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Prepared June 24, 2016 (for July 15, 2016 Hearing)

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
Brian O'Neill, Coastal Planner

Subject: City of Monterey LCP Amendment Number LCP-3-MTC-16-0013-1 (Wharf Master Plan Modifications).

Proposed Amendment

The City of Monterey (the City) proposes to modify its Harbor Land Use Plan (Harbor LUP) to delete the Wharf Master Plan (Plan) from Harbor LUP Appendices A and C, and incorporate the Plan's public access, open space, and public view protection policies from Appendix A into the body of the Harbor LUP. The Wharf Master Plan includes policies and standards for development on Fisherman's Wharf. The City recently adopted a new Waterfront Master Plan, which replaces the Wharf Master Plan (which the City repealed in February 2016). The City intends to include the Waterfront Master Plan as part of its Implementation Plan (IP) in the near future.¹ Given that the City does not yet have a Commission-certified IP and thus cannot include the Waterfront Master Plan in the LCP at this time, and because the City has repealed the Wharf Master Plan from its Municipal Code, in the interim, this amendment serves to delete all references and outdated components of the Wharf Master Plan, and insert the Wharf Master Plan's other applicable coastal resource protection policies (including its open space, public access, and public view protections) directly into the Harbor LUP as regulatory standards. Thus, this amendment will ensure that necessary coastal resource protection policies for Fisherman's Wharf remain in place until the time when the City-adopted Waterfront Master Plan is submitted as part of the City's Implementation Plan during the ongoing LCP certification process.

Minor LCP Amendment Determination

Pursuant to Title 14 of California Code of Regulations (CCR) Section 13555, the Executive Director may determine that a proposed LCP amendment is "minor." 14 CCR Section 13554 defines minor LCP amendments. Among other things, minor LCP amendments include:

14 CCR Section 13554(a). Changes in wording which make the use as designated in the

¹ The City of Monterey currently does not have a Commission-certified Implementation Plan. The Commission and Ocean Protection Council granted the City \$235,000 as part of the Fiscal Year 2014/2015 LCP Local Assistance Grant Awards program to both update the existing Land Use Plans and adopt an Implementation Plan to create a complete Local Coastal Program, thereby transferring coastal development permit-issuing authority from the Commission to the City. The City is scheduled to submit its Local Coastal Program to the Commission for certification in March 2017.

zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and which are found by the Executive Director of the Commission or the Commission to be consistent with the land use plan as certified by the Commission.

14 CCR Section 13554(d)(2). *For land use plans... correction, reorganization, revisions, or deletion of certified language which when taken together does not change the kind, location, intensity or density of use or modify the resource protection measures for any area or property.*

If the Executive Director determines that an amendment is minor, that determination must be mailed to all parties the Executive Director has reason to know may be interested and must also be reported to the Commission. If one-third of the appointed members of the Commission request that it be processed as a major LCP amendment, then the amendment shall be set for a future public hearing; if less than one-third of the appointed members of the Commission object to the minor LCP amendment determination, then the amendment is deemed approved, and it becomes a certified part of the LCP immediately (in this case, on July 15, 2016).

The purpose of this notice is to advise interested parties of the Executive Director's determination that the proposed LCP amendment is minor.

The proposed LCP amendment will delete Appendices A and C from the Harbor LUP, which contain portions of the Wharf Master Plan that was adopted as part of the City's Municipal Code in 1986. In February 2016, the City repealed the Wharf Master Plan and adopted the Waterfront Master Plan. The proposed amendment deletes certain requirements within the now-repealed Wharf Master Plan the City has found either onerous or unnecessary, deletes all references to it within the Harbor LUP, but retains necessary coastal resource protection policies from the Wharf Master Plan, including on public view, public access, and open space protections, by inserting such policies directly into the body of the Harbor LUP. As examples of requirements identified for deletion, the Wharf Master Plan includes provisions that: require Architectural Review Board approval for minor modifications of existing buildings; and include a list of permitted items concessionaires can sell on Fisherman's Wharf. The City has found these particular requirements to be onerous on applicants, including by requiring Board approval for even minor architectural changes. Therefore, the amendment will delete all references to the Architectural Review Board. By contrast, the amendment incorporates into the Harbor LUP the Wharf Master Plan's public view, open space, and public access protection policies, which require new development to maintain existing public access and views, and to explore options for increased open space and views when existing structures are redeveloped. Figure 5 of Appendix, which identifies views and open space on the Wharf, will be relabeled Figure 5.1 and inserted after Figure 5 of the Harbor LUP. The amendment will serve only to delete cross-references and overly detailed non-substantive restrictions on existing concessionaires. The substantive policies guiding allowable uses and development patterns on the Wharf are either already included or are being incorporated within the body of the Harbor LUP. In essence, this amendment simply deletes all references to the now-repealed Wharf Master Plan, but retains the Plan's important coastal resource protection policies by inserting them directly into the body of the Harbor LUP. The amendment is therefore consistent with the Coastal Act.

