

ORDINANCE 2023-01

AN ORDINANCE AMENDING CHAPTER 17, ARTICLE 4, OF THE MARINA MUNICIPAL CODE BY ADDING A NEW SECTION 17.48.130 “AFFORDABLE HOUSING OVERLAY” AND AMENDING SECTION 2.28 OF THE MARINA GENERAL PLAN

WHEREAS, the Housing Element is the only element of the City of Marina’s (City) General Plan that is mandated by the State of California to be updated with frequency and on cycles as determined by the California Department of Housing and Community Development (HCD); and

WHEREAS, the City’s Fourth and Fifth Cycles for updates ran from 2007-2014 and 2014-2023, respectively; and

WHEREAS, on February 15, 2022, the City Council awarded a contract to Rincon Consultants, Inc. to modify the Downtown Vitalization Specific Plan (DVSP) and to create an Affordable Housing Overlay (AHO) in order for the City to meet its near-term Regional Housing Needs Allocation (RHNA) for the Fourth and Fifth Cycles and bring its Housing Element into compliance; and

WHEREAS, on December 8, 2022, at a duly noticed public hearing, the Planning Commission received written and verbal testimony regarding the AHO and recommended adoption of the proposed ordinance to the City Council to establish the AHO; and

WHEREAS, Section 65583 of the Government Code mandates that the City identify and analyze the existing and projected housing needs, identify adequate sites for housing and make adequate provision for the existing and projected housing needs of all economic segments of the community; and

WHEREAS, the AHO serves to implement Housing Element programs and address housing needs within the City by encouraging the development of very low income and low-income affordable housing and new multi-family residential development; and

WHEREAS, the AHO implements the Housing Element programs by providing development regulations to support and incentivize affordable housing and multi-family residential development on designated housing opportunity sites; and

WHEREAS, the AHO shall provide for the continuation of the ability to develop land uses permitted by the existing base (underlying) zoning of a property unless the property is developed for residential uses in accordance with the AHO; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) Guidelines section 15063, the City prepared an Initial Study to analyze whether the proposed Project may cause a potentially significant effect on the environment; and

WHEREAS, an Initial Study for the Project has been completed pursuant to CEQA that identifies potentially significant effects on the environment which would result from the Project, and concludes that these impacts can be avoided or reduced to a level of insignificance with adoption and implementation of certain mitigation measures therein identified and listed; and

WHEREAS, based on this Initial Study, a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Plan (MMRP) has been prepared in accordance with CEQA, which finds that any potentially significant environmental effects of the proposed Project would be sufficiently mitigated to a level of insignificance with implementation of mitigation measures specified therein; a complete copy of the MND and MMRP and all supporting exhibits and documents are on file and can be viewed at the City planning office; and

WHEREAS, pursuant to Public Resources Code section 21081.6 and State CEQA Guidelines section 15074(d), the City prepared a program for reporting on and monitoring the changes which it has either required in the proposed Project or made a condition of approval to mitigate or avoid potential significant environmental effects (MMRP), a copy of which is attached hereto as Attachment 5; and

WHEREAS, the City published a Notice of Intent of the MND and MMRP for the Project on September 26, 2022, which started a 30-day public review period. The notice was posted at the City office, the County Clerk, on the City website, published in the Monterey County Weekly and sent to all property owners whose parcels were selected for inclusion in the ordinance, and all interested persons; and

WHEREAS, during the public review and comment period, copies of the MND were available for review and inspection at City Hall, the Community Development Department Permit Center, and on the City's website; and

WHEREAS, at the January 19, 2023, and February 7, 2023 meetings, the City Council reviewed and considered the MND and MMRP for the Project, any comments received to-date and the responses prepared, invited additional comments from the public; and

WHEREAS, the City Council conducted its own independent analysis of the MND and MMRP and determined that the MND and MMRP were appropriate as there is substantial evidence the Project would not result in any significant environmental impacts and the MND reflects the Council's independent judgment and analysis; and

WHEREAS, all the requirements of the Public Resources Code, the State CEQA Guidelines, and the regulations and policies of the City have been satisfied or complied with by the City in connection with the Project; and

