

ORDINANCE NO. 2016-02

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARINA
APPROVING ZONING MAP AMENDMENT ZM 2014-01 TO CHANGE THE
ZONING DISTRICT FROM “MULTIPLE FAMILY RESIDENTIAL (R-4)” TO
“SPECIFIC PLAN (SP)” FOR A ±0.8 ACRE PROJECT SITE LOCATED AT
3033-3039 MARINA DRIVE (APN 033- 171-002)

THE CITY COUNCIL OF THE CITY OF MARINA DOES ORDAIN THAT:

ONE, AMENDMENT TO THE MARINA ZONING MAP: That the Zoning Map is amended from “Multiple Family Residential (R-4)” to “Specific Plan (SP) for a ±0.8 acre project site located at 3033-3039 Marina Drive (APN 033-171-002), as shown in “**EXHIBIT A**” attached hereto.

TWO, EFFECTIVE DATE: This Ordinance shall take effect and shall be in force upon the 30th calendar day following the City Council’s second reading and adoption of this ordinance.

THREE, POSTING OF ORDINANCE: Within fifteen (15) calendar days of the adoption of this Ordinance, the City Clerk shall cause it to be posted in three (3) public places designated by Resolution of the City Council.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on March 15, 2016 and March 15, 2016, and was passed and adopted at a regular meeting duly held on the 5th day of April 2016, by the following roll call vote:

AYES, COUNCIL MEMBERS: Amadeo, Brown, Morton, O’Connell, Delgado
NOES, COUNCIL MEMBERS: None
ABSENT, COUNCIL MEMBERS: None
ABSTAIN, COUNCIL MEMBERS: None

Frank O’Connell, Mayor Pro-Tem

ATTEST:

Anita Sharp, Deputy City Clerk

Honorable Chair and Members
of the Marina City Council

City Council Meeting
of ~~February 2, 2016~~
March 15, 2016

REQUEST THAT THE CITY COUNCIL OPEN A PUBLIC HEARING, TAKE ANY TESTIMONY FROM THE PUBLIC AND CONSIDER: (1) ADOPTING RESOLUTION NO 2016- , APPROVING THE MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR DEMOLITION OF AN EXISTING SINGLE FAMILY DWELLING AND DUPLEX AND CONSTRUCTION OF SIXTEEN (16) NEW TOWNHOMES AND TWO (2) APARTMENTS; (2) ADOPTING RESOLUTION NO. 2016- , APPROVING GENERAL PLAN LAND USE MAP AMENDMENT GP 2014-01 TO CHANGE THE LAND USE DESIGNATION FROM “SINGLE FAMILY RESIDENTIAL” TO “MULTI-FAMILY RESIDENTIAL” FOR THE PROJECT SITE; (3) INTRODUCING ORDINANCE NO. 2016- , APPROVING ZONING MAP AMENDMENT ZM 2014-01 TO CHANGE THE ZONING DISTRICT FROM “MULTIPLE FAMILY RESIDENTIAL (R-4)” TO “SPECIFIC PLAN (SP)” FOR THE PROJECT SITE; (4) ADOPTING RESOLUTION NO. 2016- , APPROVING SPECIFIC PLAN SP 2014-01 INCLUDING SITE AND ARCHITECTURAL DESIGN REVIEW DR 2014-01 FOR THE SITE PLAN, BUILDING ELEVATIONS AND CONCEPTUAL LANDSCAPE PLAN AND TREE REMOVAL PERMIT TP 2014-01 FOR THE REMOVAL OF SEVEN (7) TREES, AND; (5) ADOPTING RESOLUTION NO. 2016- , APPROVING AN AFFORDABLE HOUSING PLAN AND AFFORDABLE HOUSING AGREEMENT, ON A ±.8 ACRE PROJECT SITE LOCATED AT 3033-3039 MARINA DRIVE (APN 033-171-002)

REQUEST:

It is requested that the City Council:

1. Open a public hearing, take any testimony from the public and consider adopting Resolution No. 2016- , approving the Mitigated Negative Declaration of environmental impact and the associated Mitigation Monitoring and Reporting Program (MMRP) for demolition of an existing single family dwelling and duplex and construction of sixteen (16) new townhomes and two (2) apartments on a ±0.8 acre project site located at 3033-3039 Marina Drive (APN 033-171-002);
2. Resolution No. 2016- , approving General Plan Land Use Map amendment GP 2014-01 to change the land use designation from “Single Family Residential” to “Multi-Family Residential” for a ±0.8 acre project site located at 3033-3039 Marina Drive (APN 033-171-002);
3. Introducing Ordinance No. 2016- , approving Zoning Map amendment ZM 2014-01 to change the Zoning District from “Multiple Family Residential (R-4)” to “Specific Plan (SP)” for a ±0.8 acre project site located at 3033-3039 Marina Drive (APN 033-171-002);

4. Resolution No. 2016- , approving Specific Plan SP 2014-01, including Site and Architectural Design Review DR 2014-01 for the Site Plan, Building Elevations, Conceptual Landscape Plan, and colors and materials for demolition of an existing single family dwelling and duplex and construction of sixteen (16) new townhomes and two (2) apartments, and Tree Removal Permit TP 2014-01 for the removal of seven (7) trees on a ±0.8 acre project site located at 3033-3039 Marina Drive (APN 033-171-002), subject to conditions.
5. Resolution No. 2016- , approving an Affordable Housing Plan and an Affordable Housing Agreement.

BACKGROUND:

The project site is a linear parcel located at 3033-3039 Marina Drive. The project site is bordered by the Monterey County (TAMC) branch line railway tracks, TAMC's Monterey Bay Sanctuary Scenic Trail and Del Monte Boulevard to the south and east; and the Highway 1 dune berm and a City-owned storm water percolation pond to the north and west. San Pablo Court forms the northern property boundary.

The subject property is developed with nine existing units. These include one (1) single family dwelling, one (1) duplex, and one (1) multi-family apartment containing six (6) units. Two (2) of the units in the apartment building had been created without the benefit of permits and in 2014 were brought into compliance with the California Building Code and Fire Code through the Building Services Division by the current property owner, Mr. Scott Green. The proposed development, the Beach Townhome Apartments, involves the demolition of the single family dwelling and duplex and construction of 16 new townhomes and two (2) apartments for a total of 24 units (six existing and 18 new). A building housing an office, laundry and storage/maintenance area will serve all residents.

On July 2, 2014, Mr. Scott Green submitted a complete application for entitlements, including a General Plan amendment (GP 2014-01) to change the General Plan Land Use Map from "Single Family Residential" to "Multiple Family Residential", a change to the Zoning District Map (ZM 2014-01) from "Multi-Family Residential" to "Specific Plan", adoption of a Specific Plan (SP 2014-01), adoption of an Affordable Housing Plan and Affordable Housing Agreement, Site and Architectural Design Review (DR 2014-01) for the Site Plan, Building Elevations, Landscape Plan and colors and materials for a project including demolition of three (3) existing units and the addition of 17 townhomes (now 16 townhomes and 2 apartments for 18 total units), and a Tree Removal Permit (TP 2014-1) for removal of seven (7) trees on a ±0.8 acre project site located at 3033-3039 Marina Drive (APN 033-171-002).

At the regular meeting of November 19, 2014, the Tree Committee adopted Resolution No. 2014-01 (TC), recommending Planning Commission approval of TP 2014-01, subject to conditions.

After consideration at two public meetings held on November 19, 2015 and February 25, 2015, the Site and Architectural Design Review Board (DRB) adopted Resolution No. 2015-07, recommending Planning Commission approval of DR 2014-01, subject to conditions. These conditions were either addressed by the applicant in resubmitted plans or by inclusion of the Conditions of Approval in the Planning Commission Resolution.

Google Earth Image of Subject Property



At the regular meeting of December 10, 2015, the Planning Commission adopted Resolutions No. 2015-08 through 2015-12, recommending that City Council consider adopting the Mitigated Negative Declaration of environmental impact for a proposed project; approving General Plan Land Use Map amendment GP 2014-01 to change the land use designation from “Single Family Residential” to “Multi-Family Residential”; approving Zoning Map amendment ZM 2014-01 to change the Zoning District from “Multiple Family Residential (R-4)” to “Specific Plan (SP)”; approving Specific Plan SP 2014-01, including Site and Architectural Design Review DR 2014-01 for the Site Plan, Building Elevations, Conceptual Landscape Plan, and colors and materials for demolition of an existing single family dwelling and duplex and construction of sixteen (16) new townhomes and two (2) apartments, and Tree Removal Permit TP 2014-01 for the removal of seven (7) trees; and approving the Affordable Housing Plan and Affordable Housing Agreement for the Beach Townhome Apartments, located on a ± 0.8 acre project site located at 3033-3039 Marina Drive (APN 033-171-002).

ANALYSIS:

GENERAL PLAN LAND USE MAP AMENDMENT

In June 1982, the subject property was designated as “Multiple Family Residential” on the General Plan Land Use Map with a residential density of 21 dwelling units per acre. In October 2000, for reasons that are not clear in the historical files, all of the properties located in the triangle south of Marina del Mar Elementary School, east of San Pablo Court and west of Marina Green Drive including the subject property, were re-designated as “Single Family Residential” on the General Plan Land Use Map, making the majority of the parcels non-conforming as to the density.

The allowable density established by the General Plan for areas designated “Single Family Residential” is five units per acre; thus four units are currently allowed on the subject property. The six existing units on the site currently exceed the General Plan’s residential density limit of five units per acre. To increase density on the site, an amendment to the General Plan Land Use Map from “Single Family Residential” to “Multi-Family Residential”, which allows between 20 and 35 units per acre, will be required (“**EXHIBIT A**”).

This is an appropriate location for townhome/apartment infill development given: (1) the sites location within an already-developed urban area; (2) adjacency to and compatibility with similar multi-family apartments and townhomes without the need for buffers or transition zones; (3) adjacency to existing bus stops; (4) adjacency to the Monterey Bay Sanctuary Scenic Trail; and (5) close proximity to City services and supplies. Intensification of use at this location will more fully utilize the City’s existing infrastructure and increase tax revenue from the existing land supply.

ZONING DISTRICT MAP AMENDMENT

The subject parcel is zoned “Multiple Family Residential” (R-4) on the Zoning Map. The Beach Townhome Apartments Specific Plan will establish a “Specific Plan” (SP) Zoning District to replace the R-4 Zoning District for the site (“**EXHIBIT B**”).

Inconsistencies between the General Plan Land Use Map and Zoning District Map were identified during the preparation of the Marina General Plan 2000. Policy 5.4 of the Program and Implementation Element of the General Plan addressed this item by identifying the need for a major revision of the City’s existing Zoning Code. To date, this revision has not been completed.

ADOPTION OF SPECIFIC PLAN

The subject property is located within the boundary of the Downtown Vitalization Area. Within Central Marina, the Downtown Vitalization Specific Plan (DVSP) was initiated as a tool to accomplish consistency between the City’s land use and zoning maps. A Draft DVSP was prepared by the Development Services Department (DSD) prior to dissolution of redevelopment agencies in California. This project is currently on hold.

General Plan Policy 2.63.51 requires that, prior to approval of any development other than temporary projects/uses or projects already entitled to be built, a specific plan shall be prepared which legally establishes development, design, and infrastructure requirements in accordance with General Plan principles and policies. As such, a Specific Plan has been prepared for the project (“**EXHIBIT C**”).

Unique development standards and design guidelines, as illustrated by the development plans, have been incorporated into the proposed Beach Townhome Apartments Specific Plan. The Specific Plan has been prepared pursuant to Government Code Sections 65450-65457.

The Specific Plan includes the following five chapters:

- Chapter 1 (Introduction and Background) describes the project background, vision and description of the existing conditions. The relationship to the General Plan is also discussed.
- Chapter 2 (Context and Setting) describes the setting, environmental constraints, and existing infrastructure and public services for the Specific Plan area.
- Chapter 3 (Development Standards and Design Guidelines) establishes a set of development standard and design guidelines for the consistent promotion of high-quality, well-designed developments on the project site.
- Chapter 4 (Infrastructure and Public Services Plan) discusses the development policies pertaining to the planned distribution, location, extent and intensity of water, sewer and storm drainage infrastructure, and solid waste facilities.
- Chapter 5 (Specific Plan Administration and Implementation) provides the framework for implementing the Specific Plan and ensuring its objectives are integrated effectively with the goals of the City of Marina General Plan.

Staff has worked collaboratively with the applicant in the preparation of the Specific Plan. Staff has confirmed that the plan is consistent with and furthers the goals, policies and implementation objectives of the Marina General Plan and is compliant with the requirements of State law.

SITE PLAN

The proposed project development plans form the Appendix to the Specific Plan.

The Site Plan (*Sheet A-1*) shows the distribution on the site of the existing three-story apartment building, three rows of new townhome units, a new storage/laundry/office building and a bicycle storage building. Linear blocks of six and eight townhome units located at the west and north-west property boundaries abut the Highway 1 dune berm and City-owned percolation pond lot, respectively, with a smaller block of three units fronting on Marina Drive. Parking for all units is centralized within the development. A Marina Coast Water District (MCWD) lift station is located on the north-west corner of the property. Two enclosures for garbage and recycling are provided, one in each parking lot. The garbage and recycling enclosures will house a four yard recycling dumpster and a three yard trash dumpster, which are estimated to handle approximately 1,200 pounds of waste. According to the solid waste hauler (Green Waste), the average apartment generates approximately 40 pounds of solid waste per week. With 24 total units, the project would produce an estimated 960 pounds of solid waste per week. Thus, the size of the provided trash enclosures would be adequate for a weekly solid waste pick-up. If once weekly pickup is not adequate for any reason, the applicant can schedule a twice weekly pickup.

The Demolition Plan (*Sheet A-3*) shows the locations of the existing apartment building that will remain and the duplex and single family units, and accessory structures that will be demolished.

Except where infeasible, development standards within MMC Chapter 17.20, Multiple Family Residential District, have been used by the applicant to guide the site planning process.

Table 1, below, shows the development standards proposed for the subject property, as incorporated in the Specific Plan.

**Table 1.
Proposed Specific Plan Standards**

Metric	Specific Plan Standard
Housing Element Program 1.1 requires minimum density 20 units/acre in DVSP area or 16 units	23 units on 0.8 acres = 29 units/acre
Total Open Space (excludes driveways and walkways)	10,037 sq. ft.
Private Open Space (patios and decks)	3,774 sq. ft.
Building Height	22' and two stories
Site Coverage	27%
Front Yard	10' minimum
Side Yards	5' minimum
Rear Yard	5' minimum
Parking (all 2 bedroom units)	1 ½ spaces per unit = 35 spaces

Circulation

Access to the site would be provided via two new driveways on Marina Drive and one new driveway at San Pablo Drive. There would be no passage for vehicles through the site. The Marina Fire Department has reviewed the proposed project and has required that dead-end access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus. The southerly parking area terminates at 135 feet. The parking has been designed to provide for vehicle maneuvering so that vehicles may leave the site in a forward direction (rather than backing out into the roadway).

The project would generate net increase of 117 daily vehicle trips, including 9 in the AM peak hour and 10 in the PM peak hour. This level of traffic would not measurably influence the levels of service of any nearby roadway or intersection.

The site is located within walking distance of downtown Marina. The site is also adjacent to a public bus stop, the adjacent TAMC regional bicycle and pedestrian trail, and a cul-de-sac with on-street parking availability.

The closest Monterey-Salinas Transit (MST) bus stops are located at Palm Avenue and Del Monte Avenue, approximately 900 feet northeast of the proposed project site. From this location, Routes 17, 20, 21 and 28 take passengers to CSUMB, the Dunes Shopping Center, Monterey Transit Plaza, Salinas Transit Center and the Watsonville Transit Center. Also, TAMC is planning to build a Light Rail Transit (LRT) station at Palm Avenue and Del Monte Boulevard as part of the future Monterey Branch Line LRT project.

Neither Marina Drive nor San Pablo Court have been fully improved. As part of the project, curb, gutter and a 4' wide sidewalk will be constructed along both street frontages. As shown in the Grading Plan (*Sheet A-2*), the applicant will adjust the property line and donate an 8' strip of land along the San Pablo Court frontage to the City. With this property line adjustment and the proposed improvements to add curb, gutter, and sidewalk, San Pablo Court would be widened and improved. The applicant has additionally offered to pave the full width of Marina Drive.

The proposed internal sidewalk network will link the front entry of each unit to the parking area and to the sidewalks along Marina Drive and San Pablo Court as well as the community patio and bicycle storage area located adjacent to the office/laundry building.

Parking

As shown in the image below, parking for the existing on-site development occurs on the street or within driveways; currently there is no formal parking lot for the six-unit complex. At the December 10, 2015 Planning Commission meeting, nearby residents indicated that vehicles currently park within the TAMC branch line right-of-way, located across Marina Drive to the southeast of the project site. The image below (taken in April 2015) shows three cars parked along the southeast shoulder of Marina Drive, including two at the end of the cul-de-sac and one across from the six-unit complex near the intersection with San Pablo Court. Photographs taken by City staff in December 2015 indicate a similar situation, with one car parked at the end of the cul-de-sac and one across from the six-unit complex near the intersection with San Pablo Court.

April 2015 Google Earth Street View image of Marina Drive from San Pablo Court, facing south. The subject property is on the right.



April 2015 Google Earth Street View Image of from the end of Marina Drive facing east. The subject property is behind the photographer.



Staff photograph taken December 22, 2015 of Marina Drive from San Pablo Court, facing south. The subject property is on the right.



As part of the proposed development, a total of 38 parking spaces (or approximately 1.6 spaces per unit) would be provided on the site, including six new spaces in front of the existing apartment building, four spaces with access off San Pablo Court, and 28 spaces with access off Marina Drive (each parking area would have a separate access point). A motorcycle parking spot would be provided at the south end of the parking lot, directly off of Marina Drive. Bicycle parking would be provided in the form of a 12 foot by 8 foot bike storage building and additional bike racks, in the northwest portion of the site, between the six unit and nine unit structures. One parking spot for each of the existing apartments would be added in front of the apartment building off of Marina Drive. It is anticipated that the provision of on-site parking would alleviate some of the existing

parking constraints along Marina Drive and San Pablo Court, as formal off-street parking would be provided for the existing and proposed units, where none exists currently.

The proposed on-site parking stalls are 9 feet by 17.5 feet with 10-foot width for corner stalls. Two spaces are ADA accessible in compliance with the two percent requirement of the California Building Code.

Flood Plain and Storm Water Management

According to the 2009 FEMA Flood Insurance Rate Map, the north-eastern half of the property is located in the AE Flood Zone and has a Base Flood Elevation (BFE) of 28 feet. Seven of the new units will be fully or partially located within the identified flood plain. To address this, new construction will locate the lowest habitable floor above the BFE. The site will be graded to create pad elevations with the top of each slab at or above 28 feet (Site Plans *Sheet A-2*).

At the December 10, 2015 Planning Commission meeting, nearby residents indicated that flooding is a concern along both Marina Drive and San Pablo Courts. City staff visited the neighborhood on December 11, 2015 following a rain event. The images show some pooling on Marina Drive near Marina del Mar Elementary School, but not substantial flooding. Recent City improvements to the drainage in the area have provided some localized flooding relief. Additional drainage improvements on Marina Drive near Marina del Mar Elementary School are incorporated into the Capital Improvement Program (CIP) list which will be presented to City Council on February 17, 2016.

Staff photograph taken December 11, 2015 of Marina Drive near Marina del Mar Elementary School following a rain event.



The proposed project would not exacerbate the existing flooding situation and would improve on-site drainage compared to existing conditions. The project would include infiltration basins to keep all stormwater on-site, as required by Policy 3.57 of the City of Marina General Plan. Three catch basins would be installed on the project site. The catch basins would be located in the three separate parking areas: one in the townhouse parking area off Marina Drive, one in the six unit apartment complex parking area off of Marina

Drive, and one in the parking area off of San Pablo Court. Each catch basin would have Storm Tech SC-740 chambers and be designed to meet the General Plan requirement of conveying runoff from a ten-year frequency storm (City of Marina General Plan, 2000). The infiltration basins would prevent runoff and erosion, as well as contribute to the removal of pollutants in the stormwater.

ELEVATIONS

The applicant is also seeking approval of the Exterior Elevations (*Sheets A-4 and A-5*) as depicted in the color renderings in the Specific Plan (*Views from Del Monte (2); North Elevation; View from Freeway*). An additional perspective as viewed from Del Monte Boulevard, as requested by Planning Commission, has been provided on the cover of the Plan Set.

Each of the 16 new townhome units will be approximately 864 sq. ft. and will include livable space downstairs, with a ½ bath and washer/dryer hook-ups. Upstairs there will be two bedrooms and a shared bath. The two new apartments would each include one bedroom and one bath in approximately 600 sq. ft. Each unit will have a private entry porch and a rear patio. White wooden picket fences define the front entries and 6' redwood fences create privacy at the rear of the units.

The design and materials wrap around the building. Finishes for the units include stucco on the first floor, a 12" wood belly-band between the first and second floors, board and batten siding on the second floor, painted aluminum gutters and downspouts, and composition shingle roofs. Windows are vinyl with French pane uppers. The colors and materials board and color renderings show the colors and their placement on the buildings.

