

## CALIFORNIA COASTAL COMMISSION

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Th9c



Prepared February 19, 2009 (for March 12, 2009 hearing)

**To:** Coastal Commissioners and Interested Persons

**From:** Dan Carl, District Manager  
 Susan Craig, Coastal Planner

**Subject:** **City of Monterey Cannery Row Land Use Plan Major Amendment Number 1-07 Part 1 (McAbee Beach Re-Designation).** Proposed major amendment to the City of Monterey's certified Cannery Row Land Use Plan to be presented for public hearing and Commission action at the California Coastal Commission's March 12, 2009 meeting to take place at Portola Hotel and Spa at Monterey Bay, Two Portola Plaza in Monterey.

## Summary

The proposed amendment re-designates the City-owned portion of McAbee Beach along Cannery Row from Visitor Serving Commercial to Public Use Area, and adds a new policy to the Cannery Row Land Use Plan's (LUP) Public Access chapter that describes the public access amenities and allowable uses for this publicly-owned portion of McAbee Beach. Staff recommends that the Commission find that the proposed amendment is consistent with and adequate to carry out the public access and recreation policies of the Coastal Act, and that the Commission approve the LUP amendment as submitted.

**LUP Amendment Action Deadline:** This proposed LUP amendment was filed as complete on February 4, 2009. It is LUP only and the 90-day action deadline is May 5, 2009. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until May 5, 2009 to take a final action on this LUP amendment.

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## I. Staff Recommendation – Motion and Resolution

Staff recommends that the Commission, after public hearing, approve the proposed amendment as submitted. The Commission needs to make one motion in order to act on this recommendation.

Approval of Land Use Plan Major Amendment Number 1-07 Part 1 as Submitted

LUP amendments may only be certified by an affirmative vote of a majority of the appointed Commissioners or alternates. In other words, at least seven “yes” votes out of the twelve appointed Commissioners/alternates are required to certify an LUP amendment, regardless of how many Commissioners/alternates are present at the time of the vote.

### **Staff recommends a YES vote on the motion below.**

If the motion is passed, the LUP portion of the amendment will be certified as submitted, and the Commission will adopt the following resolution and the findings in this staff report. If the motion is rejected, the LUP portion of the amendment will be denied certification as submitted, and staff will prepare revised findings for the Commission to consider in support of that denial action.

**Motion.** I move that the Commission **certify** Part 1 of Major Amendment Number 1-07 to the Cannery Row Land Use Plan as submitted by the City of Monterey.

**Resolution to Certify.** The Commission hereby **certifies** Part 1 of Major Amendment Number 1-07 to the Cannery Row Land Use Plan as submitted by the City of Monterey and adopts the findings set forth in this staff report on the grounds that, as submitted, the Land Use Plan amendment will meet the requirements of and be in conformance with the policies of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act.

## II. Findings and Declarations

The Commission finds and declares as follows:

### A. Background and Description of Proposed LUP Amendment

The proposed amendment re-designates the City-owned portion of McAbee Beach (APN 001-021-003) along Cannery Row from Visitor Serving Commercial to Public Use Area on LUP Figures 6 and 12. Along with this primary change, the amendment would remove the LUP’s “Potential New Development” designation (LUP figure 18) from the property and would add a vertical access designation to LUP Figure 4 (Public Access). The proposed amendment also adds a new policy to the Cannery Row Land Use Plan’s Public Access chapter that describes the public access amenities and



allowable uses for this publicly-owned portion of McAbee Beach. See Exhibit A for the proposed LUP figure changes; see Exhibit B for the text of the proposed new policy, and; see Exhibit C for an aerial photograph of McAbee Beach and the immediately surrounding area along Cannery Row.

The City of Monterey acquired the 6,000 square foot parcel adjacent to the Spindrift Inn as part of the Cannery Row Hotel development (i.e., the hotel now known as “Intercontinental – the Clement Monterey”). Specifically, the City traded a publicly-owned parcel located between the Bubba Gump Shrimp Company and the proposed hotel for the McAbee Beach parcel (then owned by the Cannery Row Company, who in 2000 was a co-applicant for the hotel project) so that hotel development (including a driveway, a vehicle turnaround area, and a public access promenade) could be developed on the parcel located adjacent to the Bubba Gump Shrimp Company. The Commission’s approval of the hotel development in 2001 (CDP 3-84-139-A1) and its subsequent approval of an amendment to that permit in 2005 (CDP 3-84-139-A2) required that approximately 3,200 square feet of the McAbee Beach parcel be developed as a public park (and maintained under the control of the City of Monterey Parks and Recreation Division), and that the remainder of the parcel be left as beach open space. The required park improvements have been installed and are being maintained by the City. The proposed amendment is needed to bring the Cannery Row Land Use Plan maps up to date regarding the appropriate designation and to add a specific policy regarding allowable uses on this publicly-owned beach parcel.

