp. 25-26). As noted above, the proposed buildout of the Specific Plan Area will substantially change the character of the existing built environment. The construction of 2,904 new residential units and the addition of up to 1,385,197 square feet of retail and office space will produce many new sources of light and glare. In fact, the Initial Study concedes that the substantial size and scope of the new development will cause “[n]ew sources of nighttime light and daytime glare [to] be introduced and could intensify the effects of illumination and glare over existing levels.” (*Id.* at p. 25). It is imperative that the EIR provide a detailed assessment of these new sources of light and glare and, if necessary, adequately mitigate any significant environmental effects associated with light and glare.

4. Biological Resources

Protection of biological resources is a fundamental policy incorporated in CEQA. Under Section 21001(c) it is the policy of the state to “[p]revent the elimination of fish or wildlife species due to [human] activities, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities.” In addition to its analysis of direct effects on biological resources, an EIR must identify and describe the significant indirect environmental impacts that will result from the project. (Guidelines, §15126.2(a)). Both short-term and long-term effects should be included in the analysis. (*Id.*). In other words, a CEQA analysis must “take account of the whole action involved, *including off-site as well as on-site*, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.” (Guidelines, Appendix G, emphasis added).

Here, the Initial Study (including the July 2019 Biological Resources Assessment conducted by Rincon Consultants) only assessed direct impacts on biological resources within the Specific Plan Area. There is no analysis of indirect or cumulative impacts to potentially sensitive biological resources at off-site locations. (*Cf.* Initial Study at p. 52 [noting, in passing, the existence of “higher quality chaparral habitat to the north of Reservation Road and within the Fort Ord National Monument”]). A large undeveloped area is located immediately northwest of the Specific Plan area, but there is no discussion of impacts to potentially sensitive resources at that location, nor is there any discussion of potential impacts to resources at the Locke-Paddon Wetland Community Park. This substantial omission should be corrected through the release of a revised initial study or, at the very least, in the EIR. (See *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296 [initial study’s conclusions must be supported by evidence]; accord *Citizens Ass’n for Sensible Dev. v. County of Inyo* (1985) 172 Cal.App.3d 151, 171).

a. Habitat Modification and Effects on Protected Species

The Initial Study discloses that impacts to biological resources would be potentially significant because “construction activity associated with individual projects developed under the Specific Plan could include demolition, grading, vegetation removal, equipment and vehicle staging,

parking.” (Initial Study at p. 46). However, according to the Initial Study, “[i]mplementation of Mitigation Measures BIO-1(a) through BIO-1(h) would reduce these impacts to less than significant level.” (*Id.*).

As noted above, because the Initial Study fails to analyze potential indirect, off-site impacts, it is impossible to determine the full extent of potential impacts associated with habitat modification. Likewise, it is impossible to determine whether Mitigation Measures BIO-1(a) through BIO-1(h) will actually mitigate those indirect, off-site effects to a less than significant level. Further, the Initial Study only defines and classifies vegetation communities and land cover types for a small fraction of the Specific Plan Area. (See Biological Survey at p. 10, Figure 3; see *also* Initial Study at p. 47, Figure 10 [screening for sensitive resources will only occur in a small fraction of the entire Specific Plan Area]). It is quite possible that sensitive species could occur in undeveloped portions of properties in the Specific Plan Area (e.g., in yards, setbacks, or parkways), but there is no classification or survey of potential habitat that evaluates whether sensitive species could potentially occur at those locations. These deficiencies should be remedied in a revised initial study or in the EIR. Moreover, the proposed mitigation measures will need to be revised to ensure that the entirety of the Specific Plan Area is screened for potentially sensitive resources.

b. Adverse Effects on Riparian Habitat or Other Sensitive Natural Communities and Related Effects on Protected Species

Here, the Initial Study’s analysis of potential impacts is limited solely to potential effects on the sandmat manzanita that occurs in the eastern portion of the Specific Plan Area. (Initial Study at pp. 52-53). According to the Initial Study, “given the higher quality chaparral habitat to the north of Reservation Road and within the Fort Ord National Monument, removal of a small patch of sandmat manzanita would not represent a significant impact to this vegetation community.” (*Id.*). However, this conclusion does not address the severity or extent of direct, indirect, and cumulative impacts associated with the loss of sensitive and protected species that were observed at the sandmat manzanita, including coast live oak (*Quercus agrifolia*). (See Biological Survey at p. 9). Trees cannot migrate to the chaparral to the north, and impacts to any coast live oak at the site should be disclosed and mitigated.

The Initial Study also fails to disclose, analyze, and mitigate potential impacts associated with the loss of willow riparian habitat and other potentially sensitive habitat within the Specific Plan Area. (See Biological Survey at p. 10, Figure 3). Furthermore, as noted above, because the Initial Study fails to analyze potential indirect off-site impacts, it is impossible to determine the full extent of potential impacts associated with impacts to riparian habitat.

c. Adverse Effects on Wetlands and Related Effects on Protected Species

The Initial Study states that “[n]o CDFW or USACE jurisdictional wetlands or waters are present in the Specific Plan Area.” (Initial Study at p. 53). But the Biological Resources Assessment discloses that “[t]he edge of riparian vegetation at Locke-Paddon Park also falls within the Specific Plan and is likely to be jurisdictional under CDFW.” (Biological Resources Assessment at p. 15). This inconsistency should be addressed and clarified in the EIR.

Again, because the Initial Study fails to analyze potential indirect, off-site impacts, it is impossible to determine the full extent of potential impacts associated with impacts to riparian

habitat and sensitive species that may occur at those off site locations. Potential indirect and cumulative impacts to off-site wetlands should be disclosed, analyzed, and mitigated in a revised initial study or in the EIR. (Guidelines, §15126.2(a)).

d. Effects on Wildlife Movement and Nursery Sites

The Initial Study concludes that “[t]here would be no impacts to wildlife movement from development under the Specific Plan.” (Initial Study at p. 54). Again, this analysis fails to consider potential off-site impacts, including potential impacts to species that may migrate through coastal dunes or other coastal areas to the west of the Specific Plan Area. The Initial Study also includes no analysis of potential impacts that could potentially “impede the use of native wildlife nursery sites.” (See Guidelines, Appendix G, § IV(d)).

e. Conflicts with Local Policies Protecting Biological Resources

Here, the Initial Study’s analysis is limited to Project consistency with urban forestry standards. (Initial Study at p. 54). In the EIR, the City should expand this analysis to disclose, analyze, and mitigate direct, indirect, and cumulative impacts that may be subject to other local policies, including policies that protect sensitive biological resources in coastal areas.

5. Cultural Resources

CEQA defines a substantial adverse change in the significance of a historical resource as a significant effect on the environment. (§ 21084.1; Guidelines, § 15064.5(b)). A substantial adverse change means demolition, destruction, relocation, or alteration of the resource or its immediate surroundings resulting in the significance of the resource being materially impaired. (*Id.* at subd. (b)(1)). The significance of a resource is materially impaired when the physical characteristics that convey its historical significance and that justify its designation as a historical resource are demolished or materially altered in an adverse manner. (*Id.* at subd. (b)(2)).

The Initial Study cites “28 cultural resources studies conducted within a 0.5-mile radius of the Plan Area,” 16 of which “included all or portions of the Plan Area.” (Initial Study at pp. 56-59). But none of those studies conducted a systematic, lot-by-lot or building-by-building analysis of all potentially historic structures or sites within the Specific Plan Area. Without this systematic analysis, it will be impossible for members of the public and City decisionmakers to determine the full scope of potential environmental effects. (See Guidelines, § 15150 [“An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences.”]).

The Initial Study discloses that a full inventory of potential sensitive historic resources in the Specific Plan Area will not be conducted until *after* CEQA review is complete. (See Mitigation Measures CR-1 through CR-4). But the Initial Study and the EIR cannot insist the impact will be insignificant and defer the development of specific mitigation measures to some future time. (Guidelines, § 15126.4(a)(1)(B)). Here, the construction of 2,904 new residential units and the addition of up to 1,385,197 square feet of retail and office space could have substantial direct, indirect, and cumulative effects on the historic character of resources that could potentially be

demolished by the new development or resources located in close proximity to new development. These potential impacts should be disclosed, analyzed, and mitigated in the EIR.

Deferring analysis to a later stage is unlawful, as it leaves the public with no real idea as to the severity and extent of environmental impacts. Where, as here, an initial study fails to fully and accurately inform decisionmakers and the public of the environmental consequences of proposed actions, it does not satisfy the basic goals of CEQA and its Guidelines. (See § 21061 [“The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment”]). The evaluation of a proposed project’s environmental impacts is the core purpose of an EIR. (See Guidelines, § 15126.2(a) [“An EIR shall identify and focus on the significant effects of the proposed project on the environment.”]). It is well-established that the City cannot defer its assessment of important environmental impacts until after the project is approved. (*Sundstrom, supra*, 202 Cal.App.3d at pp. 306-07).

6. Energy

a. Failure to Compare to the Project to a Threshold

In evaluating whether the Project would result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of resources, the Initial Study quantifies the amount of gasoline and diesel fuel to be used in demolition and construction of the DVSP, the amount of gasoline and diesel fuel to be used by net new VMT, and the kilowatt hours of electricity and British thermal units of natural gas to be used in residential and non-residential buildings. However, there is no comparison of these figures to a threshold. The Initial Study does not provide any comparison to average energy usage for similar developments, or assess the energy demands of the Project in relation to regional energy production or capacity. Without such a comparison, the Initial Study’s conclusion that the Project will not result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of resources is not supported by evidence. The Project must undergo further evaluation and analysis to determine whether it will result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of resources in a manner that fully complies with *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256.

b. Failure to Account for Increased VMT Due to Displacement

The quantification of gasoline and diesel fuel to be used by automobiles relies on a VMT calculation that fails to account for an increase in VMT due to displacement of existing downtown businesses, as summarized above in the Air Quality section.

Furthermore, the determination that the Project is consistent with Community Goal 1.18 relies on the claim that “the DVSP would create a balanced land/use transportation system that would minimize excessive energy consumption.” (Initial Study at p. 73). In fact, displacement of existing downtown businesses under the DVSP would potentially lead to greater energy consumption by automobiles than would occur without the DVSP. The Project must undergo further evaluation and analysis to determine impacts due to increased automobile energy use from trips generated or lengthened by the displacement of existing downtown businesses.

7. Greenhouse Gas Emissions

a. Reliance on Flawed Emissions Calculations

The Initial Study's methodology to analyze greenhouse gas (GHG) emissions relies on flawed assumptions and calculations elsewhere in the Initial Study, which render its GHG analysis incomplete. When modeling construction emissions, the GHG analysis uses the emissions assumptions from the Air Quality Section, which fail to account for all emissions as discussed in the above Air Quality section. The calculation of GHG emissions from mobile sources uses the VMT calculation used in the Air Quality section, which fails to account for trip length and generation associated with the displacement of existing downtown businesses, as discussed in the above Air Quality section.

The Initial Study's GHG analysis also makes a series of unsupported assumptions about energy usage of the Project. First, the Initial Study assumes that residential unit energy use will produce no GHG emissions due to "the fact that the project would include solar photovoltaic systems on all low-rise residential buildings (i.e. single- and multi-family residential buildings that are three stories or less) with annual electrical output equal to or greater than the dwellings annual electrical usage [...]" (Initial Study at p. 89). The Initial Study makes no effort to quantify the residential dwelling's electrical usage, or demonstrate that it is feasible for building-localized solar photovoltaic systems to provide for all of such a dwelling's projected usage. Furthermore, it is not clear that *all* residential units will be covered by the Project's low-rise solar mandate, including units in multi-story mixed use buildings with residential units above commercial uses.

The Initial Study also assumes that 97 percent of the electricity demanded in its analysis (meaning 97 percent of electricity demanded by commercial or office tenants, as the analysis assumes no residential demands from the grid) will be provided by MBCP's carbon free electricity. The claimed basis for this assumption is that "according to MBCP, approximately 97 percent of accounts in their service area maintain their enrollment [...] the remaining 3 percent of accounts opt out and connect to PG&E." (Initial Study at p. 89). However, this 97 percent figure includes *all* current MBCP accounts, including residential. Since the GHG analysis assumes grid usage and associated GHG emissions will come from only commercial and office tenants, the Initial Study should apply the proportion of MBCP's *commercial and office accounts* that opt out and connect to PG&E. This figure may be significantly greater than 3 percent, as commercial and office accounts may demand electric service that they perceive to be more stable and responsive.

The Project must undergo further evaluation and analysis to fully account for all GHG emissions attributable to the DVSP, and determine whether there are potentially significant effects from such emissions.

b. Improper Threshold

As the Initial Study notes, CEQA Guidelines and interpretative GHG case law require a local, project-specific threshold to evaluate GHG effects. (Initial Study at p. 91). While consistency with Statewide reductions goals set forth in documents like CARB's 2017 Scoping Plan can be used as the basis to develop such a threshold, the threshold itself must take into account localized-GHG data and the Project's individual features. (*Ctr. for Biological Diversity v. Dep't of Fish & Wildlife* (2015) 62 Cal.4th 204 as modified on denial of reh'g (Feb. 17, 2016).). A proper

localized threshold should not rely entirely on statewide GHG data or statewide population data to develop the threshold. (*Golden Door Properties, LLC v. Cty. of San Diego* (2018) 27 Cal.App.5th 892).

