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ORDINANCE NUMBER O- 19600 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 27 2007

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO REPEALING CHAPTER 10, ARTICLE 3, DIVISION 20, OF THE SAN DIEGO MUNICIPAL CODE, AND AMENDING CHAPTER 15, BY ADDING ARTICLE 11, DIVISION 1 TITLED "GENERAL RULES," SECTIONS 1511.0101, 1511.0102, 1511.0103, AND 1511.0104; DIVISION 2 TITLED "PERMITS AND PROCEDURES," SECTIONS 1511.0201, 1511.0202, 1511.0203, AND 1511.0204; DIVISION 3 TITLED "ZONING AND SUBDISTRICTS," SECTIONS 1511.0301 AND 1511.0302; DIVISION 4 TITLED "GENERAL AND SUPPLEMENTAL REGULATIONS," SECTIONS 1511.0401, 1511.0402, 1511.0403, AND 1511.0404, ALL RELATING TO THE MARINA PLANNED DISTRICT.

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 10, Article 3, Division 20, is repealed, and Chapter 15 of the San Diego Municipal Code is amended by adding Article 11, Division 1, Sections 1511.0101, 1511.0102, 1511.0103, and 1511.0104, to read as follows:

**Article 11: The Marina Planned District**

**Division 1: General Rules**

**§1511.0101 Purpose and Intent**

The purpose of the Marina Planned District Ordinance is to establish development controls that will:

- (a) Create discreet neighborhoods
- (b) Encourage new housing
- (c) Conserve heritage buildings
- (d) Permit mixed-use developments
- (e) Provide opportunities for both large- and small-scale development

- (f) Guide the location of high-rise development intensity and land use characteristics
- (g) Establish strong linkages to the waterfront
- (h) Prescribe building mass standards
- (i) Establish a strong sense of pedestrian orientation at the street level

**§1511.0102 Boundaries**

The Marina Planned District is within the boundaries of the Centre City Community Plan and is comprised of a portion of the area within the boundaries of the Marina Redevelopment Plan in the City of San Diego, California, designated on that certain Map Drawing No. C-741, filed in the office of the City Clerk under Document No. OO-17123.

**§1511.0103 Applicable Regulations**

Where not otherwise specified in the Marina Planned District Ordinance, the following provisions of the Land Development Code apply:

- Chapter 11 (Land Development Procedures);
- Chapter 12 (Land Development Reviews);
- Chapter 13 (Zones);
- Chapter 14, Article 1 (Separately Regulated Use Regulations);
- Chapter 14, Article 2, Division 1 (Grading Regulations);
- Chapter 14, Article 2, Division 2 (Drainage Regulations);
- Chapter 14, Article 2, Division 3 (Fence Regulations);
- Chapter 14, Article 2, Division 6 (Public Facility Regulations);

Chapter 14, Article 2, Division 8 (Refuse and Recyclable Materials Storage Regulations);

Chapter 14, Article 2, Division 12 (Sign Regulations);

Chapter 14, Article 3 (Supplemental Development Regulations);

Chapter 14, Article 4 (Subdivision Regulations);

Chapter 14, Article 5 (Building Regulations);

Chapter 14, Article 6 (Electrical Regulations); and

Chapter 14, Article 7 (Plumbing and Mechanical Regulations)

Where there is a conflict between the Land Development Code and the Marina Planned District Ordinance, the Planned District Ordinance applies. All applicable building code requirements must be met for construction, alteration, addition or repair of a building.

**§1511.0104 Definitions**

For purposes of the Marina Planned District Ordinance, the following terms are defined as:

**Atrium** - means an opening through two or more floor levels which are enclosed on top. An Atrium does not include enclosed stairways, elevators, hoistways, escalators, plumbing, electrical, air conditioning or other equipment.

**Building Materials**- means all materials visible from the exterior of a development, including materials used for walls, roofs, structure windows, doors, architectural or decorative features applied to the facade and trim.

**Business and Home Services** - means establishments providing appliance repair, office machine repair, building maintenance (janitorial), upholstery, graphic design, drafting, blueprinting, typesetting, printing, copying or photographic services.

**Common Open Space** - means those usable spaces commonly accessible to all residents and users of the building.

**Conditional Planned District Permit** - is a permit which conditions development and is in effect after the approval of the Basic Concept/Schematic Drawings. It signals preliminary approval and allows the completion of the design review process.

**Cultural/Institutional** - means a term applied to any use which provides a public or quasi-public function or which is nonprofit.

**Eating and Drinking Establishments** - means businesses serving prepared food or beverages for consumption on or off the premises.

**Floor Area** - means the area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. Floor area does not include areas below grade which are considered basements under the California Building Code as adopted in Land Development Code Chapter 14, Article 5.

**Floor Area Ratio (FAR)** - means the ratio of total enclosed building area including parking at and above grade to the area of the site. The FAR is an indication of the intensity of development.

**Food Sales** - means retail sales of prepared food or food for home preparation including bakeries, candy stores, ice cream stores, delicatessens, grocery stores and supermarkets.

**Health Facilities** - means club rooms, gymnasias and fitness centers contained within a structure and ancillary to residential or commercial use.

**Height-to-Width Ratio** - means the ratio described for a high-rise building in which the vertical dimension of all facades is greater than 1.6 times the widest horizontal dimension.

**High rise** - means a building exceeding 90 feet in height.

**High-Rise Building Elements** - means high-rise buildings that have the following elements: base, tower and roof. The tower may be subdivided into transition floors, a lower tower and an upper tower.

**Land Use Mix** - means a percentage distribution of a building's gross floor area devoted to residential or nonresidential uses.

**Live/Work Quarters** - means an area comprised of one or more rooms or floors in a building which includes: (1) cooking space and sanitary facilities, and (2) working space reserved for persons residing therein.

**Low-Rise** - means a building with maximum height of 50 feet.

**Mass and Scale** - means the visual perception of the organization of the gross floor area of the structure compared to adjoining development.

**Mid-Rise** - means a building ranging in height from 50 feet to 90 feet.

**Mixed Use Development** - means developments in which two or more major land uses are permitted.

**Multi-Family Residential** - means a building used or designed to be used for housing three or more families.

**Personal and Convenience Services** - include services of a frequently recurring nature such as barber and beauty shops, drug stores, dry cleaning, self-service laundries, shoe repair and tailors.

**Personal Improvement Services** - means instructional services or facilities, including photography, fine arts, crafts, dance or music studios, driving schools, business and trade schools, reducing salons and fitness studios.

**Planned District Exception Permit** - means a permit that allows construction of projects which vary from the requirements of the Marina Planned District Ordinance regulations but which comply with the Marina Urban Design Plan and Development Guidelines and facilitate the establishment of a residential community.

**Planned District Permit** - means all permits which are required pursuant to the Marina Planned District Ordinance regulations.

**Private Open Space** - means those usable spaces accessible only by the residents of a single dwelling unit.

**Public Open Space** - means those usable spaces accessible by the general public.

**Recreational Facilities** - means outdoor facilities ancillary to a residential complex, including swimming pools, saunas and courts.

