

CITY OF SANTA CRUZ
City Hall
809 Center Street
Santa Cruz, California 95060



PLANNING COMMISSION

Regular Meeting

October 15, 2020

7:00 P.M. GENERAL BUSINESS AND MATTERS OF PUBLIC INTEREST, COUNCIL CHAMBERS

The City of Santa Cruz does not discriminate against persons with disabilities. Out of consideration for people with chemical sensitivities, we ask that you attend fragrance free. Upon request, the agenda can be provided in a format to accommodate special needs. Additionally, if you wish to attend this public meeting and will require assistance such as an interpreter for American Sign Language, Spanish, or other special equipment, please call the City Clerk's Department at (831) 420-5030 at least five days in advance so that we can arrange for such assistance, or email cityclerk@cityofsantacruz.com. The Cal-Relay system number: 1-800-735-2922.

Any writing related to an agenda item for the open session of this meeting distributed to the Planning Commission less than 72 hours before this meeting is available for inspection at the City Planning Department, 809 Center Street, Room 107 or on the City's website at www.cityofsantacruz.com. These writings will also be available for review at the Planning Commission meeting in the public review binder at the rear of the Council Chambers.

APPEALS: Any person who believes that a final action of this advisory body has been taken in error may appeal that decision to the City Council. Appeals must be in writing, setting forth the nature of the action and the basis upon which the action is considered to be in error, and addressed to the City Council in care of the City Clerk.

Appeals must be received by the City Clerk within ten (10) calendar days following the date of the action from which such appeal is being taken. An appeal must be accompanied by a six hundred sixty five dollar (\$665) filing fee, unless the item involves a Coastal Permit that is appealable to the Coastal Commission, in which case there is no fee.

COVID-19 ANNOUNCEMENT: This meeting will be held via teleconference ONLY.

In order to minimize exposure to COVID-19 and to comply with the social distancing suggestion, the Council Chambers will not be open to the public. The meeting may be attended remotely, using any of the following sources:

PUBLIC COMMENT:

- **PRIOR TO THE MEETING:** You may comment online at: <http://www.cityofsantacruz.com/pc> or send an email to cityplan@cityofsantacruz.com (if you wish to include attachments) during the open period: starting 7pm on 9/11 through 12pm on 9/16
- **DURING THE MEETING:** See instructions below for public comment upon meeting time. We recommend you call in at the start of the meeting: 7pm.

Call any of the numbers below. If one is busy, try the next one.

- +1 669 900 9128 or
- +1 346 248 7799 or
- +1 646 558 8656 or
- +1 253 215 8782 or
- +1 301 715 8592 or
- +1 312 626 6799

- **Enter the meeting ID number: 976 0789 5990**
- **When prompted for a Participant ID, press #.**
- **Press *9 on your phone to “raise your hand” when the Commission Chair calls for public comment.**
 - It will be your turn to speak when the Clerk unmutes you. You will hear an announcement that you have been unmuted. The Chair will determine the amount of the time given to speak. The Clerk will notify you of your final 30-seconds of time.
 - You may hang up once you have commented on your item of interest or be muted to stay on the line and listen to the remaining meeting.
 - If you wish to speak on another item, two things may occur:
 - 1) If the number of callers waiting exceeds capacity, you will be disconnected and you will need to call back closer to when the item you wish to comment on will be heard, or
 - 2) You will be placed back in the queue and you should press *9 to “raise your hand” when you wish to comment on a new item.

Enter *6 to unmute your phone.

NOTE: If you wish to listen to the meeting and don’t wish to comment on an item, you can do so at any time via the same instructions above.

Call to Order

Roll Call

Absent w/notification

Statements of Disqualification

Oral Communications

Approval of Minutes

1. Approval of the Minutes of October 1, 2020.
Approve the minutes of October 1, 2020.

Public Hearings

2. Santa Cruz Wharf Master Plan and Environmental Determination

That the Planning Commission recommend that the City Council adopt: a) The resolution certifying the Final Environmental Impact Report (Attachment 1); and, b) The Resolution of CEQA Findings and Findings of Fact and Final Environmental Impact Report and a Mitigation Monitoring and Reporting Plan (Attachment 2); and, c) The Santa Cruz Wharf Master Plan, subject to modifications proposed by staff.

3. Amendment to Title 24 of the Santa Cruz Municipal Code (Zoning Ordinance) by amending Part One of Chapter 24.16, "Inclusionary Housing Requirements" concerning inclusionary housing requirements including but not limited to consideration of Housing Authority of the County of Santa Cruz administered rental assistance vouchers as an inclusionary option for new construction residential development projects, which would include modifications to required area median income limits and rental rates, and modify inclusionary ordinance requirements. (Environmental Determination: CEQA Exemption) (City of Santa Cruz, applicant)

That the Planning Commission review amendments to the Inclusionary Housing Requirements Section of Title 24 of the Santa Cruz Municipal Code (Zoning Ordinance) Part One of Chapter 24.16, Affordable Housing Provisions and recommend that the Council add an alternative for compliance that would allow rental residential developments the ability to make 5% of their required 20% affordable units available to Housing Authority of the County of Santa Cruz (Housing Authority) tenant based subsidy holders, and if no such voucher holders can be found to occupy the unit(s), that the 5% be restricted to 120% Area Median Income (AMI) or lower households and rent levels in perpetuity.

Information Items

Subcommittee/Advisory Body Oral Reports

Items Referred to Future Agendas

Adjournment

CITY OF SANTA CRUZ
City Hall
809 Center Street
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PLANNING COMMISSION

MINUTES Regular Meeting October 1, 2020

7:00 P.M. GENERAL BUSINESS AND MATTERS OF PUBLIC INTEREST, ZOOM WEBINAR

Call to Order-The meeting was called to order at 7:02 p.m.

Roll Call-Commissioners Schiffrin, Conway, Dawson, Nielsen, Spellman, and Maxwell were present. Commissioner Greenberg was present at 7:19 p.m.

Absent w/notification

Statements of Disqualification-None

Oral Communications-The following members of the public addressed the Commission: Susan Monteith, Keirsha Durham, Chris Yeagers, Sandra Iveny.

Approval of Minutes

1. Approval of the minutes of September 17, 2020.

MOTION: Motion made by Commissioner Dawson, seconded by Commissioner Nielsen, to approve the minutes of September 17, 2020.

ACTION: Motion passed by the following vote:

AYES: Dawson, Nielsen, Conway, Maxwell, Spellman, Schiffrin

NOES: None

ABSENT: Greenberg

Public Hearings

2. A20-0010-CITY OF SANTA CRUZ WHARF MASTER PLAN AND ENVIRONMENTAL DETERMINATION Consideration of Santa Cruz Wharf Master Plan, including but not limited to infrastructure replacement/expansion, new structures and walkways, with expanded public access and cultural facilities, and consideration of the associated

Environmental Impact Report (EIR). Pending further consultation with the Coastal Commission, this document may be considered a change to the Local Coastal Program, in which case Coastal Commission approval would be required. (Environmental Determination: EIR) (Applicant: City of Santa Cruz).

David McCormic, Development Manager for the Economic Development Department, presented the request for continuance of this item to the Commission.

MOTION: Motion made by Commissioner Nielsen, seconded by Commissioner Dawson, to continue the Santa Cruz Wharf Master Plan and Environmental Determination for the Final Environmental Impact Report (EIR) to the hearing of October 15th, 2020, in order to allow the Historic Preservation Commission (HPC) the opportunity to review the item and provide comments at the October 14th, 2020 HPC meeting.

ACTION: Motion passed by the following vote:

AYES: Dawson, Nielsen, Conway, Maxwell, Spellman, Greenberg, Schiffrin

NOES: None

ABSENT: None

Information Items-Assistant Planning Director Eric Marlatt advised the City Council approved the 912-914 Seabright project at their 9/22/20 meeting; the Inclusionary Ordinance Section 8 item will return to the Commission on October 15, 2020; the slope ordinance item and a project at 119 Coral St. are tentatively scheduled for the first meeting in November.

Subcommittee/Advisory Body Oral Reports-Commissioner Schiffrin provided the Commission with an update on the activities of the Resilient Coast Technical Advisory Committee.

Adjournment-The meeting adjourned at 7:47 p.m.



PLANNING COMMISSION AGENDA REPORT

DATE: October 8, 2020

AGENDA OF: October 15, 2020

ITEM: **Santa Cruz Wharf Master Plan and Environmental Determination**

RECOMMENDATION: That the Planning Commission recommend that the City Council adopt:

- a) The resolution certifying the Final Environmental Impact Report (Attachment 1); and,
- b) The Resolution of CEQA Findings and Findings of Fact and Final Environmental Impact Report and a Mitigation Monitoring and Reporting Plan (Attachment 2); and,
- c) The Santa Cruz Wharf Master Plan, subject to modifications proposed by staff.

BACKGROUND:

The Santa Cruz Wharf Master Plan (“Wharf Master Plan”) and its accompanying Engineering Report was accepted by the City Council on October 28, 2014. At that time the Council also authorized staff to proceed with an environmental review in accordance with with the California Environmental Quality Act (“CEQA”) and City of Santa Cruz environmental guidelines. On November 17, 2016 the Planning Commission unanimously recommended approval of the Wharf Master Plan and Mitigated Negative Declaration. On November 22, 2016, the City Council deferred approval of the Wharf Master Plan until an Environmental Impact Report (EIR) had been completed. Wharf Master Plan Consistencies with General Plan and Local Coastal Program are provided in (Attachment 3) attached to this staff report. The staff report from the November 22, 2016 Council Meeting is attached (Attachment 4) and provides detailed background information on the Wharf Master Plan, including strategies, goals, and specific project proposals. The EIR for the Wharf Master Plan has now been completed, circulated for public comments, and the responses to comments have been published in the Final EIR for consideration of the proposed Wharf Master Plan. The Wharf Master Plan, EIR, and other related documents can be found at the following web address: <http://www.cityofsantacruz.com/wharfmasterplan>. This item was heard at the Historic Preservation Commission on October 14, 2020. A synopsis of their findings will be provided at the October 15, 2020 Planning Commission Hearing. Following this Planning Commission meeting, the Wharf Master Plan and EIR will be scheduled for City Council at a yet to be determined date.

The Wharf Master Plan, if approved, would establish a framework for any potential future expansion of the Wharf, most especially the improvements called out in the Master Plan. The Wharf has not had such a comprehensive plan and environmental review prepared since 1980.

AGENDA REPORT

PC Meeting of October 15, 2020

SUBJECT: **Wharf Master Plan and Environmental Determination**

PAGE 2

The California Coastal Commission (CCC), the state agency who oversees any proposed development along the coast of California, has long urged the City to develop such guidelines as were recommended in the Beach South of Laurel Area Plan. An adopted master plan with environmental review is also required for the Wharf to be eligible to apply for competitive grants and outside funding. The Coastal Commission staff has also suggested that the Wharf Master Plan be submitted to the Coastal Commission for approval as a Public Works Plan. Pursuant to section 30605 of the California Coastal Act, a Public Works Plan may be approved similar to a Local Coastal Plan (LCP) for a local jurisdiction, in order to promote greater efficiency for the planning of public works development projects and as an alternative to project-by-project review by the CCC.

Where the Wharf Master Plan will create guidelines and identify opportunities for future projects, it will not lock in the development of any proposed improvements. All future projects on the Wharf will be subject to future City Council review and approval, including a public outreach and input process. Nevertheless, the Wharf Master Plan creates opportunities that will help sustain the Wharf through some significant proposals, including the rehabilitation of existing infrastructure, as well as roughly 2.5 acres of new open public space, up to three new cultural buildings, two new ADA compliant boat landings, centralized storm water and waste management, and modest commercial infill from 4,000 to 22,000 square feet. The EIR has studied the potential environmental impacts of these proposals and the attached Mitigation Monitoring and Reporting Plan outlines how the City will mitigate any significant impact of these proposed project elements.

Wharf History in Brief

Since it was constructed in 1914, the Wharf has been expanded at least four times, nearly doubled in size from its original 4.2 acres to roughly 7.5 acres. Each expansion of the Wharf has accompanied changes in the local economy and has provided much needed revenues that have allowed the Wharf to remain standing for another generation. Initially a loading pier for rail freight like timber as well as passenger liners and other goods, the Wharf quickly embraced the local fishing industry while other local piers were decommissioned and fish stocks remained healthy. With overfishing and fall out from the Second World War, the local fishing industry began to decline from historical highs throughout the late 1940's into the 1960's. Around the same time, the Santa Cruz tourism industry witnessed a reinvigoration. After the opening of the Santa Cruz Harbor c.1963, the Wharf has increasingly become a tourist oriented and largely recreational destination. In 1960 the original warehouse building at the end of the Wharf was removed, along with about 45' from the end of the Wharf, which had become unstable. Removal of the warehouse cleared the way for the Dolphin (c. 1970) and fishing holes funded by the Wildlife Conservation Board along with the east parking lot as a public fishing park. Expansion in the early 1980's was guided by the last plan developed for the Wharf and delivered the Agora buildings and public plaza by the Boat Rentals Building, as well as the Commons stage area and buildings, now home to Marini's, Vino Locale, Olita's, Makai, and Made in Santa Cruz. Today, the Wharf is home to more than 25 businesses employing over 400 people, including roughly 10% of the City's restaurant workforce, and generating nearly \$30,000,000 in revenue for the

AGENDA REPORT

PC Meeting of October 15, 2020

SUBJECT: **Wharf Master Plan and Environmental Determination**

PAGE 3

local economy. These businesses, more than 90% of which are locally owned, help sustain the Wharf through rents covering more than half the Wharf's annual operating budget.

The Santa Cruz Municipal Wharf is among the longest wooden ocean piers in the world, it is also the longest on the Pacific Coast of the U.S., and also has a distinct L-shape and shoreline orientation that reflect its historical engineering by C. John Brunnier providing coastal protection for medium sized commercial vessels. These conditions and its association over time with a number of industries, which have driven the economic development of Santa Cruz, are all cited in the EIR as factors supporting the Wharf's consideration as a potentially historic structure. In 1976, the Wharf was included as the first structure on the Santa Cruz Historic Building Survey (HBS) with a rating of "excellent." This rating reflects a number of factors including the significance of its history, architectural significance, neighborhood setting, physical condition, and modifications from the original design. It is worth clarifying that Architectural Significance in the HBS relates largely to the workmanship, design, materials, and setting of the Wharf structure itself, and that the buildings, many of which were relatively new or not yet built when the Wharf was listed are considered by CEQA to be non-contributing elements of the structure. Changes in Physical condition and modifications from the original have also clearly occurred since 1976, however few in Santa Cruz would doubt the historical importance of the Wharf.

DISCUSSION:

After more than a century defining the Santa Cruz waterfront, it is all too easy to view the Wharf as an immovable and immutable fixture, an icon of Santa Cruz's collective identity that can only be damaged by changing. The reality is that the Wharf has always changed. Life in the Pacific Ocean is hard and requires adaptation to survive. Nevertheless, many people hold Wharf memories that are so strong, vivid, and long lasting, that it can be hard to see any change to the Wharf, whether past, present, or proposed, as anything less than threatening the Wharf's entire legacy; its history, culture, family, and the even Santa Cruz state of mind.

Discussions about the Wharf Master Plan have largely focused on the proposed improvements to the Wharf rather its surrounding context Wharf or the underlying needs that influenced to the Plan. One of the main goals of the Wharf Master Plan is the long-term sustainability and increased resilience for the future. To achieve this goal we will need to balance the social, environmental, and economic needs of the Wharf. As the Wharf Master Plan approaches final consideration, it is important to revisit the Plan with these goals in mind and to put in context what an approved master plan actually means for the future of the Wharf. Additional information and background Wharf Master Plan and process to date, can be found in the attached staff report from the November 22, 2016 City Council Hearing (Attachment 4).

AGENDA REPORT

PC Meeting of October 15, 2020

SUBJECT: **Wharf Master Plan and Environmental Determination**

PAGE 4

Commission Review

Santa Cruz now considers what the future may look like for the Wharf, including the need, size, character, and appropriateness of improvements in the Wharf Master Plan. The Planning Commission is charged by the Santa Cruz Municipal Code with reviewing and recommending Master Plans for public facilities. If approved, the Planning Commission (PC) will have discretion to permit certain major improvements to the Wharf structure. This includes this includes new buildings, and potential land use changes, and other projects subject to the Zoning Code. For this reason, PC perspective on these potential projects prior to adoption of the Wharf Master Plan, will help ensure any future improvements to the Wharf are consistent with the broader goal of sustaining the Wharf itself. Likewise, where the Wharf Master Plan proposes Design Standards meant to bring future development of the Wharf closer to its historical experience and in line with the Beach and South of Laurel Comprehensive Area Plan, feedback from the PC could help enrich the Design Standards to accomplish the Master Plan goals in a thoughtful, authentic, and appropriate way. For instance concepts like active store fronts, smaller commercial units, signage, building materials, transparency, and second floor uses, could all benefit from PC feedback.

In making its decision whether to recommend approval of the Wharf Master Plan to City Council, staff urges the PC to consider the long term sustainability of the Wharf itself. The unprecedented challenges already apparent from climate change, COVID-19, as well as the Wharf's mounting infrastructure backlog, harsh environmental and regulatory setting, and the fiscal solvency of the Wharf in light of the City's now acute and structural budget shortfalls are all factors that impede the City's ability to effectively steward the Wharf. These underlying conditions reinforce the immediate need for Wharf Master Plan approval. Additional public comments on the Draft EIR and discussion anticipated at the PC hearing, will likely outline additional work needed to balances these concerns for the benefit of the Wharf and sustainability of the Wharf's character, experience, and defining features.

The Need

It has been said many times that the one constant on the Wharf is change. This statement has never been truer than today. Today, Immediate challenges like the COVID-19 pandemic and the raging CZU Lightning Complex Fire have devastated Wharf businesses and corresponding revenues needed to maintain the Wharf. As the pandemic rages on the future of our locally owned Wharf businesses becomes more uncertain. Three Wharf restaurants now sit in limbo awaiting signs that the worst is behind us, struggling to hire and retain staff, or otherwise trapped between reopening too soon and certain bankruptcy. Others are operating with drastically reduced staffing, mounting debts, and much smaller crowds of paying customers. Nearly all of our Wharf businesses are locally owned, many have been on the Wharf for decades. These businesses are partners in our community, many support local causes, schools, and non-profits, and the rents they pay typically cover more than half of the annual Wharf maintenance and operating expenses. Most of the remainder is generated by parking fees that are regulated by the California Coastal Commission.

AGENDA REPORT

PC Meeting of October 15, 2020

SUBJECT: **Wharf Master Plan and Environmental Determination**

PAGE 5

Even before the catastrophic fiscal impacts of the pandemic, rent revenues and parking fees have not been sufficient to keep pace with the rising cost of maintenance, operations, and permitting as they once had. Since at least 2015, revenues have barely been balanced with the cost of maintenance and operations most years. When lifeguards and marine rescue are included, the Wharf has been struggling financially for four of the last six years. This despite the fact that since 2010 leases have been re-negotiated with more favorable rents for the City with greater revenues than had historically been received. Unfortunately, these increases have lead merchants to increase prices, as they themselves wrestle with slimmer margins due to ever increasing labor, product, utility, and insurance costs. The increasing disparity between Wharf revenues and costs, is now compounded by the pandemic and has increased the Wharf's reliance on transfers from the City's General Fund, an increasingly unsustainable situation given the City's mounting budget crisis.

Prior to the pandemic, the City already had structural budget deficits projected at up to \$8.6 million through at least FY 2023. Now, as the City and country remain mired in the pandemic, revenues have dropped dramatically and the City faces an acute budget shortfall of between \$12 and \$18 million from FY 2021 through FY 2022. The City Council is actively making difficult cuts to broad city services, including public safety, community programs, and Wharf maintenance, among others. City staff is operating at a 10% reduction due to workforce furloughs. As the Wharf Crew struggles under these conditions and increasingly needs supplemental operating funds, the City is less and less able to address those needs with resources at hand.

One visit to the Wharf today however, will quickly make clear that the operating shortfall is only the tip of the iceberg. While the 2014 Wharf Engineering Report stated that the Wharf pilings are in generally good condition and only 5% needed replacement, that report also estimated total rehabilitation costs of roughly \$11,600,000. If escalated steadily at around 3% inflation this number could easily exceed \$14,000,000 today. Of course infrastructure does not degrade on a straight line, but more often slowly and then all at once. This has happened before, having cost the Wharf nearly 50' of its original length. The symptoms are visible throughout, from crumbling pavement, to obsolete davits and boat landings, a-frames, as well as a silent fungal rot attacking decking and the shear strength of the Wharf. Conditions are worsening.

Without significant reinvestment soon, parts of the Wharf may reach a tipping point and begin to fail. Correcting the infrastructure backlog problem is a level of investment that the City does not currently have resources for and that the Wharf Crew cannot manage alone. The City must attract additional investment and outside grant funding. To do so, the City needs an approved Master Plan and EIR.

Already at our doorstep, climate change is bringing on stronger, more unpredictable storms and rising seas. The Wharf has lost more than a dozen piles over the past year due to storm damage and marine debris. The Pacific Ocean is unforgiving and the Wharf is approaching a slow boil. As storms and seas grow more violent, additional strength and bracing will be needed to resist it,

AGENDA REPORT

PC Meeting of October 15, 2020

SUBJECT: **Wharf Master Plan and Environmental Determination**

PAGE 6

as will buffers to protect the Wharf's most vulnerable and difficult to repair infrastructure. The East Promenade and West Walkway help provide this additional stability as well as emergency vehicle access, while the latter will defend pilings under the buildings from the bombardment of waves and logs. Such improvements will increase the resilience of the Wharf to uncertain conditions and are consistent with goals and very high priority projects outlined in the City of Santa Cruz Climate Adaptation Plan Update (2017-22); available online at <https://www.cityofsantacruz.com/home/showdocument?id=63040>.

The reality is the City does not have close to the resources needed to sustain even the existing Wharf and evidence is plain to see. Likewise, state and federal grant funding agencies rarely provide funding for rehabilitation or maintenance and usually want new development. What this means, is that securing funding for much needed critical infrastructure repairs to the existing Wharf will be most successful if tied to new infrastructure. To be eligible for any such funding, these agencies also usually require approved plans and environmental review (i.e. EIR). Unfortunately, even this funding outlook is becoming increasingly bleak as the state stands ready to cut \$14 billion in funding from its FY 2021 budget if additional federal stimulus is not passed by October 15, 2020. These cuts will cause many existing grant funds to dry up for the foreseeable future.

Sustaining the Wharf

In 1987, the United Nations Brundtland Commission defined sustainability as “meeting the needs of the present without compromising the ability of future generations to meet their own needs.” The Wharf Master Plan is a 20-30 year plan that does just that. The Plan responds to the mounting needs for additional financial resources as well as reinforced structural capacity to resist the impacts of a changing climate to ensure the Wharf will stand for future generations. Another popular measure of sustainability is the so-called “triple bottom line” by which a project tries to balance the social, environmental, and financial needs of a facility. The Wharf is a perhaps the perfect case study for this framework.

While history can never be replaced, the Wharf Master Plan aims to reinforce our experiential connection to the past through Design Standards that ensure new development and renovations will lead to more open storefronts and uses with a feel closer to the historical Wharf. The Master Plan also calls for the additional social benefits through the addition of roughly 2.5 acres of new public open space, supporting fishing, sightseeing, evening strolls, as well as bicycle travel. Likewise, up to three proposed cultural buildings, the Gateway Building, Pavilion, and Landmark Building each create placeholders for future community led projects that will meet the needs of future generations. Whether they be a new home for the Santa Cruz Surfing museum, open water surfers, or an arts and maker's marketplace, the Wharf Master Plan creates the opportunity without specifying the exact look, use, or space that may one day evolve there. The Wharf Master Plan, also proposes to consolidate the existing five (5) boat landings into two (2) new landings for small and medium sized vessels, that will provide universal access to boating compliant with the Americans with Disabilities Act (ADA)

AGENDA REPORT

PC Meeting of October 15, 2020

SUBJECT: Wharf Master Plan and Environmental Determination

PAGE 7

The Wharf, although (hu)man-made, has created a rich habitat for many species of flora and fauna. At and under the waves, the Wharf functions much like an artificial reef, giving shelter to countless mollusks, ground fish, mammals, and other species. Above water, the Wharf hosts dozens of visiting birds species, including at least four (4) of which are known to have nested there. The Wharf EIR and Mitigation Monitoring and Reporting Plan (Attachment 5) specify strict mitigation measures to reduce potential impacts to species from construction of elements in the Wharf Master Plan. In addition to these measures, the Wharf is subject to ongoing permitting and oversight of several state and federal agencies such as the California Coastal Commission, U.S. Army Corps of Engineers, National Oceanic and Atmospheric Administration, and U.S. Department of Fish and Wildlife, among others.

Together this intensive web of regulatory oversight ensures that new construction and ongoing maintenance are conducted as carefully as possible to minimize impacts to wildlife in the Monterey Bay National refuge. Without an approved EIR however, the City has been mired for nearly two years in state and federal permitting for critical repairs and has paid significant consultant and filing fees for emergency permits as well.

Critical to preserving the social and environmental benefits of the Wharf are proposals to increase its commercial vitality. The Wharf Master Plan proposes modest new commercial development of up to 4,000 square feet as well infill of existing commercial footprints with up to 18,000 square feet of second story additions or roof top dining. This would provide for an increase in commercial uses of up to 33%, providing much needed financial resources to sustain the Wharf. The Master Plan also provides two new ADA accessible boat landing, the South Landing and Small Boat Landing. As envisioned, the South Landing was designed for vessels up to 200 tons of displacement or akin to a Coast Guard Cutter at 110' in length. This landing is intended for sunset tours, fishing charters and commercial fish landings, whale watches, and research vessels.

The Master Plan has never envisioned either ocean liner landings or shuttles for such vessels berthed offshore. Based upon community feedback on the DEIR, staff recommends these be more clearly barred by the Master Plan. It is hoped that a return of commercial fish landings to the Wharf would bring back some semblance of the Wharf's fishing history and help the restaurants provide an authentic 'ocean to table' experience. The Small Boat Landing on the other hand, would free up more deck space for fishing and sight-seeing, while expanding recreational offerings from existing tenants like Venture Quest Kayaks and Santa Cruz Boat Rentals. Programming of the proposed pavilion structure could yield not only year round use of the stage area, but also potential revenues from special events and weddings. These strategies help support and increase in wharf sustaining ongoing revenues, while the mere approval of the Master Plan and EIR will help attract major investments and grants to address the infrastructure backlog.

What will the Master Plan Do?

A popular misconception about Master Plans is that they represent a definitive final design for a project. While this is more common for private development than for public facilities, Master Plans more often create opportunity sites for further discussion, community engagement, and project planning. Master Plans have a way of bringing together constituencies, forcing difficult conversations, and finding common ground on a collective vision or need for the future. This occurs both prior to adoption, as well as through implementation of a plan, usually over many years. The Wharf Master Plan carries on this trend.

An approved Master Plan also signals to state and federal funding agencies that a community is committed to the long term use and sustainability of a public resource. The absence of a current Master Plan has reduced the City's ability to attract grants or other investment in the Wharf since at least 1998, when the California Coastal Commission went on record in the Beach and South of Laurel Comprehensive Area Plan calling on the City to develop objective design guidelines for the Wharf. Approval of the Wharf Master Plan and its associated EIR would establish objective standards for any projects proposed on the Wharf and would allow more substantive community discussions about what new public spaces and buildings should be.

Of the potential changes contemplated in the Wharf Master Plan, only the East Promenade and Entrance Gate relocation have been studied under CEQA at a "project" level. These projects were proposed to expand public and emergency access to the Wharf as well as reduce congestion along Beach Street. Apart from these two elements, all other features proposed under the Wharf Master Plan are only proposed at a very conceptual level and will need additional community outreach and environmental review, as well as partnerships and fundraising before they can potentially be constructed. This may lead to somewhat or even substantially different projects than currently contemplated in the Master Plan. Many concerns raised to date can be better addressed as individual projects are brought forward in the future for community input and review.

The Wharf Master Plan Process

The Wharf Master Plan was developed through extensive community engagement, beginning with eight (8) focus group meetings and ongoing outreach to stakeholders including wharf tenants, neighbors and residents, adjacent businesses, civic groups, Coastal Commission, marketing and tourism, and marine science and industry. Kick-off of the Wharf Master Planning process was advertised in the Santa Cruz Sentinel ("Sentinel") and a total of 1,400 notices were mailed to interested parties, stakeholders, and those in close proximity to the Wharf. Throughout development of the Wharf Master Plan a total of 7 articles were published by the Sentinel, Santa Cruz County Conference, and Visitors Council and the Silicon Valley Business Journal. When the Administrative Draft Master Plan was prepared a Milestone Meeting was held, inviting all participants to date, together with an additional 1,400 mailed notices, two quarter page ads in the

AGENDA REPORT

PC Meeting of October 15, 2020

SUBJECT: **Wharf Master Plan and Environmental Determination**

PAGE 9

Sentinel, and a press release reaching 75+ media outlets. In September 2014, a Wharf Master Plan Briefing Paper was prepared for public release and was provided on the City's website as well as distributed through Santa Cruz Neighbors for distribution to their mailing list. October 2014 marked the 100th anniversary of the Santa Cruz Municipal Wharf and a scale model was presented at the celebration for public feedback along with graphical depictions of the proposed Wharf Master Plan Improvements. The community vision derived from all of these efforts was combined with feedback and the technical analysis in the Engineering Report to refine the Final Draft Wharf Master Plan accepted by City Council on October 14, 2014.

When the Wharf Master Plan was heard at Planning Commission on November 17, 2016, the Commission recognized several positive aspects of the Plan, including increased public access, dedicated pedestrian and bicycle circulation, reduced traffic congestion by relocating entrance gates, improved storm water filtration, secondary emergency access, and preliminary support of the Coastal Commission. They also expressed a desire to better understand the visual implications of the proposed buildings, while also apparently understanding that the Wharf Master Plan is only a guideline. As such there will be many more opportunities to assess and make decisions on the design specifics of any proposed projects.

Despite these efforts, as the Wharf Master Plan seemed headed for approval in late 2016, it became clear that a strong and very vocal group, of both residents and visitors had concerns about the Plan. Concerns over impacts to wildlife, the scale of buildings, change to the Wharf, and climate change, all drove the call for a full Environmental Impact Report (EIR).

Not to discount the sentiment behind these views, it was the view of staff at the time, that few if any of the comments met the thresholds to require an EIR under the California Environmental Quality Act.

Nevertheless, staff agreed that a project of this scale, which clearly roused many concerns warranted a full EIR and revised the staff recommendation at City Council to defer approval of the Wharf Master Plan until an EIR could be completed. City Council agreed and directed staff to prepare an EIR.

A Notice of Preparation for the EIR was issued on May 24, 2017 and a public Scoping Session was held on June 14, 2017. Public comments from the Scoping Session focused the EIR on enhanced study of aesthetics; biological resources; cultural and tribal cultural resources; geology, hydrology, and water quality; transportation and traffic; water supply and utilities; and land use. Shortly thereafter the 2018 election led to changing priorities on the City Council, indefinitely delaying the release of the EIR as the City Council work plan was scheduled to be redrafted.

Against this backdrop, it has been suggested by some in the community that staff should remove certain contentious aspects of the Wharf Master Plan, such as the Landmark building. As stewards of both the Wharf and the public process and community feedback which went into developing the Wharf Master Plan. That said, public comments provided on the Draft EIR suggest that the proposed maximum building height of 45' for the new cultural buildings is a

AGENDA REPORT

PC Meeting of October 15, 2020

SUBJECT: **Wharf Master Plan and Environmental Determination**

PAGE 10

strong concern among respondents. After reviewing this concern under the Project Objectives and Strategies outlined in Section 5.5.1 of the EIR, staff cannot find a compelling benefit from maintaining the building heights above the maximum building height of 40' allowed under current zoning and as was studied under Project Alternatives 1 & 2. As such staff, finds that the environmentally superior alternative would be to reduce maximum building heights for these structures from 45' to 40' consistent with existing zoning.

Proposed Master Plan Modifications

Based upon findings in the EIR and public feedback provided on the Draft EIR, staff recommends the following modifications be made to the Wharf Master Plan prior to approval:

- 1) The last sentence of paragraph four (4) on page 23 relating to the South Landing, should be amended to read as follows:

~~“However, it will not~~ ~~is not intended~~ serve as a terminus for ocean liner type cruise ships of any tonnage, nor to provide moorings of extended periods of time, nor to provide shuttle access for overnight or long-haul ocean-going cruise ships of any size.”

- 2) The second sentence of the last paragraph of page 35, relating to The Arrival Experience, should be replaced in its entirety to read as:

~~“A 6 to 8 foot high, seventy foot long centrally located sign announcing the “SANTA CRUZ WHARF” is proposed so that it will be legible from as distance.”~~

“An attractive entrance sign will be centrally located atop the parking gates, and designed to be visible from a distance while keeping with the character of the Wharf as developed through additional community engagement.”

- 3) All references to the height and width of the entrance gate signage graphic on page 36 should be revised to clearly state these are maximum dimensions or removed entirely with deference to further public process. The graphic should also reference itself as an example of potential signage, rather than a finished proposal.

- 4) The sixth sentence of the third paragraph on page 29 should be revised to read as follows:

~~“It should be approximately 40 to up to 40 feet in height with a high-bay internal volume, an exposed wood truss roof and clerestory windows that recommended to create a dramatic lighting effect within the space that conveys an airy open feel both inside and outside of the space.~~

- 5) The Building Height Section of the Design Standards on page 49 should be revised to read as follows:

AGENDA REPORT

PC Meeting of October 15, 2020

SUBJECT: **Wharf Master Plan and Environmental Determination**

PAGE 11

“Building Height: Second floor uses and roof top dining are encouraged within a maximum building height of 35 feet for commercial in-line building. For the three landmark buildings, the maximum height shall be ~~45~~ 40 feet, not including special appurtenances such as flag poles and architectural projections, consistent with the existing zoning.

- 6) Where appropriate in the Wharf Master Plan, language should be inserted that states, in effect, the following commitment for any potential future development at the end of the Wharf:

“Any potential development at the end of the Wharf, shall preserve to the greatest extent possible, or relocate to a place of greater access and viewing quality, the popular “sea lion viewing” and “fishing” holes at the end of the Wharf. Any redesign of these features must be in keeping with the intimate experience of the current viewing holes and consistent with the character of the Wharf, as established through community engagement.”

Environmental Impact Report

Following completion of a revised and recirculated Mitigated Negative Declaration/Initial Study (“MND/IS”) and subsequent City Council direction on November 22, 2016 to prepare a full Environmental Impact Report (“EIR”), staff prepared an EIR in accordance with the California Environmental Quality Act (“CEQA”) and the City of Santa Cruz environmental guidelines. A programmatic EIR has been prepared for the Wharf Master Plan in accordance with CEQA Section 15168. However, two improvements recommended in the Wharf Master Plan - the East Promenade and Entrance Gate relocation -- have been studied under CEQA at a “project” level in the EIR since they may be constructed in the near-term and preliminary design plans have been developed.

The EIR was circulated for comment to the City Council, other regulatory and interested agencies, and the public during the period March 30, 2020 through May 27, 2020 for a period that extended about two weeks past the required 45-day review period. Letters of comment were received from the Monterey Bay Air Resources District, California Coastal Commission, California State Clearinghouse, four community groups, and twenty seven residents of Santa Cruz or interested individuals. A letter from the California State Clearinghouse sent to the City upon the close of the public review period confirmed that the City had complied with the State’s environmental review process. Public comments and responses are included and responded to in the Final EIR (“FEIR”). The EIR, which includes both the Draft EIR and Final EIR volumes provides a detailed study of the following subjects and concluded that the improvements proposed in the Wharf Master Plan will not have a significant effect on the environment with the implementation of mitigation measures.

- Aesthetics - impacts to scenic views and the visual character of the surrounding area as a result of Wharf expansion and new development;
- Biological resource impacts to the marine habitat and special status species, including potential impacts to birds;

AGENDA REPORT

PC Meeting of October 15, 2020

SUBJECT: **Wharf Master Plan and Environmental Determination**

PAGE 12

- Cultural resource impacts related to impacts to historical resources
- Geological, hydrology, and water quality impacts related to drainage and the effects of climate change and sea level rise;
- Transportation, traffic and parking impacts; and
- Water and energy demands.

The revised Final EIR, and Draft EIR, are all available online along with other documents relevant to the Wharf Master Plan at the Santa Cruz Wharf Master Plan and Engineering Resource Page at <http://www.cityofsantacruz.com/wharfmasterplan>. The FEIR identifies potentially significant environmental impacts in the area of biological resources (marine mammals and nesting birds) and Geology, hydrology and water Quality related to potential impacts during future construction and installation of new piles, which can be mitigated to a less-than-significant level with implementation of the six mitigation measures included in the EIR.

As part of the CEQA process, the City must adopt a resolution to certify the EIR and adopt a resolution which includes the adoption of CEQA Findings of Fact and the Mitigation Monitoring and Reporting Program (MMRP). As part of that process the Planning Commission will consider recommending adoption of resolutions to certify the Environmental Impact Report, and adopt CEQA Findings of Fact and the Mitigation Monitoring and Reporting Program as may relate to Historical Resources, and adoption of the Wharf Master Plan by the City Council. The City Council will then consider certification of the Environmental Impact Report, adoption of Findings of Fact and the Mitigated Monitoring and Reporting Program, and adoption of the Wharf Master Plan at an as yet unscheduled City Council meeting. At that meeting the City Council will also consider directing staff to prepare a Coastal Commission Public Works Plan for the Wharf Master Plan.

Submitted by:

David McCormic
Asset and Development Manager

Approved by:

Bonnie Lipscomb
Director, Economic
Development

Lee Butler,
Director, Planning
and Community
Development

AGENDA REPORT

PC Meeting of October 15, 2020

SUBJECT: **Wharf Master Plan and Environmental Determination**

PAGE 13

ATTACHMENTS:

- Attachment 1: Resolution Certifying the Final Environmental Impact Report
- Attachment 2: Resolution to Adopt Findings of Fact and a Mitigation Monitoring and Reporting Program
- Attachment 3: Exhibit A - Wharf Master Plan Consistencies with General Plan and Local Coastal Program
- Attachment 4: City Council Staff Report – November 22, 2016
- Attachment 5: Wharf Master Plan FEIR and Mitigation Monitoring and Reporting Program

ATTACHMENT 1

RESOLUTION NO. NS-xx,xxx

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE SANTA CRUZ WHARF MASTER PLAN

WHEREAS, a Notice of Preparation ("NOP") of an Environmental Impact Report ("EIR") for the Santa Cruz Wharf Master Plan (the "Project") was issued by the Economic Development Department of the City of Santa Cruz on November May 24, 2017; and

WHEREAS, an EIR Scoping Meeting was held on June 14, 2017 to receive comments regarding the scope of issues to be addressed in the EIR; and

WHEREAS, the release of the Draft EIR was delayed due to a change in political dynamics on the City Council and while staff awaited direction from restructuring of the City Council two-year work plan; and,

WHEREAS, a Draft Environmental Impact Report ("DEIR" or "Draft EIR") was prepared and issued for agency and public review and comment on March 30, 2020, for a 59-day review period that ended on May 27, 2020; and

WHEREAS, thirty-four (34) comment letters were received on the Draft EIR from public agencies, organizations and individuals; and

WHEREAS, a Final Environmental Impact Report ("FEIR" or "Final EIR"), incorporating all comments received on the DEIR and responses to comments was issued on September 10, 2020; and

WHEREAS, the complete Final EIR consists of the March 2020 Draft EIR, comments received on the document, and responses to comments contained in the September 2020 FEIR, modifications made to the text of the Draft EIR that are also included in the FEIR, appendices to the Draft and Final EIRs, and all documents and resources referenced and incorporated by reference in the EIR; and

WHEREAS, the FEIR has been completed in compliance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq, the Guidelines for Implementation of the California Environmental Quality Act (14 Cal. Code Regs. Section 15000 et seq.) (the "State CEQA Guidelines") and local procedures adopted pursuant thereto; and

WHEREAS, the Planning Commission held a public hearing on the Project and the FEIR on October 1, 2020 and issued recommendations to the City Council; and

RESOLUTION NO.

WHEREAS, the City Council considered the Final EIR at a public meeting on ____, 2020;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz as follows:

- ♦ The City Council certifies that the Final EIR has been completed in compliance with CEQA, the State CEQA Guidelines and local procedures adopted pursuant thereto.
- ♦ The City Council hereby finds that the Final EIR reflects the independent judgment and analysis of the City Council, as required by Public Resources Code Section 21082.1.
- ♦ The City Council has independently reviewed and analyzed the Final EIR and considered the information contained therein and all comments, written and oral, received prior to approving this resolution.
- ♦ The City Council therefore hereby certifies the Final Environmental Impact Report for the Project.

PASSED AND ADOPTED this ____ day of _____, 2020 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk Administrator

ATTACHMENT 2

RESOLUTION NO. NS-xx,xxx

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ ADOPTING
FINDINGS OF FACT, A MITIGATION MONITORING AND REPORTING PROGRAM
AND A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE
SANTA CRUZ WHARF MASTER PLAN

WHEREAS, a Notice of Preparation ("NOP") of an Environmental Impact Report ("EIR") for the Santa Cruz Wharf Master Plan (the "Project") was issued by the Economic Development Department of the City of Santa Cruz on November May 24, 2017; and

WHEREAS, an EIR Scoping Meeting was held on June 14, 2017 to receive comments regarding the scope of issues to be addressed in the EIR; and

WHEREAS, the release of the Draft EIR was delayed due to a change in political dynamics on the City Council and while staff awaited direction from restructuring of the City Council two-year work plan; and,

WHEREAS, a Draft Environmental Impact Report ("DEIR" or "Draft EIR") was prepared and issued for agency and public review and comment on March 30, 2020, for a 59-day review period that ended on May 27, 2020; and

WHEREAS, thirty-four (34) comment letters were received on the Draft EIR from public agencies, organizations and individuals; and

WHEREAS, a Final Environmental Impact Report ("FEIR" or "Final EIR"), incorporating all comments received on the DEIR and responses to comments was issued on September 10, 2020; and

WHEREAS, the FEIR has been completed in compliance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq, the Guidelines for Implementation of the California Environmental Quality Act (14 Cal. Code Regs. Section 15000 et seq.) (the "State CEQA Guidelines") and local procedures adopted pursuant thereto; and

WHEREAS, the Planning Commission held a public hearing on the Project and the FEIR on October 1, 2020 and issued recommendations to the City Council; and

WHEREAS, the City Council considered the Final EIR at a public meeting on ___, 2020; and

WHEREAS, the complete Final EIR consists of the March 2020 Draft EIR, comments received on the document, and responses to comments contained in the September 2020 FEIR, modifications made to the text of the Draft EIR that are also included in the FEIR, appendices to the Draft and Final EIRs, and all documents and resources referenced and incorporated by reference in the EIR; and

WHEREAS, the Final EIR outlined various mitigation measures that would substantially lessen or avoid the Project's significant effects on the environment, as well as a reasonable range of feasible alternatives, which would provide some environmental advantages over the Project; and

WHEREAS, the City of Santa Cruz is required, pursuant to CEQA, to adopt all feasible mitigation measures and consider all feasible Project alternatives that can substantially lessen or avoid any significant environmental effects of a proposed Project; and

WHEREAS, Public Resources Code Section 21081, subdivision (a), requires a public agency, before approving a Project for which an EIR has been prepared and certified, an EIR which identifies one or more significant effects on the environment that would occur if the project is approved or carried out, to adopt findings specifying whether mitigation measures and, in some instances, alternatives discussed in the EIR, have been adopted or rejected as infeasible; and

WHEREAS, Sections I through VII of Exhibit A to this Resolution is a set of Findings of Fact prepared in order to satisfy the requirements of Public Resources Code section 21081, subdivision (a); and

WHEREAS, as the Findings of Fact explain, the City Council, reflecting the advice of City and Agency Staff, the Planning Commission, and extensive input from the community, has expressed its intention to approve the proposed Project in spite of its significant environmental impacts; and

WHEREAS, in taking this course, the City Council has acted consistently with the CEQA mandate to look to feasible Project mitigations and/or alternatives as a means of substantially lessening or avoiding the environmental effects of the Project as proposed; and

WHEREAS, some of the significant and potentially significant environmental effects associated with the Project, as approved, can either be substantially lessened or avoided through the inclusion of mitigation measures or project alternatives proposed in the Final EIR; and

WHEREAS, the City Council in approving the Project as proposed intends to adopt all mitigation measures set forth in the Findings of Fact; and

WHEREAS, the City Council has determined, based on the reasons and substantial evidence set forth in the Findings of Fact, that none of the alternatives addressed in the Final EIR are feasible and environmentally superior to the Project, except that Alternative 2, is the designated environmentally superior alternative as determined under CEQA, but it is not feasible based on the Findings set forth below; and

WHEREAS, the City Council recognizes the City's obligation, pursuant to Public Resources Code Section 21081.6, subdivision (a), to ensure the monitoring of all adopted mitigation measures necessary to substantially lessen or avoid the significant effects of the Project; and

WHEREAS, Exhibit B to this Resolution is the Mitigation Monitoring and Reporting Plan

RESOLUTION NO. NS-xx,xxx

prepared in order to comply with § 21081.6, subdivision (a);

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz as follows:

In approving this Resolution, the City Council adopts Sections I through VIII of Exhibit A attached hereto in order to satisfy its obligations under Public Resources Code sections 21002 and 21081, subdivision (a);

In approving this Resolution, City Council adopts Exhibit B attached hereto in order to satisfy its obligations under Public Resources Code Section 21081.6, subdivision (a); and

The City Council hereby approves the Project and directs City Staff to file with the County Clerk and the Office of Planning and Research in Sacramento a Notice of Determination commencing the 30-day statute of limitations for any legal challenge to the Project based on alleged non-compliance with CEQA.

PASSED AND ADOPTED this ____ day of _____ 2020 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk Administrator

ATTACHMENT 3

EXHIBIT A

WHARF MASTER PLAN CONSISTENCY WITH GENERAL PLAN AND LOCAL COASTAL PROGRAM

Wharf Master Plan – Consistency with the General Plan

The Wharf Master Plan is consistent with multiple elements of the 2030 General Plan. General Plan goals and policies addressed by the Wharf Master Plan are:

Community Design Element:

Goal CD1 “A Built Environment in Harmony With its Natural Setting” and

Policy CD1.2.2 “Develop Minimum Standards and Guidelines for Residential, Commercial, and Industrial Development That Reflect the Character and Needs of the Districts”;

Goal CD3 “High-Quality Design That Reinforces the Community’s Unique Character” and

Policy CD3.5.1 “Require Superior Quality Design for Existing or Proposed Landmark Buildings”;

Goal CD4 “Attractive Gateways, Roadways, and Landscaping” and

Policy CD4.1 “Make the City’s Major Gateways Defining, Attractive, and Welcoming”;

Goal CD5 “Walkable Neighborhoods and Districts of Compatible Uses and Buildings” and

Policy CD5.2.2 “Encourage the Incorporation of Public Benches and Natural Seating Areas Along Public Walkways and in Public Plazas and Parks”.

With respect to the Community Design goals and policies noted above, the Wharf Master Plan establishes design standards to guide renovation and future development of commercial spaces, including the proposed Landmark Building and the Events Pavilion, and encourages the creation of more extroverted spaces with a greater transparency and stronger relationship between indoors and outdoors. The Wharf Master Plan also calls for the creation of an attractive and inviting gateway to the Wharf by relocating and remodeling the entrance gates to include an iconic sign welcoming visitors to the Wharf. The proposed 29’ wide East Promenade provides a pedestrian-oriented walkway the length of the Wharf with a continual seat wall running its length.

Land Use Element:

Goal LU3 “A Complementary Balance of Diverse Land Uses” and

Policy LU3.53 “Foster Improved Recreational and Economic Opportunities at the Municipal Wharf”;

Goal M1 “Land Use Patterns, Street Design, Parking, and Access Solutions that Facilitate Multiple Transportation Alternatives” and

Policy M1.6.1 “Design Parking Areas with Adequate Lighting, Safe Pedestrian Circulation, Adequate Landscaping, a Minimum Amount of Pavement, and Adequate Numbers of Accessible Spaces Reserved for the Physically Disabled”;

Goal M2 “A Safe, Sustainable, Efficient, Adaptive, and Accessible Transportation System” and

Policy M2.1.3 “Implement Pedestrian, Bike, Mass Transit, and Road System Improvements through the Capital Improvements Program”;

Goal M4 “A Citywide Interconnected System of Safe, Inviting, and Accessible Pedestrian Ways and Bikeways” and **Policy M4.4** “Assure a High Level of Bicycle User Amenities”.

The Wharf Master Plan incorporates the Land Use goals and policies listed above through the proposed East Promenade and public spaces which provide an additional 2.5 acres of public access. Additionally, proposed improvements to vehicle circulation and parking include a more efficient layout of parking spaces on the Wharf, additional handicapped parking spaces, and a pay-on-foot automated parking system. The East Promenade will also serve to reduce or eliminate pedestrians walking in the roadway, and its direct connection to local scenic trail networks will establish the Wharf as a pedestrian and bicycle-oriented place. 65 to 164 bicycle parking spaces are recommended along the western edge of the East Promenade.

Economic Development Element:

Goal ED1 “A Vibrant Regional Economic Center” and

Policy ED1.1.1 “Encourage the Development of Diverse, Innovative, and Sustainable Business Enterprises That Reinforce Santa Cruz’s Position as a Regional Employment, Cultural, Visitor, and Shopping Center”;

Policy ED1.1.3 “Encourage the Development of Year-Round Businesses and Visitor Activities, Resources, and Destinations That Can Also Attract and Engage Local Residents”;

Policy ED1.3.1 “Promote the Development of Ecotourism Programs That Are or Could Become Associated with Environmentally Focused Activities such as the Monterey Bay

National Marine Sanctuary, Long Marine Lab, Whale Watching, the UCSC Farm and Arboretum, and Others”;

Policy ED1.8 “Increase the Promotion of Santa Cruz as a Year-Round Tourist Destination and Enhance and Promote the Identity of Existing and Potential Visitor Areas in the City”;

Policy ED6.1.2 Recognize the Importance of and Promote the Monterey Bay National Marine Sanctuary in Support of the City’s Tourism, Recreation, Fishing, and Aquaculture Industries.

The Economic Development element goals and policies sync with many of the recommendations and proposals included in the Wharf Master Plan. The Plan calls for enhancement of the Wharf’s market potential, economic vitality, and visitor experiences. Within the existing 1,300 linear footage of commercial uses, increasing the intensity, diversity and number of establishments is called for in order to create a more vibrant and attractive visitor experience as well as increasing revenue generating uses. The proposed Small Boat Landing will increase public access to the Monterey Bay National Marine Sanctuary through the rental of kayaks and fishing skiffs, and the South Landing will provide opportunities for whale watching, bay cruises, sports fishing and educational and scientific research vessels to be accessible from the Wharf. The Wharf Master Plan also calls for increasing the existing nexus between the Wharf and the nearby Monterey Bay National Marine Sanctuary Exploration Center in order to promote stewardship of the Sanctuary.

Civic and Community Facilities Element:

Goal CC 6 “Minimal Solid Waste Production” and

Policy CC6.2 “Provide Convenient, Economical, and Efficient Waste and Recycling Collection Service”;

Goal CC 8 “Excellent Educational Opportunities and Resources” and

Policy CC8.1 “Cooperate with Public and Private Institutions Seeking to Meet their Educational Objectives” and

Policy CC8.3 “Maximize Educational, Developmental, and Recreational Opportunities for All.

With respect to Civic and Community Facilities goals and policies regarding reduction of solid waste and efficiencies in waste and recycling collection services, the Wharf Master Plan proposes a uniquely innovative and green technology which embraces a vacuum collection system. Trash and recyclables are deposited directly from each of the individual businesses and public receptacles into a horizontal tube under the Wharf. A fan/vacuum system transports the deposited material from the Wharf to an offsite collection center. Other alternatives proposed include smaller and lighter weight collection vehicles servicing the existing three collection points on the Wharf on a more frequent timetable. This would serve to reduce impacts to the Wharf roadway caused by the heavier and larger refuse/recycling trucks.