Though the Initial Study describes its calculated threshold of 3.2 MT of CO₂ per Service Population as a “locally-appropriate” threshold, in reality it is based entirely on state-level emissions and population data. To develop this threshold, the Initial Study looks at *statewide* emissions targets regarding GHG emissions (in MMT CO_{2e}) for particular emission sectors delineated by CARB. (Initial Study at p. 92). The Initial Study then excludes emissions sectors that are not present in Marina, and sums the *statewide* targets of the remaining emissions sectors to get a total of 213,000,000 MT of CO₂, the *statewide* emissions limit for all sectors present in Marina. (*Id.*) Then, the Initial Study divides this sector-limited *statewide* emissions limit by the *statewide* service population of 65,723,654 to derive its threshold of 3.2 MT of CO₂ per Service Population. (Initial Study at p. 93).

This threshold is based entirely on the application of statewide data and numbers. There is no attempt to take into account local or regional GHG data to determine whether Marina or the Monterey region already contribute a larger proportional share of GHGs or have a proportionally higher population density than other state regions, which would require a proportionally larger reduction in GHG emissions to reach state goals. Nor is there an attempt to explain why the use of a statewide service population metric and statewide GHG emissions target numbers are appropriate for a project specifically within Marina. (See *Golden Door Properties, LLC v. Cty. of San Diego* (2018) 27 Cal.App.5th 892).

Without such an analysis, the GHG threshold is not localized or project-specific as required by CEQA Guidelines and well-established GHG case law.

8. Hazards and Hazardous Materials

The Initial Study provides an incomplete summary of all potential hazardous and contaminated sites in (and in the vicinity of) the Specific Plan Area. (See Initial Study at pp. 105-109). It does not identify, for example, potential hazards associated with gas stations on Reservation Road and Del Monte Boulevard. Nor does it discuss the potential presence of certain site-specific contaminants such as lead or asbestos, which will need to be remediated during the redevelopment of properties within the Specific Plan Area.

The Initial Study concludes that potential impacts will be mitigated to a less-than-significant level by implementing project-specific hazardous materials assessments (Mitigation Measure HAZ-1), which will include “measures that ensure the safe transport, use, and disposal of contaminated soil removed from the site.” (Initial Study at p. 108). To ensure that all impacts are adequately mitigated to a less-than-significant level, the EIR should incorporate additional mitigation to prevent the intrusion of potentially hazardous materials into groundwater, soil, and air in the Specific Plan Area. For example, if new development associated with the Specific Plan buildout could foreseeably disturb contaminated sites, then it may be necessary to preemptively remediate contaminants that could potentially infiltrate locations within the Project site or other off-site locations.

Furthermore, CEQA requires that initial studies and EIRs provide accurate and complete information pertaining to the setting of the Project and surrounding area. (*San Joaquin*

Raptor/Wildlife Center v. Stanislaus County (1994) 27 Cal.App.4th 713, 728-29 ; see also *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 875 [incomplete description of the Project's environmental setting fails to set the stage for a discussion of significant effects]). Here, the Initial Study provides an incomplete and inadequate description of the history of wildfire hazards in the vicinity of the Specific Plan Area, and the initial study fails to discuss how the effects of climate change might exacerbate such risks. (See also Initial Study Chapter 20).

9. Hydrology and Water Quality

The Initial Study states that “[t]he proposed project would result in an increase in water demand in the Plan Area, which could result in a potentially significant impact related to groundwater supplies and sustainable groundwater management.” (Initial Study at p. 112). The Initial Study then states that such impacts will be studied in the EIR, but no further information is provided. *Id.* It is crucial that the EIR provide a complete and thorough analysis of all potential direct, indirect, and cumulative demands on groundwater supplies, including demands from related projects that share the same groundwater basin. It is also crucial for this analysis to evaluate all future development that is contemplated as part of the Specific Area Plan buildout. (See *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 441).

The Initial Study also concludes that “the Plan Area is developed and consists mostly of impervious surface area” and that the development of new structures “pursuant to the Specific Plan would not substantially alter the amount of impervious surface area.” (Initial Study at p. 112). However, other portions of the Initial Study note that there are substantial portions of the Specific Plan Area that remain undeveloped. (See Biological Resources Assessment at p. 10, Figure 3). The Initial Study does not clarify whether these undeveloped areas consist of impervious or pervious surface, but review of satellite imagery demonstrates a significant portion of the DVSP planning area does consist of pervious surfaces. The conversion of those undeveloped lots (and the redevelopment of existing lots with potentially larger development footprints) through the construction of 2,904 new residential units and the addition of up to 1,385,197 square feet of retail and office space will likely lead to the introduction of a substantial amount of new impervious surfaces relative to baseline conditions. The EIR should provide specific calculations that show the amount of new impervious surfaces that will be introduced to the Specific Plan Area as a result of anticipated new development. Please also see the section below regarding impacts on recreation; any analysis of hydrology should also account for the City’s strategy in dealing with potential shortages in open space.

The EIR should also carefully examine the effects of saltwater intrusion into the groundwater table that may occur as a result of climate change, as well as the effects of less-frequent groundwater recharge that will occur as a result of less-frequent precipitation. (See Safi, et al. (2018) *Synergy of climate change and local pressures on saltwater intrusion in coastal urban areas: effective adaptation for policy planning*, Water International, available at <https://www.tandfonline.com/doi/full/10.1080/02508060.2018.1434957>).

10. Noise

The goal of providing Californians with “freedom from excessive noise” is included among CEQA’s basic policies. (§ 21001(b)). Under the definition of the term “environment” in Section 21060.5, noise is included as a physical condition that may be affected by a proposed project.

According to the Initial Study, “[o]perational impacts, including traffic-related exterior and interior noise impacts to DVSP uses and stationary noise from HVAC units, [will] be potentially significant and require mitigation.” (Initial Study at p. 137). “Specific Plan-generated traffic noise impacts to existing land uses would be less than significant, as would operational impacts related to truck deliveries. Mitigation would not be required for these specific impacts.” (*Id*). Both of these conclusions are premised upon the assumption that increased automobile traffic and increased noise from stationary sources (i.e., HVAC units) can be modeled into existing topographic conditions. As it exists today, the Specific Plan area is predominantly occupied by low-rise buildings and undeveloped lots. Under current conditions, noise is more likely to be dispersed as sound waves moves away from a source. Modifying development standards to allow for the construction of five-story buildings, substantially increased massing, and modifications to development standards that allow for increased parcel coverage will substantially change the way in which noise travels through the Specific Plan Area. The EIR will need to account for increased reverberation, echoing, and other site-specific conditions that may lead to more significant effects. Additional mitigation may be necessary to address these conditions.

Furthermore, the Initial Study fails to account for indirect and off-site noise impacts that will occur as a result of increased traffic traveling through streets in the vicinity of the Specific Plan Area. Potential indirect and cumulative impacts to off-site receptors and wetlands should be disclosed, analyzed, and mitigated in a revised initial study or in the EIR. (See Guidelines, §15126.2(a)).

11. Population and Housing

According to the Initial Study, “full buildout of the Specific Plan would result in an estimated 7,957 new residents in the Plan Area.” (Initial Study at p. 143). However, the Initial Study also reveals inconsistencies between the Project and AMBAG’s long-term growth projections. As of 2019, the City was estimated to have a population of 22,535 people. (See Initial Study at p. 2). The buildout of the Specific Plan Area would exceed the AMBAG’s 2025 population projections of 28,515 by 2030 and 29,554 by 2035. (Initial Study at p. 143). The EIR should disclose and analyze the implications of these inconsistencies, including the ability of region-wide infrastructure to accommodate greater-than-expected population growth.

CEQA requires agencies to evaluate the direct, indirect, and cumulative effects of housing displacement. (See Guidelines Appendix G, § XIV(b) [Requiring agencies to answer the question of whether a project will “[d]isplace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere”].) Likewise, CEQA mandates disclosure of a project’s direct and cumulative environmental effects on “human beings, either directly or indirectly.” (§ 21083, subd. (b)(3); Guidelines, § 15065, subd. (a)(4); see also *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.* (2006) 139 Cal.App.4th 1356, 1372 [human health is among the many “environmental values” protected by CEQA and the Guidelines].)

The adverse environmental and human health impacts of gentrification and housing displacement are well understood by scholars and urban planners. Introducing 2,904 new homes to the Specific Plan Area will significantly increase rents and the cost of living for existing residents, thereby increasing the risk that existing residents will be priced-out of the City. There is a substantial risk that low-income families and historically disadvantaged community members will be disproportionately impacted by these conditions. However, the DVSP provides no guarantee that existing residents will be given an opportunity to move into new market-rate or affordable housing that will be developed as part of the DVSP, and the Initial Study provides no analysis or mitigation of the short-term and long-term effects of housing displacement. (See Initial Study at p. 144). It is critical for the EIR to analyze and mitigate these impacts.

12. Public Services

a. Police and Fire Services

The Initial Study fails to provide any analysis of whether the Project would require new fire or police facilities in order to maintain acceptable response times. The Marina General Plan Community Land Use Element 2.106 sets forth clear response time standards: “As the population of Marina grows, the police force should be sufficiently staffed and deployed to maintain an average emergency response time of four minutes. Similarly, a maximum response time for fire protection of three to four minutes should be maintained.” Community Land Use Element 2.106 continues: “Where new development would be located beyond a three-to-four-minute response time, consideration should be given to the need for Class A fire-resistant roofing.”

While the analysis of fire services concludes that one new fire station will likely be required to maintain service ratios, it does not analyze where this station would need to be located in order to maintain a maximum response time of three to four minutes, or whether even further infrastructure would be required to comply with the response time standard. The analysis of police service is entirely deferred, stating that “service ratios and response time would be reassessed and adjusted as the population grows in an ongoing process over the course of DVSP buildout.” (Initial Study at p. 146). No attempt is made to assess whether further police resources would be needed to maintain an average response time of four minutes.

Deferring analysis to a later stage is unlawful, as it leaves the public with no real idea as to the severity and extent of environmental impacts. Where, as here, an initial study fails to fully and accurately inform decisionmakers and the public of the environmental consequences of proposed actions, it does not satisfy the basic goals of CEQA and its Guidelines. (See § 21061 [“The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment”]). The evaluation of a proposed project’s environmental impacts is the core purpose of an EIR. (See Guidelines, § 15126.2(a) [“An EIR shall identify and focus on the significant effects of the proposed project on the environment.”]). It is well-established that the City cannot defer its assessment of important environmental impacts until after the project is approved. (*Sundstrom*, supra, 202 Cal.App.3d at pp. 306-07).

The Project must undergo further evaluation and analysis to determine whether further construction or expansion of fire and police facilities would be needed to maintain mandated

response times, and whether such construction or expansion will have potentially significant impacts.

b. Indirect Effects of Increased Demand For School Facilities

The Initial Study, citing California Government Section 65996, concludes that payment of school impact fees will constitute full and complete mitigation for potential impacts to schools caused by developments. However, a Project's indirect impacts on parts of the physical environment that are not school facilities, but that result from increased demand for schools, are not excused from being considered and mitigated. (*Chawanakee Unified Sch. Dist. v. Cty. of Madera* (2011) 196 Cal.App.4th 1016, 1028, as modified on denial of reh'g (July 19, 2011)). Such indirect impacts include impacts on traffic and VMT from new students residing in the residential portions of the Project taking trips to and from school, and any impacts on the surrounding environment from school-related construction to expand existing facilities or develop new facilities. Per the Initial Study, existing public schools in Marina have capacity for only 500 additional students above current enrollment, meaning that full buildout of the DVSP will require expansion of existing schools, construction of new schools, or for students to travel outside of Marina for schooling.

The Project must undergo further evaluation and analysis to determine the indirect effects of the Project exceeding existing Marina public school capacity, including potential effects from additional construction and new or increased VMT.

13. Recreation

As the Initial Study notes, the DVSP does not specify new park sites within the Plan Area. (Initial Study at p. 147). However, the Initial Study fails to account for the effect of the Project on existing parks, or the effects of construction of the known amount of acreage of new parks needed to satisfy City standards. The City of Marina General Plan establishes a standard of 5.3 acres of City park and recreation land for every 1,000 residents, while the Marina Parks and Recreation Master Plan identifies an even higher standard of 10 acres per 1,000 residents. (Initial Study at p. 149). Currently, the existing ratio is 5.3 acres per 1,000 residents. (*Id.*). The current population of Marina is estimated to be 22,535 people, and full buildout of the DVSP projects adding 7,957 new residents. In order to maintain the 5.3 acres per 1,000 residents ratio, the City would need to construct an additional 42 acres of parks. In order to meet the goals of the Marina Parks and Recreation Master Plan, the City would need to construct an additional 185 acres.

The DVSP should include specific provisions for the construction of parks and green spaces in order to adequately serve the Project's new residents. The environmental review of the Project should also study the potential effects of new park construction on the surrounding environment. If the DVSP proceeds without such provisions, then the effect of an increase of nearly 8,000 residents on the City's already strained public park system must be analyzed.

14. Tribal Cultural Resources

As noted above, an EIR must identify and describe the significant indirect environmental impacts that will result from the project. (Guidelines, §15126.2(a)). A CEQA analysis must "take account of the whole action involved, including *off-site* as well as on-site, cumulative as well as

project-level, indirect as well as direct, and construction as well as operational impacts.” (Guidelines, Appendix G, emphasis added). Here, the Initial study analyzes potential impacts within the Specific Plan Area, but it does not mention potential impacts to sensitive resources in off-site areas. The EIR should carefully analyze and mitigate potential indirect Project effects that could disturb tribal cultural resources at off-site locations.