WHEREAS, the findings and conclusions made by the City Council in this Ordinance are based upon the oral and written evidence presented as well as the entirety of the administrative record for the proposed Project, which is incorporated herein by this reference. The findings are not based solely on the information provided in this Ordinance; and

WHEREAS, the location and custodian of the documents or other materials which constitute the record of proceedings upon the City Council's decision are located in the Office of City Clerk; and

NOW, THEREFORE, the City Council of the City of Marina does find and ordain as follows:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. The City Council of the City of Marina hereby adopts the Initial Study, Mitigated Negative Declaration and Mitigation, Monitoring and Reporting Program and approves the Project subject to the findings attached hereto as Exhibit A (Findings), Mitigated Negative Declaration (Attachment 4) and Mitigation, Monitoring and Reporting Program (Attachment 5), attached hereto and incorporated by this reference.

SECTION 3. Amendment of the Code. New section 17.48.130, Affordable Housing Overlay, is added to Chapter 17.48 of the Marina Municipal Code, Affordable Housing, and shall read as follows:

17.48.130 Affordable Housing Overlay

A. Purpose and Intent. The Affordable Housing Overlay (AHO) serves to implement Housing Element programs and address housing needs within the City by encouraging the development of very low income and low income affordable housing and new multi-family residential development. The AHO implements the Housing Element programs by providing development regulations to support and incentivize affordable housing and multi-family residential development on designated housing opportunity sites. It shall provide for the continuation of the ability to develop land uses permitted by the existing base (underlying) zoning of a property unless the property is developed for residential uses in accordance with the AHO.

B. Applicability. The AHO shall apply to any underlying zone district to support Housing Element programs as designated on the Zoning Map on file at the Community Development Department. For any housing project developed in accordance with this section, these standards shall apply instead of those in the underlying base zone district. A property owner may elect to continue to use the site consistent with the underlying zoning district, in which case the applicable underlying district standards will apply.

C. Permitted Uses.

Uses permitted in the AHO shall be as follows:

1. Multiple dwellings and dwelling groups;
2. Condominiums shall be allowed in accordance with the standards allowed in Chapter 17.66.
3. Accessory dwelling units pursuant to the provisions of Section 17.42.040; and
4. Home Occupations pursuant to Section 17.42.110.

D. Application and Review

1. Administrative approval shall be given to residential development projects that comply with all the requirements of this section. The following process will be followed when an AHO application is filed:
 - a. Form of Application. An application for a project approval shall be completed on a form provided by the planning department.

- b. **Administrative Approval.** Administrative approval is ministerial in nature and is conducted at the staff level under the general direction of the community development director without notice or hearing. A community meeting prior to filing an application is encouraged but not required. Approval shall be granted by the planning department only when the permit application contains sufficient information for the planning department to verify that the proposed use will be consistent with the standards outlined in this subsection. No building, grading or other construction permit shall be issued by the responsible department until the administrative approval process has been conducted by the planning department. Projects that comply with the requirements shall be permitted by right. Compliance with the requirements of this section shall not, however, waive any additional requirements for compliance such as an application for a lot line adjustment, merger of parcels, or subdivision in conjunction with approval of an application. A separate application for the lot line adjustment, merger of parcels, or appropriate subdivision map shall proceed in accordance with Title 16.
- c. **Approval.** The community development director shall approve any application if it complies with all requirements of this Section.
- d. **Notice of Decision.** A notice of decision shall be sent to both the applicant and the applicant's representative (as shown on the application) via first class mail and postage prepaid or email and shall be provided via either of those methods to any person who has made a written request for a copy of the decision. The decision of the community development director shall be final and conclusive.
- e. **Expiration of Administrative Review.** Within two (2) years of the date of approval by the community development director, commencement of construction shall have occurred or the approval shall become null and void. A one-year extension may be granted by the community development director for good cause if the project is compliant with the original approval.