The units have been differentiated from one another through the following:

- The rooflines for each block of one or two units are offset due to grade changes consistent with the existing topography, which varies from 33' at the north of property to 28' at the south;
- Porch overhangs are either pitch roof or shed roof at the front door entry; and
- Distinctive paint colors are used in blocks of two units. The single northernmost end units are painted as singles repeating the color scheme of interior blocks.

Colored window shutters on the upper story of each of the units harmonize the complex as a whole.

To satisfy Planning Commissioner concerns about building integration, the existing on-site structure would also be modified to include colored window shutters on the upper story and a 12" wood belly-band between the first and second floors, painted to match the building trim. Additional Monterey cypress trees would also be planted near the corner of Marina Drive and San Pablo Court to screen and soften the view of this structure from surrounding roadways.

A City-owned storm water percolation pond is located northwest of the project site, which is currently surrounded by a chain link fence. The applicant proposed to replace the existing chain link fence with six-foot tall redwood fence, similar to the proposed rear privacy fence.

CONCEPTUAL LANDSCAPE PLAN

The applicant has also prepared a Conceptual Landscape Plan (*Sheet LI*) for approval. The plan shows the locations of the landscape areas adjacent to each row of townhouses, in the parking areas and on the street frontages.

Seven of the existing trees are proposed to be removed to accommodate the development and the rest will be retained, including several mature cypress trees. All of the trees proposed to be retained, except *Melaleuca*, a California native, are on the City of Marina Recommended List of Preferred Trees, approved by the Site and Architectural Design Review Board and the Planning Commission in 2009. Nine of the shrubs listed on the landscape plan are California natives, and eight are not.

The number of new trees and shrubs to be planted on-site is not yet known. Standard Conditions of Approval have been added to the draft Resolution to ensure at least 65 percent of trees and shrubs are native plantings, establish minimum plant sizes and guide placement during development of the Final Planting Plan.

TREE REMOVAL PERMIT

To accommodate the proposed development, the applicant is requesting the removal of seven (7) trees including five (5) myoporum trees, one (1) olive tree and one (1) acacia tree. An Arborists Report prepared by Frank Ono (July 11, 2014) provided by the applicant was reviewed by the Tree Committee and the Planning Commission. The report identified all trees to be removed as being in poor health or within the development impact area as noted in the findings in the draft Resolution.

Conditions of Approval have been added to the draft Resolution requiring that the Final Landscape Plan shall show replacement of the seven removed trees at a ratio of at least 2:1 (at least 14 trees), consistent with Municipal Code Section 17.51.060 D2, and that all remaining trees in the vicinity of the proposed construction shall be protected during all construction activities.

AFFORDABLE HOUSING PLAN AND AFFORDABLE HOUSING AGREEMENT

The Affordable Housing Plan and Affordable Housing Agreement has been reviewed by staff, including special legal counsel at Goldfarb & Lipman, LLP, who has found the plan in compliance with City of Marina Municipal Code Chapter 17.45 based on the percentage of affordable housing units proposed in each income category, pursuant to Section 17.45.030 (“**EXHIBIT D**”).

As required, four affordable housing units are proposed with the following affordability mix: one (1) very low, one (1) low, and two (2) moderate income units. Two of the units (both 2 bedroom/1 bath) will be located in the existing 6-plex, one (2 bedroom/1.5 bath) will be in the new 8-unit building, and one (2 bedroom/1.5 bath) will be in the new 6-unit building. Occupancy of the units is restricted to individuals who meet the State income limits, as updated annually, with maximum rents for the apartments established and updated annually by the Department of Housing and Community Development.

Once the City Council approves the Affordable Housing Plan and Affordable Housing Agreement for the project, the applicant will prepare and record a Regulatory Agreement, for the four affordable units based on the language of the City prepared Agreement. These documents must be approved and recorded prior to issuance of a building, demolition or grading permit for the site.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

An Initial Study-Mitigated Negative Declaration (IS-MND) was prepared for the project. A 20-day public review period for the IS-MND began on October 28, 2015, and concluded on November 16, 2015. A Notice of Intent to Adopt a Mitigated Negative Declaration was posted with the Office of the Monterey County Clerk on October 28, 2015. No comments were received.

An Initial Study (IS) and Mitigated Negative Declaration (MND) have been prepared in response to the requirements of the California Environmental Quality Act (CEQA) (“**EXHIBIT E**”). Through the Initial Study, it has been determined that the project’s environmental impacts are less than significant with mitigation measures. These mitigations measures relate to potentially significant impacts associated with nesting birds and potentially significant impacts associated with construction noise. The Mitigation and Monitoring Program (MMRP) for the project is attached (“**EXHIBIT F**”).

CONCLUSION:

This request is submitted for City Council consideration and possible action.

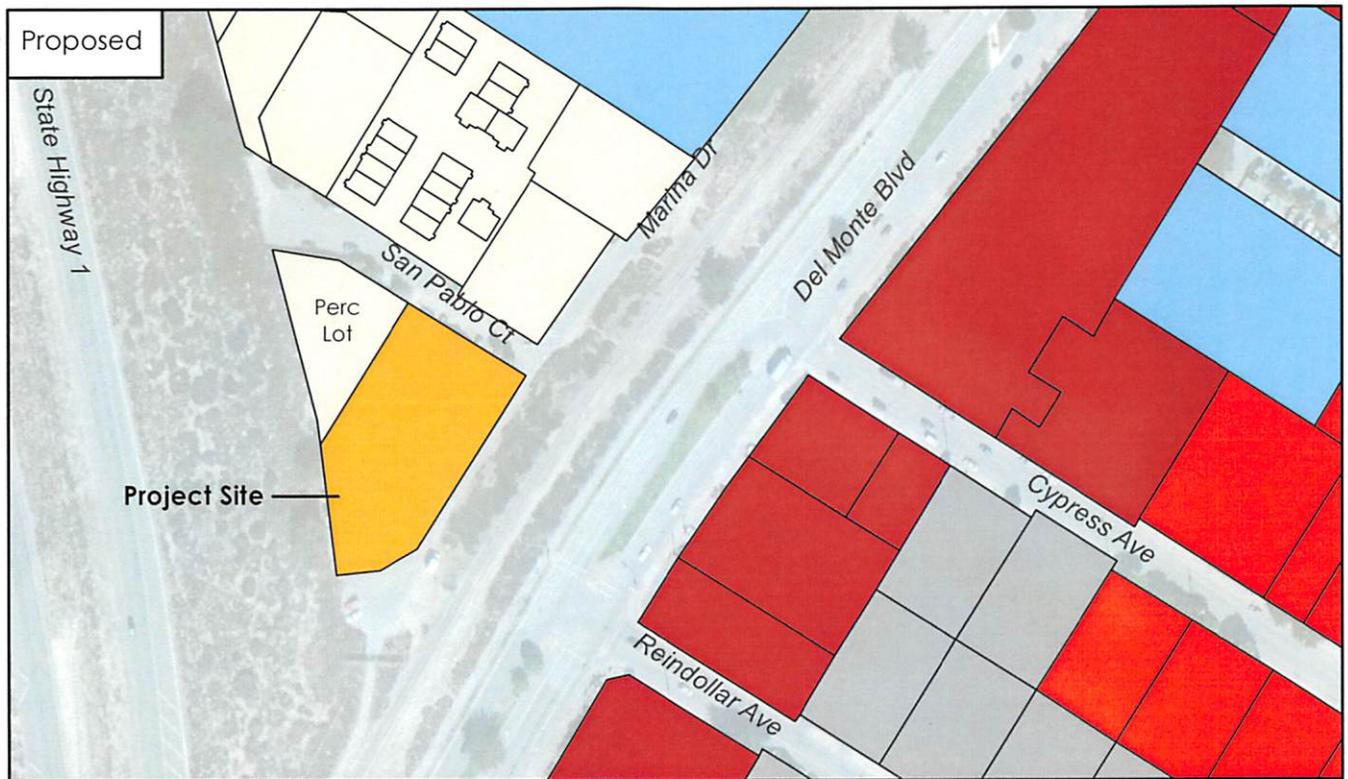
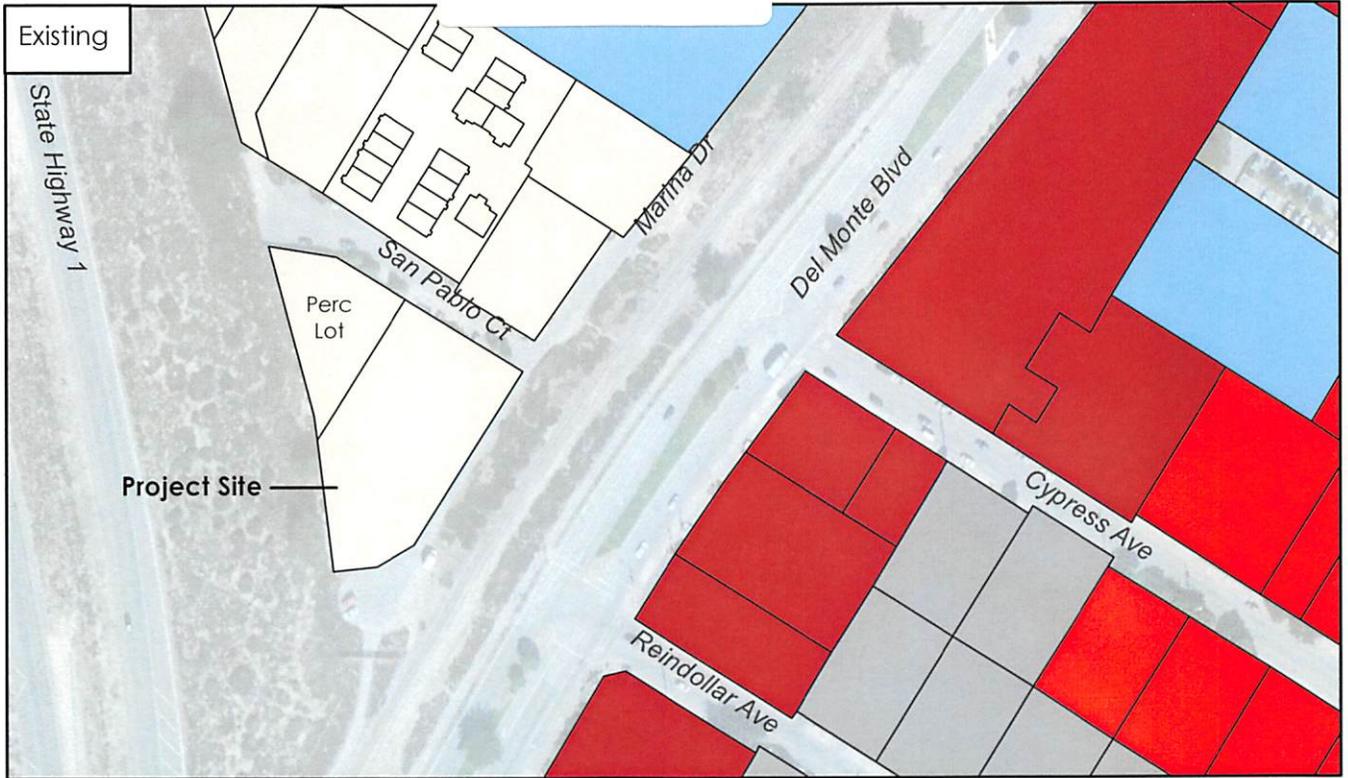
Respectfully submitted,

Theresa Szymanis, AICP CTP
Acting Community Development Director
City of Marina

REVIEWED/CONCUR:

Layne P. Long
City Manager
City of Marina

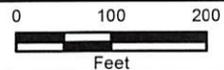
EXHIBIT A



- | | |
|---|---|
|  Multiple Use |  Single Family Residential |
|  Retail/Service |  Multi-Family Residential |
|  Light Industrial/Service Commercial |  Public Facilities |

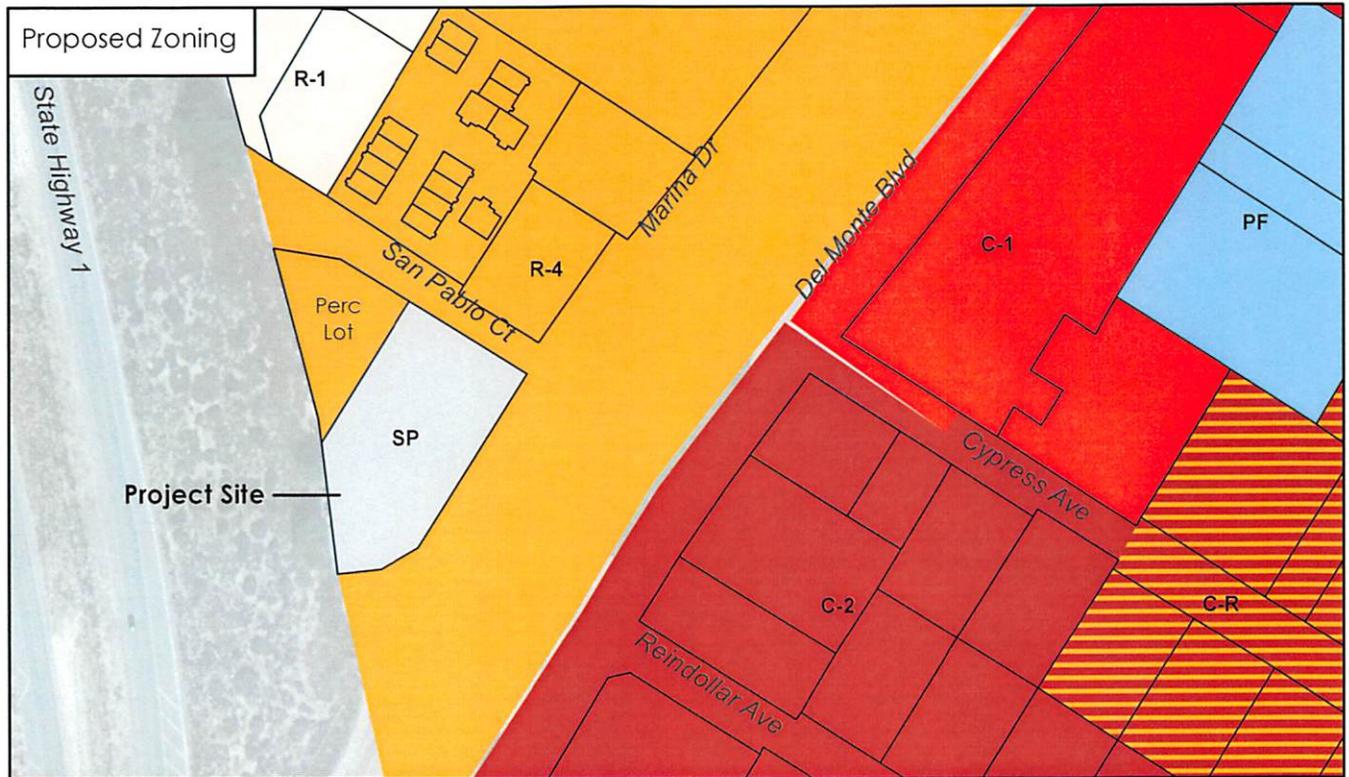
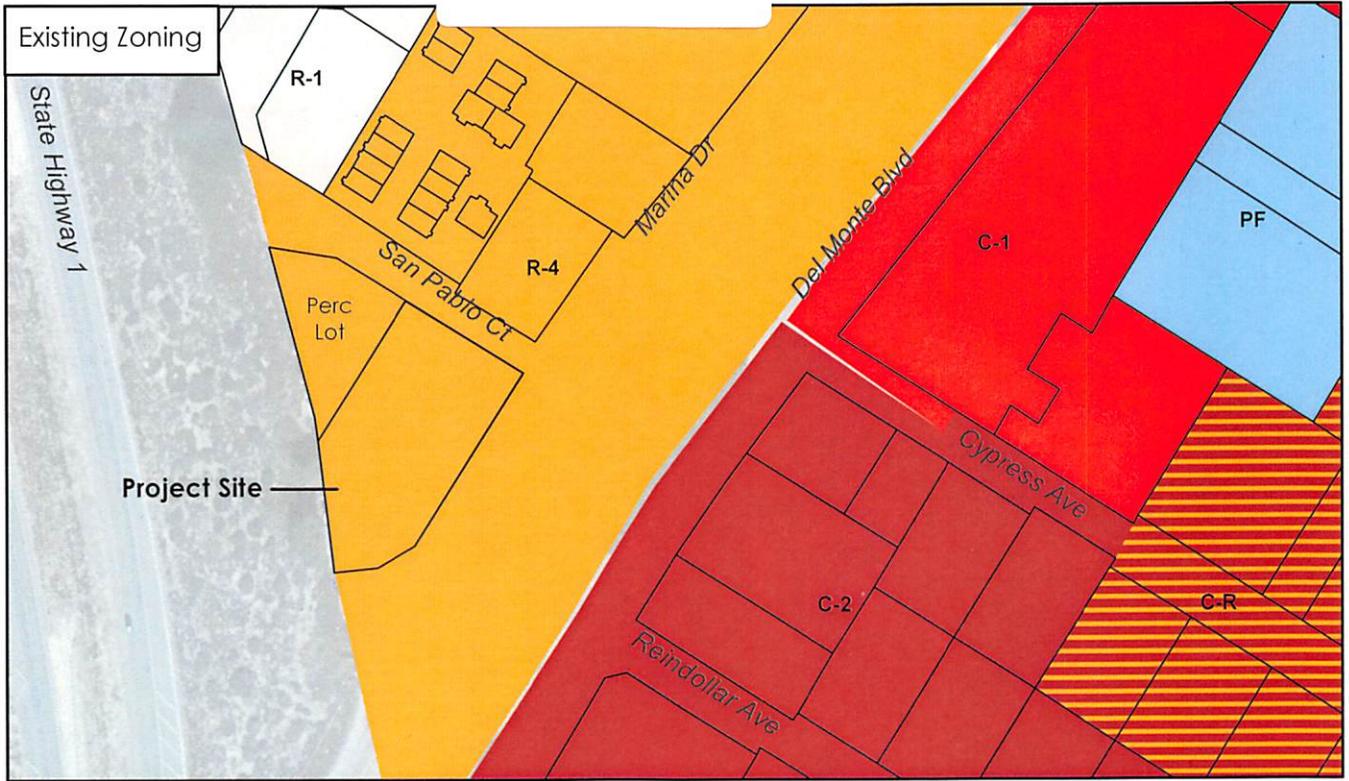


Marina General Plan
Land Use Map

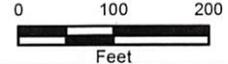


11/30/2015

EXHIBIT B



- | | | |
|--|---|--|
|  Retail Business District (C-1) |  Single-Family Residential (R-1) |  Specific Plan (SP) |
|  General Commercial (C-2) |  Multiple-Family Residential (R-4) | |
|  Commercial/Multiple-Family (C-R) |  Public Facility (PF) | |

	Marina Zoning Map	 	11/30/2015
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**BEACH TOWN HOME APARTMENTS
3033-3039 MARINA DRIVE
MARINA, CALIFORNIA**

**Draft
Specific Plan**

**PREPARED FOR
THE CITY OF MARINA**

**PREPARED BY
GREEN ENGINEERING
A RESIDENTIAL DEVELOPMENT COMPANY
25613 SHAFTER WAY, CARMEL, CALIFORNIA 93923
July 2, 2015**

BEACH TOWN HOME APARTMENTS DRAFT SPECIFIC PLAN

Executive Summary

The Beach Town Home Apartments Specific Plan is intended to guide the development of a 0.8 acre parcel of land located at the southerly end of Marina Drive and San Pablo Court intersection. This specific plan guides the development of this parcel through:

- A clearly stated vision for the property as a multifamily housing complex to be occupied by residents serving the Monterey Peninsula service industry and currently commuting from Salinas and areas north of Marina. In addition CSUMB students may occupy the property due to its proximity to the College, bike trail and nearby businesses.
- Clearly articulated land use and development standards.
- Appropriate design guidelines and regulations.

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Chapter 1 Introduction and Background

The Beach Town Home Specific Plan describes the future development of a 0.8 acre parcel located in Marina California at the southwest corner of Marina Drive and San Pablo Court. The applicant, Green Engineering, is proposing to develop 7 townhome units and 2 apartments along the westerly portion of the property, 6 additional townhomes along the southerly property line and 3 townhomes fronting Marina Drive and retain the existing six-unit apartment building on the property. In addition, one parking space will be provided for each unit along with 14 additional parking spaces. A small laundry facility, manager's office and maintenance room are also proposed. All of this work is included as part of this specific plan.

The City of Marina General Plan Housing Element (2009) identified the need for additional housing within the City and requires that 20% of new units be available as affordable housing units to eligible tenants. The proposed housing development would help satisfy some of the plan's housing allocation requirements.

Operations at the Beach Town Home Apartments would require one full-time apartment manager and one part-time maintenance person.

As shown in the proposed Site Plan (**FIGURE 1**), the proposed development will consist of one building containing seven townhome units and two apartments, a separate building will contain six townhome units and a third building will have three units.