15. Utilities & Service

The Initial Study states that “[t]he project could result in potentially significant impacts related to water supply.” (Initial Study at p. 156). The Initial Study then states that such impacts will be studied in the EIR, but no further information is provided. (*Id.*). It is crucial that the EIR provide a complete and thorough analysis of all potential direct, indirect, and cumulative demands on water supplies, including demands from related projects that share the same groundwater basin and other municipal water sources. It is also crucial for this analysis to evaluate all future development that is contemplated as part of the Specific Area Plan buildout. (See *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 441). A similar cumulative demand analysis is required for other utilities, including wastewater and electricity.

16. Wildfire

As noted above, CEQA requires that initial studies and EIRs provide accurate and complete information pertaining to the setting of the Project and surrounding area. (*San Joaquin Raptor/Wildlife Center, supra*, 27 Cal.App.4th at pp. 728-29). Here, the Initial Study provides an incomplete and inadequate description of the history of wildfire hazards in the vicinity of the Specific Plan Area, and the initial study fails to discuss how the effects of climate change may exacerbate such risks. (See Initial Study at p. 160). Multiple urbanized areas within the State of California have been decimated by wildfires in the past few years, demonstrating that an “urban character” does not exempt a community from risk. Here, the DVSP planning area is located adjacent to significant open space, potentially heightening risks.

Without key contextual information regarding wildfires and associated risks, it is impossible to meaningfully assess the full extent of potential environmental impacts.

* * *

The City, in proposing the DVSP, is contemplating a massive change to the community — 8,000 new residents, more than 3,000 new employees, and associated construction to accommodate these new community members. Sierra Pacific Properties Inc. has been a member of the Marina community for years and appreciates the City’s commitment to innovation. As a member of the business community, however, our client has concerns about the DVSP’s environmental impacts on its tenants and their customers, and concerns that the grandiosity of the DVSP does not account for economic realities facing the downtown commercial sector. To this end, we have concerns that the commercial land use provisions of the DVSP might rest on assumptions and determinations located in economic studies that are many years out of date. Sierra Pacific Properties Inc. welcomes further discussion on these issues.

Thank you again for the opportunity to provide these comments. If you have any questions or would like to arrange a meeting with our client team, please do not hesitate to contact our office.

Very truly yours,

A handwritten signature in black ink, appearing to read "Niran Somasundaram".

Niran S. Somasundaram
Attorney

A handwritten signature in blue ink, appearing to read "Ellis Raskin".

Ellis F. Raskin
Attorney

CC: Sean Marciniak, Hanson Bridgett LLP
Client

May 24, 2024

VIA E-MAIL DELIVERY

Letter O2

Guido Persicone,
Community Development Director
Community Development Department
211 Hillcrest Avenue
Marina, CA 93933
gpersicone@cityofmarina.org

RE: Draft Environmental Impact Report (the “**Draft EIR**”) For the Proposed Downtown
Vitalization Specific Plan (the “**Specific Plan**”)

Hello Mr. Persicone,

Sierra Pacific Properties, Inc. (“**SPPI**”) is the owner of the Seacrest Plaza Shopping Center located at 226-270 Reservation Road in the City of Marina, California (the “**Shopping Center**”). SPPI received notification of the Draft EIR for the Specific Plan in connection with the City’s efforts to implement the Specific Plan. SPPI is not opposed to redevelopment in the City of Marina and does not specifically oppose the Specific Plan, however, SPPI is concerned about the method in which the current form of the Specific Plan is being proposed and is concerned about the impacts that the proposed Specific Plan will have on property owners, residents and the Shopping Center.

If the Specific Plan is implemented, the existing permitted Shopping Center uses and the associated structures and improvements would no longer be permitted because they would not comply with the newly enacted zoning and use regulations. Thereafter, any change to the Shopping Center or its structures or improvements would not be allowed as conforming uses. The grocery store and pharmacy are the primary grocery store and pharmacy utilized by residents of the City of Marina. Rendering the Shopping Center as a non-conforming use would ultimately result in increased vacancy at the Shopping Center and ultimately result in its closure. Closure will (1) force the residents to drive a greater distance to shop for groceries and other retail services and (2) will cause an increase in blight and crime.

O2.1

As noted in a letter dated June 25, 2021, from our attorneys to the City of Marina (the “**2021 Comment Letter**”) regarding the Notice of Preparation of the Environmental Impact Report, there are a number of potential impacts to the environment and the community that we believe the City has not properly evaluated and/or mitigated. A copy of the 2021 Comment Letter is enclosed, and all of its recommendations are incorporated herein as objections to the Draft EIR. We also believe that implementation of the Specific Plan is an unreasonable and unjust taking of the rights and property of SPPI. The proposed Specific Plan will significantly diminish the value of SPPI’s property. Specifically, designating our property as a non-conforming use will (a) render our property unusable; (b) cause SPPI to expend unreasonably large sums of money in order to comply

O2.2

1800 Willow Pass Court Concord, California 94520
tel 925.609.6200 fax 925.609.6292
www.spprop.com



with the Specific Plan; and (c) place an unreasonable economic and financial burden on SPPI in order to continue using and enjoying the Shopping Center.

O2.2
cont.

The Fourteenth Amendment to the United States Constitution guarantees that no state shall “deprive any person of life, liberty or property, without the due process of law.” (See also, Cal. Const. Art I, Sect. 7 “[a] person may not be deprived of life, liberty, or property without due process of law”). The due process clause includes both procedural and substantive components – the substantive component guards against arbitrary, capricious, malicious, abusive, or irrational government action that “shocks the conscience.” (See *United States v. Salerno* (1987) 481 U.S. 739, 746.) “A substantive due process violation requires some form of outrageous or egregious conduct constituting a ‘true abuse of power.’ ” (*Las Lomas Land Co., LLC v. City of Los Angeles* (2009) 177 Cal.App.4th 837, 856). The City’s failure to properly consider the economic impact on SPPI to the implementation of the Specific Plan will deprive SPPI of its property without due process.

O2.3

Furthermore, the Fifth Amendment to the United States Constitution provides in pertinent part: “No person shall... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.” Implementation of the Specific Plan in its currently proposed form will cause the currently lawful uses of the Shopping Center to be rendered non-conforming and limit SPPI’s right to use and operate the Shopping Center. The Specific Plan will impose prohibitions and limitations on SPPI’s ability to use and enjoy its property. These limitations will have a direct, substantial, and peculiar burden on SPPI’s property interest and will be a taking of SPPI’s property without payment of just compensation in violation of the United States Constitution. The City does not have a legitimate public interest in imposing such a burden solely on SPPI. The burden should be placed more fairly on the public at large.

O2.4

PROPOSED ALTERNATIVE LANGUAGE:

SPPI proposes the following revisions to the proposed Specific Plan to protect the rights of property owners affected by the Specific Plan. We believe the revisions proposed below will allow the Shopping Center to continue to serve the community during its useful life, but also allow the Specific Plan to be implemented without depriving owners of the ability use and operate their properties.

Proposed alternative #1: Add the following paragraph to the end of Section 7.6.2 of the Specific Plan:

“Notwithstanding the foregoing, the portions of the Downtown Vitalization Area on the south side of Reservation Road between Seacrest Avenue and De Forest Road consisting of Assessor Parcel Numbers 032-171-024 and 032-171-025 shall be an overlay district that allows the existing uses as established under prior ordinances, permits and land use designations to remain as conforming uses until permanently removed or no portion of any applicable parcel is continuously used

O2.5



and/or operated pursuant to its land use designation approved prior to the adoption of the specific plan. For purposes of this section a parcel shall be considered to have ceased its use and operation if more than 75% of the buildings on said parcel cease to be used for more than five consecutive years.”

The proposed language above is similar what is proposed in Resolution 2008-111 and 2008-156 with respect to the Central Marina Sub Area and the Cypress Square Mobile Home Park. The overlay concept is also referenced on page 4 of the City of Marina’s General Plan.

Proposed alternative #2: Delete the last paragraph of Section 7.6.2 of the Specific Plan and replace it with the following:

“A. Upon adoption of the Specific Plan **and subject to paragraph (B) below:**

(1) All structures that do not meet the standards identified in Appendix A: Development Code of the DVSP shall be considered legal nonconforming structures.

(2) A legal nonconforming structure may be altered subject to approval by the Community Development Director. The Community Development Director may approve alterations that are modified by less than 25 percent of the floor space or ground area existing at the time the structure became nonconforming. No alterations to nonconforming structures may be approved by the Director unless they are made more nearly conforming.

(3) Any structural alteration, modification, or expansion above the 25 percent of the lawful floor space or ground area must come into full structural compliance with the design guidelines identified within the Specific Plan.

B. Notwithstanding paragraph A above, for existing parcels on the south side of Reservation Road between Seacrest Avenue and De Forest Road consisting of Assessor Parcel Numbers 032-171-024 and 032-171-025, those commercial and retail buildings permitted under the prior land use designations for these areas may continue to be used as follows: (1) If a nonconforming building or structure is modified or altered by 50 percent or more of the existing floor space or ground area of such structure, only then must such building or structure come into full compliance with the Specific Plan; and (2) Ordinary maintenance and repairs may be made to any building or structure on such parcels, provided that such work does not exceed 50 percent of the appraised value in any one-year period and structural alterations may be made to the buildings and structures on such parcels for safety, protection and preservation of persons, property, buildings and structures.”

As mentioned above, the grocery store and pharmacy located at the Shopping Center are vital to the residents of the community. The Specific Plan will turn the Shopping Center into a non-conforming use and eventually cause the closure of the Shopping Center. The closure would be

O2.5
cont.

O2.6



SIERRA PACIFIC PROPERTIES, INC

harmful to the residents of the City of Marina. SPPI intends to protect its property rights and interest to the full extent possible. SPPI would appreciate the opportunity to discuss the Specific Plan and the proposed revisions with you and the City Council. We are hopeful that we can all come to a solution that is beneficial and fair for all of the residents and property owners within the City of Marina. We will be contacting you and the council members to schedule a meeting to discuss further.

O2.6
cont.

Regards



Bob Garrison
Sierra Pacific Properties, Inc.

Enclosures

cc: Brian McCarthy, City Council District 1
Doug Messner

Letter O2

COMMENTER: Bob Garrison, Sierra Pacific Properties, Inc.

DATE: May 24, 2024

Response O2.1

The commenter indicates that they are the owner of the Seacrest Plaza Shopping Center located in the Plan area, and that they are concerned about the effects the project would have on them and property owners. The commenter expresses concern that the existing shopping center would become a nonconforming use and that implementation of the project would lead to closure of the shopping center.

Refer to Response O1.1. As discussed therein, under the proposed DVSP, legal nonconforming structures would be able to be continued, transferred, sold, maintained, and operated within certain limits. Additionally, formal analysis of economic or social impacts, including legal non-conformity, when they do not also result in potential environmental impacts, is not required and not included in the Draft EIR.

Response O2.2

The commenter refers to a letter submitted to the City on June 25, 2021 as part of the NOP scoping process, and states all the letter's recommendations are incorporated as objections to the Draft EIR. The commenter also states the opinion that DVSP implementation would diminish the value of their property, render their property unusable, and create economic and financial burden.

The City received the commenter's 2021 letter, as shown in Table 1-1 in Chapter 1, *Introduction*, of the Draft EIR. The comments included in the letter are addressed in corresponding sections of the Draft EIR and the Initial Study (Appendix A of the Draft EIR), as identified in Table 1-1. These comments were previously addressed by the Draft EIR and Initial Study and do not pertain to the sufficiency of the Draft EIR or CEQA process. As such, no further response to the NOP letter is required.

Regarding property value, as discussed in Response O1.1, potential economic impacts associated with legal nonconforming uses are not considered environmental impacts. Pursuant to CEQA Guidelines Section 15131, economic or social effects of a project shall not be treated as a significant effect on the environment. As such, formal analysis of economic or social impacts, including legal non-conformity, when they do not also result in potential environmental impacts is not required and not included in the Draft EIR. Additionally, as discussed in Response O1.1, legal nonconforming properties would be able to be continued, transferred, sold, maintained, and operated within certain limits, and the commenter provides no evidence that the project would render properties unusable.

Response O2.3

The commenter refers to the 14th Amendment of the United States Constitution, and claims that the City's failure to consider the DVSP's economic impacts will deprive them of their property without due process.

Refer to Response O1.1. As discussed therein, potential economic impacts associated with legal nonconforming uses are not considered environmental impacts pursuant to CEQA Guidelines

Section 15131. This comment does not pertain to the analysis within the Draft EIR, and no further response is necessary.

Response O2.4

The commenter refers to the 5th Amendment of the United States Constitution and claims that DVSP implementation would limit their right to use and operate the shopping center, such that the City would be taking their property without just compensation in violation of the 5th Amendment.

Refer to Response O1.1. As discussed therein, potential economic impacts associated with legal nonconforming uses are not considered environmental impacts pursuant to CEQA Guidelines Section 15131. This comment does not pertain to the analysis within the Draft EIR, and no further response is necessary.

Response O2.5

The commenter suggests alternative language for Section 7.6.2 the DVSP.

