

Regular Meeting Of The Marina Planning Commission

AGENDA

REGULAR MEETING OF THE MARINA PLANNING COMMISSION

THIS MEETING WILL BE HELD IN PERSON AND VIRTUALLY (HYBRID)

**Marina City Council Chambers
211 Hillcrest Avenue, Marina, CA**

**Meeting Time 6:00 PM Reception
6:30 PM Regular Session**

Zoom Meeting URL: [HTTPS://US02WEB.ZOOM.US/J/84287578704](https://us02web.zoom.us/j/84287578704)

**Zoom Meeting Telephone Only Participation: 1-669-900-9128 - Webinar ID: 842
8757 8704**

Participation

You may participate in the Planning Commission meeting in real-time by calling Zoom Meeting via the weblink and phone number provided at the top of this agenda. Instructions on how to access, view and participate in remote meetings are provided by visiting the City's home page at <https://cityofmarina.org/>. Attendees can make oral comments during the meeting by using the "Raise Your Hand" feature in the webinar or by pressing *9 on your telephone keypad if joining by phone only. If you are unable to participate in real-time, you may email to MARINA@CITYOFMARINA.ORG with the subject line "Public Comment Item #_" (insert the item number relevant to your comment) or "Public Comment - Non Agenda Item." Comments will be reviewed and distributed before the meeting if received by 5:00 p.m. on the day of the meeting. All comments received will become part of the record. Planning Commission will have the option to modify their action on items based on comments received.

Persons Addressing the Legislative Body. Any person making impertinent, slanderous or profane remarks, or who becomes boisterous while addressing the legislative body, shall be called to order by the Presiding Officer and, if such conduct continues, may at the discretion of the Presiding Officer be barred from further audience before the legislative during that meeting, unless permission to continue be granted by a majority of the body.

Members of Audience. Any person in the audience who engages in disorderly conduct such as hand clapping, stamping of feet, whistling, using profane language, yelling, and similar demonstrations, which conduct disturbs the peace and good order of the meeting, or who refuses to comply with the lawful orders of the Presiding Officer, shall be guilty of an infraction, and upon instructions from the Presiding Officer, it shall be the duty of the Sergeant at Arms or Peace Officer to remove any such person from the room and place him under arrest or otherwise cause him to be prosecuted under the law.

Agenda Materials

Agenda materials, staff reports and background information related to regular agenda items are available on the City of Marina's website WWW.CITYOFMARINA.ORG. Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet will be made available on the City of Marina website WWW.CITYOFMARINA.ORG subject to City staff's ability to post the documents before the meeting.

Vision Statement

Marina will grow and mature from a small town bedroom community to a small city which is diversified, vibrant and through positive relationships with regional agencies, self-sufficient. The City will develop in a way that insulates it from the negative impacts of urban sprawl to become a desirable residential and business community in a natural setting. (Resolution No. 2006-112- May 2, 2006)

Mission Statement

The Planning Commission as an appointed body of the City Council will provide the leadership in protecting Marina's natural setting while developing the City on a way that provides a balance of housing, jobs and business opportunities that will result in a community characterized by a desirable quality of life, including recreation and cultural opportunities, a safe environment and an economic viability that supports a high level of municipal services and infrastructure. (Resolution No. 2006-112- May 2, 2006)

Land Acknowledgement

The City recognizes that it was founded and is built upon the traditional homelands and villages first inhabited by the Indigenous Peoples of this region - the Esselen and Ohlone/Costanoan, their ancestors and allies - and honors these members of the community, both past and present.

1. 6:00-6:30 P.M. Open Reception To Recognize The Tree Committee

Chair Glenn Woodson to recognize the Tree Committee members for their service followed by an open reception.

2. Call To Order

3. Roll Call & Establishment Of Quorum

Chair Glenn Woodson, Vice Chair Audra Walton, Surinder Rana, Victor Jacobsen, Galia Baron, Richard St. John, Paul Cheng

4. Moment Of Silence & Pledge Of Allegiance

5. Special Announcements And Communications From The Floor

Announcements of special events or meeting of interest as information to Board and Public. At this time any person may comment on any item, which is not on the agenda. Please state your name and address for the record. Action will not be taken on an item that is not on the agenda. If it requires action, it will be referred to staff and/or placed on the next agenda. Planning Commission members or City staff may briefly respond to statements made or questions posed as permitted by Government Code Section 54954.2. In order that all interested parties have an opportunity to speak, please limit comments to a maximum of three (3) minutes. Any member of the public may comment on any matter listed on this agenda at the time the matter is being considered by the Planning Commission.

5. Ex Parte Communications For Quasi-Judicial Matters

On quasi-judicial matters, Councilmembers shall verbally disclose off the record contacts relating to the item, after the item is called and before Council consideration of the matter. Disclosure shall include the identity of an individual(s) with whom the Council Member had contact and the nature of the contact.

Written ex parte communications must be forwarded to the City Clerk so they can be provided to the entire Council and to the public.