**Reflective Glass** - means a glazing material which obscures vision and has limited transparent qualities.

**Religious Assembly** - means facilities for religious workshop and incidental religious education.

**Residential Density** - means a measure of housing, expressed in dwelling units per acre (dupa).

**Schools -- Public & Private** - means buildings housing students for the primary purpose of education.

**Setback** - means a horizontal separation between a vertical element and a property line.

**Single Room Occupancy (SRO)** - means any hotel room within a hotel intended or designed to be used, or which is used, rented or hired out to be occupied for sleeping purposes by guests and which is also the primary residence of such guests. The term

does not include any hotel room which is used by transient guests who do not occupy such hotel room as their primary residence.

**Skyviews** - means a horizontal and near-horizontal views of the sky.

**Small Office -- Business and Professional Services** - includes offices such as architectural design, medical-dental, travel or administrative services, real estate, insurance and legal offices.

**Small Site Development** - means a designation applied to a block in which multiple developments occur.

**Stepback** - means the horizontal separation between two major vertical elements.

Stepbacks occur at upper levels.

**Street Level** - means any access opposite the public right-of-way which ranges from 4 feet below grade to 5 feet above grade.

**Streetwall** - means the facade of buildings, or frontage, along a property line shared with a public right-of-way.

**Tower** - means any structure that exceeds a height of 90 feet.

**Utility Substation** - means those structures and facilities which provide franchised or city utility services to land use and transportation systems located within the Marina Planned District.

Section 2. That Chapter 15 of the San Diego Municipal Code is amended by adding Article 11, Division 2, Sections 1511.0201, 1511.0202, 1511.0203, and 1511.0204, to read as follows:

**Article 11: The Marina Planned District**

**Division 2: Permits and Procedures**

**§1511.0201 Administrative Regulations**

(a) Administration

The Centre City Development Corporation ("CCDC") shall administer the Marina Planned District Ordinance as the designee of the City Council in accordance with the provisions of this Planned District Ordinance.

(b) Activities Regulated

(1) No building, structure or improvement or portion thereof shall be erected, constructed, converted, established, altered or enlarged, nor shall the use of any building or structure be changed, nor shall any such building, structure or improvement be used or occupied unless it complies with the requirements of the Marina Planned District Ordinance.

(2) The City Manager shall not issue any permit for such activities in any portion of the Marina Planned District until CCDC has issued a Marina Planned District Permit or a Marina Planned District Exception Permit signifying compliance with the provisions of this Planned District Ordinance.

**§1511.0202 Marina Planned District Permit Process**

(a) Permit Required

A Marina Planned District Permit shall be required prior to issuance of any City building permit within the Marina Planned District.

(b) Application for Marina Planned District Permit

(1) A Marina Planned District Permit shall be issued after the applicant has completed a three-step design review process consisting of the submission of:



- (A) Basic Concept/Schematic Drawings
- (B) Fifty percent Construction Drawings.
- (C) One hundred percent Construction Drawings.

CCDC may issue a Marina Planned District Permit after review of the drawings based on the size of the project, nature of improvement or the participation of the Redevelopment Agency. CCDC may, at its discretion, consolidate Steps 2 or 3 to facilitate review of the project.

- (2) CCDC shall review all Basic Concept/Schematic Drawings, 50 percent Construction Drawings and 100 percent Construction Drawings as identified in the Marina Planned District Ordinance regulations. The criteria for submitting each of the three types of drawings and a description of the design review process are as follows:

- (A) The Basic Concept/Schematic Drawings shall illustrate the basic organization of the site. CCDC shall review Basic Concept/Schematic Drawings for two-dimensional considerations such as the relationship of land use within the project, relationship of the project to proposed and existing land uses adjoining the site, siting considerations such as vehicular and pedestrian circulation, provision for public open space and three-dimensional images of the project. The applicant shall provide a narrative explanation of the design concept and shall submit the following items as part of the Basic Concept/Schematic Drawings:

- (i) Description of the development concept including the density, dwelling unit composition, gross area devoted to specific land use, number of floors, type of construction and FAR.
- (ii) Site plan at a scale no smaller than one thirty-second inch equals one foot ( $1/32" = 1'$ ). The site plan shall show the relationship of the proposed project to adjoining development within approximately 300 feet and shall also illustrate the dimensions of the site and the proposed project.
- (iii) Ground floor plan that illustrates subsurface and ground floor plans at a scale not smaller than one sixteenth inch equals one foot ( $1/16" = 1'$ ).
- (iv) Two project sections at a scale not smaller than one sixteenth inch equals one foot ( $1/16" = 1'$ ). foot.
- (v) Exterior concept elevations of each street frontage.
- (vi) One exterior perspective drawn from a street level view.
- (vii) Tabulation of the net leasable and gross building area including FAR, building coverage, Common Open Space areas, Private Open Space, total area devoted to parking and number of spaces.
- (viii) Preliminary identification of materials, finishings, colors and landscaping.

- (ix) Preliminary off-site improvements, landscape and grading plans that illustrate how the design elements of on-site public spaces are coordinated with the off-sites.
  - (x) Preliminary evaluation of environmental factors such as sun and shade on open space and adjoining properties.
  - (xi) Statement of conformity to or variation from the Marina Planned District Ordinance regulations.
  - (xii) Massing model that illustrates the scale and architectural design concept of the project.
- (B) Fifty percent Construction Drawings shall resolve concerns identified during review of the Basic Concept/Schematic Drawings. The applicant may be required to submit additional material for this review, shall including off-site improvement drawings and landscape plans.
- (C) One hundred percent Construction Drawings shall represent the final plans, specifications and other documentation for the proposed project. These drawings shall illustrate how the conditions approving the previous submissions have been accommodated. These drawings shall be in sufficient detail for the applicant to obtain a building permit.
- (c) Review Procedures.
- Application for a Marina Planned District Permit shall begin with the applicant's submission of Basic Concept/Schematic Drawings to CCDC.

Basic Concept/Schematic Drawings shall be reviewed according to the following process:

- (1) The President shall review all applications
  - (2) The Redevelopment Agency of the City of San Diego (the "Agency") shall review all projects that request or require financial assistance, are governed by either a Disposition and Development Agreement or an Owner Participation Agreement, or request an exception to the Marina Planned District Ordinance.
  - (3) Interested citizens and area residents may review and comment on individual projects prior to or at the time of the above reviews.
- (d) Determination -- Conditions of Approval

The approval, modification or disapproval of Basic Concept/Schematic Drawings shall be as follows:

- (1) CCDC may approve, modify or disapprove any application for a Marina Planned District Permit, described in Section 1511.0202(c)(1), which has been initiated by the submission of Basic Concept/Schematic Drawings. In approving a Marina Planned District Permit, CCDC may impose reasonable conditions to ensure compliance with these regulations.
- (2) CCDC shall advise the Agency and the Agency may approve, modify or disapprove any application for a Marina Planned District Permit, described in Section 1511.0202(c)(2), which has been initiated by the submission of Basic Concept/Schematic Drawings. In recommending approval of a Marina Planned District Permit, CCDC may propose to

the Agency reasonable conditions to ensure compliance with these regulations.