The Wharf Master Plan also provides for creating additional opportunities for research and demonstration projects including but not limited to the marine environment, energy, water use and recycling. The Plan calls for fostering and participation in mutually cooperative relationships and ventures with science and educational advocates and entities such as the Santa Cruz Wharf Outreach Network, the Monterey Bay National Marine Sanctuary Exploration Center, the Seymour Marine Discovery Center (co-partners with the City in the Wharf Ecotour), the Moss Landing Marine Laboratories, and the University of California at Santa Cruz. The Wharf already hosts a variety of science and marine-oriented test beds and experiments, some of which are accessible to the public either on-site or through the internet.

Hazards, Safety and Noise Element:

Goal HZ1 “Emergency and Disaster Readiness” and

Policy HZ1.1.3 “Ensure that New Development Design, Circulation, and Access Allows for Maintaining Minimum Emergency Response Times”;

Policy HZ1.2.5 “Continue to Ensure that New Development Design and Circulation Allow for Adequate Emergency Access”;

Goal HZ5 “Minimal Light Pollution” and

Policy HZ5.1 “Reduce Light Pollution”.

Wharf Master Plan proposals speak directly to the Hazard, Safety and Noise goals and policies noted above. The East Promenade is designed to provide direct access for emergency services vehicles to all points along the Wharf. Current emergency service response times are impacted on busy summer days when traffic is at a standstill on the Wharf; the East Promenade will allow for unimpeded access and faster response times. In addition, the South Landing will serve as an access point for marine safety services as well as an evacuation point should the landward exit from the Wharf become unavailable.

Considerable thought is devoted to the Wharf’s lighting system, and the Wharf Master Plan calls for low-level wayfinding lights and other concepts designed to protect the night sky and enhance views to the shoreline.

Parks, Recreation, and Open Space Element:

Goal PR3 “Well Managed, Clean, and Convenient Public Access to Open Space Lands and Coastline”;

Policy PR3.1.1 “Provide Recreational and Educational Opportunities Within the Open Space Lands and Coastline Consistent with Adopted Master or Management Plans”.

This Parks, Recreation, and Open Space goal and policy is directly addressed through the proposed East Promenade. In what is in effect similar to a linear park setting, the East Promenade will increase public access to the Monterey Bay, provide enhanced availability of fishing, boating, and other marine-oriented forms of recreation, provide a much improved space

for promenading, jogging, and bicycling, and will significantly add to the recreational, educational, and scenic dimensions of the Wharf. The East Promenade will also be a platform for interpretive exhibits and for other educational activities.

Natural Resources and Conservation Element:

Goal NRC7 “Reduction in Energy Use, and Significant Production and Use of Renewable Energy” and

Policy NRC7.1 “Improve Local Energy Efficiency and Conservation”;

Policy NRC7.2 “Promote Energy Efficiency and Innovation as an Integral Part of Economic Development”.

General Plan Natural Resources and Conservation goals and policies are embraced by the Wharf Master Plan through the call for sustainable development and sound green building practices. The Wharf Master Plan recognizes that the City must lead by example on city-owned property and provide leadership in green building for all new and remodeling construction on the Wharf. This includes consideration for storm water best management, energy conservation and renewable sources of energy and recycling and trash collection.

Wharf Master Plan – Consistency with Local Coastal Program

In addition to the synchronicities with the 2030 General Plan goals and policies discussed above, the Wharf Master Plan meets and addresses the following policies and programs of the 1990-2005 Local Coastal Plan as amended:

Land Use:

Policy 2.7.1 “Update Land Use and Design Guidelines for the Beach and Wharf Area Addressing the Area's Importance as a Center of Tourism and a Residential Area”;

The Wharf Master Plan establishes specific design standards to guide future development and commercial uses on the Wharf as they evolve and intensify over time.

Circulation:

Policy 6.4.2.7 “Analyze Parking Supply and Demand for the Wharf and Cowell Beach and Provide Adequate Parking or Alternative Access”;

The Wharf Master Plan includes management approaches that will help make the existing parking supply more effective and efficient, and that will also increase transactional speed upon exiting.

Economic Development:

Policy 2.4.3 “Develop and Implement a Promotion and Management Plan for the Wharf Aimed at Attracting Local Residents and Enhancing Recreational and Economic Opportunities While Protecting the Monterey Bay”;

Policy 5.5.3 “Identify Ways to Enhance and Promote the Identity of Existing and Potential Visitor Areas in the City such as Downtown, Beach Area, San Lorenzo River, Yacht Harbor, UCSC, West Cliff and East Cliff Drives, and the Wharf”;

Ultimately, the success of any commercial development depends upon the creativity and entrepreneurial skill of the owner/operator to create an attractive and convivial establishment that has broader market appeal to residents as well as tourists. The Wharf Master Plan recommends that a proactive management, leasing, and detailed marketing plan be prepared for the Wharf. The marketing plan should establish the specific mix of tenants that are desired and that could best work in synergy with one another and contribute to the overall brand and identity of the Wharf. In addition, the City, as the business manager of this commercial center and real estate asset, should not just be reactive to proposals brought forward by a project proponent but rather take a more proactive role in seeking out tenants that would help to realize the diversity and mix of shops and restaurants desired in the marketing plan.

Parks and Recreation:

Policy 1.7.1.2 “Expand the Use of Park-and-Ride Lots, Public Transit, Shuttle Programs, Fee and Free Parking and Other Mass Transit Methods to Ensure Adequate Access to Beaches and the Wharf”;

The Wharf Master Plan recommends that a transit shuttle similar to the Downtown/Beach Area Trolley be provided not only to the Wharf but along it. A small scale electric shuttle dedicated specifically for trips out and back on the Wharf is also considered.

Policy 1.7.1.3 “Maintain Free Bicycle and Pedestrian Access to the Wharf”;

An additional 2.5 acres of public access and up to 164 additional bicycle parking spaces are proposed in the Wharf Master Plan.

Policy 1.7.9 “Fishing Access on the Wharf Shall Not Be Reduced”.

Construction of the proposed East Promenade, South Landing and Stepped Overlook at the end of the Wharf will greatly enhance public fishing opportunities.

Policy 1.7.11 “Establish a Recreation/Waterfront Zone Encompassing the Portion of the Monterey Bay From the Mouth of the San Lorenzo River to Steamer's Lane, From the Shore to the Kelp Line, and Provide for Management of the Wharf, Beach, Water Activities, Parking and Recreational Activities in a Manner that Promotes Access and Protects the Bay.

The public access and recreational improvements proposed by the Wharf Master Plan speaks directly to increasing the potential of the Wharf as a local, regional, and state destination. Its location provides myriad opportunities for increased public appreciation and stewardship of the Monterey Bay National Marine Sanctuary.



CITY COUNCIL AGENDA REPORT

DATE: 11/17/2016

AGENDA OF: 11/22/2016

DEPARTMENT: Economic Development Planning and Community Development

SUBJECT: Adoption of a Mitigated Negative Declaration, Adoption of a Mitigation Monitoring and Reporting Program, Adoption of the Wharf Master Plan, and Authorization to Prepare a Coastal Commission Public Works Plan (ED/PL)

RECOMMENDATION: Resolution to adopt the Mitigated Negative Declaration for the Santa Cruz Wharf Master Plan, the Mitigation Monitoring and Reporting Program and the Santa Cruz Wharf Master Plan.

Motion to authorize staff to prepare a Coastal Commission Public Works Plan.

BACKGROUND: The Santa Cruz Wharf Master Plan (“Wharf Master Plan”) and its accompanying Engineering Report were accepted by the City Council on October 28, 2014. At that time the Council also authorized staff to proceed with an environmental review in accordance with the California Environmental Quality Act (“CEQA”) and City of Santa Cruz environmental guidelines. The following discussion focuses on the genesis of the Wharf Master Plan, its components, and the environmental review process culminating in the Mitigated Negative Declaration. The preparation of a Public Works Plan as recommended by the California Coastal Commission is also discussed.

DISCUSSION:

The Santa Cruz Wharf Master Plan:

The Santa Cruz Wharf Master Plan and Engineering Report (“Wharf Master Plan”) addresses the need for a comprehensive master plan for the Wharf that dates back to 1998 when the Beach and South of Laurel Comprehensive Area Plan (“Beach/SOL Plan”) was prepared. The Beach/SOL Plan identified Wharf-related issues and objectives, including the need to prepare design and development standards related to remodeling of existing buildings and construction of new ones. The Coastal Commission has also historically encouraged the City to update its regulatory and permitting framework to guide and facilitate improvement and development of the Wharf.

The 2014 Wharf Master Plan process involved two parallel and inter-related tracks, the first of which consisted of a review of existing conditions and available information, and meetings with stakeholders, tenants, neighbors and community-wide interests in order to gain a better understanding of issues of concern and to develop approaches to help achieve community

objectives. At the same time, the engineering component undertook underwater and above grade surveys of the structural conditions of the Wharf, including the pilings, the substructure, and paving to determine its structural integrity, the need for repair and replacement, environmental adequacy, and general longevity. The two efforts were coordinated and information regularly exchanged so that the findings of one would inform the other. The results are documented in the Santa Cruz Master Plan Report and in the companion Engineering Report available online at www.cityofsantacruz.com/wharfmasterplan.

The Wharf Master Plan creates a basis for policy and design guidance, investment decisions, and capital and economic development improvement programs. Recognizing that the Wharf serves a number of roles within the City - as a visual landmark of historic significance, a recreational and open space resource, and as a real estate asset that contributes to the economy of Santa Cruz and the Beach Area - three complementary and inter-related strategies were formulated through the 2014 master planning effort.

The first Wharf Master Plan strategy calls for the expansion of the perimeter of the Wharf for public access, recreation, fishing, and boating. Planned improvements are intended to strengthen the Wharf's relationship to the Monterey Bay National Marine Sanctuary and the scenic and environmental qualities it offers. This strategy will enhance the Wharf as a recreational resource and provide opportunities to engage in a variety of coastal experiences, thus contributing to the quality of life in the city. In addition, the lateral expansion of the Wharf for pedestrian- and recreational-oriented purposes will broaden its appeal, help create additional off-season visitation, and will create a basis for updating the image and identity of the Wharf. Public access expansion will result in new branding opportunities and, most importantly, will become one of the most effective ways to improve the economic vitality of the Wharf's commercial uses and the viability of the Wharf as a real estate asset for the City.

The second strategy is aimed at enhancing the existing public realm on the Wharf. This includes the areas currently devoted to vehicular circulation and parking as well as the three key, but underutilized, public spaces: at the point where the Wharf widens to accommodate commercial uses, where it bends to the southwest at the change in direction of the line of commercial buildings, and at the bayward end. This strategy includes the reorganization of the parking areas for greater efficiency and effectiveness to reduce pedestrian/vehicular conflicts and to create a more attractive and inviting arrival experience. For the key underutilized public spaces, the strategy is aimed at expanding the opportunity for publicly oriented activities and creating physical spaces that give structure and orientation to the visitor experience, expressing the unique locational characteristics of the Wharf, and adding a more diverse and varied dimension to its venues and offerings.

The third strategy calls for improving the diversity, density and appeal of the commercial uses within the existing area devoted to these uses. It also calls for the improvement of the commercial buildings, the storefronts and adjacent sidewalks and the enhancement of the quality of the pedestrian experience. As changes are made, improvements can be undertaken that enhance curb appeal, the pedestrian experience, and the diversity, size, type and mix of commercial uses.

Capital improvements proposed by the Wharf Master Plan include the relocation of the entrance gates, the construction of a Gateway Building, the East Promenade, the Small Boat Landing, the

South Landing, the Landmark Building at the end of the Wharf, the Events Pavilion where the Wharf bends to the southwest, and the Western Walkway.

In addition to addressing the Beach/SOL Plan Wharf issues and objectives referred to above, the Wharf Master Plan is consistent with multiple elements of the General Plan and the Local Coastal Program, as set forth in Attachment 1.

Mitigated Negative Declaration and Initial Study and Mitigation Monitoring and Reporting Program:

A Mitigated Negative Declaration/Initial Study (“MND/IS”) was prepared in accordance with the California Environmental Quality Act (“CEQA”) and the City of Santa Cruz environmental guidelines. The MND/IS was circulated for comment to the City Council, other regulatory and interested agencies, and the public during the period March 14, 2016 through April 12, 2016. Letters of comment were received from the California Coastal Commission, the California Department of Fish and Wildlife, the Monterey Bay Unified Air Pollution Control District, and four residents of Santa Cruz. A letter from the California State Clearinghouse sent to the City upon the close of the public review period confirmed that the City had complied with the State’s environmental review process. Public comments and responses are included in Attachment 2. The MND/IS concluded that the improvements proposed in the Wharf Master Plan will not have a significant effect on the environment with the implementation of mitigation measures.

Additional public comments were received after the close of the official public review period, which are also included in Attachment 2. A revised MND/IS was prepared in response and circulated for public comment from October 18, 2016 through November 16, 2016. No comments have been received that alter the conclusion of the revised MND/IS as of the date of this report. The revised MND/IS is available online at the Santa Cruz Wharf Master Plan and Engineering Resource Page at <http://www.cityofsantacruz.com/wharfmasterplan>, and identifies potentially significant environmental impacts in the area of biological resources and recreation that can be mitigated to a less-than-significant level with implementation of the mitigation measures included in the revised MND/IS. A Mitigation Monitoring and Reporting Program is included as an exhibit to the resolution and also included as Attachment 3.

Under state CEQA guidelines a project would have a significant impact in the area of biological resources if a project: a) had a substantial adverse effect on any species identified as a candidate, sensitive, or special status species, or b) interfered substantially with the movement of any native resident or migratory fish or wildlife species. Specifically, the MND/IS identified potentially significant impacts on marine mammals and avian species that are summarized below.

State CEQA guidelines also provide that a project would have a significant impact with respect to recreation resources if the project would: a) increase the use of existing parks or recreational facilities such that substantial physical deterioration would occur or be accelerated, or b) include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. The project includes expansion of the Wharf (considered a recreational facility) that could result in potentially significant impacts identified above, which can be mitigated to a less-than-significant level.

Following is a discussion on the potentially significant impacts and the mitigation measures developed.

Biological Resources:

Marine Mammals - Impact Analysis: Implementation of the proposed Wharf Master Plan and construction of proposed improvements would result in new structural development, some of which would require installation of timber piles into marine waters, including those necessary for the construction of the two near-term planned projects - relocation of the Entry Gate and construction of the East Promenade. The projects would not result in permanent direct or indirect adverse impacts on marine habitats or populations of any special status species or marine mammals known or expected to occur in the project area. However, construction and resulting underwater sound levels could indirectly affect special status species or other marine mammals or fish species if any are present in the marine waters in the vicinity of the Wharf during construction activities. Although construction is not expected to harm or injure individual fish or marine mammals, underwater sound levels resulting from installation of piles could result in disturbance to protected marine mammals. This is considered to be a potentially significant impact.

Marine Mammals - Mitigation of Impact: Implementation of the following measure will reduce the impact of potential Level B marine mammal harassment as defined in the Marine Mammal Protection Act (“Any act of pursuit, torment, or annoyance which has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including but not limited to migration, breathing, nursing, breeding, feeding or sheltering”) to a less-than-significant level for proposed facilities that require installation of new piles. The measure would be implemented as part of review and approval of an Incidental Harassment Authorization (“IHA”) by the NOAA Fisheries (also known as National Marine Fisheries Service) that would be required in which the avoidance measures would be fully detailed. An IHA typically is not issued earlier than one year prior to construction.

Mitigation Measure 1: Prepare and implement a hydroacoustic, fish and a marine mammal monitoring plan that implements measures to avoid exposure of marine mammals to high sound levels that could result in Level B harassment that may include, but are not be limited to, the following:

- Marine mammal observations shall be conducted to determine use of the area by marine mammals before pile driving begins. Observations would be conducted from a boat or from the Wharf.
- Pre-construction monitoring to update information on the animals’ occurrence in and near the project area, their movement patterns, and their use of any haul-out sites.
- Pre-construction training for construction crews prior to in-water construction regarding the status and sensitivity of the target species in the area and the actions to be taken to avoid or minimize impacts in the event of a target species entering the in-water work area.
- Establishment of an underwater “exclusion zone” - defined as the distance where underwater sound levels exceed 180 dB if whales are present, and 190 dB if seals and sea lions are present -

will be established. This will be refined based on hydroacoustic measurements in the field and in consultation with NOAA Fisheries.

- Marine mammal monitoring of the exclusion zone will be conducted prior to commencement of pile driving and underwater excavation activities.

- Pile-driving activities will not commence until marine mammals are not sighted in the exclusion zone for 15 minutes. This will avoid exposing marine mammals to sound levels in excess of the Level A criteria (“Any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or marine mammal stock in the wild”).

- Underwater noise will be measured with a hydrophone during pile-driving to verify sound levels and adjust the size of the exclusion zone as necessary.

- In-water construction biological monitoring to search for target marine mammal species and halt project activities that could result in injury or mortality to these species.

- Prohibit disturbance or noise to encourage the movement of the target species from the work area. The City will contact USFWS and NOAA Fisheries to determine the best approach for exclusion of the target species from the in-water work area.

- Data collected during the hydroacoustic, fish and marine mammal monitoring will be reported to NMFS in a post-construction monitoring report (usually required to be completed between 60 and 90 days after construction is complete). Observations and data will be reported more frequently, if required by NMFS.

Nesting Birds - Impact Analysis: Implementation of Wharf Master Plan projects would not interfere with the movement of bird species in the project vicinity, as birds could continue to move about the area freely. Proposed improvements could disturb nesting birds if nesting occurs at the time of construction, however, nests of pigeon guillemots and potentially other species (including the western gull, which is also known to nest on the Wharf) are protected under the Migratory Bird Treaty Act (“MBTA”), and they are also protected under the California Fish and Game Code Section 3503. Individual adult pigeon guillemots or other birds are unlikely to be directly killed or injured during construction activities because they are highly mobile and would likely leave the area during construction. However, nesting activities by pigeon guillemots, western gulls, and other native bird species could be disrupted, if construction occurs during the breeding season and the birds are present. Noise and vibration, such as from pile driving, could potentially disturb adult birds and result in abandonment of nests, eggs, and young, and in nesting failure. This would represent a violation of MBTA and the California Fish and Game Code, and would be contrary to policies in the General Plan. Therefore, this impact would be potentially significant.

Nesting Birds - Mitigation of Impact: Implementation of the following measure would reduce potential impacts to nesting pigeon guillemots and other common bird species to a less-than-significant level.

Mitigation Measure 2: Conduct a pre-construction survey if future construction would occur during the nesting season. No less than seven days prior to initiation of construction activities, including pile-driving, scheduled to begin during the nesting season for pigeon guillemot,

western gull, or other species potentially nesting on the Wharf (February 15 through September 15, or as determined by a qualified biologist), the City shall have a nesting bird survey conducted by a qualified biologist under the following parameters:

- Determine if active nests of bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present in the disturbance zone or within 300 feet of the disturbance zone.

- If active nests are found, pile-driving or other construction activities within 300 feet of the nests (or as determined by the qualified biologist in consultation with the California Department of Fish and Wildlife) shall be postponed or halted, until the nest is vacated and young have fledged, as determined by the biologist, and there is no evidence of a second attempt at nesting.

- Bird surveys shall include inspection of areas underneath the Wharf for indications of nesting by pigeon guillemots, inspection of rooftops for nesting western gulls, and inspection of any other areas within 300 feet of the construction zone where birds may be nesting.

Recreational Resources:

Recreation - Impact Analysis: The Wharf Master Plan consists of expansion and improvements in part to enhance public access. Project impacts would be considered significant if they:

- Increased use of recreational facilities resulting in substantial deterioration.

- Built or expanded recreational facilities resulting in adverse impacts.

Recreation - Mitigation of Impact:

- Expansion and improvements to the Wharf will provide enhanced public access and additional recreational opportunities. Mitigation of potential impacts to biological resources resulting from expansion of public access are discussed in the Biological Resources section above.

With respect to other environmental impacts, those of less than significant impact or no impact are summarized in Section V (Environmental Checklist) of the MND/IS and discussions relative to those impacts are provided in Section VI.

Coastal Commission Public Works Plan:

At the recommendation of the local Coastal Commission office, staff is proposing to prepare a Public Works Plan ("PWP") for the capital improvement projects proposed in the Wharf Master Plan. A PWP promotes greater efficiency for the planning of public works and is an alternative to project-by-project review by the Coastal Commission. Once a PWP has been certified by the Coastal Commission, any subsequent review by the Coastal Commission of a specific project contained in the certified PWP is limited to ensuring that the project complies with the PWP.

PWPs must contain sufficient information regarding the kind, size, intensity, and location of the development activity to be undertaken to determine consistency with the policies of Chapter 3 of the Coastal Act of 1976, including but not limited to:

- The specific type of activity proposed to be undertaken;
- The maximum and minimum intensity of activity proposed;
- The maximum size of facilities proposed to be constructed and the proposed timetable for the projects included in the PWP and any phasing of development contemplated;
- The area for the proposed activity;
- The proposed method of financing including any means of obtaining or guaranteeing funds through the assessment or any other form of levy against lands located within the coastal zone, and an estimate of the projected amount of revenues to be obtained from land or water areas located in the coastal zone over the useful life of the proposed development.
- The proposed location or alternative locations considered for any development activity or activities to be undertaken pursuant to the PWP.
- Any additional information required by the Executive Director of the Coastal Commission.

Prior to the filing of the PWP with the Coastal Commission, the City must hold a public hearing within a reasonable time prior to the submission of the PWP (as determined by the Executive Director of the Coastal Commission) such that the public is afforded an adequate and timely comment period.

If the PWP does not require an amendment to the City's Local Coastal Program ("LCP"), it can be submitted to the Coastal Commission for review and certification. The purpose of the Commission's review is to define the scope of review of any subsequent project contained in the PWP. Approval of the PWP shall be accompanied by factual findings that the PWP, as approved, is in conformity with the LCP. Following Coastal Commission certification of the PWP, any review of a specific project contained in the PWP shall be to determine the conformity of the project with the certified PWP.

Accordingly, City development of the specific Wharf Master Plan improvements contained in a certified PWP can proceed without a coastal permit provided the City sends a Notice of Impending Development ("NOID") to the Commission and other interested persons, organizations, and governmental agencies prior to undertaking development, and either the Commission deems the identified development project consistent with the approved PWP (with or without conditions to make it so) or does not respond in a timely manner to the NOID. Submittal of a PWP can also include a request for concurrent approval by the Commission of a project contemplated by the PWP.

FISCAL IMPACT: The cost to prepare the Wharf Master Plan was \$1,020,000 with \$850,000 awarded to the City through a grant from the U.S. Department of Commerce, Economic Development Administration and \$170,000 provided through a local match from the Parks and Recreation Facilities Tax Fund as adopted in the FY 2013 budget. The cost to prepare the Mitigated Negative Declaration and Initial Study was \$37,550 funded through the General Plan Maintenance Fee as adopted in the FY 2016 budget.

Prepared by:
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Submitted by:
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Director of Economic
Development

Approved by:
Martin Bernal
City Manager

ATTACHMENTS:

Resolution

Wharf Master Plan Consistency with General Plan and Local Coastal Program

Public Comments and Responses To Date

Mitigation Monitoring and Reporting Program

FINAL ENVIRONMENTAL IMPACT REPORT

Santa Cruz Wharf Master Plan

[SCH NO: 2016032038]



City of Santa Cruz
Economic Development

September 2020

FINAL

ENVIRONMENTAL IMPACT REPORT

SANTA CRUZ WHARF MASTER PLAN

SCH NO. 2016032038

PREPARED FOR

CITY OF SANTA CRUZ

Economic Development

PREPARED BY

DUDEK

Santa Cruz, California

September 2020

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TABLE OF CONTENTS

1	INTRODUCTION	1-1
1.1	Purpose of the EIR.....	1-1
1.2	Project Overview.....	1-2
1.3	Scope of the EIR	1-3
1.4	Environmental Review and Approval Process	1-5
1.5	Organization of Final EIR.....	1-9
2	SUMMARY.....	2-1
2.1	Introduction	2-1
2.2	Project Overview.....	2-1
2.3	Areas of Controversy or Concern.....	2-2
2.4	Summary of Alternatives	2-3
2.5	Summary of Impacts and Mitigation Measures.....	2-3
2.6	Issues to Be Resolved.....	2-12
3	CHANGES TO DRAFT EIR.....	3-1
3.1	Introduction	3-1
3.2	Revisions to Draft EIR.....	3-1
3	PUBLIC COMMENTS AND RESPONSES.....	4-1
4.1	Introduction	4-1
4.2	List of Comment Letters Received	4-1
4.3	Comment Letters and Responses	4-3
FIGURES		
4.1-10	NEW-Photo Simulation Locations	3-7
APPENDICES		
A.	Mitigation Monitoring and Reporting Program	

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CHAPTER 1

INTRODUCTION

1.1 PURPOSE OF THE EIR

This EIR has been prepared for the City of Santa Cruz (City), which is the lead agency for the Wharf Master Plan project. This document, together with the Draft EIR dated March 2020, constitute the Final EIR for the proposed Santa Cruz Wharf Master Plan Project. This EIR has been prepared in accordance with the California Environmental Quality Act (CEQA), which is found in the California Public Resources Code, Division 13, and with the State CEQA Guidelines, which are found in Title 14 of the California Code of Regulations, commencing with section 15000.

As stated in the CEQA Guidelines section 15002, the basic purposes of CEQA are to:

- ☐ Inform governmental decision-makers and the public about the potential, significant environmental effects of proposed activities.
- ☐ Identify the ways that environmental damage can be avoided or significantly reduced.
- ☐ Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.
- ☐ Disclose to the public the reasons a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.

Pursuant to State CEQA Guidelines section 15121, an EIR is an informational document which will inform public agency decision-makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The public agency shall consider the information in the EIR along with other information which may be presented to the agency. While the information in the EIR does not control the ultimate decision about the project, the agency must consider the information in the EIR and respond to each significant effect identified in the EIR by making findings pursuant to Public Resources Code section 21081.

This EIR is being prepared as a “Program EIR” pursuant to section 15168 of the State CEQA Guidelines. A program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related geographically, by similar environmental effects, as logical parts in the chain of contemplated actions, or in connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program. A program EIR can provide a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action and can ensure consideration of cumulative impacts. A program EIR can be used as part of the environmental review for later individual projects to be carried out pursuant to the project previously analyzed in the program EIR, where impacts have

been adequately addressed in the program EIR. This is referred to as “tiering” as set forth in section 15152 of the State CEQA Guidelines. “Tiering” uses the analysis of general matters contained in a broader EIR (such as one prepared for a general plan) with later EIRs and negative declarations on narrower projects, incorporating by reference the general discussions from the broader EIR and concentrating the later EIR or negative declaration solely on the issues specific to the later project. The State CEQA Guidelines encourage agencies to tier the environmental analyses which they prepare for separate but related projects, including general plans, zoning changes, and development projects.

For later individual projects covered in this EIR, the City will determine whether the individual project or subsequent activity is within the scope of this Program EIR. Depending on the City’s determination, including whether new effects could occur or new mitigation measures would be required, the analysis for later projects could range from no new CEQA document to a new EIR. If appropriate and applicable to a proposed project, the City may also consider one or more statutory or categorical exemptions.

Pursuant to CEQA (Public Resources Code section 21002), public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which would substantially lessen the significant environmental effects of such projects. Pursuant to section 15021 of the State CEQA Guidelines, CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible. In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social, and technological factors. According to the State CEQA Guidelines, “feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. This section further indicates that CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors, and an agency shall prepare a “statement of overriding considerations” as to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment. The environmental review process is further explained below in subsection 1.4.

1.2 PROJECT OVERVIEW

The proposed project consists of:

- ☐ Adoption and implementation of the Wharf Master Plan, and
- ☐ Construction of the two following projects recommended in the Master Plan within 2 to 5 years: Entry Gate Relocation and the East Promenade. Possible expansion of the existing Lifeguard Station may also occur within the next several years.

The Wharf Master Plan includes the following elements and recommendations.

1. *Policies and Actions*
2. *Recommendations for Expansion, New Construction and Improvements*
 - *Wharf Expansion and New Facilities:* The Master Plan recommends the following new facilities: expansion of the Wharf to create a new promenade on the east side of the Wharf (East Promenade) for public pedestrian, bicycle, and emergency access; a new walkway on the west side of the Wharf (Westside Walkway); three new public use buildings, totaling approximately 15,000 square feet; and two new accessible boat landings. The Master Plan also considers remodeling and intensified use of existing structures, including potential expansion of existing commercial buildings totaling approximately 22,000 square feet and redevelopment of the existing lifeguard station.
 - *Structural Wharf Improvements:* Recommended improvements include installation of new and replacement Wharf support piles, lateral bracing, and roadway and utility improvements, including improvements to the Wharf’s pavement, drainage system, and trash collection system.
3. *Circulation/Parking.* Improvements are proposed to more efficiently utilize the existing circulation area, encourage alternative transportation, and relocate the Wharf entrance gates further south onto the Wharf. Other improvements include restriping of existing parking areas that would result in approximately 45-65 additional parking spaces, widening existing sidewalks for improved pedestrian access, and provision for up to 150 bicycle parking spaces.
4. *Design Standards* are included in the Master Plan that address building design elements, including height, materials, design, windows, roofs and displays.

This EIR considers the impacts of both the implementation of the Wharf Master Plan, as well as construction of the first two projects to be implemented pursuant to the Plan—the Entry Gate Relocation and the East Promenade. All elements of the Master Plan are considered in the impact analyses, including recommendations for new facilities, buildings and improvements. A full description of all project components is provided in Chapter 3.0, Project Description, of the Draft EIR volume.

1.3 SCOPE OF THE EIR

The City identified the following topics for analysis in the EIR based on the analyses in the October 2016 Initial Study and responses to the EIR Notice of Preparation (as discussed below in section 1.4.2). This EIR evaluates potential impacts for the following topics and also evaluates topics required by CEQA and CEQA Guidelines, including growth inducement, cumulative impacts, and project alternatives.

- ☐ Aesthetics
- ☐ Biological Resources
- ☐ Cultural and Tribal Cultural Resources
- ☐ Geology, Hydrology and Water Quality
- ☐ Transportation and Traffic
- ☐ Water Supply and Utilities
- ☐ Land Use

Other issues are evaluated in the 2016 Initial Study, which is available for review by appointment at the Economic Development Office, 337 Locust Street, Santa Cruz during regular business hours, Monday through Friday between 8:00 AM and 12:00 and 1:00 PM and 5:00 PM. Contact David McCormic at dmcCormic@cityofsantacruz.com to make an appointment. The Initial Study also is available for review on the City's website at: <http://www.cityofsantacruz.com/wharfmasterplan>.

The discussions in the Initial Study of impacts that are not being addressed in detail in the text of the Draft EIR are intended to satisfy the requirement of CEQA Guidelines section 15128 that an EIR "shall contain a statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and therefore were not discussed in detail in the EIR."

As indicated above, the focus of the environmental review process is upon significant environmental effects. As defined in section 15382 of the CEQA Guidelines, a "significant effect on the environment" is:

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

In evaluating the significance of the environmental effect of a project, the State CEQA Guidelines require the lead agency to consider direct physical changes in the environment and reasonably foreseeable indirect physical changes in the environment which may be caused by the project (CEQA Guidelines section 15064[d]). A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. An indirect physical change in the environment is a physical change in the environment, which is not immediately related to the project, but which is caused indirectly by the project. An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project.

CEQA Guidelines section 15064(e) further indicates that economic and social changes resulting from a project shall not be treated as significant effects on the environment, although they may be used to determine that a physical change shall be regarded as a significant effect on the environment. In addition, where a reasonably foreseeable physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project.

1.4 ENVIRONMENTAL REVIEW AND APPROVAL PROCESS

1.4.1 Background

The Wharf Master Plan was prepared with federal U.S. Department of Commerce Economic Development Administration (EDA) funding and was completed in October 2014. As part of the Master Plan effort, an engineering review was conducted to assess the condition of the piles, the overall integrity of the structure and the paving and substrate of roadways, parking areas and sidewalks. In October 2014, the City Council unanimously accepted the Wharf Master Plan and directed staff to proceed with environmental review and authorized the City Manager to execute all documents and take any other administrative actions necessary to complete the environmental review.

An Initial Study and Mitigated Negative Declaration (IS/MND) were prepared and circulated for a 30-day public review period from March 14 through April 12, 2016. Comments were received from three agencies (California Coastal Commission, California Department of Fish and Wildlife, and Monterey Bay Unified Air District) and four individuals. Responses were provided by the City and presented to the City Council for consideration and adoption of the MND in August 2016. Additional comments were submitted to the City prior to this meeting. The IS/MND was subsequently revised to include additional analyses, primarily regarding biological resources. The Planning Commission recommended adoption of the MND and adoption of the Wharf Master Plan on November 17, 2016. On November 22, 2016, the City Council directed staff to proceed with preparation of an EIR.

1.4.2 Scoping

Under CEQA, the lead agency for a project is the public agency with primary responsibility for carrying out or approving the project, and for implementing the requirements of CEQA. CEQA Guidelines section 15083 authorizes and encourages an early consultation or scoping process to help identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed and considered in an EIR, and to help resolve the concerns of affected regulatory agencies, organizations, and the public. Scoping is designed to explore issues for environmental evaluation, ensuring that important considerations are not overlooked and uncovering concerns that might otherwise go unrecognized.

A Notice of Preparation (NOP) for this EIR was circulated for a 30-day comment period on May 24, 2017. The NOP was circulated to the State Clearinghouse and to local, regional, and federal agencies in accordance with State CEQA Guidelines. The NOP also was sent to organizations and interested citizens that have requested notification in the past. The NOP is included in Appendix A. A public scoping meeting was held on June 14, 2017 to receive oral comments on the EIR scope.

Written comments were received in response to the NOP from two public agencies (California Coastal Commission and California Native Heritage Commission), two organizations (Don't Morph the Wharf Community Group and Santa Cruz Bird Club), and 11 individuals and families. The California Department of Fish and Wildlife provided informal comments to City staff. These letters are included in Appendix A of the Draft EIR document. Both the written comments and oral comments received at the scoping meeting were taken into consideration in the preparation of this EIR for comments that address environmental issues. Comments received during the scoping period regarding environmental issues generally include the following concerns, which are further described and discussed in the Draft EIR sections that discuss the relevant topic.

- ☐ Aesthetics - potential impacts to scenic views and the visual character of the surrounding area as a result of Wharf expansion and new development, including building height and lighting;
- ☐ Biological Resources – potential impacts to marine species and birds, including nesting birds;
- ☐ Cultural Resources – impacts to the Wharf's historic resources as a result of proposed changes and new construction;
- ☐ Geotechnical – structural stability of the Wharf;
- ☐ Exposure to coastal hazards – winter storms, wave action, and sea level rise;
- ☐ Effects of treated pile coatings on marine species and water quality;
- ☐ Drainage and water quality impacts; and
- ☐ Traffic and parking impacts.

See section 1.3 regarding the EIR scope of work.

1.4.3 Public Review of Draft EIR

The Draft EIR was published and circulated for review and comment by the public and other interested parties, agencies, and organizations for a public review period from March 30, 2020 through May 27, 2020. The City extended the required 45-day public review period by two weeks for a total of 59 days.

The City of Santa Cruz encouraged public agencies, organizations, community groups, and all other interested persons to provide written comments on the Draft EIR prior to the end of the public review period. Section 15204(a) provides guidance on the focus of review of EIRs, indicating that

in reviewing draft EIRs, persons and public agencies “should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated,” and that comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. This section further states that: “CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.”

Thirty-four letters of comment were received including three from public agencies, four from organizations and 27 from individuals. Agencies, organizations and individuals that submitted written comments on the draft EIR are outlined below.

A. State & Local Agencies

1. Monterey Bay Air Resources District
2. California Coastal Commission
3. California State Clearinghouse

B. Organizations

4. Don’t Morph The Wharf! – Gillian Greensite
5. Santa Cruz Bird Club – Lisa Sheridan
6. Santa Cruz Wymyn for Wild Nature – Erica Stanojevic
7. Sierra Club - Michael Guth, Micah Posner

C. Individuals

- | | |
|----------------------|----------------------------------|
| 1. John Aird | 15. Bill Malone |
| 2. Stefan Berlinski | 16. Susan Martinez |
| 3. Jean Brocklebank | 17. Nancy Maynard |
| 4. Will Cassilly | 18. Satya Orion |
| 5. Trician Comings | 19. Bob Pearson |
| 6. Chris Cuddihy | 20. Richard Popchak |
| 7. Gayle Fitzsimmons | 21. Dean Quarnstrom |
| 8. Jaime Garfield | 22. Ron Sandidge |
| 9. Fred Geiger | 23. Mark Trabing |
| 10. Josh Goldberg | 24. David Van Brink |
| 11. Margaret Gorman | 25. A. Webb |
| 12. Kathy Haber | 26. Linda Wilshusen |
| 13. John Harker | 27. Shawn Grona – Received after |
| 14. Debbie Hencke | close of public review period |

This Final EIR volume includes written responses to significant environmental issues raised in comments received during the public review period in accordance with CEQA Guidelines section 15088. The Final EIR also includes Draft EIR text changes and additions that became necessary after consideration of public comments. (See CEQA Guidelines, § 15088, subd. (c)).)

1.4.4 Final EIR / Project Approval

The Final EIR, which includes both the Draft and Final EIR documents, will be presented to the City Planning Commission for consideration and recommendation to the City Council. The City Council will make the final decision on certification of the EIR and the Wharf Master Plan. The Planning Commission and the City Council must ultimately certify that it has reviewed and considered the information in the EIR, that the EIR has been completed in conformity with the requirements of CEQA, and that the document reflects the City's independent judgment.

Pursuant to sections 21002, 21002.1 and 21081 of CEQA and sections 15091 and 15093 of the State CEQA Guidelines, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant effects unless both of the following occur:

- (a) The public agency makes one or more of the following findings with respect to each significant effect:
 - 1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects on the environment.
 - 2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by such other agency.
 - 3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.
- (b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

Although these determinations (especially regarding feasibility) are made by the public agency's final decision-making body based on the entirety of the agency's administrative record as it exists after completion of a Final EIR, the Draft EIR must provide information regarding the significant effects of the proposed project and must identify the potentially feasible mitigation measures and alternatives to be considered by that decision-making body.

1.4.4 Adoption of Mitigation Monitoring & Reporting Program

CEQA requires that a program to monitor and report on mitigation measures be adopted by a lead agency as part of the project approval process. CEQA requires that such a program be adopted at the time the agency approves a project or determines to carry out a project for which an EIR has been prepared to ensure that mitigation measures identified in the EIR are implemented. The Mitigation Monitoring and Reporting Program is included in Appendix A of this document.

1.5 ORGANIZATION OF FINAL EIR

This Final EIR is organized into the following chapters:

- **Chapter 1, Introduction**, explains the CEQA process; describes the scope and purpose of this Draft EIR; provides information on the review and approval process; and outlines the organization of this Draft EIR.
- **Chapter 2, Summary**, presents an overview of the project; provides a summary of the impacts of the project and mitigation measures; provides a summary of the alternatives being considered; includes a discussion of known areas of controversy; and lists the topics not carried forward for further analysis.
- **Chapter 3, Changes to Draft EIR**, outlines revisions to the Draft EIR text as a result of review of comments and responses as may be needed. Additional clarification provided by City staff also is included.
- **Chapter 4, Public Comments and Responses**, includes each comment letter with responses to comments immediately following the comment letter.
- **Appendices**. A Mitigation Monitoring and Reporting Program is included in Appendix A.

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CHAPTER 2

SUMMARY

2.1 INTRODUCTION

This chapter provides a brief description of the proposed project, known areas of controversy or concern, project alternatives, all potentially significant impacts identified during the course of this environmental analysis, and issues to be resolved. This summary is intended as an overview and should be used in conjunction with a thorough reading of the EIR. The text of this report, including figures, tables and appendices, serves as the basis for this summary.

2.2 PROJECT OVERVIEW

The proposed project consists of:

- ❑ Adoption and implementation of the Wharf Master Plan; and
- ❑ Construction of the two following projects recommended in the Master Plan within 2 to 5 years: Entry Gate Relocation and the East Promenade. Renovation. Possible expansion of the existing Lifeguard Station may also occur within the next several years.

The Wharf Master Plan includes the following elements and recommendations.

1. *Policies and Actions*
2. *Recommendations for Expansion, New Construction and Improvements*
 - *Wharf Expansion and New Facilities:* The Master Plan recommends the following new facilities: expansion of the Wharf to create a new promenade on the east side of the Wharf (East Promenade) for public pedestrian, bicycle, and emergency access; a new walkway on the west side of the Wharf (Westside Walkway); three new public use buildings, totaling approximately 15,000 square feet; and two new accessible boat landings. The Master Plan also considers remodeling and intensified use of existing structures, including potential expansion of existing commercial buildings totaling approximately 22,000 square feet and redevelopment of the existing lifeguard station.
 - *Structural Wharf Improvements:* Recommended improvements include installation of new and replacement Wharf support piles, lateral bracing, and roadway and utility improvements, including improvements to the Wharf's pavement, drainage system, and trash collection system.
3. *Circulation/Parking.* Improvements are proposed to more efficiently utilize the existing circulation area and encourage alternative transportation, including relocation of the

Wharf entrance further south onto the Wharf. Other improvements include restriping of existing parking areas that would result in approximately 45-65 additional parking spaces, widening existing sidewalks for improved pedestrian access, and provision for up to 150 bicycle parking spaces.

4. *Design Standards* are included in the Master Plan that address building design elements, including height, materials, design, windows, roofs and displays.

This EIR considers the impacts of both the implementation of the Wharf Master Plan, as well as construction of the first two projects to be implemented pursuant to the Plan—the Entry Gate Relocation and the East Promenade. All elements of the Master Plan are considered in the impact analyses, including recommendations for new facilities, buildings and improvements. A full description of all project components is provided in Chapter 3.0, Project Description, of this EIR.

2.3 AREAS OF CONTROVERSY OR CONCERN

The City of Santa Cruz, as the Lead Agency, has identified areas of concern based on the Initial Study and EIR Notice of Preparation (NOP). The NOP and comments are included in Appendix A. The Initial Study is available for review at the available for review at the Economic Development Office¹ and on the City’s website at: <http://www.cityofsantacruz.com/government/city-departments/economic-development/development-projects/santa-cruz-wharf-master-plan>.

In response to the NOP, letters of comment were received from two public agencies (California Coastal Commission and California Native Heritage Commission), two organizations (Don’t Morph the Wharf Community Group and Santa Cruz Bird Club), and 11 individuals and families. The California Department of Fish and Wildlife provided informal comments to City staff. An agency and public scoping also was held at the Planning Commission meeting on June 14, 2017 to receive public comments on the scope of the EIR’s analyses and project alternatives. Both the written comments and oral comments received at the scoping meeting have been taken into consideration in the preparation of this EIR for comments that address environmental issues.

Written comments on the NOP and oral comments received at the scoping meeting raised the following environmental concerns, some of which may be areas of controversy:

- ☐ Aesthetics - potential impacts to scenic views and the visual character of the surrounding area as a result of Wharf expansion and new development;
- ☐ Biological impacts to marine species and habitat and nesting birds;
- ☐ Exposure to coastal - winter storms, wave action, and sea level rise;
- ☐ Drainage and water quality impacts;
- ☐ Traffic and parking impacts.

2.4 SUMMARY OF ALTERNATIVES

CEQA Guidelines require that an EIR describe and evaluate alternatives to the project that could eliminate significant adverse project impacts or reduce them to a less-than-significant level. The following alternatives are evaluated in Section 5.5.

- ☐ No Project – Required by CEQA
- ☐ Alternative 1 – Reduced Project
- ☐ Alternative 2 – Modified Project

Table 5-2 in Section 5 of this EIR presents a comparison of project impacts between the proposed project and the alternatives. Alternative 1 – No Project Alternative would avoid reduce the three significant impacts with elimination of major improvements to the Wharf, but ongoing maintenance and redevelopment could result in to a less-than-significant biological and water quality impacts. level. The other alternatives also would reduce significant impacts, but not to a less-than-significant level. Mitigation measures would be required as with the proposed Project. Of the alternatives considered, Alternative 2 would best achieve project objectives, while also reducing the severity of identified significant impacts and therefore, is considered the environmentally superior alternative of the alternatives reviewed.

2.5 SUMMARY OF IMPACTS AND MITIGATION MEASURES

All impacts identified in the subsequent environmental analyses are summarized in this section. This summary groups impacts of similar ranking together, beginning with significant unavoidable impacts, followed by significant impacts that can be mitigated to a less-than-significant level, followed by impacts not found to be significant. The discussions in the Initial Study of impacts that are not being addressed in detail in the text of the Draft EIR are intended to satisfy the requirement of CEQA Guidelines section 15128 that an EIR “shall contain a statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and therefore were not discussed in detail in the EIR.” The Initial Study is included in Appendix A of this EIR. A summary of less-than-significant and no impacts identified in the Initial study is presented at the end of this section.

2.5.1 Significant Unavoidable Impacts

No significant unavoidable impacts were identified as a result of the impact analyses.

2.5.2 Significant Impacts

The following impacts were found to be potentially significant, but could be reduced to a less-than-significant level with implementation of identified mitigation measures should the City's decision-makers impose the measures on the project at the time of final action on the project.

Biological Resources

Impact BIO-1a: Special Status Aquatic Species-Pile Installation. Implementation of the Wharf Master Plan would lead to future expansion of the Wharf and structural improvements that would require installation of additional piles. Underwater sound levels resulting from pile installation could indirectly harm fish and marine mammals, including special status and protected species, if any are present at the time of construction and pile installation.

MITIGATION BIO-1a-1 Prepare and implement a hydroacoustic, fish and marine mammal monitoring plan that implements measures to avoid exposure of marine mammals to high sound levels that could result in Level B harassment. Measures may include, but are not limited to, the following:

- Establishment of an underwater “exclusion zone”—defined as the distance where underwater sound levels exceed 180 dB SEL_{cum} if whales are present, and 185 dB SEL_{cum} dB if seals and sea lions are present—will be established. This will be refined based on hydroacoustic measurements in the field and in consultation with NOAA Fisheries.
- Pre-construction monitoring by a qualified biologist to update information on the animals' occurrence in and near the project area, their movement patterns, and their use of any haul-out sites.
- Pre-construction training for construction crews prior to in-water construction regarding the status and sensitivity of the target species in the area and the actions to be taken to avoid or minimize impacts in the event of a target species entering the in-water work area.
- Marine mammal monitoring of the exclusion zone will be conducted prior to commencement of pile driving and underwater excavation activities.
- Pile-driving activities will not commence until marine mammals are not sighted in the exclusion zone for 15 minutes. This will avoid exposing marine mammals to sound levels in excess of the Level A criteria.

- Underwater noise will be measured with a hydrophone during pile-driving to verify sound levels and adjust the size of the exclusion zone as necessary. This measurement may be conducted once and the results applied to subsequent pile installations to determine the exclusion zone.
- In-water biological monitoring to search for target marine mammal species and halt project construction activities that could result in injury or mortality to these species.
- Prohibit disturbance or noise to encourage the movement of the target species from the work area. The City will contact USFWS and NOAA Fisheries to determine the best approach for exclusion of the target species from the in-water work area.
- Data collected during the hydroacoustic, fish and marine mammal monitoring will be reported to NOAA Fisheries in a post-construction monitoring report (usually required to be completed between 60 and 90 days after construction is complete). Observations and data will be reported more frequently, if required by NOAA Fisheries.

MITIGATION BIO-1a-2 A soft-start procedure will be used for impact pile driving at the beginning of each day's in-water pile driving or any time pile driving has ceased for more than 1 hour. The following soft-start procedures will be conducted:

- If a bubble curtain is used for impact pile driving, the contractor will start the bubble curtain prior to the initiation of impact pile driving to flush fish from the zone near the pile where sound pressure levels are highest.
- If an impact hammer is used, the soft start requires an initial set of three strikes from the impact hammer at 40 percent energy, followed by a one minute waiting period, then two subsequent 3 strike sets. The reduced energy of an individual hammer cannot be quantified because they vary by individual drivers. Also, the number of strikes will vary at reduced energy because raising the hammer at less than full power and then releasing it results in the hammer "bouncing" as it strikes the pile resulting in multiple "strikes".

MITIGATION BIO-1a-3 A cushion block will be used between the pile cap and the impact hammer. Layers of heavy plywood or baywood soaked in water on top of the pile cap served to dampen the sound of the hammer striking the wood as well as to dissipate friction; plywood not soaked in water was

pounded to charred splinters that became very thin and had little value in attenuating sound.

Impact BIO-4: Wildlife Movement and Breeding. Construction of future improvements at the Wharf could result in disturbance to nesting birds if any are present at the time of construction.

MITIGATION BIO-4 Conduct a pre-construction survey for any construction that would occur during the nesting season. No more than seven days prior to initiation of construction activities, including pile-driving, scheduled to begin during the nesting season for pigeon guillemot, western gull, or other species potentially nesting on the Wharf (April 15 through August 30, or as determined by a qualified biologist), the City shall have a nesting bird survey conducted by a qualified biologist to determine if active nests of bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present in the disturbance zone or within 150 feet of the disturbance zone.

Pre-construction surveys for pigeon guillemots and pelagic cormorants shall include inspection of areas underneath the Wharf for indications of nesting (by kayak or other method adequate for examining remote crevices and pilings). Because pigeon guillemot are difficult to detect, adequate surveys will require surveyors to observe for multiple hours before forming conclusions about occupancy.

If active nests for pigeon guillemots or pelagic cormorants are found, establish a buffer zone of 150 feet between each nest and construction activities under the wharf deck that could disturb nesting birds, especially pile driving. Construction activities likely to disturb nesting western gull can be resumed when the nest is vacated and young have fledged, as determined by the biologist, and if there is no evidence of a second attempt at nesting.

If active nests for western gull or other species protected under the Migratory Bird Treaty Act and/or the California Fish and Game Code are found, establish a buffer of 100 feet between each nest and construction activities that could disturb nesting birds. Examples of such activities include pile-driving, use of power tools, and above-deck construction activities identified by a qualified biologist as likely to disturb the nesting western gulls. Construction activities likely to disturb nesting western gull can be resumed when the nest is vacated and young have fledged, as determined by the biologist, and if there is no evidence of a second attempt at nesting.

The nesting disturbance buffer for any species may be reduced if a qualified biologist, in consultation with CDFW, determines that the proposed construction is unlikely to disturb the nesting birds, considering factors including, but not limited to, level of existing ongoing disturbance, the temporary level of disturbance from construction, and visual and sound obstructions between the birds and the disturbance, such as rows of piles or existing buildings.

Hydrology-Water Quality

Impact HYD-2: **Water Quality.** Implementation of the Wharf Master Plan and construction of proposed facilities would result in expansion of the Wharf, but with implementation of stormwater treatment features recommended in the Engineering Report and project-level construction best management practices, future construction of new facilities and improvements would not result in a substantial degradation of water quality, although inadvertent discharge of construction debris into marine waters could occur without proper controls.

MITIGATION HYD-2a Implement the following measures during construction of the Wharf substructure (piles, beams and decking):

- Install a floating boom can be placed in the water to encompass the work area. Any timber that inadvertently falls into the water will float and be captured by the boom. Any metal (hand tools or bolts) that falls into the water can be retrieved by magnet or diver if necessary.
- The crane that installs the piles and beams may have the hydraulic system fit with vegetable oil so that in the event of a hose failure, no petroleum based substance will contact the water, but rather food grade vegetable oil.
- Any fueling operations of the equipment is conducted on a containment area utilizing plastic sheeting and absorbent pad containment to contain any spills during fueling over the water.

MITIGATION HYD-2a If visual evidence of contamination is observed (e.g., oily sheen) during in-water construction, all work shall stop and appropriate containment measures shall be used to identify the source of the contamination (e.g., buried creosote piles), contain, and/or remove the material; regulatory agencies with authority over the area shall be notified, i.e., the Santa Cruz County Environmental Health Services or Department of Toxic Substances Control. Any hazardous materials needing to be removed shall be handled and disposed of in accordance with the requirements of federal and state regulations.

2.5.3 Less-Than-Significant Impacts

The following impacts were found to be less-than-significant. Mitigation measures are not required.

