

# City of Capitola Agenda

Mayor: Ed Bottorff  
Vice Mayor: Stephanie Harlan  
Council Members: Jacques Bertrand  
Dennis Norton  
Michael Termini  
Treasurer: Christine McBroom



**REVISED**

## **CAPITOLA CITY COUNCIL REGULAR MEETING**

**THURSDAY, OCTOBER 13, 2016**

**7:00 PM**

**CITY COUNCIL CHAMBERS  
420 CAPITOLA AVENUE, CAPITOLA, CA 95010**

**CLOSED SESSION - 6:15 PM  
CITY MANAGER'S OFFICE**

*An announcement regarding the items to be discussed in Closed Session will be made in the City Hall Council Chambers prior to the Closed Session. Members of the public may, at this time, address the City Council on closed session items only. There will be a report of any final decisions in City Council Chambers during the Open Session Meeting.*

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
[Gov't Code § 54957(b)]**

City Council's Performance Evaluation of the City Manager

## **REGULAR MEETING OF THE CAPITOLA CITY COUNCIL - 7:00 PM**

*All correspondences received prior to 5:00 p.m. on the Wednesday preceding a Council Meeting will be distributed to Councilmembers to review prior to the meeting. Information submitted after 5 p.m. on that Wednesday may not have time to reach Councilmembers, nor be read by them prior to consideration of an item.*

*All matters listed on the Regular Meeting of the Capitola City Council Agenda shall be considered as Public Hearings.*

### **1. ROLL CALL AND PLEDGE OF ALLEGIANCE**

Council Members Dennis Norton, Stephanie Harlan, Jacques Bertrand, Michael Termini and Mayor Ed Bottorff

### **2. PRESENTATIONS**

A. Introduction of New Police Officers Aron Quolas and Scott Newton

### **3. REPORT ON CLOSED SESSION**

### **4. ADDITIONAL MATERIALS**

*Additional information submitted to the City after distribution of the agenda packet.*

A. Item 9.B. Communications from the Public regarding the Zoning Code Update

### **5. ADDITIONS AND DELETIONS TO AGENDA**

### **6. PUBLIC COMMENTS**

*Oral Communications allows time for members of the Public to address the City Council on any item not on the Agenda. Presentations will be limited to three minutes per speaker. Individuals may not speak more than once during Oral Communications. All speakers must address the entire legislative body and will not be permitted to engage in dialogue. All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the minutes. A MAXIMUM of 30 MINUTES is set aside for Oral Communications at this time.*

### **7. CITY COUNCIL / CITY TREASURER / STAFF COMMENTS**

*City Council Members/City Treasurer/Staff may comment on matters of a general nature or identify issues for staff response or future council consideration.*

### **8. CONSENT CALENDAR**

*All items listed in the "Consent Calendar" will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Council votes on the action unless members of the public or the City Council request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following General Government.*

*Note that all Ordinances which appear on the public agenda shall be determined to have been read by title and further reading waived.*

CAPITOLA CITY COUNCIL REGULAR MEETING AGENDA  
October 13, 2016

- A. Consider the September 22, 2016, Regular City Council Minutes  
RECOMMENDED ACTION: Approve Minutes.
- B. Receive Planning Commission Action Minutes for the Regular Meeting of October 6, 2016  
RECOMMENDED ACTION: Receive Minutes.

**9. GENERAL GOVERNMENT / PUBLIC HEARINGS**

*All items listed in "General Government" are intended to provide an opportunity for public discussion of each item listed. The following procedure pertains to each General Government item: 1) Staff explanation; 2) Council questions; 3) Public comment; 4) Council deliberation; 5) Decision.*

- A. Consider Options for Paving Repairs Along Stockton Avenue Near the Esplanade  
RECOMMENDED ACTION: Consider options for repairing the paving along Stockton Avenue between the Stockton Avenue Bridge and Capitola Avenue. Provide direction and authorization to the Public Works Director to issue a change order for the selected amount.
- B. Zoning Code Update - Additional Discussion on Small Mobile Vending Carts in Mixed Use Village, Drive-Through Facilities in Regional Commercial Zone, and Expansion of the Vacation Rental Overlay along Capitola Avenue. Followed by review of Part 3: Chapter 17.96.180 Temporary Use and Structures and Continuing with Subsequent Chapters  
RECOMMENDED ACTION: Receive the staff presentation on the proposed Zoning Code Update and continue the public hearing to the Thursday, October 27, 2016, City Council meeting.

**10. ADJOURNMENT**

**Note:** Any person seeking to challenge a City Council decision made as a result of a proceeding in which, by law, a hearing is required to be given, evidence is required to be taken, and the discretion in the determination of facts is vested in the City Council, shall be required to commence that court action within ninety (90) days following the date on which the decision becomes final as provided in Code of Civil Procedure §1094.6. Please refer to code of Civil Procedure §1094.6 to determine how to calculate when a decision becomes "final." Please be advised that in most instances the decision become "final" upon the City Council's announcement of its decision at the completion of the public hearing. Failure to comply with this 90-day rule will preclude any person from challenging the City Council decision in court.

**Notice regarding City Council:** The City Council meets on the 2nd and 4th Thursday of each month at 7:00 p.m. (or in no event earlier than 6:00 p.m.), in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

**Agenda and Agenda Packet Materials:** The City Council Agenda and the complete Agenda Packet are available for review on the City's website: [www.cityofcapitola.org](http://www.cityofcapitola.org) and at Capitola City Hall and at the Capitola Branch Library, 2005 Wharf Road, Capitola, prior to the meeting. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola. Need more information? Contact the City Clerk's office at 831-475-7300.

CAPITOLA CITY COUNCIL REGULAR MEETING AGENDA  
October 13, 2016

**Agenda Materials Distributed after Distribution of the Agenda Packet:** Pursuant to Government Code §54957.5, materials related to an agenda item submitted after distribution of the agenda packet are available for public inspection at the Reception Office at City Hall, 420 Capitola Avenue, Capitola, California, during normal business hours.

**Americans with Disabilities Act:** Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the City Clerk's office at least 24-hours in advance of the meeting at 831-475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

**Televised Meetings:** City Council meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be rebroadcasted at 8:00 a.m. on the Wednesday following the meetings and at 1:00 p.m. on Saturday following the first rebroadcast on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed "Live" on the City's website at [www.cityofcapitola.org](http://www.cityofcapitola.org) by clicking on the Home Page link "**Meeting Video.**" Archived meetings can be viewed from the website at anytime.



## CAPITOLA CITY COUNCIL AGENDA REPORT

**MEETING OF OCTOBER 13, 2016**

FROM: City Manager Department

SUBJECT: Introduction of New Police Officers Aron Quolas and Scott Newton

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Aron Quolas was raised in Santa Cruz and is currently attending Cabrillo College. He recently graduated from the South Bay Police Academy and is starting his first phase of the Police Officer Field Training Program.

Scott Newton was raised in Stockton and spent a majority of his summers growing up in Capitola. He graduated with a bachelor's degree in Political Science from Santa Clara University and completed the South Bay Police Academy in December 2015. Scott has started his orientation week of training and will begin the first phase of the Police Officer Field Training Program next week.

Report Prepared By: Susan Sneddon  
City Clerk

**Reviewed and Forwarded by:**

Jamie Goldstein, City Manager

10/7/2016

**Sneddon, Su (ssneddon@ci.capitola.ca.us)**

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**From:** Bob Edgren <agren7@yahoo.com>  
**Sent:** Friday, September 30, 2016 2:28 PM  
**To:** Amelia Conlen; City Council; Goldstein, Jamie (jgoldstein@ci.capitola.ca.us); PLANNING COMMISSION; Grunow, Rich (rgrunow@ci.capitola.ca.us); Jesberg, Steve (sjesberg@ci.capitola.ca.us); Cattan, Katie (kcattan@ci.capitola.ca.us)  
**Cc:** donn@parkabike.com  
**Subject:** bike secure lockers and racks  
**Attachments:** CIMG0105.jpg; outdoor-bike-storage-solutions.jpg; 20-Minimalist-bike-storage-ideas-for-tiny-apartments\_19.jpg; bikehangar.jpg; chelsea\_cycle\_600.jpg; dscf0443.jpg; vertical\_bike\_storage\_1\_.jpg

Hello Council, Planning and others,

This is regarding the rezoning issue of the number of suggested bike racks per multi residential and other uses.

There is an organization in town, Bike Santa Cruz County. The director is in transition and leaving her post, she is Amelia Conlen. Hopefully she can come Saturday to the Council rezoning meeting and provide some input on the issue.

In short , what all this means is encouraging alternate transportation with more bike friendly concepts.

Today I also had a very informative talk with Don Van Deusen with Ground Control Systems. Based in Sacramento, his company seems to be a leader in developing bike infrastructure as they have worked or are working with San Francisco, Davis, Lake Tahoe, Portland, San Diego, Monterey State Univ., and other coastal areas.

Mr. Van Deusen said the standard now is one bike per residential unit. Their popular "Varsity" bike dock takes up 19 sq. ft. for two bikes. They are also developing the a "bike corral", where a parking space can be converted to a bike rack parking area, ten bikes to one parking space. This would be used more in public areas like in front of cafes, coffee spots etc. . The link to their website has a number of innovative ideas. The photos attached are from other firms, but show the ingenuity that is going on in this area.

I do not know how much bicycles are addressed in the zoning code, but it may be something that teh City may have to look into further.

Sometime, in the near future, it might be well worthwhile to invite Mr. Van Deusen to Capitola for some consultation, as again, the world of bicycle transportation is advancing as fast as electric cars, and the integration of bicycles, their aspects and the integration of them is upon us. I hope all this helps in the meeting.

Bob Edgren  
agren7@yahoo.com  
831-402-2111

[Bike Parking Racks - Secure Bikes Storage - Outdoor Bicycle Lockers - Ground Control](#)

Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update (ADDITIONAL MATERIALS)



**Bike Parking Racks - Secure Bikes Storage  
- Outdoor Bicycle Lockers - Groun...**

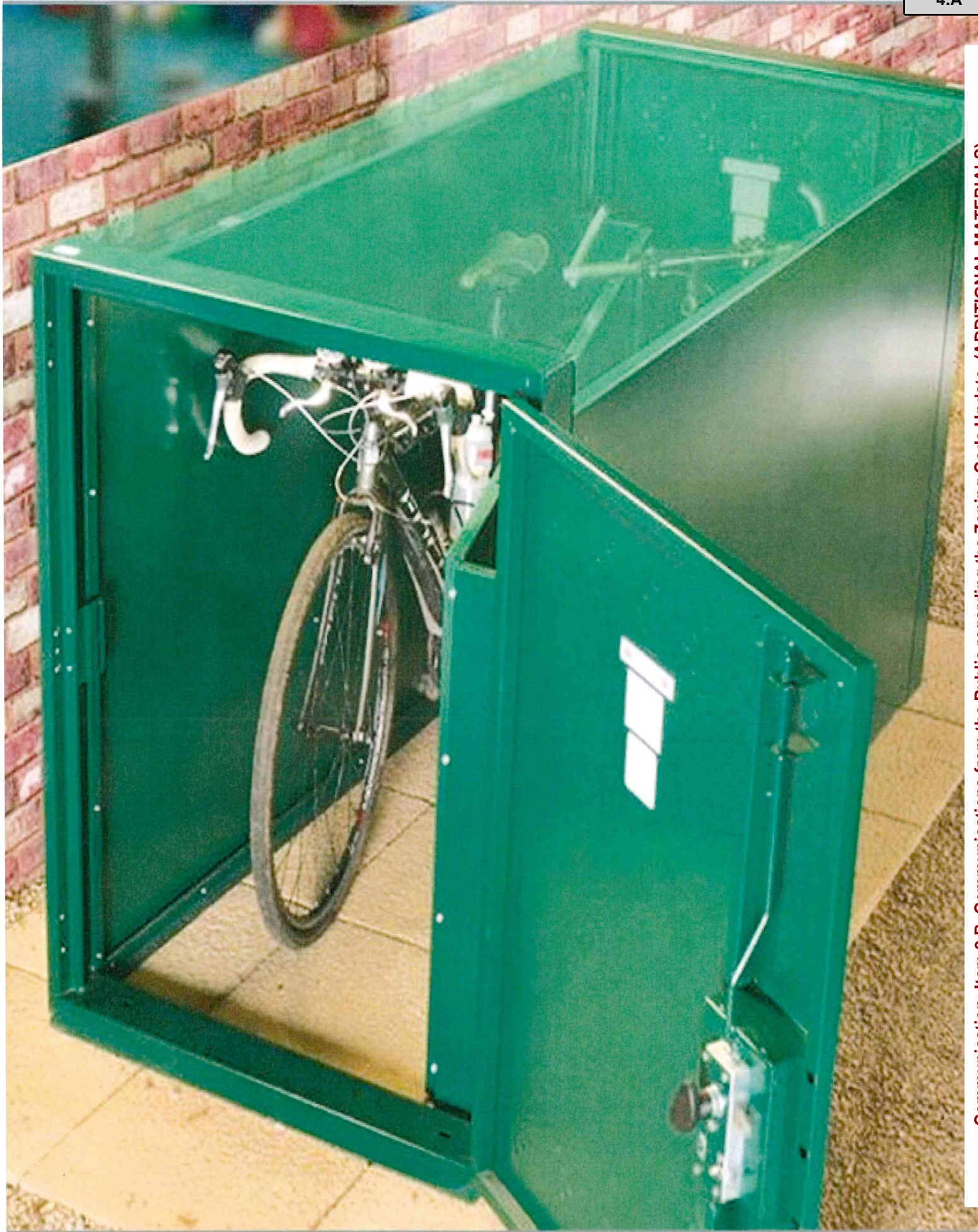
Ground Control provides high quality and secure bicycle parking racks, outdoor shelters, metal skateboard racks,...

