

**FULL TEXT OF
MEASURE I**

**MARTINEZ OPEN SPACE AND PARK PROTECTION
INITIATIVE**

The People of the City of Martinez do ordain as follows:

SECTION 1. PURPOSE

The purpose of this initiative is to increase protections for open space, park and outdoor recreation land in the City by requiring approval by Martinez voters for any General Plan amendment to change allowable uses or land use designations for such land. The protections provided by this Initiative will help ensure that these lands and their valued uses are not changed to uses associated with more intensive development without approval by Martinez voters.

**SECTION 2. GENERAL DESCRIPTION OF
MEASURE**

This Initiative amends the Martinez General Plan to require approval by Martinez voters in order to change land uses or designations of open space, park and outdoor recreation land beyond those allowed by this Initiative.

The Initiative amends the Martinez General Plan to identify "Protected Open Space and Parks" as an overlay land use designation. It places in that designation all land that, as of January 1, 2017, was within the Martinez City Limits and had been designated in the General Plan for open space, park and outdoor recreation use as defined under Government Code Section 66530(b).

Typical examples of allowable open space uses are nature conservation and habitat preservation, outdoor open space recreation, hiking, grazing, and similar uses. Typical examples of allowable park and outdoor recreation land uses are outdoor sports and recreation facilities (such as playgrounds, picnic areas, playing fields and sport courts), dog parks, recreational trails, and similar uses.

SECTION 3. FINDINGS

The People of the City of Martinez do find and declare:

a. Approval by Martinez Voters

Martinez open space, park and recreation lands are critical to the health and well-being of the residents of Martinez. Their continued protection is of great importance to the community. This Initiative requires approval by Martinez voters to change land uses or designations of open space, park and outdoor recreation land beyond those allowed by this Initiative.

b. Pressure from Increasing Population

As our population continues to grow, there will be increasing pressure to convert existing open space, park, and recreation land to other more intensive development uses, both residential and commercial. Increases in population in and around the City are also placing increased demands on existing park and recreation land.

c. Current City Council Powers

At present, the City Council can convert existing open space, park, and outdoor recreation land to other uses. The City Council has voted repeatedly to convert land from open space to development.

d. Importance of Voter Approval

Decisions removing lands from open space, park and outdoor recreation use and changing them to more intensively developed uses are too important to be left solely to the discretion of the five people on the City Council.

**e. Benefits Open Space and Parks give to
Martinez Residents that Make Their Increased
Protection Important**

These lands provide sites for native plants and animals (including rare and endangered ones); keep wildlife areas connected; protect creeks and wetlands; provide scenic views and beautiful settings; help protect and preserve water and air quality; help people learn about their environment; reduce damage from landslides and earthquakes in steep and unstable hillside areas; and help absorb greenhouse gasses – a major cause of damaging climate change.

They provide outdoor recreation and sports uses – including playing fields, outdoor courts for sport use (e.g., tennis, basketball, bocce ball, etc.), picnic areas, playgrounds, dog parks, recreation and hiking trails, outdoor swimming facilities, and numerous additional uses.

Open space, park and recreation lands increase property values, improve our health and sense of well-being, provide us with enjoyment and tranquility, reduce the stress and strain of modern life, and connect us with the natural world.

**f. Historic 1973 General Plan Provisions
Readopted**

This Initiative does not change the amount of housing that is allowed on open space. The 1973 General Plan explicitly allows a certain amount of residential development on certain privately owned open space. This Initiative readopts those provisions in order to maintain continuity and provide fairness to those private property owners. The Initiative also readopts requirements in the 1973 General Plan limiting environmental impacts of any such residential use in the Franklin Hills sub-area.

g. Marina and Harbor Area State Regulations

Because a high level of protection is already mandated by State law, and because the City must have flexibility to prepare and submit a trust lands use plan to the State Lands Commission no later than January 1, 2020, it is appropriate that this Initiative not apply to the areas of the Martinez marina and harbor waterfront (see attached Exhibit B for location). This land, as land subject to the

public trust, was deeded to the City as trustee by Senate Bill 1424 of the 2014 California legislative session.