This comment pertains to the DVSP itself and does not address the sufficiency of the Draft EIR analysis or CEQA process. As such, detailed response is not required.

Response O2.6

The commenter reiterates their opinion that the DVSP would eventually cause the closure of the shopping center, and states that this would be harmful to the residents of Marina. The commenter further indicates an intent to schedule a meeting with the City to discuss.

This comment is noted. Refer to Response O1.1; as discussed therein, legal nonconforming properties would be able to be continued, transferred, sold, operated, and maintained within certain limits, and it is speculative to assume the project would result in the closure of legal nonconforming properties. Additionally, potential economic impacts associated with legal nonconforming uses are not considered environmental impacts. Pursuant to CEQA Guidelines Section 15131, economic or social effects of a project shall not be treated as a significant effect on the environment. As such, formal analysis of economic or social impacts, including legal non-conformity, when they do not also result in potential environmental impacts is not required and not included in the Draft EIR. This comment does not pertain to the analysis within the Draft EIR, and no further response is necessary.

Kayleigh Limbach

From: Guido Persicone <gpersicone@cityofmarina.org>
Sent: Friday, May 24, 2024 11:48 AM
To: Kayleigh Limbach; Megan Jones; Kimiko Lizardi; Bryce Haney
Subject: [EXT] Fwd: EIR Comment Letter- Question

CAUTION: This email originated from outside of Rincon Consultants. Be cautious before clicking on any links, or opening any attachments, until you are confident that the content is safe .

Sent from my iPhone

Begin forwarded message:

From: Alia Elyas <aelyas@mbep.biz>
Date: May 24, 2024 at 11:45:31 AM PDT
To: Guido Persicone <gpersicone@cityofmarina.org>
Cc: Matt Huerta <mhuerta@mbep.biz>, Linda McGlone <lmcglone@mbep.biz>, Tahra Goraya <tgoraya@mbep.biz>, Jahyzanna Wieder <jwieder@mbep.biz>
Subject: Re: EIR Comment Letter- Question

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello,
I, Alia Elyas, am turning in MBEP's support letter for the City of Marina's Draft EIR. The content of the letter is added to the body of this email reference. Please let me know if you have any questions or concerns.
Thank you for your time.
Sincerely,
Alia Elyas

Letter:

Letter O3

May 22, 2024

City of Marina Community Development Department
211 Hillcrest Avenue
Marina, CA 93933

Subject: EIR for Marina Downtown Vitalization Specific Plan (SUPPORT)

Dear Mayor, City Councilmembers, and City Staff:

I would like to extend our gratitude for the opportunity to review the Environmental Impact Report (EIR) for the Marina Downtown Vitalization Specific Plan (DVSP). As an organization deeply invested in fostering sustainable economic development and housing for all within the tri-county region of Monterey, San Benito, and Santa Cruz, we commend the City of Marina for its proactive approach to revitalizing the Downtown area and enhancing the overall quality of life for residents.

The proposed goals outlined in the DVSP align closely with the 5 policy recommendations from MBEP's white paper, [Practical Housing Policy: Increasing Supply and Affordability](#):

- Streamline permitting and reduce discretionary reviews
- Increase allowable densities
- Reform impact fees
- Increase funding sources for affordable housing
- Optimize inclusionary housing ordinances

The Marina DVSP presents a comprehensive framework for the future development and transformation of Marina's Downtown core, and proposes a series of transformational additions to the Marina community, including 2,904 additional infill housing units and an additional 1.3 million square feet of new office and retail space in the urban core of Marina through the Specific Plan. The DVSP could facilitate an additional 600 affordable units in the city of Marina. MBEP supports an increase in housing of all types and income levels in the region, advocating for infill development near transportation hubs and commercial corridors to optimize land use for housing, community services, and climate resilience. The DVSP is in alignment with these goals.

The City of Marina's DVSP incorporates the use of objective standards for multifamily projects as required by state legislation (SB 35 and SB 330), which allows projects to be reviewed without a discretionary process. This aligns well with MBEP's recommendation to streamline permitting and reduce discretionary reviews to decrease risks and pre-development costs which translates into creating more affordable homes.

The DVSP also outlines numerous funding sources, such as the Infill Infrastructure Grant Program, CDBG, PLHA, and others, specifically aimed at promoting affordable housing and infrastructure improvements. These funding opportunities directly support MBEP's fourth recommendation to increase funding sources for affordable housing. By utilizing these programs, Marina can enhance the feasibility of affordable housing projects and meet the very low income housing targets within the City's regional housing needs allocation.

In the Core District the DVSP specifies a maximum residential density of 70 dwelling units per acre and a minimum of 20 dwelling units per acre. These density allowances can support higher density

O3.1

development. However, MBEP's recommends increasing the densities in the plan, to enable for more efficient use of land and support the development of a vibrant urban core with a higher concentration of housing units. Increasing heights and density limits may be needed in order to achieve buildout goals. See our [White Paper, Section 2](#) beginning on page 18 for examples.

The DVSP's incorporation of recommendations from the City's Downtown Vision Plan, Downtown Design Guidelines, and Pedestrian and Bicycle Master Plan demonstrates a commendable commitment to aligning development efforts with established community goals and aspirations. By leveraging existing resources and building upon past planning efforts, the DVSP sets a solid foundation for realizing Marina's full economic potential while preserving its unique coastal character. We also appreciate the attention given to mobility and transportation within the DVSP, including measures to promote pedestrian and bicycle-friendly infrastructure, enhance public transit services, and mitigate vehicular congestion. These initiatives align closely with MBEP's advocacy for sustainable transportation solutions and inclusive access to mobility options for all residents.

In conclusion, we commend the City of Marina for its diligent efforts in advancing the Marina DVSP and preparing a thorough Environmental Impact Report. We are confident that the implementation of this visionary plan will not only benefit current residents and businesses but also support Marina projected growing population. Thank you once again for the opportunity to provide input on this important initiative. Should you require any further assistance or collaboration from MBEP, please do not hesitate to contact MBEP's Director of Housing and Community Development, Matt Huerta at mhuerta@mbep.biz.

Sincerely,



Tahra Goraya, MA, MPA
President & CEO

On Fri, May 24, 2024 at 10:42 AM Guido Persicone <gpersicone@cityofmarina.org> wrote:

planningdivision@cityofmarina.org

From: Alia Elyas <aelyas@mbep.biz>
Sent: Friday, May 24, 2024 10:35 AM
To: Guido Persicone <gpersicone@cityofmarina.org>
Subject: Re: EIR Comment Letter- Question

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O3.1
cont.

Letter O3

COMMENTER: Tahra Goraya, MA, MPA, President and CEO; Monterey Bay Economic Partnership

DATE: May 24, 2024

Response O3.1

The commenter expresses their support for the DVSP and states that the project is consistent with the Monterey Bay Economic Partnership's recommendations and state legislation. The commenter recommends increasing proposed densities to enable a more efficient use of land.

These comments are noted and will be considered by the City. This comment does not pertain to the analysis within the Draft EIR, and no further response is necessary.

3 Revisions to the Draft EIR

This chapter presents specific text changes made to the Draft EIR since its publication and public review. The changes are presented in the order in which they appear in the original Draft EIR and are identified by the Draft EIR page number. Text deletions are shown in ~~strike through~~, and text additions are shown in underline. The information contained within this chapter clarifies and expands on information in the Draft EIR and/or revise mitigation measures to be equally or more effective. These revisions do not constitute “significant new information” requiring recirculation of the Draft EIR (see Public Resources Code Section 21092.1; CEQA Guidelines Section 15088.5).

3.1 Revisions to the Draft EIR

Executive Summary

Page ES-7, Table ES-1:

T-2 Transportation Demand Management Program

Each individual office and residential development project in the Specific Plan area shall have a corresponding transportation demand management (TDM) plan and monitoring program developed by the applicant or developer of the project. The TDM plan shall be prepared prior to issuance of building permits.

The TDM plan shall identify the TDM reductions specific to their project. The monitoring program shall establish goals and policies to ensure the efficient implementation of the TDM plan and demonstrate its effectiveness at reducing VMT such that VMT is below the significance thresholds presented in Table 4.2-2, above. The City shall review and approve the TDM plan prior to approval of building permits. Examples of TDM measures that could be employed, depending on specific project conditions and circumstances, include but are not limited to:

- Provision of bus stop improvements or on-site mobility hubs
- Pedestrian improvements, on-site or off-site, to connect to nearby transit stops, services, schools, shops, etc.
- Bicycle programs including bike purchase incentives, storage, maintenance programs, and on-site education program
- Enhancements to regional bicycle network
- Parking reductions and/or fees set at levels sufficient to incentivize transit, active transportation, or shared modes
- Cash allowances, passes, or other public transit subsidies and purchase incentives
- Enhancements to bus service
- Implementation of shuttle service
- Establishment of carpool, bus pool, or vanpool programs
- Vanpool purchase incentives
- Participation in a future County VMT fee program
- Participate in future VMT exchange or mitigation bank programs

- Carshare/scooter-share/bikeshare facilities or incentives
- On-site coordination overseeing TDM marketing and outreach
- Rideshare matching program
- Market-price public parking

Page ES-11, Table ES-1:

BIO-1(e) Special Status Wildlife Pre-Construction Surveys

Projects that identify potential impacts to special status wildlife species during the biological screening and assessment under Mitigation Measure BIO-1(a) shall implement Mitigation Measure BIO-1(e).

...

Bumble Bee Habitat Assessment and Avoidance

In undeveloped areas of the DVSP, including annual grassland, sandmat manzanita, ruderal, bare, and ice plant mats, where vegetation removal and/or ground disturbance is planned, a qualified biologist, with experience differentiating bumble bees from other bee species and familiarity with bee activity and nesting behaviors, shall conduct a field habitat assessment to determine if Crotch's bumble bee or western bumble bee could occur on the site. The habitat assessment shall evaluate all work areas and access routes for bee habitat quality, and signs of presence or potential for presence, including surveying for suitable bumble bee foraging native plants, bumble bee activity, and nesting sites. The biologist shall take photos of any bumble bees or bumble bee resources observed.

- For projects within undeveloped areas that are larger than one acre, or adjacent to undeveloped areas north of Reservation Road, the habitat assessment shall be conducted during the environmental review or project planning phase to identify potential agency consultation requirements.
- For projects within undeveloped areas that are less than one acre and isolated by development, the habitat assessment can be conducted during wildlife pre-construction surveys.

If the habitat assessment determines there is suitable nesting and/or foraging habitat, prior to initial ground disturbance, a qualified biologist/entomologist familiar with the species behavior and life history shall perform a minimum of three on-site surveys prior to vegetation removal and/or grading to determine the presence/absence of Crotch's bumble bee and western bumble bee. Each survey should be spaced 2- to 4-weeks apart during the Colony Active Period (April—August) (CDFW 2023). Surveys should occur during the day (at least an hour after sunrise and at least two hours before sunset, though ideally between 9:00 a.m. to -1:00 p.m.) on warm, but not hot, sunny days (65 to 90 degrees Fahrenheit), with low wind (less than 8 miles per hour). If any Crotch's bumble bee or western bumble bee nests are observed, a 50-foot avoidance buffer shall be installed around the nest. If Crotch's bumble bee and/or western bumble bee are determined to be present, the project proponent shall consult with CDFW and obtain an Incidental Take Permit in accordance with the California Endangered Species Act prior to initiating any vegetation removal or ground disturbance on the site.

If no Crotch's bumble bee or western bumble bee are found during the focused surveys, but the habitat assessment identified suitable nesting, foraging, or overwintering habitat within the work area, a biological monitor shall be onsite during vegetation or ground disturbing activities that take place during any of the Queen and Gyne Flight Period and Colony Active Period (February to November). If Crotch's bumble bee and/or western bumble bee are observed during any phase of the project, all work shall stop and CDFW shall be notified to determine the appropriate avoidance strategies and next steps.

If Crotch's bumble bee and western bumble bee have not been listed under the California Endangered Species Act and are no longer candidate species at the time of project implementation, habitat assessments and protocol surveys as described above, would not be required.

Reporting

A report of all pre-construction and pre-demolition survey results shall be submitted to the City for its review prior to the start of demolition. The report shall include a description of the survey methodology for each species, the environmental conditions at the time of the survey(s), the results of the survey, any requirements for addressing special status species identified during surveys, and the biological qualifications of the surveyors. The report shall be accompanied by maps and figures showing the location of any special status species occurrences and associated avoidance buffers.