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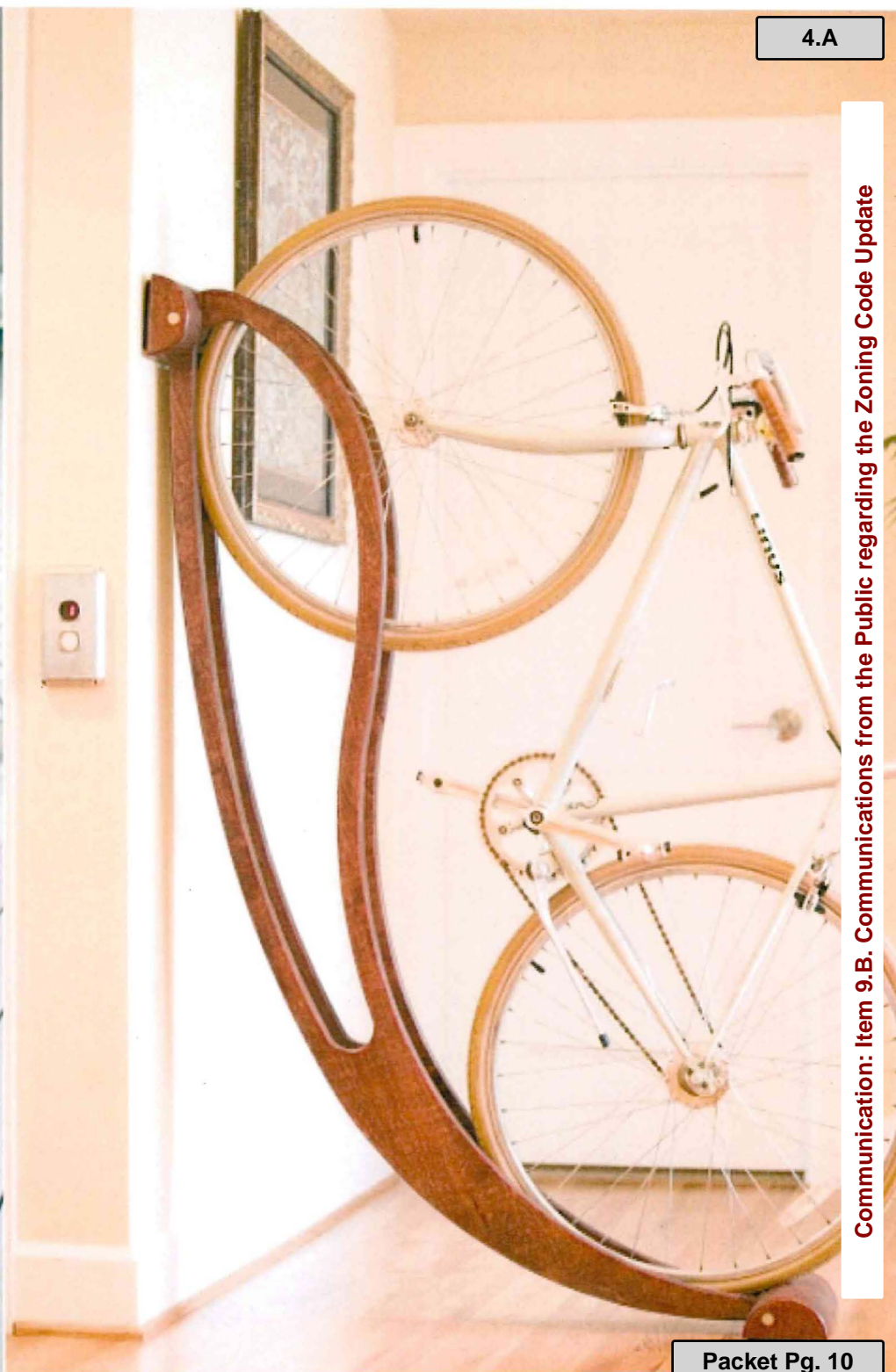
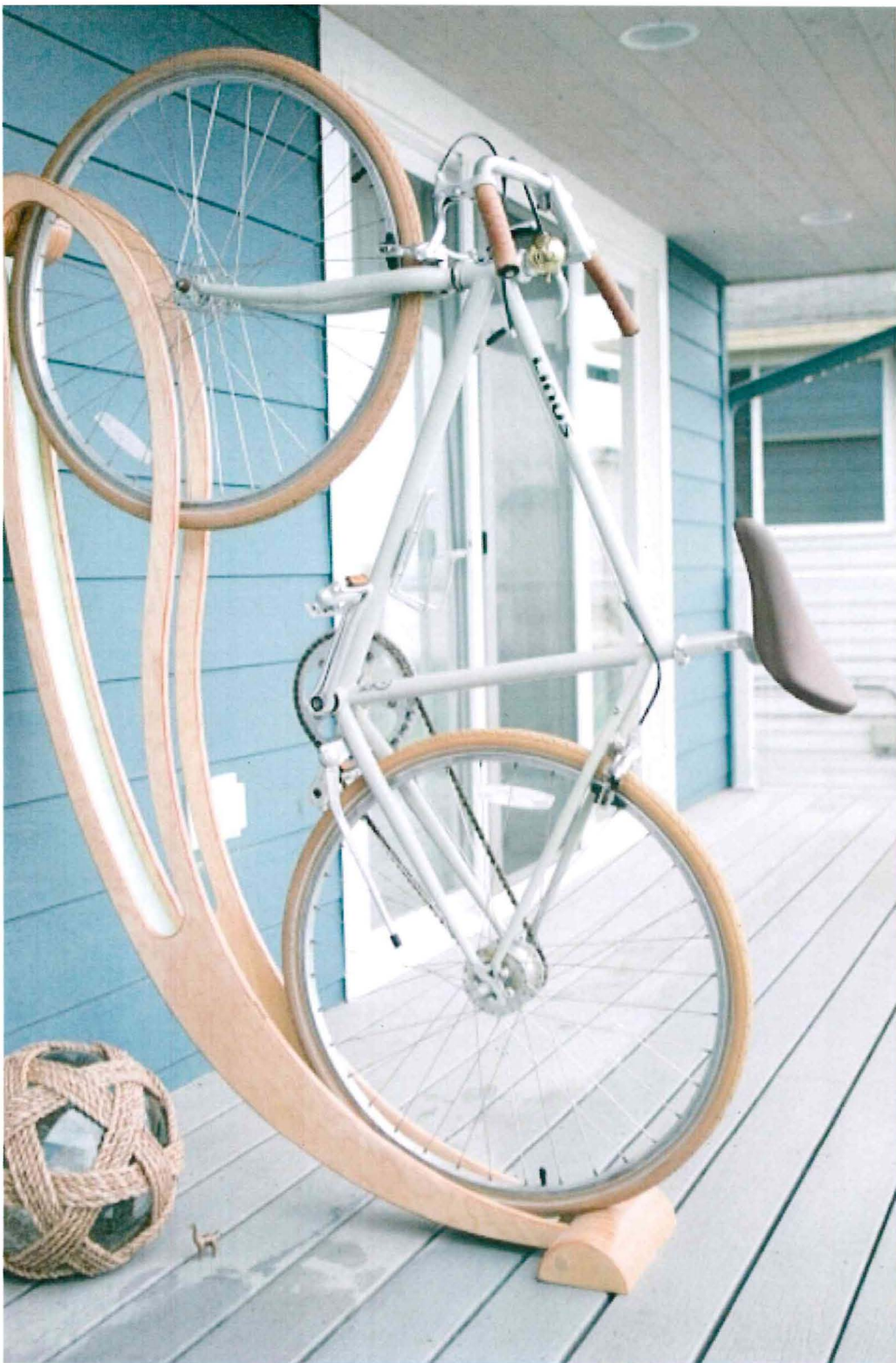


Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update (ADDITIONAL MATERIALS)





Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update (ADDITIONAL MATERIALS)



Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update



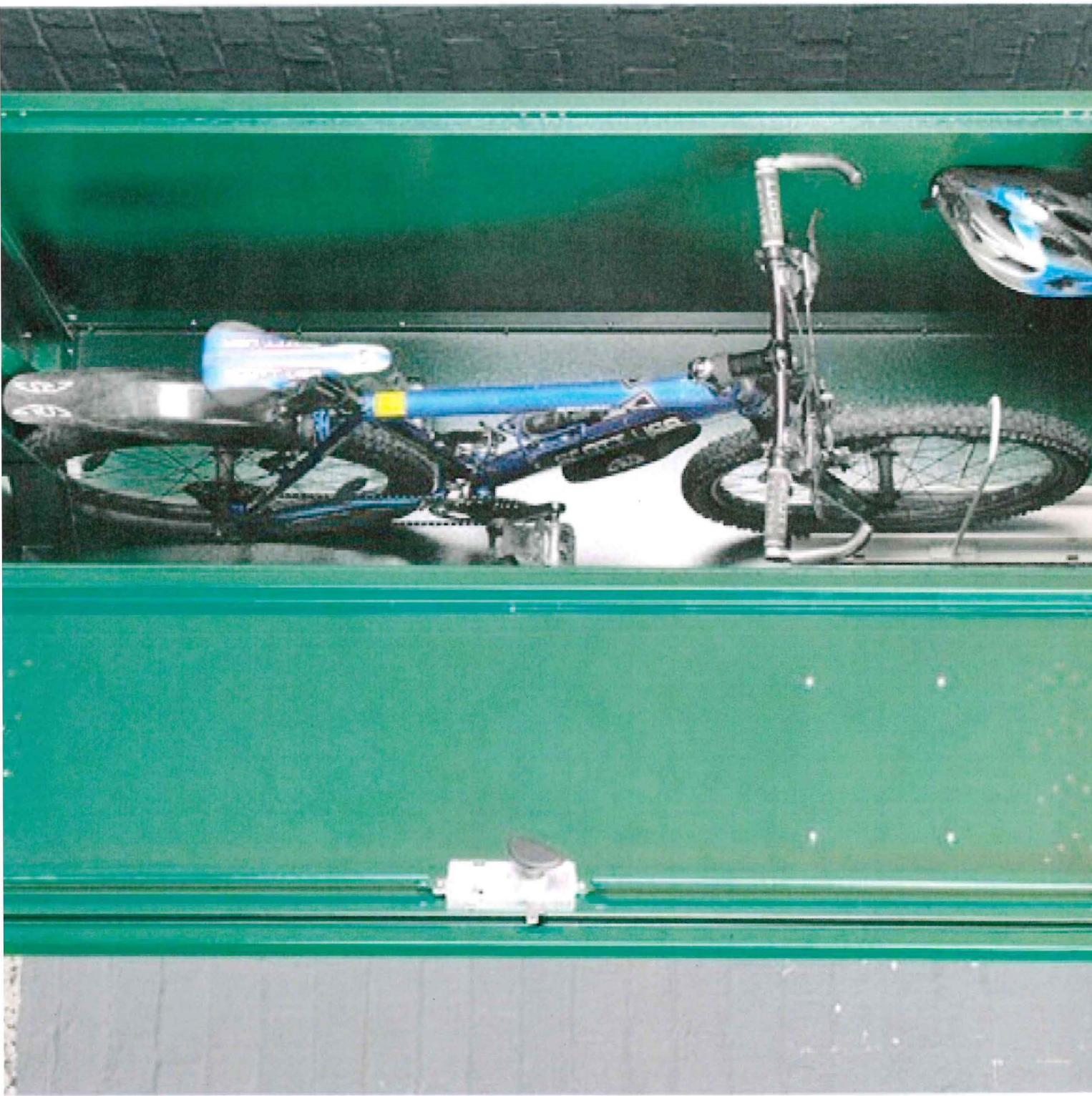
Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update



Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update



Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update



Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update (ADDITIONAL MATERIALS)

**Sneddon, Su (ssneddon@ci.capitola.ca.us)**

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**To:** Bob Edgren  
**Subject:** RE: from Bob Edgren re Capitola Ave.

Thank you for your comments regarding this October 13, 2016, Regular Capitola City Council meeting item. I will add your comments to additional material for the meeting.

Sincerely

Susan Sneddon, City Clerk  
City of Capitola  
420 Capitola Avenue  
Capitola, CA 95010  
P | 831-475-7300 F | 831-479-8879  
[www.cityofcapitola.org/](http://www.cityofcapitola.org/)

**From:** Bob Edgren [mailto:agren7@yahoo.com]  
**Sent:** Wednesday, October 12, 2016 4:46 PM  
**To:** Sneddon, Su (ssneddon@ci.capitola.ca.us) <ssneddon@ci.capitola.ca.us>  
**Subject:** Re: from Bob Edgren re Capitola Ave.

Thursday night, a heads up as I and hopefully others will ask that the short term vacation overlay zone be extended up Capitola Ave. to Beverly or Bay.

Over the years, it has become less resident friendly as many occupied dwellings have converted to commercial enterprises. Across from my 511 Capitola Ave, for example, there used to be two charming cottages. Those were plowed under years ago for a mixed use two story box, which is now a giant bloc harbored by Harbortown, whatever Harbortown is. At first I thought it was an FBI branch going in.

A few years ago they put in the double yellow line, that was the beginning turn of less residences. It's just become harder to rent out long term has been squeezed out.

Converting 20 or so dwellings to short term should bring new money to the area weekly and add to the transient short term tax.

Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update (ADDITIONAL MATERIALS)

**Sneddon, Su (ssneddon@ci.capitola.ca.us)**

**From:** Info <Info@lawrieproperties.com>  
**Sent:** Thursday, October 13, 2016 2:12 PM  
**To:** City Council  
**Cc:** PLANNING COMMISSION; Bob Edgren  
**Subject:** Expanding Vacation Rental in Neighborhood Commercial Zone along Capitola Avenue to Bay Avenue

**Importance:** High

To the honorable City Council Members and Planning Commission Members,

Thank you for your consideration. On behalf of William and Beverly Lawrie, I would like to express our support of expanding the vacation rental zone to include Capitola Avenue on up to Bay Avenue.

We are owners of properties on Capitola Avenue, including commercial shops in the village and multi residential units on Capitola Avenue. Over the years we have observed that it is taking longer to rent residential units on the busy Capitola Avenue thoroughfare. Additionally, the businesses are having a harder time keeping their doors open during the slow winter months.

We feel that both the business community and the city will benefit if vacation rental revenue through occupancy tax and increased tourism is encouraged year round. Expanding the scope and number of potential vacation units in the area which encompasses the Neighborhood Commercial Zone is compatible with existing commercial use in the area.

If we were not out of town, we would be at the meeting to express ourselves in person. We appreciate your consideration of this email when making your decision.

Sincerely,  
 William, Beverly & Shelley Lawrie  
 direct: (831) 430-6161

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**From:** Bob Edgren <agren7@yahoo.com>  
**Reply-To:** Bob Edgren <agren7@yahoo.com>  
**Date:** Thursday, October 13, 2016 at 3:12 AM  
**To:** Liliane Molda <info@lawrieproperties.com>  
**Cc:** "planningcommission@ci.capitola.ca.us" <planningcommission@ci.capitola.ca.us>  
**Subject:** Re: Question from Bob Edgren

Hi Shelley,

It would be great if you could make it. You have the largest property affected. If you cannot, I will express your support for extending the zone.

You may also send an email to the Council and Planning Commission expressing the same, and that you could not make the meeting due to the short notice and previous obligations out of town.

Below are their email links.

Thanks! Let's hope we get a long awaited opportunity to increase our rental incomes!

Bob Edgren



**Sneddon, Su (ssneddon@ci.capitola.ca.us)**

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**From:** Molly Ording <mollyording@yahoo.com>  
**Sent:** Tuesday, October 04, 2016 10:59 AM  
**To:** City Council; PLANNING COMMISSION  
**Cc:** Cattan, Katie (kcattan@ci.capitola.ca.us); Grunow, Rich (rgrunow@ci.capitola.ca.us); Goldstein, Jamie (jgoldstein@ci.capitola.ca.us)  
**Subject:** Zoning Code Update & Timeline!

Dear Valued and APPRECIATED Council Members and Planning Commission Members!  
(I am *especially* grateful for *all* the considerable time and attention by the Planning Commission members in this very painstaking arduous process!!!)

I am writing, in haste of course, to urge you to PLEASE SLOW DOWN your consideration and approvals of the updates and changes to the City of Capitola’s zoning code! I know you all have been “at it” for months and months (*many* of these months in the summer-time when so many of us are gone or in and out of Capitola) and some are anxious that the document get adopted without any further public hearings or opportunity at scrutiny! I am sure many of you are “public hearing-ed out” but, for most of us, the residents of Capitola, we have not had the exposure and broader understanding of the changes being undertaken that WILL affect us all and our neighbors in the near and far future. For you all, in “cityspeak” perhaps the issues and changes are clear...for us... trying to parse out information from those documents is very difficult and time-consuming. I hardly know anyone, especially in this very busy season, who has had time to educate themselves on the points and changes and come to meetings, etc. etc. I know I haven’t!