It should be noted that Fisherman's Wharf is owned by the City and space on the Wharf is leased

to private concessionaires who operate a series of commercial establishments, including restaurants and gift shops. The Wharf is located entirely within public trust lands granted to the City by the State of California. As such, the Wharf is located within the Commission's retained coastal development permit jurisdiction where the Coastal Act is the standard of review for all development. Thus, on the Wharf, the Harbor LUP and the IP (including should the Waterfront Master Plan be a component) anticipated for certification only provide guidance, and this amendment will not impact the standard of review that development on the Wharf must meet. That being said, the City has spent considerable time and effort developing the Waterfront Master Plan and has indicated that it will likely include it as part of the IP during the LCP certification process, at which time the Commission will review it for conformance with all applicable LUP policies. Once certified, the Commission looks forward to using the Waterfront Master Plan as a guidance tool to help inform development at this critically important coastal area. Until then, this amendment will ensure that necessary coastal resource protections for development on Fisherman's Wharf are in place.

In conclusion, the proposed change will allow the City to delete unnecessary references to the Wharf Master Plan in the Harbor LUP, while retaining the Wharf Master Plan's coastal resource protection policies as regulatory standards within the Harbor LUP. As such, the proposal does not change the kind, location, intensity, or density of use of land. The amendment is thus consistent with and adequate to carry out the policies of Chapter 3 of the Coastal Act.

California Environmental Quality Act (CEQA)

The City has determined that the project is exempt from further review under CEQA, pursuant to Section 15305 of the Public Resources Code, "Minor Alterations in Land Use Limitations," and a Notice of Exemption has been prepared. 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. This report has discussed the relevant coastal resource issues with the proposal, and has concluded that the proposed LCP amendment is not expected to result in any significant adverse impact on the environment. Thus, it is unnecessary for the Commission to suggest modifications to the proposed amendment to address adverse environmental impacts because the proposed amendment, as submitted, will not result in any significant environmental effects for which feasible mitigation measures would be required. Therefore, this LCP amendment is consistent with CEQA, pursuant to Section 21080.5(d)(2)(A) of the Public Resources Code.

Coastal Commission Concurrence

The Executive Director will report this minor LCP amendment determination, and any comments received on it, to the Coastal Commission at its July 15, 2016 meeting in San Diego. For any questions or needed additional information regarding the proposed amendment or the process under which it is being certified, please contact Brian O'Neill at the Central Coast District Office in Santa Cruz.

Exhibit:

Exhibit 1: Proposed LUP Modifications

MONTEREY HARBOR LAND USE PLAN

CITY OF MONTEREY LOCAL COASTAL PROGRAM

Adoption History

Certified by Coastal Commission
May 8, 2003

City of Monterey Adopts Resolution
Accepting Coastal Commission Changes
June 3, 2003

Coastal Commission Certification Review
October 10, 2003

Prepared with financial assistance from the office of Coastal Zone Management, National Oceanic and Atmospheric Administration, under the provisions of the Federal Coastal Zone Management Act of 1972; and from the California Coastal Commission under the provisions of the California Coastal Act of 1976.

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LCP Policies

The policies in this section specifically address protection, enhancement, and provision of public access to and along the Harbor area shoreline. Figure 5 depicts the policies presented below.