Impacts Evaluated in EIR

- Impact AES-1:** **Scenic Views.** Implementation of the Wharf Master Plan and future development accommodated by the Wharf Master Plan would not have a substantial adverse effect or obstruct a visually prominent or significant public scenic vista.
- Impact AES-2:** **Scenic Resources.** Implementation of the Wharf Master Plan and future development accommodated by the Wharf Master Plan would not substantially damage or adversely affect a scenic resource.
- Impact AES-3:** **Visual Character of the Surrounding Area.** Implementation of the Wharf Master Plan would result in future expansion and new development on the Santa Cruz Wharf, but would not conflict with applicable zoning or other regulations governing scenic quality.
- Impact AES-4:** **Introduction of Light and Glare.** Implementation of the Wharf Master Plan and construction of recommended structures and improvements would result in new development and lighting, but would not result in introduction of a major new source of light or glare or result in a substantial increase in lighting over existing conditions.
- Impact BIO-1b:** **Special Status Aquatic Species-Effects of Pile Coating.** Use of polyurea coating on treated timber piles will prevent leaching of contaminants or indirect harm to fish and aquatic species, but piles could be damaged over time without adequate monitoring.
- Impact BIO-1c:** **Special Status Species-Coastal Birds.** Implementation of the Wharf Master Plan would lead to future expansion of the Wharf and potential coastal bird nesting area. Use of the Westside Walkway could adversely affect nesting coastal birds, but would be offset by the overall increase in Wharf area for nesting and roosting.
- Impact BIO-7:** **Effects on Wildlife Populations.** Adoption and implementation of the Wharf Master Plan and subsequent Wharf expansion and construction would not substantially reduce the habitat of a fish or wildlife species or cause a drop in populations below self-sustaining levels or a threat of local extirpation of a species.

- Impact CUL-1:** **Historic Resources.** Adoption and implementation of the Wharf Master Plan would result in future construction of new facilities and improvements that would result in alteration to the Wharf structure. However, the alterations would not materially impair the historical significance of the Wharf.
- Impact GEO-1:** **Geologic Hazards.** Adoption and implementation of the Wharf Master Plan and future construction of proposed facilities and improvements would result in exposure of new structural development to seismic hazards. However, with implementation of the recommendations of the Engineering Report prepared as part of the Wharf Master Plan, the project would not directly or indirectly cause potential substantial adverse effects related to seismic or geologic hazards, and the impact would be *less than significant* (GEO-1).
- Impact HYD-1:** **Stormwater Drainage.** Implementation of the Wharf Master Plan and construction of proposed facilities would result in new structural development with some increase in impervious surfaces, but would not significantly increase runoff volumes or rates, exceed capacities of storm drains or result in erosion or water quality impact.
- Impact HYD-3:** **Coastal Flood Hazards.** Implementation of the Wharf Master Plan and future construction of proposed facilities would result in new structural development, but would not substantially increase exposure to flood hazards related to coastal storms and sea level rise or result in a risk of release of pollutants due to inundation.
- Impact TRA-1:** **Circulation System Impacts.** Implementation of the Wharf Master Plan and construction of recommended structures and improvements could result in increased vehicle trips to the Wharf, but would not conflict with a program, ordinance, or policy establishing the circulation system.
- Impact UTIL-1:** **Water Supply.** Implementation of the Wharf Master Plan and construction of recommended structures and improvements would result in construction of new buildings and enhanced public access, which could result in increased water demand for potable water in a system that, under existing conditions, has adequate supplies during average and normal years, but is subject to potential supply shortfalls during dry and critically dry years to serve the project and reasonably foreseeable future development. The additional project demand would not result in a substantial increase during dry years and would not be of a magnitude to affect the level of curtailment that might be in effect.

- Impact UTIL-4: Wastewater Treatment.** Implementation of the Wharf Master Plan and construction of recommended improvements would result in construction of new buildings and enhanced public access, which could result in generation of wastewater that could be accommodated by the existing wastewater treatment plant.
- Impact UTIL-5: Solid Waste Generation.** Implementation of the Wharf Master Plan and construction of recommended improvements would result in construction of new buildings and enhanced public access, which could result in an increase in generation of solid waste that could be accommodated by the existing landfill.
- Impact UTIL-7: Energy Use.** Adoption and implementation of the Wharf Mater Plan and future improvements could result in indirect increased energy demands, which would not be wasteful or an inefficient use of resources.

Impacts Evaluated in Initial Study

- Air Quality:** Implementation of the Wharf Master Plan and construction of proposed facilities would result in new structural development, potential increase in parking spaces due to reconfiguration, and a potential increase in visitor use that could lead to increased vehicle trips and emissions. However, the emissions would not exceed MBUAPCD's criteria for significance, and the project does not include operations that would result in stationary emissions. Thus, the project would not violate current air quality standards.
- Noise:** The proposed project would result in short-term construction-related noise as improvements and structures recommended in the Wharf Master Plan are planned and constructed. Construction noise would be temporary and intermittent, and noise levels would fluctuate throughout any given day. Given other sound sources in the area, most notably the ocean and Boardwalk, and due to the limited duration and short-term nature of the construction, temporary construction noise is considered a *less-than-significant impact*.
- Public Services:** The proposed project will be served by existing public services. The project will have no measurable effect on existing public services in that the incremental increase in demand will not require expansion of any services to serve the project. Construction of new fire or police facilities to serve the project would not be warranted.

2.5.4 No Impacts

The State CEQA Guidelines section 15128 require that an EIR contain a statement briefly indicating the reasons that various possible significant effects of a project were determined not to be

significant and were therefore not discussed in detail in the EIR. Through the Initial Study, NOP scoping process, and EIR, the City of Santa Cruz determined that the proposed project would have no impact on the environmental issues outlined below, and thus, are not further analyzed in the EIR. See the Initial Study in Appendix A for further discussion.

Impacts Evaluated in EIR

- Impact BIO-2:** **Sensitive Habitat.** Implementation of the Wharf Master Plan would not result in direct removal or loss of or substantial adverse effect to sensitive habitat.
- Impact BIO-3:** **Sensitive Habitat - Wetlands.** Implementation of the Wharf Master Plan would not result in a substantial adverse effect to direct removal or loss of wetland habitat.
- Impact CUL-5:** **Paleontological Resources.** Adoption and implementation of the Wharf Master Plan and future development accommodated by the Wharf Master Plan, including construction of the two planned near-term projects, would be located on the Wharf that is within the Monterey Bay and would not result in excavation or impacts to unknown paleontological resources discovered during construction.
- Impact TRA-2:** **Conflicts with CEQA Guidelines (VMT).** Both policies and actions included in the Wharf Master Plan, as well as planned improvements, would support alternative transportation modes. Furthermore, the Wharf is served by the SCMTD bus stops and seasonal trolley and recreational train service. The recommendations in the Master Plan support and enhance opportunities for pedestrian and bicycle access. The three new buildings would generate per capita employee VMT, but the other measures in the Master Plan to increase alternative modes and the Wharf's proximity to existing alternative transportation modes, would serve to reduce project-related VMT. Therefore, the project would not conflict or be inconsistent with CEQA Guidelines section 15064.3.
- Impact TRA-3:** **Project Access. Project Access.** The project will not result in creation of hazards due to design of the project circulation system.
- Impact TRA-4:** **Emergency Access.** The project will not result in creation of hazards due to design of the project circulation system or result in inadequate emergency access.
- Impact LU-1:** **Conflicts with Policies and Regulations.** The proposed project will not conflict with policies or regulations adopted for the purpose of avoiding or mitigating

an environmental effect, and therefore, will result in no impact related to consistency with local plans and policies.

Other:

- **Biological Resources.** Implementation of the Wharf Master Plan would not conflict with policies or regulations protecting biological resources (BIO-5); see Section 4.7, and there are no Habitat Conservation Plans or Natural Community Conservation Plans in the area or that include the Wharf (BIO-6).
- **Archaeological Resources.** The project site is the Santa Cruz Wharf that extends into the Monterey Bay. The site, including the existing Wharf entrance that is on land off of Beach Street, is not located within an area of known archaeological sensitivity. Adoption and implementation of the Wharf Master Plan, including construction of the first two projects, would result in construction on the portion of the Wharf that is within Monterey Bay. The project would not result in impacts to archaeological or cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code 21074 (CUL-2-4).
- **Geology, Hydrology and Water Quality.** Adoption and implementation of the Wharf Master Plan and subsequent development would not result in discharges to ocean waters or conflicts with the Basin Plan. A sustainable groundwater management plan for the area in which the project is located has not yet been prepared. Therefore, the project would not conflict with adopted water quality or groundwater plans (HYD-4).
- **Water Supply, Utilities and Energy.** Adoption and implementation of the Wharf Master Plan and subsequent development would not result in the need for new or expanded utilities (UTIL-2), would not impact groundwater resources (UTIL-3), or result in conflicts with solid waste regulations (UTIL-6) or energy plans (UTIL-8)

Impacts Evaluated in Initial Study

- Agricultural and Forest Resources
- Hazards and Hazardous Materials
- Mineral Resources
- Noise: Permanent Noise, Location Within Airport Land Use Plan

2.6 ISSUES TO BE RESOLVED

CEQA Guidelines section 15123 requires the Summary to identify “issues to be resolved including the choice among alternatives and whether or how to mitigate the significant effects.” This EIR has presented mitigation measures and project alternatives, and the City Planning Commission and City Council will consider the Final EIR when considering the proposed project. In considering whether to approve the project, the Planning Commission and City Council will take into

consideration the environmental consequences of the project with mitigation measures and project alternatives, as well as other factors related to feasibility. “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors (State CEQA Guidelines, section 15364). Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control, or otherwise have access to the alternative site (or already owns the alternative site). No one of these factors establishes a fixed limit on the scope of reasonable alternatives. The concept of feasibility also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. Moreover, feasibility under CEQA encompasses “desirability” to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

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CHAPTER 3

CHANGES TO DRAFT EIR

3.1 INTRODUCTION

This chapter identifies revisions to the text in the Draft EIR based on consideration of comments received during the public review period. Changes to Draft EIR text that are identified below are shown in underlined type for new text and ~~strikeout~~ type for deleted text.

3.2 REVISIONS TO DRAFT EIR TEXT

3.2.1 Changes to Chapter 2, Summary

Page 2-3 Revise second paragraph regarding description of alternatives as shown in Chapter 2, Summary, of this document.

3.2.2 Changes to Chapter 3, Project Description

Page 3-7 Revise Overview of Master Plan Elements and Recommendations as follows:

The Wharf Master Plan includes the following elements and recommendations which are further described in the following subsections.

1. *Policies and Actions*

2. *Recommendations for Expansion, New Construction and Improvements*

- *Wharf Expansion and New Facilities:* The Master Plan recommends the following new facilities ~~are proposed~~: expansion of the Wharf to create a new promenade on the east side of the Wharf (East Promenade) for public pedestrian, bicycle, and emergency access; a new walkway on the west side of the Wharf (Westside Walkway); three new public use buildings, totaling approximately 15,000 square feet; and two new Americans With Disabilities Act accessible boat landings. The Master Plan also considers remodeling, infill and intensified use of existing structures, including potential expansion of existing commercial buildings totaling approximately 22,000 square feet and redevelopment of the existing lifeguard station. Figure 3-1 shows the Master Plan conceptual layout and location of new and expanded facilities
- *Structural Wharf Improvements:* Recommended improvements include installation of new and replacement Wharf support piles,

lateral bracing, and roadway and utility improvements, including improvements to the Wharf's pavement, drainage system, and trash collection system.

3. *Circulation/Parking.* Improvements are proposed to more efficiently utilize the existing circulation area and encourage alternative transportation, including relocation of and relocate the Wharf entrance further south onto the Wharf. Other improvements include restriping of existing parking areas that would result in approximately 45-65 additional parking spaces, widening existing sidewalks for improved pedestrian access, and provision for up to 150 bicycle parking spaces.
4. *Design Standards* are included in the Master Plan that address building design elements, including height, materials, design, windows, roofs and displays.

Page 3-13 Revise last sentence of top paragraph as follows:

However, this facility is not intended as a terminus for cruise ships of any tonnage, to provide moorings for extended periods of time, or to provide shuttle access for any type of large vessel or cruise ship.

Page 3-20 Revise the last full paragraph as follows:

A sign at the top of the entry gate is recommended in the Master Plan, but a sign is not included in the current project proposal. As previously indicated, the Master Plan proposes installation of a 6 to 8-foot tall, 70-foot long sign at the relocated entrance gate, subject to further review and design. However, the City expects that the sign would not span the entire length of the new entrance. The Master Plan and EIR merely establish the outside envelope of potential Wharf entry signage, but are not prescriptive to the final design. The City intends to develop a future entry gate sign design through a public process, and a specific design is not included as part of the proposed project.

3.2.3 Changes to Section 4.1 – Aesthetics

Page 4.1-8 Revise and expand the first paragraph as follows:

Therefore, new or expanded buildings would not block or obstruct scenic views of the surrounding Monterey Bay and views toward the shoreline as seen from the vantage points along the Wharf. The proposed new "Landmark Building" at the end of the Wharf would not substantially block scenic views of the shore as existing structures already obstruct most shoreward views from the end of the Wharf in the location of the proposed Landmark Building. As previously indicated, a scenic

viewpoint at the end of the Wharf is identified in the City's General Plan and LCP. The identified scenic view includes views seen to the north, east, south and west. Views to the east, south and west are toward the Monterey Bay and would not be affected by the Landmark Building.

There are two existing buildings at the end of the Wharf that currently partially block northerly views toward land from the end of the Wharf. The Landmark Building would be located adjacent to existing buildings. Views from the end of the Wharf across the footprint of the Landmark Building are limited to the top portion of the Coconut Grove at the Boardwalk and a very limited view of the top of distant mountains as seen in the photo below. On either side of the both the existing buildings and the conceptual building footprint for the Landmark Building and at the edge of the Wharf, views of the distant Main Beach and Boardwalk on the east and Cowell Beach, Dream Inn and other development on the west would remain and be expanded on the east with the East Promenade and overlook with amphitheater-stepped seating.



The Landmark Building would not result in obstruction of ocean or shoreline views as seen from the end of the Wharf looking toward land as none exist in this location, and only a minor portion of the overall available distant mountaintop view would be obstructed. and Distant mountains as seen looking toward the front

of the Wharf as views would be available along the remainder of the Wharf. The existing Wharf and structures thereon already present visual obstructions, and the new development represents a minor and less-than-significant increase in visual obstructions, especially when considering the small area of obstruction when compared to the panoramic ocean views at most locations. Neither The Gateway Building nor the Events Pavilion are located in areas of mapped scenic views, and thus, would not affect scenic views.

Page 4.1-12 Add the following to the end of the second full paragraph.

Figure 4.1-10 shows the locations where the photos were taken. (Figure 4.1-10 is included at the end of this section.)

Page 4.1-15 Revise the first sentence of the fourth paragraph as follows:

The Master Plan proposes installation of an approximate 6 to 8-foot high, ~~seventy foot long sign~~ at the relocated entrance gate. It is expected that the sign would not span the entire length of the new entrance and that it may read:

S A N T A C R U Z W H A R F
Gateway to Monterey Bay National Marine Sanctuary

3.2.4 Changes to Section 4.3 – Cultural and Tribal Cultural Resources

Page 4.3-8 Add the following to the end of the first paragraph:

An underwater survey was conducted in the summer of 2020 to determine whether potential underwater archaeological or cultural resources are present in the area of proposed Wharf expansion. No cultural resources were identified.

3.2.5 Changes to Section 4.5 – Traffic & Transportation

Page 4.5-5 Revise the last paragraph as follows:

~~As previously indicated~~ At the time of release of the Draft EIR, the City of Santa Cruz is was in the process of developing a VMT threshold, but has not yet adopted one and had has until July 1, 2020 to do so. Thus, at the present time, it was determined that the project would not conflict or be inconsistent with CEQA Guidelines section 15064.3. Subsequent to close of the public review period for the Draft EIR, the City of Santa Cruz adopted a VMT transportation threshold on June 9, 2020 in accordance with CEQA and state requirements. The threshold establishes a no net increase in VMT for retail and other non-residential uses for land use projects and provides a process for transportation projects. In this case,

the project is a Master Plan. The City has developed guidelines to determine whether a land use project is within the VMT threshold. The process includes a screening process in which situations are identified under which projects are determined not have a significant impact and further analysis is not required. City staff review of preliminary screening maps indicate that the Wharf is located in an area with VMT lower than the County average, and the future land use project arising from the implementation of the Wharf Master Plan would be screened out from further review and would not conflict with the City's newly established VMT threshold.

3.2.6 Changes to Section 5.4 - Cumulative Impacts Section

Page 5-9 Add clarification to last sentence of the second full paragraph as shown below, and correct second to last sentence of the page to indicate that the Project's water demand represents less than one-half of one percent:

Thus, the long-term provision of augmented water supplies is under development, but uncertain at this time.

3.2.7 Changes to Section 5.5 – Project Alternatives Section

Page 5-20 Revise the second paragraph as shown below.

Table 5-2 (on the next page) presents a comparison of project impacts between the proposed project and the alternatives. Alternative 1 – No Project Alternative would avoid ~~reduce~~ the three significant impacts with elimination of major improvements to the Wharf, but ongoing maintenance and redevelopment could result in to a less-than-significant biological and water quality impacts. level. The other alternatives also would reduce significant impacts, but not to a less-than-significant level. Mitigation measures would be required as with the proposed Project. Of the alternatives considered, Alternative 2 would best achieve project objectives, while also reducing the severity of identified significant impacts and therefore, is considered the environmentally superior alternative of the alternatives reviewed.

3.2.8 Changes to Chapter 6, References

Page 6-3 Add the following references:

California Department of Fish and Game. September 12, 2019. Notice of Determination. "City of Santa Cruz Routine Maintenance Activities (Streambed Alteration Agreement No. 1600-2013- 0176-R3)." Available online at: <https://ceqanet.opr.ca.gov/1999102083/6>.

City of Santa Cruz. July 2018. "Cultural Resources Background Report Update with Policies, Programs and Maps, City of Santa Cruz, Santa Cruz County, California. Prepared by Dudek.

Hines, Anson H., and Thomas R. Loughlin. 1980. "Observations of Sea Otters Digging for Clams at Monterey Harbor, California." *Fishery Bulletin*. Vol. 78. No.1, pp. 159-173. National Marine Fisheries Service.

U.S. Environmental Protection Agency (EPA). October 2008. *Reducing Urban Heat Islands: Compendium of Strategies*. Available online at:
<https://www.epa.gov/sites/production/files/2014-08/documents/basicscompendium.pdf>.

3.2.9 Changes to Chapter 7, Figures

Add Figure 4.1-10 to this section; the figure is shown on the next page.



SOURCE: USGS 7.5-Minute Series Santa Cruz Quadrangle

DUDEK



0 355 710 Feet
0 100 200 Meters
1:8,400

FIGURE 4-10
Photo Simulation Locations
Santa Cruz Wharf Maintenance Project

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CHAPTER 4

COMMENTS AND RESPONSES

4.1 INTRODUCTION

This chapter provides responses to individual comments that were submitted by agencies, organizations, and individuals as summarized below in subsection 4.2. Each letter of comment is included in subsection 4.3; a response to each comment is provided immediately following each letter. Appropriate changes that have been made to the Draft EIR (DEIR) text based on these comments and responses are provided in Chapter 3, Changes to Draft EIR.

State CEQA Guidelines section 15088(a) requires a lead agency to evaluate comments on environmental issues and provide written responses. Section 15204(a) provides guidance on the focus of review of EIRs as follows:

In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.

In reviewing comments and providing responses on the following pages, this section of the CEQA Guidelines will be considered. The focus will be on providing responses to significant environmental issues.

4.2 LIST OF COMMENT LETTERS RECEIVED

The DEIR was published and circulated for review and comment by the public and other interested parties, agencies, and organizations for a 59-day public review period from March 30, 2020

through May 27, 2020. Thirty-four letters of comment were received; agencies, organizations and individuals that submitted written comments on the DEIR are outlined below.

A. State & Local Agencies

1. Monterey Bay Air Resources District
2. California Coastal Commission
3. California State Clearinghouse

B. Organizations

1. Don't Morph The Wharf! – Gillian Greensite
2. Santa Cruz Bird Club – Lisa Sheridan
3. Santa Cruz Wymyn for Wild Nature – Erica Stanojevic
4. Sierra Club - Michael Guth, Micah Posner

C. Individuals

1. John Aird
2. Stefan Berlinski
3. Jean Brocklebank
4. Will Cassilly
5. Trician Comings
6. Chris Cuddihy
7. Gayle Fitzsimmons
8. Jaime Garfield
9. Fred Geiger
10. Josh Goldberg
11. Margaret Gorman
12. Kathy Haber
13. John Harker
14. Debbie Hencke
15. Bill Malone
16. Susan Martinez
17. Nancy Maynard
18. Satya Orion
19. Bob Pearson
20. Richard Popchak
21. Dean Quarnstrom
22. Ron Sandidge
23. Mark Trabing
24. David Van Brink
25. A. Webb
26. Linda Wilshusen
27. Shawn Grona – Received after close of public review period

4.3 COMMENT LETTERS AND RESPONSES

Agencies, organizations, and individuals that submitted written comments on the DEIR are outlined above in section 4.2. Each comment letter is included in this section. As indicated above, CEQA Guidelines section 15088(a) requires a lead agency to evaluate comments on environmental issues and provide a written response to all substantive comments. A response to each comment is provided immediately following each letter. As indicated in subsection 4.1 above, the emphasis of the responses will be on significant environmental issues raised by the commenters. (CEQA Guidelines, § 15204, subd. (a).) Appropriate changes that have been made to the DEIR text based on these comments and responses are provided in the Chapter 3, Changes to DEIR.

May 27, 2020

David McCormic
City of Santa Cruz
Economic Development Department
337 Locust St., Santa Cruz, CA 95060
Santa Cruz, CA 95060

Re: DEIR for the Santa Cruz Wharf Master Plan

Dear Mr. McCormic:

Thank you for providing the Monterey Bay Air Resources District (MBARD) with the opportunity to comment on the above-referenced document. MBARD has reviewed the document and has the following comments:

A1-1 1. Chapter 3, Section 3.4.1 Wharf Master Plan Description, page 3.7 –

- During the construction phase MBARD recommends using cleaner construction equipment that conform to ARB's Tier 3 or Tier 4 emission standards. MBARD further recommends that where feasible construction equipment use alternative fuels such as compressed natural gas (CNG), propane, electricity or biodiesel.
- MBARD recommends that the project include publically available dual post Level 2 and/or DC fast charge stations within the project site.
- MBARD strongly encourages the design and construction of additional roundabouts in the surrounding project area.
- MBARD also encourages the use of adaptive traffic control systems (ATCS) at any signalized intersection along nearby collector or arterial roadways.

Note: Local annual funding opportunity from MBARD is available for alternative clean fuel on and off-road vehicles, EV charging infrastructure, roundabout design and construction and ATCS projects. <https://www.mbard.org/grants-incentives>

A1-2 2. Chapter 3, Section 3.4.1 Wharf Master Plan Description, page 3.9 –

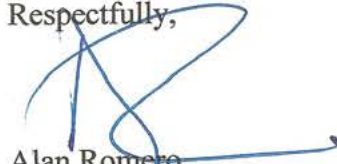
If asbestos is discovered during the construction phase of the project, the requirements of Air District Rule 424 National Emissions Standards for Hazardous Air Pollutants could be triggered. Rule 424 contains the investigation and reporting requirements for asbestos. If you have any questions about District Rule 424 and prior to any demolition activities, please contact Shawn Boyle, Air Quality Compliance Inspector III, 831-718-8010.

A1-3 3. Chapter 4, Section 4.5, Traffic & Transportation, Vehicle Miles Traveled, page 4.5-8 –

Please identify and cite the methodology employed by the Santa Cruz County Regional Transportation Commission (SCCRTC) in the determination of VMT in and around the project site.

Please feel free to contact MBARD if there are any questions regarding this comment letter.

Respectfully,



Alan Romero
Air Quality Planner III
Monterey Bay Air Resources District

cc: David Frisbey, Planning and Air Monitoring Manager

LETTER A1 – Monterey Bay Air Resources District (MBARD)

- A1-1 Construction Equipment Recommendations. The comment provides a list of recommendations including: the use of cleaner construction equipment that conforms to ARB’s Tier 3 or Tier 4 emission standards; inclusion of electric charge stations; construction of additional roundabouts in the surrounding area; and use of adaptive traffic control, and indicates funding from the District is available. *Response*: The comment is noted, but does not address analyses in the DEIR and no response is required, although the City will consider the District’s recommendations at the time specific projects resulting from the Wharf Master Plan are proposed and designed.
- A1-2 Asbestos. The comment indicates that if asbestos is discovered during the construction phase of the project. District rules and regulations would apply. *Response*: The comment is noted, but does not address analyses in the DEIR and no response is required. The City will comply with all applicable regulations during the construction phase of future projects.
- A1-2 Vehicle Miles Traveled (VMT). The comment asks for the citation and methodology regarding the determination of VMT in and around the project area. *Response*: The estimated VMT for the surrounding area was developed by the City Public Works Department based on California Travel Model as explained on pages 4.5-7 to 4.5-8 in the DEIR. Subsequent to the close of the public review period for the Draft EIR, the City of Santa Cruz adopted a VMT threshold. The Draft EIR text has been revised to describe the new threshold and applicability to the Wharf Master Plan; see Chapter 2, “Changes to Draft EIR” section of this document.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT
 725 FRONT STREET, SUITE 300
 SANTA CRUZ, CA 95060
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May 27, 2020

David McCormick
 Economic Development Office
 City of Santa Cruz
 337 Locust St., Santa Cruz, 95060

Subject: Comments on the Santa Cruz Wharf Master Plan Draft Environmental Impact Report

Dear Mr. McCormick,

Thank you for the opportunity to comment on the Santa Cruz Wharf Master Plan's draft Environmental Impact Report (DEIR), which proposes expansions of the Wharf's surface area for commercial, recreational, and public access improvements. The Master Plan proposes construction/installation of the following: three new buildings intended for visitor-serving uses; a larger repositioned entry gate; two new pedestrian walkways; two new boat ramps; an expanded lifeguard station; additions and improvements to existing commercial buildings; new pier pilings and pier support structures; expanded utilities, travel lanes, and parking areas; and a new trash collection and disposal system. Coastal Commission staff has been involved in this project for some time, including meeting with City staff to discuss proposed elements and providing comments and direction via previous CEQA comments letters. We generally support the proposed Master Plan's overall goals to expand public access and recreational opportunities, strengthen the Wharf's underlying infrastructure, and improve the Wharf's viability as a lasting and economically sound component of Santa Cruz and California's historic coastal heritage. In addition, we generally support the specific ways in which the Master Plan proposes to implement these improvements, while at the same time we offer feedback to ensure that the proposed improvements comply with the resource protection policies of the Coastal Act. We offer the following comments about the information presented in the Master Plan's DEIR.

A2-1

A2-2 **Jurisdiction and Permitting**

As noted in the DEIR, the Wharf is located in a geographic area where the Coastal Commission retains coastal permitting authority. Any new development on the Wharf must receive a coastal development permit (CDP) directly from the Coastal Commission and such development is required to be consistent with the Coastal Act's Chapter 3 policies. As an alternative to individual CDPs, we have mentioned in previous correspondence that the Plan as a whole could be well-suited to be authorized and implemented as a Public Works Plan (PWP). We can discuss with you in more detail how this may functionally and procedurally work. With that, we remain committed to offering the City any assistance it may need in jointly reviewing the Wharf's existing array of previously approved CDPs, other relevant coastal development policy

guidance, and planning objectives to tailor an appropriate PWP for submittal to the Coastal Commission for review and approval.

A2-3 Public Trust and Maximizing Public Access and Recreation

With the Wharf and its proposed improvements extending over public lands and tidelands, the Coastal Act's requirements that new development maximize public access and recreation opportunities (Coastal Act Sections 30210 through 30224) become paramount. The proposal also includes new fill (i.e. new piles) in coastal waters, which is allowed under Coastal Act Section 30233(a) for public recreational piers that provide public access and recreational opportunities. The approximately 810 new piles would support new walkways, boat ramps and landings, an expanded lifeguard station, and a new entry gate. Under the Master Plan, approximately 225 existing piles that have become worn or degraded and that currently support visitor-serving facilities would be replaced. In total, almost all of the roughly one thousand new pier piles and associated support structure covering tidelands would directly further public coastal access and recreation opportunities.

However, we have concerns regarding the proposed new entry gate. Specifically, the Master Plan includes a new entry gate with a transparent surface and a metal rolling screen that could be used to completely close off not only vehicular access to the Wharf, but also pedestrian and bicycle access. The Master Plan should describe the times when the entry gate would be closed so as to prohibit access to the Wharf, describe the reasons for any closure, and describe measures to mitigate any adverse impacts on public recreational access.

- A2-4** The DEIR states that the proposed Events Pavilion would be built on the South Commons, which is a prime outdoor public access area located on the west side of the Wharf that offers excellent views of Lighthouse Point. Under this proposal, the Events Pavilion would enclose part of the South Commons area within its new building footprint, which would allow public events to be held inside during inclement weather. But the Events Pavilion would also be offered for private events. The DEIR does not explain how the Events Pavilion's proposed part-time use as a private venue furthers visitor-serving uses, public access, and recreation in this regard, which is something that the Commission will need to understand in order to evaluate this proposed use against the requirements of Coastal Act Section 30233(a). Please provide this information, including a discussion of how many such events may take place, their duration, and ways to mitigate any adverse public recreational access impacts from private use of the Events Pavilion.

Aesthetics and Visual Resources

- A2-5** Coastal Act Section 30251 requires that new development protect the scenic and visual qualities of coastal areas. This section also requires that new development protect views to and along the ocean and coastal areas and be visually compatible with the

character of surrounding areas. The Master Plan includes buildings that are much larger in scale and footprint than existing Wharf buildings, which raises concerns regarding Wharf aesthetics and views of the Wharf as seen from a variety of vantage points. Also, the visual depictions of the proposed new entry sign show a structure that is much larger than the current sign at approximately 30 feet tall and 70 feet wide, which may also have impacts on views and aesthetics. Thus, the City should consider minimizing the size and scale of the entry gate and sign and describe the rationale for why buildings should be increased in size from their current volumes and how this will affect the views and aesthetics of the Wharf. Further, the entry gate and sign should be made of materials that are in keeping with the natural setting and character of the Wharf and surrounding area.

Water Quality

- A2-6 Coastal Act Sections 30230 and 30231 require that marine resources, including water quality, be maintained, enhanced, and restored. Section 30235 specifically requires that marine structures contributing to water pollution be upgraded and phased out where feasible. The Master Plan DEIR recommends three methods for reducing the amount of storm water that enters Monterey Bay from the Wharf. Specifically, the Master Plan proposes to: 1) collect and direct rainwater from *new* building roof downspouts into vegetated landscaped areas of the Wharf, or into rain barrels and cisterns for irrigation use; 2) grade repaved Wharf areas such that rainwater flows into collection points to be treated on-site before draining into Monterey Bay, and; 3) use grease and oil traps, swirl chambers, and media filters to treat run-off before it enters the Bay. In addition to new construction, we believe that these recommended measures also should be fully implemented for existing developed areas on the Wharf that will not be redeveloped as part of the Master Plan, including incorporating these water quality protection elements as part of ordinary repair and maintenance events as much as possible. Doing so will provide consistency with the above-cited Coastal Act water quality protection provisions.
- A2-7 The Master Plan DEIR notes that new wooden pier pilings will be coated with polyurea to prevent the harmful wood treatment chemical compound ACZA from leaching into coastal waters. Polyurea coating is known to be effective for containing ACZA within the wooden pier pile if the polyurea layer remains intact and does not become worn or damaged. But the DEIR's description of treated wooden piles does not describe the project's planned method of applying polyurea to its ACZA-coated pier piles. The alternatives analysis states that wrapping pier piles with polyurea is not preferable to whatever method is planned for applying polyurea to pier piles in this project, but it neither describes the planned for method of applying polyurea nor does it describe why wrapping piles offers no advantage. If one method of applying polyurea coating is superior to another, please describe the circumstances and considerations for applying polyurea to piles for this project and why a particular method was chosen. Considering the high importance of water quality around the Wharf for pinnipeds and fish that live nearby, a fuller description of the methods for properly coated pier piles is necessary.

The City and Coastal Commission staff have made significant progress in understanding the issues surrounding pier pile driving at the Wharf through ongoing work on the Wharf's Five-Year Repair and Maintenance Plan (CDP application 3-18-1081). Like the Wharf Master Plan project, the Five-Year Repair and Maintenance Plan will include conditions necessary to protect water quality and marine organisms, and the Commission will hear that CDP application soon. Because the two projects propose to use similar pile driving procedures and have similar risks associated with water quality and marine organisms, the Wharf Master Plan should include provisions consistent with those of the CDP for Five-Year Maintenance and Repair Plan.

Biological Resources

- A2-8 Coastal Act Sections 30230 and 30231 require that marine resources be maintained, enhanced, and restored, and that new development not interfere with biological productivity of coastal waters or the continuance of healthy populations of marine species. The DEIR describes the negative effects to marine wildlife that noise and commotion generated by pile driving and other heavy construction work may cause. Although the DEIR describes mitigation measures that may partially help reduce risks from construction commotion to nesting seabirds, fish, and marine mammals, specific measures (such as appropriate buffers between bird nests on the Wharf and construction work, and marine mammal exclusion zones while pile driving) are now required by the Commission. We believe that it is important to continue coordination among the City, the Coastal Commission, and the National Marine Fisheries Service before mitigation measures are finalized. As with the issues surrounding pile driving mentioned above, the City and the Coastal Commission staffs have worked together to understand the issues and find suitable mitigation measures. Issues such as nesting seabird buffers, details on the times and duration of construction work in the vicinity of nesting seabirds, and procedures for pile driving to protect marine mammals will need to be addressed as well and, as stated above, will be identified and addressed in CDP 3-18-1081.

Coastal Hazards

- A2-9 Coastal Act Section 30253 requires that new development minimize risks to life and property in areas of high geologic, flood, and fire hazards. Like most coastal areas of the state, Santa Cruz faces increased coastal flood risks from the effects of climate change. Two coastal hazards associated with climate change that the Wharf will likely face in its lifespan are sea level rise (SLR) and more powerful storm waves generated by more intense and more frequent coastal storms. The DEIR states that the Wharf's new Western Walk would be built eight feet lower than the existing Wharf's 23-foot height above water, so that pedestrians using the Western Walk would not obstruct scenic views for restaurant patrons and customers of other businesses. With sea level in the Monterey Bay area predicted to rise between 5 inches and 24 inches by 2050, powerful coastal storm waves could pose a serious threat to the Western Walk and the main Wharf's structural supports to which the walkway attaches. Providing improved

David McCormick
Santa Cruz Wharf Master Plan Draft Environmental Impact Report
May 27, 2020

pedestrian access through such a creative design method is admirable; however, it will be important for the Commission to understand specifically how and when this proposed new feature will be impacted by SLR. Therefore, please ensure the EIR provides an analysis of how the proposed walkway, and other Wharf features more broadly, will be safe from coastal hazards using the Commission's Sea Level Rise Policy Guidance for context.

Thank you for the opportunity to provide these comments on the Wharf Master Plan DEIR. Coastal Commission staff clearly recognizes the Wharf's multifaceted value to the City of Santa Cruz and the region as a whole. We look forward to continuing to work with the City on the Master Plan. Please do not hesitate to contact me with any questions or concerns about the above comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Colin Bowser', with a stylized, cursive script.

Colin Bowser
Coastal Planner, Central Coast District

LETTER A2 – California Coastal Commission (CCC)

- A2-1 Support for Wharf Master Plan. The comment states that the CCC generally supports the Master Plan’s overall goals to expand public access and recreational opportunities, strengthen the Wharf’s underlying infrastructure, and improve the Wharf’s viability as a lasting and economically sound component of Santa Cruz and California’s historic coastal heritage and generally support the specific ways in which the Master Plan proposes to implement these improvements, but offers feedback to ensure that the proposed improvements comply with the resource protection policies of the Coastal Act. *Response:* Comment is acknowledged; no response is required.
- A2-2 Jurisdiction and Permitting. The comment states that the project is located in an area where the Coastal Commission retains coastal permitting authority and any new development on the Wharf must receive a coastal development permit (CDP) directly from the CCC and such development must be consistent with the Coastal Act policies. As an alternative, the comment indicates that the Wharf Master Plan would be well-suited to be authorized and implemented as a Public Works Plan (PWP), and staff would continue to work with City regarding coastal development permits or a PWP. *Response:* Comment is acknowledged. The DEIR does identify the potential use of a PWP on page 3-22 as has been previously recommended by and discussed with CCC staff.
- A2-3 Maximizing Public Access and Recreation. The comment states that the area of new piles covering tidelands would directly further public coastal access and recreation opportunities, but the comment cites concerns regarding the proposed new entry gate. The comment asks that the Master Plan describe the times when the entry gate would be closed, describe the reasons for any closure, and describe measures to mitigate any adverse impacts on public recreational access. *Response:* The comment does not address analyses in the DEIR. However, the City notes that the Wharf is currently closed between 2AM and 5AM, and the Wharf Master Plan does not propose changes. The new entrance would allow closing the Wharf if needed in times of emergency or inclement weather. The City anticipates working closely with Coastal Commission staff on project details as part of the coastal development permit or Public Works Plan regulatory process.
- A2-4 Public Events Pavilion. The comment states that the DEIR does not explain how the Events Pavilion’s proposed part-time use as a private venue furthers visitor-serving uses, public access, and recreation and asks how many such events may take place, their duration, and ways to mitigate any adverse public recreational access impacts from private use of the Events Pavilion. *Response:* The comment does not address analyses in the DEIR. However, the City notes that Event Pavilion is not a currently proposed project, and future development of the facility is considered at a program-level of analysis in the DEIR. There are no details regarding the expected number of annual events, public or private. It is expected that such information would be provided at the time the project is proposed and designed, and the City would evaluate potential events with goal to

provide enhanced visitor-serving and recreational uses. Potential impacts to public recreational access is not an environmental issue for consideration under CEQA and the State CEQA Guidelines. However, the recommendations in the Wharf Master Plan serve to overall expand public access, including expansion of the Wharf with the East Promenade as indicated in the commenter's previous comment (A2-3), as well as provision of the Westside Walkway and enhanced boating opportunities with recommended boat landings. The expanded public access through these Master Plan program elements would more than offset any reduction in public use and area, which may occur as a result of the pavilion or programming thereof.

- A2-4 Aesthetics-New Buildings and Entry Gate. The comment states that the Master Plan includes buildings that are much larger in scale and footprint than existing Wharf buildings, which raises concerns regarding Wharf aesthetics and views of the Wharf as seen from a variety of vantage points. The comment also states that the visual depictions of the proposed new entry sign show a structure that is much larger than the current sign at approximately 30 feet tall and 70 feet wide, which may also have impacts on views and aesthetics. The comment suggests that the City consider minimizing the size and scale of the entry gate and sign and describe the rationale for why buildings should be increased in size from current volumes and how this will affect the views and aesthetics of the Wharf. *Response:* The aesthetic impacts of future new buildings and entrance signage are evaluated in the DEIR on pages 4.1-10 to 4.1-16 with an explanation of why neither future buildings nor the proposed relocated entrance would result in significant aesthetics impacts. The analyses on DEIR pages 4.1-6 to 4.1-10 and supporting photo simulations describe why the future new buildings would not result in significant impacts to scenic views or scenic resources, primarily because there is no substantial obstruction of ocean views. The commenter does not provide specific concerns regarding aesthetics except that the new buildings are larger in scale and footprint than existing Wharf Buildings. However, the DEIR provides a detailed evaluation of how the new buildings may look based on the photo simulations on pages 4.1-12 to 4.1-14. The DEIR need not explain rationale for the size of new buildings recommended in the Wharf Master Plan.

As described in the Project Description (page 3-20), the new entrance would span the width of the Wharf, a distance of approximately 70 feet, but would be largely transparent and would not be 30 feet in height as claimed in the comment. The gate structure would be about 18 feet in height. A future sign could be about 6- to 8-feet tall. While the Master Plan shows a sign spanning the length of the entry, the City does not expect that a future sign would span the entire 70 feet of the entry gate. The DEIR text in the Project Description and Aesthetics sections has been revised to indicate that the City does not expect to span the entire new entrance, see Chapter 2, "Changes to Draft EIR" of this document. The Master Plan does not include a specific signage design, which would be developed at a later date through a public process as explained on page 3-20. The photo simulation included in Figure 4.1-5 in the DEIR only provides a visual

representation of what a sign may look like given descriptions in the Master Plan, but it is not a prescriptive design actually proposed in the Master Plan, and such a specific design is not proposed at this time. The commenter's suggestion that the entry gate and sign should be made of materials that are in keeping with the natural setting and character of the Wharf and surrounding area is acknowledged and will be taken into consideration by the City once a design process for the signage is initiated.

Regarding the rationale of building massing, the size of the three new buildings is not prescribed by the Master Plan, although a building footprint is identified that was considered for the purpose of evaluation under CEQA. Regarding the Landmark Building specifically, it is the City's understanding that the Master Plan designer intended both to ensure maximum flexibility for the types of cultural and commercial uses that may use the building, as well as to re-establish the sense of grandeur and scale of the historic warehouse building in relation to larger buildings near the site. As the proposed Landmark Building is only considered at a program-level of analysis, the massing, height, and footprint of this building may be modified within the envelope studied by the EIR to meet the needs of the community when the project is developed. This is true for other proposed new structures as well.

It should also be noted, that while not a consideration under CEQA, the Wharf has historically operated sustainably, largely balancing its environmental, economic, and social considerations to maintain the structure and its value to multiple constituencies. Where the Master Plan is intended as a long-term guiding document for "many years to come", it must provide flexibility to ensure the Wharf remains sustainable. A key part of this is ensuring revenues are sufficient to maintain the Wharf in perpetuity. As such, potential infill of commercial buildings (i.e. increased massing), which may include second stories or rooftop dining in some cases, has been considered in the Master Plan to support the continuance of thriving businesses, but also to help ensure Wharf revenues will be sufficient to support both regular maintenance as well as existing and future infrastructure and capital needs; such as capital needs identified in the Engineering Report. In most years for instance, Wharf revenues, including rents and parking fees, generally cover the cost of maintenance and operations. They have not however, been sufficient to address the mounting infrastructure backlog of deferred maintenance and capital projects needed to safely sustain the Wharf; these were estimated at between \$12,750,000 and nearly \$16,000,000 in the 2014 Engineering Report. Meanwhile, costs related to regulatory permits and associated studies, labor, and materials all continue to rise even for standard maintenance. This makes it even more difficult for the City fund major repairs. Meanwhile outside funding, like state and federal grants, is rarely available for maintenance or rehabilitation. At this time, revenues remain relatively static in relation to inflation, even as businesses struggle with increasing labor, product, energy, and insurance costs, as well as competition from online retailers. With these concerns in mind, the Master Plan promotes flexibility for

future commercial infill, as needed, to support the long-term sustainability of public access on the open ocean.

- A2-6 Water Quality. The comment states that stormwater drainage improvements recommended in the Wharf Master Plan should be implemented for existing developed areas of the Wharf in addition to new construction. *Response*: Comment is acknowledged but does not address analyses in the EIR, and no response is required.
- A2-6 Treatment of Piles. The comment states that polyurea coating is known to be effective for containing ACZA-treated wooden pier piles if the polyurea layer remains intact and does not become worn or damaged. The comment states that the DEIR does not describe the planned method of applying polyurea to its ACZA-coated pier piles or why an alternative that wraps piles is not preferable. The comment also states that the DEIR should include provisions consistent with those of the Coastal Development Permit for Five-Year Maintenance and Repair Plan proposed at the Wharf. *Response*: Polyurea coating is applied at the factory under controlled conditions. It is spray applied until it achieves the required thickness. It cannot be performed in the field so it is not used on existing piles, only new piles. Pile wraps are made of sheets of PVC or HDPE and can be applied to new piles or existing piles in place. Both types of pile coverings (coating or wraps) are chemically inert and are used to protect the pile from borer attack and to also prevent chemicals from the pile treatment from leaching into the water. Polyurea is continuously bonded to the pile due to spray application; wraps rely upon a seal at the top and bottom along the pile circumference and along the longitudinal seal. If that seal leaks oxygenated water can get inside the wrap and expose the entire pile to borer attack. For this reason, polyurea coated piles have been the preferred method of treatment in this area. As of the date of writing this document, the coastal development permit for the Wharf Five-Year Maintenance and Repair Plan had not been issued, and therefore, provisions of such are not known.
- A2-8 Biological Resources Impacts. The comment states that although the DEIR “describes mitigation measures that may partially help reduce risks from construction commotion to nesting seabirds, fish and marine mammals,” specific measures, such as buffers between bird nests and construction work and marine mammal exclusion zones during pile driving are now required by the Commission. *Response*: Comment is acknowledged. The DEIR discusses bird nesting and marine buffers pages 4.2-50 and 4.2-39 of the DEIR, respectively, and buffers are required in Mitigation Measures BIO-1a-1 and BIO-4. The City anticipates that best management practices may be further modified in consultation with the Coastal Commission and other regulatory agencies during permitting for specific Master Plan projects.
- A2-6 Coastal Hazards. The comment states that the Wharf will likely face sea level rise and more powerful storm waves generated by more intense and more frequent coastal storms as a result of climate change and states that given the predicted sea level rise by

the year 2050, powerful coastal storm waves could pose a serious threat to the Western Walkway and the main Wharf's structural supports to which the walkway attaches. The commenter asks that the EIR provide an analysis of how the proposed walkway and other Wharf features more broadly, will be safe from coastal hazards using the Commission's Sea Level Rise Policy Guidance for context. *Response:* The DEIR addresses coastal storms, tsunami hazards, and sea level rise on pages 4.4-10 to 4.4-13, and references the Coastal Commission Sea Level Rise Policy Guidance document. Potential impacts are discussed on pages 4.4-22 to 4.4-23. As indicated on page 4.4-23, the planned Westside Walkway would protect the west side of the Wharf and buildings, and it can be closed during severe storms and readily repaired if damaged, thus providing a buffer to the main Wharf structure that could sustain greater damage in severe storms if left unprotected. It is also indicated on the same page that review by City staff indicates that the existing Wharf deck elevation will be above sea levels that currently are projected over the next 100 years based on current sea level rise projections, as would the Westside Walkway based on conceptual description of the facility in the Master Plan and current sea level rise projections. The Westside Walkway is not a proposed near-term project. At the time, that the Westside Walkway is actually proposed and designed, review would be conducted to determine whether or not the facility would be impacted by sea level rise based on the scientific information available at the time the walkway is proposed. It should also be noted that it is staff's understanding that the Westside Walkway concept was largely developed in consultation with the Coastal Commission as another desired means to increase public access to coastal resources.

From: Justin Le [Justin.Le@OPR.CA.GOV]
Sent: Thursday, May 14, 2020 2:13 PM
To: David McCormic
Subject: SCH# 2016032038

The State Clearinghouse would like to inform you that our office will be transitioning from providing a hard copy of acknowledging the close of review period on your project to electronic mail system.

Please visit: <https://ceganet.opr.ca.gov/2016032038/4> for full details about your project and if any state agencies submitted comments by close of review period (note: any state agencies in **bold**, submitted comments and are available).

A3-1 This email acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please email the State Clearinghouse at state.clearinghouse@opr.ca.gov for any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Justin Le | Student Assistant
Governor's Office of Planning and Research
State Clearinghouse Unit
1400 10th Street, Room 113
Sacramento, CA 95814
(916) 445-0613

LETTER A3 – California State Clearinghouse

- A3-1 Compliance with State Clearinghouse Review. The email acknowledges that the City of Santa Cruz complied with the State Clearinghouse review requirements for review of draft environmental documents pursuant to the California Environmental Quality Act. *Response:* The comment is acknowledged; no response is necessary.

From: Gillian Greensite [<mailto:gilliangreensite@gmail.com>]
Sent: Wednesday, May 27, 2020 3:34 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Cc: John Aird <johnaird@earthlink.net>
Subject: Comments on Wharf Master Plan DEIR

Hi David,

Attached are comments on the Wharf Master Plan DEIR from *Don't Morph The Wharf!*

Would appreciate a quick email that you received the document.

Hope all is well and continues that way.

Regards,

Gillian

Don't Morph The Wharf!

From: DON'T MORPH THE WHARF!

May 27th 2020



To: David McCormic, Asset and Development Manager, Economic Development Department

Re: SANTA CRUZ WHARF MASTER PLAN DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)

Don't Morph the Wharf! has reviewed the DEIR for the Wharf Master Plan and submits the following comments. We appreciate your careful review and look forward to your responses.

Summary

B1-1 We are pleased that an EIR was conducted for the Wharf Master Plan to better assess the environmental impacts on this designated sensitive habitat and historical structure. We do however note significant shortcomings in the DEIR particularly under Aesthetics, Biological Resources, Traffic and Transportation. Some assertions of *No or Less Than Significant Impacts* are made without supporting evidence from the consulting experts. Some claims are made on the basis of specious comparisons. Safety issues are in some cases inadequately studied. All are detailed below under the relevant categories.

B1-2 One of the project objectives is to increase access to the Wharf. We note at the outset that the Plan disadvantages those with lower incomes by covering up the sea lion viewing holes with no assured replacement and reconfiguring/reducing the railing fishing areas, both free and popular activities.

4.1 Aesthetics

B1-3

- According to the DEIR, *"Most (wharf) buildings are older one-story buildings to the north with one and two story buildings to the south with a height of 27 feet"*. The *"Criteria for a Design Permit include: maintaining a balance of scale form and proportion"*. However the 3 new public buildings proposed are from 40-48 feet in height with facilities on top of that. Yet the DEIR asserts that *"New development represents a minor and less than significant increase in visual obstructions"*. All photos are taken from afar. There is inadequate consideration of how the 3 large buildings will impact views **from** the Wharf. The "vantage points" used to draw conclusions are not identified. The DEIR states that the Gateway Building would be *"somewhat larger and taller than adjacent buildings on the Wharf"*. The Gateway building is in the vicinity of 40+ feet while adjacent one-story buildings are around 12 feet. The Events

Pavilion is claimed to be *“Similar in height to existing 2-story buildings.”* That suggests a 45 feet tall building is similar to 27 feet tall buildings. Comparisons with existing Wharf buildings should be recalculated and conclusions adjusted. The DEIR states *“New structures not out of scale with other larger structures in the vicinity, including the Dream Inn.”* The Dream Inn is not representative of the majority of area buildings. This section needs further work with fairer comparisons to be a more objective indication of visual impact.

- B1-4
- The historical and visual impact of the proposed Western Walkway is inadequately assessed in the DEIR. The consulting historian omitted its mention. The DEIR asserts *“The new timber support piles have the same appearance as the existing Wharf structural elements and would not adversely affect the visual quality of the surrounding area.”* There are numerous entries stating that the feel and history of the Wharf includes the pilings, as in the photograph below. Visualize the addition of a walkway on the outside of the pilings, eight feet below deck level and twelve feet wide with moving lines of people. This addition will bisect the look and feel of this historic structure. The DEIR conclusion of no impact needs re-examination. The DEIR claim that people will not be visible from the restaurant windows when their heads are a few feet below needs re-examination.
- B1-5



B1-6

- Near Term Projects

The DEIR conclusion of no visual impact regarding the new and relocated Entry Gate is based only on the narrow side view and needs to be re-assessed from other visual aspects. This structure will be 18 feet tall with a 6-8 feet tall sign on top making it the height of a streetlight. It will be the visual focus from the Wharf entrance for 540 feet, roughly a third of the length of the Wharf. It is planned on a base wider than the Wharf with steel pilings and from the sketches available in the DEIR, resembles a freeway toll station.

4.2 Biological Resources

B1-7

- The DEIR includes Mitigation for potential impacts on birds and mammals to construction periods only. Outside of that time it asserts less than significant impacts. The DEIR states, *"Although removal of nesting habitat for pigeon guillemot or roosting habitat for brown pelican could represent a significant impact, the proposed Master Plan improvements would result in expansion of the Wharf and would not result in removal of habitat. Therefore, implementation of the Master Plan would not result in direct impacts to habitat for special-status nesting bird species."*

This conclusion is asserted without evaluation from consulting biologists. The DEIR acknowledges that the western walkway bringing people into the pigeon guillemots' nesting area could potentially deter the birds nesting in this location due to human presence and noise. It concludes with *"Any effect of pedestrian visual access would be minimized by the construction of a wide (28-foot) promenade on the east side of the Wharf. This would increase the ability of guillemots to nest away from the Westside Walkway, in addition to increasing the overall area available for nesting. Therefore, indirect impacts to pigeon guillemot nesting habitat would be less than significant, as project design would actually increase available habitat."*

Expansion of the Wharf does not equal expansion of habitat. The same is asserted for California brown pelicans, without evidence. The eastern expanded promenade does not increase the linear length of the Wharf. It will have many obstructions such as 10 protruding outriggers, each 27 feet long, a boat ramp capable of docking 200-foot displacement vessels plus a smaller boat dock, all of which will deter pigeon guillemots from accessing the underside of the Wharf to nest. The south end will have a lowered platform making bird access either difficult or impossible. An expert biological opinion should be obtained to evaluate these DEIR assertions.