Please, please...slow down...plan a public forum (a la the one you did for selling city hall, etc., publicize the issues at stake, describe them and speak in plain english (not “cityspeak” or “planning dept. speak”) and get the citizens engaged! Please!!!! There is a lot at stake here...a few more months will not change that! A better and comprehensively supported document and plan for our future lays ahead...in months...NOT in days!

Thanks for your attention and thanks for all your hard work!

Most sincerely,

Molly I Ording

Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update (ADDITIONAL MATERIALS)

**Sneddon, Su (ssneddon@ci.capitola.ca.us)**

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**From:** Nels Westman <nels@bestwestman.com>  
**Sent:** Sunday, October 02, 2016 7:54 AM  
**To:** City Council; PLANNING COMMISSION  
**Subject:** Final Zoning Update Approval Process

Dear City Council and Planning Commission Members,

I am writing at the direction of the Board of CVRA to make a request as regards the final phase of the Zoning Update approval process.

During recent months there have been many public hearings before the Planning Commission and City Council to create a draft Zoning Ordinance. Understanding the process and tracking the many revisions of the draft is a bit confusing to the average citizen and has failed to attract much public participation. Not unusual. After a lot of back and forth between the Planning Commission and the City Council, you are close to having a final draft Zoning Ordinance for the City Council to approve (possibly after the October 6th Planning Commission meeting). When this happens, it would be an excellent opportunity for the public to study this large document and possibly raise questions. Outreach by the City (press, scroll, website, social media, City Manager’s email report, etc.) will alert the public that it is ready. It would also be an opportunity for neighborhood groups such as CVRA to review the draft and to communicate with our members if we find issues which might be of particular interest to them. This outreach, review and back and forth communication takes time. We would request a 30-day public review period of the final draft document before it goes to the City Council for approval.

We believe this will result in a more informed process with more public participation.

Thank you for considering this request.

Nels Westman  
CVRA Board President

Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update (ADDITIONAL MATERIALS)

**Sneddon, Su (ssneddon@ci.capitola.ca.us)**

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**From:** Gary Wetsel <gary@mauisunrise.net>  
**Sent:** Tuesday, October 04, 2016 3:29 PM  
**To:** Cattan, Katie (kcattan@ci.capitola.ca.us)  
**Cc:** Hanna, Carin (carinhanna@aol.com); Grunow, Rich (rgrunow@ci.capitola.ca.us); Sneddon, Su (ssneddon@ci.capitola.ca.us)  
**Subject:** Re: Small mobile vending carts in Mixed-Use Village

Katie:  
Thank you for taking this positive approach to informing us of these items being discussed by the City Council. Unfortunately I will not be able to attend this meeting however here are my thoughts on the deliberations.

Issue: Should the City consider allowing; small mobile vendor carts in Mixed Use Village Zoning District or to allow small, human powered (bicycle/carts) mobile vending for items such as popcorn and popsicles.  
Here are my thoughts:

- Pro
  - I believe we always want to make Capitola more attractive to visitors, either consideration would support this objective.
  - Children (and probably some adults) like a “snack” rather than a burger, pizza or meal during the day while o the beach.
  - This could be an attractive income source for current merchants.
- Con
  - We current we have a litter problem in the Village, therefore either consideration would make this worse.
  - We have two restaurants offering “to go” food items. It is/was my understanding they were each required to pay the City a set fee each year to pay for the additional litter they caused. Has this been enforced? In any case this should be a requirement of any consideration.
  - To the point above, the Village trash cans are overflowing on busy days. Both considerations would only add to this problem.
  - Allowing either consideration would/could take away from merchants in the Village that pay rent and operate on a year around basis. (Good & Bad weather)
  - Both considerations would allow “carpetbaggers” from outside the Village to conduct business with no commitment to the Village.
- **Conclusion and recommendation**
  - **I agree with the Zoning Law as drafted.**
  - **I do not believe the small people powered mobile carts should be allowed for the reasons above in Cons.**
  - **How will these people be accountable for their trash?**
  - **This consideration presents yet another ordinance that the City cannot enforce.**

Respectively submitted,  
Gary Wetsel

On Oct 4, 2016, at 10:49 AM, Cattan, Katie (kcattan@ci.capitola.ca.us) <kcattan@ci.capitola.ca.us> wrote:

Dear Gary Wetsel and Carin Hanna,

Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update (ADDITIONAL MATERIALS)

The City Council is currently reviewing the draft Zoning Code update. On August 18, 2016, the Council discussed the possibility of allowing small mobile vendor carts in Mixed Use Village Zoning District. The Code as drafted does not allow mobile vending in the Village. The Council discussed the possibility to allow small, human powered (bicycle/carts) mobile vending for items such as popcorn and popsicles.

Small mobile vendor carts will be discussed at the **October 13, 2016** meeting. The meeting begins at 7 pm. The public is welcome to attend the meeting and provide public input. Any letters or emails regarding this matter can be sent to my attention.

I would appreciate your help circulating this email to village residents and businesses.

Respectfully,

Katie Herlihy Cattan, AICP  
Senior Planner

**City of Capitola**  
420 Capitola Avenue  
Capitola, CA 95010  
(831) 475-7300

<image001.jpg>

Petition To Zoning Revision For El Camino Medio

As a homeowner at 190 El Caamino I am requesting  
The City of Capitola to include El Camino in the TRO District  
The west side of El Camino Medio currently is zoned TRO  
allowing short term renting. I feel as some in the planning dept  
office do in all fairness both sides of El Camino Medio should  
be zoned the same.

- 1) All 8 homes affected are in the \$ 2,000,000.00 range owners not likely to rent to undesirable tenants.
- 2) No downside for property owners or the City of Capitola  
Capitola transient tax 10%. Approximate \$8,000.00 per year paid by the 2 existing short term renters.
- 3) Allows current and future owner the option for long term or short term rental of there property.
- 4) Will NOT effect property tax, (Tax based on % of sale price)

I agree to zoning change

Homeowner

Address-

*Alfred A. Ferrari*

*200 El Camino Medio  
Capitola*



Mr. Alfred Ferrari  
1479 Richards Ave.  
San Jose, CA 95125

Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update (ADDITIONAL MATERIALS)

Gordon Hunt  
190 El Camino Medio  
Capitola CA 95010  
gordonincapitola@yahoo.com


SEP 21 2016

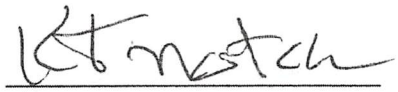
Dear Neighbor

I am requesting a zoning change on the east side of El Camino Medio from R-1 to TRO allowing vacation rentals. No where in Capitola dose a zone devides a street.


A change from R-1 to TRO will put all of El Camino Medio in the PRIME zone of Capitola Village. This change will increase the property value without raising taxes. This change is a "NO BRAINER" WIN for the City of Capitola allowing them to collect a 10% tax on homeowners who rent there home or rooms less than 30 daya a month. and a WIN for homeowners and future homeowners . I urge you to join myself and the other homeowners who agree.

Thank You

  
Gordon Hunt

  
Kathleen Notch

I agree with a zone change

  
Homeowner

212 El Camino Medio  
Address

I disagree with a zone change

\_\_\_\_\_  
Homeowner

\_\_\_\_\_  
Address

Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update (ADDITIONAL MATERIALS)

City of Capitola Planning Commission  
Re: Zoning Map Update El Camino Medio  
and 218 Monterey Ave.

As a homeowner

I approve of the proposed zone changes

Mike Heffernan

212 EL CAMINO MEDIO  
CAPITOLA

Homeowner

Address

City of Capitola Planning Commission  
Re: Zoning Map Update El Camino Medio  
and 218 Monterey Ave.

RECEIVED  
SEP 26 2016

As a homeowner

I approve of the proposed zone changes

Mike Heffernan

216 EL CAMINO MEDIO

Homeowner

Address

City of Capitola Planning Commission  
Re: Zoning Map Update El Camino Medio  
and 218 Monterey Ave.

RECEIVED  
SEP 20 2016

As a homeowner

I approve of the proposed zone changes

CITY OF CAPITOLA

JAMES S ROSS  
218 EL CAMINO MEDIO

Homeowner

Address

Communication: Item 9.B. Communications from the Public regarding the Zoning Code Update (ADDITIONAL MATERIALS)



## CAPITOLA CITY COUNCIL AGENDA REPORT

**MEETING OF OCTOBER 13, 2016**

FROM: City Manager Department

SUBJECT: Consider the September 22, 2016, Regular City Council Minutes

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RECOMMENDED ACTION: Approve Minutes.

DISCUSSION: Attached for City Council review and approval are the minutes of the subject meeting.

ATTACHMENTS:

1. Draft September 22, 2016, City Council Minutes

Report Prepared By: Susan Sneddon  
City Clerk

**Reviewed and Forwarded by:**

A handwritten signature in blue ink, appearing to be "JG", is written over a horizontal line.

Jamie Goldstein, City Manager

10/7/2016



**DRAFT  
CAPITOLA CITY COUNCIL  
REGULAR MEETING ACTION MINUTES  
THURSDAY, SEPTEMBER 22, 2016  
CLOSED SESSION – 6:30 PM  
CITY MANAGER’S OFFICE**

Mayor Bottorff called the meeting to order at 6:30 PM. He announced the items to be discussed in Closed Session, as follows:

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

**[Gov’t Code § 54956.9(d)(1)]**

(Two cases)

1. City of Capitola v. D’Angelo  
[Santa Cruz County Superior Court Case No. CV 181659]
2. City of Capitola v. Water Rock Construction, Inc.  
Santa Clara Superior Court Case No. 16CV295795

Mayor Bottorff noted that there was no one in the audience; therefore, the City Council recessed at 6:30 p.m. to the Closed Session.

**REGULAR MEETING OF THE CAPITOLA CITY COUNCIL COUNCIL- 7:00 PM**

**1. ROLL CALL AND PLEDGE OF ALLEGIANCE**

Councilmember Dennis Norton: Present, Mayor Ed Bottorff: Present, Council Member Jacques Bertrand: Present, Vice Mayor Stephanie Harlan: Present, Council Member Michael Termini: Present.

City Treasurer McBroom was present.

**2. PRESENTATIONS**

- A. Proclamations Honoring Police Chief Rudy Escalante  
Presentation of proclamations provided by Mayor Bottorff and State Assemblymember Stone.
- B. Legislative Update Provided by Assemblymember Mark Stone (update provided)

**3. REPORT ON CLOSED SESSION**

City Attorney Condotti stated that the City Council received an update on the following existing litigations: (1) City of Capitola v. D’Angelo; and (2) Water Rock Construction, Inc. v. City of Capitola; There was no reportable action.

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES  
September 22, 2016

4. **ADDITIONAL MATERIALS** (None provided)

5. **ADDITIONS AND DELETIONS TO AGENDA**

City Manager Goldstein stated that this item will be discussed following General Government **Item No. 10.D.**

6. **PUBLIC COMMENTS**

Marilyn Garrett, local resident, stated concerns regarding the telecommunications industry.

Public comment received from Gary Richard Arnold.

Teresa Green, Capitola Begonia Festival Chair, reported on the success of this year's Begonia Festival and presented the City with a commemorative tile.

Bob Edgren, local resident, requested a tour of Rispin Mansion.

7. **CITY COUNCIL / CITY TREASURER / STAFF COMMENTS**

Council Member Termini stated that the Capitola Public Safety Foundation (Foundation) provided funds for the City's police officers (Capitola Police Officers Association) to receive additional training. In addition, the Foundation provides funding for the Operation Surf event for wounded soldiers.

Council Member Bertrand stated that he attended a recent discussion sponsored by the Santa Cruz County Probation Department regarding the Epic Influencer Program which helps to keep people out of prison. He also attended a kick-off event for Proposition 8.

Council Member Norton stated that on September 28<sup>th</sup> at 5:00 PM there will be a kick-off event for Measure F at the Wharf Restaurant.

Mayor Bottorff reported that he is a member of the Select Committee on South Bay Arrivals (FAA); he stated the Committee provided a recommendation to Congressman Sam Farr to report back to Washington DC in mid-November.

City Treasurer McBroom stated that the next Finance Advisory Committee meeting will be held on September 27<sup>th</sup> at 6:00 PM.

City Manager Goldstein stated that Charter Cable is experiencing a power outage due to a fallen tree.

Public Works Director Jesberg provided an update regarding various Capital Improvement Program projects.

City Clerk Sneddon announced various openings on City boards/commissions/committees.

8. **BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS**

- A. Consider an Appointment to the Historical Museum Board  
RECOMMENDED ACTION: Appoint David Peyton to fill the vacancy on the Historical Museum Board (Board) based on the Board's recommendation.

David Peyton, Historical Museum Board applicant, thanked the City Council for their consideration regarding his appointment to the Board.

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES  
September 22, 2016

<b>RESULT:</b>	<b>APPROVED APPOINTMENT OF DAVID PEYTON TO THE HISTORICAL MUSEUM BOARD [UNANIMOUS]</b>
<b>MOVER:</b>	Michael Termini, Council Member
<b>SECONDER:</b>	Stephanie Harlan, Vice Mayor
<b>AYES:</b>	Ed Bottorff, Jacques Bertrand, Stephanie Harlan, Dennis Norton, Michael Termini

## 9. CONSENT CALENDAR

<b>RESULT:</b>	<b>ADOPTED <u>ITEMS NO. 9.A.</u> [UNANIMOUS]</b>
<b>MOVER:</b>	Michael Termini, Council Member
<b>SECONDER:</b>	Stephanie Harlan, Vice Mayor
<b>AYES:</b>	Ed Bottorff, Jacques Bertrand, Stephanie Harlan, Dennis Norton, Michael Termini

- A. Approval of City Check Registers dated August 5, August 12, August 19, and August 26, 2016

RECOMMENDED ACTION: Approve Check Register Reports.

## 10. GENERAL GOVERNMENT / PUBLIC HEARINGS

- A. Consider a Resolution Affirming the City's Intent to Participate in the Monterey Bay Community Power Joint Powers Authority

RECOMMENDED ACTION: Adopt Resolution.

Public comment received from Gary Richard Arnold.

Bob Edgren, local resident, provided comments regarding solar energy.

<b>RESULT:</b>	<b>APPROVED <u>RESOLUTION NO. 4061</u> AFFIRMING THE CITY'S INTENT TO PARTICIPATE IN THE MONTEREY BAY COMMUNITY POWER JOINT POWERS AUTHORITY [UNANIMOUS]</b>
<b>MOVER:</b>	Dennis Norton, Council Member
<b>SECONDER:</b>	Jacques Bertrand, Council Member
<b>AYES:</b>	Ed Bottorff, Jacques Bertrand, Stephanie Harlan, Dennis Norton, Michael Termini

- B. Consider an Amendment to the Administrative Policy I-33 to Implement the In-Lieu Parking Fee Program

RECOMMENDED ACTION: Amend Administrative Policy.

Dave Fox, local resident, provided comments regarding selling in-lieu parking spaces.

Bob Edgren, local resident, suggested that the in-lieu parking spaces be leased not sold.

Nels Westman, local resident, stated the reasoning for being opposed to the proposed amendment to the administrative policy.

