

ORDINANCE NO. 3571 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

AMEND CITY CODE SECTION 38-11 (DEFINITIONS) AND TO ADD ARTICLE 16B TO CREATE A NEW EMERGENCY (HOMELESS) SHELTER OVERLAY ZONING DISTRICT TO PERMIT EMERGENCY SHELTERS MEETING SPECIFIC OPERATIONAL AND MANAGEMENT REQUIREMENTS BY RIGHT; AND APPLY THE OVERLAY ZONE TO CERTAIN PROPERTIES ZONED INDUSTRIAL (IR), COMMERCIAL OFFICE (CO) EXCEPT FOR PROPERTIES LOCATED ON EL DORADO BETWEEN MAJOR SHERMAN LANE AND MESA ROAD; COMMUNITY COMMERCIAL (C-2) EXCEPT FOR THE DEL MONTE CENTER, AND PROPERTIES FRONTING WAVE STREET AND FOAM STREET; GENERAL COMMERCIAL (C-3) BETWEEN DELA VINA AND HIGHWAY ONE, PLANNED COMMUNITY LIGHTHOUSE (PC-L) EXCEPT FOR PARCELS FRONTING LIGHTHOUSE AVENUE, PLANNED COMMUNITY-NORTH FREMONT (PC-NF) EXCEPT FOR PARCELS FRONTING NORTH FREMONT, PLANNED COMMUNITY-DOWNTOWN (PC-D) EXCEPT FOR PROPERTIES FRONTING ALVARADO AND CALLE PRINCIPAL AND PROPERTIES WITHIN THE ROYAL PRESIDIO, HERITAGE, ISLAND OF THE ADOBES, AND RECREATION CHARACTER AREAS

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, State law Senate Bill 2, 2007 (SB 2) requires jurisdictions to allow emergency shelters without a use permit or other discretionary review;

WHEREAS, amendments to the code section are necessary to comply with SB 2 and Housing Element Program f.1.11, which requires that the City amend the zoning ordinance to allow emergency shelters as a permitted use in a newly created overlay zone, as shown in Exhibit A;

WHEREAS, the Housing Element identifies certain special needs groups that may have more difficulty finding decent affordable housing. In Monterey, these special needs groups are the elderly, disabled persons, female-headed households, homeless persons, veterans, students, and large families, and require shelter in close proximity to public transportation, schools, and other services;

WHEREAS, the City's Housing Element identified 542 persons in need of shelter in the City;

WHEREAS, a total of 16 shelters, accommodating 35 persons each, would fulfill City's need for shelter;

WHEREAS, 19 acres are required for 16 shelters, with a 35 person capacity each, to meet the need for shelters in the City;

WHEREAS, on October 18, 2016, the City Council considered the Planning Commission's recommendation to create an emergency shelter overlay zone in the existing C-3 zoning district, which is located along Del Monte Avenue east of the Naval Postgraduate School. In 2007 and in 2016, the City Council and Planning Commission adopted Housing Element policy that identifies the C-3 zoning district as an appropriate area of the City to accommodate future emergency shelters. There was opposition to the proposed location of the overlay zone and the matter was next considered on January 17, 2017, at which time, consideration of the C-3 zone was tabled;

WHEREAS, on January 17, 2017, the Council's motion directed staff and the Planning Commission to consider developing the overlay zone "...in the City's Commercial Zoning Districts (Lighthouse/Foam, Cannery Row, Downtown, and/or North Fremont); and/or the City's Industrial Zoning Districts (Garden Road, Ryan Ranch, and/or the City's former Fort Ord Property)...";

WHEREAS, at its regular meetings of February 28, 2017, March 14, 2017, and April 11, 2017, and April 25, 2017, the Planning Commission held public hearings, took public testimony, held discussions, and provided direction to staff regarding the creation and location of the emergency shelter overlay;

WHEREAS, on April 25, 2017, the Planning Commission held a duly noticed public hearing, took public testimony, and recommended that the City Council amend the zoning ordinance and zoning map;

WHEREAS, the City Council held a duly noticed public hearing on June 20, 2017, took public testimony, and considered the ordinance and zoning map amendments;