(e) Conditional Planned District Permit

The approval of Basic Concept/Schematic Drawings, as specified in Section 1511.0202(d), constitutes a Conditional Planned District Permit. Following approval, the applicant shall submit to CCDC the 50 percent Construction Drawings and 100 percent Construction Drawings to CCDC for approval.

(f) Issuance of Planned District Permit

If CCDC finds that the 100 percent Construction Drawings conform to the Conditional Planned District Permit, then the applicant may apply for any other necessary permits from the City.

(g) Permit Time Limits and Time Extensions

Any permit approved under this Planned District Ordinance shall be effective for a period not to exceed two years. CCDC may grant a one time extension of one year if it finds from the evidence submitted that there have been no material changes of circumstances since the permit was originally granted.

(h) Revocation

Following a hearing, CCDC may, at any time, revoke a Marina Planned District Permit issued under Section 1511.0202. CCDC shall give the holder of the Marina Planned District Permit 30 calendar days notice of the proposed revocation and hearing. After that hearing, CCDC may revoke a permit if it finds any of the following is true:

- (1) That the building or structure for which the permit was issued is being used for purposes other than or in addition to, the purposes and manner described in the permit application; or
- (2) That the use or operation of the building or structure for which the permit was issued is contrary to this Planned District Ordinance; or
- (3) That the building or structure for which the Marina Planned District Permit was issued was not constructed in compliance with the terms and conditions of the Marina Planned District Permit.

**§1511.0203 Conditional Use Permits**

- (a) Notwithstanding the provisions of Section 151.0401, the President of CCDC shall be the decision maker for the purpose of granting Conditional Use Permits within the boundaries delineated in Section 1511.0102.
- (b) The President shall grant Conditional Use Permits according to the provisions of Section 151.0401, Land Development Code Chapter 12, Article 6, Division 3 (Conditional Use Permit Procedures), and Chapter 14, Article 1 (Separately Regulated Use Regulations). Except as provided in 1511.0203(c), the appeals procedure shall remain the same for the Conditional Use Permits listed in Section 151.0401.
- (c) For those Conditional Use Permits listed in Section 151.0401 to be decided in accordance with Process Five, the President shall serve as the decision maker, but appeals shall be heard by the City Council, as set out in Land Development Code Section 112.0508.

**§1511.0204 Exceptions to the Provisions of the Marina Planned District Ordinance Regulations**

- (a) The Centre City Development Corporation may recommend and the Redevelopment Agency may approve permit exceptions from certain limits, restrictions and controls of this Planned District Ordinance as provided in Sections ~~1511.0302(b)(3)~~ and ~~1511.0302(c)~~.
  
- (b) Conditions under which exceptions to this ~~Planned District Ordinance~~ may be considered will be based on the developer's demonstration that the implementation of a proposed exception will meet the criteria described below. Application for exceptions shall be submitted concurrently with application for a Marina Planned District Permit in accordance with Section ~~1511.0202~~ (Marina Planned District Permit Process) and shall include:
  - (1) Demonstration that the proposed exceptions implement the intent of this ~~Marina Planned District Ordinance~~, comply with the objectives of the Marina Urban Design Plan and Development Guidelines and are design solutions which enhance the livability of the Marina Planned District.
  - (2) The granting of exceptions to the ~~Planned District Ordinance~~ does not adversely affect the development of the residential community.
  - (3) The granting of an exception will have a beneficial impact on the residential community.
  - (4) The granting of an exception will not establish an adverse precedent for the consideration of future requests for exception.

(5) The design of the proposed development is distinctively San Diegan and architecturally superior. Such distinction will be evaluated against the objectives of the Marina Urban Design Plan and Development Guidelines and one or more of the following:

- (A) The degree to which the architecture characterizes the historical context of San Diego as contrasted with any other location.
- (B) Incorporation or adoption of design elements from San Diego's architectural past into the proposed development.
- (C) Innovation or creativity of the project design.

(c) Review Procedures

Application for exceptions to the provisions of the Marina Planned District Ordinance regulations shall follow the review procedures outlined in Section 1511.0202(c), with the following additional requirements:

Two public hearings are required, the first before CCDC's Board of Directors and the subsequent hearing before the Redevelopment Agency. Notice shall be given at least 10 working days prior to the hearing of the time, place and purpose of the hearing in the following manner:

- (1) Submission of an application fee to cover the cost of noticing. The fee shall be published in the City Clerk's rate book.
- (2) The notice shall be prepared as required under Land Development Code Chapter 11, Article 2, Division 3 (Notice).



Section 3. That Chapter 15 of the San Diego Municipal Code is amended by adding Article 11, Division 3, Sections 1511.0301, and 1511.0302 to read as follows:

**Article 11: The Marina Planned District**

**Division 3: Zoning and Subdistricts**

**§1511.0301 Use Classifications for the Marina Planned District**

Use classifications for the Marina Planned District are illustrated geographically in Diagram 1511-03A of this Planned District Ordinance.

- (a) In the area designated 80 percent residential/ 20 percent nonresidential as shown in Diagram 1511-03A of this Planned District Ordinance at least 80 percent of the gross floor area shall be residential use and up to 20 percent of the gross floor area may be nonresidential use. The total of all corridor, storage, utility, parking and other support space shall be allocated to residential or nonresidential on an 80 percent residential/20 percent nonresidential basis.
- (b) On the block bounded by G Street, Second Avenue, Market Street and First Avenue, an alternative to 80 percent residential/20 percent nonresidential as shown in Diagram 1511-03A of this Planned District Ordinance may be the specific development which is the subject of Marina Conditional Planned District Permit No. 94-0452.
- (c) On the property legally described as Lot "L" of Block 30, New San Diego Addition, according to the map thereof No. 456, made by Gray and Johns, on file in the office of the County Recorder of San Diego County, at least 60 percent of the gross floor area shall be residential use and up to 40 percent of the gross floor area may be nonresidential use.

(d) Residential Uses

The following permanent residential uses are permitted in the Marina Planned District:

- (1) Multi-family.
- (2) The following uses may be considered by conditional use permit if the use is the primary residence of the occupants and the major use of the structure:
  - (A) Single Room Occupancy.
  - (B) Live/Work Quarters. Not over 33 percent of each live/work quarter shall be used for residential purposes such as a sleeping area, kitchen, bathroom and closet area.

(e) Nonresidential Uses

- (1) Uses permitted by right. The following nonresidential uses are permitted in the Marina Planned District for that portion of the area designated 20 percent nonresidential:
  - (A) Eating and Drinking Establishments
  - (B) Food Sales
  - (C) Small Office-Business and Professional Services
  - (D) Personal and Convenience Services
  - (E) Cultural/Institutional
  - (F) Recreation-Health Facilities
  - (G) Business and Home Services
  - (H) Personal Improvement Services
  - (J) Retail Sales

(i) Arts and Crafts

This classification includes establishments selling art objects, art supplies, antiques, jewelry, handmade glass, custom photographs, pottery, porcelain, leather goods and similar products. This classification also includes art galleries, antique shops, ceramic studios, craft shops, jewelry design and creation studios and photo studios.