FIGURE 1.
24 Unit Site Plan

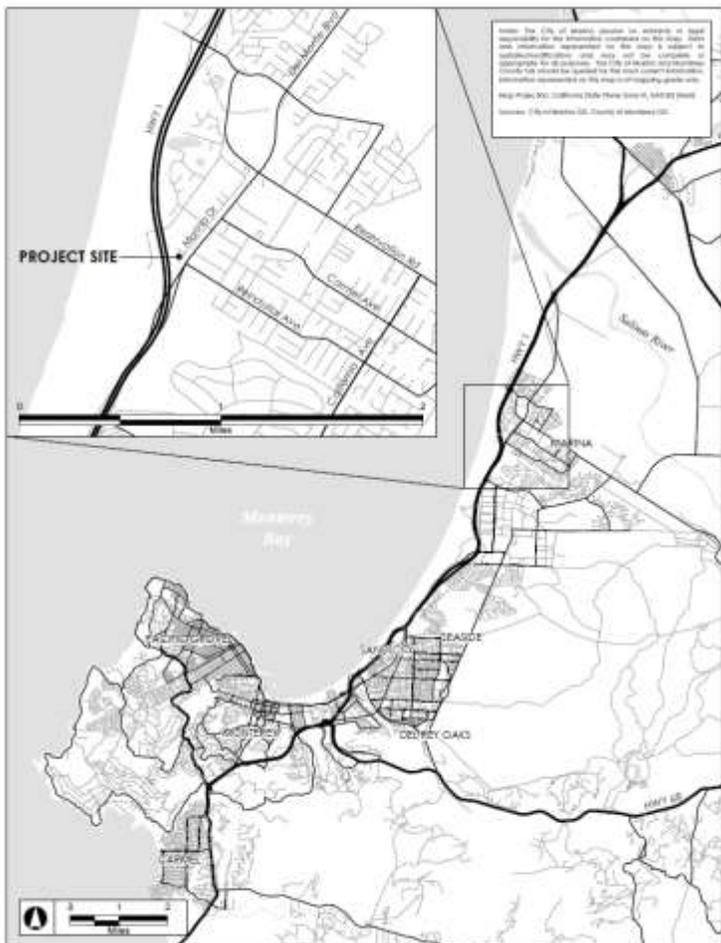


Sixteen townhome unit will be approximately 864 square feet and include livable space downstairs, a ½ bath and washer/dryer hook-ups. Upstairs there will be two bedrooms and a shared bath. Two units will be approximately 600 square feet with each unit having one bedroom and one bath. Units will have a private entry porch and a rear patio. Parking spaces for each of the proposed 16 townhomes, two apartments and the existing rental units have been located near each unit. Parking spaces will be assigned to minimize walking distance to each townhome. Currently the existing 6-plex, house and duplex do not have any paved parking spaces. The new development will provide assigned parking for the existing 6 apartments. A patio with seating will be provided near the laundry facility for common tenant usage.

Developer Background

For the past twenty-five years, Green Engineering, a private developer, has concentrated primarily in the development of high-end residential homes on the Monterey Peninsula, building and selling approximately twenty single family residences during that time period

Scott Green, the owner of Green Engineering, and Diane Fearn Green own and operate various multi-family properties on the Monterey Peninsula, including the existing nine units on the subject property.



Beach Town Home project is located in the City of Marina, Monterey County, California (**FIGURE 2**). The project site is located at the southwest corner of Marina Drive and San Pablo Court in the City of Marina. The 0.8 acre parcel is bordered by Highway 1 and a City of Marina infiltration pond to the west, Highway 1 to the south, Southern Pacific Railroad right-of- way to the east and a four-unit apartment across San Pablo Court to the north.

Project Vision

The vision of Beach Town Homes is to create an attractive residential complex that will provide a high quality of living for its residents by reducing commute times to work, providing immediate access to recreational trails and walking distance to downtown services.

Purpose and Intent

This Specific Plan describes the proposed land uses, infrastructure improvements, development standards, design guidelines and implementation requirements for the Specific Plan.

Objectives

- 1) Provide affordable housing for residents living and working on the Monterey Peninsula.
- 2) Provide residences with a high quality of living space with on-site amenities.
- 3) Promote alternate modes of transportation by providing convenient access to bus routes, downtown shopping and recreational trails.
- 4) Contribute to the aesthetic improvement within the downtown vitalization area.

Legal Authority

The authority to prepare and adopt specific plans and the requirements for its contents are set forth in the California Government Code, Sections 65450 through 65457. The Beach Town Homes Specific Plan is adopted by resolution. It is required that all subsequent projects to be developed on the subject parcel at 3033-3039 Marina Drive be consistent with this Specific Plan.

California Government Code Section 65451 defines the requirements of a specific plan as follows:

A specific plan shall include a text and a diagram or diagrams which specify all of the following in detail:

- 1) The distribution, location, and extent of the uses of land, including open space, within the area covered by the specific plan.
- 2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land use described in the plan.
- 3) Standards and criteria by which development will proceed, and standards for the conservation, development, utilization of natural resources where applicable.

- 4) A program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs 1), 2) and 3).
- 5) The specific plan shall include a statement of the relationship of the specific plan to the General Plan.

Severability

If any section, subsection, sentence, cause, phrase or portion of this specific plan, or any future amendments or additions hereto, is for any reason found to be invalid or unconstitutional by the decision of the court of competent jurisdiction, such decision shall not affect the validity of the remainder of this specific plan document or any future amendments or additions hereto. The City hereby declares that it would have adopted these requirements and each sentence, subsection, clause, phrase or portion or any future amendments or additions thereto may be declared invalid or unconstitutional.

Statement of Relationship of the Specific Plan with the General Plan

As required by law, the Specific Plan shall be consistent with the City of Marina General Plan. The goals, policies, and objectives of the General Plan apply within the Specific Plan. This Specific Plan implements the City of Marina General Plan Community Goals by providing specific direction to reflect conditions unique at the site by:

- 1) Diversifying the Marina housing stock by providing housing to all economic levels, ages and lifestyles (Goal 1.18.1)
- 2) Providing housing in close proximity to frequent, cost-effective transit services (Goal 1.18.3)
- 3) Creating housing that can, due to its location on the Monterey Bay Scenic Recreational Trail, attract pedestrians to easily walk to shops, businesses and community facilities (Goal 1.18.5)
- 4) Providing intensification of housing stock in the downtown vitalization area, thus making more efficient use of land (Goal 1.18.7)
- 5) Providing a visually distinguishable architecture and landscape design that reinforces a sense of place and identity for Marina (Goals 1.18.8 and 1.18.15).

This Specific Plan implements the City of Marina General Plan Primary Policies by providing specific direction to reflect conditions unique at the site by:

- 1) Preventing underutilization of land within the City Urban Growth Boundary and encouraging new development to locate within the existing developed portion of Marina (Primary Policy 2.4.2)
- 2) Promoting infill within an existing neighborhood to help ensure the longer-term feasibility of public transit for work and other purposes, and helping to create a pedestrian-oriented community (Primary Policy 2.4.5)
- 3) Providing greater housing choice and diversity (Primary Policy 2.4.8)

The Community Land Use Element provides further elaboration as to how the Community Goals would be achieved and the Primary Policies implemented. The Beach Townhomes Specific Plan presents an opportunity for the City's housing stock to be enhanced at appropriate densities and in a location that is well served by all modes of transportation and accessible to City services and amenities.

Chapter 2 Context and Setting

Existing and Surrounding Land Uses

The current specific area parcel is improved with three structures consisting of a six unit structure, a single family home, a duplex and two garages. The house was built in 1951 and the duplex was built in 1959. Neither structure is historically significant. The site is located at the end of the Marina Drive cul-de-sac at the southerly end of the street. There are no other structures on any parcels contiguous with this lot. The nearest property is a four-plex unit at the north-westerly corner of Marina Drive and San Pablo Court. There is a condominium development at the end of the cul-de-sac on San Pablo Court.

The property is designated Single Family Residential on the General Plan Land Use Map and is proposed to be re-designated Multiple Family Residential. The Zoning District is Multiple Family Residential (R-4). Upon adoption of the Specific Plan the site would be re-zoned to Specific Plan Zone. The project is located in the Downtown Vitalization Area.

Environmental Setting and Constraints

The Specific Plan area is located within an improved urban setting with paved roads on two sides of the property. The property is relatively flat with the Highway 1 upslope immediately to the west. The site is relatively barren due to the nature of the existing development. There are currently 13 trees on site (1- 8" diameter Monterey cypress, 11 myoporum trees and one acacia tree). The cypress and approximately five of the myoporum trees will be retained and the remainder of trees will be replaced with according to the approved landscape plan.

A portion of the property is located within the 100 year flood plain. All of the new structures will be built above the 100 year flood plain elevation.

Existing Infrastructure and Public Service

Palm Avenue and Marina Drive provide the primary access to the Specific Plan area. Palm Avenue is partially improved with some sidewalks. Marina Drive is a two lane road with no sidewalks. San Pablo Court is paved along the property frontage.

Bus stop locations are at Palm Avenue and Del Monte Avenue. The Monterey Bay Scenic Recreational Trail path is located across the railroad tracks directly east of the Specific Plan area. Bike racks and a bicycle storage shed will be located on the property to encourage use and reduce vehicular traffic. Proximity to the Palm Avenue bus stop will also help to reduce vehicular traffic.

Water Service and Water Allocation

Marina Coast Water District (MCWD) currently provides water service to the 9 units occupying the site. Discussions with MCWD staff indicate that the agency will provide the necessary water to accommodate the proposed Specific Plan.

Wastewater Collection

Marina Coast Water District (MCWD) currently provides sewer service to the 9 units occupying the site. Discussions with MCWD staff indicate that the agency will provide the necessary sewer service to accommodate the proposed Specific Plan area.

Storm Water and Drainage

There is a City of Marina Storm Retention Basin immediately to the west of the Specific Plan area. A 12' wide storm drain easement runs through a portion of the Specific Plan area. There is a City percolation well at the corner of Marina Drive and San Pablo Court. City policy requires that all on-site storm water shall remain on-site. Therefore, infiltration basins will be constructed within the Specific Plan area to accommodate this requirement.

Gas and Electricity

Gas and electricity will be provided by Pacific Gas and Electric Company. There are existing overhead power lines and underground gas lines along both San Pablo Court and Marina Drive.

Police and Fire

The Marina Police and Fire Departments are located at 211 Hillcrest Avenue. Response times are minimal due to the close proximity to the Specific Plan area.

Telephone and Data Service

AT&T and Comcast service are available on the overhead lines at the Specific Plan area. The property owners do not currently allow satellite service if equipment is visible from the adjacent streets.

Chapter 3 Development Standards and Design Guidelines

Land Use and Development Plan

The requirements of this chapter replace the requirements of the Marina Municipal Code, Title 17, Zoning, for the Specific Plan area.

Designating the property as Multi-Family Residential on the General Plan Land Use Map and the adoption of the Beach Town Home Specific Plan allows for the establishment of residential land uses and development standards tailored for downtown Marina.

The direction and regulation provided in the Specific Plan shall supersede the Municipal Code. Where direction or regulation is not provided by the specific plan, provisions of the General Plan and Municipal Code shall apply.

Land Use and Development Goals

The proposed development is located at 3033-3039 Marina Drive. The development consists of 18 townhome apartments, 38 parking spaces and an existing 6-unit apartment building. Associated support facilities include an on-site manager's office, laundry room and maintenance room. The proposed townhome units will be "nested" within the site as much as possible in order to minimize the noise impact from the adjacent freeway.

Required Entitlements

The proposed project will require City approval of the following entitlements prior to commencement of grading or construction:

- 1) General Plan Land Use Map amendment to change the use designation of the project site from Single Family Residential to Multiple Family Residential.
- 2) Adoption of a Specific Plan as required by General Plan Policy 2.63.51 whereby "...prior to approval of any development other than temporary projects/uses or projects already entitled to be built, a specific plan shall be prepared which legally establishes development, design and infrastructure requirements in accordance with General Plan principles and policies" subject to adoption of the Downtown Vitalization Specific Plan.
- 3) S
ite and Architectural Design Review for the project site, elevations, landscaping, irrigation, lighting and fencing plans, and design of the proposed apartment complex.

4) approval of a Tree Removal Permit for the removal of seven trees.

A

Chapter 4 Development Standards and Design Guidelines

The Plan Set is attached to and incorporated as an integral part of the Beach Town Home Specific Plan (**APPENDIX**).

The design of the Beach Town Home Apartments incorporates the following development standards and design guidelines (**FIGURE 3**).

**FIGURE 3.
Beach Town Home Development Standards**

Development Standards	Specifics
Land Use Designation Zoning District	Multiple Family Residential (apartments) Specific Plan Zone
Setback	19' from northerly lot line 6' from southerly lot line 7' along westerly lot line 10' from easterly lot line
Building Height	Maximum height 45' or 3 stories
Open Space	Common and private open space equals 10,037 sq. ft. which equals 436 sq. ft. per unit. Private patios, balconies and decks 164 sq. ft. per unit. Additional common open space 6,263 sq. ft.
Siting	7 townhomes/2 apartments paralleling the westerly property line, 3 townhomes paralleling the easterly property line, 6 townhomes along the southerly property line and an existing 6-plex building at the northeast portion of the property. 24 residential units total including 18 new townhomes and an existing 6-plex.
Lighting	Post-mounted acorn lighting fixtures; 25 watt compact fluorescent light lamp, 12 foot pole; US Architectural Lighting model LAE2-17 or equal Post or wall mounted U.S. Architectural Lighting fixtures including Galaxy 100; 175 watt max lamp; models GLX-100 or GLXM-100 or equal Up-light fixture; halogen lamp; FX Luminaries models MU-35(trees) and WL35(shrubs); weathered iron color; or similar model

Parking	2 spaces located adjacent to building entrance designated ADA compliant 9'x19' standard parking stall 9'x17.5' with sidewalk or concrete curb Driveway minimum 16' width, driveway aisles minimum 24' in parking areas 38 spaces provided
---------	---

Design Guidelines

1) Door and Windows

- a. Multi-paned windows with decorative geometric patterns
- b. Rhythm of 3 to 5 consecutive windows
- c. Prominent horizontal paned windows
- d. Brightly colored windows and doors

2) Colors and Materials

- a. Bright accent colors
- b. Natural materials and colors

3) Landscape Plan

- a. Applicant shall submit a landscape plan for approval prior to the issuance of building permits. Plan shall be consistent with the conceptual Landscape Plan included in the Specific Plan. Drought tolerant and deciduous landscape options shall be used when possible to promote efficiency.
- b. Prior to the issuance of building permits the applicant shall submit an Irrigation Plan for review and approval by the Community Development Director.

4) Parking Location, Design, and Treatment

- a. Parking areas and circulation systems will be convenient and easily maneuverable by motorists and pedestrians.
- b. Parking areas will be landscaped to minimize glare and negative visual impact associated with large areas of paving.
- c. Parking areas will provide bicycle and motorcycle parking.
- d. Parking areas will include landscaping, lighting and adequate pedestrian circulation.

5) Signs

- a. Sign locations and specifications are not part of this application and will require a separate application for review by the Site and Architectural Design Review Board. It is anticipated that an entrance sign will be located at the front of the

parking lot. Its design and materials will be in harmony with the overall building design, shall be a maximum of 30 square feet and include the street address.

6) Trash and Recycling Enclosures

- a. Trash and recycling enclosures will be carefully designed, located and integrated into the site plan. Design and materials will complement overall building design.

7) Lighting

- a. Lighting levels will be sufficient for the safety of residents and visitors but shall not spill onto adjacent properties. Lighting shall be florescent area lights with 12' poles providing sufficient illumination so that a human face is recognizable at 20'.
- b. Lighting should not directly illuminate off-site or shine in on-site windows, balconies, or other private areas. Low- mounted fixtures are preferred for lighting pedestrian circulation. Wall mounted fixtures should not cast light off-site. Up lighting should not be used.
- c. Illumination levels at the ground in public and common areas should average less than 3 foot candles with an average of 5 foot candles.
- d. Motion activated lighting is strongly encouraged wherever its use is feasible to conserve energy consumption and reduce night sky light pollution.
- e. Prior to issuance of building permits the applicant shall submit a Photometric Plan and lighting specifications for review and approval by the Community Development Director.

8) Walls and Fences

- a. Walls and fences will be designed with materials and finishes that complement project architecture and will be planted with vines, shrubs, and /or trees.
- b. All fences and walls required for screening purposes should be six feet tall and solid material. A combination of low walls and landscaping should be used to screen unsightly elements of the project.

9) Streetscape Guidelines

- a. The Draft Downtown Vitalization Specific Plan recommends that downtown streetscapes should encourage pedestrian activity and movement through the area. Developer shall provide curb, gutter and sidewalk along the property frontage to meet this requirement.

10) Architecture and Materials

- a. All new buildings shall incorporate sustainable building design and meet Build It Green, Green point Label certification criteria, to the maximum extent feasible.
- b. Buildings shall be articulated to break up the massing by recessing a portion of the façade and providing projecting elements (e.g., overhangs, porches, gable roof ends.)
- c. Buildings shall be developed consistent with the Exterior Elevations included in this document.

Chapter 4

Specific Plan Administration and Implementation

Implementation of this Specific Plan is carried out primarily through the submittal of non-discretionary (ministerial) applications, such as building permit applications.

The City of Marina Community Development Department is responsible for the administration, implementation and enforcement of the Specific Plan.

Concurrent with the adoption of the Specific Plan, the City shall amend the City's General Plan to ensure consistency with the land use described in this Specific Plan. Adoption of this Specific Plan is by resolution of the City Council.

In addition to the General Plan amendment, and fulfillment of any Conditions of Approval established by the City Council, the following permits and applications are required to implement the Specific Plan:

- 1) Improvement Plans
- 2) Submittal of all materials as necessary to obtain Grading and Building Permits
- 3) Payment of all required Public Facilities Impact Fees and other applicable fees.

All applicable state and federal standards and codes apply to this Specific Plan. All codes and standards of the City of Marina, with the exception of those standards contained herein, also apply. Infrastructure improvements shall be constructed concurrently with the site development.

Minor Adjustments

The City of Marina recognizes that the ultimate project may include minor square footage adjustments to buildings. Any such adjustment, as presented in subsequent development applications, shall be accompanied by a statistical summary that clearly describes the changes proposed. Such minor adjustments to the Specific Plan can be made to the Specific Plan without a formal Specific Plan Amendment.

All Site and Architectural Design Review amendments are minor adjustments and do not require review by the City Council. Rather, the Community Development Director shall confer with the Chair of the Site and Architectural Design Review Board to determine whether the amendment can be approved administratively or whether the proposal needs to go before the Site and Architectural Design Review Board.

Nonconforming uses of the Zoning Ordinance shall be used for any nonconforming uses and buildings within the Specific Plan area. Land uses and structures existing as of the adoption date of this Specific Plan may continue to remain in accordance with Chapter 17.52.

The City of Marina Community Development Department is responsible for the administration, implementation and enforcement of the Specific Plan. All amendments shall be determined by the City of Marina Community Development Director.

Financing

The Beach Town Home Apartments will be privately financed. Estimated rents are \$1,500/month for a two-bedroom townhome. There will be 16 two bedroom/1.5 bath townhomes and two- one bedroom/1 bath apartments. In addition, there are six- two bedroom/one bath existing apartment units.