E. General Regulations

1. Relationship to State Density Bonus Law.

- a. An application for a project pursuant to this section may apply for a density bonus in accordance with California Government Code Section 65915, as may be amended. At the discretion of the applicant, the incentives provided pursuant to the AHO may be combined with the incentives provided pursuant to state density bonus law.
- b. **Illustrative calculation.** By way of example, for illustrative purposes only, where a proposed site consists of .5 acre of land and is proposed to be developed with a total of fifteen (15) dwelling units, the base density, affordable unit distribution and density bonus under State Density Bonus Law (if requested) would be calculated as follows:

Base density	30 dwelling units/acre
12% restriction	2 very low income units
State Density Bonus Law	Additional 38.8% for 12% restriction
Additional units with Density Bonus	5.82 = 6
Total units for project	21

- c. In calculating the required number of units, fractional units of 0.50 or above shall be rounded up to a whole unit.
2. Relationship to inclusionary housing ordinance. Inclusionary housing in conformance with the General Plan Housing Element and Section 17.48.030 shall be provided for all residential developments or projects. Inclusionary requirements must be met when twenty (20) units are proposed notwithstanding units from a density bonus.

F. Development Standards

1. Density.
 - a. Each lot or parcel of land shall have a minimum residential density of thirty (30) dwelling units per acre. Maximum density for the development shall be thirty-five (35) dwelling units per acre, except for projects proposed along Reservation Road or Del Monte Boulevard, which shall be a maximum fifty (50) dwelling units per acre.
 - b. Affordable Housing Requirement
 - i. Either twelve percent (12%) of the development shall be dedicated to very low income households or fifteen percent (15%) shall be dedicated to low income households. This is the minimum requirement in order to receive the benefits of the overlay policy.
 - ii. Prior to issuance of building permits, applicant shall execute an agreement with the City, to be executed by the city manager without review by the planning commission or city council, in a form acceptable to the city attorney ensuring the continued affordability of the affordable dwelling units for a period of not less than fifty-five (55) years. This agreement shall be recorded with the County Recorder.
2. Projects seeking approval pursuant to this section shall be subject to the following development standards:
 - a. *Total Open Space Required.* The minimum area of open space required for the development shall be a total of fifteen percent (15%) for sites one (1) acre or greater and ten percent (10%) for sites less than one (1) acre. A portion of all of the required usable open space shall be private as provided by this section; otherwise it shall be shared in common.
 - i. *Private Open Space.* A minimum of eighty (80) square feet for ground floor units and forty (40) square feet for units located on second levels and above.
 - ii. *Common Open Space.* Common open space shall average at least twenty-five (25) feet in width and at no time may be less than ten (10) feet in width.
 - b. *Building Height.* Maximum building height for residential buildings shall be 42 feet, except for projects proposed along Reservation Road or Del Monte Boulevard, which shall be forty-eight (48) feet.
 - c. *Minimum Building Site Area.* Building site area shall be a minimum of 6,000 square feet.

d. *Site Coverage*. No requirement.

e. *Setbacks*

- i. *Front yard*. Minimum front yard setback shall be ten (10) feet. The front yard shall be measured from the front property line or the edge of easement for the private roadway, whichever is less. A maximum front yard setback shall be twenty-five (25) feet for Del Monte Road or Reservation Road.
 - ii. *Side yard*. Minimum side yard setback shall be five (5) feet, or ten (10) feet if adjacent to side street.
 - iii. *Rear yard*. Minimum rear yard setback shall be five (5) feet, or ten (10) feet if adjacent to side street.
- f. *Parking*. Parking requirements for residential uses permitted under this section shall be allowed in accordance with Table 1 below. Where the residential parking standards in Chapter 17.44.020 may differ, the provisions of this section shall supersede other provisions of the code.

Table 1 Reduced Parking Standards for Qualifying AHO Developments

Bedroom Count	Base Parking Standards	Modified Parking Standards for Qualifying Housing Overlay Developments
Studio	1 space/dwelling unit	1 space/dwelling unit
1 bedroom	2 spaces/dwelling unit	1.5 spaces/dwelling unit
2-3 bedroom	2 spaces/dwelling unit	1.5 spaces/dwelling unit
Guest spaces	None required	None required

3. Design Standards:

- a. *Height transitions from adjacent properties*. Any portion of a building within twenty (20) feet of the R-1, R-2, or R-3 zone district shall be limited to thirty-five (35) feet in height.
- b. *Building orientation*. All new or modified buildings shall orient the primary façade to the primary street. Secondary facades shall front side or rear yards. For corner buildings, primary facades shall front both primary streets.
- c. *Entry feature*. Porch, stoop, terrace, forecourt, or similar entry features are required for all shared residential entrances. Individual entrances to ground floor units must incorporate a porch, stoop, terrace, walled garden space or private deck.
- d. *Facade composition*. Building facades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls or columns. The pattern shall be visually expressed through the spacing of openings, recesses, eaves, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.