(ii) Home Furnishings and Hardware

This classification includes establishments selling awnings and canvas, home appliances, carpets and floor coverings, hardware, furniture, kitchen utensils, paint and wallpaper.

(iii) Other Retail Sales

This classification includes small department stores, drugstores, dispensing opticians, clothing stores, fabric stores, and businesses retailing the following goods: toys, hobby materials, books, cameras, photographic supplies, electronic equipment, records, sporting goods, shoes, office supplies, stationery, medical supplies, bicycles and new automotive parts and accessories (excluding service and installation).

- (iv) Display windows provided, however, that they have a minimum depth of approximately 3 feet and displays are changed every 60 days.

(2) Uses permitted by issuance of a Conditional Use Permit. The following uses may be considered by conditional use permit for that portion of the area designated 20 percent nonresidential or within any portion of an existing structure if determined to be compatible with residential development:

- (A) Religious assembly
- (B) Schools, public/private child care facilities
- (C) Broadcasting, recording and other communication services accomplished through electronic or telephonic mechanisms.

This classification includes radio, television or recording studios, telephone switching centers and telegraph offices, but excludes receiving towers and satellite dishes.

- (D) Utility Substations
- (E) Residential Care Facilities

On the property legally described as Lots "C" through "L" of Block 27, New San Diego Addition, according to the Map thereof No. 456, made by Gray and Johns, on file in the office of the County Recorder of San Diego County.

(3) Uses permitted within existing structures. Structures existing as of September 22, 1988 which are rehabilitated, recreated or adaptively reused (i.e., the structure is being legally used for a use other than

what was originally contemplated when it was built) may be developed entirely with nonresidential uses. A Conditional Use Permit is required if the nonresidential uses are those contained in Section 1511.0301(e) or if the nonresidential uses exceed 20 percent of the gross floor area of the existing structure. A conditional use permit may be issued only if it is determined that the use is compatible with residential development.

(4) Mixed Hotel/Residential Development

In the area designated Subarea 1 on Diagram 1511-03B of this Planned District Ordinance, mixed uses including hotel and residential are permitted.

- (A) Subarea 1 permits hotel use if accompanying residential use is provided.
- (B) Development of an entire 2 block site requires 150 residential dwelling units. Development of individual blocks requires a minimum residential density of 85 dwelling units per acre ("dupa").
- (C) Specialty commercial and entertainment uses may be permitted on a conditional use basis.
- (D) Residential development may be provided as an alternate to hotel use. Such development shall allocate at least 80 percent of the gross floor area to residential use and may allocate up to 20 percent of the gross floor area to nonresidential land use from the listed uses provided for in Section 1511.0301.

Exceptions to the percentage ratio of 80 percent residential/ 20 percent nonresidential are contained in Section

1511.0302(b)(4)(C).

(5) Hotel Subarea 2

In the area designated Subarea 2 on Diagram 1511-03B, the following hotel uses are permitted:

- (A) Subarea 2 uses and ancillary hotel uses such as meeting rooms, food establishments and gift shops.
- (B) Residential development may be provided as an alternate use. Any such development shall be allocated such that at least 80 percent of the gross floor area is devoted to residential use and up to 20 percent of the gross floor area is devoted to nonresidential land use from the listed uses provided for Section 1511.0301. Exceptions to the percentage ratio of 80 percent residential/ 20 percent nonresidential are permitted only as set forth in Section 1511.0302(b)(4)(C).
- (C) Specialty commercial uses may be permitted on a conditional use permit basis.

**§1511.0302 Property Development Regulations**

(a) Planning Standards and Urban Design Guidelines

Redevelopment Agency has by resolution adopted architectural and design standards to be used in the evaluation of the appropriateness of any development for which a permit is applied under this Planned District

Ordinance. These architectural and design standards shall be entitled, "Marina

Urban Design Plan and Development Guidelines," a copy of which is on file in the office of the City Clerk as Document No. OO-17123.

(b) Regulations

The following regulations shall apply to the specific areas as indicated:

(1) Mixed Residential/Nonresidential Land Use Areas

The major land use in the Marina Planned District shall be residential as illustrated on Diagram 1511-03A. In the area designated 80 percent residential/ 20 percent nonresidential (except in structures 50 feet or less in height), at least 80 percent of the gross floor area shall be residential use and up to 20 percent of the gross floor area may be nonresidential. Where structures are 50 feet or less in height or meet the height requirements of the California Building Code, as adopted by Land Development Code Chapter 14, Article 5, for Type V construction, gross floor area in nonresidential use may exceed 20 percent if the entire nonresidential use is accessible to and located at the street level of the project. The permitted uses are described in Section 1511.0301. Exceptions to the percentage ratio (80-20 percent) for High-Rise structures are contained in Section 1511.0302(b)(4).

(2) Permitted Heights

(A) Heights for buildings in the Marina Planned District range from 50 feet to 300 feet as illustrated in Diagram 1511-03C, unless the building meets the criteria for exceptions to the height limits as set out in Section 1511.0302(b)(2)(B).

The intent of height limits as established in Section 1511-0302 is to guide the location of vertical development within the Marina Redevelopment Project area to accomplish the following objectives:

- (i) Enhance view corridors.
- (ii) Provide variety in the provision of dwelling unit types.
- (iii) Create distinct residential neighborhoods.
- (iv) Conserve the character of existing residential development.
- (v) Minimize the impact of shadow on existing and future development.

(B) Exceptions to Height Limits

Exceptions to height limits may be permitted as follows:

- (i) Fifty foot height limits may be increased to a maximum of 90 feet.
- (ii) Ninety foot height limits may be increased to a maximum of 120 feet.
- (iii) Heights designated 120 feet or greater as illustrated in Diagram 1511-03C may be increased without a maximum height.

(C) The following criteria shall be used to evaluate requests for height exceptions.

- (i) Applicant shall provide one or more parks, setback areas or widened and enhanced public rights-of-way.



Such areas shall be landscaped by the applicant. Their location shall complement the adjoining public right-of-way and while either public or private in nature, shall be designed to be visually or physically enjoyed by residents, residents of adjoining structures and the general public; and

- (ii) Applicant's project shall increase nonresidential or residential activity at the street level of the development from 50 percent of the total frontage to all the remaining street frontage with the exception of vehicular access and truck service delivery to serve the site.

Such activity shall be directly accessible to the public right-of-way. Entrances to activity shall be provided at intervals which are approximately 50 feet or less in distance apart; and

- (iii) Applicant's project shall accommodate of all or a substantial amount of all parking needed to serve the proposed development below grade.

- (iv) Applicant shall mitigate the mass and scale of the project by reducing the size of the floor plate and creating a more slender tower which enhances view corridors or reduces the effect of shadow on adjoining developments.

(D) The procedure for considering exceptions to height are subject to Section 1511.0204.

