

RESOLUTION NO. 2023-12

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA ADOPTING THE FIRST READING OF AN ORDINANCE TO AMEND SECTIONS 17.16 (CR ZONING DISTRICT), AND 17.18 (C-1 ZONING DISTRICT), 17.22 (PC ZONING DISTRICT) OF THE MARINA MUNICIPAL CODE IN RESPONSE TO SENATE BILL 478. THE ACTION IS EXEMPT FROM CEQA PURSUANT TO SECTION 15061(B)(3) OF THE CEQA GUIDELINES.

WHEREAS, through Senate Bill 478 (SB 478) the legislature of the State of California adopted regulations applicable to housing development projects located in a multifamily residential zone or a mixed-use zone; and

WHEREAS, updates to the City of Marina (City) Municipal Code (MMC) are necessary to bring regulations for housing development projects located in a multifamily residential zone or a mixed-use zone into compliance with State law; and

WHEREAS, the proposed draft ordinance is included and referenced herein as “Exhibit” 1; and

WHEREAS, the Planning Commission reviewed these items at a duly noticed public hearing on December 8, 2022 and recommended City Council approval of the amendments; and

WHEREAS, the proposed amendment to the Municipal Code addresses permissible increases to Floor Area Ratios; and

WHEREAS, the City Council finds and determines, in accordance with the California Environmental Quality Act (CEQA), that the proposed amendments are not subject to CEQA pursuant to the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, Section 15061(b)(3), because the proposed ordinance(s) are covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Marina does hereby:

1. Read by title only and waive further reading and approve the first reading of Ordinance 2023-, approving amendments to Sections 17.16 (CR Zoning District), 17.18 (C-1 Zoning District), and 17.22 (PC Zoning District) of the Marina Municipal Code; and
2. Find the action is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7th day of February 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 C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

ORDINANCE NO. 2023-

AN ORDINANCE AMENDING TITLE 17, ARTICLE 2 (SECTIONS 17.16, 17.18, AND 17.22) OF THE MARINA MUNICIPAL CODE

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Findings

1. On September 16, 2021, Governor Newsom signed into law Senate Bill 478 (SB 478), which requires, among other things, that local agencies provide specified minimum floor area ratios for housing development projects containing 3 to 10 dwelling units. This legislation is codified in Government Code §65585 and §65913.11.

2. An amendment to the City’s Municipal Code (“MMC” or “Code”) is needed to ensure compliance with State law.

3. Sections 17.16 (CR Zoning District), 17.18 (C-1 Zoning District), and 17.22 (PC Zoning District) are amended to add language to allow increased maximum floor area ratios for certain housing development projects.

4. Environmental. In accordance with the California Environmental Quality Act (CEQA), staff finds that this ordinance is not subject to CEQA pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, Section 15061(b)(3), because the proposed ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Therefore, the adoption of this ordinance is exempt from CEQA and no further environmental review is necessary.

DRAFT

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

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

SECTION 2. Amendment of the Code.

New section 17.16.190, Increased Floor Area Ratio for Housing Developments of 3-10 Units, is added to MMC Chapter 17.16, C-R OR COMMERCIAL/MULTIPLE-FAMILY RESIDENTIAL DISTRICT, as follows:

17.16.190 Increased Floor Area Ratio for Housing Developments of 3-10 Units

A housing development project, as defined in California Government Code Section 65589.5, that is in the C-R Zoning District shall be allowed to increase its FAR as follows:

- A. A housing development project of three to seven units shall have a minimum FAR of 1.0:1.
- B. A housing development project of eight to ten units shall have a minimum FAR of 1.25:1.
- C. This section shall not apply within a historic district or property included on the State Historic Resources Inventory, as defined in California Public Resources Code Section 5020.1, or within a site that is designated or listed on the City's historic inventory.

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New section 17.18.140, Increased Floor Area Ratio for Housing Developments of 3-10 Units, is added to MMC Chapter 17.18, C-1 OR RETAIL BUSINESS DISTRICT, as follows:

17.18.140 Increased Floor Area for Housing Developments of 3-10 Units

A housing development project, as defined in California Government Code Section 65589.5, that is in the C-1 Zoning District shall be allowed to increase its FAR as follows:

- A. A housing development project of three to seven units shall have a minimum FAR of 1.0:1.
- B. A housing development project of eight to ten units shall have a minimum FAR of 1.25:1.
- C. This section shall not apply within a historic district or property included on the State Historic Resources Inventory, as defined in California Public Resources Code Section 5020.1, or within a site that is designated or listed on the City's historic inventory.

New section 17.22.150, Increased Floor Area Ratio for Housing Developments of 3-10 Units, is added to MMC Chapter 17.22, PC OR PLANNED COMMERCIAL DISTRICT, as follows:

17.22.150 Increased Floor Area for Housing Developments of 3-10 Units

A housing development project, as defined in California Government Code Section 65589.5, that is in the PC Zoning District shall be allowed to increase its FAR as follows:

- A. A housing development project of three to seven units shall have a minimum FAR of 1.0:1.