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES  
September 22, 2016

<b>RESULT:</b>	<b>APPROVED <u>RESOLUTION NO. 4061</u> AFFIRMING THE CITY'S INTENT TO PARTICIPATE IN THE MONTEREY BAY COMMUNITY POWER JOINT POWERS AUTHORITY WITH THE FOLLOWING ROLL CALL VOTE:</b>
<b>MOVER:</b>	Dennis Norton, Council Member
<b>SECONDER:</b>	Ed Bottorff, Mayor
<b>AYES:</b>	Ed Bottorff, Jacques Bertrand, Dennis Norton
<b>NOES:</b>	Michael Termini and Stephani Harlan

- C. Consider a Resolution for Exception to the 180-Day Wait Period Per Government Code § 7522.56 and § 21221(h); and Approve Agreement with Rudolph Escalante for Interim Police Chief Services

RECOMMENDED ACTION: Approve Resolution and Agreement.

<b>RESULT:</b>	<b>APPROVED <u>RESOLUTION NO. 4062</u> FOR EXCEPTION TO THE 180-DAY WAIT PERIOD PER GOVERNMENT CODE§7522.56 AND§21221(H); AND APPROVE AGREEMENT WITH RUDOLPH ESCALANTE FOR INTERIM POLICE CHIEF SERVICES [UNANIMOUS]</b>
<b>MOVER:</b>	Dennis Norton, Council Member
<b>SECONDER:</b>	Michael Termini, Council Member
<b>AYES:</b>	Ed Bottorff, Jacques Bertrand, Dennis Norton, Michael Termini, Stephani Harlan

- D. Presentation Regarding Propositions 65 and 67

RECOMMENDED ACTION: Receive presentation and provide direction.

<b>RESULT:</b>	<b>APPROVED OPPOSING CALIFORNIA STATE PROPOSITION 65 WITH THE FOLLOWING ROLL CALL VOTE:</b>
<b>MOVER:</b>	Stephanie Harlan, Vice Mayor
<b>SECONDER:</b>	Jacques Bertrand, Council Member
<b>AYES:</b>	Ed Bottorff, Jacques Bertrand, Dennis Norton, Stephani Harlan
<b>NOES:</b>	Michael Termini

Item No. 5 was discussed at the end of the meeting.

5. **ADDITIONS AND DELETIONS TO AGENDA**

Community Development Director Grunow requested that the City Council select proposed future City Council meeting date(s) in October to discuss the Zoning Code Update.

<b>RESULT:</b>	<b>APPROVED SCHEDULING A SPECIAL CITY COUNCIL MEETING TO DISCUSS THE ZONING CODE UPDATE ON SATURDAY, OCTOBER 1, 2016, BEGINNING AT 10:00 AM</b>
<b>MOVER:</b>	Michael Termini, Council Member
<b>SECONDER:</b>	Jacques Bertrand, Council Member
<b>AYES:</b>	Ed Bottorff, Jacques Bertrand, Dennis Norton, Michael Termini
<b>NOES:</b>	Stephanie Harlan

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES  
September 22, 2016

<b>RESULT:</b>	<b>APPROVED TO RE-ENFORCE NOTICING OF THE FIVE FUTURE CITY COUNCIL AND PLANNING COMMISSION MEETINGS TO REVIEW THE ZONING CODE UPDATE [UNANIMOUS]</b>
<b>MOVER:</b>	Dennis Norton, Council Member
<b>SECONDER:</b>	Jacques Bertrand, Council Member
<b>AYES:</b>	Ed Bottorff, Jacques Bertrand, Dennis Norton, Michael Termini, Stephanie Harlan

## 11. ADJOURNMENT

The meeting adjourned at 9:15 PM

\_\_\_\_\_  
Ed Bottorff, Mayor

ATTEST:

\_\_\_\_\_, CMC  
Susan Sneddon, City Clerk

Attachment: Draft September 22, 2016, City Council Minutes (1312 : Approval of City Council Minutes)



# CAPITOLA CITY COUNCIL AGENDA REPORT

**MEETING OF OCTOBER 13, 2016**

FROM: Community Development

SUBJECT: Receive Planning Commission Action Minutes for the Regular Meeting of  
October 6, 2016

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RECOMMENDED ACTION: Receive Minutes.

ATTACHMENTS:

1. Planning Commission Action Minutes for October 6, 2016

Report Prepared By: Linda Fridy  
Planning Commission Minutes Clerk

**Reviewed and Forwarded by:**



**ACTION MINUTES  
CAPITOLA PLANNING COMMISSION MEETING  
THURSDAY, OCTOBER 6, 2016  
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

**1. ROLL CALL AND PLEDGE OF ALLEGIANCE**

Commissioner Linda Smith: Present, Commissioner Gayle Ortiz: Present, Commissioner Edward Newman: Present, Chairperson TJ Welch: Present, Commissioner Susan Westman: Present.

**2. ORAL COMMUNICATIONS**

**A. Additions and Deletions to Agenda**

**B. Public Comments**

**C. Commission Comments**

**D. Staff Comments**

**3. APPROVAL OF MINUTES**

**A. Planning Commission Minutes for the Regular Meeting of Sept. 1, 2016**

<b>RESULT:</b>	<b>ACCEPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Susan Westman, Commissioner
<b>SECONDER:</b>	Linda Smith, Commissioner
<b>AYES:</b>	Smith, Ortiz, Newman, Welch, Westman

**4. PUBLIC HEARINGS**

**A. 4810 Topaz Street #16-130 034-066-10**

Design Permit application to build a new two-story home and Variance request to the maximum floor area ratio. The property is located on an existing vacant lot in the R-1 (Single-Family Residential) Zoning District.

This project is in the Coastal Zone and requires a Coastal Development Permit, which is not appealable to the Coastal Commission.

Environmental Determination: Categorical Exemption

Property Owner: Tim Martin DAPC LLC

Representative: Dennis Norton, filed: 6/21/16

Motion: Approve a Design Permit and Coastal Development Permit and deny the Variance:

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Edward Newman, Commissioner
<b>SECONDER:</b>	Gayle Ortiz, Commissioner
<b>AYES:</b>	Smith, Ortiz, Newman, Welch, Westman

**B. 224 San Jose Avenue #16-108 APN: 035-184-07 and 035-184-01**

Design Permit for a new detached garage with second-story living space, Variance for onsite parking, and lot merger to combine two parcels into one for a property with an existing historic structure located in the CV (Central Village) Zoning District.

This project is in the Coastal Zone and requires a Coastal Development Permit, which is not appealable to the California Coastal Commission.

Environmental Determination: Categorical Exemption

Property Owner: Dennis Calvert

Representative: Dennis Norton, filed: 5/24/16

Motion: Deny without prejudice.

<b>RESULT:</b>	<b>DENIED [4 TO 1]</b>
<b>MOVER:</b>	Linda Smith, Commissioner
<b>SECONDER:</b>	Susan Westman, Commissioner
<b>AYES:</b>	Smith, Ortiz, Newman, Westman
<b>NAYS:</b>	Welch

**C. 221 Monterey Avenue #15-045 APN: 035-163-15**

Major Revocable Encroachment Permit and Conditional Use Permit for new suspended driveway accessed off of Monterey Avenue that extends from the historic structure into the public right-of-way in the RM-LM (Multi-Family Low Density) Zoning District.

This project is in the Coastal Zone and requires a Coastal Development Permit which is not appealable to the California Coastal Commission.

Environmental Determination: Categorical Exemption

Property Owner: Marty Formico

Representative: Dennis Norton, filed: 3/19/2016

Motion: Approve a Major Revocable Encroachment Permit, Conditional Use Permit and Coastal Development Permit.

<b>RESULT:</b>	<b>APPROVED AS AMENDED [4 TO 0]</b>
<b>MOVER:</b>	Linda Smith, Commissioner
<b>SECONDER:</b>	Gayle Ortiz, Commissioner
<b>AYES:</b>	Smith, Ortiz, Welch, Westman
<b>RECUSED:</b>	Newman

**5. DIRECTOR'S REPORT****6. COMMISSION COMMUNICATIONS****7. ADJOURNMENT**





## CAPITOLA CITY COUNCIL AGENDA REPORT

**MEETING OF OCTOBER 13, 2016**

FROM: Public Works Department

SUBJECT: Consider Options for Paving Repairs Along Stockton Avenue Near the Esplanade

**RECOMMENDED ACTION:** Consider options for repairing the paving along Stockton Avenue between the Stockton Avenue Bridge and Capitola Avenue. Provide direction and authorization to the Public Works Director to issue a change order for the selected amount.

**BACKGROUND:** The City Council has directed the Public Works Department to investigate options for repairing the asphalt in the area of the recently completed intersection improvements at Stockton Avenue and the Esplanade.

**DISCUSSION:** Due to the conditions of the pavement in the area, with many areas where the asphalt is failing, remnants of old crosswalks showing, and a patchwork of pavement patches, the complete overlay was deemed the best and most complete repair.

### **Option 1: Two-Inch Overlay**

Public Works received two prices from contractors currently working for the City to complete a pavement overlay from the Stockton Bridge to Capitola Avenue. The lowest price was provided by Anderson Pacific who submitted a proposal to rebuild the roadway with a two-inch overlay for \$68,125. Graniterock also provided a price quote of \$78,000 for a two-inch overlay.

### **Option 2: Repair/Slurry/Striping**

Due to the higher than anticipated costs of the overlay, Public Works staff is continuing to look at other options which may include 1) spot repairs to failed areas of pavement, 2) a slurry seal of the entire area, and 3) restriping the lane markings and cross walk.

Anderson Pacific provided a price to structurally repair failed areas for \$23,775. The cost of the restriping is \$12,500. The City has not yet received a bid for the slurry seal, however staff estimates a slurry seal for the area would cost between \$5,000 and \$10,000, bringing the total cost for this option into the \$40,000-\$45,000 range.

Public Works will provide additional information at the meeting.

**FISCAL IMPACT:** The cost of this work can be paid out of the Pavement Management Project fund bank which has a balance of \$76,000.

**ATTACHMENTS:**

Stockton Avenue Paving Project Change Order  
October 13, 2016

1. Anderson Pacific Pricing, including optional dig outs
2. Graniterock pricing
3. Striping pricing

Report Prepared By: Steve Jesberg  
Public Works Director

**Reviewed and Forwarded by:**



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Jamie Goldstein, City Manager

10/7/2016

October 4, 2016

City of Capitola  
420 Capitola Avenue  
Capitola, CA 95010

Attn: Steven E. Jesberg  
Re: Stockton Avenue Paving Project

Mr. Jesberg:

Per your request, we are providing a proposal to perform paving improvements on Stockton Avenue between Capitola Avenue and the Esplanade side of the Stockton Avenue Bridge. This work will consist of the following items of work:

1. Mobilization & Supervision	1 LS	@	\$5,000.00/LS	=	\$ 5,000.00
2. Traffic Control	1 LS	@	\$4,000.00/LS	=	\$ 4,000.00
Traffic control will consist of road construction signs and flag persons as necessary to construct the pavement improvements.					
3. Dig-outs/Plug Paving/Conforms	3,170 SF	@	\$ 7.50/SF	=	\$23,775.00
Area 1: 12-ft x 70-ft = 840 SF x 2" dig-out, place fabric, 2" plug pave					
Area 2: 12-ft x 70-ft = 840 SF x 2" dig-out, place fabric, 2" plug pave					
Area 3: 14-ft x 37-ft = 518 SF x 2" dig-out, place fabric, 2" plug pave					
Area 4: 36-ft x 27-ft = 972 SF x 6" dig-out, place fabric, 2" plug pave					
4. 2" Asphalt Concrete Overlay	10,875 SF	@	\$ 3.00/SF	=	\$36,625.00
Area: 290-ft x 37.5-ft = 10,875 SF x 2" hot-mix asphalt overlay					
5. Adjust Manhole to Grade	5 EA	@	\$1,000.00/EA	=	\$ 5,000.00
6. Adjust Valve Box to Grade	10 EA	@	\$ 500.00/EA	=	\$ 5,000.00
				<b>Total</b>	<b>= \$79,400.00</b>

If you have any questions, regarding this matter, please contact me at (408) 318-0613.

Sincerely,



Scott L. Schumacher  
Sr. Estimator/Project Manager

1390 Norman Avenue  
Santa Clara, CA 95054  
Fax: 408/970-9975  
**408/970-9900**  
Lic. No. 245215

**Jesberg, Steve (sjesberg@ci.capitola.ca.us)**

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**From:** Karl Philipovitch <kphilipovitch@Graniterock.com>  
**Sent:** Friday, September 23, 2016 10:32 AM  
**To:** Gary Whitmire; Morrison, Ed (emorrison@ci.capitola.ca.us)  
**Cc:** Jesberg, Steve (sjesberg@ci.capitola.ca.us)  
**Subject:** Additional Paving Quote

Ed and Steve,

Graniterock is pleased to offer the following quotation for consideration. Additional work is from the Bridge to Capitola Road on Stockton Street.

Work includes:

- Conform grind all edges.
- Place 2" HMA over all area
- Raise existing utilities to grade
- Restripe roadway to previous markings

Existing striping will be roughed up but not removed completely.  
 LS to do the work is \$78,000.00

Our hope is the work will be performed with the rest of our contract work if the terms are acceptable. Please call with any questions. Thanks. KP

Karl Philipovitch

**Graniterock**

Area Manager

License # 22

Cell 831-234-0586

Office 831-768-2744

kphilipovitch@graniterock.com

Attachment: Graniterock pricing (1611 : Stockton Avenue Paving Project Change Order)

# Chrisp Company

Fremont Office  
43650 Osgood Rd  
Fremont CA 94539  
Phone: (510) 656-2840 Fax: (510) 656-2397

9.A.3

Contractors License No. 374600

DIR Registration No. 1000000306

A General Engineering

C-13 Fence, Wire, wood

C-32 Highway Improvement

## Quotation

Union Contractor / No minority Status

TO:

ANDERSON PACIFIC ENGINEERING  
1390 Norman Ave.  
Santa Clara Ca 95054  
Phone: (408) 970-9900 Fax: (408) 213-0532

Contact: SCOTT L. SCHUMACHER

email:

Current Date: 10/4/2016  
BidDate: 10/4/2016  
JobName: STOCKTON AVE  
Location: CAPITOLA Bid#: 33463 0  
Contract#: Job#:  
Working Days:

Liquidated Damages

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
	<b><u>BETWEEN CAPITOLA AVE AND THE BRIDGE</u></b>				
01	TRAFFIC CONTROL AND MOBILIZATION COSTS FOR CHRISP COMPANY WORK ONLY	1	SUM	4200.000	\$4,200.00
02	THERMOPLASTIC ROADWAY STRIPING, THERMOPLASTIC PAVEMENT MARKINGS AND REFLECTIVE PAVEMENT MARKERS	1	SUM	8300.000	\$8,300.00
	<b>Subtotal</b>				\$12,500.00
				<b>TOTAL</b>	\$12,500.00

### Notes

## ALL CHRISP COMPANY WORK TO BE DONE AT NIGHT

Written Authorization is Required Prior to Proceeding With Work

ACCEPTED BY: P.O. Number  
TITLE: Job Number

Bond Rate Addendu  
1.2%

This quote includes all stipulations found on page 3

QUOTE PREPARED BY David Morris  
(510) 719-6453  
dmorris@chrispco.com  
CHRISP COMPANY

Attachment: Striping pricing (1611 : Stockton Avenue Paving Project Change Order)



# CAPITOLA CITY COUNCIL AGENDA REPORT

## MEETING OF OCTOBER 13, 2016

FROM: Community Development

SUBJECT: Zoning Code Update - Additional Discussion on Small Mobile Vending Carts in Mixed Use Village, Drive-Through Facilities in Regional Commercial Zone, and Expansion of the Vacation Rental Overlay along Capitola Avenue. Followed by review of Part 3: Chapter 17.96.180 Temporary Use and Structures and Continuing with Subsequent Chapters

**RECOMMENDED ACTION:** Receive the staff presentation on the proposed Zoning Code Update and continue the public hearing to the Thursday, October 27, 2016, City Council meeting.