- B1-8
- The DEIR acknowledges that western gulls favor the western side of the Wharf but claims “adequate extensive rooftop areas on the Wharf would remain available to the species.” There is no evaluation of the projected increase in rooftop dining and the impact of this use on the western gulls.
- B1-9
- Snowy egrets are a common seasonal sight perched on the western Wharf railing (pictured) much to the delight of visitors. They are referenced in the DEIR only in the list of bird species sighted at the Wharf. The western walkway will spell the end of habitat for this species and the visual treat for visitors. The eastern promenade filled with people, bikes and boats will not be an alternative site. The impact on this species warrants review.



- B1-10 • With respect to sea lions, the DEIR acknowledges they will be deterred from hauling out on the new boat landings and some existing haul-out areas will be removed. The suggestion that as compensation they may haul out on the outriggers needs analysis. Although no detail is given, the outriggers appear too high for haul out and appear to be placed vertically and therefore not wide enough for sea lions. Further analysis needed.

4.5 Traffic and Transportation

- B1-11 • The DEIR states, *"A specific level of increased use cannot be accurately estimated as there are no projections of future visitor use at the Wharf. The City estimates that approximately 2.5 million visitors currently come to the Wharf annually."* A project as ambitious as the Wharf Master Plan should include an estimate of future visitor use in order to assess environmental impacts. Lacking that data throws assumptions and conclusions into doubt. In terms of motor vehicle trips, Appendix G contains some data from 2014. It states *"Trip generation to the wharf varies from average month of 2800 vehicles per day to 3500 vehicles per day during peak months."* And, *"the Wharf Master Plan at build out would generate 1,739 new trips per day."*
- B1-12 • The Wharf Master Plan and the DEIR allow for approximately 45 additional car spaces on the Wharf from current levels, achieved by re-striping current spaces. This provision is inadequate for the projected increase of over 50% of auto traffic over current levels and requires a re-thinking of the project plus a more realistic DEIR assessment of impacts.
- B1-13 • Re-striping will narrow existing vehicle spaces impacting access for those who need a little more space to exit and enter their vehicles. The DEIR is silent on this issue. The provision for bicycle parking is inadequate and not commented on in the DEIR. The shuttle, noted as a means of alternative transportation has been terminated. That correction should be made in the final EIR.

Near Term Projects

- B1-14 • The impact of relocating the parking kiosks to the new Wharf entrance 540 feet from the current entrance to the south is insufficiently analyzed. The DEIR statement, *"The project would not result in creation of hazards due to design of the project circulation system. Therefore, the project would result in no impact. Access to the site will be provided by existing roadways, and the proposed project does not include any design features that would result in substantially increased hazards."* needs further study for the following reasons.
1. The current kiosks serve as a "speed bump." Although the Wharf entrance is complex with the new roundabout, traffic entering and exiting are required to slow down and stop before proceeding. Without this "speed

bump” traffic will enter and exit the Wharf at a higher speed. The impact on safety of this potential increased speed needs further analysis.

2. The new proposed parking kiosks, 540 feet or almost third of the length of the Wharf will be in proximity to parked cars, which is not the case with the current kiosk location. Although the new location and automated payment is expected to speed-up exit, when back-ups do occur on busy days, the line of traffic will prevent cars reversing out of their parking spaces. This issue needs further study in the DEIR.
3. The proposed automated pay stations are to replace current parking employees. Besides removing a welcome human element plus eyes and ears on Wharf safety, there is no recognition in the DEIR that the Wharf is a different animal than a city parking lot. It is linear and long. Many wharf visitors are elderly and some physically challenged. For them to locate a nearby automated ticket station, wait in line and with sun in their eyes, figure out its use, has not been analyzed as an impact and should be.
4. The new eastern promenade has bicycles and pedestrians sharing the same space and while the space is somewhat generous, it is confined on both sides by barriers. Conflicts are to be expected. This safety impact needs further study.

B1-15

4.7 Land Use

B1-16

- PR 1.7.9 states, *“Fishing access on the Municipal Wharf shall not be reduced.”* The DEIR claims that to be the case. However this claim needs further examination with specific measurements. From the renditions in the Wharf Master Plan it appears that much of the current eastern side will be occupied in future by large vessels, outriggers, lowered south platform and other features blocking access to what is currently open fishing areas.
- The current configuration is favorable for families fishing with their cars next to them, coolers and supplies at hand. These tend to be people of lower income levels who come prepared for a day fishing at the Wharf without need to spend money at restaurants whose prices will predictably rise with the Wharf makeover. The re-design with the proposed eastern promenade separates those fishing from their cars by a wide bike/pedestrian pathway and seating benches. This impact has not been recognized and needs further study including polling the opinions of those who fish, many of whom have been coming to the Wharf to fish for generations.

B1-17

- The covering up of the sea lion viewing holes removes perhaps THE most beloved activity at the Wharf. Both the DEIR and the Wharf Master Plan give it scant attention. This loss, with no guarantee of its replacement requires re-examination.

LETTER B1 – Don't Morph the Wharf – Gillian Greensite

- B1-1 Draft EIR Analyses. The commenter states that there are significant shortcomings in the DIER particularly under Aesthetics, Biological Resources, Traffic and Transportation that are detailed in the submitted comments. *Response*: Responses are provided to the commenter's specific comments below. The City disagrees that there are "significant shortcomings in the DEIR" as explained in specific responses to comments below.
- B1-2 Sea Lion Viewing Holes. The commenter states that one of the project objectives is to increase access to the Wharf and notes "that the Plan disadvantages those with lower incomes by covering up the sea lion viewing holes with no assured replacement and reconfiguring/reducing the railing fishing areas, both free and popular activities." *Response*: See Response to Comments B1-16 and B1-17 regarding fishing at the Wharf and the open spaces from which sea lions can be seen, respectively.
- B1-3 Aesthetics-New Buildings. The comment states that there is inadequate consideration of how three "large" buildings will impact views from the Wharf, and the vantage points used to draw conclusions are not identified. The comment states that comparisons with existing Wharf buildings should be recalculated and conclusions adjusted, and questions comparison to the Dream Inn as the Dream Inn is not representative of buildings in the area. *Response*: In accordance with State CEQA Guidelines, the DEIR addresses potential impacts to scenic views and scenic resources, conflicts with regulations governing scenic quality, and effects of light and glare. The photo simulations are taken from representative vantage points along West Cliff Drive, East Cliff Drive, the entrance to the Wharf, the entrance to the Monterey Bay National Marine Sanctuary Visitor Center, Main Beach and Cowell Beach. All photos are taken from the nearest point to the Wharf from those vantage points. Figure 4.1-10 has been added, which shows the locations the photos were taken; see "Changes to Draft EIR" section of this document.

Views from the Wharf, where a scenic viewpoint has been identified in the City's General Plan and Local Coastal Plan (LCP), is addressed on DEIR page 4.1-8, where it is indicated that the proposed Landmark Building would not substantially block scenic views of the shore and distant mountains as views would be available from the rest of the Wharf. The identified scenic view includes views seen to the north, east, south and west. Views to the east, south and west are toward the Monterey Bay and would not be affected by the Landmark Building. The DEIR text has been expanded to further explain why views from the end of the Wharf toward land would not be significantly impacted, primarily because there are no existing significant views from this vantage point and there are existing buildings that partially block views. The Landmark Building would be located adjacent to the existing buildings. Views from the end of the Wharf across the footprint of the Landmark Building are limited to the top portion of the Coconut Grove at the Boardwalk and a very limited view of the top of distant mountains. On either side of the conceptual building footprint for the Landmark Building and at the edge of the Wharf, views of the

distant Main Beach and Boardwalk on the east and Cowell Beach, Dream Inn and other development on the west would remain. The Landmark Building would not result in obstruction of ocean or shoreline views as seen from the end of the Wharf looking toward land as none exist in this location, and only a minor portion of the overall available distant mountaintop view would be obstructed. See Chapter 3, “Changes to Draft EIR” of this document for expanded text regarding views of new buildings from the Wharf. The Gateway Building nor the Events Pavilion are located in areas of mapped scenic views, and thus, would not affect scenic views.

The DEIR does evaluate the impact of the new buildings on the visual character of the Wharf on pages 4.1-12 to 4.1-14 in which it is noted that the building mass is similar to the mass of the existing row of buildings, but the buildings are taller than existing buildings on the Wharf. It is also noted that the three new buildings are proposed at up to a 45-foot height, while the Wharf Master Plan calls for remaining buildings to be at a 35-foot height; the existing Zoning Code regulations allow a 40-foot height.

Comparison to other larger buildings in area is appropriate given they are visible in the viewshed. For example, from West Cliff Drive, the northern portion of the Wharf is framed by background views of the Coconut Grove and Boardwalk rides. From East Cliff Drive, the Dream Inn is a prominent structure of the view. As shown on Figure 4.1-3A, the Gateway Building would not appear substantially taller than the adjacent existing Wharf buildings and would appear shorter and smaller than the existing Coconut Grove building and Boardwalk rides as seen from West Cliff Drive. The Events Pavilion with a tapered pavilion would not substantially exceed the height of existing buildings as seen from West Cliff Drive (Figure 4.1-3B), and as indicated in the DEIR the Landmark Building would look taller other existing buildings. From East Cliff Drive, the Gateway Building mass is somewhat diminished by the presence of other existing development in the area, especially the Dream Inn as shown on Figure 4.1-4A and the Event Pavilion blends with other buildings as seen on Figure 4.1-4B, although the Landmark Building is taller than other buildings as addressed in the DEIR. .

As explained on pages 4.1-10 to 4.1-12, the development resulting from the Project would not conflict with regulations governing scenic quality, which is the threshold of significance used in accordance with State CEQA Guidelines, and therefore, a less-than-significant impact was identified. The DEIR also reviewed the future development and whether it would substantially degrade the visual character of the Wharf and surrounding area, which the City concluded it would not as summarized above and discussed in detail on pages 4.1-12 to 4.1-13 of the DEIR. Opinions on overall aesthetics are subjective and vary among individuals. However, for the purpose of CEQA, no significant aesthetics impacts were identified based on the significance thresholds and evaluation included in the DEIR.

- B1-4 Historical Resources Impact. The comment states that the historical impact of the Westside Walkway is inadequately assessed in the DEIR, and that this addition will bisect the look and feel of this historic structure. The comment states that the DEIR conclusion of no impact needs re-examination. *Response*: The DEIR does address the effect of the Westside Walkway on the historical significance of the Wharf, specifically on pages 4.3-17, 4.3-19, and 4.3-20. As indicated on page 4.3-18, none of the planned facilities and improvements envisioned in the Master Plan would demolish, destroy, or relocate the Wharf. The character-defining features, which are the physical features that enable the structure to convey its historical significance, are limited to its location, setting, alignment, wooden materials (piers), its nearly original length of 2,745 feet long and its continued function as a wharf structure. Future improvements envisioned in the Master Plan, including the Westside Walkway would not alter the Wharf's association with the economic history of Santa Cruz nor would it change the Wharf's location. Future improvements would not adversely impact the physical characteristics that convey the historical significance of the Wharf as none of the improvements would alter the overall historic integrity of the resource. The Wharf has evolved and changed over time as uses, needs, and users have changed. These incremental alterations and improvements have not resulted in any significant physical changes that impacted the historic character of the Wharf. As indicated on page 4.3-19, future planned alterations, including the Westside Walkway would not change the overall character of the Wharf and would not impair the ability of the Wharf to convey its historic significance, but would improve public access to some of these historical features like the Wharf substructure. The DEIR did not conclude there was no impact, but taken together the improvements envisioned in the Wharf Master Plan would result in a less-than-significant impact to historical resources.
- B1-5 Views of Westside Walkway. The comment states that the DEIR "claim that people will not be visible from the restaurant windows when their heads are a few feet below needs re-examination." *Response*: The standards for determining impact significant for impacts related to aesthetics are outlined on page 4.1-6 and are focused on impacts to scenic views and scenic resources, as well as conflicts with applicable regulations regarding scenic quality and creation of substantial new sources of light and glare. Scenic views are those widely visible from a public area under CEQA. The City does not consider views from private properties and businesses to be considered as scenic views. Nonetheless, the DEIR considered the effect of the Westside Walkway on views from Restaurants on the Wharf. The Westside Walkway would be approximately eight feet below the existing deck level and the lowest end of a typical window would be approximately three feet above the deck. As indicated in the DEIR, a rendering from the Wharf Master Plan provided on Figure 3-4 in DIER shows that people walking on the Westside Walkway would not obstruct views from restaurant windows nor would people be seen walking in front of the windows that may disrupt these views.

B1-6 Visual Impact of New Entrance. The comment states that the DEIR conclusion of no visual impact regarding the new and relocated Entry Gate is based only on the narrow side view and needs to be re-assessed from other visual aspects. The comment states that the structure will be the visual focus from the Wharf entrance for 540 feet, roughly a third of the length of the Wharf and resembles a freeway toll station. *Response:* The DEIR concluded that the relocated entry gate would result in no *significant* impact, but would result in a less-than-significant impact, based on the photo simulations taken from different vantage points and as explained on pages 4.1-8 and 4.1-14 to 4.1-15. The comment does not specify what “other visual aspects” should be, but a conceptual gate is shown in each vantage point that photo simulations were prepared, including from more distant East Cliff and West Cliff Drive locations, as well as at the front of the Wharf and from adjacent beaches. The structure would be largely transparent and would not be prominently visible except at the entrance to the Wharf, but it would be open with views through the gate. Furthermore, the Master Plan does not include a specific signage design, which would be developed at a later date through a public process as explained on page 3-20. See also Response to Comment A2-4.

B1-7 Biological Resources Impact Conclusion. The comment states that the DEIR conclusion that the project would not result in removal of habitat is “asserted without evaluation from consulting biologists.” The comment further states that expansion of the Wharf does not equal expansion of habitat for pigeon guillemots and California brown pelicans and that boat ramps would deter pigeon guillemots from accessing the Wharf to nest. *Response:* The DEIR Biological Resources section was prepared and reviewed by five biologists as identified in section 6.3 of the DEIR, and the cited conclusion is based on the biologists’ contributions to and review of the DEIR Biological Resources section. Specific studies conducted as part of the EIR are included in DEIR Appendices C, D, and E.

As explained on page 4.2-45 of the DEIR, the construction of the East Promenade would expand the Wharf structure by 28 feet and provide additional area for nesting underneath the Wharf that would increase the ability of pigeon guillemots to nest away from the Westside Walkway. As the addition would incorporate an underlying structure similar to that of the existing Wharf, as noted on page 3-21 of the DEIR, guillemots should be able to nest in locations under the Wharf deck that are similar to those where they currently nest.

With regards to the comment that the boat docks recommended in the Wharf Master Plan would deter pigeon guillemots from nesting, it is noted that the Wharf already has five existing boat landings as described on page 3-2 of the DEIR. There is existing boat activity on the east side of the Wharf, and the existing boat landings would be consolidated with the new Small Boating Landing. Although a second South Landing area also would be added, it is roughly in the same location as the existing Public Landing No. 2. The majority of the eastern side of the Wharf would remain open, and as explained above, with the Wharf expansion resulting from the proposed East Promenade, there

would also be expanded area under the Wharf for nesting. Thus, activity associated with the new boat landings would not affect nesting.

California brown pelicans use of the Wharf is not expected to change. This species is recorded roosting on the Wharf only occasionally, and no more than four were observed at once during surveys, as noted on pages 4.2-21 and 4.2-26 of the DEIR. Due to the high level of human disturbance above deck, the Wharf is not the site of any substantial roost of this species. Although the species is not expected to roost in higher numbers after project implementation, there is no reason to expect that it will cease roosting there on occasion.

- B1-8 Impacts to Western Gulls. The comment states that there is no evaluation of the impact of projected increase in rooftop dining and the impact of this use on western gulls. *Response:* Western gulls are not a listed or protected species. They are an abundant species the length of the California coast. However, active nests are currently protected under the Migratory Bird Treaty Act (MBTA). As explained on page 4.2-4 of the DEIR, the MBTA prohibits the “take” of any migratory bird or any part, nest, or eggs of any such bird. Under the MBTA, take is defined as pursuing, hunting, shooting, capturing, collecting, or killing, or attempting to do so.” It does not address the removal or alteration of habitat by common species. Also, loss of habitat could be considered a significant impact under CEQA only for special-status species. Thus, the existing and future human uses of the Wharf, including rooftop dining, would not be an activity that constitutes take under the MBTA, or a significant impact under any CEQA threshold.
- B1-9 Impacts to Snowy Egrets. The comment states that the impact to snowy egrets due to the new Western Walkway and visitor activities and boating at the East Promenade warrants review. *Response:* Snowy egrets are included on the Special Animals List (California Department of Fish and Wildlife [CDFW] 2020), but only for nesting colonies. They are not listed under the California Endangered Species Act or the federal Endangered Species Act, and they are not considered fully protected or a California Species of Special Concern. As with many colonial-nesting water birds, nesting locations are rare, and protection of these sites are important for conservation of the species. However, the species occurs widely while foraging and is common in the region. Although the comment states that snowy egret is only included in the DEIR as a species that has been observed there, the DEIR addresses this species in Table 4.2-4 Special Status Bird Species Observed or Potentially Occurring in the Santa Cruz Wharf Vicinity. As noted in Table 4.2-4, nesting habitat, which consists of trees or dense marsh vegetation, does not occur on the Wharf. Therefore, further discussion of this species is not necessary.
- B1-10 Sea Lion Haul-out Areas. The comment states that the DEIR indicates that sea lions will be deterred from hauling out on the new boat landings and some existing haul-out areas will, and suggests that as compensation they may haul out on the outriggers, but the outriggers appear too high for haul out and appear to be placed vertically and therefore

not wide enough for sea lions. *Response:* Existing conditions at the Wharf result in regular contact between humans and sea lions as they attempt to access the boat ramps. This existing contact is a potential violation of the Marine Mammal Protection Act and potentially harmful to both the sea lions and humans. Installing deterrents to haul-out on the boat ramps, as proposed under the project, are necessary responses to reduce and avoid the potential for violation of this federal law, and to protect public safety. The lateral outriggers proposed are shown in conceptual form on Figure 3-3 of the DEIR, and to the extent practicable would be near the water surface depending on tides. These broad beams would provide haul-out opportunities similar to the existing lateral braces between the piling bents, depending on the dimensions when designed, and would provide viewing opportunities from the Wharf perimeter and avoid human-wildlife interactions and potential violations of the Marine Mammal Protection Act.

- B1-11 Traffic and Transportation. The comment states that the Wharf Master Plan should include an estimate of future visitor use in order to assess environmental impacts and cites trip generation included in DEIR Appendix G. *Response:* See Response to Comment B3-12. Although some increase in visitor use would be expected commensurate with growth and economic trends, projections of future visitor use cannot be accurately estimated. The trip generation for the Project was estimated based on standard traffic engineering principles that account for increased building size.
- B1-12 Parking. The comment states that the Wharf Master Plan and the DEIR allow for approximately 45 additional car spaces on the Wharf from current levels, achieved by re-striping current spaces and that this is inadequate for the projected increase of over 50% of auto traffic over current levels and requires a “more realistic DEIR assessment of impacts”. The comment also states that re-striping will narrow existing vehicle spaces impacting access for those who need a little more space to exit and enter their vehicles and that the DEIR is silent on this issue. *Response:* Provision of parking is no longer a topic to be addressed pursuant to the State CEQA Guidelines, and therefore, no analysis is required in the EIR. The comment, however, is acknowledged and referred to City decision-makers for further consideration.
- B1-13 Bicycle Parking and Shuttle. The comment states that the provision for bicycle parking is inadequate and not commented on in the DEIR. The comment asks that the EIR be corrected as the shuttle, noted as a means of alternative transportation has been terminated. *Response:* The DEIR Project Description on page 3-19 indicates that the Master Plan proposes that bicycle parking and that 64 spaces could be initially provided with up to 150 bicycle parking spaces ultimately anticipated as demand warrants. Page 4.5-20 also discusses Master Plan support of alternative transportation, including increased bicycle parking. Specifically, the DEIR indicates that the Wharf Master Plan includes policies that support actions to improve alternative modes of travel, including pedestrian, bicycle, and public transit and shuttles and reduce impediments to pedestrian movement along the sidewalk. The Master Plan also includes

recommendations for increasing the supply of bicycle parking and encouraging a shuttle system. Specifically, the Master Plan proposes that bicycle parking (64 spaces) be provided along the western edge of the East Promenade in the transition area between the vehicular parking and the promenade with up to 150 bicycle parking spaces

As indicated on page 4.5-5, a Downtown Trolley service has been in operation since 2010, providing service between the Downtown and the Wharf/Beach areas between Memorial Day and Labor Day. The City of Santa Cruz received a grant from the Monterey Bay Air Resources District in 2018 to purchase two electric shuttles, that will provide service between downtown Santa Cruz and the Main Beach on weekends and holidays during the summer. Due to public health and safety conditions related to the COVID-19 pandemic, Downtown Trolley services were cancelled for the 2020 season. The City expects that trolley service as described above will resume as soon as pandemic conditions resolve, and resources permit.

- B1-14 Wharf Entrance. The comment states that the impact of relocating the parking kiosks to the new Wharf entrance 540 feet from the current entrance to the south is insufficiently analyzed and that the current kiosks serve as a “speed bump,” and the impact on safety of this potential increased speed needs further analysis. The comment also indicates that difficulty finding automated ticket stations should be analyzed. *Response:* The Wharf Master Plan does not propose changes to the travel lanes on the Wharf, and vehicles are limited to a speed limit of 15 miles per hour. Thus, the relocation of the entrance further onto the Wharf would not result in safety issues and would improve existing conditions where vehicles waiting to enter the Wharf may back up into the existing sidewalk, bike lane and/or roadway.
- B1-15 East Promenade Bicycle-Pedestrian Conflicts. The comment states that the conflicts between bicycles and pedestrians are to be expected on the new East Promenade, and this safety impact needs further study. *Response:* The East Promenade is expected to be used primarily by pedestrians and that bicyclists would use the shared Wharf travel lanes as currently exist should pedestrian congestion be an impediment to safe riding. In the event, that conflicts are observed, the City will develop measures to minimize any risk to pedestrians, such as may include walking of bikes, striping, speed limits, or restrictions. Therefore, no conflicts between the uses are expected.
- B1-16 Fishing Access. The comment references a Local Coastal Program (LCP) policy that says “fishing access on the Municipal Wharf shall not be reduced”, but states that much of the current eastern side of the Wharf will be occupied in future by large vessels, outriggers, lowered south platform and other features blocking access to what is currently open fishing areas in proximity of cars. *Response:* Although fishing access is not a CEQA issue, as shown on Figure 3-1 in the DEIR, the new boat landings would not eliminate fishing access as other areas would continue to be available, including the existing area of parking in the lower center portion of the Wharf. There are also areas

where fishing access is already limited due to existing boat ramps at the Wharf. The proposed public access improvements would also increase the overall perimeter of the Wharf, while preliminary designs for the East Promenade (Master Plan, page 17), depict seating areas along the eastern edge of the Wharf that would support fishing, gathering, and sight-seeing uses.

- B1-17 Sea Lion Viewing. The comment states that the covering up of the sea lion viewing holes would remove the most beloved activity at the Wharf, which is given “scant” attention in both the DEIR and the Wharf Master Plan and with no guarantee of its replacement, requires reexamination. *Response*: The comment is acknowledged, but is not an issue related to CEQA analyses, which are focused on potentially significant impacts on the physical environment. However, the Wharf Master Plan provides enhanced viewing opportunities with the terraced amphitheater landing. Furthermore, City staff has indicated that they realize this feature is highly appreciated and that when a project is proposed and designed, opportunities to relocate these viewing areas, which were originally developed for fishing, will be evaluated. It should be noted that these features have been relocated at times in the past.



Santa Cruz Bird Club

P.O. Box 1304
Santa Cruz, CA 95061
santacruzbirdclub.org

May 26, 2020

To: David McCormic
Asset and Development Manager
City of Santa Cruz Economic Development Department

Re: Santa Cruz Wharf Master Plan Draft EIR

The Santa Cruz Bird Club has reviewed the Draft EIR for the Wharf Master Plan and have the following comments and concerns regarding bird habitat impact on the Wharf.

- B2-1 Due to the limited time to comment period on the Master Plan, especially with the Corona Virus Pandemic, we were unable to give a more throughout analysis and the needed public input which this large-scale project deserves. **We ask that the comment period be given a longer time frame for more public scrutiny.**
- B2-2 The Current Ebird data shows a total species count around the wharf as 131. Yet, only 27 species are noted in the report. This indicates that the survey was limited in scope and did not fully highlight all the birds which would be impacted by this project throughout an entire year. **Please provide this missing data.**
- B2-3 The proposed mitigation to nesting birds does not address **how to adequately protect active nests or what protocol will be followed during the construction phase.** The report only mentions resuming construction activities when Western Gull nests have vacated and young have fledged. **What inspection protocol and time frames are in place to prevent disturbance of all nests including nesting sites for the Pigeon Guillemot, Western Gulls, and Cormorants? If nesting sites are found to be in construction areas or expected to have more human disturbance after the construction, what other areas of the wharf have been identified which would serve these populations if nesting platforms were provided?**
- If known nesting sites are expected to be disturbed what provisions are being made to adequately provide an equal or greater than number of replacements to those nesting sites? Will nesting boxes or platforms be provided? Will ledges and overhangs be added? We would expect that if there are nine nesting sites the replacement sites would be minimally of a greater number for future nesting opportunities.**
- B2-4 Construction of a walkway below deck on the West side of the wharf, may also deter nesting birds, especially Pigeon Guillemots, from using that area due to increased human traffic on this new lower deck. **We do not see how the bird habitat will be increased by this expansion without some mitigation.**
- B2-5 The DEIR suggests there will be an overall increase in suitable nesting for Pigeon Guillemot and increased roosting habitat for California Brown Pelicans; however, with more human impacts and noise along the walkway as well as an additional boat dock, we see this as furthering the significant impact to these species.

Sincerely,

Lisa Sheridan, President, Santa Cruz Bird Club
Jennifer Parkin, Conservation Officer, Santa Cruz Bird Club

LETTER B2 – Santa Cruz Bird Club – Lisa Sheridan

- B2-1 Draft EIR Public Review Period. The commenter asks that the comment period be extended due to the corona virus pandemic. *Response*: The public review period was extended two weeks beyond the required 45-day review period for a total public review period of 59 days.
- B2-2 Bird Surveys. The comment states that eBird data shows the total species recorded at the Wharf as approximately 131, but only 27 species are noted in the EIR, and that missing data should be provided. *Response*: The DEIR documents birds observed during both biological field studies conducted for the EIR, including bird studies conducted by Kittleson and Mori (2017), as well as during other studies conducted at the Wharf; see DEIR pages 4.2-7 to 4.2-9 and Appendix D. As indicated on page 4.2-7, a two-year UCSC study documented 61 bird species and also compiled data “from the online, citizen science project eBird (Cornell Lab of Ornithology and National Audubon Society 2017), a publicly accessible source where observers all around the world enter data” as indicated on pages 4.2-7 to 4.2-8 of the DEIR. A complete list of birds recorded in eBird for the Santa Cruz Municipal Wharf hotspot through 2017 is included in Appendix C, as noted on page 4.2-9 of the DEIR. The EIR also included data base searches to identify potential special-status species in the area. The criteria/thresholds for determining impact significance are identified on pages 4.2-31 to 4.2-32 and provide the basis for the impact analyses. The DEIR properly addresses potential impacts to special-status species, sensitive species and nesting birds based on the above data, and no further study is needed.
- B2-3 Nesting Bird Mitigation. The comment states that proposed mitigation for nesting birds does not address how to adequately protect active nests or what protocol will be followed during construction. *Response*: Mitigation Measure BIO-4 does identify the steps to be taken, including pre-construction surveys to determine presence/location of nests, establishment of construction buffers if active nests are found, in order to prevent disturbance to nests and nesting birds, and resuming construction only after the nest has been vacated.
- B2-4 Impacts to Nesting Birds from Westside Walkway. The comment states that construction of the walkway below the deck may deter nesting birds, particularly pigeon guillemot, and commenter does not see how the bird habitat will be increased without mitigation. The commenter further states that human activity, noise, and an additional boat dock would result in a significant impact. *Response*: Construction activities would be subject to pre-construction nesting bird surveys and mitigation as indicated in the DEIR. There are no boat docks identified on the west side of the Wharf in the Wharf Master Plan. The DEIR addresses loss of habitat and disturbance of nesting birds; see Response to Comment B1-7 regarding habitat. The comment’s reference to deterrence of nesting apparently refers to a temporary loss of nesting habitat, because birds may choose not to nest

during the period of construction. However, the CEQA threshold regarding loss of habitat for special-status species is not typically applied to a temporary loss of habitat when the same habitat will be available once the temporary disturbance has ceased. With regard to the increase in habitat available for nesting, the statement in the DEIR refers to an increase in habitat specifically for pigeon guillemot. As explained on page 4.2-45 of the DEIR, any deterrence to nesting from increased visual access from the west side of the Wharf would be offset by the expansion of the Wharf on the east side, from the addition of a 28-foot East Promenade. The underlying structure of the East Promenade will be similar to, and intergraded with, the existing Wharf, as noted on p. 3-21 of the DEIR. It will therefore provide similar habitat, creating a larger overall area suitable for nesting. See also Response to Comment B1-7 regarding impacts of new boat docks on nesting birds.

From: Erica Stanojevic [<mailto:ericast@gmail.com>]
Sent: Wednesday, May 27, 2020 4:01 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Wharf Master Plan DEIR comments

Hello Mr. McCormic,

Please accept the attached comments regarding the Draft Environmental Impact Report for the Wharf Master Plan. Please confirm receipt of these comments.

Be well,
Erica Stanojevic
Santa Cruz Wymyn for Wild Nature

To: David McCormic and the Economic Development Division of the City of Santa Cruz

Re: Wharf Master Plan Draft Environmental Impact Report

DMcCormic@cityofsantacruz.com

May 27, 2020

- B3-1 We appreciate the opportunity to comment on the Draft Environmental Impact Report for the Wharf Master Plan (WMP). Our historic wharf, reaching prominently out into our sacred Monterey Bay National Marine Sanctuary (MBNMS), has provided critical mental health support for the entire Santa Cruz community during this time of social isolation and pandemic threat. As we noted in our parallel comments on the City of Santa Cruz Parks Master Plan, many communities worldwide are centering master planning documents attention on the loss of biodiversity, increases in climate disruption, and damage to our planet. Here in the Monterey Bay Marine Sanctuary watershed, we have an even greater responsibility than most to focus our economic activities on preserving and repairing our relationship with the planet. We again wish to contextualize the gravity of the effort we are undertaking today in the greater goal of reversing damage humans are inflicting on our natural environment. The residents of Santa Cruz cherish our ability to connect with nature through the sealions, pelicans, otters, kelp and krill that rely on the Monterey Bay National Marine Sanctuary ecosystem that envelopes the wharf; thus, our community needs a robust plan that **prioritizes Environmental Stewardship, an Objective that is shockingly absent from the plan as written**. Serving the large user-groups consisting of eco-tourists, naturalists, anglers and birdwatchers must also be included as an Objective of the Wharf Master Plan.

The City of Santa Cruz Wharf Master Plan Draft Environmental Impact Report (WMP DEIR) does not take Environmental Stewardship fully into consideration as a goal of the planning effort as drafted. The Santa Cruz Municipal Wharf hosts and affects an abundance of biodiversity, due to the rich productivity of the MBNMS, due to the wharf's location in a global biodiversity hotspot, due to the deep marine canyons and upwelling, and above all due to our State and local community's wise decision to preserve the coast for the benefit of the community and the planet, even as Santa Cruz has grown as a city. The MBNMS supports thousands of kelp forest species as well as abundant migratory species that travel here from across the planet. This rich biodiversity represents a responsibility as much as a privilege, however. Although the waters of the MBNMS are relatively clean, home to the last remaining, nearly extirpated, wild populations of Steelhead, litter from our coast contributes to the giant pacific garbage patch caused by human negligence.

Many of the actions proposed in this Wharf Master plan are intended to increase human use of our vulnerable bay in louder, brighter, rougher, and more damaging ways, and mitigation measures proposed are inadequate to prevent the damage that can clearly be anticipated.

In particular, the Draft Environmental Impact Report for the Wharf Master Plan fails to adequately assess impacts on the Monterey Bay National Marine Sanctuary (MBNMS) ecosystems.

Nesting and migratory bird impacts:

B3-2 Santa Cruz is in the important Pacific Migratory Flyway that brings coastal, ocean and land migrants to the vicinity of Wharf area, where 123 bird species (and 15 other taxa) have been recorded. However, the studies used for the DEIR are far from comprehensive and do not present the full spectrum of the rich, diverse bird population of the Wharf and its vicinity. The 2017 breeding season surveys documented only approximately 22% of the recorded species for the area, and the UCSC study documented just 61 of the known bird species within its six survey plots on the 7.5 Wharf acres (Table 4.2-1). More comprehensive studies of both breeding and migratory patterns need to be included in the DEIR. The DEIR does not fully address the needs of migratory birds on the Wharf and how those needs will be addressed during the construction process.

B3-3

- Nesting season in this document is referred to as April 15 - August 30, or as determined by a qualified biologist. According to the 8/16/19 “Amendment of Lake or Streambed Alteration” agreement, written in collaboration with the California Department of Fish and Wildlife, however, nesting season in Santa Cruz extends from January 15 to September 1st. Monitoring for bird nests must be carried out throughout this full time period.

B3-4 Furthermore, simply creating a larger wharf is insufficient mitigation for lost nesting habitat. Specific attributes of nesting sites created must be quantified based on appropriate shapes and sizes of spaces for each impacted species, not just augmented wharf size. Nesting bird science presented in the document is weak or inaccurate and internally inconsistent.

Western Gulls:

- WMP DEIR (p 4.2-45): “As shown in spring 2017 surveys, *western gulls do prefer the less-disturbed western side of the Wharf, and at least two nests that produced young were in a narrow, currently inaccessible walkway [emphasis added]* most likely subject to disturbance from the new, public accessible western walkway.”

Yet on the next page:

- WMP DEIR (p 4.2-46) “... the several gulls that occur at the Wharf are *not species that would seek cover in protected areas [emphasis added]*, but are species that stay in the open, even when nesting.” (p 4.2-46)

These inconsistencies within the DEIR must be corrected, and loss of protected nesting sites must be mitigated or identified as significant.

B3-5 Pelagic Cormorants:

Evidence of nesting pelagic cormorants is downplayed. This species is documented in the WMP DEIR as nesting on the wharf in at least two seasons (2014 and 2019) out of four documented survey years.

This frequency is alluded to as “only” twice, rather than 50% of survey years. Attributes of sites used by these birds are not described adequately, and thus mitigation is inadequate.

Pigeon Guillemots:

- B3-6 Pigeon Guillemots are known to nest in the same site year after year. There are not appropriate nearby nesting sites as the nearby areas are highly visited tourist beaches. How does the plan guarantee that Pigeon Guillemots will not be permanently displaced once they lose this nesting habitat for a year or potentially longer?

The DEIR states, “Pigeon Guillemot nests are difficult to detect because they are located in small dark spaces under the Wharf.”

- Please quantify appropriate small dark spaces for Pigeon Guillemot nesting in the proposed wharf plan and submit the science used to develop these sites.

Further, the DEIR fails to adequately address “take” under the Migratory Bird Treaty Act (MBTA). In December 2019, the California Department of Fish and Wildlife (CDFW) and California Attorney General Xavier Becerra jointly provided an advisory to affirm that California law continues to provide robust protections for birds, including a prohibition on incidental take of migratory birds, notwithstanding the reinterpretation of the MBTA by the U.S. Department of the Interior (DOI). Thus, incidental take must be fully accounted for in the DEIR.

Aquatic Habitat Impact

- B3-7 The DEIR states that installation of new piles would result in a loss of approximately 650 square feet of benthic habitat and thus determines that there is no significant impact.

However this viewpoint fails to account for impact from changes in light conditions along the length of the Wharf. The Wharf spans 2,745 feet (minus the 200+ feet of City’s Main Beach) into open-water marine habitats, which is listed as one of *‘the most diverse and productive marine ecosystems in the world, including a vast diversity of marine life, etc’* (4.2-6). This area is known for its *“highest habitat diversity and highest habitat richness. The water is highly productive, a hotspot for krill,...”* (4.2-30). The impacts of light changes would potentially reduce krill proliferation and thus create an impact on species of concern. These impacts need to be assessed.

- Please quantify the temperature and photosynthetic impact of water being shaded by the 2.5 acre additional structure on the MBNMS marine ecosystems ([Pardal-Souza et al., 2016](#))?
- What is the local impact of the glass surface increase in new buildings on the wharf to the localized “Urban Heat Island” effect in the MBNMS ([Todd et al 2019](#))?

- B3-8 The Southern Sea Otter is fully protected under CA and federal law. The project would remove pilings which are *“habitat for encrusting invertebrates, including barnacles, mussels, anemones, sponges, and*

others. Replacement of the existing pilings would remove these mature invertebrate communities and could affect the other species that depend on them such as mobile invertebrates (e.g., crabs) and fish.” (4.2-51)

Mussels are a part of the diet of the Southern Sea Otter. What percent of mussel habitat in the nearby waters will be lost? How will this affect the Southern Sea Otter?

How will the 808 new piles impact the MBNMS marine ecosystems' currents/sediment/benthic organisms? ([Heery et al. 2017](#))

- B3-9 The DEIR states “*marine organisms would be expected to avoid the immediate construction area*” (4.2-51). However this statement does not account for the negative impacts of stress on marine species due to their need to suddenly relocate. Stress on marine mammals needs to be accounted for in the DEIR.

According to [this article](#), “...avoidance responses to pile driving may cause displacement from key habitats and/or impact foraging, nursing, and/or mating activities, and therefore the overall fitness, of a marine mammal.” ([DOSITS 2020](#))

- How does the project ensure that displacement and a reduction in overall marine mammal fitness will not happen?

Lighting:

- B3-10 While Appendix E appropriately acknowledges that light can have an effect on many levels of marine ecosystem biological function, its conclusion that lighting will *decrease* with buildout of the proposed plan is not plausible as described. Specifically, adding a lighted 45-foot tall glass-sided landmark building to the end of the wharf will cast light much farther and increase the light impact area of the wharf in the Monterey Bay Marine Sanctuary ecosystem and on sensitive resident and migratory species as compared to the current relatively low profile dark building. The new light cast outward and down from the building interior is not currently included in the analysis in Appendix E.

- How far will different wavelengths of light travel from the interior of the glass building to the surrounding marine environment at what times of the night in each season of the year?

- B3-11 The DEIR references the 2015 paper by Davies, Duffy, Bennie, and Gaston which provides several recommendations to reduce the impact of lighting on sensitive marine protected area ecosystems. These recommendations should be identified as mitigations in the EIR, including:

- Switching off and dimming lights
- Limiting the use of spectra known to cause ecological impacts (avoid short wavelengths by using red spectrum rather than white lights)
- Seaward shielding of lights

These mitigations must be required for the proposed plan. Without these mitigations, the proposed project will increase the wharf's light impacts on the marine ecosystem.

Improper use of existing conditions:

B3-12 Throughout the document the current existence of human activity is used to argue that impacts on wildlife of an expanded project will not be significant. This logic is indefensible. The project fully expects to substantially increase boat and recreational use of the wharf as well as the overall wharf footprint.

The first two objectives of this project MUST be quantified:

Objective 1. Enhance opportunities for recreational use and public access.

- How many additional people is this project expected to bring to the wharf? Where will they drive and park? At what times? How much closer will they be to the water? to marine mammal habitat? to bird nesting sites? How much more litter will they contribute? How much litter currently goes into the Bay from the wharf (what studies have been done?)

These increases will have predictable augmenting effects on the sound environment, human disturbance, garbage and litter, polluted runoff and lighting. The specific increases expected for each of these elements must be quantified. If this project functions as proposed, impacts on the local environment will be significant.

- How will increased recreational activities affect coastal biodiversity? ([Riera et al. 2016](#); [Bishop et al 2017](#); [Wyles et al 2014](#))
- How will the wildlife, such as whales, migratory birds, and endangered species, be affected by the 20% to 60% increase in public access, recreation and open space on the marine area (3.1-8)?

Objective 2. Expand and enhance maritime activities.

- B3-13
- How many additional boats? Of what type? How many additional paddle boarders? At what times? With what training? In what radius from the wharf and at what densities? How will they be prevented from harassing cetaceans or otters? What will be the consequences if water recreation impacts marine mammals or birds? How will interactions be monitored?
 - What will the impacts of increased boats be on the MBNMS ecosystems and wildlife such as Whales, migratory birds, and endangered species due to the sound, turbulence, water traffic boating increase? ([Sagerman et al. 2020](#); [NZ Ministry of the Environment 2020](#))

B3-14 Finally, the WMP DEIR gives only cursory attention to growth-inducing impacts and cumulative impacts. As a Master Plan, these two areas should be the focus of the environmental analysis.

- GROWTH-inducing: Increasing the footprint of coastal tourist amenities WILL increase the volume of tourists, which will increase DEMAND for tourist housing and economic opportunity, which will place increased burden on the existing housing stock, which WILL induce more

housing development and growth of the City of Santa Cruz. This impact must be carefully quantified, as the increased foot print proposed here WAS NOT anticipated in the general plan.

- B3-15
- CUMULATIVE IMPACTS: During the pandemic shelter in place, the City planning department has circulating dEIRs for the Parks Master Plan and it is preparing environmental documents for two very large housing developments that directly impact the San Lorenzo River corridor. The Wharf Master Plan DEIR must directly consider cumulative impacts of all these large, foreseeable projects on the MBNMS ecosystem together and on specific resource areas, including the urban heat island described above. The current document fails to address these cumulative project impacts on our watershed.
 - In addition, comprehensive data is needed to correctly evaluate the project's cumulative, long-range impacts on the MBNMS marine ecosystem. Migratory mammals and birds depend on available, abundant nourishment along their migratory route, which in turn depends on ocean health sustained by MBNMS ecosystems that support the City of Santa Cruz tourist industry.
- B3-16 Alternatives: The Reduced Project Alternative (#1) and the Modified Project Alternative (#2) would reduce some of the impacts identified above, but both still create substantial impacts in the MBNMS. Additional feasible mitigations must be required to reduce the impacts of all these projects to less than significant. Cumulative and growth-inducing impacts of these plans must be analyzed adequately.
- B3-17 Please address each of the foregoing questions and concerns in the Environmental Impact Report for the Wharf Master Plan.

Now is the time to acknowledge and resolve potential conflicts among human users of the wharf and between humans and the wild nature surrounding the wharf. This Wharf Master Plan is a valuable opportunity to bring stakeholders together to truly plan our post-pandemic, climate and biodiversity-supportive future. Please do not rush it through. As the lead agency and the proponent for this plan, we implore you to hold live hearings AFTER THE CITY IS OUT OF SHELTER IN PLACE and we can have a live hearing with true discourse. You have that discretion. Please use it for all our benefit.

Sincerely,
Santa Cruz Wymyn for Wild Nature

LETTER B3 – Santa Cruz Wymyn for Wild Nature – Erica Stanojevic

- B3-1 Environmental Stewardship. The comment states that the DEIR does not take the Wharf Master Plan does not take environmental stewardship fully into consideration referencing the Monterey Bay National Marine Sanctuary (MBNMS), that proposed Master Plan actions are intended to “increase human use of the bay in damaging ways, and the DEIR fails to adequately assess impacts to the MBNMS. *Response*: The commenter does not provide specific references to human uses that might have impacts or in ways that DEIR is allegedly is inadequate regarding impacts to the MBNMS. However, responses are provided to the commenter’s specific comments below. See Response to Comment B3-12 and B3-13 regarding increased visitor and boating use.
- B3-2 Breeding and Migratory Birds. The comment states that “more comprehensive studies” of breeding and migratory patterns needs to be included in the DEIR and that the DEIR does not fully address the “needs of migratory birds on the Wharf.” *Response*: See Response to Comment B1-7 regarding bird studies at the Wharf. Studies of breeding and migratory patterns are not required, as suggested in the comment, to analyze impacts to nesting birds.
- B3-3 Nesting Period. The comment states that the DEIR refers to the nesting season as from April 15 to August 30 and cites an unnamed Lake and Streambed Alteration Agreement amendment issued by the California Department of Fish and Wildlife (CDFW) that specifies the nesting season in the area as January 15 to September 1. The comment also states that monitoring for bird nests must be carried out throughout the construction period. *Response*: The cited LSAA is presumably the August 6, 2019 amendment to the City’s agreement with CDFW regarding routine maintenance activities (Notification No. 1600-2013-0176-R3; CDFW 2019) on sites on specified stream channels, drainages and waterways within the City limits. This agreement changes the nesting season for which surveys would be required from February 1 through August 5 to February 1 through September 1 for maintenance activities and locations subject to the agreement. The amendment limits vegetation management, such as removal for flood control purposes to the period between September 1 and January 15.

This agreement applies to activities that often occur in a more natural environment than the environment occurring on the Wharf itself, which supports no natural habitats. Neither the Wharf nor the Monterey Bay is a specified location in the maintenance agreement.¹ In addition, the April 15 to August 30 nesting period cited in DEIR BIO-4 is designed to encompass nesting activities (beginning with egg-laying) for pigeon guillemots, pelagic cormorants, and western gulls, the three native species known to nest on the Wharf. While the likelihood of other native bird species nesting on the Wharf

¹ California Department of Fish and Game. September 12, 2019. Notice of Determination. “City of Santa Cruz Routine Maintenance Activities (Streambed Alteration Agreement No. 1600-2013- 0176-R3).” Available online at: <https://ceqanet.opr.ca.gov/1999102083/6>.

is low, and it is extremely unlikely that any native birds would begin nesting on the Wharf in late January or February, the City acknowledges that many bird species in the region begin nesting prior to April 15. However, BIO-4 was tailored to species known at the Wharf, and the recommendation for an expanded nesting season is not needed.

With regard to monitoring bird nests throughout the nesting period, it should be noted that, once nests are no longer active and young are not dependent on the nest, monitoring of nests is not required to avoid “take” as defined in either the Migratory Bird Treaty Act or the California Fish and Game Code. Any birds nesting near the construction site once construction begins would not be subject to potential take from construction activities, assuming all activities remain within designated areas.

- B3-4 Loss of Protected Bird Nesting Sites and Contradictory Discussion of Gulls. The comment states that creating a larger Wharf is insufficient mitigation for lost nesting habitat. The comment claims inconsistencies regarding gull habitat preferences or habits. *Response:* See Response to Comments B1-7 and B2-4 regarding nesting birds and creation of additional nesting habitat. With regard to contradictory text on gulls, the cited statements are taken out of context; and in context they are not contradictory. The first quote refers to the preference of western gulls to nest in suitable areas that are less-disturbed by humans than other areas, including a relatively confined, but isolated walkway. The second quote is part of analysis related to potential bird strikes against windows on new structures that emphasizes that gulls and other species would not seek cover in *indoor* areas visible through large areas of glass. Clearly, western gulls would not choose to nest within an occupied building, which is the issue addressed in the second quote.
- B3-5 Pelagic Cormorants. The comment states that attributes of sites used by pelagic cormorants are not described adequately and mitigation is inadequate. *Response:* Impacts to nesting species protected under MBTA and the California Fish and Game Code, including common species such as pelagic cormorants, are addressed on pages 4.2-49 to 4.2-50 in the DEIR. The mitigation requires pre-construction surveys be conducted if future construction commences during the nesting season to determine whether birds are nesting, and if so, where. The mitigation requires protection of found nests during the nesting period as explained in Response to Comment B2-3. Also, pelagic cormorant meets no definition of a special-status species. While the CEQA thresholds require analysis of impacts to special-status species and their habitat, no threshold addresses habitat impacts to common species. No further analysis is required.
- B3-6 Pigeon Guillemots. The comment states that pigeon guillemots are known to return to the same site for nesting, claims that there are no other suitable nesting sites near the Wharf, asks how the Wharf Master Plan guarantees that pigeon guillemots will not be permanently displaced once they lose this nesting habitat for a year or potentially longer, and asks that nesting areas be quantified. The comment also claims that the DEIR

fails to adequately address “take” under the Migratory Bird Treaty Act (MBTA) and implies that it does not fully account for California law with regard to take of migratory birds, in light of the December 2019 advisory of the California attorney general and the California Department of Fish and Wildlife affirming the protection of migratory birds, regardless of current federal interpretation and enforcement of MBTA. *Response:* The comment incorrectly states that no other appropriate nesting sites occur nearby. The LCP (City 1994), which serves as the basis for this species being considered sensitive in the DEIR, only identifies the West Cliff Drive area (not the Wharf) as an area where the species nests. In fact, eBird data include high numbers of guillemots and many descriptions of nesting activities, at several locations along West Cliff Drive. Nesting has been observed at several other locations in the vicinity, including and Wilder Ranch State Park. In addition, as a species that ranges over many miles of ocean during the course of the year, guillemots nesting in the vicinity have many other nesting options within their range. Also, while the DEIR cannot guarantee that guillemots deterred from nesting during construction will return after project implementation, this should not be the standard for determining a potentially significant impact. Instead, the standard should be the availability of suitable habitat after implementation of the project. This is discussed further in the responses to comments B1-7 and B2-4. With regard to quantification of nesting habitat, it is sufficient to demonstrate that more such habitat will be available after project implementation, as indicated in Responses to Comments to B1-7 and B2-4. No studies to identify potential nest sites are required to support the analysis of potential impacts to nesting birds.

With regard to the MBTA, the comment alludes to the reinterpretation of MBTA by the acting solicitor of the Department of the Interior in December 2017. In this opinion, the acting solicitor argued that MBTA did not prohibit incidental “taking” or “killing” of migratory birds as a part of otherwise legal activities, but applied only to “intentional take,” that is, activities with the specific intent of taking birds. Previously, the federal government had interpreted MBTA as more widely prohibiting actions resulting in take, and the California Fish and Game Code (FGC) included provisions (principally, FGC 3503 and 3503.5) that similarly prohibited incidental take of birds and their nests or eggs. The December 2019 advisory did not include new regulations, new enforcement guidelines, or any amendment to the Fish and Game Code. Instead, it affirmed the legal protections for migratory birds in the code and that the State of California would continue to enforce these provisions.

The comment is not specific with regard to how the DEIR is deficient in addressing this issue, other than to call attention to the recent advisory by the State of California. Not only does the DEIR analyze impacts to nesting birds on the assumption that incidental take is prohibited by the Fish and Game Code, but it also assumes that the provisions of MBTA as interpreted prior to 2017 are still in place. The DEIR acknowledges this impact as “potentially significant,” without mitigation, which is evaluated on pages 4.2-49 to 4.2-50 in the DEIR. Mitigation Measure BIO-4 would require nesting bird surveys prior to

construction activities scheduled to begin during the nesting bird season. The measure further requires that, if active nests are found, construction shall be delayed or a buffer shall be established to protect the nesting birds as long as the nests remain active. See also Response to Comment B3-3 with regard to the nesting bird season described in Mitigation Measure BIO-4.

- B3-7 Aquatic Habitat Impacts. Regarding impacts to benthic habitat with installation of new piles, the comment asks that temperature and photosynthetic impacts on marine ecosystems being shaded with expansion of the Wharf be quantified and asks what the impact of the glass surface increase in new buildings on the wharf and “Urban Heat Island” effect in the MBNMS. *Response*: The thermal capacity of the Pacific Ocean would require immense amounts of energy over large areas to change the water temperature. Similarly, adding 2.5 acres of shaded area to the Pacific Ocean is a de minimis effect. The amount of water movement and exchange with the remainder of the 6,094-square mile Monterey Bay National Marine Sanctuary, as well as other parts of the Pacific Ocean via the California Current, means that any additional shading would have an unmeasurable effect on temperature. Effects on photosynthesis from the 2.5 acres of shading would be negligible as well because kelp and other macroalgal species are absent from the area surrounding the Wharf, and the fine sand generally prevents establishment of these species.