7. Consent Agenda

Background information has been provided to the Planning Commission on all matters listed under the Consent Agenda, and these items are considered to be routine. All items under the Consent Agenda are normally approved by one motion. Prior to such a motion being made, any member of the public or the Planning Commission may ask a question or make a comment about an agenda item and staff will provide a response. If discussion or a lengthy explanation is required, that item will be removed from the Consent Agenda and placed at the end of Other Action Items.

. A. Approval Of Minutes

Planning Commission to approve December 12, 2024, Meeting Action Minutes. Not a project under CEQA per Article 20 Section 15378 and under General Rule Article 5 Section 15061.

Documents:

DRAFT MINUTES REGULAR MEETING PC_DECEMBER 12
2024.PDF

8. Public Hearings

Time will be set aside during the Public Hearing to receive oral comments on all items listed as Public Hearings. Staff will present the project brought forth for Planning Commission consideration and possible action and answer questions from the Planning Commissioners. Planning Commissioners will disclose any ex parte communication before making comments on each project. The applicant will then have the opportunity to make a presentation. The public will then be invited to approach the podium to provide up to three (3) minutes of public testimony and then the applicant will have a chance for a short rebuttal of any issues raised by the public.

. A. Recommendation To The City Council For The Tree Committee Appointment

Planning Commission to adopt PC Resolution No. 2025-03, recommending that the City Council appoint four (4) community members to the Tree Committee for two years terms from the date of the City Council action and find that this action is exempt from Environmental Review Per § 15378 of the CEQA Guidelines. Planner: Nicholas McIlroy, AICP, Senior Planner | 831-884-1217 | NMCILROY@CITYOFMARINA.ORG

Documents:

PC STAFF REPORT TREE COMMITTEE 2-YEAR EXT..PDF

- **B. Appoint A Planning Commissioner And An Alternate To The Tree Committee**

The Planning Commission to nominate and make a motion to appoint a Planning Commissioner and an alternate Planning Commissioner to the Tree Committee.

- **C. 3298 Del Monte Blvd Extension Request**

Planning Commission to adopt Planning Commission Resolution 2025-01 approving a one (1) year extension for the SeaPointe Apartments at 3298 Del Monte Blvd (APN 032-031-001 & -003) and find that the project is CEQA exempt under Section 15061(b)(3) Common Sense Exemption. Planner: Brian Kim, Assistant Planner | 831-884-1237 | BKIM@CITYOFMARINA.ORG

Documents:

PC STAFF REPORT 3298 DEL MONTE BLVD EXTENSION.PDF

- **D. Proposed Changes To The Municipal Code - Extension, Appeal, Staff Transparency**

Planning Commission to adopt PC Resolution 2025-02 recommending that the City Council adopt the proposed amendments to Title 17, Article 6, by adding new Sections 17.59 and 17.69, and amending Sections 17.56, 17.58, 17.60, and 17.70 of the Marina Municipal Code pertaining to the Administration of this Title. This action is exempt from environmental review pursuant to Section 15061(B) (3) of the CEQA Guidelines. Planner: Alyson Hunter, AICP, Planning Services Manager | 831-884-1251 | AHUNTER@CITYOFMARINA.ORG

Documents:

PCSR_MMC_UPDATE_1-23-25.PDF

APPEALS ORDINANCE FINAL DRAFT.PDF

9. Informational Items

- **A. Permit Streamlining Act Legal Training**

Deputy City Attorney Joseph Petta to provide a training for the Planning Commissioners for the Permit Streamlining Act.

10. Staff & Major Projects Updates

11. Correspondence

12. Adjournment



Thursday, December 12, 2024

6:30 PM Open Session

DRAFT MINUTES
REGULAR MEETING OF THE PLANNING COMMISSION

1. **Call To Order: 6:35 PM**

2. **Roll Call & Establishment of Quorum**

Present: Woodson, Walton, Rana, Jacobsen, St. John, Cheng, Baron

3. **Moment of Silence & Pledge of Allegiance**

4. **Special Announcements and Communications from the Floor**

5. **Ex Parte Communications for Quasi-Judicial Matters**

6. **Consent Agenda**

A. **Approval of Minutes**

Woodson made a motion to approve the minutes from November 14, 2024, as written. On a 7-0 vote the motion was approved (7-0-0-0).

Ayes (7): Woodson, Rana, St. John, Jacobsen, Walton, Cheng, Baron

Noes (0): None

Recuse (0): None

Absent (0): None

7. **Public Hearings**

None

8. **Informational Items**

A. **Legislative Update**

Staff gave an informational update on legislative bills passed by the State of California in 2024.

B. **Informational Update on First Objective Design Standards Permit Issuance**

Staff to give an informational update on the Objective Design Standards (ODS) and the first project at 226 Harben Circle.

C. Training for the Planning Commissioners

Staff gave a tutorial to the Planning Commission on Current Planning and Advance Planning.

D. Preview of 2025 Housing Element Action Items

Staff gave an informational preview of the Housing Element Items that will come before the Planning Commission next year in 2025.