**BACKGROUND:** The City of Capitola initiated an effort in 2014 to comprehensively update its 1975 Zoning Code. To begin the process, staff solicited input from a variety of stakeholders to identify issues with the current Zoning Code and opportunities for improvement. Staff used this feedback to develop an Issues and Options Paper which served as the basis for eight public hearings with the Planning Commission and City Council to provide staff with policy direction prior to drafting an updated Code. Staff completed a Draft Zoning Code Update based on policy direction received during the Issues and Options hearings.

The Draft Zoning Code was released on February 4, 2016, for an extended public review and comment period. The Draft Code, Zoning Map, and previous staff reports with attachments are available online at: <http://www.cityofcapitola.org/communitydevelopment/page/zoning-code-update>. The following table summarizes the update process completed to date:

Focus	Begin Date	End Date	Meetings/Public Hearings
Stakeholder Outreach	August 2014	November 2014	7
Issues and Options	March 2015	November 2015	16
Planning Commission – Draft Code Review	February 2016	Ongoing	14
City Council – Draft Code Review	June 2016	Ongoing	7
<b>Total</b>			<b>44</b>

**DISCUSSION:** The City Council previously directed staff to place specific items on a future agenda for additional discussion. The first item tabled for future discussion is small mobile vendor carts in Mixed Use Village Zoning District. The Code as drafted does not allow mobile vending in the Village. The Council discussed the possibility to allow small, human powered (bicycle/carts) mobile vending for items such as popsicles.

Zoning Code Update  
October 13, 2016

The Council also requested further discussion on drive-through facilities. The current draft requires a conditional use permit for drive-through facilities in the Regional Commercial Zone with a requirement that the drive-through is located more than 100 feet from a Residential Zoning District or residential use. The discussion focused on prohibiting drive-through facilities entirely within the Draft Code.

A third item to be discussed is the Planning Commission recommendation to expand the boundary of the Vacation Rental Overlay (currently Transient Rental Overlay) along the west side of Capitola Avenue to the intersection of Riverview Avenue. Expansion was also considered on the east side of El Camino Medio but not recommended by Planning Commission. Attachment 1 is a map showing the properties considered by the Planning Commission for possible expansion.

Following discussion on these three items, the City Council will continue the review of the Draft Zoning Code in sequence beginning with Section 17.96.180: Temporary Uses and Structures.

The California Coastal Commission staff reviewed the Draft Zoning Code and provided preliminary feedback. The feedback ranges from minor edits to larger policy issues. City staff inserted Coastal Commission edits which do not fundamentally affect policy or which are minor in nature into the draft code (Attachment 3). During the October 13<sup>th</sup> City Council meeting, staff will ask for direction on the Coastal Commission requested edits. All edits that are acceptable to the City Council will be included with the City Council modifications. Once the City submits the final adopted version of the Code to the Coastal Commission, the Coastal Commission will provide additional feedback.

The City Council received a complete Draft Zoning Code on February 11, 2016. In August, the City Council received an updated Draft Code containing the Planning Commission modifications in redlines of Parts 1 through 5. The draft with Planning Commission edits is available online at <http://www.cityofcapitola.org/communitydevelopment/page/zoning-code-update>.

The only pending chapter for the City Council to receive is Chapter 17.104 Wireless Communication Facilities. This chapter will be reviewed by the Planning Commission at the October 6<sup>th</sup> meeting.

A list of all revisions provided by the City Council to date is included as Attachment 2.

FISCAL IMPACT: None.

ATTACHMENTS:

1. Vacation Rental Overlay Map with Possible Expansion
2. City Council Requested Changes
3. Coastal Commission Requested Edits

Report Prepared By: Rich Grunow  
Community Development Director

Zoning Code Update  
October 13, 2016

**Reviewed and Forwarded by:**

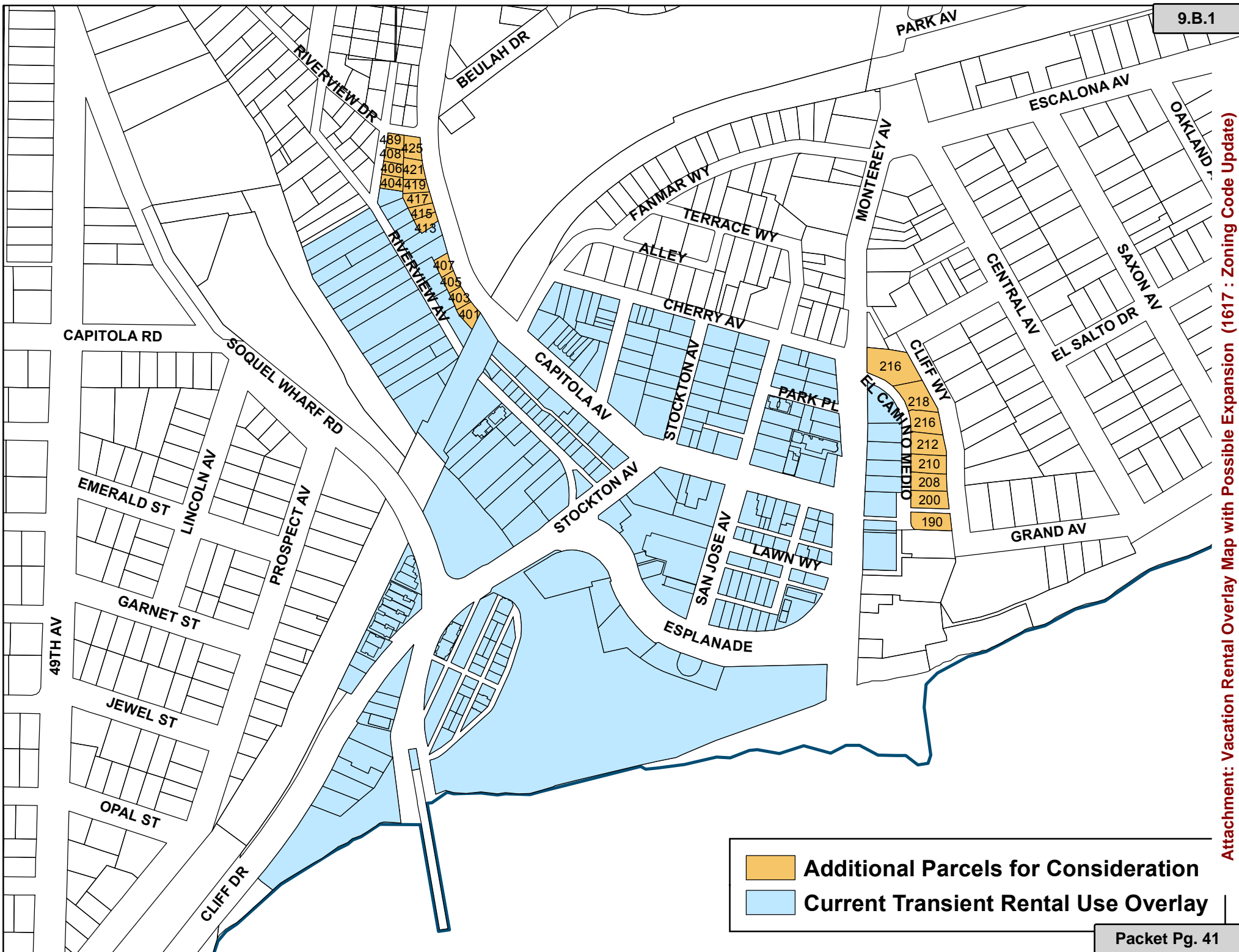


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Jamie Goldstein, City Manager

10/7/2016





Additional Parcels for Consideration  
 Current Transient Rental Use Overlay

Attachment: Vacation Rental Overlay Map with Possible Expansion (1617 : Zoning Code Update)

**City Council Review of Draft Zoning Code: Requested Changes and Discussion Items**

Date of Meeting	Section of Code	Page #	Change	Further Discussion Requested
8/11/2016	17.04	Page 04-1	No Changes to Chapter 17.04: Purpose and Effect of Zoning Code	
8/11/2016	17.08	Pave 08-1	No Changes to Chapter 17.08: Interpretation	
8/11/2016	17.12	Page 12-1	No Changes to Chapter 17.12: Zoning Districts and Map	
8/11/2016	17.16	Page 16-1	No Changes to Chapter 17.16: Residential Zoning Districts	
8/11/2016	17.20.010.B.1	Page 20-1	Add "Walkable" to description of MU-V	
8/18/2016	Table 17.20-1	Page 20-2 to 20-3		Consider small mobile food vendors such as popcorn and popsicles
8/18/2016	17.20.030.B	Page 20-5	Height Exceptions. Replace with 1. Up to 30 feet for a structure with a minimum 5:12 roof pitch. See figure 17.20-1. 2. Projections for non-habitable decorative features and structures as allowed by Section 17.48.030.C. 3. Up to 33 feet for pitched roof with a maximum plate height of 26 feet and no habitable space above the plate line.	
8/18/2016	17.20.030.E.1	Page 20-6	Change the word shall to should.	
8/18/2016	17.20.030.E.8 (add)	Page 20-10	Add standards for Garbage and Recycling that they are located to the side and rear of buildings, sufficiently screened from public right-of-way, and designed into the architecture of the building.	
8/18/2016	17.20.040.D Figure 17.20-8	Page 20-14	In the figure, a 20 foot setback is labeled. "20 feet" should be replaced with "minimum zone setback"	
8/18/2016	17.20.040.F	Page 20-15	Check with Public Works that the Driveway Dimension Standards for required 2-way width are correct. Question asked why the minimum is not double the 1 -way standard at 16.	
8/18/2016	17.20.040.F	Page 20-15	Staff change: Footnote [1] should be listed as a standard so it is not overlooked.	
8/18/2016	Table 17.24-1	Page 24-3 and 24-4	Add Single-Family as prohibited.	
8/18/2016	Table 17.24-1	Page 24-3 and 24-4	Add CUP for Mobile Food Vendor in C-R; note mobile food vendors in one location two times or less per year are regulated as a temporary use in accordance with Section 17.96.180.	

**City Council Review of Draft Zoning Code: Requested Changes and Discussion Items**

Date of Meeting	Section of Code	Page #	Change	Further Discussion Requested
8/18/2016	Table 17.24-1	Page 24-3 and 24-4	Clarification that Mobile Food Vendors are allowed within Temporary Publicly Attended Activities as governed in Chapter 9.36 of the Municipal Code	
8/18/2016	Table 17.24.1	Page 24-3 and 24-4		Drive-Through Facilities. Should they be prohibited?
8/18/2016	Table 17.24-1	Page 24-3 and 24-4	City Council had a discussion on Note [5] of the table limiting residential to 50% of a mixed use development. Directed staff to remove multi-family from C-R zone resulting in the removal of note [5] as well.	
8/18/2016	Table 17.24-1	Page 24-3 and 24-4	For Residential Mixed Use in C-R add note prohibiting residential from first story.	
8/18/2016	Table 17.24-1	Page 24-3 and 24-4	Add dash for prohibit with food preparation and self storage in C-R	
8/18/2016	Table 17.24-1	Page 24-3 and 24-4	Change addition requirements reference for self-storage to 17.96.140	
8/18/2016	17.24.020.C	Page 24-5	Remove "banks" from list.	
8/18/2016	17.24.020.C Table 17.24-2	Page 24-5	Prohibit all ground floor office in C-R zoning district.	
8/18/2016	17.24.020.C Table 17.24-2	Page 24-5	Staff change: Add key. Clarify N/A under CC zone for conversions of retail use to an office use.	
8/18/2016	17.24.030.A Table 17.24-3	Page 24-6	Modify landscaped Open Space, Minimum in Industrial Zone to 5% minimum. Remove "up to"... "as determined.."	
8/18/2016	17.24.030.C.1	Page 24-7	Change referenced table to 17.24-3	
8/18/2016	17.24.040.B.2	Page 24-9	Remove 2nd sentence " <del>At all time there shall be at least 10 feet between the building wall and edge of sidewalk.</del> "	
8/18/2016	17.36	Page 36-1	No changes to Planned Development	
9/8/2016	17.76.050.1	Page 76-14	Direction to keep draft code Section 17.76.050(l)(1) which codifies in-lieu program. The City Council directed staff to return to normal meeting to make revisions to allocations within the policy. Section 17.76.050(1)(2) will be removed.	

**City Council Review of Draft Zoning Code: Requested Changes and Discussion Items**

Date of Meeting	Section of Code	Page #	Change	Further Discussion Requested
9/8/2016	17.76.050.E	Page 76-12	City Council direction to have Planning Commission reconsider allowing shared parking studies in the village. Note: On September 19, 2016, the Planning Commission revised redlines to include shared parking studies in the Village as long as there is onsite parking.	
9/8/2016	17.96.170.C.8	Page 96-20	City council agreed with Planning Commission that Conversion of On Street Parking Spaces for parklets should not be included in the Zoning Code update. City Council directed staff to draft a Pilot Program for Parklets to be reviewed at a regularly scheduled City Council meeting separate from the Zoning Code Update. The Council gave preliminary direction that they would like to consider up to 2 pilots in the village each utilizing a maximum of 2 parking spaces.	
9/15/2016	17.40.020.B	Page 40-1		Follow-up. Staff to research Capitola housing element and see if the one acre minimum can be decreased. Applicability section requires one acre minimum for parcels in which the overlay may apply.
9/15/2016	17.40.020.H.2.e	Page 40-4	Remove relaxed development standards for parking.	
9/15/2016	17.40.020.J.2	Page 40-6	Remove "55 years" and replace with "natural life of the unit".	
9/15/2016	17.40.030.E	Page 40-8	Update the reference to "Pacific Cove" parking lot to "Beach and Village Parking Lot 1"	
9/15/2016	17.40.030.E.6	Page 40-8	Change maximum size of a vacation rental sign from one square foot to 8.5 x 11 inches.	