The phrase “urban heat island” refers to the effect of urbanized areas on surface and air temperature compared to their rural surroundings. Buildings, roads, and other “hardscape” create an island of higher temperatures within the regional landscape. As described by the EPA, “[u]rban heat islands are caused by development and the changes in radiative and thermal properties of urban infrastructure as well as the impacts buildings can have on the local microclimate—for example tall buildings can slow the rate at which cities cool off at night. Heat islands are influenced by a city’s geographic location and by local weather patterns, and their intensity changes on a daily and seasonal basis” (U.S. Environmental Protection Agency, 2008). The term is generally used to refer to community-wide effects, particularly for large metropolitan cities. The concept is not applicable to the Wharf, which is not an urban setting and is surrounded by water.

- B3-8 Sea Otter Impacts. The comment questions impacts to southern sea otters and how replacement of piles that support invertebrates, including mussels that are part of the diet of southern sea otters. *Response*: Although the piles support species that southern sea otters would consume, the species has not been documented foraging within the Wharf pilings. There is minimal documentation of sea otters foraging at other piers, though California Department of Fish and Game (1976, as referenced in Fishery Bulletin 1980) did notice a decrease in mussel abundance on pilings in Monterey Harbor after the return of sea otters. In general, sea otters forage for benthic invertebrates and even fish within offshore kelp forests, as can be observed from the deck of the Wharf. For

other species that may forage on the Wharf pilings, the long-term effect of the project would be to increase the number of pilings, increasing the surface area for colonization and growth of invertebrate species. Increasing the number of pilings will result in an incremental reduction of benthic habitat area and localized changes in abiotic and biotic conditions in the benthic zone within and immediately adjacent to the pilings. However, these changes are not expected to affect any special-status species or protected habitat types such as kelp beds, eelgrass, surfgrass, or hard substrate. While this would be a small change to the marine environment, it would not exceed any significance thresholds for impacts to biological resources.

- B3-9 Impacts to Marine Species. The comment questions asks how the project ensures that displacement and overall reduction in marine mammal fitness will not happen. *Response*: The comment's question is in reference to temporary impacts during installation of piles. There would be no permanent impacts to marine mammals once pile installation is complete. Temporary displacement of marine mammals and fish from the action area is the desired outcome of proposed project pile installation, to avoid direct impacts to the animals. While movement away from the Wharf during pile driving may temporarily increase the energetic cost of foraging, the other behaviors noted in the comment (nursing and mating) do not occur in the action area and would not be affected, even temporarily. The City would consult with the National Oceanic and Atmospheric Administration to ensure that mitigation proposed (e.g., MM BIO-1a-1 through 1-a-3) would avoid and minimize temporary impacts to marine mammals to the extent feasible.
- B3-10 Building Lighting. The comment states that the conclusion in DEIR Appendix E that lighting will decrease does not address a lighted 45-foot tall glass-sided building at the end of the wharf that will cast light much farther and increase the light impact area of the Wharf in the Monterey Bay Marine Sanctuary ecosystem and on sensitive resident and migratory species as compared to the current relatively low profile dark building. The comments questions the distance different wave lengths of light travel from the interior of glass buildings to surrounding marine environment. *Response*: DEIR page 4.1-17 does state that the interior lighting of the three new buildings may be visible at times when there is use of the buildings at night, but interior lighting would not create a substantial source of new exterior lighting. At this time none of the buildings are proposed or designed, so details of interior lighting are not known. However, future buildings would be required to be designed with energy efficient lighting pursuant to Building Code requirements, including Title 24, and to not create reflected glare per City regulations. In addition, design would be subject to the City's "Bird-Safe Building Design Standards" that require glazing and treatment of windows. Future building designs would be subject to review and approval through the City's Design Permit process.
- B3-11 Building Lighting. The comment references the 2015 paper by Davies, Duffy, Bennie, and Gaston cited in DEIR Appendix E and recommendations that the commenter suggests be

identified in the EIR as mitigations, including: Switching off and dimming lights, limiting the use of spectra known to cause ecological impacts (avoid short wavelengths by using red spectrum rather than white lights); and seaward shielding of lights. The comment states without these mitigations, the proposed project will increase the Wharf's light impacts on the marine ecosystem. *Response:* The referenced study did not distinguish between exterior and interior lighting, but when given, references were to exterior lighting. The cited reference, indeed, in the DEIR Appendix E was part of the review of changes in exterior lighting at the Wharf as a result of the Wharf Master Plan. The review concluded that potential impacts due to lighting would be less than significant as acknowledged by the commenter in Comment B3-10. Therefore, no mitigation measures are required. However, the new lights would be shielded and directed downward, consistent with City requirements. Title 24 of the California Building Code further regulates lighting levels, in many cases requiring automated dimming, light sensors, and other energy efficiency upgrades that are likely to reduce the undesirable ambient impact of lighting from any future structures.

B3-12 Increased Recreational Use. The comment states that the project “expects to substantially increase boat and recreational use of the wharf” and asks how many additional people are expected, and how increased recreational activities will affect coastal biodiversity and wildlife *Response:* As explained on page 3-8 in the DEIR, overall visitor use at the Wharf could increase as a result of enhancement of public spaces, public and private events, expanded boating opportunities and parking, and increased commercial uses. However, although there are no projections of future visitor use at the Wharf, which cannot be accurately estimated, the City does not expect a substantial increase in visitors, but rather growth commensurate with overall City growth rates, hotel development in the Beach area, and economic conditions. See Response to Comment B3-13 regarding increased boating use. Regarding impacts to marine species due to increased recreational use on the landside portions of the Wharf, the DEIR (page 4.2-52) indicates that no significant impacts to marine mammals are anticipated to occur from potential increased recreational use at the Wharf following implementation of the Wharf Master Plan.

B3-13 Increased Boat Uses. The comment asks the number and type of increased boats and impacts on marine ecosystems. *Response:* As indicated on page 3-2 of the DEIR, the Wharf currently provides opportunities for pier fishing, as well as kayak and small fishing boat rentals. There are five active landings presently on the Wharf for boat access. Two are available to the public, two for boat and kayak rentals, and a landing is used by Wharf Staff. The Master Plan recommends the construction of two new boat landings that would consolidate existing active landing uses and provide expanded facilities for smaller recreational vessels and for Wharf operations. The “South Landing” would provide for the temporary mooring of larger vessels for whale watching, bay tours, sports fishing, and mooring of educational and scientific research vessels. Preliminary concepts for the South Landing propose a maximum vessel size of 200 tons

displacement, with 120 tons the design target. At this time, the number of boats or increases in kayaking or boating use is not known. Regarding impacts of increased boating on marine wildlife, the DEIR on page 4.2-52 indicates that no significant impacts are expected because the Wharf is located in a heavily used area. All boat operators must comply with federal regulations regarding protection of marine mammals. It is also noted that a charter fishing/whale watching business was operated on the Wharf until October 2010.

By consolidating the existing five landings to two, the size of the zone around the Wharf that experiences boat traffic would likely be reduced. Any boat traffic near the Wharf would necessarily be at slow speeds for safety reasons and to comply with existing laws, and would not pose risks of ship strike to marine mammals. It is also noted that a charter fishing/whale watching business was operated on the Wharf until October 2010, and large vessels have periodically moored to the Wharf since its creation. Finally, increases in traffic from charter vessels such as whale watching or sport fishing operations would be expected to be diverted from other locations such as Moss Landing or Monterey Harbor, and would thus not represent new traffic in adjacent open ocean areas

- B3-14 Growth Inducement. The comment states that increasing the footprint of amenities will increase tourists and demand for tourist housing, which will place an increased burden on existing housing stock and will induce more housing development and growth in the City. *Response:* As explained on pages 5-3 to 5-4, the Project would not directly or indirectly foster population growth and could indirectly foster economic growth. Neither the amount nor type of new or expanded building space is of a nature that would substantially increase visitors to the area as would, for an example, a theme park. The improvements and development envisioned in the Wharf Master Plan represent an enhancement to existing uses on the Wharf. In the Beach area, the Wharf is one of several visitor attractions. See also Response to Comment B3-12 regarding increased visitation to the Wharf.
- B3-15 Cumulative Impacts. The comment states that the Wharf Master Plan DEIR must consider cumulative impacts on the Monterey Bay National Marine Sanctuary marine ecosystem, including housing developments along San Lorenzo River and the Parks Master Plan. *Response:* The DEIR on pages 5-5 to 5-8 explains that the General Plan 2030 EIR served as the basis for the cumulative analyses, and was updated to include other cumulative projects not factored into the General Plan EIR, including a 5-year maintenance permit for the Wharf, an approved mixed-use project on West Cliff Drive, development estimated with approval of amendments to the Downtown Plan, the Parks Master Plan, and the West Cliff Drive Adaptation Plan. As indicated on page 5-7, there are no known cumulative projects that would affect the marine environment except for ongoing maintenance and replacement of damaged piles at the Wharf, which is already considered in the Wharf Master Plan. Thus, the DEIR address the issue and cumulative projects referenced in the comment.

- B3-16 Project Alternatives. The comment states that the Reduced Project Alternative (#1) and the Modified Project Alternative (#2) would reduce some of the impacts identified above, but both still create substantial impacts in the MBNMS. Additional feasible mitigations must be required to reduce the impacts of all these projects to less than significant. Cumulative and growth-inducing impacts of these plans must be analyzed adequately. *Response:* The DEIR does identify mitigation measures that reduce significant impacts to a less-than-significant level. See Response to Comments B3-14 and B3-15 regarding growth and cumulative impacts, respectively.
- B3-17 Response to Comments. The commenter asks that each of the foregoing questions and concerns in the Environmental Impact Report for the Wharf Master Plan be addressed. *Response:* All comments that apply to environmental analyses have been addressed in the responses for this comment letter.



**SANTA CRUZ COUNTY
GROUP**

Of The Ventana Chapter

P.O. Box 604, Santa Cruz, CA 95061

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email: sierraclubsantacruz@gmail.com

May 25, 2020

City of Santa Cruz Economic Development Department

Attn: David McCormic, Asset and Development Manager

337 Locust Street

Santa Cruz, CA 95060

Re: Santa Cruz Wharf Master Plan Draft Environmental Impact Report (DEIR)

B4-1

The Sierra Club has completed its review of the Draft Environmental Impact Report for the Santa Cruz Wharf Master Plan and is concerned that the document is lacking in several important respects, as discussed further below. First, the DEIR has made conclusions regarding wildlife impacts unsupported by the work of qualified personnel. Second, while this project will enhance the ability of bicyclists to access the wharf, bicycle parking is woefully inadequate. Third, there are omissions in the discussion and review of lighting and glare. And lastly, we raise concerns about the overall character of the design, in that the historic qualities of the existing wharf are subsumed by the size of the proposed structures. The Sierra Club does acknowledge the important and substantial work that has gone on in the preparation of the DEIR.

BIO-1c Special Status Species – Coastal Birds

B4-2

We take special exception to the assertion that “the project would result in an overall increase in suitable nesting habitat for the pigeon guillemot ... as this overall expansion of suitable habitat would offset any indirect effects from human presence.” No assertion of expansion of suitable habitat can be made without direct support from a qualified biologist. The Biological Resources section of the DEIR, at page 4.2-32, states that the “impact analysis is based on review by Dudek wildlife and marine biologists and supplemented by local biologists, Gary Kittleson and Bryan Mori, regarding nesting birds.” The DEIR does not make clear that the bird biologists were involved in anything other than the bird surveys they performed, which are referred to. If these biologists were involved in the assessments of impacts, and support the numerous assertions referred to in this paragraph, this work should be referred to specifically, and appropriate references should be cited. The analysis section begins with the bald conclusion that “the proposed Master Plan improvements would result in expansion of the Wharf and would not result in removal of habitat.” This conflation of the size of the Wharf with functional habitat is not supported by any full analysis of what factors combine to make a functional habitat. Such factors may certainly include access to nesting sites and privacy of both the nesting sites and the access flight paths. The

phrasing in the DEIR that because the pigeon guillemots currently nest in both western and eastern locations, that this “suggests that pigeon guillemots do not prefer the undisturbed western side of the Wharf over other areas, and the introduction of human disturbance here may not affect their preference for nesting locations” is explicitly conjecture, and not tied to any input by a qualified biologist. The impacts to the overall habitat area appear to be significant, and no statement to the contrary can be made without the input of qualified (with regard to this species) personnel. As discussed further below, it appears that the proposed western walkway is best removed from this proposal.

BIO-1c Effects on Wildlife Populations

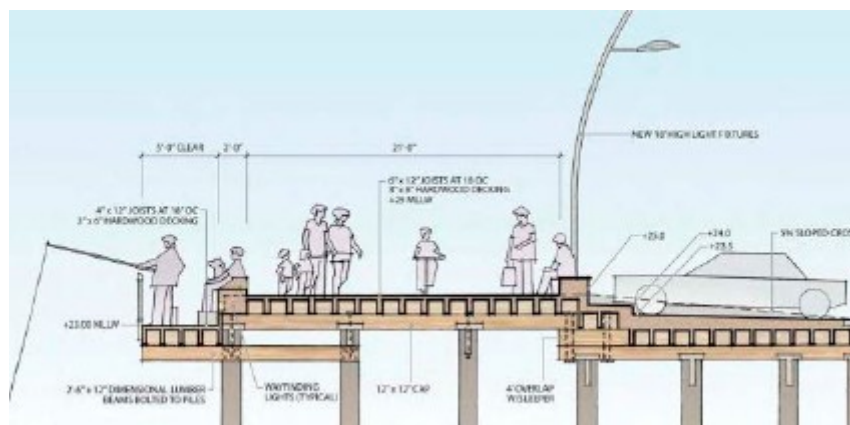
Of concern is the statement that the “Master Plan includes a new boat landing for research and visitor vessels. At this time it is not known when this facility may be developed”. Based upon this temporal ambiguity, the DEIR then appears to brush off any concerns related to increased boat traffic. As it is not known when all aspects of this plan may be developed, the statement referred to above is inappropriate. Should the Wharf, for example, seek to host tenders from cruise ships in the future, impacts from this new boat landing may indeed be significant. We request that a proposed, stated, level of boat traffic be included for this analysis, and that any increase above that level be required to trigger new environmental review. With the proposed use of this boat landing for 200 ton displacement vessels, the DEIR should include analysis of the impacts on wildlife of this use, done by qualified personnel.

AES-4 Lighting and Glare

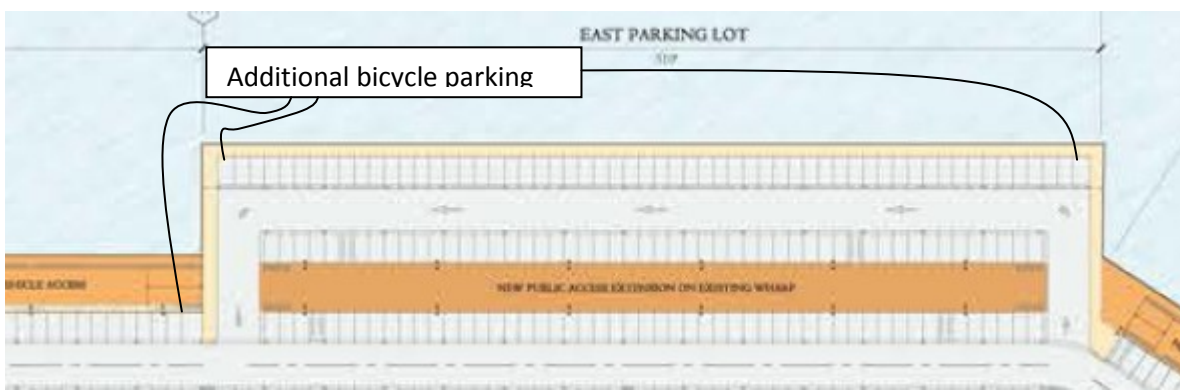
Although we appreciate the centering of the walkway lights away from the edge of the Wharf, we are concerned about an overall increase in light due to the construction of new buildings. In order not to have impact, the overall light emitted by aspects of the design, including that emitted by the new buildings, should not increase the total light emission from the Wharf. We also note that simply not increasing the light emission may not be a high enough standard, with instead a reduction in overall light being the goal.

TRAF-1 Conflict with a Program - Bicycle

The Sierra Club appreciates and applauds the proposed design for its large bicycle and pedestrian walkway, as seen here:



This can give the impression that the Plan takes bicycle transportation seriously. Access is only a portion of visiting the Wharf by bicycle. The design fails to provide adequate bicycle parking. City of Santa Cruz Ordinance No. 2017-02 requires that public or commercial recreation uses have a number of parking spaces of at least 35% of the auto parking spaces. The design calls for 64 bicycle parking spaces yet 495 auto parking spaces – 12.9%. Although mention is made of providing more spaces in the future, how and where these spaces will be is of concern. Namely, whereas all of the auto parking spaces are designed in and indicated, the future bicycle spaces are not, and then evidently must be taken from areas already identified for pedestrian and bicycle use. A Plan without the full amount of required spaces is in conflict with the City requirements; but even if it were not the proposed 64 spaces indicates that bicycle parking is an afterthought in this Plan. We strongly recommend that all corner areas currently designated for auto parking be instead allocated for bicycle parking, so that proper accommodation of bicycles may be achieved:



B4-7

AES-2 and AES-3 - Scenic Resources and Visual Character

In general, we are concerned that the scale of the proposed improvements risks losing the aesthetic flavor of the Wharf. In particular, one aspect of the scenic character of the Wharf is the experience of those on the Wharf, and the proposed 48 foot tall buildings would overwhelm those on the Wharf itself. Further, we believe that the EIR understates the visual impacts. The use of the Dream Inn as a reference does not accurately contrast the Wharf with its surroundings. The height and massing of the new proposed buildings are more than half the height of the iconic Giant Dipper roller coaster. Also, the views of the Wharf from the shore, namely from Cowell's Beach and from the adjacent West Cliff Drive, include views of the pilings. The western walkway impacts this aspect significantly. We recommend, again, that the western walkway be eliminated from this proposal.

Summary

We trust our suggestions for improving the review of this project will be carefully considered. Thank you for the opportunity to submit our comments and suggestions. Should you have any questions or wish to discuss these matters in more detail, please contact the undersigned.

Michael Guth,
Conservation Committee Chair
Sierra Club, Santa Cruz County Group

Micah Posner,
Executive Committee Chair

LETTER B4 – Sierra Club – Michael Guth and Micah Posner

- B4-1 EIR Concerns. The comment states that the Sierra Club has concerns that are further discussed in their comments regarding wildlife comments, bicyclist access, lighting and glare, and overall design and acknowledges the “substantial work” that has gone into the preparation of the DEIR . *Response*: Comment is acknowledged, and specific responses to commenter’s specific comments is provided below.
- B4-2 Biological Resources Impact Conclusion. The comment states that the DEIR conclusion that the project would not result in removal of pigeon guillemot habitat is “asserted without evaluation from consulting biologists.” The comment further states that “conflation” of the size of the Wharf is not supported by a full analysis of what factors combine to make a “functional habitat,” and impacts to pigeon guillemots appear to be significant. *Response*: The comment on impacts to guillemot habitat is tied throughout to the supposed lack of participation in the analysis by qualified biologists. On this point, see response to comment B1-7. With regard to “conflating” size of the Wharf with the presence of suitable habitat, as explained in the response to comments B1-7 and B2-4, the underlying structure of the new East Promenade will be similar to, and integrated with, that of the existing Wharf. Therefore, the habitat will be the same. Re-creating nesting microhabitats based on other criteria would not only be unnecessary, it would risk failure by potentially creating habitats different from those already being used. Finally, the statement in the comment that impacts to guillemot habitat appear to be significant is not supported with any data, or with an argument stating how the impact meets the definition of “significant” under CEQA, especially for a species typically regarded as common and that nests at several other locations in the vicinity, including along West Cliff Drive and Wilder Ranch State Park. See also Response to Comment B3-6.
- B4-3 Westside Walkway. The comment states that it appears that the “western walkway is best removed from the project.” *Response*: Comment is acknowledged, but does not address analyses in the DEIR and no response is required, but is referred to City decision makers for further consideration.
- B4-4 Boat Usage. The comment expresses concern related to increased boat traffic and asks that the level of boat traffic on marine with the new boat landing be analyzed in the EIR. *Response*: There is existing boat activity on the east side of the Wharf, and existing boating uses would be consolidated with the new Small Boat Landing, although a second South Landing area would be added, but the majority of the eastern side of the Wharf would remain open. As explained in Response to Comment B1-7, with Wharf expansion resulting from the proposed East Promenade, there would also be expanded area under the Wharf for nesting. See Response to Comment B3-13 regarding impacts to the marine environment. As discussed in Response to Comment C9-4, the South Landing is not intended for cruise ships

- B4-5 Lighting and Glare. The comment states that it appears that the “western walkway is best removed from the project.” *Response*: Comment is acknowledged, but does not address analyses in the DEIR and no response is required.
- B4-6 Bicycle Parking. The comment states the design fails to provide adequate bicycle parking in accordance with City of Santa Cruz Ordinance No. 2017-02, which requires public or commercial recreation uses have a number of bicycle parking spaces of at least 35% of the auto parking spaces. Concern is also expressed regarding whether full bicycle parking can be provided, and the comment recommends that all corner areas currently designated for auto parking be allocated for bicycle parking, so that proper accommodation of bicycles may be achieved. *Response*: Provision of parking is no longer a topic to be addressed pursuant to the State CEQA Guidelines, and therefore, no analysis is required in the EIR. The comment, however, is acknowledged and referred to City decision-makers for further consideration. It is noted that the Master Plan indicates that up to 150 bicycle parking spaces would be provided, and requirements of the Santa Cruz Municipal Code will be followed for future projects implemented pursuant to the Wharf Master Plan.
- B4-7 Visual Character. The comment states that the scale of the proposed improvements risks losing the aesthetic flavor of the Wharf, that the proposed “48 foot tall buildings” would overwhelm those on the Wharf, that the EIR understates the visual impacts, that the Dream Inn as a reference does not accurately contrast the Wharf with its surroundings, and views from Cowell Beach and West Cliff Drive, including views of the Wharf pilings, would be significantly impacted by the Westside Walkway. The comment recommends that the walkway be eliminated. *Response*: See Response to Comment B1-3 regarding visual impacts and comparisons to the surrounding area. The Master Plan proposes a height of 45 feet for the three new buildings and 35 feet for the remainder of the Wharf. The Westside Walkway is a narrow, low-profile structure and is included on photo simulations in the DEIR. As shown on Figure 4.1-8, the walkway would have limited visibility from Cowell Beach, would blend with the existing Wharf structure and would not obscure Wharf piles, especially the northern end closest to the beach as the Walkway is not proposed in this area. See Response to Comment B4-3 regarding recommendation to eliminate the Westside Walkway.

From: John Aird [<mailto:johnaird@earthlink.net>]
Sent: Wednesday, May 27, 2020 6:28 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: [CAUTION: Verify Sender Before Opening!] Fw: DEIR Response

David -

Just in case the earlier email address was in error.

Note that it was submitted before the 5 PM deadline.

Please confirm it's receipt and acceptance.

Thanks - John

-----Forwarded Message-----
From: John Aird
Sent: May 27, 2020 4:51 PM
To: dmccormick@cityofsantacruz.com
Subject: DEIR Response

David -

c1-1 I must say that this seems to be an unfortunate time to be required to respond on such an important community matter.

Nonetheless, I have in the **Attached** document attempted to highlight a number of items of particular concern to me which I would appreciate being addressed..

Many other important matters are addressed in the submission from the "Don't Morph The Wharf" group. Since I have been very much involved with that group, their articulated concerns and submission has my complete support.

Thank you in advance for considering these matters and responding to them in some detail.

John

Review and Comments on Santa Cruz Wharf Master Plan EIR

John C. Aird, 303 Highland Avenue, Santa Cruz, Ca.

- C1-2 I have reviewed the EIR documents. Obviously a considerable amount of work and expense has gone into its production. Unfortunately, I found it deficient in responding to a number of concerns I had identified in my June 23, 2017 letter “Responses to JNOP for the EIR”.

Key among those were ones relative to overall size, visual impacts of buildings of greatly increased heights, and the addition of three new buildings. A word or two about each:

Overall increased size is 33%, a massive increase with a much broader footprint, which in totality will change an individual’s experience from being on a wharf jutting into Monterey Bay to enjoy the beauty of the bay and its environment to being on an entertainment and restaurant destination located on a wharf.

Building heights raised to 45’ will diminish views both on the wharf itself and certainly from West Cliff Drive. I do not feel that the EIR adequately addresses its negative effects in this regard.

- C1-3 The addition of the three new buildings described and their effects on existing community assets serving the same purposes has not been adequately studied and described. A very quick review in doing this would likely need to address these potential negative effects among others:

The Landmark Building: Described as a “relatively small building” at 6000 sq. ft., it’s is twice the size of our existing Civic Auditorium and being proposed despite no useful definition of proposed need or community effect.

The Events Pavilion: Again, it lacks a defined “market need” and would appear in many ways to be in direct competition with many events currently successfully hosted and staged at the Santa Cruz Boardwalk and elsewhere.

The Gateway Building: Other than serving a “welcoming purpose”, one that might be accomplished in a number of other ways (none of which are

described), its purported educational offerings about the bay and wharf would likely detract from or be duplicative of displays and events offered at The Monterey Bay National Marine Exploration Center, a 12,000 sq. ft. building at a cost of approximately \$ 15.9_M that's located approximately one-half block from the foot of the wharf.

- C1-4 Finally, I would request that a much more thorough review be done to the "No Project" and "Reduced Project (Alternative 1) options. At a time when Santa Cruz is beset with very real budget limitations and other unresolved community challenges (homelessness, economic effects of Covid-19, etc.), it seems absolutely essential that these other options be more thoroughly studied and considered.

Thank you in advance for addressing these points and I look forward to your responses to them.

LETTER C1 – John Aird

- C1-1 Comments. The comment references attached comments and expresses support for the matters addressed in the letter submitted from the “Don’t Morph the Wharf” group. *Response:* Comment is acknowledged; no response is required.
- C1-2 Impacts on Views. The comment states that the addition of three new buildings would increase size by 33% and be a massive increase with a much broader footprint. The comment also states the building heights to 45 feet will diminish views both on the Wharf and from West Cliff Drive, which were not adequately addressed in the DEIR. *Response:* The three new planned buildings total 15,000 feet, which represents approximately 25% of the existing building space on the Wharf. The DEIR does evaluate potential impacts to scenic views based on photo simulations of the new buildings. See DEIR page 4.1-5 for an explanation of scenic views and pages 5.1-6 to 4.1-8 regarding impacts to scenic views. Impacts from the end of the Wharf, where a scenic viewpoint has been identified, is addressed on DEIR page 4.1-8, where it is indicated that the proposed Landmark Building would not substantially block scenic views of the shore and distant mounts as views would be available from the rest of the Wharf. See Response to Comment B1-3 and Chapter 2, “Changes to Draft EIR,” of this document regarding views from the end of the Wharf.
- C1-3 New Buildings. The comment states that the addition of the three new buildings has not been adequately studied and described and would likely need to address potential negative effects that the commenter lists as: 1) the description of the 6,000 square foot Landmark Building is “twice the size” of the Civic Auditorium and there is no definition of proposed need or community effect; 2) there is no defined “market need” for the Events Pavilion that would appear to be in direct competition with many events at the Santa Cruz Boardwalk and elsewhere; and 3) educational offerings at the Gateway Building would detract from or be duplicative of displays and events offered at The Monterey Bay National Marine Exploration Center, a 12,000 square foot building located approximately one-half block from the foot of the wharf. *Response:* Comment is acknowledged, however does not address analyses in the DEIR. The concerns raised do not address environmental issues to be addressed pursuant to CEQA, which are impacts on the physical environment as explained on page 1-4 of the DEIR. Economic or social changes resulting from a project are not considered as significant effects on the environment. The comment will be considered by the City’s decision makers. It is noted that the Civic Auditorium is at least 15,000 square feet in size.
- C1-4 Alternatives. The commenter requests that “a much more thorough review be done to the No Project and Reduced Project (Alternative 1) options” especially at a time when Santa Cruz is beset with very real budget limitations and other unresolved community challenges (homelessness, economic effects of Covid-19). *Response:* The comment does not provide specific comments on how the alternatives should be addressed. The City

believes the alternatives have been adequately addressed in accordance with requirements of CEQA and the State CEQA Guidelines.

From: Stefan Berlinski [<mailto:coqavin@att.net>]
Sent: Friday, May 22, 2020 8:27 AM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Wharf Master Plan

Dear Mr. McCormic,

C2-1 I was a resident of the City of Santa Cruz for two decades. I still own property there. My children went to city schools and two of them still live there. I currently serve as the Santa Cruz Yacht Club Regatta Chair which has had a long association with the wharf. After reviewing some elements of the Wharf Master Plan, I was dismayed to see some of the changes. The structures are out of proportion and out of character for the area and history of the wharf. Whenever I rode the waves at Steamers or sail past the wharf in season, the Pigeon Guillemots strike me with their beauty and determination. These birds are known to breed in the structure of the wharf. It is inconceivable that there is no significant impact on this structure or this species. The Draft EIR is not adequate to address these concerns. Please note my comments when the DEIR comes up for review. Thank you for your kind attention,

Stefan Berlinski

LETTER C2 – Stefan Berlinski

- C2-1 Wharf Structures and Pigeon Guillemots. The comment states that structures in the Master Plan are out of proportion and out of character for the area and history of the Wharf and that pigeon guillemots are known to breed at the Wharf. The comment further states that “it is inconceivable” there are no significant impacts regarding structures or this species, and the DEIR is not adequate to address these concerns. *Response:* The commenter does not specify why the DEIR is not adequate to address commenter’s concerns, and a specific response cannot be provided. See DEIR pages 4.1-5 to 4.1-18 regarding aesthetics’ impacts, pages 4.2-14 to 4.2-50 regarding impacts to nesting birds, and pages 4.3-15 to 4.3-21 regarding impacts to historical resources.

From: Jean Brocklebank [<mailto:jeanbean@baymoon.com>]
Sent: Wednesday, May 27, 2020 12:49 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Wharf DEIR comments

To Whom It May Concern ~

I submit the following comments on the City's DEIR for its Wharf Master Plan:

- C3-1 1. On pages 4.2.7 to 4.2.8 there are several surveys that show anywhere from 27 to 59 to 61 avian species that have been observed in the wharf area over a five year period. The illustration of the proposed (see attached) shows major glazing that will cause bird collisions and bird kills. This is an impact that was **not** analyzed in the DEIR. **Where is the proposed bird kill number due to the creation of more glazing in the birds' habitat?**



- C3-2 2. With an expanded wharf will come expanded busyness and its associated noise. This ambient noise will affect marine mammals as well as migratory and resident birds. I see **no baseline data on ambient noise, nor analysis of the impacts associated with increased noise generated by occupation of the wharf post-construction.**
- C3-3 3. Regarding impact during construction, the DEIR states: "*As discussed in Impact BIO-1a, the underwater sound produced during pile replacement work may cause disturbance to fish in the project vicinity, which may reduce feeding and cause a temporary reduction in the productivity of EFH during the construction period, but is not expect to result in direct harm or take of fish*

species. " **Where is the evidence** that temporary stress (especially to constant pile driving) results in no direct harm to marine mammals?

- C3-4 4. Regarding Pigeon guillemots and Pelagic cormorants, **where is the evidence** that a buffer of 150 feet stops disturbance caused by pile driving of the construction? (*"If active nests for pigeon guillemots or pelagic cormorants are found, establish a buffer of at least 150 feet between each nest and construction activities under the wharf deck that could disturb nesting birds, especially pile driving."*).
- C3-5 5. Sea Otters are particularly susceptible to boat strikes. **Where is the baseline data of sea otter strikes** in the project area and analysis of any potential increased number of strikes due to expanded use of the wharf for large research and commercial fishing boats? Even though other marine mammal species are not observed near the wharf, if the wharf expands to provide larger boats then these boats will soon fill the waters of Monterey Bay and head for the new wharf docking area. Therefore a **potential cumulative impact** on marine mammals in the Monterey Bay National Marine Sanctuary is a possibility and **should be addressed**.
- C3-6 6. Although on page 4.2.50 it is stated that "*Adoption and implementation of the Wharf Master Plan and subsequent Wharf expansion and construction would not substantially reduce the habitat of a fish or wildlife species ...*" that just means it will reduce to some extent. This is the problem with harm to the environment. Nature always loses when human occupation of the environment is the goal. A hundred insubstantial impacts, one at a time, make a substantial impact. Nature loses, one impact at a time, one square foot, one place, one acre at a time. There is no other way to see this.
- C3-7 7. Finally, where is a strong and creative alternative to repair, restore and rehabilitate the existing wharf without expansion?

Sincerely,
Jean Brocklebank
41 year resident of Santa Cruz

LETTER C3 – Jean Brocklebank

- C3-1 Bird Collisions. The comment indicates that windows on new buildings will cause bird collisions and bird kills and that this impact was not analyzed in the DEIR. The comment asks what the number of bird kills will be. *Response*: The DEIR does address potential bird collisions with windows in new buildings on pages 4.2-45 to 4.2-47. The analysis concluded that no significant impact would occur for a number of reasons as explained in the DEIR, including the buildings not being located near vegetation that would be reflected in the windows that is often a source of collision for birds. The bird species attracted to the Wharf mostly either fly low over the water or perch/loaf in open areas, and therefore, are unlikely to collide with glass that they perceive as providing cover resembling surrounding vegetation. The DEIR also indicates that the City’s “Bird-Safe Building Design Standards” would be applied to new construction. These standards specify window and lighting treatments for buildings located near specified habitat areas in order to ensure that new buildings provide a safe design to prevent bird collisions in areas near natural features. The standards identify window glazing and lighting treatments to ensure design of bird safe buildings.
- C3-2 Noise Increases and Impacts. The comment states that expanded activity and business will increase noise that will affect marine mammals and birds, but DEIR does not address impacts of increased noise. *Response*: Potential noise increases were addressed in the Initial Study (see reference on DEIR page 1-4). As indicated, implementation of the Wharf Master Plan and future construction of proposed improvements would increase existing ambient noise levels because the proposed expansion is for enhanced pedestrian and bicycle use, and other envisioned buildings would be similar to existing uses on the Wharf and surrounding recreational activities in the beach area. The Wharf and surrounding area are subjected to a variety of noise sources from Boardwalk rides, outdoor activities on the Wharf and adjacent beaches, vehicular traffic and sounds of the ocean. Intermittent train passage occurs on the railroad tracks along Beach Street just north of the existing Wharf entrance. Therefore, the Project would not result in a substantial increase in ambient noise levels even with increased human visits. The DEIR does address potential impacts to marine mammals related to potential increased human activity and recreational uses; see DEIR page 4.2-52.
- C3-3 Impacts of Pile Driving. The comment asks where is the evidence that temporary stress especially to pile driving results in no direct harm to marine mammals. *Response*: Thresholds for underwater noise impacts as a result of pile driving are discussed on pages 4.2-33 to 4.2-40. Sound levels have been established by NOAA Fisheries in compliance with the Marine Mammal Protection Act for marine mammals and the Fisheries Hydroacoustic Working Group for fish species.
- C3-4 Pigeon Guillemots and Pelagic Cormorants. The comment asks of evidence that a buffer of 150 feet stops disturbance caused by pile driving during construction.

Response: The buffer recommended in Mitigation Measure BIO-4 is a minimum based on typical buffers established for construction, and the biologist will have the discretion to adjust this buffer according to the level of activity proposed in consultation with CDFW.

- C3-5 Sea Otters. The comment asks where baseline data is on sea otter strikes in the project area and analysis of any potential increase due to expanded use of the Wharf for large research and fishing boats. *Response:* Impacts associated with potential increased boating are addressed on page 4.2-52 of the DEIR. See also Response to Comment B3-13.
- C3-6 Habitat Impacts. The comment references Impact BIO-7 that states the “Wharf Master Plan and subsequent Wharf expansion and construction would not substantially reduce the habitat of a fish or wildlife species.” The comment suggests that this statement means the project will reduce it to some extent and that “Nature always loses when human occupation of the environment is the goal.” *Response:* The comment does not address analyses in the DEIR, and no response is required. However, the impact analysis cited in the comment is explained on pages 4.2-51 to 4.2-54 with a conclusion of a less-than-significant impact.
- C3-7 Project Alternatives. The comment asks for an alternative to repair, restore and rehabilitate the existing Wharf without expansion. *Response:* The No Project Alternative, as required by CEQA, addresses the ongoing functioning and maintenance, which could include expansion of existing buildings; see DEIR pages 5-15 to 5-17. The proposed Master Plan includes recommendations for new and expanded uses at the Wharf. Existing Wharf operations already include maintenance activities. The Wharf has been expanded over time and is subject to regular maintenance, and it is not clear what restoration and rehabilitation actions would be. It is noted that the Wharf Engineering report does however suggest a number of needed infrastructure repairs totaling between \$12,750,000 and \$16,000,000 in deferred maintenance/infrastructure backlog as of 2014.

-----Original Message-----

From: will cassilly [<mailto:willcassilly1@comcast.net>]

Sent: Friday, May 22, 2020 9:28 AM

To: David McCormic <dMcCormic@cityofsantacruz.com>

Subject: wharf plan

C4-1 Wharf plan is too large and needs to scaled back in size.

LETTER C4 – Will Cassilly

- C4-1 Wharf Master Plan. The comment states that the “Wharf plan is too large and needs to scaled back in size.” *Response:* The comment is acknowledged, but does not address analyses in the DEIR and no response is required.

From: Trician Comings [<mailto:triciansc@mindspring.com>]
Sent: Friday, May 22, 2020 8:52 AM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Wharf Draft DEIR

Dear David McCormic,

I've been meaning to write and comment for a while.
I looked over the Wharf Master Plan but couldn't read it all.

C5-1 I think this expansion plan is overkill, too expensive and the monstrous buildings are out of place and unneeded.
I am fine with the structural and safety improvements but for the rest I think it should go back to the drawing board and scale it down, way down.
I believe that just upgrading and improving the existing buildings is a better idea than 45' tall buildings. No on the pavilions!
The focus should be on public access, water activities and safety rather than more tourist shops and commercial spaces. Where would the people fishing fit in?
The road definitely needs paving and the whole wharf should be more bicycle friendly. When I shop or go to a restaurant, I have a hard time finding a bike rack close by.

Thanks,

Trician Comings,
longtime Santa Cruz homeowner and environmentalist

LETTER C5 – Trician Comings

- C5-1 Wharf Master Plan. The comment provides opinions on the Master Plan, but indicates that the Master Plan should be scaled down with a focus on access, water activities and safety, that the road needs paving, and the Wharf should be more bicycle friendly. *Response:* The comment is acknowledged, but does not address analyses in the DEIR and no response is required. See also pages 3-19, 4.5-16, and 4.5-17 to 4.5-18 in the DEIR that explain improvements to bicycle facilities as recommended in the Wharf Master Plan.

From: Chris Cuddihy [<mailto:ccuddihy@ceesquared.tv>]
Sent: Saturday, May 23, 2020 2:01 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Please leave the wharf alone

C6-1 I mean renovate by all means, but taking my kids up there as a single dad at the weekends so they could watch guys fishing, peep down at the sea lions – eat breakfast perhaps or get a bowl of chowder. But please don't change what it is to so many – its one of the last charming structures the city has left – please don't destroy it

Chris Cuddihy
ccuddihy@ceesquared.tv
831 566 9000

LETTER C6 – Chris Cuddihy

- C6-1 Wharf Changes. The comment supports renovation of the Wharf, but asks that no changes be made. *Response:* The comment is acknowledged, but does not address analyses in the DEIR and no response is required.

From: dmccormic@cityofsantacruz.com [<mailto:dmccormic@cityofsantacruz.com>]
Sent: Monday, May 18, 2020 11:14 AM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Wharf Master Plan Draft EIR Question/Comment Received

A new entry to a form/survey has been submitted.

Form Name: Wharf Master Plan Draft EIR
Date & Time: 05/18/2020 11:14 AM
Response #: 4
Submitter ID: 49190
IP address: 2600:1700:87f0:8910:b5ff:920c:c5a2:950d
Time to complete: 13 min. , 56 sec.

Survey Details

Page 1

Thank you for reviewing the Wharf Master Plan Draft EIR. Please write your questions or comment in the fields provided. Your comment/question will be automatically directed to David McCormic. Please note that questions and/or comments entered here are public information and subject to release in accordance with the Public Records Act.

1. Question/Comment:

I heard that there is a proposed building at the end of the wharf. I hope this is only rumor and will not happen. I'm also concerned for the pinnipeds and hope the landing opposite Stagnaros will be repaired.

2. Contact Information: If you would like us to contact you regarding your comment or question, please provide us the following information:

First Name: Gayle
Last Name: Fitzsimmons
Phone Number: Not answered
Email Address: Msfitz@pacbell.net

Thank you,
City of Santa Cruz

This is an automated message generated by the Vision Content Management System™. Please do not reply directly to this email.

LETTER C7 – Gayle Fitzsimmons

- C7-1 Wharf Structures. The commenter does not want to see a new building at the end of the Wharf and also states concern about the pinnipeds and if the landing opposite Stagnaros will be repaired. *Response:* The comment is acknowledged, but does not address analyses in the DEIR and no response is required. The commenter is referred to DEIR Section 4.2, which addresses marine biological resources, including pinnipeds. The current Public Landing No. 2, opposite Stagnaro Bros., does not comply with Americans with Disabilities Act (ADA) and has been effectively decommissioned following damage from the 2011 tsunami and subsequent storms. Staff has explored opportunities to repair the landing, but has been limited by resources and regulatory hurdles. The Master Plan proposes to replace Public Landing No. 2 with a new public ADA-accessible “South Landing” at roughly the same location as the existing landing.

From: jaime garfield [<mailto:jaimegarfield@gmail.com>]

Sent: Friday, May 22, 2020 12:21 PM

To: David McCormic <dMcCormic@cityofsantacruz.com>

Subject: The new wharf plan is not bird or local working class person friendly.

C8-1 The city claims the migratory Pigeon Guillemots can find new nesting sites from the south or east side of the wharf even though their access is blocked from the west by the new lowered west walkway.

The south and east sides will be packed with people, boats, outriggers...not conducive to the easily disturbed Pigeon Guillemot after it flies from Puget Sound to the wharf each spring.

People who want to fish can now have their car parked with them for a pleasant afternoon of inexpensive family outing.

C8-2 The disappearance of the sea lion viewing platforms with plenty of square footage of open air viewing, is a real loss.

C8-3 I, like so so many like the wharf like it is.

Some affordable restaurants, relatively low structures, lots of open air areas, nice open area for community concerts and events.

Please don't make the wharf another example of the city putting tourists dollars above local, nature loving interests.

Thanks,

Jaime Garfield

LETTER C8 – Jaime Garfield

- C8-1 Pigeon Guillemots. The comment states that the City “claims pigeon guillemots can find new nesting sites” even when their access is blocked by the new west walkway and people, boats, outriggers on the south and east side are not conducive to the easily disturbed birds. *Response*: See Response to Comment B1-7 and B2-4.
- C8-2 Sea Lion Viewing. The comment states that the disappearance of sea lion viewing platforms would be a loss to the community and would impact the Wharf’s character. *Response*: The comment is acknowledged, but does not address analyses in the DEIR and no response is required. See Response to Comment B1-17 regarding sea lion viewing.
- C8-3 Opinion of Wharf. The comment asks that the Wharf not be made “another example of the city putting tourists’ dollars above local, nature loving interests.” *Response*: The comment is acknowledged, but does not address analyses in the DEIR and no response is required.

5/09/2020

Comments on 2020 DEIR
David McCormic
Asset and Development Manager SC Wharf Master Plan

Dear Mr. McCormic

Here are my comments on the DEIR Wharf Master Plan. Please enter them into the appropriate documents:

- C9-1 1. The Plan eliminates the sea lion viewing ports. *This is a major coastal related benefit and attraction for visitors*
- C9-2 2. The Plan adds 10% more parking, thereby increasing impacts to the coastal area from traffic, air and noise pollution.
- C9-3 3. The height of new proposed buildings, especially the one at the end of the pier, negatively impacts view sheds from the pier and the shoreline.
- C9-4 4. The large boat dock could accommodate tenders from cruise ships which would bring in thousands of additional people to the congested area. This would result in many adverse impacts on both the Marine Sanctuary and the coastal environment . Theses impacts should be thoroughly studied .
- C9-5 5. Mesh should be installed on the edge railings to prevent trash from blowing into the marine sanctuary.
- C9-6 6. Historical qualities of the wharf - which have been largely maintained in an undisturbed state for many decades - would be negatively and permanently impacted by the planned new construction.
- C9-7 7. The accumulative impact to the area would be felt from the diversion of over twenty million dollars to this project without a realistic chance of recouping the expenditure.

Regards,

Fred J. Geiger
136 Swift St.
Santa Cruz 95060
Fredjgeiger@yahoo.com

LETTER C9 – Fred J. Geiger

- C9-1 Sea Lion Viewing. The comment states that the Wharf Master Plan would eliminate “sea lion viewing ports”, which is a major draw and would greatly impact coastal benefit and attraction for visitors. *Response*: The comment is acknowledged, but does not address analyses in the DEIR and no response is required. See also Response to Comment B1-17 regarding sea lion viewing.
- C9-2 Traffic and Parking. The comment states that the Plan would add 10% more parking, hence increasing impacts to traffic, air, and noise pollution. *Response*: The comment suggests additional impacts would arise from additional parking. However, typically it is the uses that would generate parking demand and traffic, not the parking spaces themselves, although additional parking spaces in combination with other planned uses could result in increased traffic. See DEIR section 4.5 regarding transportation and traffic impacts.

With regards to air quality impacts, the issue was evaluated in an Initial Study and the Project was found to result in a less-than-significant impact; see Notice of Preparation in Appendix A of the DEIR. The Monterey Bay Air Resources District’s (MBARD) CEQA Guidelines identify thresholds for various land uses under which potential impacts on ozone levels might be affected. There is no specific use that matches the proposed improvements and uses at the Wharf, which are a combination of Visitor Center-type public and quasi-public uses, recreational uses, and commercial uses. The Guidelines indicate that a regional shopping center of less than 120,000 square feet would typically be below thresholds of significance for emissions of criteria pollutants. Existing commercial structures on the Wharf total approximately 60,000 square feet, and new and expanded development could add approximately 35,000 square feet of new and expanded building area, although it is not known when future development would occur. Even assuming all new facilities would be similar to a commercial shopping center, the size of the proposed facilities, including infill and expansion of existing buildings, would be substantially below the MBUAPCD screening level for potential significant impacts. Furthermore, the Master Plan’s policies seek to improve alternative modes of travel, including pedestrian, bicycle, and public transit and shuttles. Implementation of these policies and actions and accompanying Improvement of bicycle and pedestrian facilities, including installation of 65-150 new bicycle parking spaces, would reduce or offset automobile trips and associated emissions.

Implementation of the Wharf Master Plan and future construction of proposed improvements including the two near-term planned projects – relocation of the Entry Gate and construction of the East Promenade – would not result in new uses that would increase existing ambient noise levels. The Wharf expansion is for enhanced pedestrian and bicycle use, and other envisioned buildings also would be primarily publicly-oriented with some potential for in-fill expansion of commercial buildings. These uses would be similar to existing uses on the Wharf and surrounding recreational activities in the beach area.

- C9-3 Wharf Structures and Viewsheds. The comment states that the heights of the news proposed buildings, especially the one at the end of the Wharf, would negatively impact the viewsheds from the pier and the shoreline. *Response:* See Response to Comment B1-3 regarding views from the Wharf. See DEIR pages 4.1-12 to 4.1-14 regarding impacts to views from Main Beach and Cowell Beach.
- C9-4 Boat Dock Impacts. The comment states that the large boat dock could accommodate “tenders” from cruise ships and would result in an increase of visitors, which would result in adverse impact to the marine sanctuary and coastal environment, which should be studies. *Response:* As indicated on page 3-13 of the DEIR, the proposed South Landing is not intended as a terminus for cruise ships of any tonnage, to provide moorings for extended periods of time, or to provide shuttle access for any type of large vessel. Santa Cruz is not an existing nor intended destination for cruise ships. This text has been clarified; see “Changes to Draft EIR” section of this document. It is the City’s understanding that the cruise line industry and destination ports are heavily regulated by a variety of national and international agencies, including the U.S. Coast Guard, Centers for Disease Control, Environmental Protection Agency, Customs and Board Control, U.S. Department of Transportation, and the International Maritime Organization. The City has no plans nor resources to explore or initiate permitting cruise ships at this time and none are proposed under either the Master Plan or the EIR. See Response to Comment B3-12 and B3-13 regarding increased visitor, recreational and boating uses.
- C9-5 Trash Mitigation. The comment states that mesh should be installed on the edge of railings to prevent trash from blowing into the marine sanctuary. *Response:* The comment is acknowledged, but does not address analyses in the DEIR and no response is required. The City’s Wharf Maintenance Crew, has been working to install such mesh along the first 1 to 2 feet of railings, as resources permit. Installations have been prioritized with scheduled railing replacements and in high traffic areas where frequent refuse has been witnessed.
- C9-6 Historical Qualifies of the Wharf. The comment states that the historical qualities of the Wharf would be negatively and permanently impacted by new construction. *Response:* Comment is acknowledged. However, the impact to historical resources resulting from implementation of the Wharf Master Plan are evaluated on pages 4.3-16 to 4.3-21 and was found to be less than significant as explained in the text.
- C9-7 Expenditures. The comment provides opinion about the financial impacts of the Wharf Master Plan. *Response:* The comment is acknowledged, but does not address analyses in the DEIR and no response is required.

From: Josh Goldberg [<mailto:josh@3io.com>]
Sent: Saturday, May 23, 2020 4:38 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: wharf master plan comments

Hello,

- C10-1 The wharf master plan DEIR fails to adequately study the impacts of the Plan and therefore the claim of no significant impact is incorrect. The city claims the tall new buildings have no aesthetic impact, however photos are taken from a far distance. The city claims the migratory Pigeon
- C10-2 Guillemots can find new nesting sites from the south or east side of the wharf even though their access is blocked from the west by the new lowered west walkway. In the Plan, the south and east sides are packed with people, boats, outriggers and not at all conducive to the easily
- C10-3 disturbed Pigeon Guillemot after it flies from Puget Sound to the wharf each spring. The impact of reduced light on the resting harbor seals is inadequately studied.

Thank you for considering this feedback.

Josh

LETTER C10 – Josh Goldberg

- C10-1 Wharf Structures. The comment states that the DEIR fails to adequately study the impacts of the Plan and the claim of no significant impact is incorrect. The comment states that “the City claims the tall new buildings have no aesthetic impact”, but that photos are taken from a fair distance. *Response:* The DEIR concludes that impacts related to aesthetics would be less-than-significant. See Response to Comment B1-3.
- C10-2 Pigeon Guillemots. The comment states that the City “claims” pigeon guillemots can find new nesting sites” from the south and east side of the Wharf even when their access is blocked by the new west walkway, but people, boats, outriggers on the south and east side are not conducive to the easily disturbed birds. *Response:* See Responses to Comments B1-7 and B2-4.
- C10-3 Effects of Lighting. The comment states that the impact of reduced light on resting harbor seals is inadequately studied. *Response:* Improvements implemented as a result of the Wharf Master Plan would not change light conditions. If the reference is to the holes in the Wharf deck, there are other areas beneath the Wharf where harbor seals rest that are not under these five areas. See also Response to Comment B1-17.

From: dmccormic@cityofsantacruz.com [<mailto:dmccormic@cityofsantacruz.com>]
Sent: Sunday, April 26, 2020 6:28 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Wharf Master Plan Draft EIR Question/Comment Received

A new entry to a form/survey has been submitted.

Form Name: Wharf Master Plan Draft EIR
Date & Time: 04/26/2020 6:27 PM
Response #: 2
Submitter ID: 47192
IP address: 142.254.101.242
Time to complete: 18 min. , 8 sec.

Survey Details

Page 1

Thank you for reviewing the Wharf Master Plan Draft EIR. Please write your questions or comment in the fields provided. Your comment/question will be automatically directed to David McCormic. Please note that questions and/or comments entered here are public information and subject to release in accordance with the Public Records Act.