9. Staff & Major Projects Update

None

10. Correspondence

None

11. Adjournment: 8:30 PM

**PLANNING COMMISSION TO CONSIDER RECOMMENDING THAT
THE CITY COUNCIL APPROVE NEW APPOINTMENTS FOR THE
TREE COMMITTEE MEMBERS FOR TWO-YEAR TERMS. THIS
ACTION IS EXEMPT FROM ENVIRONMENTAL REVIEW PER § 15378
OF THE CEQA GUIDELINES.**

RECOMMENDATION

1. Adopt Resolution No. 2025-03, recommending that the City Council appoint four (4) community members to the Tree Committee for two years terms from the date of the City Council action.
2. Find that this action is exempt from Environmental Review Per § 15378 of the CEQA Guidelines.

BACKGROUND

On November 21, 2023, the City Council extended the existing Tree Committee's term by one year or until January 1, 2025.

On April 16, 2024, the City Council adopted Ordinance No. 2024-04 to amend Marina Municipal Code (MMC) Section 17.62.090.A to allow a term of two (2) years for Tree Committee members.

STAFF ANALYSIS

The Tree Committee is a subcommittee of the Planning Commission. Its two main obligations are to make recommendations regarding tree removal permits and landmark trees to the Planning Commission or the Community Development Director depending on the project. The Committee consists of five members with four members that are recommended by the Planning Commission and appointed by the City Council¹. The fifth member is selected from the Planning Commission with an alternate. Currently Richard St. John is the primary representative from the Planning Commission and Paul Cheng is the alternate. No change is proposed to the Planning Commission representatives.

The Tree Committee has met nine times in the past two years since the Committee was re-established after the COVID pandemic in 2023. Three of the four previously appointed members of the Tree Committee have re-applied with one stepping down. All three returning members have excellent attendance at Tree Committee meetings and wish to return. The final applicant is new and has been interviewed by the Planning Commission Chair and staff. Therefore, the following four people are recommended for a two-year term on the Tree Committee:

- Greg Simmons (Member since 2023)
- Jackie Gardner (Member since 2023)
- Jeff Markham (Member since 2023)
- Joey Silva (New member)

¹ Marina Municipal Code 17.62.090, Tree Committee, link: <https://marina.municipal.codes/Code/17.62.090>

ENVIRONMENTAL IMPACT

This item is not a project under CEQA per Article 20 Section 15378.

CONCLUSION: This request is submitted for Planning Commission action.

Respectfully submitted:

Nicholas McIlroy, AICP,
Senior Planner

REVIEWED/CONCUR:

Guido Persicone, AICP, Director
Community Development Department
City of Marina

DRAFT RESOLUTION NO. 2025-03

**PLANNING COMMISSION TO CONSIDER RECOMMENDING THAT THE
CITY COUNCIL APPROVE NEW APPOINTMENTS FOR THE TREE
COMMITTEE MEMBERS FOR TWO-YEAR TERMS.**

WHEREAS, on November 21, 2023, the City Council extended the existing Tree Committee's term by one year or until January 1, 2025.

WHEREAS, on April 16, 2024, the City Council adopted Ordinance No. 2024-04 to amend Marina Municipal Code (MMC) Section 17.62.090.A to allow a term of two (2) years for Tree Committee members.

WHEREAS three of the four previously appointed members of the Tree Committee have re-applied with one stepping down. All three returning members have excellent attendance at Tree Committee meetings and wish to return. The final applicant is new and has been interviewed by the Planning Commission Chair and staff.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Marina recommends that the City Council appoint the following four people to the Tree Committee for a two-year term:

- Greg Simmons
- Jackie Gardner
- Jeff Markham
- Joey Silva

PASSED AND ADOPTED by the Planning Commission of the City of Marina at a regular meeting duly held on the 23rd day of January, 2025, by the following vote:

AYES, COMMISSIONERS:

NOES, COMMISSIONERS:

ABSENT, COMMISSIONERS:

ABSTAIN, COMMISSIONERS:

Glenn Woodson, Chair

ATTEST:

Guido Persicone, AICP, Director
Community Development Department

December 20, 2024

Item No. 7C

Chair and Members
Of the Marina Planning Commission

Planning Commission Meeting
of January 23, 2025

RECOMMENDATION TO OPEN A PUBLIC HEARING, TAKE ANY TESTIMONY FROM THE PUBLIC, AND CONSIDER ADOPTING A RESOLUTION OF THE PLANNING COMMISSION APPROVING AN EXTENSION OF THE COMBINED DEVELOPMENT PERMIT FOR THE PROJECT AT 3298 DEL MONTE BLVD (APN 032-031-001 & -003) FOR A PERIOD OF TWELVE (12) MONTHS OR UNTIL APRIL 23, 2026. THE PROJECT IS EXEMPT FROM ENVIRONMENTAL REVIEW IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UNDER SECTION 15061(B)(3) COMMON SENSE EXEMPTION.

RECOMMENDATION:

“I move to adopt Planning Commission Resolution 2025-01 approving a one (1) year extension for the SeaPointe Apartments at 3298 Del Monte Blvd (APN 032-031-001 & -003) and find that the project is CEQA exempt under Section 15061(b)(3) Common Sense Exemption.”