**City Council Review of Draft Zoning Code: Requested Changes and Discussion Items**

Date of Meeting	Section of Code	Page #	Change	Further Discussion Requested
9/15/2016	17.40.030.E	Page 40-8	Add a requirement that all vacation rentals have smoke detectors and carbon monoxide detectors	
9/15/2016	Table 17.48-1	Page 48-2	Add "Thermal Recovery" to table next to Photovoltaic panels	
9/15/2016	Table 17.48-1	Page 48-2	Remove Wind energy systems from table.	
9/15/2016	Table 17.48-2	Page 48-3	For Cornices, eaves, canopies and similar roof projections	
			Modify Maximum Projection into required Setbacks to: Interior and Exterior Side: 2 ft	
			Front and Rear: 4 ft	
			Keep Minimum Distance from Property Line:	
			All property lines: 3 ft	
9/15/2016	Table 17.48-2	Page 48-3	For Decks 18 inches or less above grade	
			Modify Maximum Projection into required Setbacks to: <u>No Max</u>	
			Modify Minimum Distance from Property Line:	
			<u>5 ft front and exterior side</u>	
9/15/2016	Table 17.48-2	Page 48-3	Remove Note 3. It is not referenced in the table	
9/15/2016	17.48.030.D.1	Page 48-4	Add a 50% transparency requirement for a wall within a Trellis structure.	
9/15/2016	17.48.030.D.5	Page 48-4	Add a 30 inch maximum height to fire pits.	
9/15/2016	17.48.030.D	Page 48-4	Add outdoor kitchen. Allowed in rear yard if it is 2 feet from the property line. Must be on grade. May have gas, electric, and plumbing. Same standards as a mini bar for drain size and no 220 electric.	
9/15/2016	17.48.030.D	Page 48-4	Add Pizza Oven. Require Pizza Oven to be located in rear yard and be a minimum of 10 feet from property lines.	
9/15/2016	Table 17.52-1	Page 52-2	Change rear yard requirement Accessory Structures in single-family and multi-family to have a minimum 3 foot setback.	

City Council Review of Draft Zoning Code: Requested Changes and Discussion Items				
Date of Meeting	Section of Code	Page #	Change	Further Discussion Requested
9/15/2016	Figure 17.52-1	Page 52-2	Update figure for detached garage to show 3 foot rear yard setback and 12 foot maximum height	
9/15/2016	17.52.030.B.4	Page 52-4	Staff edit. Add the word "exterior" as follows "All exterior vending machines..."	
9/15/2016	17.56.030	Page 56-1	Add a reference to the State requirements if an archeological resource is found on site during construction.	
9/15/2016	17.56.030.C.2	Page 56-2	Add or to sentence as follows "Preservation <u>and/or</u> the State..."	
9/15/2016	Table 17.60-1	Page 60-2	Remove Alley requirements for fence and wall height	
9/15/2016	Figure 17.60-1	Page 60-2		Staff to Check with Public Works that site line requirements are met.
9/15/2016	17.64.020	Page 64-1		Staff to check LCP that names of environmentally sensitive habitat areas are same in code and LCP.
9/15/2016	17.64.030.I	Page 64-3	Replant for dead tree removal must be native vegetation or habitat for butterflies	
9/15/2016	17.72.050.B.2	Page 72-3	Add qualitative standards to ensure that in the MU-V and MU-N there is natural landscaping in addition to hardscape.	
9/15/2016	Table 17.72-1	Page 72-3	Change Industrial to a minimum of 5%	
9/28/2016			Staff edit. Within AH overlay, change applicability to include parcels in CC for Bay Avenue property.	
9/28/2016			Staff edit. Define lot coverage	
9/29/2016	17.88.030.A.1	Page 88-1	Remove reference to figure 17.88-1	
9/29/2016	17.74.030.B.2 and 17.74.040.H	Page 74-2	Review of DETACHED 2 story secondary unit requires a minor use permit and minor design permit. Neighbor is notified and can request a hearing. Second story attached automatically triggers a design permit reviewed by PC	

**City Council Review of Draft Zoning Code: Requested Changes and Discussion Items**

Date of Meeting	Section of Code	Page #	Change	Further Discussion Requested
9/29/2016	Table 17.80-2	Page 74-3	Setback standards and height standards should match the standards for a shed.	
9/29/2016	17.74.040.L	Page 74-4	Change "relate to" to "complement"	
9/29/2016	17.74.050.F	Page 74-5	Add: adjacent "residential" properties	
9/29/2016	17.74.050.J	Page 74-5	Add: protects "public" views	
9/29/2016	Table 17-76-1	Page 76-3	Add note [1] to hotel with 20 guest rooms. Note to require that Parking Demand Study is paid for by the applicant, contracted by the City, and approved by the Planning Commission.	
9/29/2016	17.76.030.C.1	Page 76-7	Remove "generally"	
9/29/2016	17.76-050.B and E.5	Page 76-12	Prohibit shared parking in the village.	
9/29/2016	17.76-050.F.4	Page 76-13	Exclude hotel from maximum of 25% valet parking	
9/29/2016	17.76-050.H	Page 76-14	Bring back Transit Center credit and limit it to the Mall property with the outer limits being Clare's Street, Capitola Road, and 41st Avenue.	
9/29/2016	17.76.I.1	Page 76-14	In-Lieu parking. Reword to add that in-lieu program applies to hotel uses only per the adopted Council policy.	
9/29/2016	17.76.060.D.2	Page 76-17	Change "permitted" to "Preferred"	
9/29/2016	17.76.060.F	Page 76-17	Add "Parking lifts shall be maintained and operable through the life of the project."	
9/29/2016	17.76.060.G	Page 76-17	Add that all fixtures shall be dark sky compliant.	
9/29/2016	17.76.060.I.3.e	Page 76-18	Add "masonry wall "and may extend higher with Planning Commission approval"	
9/29/2016	17.76.070.D.2	Page 76-19	Change to 36 inch box	
9/29/2016	17.76.070.E.1	page 76-19	Change to 4 inches high	
9/29/2016	17.76.080.H	page 76-22	Delete "and at least 7 feet above the floor or ground."	
10/1/2016	Table 17.76-6	Page 76-21	Require 1 space per unit for long term multi family dwelling and group housing.	
10/1/2016	17.80.050.A.16	Page 80-6	Vacation rental signs up to 8 1/2 by 11. Allow one year from adoption of zoning code to come into compliance.	
10/1/2016	17.80.050.A	Page 80-6	Add garage sale signs limited to the day of the garage sale	

City Council Review of Draft Zoning Code: Requested Changes and Discussion Items				
Date of Meeting	Section of Code	Page #	Change	Further Discussion Requested
10/1/2016	17.80.060.T	Page 80-7	Change to inflatable signs and balloons.	
10/1/2016	17.80.080.C.9	Page80-11	#9 repeats #4. Delete #9.	
10/1/2016	17.80.090.A	page 80-18	Remove limit of 5 foot candles of light.	
10/1/2016	17.80.100.A.2	page 80-22	Maximum number of signs: 1 sign	
10/1/2016	17.80.100.A.8	page 80-22	Limit size of vacation sign to 8 1/2 x 11. Amortization for 1 year after code adoption.	
10/1/2016	17.84.020	page 84-1	reword and "the" potential historic resources "list".	
10/1/2016	17.88.010	Page 88-1	remove the word "high"	
10/1/2016	17.88.030.A.1	Page 88-1	Remove "as shown in figure 17.88-1"	
10/1/2016	17.88.040.A.10	Page 88-3	include example of entertainment	
10/1/2016	17.88.050.A	Page 88-3	Need to describe area better so it is understood that Capitola Rd is included	
10/1/2016	17.88.070.A.	Page 88-4	Add requirement for flagging to display height of Village Hotel.	
10/1/2016	Table 17.92-1	Page 92-6	Remove "Structural" throughout table. Staff to ensure 3rd item from top is correctly categorized under Design Permit. "Modification and additions that alter or affect the nonconforming aspect of the structure" Add exceptions for residing and reroofing. Remove the word addition. That would fall under the fourth category.	
10/1/2016	17.96.120.B	Page 96-12	Remove exceptions to Underground Utilities	
10/1/2016	17.96.130.G and J	Page 96-13	Only allow attended facilities. Within location, require that facilities are a minimum of 100 feet from residential. Update Hours of operation to be solely hours of operation	
10/1/2016	17.96.150	Page 96-18	Add solar hot water systems	
10/1/2016	17.96.160.E	Page 96-18	Add "permeable" surface variations	
10/1/2016	17.96.160	Page 96-18	Add requirement for overhead clearance of 8 feet	



## Chapter 17.04 – PURPOSE AND EFFECT OF ZONING CODE

### Sections:

- 17.04.010 Title and Authority
- 17.04.020 Purpose of the Zoning Code
- 17.04.030 Relationship to the General Plan
- 17.04.040 Applicability of the Zoning Code

### 17.04.010 Title and Authority

Title 17 of the Capitola Municipal Code shall be known and cited as the “Capitola Zoning Code” and referred to in this title as “the Zoning Code.” The Zoning Code is adopted pursuant to the authority in Section 65850 of the California Government Code.

### 17.04.020 Purpose of the Zoning Code

- A. General.** The purpose of the Zoning Code is to implement the General Plan and the Local Coastal Program Land Use Plan (LUP) and to protect the public health, safety, and welfare.
- B. Specific.** The Zoning Code is intended to:
1. Preserve and enhance Capitola’s small-town feel and coastal village charm.
  2. Ensure that all development exhibits high-quality design that supports a unique sense of place.
  3. Protect and enhance the quality of life in residential neighborhoods.
  4. Encourage active and inviting commercial and mixed-use areas.
  5. Support a vibrant, diverse, and dynamic local economy.
  6. Allow for a broad range of housing choices that meets the needs of all segments of the community.
  7. Protect and enhance natural resources that contribute to Capitola’s unique identity and scenic beauty.
  8. Maintain and enhance coastal access and visitor-serving facilities and services.
  9. Protect and preserve the Capitola’s historic resources.
  10. Support a balanced transportation system that accommodates the needs of automobiles, pedestrians, bicycles, and other forms of transportation.
  - ~~10~~.11. Ensure the protection of coastal resources.

### 17.04.030 Relationship to the General Plan

The Zoning Code implements the General Plan by regulating the use of land and structures in Capitola. If the Zoning Code conflicts with the General Plan, the General Plan governs.

### 17.04.040 Relationship to the Local Coastal Program

A. General. The Zoning Code is a component of Capitola's Local Coastal Program (LCP) prepared in accordance with the California Coastal Act of 1976 (Coastal Act). The LCP consist of the Local Coastal Program Land Use Plan (LUP) and the Local Coastal Program Implementation Plan (IP). The LCP applies to areas within the coastal zone as identified on the City of Capitola Zoning Map and within the LCP.

### B. Local Coastal Program Implementation Plan.

1. The Local Coastal Program IP establishes specific land use and development regulations to implement the Local Coastal Program LUP and the Coastal Act. The following Zoning Code chapters are a part of Capitola's Local Coastal Program IP:
  - a. All chapters in Part 2 (Zoning Districts and Overlay Zones).
  - b. All chapters in Part 3 (Citywide Standards).
  - c. Chapter 17.160 (Glossary).
2. Any portion of the Zoning Code not specifically identified in subsection (1) above is hereby declared to not be a component of Capitola's Local Coastal Program IP.

C. Conflicting Provisions. If the Local Coastal Program Implementation Plan conflicts with the Local Coastal Program Land Use Plan, the policy and/or standard that is most consistent with the Coastal Act shall govern.

### ~~17.04.040~~17.04.050 Applicability of the Zoning Code

- A. Applicability to Property.** The Zoning Code applies to all land, uses, and structures within the Capitola city limits.
- B. Compliance with Regulations.** All uses, structures, and development activity in Capitola shall comply with the Zoning Code.
- C. Conflicting Regulations.** Where conflict occurs with other city regulations or with state or federal laws, higher law shall control over lower law unless local variation is permitted. Where conflicting laws are of equal stature, the more restrictive shall control unless otherwise specified in the Zoning Code or in state or federal law. In the coastal zone, in case of conflict between the Local Coastal Program and any other City law, regulation, or policy, the Local Coastal Program shall prevail.

## Chapter 17.08 – INTERPRETATION

### Sections:

- 17.08.010 Purpose
- 17.08.020 Authority
- 17.08.030 Rules of Interpretation
- 17.08.040 Procedures for Interpretation/Determinations
- 17.08.050 Zoning Code Enforcement

### 17.08.010 Purpose

This chapter establishes rules and procedures for interpreting the Zoning Code to ensure that it is applied and enforced in a consistent manner.

### 17.08.020 Authority

The City Council delegates to the Community Development Director and the Director's designees the authority in accordance with 17.08.040 to interpret the meaning and applicability of all provisions in the Zoning Code.

### 17.08.030 Rules of Interpretation

**A. General Rules.** Rules of interpretation in Municipal Code Chapter 1.04 (General Provisions) apply to the Zoning Code. The following general rules also apply to the interpretation and application of the Zoning Code.

1. In the event of any conflict between the provisions of this Zoning Code, the most restrictive requirement shall control.
2. Where there is a conflict between text and any figure, illustration, graphic, heading, map, table, or caption, the text governs.
3. The words “shall,” “will,” “is to,” and “are to” are mandatory. “Should” means a regulation that is not mandatory, but must be either fulfilled or the applicant must demonstrate an alternative that fulfills the intent of the regulation or that a non-economic hardship makes compliance infeasible. “May” is permissive.
4. The following conjunctions are interpreted as follows
  - a. “And” means that all items or provisions so connected apply.
  - b. “Or” means that all items or provisions so connected apply singularly or in any combination.
  - c. “Either . . . or” means that one of the items or provisions so connected apply singularly, but not in combination.
5. All officials, bodies, agencies, ordinances, policies, and regulations referred to in the Zoning Code are those of Capitola unless otherwise noted.

**B. Calendar Days.** Numbers of days specified in the Zoning Code are continuous calendar days unless otherwise noted. Where the last of a number of days falls on a holiday or weekend (Saturday or Sunday), time limits are extended to the following working day.

**C. Land Use Regulation Tables.**

1. **Table Notation.** Land use regulation tables in Part 2 (Zoning Districts and Overlay Zones) establish permitted land uses within each zoning district. Notations within these tables have the following meanings:
  - a. **Permitted Uses.** A “P” means that a use is permitted by right in the zoning district and is not subject to discretionary review and approval.
  - b. **Administrative Permit.** An “A” means the use is permitted with the approval of an Administrative Permit.
  - c. **Minor Use Permit.** An “M” means that a use requires approval of a Minor Use Permit.
  - d. **Conditionally Permitted Uses.** A “C” means that a use requires approval of a Conditional Use Permit.
  - e. **Uses Not Allowed.** A “-” means that a use is not allowed in the zoning district.
2. **Additional Permits.** Notwithstanding paragraph (1) above, additional permits may be required beyond those identified in the land use regulations tables, including but not limited to Design Permits, Coastal Permits, and Historic Alteration Permits.

**Note:** Procedures and criteria for addressing unlisted land uses in Subsection D below are new.

**D. Unlisted Land Uses.** If a proposed land use is not listed in the Zoning Code, the use is not permitted except as follows:

1. An unlisted use is not permitted if the use is listed as a permitted use in one or more other zoning districts. In such a case, the absence of the use in the zoning district within the land use table means that the use is prohibited in the zoning district.
2. The Community Development Director may determine that an unlisted proposed use is equivalent to a permitted or conditionally permitted use if all of the following findings can be made:
  - a. The use is similar to other uses allowed in the zoning district.
  - b. The density or intensity of the use is similar to other uses in the zoning district.
  - c. The use is compatible with permitted or conditionally permitted uses in the zoning district.
  - d. The use will meet the purpose of the zoning district.



- e. The use is consistent with the goals and policies of the General Plan and Coastal Act.
  - f. The use will not be detrimental to the public health, safety, or welfare.
3. When the Community Development Director determines that a proposed use is equivalent to a listed use, the proposed use shall be treated in the same manner as the listed use with respect to development standards, permits required, and all applicable requirements of the Zoning Code.