Page ES-13, Table ES-1:

BIO-1(g) Pre-Construction Nesting Birds Surveys

All projects developed under the Specific Plan shall implement Mitigation Measure BIO-1(g). Project activity shall restrict ground disturbance, building demolition, and vegetation removal activities to the non-breeding season (September 16 to January 31) when feasible. For ground disturbance, building demolition, and vegetation removal activities that must be conducted during the bird nesting season (February 1 to September 15), general pre-construction nesting bird surveys shall be conducted by a qualified biologist, including for, but not limited to, the tricolored blackbird and White-tailed kite, not more than 14 days prior to construction activities involving ground clearing, vegetation removal/trimming, or building demolition. The surveys shall include the disturbance area plus a 200-foot buffer around the site if feasible, and a 500-foot buffer for tricolored blackbird and White-tailed kite. If active nests are located, an appropriate avoidance buffer shall be established within which no work activity shall be allowed which would impact these nests. The avoidance buffer would be established by the qualified biologist on a case-by-case basis based on the species and site conditions. In no cases shall the buffer be smaller than 50 feet for non-raptor bird species, 200 feet for raptor species, or a 500-foot buffer for White-tailed kite. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. If fully protected White-tailed kites are documented nesting within 500 feet of construction activities, CDFW shall be consulted on appropriate avoidance and minimization methods. The buffer area(s) shall be closed to all construction personnel and equipment until breeding season has ended or until a City-approved biologist has determined the birds have fledged and are no longer reliant upon the nest or parental care for survival. ~~juveniles have fledged and the nest is inactive. City-approved Biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the buffer.~~

Section 4.2, Transportation

Page 4.2-18:

T-2 Transportation Demand Management Program

Each individual office and residential development project in the Specific Plan area shall have a corresponding transportation demand management (TDM) plan and monitoring program developed by the applicant or developer of the project. The TDM plan shall be prepared prior to issuance of building permits.

The TDM plan shall identify the TDM reductions specific to their project. The monitoring program shall establish goals and policies to ensure the efficient implementation of the TDM plan and demonstrate its effectiveness at reducing VMT such that VMT is below the significance thresholds presented in Table 4.2-2, above. The City shall review and approve the TDM plan prior to approval of building permits. Examples of TDM measures that could be employed, depending on specific project conditions and circumstances, include but are not limited to:

- Provision of bus stop improvements or on-site mobility hubs
- Pedestrian improvements, on-site or off-site, to connect to nearby transit stops, services, schools, shops, etc.
- Bicycle programs including bike purchase incentives, storage, maintenance programs, and on-site education program
- Enhancements to regional bicycle network
- Parking reductions and/or fees set at levels sufficient to incentivize transit, active transportation, or shared modes
- Cash allowances, passes, or other public transit subsidies and purchase incentives
- Enhancements to bus service
- Implementation of shuttle service
- Establishment of carpool, bus pool, or vanpool programs
- Vanpool purchase incentives
- Participation in a future County VMT fee program
- Participate in future VMT exchange or mitigation bank programs
- Carshare/scooter-share/bikeshare facilities or incentives
- On-site coordination overseeing TDM marketing and outreach
- Rideshare matching program
- Market-price public parking

Section 4.4, Less than Significant with Mitigation

Page 4.4-4:

State and/or federally listed animal species with the potential to occur in areas of species-specific, suitable natural habitat within the Specific Plan area include tricolored blackbird and Smith's blue butterfly. Non-listed special status species that may also occur in the Specific Plan area include; 1) northern California legless lizard; 2) coast horned lizard; 3) burrowing owl; 4) white-tailed kite; 5) Monterey shrew; and 6) birds protected by CFGC. Further, while Crotch's

bumble bee and western bumble bee are not expected to occur in the Specific Plan area (Appendix E) the Specific Plan area is within their current range. In addition to the construction activities described above, construction noise and human presence may also cause impacts to special status species if present. Implementation of Mitigation Measures BIO-1(a) through BIO-1(h) would reduce these impacts to a less than significant level.

Page 4.4-6:

BIO-1(e) Special Status Wildlife Pre-Construction Surveys

Projects that identify potential impacts to special status wildlife species during the biological screening and assessment under Mitigation Measure BIO-1(a) shall implement Mitigation Measure BIO-1(e).

...

BUMBLE BEE HABITAT ASSESSMENT AND AVOIDANCE

In undeveloped areas of the DVSP, including annual grassland, sandmat manzanita, ruderal, bare, and ice plant mats, where vegetation removal and/or ground disturbance is planned, a qualified biologist, with experience differentiating bumble bees from other bee species and familiarity with bee activity and nesting behaviors, shall conduct a field habitat assessment to determine if Crotch's bumble bee or western bumble bee could occur on the site. The habitat assessment shall evaluate all work areas and access routes for bee habitat quality, and signs of presence or potential for presence, including surveying for suitable bumble bee foraging native plants, bumble bee activity, and nesting sites. The biologist shall take photos of any bumble bees or bumble bee resources observed.

- For projects within undeveloped areas that are larger than one acre, or adjacent to undeveloped areas north of Reservation Road, the habitat assessment shall be conducted during the environmental review or project planning phase to identify potential agency consultation requirements.
- For projects within undeveloped areas that are less than one acre and isolated by development, the habitat assessment can be conducted during wildlife pre-construction surveys.

If the habitat assessment determines there is suitable nesting and/or foraging habitat, prior to initial ground disturbance, a qualified biologist/entomologist familiar with the species behavior and life history shall perform a minimum of three on-site surveys prior to vegetation removal and/or grading to determine the presence/absence of Crotch's bumble bee and western bumble bee. Each survey should be spaced 2- to 4-weeks apart during the Colony Active Period (April—August) (CDFW 2023). Surveys should occur during the day (at least an hour after sunrise and at least two hours before sunset, though ideally between 9:00 a.m. to -1:00 p.m.) on warm, but not hot, sunny days (65 to 90 degrees Fahrenheit), with low wind (less than 8 miles per hour). If any Crotch's bumble bee or western bumble bee nests are observed, a 50-foot avoidance buffer shall be installed around the nest. If Crotch's bumble bee and/or western bumble bee are determined to be present, the project proponent shall consult with CDFW and obtain an Incidental Take Permit in accordance with the California Endangered Species Act prior to initiating any vegetation removal or ground disturbance on the site.

If no Crotch's bumble bee or western bumble bee are found during the focused surveys, but the habitat assessment identified suitable nesting, foraging, or overwintering habitat within the work area, a biological monitor shall be onsite during vegetation or ground disturbing activities that take place during any of the Queen and Gyne Flight Period and Colony Active Period (February to November). If Crotch's bumble bee and/or western bumble bee are observed during any phase of the project, all work shall stop and CDFW shall be notified to determine the appropriate avoidance strategies and next steps.

If Crotch's bumble bee and western bumble bee have not been listed under the California Endangered Species Act and are no longer candidate species at the time of project implementation, habitat assessments and protocol surveys as described above, would not be required.

REPORTING

A report of all pre-construction and pre-demolition survey results shall be submitted to the City for its review prior to the start of demolition. The report shall include a description of the survey methodology for each species, the environmental conditions at the time of the survey(s), the results of the survey, any requirements for addressing special status species identified during surveys, and the biological qualifications of the surveyors. The report shall be accompanied by maps and figures showing the location of any special status species occurrences and associated avoidance buffers.

Page 4.4-8:

BIO-1(g) Pre-Construction Nesting Birds Surveys

All projects developed under the Specific Plan shall implement Mitigation Measure BIO-1(g). Project activity shall restrict ground disturbance, building demolition, and vegetation removal activities to the non-breeding season (September 16 to January 31) when feasible. For ground disturbance, building demolition, and vegetation removal activities that must be conducted during the bird nesting season (February 1 to September 15), general pre-construction nesting bird surveys shall be conducted by a qualified biologist, including for, but not limited to, the tricolored blackbird and White-tailed kite, not more than 14 days prior to construction activities involving ground clearing, vegetation removal/trimming, or building demolition. The surveys shall include the disturbance area plus a 200-foot buffer around the site if feasible, and a 500-foot buffer for tricolored blackbird and White-tailed kite. If active nests are located, an appropriate avoidance buffer shall be established within which no work activity shall be allowed which would impact these nests. The avoidance buffer would be established by the qualified biologist on a case-by-case basis based on the species and site conditions. In no cases shall the buffer be smaller than 50 feet for non-raptor bird species, 200 feet for raptor species, or a 500-foot buffer for White-tailed kite. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. If fully protected White-tailed kites are documented nesting within 500 feet of construction activities, CDFW shall be consulted on appropriate avoidance and minimization methods. The buffer area(s) shall be closed to all construction personnel and equipment until breeding season has ended or until a City-approved biologist has determined the birds have fledged and are no longer reliant upon the nest or parental care for survival. ~~juveniles have fledged and the nest is inactive. City-approved Biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the buffer.~~

4 Mitigation Monitoring and Reporting Program

CEQA requires that a reporting or monitoring program be adopted for the conditions of project approval that are necessary to mitigate or avoid significant effects on the environment (Public Resources Code 21081.6). This mitigation monitoring and reporting program is intended to track and ensure compliance with adopted mitigation measures during the project implementation phase. For each mitigation measure recommended in the Final Environmental Impact Report (Final EIR), specifications are made herein that identify the action required, the monitoring that must occur, and the agency or department responsible for oversight.

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
Air Quality							
AQ-1: Construction Dust Control Measures							
Applicants for future development under the DVSP shall implement Construction Dust Control Measures. Construction/demolition activities within the Specific Plan area shall be limited to 8.1 acres per day with minimal earthmoving, or 2.2 acres per day with demolition or grading/excavation, consistent with the screening-level thresholds in the MBARD's 2008 <i>CEQA Air Quality Guidelines</i> . Any individual construction project that would require grading, excavation, and/or soil material import or export within the Specific Plan area shall implement the following construction dust control measures:	Limit construction/demolition activities within the Specific Plan area to 8.1 acres per day with minimal earthmoving, or 2.2 acres per day with demolition or grading/excavation.	During construction/ demolition activities.	As needed throughout construction, when earthmoving could exceed 8.1 acres per day or demolition/ grading/ excavation could exceed 2.2 acres per day.	City of Marina			
- Water all active construction areas at least twice daily. - Prohibit all grading activities during periods of high wind (over 15 miles per hour). - Apply chemical soil stabilizers on inactive construction areas (disturbed lands within construction projects that are unused for at least four consecutive days). - Apply non-toxic binders (e.g., latex acrylic copolymer) to exposed areas after cut and fill operations and hydroseed area. - Maintain at least two feet of freeboard on haul trucks. - Cover all trucks hauling dirt, sand, or loose materials. - Plant tree windbreaks on the windward perimeter of construction projects, if adjacent to open land. - Plant vegetative ground cover in disturbed areas as soon as possible. - Cover inactive storage piles.	Verify implementation of construction dust control measures.	During construction/ demolition activities.	Routinely throughout construction.	City of Marina			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification Initial	Compliance Verification Date	Compliance Verification Comments
- Install wheel washers at the entrance to construction sites for all exiting trucks. - Pave all roads on construction sites. - Sweep streets if visible soil material is carried out from the construction site. - Post a publicly visible sign which specifies the telephone number and person to contact regarding dust complaints. This person shall respond to complaints and take corrective action within 48 hours. The MBARD phone number shall be visible to ensure compliance with Rule 402 (Nuisance). - Limit the area under construction at any one time.							
Biological Resources							
BIO-1(a): Biological Resources and Screening Assessment							
For individual projects proposed for development within undeveloped or partially developed areas containing natural or ruderal areas within the DVSP area (Figure 4.4-1 in Section 4.4), the City or their designee shall engage a qualified biologist to perform a preliminary biological resource screening. The purpose of the screening and assessment is to determine whether the project has any potential to impact special status biological resources, inclusive of special status plants and animals, sensitive vegetation communities, jurisdictional waters (including creeks, drainages, streams, ponds, vernal pools, riparian areas and other wetlands), or biological resources protected under local or regional ordinances. If it is determined that the project has no potential to impact biological resources, no further action is required. If the project would have the potential to impact biological resources, prior to construction, a qualified biologist shall conduct a project-specific biological analysis to document the existing biological resources within a	Engage a qualified biologist to perform a preliminary biological resource screening	Prior to ground-disturbing activities.	Once.	City of Marina			
	If the project would have the potential to impact biological resources, engage a qualified biologist to conduct a project-specific biological analysis.	Prior to ground-disturbing activities.	Once.	City of Marina			
	If the project would have the potential to impact biological resources, implement Mitigation measures BIO-1(b) through BIO-1(f).	As specified for each mitigation measure.	As specified for each mitigation measure.	City of Marina			