BACKGROUND:

On February 19, 2020, Henry Ruhnke, on behalf of the property owner, Marina LLC, made an initial deposit of development review fees and a proposal to construct the proposed project.

On February 8, 2021, the Marina City Council approved Resolution 2021-07 that provided for all the discretionary entitlements for the project. Pursuant to project condition of approval (COA) 2, the original permits were valid for a period of twenty-four (24) months or until February 8, 2023.

On April 23, 2023, the Planning Commission approved Resolution 2023-14 that granted an extension of entitlement for a period of twenty-four (24) months or until April 23, 2025.

On December 10, 2024, the applicant submitted an application (Exhibit A) to extend the project for twenty-four (24) months.

ANALYSIS:

Pursuant to Section 17.58.010 of the Marina Zoning Code the Planning Commission “shall have the power to hear and decide applications for, and issue use permits for, all uses for which a use permit is required or permitted.¹” The only permit in the Combined Development Agreement that needed approval by the City Council in 2021 was the Affordable/Inclusionary Housing Plan for 14 on-site affordable housing units, which is not affected by this extension. Therefore, the Planning Commission is the appropriate authority

¹ Section 17.58.010 of the Marina Municipal Code.

to extend the life of this combined development permit. The applicant submitted a request to extend the life of the permit for an additional twenty-four (24) months or until April 23, 2027. Staff is only recommending twelve (12) months or until April 23, 2026.

This site is a Sixth Cycle Housing Pipeline project site but is still working through the building permit process. They started the building permit process on November 28, 2022, and have gone through five (5) resubmittals. In the past few months, the project has passed Building and Fire reviews. The main outstanding item for planning is approval of the affordable housing agreement by the City Council. The project is also pending the resolution of an issue with Marina Coast Water District (MCWD). MCWD requires individual water meters for each unit, instead of one main water meter for a property and submeters for each of the units. The property owner is requesting a variance on this MCWD requirement. These two issues should be resolved within the next year. Therefore, staff recommends an extension for one year from the expiration date of April 23, 2025.

PROJECT DESCRIPTION:

The proposed project consists of a ninety-four (94) unit apartment complex built in two phases on two lots with fourteen (14) affordable units spread across the two buildings onsite. Both buildings are four-stories and fifty-four feet tall. The first building has forty-six (46) units and is approximately 57,955 square feet and the second building has forty-eight (48) units and is approximately 67,460 square feet. The buildings will replace ten (10) existing single-story structures. Based on the 1.94-acre parcel size, the construction of the 94 units equates to a residential density of 48 units per acre.

It should be noted that this request is for an extension of time only – no modifications or changes of any kind are proposed to the approved project.

ENVIRONMENTAL REVIEW:

The City of Marina determined that this project was categorically exempt from environmental review in accordance with Section 15332 of the CEQA Guidelines for Infill Development Projects when it was entitled in 2021. Extension of an existing permit is not a project under CEQA and therefore is exempt from environmental review pursuant to Section 15061(b)(3) of the CEQA Guidelines. Per section 15061(b)(3), CEQA applies only to projects which have the potential for causing a significant effect on the environment. Here, it can be seen with certainty that there is no possibility that extending an already issued permit previously reviewed under CEQA would have a significant effect on the environment. Thus, the proposed extension is not subject to CEQA.

CONCLUSION:

This request is submitted for Planning Commission consideration and action.

Exhibits to the Draft PC Resolution 2025-01
A - Application for Extension Request

Respectfully submitted,

Brian Kim, Assistant Planner
Community Development Dept.
City of Marina

REVIEWED/CONCUR:

Guido F. Persicone, AICP
Director, Community Development Dept.
City of Marina

RESOLUTION NO. 2025-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MARINA APPROVING AN EXTENSION OF THE COMBINED DEVELOPMENT PERMIT FOR THE PROJECT AT 3298 DEL MONTE BLVD (APNS 032-031-001 & -003) FOR A PERIOD OF TWELVE (12) MONTHS OR UNTIL MARCH 23, 2025

WHEREAS, on February 8, 2021, the Marina City Council approved Resolution 2021-07 that provided for all the discretionary entitlements for the project. Pursuant to project condition of approval COA #2 the original permits were valid for a period of twenty-four (24) months or until February 8, 2023;

WHEREAS, on April 23, 2023, the Marina City Council approved Resolution 2023-14 that approved an extension of twenty-four (24) months or until April 23, 2025;

WHEREAS, pursuant to Chapter 17.58 of the Marina Municipal Code the Planning Commission has the power to hear and decide applications for issuance of use permits;

WHEREAS, an extension of an additional twelve (12) months is warranted due to the complexity of the project's conditions of approval and to resolve a water meter issue with Marina Coast Water District (MCWD); and

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Marina that it hereby extends approval for the SeaPoint Apartments at 3298 Del Monte Blvd (APNS 032-031-001 & -003) for an additional twelve (12) months from the expiration date or until April 23, 2026.