1. Question/Comment:

Please postpone this project till post crisis with our pandemic. Totally inappropriate to be considering these plans at this time. It is not realistic to expect citizens to be able to focus on the wharf development or inform themselves of the details of the plans at this time. It is unimaginable that this project as envisioned will be relevant to the city and its effort to recover economically In the near future.

2. Contact Information: If you would like us to contact you regarding your comment or question, please provide us the following information:

First Name: Margaret
Last Name: gorman
Phone Number: 8314251200
Email Address: gormanpeg@gmail.com

Thank you,
City of Santa Cruz

This is an automated message generated by the Vision Content Management System™. Please do not reply directly to this email.

C11-1

LETTER C11 – Margaret Gorman

- C11-1 Wharf Master Plan Schedule. The comment asks that the Project be postponed due to the economic impacts of Covid-19 and that it is unimaginable that the project will be relevant to the City and its effort to recover economically in the near future. *Response:* The comment is acknowledged, but does not address analyses in the DEIR and no response is required. However, it is noted that the Project is the Wharf Master Plan that would be implemented over time. Except for the entry gate relocation and the East Promenade, none of the other buildings or improvements recommended in the Master Plan are proposed or planned at this time. It is noted that the City has experienced budgetary impacts as a result of the COVID-19 pandemic with expected cuts to the Wharf maintenance and operations budget. In order to offset the City's budget impacts, the City will need to seek outside funding in the form of state and federal grants.

Projects proposed in the Master Plan, contingent on outside funding, could nevertheless aid in local economic recovery through immediate design and construction jobs. Completed public access improvements are also expected to help attract more locals and visitors to businesses that have struggled through the Pandemic. Investments in the boat landings and commercial infill would create opportunities for new businesses like fishing charters, retail, and whale watches. It's also important to note that the Wharf was home to more than 400 jobs prior to the pandemic, including roughly 10% of the City's restaurant workforce, many of these jobs have been lost. Among their workers, many are from disadvantaged neighborhoods, including minorities, families, and students, who have suffered deeply during the pandemic with ongoing implications. The Wharf Master Plan will help attract reinvestment to the Wharf aiding the recovery of those who remain as well as helping the City's economic base more broadly.

From: Kathy Haber [<mailto:dannynor@cruzio.com>]
Sent: Friday, May 22, 2020 4:30 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: SC Wharf project

C12-1 I would like to register my reaction to the planned Wharf Improvement” project.

I do not see the need to change the pier in the way planned.

C12-2 -- Increasing commercial space and adding a special events venue without adding parking is completely irresponsible. I live 1/2 mile from the wharf and on some special events days, there are cars parked in my neighborhood, including in our complex’s private lot. Woodies on the Wharf may be fun for some, but it’s a headache for me.

C12-3 —There are several large empty spaces now in the commercial row, with no tenants in sight. Additional space is not needed.

C12-4 — The planned west walkway would have passing walkers looking in at the diners in the restaurants. This is not what patrons expect when asking for a table with a view of the water!!!

C12-5 —The huge building planned for the end of the pier is a monstrosity. It completely blocks the view of the ocean, which is what tourists have come to see. I attended a community information meeting and asked what such a huge, hollow space would be used for. I was told “special events” and “maybe boat building”. If people want to rent a large space at the Beach for an event, I can suggest The Coconut Grove. It certainly has many empty dates on it’s calendar.

C12-6 —I have no objection to using the Federal funds available to strengthen and stabilize the structure. This is prudent and needed and there appears to be money for it. But in the time of huge city budget deficits, the rest of the project should not be funded. The various taxes levied on tourists are going to be very scant for some years to come and this expansion is not needed.

Sincerely
Kathy Haber

LETTER C12 – Kathy Haber

- C12-1 Changes to Wharf. The commenter does not “see the need to change the pier in the way planned.”. *Response*: The comment is acknowledged, but does not address analyses in the DEIR and no response is required.
- C12-2 Parking. The comment states that increasing commercial space and adding a special events venue without adding parking is irresponsible and there are cars parking in commenter’s neighborhood during special events. The comment states that existing commercial spaces in commercial row are vacant and additional commercial space is not needed. *Response*: See Response to Comment B1-12 regarding parking. Comment on need for additional commercial space is acknowledged.
- C12-3 Wharf Buildings. The comment states that existing commercial spaces are vacant and additional commercial space is not needed. *Response*: The comment is acknowledged, but does not address analyses in the DEIR and no response is required.
- C12-4 Pedestrian West Walkway. The comment states the walkers on the planned west walkway would be seen by diners in restaurants, which is not what patrons expect when asking for a table with a view of the water. *Response*: The comment is acknowledged, but does not address analyses in the DEIR and no response is required. See also Response to Comment B1-5.
- C12-5 Impacts of New Building at End of Wharf. The comment states that the proposed building at the end of the Wharf would block ocean views and suggest that the Coconut Grove be used for events. *Response*: See Response to Comment B1-3 regarding view impacts at the end of the Wharf. Commenter’s suggestion about use of Coconut Grove for events is acknowledged.
- C12-6 Expenditures and City Budget. The comment does not object to federal funding to strengthen and stabilize the Wharf structure, but states that the rest the project should not be funded. *Response*: The comment is acknowledged, but does not address analyses in the DEIR and no response is required.

From: John Harker [<mailto:jharker@sbcglobal.net>]

Sent: Tuesday, May 26, 2020 6:19 PM

To: David McCormic <dMcCormic@cityofsantacruz.com>; City Council
<citycouncil@cityofsantacruz.com>

Subject: Wharf Master Plan DEIR (Draft Environmental Impact Report) is bad idea

C13-1 The proposed wharf expansion will seriously diminish an important community resource.

C13-2 In addition to becoming an eyesore in the local bay, someone not familiar with local storms designed it. In medium big storms it is common for waves to brush the underside of the wharf. Any lowered side extension would be in the middle of the waves and the solid detritus coming down the river. Nothing with any wood content would survive long. How attractive is solid steel? And the big buildings look like blimp hangers. And the sea lion viewing hole is one of the best parts of the wharf, particularly for children.

John Harker

Santa Cruz

LETTER C13 – John Harker

- C13-1 Wharf Expansion. The comments states that the proposed wharf expansion will “seriously diminish an important community resource.” *Response*: The comment is acknowledged, but does not address analyses in the DEIR and no response is required.
- C13-2 Storm Impacts. The comment states concern regarding impacts to a lowered side extension from large storms and options about the aesthetics of new buildings and that the sea viewing hole is one of best parts of the Wharf. *Response*: The comment is acknowledged, but does not address analyses in the DEIR and no response is required. See Response to Comment A2-6 regarding impacts to the Westside Walkway from large storms. The Comment that the new buildings look like “blimp hangers” is acknowledged. See Response to Comment B1-17 regarding sea lion viewing.

From: Debbie Hencke [<mailto:dhencke@gmail.com>]

Sent: Wednesday, May 13, 2020 1:46 AM

To: David McCormic <dMcCormic@cityofsantacruz.com>; Justin Cummings <[jcummings@cityofsantacruz.com](mailto:jcumplings@cityofsantacruz.com)>; Donna Meyers <dmeyers@cityofsantacruz.com>; Katherine Beiers <kbeiers@cityofsantacruz.com>; Sandy Brown <sbrown@cityofsantacruz.com>; Renee Golder <rgolder@cityofsantacruz.com>; Cynthia Mathews <CMathews@cityofsantacruz.com>; Martine Watkins <mwatkins@cityofsantacruz.com>

Subject: Wharf master plan

C14-1 As a resident of Santa Cruz County, I am opposed to the new plans of the wharf that increase the heights of the buildings to 3 stories. There is no reason for this as there is no demand for services especially from September to May, the wharf has functioned just fine with 1 and 2 story buildings for the 45 years that I've lived here.

In addition, paving over the unique areas of the wharf (visual areas for sea lion viewing - it's a hit in San Francisco at Pier 39! <https://www.pier39.com/sealions/>), fishing areas, and destroying habitat for unique bird nesting is unacceptable to the preservation of certain species. It is not necessary for Santa Cruz to demolish species. We are a no nuclear zone - let's act like it.

I know that you do not often value the input of the average person in the community, (at least not in the last 5-7 years of my involvement with the city council) but this just goes way beyond what is needed in the area. It strongly appears to service the greed of developers and Santa Cruz is so much more than that. Let people experience the unique area. We don't have to look like San Francisco or Hong Kong to have visitors and earn money.

You can update the area - but trust me, the truth of how you are obtaining the money will come out. It was not damaged like the harbor from the tsunami. Do we want to cater to cruise ships that may now be a dying form of tourism due to the spread of disease? Just build an access to our local sight seeing catamarans and it will suffice for the tenders if they will still exist after Covid-19. Maybe consider a set of stairs and a dock, but no need to take away the uniqueness of the wharf as it is today. And make parking spaces narrower? Not likely a benefit to anyone! Especially as the population ages and the catering goes to a wealthier crowd with more expensive vehicles!

PS I'm disappointed that Gilda's does not exist for the people of this county. You went from non-negotiating rent because you wanted more to no rent now. No, it wouldn't fit the image of Pier 39 in SF. But it did fit this community.

Thank you,

Debbie Hencke
831-359-9391 cell
831-423-7964 messages

Loneliness is the poverty of self; solitude is the richness of self. ~ May Sarton

LETTER C15 – Debbie Hencke

- C14-1 Wharf Structures. The comment opposition to the new plans of the Wharf. *Response:* The comment is acknowledged. The comment expresses opposition to the Wharf Master Plan, but does not address analyses in the DEIR and no response is required.

From: Bill Malone [<mailto:billmalone@pacbell.net>]
Sent: Friday, May 22, 2020 11:09 AM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Cc: bmpn <billmalone@pacbell.net>
Subject: Wharf Master Plan -- You must do a full EIR.

C15-1 It is almost laughable to state that the proposed Wharf Master Plan has "no significant impact"!

It will drastically transform Santa Cruz's wonderful, relaxing bay area, but not for the better.

You must do a full EIR.

Bill Malone

LETTER C15 – Bill Malone

- C15-1 Wharf Master Plan. The comment suggests that it is “almost laughable” that the Wharf Master Plan has no significant impacts and states that a full EIR is required. *Response:* See DEIR pages 1-3 to 1-5 regarding the how the scope of the EIR was determined; issues not addressed in the DEIR were not found to be potentially significant and did not require further analysis. See DEIR pages 2-4 through 2-7 for a summary of significant impacts identified in the EIR, all of which can be mitigated to a less-than-significant level.

From: Knitsnpaints [<mailto:knitsnpaints@gmail.com>]
Sent: Friday, May 8, 2020 3:43 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Comments on 2020 Wharf Master Plan DEIR

5/8/2020

Comments on 2020 Wharf Master Plan DEIR

David McCormic
 Asset and Development Manager SC Wharf Master Plan
 Economic Development Department

Dear Mr. McCormic

Here are my comments on the DEIR Wharf Master Plan. Please enter them into the appropriate documents:

C16-1 I am not in favor of this plan as written. It expands the wharf almost 1/3 in area, for reasons that are not necessary for the preservation of such an historic structure. Rather, In fact , these new additions and changes will only make the wharf into an eyesore from the view shed, cause traffic problems, add to parking shortages/problems in the summer and detract from visitors' enjoyment of what now represents the hometown spirit of Santa Cruz. We do not need the wharf to be morphed into a shopping mall.

I am advocating for an Alternative to this plan that would not change the main size of the wharf. With creative planning, some changes can be made that would increase the efficiency of car and people movement and add any necessary parking and increase pedestrian safety and access. For instance: moving the small boating/kayaking businesses to the wider end of the wharf from the narrow end of the beginning of the wharf. Currently, they tend to create congestion when people are in line to embark, pay, etc. A "freshening" of the current buildings (paint, new signage, even new facades, etc.) would be doable without such a huge outlay of money that the current plan calls for. For example solar panels on rooftops could be installed.

My objections to this plan are outlined as follows:

- C16-2 1. Many extra chemically treated pilings will have to be added to accommodate the increased width areas. The environmental impact to the wildlife and water quality will have to be thoroughly evaluated, not only as to the added toxic chemicals used but also for the major disturbance to wildlife (flora and sea animals) during construction. Also engineering studies must be done to see if there would be possible disturbance to the sand movements and tidal action that may in the long run impact the harbor by adding to silting and sand build-up at the entrance to the harbor. There may be tidal changes to the sands at Cowell beach and Main Beach as well.
- C16-3
- C16-4 2. The height of the building at the far end of the wharf is too high! The structure will be only one story with all activity on the floor of the structure. Why is such height necessary? The height will impact negatively the overall view shed from the beaches, the Boardwalk and West Cliff Drive. Story poles will be necessary before any building is considered so the community can get a real and clear idea as to the height of this building.

- C16-5 3. The pedestrian walkway on the west side may prove to be problematic. With unpredictable tidal actions at high tides such as rogue waves, boat wakes etc. the safety of pedestrians can be at risk. These walkways could be damaged in storms and or completely washed away. The cost of replacements could prove to be prohibitive - a continual drain on the wharf coffers. There will need to be a mesh or close-set wiring along all the railings so no one can be at risk of falling into the bay, especially children.
- C16-6 4. Engineering studies will need to be done on the tidal action on the side of the wharf where the boat docks are planned for safety of passengers and for the possibility of boat damage. With the accommodation of boats up to 100 feet, there will undoubtedly be large numbers of people movement on and off these boats.
- C16-7 5. Given the current federal administration's view of environmental policies, there is no guarantee that governmental regulations will always exclude Cruise ships. They may gain access to our bay sanctuary if only in the form of boat tenders that transport groups of cruise passengers from the other parts of the bay or from outside the bay. These new docks that support boats of up to 100 feet could be used for these tenders. Cruise ships have thousands of passengers - such large numbers could have major deleterious impacts on our Bay Sanctuary and our town.
- C16-8 6. The viewing of the sea lions is a major part of the attraction of the wharf to locals and visitors. The plan moves their traditional resting places to new structures. How do we know they will relocate? This plan could encourage their movement away from the wharf to perhaps the harbor (where they are considered a menace and problematic for boaters) or they may just move away permanently.
- C16-9 7. One of the main attractions of eating in the restaurants on the wharf is the view. Nowhere else in California is this undisturbed view available so far out in the water. Part of this enjoyment is looking down from the windows of the restaurants to see the wildlife, boaters, swimmers, paddle boarders and surfers so closely. The new lowered walkway right below the restaurant windows will completely block these views.

Regards,

Susan Martinez

1517 Delaware Ave.
Santa Cruz 95060

Knitsnpaints@gmail.com

LETTER C16 – Susan Martinez

- C16-1 Opposition to Plan. The commenter is “not in favor of this plan as written,” and states that the height of the new structures, added commercial space, added width in the form of walkways, all take away from the current special feel and look that are the main attractions of “this Santa Cruz Treasure”. The comment “advocates” for an alternative that would not change the main size of the Wharf. *Response*: The comment expresses opinions on the Wharf Master Plan, but does not address analyses in the DEIR. The comment advocating for no change in the size of the Wharf is acknowledged. The DEIR includes a Reduced Project Alternative (Alternative 1), which is analyzed on pages 5-17 to 5-18 of the DEIR, and the No Project Alternative, required by CEQA, which discusses impacts without the proposed Wharf Master Plan.
- C16-2 Wharf Piles. The comment states that chemically-treated piles will be added to accommodate increased width areas and that the environmental impact to wildlife and water quality will have to be thoroughly evaluated. *Response*: The comment does not address analyses in the DEIR. However, the EIR does address potential biological resource and water quality impacts related to installation of new piles; see DEIR pages 4.2-40 to 4.2-43 and 4.4-18 to 4.4-22.
- C16-3 Sand Movement and Tidal Change. The comment states that studies should be done to evaluate sand movement and tidal impacts that may affect the Wharf. *Response*: The DEIR does address this issue; see DEIR page 4.4-23. As indicated, the City’s consulting marine engineers concluded that construction of the East Promenade and additional piles would have no effect on swell patterns or sand movement. The additional piles may result in a minor (1-2%) decrease in wave heights locally at the Main Beach, but it would be minor and limited in area.
- C16-4 Wharf Structures. The comment states that the proposed building at the end of the Wharf is too high and would impact viewsheds from the beach, Boardwalk, and West Cliff Drive. The commenter suggests story poles to get an idea of the height. *Response*: See Response to Comment B1-3. The DEIR included photo simulations based on models and renderings included in the Wharf Master Plan and preliminary plans for the entry gate relocation and the East Promenade. Therefore, story poles are not required to assess potential impacts pursuant to CEQA.
- C16-5 Pedestrian Walkways. The comment states that the pedestrian walkways may be impacted by tidal activity and storm drainage. *Response*: See Response to Comment A2-6.
- C16-6 Wharf Stability. The comment states concerns about the Wharf’s stability during strong tidal events. *Response*: See Response to Comment A2-6.

- C16-7 Cruise Ships. The comment states concerns about cruise ship tenders and the associate impacts of increased visitors to the community. *Response:* See Response to Comment C9-4.
- C16-8 Sea Lion Views. The comment states concerns about the loss of sea lion views at the Wharf. *Response:* See Response to Comment B1-17.
- C16-9 Walkway and Viewshed. The comment states that the lowered walkway would impact views at restaurants. *Response:* See Response to Comment B1-5.

From: nancy maynard [<mailto:scrippsmom@gmail.com>]
Sent: Saturday, May 23, 2020 7:34 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Warf plan..... not representative of Santa Cruz ...

C17-1 The new warf plan is so generic.... why bother if this is the future The scale and design are way off base
Actually it is hideous...
What's next.... have Disney build their own warf as a reproduction of yesteryear...
This plan needs to be scraped... and much local input considered Thanks Nancy Maynard

LETTER C17 – Nancy Maynard

- C17-1 Wharf Master Plan. The comment provides an opinion about the Wharf Master Plan, state that the scale and designed are off base and that the plan “needs to be scrapped.” The comment is acknowledged, but does not address analyses in the DEIR and no response is required.

From: Satya Orion [<mailto:lightspirit16@gmail.com>]
Sent: Friday, May 22, 2020 7:55 AM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Santa Cruz Wharf Master Plan

C18-1 I am not in favor of this plan as it will destroy the character of the wharf, and the many reasons why those of us who live here love the wharf as it currently exists.

There are many people who make a living, feed their families from the fishing that occurs along the wharf now. Will this still be possible? What about the open viewing areas for watching sea lions? Will this now be gone too? This is a favorite tourist attraction as well.

There is currently a friendly quiet atmosphere at the wharf - especially at the far end of the wharf. Will this all be gone now?

How will the sea lions and other wildlife - pelicans, seagulls and other birds be affected by this massive construction project?

I am aware that this project has been in the works for a long time, but this is not what the community wants. Who is this project benefitting? I understand that over 2,000 people have already signed a petition in opposition. I have not seen the petition, but would gladly sign it.

Before the wharf was closed to parking, I was saddened by the fenced off area at the end of the wharf and felt the loss of a place where I frequently visited - gone forever.

I moved to Santa Cruz 20 years ago, when it was a much friendlier, community minded town. With every passing year, I see that Santa Cruz fading away and I feel deeply saddened.

Please put a hold on this project until all the current restrictions are lifted, and full community participation is possible.

thank you,
Satya Orion

LETTER C18 – Satya Orion

- C18-1 Opposes Plan. The comment states opposition to the proposed plan. *Response:* The comment is acknowledged, but does not address analyses in the DEIR and no response is required.

From: BOB PEARSON [<mailto:arrowsurf@aol.com>]
Sent: Wednesday, April 1, 2020 3:28 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Wharf

Hi Dave

C19-1

Wow ! Great plans for the Wharf.
Please keep me informed and if I can help, let me know.
Thanks,
Bob Pearson
President of Sant Cruz Surf Club Preservation Society Arrow Surfboards.

Sent from my iPhone

LETTER C19 – Bob Pearson

- C19-1 Wharf Master Plan Support. The comment states support for the project. *Response:* The comment is acknowledged, but does not address analyses in the DEIR and no response is required.

From: Richard Popchak [<mailto:rich@ventanawild.org>]
Sent: Saturday, May 23, 2020 1:10 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Please do not ruin the Municipal Wharf

Dear City of Santa Cruz,

C20-1 I am quite opposed to the new Wharf Master Plan. It is OUR MUNICIPAL wharf. Not a development tool for the city and those who would gain even more wealth from ruining the current user-friendly wharf.

The new wharf would be unfair to the working class people who use it year round.

The new wharf would be detrimental to wildlife and the health of the Monterey Bay.

The new wharf would be unfair to the residents of the city who live in that neighborhood. Increased capacity would result in nightmarish traffic issues for people who live in that part of the city.

Yes, the MUNICIPAL wharf needs upgrades that benefit the community and the businesses that make a living on it ... while protecting natural resources. But the new plan is overreach by the greedy and **I vehemently oppose it.**

Regards,

Richard Popchak
346 Getchell Street
Santa Cruz CA 95060

Richard Popchak (he/him/his)
Communications and Development Director
Ventana Wilderness Alliance
CELL is 831-818-6255
rich@ventanawild.org
ventanawild.org

LETTER C20 – Richard Popchak

- C20-1 Wharf Master Plan. The comment indicates opposition to the Wharf Master Plan.
Response: The comment is acknowledged, but does not address analyses in the DEIR and no response is required.

From: dean@cruzio.com [<mailto:dean@cruzio.com>]
Sent: Friday, May 22, 2020 9:24 AM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Opposed to Draft EIR Wharf Master Plan

- C21-1 The Santa Cruz Wharf Draft Master Plan does not address many vital environmental issues in the current version. This Draft Master Plan will cause permanent, long-term damage to the existing, vitally important migratory Pigeon Guillemot breeding grounds by eliminating the most important access point to their nests, and by encouraging / adding new human interference by access walkways that will disrupt and drive off the important remaining nesting pairs of this vanishing wild animal species.

Please reconsider and Do Not approve the current Wharf Master Plan; it lacks any real consideration or protections for the Pigeon Guillemot's existing or future population and breeding grounds, that are historically established on the existing Santa Cruz Wharf.

Best regards,
Dean Quarnstrom
728 Darwin St.
Santa Cruz, CA 95062

LETTER C21 – Dean Quarnstorm

- C21-1 Pigeon Guillemot. The comment states that the proposed plan would cause long-term damage to the migratory pigeon guillemot breeding grounds by eliminating important access point to their nests and through use of new access walkways. The comment asks that current Master Plan not be approved due to lack of protection for the pigeon guillemot. *Response:* See Response to Comment B1-7 and B2-4.

From: Ron Sandidge [mailto:ronsandidge@gmail.com]
Sent: Friday, May 22, 2020 4:09 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Wharf Master Plan DEIR

- C22-1 Having studied the Santa Cruz Wharf Master Plan Draft Environmental Impact Report, I determine that it unsuccessfully is able to competently investigate the shock of the plan and therefore the city has failed in its claim of "no significant impact."
You have heard from many people who are in opposition to the plan. There is no crowd of residents or visitors clambering for changing the wharf from the way it is now. Public money is precious and it would be folly to spend it the way the it is being proposed.

Ron Sandidge

phone: (831) 684-1134

ronsandidge@gmail.com



LETTER C22 – Ron Sandidge

- C22-1 Wharf Master Plan. The comment states that the City “has failed in its claim of no significant impact” and also states that the community opposes the project. *Response:* The comment is acknowledged, but does not address analyses in the DEIR and no response is required. However, the DEIR identifies significant impacts that can be mitigated to a less-than-significant level, as well as less-than-significant impacts. See DEIR Chapter 2, Summary.

From: Mark Trabing [<mailto:mrtrabing@gmail.com>]
Sent: Sunday, May 24, 2020 12:56 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Cc: kbeiers135@gmail.com
Subject: COMMENTS ON THE WHARF EIR

Mr. McCormic,

I understand you are in charge of the Wharf Master Plan and assume you will be making recommendations to the City Council regarding the EIR. During this public comment period on the Wharf's Environmental Review, I would like to add a few observations. I am no expert, but I have reviewed the sections on the Cultural and Aesthetic impacts.

- C23-1 First, I heard that the author of the Environmental Review commented on Gilda's Family Restaurant, that "we can do better than this." Does this comment set the stage for the EIR author's attitude towards the wharf? Although this restaurant may look a little plain compared to chain restaurants up and down the California coast, it and a few other businesses at the wharf are beloved institutions. I don't know about you, but when I travel in this country and abroad, I bring my business to a local coffee shop/restaurant or a local market rather than a chain store or mall in order to absorb the local culture. I don't know what to recommend here other than (if the Master Plan is approved), the City be sensitive to what the community loves about the wharf. For example, when you work at "improving the commercial buildings, the storefronts and enhancement of the quality of the pedestrian experience, such as "enhancing curb appeal" etc., hopefully you can somehow maintain the historic appeal of some of the old businesses.
- C23-2 I do acknowledge and like what you say on page 4.3-18 - the "new structures or amenities proposed are of similar type, scale, massing and materials as those already in existence on the Wharf. ..modifications would not impair the historic character, feeling ..and will be designed to be compatible with the current and past elements ..." I hope so.
- C23-3 On page 4.3 -10, the study states that the wharf may be eligible for listing in the California Register of Historical Resources and the National Register of Historic Places. Why not seek approval of these agencies now, before the proposed "improvements." This would help assure that the wharf's historic elements are not compromised.
- C23-4 This study states that it is not the "intent" of the proposed boat landing at the wharf to accommodate cruise ship shuttles. I am requesting that you change "intent" to something stronger, such as "will not". In your role as Assett and Development Manager, in the City's Economic Development Department, it is understandable that the dollars flowing in from cruise ships to the local businesses is beneficial. However, please consider the downside of periodic overflow of tourists to the Main Beach area.

I'm not going to hold it against you that you have only worked in Santa Cruz for a couple years, and your previous job was in San Jose, where the culture and aesthetics differ from Santa Cruz. I'm saying this tongue in check and don't mean to jostle your professional integrity. Heck, I have a local bias that may blind me to economic development concerns. There are many harbors, marinas and wharfs along the California coast, that have compromised their

historical and cultural integrity for income producing chain restaurants and bars. Let us not be afraid to let Santa Cruz be ourselves,

C23-5 In conclusion, I think that the EIR is overall a good, comprehensive report and we will cross our fingers that the City do a great job with “improving” the wharf.

Mark Trabing, on behalf of the Trabing Family
831.566.5718



LETTER C23 – Mark Trabing

- C23-1 Wharf Business. The comment makes reference to hearing a comment that the author of the EIR made about Gilda’s Restaurant, and that the City should maintain the historic appeal of some of the old businesses on the Wharf. *Response*: The comment is acknowledged, but does not address analyses in the DEIR, and no response is required. It is noted that none of the DEIR authors (City or consultant staff) are aware of the referenced comment.
- C23-2 Historic Impacts. The commenter acknowledges and concurs with the DEIR statement on page 4.3-18 that modifications would not impair the historic character, feeling ..and will be designed to be compatible with the current and past elements. *Response*: Comment is acknowledged; no response is required.
- C23-3 Historic Resource Listing. Regarding the Wharf’s potential eligibility for listing in the California Register of Historical Resources and the National Register of Historic Places, the comment suggest seeking listing now to assure that the Wharf’s historic elements are not compromised. *Response*: Comment recommending seeking listing is acknowledged. It is noted, however, that the DEIR analysis of potential impacts to historic resources did not identify a significant impact, and the Wharf’s historic significant would not be altered.
- C23-4 Cruise Ship Shuttles. Regarding The comment requests that DEIR language be changed to indicate that the proposed boat landing at the Wharf will not accommodate cruise ship shuttles. *Response*: The DEIR does indicate on page 3-13 that the South Landing is not intended to provide a terminus for cruise ships or shuttle access to any large vessel. The text has been clarified to also include cruise ship shuttle; see “Changes to Draft EIR” section of this document. See also Response to Comment C9-4.
- C23-5 EIR and Project Comments. The commenter thinks that “the EIR is overall a good, comprehensive report” and “will cross our fingers that the City do a great job with “improving” the wharf.” *Response*: Comment is acknowledged; no response is necessary.

From: david van brink [<mailto:david.van.brink@gmail.com>]
Sent: Sunday, May 24, 2020 1:57 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Wharf Design.

Wharf Design

I'll keep this short and to the point.

- C24-1 Please provide Sea Lion Holes like the ones we have now. Everyone loves those. You know if you ask any member of the public, "Should we keep the sea lion holes" what their answer will be. You know it!

The environmental considerations are all well-appreciated, and the fact that wildlife including Sea Lions are accounted for is wonderful. Top notch. We expect nothing less from our most excellent local planning agencies here in enlightened Santa Cruz. Truly!

But the sea lion holes. Please include some!!

// David Van Brink / Santa Cruz resident since 1988.

david van brink / david.van.brink@gmail.com / 831.332.6077
I am large, my inbox contains multitudes.
Let the [TOPIC] start your subject: line.

LETTER C24 – David Van Brink

- C24-1 Sea Lion Views. The comment states that the proposed plans should include sea lion holes. *Response*: The comment is acknowledged, but does not address analyses in the DEIR and is referred to City decision-makers for further consideration. See also Response to Comment B1-17.

From: dmccormic@cityofsantacruz.com [<mailto:dmccormic@cityofsantacruz.com>]
Sent: Sunday, May 17, 2020 6:44 PM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Wharf Master Plan Draft EIR Question/Comment Received

A new entry to a form/survey has been submitted.

Form Name: Wharf Master Plan Draft EIR
Date & Time: 05/17/2020 6:44 PM
Response #: 3
Submitter ID: 49122
IP address: 50.1.51.119
Time to complete: 9 min. , 28 sec.

Survey Details

Page 1

Thank you for reviewing the Wharf Master Plan Draft EIR. Please write your questions or comment in the fields provided. Your comment/question will be automatically directed to David McCormic. Please note that questions and/or comments entered here are public information and subject to release in accordance with the Public Records Act.

1. Question/Comment:

Where exactly is the funding coming from to build this project?
 What is the total cost of project expected to be?
 Are city Bonds involved - if so, at what terms, and is that borrowing cost factored into cost of project?

2. Contact Information: If you would like us to contact you regarding your comment or question, please provide us the following information:

First Name: A
Last Name: Webb
Phone Number: Not answered
Email Address: webbheart@gmail.com

Thank you,
 City of Santa Cruz

This is an automated message generated by the Vision Content Management System™. Please do not reply directly to this email.

LETTER C25 – A. Webb

- C25-1 Costs. The comment asks where funds for the proposed project are from, the expected total cost of the project, and whether City bonds are involved, and if so at what terms and has the borrowing cost factored into the cost of the project. *Response*: The comment is acknowledged, but does not address analyses in the DEIR and no response is required. However, it is noted that a preliminary estimate of project costs (in 2014 dollars) can be found in the Master Plan, beginning on page 54. At that time, the total project cost was estimated at roughly \$29,000,000, as compared to the range of \$12,750,000 to \$15,900,000 for repairing the Wharf as is. The City anticipates that projects recommended in the Master Plan will be supported through leveraging limited existing redevelopment bond funds, public-private partnerships, and state and federal grants or loans. The City does not currently have any plans for new bond or tax measures for the Wharf Master Plan and is unable to anticipate what terms or rates may be available at such time that the public might request such a measure.

----- Forwarded message -----

From: **Linda Wilshusen** <liveoaklinda@gmail.com>

Date: Wed, May 27, 2020 at 3:13 PM

Subject: Wharf Master Plan Draft EIR Comments from Linda Wilshusen

To: <dMcCormic@cityofsantacruz.com>

Dear Mr. McCormic:

- C26-1 Thank you for the opportunity to comment on the Santa Cruz Wharf Master Plan DEIR. I visit the Wharf often - probably more often than anywhere else in Santa Cruz - and very much appreciate its eclectic character, its spaciousness, its diversity, its fisherfamilies, its scenic views, its sealife, its food, its open air quietness, and the feeling of being a 1/2 mile out in the breezy and beautiful Monterey Bay. It's important to me that these Wharf qualities remain, and are enhanced, by the proposed Master Plan.

I love all the pathways and am 100% in support of those. Thank you for the site plans and the figures showing before and after - they were very helpful in understanding the Master Plan proposal. My detailed comments pertain to aesthetics and parking.

Aesthetics

- C26-2 1. The proposed new entry to the Wharf will be the first striking change to the Wharf as the Plan is implemented. With this first phase of this project, visitors will approach a 65' wide, 4-lane Toll Plaza with a 105' wide, 18' high structure. (Thankfully, the sign design, which is proposed to sit atop this structure, is not yet decided; I recommend that it not be added to this already large structure.) While I understand the need to improve the Wharf entrance and fee collection system, it doesn't seem to me that this Toll Plaza proposal falls below the threshold of "significant impact" for aesthetics.
- C26-3 2. Regarding the Landmark Building proposed for the end of the Wharf: the text notes on p.13 of this same chapter, "Construction of the new Landmark Building reminiscent in scale and industrial form of the large warehouse structure that once was located at the bayward end of the Wharf, which is consistent with existing LCP Design Guidelines...." Just because a warehouse was there at some point in our history doesn't mean it's a good idea to replicate a warehouse in one of the most visited and unique open-air locations accessible to anybody who can traverse the 1/2 mile out into the Bay. Is it OK to improve the functionality in the area at the end of the Wharf, and it's buildings too? Yes, but not with a warehouse.
- C26-4 3. The height exceptions for the new Gateway and Landmark buildings will cause them to look out of place from non-Wharf viewpoints. It doesn't seem right to me that this isn't a significant impact just because the Boardwalk and Dream Inn happen to be nearby.

Parking

- C26-5 1. I find two mentions of parking that note parking restriping (to perpendicular from angled) will result in 10-15% increase in parking spaces. The DEIR discusses (p.17-18 of the Transportation chapter) that the Master Plan will result in 37,000 square feet of new

public and commercial use buildings. What is the mitigation for a likely increase in parking demand caused by new Wharf development? The DEIR notes that "The *General Plan 2030* includes goals, policies and actions that set forth comprehensive measures to reduce vehicle trips, increase vehicle occupancy, encourage use of alternative transportation modes, and promote alternative-sustainable land use patterns, all of which would help reduce vehicle trips, and avoid and minimize adverse impacts related to traffic...The *General Plan 2030* also encourages passenger rail transit or other alternative transportation options along the existing rail corridor via the continued support, acquisition, and expansion of railroad rights-of-way." Therefore, it appears that the DEIR does not provide for direct mitigation of likely-increased parking demand (and of course, there's no room for more parking anyway). Is this acceptable?

- C26-6 2. In light of this, and in light of the convenient location of the public rail line and probable future Wharf/Boardwalk transit stop right at the entrance of the Wharf, the above assumption that General Plan objectives will solve the problem could be valid. It will be important for the City to increase its leadership and activism in this regard in the coming months and years in order to ensure that a public transit and trail system along the rail line serves the Wharf as the Master Plan intended.

Thank you very much for considering my comments.

Sincerely,

Linda Wilshusen

LETTER C26 – Linda Wilshusen

- C26-1 Wharf Master Plan. The commenter visits the Wharf often and expresses opinion that qualities of the Wharf remain and are enhanced by the proposed Master Plan and also states approval of the proposed walkways. *Response*: The comment is acknowledged, but does not address analyses in the DEIR and no response is required.
- C26-2 Entry Gate Aesthetics Impacts. The commenter does not believe that the entry gate (referenced as “Toll Plaza”) relocation falls below the threshold of “significant Impact” for aesthetics. *Response*: Commenter’s opinion on the impact conclusion for aesthetic impacts of the entry gate relocation is acknowledged, but comment does not provide specific comments on DEIR analyses. The thresholds of significance for aesthetics impacts are identified on page 4.1-6 of the DEIR. See Responses to Comments A2-4 and B1-6 regarding aesthetic impacts of the entry gate relocation.
- C26-3 Landmark Building. The comment cites a statement on page 4.1-13 of the DEIR that the Landmark Building is “reminiscent in scale and industrial form of the large warehouse structure that once was located at the bayward end of the Wharf, which is consistent with existing LCP Design Guidelines....” and questions whether it is a good idea to replicate a warehouse in one of the most visited and unique open-air locations. Comment indications support to improve the functionality in the area at the end of the Wharf, but not with a warehouse. *Response*: Comment is noted and will be considered by City decision-makers. It is noted that the statement cited in the DEIR is an action in the Wharf Master Plan (page 11) that states “Construct a new Landmark Building on axis with the main vehicular circulation drive that is reminiscent in scale and industrial form of the large warehouse structure that once was located at the bayward end of the Wharf.”
- C26-4 Building Height. The comment states that the height exceptions for the new Gateway and Landmark buildings “will cause them to look out of place from non-Wharf viewpoints” and that it doesn't seem right that this isn't a significant impact just because the Boardwalk and Dream Inn happen to be nearby. *Response*: The comment is acknowledged, but does not provide a specific comment. The thresholds of significance for aesthetics impacts are identified on page 4.1-6 of the DEIR. See Response to Comment B1-3 regarding aesthetics impacts of new buildings.
- C26-5 Parking Demand. The comment states notes that the DEIR discusses additional parking by restriping and asks what mitigation will be for likely increase in parking demand caused by new development on the Wharf. *Response*: See Response to Comment B1-12 regarding parking.
- C27-6 Parking. The comment states that the City should continue to ensure public transit and trail system along the rail line which would serve the Wharf as the Master Plan intended.

Response: The comment is acknowledged, but does not address analyses in the DEIR and is referred to City decision-makers for further consideration. However, it is noted that the City views the improvement of these trails as essential to expanding public access to the Wharf, Boardwalk, and beach area. Status of these trails is currently as follows:

- Segment 7-Phase 1 of the Monterey Bay Sanctuary Scenic Trail running from Wilder Ranch to California Street is currently under construction.
- Segment 7-Phase 2 from California Street to the Wharf is at 95% complete construction plans. This project is grant-ready and awaiting award of funds for construction.
- Segment 8 and 9 from the Wharf to 17th Avenue has been included in the City's FY20/21 Capital Improvement Plan for design and engineering. Public Works staff are planning to conduct public outreach for this project in FY20/21.

From: shawn grona [<mailto:shawngrona@gmail.com>]
Sent: Friday, May 29, 2020 10:57 AM
To: David McCormic <dMcCormic@cityofsantacruz.com>
Subject: Wharf Plan

C27-1 I support the proposed changes to the wharf, looks great!

Thanks,
Shawn
N Branciforte Santa Cruz

LETTER C27 (Received After Close of Public Review Period)– Shawn Grona

- C27-1 Support for Wharf Master Plan. The commenter supports the proposed to the Wharf.
Response: The comment is acknowledged, but does not address analyses in the DEIR and no response is required.

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APPENDIX A

Mitigation Monitoring and Reporting Program

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MITIGATION MONITORING AND REPORTING PROGRAM

This Mitigation Monitoring and Reporting Program (MMRP) for the City of Santa Cruz Wharf Master Plan 2030 has been prepared pursuant to the California Environmental Quality Act (CEQA – Public Resources Code, Section 21000 *et seq.*), the CEQA Guidelines (Cal. Code Regs., Title 14, Chapter 3, Sections 15074 and 15097). A master copy of this MMRP shall be kept in the office of the City of Santa Cruz Economic Development Department and shall be available for viewing upon request.

Mitigation Measure	Implementation Actions	Monitoring / Reporting Responsibility	Timing Requirements	Reporting Requirements	Verification of Compliance
Biological Resources					
<p>MITIGATION BIO-1a-1. Prepare and implement a hydroacoustic, fish and marine mammal monitoring plan that implements measures to avoid exposure of marine mammals to high sound levels that could result in Level B harassment. Measures may include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Establishment of an underwater “exclusion zone”—defined as the distance where underwater sound levels exceed 180 dB SEL_{cum} if whales are present, and 185 dB SEL_{cum} dB if seals and sea lions are present—will be established. This will be refined based on hydroacoustic measurements in the field and in consultation with NOAA Fisheries. • Pre-construction monitoring by a qualified biologist to update information on the animals’ occurrence in and near the project area, their movement patterns, and their use of any haul-out sites. • Pre-construction training for construction crews prior to in-water construction regarding the status and sensitivity of the target species in the area and the actions to be taken to avoid or minimize impacts in the event of a target species entering the in-water work area. • Marine mammal monitoring of the exclusion zone will be conducted prior to commencement of pile driving and underwater excavation activities. • Pile-driving activities will not commence until marine mammals are not sighted in the exclusion zone for 15 minutes. This will avoid exposing marine mammals to sound levels in excess of the Level A criteria. • Underwater noise will be measured with a hydrophone during pile-driving to verify sound levels and adjust the size of the exclusion zone as necessary. This measurement may be conducted once and the results applied to subsequent pile installations to determine the exclusion zone. • In-water biological monitoring to search for target marine mammal species and halt project construction activities that could result in injury or mortality to these species. • Prohibit disturbance or noise to encourage the movement of the target species from the work area. The City will contact USFWS and NOAA 	Implementation actions are specified in the mitigation measure.	The City Economic Development Department staff are responsible for hiring a qualified consultant to prepare the monitoring plan and for hiring a qualified biologist to implement the monitoring measures during installation of new piles.	<p>Prior to initiation of construction activities that require installation of new pilings:</p> <ul style="list-style-type: none"> • Relocated Entry • East Promenade • Small Boat Landing • South Landing • Lifeguard Headquarters Expansion 	City Economic Development staff shall require a complete monitoring report with results from the construction monitor to document compliance with provisions of the monitoring plan..	

Mitigation Measure	Implementation Actions	Monitoring / Reporting Responsibility	Timing Requirements	Reporting Requirements	Verification of Compliance
<p>Fisheries to determine the best approach for exclusion of the target species from the in-water work area.</p> <ul style="list-style-type: none"> Data collected during the hydroacoustic, fish and marine mammal monitoring will be reported to NOAA Fisheries in a post-construction monitoring report (usually required to be completed between 60 and 90 days after construction is complete). Observations and data will be reported more frequently, if required by NOAA Fisheries. 					
<p>MITIGATION BIO-1a-2. A soft-start procedure will be used for impact pile driving at the beginning of each day's in-water pile driving or any time pile driving has ceased for more than 1 hour. The following soft-start procedures will be conducted:</p> <ul style="list-style-type: none"> If a bubble curtain is used for impact pile driving, the contractor will start the bubble curtain prior to the initiation of impact pile driving to flush fish from the zone near the pile where sound pressure levels are highest. If an impact hammer is used, the soft start requires an initial set of three strikes from the impact hammer at 40 percent energy, followed by a one minute waiting period, then two subsequent 3 strike sets. The reduced energy of an individual hammer cannot be quantified because they vary by individual drivers. Also, the number of strikes will vary at reduced energy because raising the hammer at less than full power and then releasing it results in the hammer "bouncing" as it strikes the pile resulting in multiple "strikes". 	Implementation actions are specified in the mitigation measure.	The City Economic Development Department staff are responsible incorporating measure into future construction specifications for projects that include installation of new piles for new facilities. (This does not include maintenance and replacement of existing piles.)	Measure to be included in construction specifications for the following projects to be implemented during pile driving activities: <ul style="list-style-type: none"> Relocated Entry East Promenade Small Boat Landing South Landing Lifeguard Headquarters Expansion 	None required.	
<p>MITIGATION BIO-1a-3. A cushion block will be used between the pile cap and the impact hammer. Layers of heavy plywood or baywood soaked in water on top of the pile cap served to dampen the sound of the hammer striking the wood as well as to dissipate friction; plywood not soaked in water was pounded to charred splinters that became very thin and had little value in attenuating sound.</p>					
<p>Mitigation BIO-4. Conduct a pre-construction survey for any construction that would occur during the nesting season. No more than seven days prior to initiation of construction activities, including pile-driving, scheduled to begin during the nesting season for pigeon guillemot, western gull, or other species potentially nesting on the Wharf (April 15 through August 30, or as</p>	Implementation actions are specified in the mitigation measure.	The City Economic Development Department staff are responsible for hiring a qualified biologist to conduct pre-construction nesting	Prior to construction of projects recommended in the Wharf Master Plan if construction is initiated	A report of the findings of the survey and measures implemented shall	

Mitigation Measure	Implementation Actions	Monitoring / Reporting Responsibility	Timing Requirements	Reporting Requirements	Verification of Compliance
<p>determined by a qualified biologist), the City shall have a nesting bird survey conducted by a qualified biologist to determine if active nests of bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present in the disturbance zone or within 150 feet of the disturbance zone.</p> <p>Pre-construction surveys for pigeon guillemots and pelagic cormorants shall include inspection of areas underneath the Wharf for indications of nesting (by kayak or other method adequate for examining remote crevices and pilings). Because pigeon guillemot are difficult to detect, adequate surveys will require surveyors to observe for multiple hours before forming conclusions about occupancy.</p> <p>If active nests for pigeon guillemots or pelagic cormorants are found, establish a buffer zone of 150 feet between each nest and construction activities under the wharf deck that could disturb nesting birds, especially pile driving. Construction activities likely to disturb nesting western gull can be resumed when the nest is vacated and young have fledged, as determined by the biologist, and if there is no evidence of a second attempt at nesting.</p> <p>If active nests for western gull or other species protected under the Migratory Bird Treaty Act and/or the California Fish and Game Code are found, establish a buffer of 100 feet between each nest and construction activities that could disturb nesting birds. Examples of such activities include pile-driving, use of power tools, and above-deck construction activities identified by a qualified biologist as likely to disturb the nesting western gulls. Construction activities likely to disturb nesting western gull can be resumed when the nest is vacated and young have fledged, as determined by the biologist, and if there is no evidence of a second attempt at nesting.</p> <p>The nesting disturbance buffer for any species may be reduced if a qualified biologist, in consultation with CDFW, determines that the proposed construction is unlikely to disturb the nesting birds, considering factors including, but not limited to, level of existing ongoing disturbance, the temporary level of disturbance from construction, and visual and sound obstructions between the birds and the disturbance, such as rows of piles or existing buildings.</p>		<p>survey prior to construction of projects recommended in the Wharf Master Plan if construction is initiated during the bird nesting period.</p>	<p>during the nesting period.</p>	<p>be prepared by the biologist conducting the survey and submitted to the City Economic Development Department.</p>	

Mitigation Measure	Implementation Actions	Monitoring / Reporting Responsibility	Timing Requirements	Reporting Requirements	Verification of Compliance
Hydrology and Water Quality					
MITIGATION HYD-2a. Implement the following measures during construction of the Wharf substructure (piles, beams and decking): <ul style="list-style-type: none"> Install a floating boom can be placed in the water to encompass the work area. Any timber that inadvertently falls into the water will float and be captured by the boom. Any metal (hand tools or bolts) that falls into the water can be retrieved by magnet or diver if necessary. The crane that installs the piles and beams may have the hydraulic system fit with vegetable oil so that in the event of a hose failure, no petroleum based substance will contact the water, but rather food grade vegetable oil. Any fueling operations of the equipment is conducted on a containment area utilizing plastic sheeting and absorbent pad containment to contain any spills during fueling over the water. 	Implementation actions are specified in the mitigation measure.	The City Economic Development Department staff are responsible incorporating measure into future construction specifications for improvements to the Wharf substructure recommended in the Wharf Master Plan.	During construction.	None are required.	
MITIGATION HYD-2a If visual evidence of contamination is observed (e.g., oily sheen) during in-water construction, all work shall stop and appropriate containment measures shall be used to identify the source of the contamination (e.g., buried creosote piles), contain, and/or remove the material; regulatory agencies with authority over the area shall be notified, i.e., the Santa Cruz County Environmental Health Services or Department of Toxic Substances Control. Any hazardous materials needing to be removed shall be handled and disposed of in accordance with the requirements of federal and state regulations.	Implementation actions are specified in the plan.	The City Economic Development Department staff are responsible incorporating measure into future construction specifications for improvements to the Wharf substructure recommended in the Wharf Master Plan.	During construction.	None are required.	

October 1, 2020

RE: WHARF MASTER PLAN AND EIR

Dear Members of the Commission:

BACKGROUND

I apologize for not making my comments available before the meeting. I have been advised by the City Attorney that even to submit comments in advance of a meeting as part of Public Correspondence on a Planning Commission agenda item would be a violation of the Brown Act. Therefore, while I don't agree with this interpretation, I submitted this letter to staff prior to tonight's meeting and requested that it be made available to commissioners and the public at the start of our meeting. I understand that the letter won't be discussed tonight but will be available for your and public review as part of the October 15th agenda material on this item.

The recommendations presented here are preliminary and the result of my reading of the Draft EIR, Final EIR, and Master Plan as well as many visits to the Wharf itself. They may be revised based on written information provided as part of the agenda material as well as testimony at the public hearing.

COMMENTS ON EIR

My concern regarding the adequacy of the EIR is focused on the analysis of aesthetic impacts. The EIR determined that the aesthetic impacts of the proposed Landmark Building and the two other proposed buildings with a height limit of 45 feet were less than significant.

While the DEIR recognizes the relevance of the Wharf from West Cliff and the Main Beach (though not Seabright Beach), the impact analysis is inadequate under CEQA. The EIR does not contain substantial evidence justifying 831.761.7321 its conclusion that these impacts are less than significant.

The analysis of these aesthetic impacts are presented as part of the discussion of AES- 2 and 3. On page 4.1-9, under Scenic Resources, the DEIR asserts that, although the Landmark Building would be visible from

public areas, future development would not result in adverse impacts to scenic views. No evidence is presented to support this and the DEIR refers to the assessment of this impact in AES-3 discussion.

Under the discussion of AES-3, on page 4.1.10, the DEIR states that the new development in the Wharf Master Plan “would not conflict with applicable zoning or **other regulations governing scenic quality.**” This is not an accurate statement. As mentioned in the Coastal Commission letter responding to the DEIR, Coastal Act Section 30251 requires new development to protect the scenic and visual qualities of coastal areas. The letter expresses concerns regarding aesthetics and views of the Wharf as seen from a variety of vantage points. This concern was not responded to in the FEIR.

More important, though, is the analysis of the potential aesthetic impact of the proposed 45-foot buildings. On page 4.1-12 the DEIR justifies its determination that the aesthetic impact of the these buildings would be less than significant based on the fact that the buildings will need a design permit and that the zoning ordinance allows buildings up to 40 feet, which could increase to 48 feet with a Planning Development Permit.

However, an adequate CEQA analysis must be based on the conditions of the existing environment, not what could be allowed under the regulations. And, as stated in the EIR, the maximum height of the existing buildings on the Wharf is approximately 27 feet. The new buildings, then, would increase the height of buildings on the Wharf by two thirds (67%), clearly a potentially significant visual impact. Not only would the new buildings stick out compared to the existing building and significantly impact views from the surrounding area, but they would change the existing aesthetic character of the Wharf by creating a jarring alteration of its skyline.

The EIR, on page 4.1-13, also attempts to justify the less than significant aesthetic impact of the proposed Landmark Building by stating that it is reminiscent in scale and industrial form to the large warehouse that was located there in the past. Again, existence of a tall building years ago is not relevant under CEQA in determining the potentially significant impacts of a project.

Moreover, the fact that historically a large warehouse functioned to support the fishing-based economy of the Wharf at the time is no justification for recreating it now, when serving that function is no longer relevant.

Therefore, the analysis of the aesthetic impacts of the proposed Landmark Building and the other 45-foot tall buildings in the EIR is not adequate. The EIR does not include significant evidence supporting its conclusion and there is significant evidence that the aesthetic impact would be significant.

If these proposals remain in the Wharf Master Plan, the EIR needs to be recirculated.

WHARF MASTER PLAN CONCERNS

Following are my specific concerns with the Wharf Master Plan:

- The Landmark Building is not necessary and undermines the visual quality and character of the Wharf and should be deleted.
- To maintain the existing character of the Wharf, no building should exceed the 35- foot height currently allowed in the Zoning Ordinance.
- The specifics of the Gateway Sign should be deleted from the Plan in favor of a public process for designing one.
- The Plan should be clarified to prohibit cruise ships or cruise shuttles from using the proposed South Board Landing.

RECOMMENDATIONS

Following are specific Proposed Revisions to the Plan

- Page 11 – Summary of Policies and Proposed Actions
- “1. Maintain and restore the characteristics that distinguish the Wharf as a unique physical and cultural landmark during its period of historic significance, when its role was closely related to the bay and maritime and commercial fishing activities.”

~~“Construct a new Landmark Building on axis with the main vehicular circulation drive that is reminiscent in scale and industrial form of the large warehouse structure that once was located at the bayward end of the Wharf.”~~

- “3. Provide for the expansion of the perimeter of the Wharf to create more significant opportunities for public access, fishing, open water swimming, boating and linear recreational activities that will orient the visitor to the Bay and engage the waterfront environment.”