APPENDIX
EXHIBITS AND PLAN SET

View from Del Monte Avenue Freeway Off Ramp



North Elevation (existing 6 plex on left; new townhomes on right)



View From Freeway





Surveyors Note:

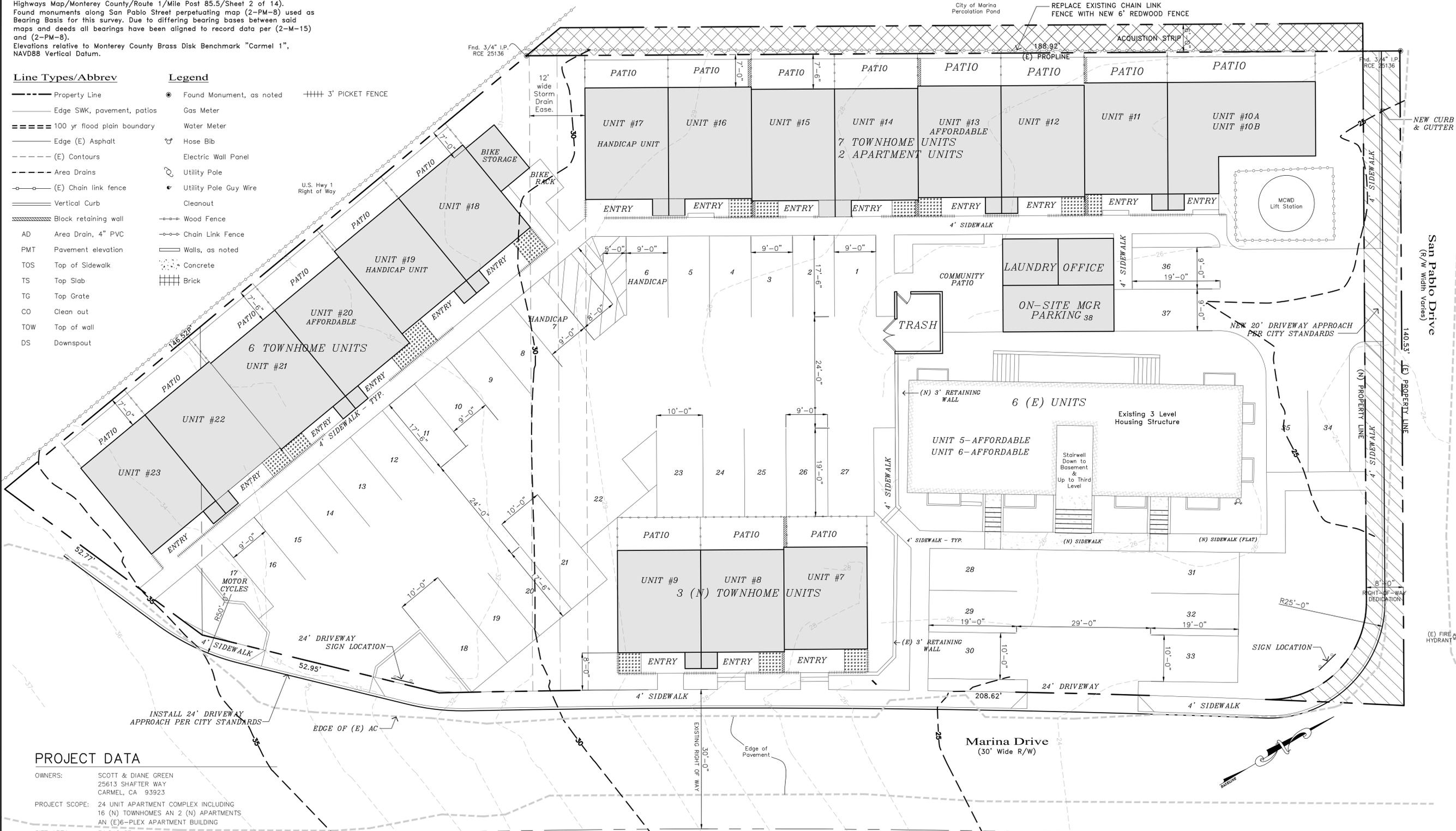
This is not a boundary survey. The intent of this survey was to locate existing monuments relative to Doc#2002007708 (subject parcel shown) and its original subdivision map (2-M-15), Monterey County Records. Supplemental maps were used to find monuments perpetuating said original subdivision location; (2-PM-8), (19-C&T-65) (14-PM-130) (14-PM-131) and (Cal Dept. of Highways Map/Monterey County/Route 1/Mile Post 85.5/Sheet 2 of 14). Found monuments along San Pablo Street perpetuating map (2-PM-8) used as Bearing Basis for this survey. Due to differing bearing bases between said maps and deeds all bearings have been aligned to record data per (2-M-15) and (2-PM-8). Elevations relative to Monterey County Brass Disk Benchmark "Carmel 1", NAVD88 Vertical Datum.

Line Types/Abbrev

- Property Line
- Edge SWK, pavement, patios
- === 100 yr flood plain boundary
- Edge (E) Asphalt
- - - (E) Contours
- - - Area Drains
- - - (E) Chain link fence
- Vertical Curb
- Block retaining wall
- AD Area Drain, 4" PVC
- PMT Pavement elevation
- TOS Top of Sidewalk
- TS Top Slab
- TG Top Grate
- CO Clean out
- TOW Top of wall
- DS Downspout

Legend

- Found Monument, as noted
- Gas Meter
- Water Meter
- Hose Bib
- Electric Wall Panel
- Utility Pole
- Utility Pole Guy Wire
- Cleanout
- Wood Fence
- Chain Link Fence
- Walls, as noted
- Concrete
- Brick



PROJECT DATA

OWNERS: SCOTT & DIANE GREEN
 25613 SHAFTER WAY
 CARMEL, CA 93923

PROJECT SCOPE: 24 UNIT APARTMENT COMPLEX INCLUDING
 16 (N) TOWNHOMES AND 2 (N) APARTMENTS
 AND (E) 6-PLEX APARTMENT BUILDING

SITE AREA: 34,848 SF

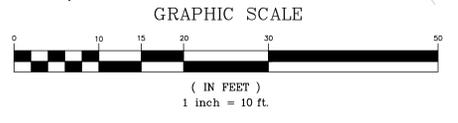
BUILDING TYPE:	COVERAGE	%
(E) 6-PLEX	1,728 SF	
(E) LAUNDRY/OFFICE	480 SF	
18(N) TOWNHOMES/APT	7,236 SF	
TOTALS	9,444 SF	27%

OPEN SPACE REQUIREMENTS

TOTAL REQUIRED:	(22) 2 BR (400 SF) = 8800 SF	PRIVATE OPEN SPACE REQUIRED:	LOWER UNIT: 80 SF (19) = 1520 SF
	(2) 1 BR (350 SF) = 700 SF		2ND STORY UNIT: 40 SF (5) = 200 SF
	TOTALS = 9500 SF		TOTALS = 1680 SF

PROVIDED:	PRIVATE PATIOS	ADDITIONAL OPEN SPACE PROVIDED:
	PATIOS/ 17(11x18) = 3366 SF	FRONT = 3090 SF
	(E) PATIO 6X24 = 144 SF	SIDE = 723 SF
	(E) DECK 4X40+104 = 264 SF	REAR = 753 SF
	TOTALS = 3774 SF	INTERNAL = 1697 SF
		TOTALS = 6263 SF

PRIVATE & COMMON OPEN SPACE PROVIDED
 3774 + 6263 = 10,037 SF



PARKING REQUIREMENTS

PROVIDED: 38 TOTAL SPACES

DRAWING SCHEDULE

- A-1 SITE PLAN
- A-2 GRADING PLAN
- A-3 DEMOLITION PLAN
- A-4 EXTERIOR ELEVATIONS
- A-5 EXTERIOR ELEVATIONS
- L-1 LANDSCAPE PLAN
- L-2 LANDSCAPE PLAN

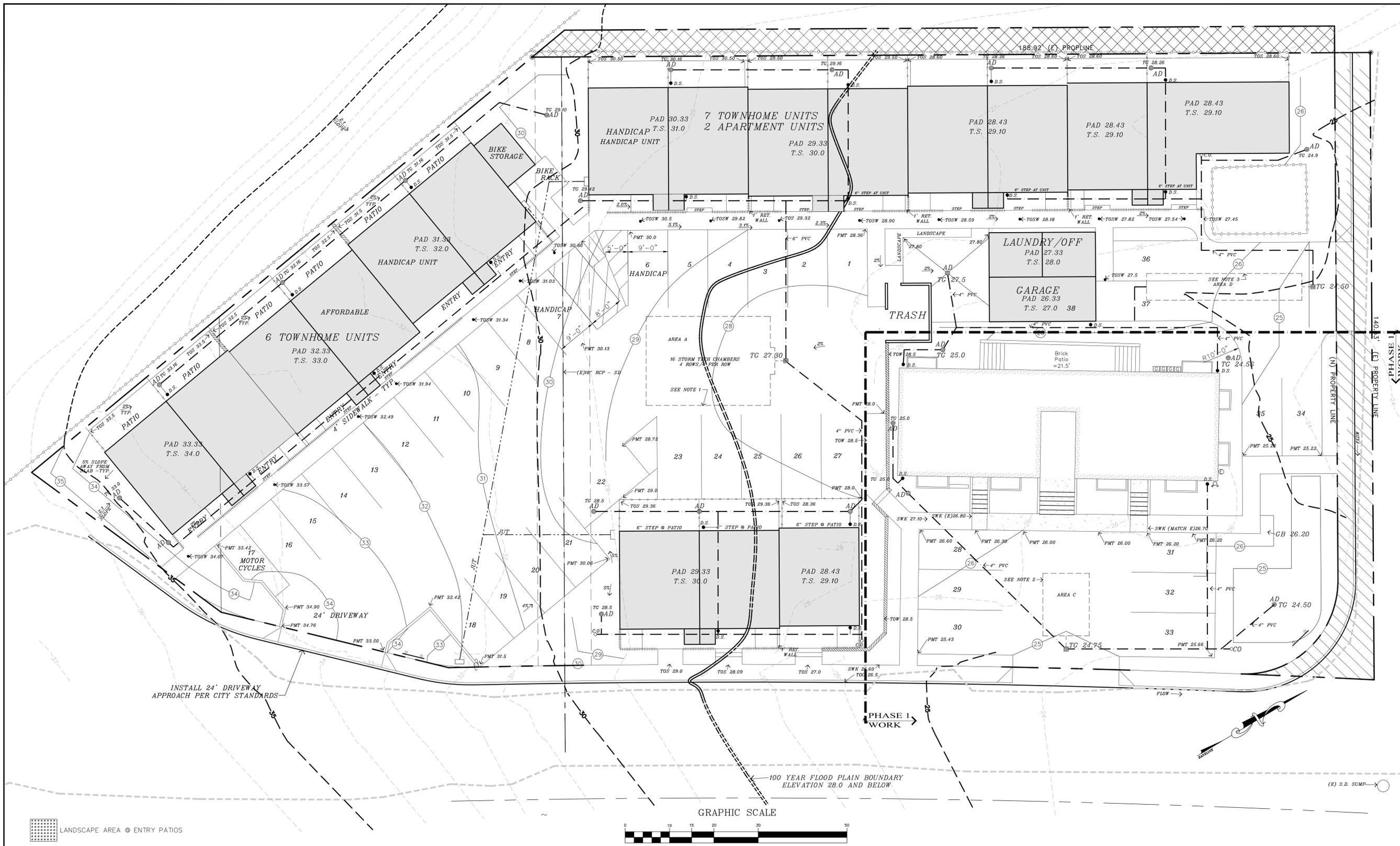
GREEN ENGINEERING
 A Residential Development Company
 25613 Shafter Way Carmel, CA 93923
 831-915-2501

DRAWN BY: SCOTT GREEN
 APPROVED BY: _____
 REVISION: _____
 SCALE: 1" = 10'
 DATE: 11/19/2015

BEACH TOWN HOME APARTMENTS
 3033 Marina Drive, Marina, Ca
 APN 033-172-002

SITE PLAN

SHEET A-1
 OF
 7 SHEETS



GREEN ENGINEERING
 A Residential Development Company
 25613 Shafter Way Carmel, CA 93923
 831-915-2501

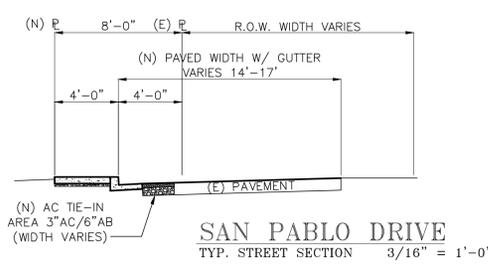
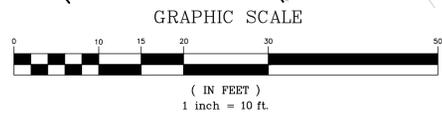
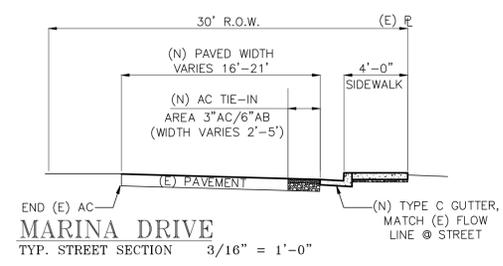
DRAWN BY: SCOTT GREEN
 APPROVED BY: _____
 REVISION: _____
 SCALE: 1" = 10'
 DATE: 6/9/2015

BEACH TOWN HOME APARTMENTS
 3033 Marina Drive, Marina, Ca
 APN 033-172-002
DRAINAGE/GRADING PLAN

SHEET A-2
 OF
 7 SHEETS

LANDSCAPE AREA @ ENTRY PATIOS

- NOTE:
1. INSTALL CHRISTY U215 CATCH BASIN AND 16 STORM TECH SC-740 CHAMBERS TOTAL IN 4 ROWS OF 4 EACH PER STANDARD CROSS SECTION DETAIL AND FIGURE 8 & 16 OF STORM TECH DESIGN MANUAL.
 2. INSTALL CHRISTY U215 CATCH BASIN AND 4 STORM TECH SC-740 CHAMBERS TOTAL IN 2 ROWS OF 2 EACH PER STANDARD CROSS SECTION DETAIL AND FIGURE 8 & 16 OF STORM TECH DESIGN MANUAL.
 3. INSTALL CHRISTY V64 CATCH BASIN AND 5 STORM TECH SC-740 CHAMBERS PER STANDARD CROSS SECTION DETAIL & FIGURE 16 OF STORM TECH DESIGN MANUAL.



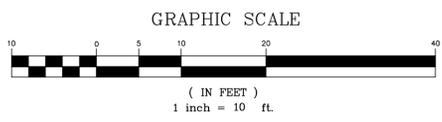
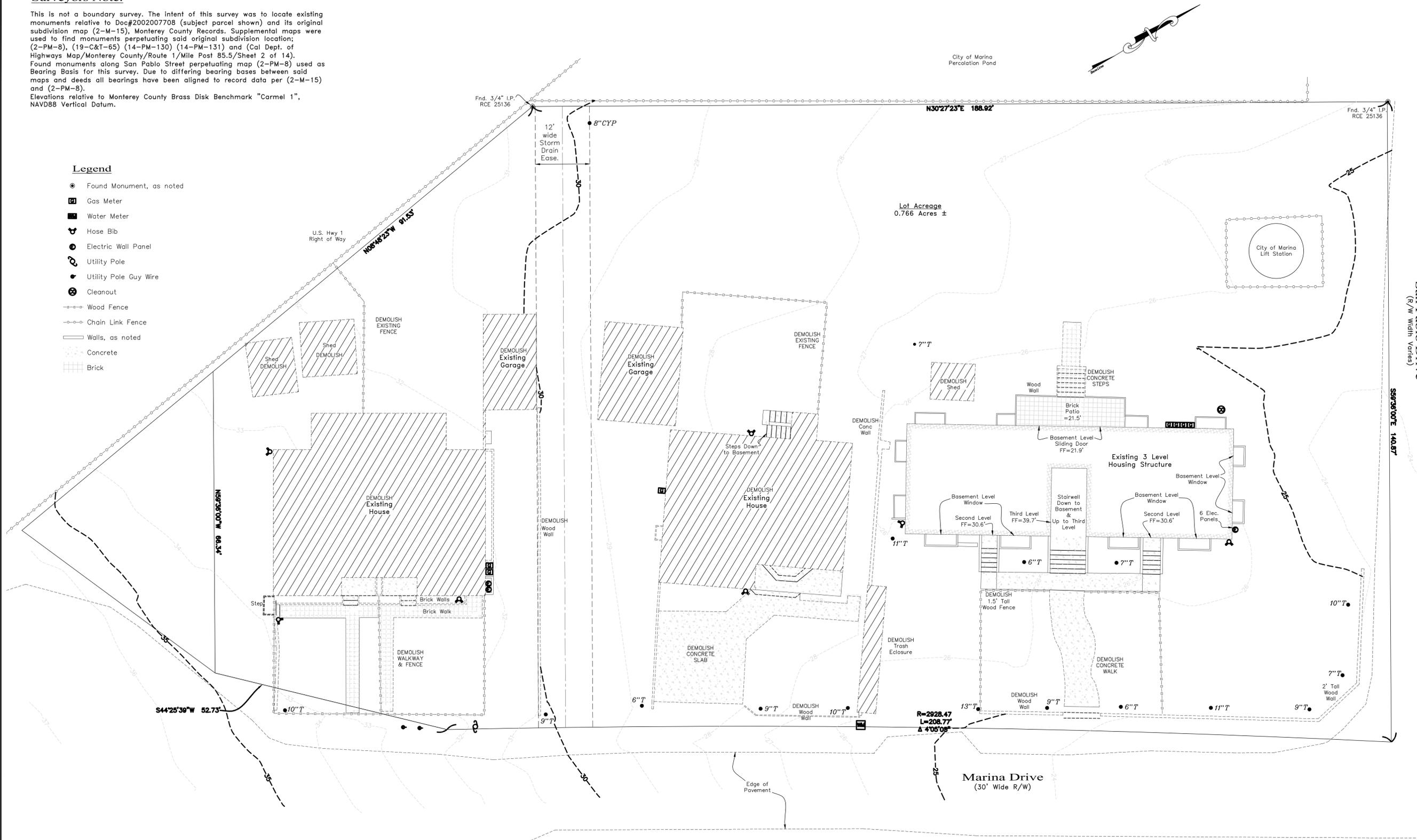
----- EDGE (E) PAVEMENT
 _____ PROPERTY LINE

Surveyors Note:

This is not a boundary survey. The intent of this survey was to locate existing monuments relative to Doc#2002007708 (subject parcel shown) and its original subdivision map (2-M-15), Monterey County Records. Supplemental maps were used to find monuments perpetuating said original subdivision location; (2-PM-8), (19-C&T-65) (14-PM-130) (14-PM-131) and (Cal Dept. of Highways Map/Monterey County/Route 1/Mile Post 85.5/Sheet 2 of 14). Found monuments along San Pablo Street perpetuating map (2-PM-8) used as Bearing Basis for this survey. Due to differing bearing bases between said maps and deeds all bearings have been aligned to record data per (2-M-15) and (2-PM-8). Elevations relative to Monterey County Brass Disk Benchmark "Carmel 1", NAVD88 Vertical Datum.

Legend

- Found Monument, as noted
- ⊠ Gas Meter
- ⊠ Water Meter
- ⊠ Hose Bib
- ⊠ Electric Wall Panel
- ⊠ Utility Pole
- ⊠ Utility Pole Guy Wire
- ⊠ Cleanout
- Wood Fence
- Chain Link Fence
- Walls, as noted
- ▨ Concrete
- ▨ Brick



San Pablo Drive
(1/4" Width Varies)

59930'00" 140.87'

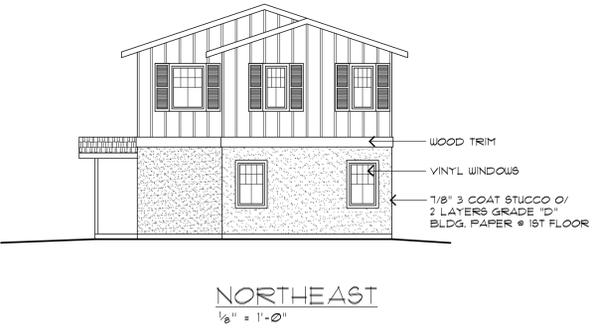
GREEN ENGINEERING
A Residential Development Company
25613 Shafter Way Carmel, CA 93923
831-915-2501

DRAWN BY : _____
APPROVED BY : _____
REVISION : _____
SCALE : 1" = 10'
DATE : 10/21/2014

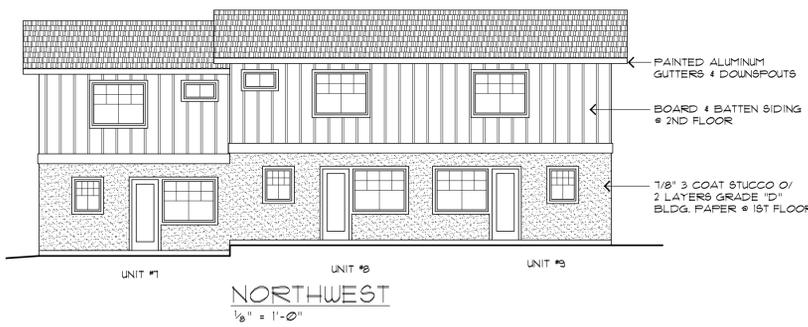
BEACH TOWN HOME APARTMENTS
3033 Marina Drive, Marina, Ca
APN 033-172-002

DEMOLITION PLAN

SHEET A-3
OF
7 SHEETS



8 TOWNHOUSE UNIT



3 TOWNHOUSE UNIT

PAINT MANUFACTURER: SHERWIN WILLIAMS

UNITS 22, 23	STUCCO/BOARD SIDING	EASTLAKE GOLD	SW0003
	TRIM:	DECOROUS AMBER	SW0001
	WINDOW TRIM/SHUTTERS	MULBERRY SILK	SW0001
UNITS 7, 11, 20, 21	STUCCO	STUDIO BLUE GREEN	SW0041
	BOARD SIDING	CLASSIC LIGHT BUFF	SW0050
	TRIM/BATTS	PORCELAIN	SW0053
	ACCENT/SHUTTERS	RUSKIN ROOM GREEN	SW0042
UNITS 12, 13, 18, 19	STUCCO/BOARD SIDING	PEACOCK PLUME	SW0020
	SHUTTERS/TRIM:	MULBERRY SILK	SW0001
	ACCENT:	EASTLAKE GOLD	SW0003
	BATTS:	PORCELAIN	SW0053
UNITS 16, 17	BODY:	DECOROUS AMBER	SW0001
	TRIM/SHUTTERS:	CAJUN RED	SW0008
	ACCENT:	PEACOCK PLUME	SW0020
	BATTS:	CLASSIC LIGHT BUFF	SW0050
UNITS 8, 9, 10, 14, 15	STUCCO/BOARD SIDING	RUSKIN ROOM GREEN	SW0042
	TRIM/BATTS	CLASSIC LIGHT BUFF	SW0050
	ACCENT/SHUTTERS	PERISTYLE BRASS	SW0043