**E. Zoning Map Boundaries.** Where uncertainty exists as to the boundaries of zoning districts as shown on the Zoning Map, the following rules apply:

1. Boundaries shown as approximately following the centerlines of streets, highways, or alleys are construed to follow the centerlines.
2. Boundaries shown as approximately following platted lot lines are construed as following the lot lines.
3. Boundaries shown as approximately following city limits are construed as following city limits.
4. Boundaries shown following railroad lines are construed to be midway between the main tracks.
5. In unsubdivided property or where a zoning district boundary divides a parcel, the location of the boundary are determined by the use of the scale appearing on the Zoning Map.
6. In case further uncertainty exists, the Community Development Director shall determine the exact location of the boundaries. The Director's decision may be appealed to the Planning Commission to determine the exact location of the boundaries.

**F. Parcels Containing Two or More Zoning Districts.**

1. For parcels containing two or more zoning districts ("split zoning"), the location of the zoning district boundary shall be determined by the Community Development Director. The Director's decision may be appealed to the Planning Commission to determine the exact location of the boundaries.
2. For parcels containing two or more zoning districts, the regulations for each zoning district shall apply within the zoning district boundaries as identified on the Zoning Map.

### 17.08.040 Procedures for Interpretation/Determinations

**Note:** Procedures for responding to Zoning Code interpretation requests in Section 17.08.040 are new.



- A. Request for Interpretation.** The Community Development Director shall respond in writing to written requests for interpretation of the Zoning Code if the requested interpretation would substantially clarify an ambiguity which interferes with the effective administration of the Zoning Code. The following procedures apply for a request for interpretation:
1. The request shall be in writing, shall identify the provision to be interpreted, and shall be accompanied by the fee identified in the latest Fee Schedule.
  2. The request shall provide any information that the Director requires to assist in its review.
  3. The Director shall respond to an interpretation request within 30 days of receiving the request.
- B. Form and Content of Interpretation.** Official interpretations prepared by the Director shall be in writing, and shall quote the Zoning Code provisions being interpreted. The interpretation shall describe the circumstance that caused the need for the interpretation.
- C. Official Record of Interpretations.** An official record of interpretations shall be kept and updated regularly by the Community Development Department. The record of interpretations shall be indexed by the number of the section that is the subject of the interpretation and made available for public inspection during normal business hours.
- D. Referral to Planning Commission.** The Director may refer any request for interpretation of the Zoning Code to the Planning Commission for review and interpretation.
- E. Appeals.** Any official interpretation prepared by the Director may be appealed to the Planning Commission. The Planning Commission's interpretation may be appealed to the City Council. Appeals shall be accompanied by the fee identified in the latest Fee Schedule.
- E.F. Coastal Interpretations.** An applicant may submit to the Director an interpretation on coastal matters from the Coastal Commission Executive Director for the Director to consider when making an official interpretation of the Zoning Code.

### 17.08.050 Zoning Code Enforcement

Enforcement of the Zoning Code shall occur in a manner consistent with Capitola Municipal Code Title 4 (General Municipal Code Enforcement).

## Chapter 17.16 – RESIDENTIAL ZONING DISTRICTS

### Sections:

- 17.16.010 Purpose of the Residential Zoning Districts
- 17.16.020 Land Use Regulations
- 17.16.030 Development Standards

### 17.16.010 Purpose of the Residential Zoning Districts

**A. General.** The purpose of the residential zoning districts is to support attractive, safe, and friendly neighborhoods consistent with Capitola’s intimate small-town feel and coastal village charm. Development within the residential zoning districts features high quality design that enhances the visual character of the community. The mass, scale, and design of new homes are compatible with existing homes in neighborhoods and are carefully designed to minimize impacts to existing homes. Residential zoning districts contain a range of housing types and community facilities to support diverse and complete neighborhoods with a high quality of life for residents.

### B. Specific.

1. **Residential Single-Family (R-1) Zoning District.** The purpose of the R-1 zoning district is to protect and enhance the unique qualities of individual neighborhoods in Capitola. The R-1 zoning district allows for variation in development standards based on the existing development patterns within these neighborhoods. New development shall respects the existing scale, density, and character of neighborhoods to strengthen Capitola’s unique sense of place.
2. **Residential Multi-Family (RM) Zoning District.** The purpose of the RM zoning district is to accommodate a range of housing types to serve all Capitola residents. The RM zoning districts allows single-family and multi-family housing at higher densities to maintain and increase the supply of affordable housing choices. Housing in the RM zoning districts ~~will~~ shall be carefully designed to enhance Capitola’s unique identity and to minimize impacts on adjacent land uses and structures. The RM zone is divided into three subzones (RM-L, RM-M, and RM-H) allowing for a range of permitted residential densities.
3. **Mobile Home Park (MH) Zoning District.** The MH zone provides areas for exclusive development of mobile home parks. Mobile home parks provide a valuable source of affordable housing serving Capitola’s lower-income and senior residents.

### 17.16.020 Land Use Regulations

**A. Permitted Land Uses.** Table 17.16-1 identifies land uses permitted in the residential zoning districts.



**Note:** Some land use terms in the existing Zoning Code have been changed in the updated Zoning Code to reflect current usage and state law. Despite this change, permitted land uses in the residential zoning districts have generally remained the same.

**TABLE 17.16-1: PERMITTED LAND USES IN THE RESIDENTIAL ZONING DISTRICTS**

Key P Permitted Use A Administrative Permit required M Minor Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District			Additional Regulations
	R-1	RM	MH	
<b>Residential Uses</b>				
Duplex Homes	-	P	-	
Elderly and Long Term Care	-	C	-	
Group Housing	-	P	-	
Mobile Home Parks	-	C	P [1]	Chapter 17.100
Multi-Family Dwellings	-	P	-	
Residential Care Facilities, Small	P	P	C [2]	
Residential Care Facilities, Large	C	C	C [2]	Section 17.96.080
Secondary Dwelling Units	A	A	-	Chapter 17.74
Single-Family Dwellings	P	P	C [2]	
<b>Public and Quasi-Public Uses</b>				
Community Assembly	C	C	C	
Day Care Centers	C	C	C	
Home Day Care, Large	M	M	M	Section 17.96.070
Home Day Care, Small	P	P	P	
Parks and Recreational Facilities	-	C	C	
Schools, Public or Private	-	C	C	
<b>Commercial Uses</b>				
Bed and Breakfast	C	C	-	
Vacation Rentals	See Section 17.40.030			
<b>Transportation, Communication, and Utility Uses</b>				
Utilities, Major	C	C	C	
Utilities, Minor	P	P	P	
Wireless Communications Facilities	See Chapter 17.104			
<b>Other Uses</b>				
Accessory Uses and Structure	P [3]	P [3]	P[3]	Chapter 17.52
Home Occupation	A	A	A	Chapter 17.96.040
Temporary Uses and Structures	M	M	-	Section 17.96.190
Urban Agriculture				
Home Gardens	P	P	P	

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)



Key	Zoning District			Additional Regulations
	R-1	RM	MH	
P Permitted Use				
A Administrative Permit required				
M Minor Use Permit required				
C Conditional Use Permit required				
- Use not allowed				
Community Gardens	M	M	M	
Urban Farms	C	C	C	

Notes:

- [1] May include offices incidental and necessary to conduct a mobile home park use.
- [2] Permitted on the mobile home park parcel or on a separate parcel of no less than 5,000 square feet.
- [3] An accessory structure that exceed the development standards of Chapter 17.52 requires a Conditional Use Permit.

**B. Additional Permits.** In addition to permits identified in Table 17.16-1, development projects in the residential zoning districts may also require a Design Permit pursuant to Chapter 17.120 (Design Permits). Modifications to a historic resource may require a Certificate of Appropriateness pursuant to Chapter 17.84 (Historic Preservation). Development in the coastal zone may require a Coastal Permit pursuant to Chapter 17.32 (Coastal Overlay Zone) independent of and in addition to any other required permit or approval.

**17.16.030 Development Standards**

**A. General Standards - Single-Family and Multi-Family Zoning Districts.** Table 17.16-2 identifies development standards that apply in the R-1 and RM zoning districts.

**TABLE 17.16-2: DEVELOPMENT STANDARDS IN THE R-1 AND RM ZONING DISTRICTS**

	R-1	RM	Additional Standards
<b>Site Requirements</b>			
Parcel Area, Minimum [1]	5,000 sq. ft.	N/A	
Parcel Width, Minimum [1]	30 ft.	N/A	
Parcel Depth, Minimum [1]	80 ft.	N/A	
Floor Area Ratio, Maximum	See Section 17.16.030.B.1	N/A	17.16.030.B 17.48.040
Building Coverage, Maximum	N/A	40%	
Parcel Area Per Unit, Minimum	N/A	<u>RM-L</u> : 4,400 sq. ft. <u>RM-M</u> : 2,900 sq. ft. <u>RM-H</u> : 2,200 sq. ft.	
Parking and Loading	See Chapter 17.76		
<b>Structure Requirements</b>			
Setbacks, Minimum	17.48.030		
Front	<u>Ground floor</u> : 15 ft. <u>Garage</u> : 20 ft. <u>Second story</u> : 20 ft.	15 ft.	17.16.030.B.3 Garage Setback

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

	R-1	RM	Additional Standards
Rear	20% of parcel depth; 25 ft. max.	15% of parcel depth	
Interior Side	<u>Ground floor</u> : 10% of parcel width; 3 ft. min.; 7 ft. max. <u>Second story</u> : 15% of parcel width	10% of parcel width	17.16.030.B. 4&5
Street Side, Corner Lots	10 ft.	10 ft.	17.16.030.B.3
Height, Maximum	25 ft.	<u>RM-L</u> : 30 ft. <u>RM-M</u> : 30 ft. <u>RM-H</u> : 35 ft.	17.16.030.B.6 & 7  17.48.020
Accessory Structures	See Chapter 17.52		

Notes:

[1] Parcel area, width, and depth requirements apply only to the creation of new parcels. These requirements do not apply to legally created parcels existing as of [effective date of updated Zoning Code]. See Capitola Municipal Code Title 16 (Subdivisions) for requirements that apply to lot line adjustments to existing parcels that do not comply with the parcel area, width, and depth requirements in this table.

**B. Additional Standards in the R-1 Zoning District.** The following additional standards apply in the R-1 zoning district.

1. **Floor Area Ratio.** Table 17.16-3 identifies the maximum permitted floor area ratio (FAR) in the R-1 zoning district.

**TABLE 17.16-3: MAXIMUM FLOOR AREA RATIO IN THE R-1 ZONING DISTRICT**

Lot Size	Maximum FAR
2,650 sq. ft. or less	0.58
2,651 to 3,250 sq. ft.	0.57
3,251 to 3,500 sq. ft.	0.56
3,501 to 3,750 sq. ft.	0.55
3,751 to 4,000 sq. ft.	0.54
4,001 to 4,250 sq. ft.	0.53
4,251 to 4,500 sq. ft.	0.52
4,501 to 4,750 sq. ft.	0.51
4,751 to 5,000 sq. ft.	0.50 [1]
5,001 to 6,000 sq. ft.	0.49 [1]
More than 6,000 sq. ft.	0.48 [1]

Notes:

[1] Parcels of 5,000 sq. ft. or more with approved second dwelling units are permitted a maximum FAR of 0.60 for all structures.

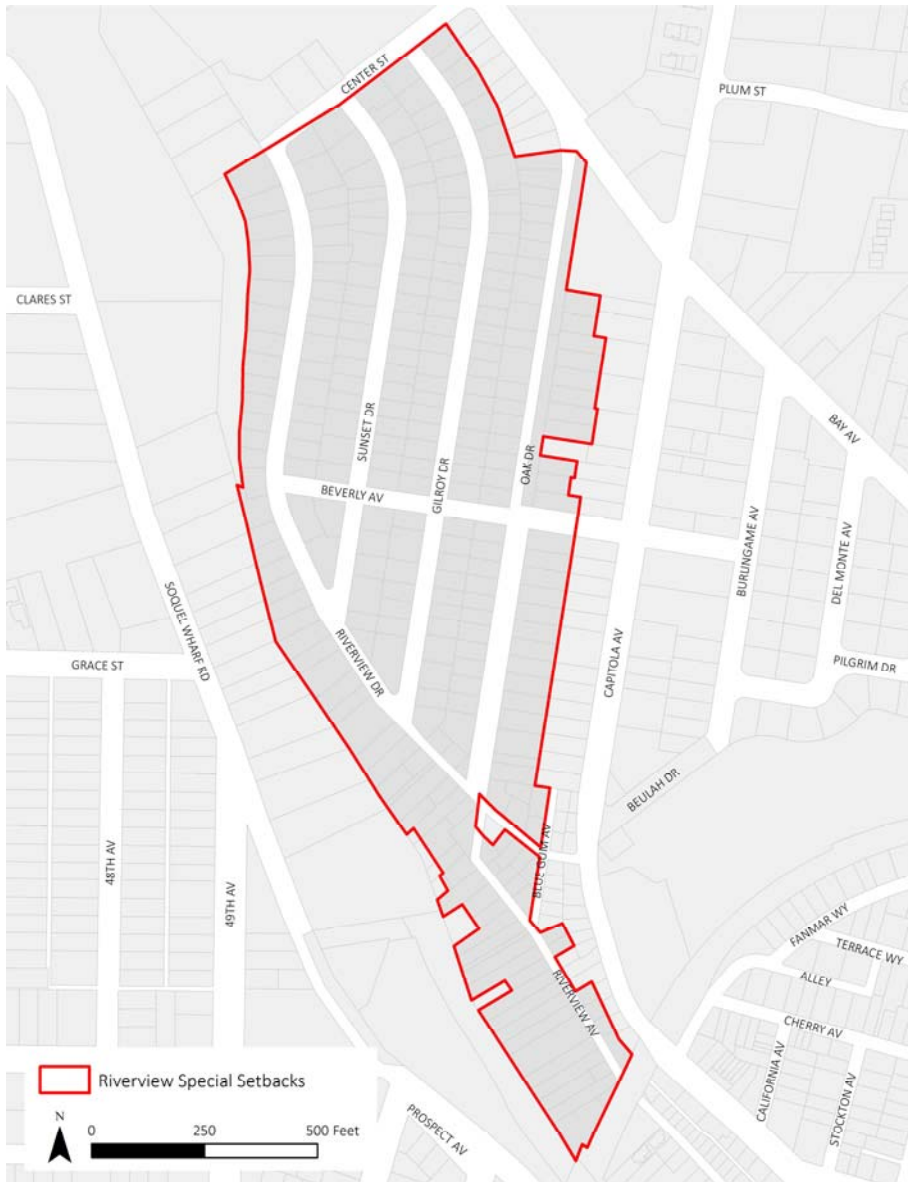
2. **Front Setbacks in Riverview Terrace.** Within the areas shown in Figure 17.16-1, the Planning Commission may approve a reduced front setback to reflect existing

front setbacks on neighboring properties within 100 feet on the same side of the street. The reduced front setback shall in all cases be no less than 10 feet.