- a. The City shall encourage the Army to allow continued access to City-operated public facilities on the Presidio property, e.g. the Army Museum.
- b. Existing vertical access points, as described in Figure 5, shall be protected, improved, or replaced with equal or better access as new development is proposed. New vertical access points, as described in Figure 5, shall be improved with a clearly signed accessway that is a minimum of ten (10) feet in width. A lesser width to a minimum of five (5) feet may be allowed if justified by site characteristics along the rocky shoreline of Lighthouse Curve. Access to Monterey Beach from Figueroa Street/Del Monte Avenue shall be a minimum width of twenty-five (25) feet to allow multi-hull boats access.
- c. ~~All access policies in the Fisherman's Wharf Master Plan (See Appendix A) shall be adhered to as follows:~~
 1. ~~The present open space and view areas, shown in Figure 5, shall be maintained.~~
 2. ~~To provide additional public access and view area, Concession 34 should be allowed to replace its structure over the water under the condition that access be placed across the back of the structure. This access should be provided in a way that will not preclude the linking of this access with the existing public access on adjoining Concessions 35 and 33, as shown in Figure 5. The required public access for Concession 34 shall not be required to be linked to Concessions 35 and 33 without the consent of Concession 35 and 33. The existing public access on Concessions 35 and 33 should be considered separate and should be required to be linked to public access improvements on Concession 35 as a condition of development when improvements are proposed for either Concession 35 or 33.~~
 3. ~~The provision of a panoramic viewpoint accessible to the general public should be a condition of any lease area expansion, as provided for in Architectural Control Policy 1.* This panoramic viewpoint should be linked to other viewpoints so as to provide lateral access at the backs of structures, where feasible, and subject to the approval of all adjacent concessionaires.~~
 4. ~~Should any concession cease operation and not desire to renew its lease, the City should study the structure to see if the structure should be removed and the area should become permanent open space.~~
- d. Planned improvements consistent with the Monterey State Historic Parks General Plan (1983) to the Sloat Landing site by the State Department of Parks and Recreation, including access to the shoreline, shall be supported.
- e. No intervening development shall block potential visual access or physical access to the beach.
- f. Redevelopment of the east Catellus site shall provide increased opportunities for access to Monterey Beach and Wharf No. 2.
- g. As part of any development on the west Catellus property, lateral access, a minimum width