The law requires that the lands be held "... for the benefit of all the people of the state for purposes consistent with the public trust doctrine, including the protection of maritime or water-dependent commerce, navigation, and fisheries, the preservation of the lands in their natural state for scientific study, open space, wildlife habitat, and water-oriented recreation."

Because the Initiative does not apply to the Martinez marina and harbor waterfront, it does not limit proposals for placing restaurants in these areas. The limits set by public trust doctrine remain as they currently are.

h. Burden of Proof

This Initiative is designed to protect agricultural use as defined in Government Code Section 51201(b), and open space land as defined in Government Code Section 65560(b), for purposes of California Evidence Code Section 669.5(c)(3).

i. Federal and State Law

This Initiative is subject to Federal and State law. Because that law is not always clear and changes, this Initiative provides explicitly that it does not apply, notwithstanding its literal terms, when its application would be inconsistent with Federal or State law. This inapplicability is designed to prevent the Initiative from being in conflict with law or subjecting the City to any liability.

SECTION 4. TITLE

This Initiative is entitled the Martinez Open Space and Park Protection Initiative. It is referred to in the text interchangeably as the "Initiative," "measure," or "ordinance."

SECTION 5. GENERAL PLAN AMENDMENT

Preamble: This General Plan Amendment shall, upon adoption, become a part of the Martinez General Plan. Additions to the General Plan are indicated by italics; deletions are indicated by strike-out marks. Headings are included to assist in reading the amendment, but in case of any ambiguity, the actual text shall govern. All General Plan provisions adopted or readopted through this Initiative shall be distinctively identified in the General Plan as having been adopted by initiative.

a. Approval by Martinez Voters

Approval by Martinez voters is required to change land use designations or allowable uses of Protected Open Space and Parks to uses or designations not permitted under Protected Open Space and Parks, except as otherwise provided for in this Initiative. "Protected Open Space and Parks" is defined in subsection (b) below.

b. "Protected Open Space and Parks" Overlay Established

A new land use overlay designation of "Protected Open Space and Parks" is established within the General Plan's Land Use Element. All lands within the Martinez City Limits designated for open space, park, and outdoor recreation use as of January 1, 2017 are hereby also designated as "Protected Open Space and Parks," with the exception of the areas of the Martinez marina and harbor waterfront governed by Senate Bill 1424 (Statutes 2014, Chapter. 628) and further described in Section 5.i. In addition, any land later designated in the General Plan for open space, park, and outdoor recreation use shall also automatically be included in the Protected Open Space and Parks overlay designation. "Protected Open Space and Parks" specifically includes, but is not limited to, those lands designated in the 1973 General Plan as Public Permanent Open Space, Parks and Recreation, Open Space/Conservation Use Land, Environmentally Sensitive Land and Open Space.

The lands covered on January 1, 2017, by this overlay designation are shown in the attached map provided by the City and titled "EXISTING GENERAL PLAN LAND USE MAP Updated with September 2013 Map Amendments and December 2012 City Boundary Change." The map is marked as "Exhibit A" and incorporated herein by this reference. It has been modified, for ease of identification, by enlarging written land use designations shown on the map for those areas included within the overlay designation. However, in all cases the land use designations, as shown by map coloration, shall govern inclusion in the overlay designation, except for the areas of the Martinez marina and harbor waterfront, which are explicitly excluded under subsection 5.i.

c. Open Space, Park and Outdoor Recreation Uses

Allowable uses on land designated as Protected Open Space and Parks are as follows:

- i. for open space lands, permitted uses are: nature conservation or study; ecosystem, habitat, and watershed preservation; hiking trails and outdoor open space recreation; agricultural use; forestry use; grazing lands; and other similar uses consistent with the purpose and intent of this Initiative;*
- ii. for park and recreation lands, permitted uses are: park use; outdoor recreation and sports uses – including but not limited to playing fields, outdoor swimming facilities, golf course, outdoor courts for sport use (e.g., tennis, basketball, bocce ball, pickleball, volleyball, etc.); historic site preservation; stables and riding facilities; picnic areas; playgrounds; dog parks; recreation trails; and other similar uses consistent with the intent of this Initiative.*

Except as provided for in this Initiative, residential or

commercial uses are not allowed on Protected Open Space and Parks.

d. Ancillary Uses

In addition to the uses allowable under subsection (c) of this section, other ancillary uses may be allowed on Protected Open Space and Parks land, so long as the ancillary use is subsidiary and is customarily associated with a use allowed on the open space, park, and outdoor recreation land.