“Construct a landing facility for the docking at the eastern bayward end for science, education, research, sports fishing, and whale watching, but with a prohibition of cruise ships, cruise shuttles, or vessels larger than a vessel size of 200 tons displacement.” (According to the Merriam-Webster dictionary, a cruise ship is defined as follows: “a large ship that stops at different ports and carries passengers who are traveling for pleasure.”)

- “4. Provide public oriented activities and a built form that gives structure and orientation to the visitor experience, expresses the unique characteristics of the Wharf and provides a more diverse and varied dimension to its venues and offerings.”

- Page 12

~~“Construct a Landmark Building that punctuates the bayward end of the Wharf, celebrates its deep water extension and southwest orientation into the wind for optimal mooring and recalls the historic warehouse structure that once occupied this key location.”~~

“Construct a Gateway Building at the beginning of the line of buildings on the windward side of the Wharf, facing the shore and graciously greeting visitors to the commercial and recreation experiences that follow.”

- Page 13

- “9. Improve public services and facilities and enhance a sense of safety, security, comfort and convenience on the Wharf.”

“Design the entrance so that the Wharf can be fully closed for both vehicles and pedestrians in after hours in an attractive and unobtrusive way. The

entrance sign shall be in keeping with the character of the Wharf and be developed with significant community input.”

- Page 29-30 – Landmark Building – 6,000 square feet – 50 feet wide and 120 feet long. **The Landmark Building shall be dropped from the Plan by deleting pages 29 and 30.**

“It should be no higher than two stories or 35 feet ~~approximately 40 to 45 feet in height~~ with

- Page 35 – Wharf Entrance – “A ~~6 to 8 foot high, 70 foot long~~ centrally located sign announcing the “SANTA CRUZ WHARF” is proposed so that it will be legible from a distance.”

- Page 36 – Wharf Entrance – the visual on this page showing an 80-foot sign should be deleted from the Plan.

- Page 49 – Design Standards – “Building Height. Second floor uses and rooftop dining are encouraged within a maximum height for all building not to exceed two stories or 35 feet. ~~of 35 feet for commercial in line buildings. For the three landmark buildings, the maximum height shall be 45 feet,~~ not including special appurtenances and architectural projections.”

I hope these comments and preliminary recommendations are helpful.

Sincerely,
Andy Schiffrin



PLANNING COMMISSION AGENDA REPORT

DATE: October 7, 2020

AGENDA OF: October 15, 2020

SUBJECT: Ordinance Amendment City-wide
Amendment to Title 24 of the Santa Cruz Municipal Code (Zoning Ordinance) by amending Part One of Chapter 24.16, "Inclusionary Housing Requirements" concerning inclusionary housing requirements including but not limited to consideration of Housing Authority of the County of Santa Cruz administered rental assistance vouchers as an inclusionary option for new construction residential development projects, which would include modifications to required area median income limits and rental rates, and modify inclusionary ordinance requirements. (Environmental Determination: CEQA Exemption) (City of Santa Cruz, applicant)

RECOMMENDATION: That the Planning Commission review amendments to the Inclusionary Housing Requirements Section of Title 24 of the Santa Cruz Municipal Code (Zoning Ordinance) Part One of Chapter 24.16, Affordable Housing Provisions and recommend that the Council add an alternative for compliance that would allow rental residential developments the ability to make 5% of their required 20% affordable units available to Housing Authority of the County of Santa Cruz (Housing Authority) tenant based subsidy holders, and if no such voucher holders can be found to occupy the unit(s), that the 5% be restricted to 120% Area Median Income (AMI) or lower households and rent levels in perpetuity.

BACKGROUND:

At their December 10, 2019 meeting, the Council introduced for publication Ordinance No. 2019-25 to increase the Inclusionary Housing requirement to twenty percent (20%) for rental and ownership units in Chapter 24.16 of the Zoning Ordinance, the Inclusionary Housing Requirements Ordinance (Inclusionary Ordinance), and return to Council at the January 14, 2020 meeting for a second reading and adoption. On January 14, 2020, the Council adopted Ordinance No. 2019-25 implementing an increase in the inclusionary percentage citywide for all housing developments (rental and ownership) and referred the following ordinance amendment to the Planning Commission Subcommittee to be considered with other recommendations coming back to Council:

Add to Section 24.16.020(5):

d. Both rental residential developments and SRO developments may choose to satisfy up to 5% of their inclusionary requirement in a project by providing an equivalent set aside for Section 8 units. Such units must first be made available to the County of Santa Cruz Housing Authority for at least a one-month period from the date of marketing for a new unit, or receipt by the owner of a notice of vacancy for an existing unit. The requirement to provide Section 8 units will depend upon the availability of households holding certificates and vouchers who are seeking housing at the time the unit is available for occupancy.

Per City Council direction, the Planning Commission established an Ad Hoc Subcommittee on Inclusionary Housing Policy (Subcommittee), to focus on the Inclusionary Ordinance. The Subcommittee, which includes Commissioners Greenberg, Spellman, and Conway, was temporarily put on hold due to COVID-19 and has met seven times since January 2020. The Planning Commission also discussed this specific issue at its September 17, 2020 meeting, and after discussion that largely focused on encouraging the use of the Housing Authority's tenant based subsidy vouchers, changes to rental payment amounts, and eligible households, the Planning Commission referred the item back to the Planning Commission Subcommittee and continued the full Commission's discussion to the October 15, 2020 hearing. The timeline and sequence of the evaluation is discussed below in further detail.

DISCUSSION:

In accordance with Council action on January 14, 2020 and the purpose of the Subcommittee, staff reviewed the originally proposed language with Subcommittee members. While the main goal is to encourage owners to rent to Santa Cruz County Housing Authority tenant based subsidy holders, one point of consideration raised was the lender loan underwriting process and how this affects the financial feasibility of rental residential development projects with an affordability requirement of 20% of the total number of units restricted to households making 80% of the Area Median Income (AMI). Another consideration was that there is also a need for moderate income rentals in addition to low income rentals. With these considerations in mind, the Subcommittee reviewed other jurisdictions' inclusionary ordinances that have a tenant based subsidy option and/or a moderate income requirement. After their review, the Subcommittee initially suggested revisions to the original language referred by Council so that for any of the 5% set aside units where a tenant based subsidy holder could not be found to occupy the unit(s) within 30 days of posting on the Housing Authority's rental listing website, said units would be able to be rented to eligible households up to 120% AMI (moderate income). The next moderate income unit in the 5% set aside to become vacant would again have to be marketed to tenant based subsidy holders for the 30-day period.

To meet the 20% inclusionary requirement, this process of first offering 5% of the total units in a rental project to tenant based subsidy holders and with the option to rent those 5% set aside units to households income qualifying at moderate income levels or below if no such tenant can be found would continue in perpetuity. The remaining 15% inclusionary units would continue to be restricted to 80% AMI households and rent levels in perpetuity. The Subcommittee requested that

staff confer with the Housing Authority as well as lenders and residential development professionals to elicit feedback on the proposed language. The Subcommittee took this feedback into consideration and drafted proposed language for consideration by the full Planning Commission. At the regularly scheduled Planning Commission meeting on September 17, 2020, the Planning Commission reviewed the proposed language and unanimously approved a motion to refer the item back to the Planning Commission's Housing Subcommittee and direct staff to return the item to the Planning Commission's regularly scheduled meeting on October 15, 2020. The referral requested further exploration of how to encourage the use of the Housing Authority's tenant based subsidy vouchers.

Accordingly, staff conducted further research and gathered more feedback on the previously proposed language. Staff reviewed the Santa Cruz County Housing Authority's current payment standard rents and the State HCD 120% AMI rent levels pursuant to Section 50093 of the California Health and Safety Code, which allows households to income qualify up to 120% AMI but only allows the rent to be charged at 110% AMI per Section 24.16.015(2)(a) referenced below. When comparing the Santa Cruz County Housing Authority's current payment standard rent table to the State HCD 120% AMI rent table, these two rent tables list rents that are currently in close range of each other. While the State HCD 120% AMI rent table has slightly higher rents for studios, one- and two-bedroom units, the Housing Authority's three-bedroom payment standard rent is higher. Based on this finding, staff is recommending that whichever rent table lists the lower rent for the corresponding bedroom type is the rent that would be charged when an owner is not entering into a Housing Assistance Payment contract for a designated payment standard unit. While no formal study has been conducted, the reasoning behind these proposed ordinance revisions is to encourage owners to utilize tenant based subsidy vouchers at their rental properties. Following are the proposed ordinance language revisions:

Section 24.16.015 DEFINITIONS

2. "Affordable rent" means the maximum monthly rent, including utilities and all fees for housing services, which does not exceed the following:
 - a. For moderate income households: one hundred ten percent of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent and divided by twelve.
 - b. For payment standard units: either affordable rent for moderate income households, or the maximum Santa Cruz Housing Authority Payment Standard Rent for Tenant Based Subsidy Holders, as provided in Section 24.16.030(9)(c)(2).
21. "Payment standard unit" means an inclusionary unit available to Tenant Based Subsidy Holders, as provided in Section 24.16.030(9).
25. "Tenant Based Subsidy Holder" (Subsidy Holder) is a household that holds a tenant based voucher with the County of Santa Cruz Housing Authority.

Section 24.16.025: STANDARDS FOR INCLUSIONARY UNITS

7. Rental to Tenant Based Subsidy Holders. Owners of rental residential developments or single-room occupancy unit (SRO) developments shall accept Tenant Based Subsidy Holders (Subsidy Holder) as tenants of the inclusionary units, on the same basis as all other prospective tenants. The owner shall not apply selection criteria to Subsidy Holders that are more burdensome than the criteria applied to all other prospective tenants, nor shall the owner apply or permit the application of management policies or lease provisions which have the effect of precluding occupancy of the inclusionary units by Subsidy Holders.

Section 24.16.030: ALTERNATIVE METHODS TO COMPLY WITH INCLUSIONARY HOUSING REQUIREMENTS

9. Rental to Tenant Based Subsidy Holders.

a. Owners of rental residential developments or single-room occupancy unit (SRO) developments may elect to use the following procedures to offer inclusionary units comprising up to five percent (5%) of the total units in the development as payment standard units available to Tenant Based Subsidy Holders (Subsidy Holders). The Developer Affordable Housing Agreement, as defined in SCMC Section 24.16.040, shall require that fifteen percent (15%) of the total units in the development will be restricted to low income households at an affordable rent, and that five percent (5%) of the total units in the project will be payment standard units restricted to moderate income households at an affordable rent as defined in Section 24.16.015(2b) or rented to Subsidy Holders, so long as the development complies with the procedures described in subsections (b) through (e) below to offer the five percent (5%) payment standard units in the development to Subsidy Holders. Both the low income units and the payment standard units shall remain affordable in perpetuity as per SCMC 24.16.025(1).

b. The owner will notify the Housing Authority of the County of Santa Cruz (Housing Authority) that a unit or units are available for rent to Subsidy Holders and list the units on the Section 8 Housing Choice Voucher rental listing website, advertising the units to Subsidy Holders within one week of the following dates (as applicable):

(1) At initial lease-up, when new inclusionary units are initially marketed, and prior to receipt of a certificate of occupancy or final inspection, the owner shall list the five percent (5%) payment standard units on the Housing Authority's Section 8 Housing Choice Voucher rental listing website, advertising the units to Subsidy Holders (or other marketing service as requested by the Housing Authority).

(2) At receipt by the owner of a notice of vacancy or availability of a vacated unit in a designated payment standard unit, the owner shall list that unit on the Housing Authority's Section 8 Housing Choice rental listing website (or other marketing service as requested by the Housing Authority).

c. Thirty (30) days after the owner lists the available unit or units on the Housing Authority's Section 8 Housing Choice rental listing website, the rent for five percent (5%) payment standard units will be established as either:

(1) The Payment Standard rent, as defined by the Housing Authority, if the owner enters into a Housing Assistance Payments Contract for a Subsidy Holder with the Housing Authority; or

(2) Either Payment Standard rent or a deed restricted rent, as defined in Section 24.16.015(2b), affordable to income qualifying moderate income households, whichever is less, if no eligible Subsidy Holder applied to rent the unit, as demonstrated by the owner.

d. In order to qualify under this Section, an owner will be required to enter into a Housing Assistance Payment contract with the Housing Authority for each payment standard unit rented to a Subsidy Holder and a rental agreement with Subsidy Holders who become tenants of the owner. When either a Subsidy Holder or moderate income tenant vacates one of the five percent (5%) designated payment standard units, the owner shall again follow the process outlined in SCMC 24.16.030(9)(c).

e. The owner will be required to retain records proving the 30 day marketing requirement was met and, if rented to a moderate income household, demonstrating that no eligible Subsidy Holder submitted a rental application. These records must be available upon request from the City at any time after the 30 day period and must be retained for five years after each time one of the units undergoes the 30 day Housing Authority marketing requirement process.

f. The owner may elect to offer low income units to Subsidy Holders if the following criteria are met:

1. If a Subsidy Holder applies for a vacant unit and any payment standard unit is available, the Subsidy Holder must occupy the payment standard unit before any vacant low income unit is occupied.
2. If a Subsidy Holder applies for a vacant unit and all payment standard units are occupied by Subsidy Holders, the Subsidy Holder may be placed in a vacant low income unit, and the rent charged to the Housing Authority cannot exceed the Santa Cruz Housing Authority Payment Standard rent, and the owner must enter into a Housing Assistance Payments Contract for a Subsidy Holder with the Housing Authority.
3. If a Subsidy Holder applies for a vacant unit and not all of the payment standard units in the project are occupied by Subsidy Holders, the Subsidy Holder may be placed in a vacant low income unit, but the rent paid to the owner by the Santa Cruz Housing Authority may not exceed the affordable rent for the low income unit until all of the payment standard units in the project are occupied by Subsidy Holders. The location of the designated payment standard units may be modified to include other units

occupied by Subsidy Holders, so long as the owner notifies the City in writing of the changed location of the payment standard units.

This drafted language will further change the current SCMC 24.16.030(9) to 24.16.030(10).

Staff recommends that the Planning Commission recommend to City Council the adoption of the proposed changes to Title 24 of the Santa Cruz Municipal Code (Zoning Ordinance) Part One of Chapter 24.16, “Inclusionary Housing Requirements” as outlined in Attachment 1 and 2.

ENVIRONMENTAL REVIEW:

The proposed amendment is exempt from the requirement for environmental review under CEQA per Section 15061(b)(3) of Chapter 3 of Title 14 of the California Code of Regulations (CEQA Guidelines) in that the changes will not result in physical changes to the environment, and therefore, they do not have the potential to cause a significant effect on the environment.

FISCAL IMPACT:

While there is no direct cost to the City by implementing the above recommendations other than nominal costs related to publication of public hearing notices, there have been costs of staff time pertaining to preparation of reports and materials for this item and will be future staff costs of implementing the Inclusionary Ordinance.

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Approved by:

Lee Butler
Director of Planning &
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ATTACHMENTS:

1. Inclusionary Ordinance Amendments (Redline Version)
2. Inclusionary Ordinance Amendments (Clean Version)

Chapter 24.16
AFFORDABLE HOUSING PROVISIONS
Part 1: INCLUSIONARY HOUSING REQUIREMENTS

24.16.010 PURPOSE.

The purpose of the inclusionary housing requirements is to enhance the public welfare by adopting policies to utilize remaining developable land in the city in a manner consistent with state and local housing policies and needs, meet the city's share of regional housing needs, implement the housing element's goals and objectives, improve the feasibility of rental housing development, assure compatibility between market rate units and inclusionary units, and make housing available for households of all income levels.

24.16.015 DEFINITIONS.

For purposes of this part, the following definitions shall apply. Unless specifically defined below, words or phrases shall be interpreted as to give this part its most reasonable interpretation.

1. "Affordable ownership cost" means average monthly housing costs during the first calendar year of a household's occupancy, including mortgage payments, property taxes, homeowner's insurance, and homeowner's association dues, if any, the sum of which does not exceed eighty percent of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent and divided by twelve.
2. "Affordable rent" means the maximum monthly rent, including utilities and all fees for housing services, which does not exceed the following:
 - a. For moderate income households: one hundred ten percent of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent and divided by twelve.
 - b. For payment standard units: either affordable rent for moderate income households, or the maximum Santa Cruz Housing Authority Payment Standard Rent for Tenant Based Subsidy Holders, as provided in Section 24.16.030(9)(c)(2).
 - c. For low income households: eighty percent of area median income, adjusted for assumed household size based on unit size, multiplied by thirty-five percent and divided by twelve.
 - d. For very low income households: fifty percent of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent, and divided by twelve.
 - e. For extremely low income households: thirty percent of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent and divided by twelve.

3. “Affordable units” are dwelling units which are affordable to extremely low, very low, low, median, or moderate income households as defined by this part or by any federal or state housing program and are subject to rental, sale, or resale provisions to maintain affordability.
4. “Approval body” means the body with the authority to approve the proposed residential development.
5. “Area median income” is area median income for Santa Cruz County as published and periodically updated by the state of California pursuant to California Code of Regulations, Title 25, Section 6932, or successor provision.
6. “Assisted living unit” is any dwelling unit in a facility licensed under Chapter 3.2 of the California Health and Safety Code as a residential care facility for the elderly, or an assisted living unit as defined in Section 1771(a)(6) of the California Health and Safety Code.
7. “Assumed household size based on unit size” is a household of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter.
8. “Co-housing development” is an intentional community of private dwelling units clustered around shared space. Each attached or single-family home has traditional amenities, including a private kitchen. Shared spaces typically feature a common house, which may include a large kitchen and dining area, laundry, and recreational spaces. Households collaboratively plan and manage shared spaces. The legal structure is typically an HOA, condo association, or housing cooperative.
9. “Congregate living unit” is any dwelling unit in a senior housing development or senior citizen housing development, as defined in Section 51.3 of the California Civil Code, that provides private living quarters with centralized dining services and shared living spaces and may include access to social and recreational activities.
10. “Density bonus” is a density increase over the otherwise allowable maximum residential density on a site, granted pursuant to Part 3 of this chapter.
11. “First approval” is the first of the following approvals to occur with respect to a residential development: development agreement, planned development permit, tentative map, minor land division, use permit, design permit, building permit, or any other permit listed in Section 24.04.030.
12. “Household income” is the combined adjusted gross household income for all adult persons living in a living unit as calculated for the purpose of the Housing Choice Voucher/ Section 8 program under the United States Housing Act of 1937, as amended, or its successor provision.
13. “Household, low income” is a household whose income does not exceed the low income limits applicable to Santa Cruz 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.

14. “Household, median income” is a household whose income does not exceed area median income.

15. “Household, moderate income” is a household whose income does not exceed the moderate income limits applicable to Santa Cruz County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50093 of the California Health and Safety Code.

16. “Household, very low income” is a household whose income does not exceed the very low income limits applicable to Santa Cruz 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.

17. “Inclusionary unit” is an ownership or rental dwelling unit or SRO unit within a residential development which is required under this part to be rented at an affordable rent or sold at an affordable ownership cost to specified households.

18. “Live/work unit” is a dwelling unit, part of which is used as a business establishment and the dwelling unit is the principal residence of the business operator or an employee of the business establishment who works in the unit.

19. “Market rate unit” is a dwelling unit that is not an affordable unit or an inclusionary unit.

20. “Ownership residential development” means any residential project that includes the creation of two or more new or additional dwelling units or live/work units that may be sold individually, including co-housing developments.

21. “Payment standard unit” means an inclusionary unit available to Tenant Based Subsidy Holders, as provided in Section 24.16.030(9).

22. “Rental residential development” means any residential development that creates one or more additional dwelling units that cannot be lawfully sold individually in conformance with the California Subdivision Map Act.

23. “Residential development” is any project requiring any discretionary permit from the city, or a building permit, for which an application has been submitted to the city, and which would create two or more new or additional dwelling units or SRO units by construction or alteration of structures.

24. “SRO” means a single-room occupancy residential unit that provides sleeping and living facilities in a single room but where sanitary or cooking facilities may be provided within the unit and/or shared within the housing project, or a rooming unit or efficiency unit located in a

residential hotel, as that term is defined in accordance with California Health and Safety Code Section 50519, that is offered for occupancy by tenants for at least thirty consecutive days.

25. “Tenant Based Subsidy Holder” (Subsidy Holder) is a household that holds a tenant based voucher with the County of Santa Cruz Housing Authority.

24.16.020 BASIC ON-SITE INCLUSIONARY HOUSING REQUIREMENTS.

1. Applicability.

a. The inclusionary housing requirements defined in this chapter are applicable to all residential developments that create two or more new and/or additional dwelling units or SRO units at one location by construction or alteration of structures, except for exempt residential developments under subsection (2).

b. Additional rent above and beyond affordable rent or affordable ownership cost may be permitted for the commercial/work space in a live/work unit at a rent that is determined to be affordable to qualifying households and is proportionate to the amount of commercial space provided. The amount of rent for the commercial portion of the live/work unit shall be agreed upon by the developer, the economic development director, and the planning and community development director. If no agreement can be reached, the city will retain an outside financial consultant to evaluate and determine the allowable affordable rent and establish a methodology for determining future commercial rent levels. The methodology for determining future commercial rent levels shall be defined in every affordable housing development agreement for residential developments that include at least one live/work unit.

2. The following residential developments are exempt from the requirements of this chapter:

a. Residential developments developed pursuant to the terms of a development agreement executed prior to the effective date of the ordinance codified in this chapter; provided, that such residential developments comply with any affordable housing requirements included in the development agreement or any predecessor inclusionary housing requirements in effect on the date the development agreement was executed.

b. Residential developments for which a complete application was filed with the city prior to the effective date of the ordinance codified in this chapter; provided, that such residential developments comply with any predecessor inclusionary housing requirements in effect on the date the application for the residential development was deemed complete.

c. Residential developments if exempted by California Government Code Section 66474.2 or 66498.1; provided, that such residential developments comply with any predecessor inclusionary housing requirements in effect on the date the application for the residential development was deemed complete.

d. Residential developments replacing dwelling units that have been destroyed by fire, flood, earthquake, or other acts of nature, so long as no additional dwelling units are created by the residential development; and provided, that such residential developments comply with any inclusionary housing requirements previously applied to the dwelling units being replaced.

e. Accessory dwelling units.

f. Rental residential developments with two to four dwelling units.

3. Ownership Residential Developments with Two to Four Dwelling Units. For ownership residential developments that would create at least two but not more than four new or additional dwelling units and/or live/work units at one location, the applicant shall either: (a) make one inclusionary unit available for sale at an affordable ownership cost; (b) make one inclusionary unit available at an affordable rent for low income households; or (c) pay an in-lieu fee calculated pursuant to Section 24.16.030(6).

4. Ownership Residential Developments with Five or More Dwelling Units. For ownership residential developments that would create five or more new or additional dwelling units and/or live/work units at one location, the applicant shall provide inclusionary units as follows:

a. Affordable Housing Requirement for Ownership Residential Developments. In an ownership residential or live/work development, twenty percent of the dwelling units shall be made available for sale to low and moderate income households at an affordable ownership cost.

b. Fractional Affordable Housing Requirement for Ownership Residential Developments – 0.7 Units or Less. If the number of dwelling units required under subsection (4)(a) results in a fractional requirement of 0.7 or less, then the applicant shall either: (i) make one inclusionary unit available for sale at an affordable ownership cost; (ii) make one inclusionary unit available at an affordable rent for low income households; or (iii) pay an in-lieu fee calculated pursuant to Section 24.16.030(6). This subsection (4)(b) applies to the fractional unit only, and whole units shall be provided as required by subsection (4)(a).

c. Fractional Affordable Housing Requirement for Ownership Residential Developments – More Than 0.7 Units. If the number of dwelling units required under subsection (4)(a) results in a fractional requirement of greater than 0.7, then the applicant shall either: (i) make one inclusionary unit available for sale at an affordable ownership cost; or (ii) make one inclusionary unit available at an affordable rent for low income households. This subsection (4)(c) applies to the fractional unit only, and whole units shall be provided as required by subsection (4)(a).

d. Rental Units in an Ownership Residential Development.

i. In an ownership residential development where all dwelling units are initially offered for rent, an applicant may satisfy the inclusionary requirements by providing rental units as provided in subsection (5).

ii. The rent regulatory agreement required by Section 24.16.045 shall include provisions for sale of the inclusionary units at an affordable ownership cost to eligible households within ninety days from the issuance of the public report by the California Department of Real Estate permitting sale of the units or at termination of the tenant's lease whichever is later and otherwise in compliance with state law; provided, however, that the sale of the entire ownership residential development from one entity to another shall not trigger the obligation to sell individual inclusionary units. To the extent relocation payments are required by law the applicant shall be wholly responsible for the cost of preparing a relocation plan and making required payments. Any tenant of an inclusionary unit at the time units are offered for sale that qualifies to purchase an inclusionary unit at an affordable ownership cost shall be offered a right of first refusal to purchase the inclusionary unit. At sale appropriate documents shall be recorded to ensure the continued affordability of the inclusionary units at an affordable ownership cost as required by Section 24.16.045.

5. Rental Residential Developments with Five or More Dwelling Units. For rental residential developments that would create five or more new or additional dwelling units and/or live/work units at one location, the applicant shall provide inclusionary units as follows:

a. Rental residential developments that would create five or more new or additional dwelling units or live/work units at one location shall provide twenty percent of the dwelling units as inclusionary units, which shall be made available for rent to low income households at an affordable rent.

b. SRO Developments. In a rental residential development comprised of SRO units, twenty percent of the single-room occupancy units shall be made available for rent to very low income households at an affordable rent.

c. Fractional Affordable Housing Requirement for Rental Residential Developments with More Than Ten Dwelling Units. If the number of dwelling units required results in a fractional requirement of 0.7 or less, then there will be no inclusionary requirement for the fractional unit. If the number of dwelling units required results in a fractional requirement of greater than 0.7, then the applicant shall make one inclusionary unit available at an affordable rent. This subsection (5)(c) applies to the fractional unit only, and whole units shall be provided as required by subsections (4)(a) and (b).

6. The requirements of subsections (3) through (5) are minimum requirements and shall not preclude a residential development from providing additional affordable units or affordable units with lower rents or sales prices than required.

a. By mutual agreement by the developer, the planning and community development director, and the economic development director, the percentage of inclusionary units may be increased in exchange for reduced parking and/or other development requirements.

b. If the developer agrees to make at least forty percent of the residential project available for rent to low income households at a rental cost affordable to low income households, in addition to reduction of development requirements, by mutual agreement by the developer, the planning and community development director, and the economic development director, the city may also provide financial incentives to increase the number of inclusionary units in a project.

7. For purposes of calculating the number of inclusionary units required by this section, an accessory dwelling unit or units shall not be counted either as part of the residential development or as an affordable unit fulfilling the inclusionary requirements for the residential development unless an alternative is approved under Section 24.16.030.

8. For purposes of calculating the number of inclusionary units required by this section, any dwelling units authorized as a density bonus pursuant to Part 3 of this chapter shall not be counted as part of the residential development. However, if a developer receives a city rental housing bonus as authorized by Section 24.16.035(4), then all of the dwelling units in the project, including the dwelling units authorized as a density bonus, shall be counted as part of the residential development for purposes of calculating the inclusionary units required by this section.

24.16.025 STANDARDS FOR INCLUSIONARY UNITS.

1. All inclusionary units shall remain affordable in perpetuity.

2. Inclusionary units shall be dispersed throughout the residential development to prevent the creation of a concentration of affordable units within the residential development.

3. Inclusionary units shall be compatible with the design of market rate units in terms of exterior appearance, materials, and finished quality. Interior finishes, features, and amenities may differ from those provided in the market rate units, so as long as the finishes, features, and amenities are durable, of good quality, compatible with the market rate units, and consistent with contemporary standards for new housing.

4. The applicant may reduce square footage of inclusionary units as compared to the market rate units, provided all units conform to all requirements of Titles 18 and 19 and meet the minimum square footage requirement that affordable units are at least seventy-five percent of the average size of all market rate units in the development with the same bedroom count. For the purpose of this subsection, the “average size” of a unit with a certain bedroom count equals the total square footage of all market rate units with that bedroom count in the development divided by the total number of market rate units with the same bedroom count in the development.

5. For developments with multiple market rate unit types containing differing numbers of bedrooms, inclusionary units shall be representative of the market rate unit mix.
6. All building permits for inclusionary units in a phase of a residential development shall be issued concurrently with, or prior to, issuance of building permits for the market rate units, and the inclusionary units shall be constructed concurrently with, or prior to, construction of the market rate units. Occupancy permits and final inspections for inclusionary units in a phase of a residential development shall be approved concurrently with, or prior to, approval of occupancy permits and final inspections for the market rate units. When alternative methods of compliance are proposed pursuant to Section 24.16.030, the planning and community development director and the economic development director may jointly approve alternative phasing of market rate and inclusionary units if it finds that the proposal provides adequate security to ensure construction of the inclusionary units. Phases of construction shall be defined as a part of the first approval.
7. Rental to Tenant Based Subsidy Holders .
 - a. Owners of rental residential developments or SRO developments shall accept Tenant Based Subsidy Holders (Subsidy Holders) as tenants of the inclusionary units, on the same basis as all other prospective tenants. The owner shall not apply selection criteria to Subsidy Holders that are more burdensome than the criteria applied to all other prospective tenants, nor shall the owner apply or permit the application of management policies or lease provisions which have the effect of precluding occupancy of the inclusionary units by Subsidy Holders.

24.16.030 ALTERNATIVE METHODS TO COMPLY WITH INCLUSIONARY HOUSING REQUIREMENTS.

1. Application Submittal. Any application to use an alternative method to meet inclusionary housing requirements shall be submitted as part of the first approval for any residential development subject to the inclusionary housing requirements.
2. Findings. For all alternative methods of compliance with the inclusionary housing requirements, the approval body must make findings (a) and (b) in this subsection. Approval body determinations regarding alternative methods of compliance may be appealed as provided in Section 24.16.050.
 - a. The proposal for the alternative method of compliance is consistent with the Santa Cruz General Plan and all of its elements.
 - b. The proposal conforms to the standards established for inclusionary units in Section 24.16.025, unless the alternative method does not require compliance with that section.

3. Off-Site Construction of Inclusionary Units. An applicant may propose to construct all or a portion of the required inclusionary units off site. Off-site inclusionary units may include any combination of new dwelling units, or new dwelling units created in existing structures. For the purposes of determining compliance with the city's inclusionary housing requirements, all properties included in the proposal shall be treated as one residential development.

a. An application for off-site inclusionary units shall be accompanied by the following information:

- (1) Identification of all of the entities responsible for development of the market rate units and the inclusionary units.
- (2) The location of the sites where the market rate and inclusionary units will be constructed.
- (3) For each site, the same level of detail for the off-site inclusionary units as for the market rate residential development including: the number, unit type, number of bedrooms and baths, approximate location, size, and design, construction and completion schedule of all inclusionary units including the phasing of inclusionary units in relation to market rate units.
- (4) If the inclusionary units will not be constructed concurrently with the market rate units, the applicant shall specify the security to be provided to the city to ensure that the inclusionary units will be constructed.
- (5) Evidence of ownership or control of all sites proposed for market rate and inclusionary units. This requirement may be waived at the sole discretion of the planning and community development director with sufficient evidence that ownership or control will be secured within a reasonable amount of time after the application is submitted.

b. At the joint discretion of the planning and community development director and the economic development director, off-site units may be excluded from existing low income areas as defined by U.S. Department of Housing and Urban Development and/or where there is a concentration of low income households.

c. The approval body may approve a proposal for off-site inclusionary units if it makes all of the findings required by subsection (2) and each of the following findings:

- (1) The off-site development will provide the greater of one affordable unit or thirty percent more inclusionary units than would otherwise be required if the inclusionary units were constructed on site;
- (2) The off-site location is suitable for the proposed affordable housing and will not tend to cause residential segregation;

(3) The developer has provided clear and convincing evidence that financing has been secured for the off-site inclusionary units; and

(4) Each entity responsible for development of the inclusionary and market rate units has adequate site control and the capacity to construct the units as proposed.

d. Prior to final or parcel map approval and prior to issuance of any building permit for the residential development, the owner and the developer of the site where the off-site inclusionary units will be located and the developer of the residential development shall all enter into the developer affordable housing agreement required by Section 24.16.040.

e. Prior to issuance of any certificate of occupancy or final inspection for any market rate units, the owner and the developer of the site where the off-site inclusionary units will be located shall enter into a regulatory agreement to ensure that the off-site inclusionary units will remain affordable in perpetuity.

f. Once an applicant has received approval for off-site construction of inclusionary units on a specific site, no substitution of sites may be made unless approved by the planning and community development director.

g. If the off-site construction of inclusionary units is not substantially completed within eighteen months of completion of on-site construction then the approval body may require the applicant to pay double the amount of in-lieu fees as provided for in subsection (6).

4. Conversion of Existing Market Rate Housing or Upper Floors of Commercial/Office Buildings to Inclusionary Units. An applicant may propose to convert existing residential units or upper floors of commercial/office buildings into inclusionary units in lieu of constructing new inclusionary units on site.

a. Any application to convert existing residential units or existing commercial/office space into inclusionary units shall be accompanied by the following information regarding the existing dwelling units proposed to be converted:

(1) Identification of all of the entities responsible for development of the market rate units and the inclusionary units.

(2) The location of the site where the existing units will be converted to inclusionary units and evidence of ownership or control of all sites proposed for conversion of existing units to inclusionary units.

(3) If the inclusionary units will not be constructed concurrently with the market rate units, the applicant shall describe the proposed phasing and specify the security to be provided to the city to ensure that the inclusionary units will be constructed.

- (4) The same level of detail for the converted inclusionary units as for the market rate residential development for the following:
- (i) Floor plans showing size and number of bedrooms of the units to be converted; number of bedrooms and square footage of market rate units in the proposed residential development.
 - (ii) Site plans and building elevations showing landscaping, lot lines, property dimensions, easements, location of all structures, and parking for the units to be converted.
- (5) Existing rent or appraised value of each unit on the property to be converted, proposed rents or sales prices after rehabilitation and/or conversion, and any existing rent limits, resale price restrictions, or other affordability restrictions imposed by any public agency, nonprofit agency, land trust, or other body.
- (6) For conversion of market rate housing units, size of household occupying each unit on the property to be converted, vacancy rates for each month during the past two years, and existing tenant incomes.
- (7) For conversion of market rate housing units, a property inspection report prepared by a certified housing inspector and a termite report, both prepared no more than sixty days before the filing of the application. The property inspection report shall include an examination of all common and private areas within the existing dwelling units for compliance with the Uniform Housing Code, the structural condition of the property, identification of all code violations or unsafe elements, any potentially hazardous soil or geologic conditions, and condition of paved areas and drainage.
- (8) For conversion of commercial space, a property inspection report prepared by a certified inspector and a termite report, both prepared no more than sixty days before the filing of the application. The property inspection report shall include an examination of all common and private areas, the structural condition of the property, identification of all code violations or unsafe elements, any potentially hazardous soil or geological conditions, and condition of paved areas and drainage.
- (9) Plans and a written description of rehabilitation to be completed, including correction of all code violations and completion of all termite repairs described in the property inspection report and termite report; cost of rehabilitation; and the value of the property, including land, buildings, and all other improvements, after rehabilitation.
- (10) Description of benefits to be offered to existing tenants, which for conversion of market rate housing units would include but not be limited to right

of first refusal to remain in the unit, and any expected need for relocation of existing tenants.

b. At the joint discretion of the planning and community development director and the economic development director, off-site units may be excluded from existing low income areas as defined by U.S. Department of Housing and Urban Development and/or where there is a concentration of low income households if such exclusion will not tend to cause residential segregation.

c. No inclusionary units may be created by converting existing rental dwelling units into condominiums.

d. The conversion of existing market rate housing or conversion of existing commercial/office space to inclusionary units is not required to comply strictly with Section 24.16.025, with deviations subject to the joint approval of the planning and community development director and the economic development director. Unless otherwise determined by agreement of both the planning and community development director and the economic development director, if conversion of existing units is proposed and the existing residential development requires significant rehabilitation (costs estimated at about twenty-five percent of after-construction value), all units in the existing residential development shall be rehabilitated in addition to the inclusionary units.

e. The approval body may approve a proposal for conversion of existing dwelling units to inclusionary units if it makes all of the findings required by subsection (2) and all of the following findings:

(1) The off-site development will provide the greater of one affordable unit or thirty percent more inclusionary units than would otherwise be required if the inclusionary units were constructed on site;

(2) The developer has provided clear and convincing evidence that financing has been secured for the off-site inclusionary units;

(3) Each entity responsible for development of the inclusionary and market rate units or commercial space has adequate site control and the capacity to construct the units as proposed;

(4) The rehabilitation plans include all construction required to meet all current requirements of the Uniform Housing Code, as determined by the chief building official of the city;

(5) For conversion of market rate housing units the cost of rehabilitation is greater than twenty-five percent of the value of the property, including land, buildings, and all other improvements after rehabilitation unless otherwise determined by agreement of both the planning and community development

director and the economic development director that conditions of the property do not require substantial rehabilitation; and

(6) The dwelling units or commercial space to be converted are not subject to any rent limits, resale price restrictions, or other affordability restrictions imposed by any public agency, nonprofit agency, land trust, or other body, unless the affordability restrictions are at risk of expiring within five years and the existing agreement with affordability restrictions cannot be renewed, or the conversion will make the units affordable to households with lower incomes than the existing affordability restrictions.

f. For conversion of market rate housing units, if more than forty percent of the units on one site will be converted to inclusionary units, the approval body must additionally find that the rehabilitated inclusionary units will remove blight and enhance physical and social conditions in the surrounding area.

g. The conversion of existing market rate housing or conversion of existing commercial/office space may be based on the number of bedrooms in the residential development to encourage the development of smaller units when feasible. The converted units shall not be larger in terms of the number of bedrooms than the required inclusionary unit that the converted unit is replacing, unless approved by the planning and community development director, and in no event shall the maximum number of bedrooms in a unit satisfying inclusionary requirements using bedroom counts exceed the smaller of either: (1) the market rate unit in the development with the greatest number of bedrooms; or (2) three bedrooms.

h. Any existing tenants in units proposed to be converted who are relocated shall be eligible for relocation benefits pursuant to Section 24.08.1350.

i. If the conversion of existing units and substantial rehabilitation of the development is not substantially completed within eighteen months of completion of the new residential development, then the approval body may require the applicant to pay double the amount of in-lieu fees as provided for in subsection (6).

5. Transfer of Credit. An applicant may propose to receive credit for affordable units constructed prior to or concurrently with the market rate project.

a. When a residential development is proposed that includes more inclusionary units than required by this part, the applicant may propose that the excess inclusionary units be made available to satisfy inclusionary requirements on other sites. The credits may be made available to other residential developments for a maximum period of five years from issuance of the last certificate of occupancy for the residential development that includes the excess inclusionary units.

- b. The residential development that includes the excess inclusionary units may not receive or have received any local, state, or federal affordable housing financial assistance.
- c. An application for a residential development that includes excess inclusionary units proposed to be made available for credit shall be accompanied by the following as part of the first approval for the residential development:
 - (1) Identification of excess inclusionary units to be made available for credit to other residential developments, including in particular the number of bedrooms, tenure, size, and location.
 - (2) Person or entity authorized to transfer credit to other residential developments.
- d. An application for a residential development that proposes to receive credit for inclusionary units previously approved for the transfer of credit shall be accompanied by the following:
 - (1) A written agreement with the holder of the rights to the excess inclusionary units consenting to the transfer of credit.
 - (2) Evidence that the transferred units satisfy all or a portion of the residential development's inclusionary requirements, including but not limited to inclusionary units of an appropriate size with at least the same number of bedrooms and tenure as would otherwise be required.
 - (3) Sufficient evidence provided that demonstrates to the satisfaction of the planning and community development director that the inclusionary units to be credited to the residential development have been constructed or will be constructed prior to or concurrently with the market rate units in the residential development.
- e. The city council may approve a proposal to use excess inclusionary units on another site to meet the development's inclusionary requirements if it makes all of the findings required by subsection (2) and the following findings:
 - (1) The off-site residential development with excess inclusionary units will provide the greater of one affordable unit or thirty percent more inclusionary units than would otherwise be required if the inclusionary units were constructed on site.
 - (2) The excess inclusionary units are of an appropriate size with at least the same number of bedrooms and tenure as would otherwise be required, and have already been constructed or will be constructed prior to or concurrently with the market rate units in the residential development.

6. In-Lieu Housing Fees.

a. An applicant may pay in-lieu fees to the city rather than construct inclusionary units on site under the following circumstances:

(1) For all ownership residential developments or residential subdivisions that would create two but no more than four additional dwelling units or parcels at one location, the applicant may elect to pay an in-lieu fee for the fraction of an inclusionary unit equal to 0.15 times the number of units or parcels in the residential development or subdivision reduced by sixty percent.

(2) For ownership residential developments where any dwelling units are offered for sale, or where all dwelling units are offered for rent, but where a subdivision map has been recorded to create parcels containing single dwelling units, the applicant may elect to pay an in-lieu fee for any fraction of an inclusionary unit equal to 0.7 or less.

(3) For rental residential developments that would create five but no more than ten additional dwelling units at one location, the applicant may elect to pay an in-lieu fee for any inclusionary unit or fraction of an inclusionary unit as required by Section 24.16.020(5).

(4) For residential developments that the approval body determines are assisted living units, co-housing developments, congregate living units, or live/work units the applicant may elect to pay an in-lieu fee for the entire inclusionary unit requirement.

(5) Except as provided in subsection (6)(c), for all other residential developments creating five or more units, in-lieu fees may be paid for all or a portion of the required inclusionary units at the discretion of the approval body if the approval body makes the findings required by subsection (2), accompanied by a staff report with a recommendation from the planning and community development director and the economic development director, except that conformance with Section 24.16.025 is not required. The approval body must also find that either the in-lieu fees will provide for the greater of one affordable unit or at least thirty percent more inclusionary units or affordable housing than would be provided by the on-site provision of inclusionary units by providing matching funds for state or federal grants or otherwise. It is the city council's intent that, except as provided in subsections (6)(a)(1) through (4), in-lieu fees be infrequently approved.

b. In-lieu fees may be established from time to time by resolution of the city council or may be determined for a specific residential development by calculating the difference between (1) the affordable sales price of an inclusionary unit, and (2) the value of a market rate unit. The value of a market rate unit shall be determined by an appraisal

provided by the developer from a qualified appraiser that was completed within three months prior to entering into an affordable housing agreement.

(1) The market rate value to calculate in-lieu fees for live/work units may be calculated using a square footage multiplier times one hundred percent of the designated residential areas and fifty percent of the designated work areas. The source of the square footage multiplier may be the most recent data from internet real estate data resources such as Zillow, Trulia, or other available sources that reflect actual market values or from a square footage appraisal provided by the developer from a qualified appraiser that was completed within three months prior to entering into an affordable housing agreement.

(2) The market rate value to calculate in-lieu fees for co-housing developments may be calculated using a square footage multiplier times one hundred percent of the square footage of an average size unit plus a proportionate amount of shared space, as jointly determined to be reasonable by the planning and community development director and the economic development director. The source of the square footage multiplier may be the most recent data from internet real estate data resources such as Zillow, Trulia, or other available sources that reflect actual market values or from a square footage appraisal provided by the developer from a qualified appraiser that was completed within three months prior to entering into an affordable housing agreement.

c. In-lieu fees per parcel for subdivisions shall be calculated to be fifty percent of the average appraised value of the parcels in the subdivision where the average appraised value equals the appraised value of all parcels in the subdivision divided by the number of parcels in the subdivision. The appraisal shall be provided by the developer from a qualified licensed residential appraiser. For subdivisions that consist of two to four parcels, this amount shall be further reduced by sixty percent.

d. For residential developments, in-lieu fees shall be paid prior to or at the time of final inspection by the city planning and community development building division, or as determined in an affordable housing development agreement, with additional terms approved by the approval body. For projects constructed in phases, in-lieu fees shall be paid in the proportion that the phase bears to the overall project.

e. Notwithstanding subsection (6)(c), in-lieu fees for subdivisions shall be paid prior to or concurrently with final subdivision map approval.

f. All in-lieu fees shall be deposited into a separate account entitled the affordable housing trust fund. The monies in the affordable housing trust fund and all earnings from investment of the monies in the affordable housing trust fund shall be used within a reasonable amount of time to assist in the construction of new low income housing units with long-term affordability restrictions or preservation of existing low income housing units, including required administrative support.

7. Land Dedication. For residential developments with an inclusionary requirement of seven or more inclusionary units, an applicant may propose to donate a minimum of fifteen percent of the net developable land area of the residential development to the city for the construction of a project with at least twenty-five percent of its total units restricted to low income households or below, or a lesser amount of land if the parcel is adjacent to a city owned land and is determined by the economic development director that the parcel is a critical component of a larger city supported affordable housing project.

a. An application for land dedication shall be accompanied by the following information. These requirements may be modified or waived at the sole discretion and joint determination of the planning and community development director and the economic development director if the dedicated land is adjacent to city owned land and/or can be incorporated into a city supported affordable housing development project.

(1) Area to be dedicated to the city.

(2) Demonstration that the density approved for the site is suitable for affordable housing development, evidence of adequate infrastructure, and a site plan demonstrating that the site can accommodate the required number of inclusionary units.

(3) Identification of the entity that will construct the inclusionary units.

(4) Pro forma demonstrating that development of the inclusionary units on the site is financially feasible.

(5) If the inclusionary units will not be constructed concurrently with the market rate units, the applicant shall describe the proposed phasing and specify the security to be provided to the city to ensure that the inclusionary units will be constructed.

b. The approval body may approve a proposal for land dedication if it makes all of the findings required by subsection (2) and the following additional finding: a residential development that includes twenty-five percent low income units is feasible on the property to be dedicated.

c. The property shall be dedicated to the city at the earliest of: (1) recordation of any final or parcel map, or (2) issuance of any building permit for the residential development.

d. The city may make the site available without cost to a low income housing developer with proven experience and the ability to finance and construct an affordable housing project in the most expeditious manner. To the extent feasible, the applicant shall process the low income residential development on the dedicated site concurrently with the processing of the market rate development.

8. Congregate Living Units or Assisted Living Units. An applicant may propose to satisfy the inclusionary housing requirements of this chapter by providing congregate living units or assisted living units. If the approval body determines that a proposed residential development includes congregate living units or assisted living units, the following alternative requirements shall apply:

- a. Fifteen percent of the congregate living or assisted living units shall be made available for rent to low income households at an affordable rent. Monthly charges for congregate living or assisted living services in addition to the affordable rent may not exceed thirty-five percent of fifty percent of area median income for a single person, divided by twelve, or forty-five percent of fifty percent of area median income for two persons, divided by twelve.
- b. The proportion of studio or one-bedroom units that are designated to be shared by non-family-members shall not exceed the proportion of the number of market rate units designated to be shared by non-family-members to the total number of market rate units. Furthermore, no more than two persons may occupy a studio or one-bedroom unit. For purposes of affordable rent calculations, for any unit shared by non-family-members the portion of the unit occupied by each individual shall be treated like a studio apartment and the rent for one person shall be equivalent to the affordable rent for a studio apartment. This section should not be interpreted to create a bias for undesired double occupancy.

9. Rental to Tenant Based Subsidy Holders.

- a. Owners of rental residential developments or single-room occupancy unit (SRO) developments may elect to use the following procedures to offer inclusionary units comprising up to five percent (5%) of the total units in the development as payment standard units available to Tenant Based Subsidy Holders (Subsidy Holders). The Developer Affordable Housing Agreement, as defined in SCMC Section 24.16.040, shall require that fifteen percent (15%) of the total units in the development will be restricted to low income households at an affordable rent, and that five percent (5%) of the total units in the project will be payment standard units restricted to moderate income households at an affordable rent as defined in Section 24.16.015(2b) or rented to Subsidy Holders, so long as the development complies with the procedures described in subsections (b) through (e) below to offer the five percent (5%) payment standard units in the development to Subsidy Holders. Both the low income units and the payment standard units shall remain affordable in perpetuity as per SCMC 24.16.025(1).
- b. The owner will notify the Housing Authority of the County of Santa Cruz (Housing Authority) that a unit or units are available for rent to Subsidy Holders and list the units on the Section 8 Housing Choice Voucher rental listing website, advertising the units to Subsidy Holders within one week of the following dates (as applicable):

- (1) At initial lease-up, when new inclusionary units are initially marketed, and prior to receipt of a certificate of occupancy or final inspection, the owner shall

list the five percent (5%) payment standard units on the Housing Authority's Section 8 Housing Choice Voucher rental listing website, advertising the units to Subsidy Holders (or other marketing service as requested by the Housing Authority).

(2) At receipt by the owner of a notice of vacancy or availability of a vacated unit in a designated payment standard unit, the owner shall list that unit on the Housing Authority's Section 8 Housing Choice rental listing website (or other marketing service as requested by the Housing Authority).

c. Thirty (30) days after the owner lists the available unit or units on the Housing Authority's Section 8 Housing Choice rental listing website, the rent for five percent (5%) payment standard units will be established as either:

(1) The Payment Standard rent, as defined by the Housing Authority, if the owner enters into a Housing Assistance Payments Contract for a Subsidy Holder with the Housing Authority; or

(2) Either Payment Standard rent or a deed restricted rent, as defined in Section 24.16.015(2b), affordable to income qualifying moderate income households, whichever is less, if no eligible Subsidy Holder applied to rent the unit, as demonstrated by the owner.

d. In order to qualify under this Section, an owner will be required to enter into a Housing Assistance Payment contract with the Housing Authority for each payment standard unit rented to a Subsidy Holder and a rental agreement with Subsidy Holders who become tenants of the owner. When either a Subsidy Holder or moderate income tenant vacates one of the five percent (5%) designated payment standard units, the owner shall again follow the process outlined in SCMC 24.16.030(9)(c).

e. The owner will be required to retain records proving the 30 day marketing requirement was met and, if rented to a moderate income household, demonstrating that no eligible Subsidy Holder submitted a rental application. These records must be available upon request from the City at any time after the 30 day period and must be retained for five years after each time one of the units undergoes the 30 day Housing Authority marketing requirement process.

f. The owner may elect to offer low income units to Subsidy Holders if the following criteria are met:

1. If a Subsidy Holder applies for a vacant unit and any payment standard unit is available, the Subsidy Holder must occupy the payment standard unit before any vacant low income unit is occupied.
2. If a Subsidy Holder applies for a vacant unit and all payment standard units are occupied by Subsidy Holders, the Subsidy Holder may be placed in a vacant low income unit, and the rent charged to the Housing

Authority cannot exceed the Santa Cruz Housing Authority Payment Standard rent, and the owner must enter into a Housing Assistance Payments Contract for a Subsidy Holder with the Housing Authority.

3. If a Subsidy Holder applies for a vacant unit and not all of the payment standard units in the project are occupied by Subsidy Holders, the Subsidy Holder may be placed in a vacant low income unit, but the rent paid to the owner by the Santa Cruz Housing Authority may not exceed the affordable rent for the low income unit until all of the payment standard units in the project are occupied by Subsidy Holders. The location of the designated payment standard units may be modified to include other units occupied by Subsidy Holders, so long as the owner notifies the City in writing of the changed location of the payment standard units.

10. Other Alternative Compliance Methods. An applicant may propose an alternative compliance method to provide affordable units through other means. The approval body may approve or conditionally approve such an alternative only if the approval body determines, based on substantial evidence, that such alternative compliance will provide as many or more affordable units at the same or lower income levels and will otherwise provide greater public benefit than would provision of the affordable units on site.

24.16.035 INCENTIVES FOR COMPLIANCE WITH INCLUSIONARY HOUSING REQUIREMENTS.

The following incentives may be available for the provision of inclusionary units:

1. Fee waivers may be granted pursuant to Part 4 of this chapter.
2. A residential development may satisfy its inclusionary housing requirements through any of the alternative compliance methods available in Section 24.16.030 in lieu of providing inclusionary units on site.
3. The interior amenities and square footage of the inclusionary units may be reduced below those required for the market rate units, as provided in Section 24.16.025(4).
4. Residential developments in which all dwelling units are offered for rent, inclusionary units are provided within the development, no subdivision map has been recorded, and no density bonus under Part 3 of this chapter has been requested are eligible for the following additional incentive:
 - a. A twenty-seven and one-half percent “city rental housing bonus.”