(E) Notwithstanding the provisions of Municipal Code Section 1511.0302(b)(2)(A) and (B), on the property described as Lots "C," "D," "E," "F," "G," "H," "I," "J," "K," " and "L" of Block 27 of New San Diego, Map No. 000456, a maximum height of 120 feet shall be permitted for the fourth phase of the project permitted by Marina Conditional Planned District Permit No. 94-0457 (the "Project"), provided the following phases of development are completed within the time periods provided in Marina Conditional Planned District Permit No. 94-0457. If the phases of development are not completed in the time periods provided, a maximum height of 120 feet shall not be allowed and height limits shall be as identified in Figure 3 of Municipal Code Chapter 10, Article 3, Division 20. The phases of development and the time periods provided are:

- (i) Building permits shall be obtained for Phases One and Two of the Project within the permit time limits provided in Municipal Code Section 1511.0202(g). Certificates of Occupancy shall be obtained by the holder of Marina Conditional Planned District Permit No. 94-0457 before building permits are issued for Phases Three and Four.

- (ii) Upon the issuance of building permits for Phases One and Two, Marina Conditional Planned District Permit No. 94-0457 shall be extended 4 years from its scheduled date of expiration to allow for additional time for the development of Phases Three and Four.
  - (iii) Upon issuance of a building permit for Phase Three, Marina Conditional Planned District Permit No. 94-0457 shall be extended an additional 4 years from the extension granted in Municipal Code Section 1511.0202(g), for a total of 8 years from the original expiration date.
  - (iv) A Certificate of Occupancy for Phase Three must be obtained prior to the issuance of a building permit for Phase Four.
  - (v) The one year extension provided for in Municipal Code Section 1511.0202(g) may be utilized only once for Marina Conditional Planned District Permit No. 94-0457, but it may be used at any time during and within the time limits stated Section 1511.0202(g).
- (3) Floor Area Ratios ("FAR")
- A FAR of 3.5 to 4.0, 4.0 to 4.5, 5.0 to 5.5, 6.0 to 6.5 and 8.0 to 8.5 shall be the maximum development intensity in the Marina Planned District for those areas identified in Diagram 1511-03D with the following exceptions:

- (A) Existing structures which are historically or architecturally significant, or which are restored or adaptively reused, may transfer unused FAR to contiguous development within the block if such structures are part of an integrated or architectural development for the total site.
  - (B) Atria or common interior or enclosed space shall be included in the calculation of FAR. For each floor that an atrium penetrates through a structure, the square footage per floor shall be included in the calculations of the FAR.
- (4) Conditions for Exceptions to FAR
- (A) An increase in FAR in the amount of 0.5 of the base FAR, as illustrated in Diagram 1511-03D, may be permitted as follows, subject to conditions set forth in Section 1511.0302(b)(4)(C):

**TABLE 1511-03A**  
**Exceptions to FAR**

Base FAR	Permitted Increase in FAR
3.5	4.0
4.0	4.5
5.0	5.5
6.0	6.5
8.0	8.5

- (B) Subject to conditions set forth in Section 1511.0302(b)(4)(A), an increase in the ratio of nonresidential use in the amount of 5 percent may be permitted as follows:

**TABLE 1511-03B**  
**Land Use Mix**

Base Land Use Mix	Permitted Land Use Mix
80%-Residential 20%- Nonresidential	75% Residential 25% Nonresidential

(C) Exceptions to either FAR or mixed land use standards may be recommended by CCDC's Board and approved by the Redevelopment Agency where the project complies with the development standards contained in this Planned District Ordinance and the Marina Urban Design Plan and Development Guidelines provided that three of the following seven conditions set forth in Section 1511.0302(b)(4)(C)(i) through (vii) are met.

In the event that exceptions are requested for both land use mix and FAR, four of the seven conditions set forth in Section 1511.0302(b)(4)(C)(i) through (vii) must be met.

- (i) Development is infilled on sites or blocks which contain historic or architecturally significant structures or where historic or architecturally significant buildings are rehabilitated and integrated into the proposed new development.
- (ii) The average size of 25 percent of all units exceed 1,000 square feet.

- (iii) That a minimum of 10 percent of all units contain 3 bedrooms.
- (iv) The required ground floor activity increases from 50 percent to 60 percent of the street frontage. Such increase in activity shall be consumer-oriented commercial or residential land use.
- (v) At least one full level of underground parking is provided.
- (vi) The site is a receiver of a major public amenity including park, plaza, public art and sculpture or other equivalent amenity designed primarily for public use.
- (vii) No Redevelopment Agency financial, assistance excluding off-site public improvements, is required for the project.

(c) General Provisions

Section 1511.0302(c) sets forth the general provisions of the Marina Planned District Ordinance. Exceptions to the criteria contained in Section 1511.0302(c) may be granted subject to the procedures established in Section 1511.0206. The following regulations apply to all areas:

- (1) Minimum lot area shall be 5,000 square feet.
- (2) There shall be no minimum side yard, interior and rear yard setbacks.
- (3) Development pattern.

A variety of development sites (single full block development and blocks with multiple developments) shall be encouraged throughout

the project area. Guidelines for smaller site development are contained in the Marina Urban Design Plan and Development Guidelines.

(4) Permitted Projections

- (A) Subject to encroachment permits as may be required by the City of San Diego, projections such as balconies and window bays are permitted to encroach up to 4 feet into the public right-of-way starting at no less than 12 feet above street level or above the height of the first floor.
- (B) Projections from tower elements which are set back from the street may be granted by Conditional Use Permit.
- (C) Subsurface structures within the public right-of-way up to 3 feet from the curb.

(5) Streetwall

- (A) All buildings shall have a minimum Streetwall of 2 stories or 25 feet.
- (B) All buildings shall have a maximum Streetwall of 50 feet or the height of an adjoining existing structure if the existing structure is a part of an integrated development
- (C) At least 50 percent of each side of the total ground floor frontage of all new or reconstructed first story building walls that face a public street shall be devoted to pedestrian entrances, residential use, or windows affording views into retail consumer services, offices or lobby space or display windows. All blank facades shall be enhanced by architectural

detailing, artwork, landscaping or similar features having visual interest.

- (D) At least 75 percent of the street facade of the building base shall be constructed to the street property line.
- (E) All residential/nonresidential activities located at the street level shall provide one direct at-grade entrance from the public right-of-way for each street frontage. Where such frontages exceed 75 feet, one entrance shall be provided for each 75 feet of frontage or portion thereof. Such entrances shall conform to the State of California Administrative Code, State Building Code, Part 2, Title 24 (Handicapped Requirements).

(6) Setbacks

- (A) The tower portion of any structure shall be setback at the podium level at least 20 feet from the base of the street wall on all street frontages except one frontage of a structure, as may be required for fire and safety access by all applicable laws, rules and regulations.
- (B) Two or more towers on the same parcel shall be separated by at least 40 feet.
- (C) The tower element of Mid-Rise and High-Rise structures that share a common property line with another parcel shall be set back at least 20 feet from that common property line.
- (D) All properties fronting on the proposed linear park shall observe a minimum landscaped setback of 50 feet.



(7) Height

- (A) The height of any structure over 160 feet shall observe a minimum height-to-width ratio of 1-width to 1.6-height.
- (B) The average floor plate for the top one-third (1/3) of any tower structure over 160 feet shall diminish in size to create a slimmer silhouette; such reduction shall be in scale with the lower two-thirds (2/3) of the structure.