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B. A housing development project of eight to ten units shall have a minimum FAR of 1.25:1.

C. This section shall not apply within a historic district or property included on the State Historic Resources Inventory, as defined in California Public Resources Code Section 5020.1, or within a site that is designated or listed on the City's historic inventory.

SECTION 3. 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.

SECTION 4. Effective Date. This Ordinance shall be in full force and effect on thirty (30) days after its final passage and adoption and shall be posted within fifteen (15) days after the adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on February 7, 2023, and was passed and adopted at a regular meeting duly held on February 22, 2023, 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

RESOLUTION NO. 2023-13

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
ADOPTING A GENERAL PLAN AMENDMENT TO ADD SECTION 2.37.1
TO THE MARINA GENERAL PLAN. THE ACTION IS EXEMPT FROM
CEQA PURSUANT TO SECTION 15061(B)(3) OF THE CEQA
GUIDELINES.

WHEREAS, through Senate Bill 478 (SB 478) the legislature of the State of California adopted regulations applicable to housing development projects located in a multifamily residential zone or a mixed-use zone; and

WHEREAS, updates to the City of Marina (“City”) General Plan are necessary to bring regulations for housing development projects located in a multifamily residential zone or a mixed-use zone into compliance with State law; and

WHEREAS, the following new section is hereby added to General Plan:

2.37.1 Notwithstanding limitations on Floor Area Ratio (FAR) set forth in the General Plan, housing development projects as defined in paragraph (2) of subdivision (h) of Section 65589.5 of the California Government Code, as may be amended, shall be allowed to increase its FAR as follows:

1. A housing development project of three to seven units shall have a minimum FAR of 1.0:1.
2. A housing development project of eight to ten units shall have a minimum FAR of 1.25:1.
3. This bonus shall not apply within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the California Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
4. For mixed use development, total mixed use FAR shall be increased to the extent necessary to accommodate a non-residential floor area ratio of 0.4:1 for retail and retail-like uses only.

WHEREAS, the Planning Commission reviewed these items at a duly noticed public hearing on December 8, 2022 and recommended City Council approve the amendment; and

WHEREAS, the proposed amendment to the General Plan addresses permissible increases to Floor Area Ratios; and

WHEREAS, the City Council finds and determines, in accordance with the California Environmental Quality Act (CEQA), that the proposed amendments are not subject to CEQA pursuant to the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, Section 15061(b)(3), because the proposed ordinance(s) are covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Marina does hereby:

1. Adopt Resolution 2023- adopting a General Plan Amendment to add Section 2.37.1 to the Marina General Plan in response to Senate Bill 478 (SB 478), and
2. Find the action is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7th day of January 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 C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

January 11, 2023

Item No. **11a**

Members of the Marina
City Council

City Council Meeting
of February 7, 2023

THE CITY COUNCIL OF THE CITY OF MARINA READ BY TITLE ONLY AND APPROVE THE FIRST READING OF ORDINANCE 2023-, AMENDING TITLE 17 (ZONING ORDINANCE) OF THE MARINA MUNICIPAL CODE AND ADD SECTION 2.37.1 TO THE GENERAL PLAN IN RESPONSE TO SENATE BILL 478. THIS STATE LAW ENCOURAGES THE ADOPTION OF POLICIES THAT SUPPORT MISSING MIDDLE HOUSING PROJECTS. THE PROPOSED AMENDMENTS ARE EXEMPT FROM CEQA PER SECTION 15061(B)(3) OF THE CEQA GUIDELINES.

REQUEST: It is requested that the Marina City Council:

1. Read by title only and waive further reading and approve the first reading of Ordinance 2023-, approving an amendment to Sections 17.16 (CR Zoning District), 17.18 (C-1 Zoning District), and 17.22 (PC Zoning District) of the Marina Municipal Code; and
2. Adopt a Resolution to add Section 2.37.1 to the General Plan; and
3. Find the action exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

BACKGROUND:

New State Laws Impacting Local Planning & Development

Over the past several legislative sessions, the state legislature has approved, and both Governors Brown and Newsom have signed, laws altering housing policy in California. While several bills in the most recent legislative session are acutely impactful to local governments (SB 8, SB 9, SB 10, and SB 478), these laws build on prior legislation. Together, these laws create a complex regulatory web aimed at increasing housing production in the state to meet the housing needs of the state's current and future residents. This web impacts local governments significantly.

Among other things, these complex laws constrain the City of Marina's (City) ability to implement subjective design standards, proscribes processing timelines, indicates certain projects are ministerial, and provides some development standards for certain projects. Further, the web of policies work together to limit a local government's ability to deny certain types of housing projects. To prepare for the impacts in Marina, staff recommends the City Council adopt policies to ensure the City can limit negative impacts the laws may have on development and neighborhoods in Marina.

Of the laws from the most recent legislative session, SB 478 is the focus of this report. This law became effective January 1, 2022.