WHEREAS, the City Council finds and determines that the identified zones as shown on Exhibit A have sufficient capacity, when taken as a whole, to meet the needs for shelters in the City, and these zones have a realistic potential for development or reuse opportunities;

WHEREAS, the City Council finds and determines that the location of the identified zones, when taken as a whole, have sufficient acreage (vacant or underutilized) and the realistic capacity for emergency shelters in the zone. There is the potential for reuse or conversion of existing buildings to emergency shelters in these zones. Acreage per zone and the number of parcels in each zone to receive the overlay district assignment is as follows:

- C-2: 35.6 acres including 93 parcels
- C-3: 14.5 acres including 25 parcels
- CO: 380.3 acres including 181 parcels
- I-R: 467.1 acres including 320 parcels
- PC-NF: 2.9 acres including 11 parcels
- PC-D: 53.6 acres including 237 parcels
- Total: 954 acres including 867 parcels

WHEREAS, the City Council has considered the proximity to public transportation, job centers and community services in identifying the proposed overlay zones;

WHEREAS, the overlay zones have been identified to encourage and facilitate the development of emergency shelters and,

WHEREAS, the City of Monterey Planning Office determined the project is exempt from the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines (Article 5, Section 15061(b)(3) and Article 19, Section 15305) because there is no possibility that the project may have a significant effect on the environment and the project involves minor changes to land use regulations that will not result in physical changes to the environment.

The so-called “common sense” exemption or “general rule” exemption found in CEQA Guidelines section 15061(b)(3) exempts from CEQA projects for which it “can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” The zoning ordinance amendment qualifies for the common sense exemption because it does not designate additional lands for new or different development than they are already intended for under the City’s planning and zoning laws. The emergency shelter overlay zoning district would apply to certain properties designated for commercial and industrial uses. By zoning properties for commercial and industrial development, the City has already intended and considered that such properties would be developed with uses that would result in an expected amount of pedestrian and vehicle traffic, noise, visual changes, and other physical effects. There is no evidence that including emergency shelters with a limited number of beds and parking would result in any different or new effects on the environment than were already assumed with the commercial and industrial land use designations. The zoning ordinance amendment merely permits the development of emergency shelters in these areas; it does not require that any be constructed on any particular site or that they be constructed at all. Thus, for the foregoing reasons, the City Planning Office believes that there is no possibility that the zoning ordinance amendment may have any significant effects on the environment and the action is therefore exempt under CEQA Guidelines section 15061(b)(3).

In addition, even if the common sense exemption did not apply to the zoning ordinance amendment, substantial evidence also supports the City Planning Office’s determination that the action falls entirely within the scope of the categorical exemption provided for the conversion of existing small structures from one use to another (CEQA Guidelines section 15303(c)). Section 15303(c) applies to projects that may involve up to four commercial buildings not exceeding a total of 10,000 sf on sites zoned for such use.

Additionally, even if the common sense exemption did not apply to the zoning ordinance amendment, substantial evidence also supports the City Planning Office’s determination that the action falls entirely within the scope of the categorical exemption provided for minor alterations in land use limitations (CEQA Guidelines section 15305). The “Class 5” exemption “consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density.” The zoning ordinance amendment would merely add emergency shelters to the list of permitted uses on certain commercially and industrially designated land in the City. Emergency shelters involve a similar type of use and development intensity or density as the other types of permitted uses in those designated areas.

Furthermore, the project does not qualify for any of the exceptions to the categorical exemptions found at CEQA Guidelines Section 15300.2.

Exception a - Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located - a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are

considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. The zoning ordinance amendment does not apply to a particular location or specific site. Therefore, no potential issues related to an environmental resource of hazardous or critical concern will directly result.

Exception b - Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. The zoning ordinance amendment does not apply to a particular location or specific site. Therefore, no potential issues related to cumulative impacts will directly result.

Exception c - Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. There is no evidence of any unusual circumstances surrounding this zoning ordinance or the areas of the City it would apply to, which are all properties in the City already designated for commercial and industrial uses. Therefore, no potential environmental issues related to or due to unusual circumstances will directly result.