24.16.040 DEVELOPER AFFORDABLE HOUSING AGREEMENT.

1. Developers subject to the inclusionary housing requirements of this part shall agree to enter into a developer affordable housing agreement with the city. A developer affordable housing agreement shall be a condition of approval for all residential developments subject to this chapter

and shall be recorded as a restriction on any residential development in which the inclusionary units will be constructed.

2. The developer affordable housing agreement shall be recorded prior to or concurrently with final parcel map or final subdivision map approval, or, where the residential development does not include a map, prior to issuance of a building permit for any structure in the residential development. The developer affordable housing agreement shall run with the land and bind all future owners and successors in interest.

3. The developer affordable housing agreement shall be in a form provided by the city and shall include, without limitation, the following:

- a. The total number of units approved for the residential development and the number, location, and level of affordability of inclusionary units.
- b. Standards for determining affordable rent or affordable ownership cost for the inclusionary units.
- c. The location, unit size in square feet, and number of bedrooms of the inclusionary units.
- d. Provisions to ensure initial and continuing affordability, including the execution and recordation of subsequent agreements.
- e. A schedule for completion and occupancy of inclusionary units in relation to construction of market rate units.
- f. A description of remedies for breach of the agreement by either party. The city may identify tenants or qualified purchasers as third party beneficiaries under the agreement.
- g. Procedures for qualifying tenants and prospective purchasers of inclusionary units.
- h. Provisions requiring maintenance of records to demonstrate compliance with this chapter.
- i. Provisions specifically describing how affordable rent and/or affordable ownership costs are calculated for the inclusionary units. Unless another basis has mutually been agreed upon by the developer, the planning and community development director, and the economic development director, the determination shall be made in accordance with Section 24.16.045(4). If there is more than a three-year delay in execution of the developer affordable housing agreement and the final building permit, the developer may request any in-lieu fees be recalculated and with the concurrence of the planning and community development and economic development directors, the city may recalculate fees accordingly.

4. Other provisions to ensure implementation and compliance with this chapter.

24.16.045 CONTINUED AFFORDABILITY AND INITIAL OCCUPANCY.

1. The city council, by resolution, shall establish guidelines for determining household income, asset limits, occupancy standards, affordable ownership cost, affordable rent, provisions for continued monitoring of tenant eligibility, resale price, and other implementation criteria. The city shall use standard documents as approved by the city attorney to ensure the continued affordability of the inclusionary units in all residential developments. The documents may include, but are not limited to, inclusionary housing agreements, rent regulatory agreements, promissory notes, deeds of trust, options to purchase, and resale restrictions.
2. Rent regulatory agreements consistent with the requirements of this part shall be recorded against residential developments containing rental inclusionary units. If the inclusionary units are designated for owner-occupancy, resale restrictions, deeds of trust, options to purchase, and/or other documents consistent with the requirements of this part shall be recorded against the owner-occupied inclusionary units.
3. Any household that occupies an inclusionary unit must occupy that unit as its principal residence, except in circumstances that may require the temporary vacation of the unit. For rented inclusionary units, the documents required by subsection (1) shall provide for continued occupancy for limited periods by households occupying the units, whose incomes increase during their occupancy so that they exceed the maximum otherwise permitted for the unit.
4. The maximum sales price shall be calculated using the methodology defined in the resolution and/or guidelines identified in and applied under the inclusionary agreement for that property. Unless otherwise required by California Government Code Section 66474.2, Government Code Section 65589.5(o), or any other applicable state codes or successor provisions, the resolution in effect at the time of first approval shall be the basis for these calculations, unless another inclusionary ordinance or implementing resolutions basis more recently approved by the Council has been defined and mutually been agreed upon by the developer, the planning and community development director, and the economic development director or otherwise authorized by the approval body. The resale restrictions shall allow the city a right of first refusal or option to purchase any owner-occupied inclusionary unit at the maximum resale price permitted under this section at any time the owner proposes sale.
5. No household shall be permitted to begin occupancy of an inclusionary unit designated for owner-occupancy unless the city or its designee has approved the household's eligibility. No household shall be permitted to begin occupancy of an inclusionary rental unit unless the city or its designee has approved the household's eligibility, except that tenants are not required to be income-eligible if the rental cost affordable to low income households is at least ninety percent of the average rent for market rate dwelling units with the same number of bedrooms in the development.
6. As consistent with state and federal law, preferences for rental inclusionary units shall be given in the following priority order:
 - a. Residents of the city of Santa Cruz for at least one year.

- b. Those employed in the city of Santa Cruz.
 - c. Residents of the county of Santa Cruz for at least one year.
 - d. Those employed in the county of Santa Cruz.
7. As consistent with state and federal law, preferences for ownership inclusionary units shall be given in the following priority order:
- a. Those who live or work in the city of Santa Cruz.
 - b. Those who live or work in the county of Santa Cruz.
8. The city council by resolution may establish fees for the ongoing administration and monitoring of the inclusionary units, which fees may be updated periodically, as required.

24.16.050 APPEALS.

1. An applicant or any other person whose interests are adversely affected by any determination of the planning and community development department staff or of an agency retained by the city with regard to this part may appeal the determination to the planning and community development director.
2. An applicant or any other person whose interests are adversely affected by the determination of the planning and community development director with regard to this part may appeal the determination to the city council.
3. The procedure for appeals shall be consistent with the procedures prescribed in Sections 24.04.180 through 24.04.185.

24.16.055 WAIVERS OR REDUCTIONS OF INCLUSIONARY HOUSING REQUIREMENTS.

1. Notwithstanding any other provision of this chapter, the inclusionary housing requirements may be waived, adjusted, or reduced if an applicant shows, based on substantial evidence, that there is no reasonable relationship between the impact of a proposed development and the requirements of this part, or that applying the requirements of this chapter would take property in violation of the United States or California Constitution.
2. Any request for a waiver, adjustment, or reduction under this section shall be submitted as a part of the first approval. The request for a waiver, reduction, or adjustment shall set forth in detail the factual and legal basis for the claim.
3. The request for a waiver, adjustment, or reduction shall be reviewed and considered as a part of the first approval. In making a determination on an application for waiver, adjustment, or

reduction, the applicant shall bear the burden of presenting substantial evidence to support the claim. The city may assume each of the following when applicable:

- a. That the applicant will provide the most economical inclusionary units to meet the requirements of this chapter.
- b. That the applicant is likely to obtain housing subsidies when such funds are reasonably available.
- c. The extent to which the applicant will benefit from density bonuses or other incentives. The waiver, adjustment, or reduction may be approved by the approval body only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, based on substantial evidence, supporting the determinations required by this section.

24.16.060 IMPLEMENTATION AND ENFORCEMENT.

1. The city council may adopt guidelines, by resolution, to assist in the implementation of all aspects of this part.
2. In addition to any other powers or duties prescribed by law, the economic development director shall have the following powers and duties in relation to this part:
 - a. To monitor compliance with the provisions of this part and to refer to the city attorney for appropriate action any person violating the provisions of this part; and
 - b. To administer this part.
3. The city attorney shall be authorized to enforce the provisions of this part, all agreements entered into pursuant to this part, and all other requirements of this part, by civil action and any other proceeding or method permitted by law. The city may, at its discretion, take such enforcement action as is authorized under any provision of this code and/or any other action authorized by law or by any agreement executed pursuant to this part.
4. Failure of any official or agency to enforce the requirements of this chapter shall not constitute a waiver or excuse any applicant or owner from the requirements of this part. No permit, license, map, or other approval or entitlement for a residential development shall be issued, including without limitation a final inspection or certificate of occupancy, until all applicable requirements of this part have been satisfied.
5. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the city from any other remedy or relief to which it otherwise would be entitled under law or equity.

Chapter 24.16
AFFORDABLE HOUSING PROVISIONS
Part 1: INCLUSIONARY HOUSING REQUIREMENTS

24.16.010 PURPOSE.

The purpose of the inclusionary housing requirements is to enhance the public welfare by adopting policies to utilize remaining developable land in the city in a manner consistent with state and local housing policies and needs, meet the city's share of regional housing needs, implement the housing element's goals and objectives, improve the feasibility of rental housing development, assure compatibility between market rate units and inclusionary units, and make housing available for households of all income levels.

24.16.015 DEFINITIONS.

For purposes of this part, the following definitions shall apply. Unless specifically defined below, words or phrases shall be interpreted as to give this part its most reasonable interpretation.

1. "Affordable ownership cost" means average monthly housing costs during the first calendar year of a household's occupancy, including mortgage payments, property taxes, homeowner's insurance, and homeowner's association dues, if any, the sum of which does not exceed eighty percent of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent and divided by twelve.
2. "Affordable rent" means the maximum monthly rent, including utilities and all fees for housing services, which does not exceed the following:
 - a. For moderate income households: one hundred ten percent of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent and divided by twelve.
 - b. For payment standard units: either affordable rent for moderate income households, or the maximum Santa Cruz Housing Authority Payment Standard Rent for Tenant Based Subsidy Holders, as provided in Section 24.16.030(9)(c)(2).
 - c. For low income households: eighty percent of area median income, adjusted for assumed household size based on unit size, multiplied by thirty-five percent and divided by twelve.
 - d. For very low income households: fifty percent of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent, and divided by twelve.
 - e. For extremely low income households: thirty percent of area median income, adjusted for assumed household size based on unit size, multiplied by thirty percent and divided by twelve.

3. “Affordable units” are dwelling units which are affordable to extremely low, very low, low, median, or moderate income households as defined by this part or by any federal or state housing program and are subject to rental, sale, or resale provisions to maintain affordability.
4. “Approval body” means the body with the authority to approve the proposed residential development.
5. “Area median income” is area median income for Santa Cruz County as published and periodically updated by the state of California pursuant to California Code of Regulations, Title 25, Section 6932, or successor provision.
6. “Assisted living unit” is any dwelling unit in a facility licensed under Chapter 3.2 of the California Health and Safety Code as a residential care facility for the elderly, or an assisted living unit as defined in Section 1771(a)(6) of the California Health and Safety Code.
7. “Assumed household size based on unit size” is a household of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter.
8. “Co-housing development” is an intentional community of private dwelling units clustered around shared space. Each attached or single-family home has traditional amenities, including a private kitchen. Shared spaces typically feature a common house, which may include a large kitchen and dining area, laundry, and recreational spaces. Households collaboratively plan and manage shared spaces. The legal structure is typically an HOA, condo association, or housing cooperative.
9. “Congregate living unit” is any dwelling unit in a senior housing development or senior citizen housing development, as defined in Section 51.3 of the California Civil Code, that provides private living quarters with centralized dining services and shared living spaces and may include access to social and recreational activities.
10. “Density bonus” is a density increase over the otherwise allowable maximum residential density on a site, granted pursuant to Part 3 of this chapter.
11. “First approval” is the first of the following approvals to occur with respect to a residential development: development agreement, planned development permit, tentative map, minor land division, use permit, design permit, building permit, or any other permit listed in Section 24.04.030.
12. “Household income” is the combined adjusted gross household income for all adult persons living in a living unit as calculated for the purpose of the Housing Choice Voucher/ Section 8 program under the United States Housing Act of 1937, as amended, or its successor provision.
13. “Household, low income” is a household whose income does not exceed the low income limits applicable to Santa Cruz 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.

14. “Household, median income” is a household whose income does not exceed area median income.
15. “Household, moderate income” is a household whose income does not exceed the moderate income limits applicable to Santa Cruz County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50093 of the California Health and Safety Code.
16. “Household, very low income” is a household whose income does not exceed the very low income limits applicable to Santa Cruz 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.
17. “Inclusionary unit” is an ownership or rental dwelling unit or SRO unit within a residential development which is required under this part to be rented at an affordable rent or sold at an affordable ownership cost to specified households.
18. “Live/work unit” is a dwelling unit, part of which is used as a business establishment and the dwelling unit is the principal residence of the business operator or an employee of the business establishment who works in the unit.
19. “Market rate unit” is a dwelling unit that is not an affordable unit or an inclusionary unit.
20. “Ownership residential development” means any residential project that includes the creation of two or more new or additional dwelling units or live/work units that may be sold individually, including co-housing developments.
21. "Payment standard unit" means an inclusionary unit available to Tenant Based Subsidy Holders, as provided in Section 24.16.030(9).
22. “Rental residential development” means any residential development that creates one or more additional dwelling units that cannot be lawfully sold individually in conformance with the California Subdivision Map Act.
23. “Residential development” is any project requiring any discretionary permit from the city, or a building permit, for which an application has been submitted to the city, and which would create two or more new or additional dwelling units or SRO units by construction or alteration of structures.
24. “SRO” means a single-room occupancy residential unit that provides sleeping and living facilities in a single room but where sanitary or cooking facilities may be provided within the unit and/or shared within the housing project, or a rooming unit or efficiency unit located in a

residential hotel, as that term is defined in accordance with California Health and Safety Code Section 50519, that is offered for occupancy by tenants for at least thirty consecutive days.

25. “Tenant Based Subsidy Holder” (Subsidy Holder) is a household that holds a tenant based voucher with the County of Santa Cruz Housing Authority.

24.16.020 BASIC ON-SITE INCLUSIONARY HOUSING REQUIREMENTS.

1. Applicability.

a. The inclusionary housing requirements defined in this chapter are applicable to all residential developments that create two or more new and/or additional dwelling units or SRO units at one location by construction or alteration of structures, except for exempt residential developments under subsection (2).

b. Additional rent above and beyond affordable rent or affordable ownership cost may be permitted for the commercial/work space in a live/work unit at a rent that is determined to be affordable to qualifying households and is proportionate to the amount of commercial space provided. The amount of rent for the commercial portion of the live/work unit shall be agreed upon by the developer, the economic development director, and the planning and community development director. If no agreement can be reached, the city will retain an outside financial consultant to evaluate and determine the allowable affordable rent and establish a methodology for determining future commercial rent levels. The methodology for determining future commercial rent levels shall be defined in every affordable housing development agreement for residential developments that include at least one live/work unit.

2. The following residential developments are exempt from the requirements of this chapter:

a. Residential developments developed pursuant to the terms of a development agreement executed prior to the effective date of the ordinance codified in this chapter; provided, that such residential developments comply with any affordable housing requirements included in the development agreement or any predecessor inclusionary housing requirements in effect on the date the development agreement was executed.

b. Residential developments for which a complete application was filed with the city prior to the effective date of the ordinance codified in this chapter; provided, that such residential developments comply with any predecessor inclusionary housing requirements in effect on the date the application for the residential development was deemed complete.

c. Residential developments if exempted by California Government Code Section 66474.2 or 66498.1; provided, that such residential developments comply with any predecessor inclusionary housing requirements in effect on the date the application for the residential development was deemed complete.

d. Residential developments replacing dwelling units that have been destroyed by fire, flood, earthquake, or other acts of nature, so long as no additional dwelling units are created by the residential development; and provided, that such residential developments comply with any inclusionary housing requirements previously applied to the dwelling units being replaced.

e. Accessory dwelling units.

f. Rental residential developments with two to four dwelling units.

3. Ownership Residential Developments with Two to Four Dwelling Units. For ownership residential developments that would create at least two but not more than four new or additional dwelling units and/or live/work units at one location, the applicant shall either: (a) make one inclusionary unit available for sale at an affordable ownership cost; (b) make one inclusionary unit available at an affordable rent for low income households; or (c) pay an in-lieu fee calculated pursuant to Section 24.16.030(6).

4. Ownership Residential Developments with Five or More Dwelling Units. For ownership residential developments that would create five or more new or additional dwelling units and/or live/work units at one location, the applicant shall provide inclusionary units as follows:

a. Affordable Housing Requirement for Ownership Residential Developments. In an ownership residential or live/work development, twenty percent of the dwelling units shall be made available for sale to low and moderate income households at an affordable ownership cost.

b. Fractional Affordable Housing Requirement for Ownership Residential Developments – 0.7 Units or Less. If the number of dwelling units required under subsection (4)(a) results in a fractional requirement of 0.7 or less, then the applicant shall either: (i) make one inclusionary unit available for sale at an affordable ownership cost; (ii) make one inclusionary unit available at an affordable rent for low income households; or (iii) pay an in-lieu fee calculated pursuant to Section 24.16.030(6). This subsection (4)(b) applies to the fractional unit only, and whole units shall be provided as required by subsection (4)(a).

c. Fractional Affordable Housing Requirement for Ownership Residential Developments – More Than 0.7 Units. If the number of dwelling units required under subsection (4)(a) results in a fractional requirement of greater than 0.7, then the applicant shall either: (i) make one inclusionary unit available for sale at an affordable ownership cost; or (ii) make one inclusionary unit available at an affordable rent for low income households. This subsection (4)(c) applies to the fractional unit only, and whole units shall be provided as required by subsection (4)(a).

d. Rental Units in an Ownership Residential Development.

i. In an ownership residential development where all dwelling units are initially offered for rent, an applicant may satisfy the inclusionary requirements by providing rental units as provided in subsection (5).

ii. The rent regulatory agreement required by Section 24.16.045 shall include provisions for sale of the inclusionary units at an affordable ownership cost to eligible households within ninety days from the issuance of the public report by the California Department of Real Estate permitting sale of the units or at termination of the tenant's lease whichever is later and otherwise in compliance with state law; provided, however, that the sale of the entire ownership residential development from one entity to another shall not trigger the obligation to sell individual inclusionary units. To the extent relocation payments are required by law the applicant shall be wholly responsible for the cost of preparing a relocation plan and making required payments. Any tenant of an inclusionary unit at the time units are offered for sale that qualifies to purchase an inclusionary unit at an affordable ownership cost shall be offered a right of first refusal to purchase the inclusionary unit. At sale appropriate documents shall be recorded to ensure the continued affordability of the inclusionary units at an affordable ownership cost as required by Section 24.16.045.

5. Rental Residential Developments with Five or More Dwelling Units. For rental residential developments that would create five or more new or additional dwelling units and/or live/work units at one location, the applicant shall provide inclusionary units as follows:

a. Rental residential developments that would create five or more new or additional dwelling units or live/work units at one location shall provide twenty percent of the dwelling units as inclusionary units, which shall be made available for rent to low income households at an affordable rent.

b. SRO Developments. In a rental residential development comprised of SRO units, twenty percent of the single-room occupancy units shall be made available for rent to very low income households at an affordable rent.

c. Fractional Affordable Housing Requirement for Rental Residential Developments with More Than Ten Dwelling Units. If the number of dwelling units required results in a fractional requirement of 0.7 or less, then there will be no inclusionary requirement for the fractional unit. If the number of dwelling units required results in a fractional requirement of greater than 0.7, then the applicant shall make one inclusionary unit available at an affordable rent. This subsection (5)(c) applies to the fractional unit only, and whole units shall be provided as required by subsections (4)(a) and (b).

6. The requirements of subsections (3) through (5) are minimum requirements and shall not preclude a residential development from providing additional affordable units or affordable units with lower rents or sales prices than required.

a. By mutual agreement by the developer, the planning and community development director, and the economic development director, the percentage of inclusionary units may be increased in exchange for reduced parking and/or other development requirements.

b. If the developer agrees to make at least forty percent of the residential project available for rent to low income households at a rental cost affordable to low income households, in addition to reduction of development requirements, by mutual agreement by the developer, the planning and community development director, and the economic development director, the city may also provide financial incentives to increase the number of inclusionary units in a project.

7. For purposes of calculating the number of inclusionary units required by this section, an accessory dwelling unit or units shall not be counted either as part of the residential development or as an affordable unit fulfilling the inclusionary requirements for the residential development unless an alternative is approved under Section 24.16.030.

8. For purposes of calculating the number of inclusionary units required by this section, any dwelling units authorized as a density bonus pursuant to Part 3 of this chapter shall not be counted as part of the residential development. However, if a developer receives a city rental housing bonus as authorized by Section 24.16.035(4), then all of the dwelling units in the project, including the dwelling units authorized as a density bonus, shall be counted as part of the residential development for purposes of calculating the inclusionary units required by this section.

24.16.025 STANDARDS FOR INCLUSIONARY UNITS.

1. All inclusionary units shall remain affordable in perpetuity.

2. Inclusionary units shall be dispersed throughout the residential development to prevent the creation of a concentration of affordable units within the residential development.

3. Inclusionary units shall be compatible with the design of market rate units in terms of exterior appearance, materials, and finished quality. Interior finishes, features, and amenities may differ from those provided in the market rate units, so as long as the finishes, features, and amenities are durable, of good quality, compatible with the market rate units, and consistent with contemporary standards for new housing.

4. The applicant may reduce square footage of inclusionary units as compared to the market rate units, provided all units conform to all requirements of Titles 18 and 19 and meet the minimum square footage requirement that affordable units are at least seventy-five percent of the average size of all market rate units in the development with the same bedroom count. For the purpose of this subsection, the “average size” of a unit with a certain bedroom count equals the total square footage of all market rate units with that bedroom count in the development divided by the total number of market rate units with the same bedroom count in the development.

5. For developments with multiple market rate unit types containing differing numbers of bedrooms, inclusionary units shall be representative of the market rate unit mix.
6. All building permits for inclusionary units in a phase of a residential development shall be issued concurrently with, or prior to, issuance of building permits for the market rate units, and the inclusionary units shall be constructed concurrently with, or prior to, construction of the market rate units. Occupancy permits and final inspections for inclusionary units in a phase of a residential development shall be approved concurrently with, or prior to, approval of occupancy permits and final inspections for the market rate units. When alternative methods of compliance are proposed pursuant to Section 24.16.030, the planning and community development director and the economic development director may jointly approve alternative phasing of market rate and inclusionary units if it finds that the proposal provides adequate security to ensure construction of the inclusionary units. Phases of construction shall be defined as a part of the first approval.
7. **Rental to Tenant Based Subsidy Holders .**
 - a. Owners of rental residential developments or SRO developments shall accept Tenant Based Subsidy Holders (Subsidy Holders) as tenants of the inclusionary units, on the same basis as all other prospective tenants. The owner shall not apply selection criteria to Subsidy Holders that are more burdensome than the criteria applied to all other prospective tenants, nor shall the owner apply or permit the application of management policies or lease provisions which have the effect of precluding occupancy of the inclusionary units by Subsidy Holders.

24.16.030 ALTERNATIVE METHODS TO COMPLY WITH INCLUSIONARY HOUSING REQUIREMENTS.

1. Application Submittal. Any application to use an alternative method to meet inclusionary housing requirements shall be submitted as part of the first approval for any residential development subject to the inclusionary housing requirements.
2. Findings. For all alternative methods of compliance with the inclusionary housing requirements, the approval body must make findings (a) and (b) in this subsection. Approval body determinations regarding alternative methods of compliance may be appealed as provided in Section 24.16.050.
 - a. The proposal for the alternative method of compliance is consistent with the Santa Cruz General Plan and all of its elements.
 - b. The proposal conforms to the standards established for inclusionary units in Section 24.16.025, unless the alternative method does not require compliance with that section.

3. Off-Site Construction of Inclusionary Units. An applicant may propose to construct all or a portion of the required inclusionary units off site. Off-site inclusionary units may include any combination of new dwelling units, or new dwelling units created in existing structures. For the purposes of determining compliance with the city's inclusionary housing requirements, all properties included in the proposal shall be treated as one residential development.

a. An application for off-site inclusionary units shall be accompanied by the following information:

- (1) Identification of all of the entities responsible for development of the market rate units and the inclusionary units.
- (2) The location of the sites where the market rate and inclusionary units will be constructed.
- (3) For each site, the same level of detail for the off-site inclusionary units as for the market rate residential development including: the number, unit type, number of bedrooms and baths, approximate location, size, and design, construction and completion schedule of all inclusionary units including the phasing of inclusionary units in relation to market rate units.
- (4) If the inclusionary units will not be constructed concurrently with the market rate units, the applicant shall specify the security to be provided to the city to ensure that the inclusionary units will be constructed.
- (5) Evidence of ownership or control of all sites proposed for market rate and inclusionary units. This requirement may be waived at the sole discretion of the planning and community development director with sufficient evidence that ownership or control will be secured within a reasonable amount of time after the application is submitted.

b. At the joint discretion of the planning and community development director and the economic development director, off-site units may be excluded from existing low income areas as defined by U.S. Department of Housing and Urban Development and/or where there is a concentration of low income households.

c. The approval body may approve a proposal for off-site inclusionary units if it makes all of the findings required by subsection (2) and each of the following findings:

- (1) The off-site development will provide the greater of one affordable unit or thirty percent more inclusionary units than would otherwise be required if the inclusionary units were constructed on site;
- (2) The off-site location is suitable for the proposed affordable housing and will not tend to cause residential segregation;

(3) The developer has provided clear and convincing evidence that financing has been secured for the off-site inclusionary units; and

(4) Each entity responsible for development of the inclusionary and market rate units has adequate site control and the capacity to construct the units as proposed.

d. Prior to final or parcel map approval and prior to issuance of any building permit for the residential development, the owner and the developer of the site where the off-site inclusionary units will be located and the developer of the residential development shall all enter into the developer affordable housing agreement required by Section 24.16.040.

e. Prior to issuance of any certificate of occupancy or final inspection for any market rate units, the owner and the developer of the site where the off-site inclusionary units will be located shall enter into a regulatory agreement to ensure that the off-site inclusionary units will remain affordable in perpetuity.

f. Once an applicant has received approval for off-site construction of inclusionary units on a specific site, no substitution of sites may be made unless approved by the planning and community development director.

g. If the off-site construction of inclusionary units is not substantially completed within eighteen months of completion of on-site construction then the approval body may require the applicant to pay double the amount of in-lieu fees as provided for in subsection (6).

4. Conversion of Existing Market Rate Housing or Upper Floors of Commercial/Office Buildings to Inclusionary Units. An applicant may propose to convert existing residential units or upper floors of commercial/office buildings into inclusionary units in lieu of constructing new inclusionary units on site.

a. Any application to convert existing residential units or existing commercial/office space into inclusionary units shall be accompanied by the following information regarding the existing dwelling units proposed to be converted:

(1) Identification of all of the entities responsible for development of the market rate units and the inclusionary units.

(2) The location of the site where the existing units will be converted to inclusionary units and evidence of ownership or control of all sites proposed for conversion of existing units to inclusionary units.

(3) If the inclusionary units will not be constructed concurrently with the market rate units, the applicant shall describe the proposed phasing and specify the security to be provided to the city to ensure that the inclusionary units will be constructed.

- (4) The same level of detail for the converted inclusionary units as for the market rate residential development for the following:
- (i) Floor plans showing size and number of bedrooms of the units to be converted; number of bedrooms and square footage of market rate units in the proposed residential development.
 - (ii) Site plans and building elevations showing landscaping, lot lines, property dimensions, easements, location of all structures, and parking for the units to be converted.
- (5) Existing rent or appraised value of each unit on the property to be converted, proposed rents or sales prices after rehabilitation and/or conversion, and any existing rent limits, resale price restrictions, or other affordability restrictions imposed by any public agency, nonprofit agency, land trust, or other body.
- (6) For conversion of market rate housing units, size of household occupying each unit on the property to be converted, vacancy rates for each month during the past two years, and existing tenant incomes.
- (7) For conversion of market rate housing units, a property inspection report prepared by a certified housing inspector and a termite report, both prepared no more than sixty days before the filing of the application. The property inspection report shall include an examination of all common and private areas within the existing dwelling units for compliance with the Uniform Housing Code, the structural condition of the property, identification of all code violations or unsafe elements, any potentially hazardous soil or geologic conditions, and condition of paved areas and drainage.
- (8) For conversion of commercial space, a property inspection report prepared by a certified inspector and a termite report, both prepared no more than sixty days before the filing of the application. The property inspection report shall include an examination of all common and private areas, the structural condition of the property, identification of all code violations or unsafe elements, any potentially hazardous soil or geological conditions, and condition of paved areas and drainage.
- (9) Plans and a written description of rehabilitation to be completed, including correction of all code violations and completion of all termite repairs described in the property inspection report and termite report; cost of rehabilitation; and the value of the property, including land, buildings, and all other improvements, after rehabilitation.
- (10) Description of benefits to be offered to existing tenants, which for conversion of market rate housing units would include but not be limited to right

of first refusal to remain in the unit, and any expected need for relocation of existing tenants.

b. At the joint discretion of the planning and community development director and the economic development director, off-site units may be excluded from existing low income areas as defined by U.S. Department of Housing and Urban Development and/or where there is a concentration of low income households if such exclusion will not tend to cause residential segregation.

c. No inclusionary units may be created by converting existing rental dwelling units into condominiums.

d. The conversion of existing market rate housing or conversion of existing commercial/office space to inclusionary units is not required to comply strictly with Section 24.16.025, with deviations subject to the joint approval of the planning and community development director and the economic development director. Unless otherwise determined by agreement of both the planning and community development director and the economic development director, if conversion of existing units is proposed and the existing residential development requires significant rehabilitation (costs estimated at about twenty-five percent of after-construction value), all units in the existing residential development shall be rehabilitated in addition to the inclusionary units.

e. The approval body may approve a proposal for conversion of existing dwelling units to inclusionary units if it makes all of the findings required by subsection (2) and all of the following findings:

(1) The off-site development will provide the greater of one affordable unit or thirty percent more inclusionary units than would otherwise be required if the inclusionary units were constructed on site;

(2) The developer has provided clear and convincing evidence that financing has been secured for the off-site inclusionary units;

(3) Each entity responsible for development of the inclusionary and market rate units or commercial space has adequate site control and the capacity to construct the units as proposed;

(4) The rehabilitation plans include all construction required to meet all current requirements of the Uniform Housing Code, as determined by the chief building official of the city;

(5) For conversion of market rate housing units the cost of rehabilitation is greater than twenty-five percent of the value of the property, including land, buildings, and all other improvements after rehabilitation unless otherwise determined by agreement of both the planning and community development

director and the economic development director that conditions of the property do not require substantial rehabilitation; and

(6) The dwelling units or commercial space to be converted are not subject to any rent limits, resale price restrictions, or other affordability restrictions imposed by any public agency, nonprofit agency, land trust, or other body, unless the affordability restrictions are at risk of expiring within five years and the existing agreement with affordability restrictions cannot be renewed, or the conversion will make the units affordable to households with lower incomes than the existing affordability restrictions.

f. For conversion of market rate housing units, if more than forty percent of the units on one site will be converted to inclusionary units, the approval body must additionally find that the rehabilitated inclusionary units will remove blight and enhance physical and social conditions in the surrounding area.

g. The conversion of existing market rate housing or conversion of existing commercial/office space may be based on the number of bedrooms in the residential development to encourage the development of smaller units when feasible. The converted units shall not be larger in terms of the number of bedrooms than the required inclusionary unit that the converted unit is replacing, unless approved by the planning and community development director, and in no event shall the maximum number of bedrooms in a unit satisfying inclusionary requirements using bedroom counts exceed the smaller of either: (1) the market rate unit in the development with the greatest number of bedrooms; or (2) three bedrooms.

h. Any existing tenants in units proposed to be converted who are relocated shall be eligible for relocation benefits pursuant to Section 24.08.1350.

i. If the conversion of existing units and substantial rehabilitation of the development is not substantially completed within eighteen months of completion of the new residential development, then the approval body may require the applicant to pay double the amount of in-lieu fees as provided for in subsection (6).

5. Transfer of Credit. An applicant may propose to receive credit for affordable units constructed prior to or concurrently with the market rate project.

a. When a residential development is proposed that includes more inclusionary units than required by this part, the applicant may propose that the excess inclusionary units be made available to satisfy inclusionary requirements on other sites. The credits may be made available to other residential developments for a maximum period of five years from issuance of the last certificate of occupancy for the residential development that includes the excess inclusionary units.

- b. The residential development that includes the excess inclusionary units may not receive or have received any local, state, or federal affordable housing financial assistance.
- c. An application for a residential development that includes excess inclusionary units proposed to be made available for credit shall be accompanied by the following as part of the first approval for the residential development:
 - (1) Identification of excess inclusionary units to be made available for credit to other residential developments, including in particular the number of bedrooms, tenure, size, and location.
 - (2) Person or entity authorized to transfer credit to other residential developments.
- d. An application for a residential development that proposes to receive credit for inclusionary units previously approved for the transfer of credit shall be accompanied by the following:
 - (1) A written agreement with the holder of the rights to the excess inclusionary units consenting to the transfer of credit.
 - (2) Evidence that the transferred units satisfy all or a portion of the residential development's inclusionary requirements, including but not limited to inclusionary units of an appropriate size with at least the same number of bedrooms and tenure as would otherwise be required.
 - (3) Sufficient evidence provided that demonstrates to the satisfaction of the planning and community development director that the inclusionary units to be credited to the residential development have been constructed or will be constructed prior to or concurrently with the market rate units in the residential development.
- e. The city council may approve a proposal to use excess inclusionary units on another site to meet the development's inclusionary requirements if it makes all of the findings required by subsection (2) and the following findings:
 - (1) The off-site residential development with excess inclusionary units will provide the greater of one affordable unit or thirty percent more inclusionary units than would otherwise be required if the inclusionary units were constructed on site.
 - (2) The excess inclusionary units are of an appropriate size with at least the same number of bedrooms and tenure as would otherwise be required, and have already been constructed or will be constructed prior to or concurrently with the market rate units in the residential development.

6. In-Lieu Housing Fees.

a. An applicant may pay in-lieu fees to the city rather than construct inclusionary units on site under the following circumstances:

(1) For all ownership residential developments or residential subdivisions that would create two but no more than four additional dwelling units or parcels at one location, the applicant may elect to pay an in-lieu fee for the fraction of an inclusionary unit equal to 0.15 times the number of units or parcels in the residential development or subdivision reduced by sixty percent.

(2) For ownership residential developments where any dwelling units are offered for sale, or where all dwelling units are offered for rent, but where a subdivision map has been recorded to create parcels containing single dwelling units, the applicant may elect to pay an in-lieu fee for any fraction of an inclusionary unit equal to 0.7 or less.

(3) For rental residential developments that would create five but no more than ten additional dwelling units at one location, the applicant may elect to pay an in-lieu fee for any inclusionary unit or fraction of an inclusionary unit as required by Section 24.16.020(5).

(4) For residential developments that the approval body determines are assisted living units, co-housing developments, congregate living units, or live/work units the applicant may elect to pay an in-lieu fee for the entire inclusionary unit requirement.

(5) Except as provided in subsection (6)(c), for all other residential developments creating five or more units, in-lieu fees may be paid for all or a portion of the required inclusionary units at the discretion of the approval body if the approval body makes the findings required by subsection (2), accompanied by a staff report with a recommendation from the planning and community development director and the economic development director, except that conformance with Section 24.16.025 is not required. The approval body must also find that either the in-lieu fees will provide for the greater of one affordable unit or at least thirty percent more inclusionary units or affordable housing than would be provided by the on-site provision of inclusionary units by providing matching funds for state or federal grants or otherwise. It is the city council's intent that, except as provided in subsections (6)(a)(1) through (4), in-lieu fees be infrequently approved.

b. In-lieu fees may be established from time to time by resolution of the city council or may be determined for a specific residential development by calculating the difference between (1) the affordable sales price of an inclusionary unit, and (2) the value of a market rate unit. The value of a market rate unit shall be determined by an appraisal

provided by the developer from a qualified appraiser that was completed within three months prior to entering into an affordable housing agreement.

(1) The market rate value to calculate in-lieu fees for live/work units may be calculated using a square footage multiplier times one hundred percent of the designated residential areas and fifty percent of the designated work areas. The source of the square footage multiplier may be the most recent data from internet real estate data resources such as Zillow, Trulia, or other available sources that reflect actual market values or from a square footage appraisal provided by the developer from a qualified appraiser that was completed within three months prior to entering into an affordable housing agreement.

(2) The market rate value to calculate in-lieu fees for co-housing developments may be calculated using a square footage multiplier times one hundred percent of the square footage of an average size unit plus a proportionate amount of shared space, as jointly determined to be reasonable by the planning and community development director and the economic development director. The source of the square footage multiplier may be the most recent data from internet real estate data resources such as Zillow, Trulia, or other available sources that reflect actual market values or from a square footage appraisal provided by the developer from a qualified appraiser that was completed within three months prior to entering into an affordable housing agreement.

c. In-lieu fees per parcel for subdivisions shall be calculated to be fifty percent of the average appraised value of the parcels in the subdivision where the average appraised value equals the appraised value of all parcels in the subdivision divided by the number of parcels in the subdivision. The appraisal shall be provided by the developer from a qualified licensed residential appraiser. For subdivisions that consist of two to four parcels, this amount shall be further reduced by sixty percent.

d. For residential developments, in-lieu fees shall be paid prior to or at the time of final inspection by the city planning and community development building division, or as determined in an affordable housing development agreement, with additional terms approved by the approval body. For projects constructed in phases, in-lieu fees shall be paid in the proportion that the phase bears to the overall project.

e. Notwithstanding subsection (6)(c), in-lieu fees for subdivisions shall be paid prior to or concurrently with final subdivision map approval.

f. All in-lieu fees shall be deposited into a separate account entitled the affordable housing trust fund. The monies in the affordable housing trust fund and all earnings from investment of the monies in the affordable housing trust fund shall be used within a reasonable amount of time to assist in the construction of new low income housing units with long-term affordability restrictions or preservation of existing low income housing units, including required administrative support.

7. Land Dedication. For residential developments with an inclusionary requirement of seven or more inclusionary units, an applicant may propose to donate a minimum of fifteen percent of the net developable land area of the residential development to the city for the construction of a project with at least twenty-five percent of its total units restricted to low income households or below, or a lesser amount of land if the parcel is adjacent to a city owned land and is determined by the economic development director that the parcel is a critical component of a larger city supported affordable housing project.

a. An application for land dedication shall be accompanied by the following information. These requirements may be modified or waived at the sole discretion and joint determination of the planning and community development director and the economic development director if the dedicated land is adjacent to city owned land and/or can be incorporated into a city supported affordable housing development project.

(1) Area to be dedicated to the city.

(2) Demonstration that the density approved for the site is suitable for affordable housing development, evidence of adequate infrastructure, and a site plan demonstrating that the site can accommodate the required number of inclusionary units.

(3) Identification of the entity that will construct the inclusionary units.

(4) Pro forma demonstrating that development of the inclusionary units on the site is financially feasible.

(5) If the inclusionary units will not be constructed concurrently with the market rate units, the applicant shall describe the proposed phasing and specify the security to be provided to the city to ensure that the inclusionary units will be constructed.

b. The approval body may approve a proposal for land dedication if it makes all of the findings required by subsection (2) and the following additional finding: a residential development that includes twenty-five percent low income units is feasible on the property to be dedicated.

c. The property shall be dedicated to the city at the earliest of: (1) recordation of any final or parcel map, or (2) issuance of any building permit for the residential development.

d. The city may make the site available without cost to a low income housing developer with proven experience and the ability to finance and construct an affordable housing project in the most expeditious manner. To the extent feasible, the applicant shall process the low income residential development on the dedicated site concurrently with the processing of the market rate development.

8. Congregate Living Units or Assisted Living Units. An applicant may propose to satisfy the inclusionary housing requirements of this chapter by providing congregate living units or assisted living units. If the approval body determines that a proposed residential development includes congregate living units or assisted living units, the following alternative requirements shall apply:

- a. Fifteen percent of the congregate living or assisted living units shall be made available for rent to low income households at an affordable rent. Monthly charges for congregate living or assisted living services in addition to the affordable rent may not exceed thirty-five percent of fifty percent of area median income for a single person, divided by twelve, or forty-five percent of fifty percent of area median income for two persons, divided by twelve.
- b. The proportion of studio or one-bedroom units that are designated to be shared by non-family-members shall not exceed the proportion of the number of market rate units designated to be shared by non-family-members to the total number of market rate units. Furthermore, no more than two persons may occupy a studio or one-bedroom unit. For purposes of affordable rent calculations, for any unit shared by non-family-members the portion of the unit occupied by each individual shall be treated like a studio apartment and the rent for one person shall be equivalent to the affordable rent for a studio apartment. This section should not be interpreted to create a bias for undesired double occupancy.

9. Rental to Tenant Based Subsidy Holders.

- a. Owners of rental residential developments or single-room occupancy unit (SRO) developments may elect to use the following procedures to offer inclusionary units comprising up to five percent (5%) of the total units in the development as payment standard units available to Tenant Based Subsidy Holders (Subsidy Holders). The Developer Affordable Housing Agreement, as defined in SCMC Section 24.16.040, shall require that fifteen percent (15%) of the total units in the development will be restricted to low income households at an affordable rent, and that five percent (5%) of the total units in the project will be payment standard units restricted to moderate income households at an affordable rent as defined in Section 24.16.015(2b) or rented to Subsidy Holders, so long as the development complies with the procedures described in subsections (b) through (e) below to offer the five percent (5%) payment standard units in the development to Subsidy Holders. Both the low income units and the payment standard units shall remain affordable in perpetuity as per SCMC 24.16.025(1).
- b. The owner will notify the Housing Authority of the County of Santa Cruz (Housing Authority) that a unit or units are available for rent to Subsidy Holders and list the units on the Section 8 Housing Choice Voucher rental listing website, advertising the units to Subsidy Holders within one week of the following dates (as applicable):

- (1) At initial lease-up, when new inclusionary units are initially marketed, and prior to receipt of a certificate of occupancy or final inspection, the owner shall

list the five percent (5%) payment standard units on the Housing Authority's Section 8 Housing Choice Voucher rental listing website, advertising the units to Subsidy Holders (or other marketing service as requested by the Housing Authority).

(2) At receipt by the owner of a notice of vacancy or availability of a vacated unit in a designated payment standard unit, the owner shall list that unit on the Housing Authority's Section 8 Housing Choice rental listing website (or other marketing service as requested by the Housing Authority).

c. Thirty (30) days after the owner lists the available unit or units on the Housing Authority's Section 8 Housing Choice rental listing website, the rent for five percent (5%) payment standard units will be established as either:

(1) The Payment Standard rent, as defined by the Housing Authority, if the owner enters into a Housing Assistance Payments Contract for a Subsidy Holder with the Housing Authority; or

(2) Either Payment Standard rent or a deed restricted rent, as defined in Section 24.16.015(2b), affordable to income qualifying moderate income households, whichever is less, if no eligible Subsidy Holder applied to rent the unit, as demonstrated by the owner.

d. In order to qualify under this Section, an owner will be required to enter into a Housing Assistance Payment contract with the Housing Authority for each payment standard unit rented to a Subsidy Holder and a rental agreement with Subsidy Holders who become tenants of the owner. When either a Subsidy Holder or moderate income tenant vacates one of the five percent (5%) designated payment standard units, the owner shall again follow the process outlined in SCMC 24.16.030(9)(c).

e. The owner will be required to retain records proving the 30 day marketing requirement was met and, if rented to a moderate income household, demonstrating that no eligible Subsidy Holder submitted a rental application. These records must be available upon request from the City at any time after the 30 day period and must be retained for five years after each time one of the units undergoes the 30 day Housing Authority marketing requirement process.

f. The owner may elect to offer low income units to Subsidy Holders if the following criteria are met:

1. If a Subsidy Holder applies for a vacant unit and any payment standard unit is available, the Subsidy Holder must occupy the payment standard unit before any vacant low income unit is occupied.
2. If a Subsidy Holder applies for a vacant unit and all payment standard units are occupied by Subsidy Holders, the Subsidy Holder may be placed in a vacant low income unit, and the rent charged to the Housing

Authority cannot exceed the Santa Cruz Housing Authority Payment Standard rent, and the owner must enter into a Housing Assistance Payments Contract for a Subsidy Holder with the Housing Authority.

3. If a Subsidy Holder applies for a vacant unit and not all of the payment standard units in the project are occupied by Subsidy Holders, the Subsidy Holder may be placed in a vacant low income unit, but the rent paid to the owner by the Santa Cruz Housing Authority may not exceed the affordable rent for the low income unit until all of the payment standard units in the project are occupied by Subsidy Holders. The location of the designated payment standard units may be modified to include other units occupied by Subsidy Holders, so long as the owner notifies the City in writing of the changed location of the payment standard units.

10. Other Alternative Compliance Methods. An applicant may propose an alternative compliance method to provide affordable units through other means. The approval body may approve or conditionally approve such an alternative only if the approval body determines, based on substantial evidence, that such alternative compliance will provide as many or more affordable units at the same or lower income levels and will otherwise provide greater public benefit than would provision of the affordable units on site.

24.16.035 INCENTIVES FOR COMPLIANCE WITH INCLUSIONARY HOUSING REQUIREMENTS.

The following incentives may be available for the provision of inclusionary units:

1. Fee waivers may be granted pursuant to Part 4 of this chapter.
2. A residential development may satisfy its inclusionary housing requirements through any of the alternative compliance methods available in Section 24.16.030 in lieu of providing inclusionary units on site.
3. The interior amenities and square footage of the inclusionary units may be reduced below those required for the market rate units, as provided in Section 24.16.025(4).
4. Residential developments in which all dwelling units are offered for rent, inclusionary units are provided within the development, no subdivision map has been recorded, and no density bonus under Part 3 of this chapter has been requested are eligible for the following additional incentive:
 - a. A twenty-seven and one-half percent “city rental housing bonus.”

24.16.040 DEVELOPER AFFORDABLE HOUSING AGREEMENT.

1. Developers subject to the inclusionary housing requirements of this part shall agree to enter into a developer affordable housing agreement with the city. A developer affordable housing agreement shall be a condition of approval for all residential developments subject to this chapter

and shall be recorded as a restriction on any residential development in which the inclusionary units will be constructed.

2. The developer affordable housing agreement shall be recorded prior to or concurrently with final parcel map or final subdivision map approval, or, where the residential development does not include a map, prior to issuance of a building permit for any structure in the residential development. The developer affordable housing agreement shall run with the land and bind all future owners and successors in interest.

3. The developer affordable housing agreement shall be in a form provided by the city and shall include, without limitation, the following:

- a. The total number of units approved for the residential development and the number, location, and level of affordability of inclusionary units.
- b. Standards for determining affordable rent or affordable ownership cost for the inclusionary units.
- c. The location, unit size in square feet, and number of bedrooms of the inclusionary units.
- d. Provisions to ensure initial and continuing affordability, including the execution and recordation of subsequent agreements.
- e. A schedule for completion and occupancy of inclusionary units in relation to construction of market rate units.
- f. A description of remedies for breach of the agreement by either party. The city may identify tenants or qualified purchasers as third party beneficiaries under the agreement.
- g. Procedures for qualifying tenants and prospective purchasers of inclusionary units.
- h. Provisions requiring maintenance of records to demonstrate compliance with this chapter.
- i. Provisions specifically describing how affordable rent and/or affordable ownership costs are calculated for the inclusionary units. Unless another basis has mutually been agreed upon by the developer, the planning and community development director, and the economic development director, the determination shall be made in accordance with Section 24.16.045(4). If there is more than a three-year delay in execution of the developer affordable housing agreement and the final building permit, the developer may request any in-lieu fees be recalculated and with the concurrence of the planning and community development and economic development directors, the city may recalculate fees accordingly.

4. Other provisions to ensure implementation and compliance with this chapter.

24.16.045 CONTINUED AFFORDABILITY AND INITIAL OCCUPANCY.

1. The city council, by resolution, shall establish guidelines for determining household income, asset limits, occupancy standards, affordable ownership cost, affordable rent, provisions for continued monitoring of tenant eligibility, resale price, and other implementation criteria. The city shall use standard documents as approved by the city attorney to ensure the continued affordability of the inclusionary units in all residential developments. The documents may include, but are not limited to, inclusionary housing agreements, rent regulatory agreements, promissory notes, deeds of trust, options to purchase, and resale restrictions.
2. Rent regulatory agreements consistent with the requirements of this part shall be recorded against residential developments containing rental inclusionary units. If the inclusionary units are designated for owner-occupancy, resale restrictions, deeds of trust, options to purchase, and/or other documents consistent with the requirements of this part shall be recorded against the owner-occupied inclusionary units.
3. Any household that occupies an inclusionary unit must occupy that unit as its principal residence, except in circumstances that may require the temporary vacation of the unit. For rented inclusionary units, the documents required by subsection (1) shall provide for continued occupancy for limited periods by households occupying the units, whose incomes increase during their occupancy so that they exceed the maximum otherwise permitted for the unit.
4. The maximum sales price shall be calculated using the methodology defined in the resolution and/or guidelines identified in and applied under the inclusionary agreement for that property. Unless otherwise required by California Government Code Section 66474.2, Government Code Section 65589.5(o), or any other applicable state codes or successor provisions, the resolution in effect at the time of first approval shall be the basis for these calculations, unless another inclusionary ordinance or implementing resolutions basis more recently approved by the Council has been defined and mutually been agreed upon by the developer, the planning and community development director, and the economic development director or otherwise authorized by the approval body. The resale restrictions shall allow the city a right of first refusal or option to purchase any owner-occupied inclusionary unit at the maximum resale price permitted under this section at any time the owner proposes sale.
5. No household shall be permitted to begin occupancy of an inclusionary unit designated for owner-occupancy unless the city or its designee has approved the household's eligibility. No household shall be permitted to begin occupancy of an inclusionary rental unit unless the city or its designee has approved the household's eligibility, except that tenants are not required to be income-eligible if the rental cost affordable to low income households is at least ninety percent of the average rent for market rate dwelling units with the same number of bedrooms in the development.
6. As consistent with state and federal law, preferences for rental inclusionary units shall be given in the following priority order:
 - a. Residents of the city of Santa Cruz for at least one year.

- b. Those employed in the city of Santa Cruz.
 - c. Residents of the county of Santa Cruz for at least one year.
 - d. Those employed in the county of Santa Cruz.
7. As consistent with state and federal law, preferences for ownership inclusionary units shall be given in the following priority order:
- a. Those who live or work in the city of Santa Cruz.
 - b. Those who live or work in the county of Santa Cruz.
8. The city council by resolution may establish fees for the ongoing administration and monitoring of the inclusionary units, which fees may be updated periodically, as required.

24.16.050 APPEALS.

1. An applicant or any other person whose interests are adversely affected by any determination of the planning and community development department staff or of an agency retained by the city with regard to this part may appeal the determination to the planning and community development director.
2. An applicant or any other person whose interests are adversely affected by the determination of the planning and community development director with regard to this part may appeal the determination to the city council.
3. The procedure for appeals shall be consistent with the procedures prescribed in Sections 24.04.180 through 24.04.185.

24.16.055 WAIVERS OR REDUCTIONS OF INCLUSIONARY HOUSING REQUIREMENTS.

1. Notwithstanding any other provision of this chapter, the inclusionary housing requirements may be waived, adjusted, or reduced if an applicant shows, based on substantial evidence, that there is no reasonable relationship between the impact of a proposed development and the requirements of this part, or that applying the requirements of this chapter would take property in violation of the United States or California Constitution.
2. Any request for a waiver, adjustment, or reduction under this section shall be submitted as a part of the first approval. The request for a waiver, reduction, or adjustment shall set forth in detail the factual and legal basis for the claim.
3. The request for a waiver, adjustment, or reduction shall be reviewed and considered as a part of the first approval. In making a determination on an application for waiver, adjustment, or

reduction, the applicant shall bear the burden of presenting substantial evidence to support the claim. The city may assume each of the following when applicable:

- a. That the applicant will provide the most economical inclusionary units to meet the requirements of this chapter.
- b. That the applicant is likely to obtain housing subsidies when such funds are reasonably available.
- c. The extent to which the applicant will benefit from density bonuses or other incentives. The waiver, adjustment, or reduction may be approved by the approval body only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, based on substantial evidence, supporting the determinations required by this section.

24.16.060 IMPLEMENTATION AND ENFORCEMENT.

1. The city council may adopt guidelines, by resolution, to assist in the implementation of all aspects of this part.
2. In addition to any other powers or duties prescribed by law, the economic development director shall have the following powers and duties in relation to this part:
 - a. To monitor compliance with the provisions of this part and to refer to the city attorney for appropriate action any person violating the provisions of this part; and
 - b. To administer this part.
3. The city attorney shall be authorized to enforce the provisions of this part, all agreements entered into pursuant to this part, and all other requirements of this part, by civil action and any other proceeding or method permitted by law. The city may, at its discretion, take such enforcement action as is authorized under any provision of this code and/or any other action authorized by law or by any agreement executed pursuant to this part.
4. Failure of any official or agency to enforce the requirements of this chapter shall not constitute a waiver or excuse any applicant or owner from the requirements of this part. No permit, license, map, or other approval or entitlement for a residential development shall be issued, including without limitation a final inspection or certificate of occupancy, until all applicable requirements of this part have been satisfied.
5. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the city from any other remedy or relief to which it otherwise would be entitled under law or equity.