- e. *Windows.* Upper story windows shall be recessed from the wall surface by a minimum of 2" or shall have surface trim and sills.

- f. *Building articulation.*

- i. Blank walls without windows, doors, or other articulation are prohibited. The maximum length of any blank wall shall be limited to twenty (20) feet.
 - ii. Elements such as roof dormers, hips, gables, balconies, wall projections and porches are required to break up the mass of building facades. Not less than 40% of the length of a building façade shall be treated with such elements. End units shall have the same design elements as front facades. Unarticulated and windowless walls are not allowed.
- g. *Parking location.* Surface parking lots and garages shall be located to the side or rear of buildings or in basements and not adjacent to public roadways. Surface parking shall be prohibited within the front 25% of the lot depth. Structured parking shall be screened from the primary frontage.
- h. *Mechanical and utility equipment.* Mechanical and utility equipment (e.g., heating, cooling, antennas, satellite dishes, air conditioners, transformers, electric and gas meters, junction boxes, or similar equipment) shall be concealed with landscaping, walls, or fencing or if roof mounted, with mechanical screens or roof wells.
- i. *Primary pedestrian access.* Primary pedestrian access to building lobbies shall be provided along the sidewalk or permitted open spaces. Parcels longer than 300 feet shall be developed with a mid-block pedestrian paseo or open space. Where paseos are utilized, the placement shall emphasize connectivity to other paseos, alleys, or mid-block crossings. Pedestrian paseos may be no less than fifteen (15) feet wide.
- j. *Privacy.*
 - i. Projects within ten (10) feet of existing buildings along the interior property lines shall reduce direct views into the adjacent building by offsetting or staggering windows and upper story balconies and decks by a minimum of one (1) foot so there is no direct line of sight into the existing building's windows, balconies, or decks.
 - ii. Balconies, roof decks and other habitable outdoor space are not allowed on upper-story facades directly adjacent to R-1 zones.

G. *Incentives.* Applications meeting the purpose and applicability of the AHO will qualify for one of several incentive options for the creation of housing. The following development incentives are available to qualifying residential developments:

1. Waived, reduced, or deferred planning, plan check or construction permit fees;
2. Deferment of city generated construction and impact fees until project completion or occupancy; or
3. Payment of construction and impact fee over a twelve (12) month or longer period after project completion.

H. *Design.* Development in any specific plan area shall be subject to the architectural control process identified in that specific plan.

SECTION 4. General Plan Amendment. Section 2.28 the Marina General Plan is hereby amended to read as follows (additions shown in italicized, underlined text):

Accommodating Future Housing Needs

2.28 Under California law, each community also has the responsibility to provide housing affordable to all income groups. The California Department of Housing and Community Development assigns a share of what it projects to be the statewide housing need to each region in the state. In the Monterey Bay area, AMBAG then allocates the region's statewide share to local jurisdictions through its Regional Housing Needs Plan. These housing targets are subsequently incorporated into the jurisdictions' general plans through updates of their housing elements. Through implementation of its Housing Element policies and programs, Marina will continue to enhance the local supply of affordable housing and meet the housing needs of special-needs populations. *The City of Marina may meet its Regional Housing Needs Allocation through the development of Housing Opportunity Sites as shown in Table 2.3 of the Marina General Plan. Additional RHNA capacity shall also be achieved through the implementation of an Affordable Housing Overlay per the sites listed below:*