(8) Open Space

- (A) All development shall maintain a minimum of 30 percent of the site open to the sky, occurring at grade or podium levels. This open space area, including courtyards and terraces, shall be considered common open space.
- (B) First floor residential units which front on common interior courtyards may use up to 25 percent of the interior area for private enclosed open space related to individual units.
- (C) Balconies shall be provided for at least 25 percent of all hotel rooms.
- (D) Seventy-five percent of all multi-family residential units above the first floor shall have a Private Open Space of 36 square feet or 5 percent of the unit's gross floor area whichever is larger. The Private Open Space shall have a minimum dimension of 3 feet.
- (E) Private Open Space or common interior courtyards open to the sky shall not be calculated in the FAR of any structure.

- (F) No structure shall be sited in such a way so as to terminate a skyview down an existing street or potential view of San Diego Bay from a street in a southerly or westerly direction.

(9) Building Materials

- (A) With the exception of the first level, no more than 50 percent of each of the facades of the structure shall be vision glass or spandrel construction of material which is up to 30 percent in reflectivity. The remaining 50 percent may be masonry or stone or other appropriate material.
- (B) Clear or lightly tinted glass for doors and display window shall be installed at the first or pedestrian level.

(10) Roof Tops

- (A) Exposed roof top parking is not permitted.
- (B) Roof surfaces shall be simplified and appurtenances shall be grouped and screened.
- (C) Flat exposed roofs at any level shall be designed as an architectural or landscape amenity to enhance the views from the proposed structure or adjacent structures. Such enhancements may include roof gardens, architectural features, special pavings and patterns or other comparable treatment.

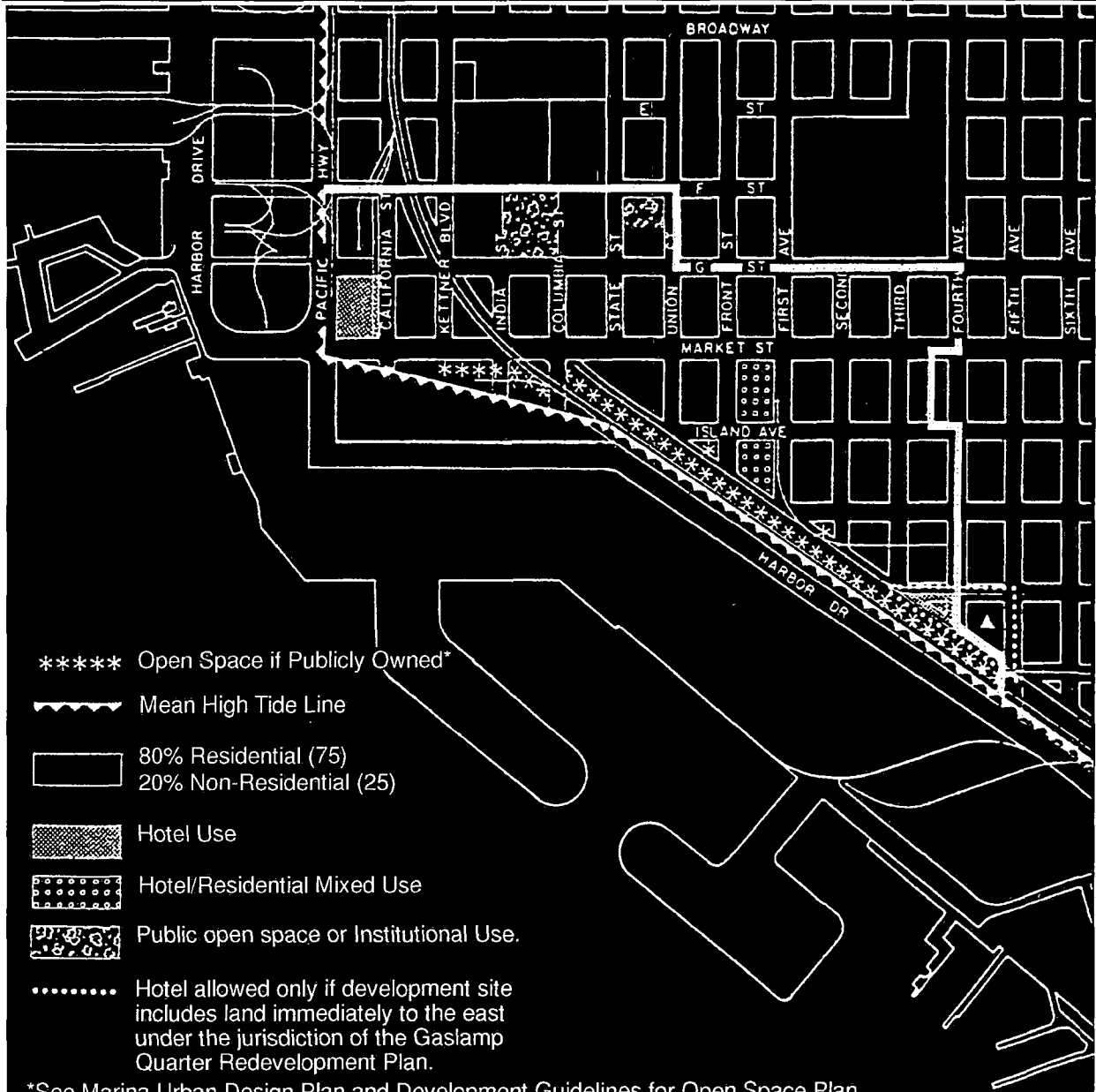
(11) Solar Access

- (A) No more than 50 percent of the area of a sidewalk on the opposite side of a development shall be shaded by that

development for no more than ~~one~~ hour between 11:00 a.m.  
and 2:00 p.m.

- (B) The location of existing and proposed development shall be considered in the siting of new structures in order to maximize views and sun penetration to the greatest extent possible.