## B. Coastal Act Consistency Analysis

### 1. Standard of Review

The standard of review for proposed modifications to the Cannery Row LUP is consistency with the Coastal Act. Coastal Act policies set broad statewide direction that is refined by local government LUP policies giving local guidance as to the kinds, locations, and intensities of coastal development. Implementation Plan (IP) (zoning) standards then typically further refine LUP policies to provide guidance, including sometimes on a parcel by parcel level; however, the City of Monterey does not have a certified IP. Because this is an LUP (only) amendment, the standard of review is the Coastal Act.

### 2. Applicable Coastal Act Policies

In order to approve a Land Use Plan amendment, it must be consistent with and adequate to carry out the policies of the Coastal Act. The proposed amendment primarily affects public access and recreation. Selected applicable Coastal Act policies include (in relevant part):

***Section 30210:** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*



**Section 30211:** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

**Section 30212(a):** *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

**Section 30213:** *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

**Section 30220:** *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

**Section 30221:** *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

**Section 30223:** *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

### 3. Analysis

The proposed amendment to re-designate the City-owned portion of McAbee Beach from Visitor Serving Commercial to Public Use Area (designated for vertical access but not designated for potential commercial development) is appropriate. The current designation of Visitor Serving Commercial primarily emphasizes the development of visitor-serving uses such as restaurants and visitor-serving shops, as well as mixed-use development in certain circumstances (e.g. residential uses on upper floors and visitor-serving commercial uses on the ground floors). The re-designation of the publicly-owned McAbee parcel from Visitor Serving Commercial to Public Use Area will disallow development of shops, restaurants, and residential use. Instead, the allowable uses on this parcel will include public use as a coastline park with walkways, seating areas and vista points to the Monterey Bay, as well as general beach use and an entry and exit point for pedestrians and scuba divers. The re-designation of this property from Visitor Serving Commercial to Public Use Area is appropriate, especially given that a portion of the parcel has been developed as a small park and the remaining beach area currently provides public access for general beach uses, and also provides an entry point into the Monterey Bay for scuba divers. Thus the proposed amendment, as submitted, is consistent with the public access and recreation policies of the Coastal Act.



### C. California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

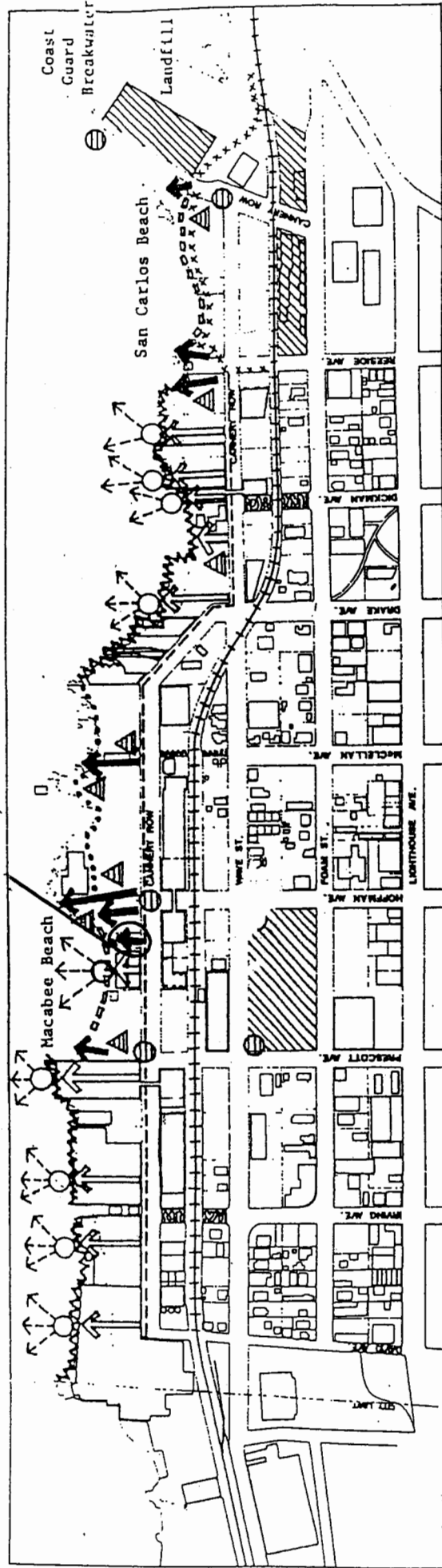
The City did not evaluate the proposed amendment under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).