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
project footprint plus a minimum buffer of 100 feet around the project footprint, as is feasible, and to determine the potential impacts to those resources. If the project would have the potential to impact biological resources, the following mitigation measures [BIO-1(b) through BIO-1(f)] shall be incorporated, as determined to be applicable by the qualified biologist, to reduce impacts to a less than significant level. Pending the results of the project-specific biological analysis, design alterations, further technical studies (e.g., protocol surveys) and consultations with the USFWS, National Marine Fisheries Service (NMFS), CDFW, and/or other local, state, and federal agencies may be required. Note that specific surveys described in the mitigation measures below may be completed as part of the project-specific biological analysis where suitable habitat is present.							
BIO-1(b): Special Status Plant Pre-Construction Survey							
Projects identified as having potential to impact special status plant species during the biological screening and assessment under Mitigation Measure BIO-1(a) shall implement the Mitigation Measure BIO-1(b). Surveys for special status plants shall be completed by the project proponent prior to any vegetation removal, grubbing, or other construction activity (including staging and mobilization). The surveys shall be floristic in nature, that is, every plant observed shall be identified to species, subspecies, or variety, sufficient to identify listed plants. The surveys shall be seasonally timed to coincide with the target Federal and State listed species and rare plants identified above. All plant surveys shall be conducted by a City-approved biologist during the appropriate blooming period during the year prior to initial ground disturbance. All special status plant species identified on-site shall be mapped	Engage a qualified biologist to conduct a special status plant survey. Verify submittal of the report to the City.	Prior to any vegetation removal, grubbing, or other construction activity including staging and mobilization.	Once.	City of Marina			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
onto a site-specific aerial photograph or topographic map with the use of Global Positioning System (GPS) unit. Surveys shall be conducted in accordance with the most current protocols established by the CDFW, USFWS, and the local jurisdictions if said protocols exist. A report of the survey results shall be submitted to the implementing agency. If impacts to federal or state-listed species are identified for an individual project, consultation with CDFW and/or USFWS, as appropriate, may be required.							
BIO-1(c): Special Status Plant Species Avoidance, Minimization, and Mitigation							
If Federal and/or State listed species are found during special status plant pre-construction surveys [required under Mitigation Measure BIO-1(b)], avoidance of, or mitigation for impacts to, occupied habitat shall be required. If populations of CRPR List 1B or 2 species are found during special status plant pre-construction surveys, the City-approved biologist shall evaluate whether the loss of occupied areas would result in a local or regional population-level impact (i.e., jeopardize the continued existence of a local or regional population). Mitigation for regional population level impacts to rare plants shall be required by the City. If feasible, individual development projects shall be re-designed to avoid development in locations of Federal and/or State listed or CRPR List 1B or 2 species. Federal and/or State listed or CRPR List 1B or 2 species occurrences that are not within the immediate disturbance footprint and would be avoided, but which are located within 50 feet of disturbance limits, shall have bright orange protective fencing installed at an appropriate distance (as determined by a qualified biologist) to ensure they are protected during construction activities. If development cannot avoid Federally or State listed plants species, then mitigation shall involve	Implement avoidance measures or develop mitigation measures as specified.	Prior to any vegetation removal, grubbing, or other construction activity including staging and mobilization.	As needed when development areas include Federal and/or State listed species.	City of Marina			

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
either salvage and conservation for any relocated individual plants, or compensation (minimum compensation ratio of 1:1 for individuals and impact areas, with a conservation area of a similar density of individuals) for the loss of these individuals or their habitat either in an on-site or off-site preserve, through payments to an appropriate mitigation bank, or as otherwise may be determined in coordination with USFWS and CDFW permitting. Impacts to, and salvage of, individual plants would be considered a “take” under the ESA and/or CESA. “Take” of listed species is illegal under the ESA and CESA without formal authorization from USFWS and/or CDFW. Impacts to Federal and/or State listed or CRPR List 1B or 2 species would require adherence to Mitigation Measure BIO 1(c).							
BIO-1(d): Restoration and Monitoring							
If development cannot avoid Federal or State listed plant species, all impacts shall be mitigated by the project applicant at a minimum ratio of 1:1 for areas occupied by the species. Ratios may be higher pending consultation with CDFW and/or USFWS for listed species. Restoration areas shall be of a similar density of individuals as areas impacted project activities. A restoration plan shall be prepared by the project applicant and submitted to the City for review and approval. Documentation demonstrating consultation with CDFW and USFWS regarding impacts to federal or state listed species shall be submitted to the City. Population level impacts to CRPR List 1B or 2 species shall also be mitigated at a 1:1 ratio for occupied areas, and shall also require a restoration plan in coordination with the City. The restoration plan(s) shall include, at a minimum, the following components:	Review and approve the restoration plan.	Prior to any vegetation removal, grubbing, or other construction activity including staging and mobilization.	Once.	City of Marina			
	Verify implementation of the restoration plan.	During and/or after construction.	During and/or after construction as needed.	City of Marina			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification Initial	Compliance Verification Date	Compliance Verification Comments
▪ Description of the project/affected species location(s) (i.e., location, responsible parties, areas to be impacted by habitat type) ▪ Compensatory mitigation (type[s] and area[s] species to be established, restored, enhanced, and/or preserved; specific functions and values of species type[s] to be established, restored, enhanced, and/or preserved) ▪ Description of the proposed compensatory mitigation site (location and size, ownership status, existing functions and values) ▪ Implementation plan for the compensatory mitigation site (rationale for expecting implementation success, responsible parties, schedule, site preparation, planting plan) ▪ Maintenance activities during the monitoring period, including weed removal as appropriate (activities, responsible parties, schedule) ▪ Monitoring plan for the compensatory mitigation site, including no less than quarterly monitoring for the first year (performance standards, target functions and values, target acreages to be established, restored, enhanced, and/or preserved, annual monitoring reports) ▪ Success criteria based on the goals and measurable objectives; said criteria to be, at a minimum, at least 80 percent survival of container plants and 30 percent relative cover by vegetation type ▪ An adaptive management program and remedial measures to address any shortcomings in meeting success criteria ▪ Notification of completion of compensatory mitigation and agency confirmation ▪ Contingency measures (initiating procedures, alternative locations for contingency compensatory mitigation, funding mechanism)							

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
BIO-1(e): Special Status Wildlife Pre-Construction Surveys							
Projects that identify potential impacts to special status wildlife species during the biological screening and assessment under Mitigation Measure BIO-1(a) shall implement Mitigation Measure BIO-1(e).	Engage a qualified biologist to conduct a California legless lizard and coast horned lizard survey.	Within 14 days prior to the start of construction (including staging and mobilization).	Once.	City of Marina			
GENERAL WILDLIFE SURVEYS Pre-construction clearance surveys for northern California legless lizard and coast horned lizard shall be conducted within 14 days prior to the start of construction (including staging and mobilization) in areas of suitable habitat. The surveys shall cover the entire disturbance footprint plus a minimum 200-foot buffer within suitable habitat, where permissible, and shall identify all special status animal species that may occur on-site. California legless lizard and coast horned lizard shall be relocated from the site to a safe location within suitable habitat as near to the project area as possible by a qualified biologist.	Engage a qualified biologist to conduct a burrowing owl survey.	Within 14 days prior to construction and ground disturbance activities.	Once.	City of Marina			
	If burrowing owls are detected, verify implementation of the avoidance measures and review and approve the Burrowing Owl Exclusion Plan and Mitigation and Monitoring Plan, if needed.	During construction ground disturbance activities.	As needed throughout construction in areas with burrowing owls, as determined by the qualified biologist.	City of Marina			
BURROWING OWL SURVEYS A qualified biologist shall conduct pre-construction clearance surveys prior to ground disturbance activities within suitable natural habitats and ruderal areas to confirm the presence/absence of burrowing owls. The surveys shall be consistent with the recommended survey methodology provided by CDFW (2012). Clearance surveys shall be conducted within 14 days prior to construction and ground disturbance activities. If no burrowing owls are observed, no further actions are required. If burrowing owls are detected during the pre-construction clearance surveys, the following measures shall apply:							

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
- Avoidance buffers during the breeding and non-breeding season shall be implemented in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993) minimization mitigation measures. - If avoidance of burrowing owls is not feasible, then additional measures such as passive relocation during the nonbreeding season and construction buffers of 200 feet during the breeding season shall be implemented, in consultation with CDFW. In addition, a Burrowing Owl Exclusion Plan and Mitigation and Monitoring Plan shall be developed by a qualified biologist in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993).							
SMITH'S BLUE BUTTERFLY HOST PLANT SURVEYS Prior to grading and construction in undeveloped areas, an approved biologist shall conduct surveys for seacliff buckwheat (<i>Eriogonum parvifolium</i>) and seaside buckwheat (<i>Eriogonum latifolium</i>), host plants of Smith's blue butterfly in areas of suitable habitat. If Smith's blue butterfly host plants are not located, no further action is required. If host plants are located within proposed disturbance areas, they shall be avoided if feasible. If avoidance is not feasible, focused surveys shall be conducted to determine presence or absence of the butterfly species. This may include surveys during the adult flight period (mid-June through early September), and/or inspection of host plants for all life forms (egg, larva, pupa, and adult). Impacts to individuals of any life stage would be considered "take" under the ESA. Relocation of smith's blue butterfly and occupied host plants can only be legally authorized by the USFWS, and only a USFWS permitted	Engage a qualified biologist to conduct a host plant survey. If host plants are observed, verify avoidance of the plants if feasible. If avoidance is not feasible, engage a qualified biologist to conduct a focused survey for the presence of Smith's blue butterfly. Consult with USFWS if needed.	Prior to grading and construction in undeveloped areas. Prior to grading and construction in undeveloped areas. During the adult flight period (mid-June through early September). Prior to relocating host plants and individuals.	Once. As needed, as determined by the qualified biologist. Once. As needed, as determined by the qualified biologist and USFWS.	City of Marina City of Marina City of Marina City of Marina			

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
biologist is legally allowed to relocate host plants and individuals.							
BUMBLE BEE HABITAT ASSESSMENT AND AVOIDANCE In undeveloped areas of the DVSP, including annual grassland, sandmat manzanita, ruderal, bare, and ice plant mats, where vegetation removal and/or ground disturbance is planned, a qualified biologist, with experience differentiating bumble bees from other bee species and familiarity with bee activity and nesting behaviors, shall conduct a field habitat assessment to determine if Crotch's bumble bee or western bumble bee could occur on the site. The habitat assessment shall evaluate all work areas and access routes for bee habitat quality, and signs of presence or potential for presence, including surveying for suitable bumble bee foraging native plants, bumble bee activity, and nesting sites. The biologist shall take photos of any bumble bees or bumble bee resources observed.	Engage a qualified biologist to conduct a bumble bee field habitat assessment.	In undeveloped areas larger than one acre: prior to vegetation removal or ground disturbance activities, during the environmental review/planning phase.	Once.	City of Marina			
For projects within undeveloped areas that are larger than one acre, or adjacent to undeveloped areas north of Reservation Road, the habitat assessment shall be conducted during the environmental review or project planning phase to identify potential agency consultation requirements.		In undeveloped areas less than one acre, isolated by development: can be conducted simultaneously with wildlife pre-construction surveys.	Once.	City of Marina			
For projects within undeveloped areas that are less than one acre and isolated by development, the habitat assessment can be conducted during wildlife pre-construction surveys.	Engage a qualified biologist to conduct at least three on-site surveys to determine the presence/absence of bumble bees under the specified conditions.	Spaced out 2 to 4 weeks apart during April through August.	Three times at the specified time of year.	City of Marina			
If the habitat assessment determines there is suitable nesting and/or foraging habitat, prior to initial ground disturbance, a qualified biologist/entomologist familiar with the species behavior and life history shall perform a minimum of three on-site surveys prior to vegetation removal and/or grading to determine the presence/absence of Crotch's bumble bee and							

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
western bumble bee. Each survey should be spaced 2- to 4-weeks apart during the Colony Active Period (April–August) (CDFW 2023). Surveys should occur during the day (at least an hour after sunrise and at least two hours before sunset, though ideally between 9:00 a.m. to -1:00 p.m.) on warm, but not hot, sunny days (65 to 90 degrees Fahrenheit), with low wind (less than 8 miles per hour). If any Crotch’s bumble bee or western bumble bee nests are observed, a 50-foot avoidance buffer shall be installed around the nest. If Crotch’s bumble bee and/or western bumble bee are determined to be present, the project proponent shall consult with CDFW and obtain an Incidental Take Permit in accordance with the California Endangered Species Act prior to initiating any vegetation removal or ground disturbance on the site.							
If no Crotch’s bumble bee or western bumble bee are found during the focused surveys, but the habitat assessment identified suitable nesting, foraging, or overwintering habitat within the work area, a biological monitor shall be onsite during vegetation or ground disturbing activities that take place during any of the Queen and Gyne Flight Period and Colony Active Period (February to November). If Crotch’s bumble bee and/or western bumble bee are observed during any phase of the project, all work shall stop and CDFW shall be notified to determine the appropriate avoidance strategies and next steps.	Consult with CDFW and obtain an Incidental Take Permit if Crotch’s bumble bee and/or western bumble bee are determined to be present.	Prior to initiating any vegetation removal or ground disturbance.	As needed, as determined by the qualified biologist and CDFW.	City of Marina			
	Engage a qualified biological monitor to monitor for bumble bees during vegetation or ground disturbing activities.	During vegetation or ground disturbing activities.	Continuous.	City of Marina			
If Crotch’s bumble bee and western bumble bee have not been listed under the California Endangered Species Act and are no longer candidate species at the time of project implementation, habitat assessments and protocol surveys as described above, would not be required.	Halt work and notify CDFW if bumble bees are observed.	During any phase of the project. Prior to the start of demolition.	As needed, as determined by the qualified biologist.	City of Marina			

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
REPORTING A report of all pre-construction and pre-demolition survey results shall be submitted to the City for its review prior to the start of demolition. The report shall include a description of the survey methodology for each species, the environmental conditions at the time of the survey(s), the results of the survey, any requirements for addressing special status species identified during surveys, and the biological qualifications of the surveyors. The report shall be accompanied by maps and figures	Review and approve report(s) of all pre-construction and pre-demolition survey results.	Prior to the start of demolition.	Once.	City of Marina			
BIO-1(f): Biological Resources Avoidance and Minimization							
Projects that identify potential impacts to special status species during the biological screening and assessment under Mitigation Measure BIO-1(a) shall implement Mitigation Measure BIO-1(f). The following measures shall be applied to avoid impacts to sensitive species and biological resources. The project applicant shall be responsible for implementing selected measures. - Ground disturbance shall be limited to the minimum necessary to complete the project. The limits of disturbance for each construction phase shall be flagged. Areas of special biological concern within or adjacent to the limits of disturbance shall have highly visible orange construction fencing installed between said area and the limits of disturbance. - All construction occurring within or adjacent to natural habitats that may support Federally and/or State listed endangered/threatened species, State fully protected species, and/or special status species shall have a qualified biological monitor present during all initial ground disturbing/vegetation clearing activities.	Verify implementation of selected measures.	During project construction.	As needed throughout construction, as determined by the City.	City of Marina			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification Initial	Compliance Verification Date	Compliance Verification Comments
- No endangered/threatened species shall be captured and relocated without express permission from the CDFW and/or USFWS. - If at any time during construction an endangered, threatened, or fully protected species enters the construction site or otherwise may be impacted, all construction activities shall cease. A CDFW/USFWS-approved biologist shall document the occurrence and consult with the CDFW and USFWS, as appropriate, to determine whether it was safe for project activities to resume. - At the end of each workday, excavations shall be secured with cover or a ramp provided to prevent wildlife entrapment. - All trenches, pipes, culverts or similar structures shall be inspected for animals prior to burying, capping, moving, or filling. - If night work is required, all construction lighting shall be pointed down and directed only on the work area. - The City shall approve one or more qualified biologists to oversee and monitor biological compliance for the project. At least one qualified biologist shall be present during all initial ground disturbing activities, including vegetation removal to recover special status animal species unearthed by construction activities.							