Exception d - Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. The zoning ordinance amendment does not apply to a particular location or specific site, but rather, to properties in the City already designated for commercial and industrial uses. Therefore, no potential issues related to scenic resources will directly result.

Exception e - Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code. The zoning ordinance amendment does not apply to a particular location or specific site. Therefore, no potential issues related to hazardous waste sites pursuant to Government Code Section 65962.5 will directly result.

Exception f - Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource. The zoning ordinance amendment does not apply to a particular location or specific site. Existing regulations that protect historic resources would apply to any future project. Therefore, no potential issues related to historical resources will directly result.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: The foregoing recitals are adopted as findings for the City Council as though set forth fully herein.

SECTION 3: Monterey City Code, Chapter 38, Section 11 is hereby amended to add the following definition:

Emergency Shelter: Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

SECTION 4: Monterey City Code, Chapter 38, Article 16B – Emergency Shelter Overlay

District is hereby added to read as follows:

38-99.1 Purpose.

It is the purpose of the Emergency Shelter Overlay District to facilitate and encourage the provision of emergency shelter for homeless persons and households by allowing permanent year-round emergency shelters without a conditional use permit or other discretionary action in the districts where the overlay is applied, subject only to the same development standards that apply to the other permitted uses in this district, except for the requirements set forth in City Code section 38-99.2 that are unique to emergency homeless shelters as authorized by Government Code section 65583(a)(4).

38-99.2 Number of Emergency Shelters. The number and capacity of Emergency Shelters allowed in the Emergency Shelter Overlay District is limited to that required to meet the shelter needs of the number of estimated homeless persons in the City identified in the City's Housing Element.

38-99.3 Operational and Management Requirements

- A. The maximum number of beds or persons to be served nightly by an emergency shelter shall be 35.
- B. Off-street parking shall be based upon demonstrated need, provided that parking for an emergency shelter shall not be more than that required for other uses permitted in the underlying district.
- C. Projects shall design to and maintain the following maximum light levels and spacing:
 - a. Buildings - Spacing to meet average maintained illumination levels of a minimum 0.5 footcandles and maximum 1.0 footcandles.
 - b. Primary Building Entry - Not to exceed average maintained illumination levels of a maximum 5.0 footcandles.
 - c. Parking Lots - Spacing to meet average maintained illumination levels of a maximum of 0.5 footcandles and a 15:1 maximum to minimum uniformity ratio.
 - d. Service Areas - 10 footcandles maximum.
- D. The size of indoor waiting areas shall be sufficient to accommodate the expected number of clients. Any spillover onto public right-of-way shall allow at least four feet of unobstructed sidewalk.
- E. On-site management shall be provided at all times the facility is in operation.
- F. Security shall be provided during the hours that the emergency shelter is in operation.
- G. The maximum length of stay by a homeless person in an emergency shelter shall be six months.
- H. An emergency shelter shall not be located within 300 feet of another emergency shelter.
- I. No individual or household shall be denied emergency shelter because of an inability to pay.

SECTION 5: Monterey Zoning Map is hereby amended to apply the Emergency Shelter Overlay District to certain properties designated for mixed use, commercial and industrial uses as shown on the attached maps (Exhibit A).

SECTION 6: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 7: This ordinance shall be in full force and effect thirty (30) days from and

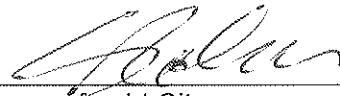
after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 18th day of July, 2017, by the following vote:

AYES:	5	COUNCILMEMBERS:	Albert, Barrett, Haffa, Smith, Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:



Mayor of said City


















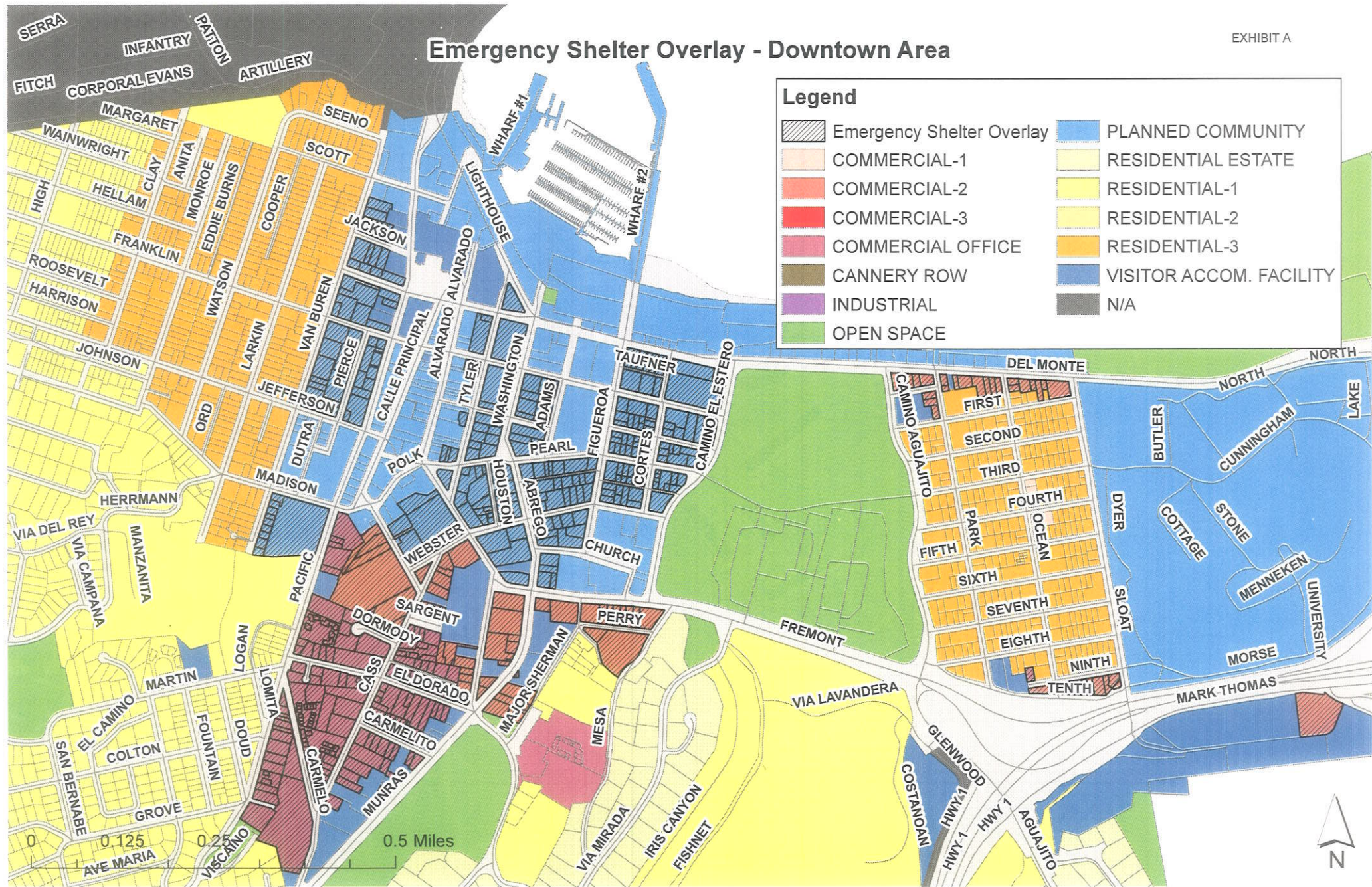
City Clerk thereof



Emergency Shelter Overlay - Downtown Area

Legend

- | | |
|---|---|
|  Emergency Shelter Overlay |  PLANNED COMMUNITY |
|  COMMERCIAL-1 |  RESIDENTIAL ESTATE |
|  COMMERCIAL-2 |  RESIDENTIAL-1 |
|  COMMERCIAL-3 |  RESIDENTIAL-2 |
|  COMMERCIAL OFFICE |  RESIDENTIAL-3 |
|  CANNERY ROW |  VISITOR ACCOM. FACILITY |
|  INDUSTRIAL |  N/A |
|  OPEN SPACE | |


