Examples include: rest rooms for open space, park, or outdoor recreation uses; changing rooms, showers, vending machines and/or a snack bar or a small concessionaire structure in association with permitted park and outdoor recreation uses; smaller indoor recreational facilities associated with a primarily outdoor recreation facility; facilities for the processing, storage, or retail sale of agricultural products where necessary for agricultural use of contiguous open space land; buildings or parking areas for storage of equipment or vehicles where the vehicles or equipment are intended for use in and/or in association with open space, park, and outdoor recreation use; administrative facilities if necessary for the associated open space, park, and outdoor recreation uses.

e. Development-Intensive Uses Allowed if Approved by Martinez Voters

Uses on any one or more categories of open space, park and recreation land may be changed to allow more development-oriented uses and land use designations than those above, including commercial and residential uses, but this Initiative requires that any such change of uses be approved by Martinez voters.

f. Existing Legal Uses Are Permitted

If uses are currently legal and already existing or are vested on Protected Open Space and Parks land, but are not permitted under this Initiative on Protected Open Space and Parks land when this Initiative takes effect, they may continue unaffected by the Initiative's restrictions; but such uses may not be expanded except as allowed under the Initiative.

g. City Council Can Increase Restrictions

The City Council may further restrict, through zoning or other legal means, permitted uses on any category of Protected Open Space and Parks.

h. Readoption of Historic 1973 General Plan Provisions

This Initiative does not change the amount of housing that is allowed on open space. The 1973 General Plan explicitly allows a certain amount of residential development on privately owned open space. To maintain continuity and provide fairness to those private property owners, those allowances are readopted in this Initiative. Existing requirements in the 1973 General Plan (as part of the Central Martinez Specific Area Plan, as incorporated into the General Plan) limiting environmental impacts of any such residential use in the Franklin Hills sub-area are

also readopted by the Initiative.

Accordingly, this Initiative readopts certain provisions contained in the 1973 General Plan as attached hereto as Exhibit C and incorporated herein by this reference. Provisions not indicated in Exhibit C remain unchanged, but are not being readopted as part of this Initiative.

i. Marina and Harbor Area Public Trusts Lands Excluded

Notwithstanding any other provision of this Initiative, because a high level of protection is already mandated by State law, and because the City must have flexibility to prepare and submit a trust lands use plan to the State Lands Commission no later than January 1, 2020, this Initiative does not apply to the areas of the Martinez marina and harbor waterfront governed by the Public Trust. These areas of the Martinez marina and harbor waterfront are governed by Senate Bill 1424 (Statutes 2014, Chapter. 628) and are shown as the shaded areas marked as, "2A, 2B, 2C, and 2D" in the attached map, Exhibit B.

j. Residential Use Required by State Housing Law

Development on Protected Open Space and Parks for residential use shall be allowed to the extent it is specifically necessary to satisfy a residential development requirement under State law and on the condition that the requirements cannot otherwise be satisfied; provided, however, that such development shall only be allowed to the extent specifically required, and that the area involved in such development shall be the minimum so required.

k. Protection of Constitutional Rights

If a court of competent jurisdiction rules that the application of this Initiative to a specific proposed use or project would deprive a person of Constitutional rights or privileges, or otherwise would be contrary to Federal or State law, the Initiative shall not apply to the extent required to allow that use or project. This explicit limitation on applicability is to make certain that the provisions do not infringe any person's legal rights or privileges, violate the law in any respect, or subject the City to legal liability.