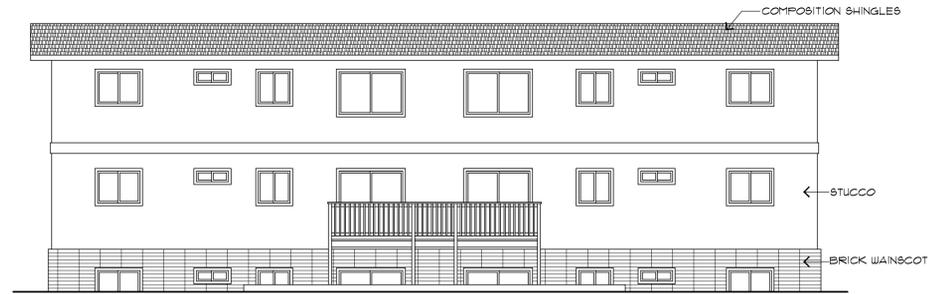
ROOFING: COMPOSITION SHINGLES BY OWENS CORNING (SLATE GREY)



SOUTHEAST
1/8" = 1'-0"



SOUTHWEST
1/8" = 1'-0"



NORTHWEST
1/8" = 1'-0"



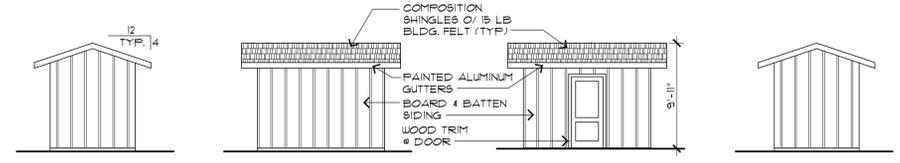
NORTHEAST
1/8" = 1'-0"

EXISTING APARTMENT BUILDING

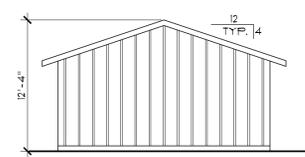
PAINT MANUFACTURER: SHERWIN WILLIAMS

UNITS 22, 23	EASTLAKE GOLD	8W0009
STUCCO/BOARD SIDING	DECOROUS AMBER	8W0001
TRIM:	MULBERRY SILK	8W0001
WINDOW TRIM/SHUTTERS		
UNITS 1, 11, 20, 21	STUDIO BLUE GREEN	8W0041
STUCCO	CLASSIC LIGHT BUFF	8W0050
BOARD SIDING	FORCELAIN	8W0053
TRIM/BATTS	RUSKIN ROOM GREEN	8W0042
ACCENT/SHUTTERS		
UNITS 12, 13, 18, 19	FEACOCK PLUME	8W0020
STUCCO/BOARD SIDING	MULBERRY SILK	8W0001
SHUTTERS/TRIM:	EASTLAKE GOLD	8W0009
ACCENT:	FORCELAIN	8W0053
BATTS:		
UNITS 16, 17	DECOROUS AMBER	8W0001
BODY:	CAJUN RED	8W0008
TRIM/SHUTTERS:	FEACOCK PLUME	8W0020
ACCENT:	CLASSIC LIGHT BUFF	8W0050
BATTS:		
UNITS 8, 9, 10, 14, 15	RUSKIN ROOM GREEN	8W0042
STUCCO/BOARD SIDING	CLASSIC LIGHT BUFF	8W0050
TRIM/BATTS	FERISTYLE BRASS	8W0043
ACCENT/SHUTTERS		

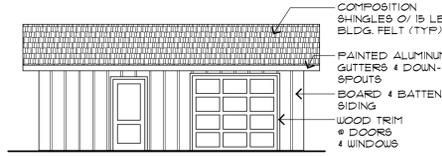
ROOFING: COMPOSITION SHINGLES BY OWENS CORNING (SLATE GREY)



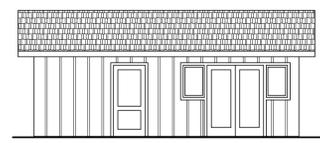
BICYCLE STORAGE



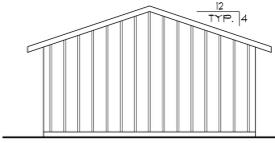
SOUTHEAST
1/8" = 1'-0"



SOUTHWEST
1/8" = 1'-0"

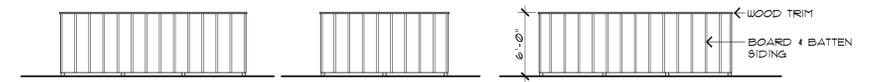


NORTHEAST
1/8" = 1'-0"



NORTHWEST
1/8" = 1'-0"

LAUNDRY BUILDING

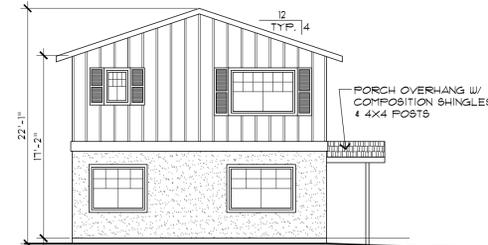


TRASH ENCLOSURE



EAST
1/8" = 1'-0"

WEST
1/8" = 1'-0"



SOUTH
1/8" = 1'-0"



NORTH
1/8" = 1'-0"

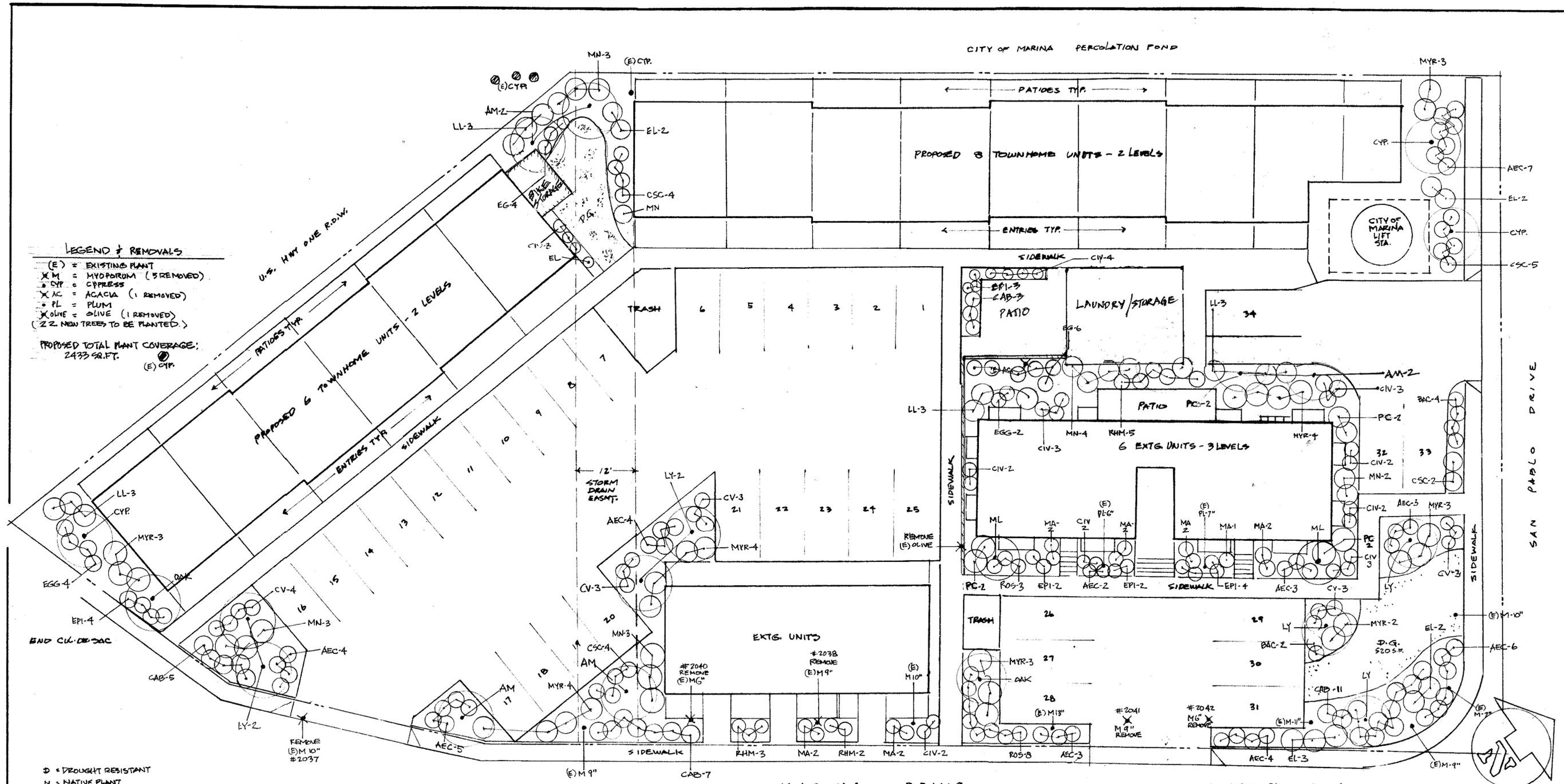
6 TOWNHOUSE UNIT

GREEN ENGINEERING
A Residential Development Company
25613 Shafter Way Carmel, CA 93923
831-915-2501

DRAWN BY: SCOTT GREEN
APPROVED BY: _____
REVISION: 1/8" = 1'-0"
SCALE: 10/15/2014
DATE:

BEACH TOWN HOME APARTMENTS
3033 Marina Drive, Marina, Ca
APN 033-172-002
EXTERIOR ELEVATIONS

SHEET A-5
OF
7 SHEETS



LEGEND & REMOVALS

(E) = EXISTING PLANT
 X M = MYOPORUM (5 REMOVED)
 X CYP = CYPRESS
 X AC = ACACIA (1 REMOVED)
 X PL = PLUM
 X OLIVE = OLIVE (1 REMOVED)
 (ZZ NEW TREES TO BE PLANTED.)

PROPOSED TOTAL PLANT COVERAGE:
 2433 SQ. FT.

D = DROUGHT RESISTANT
 N = NATIVE PLANT

PLANT MATERIALS LIST

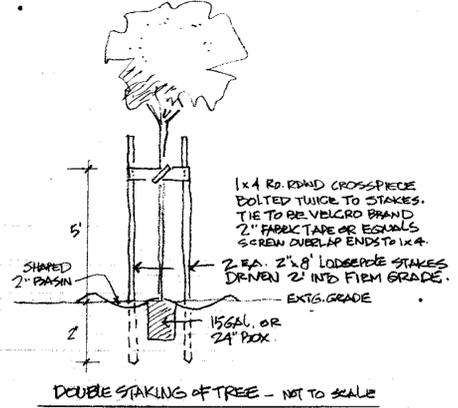
ABBREV	BOTANIC NAME	COMMON NAME	QTY	SIZE
TREES: D	AM	ARJUTUS 'MARINA'	8	24" BK
N	CYP	CUPRESSUS MACROCARPUS	3	15G
N	LY	LYONOTHAMNUS FLORIBUNDUS	7	15G
D	ML	MELALEUCA LEUCADENDRON	2	15G
N	OAK	QUERCUS AGRIIFOLIA	2	15G
SHRUBS: N	AEC	ARCTOSTAPHYLOS 'EMERALD CARPET'	41	1G
N	BAC	BACCHARIS P. 'TWIN PEAKS'	6	1G
N	CIV	CORREA 'IVORY BELLS'	26	5G
D	CSC	CISTUS 'SANTA CRUZ'	15	5G
N	CAB	CELANOTHUS 'ANCHOR BAY'	28	1G
N	EG	ERIGERON GLAUCUS	10	1G
N	EGG	ERIGONUM GIGANTEA	6	1G
N	EL	ELAEAGNUS PUNGENS	10	5G
N	EPI	EPILOBIUM CANUM	15	5G
D	LL	LEPTOSPERMUM LAEVI GATUM	12	5G
D	MA	MYRSINE AFRICANUS	9	5G
D	MN	MELALEUCA DECUSATA	20	5G
N	MYR	MYRTICA CALIFORNICA	26	5G
N	PC	PITTOSPORIUM CIRASSIFOLIUM	8	5G
N	RHM	RHAMNUS CALIFORNICA 'EVE CASE'	10	5G
N	ROS	ROSMARINUS C. PROSTRATUS	11	1G
D	CV	CISTUS VILLOSUS PROSTRATUS	16	1G

PLANTING NOTES:

- THE LANDSCAPE CONTRACTOR SHALL CONTACT THE LANDSC. ARCHT. FOR ANY VARIATIONS FROM THIS PLAN, I.E. PLANT SUBSTITUTIONS BECAUSE OF UNAVAILABILITY. ALSO BE FAMILIAR WITH THE CONDITIONS OF APPROVAL BY THE CITY OF MARINA.
- GIVE LANDSC. ARCHT. 2 DAYS BEFORE PLANT DELIVERY FOR HIS APPROVAL OF MATERIALS AT THE SITE, AS WELL A TIME TO REVIEW THE PLANT SET-OUT PRIOR TO DIGGING HOLES.
- DIG PLANT HOLES 2 TIMES THE DIAMETER OF THE CONTAINER AND 6" DEEPER. BACKFILL WITH 1 PART PLANTER MIX & 1 PART EXT. SOIL.
- FERTILIZE WITH SIMPLOT 15-15-15 W/ SULPHUR PER MFTS. RECOMMENDED RATE.
- APPLY CEDAR CHIPS 2" DEEP THROUGHOUT THE ENTIRE PLANTED AREAS.

- AREAS (2) TO RECEIVE DECOMPOSED GRANITE (D.G.) SHALL BE 3" DEEP AND CONTAINED WITH BROWN PLASTIC HEADER BOARD STAKED @ 4 FT. O.C.
- A FINAL INSPECTION SHALL BE HELD WITH OWNER/CONTRACTOR, AGENT OF THE CITY OF MARINA AND THE LANDSCAPE ARCHITECT. A PUNCHLIST OF CORRECTIONS AS NECESSARY SHALL BE MADE BY THE LANDSCAP ARCHT. AND A SITE REVIEW THEREAFTER.
- MAINTENANCE OF THE LANDSCAPE SHALL BE PROVIDED, AT WHICH TIME THE PROJECT HAS BEEN ACCEPTED & APPROVED.

SITE PLAN 1" = 10' 0"
 A.P. # 033-17E-002



GREEN LANDSCAPING
 A RESIDENTIAL DEVELOPMENT COMPANY
 2573 SUMMIT WY. CAROL CA 93708 (818) 915-2501

GARY GIBSON, LANDSCAPE ARCHT. CAPT. 7
 375 GIBSON AVE. PACIFIC GROVE CA 93950
 (818) 374-5870

REV: DEC. 23, 2014
 DATE:

PLANTING PLAN
 BEACH TOWNHOME APARTMENTS
 3093 MARINA DRIVE MARINA CA 93953

TITLE: PROJECT:
 SHEET
 11
 OF TWO



Ceanothus 'Anchor Bay'



Santolina Chamecyparissus



Cistus 'Santa Cruz'



Elaeagnus Pungens



Limonium Perezii



Cistus Villosus Prostratus



Arctostaphylos 'Emerald Carpet'



Hebe Desillor



Erigeron Glaucus



Rosmarinus Officinalis



Pennisetum 'Rubrum'



Myrica California



Myrsine Africana



Melaleuca Mesophylla



Leptospermum Laevigatum



Rhamnus Alaternus



Lyrothamnos Floribunda



Arbutus 'Marina'



Dodonaea Atropurpurea



Pittosporum Robusta

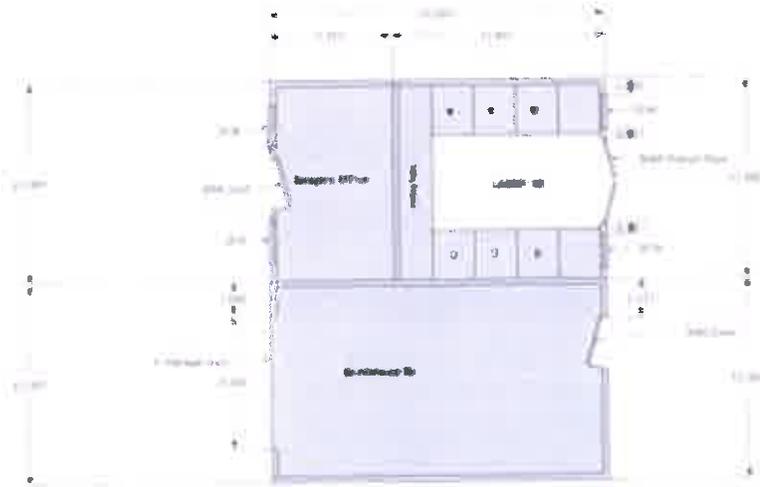


Melaleuca Leucadendron

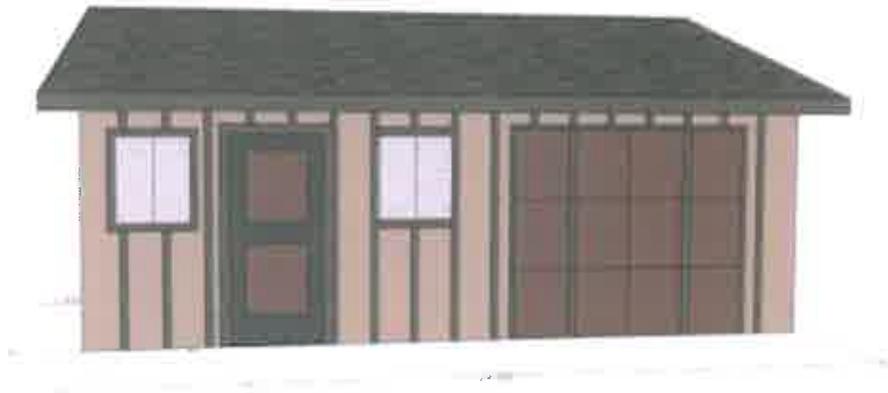


Metrosideros Excelsus

Color Key

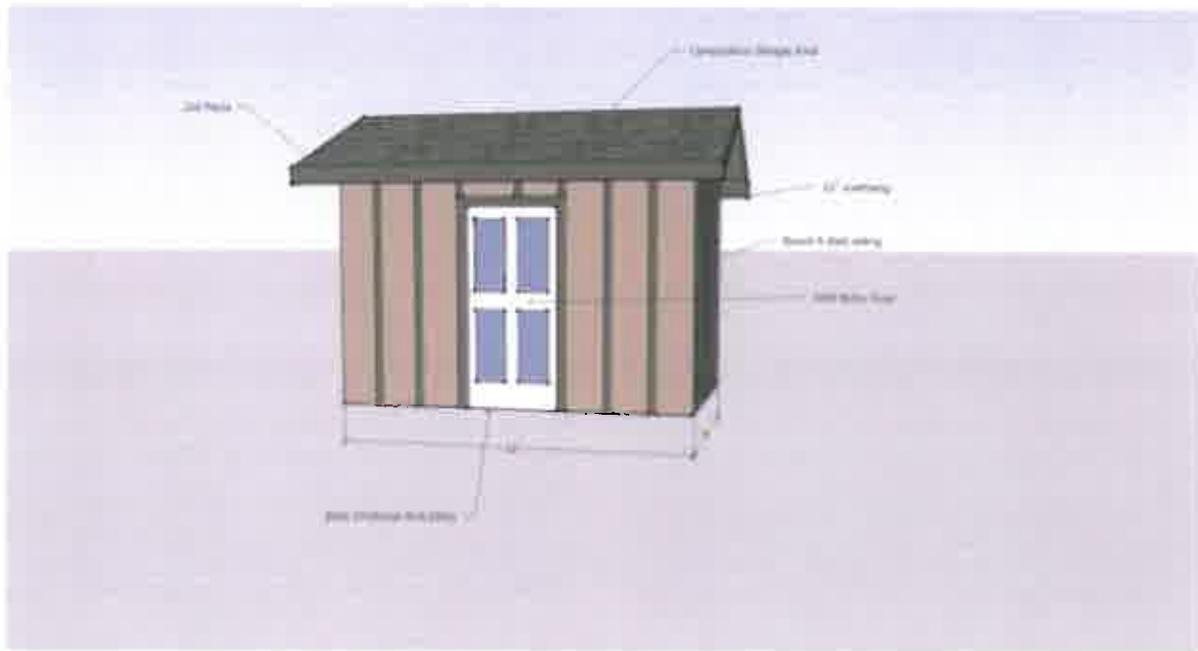


Laundry / Office / Maintenance Bldg



Laundry / Office / Maintenance Bldg

Laundry /Office/ Maintenance Bldg.