Proposed Amendment-

Add Vertical Access Arrow over publicly owned portion of McAbee Beach (as shown for parcel 001-021-003).



**CANNERY ROW  
LOCAL COASTAL PROGRAM  
CITY OF MONTEREY**

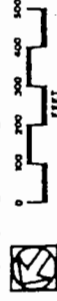


Figure 4  
PUBLIC ACCESS

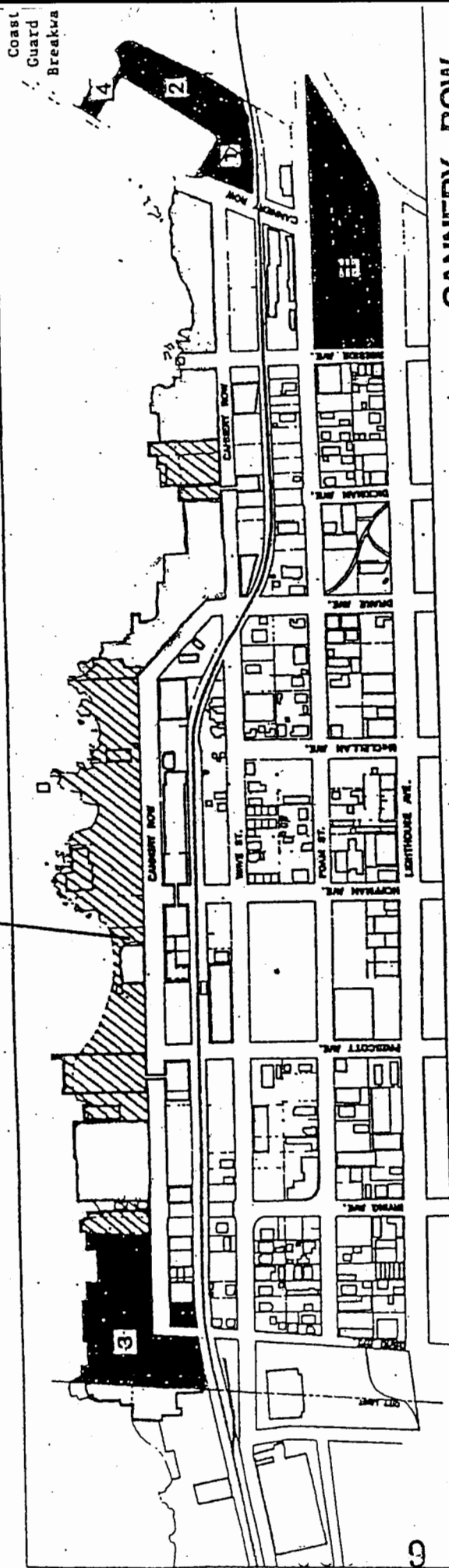
- ↑ VERTICAL ACCESS
- ↕ ACCESS (To Backs of Structures)
- LATERAL ACCESS (Sandy Beach)
- LATERAL ACCESS (Rocky Shoreline)
- ↔ VIEWPOINTS (Backs of Structures)
- LATERAL ACCESS (Cannery Row)
- MMMM LATERAL ACCESS (Backs of Structures)
- ++++ LATERAL ACCESS (Recreational Trail)
- xxxx LATERAL ACCESS (Recreational Trail Branch)
- ⊞ PEDESTRIANWAY
- ▲ PEDESTRIAN PLAZA
- ⊖ DIRECTIONAL SIGNING
- ▨ PUBLIC PARKING

Note: The locations of VERTICAL ACCESS, ACCESS (To Backs of Structures), LATERAL ACCESS, PEDESTRIANWAYS, and PEDESTRIAN PLAZAS shown above within properties should not be interpreted as precise locations. These locations are to serve as guidelines for the City's Architectural Review Committee in determining precise location and design features within each property when it reviews specific development projects.

Policy b.12 on page II-A-7 provides that a pedestrian plaza or vertical access point may be provided at Aneas Beach, but both are not required.