SB 478 (Wiener): Planning and Zoning Law: Housing Development

The new law applies to housing development projects located in a multifamily residential zone or a mixed-use zone. For the City, this could apply to several commercial districts that allow residential and commercial uses.

The law prohibits the City from the following:

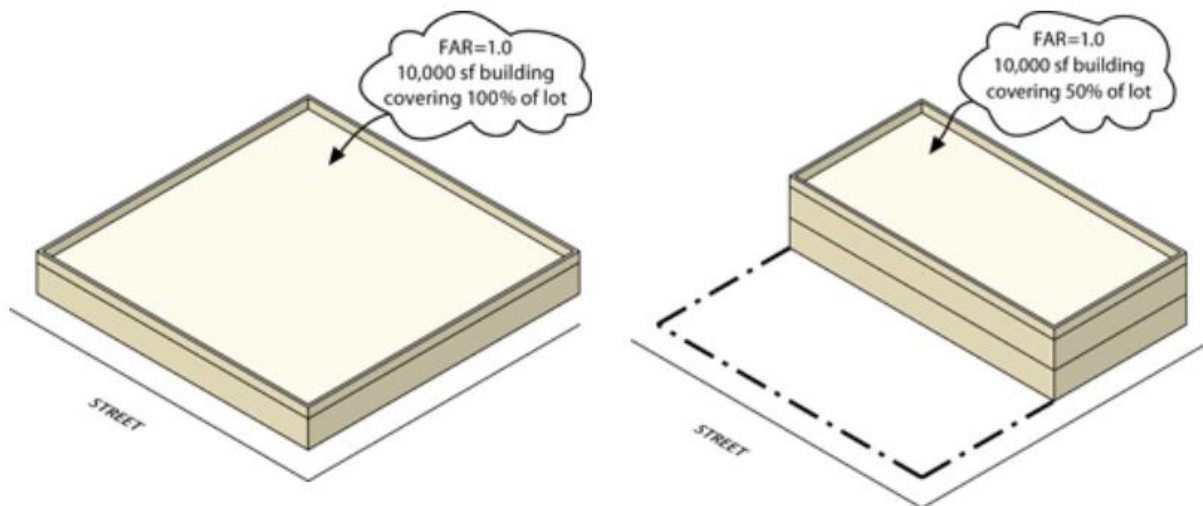
- Imposing a Floor Area Ratio (FAR) standard that is less than 1.0:1 on a housing development project that consists of three to seven units, or less than 1.25:1 on a housing development project that consists of eight to ten units.
- Imposing lot coverage requirements that would physically preclude a housing development project from achieving the FARs described above.
- Denying a housing development project located on an existing legal parcel solely on the basis that the proposed lot area does not meet the City's requirements for minimum lot size.

Lot (or Site) Coverage and Floor Area Ratio

The terms "lot coverage" (or "site coverage" as used in the Marina Municipal Code (MMC)) and FAR can sometimes be confusing to decision-makers when evaluating projects. See below for definitions that may be of assistance.

Section 17.04.615 of the MMC defines **Site coverage** as *the percent of the site area covered by principal and accessory buildings*.

Floor Area Ratio (FAR) is described in the General Plan (Section 1.13) as *the ratio between the square footage of enclosed building space and the square footage of the site*. Floor area ratios are given as numerical ratios. Thus, a FAR of 0.5 indicates that the permitted enclosed floor area of a building is equal to one-half the square footage of the parcel on which it is located. An FAR of 1.0, therefore, indicates that a building may have a total floor area equal to the total square footage of its site. This means that 1.0:1 ratio would allow a one-acre parcel (43,560 square feet = 1 acre) to have 43,560 square feet of building and a 1.25:1 ratio would allow 54,450 square feet of building. The building area allotted can be constructed over the horizontal area of the lot or can be accomplished by adding floor area vertically as additional stories (see illustration below).



ANALYSIS:

On December 8, 2023, the Planning Commission held a public hearing to review the proposed amendments to the City's Zoning Ordinance and General Plan. The Planning Commission unanimously recommended that the City Council approve the amendments.

In accordance with the Planning Commission recommendation, staff recommends adopting into the City's General Plan and MMC the standards of SB 478 which addresses permissible increases to Floor Area Ratios. These requirements are straight-forward and may be referenced in the attached resolution and draft ordinance. The change in state law could result in increased applications for housing developments of this size.

CORRESPONDENCE

No applicable correspondence to this project has been received as of January 4, 2023.

FISCAL IMPACT:

The adoption of this ordinance and resolution will have no impact on the City's General Fund.

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 General Plan and Municipal Code Amendments simply reflect pre-emptive state law effective January 1, 2022.

CONCLUSION

This request is submitted for City Council consideration.

Respectfully submitted,

Christy Hopper, Planning Services Manager
Community Development Department
City of Marina

REVIEWED/CONCUR:

Guido Persicone, AICP
Community Development Director
City of Marina

Layne Long
City Manager
City of Marina

Draft Resolution with Draft Ordinance as "Exhibit 1" Attached
Draft Resolution amending Marina General Plan