SECTION 6. – IMPLEMENTATION

a. This Initiative's provisions become effective upon approval, and the General Plan Amendment included as Section 5 of the Initiative shall be inserted into the General Plan as soon as is legally allowed.

b. If the provisions of this General Plan Amendment would conflict or be inconsistent with any other existing or proposed future provision of the Martinez General Plan, or with any existing or proposed future map, diagram, or chart within the Martinez General Plan, or any zoning provision, specific plan, or other City law or regulation, those conflicting provisions, maps, diagrams, charts, laws or regulations are, to the extent they are in conflict with or inconsistent with the provisions of this Initiative, hereby declared void and unenforceable.

c. Other than as provided herein, upon the effective date of this General Plan Amendment, the City and its departments, boards, commissions, officers and employees shall not grant, or by inaction allow to be approved by operation of law, any General Plan amendment, rezoning, specific plan, subdivision map, conditional use permit, building permit or any other ministerial or discretionary entitlement, which is inconsistent with the purposes of this Initiative or its included General Plan Amendment.

d. This measure shall be interpreted liberally to further its purposes. It is the intent of the voters that the provisions of this measure shall be interpreted by the City and others in a manner that protects open space, park, and recreation lands as set forth herein.

e. Any resident of the City of Martinez, any organization with members living in the City of Martinez, and any other party with standing may enforce the provisions of this measure by judicial proceedings. If, as result of that proceeding, the court issues a judgment finding that a violation has or was about to occur and providing appropriate relief for that violation, such legal proceedings shall be considered to have protected important public rights and benefited the public.

SECTION 7. SEVERABILITY

If any section, subsection, sentence, clause, phrase, part, or portion of this measure is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this measure. The voters hereby declare that this measure, and each section, subsection, sentence, clause, phrase, part, or portion thereof would have been adopted or passed, even if one or more sections, sub-sections, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this Initiative is declared invalid as applied to any person or circumstance, such invalidity shall not affect any application of this measure that can be given effect without the invalid application.

SECTION 8. CONFLICTING MEASURES

If another measure appears on the same ballot in the election where this Initiative is approved by the voters, this Initiative shall be fully effective unless that other competing measure received more votes and one of the following applies: a) the other measure constitutes a comprehensive regulatory scheme for the areas and subjects covered by this Initiative, or b) there are actual, definite and irreconcilable conflicts between the other measure and this Initiative, in which case the conflicting provisions of this Initiative shall be deemed ineffective. Any provision of a competing measure purporting to nullify the effect of this Initiative or to declare that the two measures are in irreconcilable conflict are, in and of themselves, ineffective.

SECTION 9. AMENDMENT

This Initiative may be amended or repealed only by

Martinez voters. The City Council may make technical, non-substantive modifications to the provisions of this measure; however any such modification or amendment must be fully consistent with the intent and purposes of the measure. The City Council may also amend this measure to strengthen the environmental protections it contains; however any such amendment must be fully consistent with the purposes and intent of the measure.

Exhibit A – Areas included in the Protected Open Space and Parks Overlay Designation.