Exhibit A  
page 1 of 4

Proposed Amendment – Remove  
 Visitor Serving Commercial Land  
 Use Designation (001-021-003)



**CANNERY ROW  
 LOCAL COASTAL PROGRAM  
 CITY OF MONTEREY**



Figure 6  
 COASTAL DEPENDENT  
 NON-RECREATIONAL ACTIVITI

**COASTAL DEPENDENT LAND USE**

- 1. Coast Guard Facilities
- 2. Marine Repair Facility
- 3. Aquarium
- 4. Launch Ramp

1. - 4. Aquaculture and Marine Research (Conditional Uses)

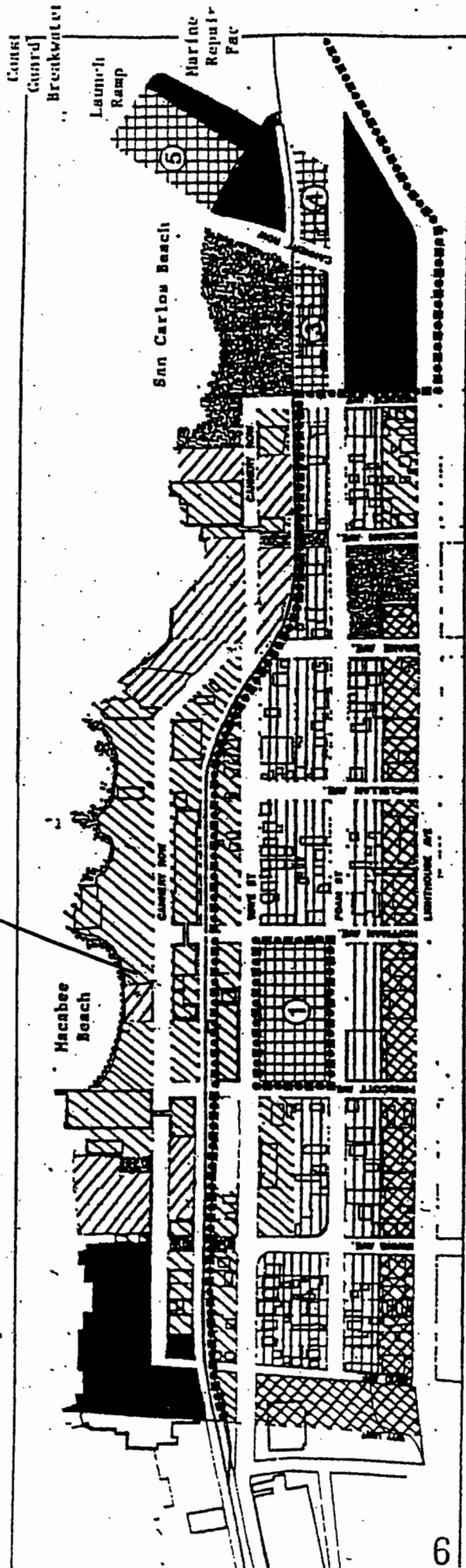
VISITOR SERVING COMMERCIAL LAND USE WHERE  
 AQUACULTURE AND MARINE REAREACH ARE  
 CONDITIONAL USES



Exhibit A  
 page 2 of 4

Proposed Amendment-

Remove Visitor Serving Commercial Land Use Designation and change to Public Use Area (001-021-003).



**CANNERY ROW  
LOCAL COASTAL PROGRAM  
CITY OF MONTEREY**



Figure 12  
LAND USE PLAN

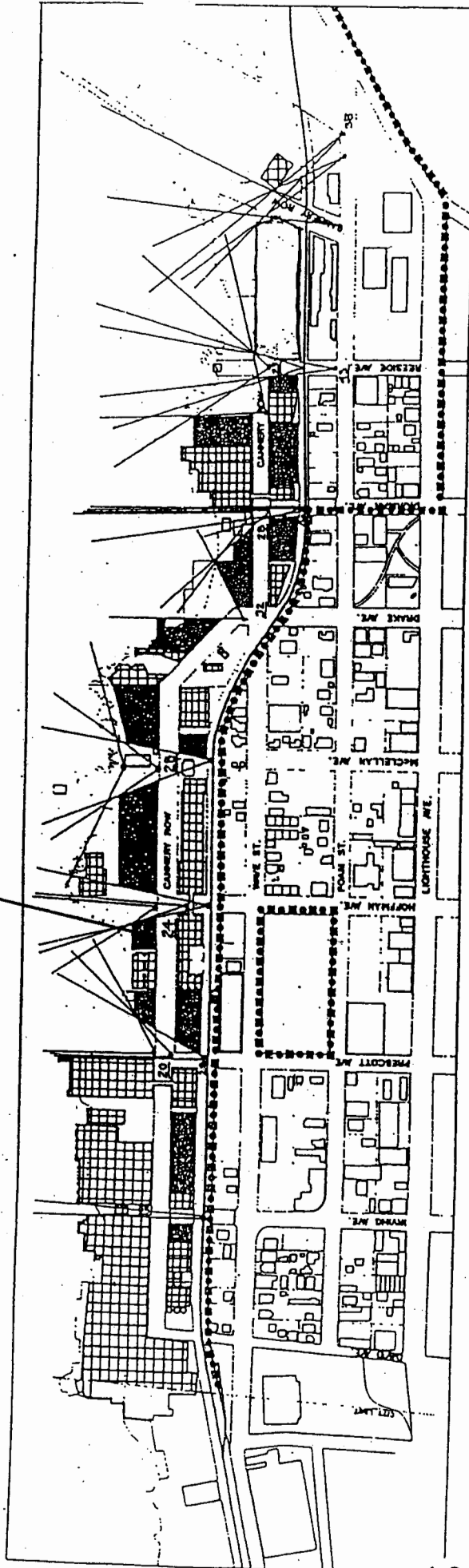
- COASTAL DEPENDENT (Policies a and b)
- ▨ VISITOR SERVING COMMERCIAL (Policy d)
- ▩ PUBLIC USE AREA (Policy c)
- ▧ PARKING (Policy e)
- COASTAL ZONE BOUNDARY
- ▤ COMMUNITY COMMERCIAL
- ▥ RESIDENTIAL/COMMUNITY COMMERCIAL
- ▦ VISITOR ACCOMMODATION COMMERCIAL (Policy f)