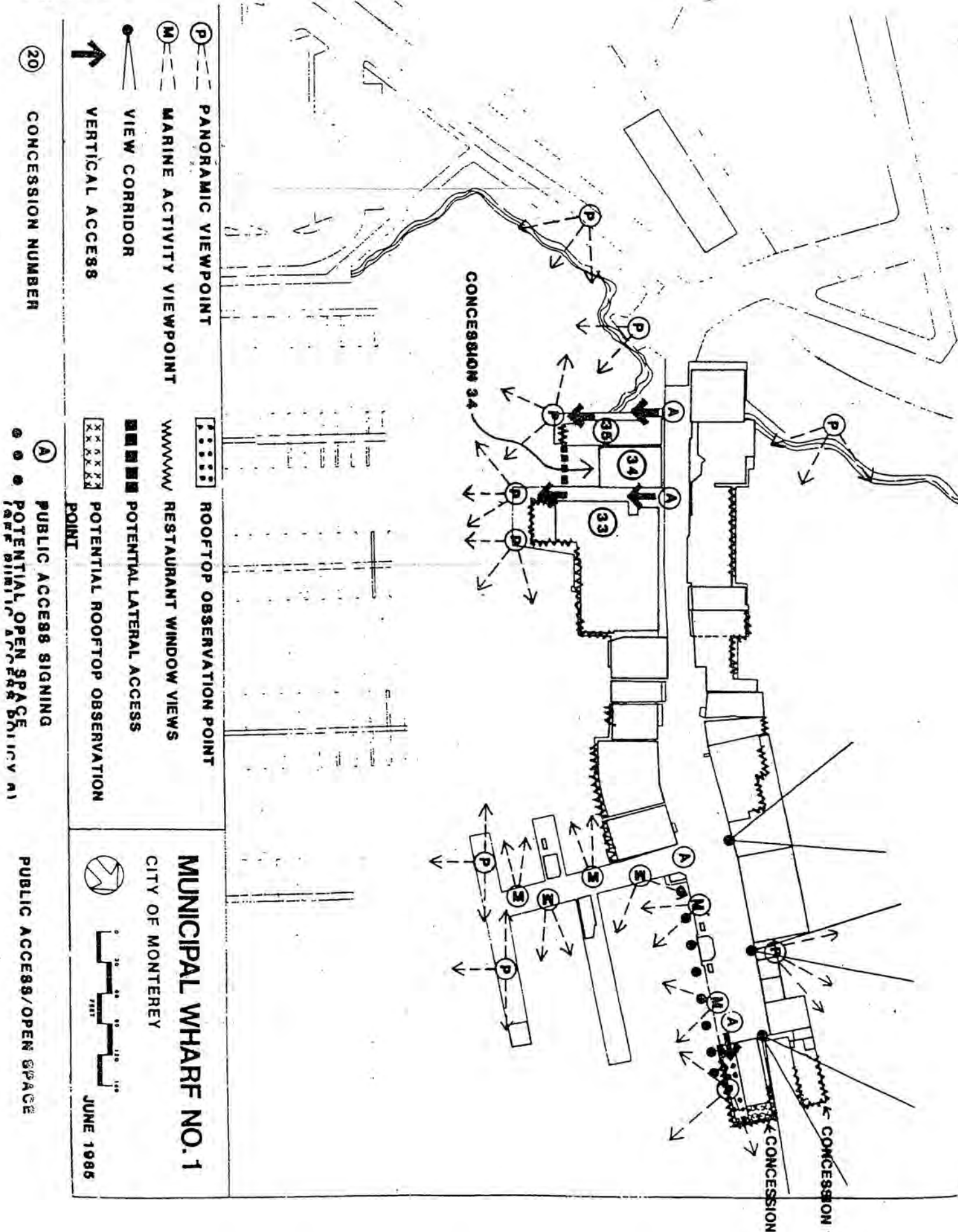
~~h. All architectural control policies in the Fisherman's Wharf Master Plan (see Appendix A) shall be adhered to.~~

- i. The City of Monterey and the State Department of Parks and Recreation shall continue to preserve historic cypress trees on State Parks historic properties within the City.
- j. Fences, walls, and landscaping shall not block harbor view corridors, as shown on Figure 10.

Proposed LCP Implementation Measures

- a. Revise the Zoning Ordinance to implement development standards for protecting coastal visual resources.

Figure 5.1



- (P) PANORAMIC VIEWPOINT
- (M) MARINE ACTIVITY VIEWPOINT
- View symbol: VIEW CORRIDOR
- Arrow symbol: VERTICAL ACCESS
- (20) CONCESSION NUMBER

- (A) PUBLIC ACCESS SIGNING
- (R) POTENTIAL ROOFTOP OBSERVATION POINT
- Wavy line symbol: RESTAURANT WINDOW VIEWS
- Grid of 'x's symbol: POTENTIAL LATERAL ACCESS
- Grid of 'x's symbol: POTENTIAL ROOFTOP OBSERVATION POINT

MUNICIPAL WHARF NO. 1
 CITY OF MONTEREY
 JUNE 1985
 PUBLIC ACCESS/OPEN SPACE

~~APPENDIX A: Wharf Master Plan Public Access/Open Space/ Architectural Control Policies as Adopted in the Wharf Master Plan for Fisherman's Wharf by the Monterey City Council~~