BIKE STORAGE BUILDING

Beach Town Home Apartments
Color Board

Units 10-11, 22-23



◆ Eastlake Gold
SW 0009

Body



◆ Decorous Amber
SW 0007

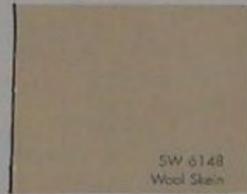
Trim



◆ Mulberry Silk
SW 0001

Accent

Units 7, 14-15, 20-21



SW 6148
Wool Skin

Body



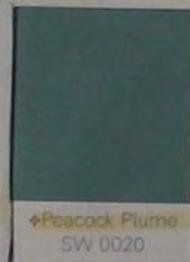
SW 6172
Hardware

Trim



Accent

Units 16-17



◆ Peacock Plume
SW 0020

Body



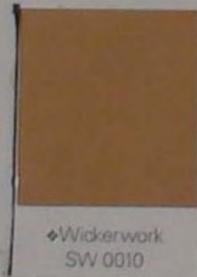
◆ Classic Sand
SW 0056

Trim



Accent

Units 12-13, 18-19, 8-9



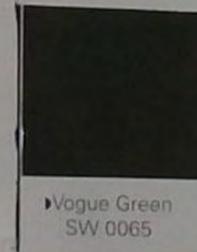
◆ Wickerwork
SW 0010

Body



SW 6093
Taupe

Trim

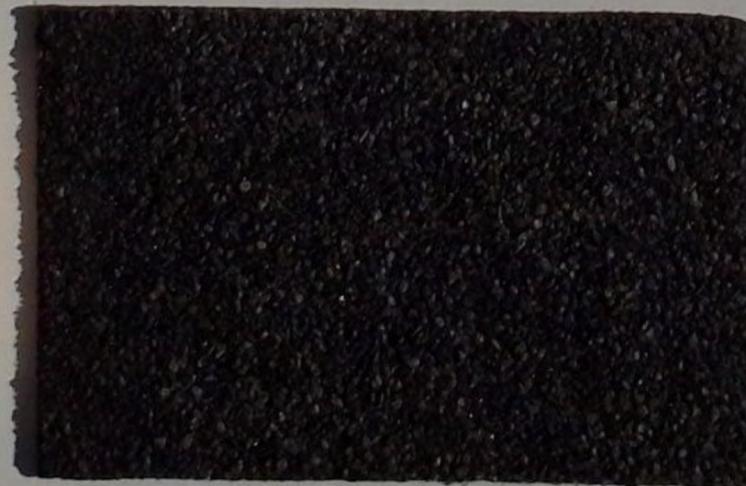


◆ Vogue Green
SW 0065

Accent



Batts (1x3)



Roofing (Owens Corning)
Slate Grey



Board Siding (T1-11)

**Beach Town Home Apartments
Exterior Colors**

Paint Manufacturer:	Sherwin Williams		
Units 22, 23	Body:	Eastlake Gold	SW0009
	Trim:	Decorous Amber	SW0007
	Accent:	Mulberry Silk	SW0001
Units 7, 11, 20, 21	Body:	Studio Blue Green	SW0047
	Body:	Classic Light Buff	SW0050
	Trim:	Porcelain	SW0053
	Accent:	Ruskin Room Green	SW0042
Units 12,13,18,19	Body:	Peacock Plume	SW0020
	Trim:	Mulberry Silk	SW0001
	Accent:	Eastlake Gold	SW0009
Units 16, 17	Body:	Decorous Amber	SW0007
	Trim:	Eastlake Gold	SW0009
	Accent:	Peacock Plume	SW0020
Units 8, 9,10,14,15	Body:	Ruskin Room Green	SW0042
	Trim:	Classis Light Buff	SW0050
	Accent:	Porcelain	SW0053
Units 12, 13	Body:	Peacock Plume	SW0020
	Trim:	Mulberry Silk	SW0001
	Accent:	Eastlake Gold	SW0009
Unit 11	Body:	Classic Light Buff	SW0050
	Body:	Studio Blue Green	SW0047
	Trim:	Porcelain	SW0053
	Accent:	Ruskin Room Green	SW0042

Roofing: Composition Shingles by Owens Corning (Slate Grey)

EXHIBIT D

AFFORDABLE HOUSING PLAN

FOR THE

BEACH TOWN HOME APARTMENTS

**3039 Marina Dr.
Marina, CA 93933**

Prepared for

**The City of Marina
211 Hillcrest Avenue
Marina, CA 93933**

Prepared by

**Green Engineering
Scott Green, Owner
25613 Shafter Way
Carmel, CA 93923**

For Planning Commission Review December 10, 2015

INTRODUCTION

This Affordable Housing Plan is prepared on behalf of the property owner of the Beach Town Home Apartment project at 3033-3039 Marina Dr., Marina, California and adheres to the requirements of Marina Municipal Code (MMC) Chapter 17.45, Affordable Housing.

The Inclusionary Housing Requirement in Section 17.45.030 requires that all new residential development of 20 or more units and all existing occupied housing in Marina's former Fort Ord shall be required to provide at minimum a specified percentage of housing affordable to specific income groups according to the affordability distribution set forth in Table 17.45.030-1.

This Affordable Housing Plan has been prepared in accordance with MMC Section 17.45.070.C.3 and .4. The full text of Chapter 17.45 can be accessed on line from the City's homepage at: <http://www.ci.marina.ca.us/>.

PROJECT DESCRIPTION/ AFFORDABLE UNITS CALCULATIONS (17.45.070.B.1)

The privately owned Beach Town Home Apartments is within the City limits of Marina and not part of the former Fort Ord. The property provides living units for rent. The total affordable requirement (percentage of total units) based on Table 17.45.030-1, Inclusionary Housing Requirement, shall be twenty percent (20%).

The proposed total number of units provided by the Beach Town Home Apartments is twenty-four (24) units. However, six units are existing and eighteen units are new. Of the eighteen new rental units, 20% must be affordable. Therefore four (4) residential units shall be made to conform to the inclusionary housing requirements for affordability. The units will remain affordable for 55 years.

In accordance with Table 17.45.030-1, the project proposes that the percentage of affordability mix by income shall be as follows:

6% Very Low = .03 x 4 Units required = 1.2 Units required - 1 Proposed
7% Low = .35 x 4 Units required = 1.4 Units required - 1 Proposed
7% Moderate = .35 x 4 Units required = 1.4 Units required - 2 Proposed

PERCENTAGE OF UNIT MIX vs. AFFORDABILITY REQUIREMENT (17.45.070.B.1)

<u>Unit Type</u>	<u>No. New Units</u>	<u>% of TOTAL</u>	<u>NO. AFFORDABLE</u>
2 Bdrm/1Bath	6	25%	2
1 Bdrm /1 Bath	2	8%	0
2 Bdrm/1.5 Bath	16	67%	2
TOTAL NEW UNITS	18	100%	4

AFFORDABLE HOUSING PLAN (17.45.070.B.2)

Section 17.45.070 B. requires that the Affordable Housing Plan shall contain the unit mix, location, structure type, size of the market rate, inclusionary, and density bonus target units, and a statement as to whether the residential development is an ownership or rental project.

The proposed rental project is comprised of four buildings of attached rental apartments
See attached site plan for location of proposed affordable units.

The proposed affordable unit locations are as follows:

<u>Location</u>	<u>Unit No.</u>	<u>Structure Type</u>	<u>Size</u>	<u>Status</u>
Existing 6-plex	1	2 br/1ba	804SF	Market-rate
	2	2 br/1ba	804SF	Market-rate
	3	2 br/1ba	804SF	Market-rate
	4	2 br/1ba	804SF	Market-rate
	5	2 br/1ba	804SF	Affordable
	6	2 br/1ba	804SF	Affordable
New 3 Unit	7	2br./1.5ba.	864SF	Market-rate
	8	2br./1.5ba.	864SF	Market-rate
	9	2br./1.5ba.	864SF	Market-rate
New 9 Unit	10A	1br./1.0ba.	600SF	Market-rate
	10B	1br./1.0ba.	600SF	Market-rate
	11	2br./1.5ba.	864SF	Market-rate
	12	2br./1.5ba.	864SF	Market-rate
	13	2br./1.5ba.	864SF	Affordable
	14	2br./1.5ba.	864SF	Market-rate
	15	2br./1.5ba.	864SF	Market-rate
	16	2br./1.5ba.	864SF	Market-rate
	17	2br./1.5ba.	864SF	Market-rate
New 6 Unit	18	2br./1.5ba.	864SF	Market-rate
	19	2br./1.5ba.	864SF	Market-rate
	20	2br./1.5ba.	864SF	Affordable
	21	2br./1.5ba.	864SF	Market-rate
	22	2br./1.5ba.	864SF	Market-rate
	23	2br./1.5ba.	864SF	Market-rate

No density bonus target units are requested at this time.

The proposed affordable housing units are shown on the attached site plan.

INCOME LEVELS OF THE INCLUSIONARY UNITS (17.45.070.B.3)

The income levels are determined by several factors including number of persons in household and income level. The published Income Limits for 2015 prepared by the County of Monterey Economic Development Department based on U.S. Department of Housing and Urban

Development (HUD) Section 8 program income limits, also used by the California Department of Housing and Community Development (HCD).

<u>Income</u>	<u>1 Person</u>	<u>2 Persons</u>	<u>3 Persons</u>	<u>4 Persons</u>	<u>5 Persons</u>
Very Low	\$ 25,400	\$ 29,000	\$ 32,650	\$ 36,250	\$ 39,150
Low	\$ 40,600	\$ 46,400	\$ 52,200	\$ 58,000	\$ 62,650
Moderate	\$ 57,700	\$ 65,950	\$ 74,200	\$ 82,450	\$ 89,050

The Maximum Affordable Monthly rents including a utility allowance allowed are 30% of 50% of the median income adjusted for household size for the Very Low Income units, 30% of 60% of median income adjusted for household size for the Low Income units and 30% of 110% of median income adjusted for household size for the moderate income units.

Currently the Maximum affordable rents for 2015 are as follows:

<u>Income</u>	<u>1 Bedroom</u>	<u>2 Bedroom</u>	<u>3 Bedroom</u>
Very Low	NA	\$ 816.25	NA
Low	NA	\$ 927.75	NA
Moderate	NA	\$ 1,700.87	NA

Note: Landlord pays for Garbage collection, sewer and water on the existing 6-plex.

The actual maximum allowable rent charged per month after the Utility Allowance Adjustment will be as follows:

<u>Unit No.</u>	<u>Maximum Rent</u>	<u>Utility Adjustment</u>	<u>Allowable Rent</u>
5	\$ 816.25	\$83	\$ 733.25 (Very low income)
6	\$ 927.75	\$83	\$ 844.75 (Low income)
13	\$ 1,700.87	\$99	\$ 1,601.87 (Moderate)
20	\$ 1,700.87	\$99	\$ 1,601.87 (Moderate)

ACKNOWLEDGEMENT (17.45.070.B.3)

The units shall remain deed restricted as affordable housing for a period of 55 years. The City of Marina will verify tenant and homebuyer incomes to maintain the affordability of the inclusionary and target units.

PROJECT PHASING (17.45.070.B.4)

The project will be constructed in one phase.

**SPECIFIC INCENTIVITIES, CONCESSIONS, WAIVERS OR MODIFICATIONS
REQUESTED OF THE CITY OF MARINA (17.45.070.B.5)**

None requested at this time.

**OTHER INFORMATION REQUESTED BY COMMUNITY DEVELOPMENT
DIRECTOR (17.45.070.B.6)**

No additional information requested at this time.

END OF AFFORDABLE HOUSING PLAN

Attachments: Site Plan

RECORDING REQUESTED BY:

City of Marina

WHEN RECORDED MAIL TO:

City of Marina
Community Development Director
211 Hillcrest
Marina, CA

No fee for recording pursuant to
Government Code Section 27383

(Space above for Recorder's Use)

INCLUSIONARY HOUSING AGREEMENT (RENTAL UNITS)

(Beach Town Home Apartments)

This INCLUSIONARY HOUSING AGREEMENT (RENTAL UNITS) ("Agreement") is entered into as of this ____ day of _____ 201_, by and between the CITY OF MARINA, a charter city (the "City"), and Green Engineering, a _____ (the "Owner"), with reference to the following facts:

A. The City has adopted an Inclusionary Housing Ordinance, Marina Municipal Code Chapter 17.45, ("Chapter 17.45" or the "Ordinance") which requires that specified percentages of all new residential units developed in the City be affordable to very low income, low income, and moderate income households and that allows, under certain circumstances, alternative means of compliance. The Ordinance is administered by the Community Development Department.

B. The Owner is the owner of certain real property in the City of Marina, California generally located at 3039 Marina Drive, Marina (the "Property"). The Owner has received approvals to construct eighteen (18) rental units on a property that currently contains six (6) existing for a total of 24 residential units (hereinafter referred to as the "Development") on the Property. The twenty-four (24) units will be located in three buildings..

C. The Owner intends to meet the inclusionary housing requirements of the Ordinance by (i) constructing, or causing to be constructed, four (4) multifamily rental units, with restricted occupancy and rents, as further described in Sections 3 through 10 below) (the "Inclusionary Rental Units").

D. This Agreement is executed in conjunction with the Planning Commission approval (Resolution No. _____) for the Development. The Owner must meet certain requirements in this Agreement prior to City issuance of building permits for the Development.

E. The Owner is required by Chapter 17.45 to enter into an Inclusionary Housing Agreement as required and with the content specified by Chapter 17.45, on terms acceptable to the Community Development Director. This Agreement is an Inclusionary Housing Agreement pursuant Section 17.45.080 of Ordinance. This Agreement, as it may be amended, shall be recorded against the Development with the recordation of the final map.

NOW, THEREFORE, it is mutually agreed by and between the Owner and the City (the "Parties") as follows:

Section 1. Definitions. In addition to those terms defined in the Recitals to this Agreement, the following terms have the following meanings in this Agreement:

(a) "Administrative Manual" means the manual prepared by the City implementing the Ordinance.

(b) "Affordable Rent" means rent, a monthly amount which, together with utility allowance,

(i) for Very Low Income Inclusionary Rental Units that does not exceed one-twelfth (1/12th) of thirty percent (30%) of fifty percent (50%) of the Median Income, adjusted by household size based on the number of bedrooms in the unit,

(ii) for a Low Income Inclusionary Rental Unit that does not exceed one-twelfth (1/12th) of thirty percent (30%) of sixty percent (60%) of Median Income, adjusted by household size based on the number of bedrooms in the unit; and

(iii) for Moderate Income Inclusionary Rental Units that does not exceed one-twelfth (1/12th) of thirty percent (30%) of one hundred ten percent (110%) of median Income, adjusted by household size based on the number of bedrooms in the unit.

Rent, for purposes of this definition, shall include all required monthly payments made by the tenant to the lessor in connection with use and occupancy of a housing unit and land and facilities associated therewith, including any separately charged fees, utility charges, or service charges assessed and payable by the tenant (but not including fees and charges resulting from any default by the tenant or damage caused by the tenant).

Adjustments for household size based on the number of bedrooms in the unit and amounts utilized for utility allowances shall be as provided by the City in the Administrative Manual.

(c) "Approval" means any planned unit development or planned community development approval, subdivision approval, use permit, building permit or combined development permit for a residential development.

(d) "First Approval" means the first Approval to occur with respect to a residential project.

(e) "Inclusionary Rental Unit Property" means the legal parcel of land on which the Inclusionary Rental Units will be constructed, together with any Inclusionary Rental Units and appurtenant improvements constructed on such land.

(f) "Low Income Household" means a household with an annual income which does not exceed the lower income limits applicable to Monterey County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50079 of the California Health and Safety Code.

(g) "Low Income Inclusionary Rental Unit" means an Inclusionary Rental Unit reserved for occupancy by Low Income Households at an Affordable Rent.

(h) "Maximum Initial Rents" means the initial rents for the Inclusionary Rental Units determined pursuant to the formula specified in the Administrative Manual for each income level.

(i) "Median Income" means the median household income as determined periodically by HUD for Monterey County and updated on an annual basis.

(j) "Moderate Income Household" means a household, including a Low Income Household and a Very Low Income Household, with an annual income which does not exceed the moderate income limits applicable to Monterey County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.

(k) "Moderate Income Inclusionary Rental Unit" means an Inclusionary Rental Unit reserved for occupancy by Moderate Income Households at an Affordable Rent.

(l) "Ordinance" means the Inclusionary Housing Ordinance, Marina Municipal Code Chapter 17.45.

(m) "Regulatory Agreement" means the Inclusionary Housing Regulatory Agreement and Declaration of Restrictive Covenants between the Developer (or its successors to the Inclusionary Rental Unit Property) and the City substantially in the form of Exhibit C attached hereto, to be recorded against the Inclusionary Rental Unit Property pursuant to Section 7 below.

(n) "Very Low Income Household" means a household whose annual income does not exceed the very low income limits applicable to Monterey county, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.

(o) "Very Low Income Inclusionary Rental Unit" means an Inclusionary Rental Unit reserved for occupancy by Very Low Income Households at an Affordable Rent.

Section 2. Satisfaction of Inclusionary Housing Obligation and Conditions of Approval. The Inclusionary Housing conditions of approval and the requirements of Chapter 17.45 shall be satisfied with respect to the Development Property if the following conditions are met: (a) Owner constructs or causes to be constructed the Inclusionary Rental Units meeting the requirements of Sections 3-10 below, in compliance with the schedule set forth in Section 7 below; (b) Owner records the Regulatory Agreement described in Section 7(b) below against the Inclusionary Rental Unit Property; (c) the Inclusionary Rental Units are marketed in compliance with Section 8 below and operated in compliance with the Regulatory Agreement. An amendment to this Agreement will be required to receive final subdivision map or other City approval for additional housing units on the Property above the total of twenty-four (24) housing units identified by Owner in the First Approval application, to make any changes to the Inclusionary Rental Units as they are described in Sections 3-7 of this Agreement, or to otherwise change the terms of this Agreement. An amendment to this Agreement may be executed before or at the time of final subdivision map approval if mutually agreed by the parties, to reflect changes in the Development or the Inclusionary Rental Units.

Section 3. Number of Inclusionary Rental Units. As a condition to the satisfaction of Owner's inclusionary housing requirements for the Development, Owner shall construct, or cause to be constructed, at least One Very Low Income Inclusionary Rental Unit, One Low Income Inclusionary Rental Units and Two Moderate Income Inclusionary Rental Unit.

Section 4. Location of Inclusionary Rental Units. The Inclusionary Rental Units shall be constructed as part of the Development and shall be the units designated on the attached Exhibit B.

Section 5. Appearance, Size and Bedroom Count. The Inclusionary Rental Units shall have the number of bedrooms and the square footage indicated in Exhibit B to this Agreement.

Section 6. Affordability Requirements. The Very Low Income Inclusionary Rental Units shall be rented to Very Low Income Households at Affordable Rents, calculated pursuant to Section 1(b)(i) above. The Low Income Inclusionary Rental Units shall be rented to Low Income Households at Affordable Rents, calculated pursuant to Section 1(b)(ii) above. The Moderate Income Inclusionary Rental Unit shall be rented to Moderate Income Households at Affordable Rents, calculated pursuant to Section 1(b)(iii) above. Notwithstanding the above, in no event shall the Owner be required to rent the Inclusionary Rental Units at rents which are lower than the maximum initial rents set forth in the Regulatory Agreement. The affordability requirements of this Section 6 shall be set forth in the Regulatory Agreement to be recorded against the Inclusionary Rental Unit Property pursuant to Section 7 below. The affordability requirements of this Section 6 shall continue as restrictions on the Inclusionary Rental Unit Property in perpetuity.

Section 7. Marketing and Rental of Inclusionary Rental Units. Following completion of construction, the Owner shall rent the Inclusionary Rental Units to Very Low Income Households, Low Income Households, and Moderate Income Households as applicable, at Affordable Rents in compliance with Sections 3 and 6 above and the Regulatory Agreement.

Owner shall submit a marketing and management plan to the Community Development Department for approval prior to commencing marketing of the Inclusionary Rental Units and shall market the Inclusionary Rental Units in compliance with the marketing and management plan approved by the City. Owner shall grant a preference in rental of the Inclusionary Rental Units in accordance with the Administrative Manual's Resident Selection Plan. Owner shall comply with applicable fair housing laws in the marketing and rental of the Inclusionary Rental Units. Owner shall accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. Owner shall refer potential tenants to the City or the City's designee for income and asset certification and not enter into a binding rental agreement with a tenant until City income and asset certification has been completed and Owner has been informed in writing by the City or its designee that the potential tenant is income and asset eligible to occupy the Inclusionary Rental Unit.

Section 8. City Approval of Documents. The following documents, to be approved in writing by the City, shall be used in connection with the rental of the Inclusionary Rental Units.

(a) A marketing and management plan consistent with the terms of this Agreement and City marketing and management requirements as established by the Community Development Department, establishing the process for seeking, selecting and determining the eligibility of tenants of the Inclusionary Rental Units.

(b) Form of rental agreement or lease to be signed by tenants of the Inclusionary Rental Units.

(c) The Regulatory Agreement, in a form to be provided by the City.