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification Initial	Compliance Verification Date	Compliance Verification Comments
BIO-1(g): Pre-Construction Nesting Birds Surveys							
All projects developed under the Specific Plan shall implement Mitigation Measure BIO-1(g). Project activity shall restrict ground disturbance, building demolition, and vegetation removal activities to the non-breeding season (September 16 to January 31) when feasible. For ground disturbance, building demolition, and vegetation removal activities that must be conducted during the bird nesting season (February 1 to September 15), general pre-construction nesting bird surveys shall be conducted by a qualified biologist, including for, but not limited to, the tricolored blackbird and White-tailed kite, not more than 14 days prior to construction activities involving ground clearing, vegetation removal/trimming, or building demolition. The surveys shall include the disturbance area plus a 200-foot buffer around the site if feasible, and a 500-foot buffer for tricolored blackbird and White-tailed kite. If active nests are located, an appropriate avoidance buffer shall be established within which no work activity shall be allowed which would impact these nests. The avoidance buffer would be established by the qualified biologist on a case-by-case basis based on the species and site conditions. In no cases shall the buffer be smaller than 50 feet for non-raptor bird species, 200 feet for raptor species, or a 500-foot buffer for White-tailed kite. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. If fully protected White-tailed kites are documented nesting within 500 feet of construction activities, CDFW shall be consulted on appropriate avoidance and minimization methods. The buffer area(s) shall be closed to all construction personnel and equipment until breeding season has ended or until a City-approved biologist has determined the	Restrict ground disturbance, building demolition, and vegetation removal activities to the non-breeding season (September 16 to January 31) when feasible.	During project construction.	Ongoing during construction.	City of Marina			
	Engage a qualified biologist and verify completion of nesting bird surveys.	Not more than 14 days prior to construction activities.	Once.	City of Marina			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
birds have fledged and are no longer reliant upon the nest or parental care for survival.							
BIO-1(h): Worker Environmental Awareness Program							
All projects developed under the Specific Plan shall implement Mitigation Measure BIO-1(h). Prior to initiation of construction activities (including staging and mobilization), the project proponent shall arrange for all personnel associated with project construction for the applicable phase to attend WEAP training, conducted by a qualified biologist, to aid workers in recognizing special status resources that may occur in the construction area. The specifics of this program shall include identification of the sensitive species and habitats, a description of the regulatory status and general ecological characteristics of sensitive resources, and review of the limits of construction and mitigation measures required to reduce impacts to biological resources within the work area. A fact sheet conveying this information shall also be prepared for distribution to all contractors, their employers, and other personnel involved with construction. All employees shall sign a form provided by the trainer indicating they have attended the WEAP and understand the information presented to them. The form shall be submitted to the City to document compliance.	Verify implementation of WEAP and submittal of WEAP form.	Prior to initiation of construction activities.	Once.	City of Marina			
BIO-2: Jurisdictional Delineation							
If a proposed project under the Specific Plan would impact any of the ephemeral drainages and/or the ponds (as shown in Figure 4.4-2 in Section 4.4 of the EIR), a qualified biologist shall complete a jurisdictional delineation. The jurisdictional delineation will determine the extent of the jurisdiction for CDFW, USACE, and/or RWQCB, and shall be conducted in accordance with the requirement set forth by each agency. The result will be a preliminary jurisdictional delineation	Engage a qualified biologist to complete a jurisdictional delineation.	Prior to initiation of construction activities that would impact identified ephemeral drainages and/or ponds.	As needed for each proposed project under the Specific Plan.	City of Marina			

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
report that shall be submitted to the implementing agency, USACE, RWQCB, and CDFW, as appropriate, for review and approval. Jurisdictional areas should be avoided to the maximum extent possible. If jurisdictional areas are expected to be impacted, then the RWQCB would require a Waste Discharge Requirements (WDRs) permit and/or Section 401 Water Quality Certification (depending upon whether or not the feature falls under federal jurisdiction). If CDFW asserts its jurisdictional authority, then a Streambed Alteration Agreement pursuant to Section 1600 et seq. of the CFGC would also be required prior to construction within the areas of CDFW jurisdiction. If the USACE asserts its authority, then a permit pursuant to Section 404 of the CWA would likely be required. Furthermore, a compensatory mitigation program should be implemented, and the measures set forth by the regulatory agencies during the permitting process. Compensatory mitigations for all permanent impacts to waters of the U.S. and waters of the state shall be completed at a ratio as required in applicable permits, but should not be less than a minimum ratio of 1:1. All temporary impacts to waters of the U.S. and waters of the state should be fully restored to natural condition.							
Cultural Resources							
CR-1: Historical Resources Evaluation and Treatment Procedures							
If a project involves a built environment resource which is over the age of 45 years old, the Community Development Director or their designee, supported by an architectural historian as needed, shall make a preliminary determination as to whether the building qualifies as a historical resource. "Historical resource" shall mean a property listed or found eligible for listing in the National Register of Historic Places or the California Register of Historical Resources. A	Make a preliminary determination as to whether building(s) qualify as a historic resource.	If a project involves a built environment resource over the age of 45 years old.	As needed for each proposed project under the Specific Plan.	City of Marina			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification Initial	Compliance Verification Date	Compliance Verification Comments
property that is eligible for listing in the National Register of Historic Places or the California Register of Historical Resources must retain its historic integrity and meet one of the following eligibility criteria: - Is associated with events that have made a significant contribution to the broad patterns of our history. - Is associated with the lives of persons significant in our past. - Embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction. - Has yielded, or may be likely to yield, information important in history or prehistory. If the Community Development Director or their designee determines the built environment resource may have to potential to qualify as a historic resource, then a historical resources evaluation shall be required. - Qualified Historian. The evaluation will be prepared by a qualified architectural historian or historian who meets the Secretary of the Interior's Professional Qualifications Standards (PQS) in architectural history or history. - Guidelines for Preparation. The qualified architectural historian or historian will conduct an intensive-level evaluation in accordance with the guidelines and best practices promulgated by the State Office of Historic Preservation to identify any potential historical resources within the proposed project area. All properties 45 years of age or older will be evaluated within their historic context and documented in a technical report. All	Engage a qualified historian to prepare a historical resources evaluation.	If the built environment resource may have the potential to qualify as a historic resource.	As needed for each proposed project under the Specific Plan.	City of Marina			

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification Initial	Compliance Verification Date	Compliance Verification Comments
evaluated properties will be documented on Department of Parks and Recreation Series 523 Forms. The report will be submitted to the City for review.							
If the property is found ineligible for the NRHP or CRHR it shall be considered non-historical for the purposes of CEQA and no additional review or mitigation is required. If the property is identified as historical, the project applicant shall retain a qualified preservation professional meeting the PQS in Architectural History, History, or Historic Architecture. The qualified preservation professional shall provide design input to facilitate compliance with the Secretary's Standards to lessen, avoid, or mitigate direct or indirect impacts to historical resources. The qualified preservation professional shall review design plans to identify whether the project complies with the Secretary's Standards. The results of this review and impacts screening shall be memorialized in a Secretary's Standards compliance memorandum and approved by the City prior to the schematic phase. If the project is found to comply with the Secretary's Standards, no further mitigation is required.	Verify project applicant has retained a qualified preservation professional, and review the impacts screening for approval.	If the built environment resource is identified as historical.	As needed for each proposed project under the Specific Plan.	City of Marina			
If the project is found not to comply, the City shall require the completion of a Relocation Study and Preservation Plan for the historical resource. The Study shall consider partial retention of the resource as well as relocation; the Plan shall identify at least two potential nearby receiver sites, with similar settings and characteristics, for the relocation. The Relocation Study and Preservation Plan shall be completed by a preservation professional meeting the Secretary of the Interior's Professional Qualifications Standards for architectural history, history, or historic architecture and approved by the City prior to issuance of building permits.	Verify applicant completes a Relocation Study and Preservation Plan.	If the project is found not to comply with the Secretary's Standards.	As needed for each proposed project under the Specific Plan.	City of Marina			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification Initial	Compliance Verification Date	Compliance Verification Comments
If the Relocation Study and Preservation Plan determines that partial retention or relocation is feasible, the recommendations of the study shall be implemented. If the Relocation Study and Preservation Plan determines that such measures are infeasible, the project shall not be implemented, or the City may require project-level CEQA review, such as an EIR prior to project approval.	Verify implementation of the recommendations of the Relocation Study and Preservation Plan.	If partial retention or relocation is feasible.	As needed during implementation of the Relocation Study and Preservation Plan.	City of Marina			
CR-2: Archaeological Resources Investigation							
At the time of application for discretionary land use permits that involve grading, trenching, or other ground disturbance in native soil with the potential for encountering unknown archaeological resources, the project applicant shall retain a qualified archaeologist meeting the Secretary of the Interior standards in archaeology to complete a Phase 1 cultural resources assessment of the development site. A Phase 1 cultural resources assessment shall include an archaeological pedestrian survey of the development site, if possible, and sufficient background archival research and field sampling to determine whether subsurface prehistoric or historic remains may be present. Archival research shall include a current (no more than one-year old) records search from the Northwest Information Center (NWIC) and a Sacred Lands File (SLF) search conducted with the Native American Heritage Commission (NAHC).	Verify the project applicant has retained a qualified archaeologist to complete a Phase 1 cultural resources assessment.	At the time of application for discretionary land use permits that involve grading, trenching, or other ground disturbance in native soil with the potential for encountering unknown archaeological resources.	As needed for projects under the Specific Plan that would potentially impact archaeological resources.	City of Marina			
Identified prehistoric or historic archaeological remains shall be avoided and preserved in place where feasible. Where preservation is not feasible, the significance of each resource shall be evaluated for significance and eligibility for listing in the CRHR through a Phase 2 evaluation. A Phase 2 evaluation shall include any necessary archival research to identify significant historical associations as well as mapping of surface artifacts,	Verify avoidance and preservation of archaeological resources, or verify completion of Phase 2 cultural resources evaluation.	If the Phase 1 cultural resources assessment identifies archaeological resources.	As needed for each proposed project under the Specific Plan.	City of Marina			

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
collection of functionally or temporally diagnostic tools and debris, and excavation of a sample of the cultural deposit to characterize the nature of the sites, define the artifact and feature contents, determine horizontal boundaries and depth below surface, and retrieve representative samples of artifacts and other remains. Cultural materials collected from the sites shall be processed and analyzed in the laboratory according to standard archaeological procedures. The age of the materials shall be determined using radiocarbon dating and/or other appropriate procedures; lithic artifacts, faunal remains, and other cultural materials shall be identified and analyzed according to current professional standards. The significance of the sites shall be evaluated according to the criteria of the CRHR. The results of the investigations shall be presented in a technical report following the standards of the California Office of Historic Preservation publication "Archaeological Resource Management Reports: Recommended Content and Format (1990 or latest edition)" (http://ohp.parks.ca.gov/pages/1054/files/armr.pdf). Upon completion of the work, all artifacts, other cultural remains, records, photographs, and other documentation shall be curated an appropriate curation facility. All fieldwork, analysis, report production, and curation shall be fully funded by the applicant. If the resources meet CRHR significance standards, the City shall ensure that all feasible recommendations for mitigation of archaeological impacts are incorporated into the final design and permits issued for development. If necessary, Phase 3 data recovery excavation, conducted to exhaust the data potential of significant archaeological sites, shall be carried out by a qualified archaeologist meeting the SOI standards	Verify all feasible recommendations for mitigation are incorporated into the final design and permits issued.	If identified resources meet CRHR standards.	As needed for each proposed project under the Specific Plan.	City of Marina			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
for archaeology according to a research design reviewed and approved by the City prepared in advance of fieldwork and using appropriate archaeological field and laboratory methods consistent with the California Office of Historic Preservation Planning Bulletin 5 (1991), Guidelines for Archaeological Research Design, or the latest edition thereof.							
As applicable, the final Phase 1 Inventory, Phase 2 Testing and Evaluation, and/or Phase 3 Data Recovery reports shall be submitted to the City prior to issuance of construction permit. Recommendations contained therein shall be implemented throughout all ground disturbance activities.	Review any reports prepared.	Prior to issuance of construction permit.	As needed.	City of Marina			
Geology and Soils							
GEO-1: Paleontological Resources Monitoring and Mitigation							
The City of Marina shall require the following specific requirements for individual projects in the DVSP that would require excavation exceeding five feet:							
1. Prior to excavations exceeding five feet, a qualified professional paleontologist shall be retained to direct all mitigation measures related to paleontological resources. A qualified professional paleontologist is defined by the SVP standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010).	Retain a qualified paleontologist to direct all mitigation measures related to paleontological resources.	Prior to excavations exceeding five feet.	As needed for each proposed project under the Specific Plan.	City of Marina			
2. The qualified professional paleontologist shall design a Paleontological Resources Mitigation and Monitoring Program (PRMMP) for the project, which outlines the procedures and							