- ~~1. The present open space and view areas, shown in Figure 5, shall be maintained.~~
- ~~2. To provide additional public access and view area, Concession 34 should be allowed to replace its structure over the water under the condition that access be placed across the back of the structure. This access should be provided in a way that will not preclude the linking of this access with the existing public access on adjoining Concessions 35 and 33, as shown in Figure 5. The required public access for Concession 34 shall not be required to be linked to Concessions 35 and 33 without the consent of Concession 35 and 33. The existing public access on Concessions 35 and 33 should be considered separate and should be required to be linked to public access improvements on Concession 35 as a condition of development when improvements are proposed for either Concession 35 or 33.~~
- ~~3. The provision of a panoramic viewpoint accessible to the general public should be a condition of any lease area expansion, as provided for in Architectural Control Policy 1.* This panoramic viewpoint should be linked to other viewpoints so as to provide lateral access at the backs of structures, where feasible, and subject to the approval of all adjacent concessionaires.~~
- ~~4. Should any concession cease operation and not desire to renew its lease, the City should study the structure to see if the structure should be removed and the area should become permanent open space.~~

~~Architectural Control Policies in the Wharf Master Plan reads as follows:~~

- ~~1. The existing lease areas, with the exception of lease areas for retail and wholesale fishmarkets, as addressed in Permitted Use Policy 3, shall only be extended for building purposes; and the present building outlines shall be essentially maintained and only added to where such extensions and additions accomplish all of the following:
 - ~~• The extensions and additions enhance public access and view opportunities, as defined by Public Access/Open Space Policy 3, without infringing upon the views and operations of neighbors.~~
 - ~~• The extensions and additions maintain the overall design character of the Wharf.~~~~
- ~~2. New two-story structures shall not be permitted on the Wharf except where:
 - ~~• Such structures encourage marine-related uses in line with Permitted Use Policy 3.~~
 - ~~• Such structures do not significantly affect the overall design character of the Wharf;~~
 - ~~• Such structures do not infringe upon the views and operations of neighbors.~~~~
- ~~3. No further building or structure shall be permitted below the level of the deck on Wharf No. 1, except boat landings. Boat landings may be permitted within the piling supporting a building or deck, but should not project outward of the existing lines of piling.~~

~~4. The exteriors of any building or structure to be altered, remodeled, or replaced, and any decorations, ornamentation, or signs proposed to be installed, shall be approved by the Architectural Review Committee.~~

~~5. The painting of any building, structure, decoration, ornamentation, or sign to the same or to a different shade or color shall require approval of the Architectural Review Committee.~~

| **Figure 5**

~~APPENDIX C: Wharf Master Plan Permitted Use Policies as Adopted in the Wharf Master Plan for Fisherman's Wharf by the Monterey City Council~~

~~1. No more new restaurants, cocktail lounges, or gift shops will be allowed on the wharf.~~

~~2. Marine-oriented uses should be especially encouraged and shall receive special consideration by the City.~~

~~3. To especially encourage retail and wholesale fishmarkets, these markets may be allowed:~~

~~• additional building height not to exceed two stories in height. The building area created by any additional height shall be used for equipment and storage purposes only for on-site businesses, but in no case shall provide for an increase in seating capacity for restaurants.~~

~~• sale of food related to projects sold in fishmarkets, as specifically defined in Resolution 9000, should be allowed for customer take-out and consumption on the premises. Seating shall be for a maximum of ten (10) persons. This sale of food shall be incidental to the sale of retail and wholesale fish products, and shall not alter the character and function of the fishmarket.~~

~~4. The sale of products by concessionaires on Fisherman's Wharf shall be limited to those specified in Resolution 9000.~~

~~5. Lessees should not be permitted to sublease or assign their leases for uses different than those set forth in the lease unless such use is specifically set forth in the Wharf Plan or approved by the City as meeting the general purposes and objectives of the Wharf Plan.~~

~~6. The use and location of vendor carts, and any change in the use and/or location of existing vendor carts, shall be subject to review and approval of the City Council.~~

~~7. At the time an existing use is terminated and a different use is proposed, this different use shall be of the following nature:~~

~~a. Primary~~

- ~~• wholesale and retail fish businesses~~
- ~~• ship's chandlers~~
- ~~• sales of marine equipment and supplies~~
- ~~• marine equipment repair services~~
- ~~• aquariums~~
- ~~• boat rentals~~
- ~~• sales of fishing equipment and supplies~~
- ~~• other marine-oriented service or retail establishments, which, in the opinion of the City of Monterey, will be an appropriate and harmonious part of a wharf, oriented toward waterfront activities including the above uses.~~