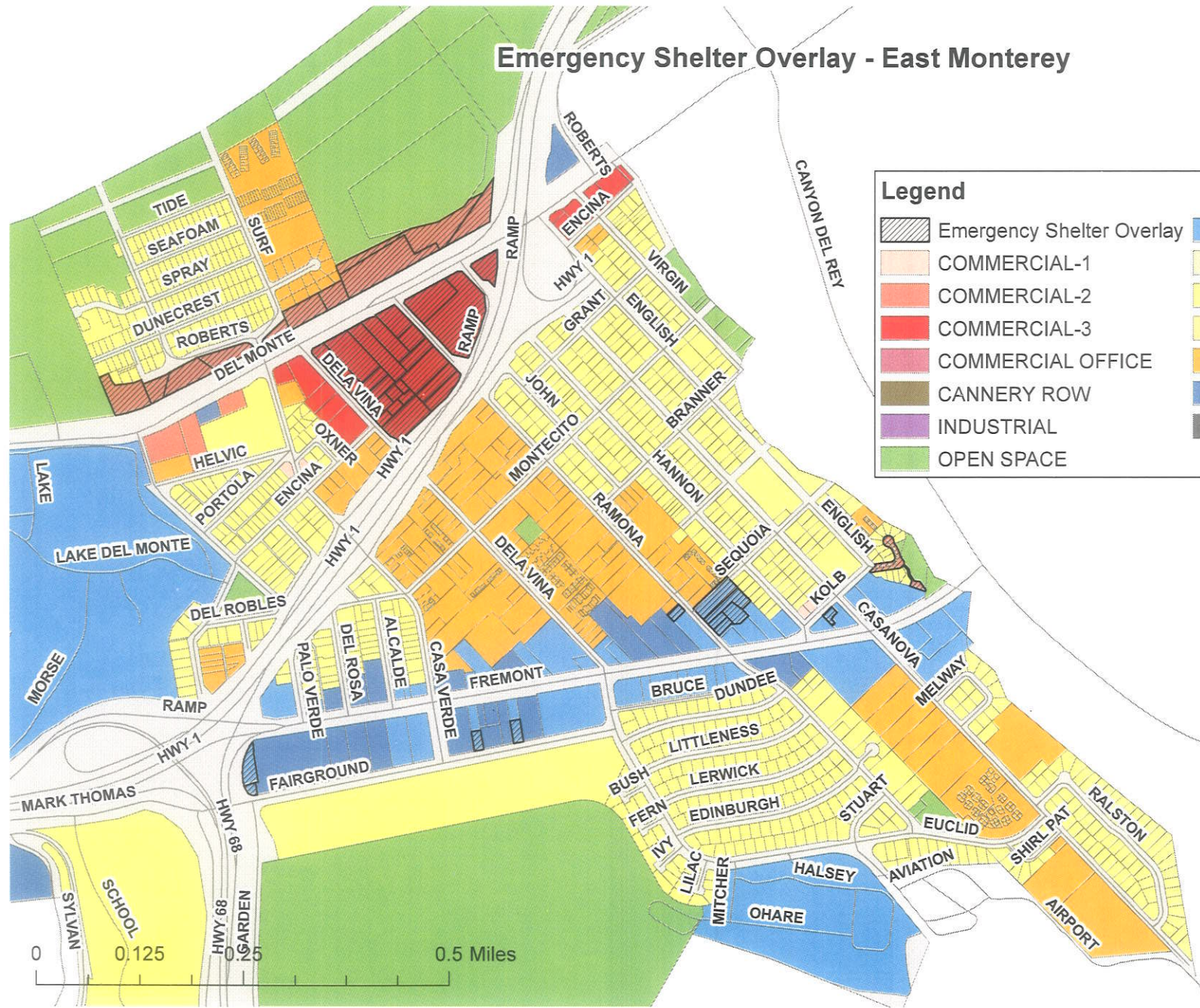
0 0.125 0.25 0.5 Miles

Emergency Shelter Overlay - East Monterey

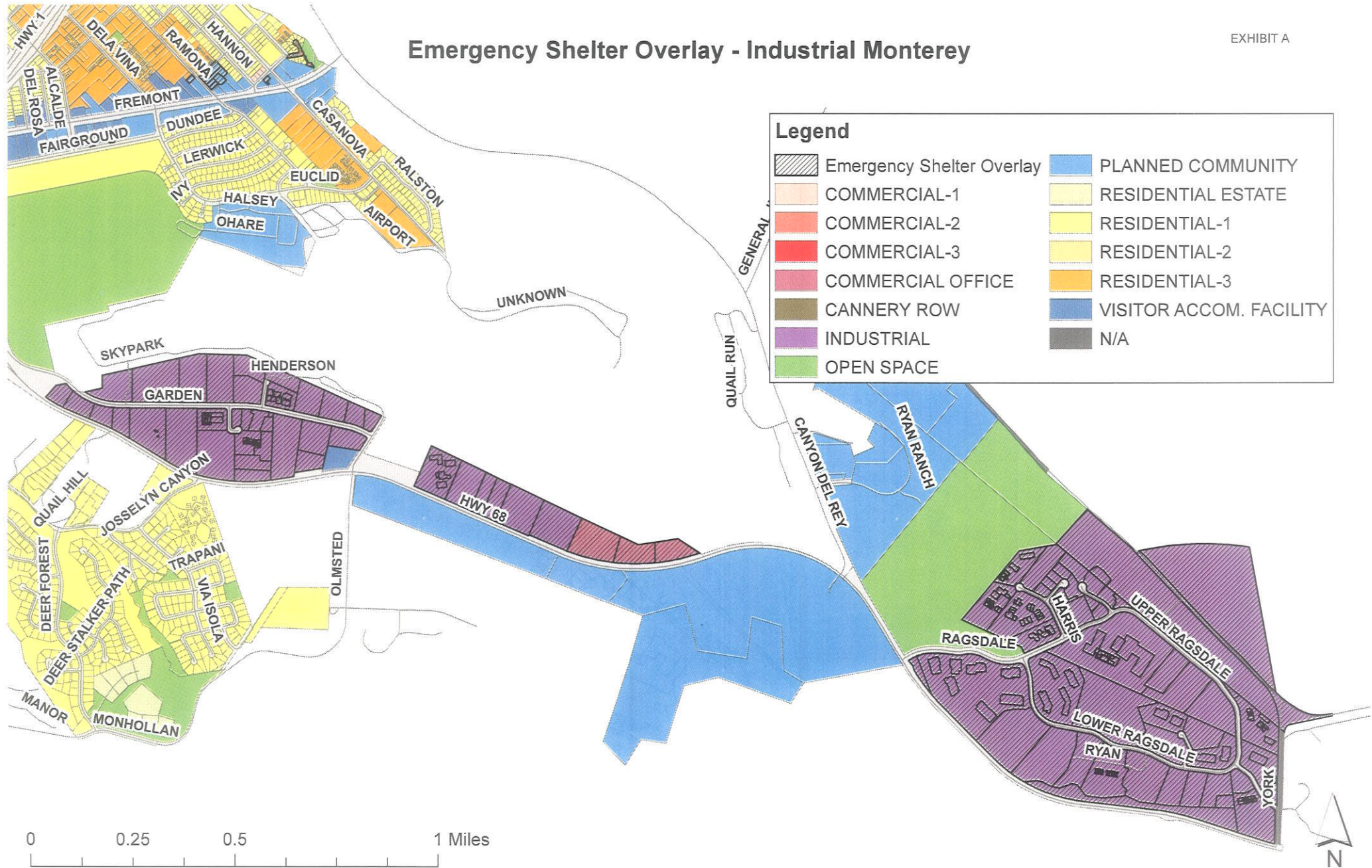
EXHIBIT A

Legend

	Emergency Shelter Overlay		PLANNED COMMUNITY
	COMMERCIAL-1		RESIDENTIAL ESTATE
	COMMERCIAL-2		RESIDENTIAL-1
	COMMERCIAL-3		RESIDENTIAL-2
	COMMERCIAL OFFICE		RESIDENTIAL-3
	CANNERY ROW		VISITOR ACCOM. FACILITY
	INDUSTRIAL		N/A
	OPEN SPACE		