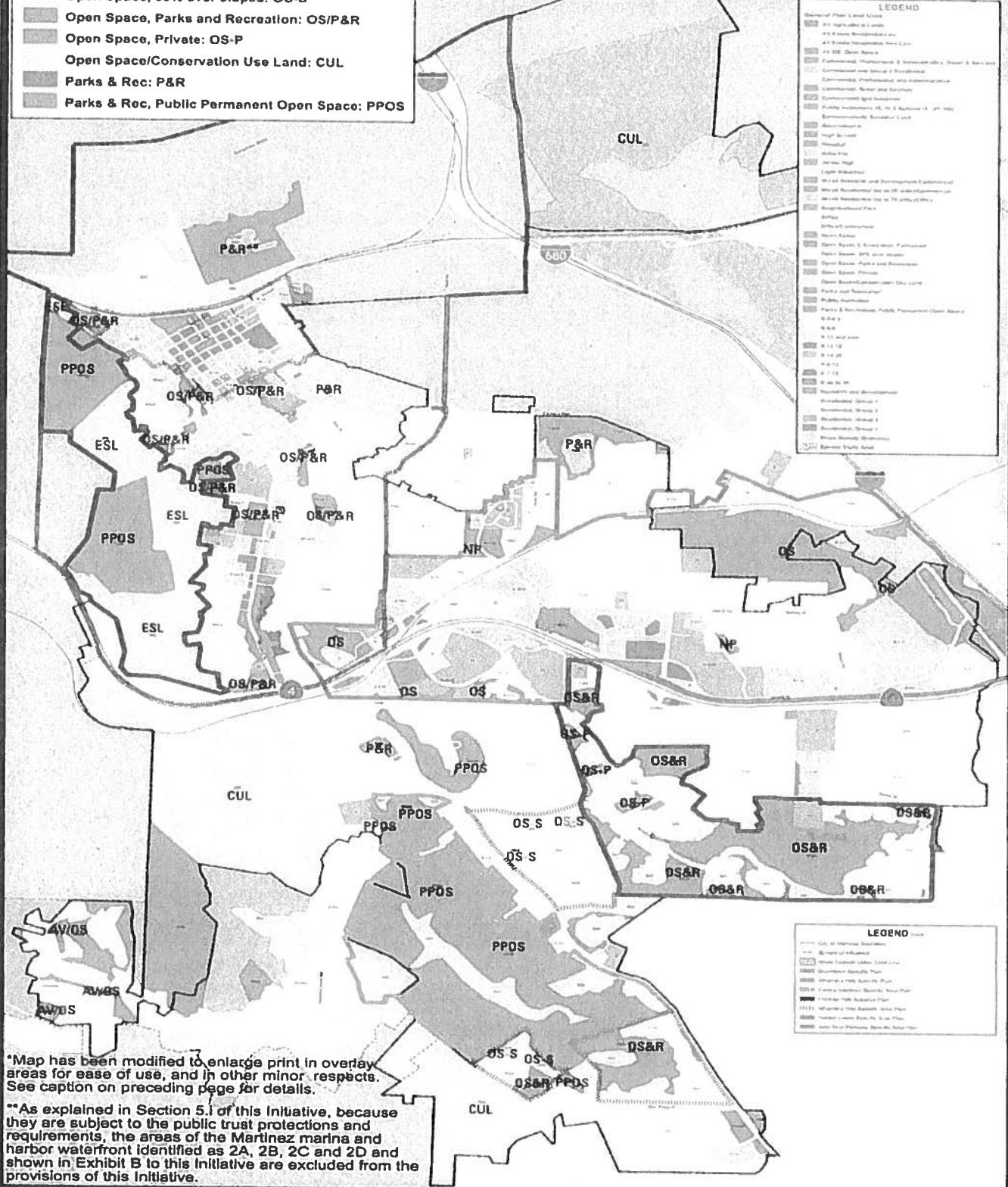
The attached map, modified from a map provided by the City and titled "EXISTING GENERAL PLAN LAND USE MAP Updated with September 2013 Map Amendments and December 2012 City Boundary Change," shows the areas within the Martinez City Limits, as of January 1, 2017, that are included in the Protected Open Space and Parks overlay designation being created by this Initiative. For ease in identification, written land use designations shown on the map have been enlarged for those areas included in the overlay designation. However, in all cases the land use designations, as shown by map coloration, shall govern inclusion in the overlay designation, except for the areas of the Martinez marina and harbor waterfront, which are explicitly excluded under Section 5.i of this Initiative.

EXISTING GENERAL PLAN LAND USE MAP*

Updated with September 2013 Map Amendments and
December 2012 City Boundary Change

- AV/OS Open Space: AV/OS
- Environmentally Sensitive Land: ESL
- Neighborhood Park: NP
- Open Space: OS
- Open Space & Recreation, Permanent: OS&R
- Open Space, 30% over slopes: OS-S
- Open Space, Parks and Recreation: OS/P&R
- Open Space, Private: OS-P
- Open Space/Conservation Use Land: CUL
- Parks & Rec: P&R
- Parks & Rec, Public Permanent Open Space: PPOS

- #### LEGEND
- General Plan Land Use
 - P1 Agriculture or Livestock
 - P2 Farm Residential Use
 - P3 Medium-Density Residential Use
 - P4 Single-Family Residential Use
 - P5 Medium-Density Residential Use
 - P6 Single-Family Residential Use
 - P7 Medium-Density Residential Use
 - P8 Single-Family Residential Use
 - P9 Single-Family Residential Use
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 - P45 Single-Family Residential Use
 - P46 Single-Family Residential Use
 - P47 Single-Family Residential Use
 - P48 Single-Family Residential Use
 - P49 Single-Family Residential Use
 - P50 Single-Family Residential Use



*Map has been modified to enlarge print in overlay areas for ease of use, and in other minor respects. See caption on preceding page for details.