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
	protocol for conducting paleontological monitoring and mitigation. Monitoring shall be conducted by a qualified paleontological monitor who meets the minimum qualifications per standards set forth by the SVP. The PRMMP shall address the following procedures and protocols: ▪ Timing and duration of monitoring ▪ Procedures for work stoppage and fossil collection ▪ The type and extent of data that should be collected with any recovered fossils ▪ Identify an appropriate curatorial institution ▪ Identify the minimum qualifications for qualified paleontologists and paleontological monitors ▪ Identify the conditions under which modifications to the monitoring schedule can be implemented ▪ Details to be included in the final monitoring report.						
	3. Prior to the start of construction, the qualified paleontologist or his or her designee shall conduct a paleontological Worker Environmental Awareness Program (WEAP) training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff.						
	4. Full-time paleontological monitoring shall be conducted during ground disturbing construction activities (i.e., grading, trenching, foundation work) exceeding five feet, pursuant to the PRMMP. Paleontological monitoring is not required for any construction activities that do not exceed depths of less than five feet. If the qualified paleontologist determines						

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
that full-time monitoring is no longer warranted, based on the specific geologic conditions at the surface or at depth, he/she may recommend that monitoring be reduced to periodic spot-checking or cease entirely. 5. In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. The qualified paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the qualified paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources: a. The paleontological monitor shall evaluate the discovery and determine if the fossil may be considered significant. If the fossils are determined to be potentially significant, the qualified paleontologist shall recover them following standard field procedures for collecting paleontological resources as outlined in the PRMMP. If fossils are discovered, the qualified paleontologist shall recover them as specified in the project's PRMMP. b. Once salvaged, significant fossils shall be prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection. c. Upon completion of ground disturbing activity (and curation of fossils if necessary) the qualified paleontologist should prepare a final mitigation and monitoring report outlining the results of the mitigation and monitoring program. The report shall be submitted to the City of Marina.	Verify submittal of final mitigation and monitoring report.	Upon completion of ground disturbing activities.	Once.	City of Marina			

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
Hazards and Hazardous Materials							
HAZ-1: Project-Level Hazardous Materials Assessment							
Prior to the obtaining grading permits or starting other ground disturbing work for individual projects, the Community Development Director or their designee shall hire a qualified environmental professional to conduct a Phase I environmental assessment (ESA), consistent with the American Society for Testing Materials standards (ASTM E1527). The Phase I ESA shall evaluate the likelihood that hazardous chemicals are present and whether soil sampling is necessary. If the Phase I ESA indicates that contamination is unlikely, no further mitigation is necessary other than any recommendations identified in the Phase I ESA (such as stopping work if stained soil is encountered). If the Phase I ESA indicates that additional soil sampling or other further evaluation is necessary, the City shall hire a qualified environmental professional to conduct a Phase II ESA to determine the presence and extent of contamination. If the results indicate that contamination exists at levels above regulatory action standards, then the site shall be remediated in accordance with recommendations made by applicable regulatory agencies, including RWQCB and DTSC. The agencies involved shall depend on the type and extent of contamination.	Engage a qualified environmental professional to conduct a Phase I environmental assessment.	Prior to issuance of grading permits or start of other ground disturbing work.	Once.	City of Marina			
If remediation is necessary, the City or their designee shall hire a qualified environmental professional prior to obtaining grading permits or ground disturbance to prepare a work plan that identifies necessary remediation activities, including excavation and removal of on-site contaminated soils, appropriate dust control measures, and redistribution of clean fill material on the project site. The plan shall include measures that ensure the safe transport, use, and disposal of contaminated soil removed from the site. The plan	Engage a qualified environmental professional to conduct a Phase II environmental assessment.	If the Phase I assessment indicates additional soil sampling or further evaluation is necessary.	As needed for each proposed project under the Specific Plan.	City of Marina			
	Engage a qualified environmental professional to prepare a work plan.	If remediation is required, prior to issuance of grading permits or ground disturbance.	As needed for each proposed project under the Specific Plan.	City of Marina			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
shall also identify when and where soil disturbing construction activities may safely commence.							
Noise							
NOI-1(a): Construction Noise Reduction Measures							
The following measures shall be implemented if construction is to occur within 500 feet of a residential property line: - The City shall ensure that notes for grading plans and/or site improvement plans clearly state the noise limitation requirements of Municipal Code Section 15.04.055. - Construction activities shall occur as to not exceed the 60 dBA L_{EQ} noise limit at a receiving property line. Measures to reduce noise levels below the 60 dBA L_{EQ} noise limit include, but are not limited to, the following: Mufflers. During project site excavation and grading, construction equipment, fixed or mobile, shall be operated with closed engine doors and shall be equipped with properly operating and maintained mufflers consistent with manufacturers’ standards. Stationary Equipment. Stationary construction equipment shall be located and oriented so that emitted noise is directed away from the nearest noise sensitive receivers. Equipment Staging Areas. Equipment staging shall be located in areas that will create the greatest distance feasible between construction-related noise sources and noise sensitive receivers. Electrically-Powered Tools and Facilities. Where available, electrical power shall be used to run air compressors and similar power tools and to power any temporary	Verify notes for grading plans and/or site improvement plans clearly state the noise limitation requirements of Marina Municipal Code Section 15.04.055.	Prior to issuance of construction permit when construction would occur within 500 feet of a residential property line.	Once.	City of Marina			
	Verify implementation of noise reduction measures.	During project construction.	Continuous.				

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification Initial	Compliance Verification Date	Compliance Verification Comments
structures, such as construction trailers or caretaker facilities. ▫ Sound barriers. Temporary noise barriers shall be implemented between the construction equipment and the receiving property lines. The noise barriers shall be constructed of material with a minimum weight of two pounds per square foot with no gaps or perforations. Noise barriers may be constructed of, but not limited to, 5/8-inch plywood, 5/8-inch oriented strand board, and hay bales. Noise barriers may consist of sound blankets affixed to construction fencing along the construction site boundary facing potentially sensitive receivers ▫ Idling. Construction vehicles shall be prohibited from idling in excess of five minutes.							
NOI-1(b): Site-Specific Acoustic Analysis – Multi-Family Residences							
This mitigation measure applies to future multi-family residential development on Reservation Road, Del Monte Boulevard, Reindollar Avenue, Reindollar Avenue, Carmel Avenue, California Avenue, Crescent Avenue to the south of Reservation Road, Lynscott Drive, and Bayer Street. Prior to the approval of multi-family residential building permits in these locations, the City shall require an acoustical analysis 1) demonstrating to the satisfaction of the Community Development Director (or their designee) that the proposed building plans ensure that interior noise levels due to exterior noise sources will be at or below Marina’s interior noise standard of 45 dBA L_{dn} for residential uses in any habitable room, and 2) required exterior areas are not exposed to noise levels in excess of the City’s maximum acceptable exterior noise level of 60 dBA L_{dn}. Design-level architectural plans shall be	Verify proposed building plans would reduce interior noise levels to 45 dBA L_{dn} for residential uses and noise in exterior areas to 60 dBA L_{dn}.	During design review.	Once.	City of Marina			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
available during design review and will permit the accurate calculation of transmission loss for habitable rooms. If necessary, the analysis shall identify measures to reduce noise levels to within City standards, which may include, but would not be limited to: ▪ Design of the project to include exterior areas shielded from the roadways by the project buildings; ▪ Sound walls to reduce noise to exterior areas; and/or ▪ Windows with increased Sound Transmission Class [STC] ratings for interior areas, etc.). It is preferred that the interior noise standard be attained with open windows. However, where the interior noise standard is attainable only with closed windows and doors, mechanical ventilation shall be required.							
NOI-1(c): Site-Specific Acoustic Analysis – Office Uses							
Concurrent with Design Review and prior to the approval of building permits for office uses on Reservation Road and Del Monte Boulevard, the City shall require an acoustical analysis 1) demonstrating to the satisfaction of the Development Services Director (or their designee) that the required exterior areas are not exposed to noise levels in excess of the City's maximum acceptable exterior noise level of 67 dBA Ldn for office uses. If necessary, the analysis shall identify measures to reduce noise levels to within City standards, which may include, but would not be limited to design of the project to include exterior areas shielded from the roadways by the project buildings or sound walls to reduce noise to exterior areas.	Verify acoustical analysis would reduce noise in exterior areas to 67 dBA Ldn for office uses.	During design review and prior to approval of building permits.	Once.	City of Marina			

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Compliance Verification Initial	Compliance Verification Date	Compliance Verification Comments
NOI-1(d): HVAC Mechanical Equipment Shielding							
Concurrent with Design Review and prior to the approval of building permits, the City shall require a design plan demonstrating to the satisfaction of the Development Services Director (or their designee) that the noise level from operation of mechanical equipment shall not cumulatively exceed the following noise level limits for a designated receiving land use category as specified in Table 4.2 in the Marina General Plan: ▪ From 7 a.m. to 10 p.m.: ▫ 50 dBA L_{eq} ▫ 70 dBA L_{max} ▫ 65 dBA L_{max}, impulsive ▪ From 10 p.m. to 7 a.m.: ▫ 45 dBA L_{eq} ▫ 65 dBA L_{max} ▫ 60 dBA L_{max}, impulsive Noise control measures may include, but are not limited to, the selection of quiet equipment, equipment setbacks, parapet walls, silencers, and/or acoustical louvers. Marina shall require noise attenuation features that would reduce sound levels to allowable noise levels.	Verify design plan demonstrates noise from mechanical equipment operation shall not cumulatively exceed City noise thresholds.	During design review and prior to approval of building permits.	Once.	City of Marina			
Transportation							
T-2: Transportation Demand Management Program							
Each individual office and residential development project in the Specific Plan area shall have a corresponding transportation demand management (TDM) plan and monitoring program developed by the applicant or developer of the project. The TDM plan shall be prepared prior to issuance of building permits. The TDM plan shall identify the TDM reductions specific to their project. The monitoring program	Review and approve the TDM plan.	Prior to issuance of building permits.	Once.	City of Marina			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
shall establish goals and policies to ensure the efficient implementation of the TDM plan and demonstrate its effectiveness at reducing VMT such that VMT is below the significance thresholds presented in Table 4.2-2, above. The City shall review and approve the TDM plan prior to approval of building permits. Examples of TDM measures that could be employed, depending on specific project conditions and circumstances, include but are not limited to: ▪ Provision of bus stop improvements or on-site mobility hubs ▪ Pedestrian improvements, on-site or off-site, to connect to nearby transit stops, services, schools, shops, etc. ▪ Bicycle programs including bike purchase incentives, storage, maintenance programs, and on-site education program ▪ Enhancements to regional bicycle network ▪ Parking reductions and/or fees set at levels sufficient to incentivize transit, active transportation, or shared modes ▪ Cash allowances, passes, or other public transit subsidies and purchase incentives ▪ Enhancements to bus service ▪ Implementation of shuttle service ▪ Establishment of carpool, bus pool, or vanpool programs ▪ Vanpool purchase incentives ▪ Participation in a future County VMT fee program ▪ Participate in future VMT exchange or mitigation bank programs ▪ Carshare/scooter-share/bikeshare facilities or incentives ▪ On-site coordination overseeing TDM marketing and outreach ▪ Rideshare matching program ▪ Market-price public parking							

City of Marina
Downtown Vitalization Specific Plan

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Monitoring Frequency	Responsible Agency	Com- pliance Verifi- cation Initial	Com- pliance Verifi- cation Date	Com- pliance Verifi- cation Comments
Tribal Cultural Resources							
TCR-1: Unanticipated Discovery of Tribal Cultural Resources							
In the event that cultural resources of Native American origin are identified during development facilitated by the DVSP, all earth-disturbing work within 50 feet of the find shall be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find as a cultural resource and an appropriate local Native American representative is consulted. If the City, in consultation with local Native American tribes, determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with local Native American group(s). The plan shall include avoidance of the resource or, if avoidance of the resource is infeasible, the plan shall outline the appropriate treatment of the resource in coordination with the appropriate local Native American tribal representative and, if applicable, a qualified archaeologist. The plan shall include measures to ensure the find is treated in a manner that respectfully retains, to the degree feasible, the qualities that render the resource of significance to the local Native American group(s). Examples of appropriate mitigation for tribal cultural resources include, but are not limited to, protecting the cultural character and integrity of the resource, protecting traditional use of the resource, protecting the confidentiality of the resource, or heritage recovery.	Verify preparation and implementation of a mitigation plan.	In the event cultural resources of Native American origin are identified, and resources are determined to be a tribal cultural resource in consultation with local Native American tribes.	As needed and as determined by consulted local Native American tribes.	City of Marina			