PASSED AND ADOPTED by the Planning Commission of the City of Marina at a regular meeting duly held on the 23rd day of January 2025, by the following vote:

AYES, MEMBERS:

NOES, MEMBERS:

ABSENT, MEMBERS:

ABSTAIN, MEMBERS:

Glenn Woodson, Chairperson

Guido F. Persicone, AICP, Director
Community Development Department

EXHIBIT A - Application from Applicant

Members of the
Planning Commission

Planning Commission Meeting
of January 23, 2025

OPEN A PUBLIC HEARING, TAKE PUBLIC TESTIMONY, AND CONSIDER ADOPTING PLANNING COMMISSION RESO. NO. 2025-02 RECOMMENDING THAT THE CITY COUNCIL ADOPT CHANGES TO THE MARINA MUNICIPAL CODE (MMC), TITLE 17, ARTICLE 6, BY ADDING TWO (2) NEW SECTIONS 17.59 - "COMMUNITY DEVELOPMENT DIRECTOR'S DISCRETION" AND 17.69 - "PERMIT EXPIRATION", AND AMENDING SECTIONS 17.56, 17.58, 17.60, AND 17.70 PERTAINING TO APPEALS. THE PROPOSED ORDINANCE IS EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION AND 15061(b)(3) OF THE CEQA GUIDELINES.

RECOMMENDATION:

Staff recommends that the Planning Commission make the following motion to approve the project:

"I move to adopt PC Resolution 2025-02 recommending that the City Council adopt the proposed amendments to Title 17, Article 6, by adding new Sections 17.59 and 17.69, and amending Sections 17.56, 17.58, 17.60, and 17.70 of the Marina Municipal Code pertaining to the Administration of this Title. This action is exempt from environmental review pursuant to Section 15061(B)(3) of the CEQA Guidelines."

ANALYSIS

Through regular use and implementation of Title 17 of the Marina Municipal Code (MMC), planning staff has found that several standard procedural measures within the MMC are unclear. For example, the MMC currently does not have a clear procedure for permit extensions. This amendment proposes to add a section that clearly describes the procedure to obtain an extension of time on a permit so that the project does not expire. A brief description of the proposed amendments follows:

1. Addition of a new section (MMC Sec. 17.59) that allows the Community Development Director (Director) to require that a permit that may be granted through an administrative process be reviewed instead by the Planning Commission in cases where the Director finds that additional transparency and public participation would be beneficial;
2. Addition of a new section (MMC Sec. 17.69) that establishes clear standards on permit effective dates and expiration timeframes. The proposed language allows for the lifespan of an approved permit to be two (2) years instead of one (1) year and clearly states that the Director is the review authority for all extensions. It also clarifies that the number of extensions allowed is two (2) one (1) year extensions; and
3. Repealing MMC Sections 17.56.060, 17.58.050, 17.60.060 and modifying Sec. 17.70 so that all the appeal procedures will be centralized into one location. Proposed new Sec. 17.70.030 adds a requirement that an appeal of a Planning Commission action include a statement or evidence specifying an error or abuse of discretion by the Commission or wherein the Planning Commission's decision is not supported by substantial evidence in the record. The current MMC does not have any such requirement.

The adoption of these procedural standards will clarify important processes for both City staff and the general public.

CORRESPONDENCE

No correspondence has been received regarding these proposed amendments as of the preparation of this report on January 2, 2025.

CONFLICT OF INTEREST

Commission members are subject to all aspects of the Political Reform Act. Commission members must not make, participate in making, or attempt to influence in any manner a governmental decision which he/she knows, or should know, may have a material effect on a financial interest. Because the proposed amendments would be effective through the City and could affect all zoning districts, the proposed action is not expected to result in any material effect on Commissioners' financial interest.

EX PARTE COMMUNICATION DISCLOSURES

In the context of any public hearing or action items that come before the Planning Commission (PC), ex parte communications are those which occur outside the formal hearing process. If such contacts do occur, the substance of the communication must be disclosed to all interested parties in advance of any public hearing or testimony to allow rebuttal. Written ex parte communications must be forwarded to the Community Development Director so that they can be disclosed to the entire Commission and the public.

ENVIRONMENTAL DETERMINATION

The proposed project is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the State CEQA Guidelines. Staff has determined that the exemption applies in this case because the proposed procedural changes would not result in a direct or a reasonably foreseeable indirect physical change in the environment and the proposed ordinance is covered by the general rule that CEQA applies only to projects which have potential for causing significant effect on the environment. Therefore, the adoption of this ordinance is exempt from CEQA, and no further environmental review is necessary.

CONCLUSION

This request is submitted for Planning Commission consideration and recommendation to the City Council.