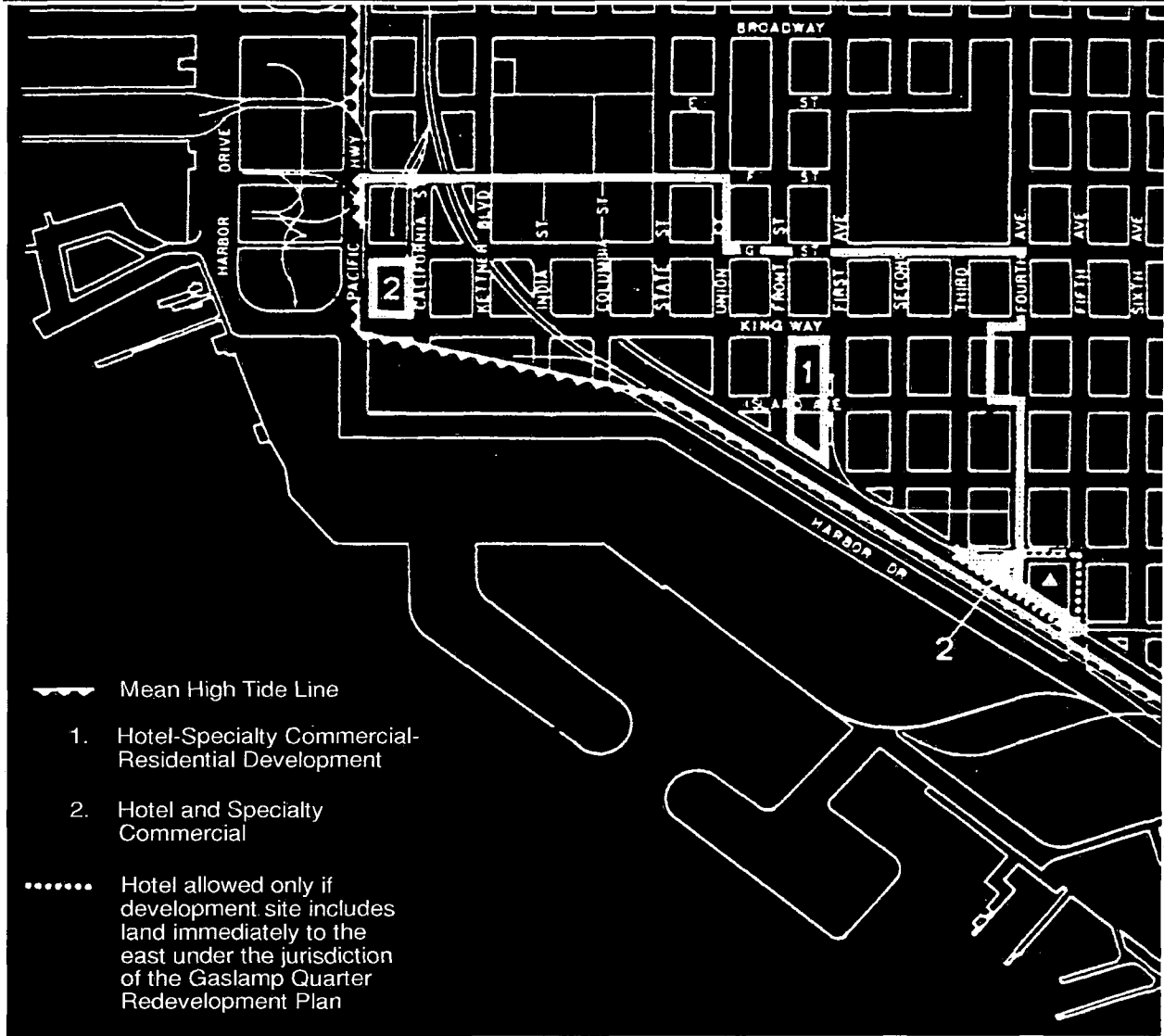
Figure 1  
Land Use



Division 20 Marina Planned District

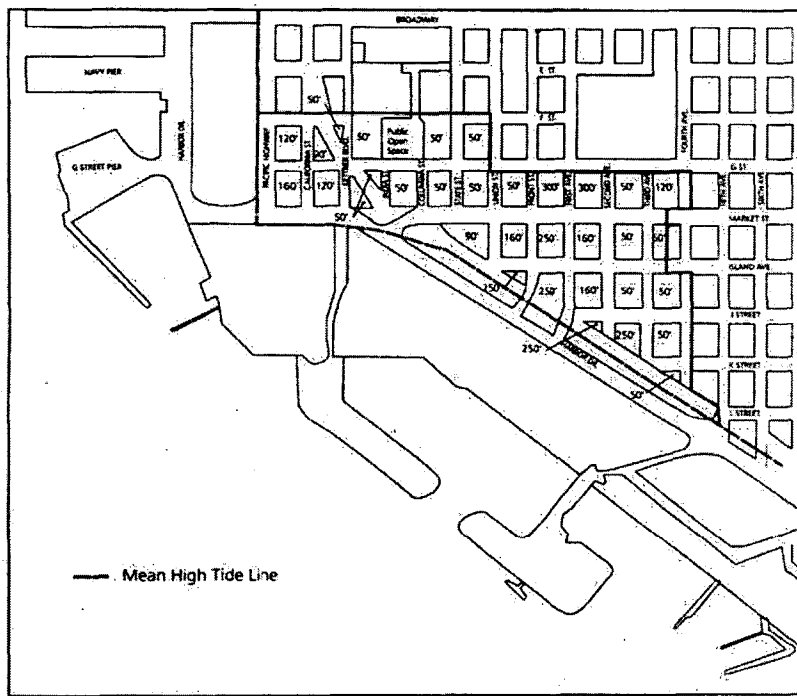
Figure 2

Hotel / Residential Subareas



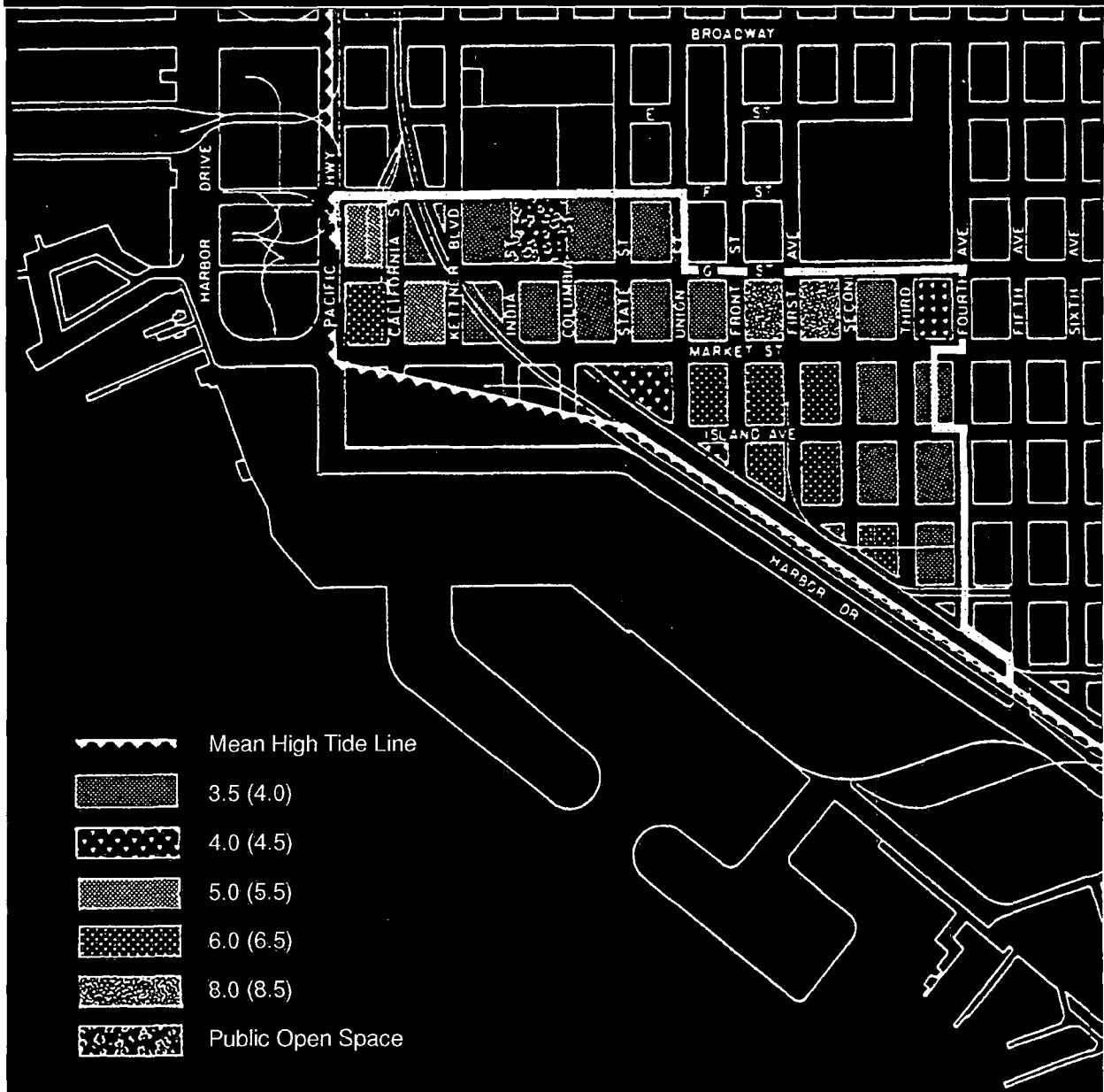
Division 20 Marina Planned District

FIGURE 3  
HEIGHT LIMIT



Division 20 Marina Planned District

### EXHIBIT 4 Floor Area Ratios (FARS)



Section 4. That Chapter 15 of the San Diego Municipal Code is amended by adding Article 11, Division 4, Sections 1511.0401, 1511.0402, 1511.0403, and 1511.0404, to read as follows:

**Article 11: The Marina Planned District**

**Division 4: General and Supplemental Regulations**

**§1511.0401 Parking Regulations**

- (a) All above grade parking structures shall be architecturally integrated into the structure and screened from view by landscaping, architectural detailing or buffered by residential or nonresidential use.
- (b) Outdoor or garage lighting shall be indirect and diffused.

**§1511.0402 Mechanical and Utility Equipment Screening Regulations**

- (a) All refuse storage and mechanical equipment shall be screened by walls, fences, buildings or combinations thereof to a height of 6 feet.
- (b) All on-site open space or setback areas shall be landscaped or architecturally enhanced.
- (c) Mechanical equipment or appurtenances on the roof shall be architecturally screened or enclosed or painted to blend with the roof surface to mitigate the view of cluttered roof surfaces.

**§1511.0403 Off-Street Loading Facilities**

- (a) Off-street loading facilities shall be required for all developments which exceed a gross floor area of 100,000 square feet.
- (b) All off-street loading areas shall be screened from view.



- (c) All trash container areas shall be enclosed within and integrated into the structure and not visible from the public right-of-way.

**§1511.0404 Sign Regulations**

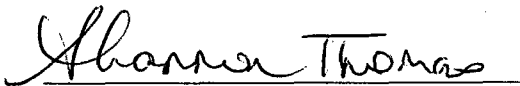
Proposed signage will be evaluated by CCDC for conformance to the signing objectives of the Marina Urban Design Plan and Development Guidelines and by the City of San Diego for compliance with Land Development Code Chapter 14, Article 2, Division 12 (Sign Regulations).

Section 5. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

Section 7. That this activity is not a project and is therefore not subject to the California Environmental Quality Act [CEQA] pursuant to State CEQA Guidelines Section 15060(c)(3).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Shannon M. Thomas  
Deputy City Attorney

SMT:als  
12/26/06  
Or.Dept:DSD  
O-2007-66  
MMS#3771

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAR 20 2007

ELIZABETH S. MALAND  
City Clerk

By *Sara Richardson*  
Deputy City Clerk

Approved: 3-27-07  
(date)

*JSL*  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

(0-2007-66)  
(P)

Office of  
The City Attorney  
City of San Diego

MEMORANDUM  
MS 59

(619) 236-6220