Additional Housing Opportunity Site Designations

<u>Site Address or Street</u>	<u>APN</u>	<u>Gross Acres</u>	<u>General Plan Land Use</u>	<u>Additional Designation</u>
355 Reservation Rd	032121018000	1.00	CI-OR	Housing Opportunity Site
383 Reservation Rd	032121020000	1.00	CI-OR	Housing Opportunity Site
Reservation Rd	032121024000	1.00	CI-RPS	Housing Opportunity Site
435 Reservation Rd	032121042000	1.60	CI-OR	Housing Opportunity Site
432 Reservation Rd	032141029000	0.70	CI-VS	Housing Opportunity Site
432 Reservation Rd	032141030000	0.20	CI-VS	Housing Opportunity Site
205 Mortimer Ln	032192051000	1.20	CI-RPS	Housing Opportunity Site
271 Carmel Ave	032201003000	1.00	CI-MU	Housing Opportunity Site
273 Carmel Ave	032201004000	2.00	CI-MU	Housing Opportunity Site
283 Carmel Ave	032201005000	1.90	CI-MU	Housing Opportunity Site
271 Carmel Ave.	032201031000	0.17	CI-MU	Housing Opportunity Site
3102 Crescent Ave	032212016000	0.22	R-MF	Housing Opportunity Site
3080 Sunset Ave	032291053000	0.28	R-MF	Housing Opportunity Site
3078 Sunset Ave	032291054000	0.27	R-MF	Housing Opportunity Site
3070 Del Monte Blvd	032303015000	0.35	CI-RPS	Housing Opportunity Site
3074 Del Monte Blvd	032303039000	0.52	CI-RPS	Housing Opportunity Site
3038 Del Monte Blvd	032312014000	0.60	CI-RPS	Housing Opportunity Site
219 Reindollar Ave	032312019000	0.40	I-LISC	Housing Opportunity Site
213 Reindollar Ave	032312032000	0.40	I-LISC	Housing Opportunity Site
3006 Hwy 1	032421014000	4.80	I-LISC	Housing Opportunity Site
327 Reservation Rd	032121025000	0.69	CI-RPS	Housing Opportunity Site
337 Reservation Rd	032121006000	0.52	CI-OR	Housing Opportunity Site
365 Reservation Rd	032121019000	1.03	CI-OR	Housing Opportunity Site

SECTION 5. Severability. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 6. Implementation. The City Manager is directed to execute all documents and to perform all other necessary acts to implement this Ordinance.

SECTION 7. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its final passage and adoption.

I HEREBY CERTIFY that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on January 18, 2023, and was passed and adopted at a regular meeting duly held on February 7, 2023, by the following vote:

AYES, COUNCIL MEMBERS: Visscher, McCarthy, Biala, Medina Dirksen, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Bruce Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

EXHIBIT A- FINDINGS

Affordable Housing Overlay

California Environmental Quality Act Findings

With regard to environmental review, the City Council for the City of Marina (City) has independently reviewed, analyzed and considered the Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Plan (MMRP) and the whole record before it (including the Initial Study and any comments received) and based on the foregoing, the City Council hereby finds that all environmental impacts of the Project with mitigation measures are below a level of significance and there is no substantial evidence supporting a fair argument that the Project will have a significant effect on the environment.

The City Council finds the MND and MMRP have been completed in compliance with CEQA and consistent with the State of California Guidelines for the Implementation of the California Environmental Quality Act. The City hereby approves and adopts the MND, which is hereby attached to this Ordinance as Attachment 4. In accordance with Public Resources Code section 21081.6, the City Council hereby adopts the MMRP, which is hereby attached to this Ordinance as Attachment 5.

Zoning Code Amendment Findings

Pursuant to Section 17.72.010 of the Marina Municipal Code the Zoning Code or Zoning Districts can be modified if doing so if findings of fact can be made that doing so is for the public necessity and convenience and for the general welfare of the City.

If adopted by the City Council, the Affordable Housing Overlay will assist the City in becoming compliant with the Regional Housing Needs Allocation (RHNA) as distributed by the Association of Monterey Bay Area Governments (AMBAG) in support of the Housing Element Fourth and Fifth Cycles. Implementing this overlay is needed to ensure compliance with state law and for the general welfare of the City so it can maintain local land use control of development projects moving forward.

General Plan Consistency Findings

Under the provisions of Section 2.28 of the Marina General Plan, the City is mandated to provide housing affordable to all income groups. By adopting the Affordable Housing Overlay the City will ensure compliance with this general plan policy by providing selected sites that can receive a streamlined review process for development projects ensuring housing for all segments of the Marina population.