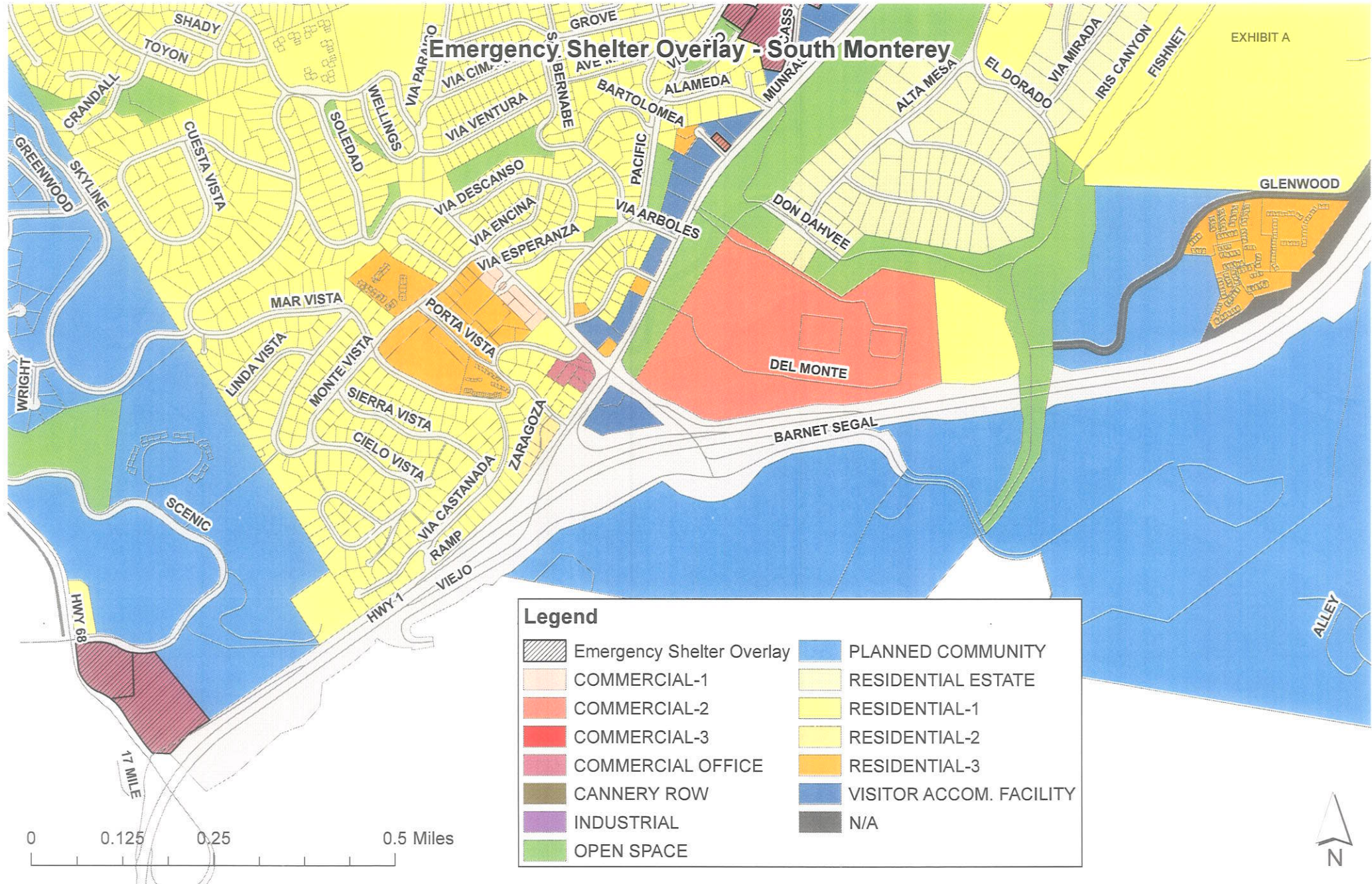


Emergency Shelter Overlay - Industrial Monterey



Emergency Shelter Overlay - South Monterey

EXHIBIT A



0 0.125 0.25 0.5 Miles