Section 9. Compliance Reports. Following completion of construction of any of the Inclusionary Rental Units, a Compliance Report meeting the requirements of the Administrative Manual, verifying compliance of all completed Inclusionary Rental Units with the terms of this Agreement and the Regulatory Agreement, and certified as correct under penalty of perjury by the owner of the Inclusionary Rental Units and any property management company managing the units, shall be submitted annually to the City on April 1 of each year, commencing on the April 1 following issuance of final certificates of occupancy for one hundred percent (100%) of the Inclusionary Rental Units. If similar reports on some or all of the Inclusionary Rental Units are required for regulatory compliance with other financing programs, those reports may be deemed satisfactory for the purpose of this section by the City, with respect to the portion of the Inclusionary Rental Units covered by such reports, provided that copies are provided on an annual basis to the City with an owner certification addressed to the City. Owner shall retain all records related to compliance with obligations under this Agreement and Chapter 17.45 for a period not less than five (5) years from the date of origination of such records, and make them available to City employees or others designated by the City for inspection and copying on five (5) business days' written notice. Owner shall permit City employees or others designated by the City to inspect the Inclusionary Rental Unit Property to monitor compliance with this Agreement following two (2) business days' written notice to Owner. The City shall be further entitled to

monitor compliance with this Agreement and Chapter 17.45 as provided in the Administrative Manual.

Section 10. Release of Property From Agreement. The covenants and conditions herein contained shall apply to and bind, during their respective periods of fee ownership, Owner and its heirs, executors, administrators, successors, transferees, and assignees having or acquiring any right, title or interest in or to any part of the Property and shall run with and burden such portions of the Property until terminated in accordance with this Section 10. Upon (i) execution and recordation of the Regulatory Agreement against the Inclusionary Rental Unit Property and (ii) the issuance of final certificates of occupancy for one hundred percent (100%) of the Inclusionary Rental Units, the Property shall be released from the burdens of this Agreement.

Section 11. Default. Failure of the Owner to cure any default in the Owner's obligations under the terms of this Agreement within thirty (30) days after the delivery of a notice of default from the City will constitute a default under this Agreement and a failure to satisfy the Conditions of Approval with respect to the Property and the requirements of the Ordinance and, in addition to remedies for breach of this Agreement, the City may exercise any and all remedies available to it under the Subdivision Map Act, Chapter 17.45, or otherwise, with respect to the Owner's failure to satisfy the Conditions of Approval and the requirements of Chapter 17.45 including but not limited to:

- (a) withholding, conditioning, suspending or revoking any permit, license, subdivision approval or map, or other entitlement for the Development, including without limitation final inspections for occupancy and/or certificates of occupancy;
- (b) instituting against the Owner, or other parties, a civil action for declaratory relief, injunction or any other equitable relief, or relief at law, including without limitation an action to rescind a transaction and/or to require repayment of any funds received in connection with such a violation;
- (c) where one or more persons have received financial benefit as a result of violation of this Agreement or of any requirement imposed under Chapter 17.45, the City may assess, and institute legal action to recover as necessary, a penalty in any amount up to and including the amount of financial benefit received, in addition to recovery of the benefit received;
- (d) prosecuting a misdemeanor against any person who has rented a residential unit at a rent exceeding the maximum allowed under this Agreement or to a household not qualified under this Agreement, or who has otherwise violated Chapter 17.45, or any other agreement, restriction or requirement authorized or imposed under Chapter 17.45;
- (e) remedies set forth in the Regulatory Agreement; or
- (f) any other means authorized under the Marina Municipal Code.

Section 12. Remedies Cumulative. No right, power, or remedy given to the City by the terms of this Agreement, the Regulatory Agreement or Chapter 17.45 is intended to be

exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the City by the terms of any such document, Chapter 17.45, or by any statute or otherwise against Owner and any other person. Neither the failure nor any delay on the part of the City to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the City of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Section 13. Appointment of Other Agencies. At its sole discretion, the City may designate, appoint or contract with any other public agency, for-profit or non-profit organization to perform the City's obligations under this Agreement.

Section 14. Hold Harmless. Owner will indemnify and hold harmless (without limit as to amount) City and its elected officials, officers, employees and agents in their official capacity (hereinafter collectively referred to as "Indemnitees"), and any of them, from and against all loss, all risk of loss and all damage (including expense) sustained or incurred because of or by reason of any and all claims, demands, suits, actions, judgments and executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of or relating in any manner to the Development, the Inclusionary Rental Units, or Owner's performance or non-performance under this Agreement, and shall protect and defend Indemnitees, and any of them with respect thereto, except to the extent arising from the gross negligence of willful misconduct of the City. The provisions of this section shall survive expiration or other termination of this Agreement or any release of part or all of the Property from the burdens of this Agreement, and the provisions of this section shall remain in full force and effect.

Section 15. Insurance Requirements. The Owner shall maintain the following insurance coverage throughout the Term of this Agreement:

(i) Worker's Compensation insurance to the extent required by law, including Employer's Liability coverage, with limits not less than One Million Dollars (\$1,000,000) each accident.

(ii) Comprehensive General Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations.

(iii) Comprehensive Automobile Liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired vehicles, as applicable; provided, however, that if the Owner does not own or lease vehicles for purposes of this Agreement, then no automobile insurance shall be required.

(iv) Property insurance covering the Rental Development, in form appropriate for the nature of such property, covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the City. Flood insurance shall be obtained if required by applicable federal regulations.

The Owner shall cause any general contractor, agent, or subcontractor working on the Rental Development under direct contract with the Owner or subcontract to maintain insurance of the types and in at least the minimum amounts described in subsections (i), (ii), and (iii) above, except that the limit of liability for comprehensive general liability insurance for subcontractors shall be One Million Dollars (\$1,000,000), and shall require that such insurance shall meet all of the general requirements of subsections (iv), (v), and (vi) below, including, without limitation, the requirement of subsection (v).

Liability and Comprehensive Automobile Liability insurance to be maintained by such contractors and agents pursuant to this subsection shall name as additional insureds the City, its officers, agents, employees and members of the City Council.

(v) The required insurance shall be provided under an occurrence form, and Owner shall maintain the coverage described in subsections (i) through (iv) continuously so long as this Agreement is in effect. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be three times the occurrence limits specified above.

(vi) Comprehensive General Liability, and Comprehensive Automobile Liability insurance policies shall be endorsed to name as an additional insured the City and its officers, agents, employees and members of the City Council.

All policies and bonds shall be endorsed to provide thirty (30) days prior written notice of cancellation, reduction in coverage, or intent not to renew to the address established for notices to the City.

Section 16. Notices. All notices required pursuant to this Agreement shall be in writing and may be given by personal delivery or by registered or certified mail, return receipt requested, to the party to receive such notice at the addressed set forth below:

TO THE CITY:

City of Marina
Community Development Department
211 Hillcrest
Marina, Ca 93933

cc: Robert Wellington
Marina City Attorney
Wellington Law Offices

857 Cass Street, Suite D
Monterey, CA 93940

—

TO THE OWNER:

Green Engineering
c/o Scott Green
25613 Shafter Way
Carmel, CA 93923

Any party may change the address to which notices are to be sent by notifying the other parties of the new address, in the manner set forth above.

Section 17. Integrated Agreement. This Agreement constitutes the entire Agreement between the parties and no modification hereof shall be binding unless reduced to writing and signed by the parties hereto.

Section 18. Duration and Amendment of Agreement. This Agreement shall remain in effect for so long as the Property is subject to inclusionary housing obligations pursuant to the Ordinance. As provided in Section 6 above, the Inclusionary Rental Unit Property shall be restricted in perpetuity for affordable housing use. This Agreement, and any section, subsection, or covenant contained herein, may be amended in writing by the parties. The Community Development Director shall have authority in his or her discretion to approve or disapprove minor or technical amendments on behalf of the City. If the amendment makes a substantive or material change to this Agreement it shall be effective only following approval by the governmental authority that gave the First Approval to the Development.

Section 19. No Claims. Nothing contained in this Agreement shall create or justify any claim against the City by any person that Owner may have employed or with whom Owner may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the Property, the Inclusionary Rental Unit Property, or the construction of the Development or Inclusionary Rental Units.

Section 20. Applicable Law. This Agreement shall be governed by California law.

Section 21. Waivers. Any waiver by the City of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the City to take action on any breach or default of Owner or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Owner to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the City to any act or omission by Owner shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the City's written consent to future waivers.

Section 22. Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

Section 23. Multiple Originals; Counterpart. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

Section 24. Recording of Agreement. The Owner shall cause this Agreement to be recorded against the Property in the Official Records of the County of Monterey.

Section 25. Severability. In the event any limitation, condition, restriction, covenant, or provision contained in this Agreement is to be held invalid, void or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall nevertheless, be and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

OWNER:

Green Engineering, a _____

By: _____

CITY:

City of Marina

By: _____
Layne Long, City Manager

APPROVED AS TO FORM:

City Attorney

By: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B

SIZE AND BEDROOM COUNT
OF INCLUSIONARY RENTAL UNITS

Location/Unit Number	Type	Size	Affordability
Unit No. 5	2 bedroom/1 bath	804 SF	\$733.25
Unit No. 6	2 bedroom/1 bath	804 SF	\$844.75
Unit No. 13	2 bedroom/1.5 bath	864 SF	\$1,601.87
Unit No. 20	2 bedroom/1.5 bath	864 SF	\$1,601.87

EXHIBIT C
REGULATORY AGREEMENT

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Marina Redevelopment Agency
211 Hillcrest Avenue
Marina, California
Attention: Executive Director

No fee for recording pursuant to
Government Code Section 27383

(Space above for Recorder's Use)

**INCLUSIONARY HOUSING
REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE
COVENANTS**

(Inclusionary Rental Units)

This INCLUSIONARY HOUSING REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (the "Regulatory Agreement") is entered into as of this ____ day of _____, 200_, by and between the CITY OF MARINA, a charter city (the "City"), and Green Engineering, a _____ (the "Owner"), with reference to the following facts:

A. The City has adopted an Inclusionary Housing Ordinance, Municipal Code Chapter 17.45 ("Chapter 17.45" or the "Ordinance"), which requires that twenty percent (20%) of all new residential development of more than 20 units developed in the City be affordable to very low income, low income, and moderate income households and that allows, under specified circumstances, alternative means of compliance. The Ordinance is administered by the Community Development Director.

B. Owner is the owner of certain real property in the City of Marina, California described in Exhibit A which is attached hereto and incorporated herein by this reference (the "Property"). Owner intends to construct eighteen (18) units of new residential rental housing on the Property which currently contains six existing units (the "Rental Development"), of which four (4) units will be operated as affordable rental housing for very low income, low and moderate income households (the "Affordable Rental Units").

C. Pursuant to the Ordinance, the City and Owner have entered into an Inclusionary Housing Agreement – Rental Housing dated _____, 20__ (the "Inclusionary Housing Agreement"), in which the Owner elected to construct the Inclusionary Rental Units and to record this Regulatory Agreement against the Rental Development to restrict the use and operation of the Inclusionary Rental Units in perpetuity. The Inclusionary Housing Agreement is an inclusionary housing agreement pursuant to Section 17.45 of the Ordinance,

and shall be executed and recorded against the Property prior to issuance of any building permits for the Rental Development.

D. To meet the requirements of the Ordinance and the Inclusionary Housing Agreement, the Owner has agreed to enter into and record this Regulatory Agreement. The purpose of this Regulatory Agreement is to regulate and restrict the rents and occupancy of the Inclusionary Rental Units and to implement controls on the ownership, operation, and management of the Inclusionary Rental Units. The covenants in this Regulatory Agreement are intended to run with the land and be binding on the Owner and its successors and assigns in the Property.

E. The City intends to utilize the Affordable Rental Units to obtain affordable housing production credits pursuant to Health and Safety Code Section 33413(b)(1), as new housing units available at affordable housing cost to very low, low and moderate income households. This Regulatory Agreement is intended to implement the housing production requirements, so that the Agency may utilize the Inclusionary Rental Units restricted by this Agreement to meet the requirements of Health and Safety Code Section 33413(b)(1).

NOW, THEREFORE, it is mutually agreed by and between the Owner and the City (the "Parties") as follows:

Section 26. DEFINITIONS AND EXHIBITS

(a)Definitions. In addition to those terms defined in the Recitals to this Agreement, the following terms have the following meanings in this Agreement:

(i)"Actual Household Size" shall mean the actual number of persons in the applicable household.

(ii)"Administrative Manual" shall mean the Administrative Policies and Procedures manual prepared pursuant to by the City of Marina implementing the Ordinance.

(iii)" Affordable Rent" means rent, a monthly amount which, together with utility allowance,

a. for Very Low Income Inclusionary Rental Units that does not exceed one-twelfth (1/12th) of thirty percent (30%) of fifty percent (50%) of the Median Income, adjusted by household size based on the number of bedrooms in the unit,

b. for a Low Income Inclusionary Rental Unit that does not exceed one-twelfth (1/12th) of thirty percent (30%) of sixty percent (60%) of Median Income adjusted by household size based on the number of bedrooms in the unit;

c. for a Moderate Income Inclusionary Rental Unit that does not exceed one-twelfth (1/12th) of thirty percent (30%) of one hundred ten (110%) percent of Median Income, adjusted by household size based on the number of bedrooms in the unit;

Rent, for purposes of this definition, shall include all required monthly payments made by the tenant to the lessor in connection with use and occupancy of a housing unit and land and facilities associated therewith, including any separately charged fees, utility charges, or service charges assessed and payable by the tenant (but not including fees and charges resulting from any default by the tenant or damage caused by the tenant).

(iv)"Agreement" means this Inclusionary Housing Regulatory Agreement and Declaration of Restrictive Covenants, to be recorded against the Property.

(v)"Annual Income" shall mean the total anticipated annual income of all persons in a household as calculated in accordance with 24 CFR 813, or successor federal housing program that utilizes a reasonably similar method of calculation, as designated by the City.

(vi)"Assumed Household Size" shall mean the assumed household size utilized to calculate the permissible Rent for a Unit as follows: for a one-bedroom unit a household size of two (2) persons shall be assumed; for a two-bedroom unit a household size of three (3) persons shall be assumed; for a three-bedroom unit a household size of four (4) persons shall be assumed; and for a four-bedroom unit a household size of five (5) persons shall be assumed. "Assumed Household Size" is not intended to restrict the actual number of persons occupying a Unit.

(vii)"Inclusionary Rental Unit" shall mean a Unit with occupancy and rents restricted pursuant to this Agreement.

(viii)"Low Income Household" means a household, including a Very Low Income Household, with an Annual Income which does not exceed the lower income limits applicable to Monterey County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code and with household assets that do not exceed the limits for Inclusionary Rental Units set forth in the Administrative Manual.

(ix)"Low Income Inclusionary Rental Unit" means an Inclusionary Rental Unit reserved for occupancy by a Low Income Household at an Affordable Rent.

(x)"Maximum Initial Rents" means the initial rents for the Inclusionary Rental Units determined pursuant to the formula specified in the Administrative Manual for each income level and set forth in Exhibit B attached hereto and incorporated herein.

(xi)"Median Income" means the median household annual income as determined periodically by HUD for the County of Monterey Metropolitan Statistical Area and updated on an annual basis.

(xii)"Moderate Income Household" means a household, including a Low Income Household and a Very Low Income Household, with an Annual Income which does not exceed one hundred twenty percent (120%) of the Median Income, adjusted for household size, and with household assets that do not exceed the maximum asset limitation for Inclusionary Rental Units set forth in the Administrative Manual.

(xiii)"Moderate Income Inclusionary Rental Unit" means an Inclusionary Rental Unit reserved for occupancy by Moderate Income Households at an Affordable Rent.

(xiv)"Ordinance" means the Inclusionary Housing Ordinance, Marina Municipal Code Chapter 17.45.

(xv)"Property" means the real property described in Exhibit A attached hereto and incorporated herein.

(xvi)"Rent" shall mean the total of monthly payments by the Tenant of a Unit for the following: use and occupancy of the Unit and land and associated facilities, including parking; any separately charged fees or service charges assessed by the Owner which are required of all Tenants, other than security deposits; a Utility Allowance; and any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than the Owner, and paid by the Tenant. Utility Allowances shall be as provided by the City in the Administrative Manual.

(xvii)"Rental Development" shall mean the Property and the Units to be developed on the Property, as well as any additional improvements, and all landscaping, roads and parking spaces existing thereon, as the same may from time to time exist.

(xviii)"Tenant" shall mean a household legally occupying a Unit pursuant to a valid rental agreement with Owner.

(xix)"Term" shall mean the term of this Agreement, which is set forth in Section 6.7 of this Agreement.

(xx)"Unit(s)" shall mean one or all of the twenty four (24) rental units to be constructed on the Property.

(xxi)"Very Low Income Household" means a household with an Annual Income which does not exceed the very low income limits applicable to Monterey County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.

(xxii)"Very Low Income Inclusionary Rental Unit" means an Inclusionary Rental Unit reserved for occupancy by a Very Low Income Household at an Affordable Rent.

(xxiii)"Utility Allowance" shall mean an allowance for the cost of an adequate level of service for utilities paid by the Tenant, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service or

cable TV. Utility Allowances to be used for the calculation of permissible Rent under this Agreement shall be as published annually by the Monterey County Housing Authority.

(b)Exhibits. The following Exhibits are attached and incorporated into this Agreement;

Exhibit A. Legal description of the Rental Development Project.

Exhibit B. Schedule of Maximum Initial Rents for Inclusionary Units.

Exhibit C. Utility Allowances for Inclusionary Rental Units.

Section 27.

AFFORDABILITY AND OCCUPANCY COVENANTS

(a)Occupancy Requirements.

(i)Very Low Income Units. One (1) of the Units shall be rented to and occupied by or, if vacant, available for occupancy by Very Low Income Households.

(ii)Low Income Units. One (1) of the Units shall be rented to and occupied by or, if vacant, available for occupancy by Low Income Households.

(iii) Moderate Income Units. Two (2) of the Units shall be rented to and occupied by or, if vacant, available for occupancy by Moderate Income Households.

(iv)Intermingling of Units and Bedroom Count. The Inclusionary Rental Units shall be intermingled with, and shall be of comparable quality to, all other units on the Property and shall be of the following sizes:

	Very Low	Low	Moderate	Total
One Bedroom Unit				
Two Bedroom Unit				
Total	1	1	2	

(b)Allowable Rent.

(i)Very Low Income Rent. Subject to the provisions of Section 2.3 below, the Rent (including Utility Allowance) charged to Tenants of the Very Low Income Inclusionary Rental Units shall not exceed one-twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of Median Income, adjusted for Assumed Household Size; provided, however, in no event shall the Rents be required to be lower than the maximum initial rents set forth in Exhibit B to this Agreement.

(ii)Lower Income Rent. Subject to the provisions of Section 2.3 below, the Rent (including Utility Allowance) charged to Tenants of the Low Income Inclusionary Rental Units shall not exceed one-twelfth (1/12) of thirty percent (30%) of sixty percent (60%) of Median Income, adjusted for Assumed Household Size; provided, however, in no event shall the Rents be required to be lower than the maximum initial rents set forth in Exhibit B to this Agreement.

(iii)Moderate Income Rent. Subject to the provisions of Section 2.3 below, the Rent (including utility allowance) charged to Tenants of the Moderate Income Inclusionary Rental Units shall not exceed one-twelfth (1/12th) of thirty percent (30%) of one hundred ten percent (110%) of Median Income, adjusted for Assumed Household Size; provided, however, in no event shall the Rents be required to be lower than the maximum initial rents set forth in Exhibit B to this Agreement.

(iv)City Approval of Rents. Initial rents for all Inclusionary Rental Units shall be approved by the City prior to occupancy. All rent increases shall also be subject to City approval. The City shall provide the Owner with a schedule of maximum permissible rents and Utility Allowances for the Inclusionary Rental Units annually. The maximum permissible rents and the Utility Allowances for the Inclusionary Rental Units as of the date of this Agreement are set forth in Exhibit B and Exhibit C to this Agreement, respectively.

(c)Increased Income of Tenants.

(i)Increase from Very Low Income to Low Income. If, upon recertification of the income of a Tenant of an Inclusionary Rental Unit, the Owner determines that a former Very Low Income Household's Annual Income has increased and exceeds the qualifying income for a Very Low Income Household set forth in Section 1.1(s), but does not exceed the maximum qualifying income for a Low Income Household, then, upon expiration of the Tenant's lease:

a. Such Tenant's Unit shall be considered a Low Income Unit;

b. Such Tenant's Rent may be increased to the Affordable Rent for a Low Income Unit, as applicable, upon sixty (60) days written notice to the Tenant; and

c. The Owner shall rent the next available Unit to a Very Low Income Household at Rent not exceeding the Affordable Rent for a Very Low Income Unit, to comply with the requirements of Sections 2.1(a) and 2.2(a) above.

(ii)Increase from Very Low or Low to Moderate. If, upon recertification of the income of a Tenant of an Inclusionary Rental Unit, the Owner determines that a former Very Low Income Household's or Low Income Household's Annual Income has increased and

exceeds the qualifying income for a Low Income Household set forth in Section 1.1(h), but does not exceed the maximum qualifying income for a Moderate Income Household, then, upon expiration of the Tenant's lease:

a. Such Tenant's Unit shall be considered a Moderate Income Unit;

b. Such Tenant's Rent may be increased to the Affordable Rent for a Moderate Income Unit, upon sixty (60) days written notice to the Tenant; and

The Owner shall rent the next available Unit to an Very Low Income Household, or a Low Income Household, as applicable, at Rent not exceeding the Affordable Rent for a Very Low Income Household or Low Income Household, as applicable, to comply with the requirements of Sections 2.1 and 2.2 above.