Respectfully submitted,

Alyson Hunter, AICP
Planning Services Manager
City of Marina

REVIEWED/CONCUR:

Guido Persicone, AICP
Community Development Director
City of Marina

DRAFT RESOLUTION NO. 2025-02

PLANNING COMMISSION RESOLUTION NO. 2025-02 RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING THE MARINA MUNICIPAL CODE (MMC), CHAPTER 17, ARTICLE 6, BY ADDING TWO (2) NEW SECTIONS 17.59 - “COMMUNITY DEVELOPMENT DIRECTOR’S DISCRETION” AND 17.69 - “PERMIT EXPIRATION”, AND AMENDING SECTIONS 17.56, 17.58, 17.60, AND 17.70 PERTAINING TO APPEALS. THE PROPOSED ORDINANCE IS EXEMPT FROM ENVIRONMENTAL REVIEW PERSUANT TO SECTION 15061(b)(3) OF THE CEQA GUIDELINES.

WHEREAS, the Community Development Dept. (CDD) of the City of Marina (City), through its regular use and implementation of the Marina Municipal Code (MMC), finds that several standard procedural measures should be amended for clarity;

WHEREAS, the CDD recommends amendments to MMC Chapter 17, Article 6 adding two (2) sections pertaining to “Community Development Director’s Discretion” and “permit expiration”;

WHEREAS, the proposed amendment further recommends consolidating and clarifying the procedures relating to permit appeals through the repeal of Sections 17.56.060, 17.58.050, 17.60.060, and modifications to 17.70-Appeals;

WHEREAS, the proposed amendments to Chapter 17 of the MMC are included in the draft ordinance referenced herein as Exhibit A;

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

WHEREAS, the project is exempt from CEQA per Section 15061(b)(3) because the proposed procedural changes would not result in a direct or a reasonably foreseeable indirect physical change in the environment and the proposed ordinance is covered by the general rule that CEQA applies only to projects which have potential for causing significant effect on the environment.

NOW THEREFORE BE IT RESOLVED that the Planning Commission does hereby recommend that the City Council adopt changes to Chapter 17 of the Marina Municipal Code as described in the draft ordinance referenced herein as Exhibit A.

PASSED AND ADOPTED by the Planning Commission of the City of Marina at a regular meeting duly held on the 23rd day of January 2025, by the following vote:

AYES, COMMISSIONERS:

NOES, COMMISSIONERS:

ABSENT, COMMISSIONERS:

ABSTAIN, COMMISSIONERS:

Glenn Woodson, Chair

ATTEST:

Guido Persicone, AICP
Community Development Director
City of Marina

ORDINANCE NO.

AN ORDINANCE AMENDING THE MARINA MUNICIPAL CODE (MMC), CHAPTER 17, ARTICLE 6, BY ADDING TWO (2) NEW SECTIONS 17.59 - “COMMUNITY DEVELOPMENT DIRECTOR’S DISCRETION” AND 17.69 - “PERMIT EXPIRATION”, AND AMENDING SECTIONS 17.56, 17.58, 17.60, AND 17.70 PERTAINING TO APPEALS. THE PROPOSED ORDINANCE IS EXEMPT FROM ENVIRONMENTAL REVIEW PERSUANT TO SECTION 15061(b)(3) OF THE CEQA GUIDELINES.

-oOo-

THE CITY COUNCIL OF THE CITY OF MARINA DOES HEREBY ORDAIN AS FOLLOWS:

1. The Community Development Dept. (CDD) of the City of Marina (City), through its regular use and implementation of the Marina Municipal Code (MMC), finds that several standard procedural measures should be amended for clarity. The proposed amendments include:
 - a. The addition of MMC Sec. 17.59 to give the Community Development Director (Director) the discretion to require a permit to be reviewed by the Planning Commission if this action will increase the transparency and public participation in the review of the permit;
 - b. The addition of MMC Sec. 17.69 establishing clear standards on permit effective dates and expiration timeframes; and
 - c. Modifying MMC Sections 17.56, 17.58, 17.60, and 17.70 providing a standardized appeal process that applies to both the appeal of a Director’s Determination as well as to appeals of actions made by the Planning Commission.
2. The adoption of these procedural standards will clarify important processes for both City staff and the general public.
3. Chapter 17, Article 6. Chapter 17, Article 6, entitled “Administration, Enforcement and Penalties” is hereby amended by adding two (2) new Sections, Sec. 17.59 “Community Development Director’s Discretion”, and Sec. 17.69, entitled “Permit Expiration”, and amending

Sections 17.56, 17.58, 17.60, and 17.70 relating to appeals procedures, to the Marina Municipal Code to read as set forth on the attached **Exhibit A** and incorporated herein by this reference thereto.

4. Section 17.70 – Appeals. This chapter will become the central location for regulations pertaining to appeals outside of the Coastal zone. The individual chapters pertaining to individual permit types will no longer include sections on appeals. Appeals of projects that are located in the Coastal zone will continue to be governed by MMC 17.40.280.

5. Environmental. The proposed Ordinance amendments are not subject to environmental review pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Article 5, Section 15061(b)(3) because the proposed procedural changes would not result in a direct or a reasonably foreseeable indirect physical change in the environment and the proposed ordinance is covered by the general rule that CEQA applies only to projects which have potential for causing significant effect on the environment. Therefore, the adoption of this ordinance is exempt from CEQA, and no further environmental review is necessary.

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

7. Severability. If any portion of this Ordinance is found to be unconstitutional or invalid the City Council hereby declares that it would have enacted the remainder of this Ordinance regardless of the absence of any such invalid part.

