

ORDINANCE 2023-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARINA AMENDING SECTION 17.48.130 OF THE MARINA MUNICIPAL CODE, AFFORDABLE HOUSING OVERLAY

WHEREAS, on February 7, 2023, the City Council adopt the Affordable Housing Overlay (AHO), amending Marina Municipal Code Section 17.48.130, to seek compliance with the Fifth Cycle Housing Element; and

WHEREAS, in connection with the adoption of the AHO, the City Council also adopted a Mitigated Negative Declaration (MND) on February 7, 2023; and

WHEREAS, the City of Marina desires to ensure its affordable housing overlay remains consistent with state law and new legal precedent related to the use of overlay zones to achieve compliance with the State Housing Element laws; and

WHEREAS, the City of Marina desires to ensure the base zoning districts for parcels utilizing the AHO have a minimum density of at least twenty (20) dwelling units per acre (20 du/acre) to ensure that the City's Fifth Cycle Housing Element continues to comply with the State Housing Element Laws; and

WHEREAS, pursuant to Section 15162 of the CEQA Guidelines no additional environmental review is required to make the requested zoning text amendments to Marina Municipal Code Section 17.48.130; and

WHEREAS, on September 14, 2023, at a duly noticed public hearing, the Planning Commission recommended the City Council amend the ordinance; 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. Environmental Review. The text amendments to the AHO do not constitute substantial changes which would require major revisions to the Mitigated Negative Declaration (MND) due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects, there are no substantial changes in the circumstances under which the AHO will be undertaken that require major revisions to the MND and no new information of substantial importance shows that the text amendments to the AHO will have significant effects that were not considered in the MND or make any significant effects previously examined in the MND substantially more severe, or require the analysis of additional mitigation measures. Amendments to the adopted ordinance will not have a new environmental impact that were not previously studied in the adopted MND and therefore pursuant to Section 15162 of the CEQA Guidelines no additional environmental review is required to make the requested zoning text amendments to the Affordable Housing Overlay Ordinance. The City Council of the City of Marina hereby finds that per Section 15162 of the CEQA Guidelines no additional environmental review is required subject to the findings attached hereto as Exhibit A (Findings).

SECTION 3. Amendment of the Code. Marina Municipal Code Section 17.48.130 F.1.a, Affordable Housing Overlay, is amended, and shall read as follows, with additions shown in italicized, bold text, and deletions shown in strike-out text:

17.48.130 Affordable Housing Overlay

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. ***Any new residential development otherwise allowed by the underlying zoning district must be at a minimum density of twenty (20) units per acre.***

SECTION 4. 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 5. Implementation. The City Manager is directed to execute all documents and to perform all other necessary acts to implement this Ordinance.

SECTION 6. 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 October 3, 2023, and was passed and adopted at a regular meeting duly held on October 17, 2023, by the following vote:

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

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: Delgado

ABSTAIN, COUNCIL MEMBERS: None

Cristina Medina Dirksen
Mayor Pro Tem

ATTEST:

Anita Sharp, Deputy City Clerk

EXHIBIT A- FINDINGS

Affordable Housing Overlay Amendments Findings of Fact

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.

The amendments to the adopted Affordable Housing Overlay will ensure the City's housing policies are consistent with recent legal precedent. These action steps by the City Council are prudent and provide for the overall general welfare of the City by ensuring housing units are available for all Marina residents at various income levels per established principles as identified within Housing Element Law.

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 making these required amendments the City of Marina will be ensuring its housing policies are consistent with legal precedent and therefore ensuring the orderly development of housing for all income groups are in support of the Regional Housing Needs Allocation process as implemented by the California Department of Housing and Community Development (State HCD) and the Association of Monterey Bay Area Governments (AMBAG) which is the local Council of Governments for this region.

California Environmental Quality Act Findings

Section 15162 of the CEQA Guidelines

1. That there have been no substantial changes proposed in the project which would require major revisions to the Mitigated Negative Declaration (MND) due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The proposed project is a zoning text amendment to an approved ordinance. No environmental impacts will occur as part of this action. No additional sites are being added to the Affordable Housing Overlay and no significant effects will result from this modification. Therefore, the proposed project would not require any revisions to the MND.

2. That no substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions in the previous Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The existing land uses in the surrounding vicinity and within the project area have not undergone any substantial changes since they were described and analyzed in the original project Initial Study and MND, so there is no substantial increase in the severity of any previously identified environmental effects that would require revisions in the MND. The General Plan land use designations for the area have not been changed, and the MND anticipates buildout of the project vicinity in accordance with these General Plan land use designations in its analysis of cumulative land use impacts and project circumstances. Therefore, the circumstances under which the project is undertaken have not changed substantially, and no revisions to the previously adopted MND are required.

3. That no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Mitigated Negative Declaration was certified as complete has become available. The permit modification application does not include any new information, of substantial importance, regarding significant effects from development of the project that were not previously discussed, identified, and analyzed in the previously adopted MND. There has been no new information submitted that demonstrates that significant effects would occur that were not discussed in the MND and there has been no new information submitted to demonstrate that previously identified significant effects will be substantially more severe. The existing mitigation measures were found to be effective and feasible at the time of adoption of the MND, and there have been no substantial changes to the project or the project circumstances that would change the mitigation measures. Therefore, no new information that contradicts the analysis in the Initial Study and MND has become available since the MND was adopted by the City Council in February 7, 2023. Therefore, based on compliance with the City ordinances and the proposed changes to the approved project design, all other environmental effects on the project will continue to not be significant. Therefore, in accordance with Section 15162 of the CEQA Guidelines, the adopted MND still applies to the project, and there is no substantial evidence that the project as modified could have a potentially significant effect on the environment beyond what was previously analyzed. In that the adopted Initial Study and Mitigated Negative Declaration, continue to reflect the independent judgment and analysis of the City.