(iii)Non-Qualifying Household. If, upon recertification of the income of a Tenant of an Inclusionary Rental Unit, the Owner determines that a former Very Low Income Household, Low Income Household or Moderate Income Household has an Annual Income exceeding the maximum qualifying income for a Moderate Income Household set forth in Section 1.1(l), such Tenant shall be permitted to continue to occupy the Unit at Rent not exceeding the market rate rent, and the Owner shall rent the next available Unit to a Very Low Income Household, Low Income Household or Moderate Income Household, as applicable, to meet the requirements of Section 2.1 and 2.2 above.

(iv)Termination of Occupancy. Upon termination of occupancy of a Unit by a Tenant, such Unit shall be deemed to be continuously occupied by a household of the same income level (e.g., Very Low Income Household, Low Income Household or Moderate Income Household) as the income level of the vacating Tenant, until such Unit is reoccupied, at which time the income character of the Unit (e.g., Very Low Income Inclusionary Rental Unit, Low Income Inclusionary Rental Unit or Moderate Income Inclusionary Rental Unit) shall be redetermined. In any event, Owner shall maintain the occupancy requirements set forth in section 2.1 above.

(d)Marketing and Rental of Inclusionary Rental Units. The Owner shall market the Inclusionary Rental Units to Very Low Income Households, Low Income Households or Moderate Income Households at Affordable Rents in compliance with the marketing and management plan approved by the City. The Owner shall grant a preference in rental of the Inclusionary Rental Units in accordance with the procedures set forth in the Administrative Manual, including administration of the waiting list in accordance with the Resident Selection Plan. The Owner shall comply with applicable fair housing laws in the marketing and rental of the Inclusionary Rental Units. Owner shall accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor.

(e)Nondiscrimination. All of the Units shall be available for occupancy on a continuous basis to members of the general public who are income eligible. The Owner shall not give preference to any particular class or group of persons in renting or selling the Units, except to the extent that the Units are required to be leased to Very Low Income Households, Low Income Households or Moderate Income Households and except for the preferences set forth in the Administrative Manual's Resident Selection Plan. There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g. SSI), age (except for lawful senior housing), ancestry, or disability, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of any Unit nor shall the Owner or any person claiming under or through the Owner, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, or vendees of any Unit or in connection with the employment of persons for the construction, operation and management of any Unit.

(f)Section 8 Certificate Holders. The Owner will accept as Tenants, on the same basis as all other prospective Tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. The Owner shall not apply selection criteria to Section 8 certificate or voucher holders that is more burdensome than criteria applied to all other prospective Tenants, nor shall the Owner apply or permit the application of management policies or lease provisions with respect to the Rental Development which have the effect of precluding occupancy of units by such prospective Tenants.

(g)City Approval of Documents. The following documents, to be approved in writing by the City, shall be used in connection with the rental of the Inclusionary Rental Units. Amendments to the following documents shall also be approved by the City prior to implementation of the amendments:

(i) A marketing and management plan consistent with the terms of the Inclusionary Agreement and this Agreement and City marketing and management requirements as set forth in the Administrative Manual, establishing the process for seeking, selecting and determining the eligibility of tenants of the Inclusionary Rental Units.

(ii) Form of rental agreement or lease to be signed by tenants of the Inclusionary Rental Units. The rental agreement or lease shall include the following provisions: (i) a minimum twelve (12)-month term; (ii) the number of persons permitted to occupy the Inclusionary Rental Unit, not to exceed two persons per bedroom plus two; (iii) the Tenants' obligation to maintain the unit in a decent and safe condition and to inform the Owner of any need for maintenance or repair; (iv) a prohibition against sublease of the Unit; (v) an obligation to report changes in household size and/or household income to the Owner and City; (vi) nondiscrimination provisions (vii) an obligation to provide annual income certifications and documentation to the Owner and the City; and (viii) an obligation to comply with all monitoring requests of the City or its designee. The Owner's inclusion of the Lease

Addendum included in the Administrative Manual shall be deemed compliance with the requirements of this Section 2.7(b).

Section 28.
INCOME CERTIFICATION AND REPORTING

(a)Income Certification. The Owner will obtain, complete and maintain on file, immediately prior to initial occupancy and annually thereafter, income certifications from each Tenant renting any of the Inclusionary Rental Units. The Owner shall make a good faith effort to verify that the income provided by an applicant or occupying household in an income certification is accurate by taking two or more of the following steps as a part of the verification process: (a) obtain three pay stubs for the most recent pay period; (b) obtain an income tax return for the most recent tax year; (c) conduct a credit agency or similar search; (d) obtain an income verification form from the applicant's current employer; (e) obtain an income verification form from the Social Security Administration, Veterans Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (f) if the applicant is unemployed and has no such tax return, obtain another form of independent verification. Copies of Tenant income certifications shall be available to the City upon request.

(b)Compliance Reports. A compliance report meeting the requirements of the Administrative Manual, verifying compliance of all completed Inclusionary Rental Units with the terms of the Inclusionary Agreement and this Agreement, and certified as correct under penalty of perjury by the Owner and any property management company managing the Units, shall be submitted annually to the City department responsible for oversight and monitoring of affordable housing on April 1 of each year, commencing on the April 1 following issuance of final certificates of occupancy for one hundred percent (100%) of the Inclusionary Rental Units. If similar reports on some or all of the Inclusionary Rental Units are required for regulatory compliance with other financing programs, those reports may be deemed satisfactory for the purpose of this section by the City, with respect to the portion of the Inclusionary Rental Units covered by such reports, provided that copies are provided on an annual basis to the City with an owner certification addressed to the City.

(c)Additional Information. The Owner shall provide any additional information reasonably requested by the City. The City shall have the right to examine and make copies of all books, records or other documents of the Owner which pertain to the Rental Development.

(d)Records and Monitoring. The Owner shall maintain complete, accurate and current records pertaining to the Rental Development, including records pertaining to income and household size of Tenants. All Tenant lists, applications and waiting lists relating to the Rental Development shall at all times be kept separate and identifiable from any other business of the Owner and shall be maintained as required by the City, in a reasonable condition for proper audit. Owner shall retain all records related to

compliance with obligations under this Agreement and Chapter 17.45 for a period not less than five (5) years from the date of origination of such records, and make them available to City employees or others designated by the City for inspection and copying on five (5) business days' written notice. Owner shall permit City employees or others designated by the City to inspect the Property to monitor compliance with this Agreement following two (2) business days' written notice to Owner. The City shall be further entitled to monitor compliance with this Agreement and Chapter 17.45 as provided in the Administrative Manual.

Section 29.
OPERATION, MANAGEMENT, AND
MAINTENANCE OF THE DEVELOPMENT

(a)Residential Use. The Rental Development shall be operated only for residential use. No part of the Rental Development shall be operated as transient housing.

(b)Compliance with Inclusionary Housing Agreement and Inclusionary Ordinance. Owner shall comply with all applicable terms and provisions of the Inclusionary Housing Agreement and the Ordinance.

(c)Taxes and Assessments. Owner shall pay all real and personal property taxes, assessments, if any, and charges and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any line or charge from attaching to the Property; provided, however, that Owner shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event Owner exercises its right to contest any tax, assessment, or charge against it, Owner, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

(d)Management Responsibilities. The Owner is responsible for all management functions with respect to the Rental Development, including without limitation the selection of tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. A resident manager shall be required for all Rental Developments with sixteen (16) or more Units.

(e)Approval of Management Policies. The Owner shall submit its written management policies with respect to the Rental Development to the City for its review, and shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this Agreement.

(f)Property Maintenance. The Owner agrees, for the entire Term of this Agreement, to maintain all interior and exterior improvements, including landscaping, on the Property in good condition and repair (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, and in accordance with the following maintenance conditions:

The City places prime importance on quality maintenance to ensure that all City inclusionary housing developments and City-assisted affordable housing projects within the City are not allowed to deteriorate due to below-average maintenance. Normal wear and tear of the Rental Development will be acceptable to the City assuming the Owner agrees to provide all necessary improvements to assure the Rental Development is maintained in good condition. The Owner shall make all repairs and replacements necessary to keep the improvements in good condition and repair.

In the event that the Owner breaches any of the covenants contained in this section and such default continues for a period of ten (10) days after written notice from the City with respect to graffiti, debris, waste material, and general maintenance or thirty (30) days after written notice from the City with respect to landscaping and building improvements, then the City, in addition to whatever other remedy it may have at law or in equity, shall have the right to enter upon the Property and perform or cause to be performed all such acts and work necessary to cure the default. Pursuant to such right of entry, the City shall be permitted (but is not required) to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Property, and to attach a lien on the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the City and/or costs of such cure, plus a fifteen percent (15%) administrative charge, which amount shall be promptly paid by the Owner to the City upon demand.

(g)Insurance Requirements. The Owner shall maintain the following insurance coverage throughout the Term of this Agreement:

(i)Worker's Compensation insurance to the extent required by law, including Employer's Liability coverage, with limits not less than One Million Dollars (\$1,000,000) each accident.

(ii)Comprehensive General Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations.

(iii)Comprehensive Automobile Liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired vehicles, as applicable; provided, however, that if the Owner does not own or lease vehicles for purposes of this Agreement, then no automobile insurance shall be required.

(iv)Property insurance covering the Rental Development, in form appropriate for the nature of such property, covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the City. Flood insurance shall be obtained if required by applicable federal regulations.

The Owner shall cause any general contractor, agent, or subcontractor working on the Rental Development under direct contract with the Owner or subcontract to maintain insurance of the types and in at least the minimum amounts described in subsections (a), (b), and (c) above, except that the limit of liability for comprehensive general liability insurance for subcontractors shall be One Million Dollars (\$1,000,000), and shall require that such insurance shall meet all of the general requirements of subsections (e), (f), and (g) below, including, without limitation, the requirement of subsection (f).

Liability and Comprehensive Automobile Liability insurance to be maintained by such contractors and agents pursuant to this subsection shall name as additional insureds the City, its officers, agents, employees and members of the City Council.

(v)The required insurance shall be provided under an occurrence form, and Owner shall maintain the coverage described in subsections (a) through (d) continuously so long as this Agreement is in effect. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be three times the occurrence limits specified above.

(vi)Comprehensive General Liability, and Comprehensive Automobile Liability insurance policies shall be endorsed to name as an additional insured the City and its officers, agents, employees and members of the City Council.

(vii)All policies and bonds shall be endorsed to provide thirty (30) days prior written notice of cancellation, reduction in coverage, or intent not to renew to the address established for notices to the City.

Section 30. DEFAULT AND REMEDIES

(a)Default. Failure of the Owner to cure any default in the Owner's obligations under the terms of this Agreement within thirty (30) days after the delivery of a notice of default from the City will constitute a default under this Agreement and a failure to satisfy the Conditions of Approval with respect to the Rental Housing Development and the requirements of the Ordinance and, in addition to remedies for breach of this Agreement, the City may exercise any and all remedies available to it under the Subdivision Map Act, Chapter 17.45, or otherwise. City's remedies hereunder include but are not limited to:

(i)withholding, conditioning, suspending or revoking any permit, license, subdivision approval or map, or other entitlement for the Rental Housing Development, including without limitation final inspections for occupancy and/or certificates of occupancy;

(ii)instituting against the Owner, or other parties, a civil action for declaratory relief, injunction or any other equitable relief, or relief at law, including without limitation an action to rescind a transaction and/or to require repayment of any funds received in connection with such a violation;

(iii)where one or more persons have received financial benefit as a result of violation of this Agreement or of any requirement imposed under Chapter 17.45, the City may assess, and institute legal action to recover as necessary, a penalty in any amount up to and including the amount of financial benefit received, in addition to recovery of the benefit received;

(iv)prosecuting a misdemeanor against any person who has rented a residential unit at a rent exceeding the maximum allowed under this Agreement or to a household not qualified under this Agreement, or who has otherwise violated Chapter 17.45, or any other agreement, restriction or requirement authorized or imposed under Chapter 17.45;

(v)if and to the extent necessary to correct any such default, the Owner hereby grants to the City the option to lease, from time to time, units in the Rental Development for a rental of One Dollar (\$1.00) per unit per year for the purpose of subleasing such units to comply with Section 2.1 and 2.2 of this Agreement. Any rents received by the City under any such sublease shall be paid to the Owner after the City has been reimbursed for any expenses incurred in connection with such sublease; or

(vi)any other remedies authorized under Marina Municipal Code.

(b)Remedies Cumulative. No right, power, or remedy given to the City by the terms of this Agreement, the Regulatory Agreement or Chapter 17.45 is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the City by the terms of any such document, Chapter 17.45, or by any statute or otherwise against the Owner, and any other person. Neither the failure nor any delay on the part of the City to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the City of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Section 31.
GENERAL PROVISIONS

(a)Appointment of Other Agencies. At its sole discretion, the City may designate, appoint or contract with any other public agency, for-profit or non-profit organization to perform the City's obligations under this Agreement.

(b)Hold Harmless. Owner will indemnify and hold harmless (without limit as to amount) City and its elected officials, officers, employees and agents in their official capacity (hereinafter collectively referred to as "Indemnitees"), and any of them, from and against all loss, all risk of loss and all damage (including expense) sustained or incurred because of or by reason of any and all claims, demands, suits, actions, judgments and executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of or relating in any manner to the Rental Housing Development, the Inclusionary Rental Units, or Owner's performance or non-performance under this Agreement, and shall protect and defend Indemnitees, and any of them with respect thereto, except to the extent caused by the gross negligence or willful misconduct of the City. The provisions of this section shall survive expiration or other termination of this Agreement or any release of part or all of the Property from the burdens of this Agreement, and the provisions of this section shall remain in full force and effect.

(c)Covenants to Run With the Land. The City and the Owner hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to the Property, provided, however, that on the expiration of the Term of this Agreement said covenants and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof, shall be held conclusively to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the City expressly releases such conveyed portion of the Property from the requirements of this Agreement.

(d)Attorneys Fees and Costs. In any action brought to enforce this Agreement, the prevailing party shall be entitled to all costs and expenses of suit, including attorneys' fees. This section shall be interpreted in accordance with California Civil Code Section 1717 and judicial decisions interpreting that statute.

(e)Notices. All notices required pursuant to this Agreement shall be in writing and may be given by personal delivery or by registered or certified mail, return receipt requested, to the party to receive such notice at the addressed set forth below:

TO THE CITY:

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

With a copy to:

Robert Wellington
Marina City Attorney
Wellington Law Offices
857 Cass Street, Suite D
Monterey, CA 93940

TO THE OWNER:

Green Engineering
c/o Scott Green
25613 Shafter Way
Carmel, CA 93923

Any party may change the address to which notices are to be sent by notifying the other parties of the new address, in the manner set forth above.

(f) Integrated Agreement. This Agreement constitutes the entire Agreement between the parties and no modification hereof shall be binding unless reduced to writing and signed by the parties hereto.

(g) Term and Amendment of Agreement. This Agreement shall remain in effect in perpetuity provided, however, if the Rental Development is destroyed or demolished by forces of nature without action by Owner (or irreparably damaged by forces of nature and then demolished by Owner) and such destruction or demolition occurs at least fifty-five (55) years following the date of this Agreement, this Agreement shall terminate upon such destruction or demolition. This Agreement, and any section, subsection, or covenant contained herein, may be amended only upon the written consent of the City Manager or his or her designee, who shall have authority in his or her discretion to approve or disapprove amendment on behalf of the City.

(h) No Claims. Nothing contained in this Agreement shall create or justify any claim against the City by any person that Owner may have employed or with whom Owner may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the Property or the construction of the Rental Development.

(i)Applicable Law. This Agreement shall be governed by California law.

(j)Waivers. Any waiver by the City of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the City to take action on any breach or default of Owner or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Owner to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the City to any act or omission by Owner shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the City's written consent to future waivers.

(k)Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

(l)Multiple Originals; Counterpart. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

(m)Recording of Agreement. The Owner shall cause this Agreement to be recorded against the Property in the Official Records of the County of Monterey.

(n)Severability. In the event any limitation, condition, restriction, covenant, or provision contained in this Agreement is to be held invalid, void or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall nevertheless, be and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

OWNER:

CITY:

GREEN ENGINEERING, a _____

City of Marina, a charter city

By: _____

By: _____
Layne Long, City Manger

APPROVED AS TO FORM:

By: _____
City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B

MAXIMUM INITIAL RENTS OF INCLUSIONARY RENTAL UNITS*

<u>Income Classification</u>	<u>1 Bedroom</u>	<u>2 Bedrooms</u>
Very Low Income Unit	\$NA	\$816.25
Low Income Unit	\$NA	\$927.75
Moderate Income Unit	\$NA	\$1,700.87

NOTE: UTILITY ALLOWANCES MUST BE SUBTRACTED TO CALCULATE AMOUNT THAT MAY BE CHARGED TO TENANTS – SEE EXHIBIT C

EXHIBIT C

UTILITY ALLOWANCE FOR INCLUSIONARY RENTAL UNITS*
(SUBJECT TO CHANGE ANNUALLY)
ENERGY EFFICIENCY UTILITY ALLOWANCE FOR QUALIFIED APARTMENT BASED
ON NEW CONSTRUCTION

Source: Housing Authority of the County of Monterey
Effective January 1, 2010

1 Bedroom 2 Bedrooms

Heating: natural gas
Heating: Electric
Cooking: Natural Gas
Cooking: Electric
Other Electric
Water Heating: Natural Gas
Water Heating: Electric
Water
Sewer
Trash Collection
Range
Refrigerator
Microwave

***NOTE: SUBTRACT UTILITY ALLOWANCE FROM MAXIMUM RENT TO
CALCULATE AMOUNT THAT MAY BE CHARGED**

**Agenda Item 9a
Marina Beach Townhomes Initial Study**

Due to the large file please use the link below to access the Marina Beach Townhome Initial Study.

Link to <http://ca-marina.civicplus.com/DocumentCenter/View/5467>

“EXHIBIT F”

MARINA BEACH TOWNHOMES 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). The mitigation monitoring and reporting program is designed to ensure compliance with adopted mitigation measures during project implementation. For each applicable mitigation measure recommended in this Environmental Impact Report, specifications are made herein that identify the action required and the monitoring that must occur. In addition, a responsible agency is identified for verifying compliance with individual conditions of approval contained in the Mitigation Monitoring and Reporting Program (MMRP).

In order to implement this MMRP, the City of Marina shall designate a Project Mitigation Monitoring and Reporting Coordinator (“Coordinator”). The coordinator shall be responsible for ensuring that the mitigation measures incorporated into the project are complied with during project implementation.

The following table shall be used as the coordinator’s checklist to determine compliance with required mitigation measures.



Mitigation Measure/Condition of Approval	Action Required	Timing	Monitoring Frequency	Responsible Agency or Party	Initial	Date	Comments
BIOLOGICAL RESOURCES							
<p>B-1 Nesting Bird Surveys and Avoidance. Initial site disturbance shall be prohibited during the general avian nesting season (February 1 – August 30), if feasible. If breeding season avoidance is not feasible, a qualified biologist shall conduct a preconstruction nesting bird survey to determine the presence/absence, location, and status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds, protected by MBTA and the FGC, nesting bird surveys shall be performed not more than 14 days prior to the scheduled vegetation clearance. In the event that active nests are discovered, a suitable buffer should be established around such active nests and no construction within the buffer allowed until a qualified biologist has determined that the nest is no longer active (e.g. the nestlings have fledged and are no longer reliant on the nest). No ground disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 30 and February 1.</p>	<p>Review and approve results of pre-construction/grading surveys conducted by a qualified biologist to determine presence or absence of breeding birds on-site. If birds are present, confirm appropriate buffers have been established.</p>	<p>Complete preconstruction surveys within 14 days of the start of any vegetation removal or construction activity, prior to issuance of grading permit.</p>	<p>Once prior to issuance of a grading permit and periodically during construction</p>	<p>City of Marina Community Development</p>			
NOISE							
<p>N-1 Mufflers. During all demolition, excavation, and grading, all construction equipment, fixed or mobile, shall be operated with closed engine doors and shall be equipped with properly operating maintained mufflers consistent with</p>	<p>Perform site inspection to confirm compliance.</p>	<p>Spot check for compliance during all excavation, grading, and construction.</p>	<p>Ongoing throughout construction</p>	<p>City of Marina Community Development</p>			



Marine Beach Townhomes
Mitigation Monitoring and Reporting Program

Mitigation Measure/Condition of Approval	Action Required	Timing	Monitoring Frequency	Responsible Agency or Party	Initial	Date	Comments
manufacturers' standards.							
N-2 Electrically-Powered Tools and Facilities. To the extent practical, electrical power shall be used to run air compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.	Perform site inspection to confirm compliance.	Spot check for compliance during all excavation, grading, and construction.	Ongoing throughout construction	City of Marina Community Development,			