8. Posting of Ordinance. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause it to be posted in the three (3) public places designated by resolution of the City Council.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on _____, 2025, and was passed and adopted at a regular meeting duly held on _____, 2025, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Bruce C. Delgado, Mayor

ATTEST: _____

Anita Sharp, Deputy City Clerk

DRAFT

Exhibit A

Chapter 17.59

COMMUNITY DEVELOPMENT DIRECTOR'S DISCRETION

Sections:

17.59.010 Purpose.

17.59.020 Directors Discretion.

17.59.030 Director Appeal Authority.

17.59.010 Purpose.

The purpose of this chapter is to clarify the Community Development Director's discretion in the interest of the public; the Director shall be granted the ability to require a review of a permit by the Planning Commission. This discretion is to increase transparency and public participation in the permit review process for items deemed to be in the public interest or having broad effect on the community.

17.59.020 Directors Discretion.

The Director may defer action and refer the item to the higher hearing authority for decision.

17.59.030 Director Appeal Authority.

The Director may defer a request for a determination and, thereby, the applicable appeal authority, to the first appeal authority for decision.

...

Chapter 17.69

PERMIT EXPIRATION

Sections:

17.69.010 Purpose.

17.69.020 Effective date of permits.

17.69.030 Performance guarantees.

17.69.040 Time Limits and extensions.

17.69.050 Permits to run with the land.

17.69.060 Resubmittals.

17.69.010 Purpose.

This chapter provides requirements for the implementation or exercising of the permits required by these regulations, including time limits and procedures for extensions of time.

17.69.020 Effective date of permits.

The approval of the community development permits shall become effective on the eleventh day following the date of approval by the appropriate review authority, where no appeal of the review authority's action has been filed in compliance with Chapter 17.70 MMC (Appeals).

17.69.030 Time limits and extensions.

(A) Expiration. Any community development permit granted in compliance with these regulations shall expire within two (2) years from the date of approval if neither a completed building permit application has been issued nor the activity authorized by the community development permit has commenced. Upon expiration or revocation of a building permit, the community development permit shall also expire, unless extended under subsection (B) of this section.

(B) Extensions of Time by Community Development Director (Director) or Designee. The Director is authorized to renew any community development permit that would otherwise expire after two (2) years. Renewals shall be for one (1) year with a maximum of two (2) renewals.

(C) Action on Extension Requests. An application for a time extension shall be made a minimum of thirty (30) business days prior to the permit expiration date.

17.69.040 Permits to run with the land.

A community development permit granted in compliance with this chapter shall continue to be valid upon a change of ownership (e.g., of the site, structure, or use that was the subject of the permit application); provided, that the use remains in compliance with all applicable provisions of these regulations and any conditions of approval.

17.69.050 Resubmittals.

If an application for a community development permit is disapproved in compliance with this chapter, an application for consideration of an identical or similar request shall not be eligible for reconsideration for six months from the date on which the disapproval became final, unless the review authority finds that changed circumstances or a material change in the application warrants reconsideration prior to the expiration of six months. This section shall have no effect on applications by the City or on amendments proposed by resolutions of the City Council or the Planning Commission.

...

Chapter 17.56

SITE AND ARCHITECTURAL DESIGN REVIEW

...

17.56.060 Appeal. [repealed]

~~A. If the applicant or any person who has participated in the process by personal attendance at meetings, testimony at meetings or other reasonable means is not satisfied with the action of the planning commission, said person may file an appeal with the city council in writing within ten days after written notice of the decision of the planning commission has been mailed to the applicant. The appeal shall set forth specifically the points of issue, the reason for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the appropriate authority. The city council shall hold a hearing on said appeal and shall render its decision thereon within thirty days after filing thereof. The city council may reverse or affirm or modify the decision of the planning commission and such action shall be final.~~

~~B. If the applicant or any person who has participated in the process by personal attendance at meetings, testimony at meetings or other reasonable means is not satisfied with the action of the design review board relative to final design review, or the decision of the planning director or the design review board with respect to any proposed plan modification, said individual may file an appeal with the city clerk in writing within ten days after the said action or decision. The appeal shall set forth specifically the points of issue, the reason for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the appropriate authority. The appeal shall be considered by the planning commission unless the city council granted design review approval on appeal, in which case the appeal shall be considered by the city council. Said appeal body shall hold a hearing on said appeal and shall render its decision thereon within thirty days after filing thereof. Said body may reverse or affirm or modify the decision of the design review board or the decision or interpretation of the planning director and such action shall be final.~~

...

Chapter 17.58

USE PERMITS

...

17.58.050 Appeal. [repealed]

~~A. An appeal to the city council may be filed by any person aggrieved by a decision of the appropriate authority. Such appeal shall be in writing and shall be filed with the city clerk within ten days after written notice of the decision has been mailed to the applicant. At the time of the filing of the appeal, the appellant shall pay a filing fee to be established by resolution of the city council from time to time hereafter enacted. An appeal shall set forth specifically the points at issue, the reasons for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the appropriate authority.~~

~~B. Upon receipt of the notice of appeal, the city council shall set a date for public hearing thereon, giving notice thereof pursuant to Section 17.58.030. The city council may reverse or affirm, wholly or partly, or may modify the order, make such order, requirements, decision, or determination as should be made, and such action shall be final.~~

...