**As explained in Section 5.1 of this Initiative, because they are subject to the public trust protections and requirements, the areas of the Martinez marina and harbor waterfront identified as 2A, 2B, 2C and 2D and shown in Exhibit B to this Initiative are excluded from the provisions of this Initiative.

Exhibit B – Excluded areas of the Martinez marina and harbor waterfront.

Parcels 2A, 2B, 2C and 2D, shown below as shaded areas, are excluded from the provisions of this Initiative, because they are subject to the public trust protections and requirements as set forth more fully in Section 5.i of the Measure.

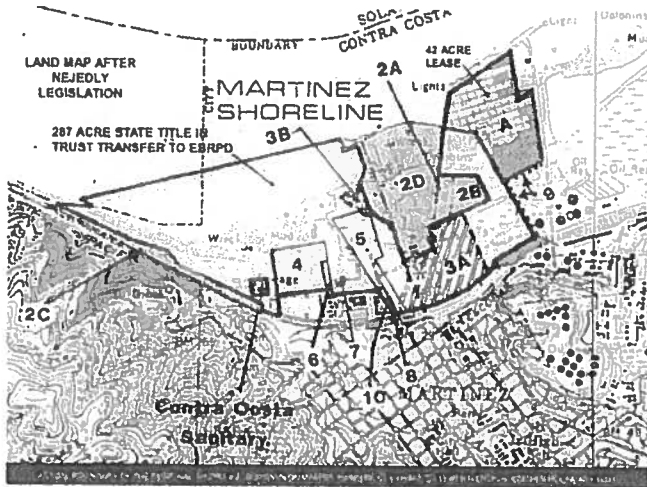


Exhibit C – Provisions of the 1973 General Plan Readopted by this Initiative.

This Initiative readopts the following provisions of the 1973 General Plan as described in Section 5.h of the Measure. Section numbering from the 1973 General Plan is included for reference, but are not integral to the provisions being readopted.

21.22

(...) Appropriate private open space uses include agricultural, grazing, open space recreational uses such as camp facilities, or residential uses where such uses and related facilities such as roads and parking areas constitute less than two percent of the entire land area where the balance of the land is retained in a natural state or agricultural state.

F 21.2 RESIDENTIAL LAND USE DENSITIES AS RELATED TO DWELLING UNIT SITE AREA REQUIREMENTS

Dwelling Units per Gross Acre

Required Site Area per Dwelling Unit

Open Space/Conservation Use or Environmentally Sensitive Lands:

0 to 1 units

Within the Alhambra Creek Watershed
40,000 square feet per unit or greater with larger site area requirements typical of the zone, unless otherwise specified in a Specific Plan.
Outside the Alhambra Creek Watershed
20,000 square feet per unit or greater.

0 to 2 units

30 CENTRAL MARTINEZ SPECIFIC AREA PLAN

30.621 The Franklin Hills sub-area, extending from the Carquinez Straits to California State Highway Route 4 between urban Martinez and the western edge of the study area, are designated Environmentally Sensitive Lands or Public Permanent Open Space

30.621.1 In this area limited residential development on an individual site basis may be appropriate if certain environmental impacts can be mitigated. Each application for residential development shall be accompanied by the following items:

- A. Applications for rezoning and development plan approval shall be processed concurrently. Each application shall contain documentation by the appropriate professionals hired by the applicant that each and every significant environmental impact (including cumulative impacts) identified in the Franklin Hills Environmental Impact Report (EIR) has been thoroughly investigated for the site in question and can be mitigated to an insignificant level. Site-specific and cumulative mitigation measures shall be designed in sufficient detail to allow preliminary cost estimates to be also included in the application.
- B. Prior to acceptance of the application as complete, all portions of this application shall be reviewed for completeness and accuracy by City staff and appropriate City consultants. The cost of this review shall be paid by the applicant.
- C. No application shall be accepted for a proposal which exceeds a density of one unit per half-acre of land under 30% slope and under 350 ft. elevation, and one unit per ten acres over 350 feet

elevation. A slope density map meeting Zoning Ordinance requirements shall be submitted with each application.

- D. No application shall be accepted for a site which does not have, or provide as part of the development proposal, access to a fully-improved public street meeting all City requirements including those relating to length and number of lots served by a cul-de-sac.