**DATE:** January 3, 2007  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Shannon Thomas, Deputy City Attorney  
**SUBJECT:** Marina Planned District Ordinance Reformat

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As part of the Land Development Code Update set forth in the Mayor's Report to Council No. 06-032, the Planned District Ordinances [PDOs] are being re-formatted. Occasionally, errors in the current version were noticed and where appropriate, have been corrected. The correction and the rationale are set forth below:

1. Current sections 103.2011(b)(3)(D) and 103.2011(b)(4)(B) both refer to the required percentage of residential development vs. nonresidential development, and refer to exceptions to the percentage ratio of 80 percent residential/20 percent nonresidential as set forth "in Section 103.2012(b)(5)." There is no such section as 103.2012(b)(5).

Therefore, the reformatted version corrects these references. The new sections, 1511.0301(e)(4)(D) and 1511.0301(e)(5)(B) refer to section 1511.0302(b)(4)(C). Section 1511.0302(b)(4)(C) is the section that sets forth the standards that must be met to grant exceptions to the mixed land use standards.

2. Current sections 103.2012(b)(2)(E)(iii) and (v), both pertain to the maximum height allowed for certain phases of development permitted by Marina Conditional Use Permit No. 94-0457. However, when discussing the length of time that any request for an extension would be valid for, the sections reference section 103.2012(b)(2)(C)(ii) and section 103.2012(b)(2)(C), respectively. Section 103.2012(b)(2)(C)(ii) refers to one of the criteria for evaluating a request for a height exception, specifically whether the project increases activity at the street level and whether the activity is directly accessible to the public right of way. Section 103.2012(b)(2)(C) is the section referring to all of the criteria for evaluating a request for a height exemption. Neither

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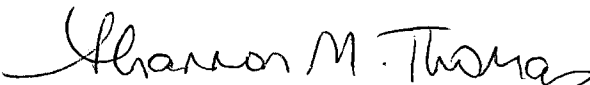
section 103.2012(b)(2)(C) or 103.2012(b)(2)(C)(ii) contain any reference to a length of time for which any such extension would be valid.

Therefore, the reformatted version corrects these references. The new sections 1511.0302(b)(2)(E)(iii) and (v) reference section 1511.0202(g). Section 1511.0202(g) pertains to permit time limits and time extensions.

3. Current section 103.2013(b) requires applications for exceptions to the Marina Planned District Ordinance to be submitted concurrently with applications for the PDO permit itself, "in accordance with Section 103.2004(d) (Marina Planned District Exception Permit Process)...." There is no such section as 103.2004(d), nor is there any section titled "Marina Planned District Exception Permit Process."

Therefore, the reformatted version corrects this reference. The new section, 1511.0204(b) requires applications for exceptions to the PDO to be submitted concurrently with applications for the PDO permit itself, "in accordance with Section 1511.0202 (Marina Planned District Ordinance Permit Process)...."

MICHAEL J. AGUIRRE, City Attorney

By 

Shannon Thomas  
Deputy City Attorney

ST:s

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