Chapter 17.60

VARIANCES

...

17.60.060 Appeal. [repealed]

~~A. An appeal to the city council may be filed by any person aggrieved by a decision of the planning commission. Such appeal shall be in writing and shall be filed with the city clerk within ten days after written notice of the decision has been mailed to the applicant. At the time of the filing of the appeal, the appellant other than the applicant shall pay a filing fee to be established by resolution of the city council from time to time hereafter enacted. An appeal shall set forth specifically the points at issue, the reasons for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the planning commission.~~

~~B. Upon receipt of the notice of appeal, the city council shall set a date for public hearing thereon, giving notice thereof pursuant to Section 17.60.040. The city council may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made, and such action shall be final.~~

...

Chapter 17.70

Appeals

17.70.010 – ~~Planning commission authority~~ Purpose.

17.70.020 – ~~Application~~ Appeal subjects and appeal authority.

17.70.030 – ~~Action by planning commission~~ filing of appeals.

17.70.040 – ~~Appeals~~ Time limits.

17.70.050 – Processing of appeals.

17.70.010 Purpose.

Determinations or actions of the Community Development Director or his/her designee, or planning commission may be appealed by this chapter.

17.70.020 Appeal subjects and appeal authority.

Determinations and actions that may be appealed, and the authority to act upon an appeal, shall be as follows:

(A) Staff Determinations. The following determinations and actions of the community development director or his/her designee may be appealed to the planning commission and then to the council.

- (1) Director's Determinations on the meaning or applicability of these regulations that are believed to be in error.

(B) Decisions of Review Authorities. Generally, decisions of the Director and the Tree Committee may be appealed to the Planning Commission, and decisions of the Planning Commission may be appealed to the council. When a single project requires two or more permit applications, or where final action on an application is subject to deadlines which cannot reasonably be satisfied if an application is subject to multiple appeals, any appeal of the project shall go to the higher-level appeal authority among those permits. The decision of the City Council shall be final.

17.70.030 Filing of Appeals.

(A) Who May File an Appeal. An appeal may be filed by:

- (1) Any person affected by an administrative determination or action by the department; or
- (2) Anyone who, in person or through an authorized representative, appeared at a public hearing in connection with the decision being appealed, or who otherwise informed the City in writing of the nature of their concerns before the hearing.

(B) Timing and Form of Appeal. All appeals shall be submitted in writing on a City application and shall specifically state the pertinent facts of the case and the basis for the appeal.

- (1) Appeals shall be filed in the community development department or, in the case of appeals of Planning Commission actions, in the office of the city clerk, within 10 calendar days following the final date of the determination or action being appealed; ~~provided, that the time for appeal may be shortened to five days by the decision-maker whose decision is subject to appeal where final action on an application is subject to deadlines that cannot reasonably be satisfied if there is a longer appeal period.~~
- (2) Appeals shall be accompanied by a written report stating specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by substantial evidence in the record. The Council shall only hear the appeal if the notice is filed and all required fees are paid within the ten (10) calendar day appeal period. An appellant may submit a written request to withdraw their appeal any time before the scheduled hearing for the appeal.

(C) Scope of Appeals. An appeal of a decision on a community development permit shall be limited to issues raised at the public hearing, or in writing before the hearing, or information that was not generally known at the time of the decision that is being appealed.

17.70.040 Processing of Appeals.

(A) Scheduling of Hearing. After an appeal has been received, the matter shall be placed on the next available agenda of the appeal authority and within sixty (60) days.

(B) Notification of Applicant. Within three (3) business days of receipt of an appeal, staff shall attempt to notify the applicant.

(C) Joining an Appeal. Only those persons who file an appeal within the time limit established shall be considered appellants. Any person who wishes to join an appeal shall follow the same procedures for an appellant. No person shall be allowed to join an appeal after the expiration of the time limit for appeals.

(D) Action and Findings. The appeal authority shall conduct a *de novo* public hearing. At the hearing, the appeal authority may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds identified in the appeal.

(1) The appeal authority may affirm, affirm in part, or reverse the action, decision, or determination that is the subject of the appeal, based upon findings of fact about the case. The findings shall identify the reasons for the action on the appeal and verify the compliance or non-compliance of the subject of the appeal with these regulations.

(2) When reviewing a decision on a community development permit, the appeal authority may adopt additional conditions of approval that may address other issues or concerns than the subject of the appeal.

(3) Effective Date of Appeal. A decision by any appeal authority other than the City Council is effective on the eleventh day after the decision, if no appeal to the decision has been filed, or before the next regularly scheduled meeting. Because a decision by the City Council is final, unless in certain circumstances when a property is located in the Coastal zone, it is effective as of the date of the decision, unless the Council specifies an alternative date.