a: The above figure shows land uses for an area outside the coastal zone. This outside area is addressed because of policies in the Parking section which propose that any surplus spaces in this outside area be used to serve development in the Cannery Row coastal zone. To identify available surplus spaces, proposed land uses and their intensities need to be known. The proposed intensity of development for these land uses is identified in the next section, Development.

Exhibit A  
page 3 of 4



Remove Potential New Development  
Designation (001-021-003)



**CANNERY ROW  
LOCAL COASTAL PROGRAM  
CITY OF MONTEREY**

- VIEW SIGHTLINES
- EXISTING BUILDINGS
- POTENTIAL NEW DEVELOPMENT
- ELEVATION
- COASTAL ZONE BOUNDARY

Figure 18

VIEW SIGHTLINES FOR  
SHORELINE DEVELOPMENT

Note: The locations of view sightlines and building outlines shown above within properties should not be interpreted as precise locations. These locations are to serve as guidelines for the City's Architectural Review Committee in determining precise view sightlines and building outlines within each property when it reviews specific development projects.

Exhibit A  
Page 4 of 4

RESOLUTION NO. 08-046 C.S.

A RESOLUTION OF THE COUNCIL OF THE CITY OF MONTEREY  
ADOPTING AN AMENDMENT TO THE  
CANNERY ROW LAND USE PLAN (COASTAL PLAN)

WHEREAS, a public hearing was held by the Council of the City of Monterey on February 19, 2008 in the Council Chambers, City of Monterey and public comment was received and considered,

WHEREAS, it is found and determined that the Cannery Row Land Use Plan (Coastal Plan) as amended by the California Coastal Commission complies with the provisions of the California Coastal Act of 1976,

WHEREAS, the City of Monterey intends to carry out the Local Coastal Program Land Use Plan in a manner fully consistent with the California Coastal Act (13551 a),

WHEREAS, the proposed amendment shall take effect upon approval by the California Coastal Commission,

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONTEREY that it adopts the following amendments to the Cannery Row Land Use Plan (Coastal Plan):

Add Public Access Policy b.8 – The City will maintain the publicly owned portion of McAbee Beach for public use as a coastline park with walkways, seating areas and vista points to the Bay and access to the beach and waters of the Monterey Bay National Marine Sanctuary. Uses of the publicly owned portion of McAbee Beach include general beach use and entry and exit point for the pedestrians and divers.

*new policy*

Modify Public Access Figure 4 and Land Use Map Figure 12 as illustrated on the attached graphics.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 4th day of March 2008 by the following votes:

AYES:	5	COUNCILMEMBERS:	Della Sala, Downey, Haferman, Selfridge, Sollecito
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None

APPROVED:

*Della Sala*

Mayor of Said City

ATTEST:

*Cathy*  
City Clerk thereof

**CCC Exhibit B**  
**(page 1 of 1 pages)**

<http://www.californiacoastline.org/>

Image 200508270

Undeveloped portion of McAbee Beach, owned by the Cannery Row Company and designated Visitor Serving Commercial

City-Owned Portion of McAbee Beach (now developed with park amenities) – re-designate from Visitor-Serving Commercial to Public Use Area

MTC-MAJ-1-07 P  
Exhibit C  
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