**Note:** In the existing Zoning Code minimum front setbacks in Riverview Terrace may be reduced to the average of lots on same side of street within 500 feet of the subject property to a maximum of 10 feet. Paragraph 2 above allows minimum setbacks to be reduced to reflect existing front setbacks on neighboring properties on the same side of the street.

FIGURE 17.16-1: RIVERVIEW TERRACE

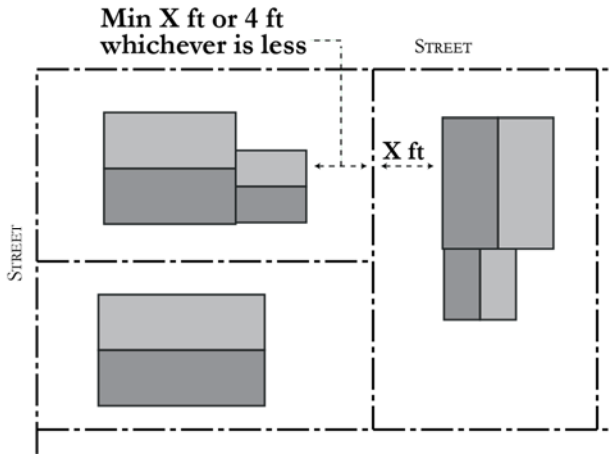


3. Garage Setbacks.

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

- a. Attached garages shall be setback a minimum of 5 feet behind the front or street side building wall of the primary structure. The Planning Commission may reduce this minimum setback to 3 feet in sidewalk exempt areas.
  - b. Required setbacks for detached garages are identified in Chapter 17.52 (Accessory Structures).
4. **Corner Lots.** The minimum rear setback for reserve corner lots shall be the minimum interior side yard of the adjacent property, but no less than 4 feet. See Figure 17.16-2.

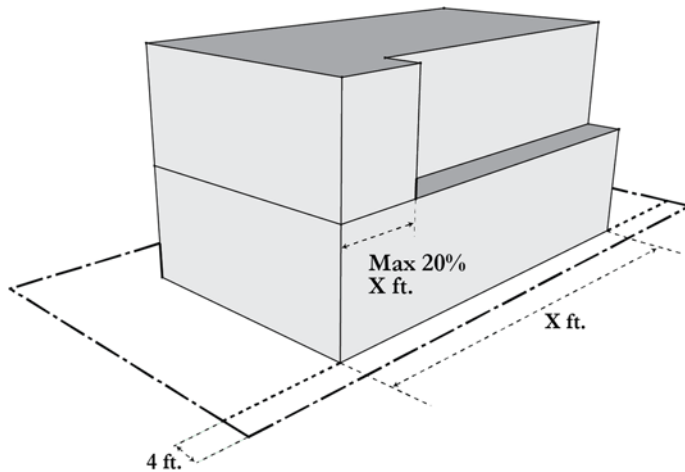
FIGURE 17.16-2: REVERSE CORNER LOT REAR SETBACK



5. **Second Story Setback Exceptions.** Second story additions must comply with increased setback requirements in Table 17.16-2, except in the following cases:
- a. For lots 30 feet wide or less, the minimum interior side setback for a second story is the same as for the ground floor.
  - b. Up to 20 percent of the length of an upper story wall may be constructed at the same setback as the first-floor wall if the first-floor wall is at least 4 feet from the side property line. See Figure 17.16-3.

FIGURE 17.16-3: SECOND STORY SETBACK EXCEPTION

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)



**Note:** R-1 height exceptions in Paragraph 6 below are new.

6. **Height Exceptions.** A maximum height of up to 27 feet in the R-1 zoning district is allowed in the following circumstances:
  - a. Additions to historic structures that is designed to match the roof pitch of the historic structure within the area of new addition.
  - b. Parcels greater than 6,000 sf in size.
  - c. Parcels with a width 60 feet or more.
  - d. Parcels with an average slope of 25 percent or greater.

When the plate height of structure does not exceed 22 feet.
7. **7. Decks and Balconies.** Upper floor decks and balconies immediately adjacent to a street or public open space are allowed with an Administrative Permit and do not require a Design Permit. All other decks and balconies require Planning Commission approval of a Design Permit.

**C. Additional Standards for RM Zoning Districts.** The following additional standards apply in the RM zoning district.

1. **Single-Family Dwellings.** Single-family dwellings in RM zoning districts shall comply with the development standards that apply in the R-1 zoning district.
2. **Open Space.** Common and private open space in the RM zoning district shall be provided as shown in Table 17.16-4.

**TABLE 17.16-4: USABLE OPEN SPACE IN RM ZONING DISTRICT**

<b>Common Open Space [1]</b>	
Minimum area (percent of site area)	15% [2] [3]
Minimum horizontal dimension	15 ft.
<b>Private Open Space [4]</b>	
Minimum percentage of units with private open space	50%
Minimum area (for individual unit)	48 sq. ft.
Minimum horizontal dimension	4 ft.

Notes:

- [1] Common open space shall be fully landscaped and accessible to all residents.
- [2] Roof terraces and roof gardens may provide up to 50 percent of the required common open space area if the Planning Commission finds that roof terraces and roof gardens provide quality open space for residents and minimize noise, privacy and other potential impacts on neighboring properties.
- [3] The Planning Commission may allow reduced common open space to a minimum of 10 percent for projects less than one acre in size or for projects that provide additional private open space equal to or greater than the amount of reduced common open space.
- [4] Private open space may include screened terraces, decks, balconies, and other similar areas



**Note:** The existing Zoning Code requires 50 percent of the required rear yard to be developed as common open space. Subsection C above requires 15 percent of the site area to be common open space. Ability to reduce common open space is new to provide flexibility for smaller infill projects.

**D. Standards for the MH Zoning District.** Table 17.16-5 identifies development standards that apply in the Mobile Home (MH) zoning district.

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

**TABLE 17.16-5 MH ZONING DISTRICT DEVELOPMENT STANDARDS**

		Additional Standards
Site Area [1]	5 acres [2]	
Residential Density, Maximum	20 units per acre	
Setbacks [3]		17.48.030
Front	15 ft.	
Interior Side	10 ft.	
Exterior Side	10 ft.	
Rear	20 ft.	

Notes:

[1] Applies to overall mobile home park area, not sites for individual units.

[2] For vacant property rezoned to MH, the minimum lot area is 5 acres. For existing mobile home parks, the minimum parcel size is 5 acres or the existing parcel size, whichever is less.

[3] Applies only to the perimeter of the mobile home park, not to sites and structures within the interior of the park.



**Note:** Minimum setbacks for the perimeter of the mobile home park in Table 17.16-5 above are new.

## Chapter 17.20 – MIXED USE ZONING DISTRICTS

### Sections:

- 17.20.010 Purpose of the Mixed Use Zoning Districts
- 17.20.020 Land Use Regulations
- 17.20.030 Development Standards – Mixed Use Village Zoning District
- 17.20.040 Development Standards – Mixed Use Neighborhood Zoning District

### 17.20.010 Purpose of the Mixed Use Zoning Districts

**A. General.** The purpose of the mixed use zoning districts is to provide for active and inviting destinations in Capitola with a diversity of residential and commercial land uses. In the mixed use zoning districts development shall supports a lively, pedestrian-friendly public realm with inviting storefronts facing the sidewalk. A diversity of local and independent businesses, recreational amenities, and public spaces balance the needs of residents and visitors. New development respects Capitola’s history and reflects its unique coastal village character. The diversity of land uses, pedestrian-friendly development, and general level of activity in the mixed use zoning districts supports a range of transportation choices, including walking, biking, and transit.

### B. Specific.

1. **Mixed Use, Village (MU-V) Zoning District.** The purpose of the MU-V zoning district is to preserve and enhance Capitola Village as the heart of the community. A diversity of commercial, residential, and recreational uses in the MU-V zoning district serve both visitors and residents. Land uses and development enhance the vitality of the Village while maintaining a high quality of life for residents. A fine-grain mix of retail, restaurants, services, and recreational amenities in the MU-V zoning district cater to all ages and support year-round activity during the day and night.
2. **Mixed Use, Neighborhood (MU-N) Zoning District.** The purpose of MU-N zoning district is to allow for neighborhood-serving mixed use areas that enhance residents’ quality of life. The MU-N zoning districts contain an eclectic mix of retail, restaurants, and services for residents and visitors. A range of housing types close to non-residential uses increases housing choices and supports a walkable community. Development in the MU-N zoning district will be carefully designed to complement its surroundings and minimize impacts on neighboring properties. Land uses strengthen connections between destinations in Capitola, including the Village, Bay Avenue, and 41<sup>st</sup> Avenue.

### 17.20.020 Land Use Regulations

**A. Permitted Land Uses.** Table 17.20-1 identifies land uses permitted in the mixed use zoning districts.





**Note:** Permitted land uses in the mixed use zoning districts have been revised to better reflect the purpose of the zoning districts. New Minor Use Permit required for uses that need discretionary review but may not need a Planning Commission hearing.

**TABLE 17.20-1: PERMITTED LAND USES IN THE MIXED USE ZONING DISTRICTS**

Key P Permitted Use A Administrative Permit required M Minor Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District		Additional Regulations
	MU-V	MU-N	
<b>Residential Uses</b>			Section 17.20.020.B & C
Duplex Homes	P/C [1]	P	
Elderly and Long Term Care	C	C	
Group Housing	C	C	
Multi-Family Dwellings	P/C [1]	C	
Residential Care Facilities, Small	C	P	
Residential Care Facilities, Large	C	C	Section 17.96.080
Residential Mixed Use	See Section 17.20.020.D	C	
Secondary Dwelling Units	M	M	Chapter 17.74
Single-Family Dwellings	C [3]	P	
<b>Public and Quasi-Public Uses</b>			
Community Assembly	C	C	
Cultural Institutions	C	C	
Day Care Centers	M	M	
Government Offices	P/C [1]	M	
Home Day Care, Large	M	M	Section 17.96.070
Home Day Care, Small	P	P	
Medical Offices and Clinics	-	M	
Parks and Recreational Facilities	C	C	
Public Safety Facilities	C	C	
Schools, Public or Private	-	C	
<b>Commercial Uses</b>			
Alcoholic Beverage Sales	C	C	
Banks and Financial Institutions	C	P [2]	
Commercial Entertainment and Recreation	C	C	
Eating and Drinking Places			
Bars and Lounges	C	C	
Restaurants and Cafes	C	C	

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

Key			
P	Permitted Use		
A	Administrative Permit required		
M	Minor Use Permit required		
C	Conditional Use Permit required		
-	Use not allowed		
Zoning District			
	MU-V	MU-N	Additional Regulations
Take-Out Food and Beverage	M	M	
Gas and Service Stations	-	-	
Lodging			
Bed and Breakfast	C	C	
Hotels and Motels	C	C	
Personal Services	P	P [2]	
Professional Offices	P/C [1]	M	
Retail	P	P [2]	
Vacation Rental	See Chapter 17.40.030		
Transportation, Communication, and Utility Uses			
Utilities, Major	C	C	
Utilities, Minor	P	P	
Wireless Communications Facilities	See Chapter 17.104		
Other Uses			
Accessory Uses and Structures	See Chapter 17.52		Chapter 17.52
Home Occupations	A	A	Section 17.96.040
Temporary Uses and Structures	See Section 17.96.170		
Urban Agriculture			
Home Gardens	P	P	
Community Gardens	M	M	
Urban Farms	C	C	

Notes:

[1] Second and third floor uses permitted by-right. Ground floor uses require a Conditional Use Permit.

[2] Larger than 3,000 sq. ft. requires a Conditional Use Permit.

[3] Permitted by-right in the Village Residential overlay zone

**B. Village Residential Overlay.** Pursuant to Section 17.40.040 (Village Residential (-VR) Overlay Zone), only residential uses are permitted in the -VR overlay zone. The Village Residential (-VR) overlay zone applies to the following areas within the MU-V zoning district as shown on the Zoning Map: Six Sisters, Venetian Court, Wharf Road, Lawn Way, Riverview Avenue, Cliff Drive, Cherry Avenue, San Jose Avenue, Park Place, and California Avenue.

**C. Ground Floor Conversions to Residential.** Existing ground floor commercial uses in the MU-V zoning district may not be converted to a residential use unless located in the Village Residential (-VR) overlay zone.

**D. Residential Mixed Use in the MU-V Zoning District.**

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

1. If a proposed residential mixed use project in the MU-V zoning district contains any use that requires a Conditional Use Permit, the entire project, including the residential use, requires a Conditional Use Permit.
2. If a proposed residential use replaces an existing upper floor commercial use, the residential use is allowed by-right.

**17.20.030 Development Standards – Mixed Use Village Zoning District**

**A. General.** Table 17.20-2 identifies development standards that apply in the Mixed Use Village (MU-V) zoning district.

**TABLE 17.20-2: DEVELOPMENT STANDARDS IN THE MIXED USE VILLAGE (MU-V) ZONING DISTRICTS**

	MU-V	Additional Standards
<b>Site Requirements</b>		
Floor Area Ratio, Maximum	2.0	Section 17.20.030.C Chapter 17.88
Parking and Loading	See Chapter 17.76	
<b>Structure Requirements</b>		
<b>Setbacks</b>		
Front	<u>Min:</u> 0 ft. <u>Max:</u> 15 ft.	Section 17.20.030.D
Rear	None [1]	
Interior Side	None	
Street Side	<u>Min:</u> 0 ft. <u>Max:</u> 15 ft.	
Height, Maximum	27 ft.	Section 17.20.030.B & C Section 17.48.020 Chapter 17.88
Accessory Structures	See Chapter 17.52	

Notes:  
[1] 20% of lot depth for residential use on parcel.



**Note:** MU-V height exceptions to allow up to 30 feet in subsection B below are new.

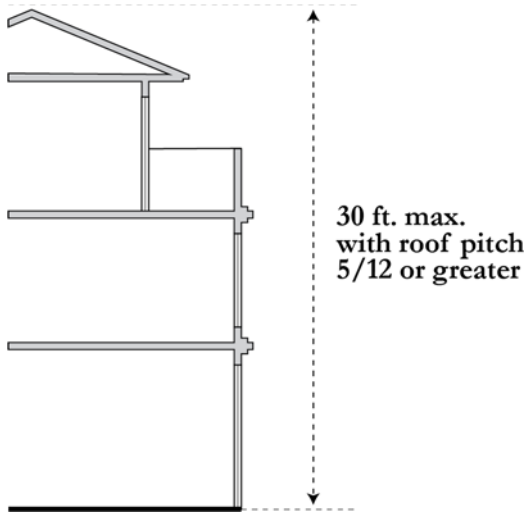
**B. Height Exceptions.** The following exceptions are permitted to the maximum permitted height in the MU-V zoning district as shown in Table 17.20-2:

1. Up to 30 feet for habitable space with a roof pitch of at least 5/12. See Figure 17.20-1.

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

- 2. Projections for non-habitable decorative features and structures as allowed by Section 17.48.030.C

FIGURE 17.20-1: INCREASED HEIGHT IN THE MU-V ZONING DISTRICT



- C. **Increased Floor Area And Height for the Capitola Theater Site.** As provided in Chapter 17.88 (Incentives for Community Benefits), the City Council may approve exceptions to height and floor area ratio (FAR) limits shown in Table 17.20-2 for the Capitola Theater site (APN 035-262-04). These exceptions are intended to facilitate the development of a new hotel in the Capitola Village consistent with the General Plan.



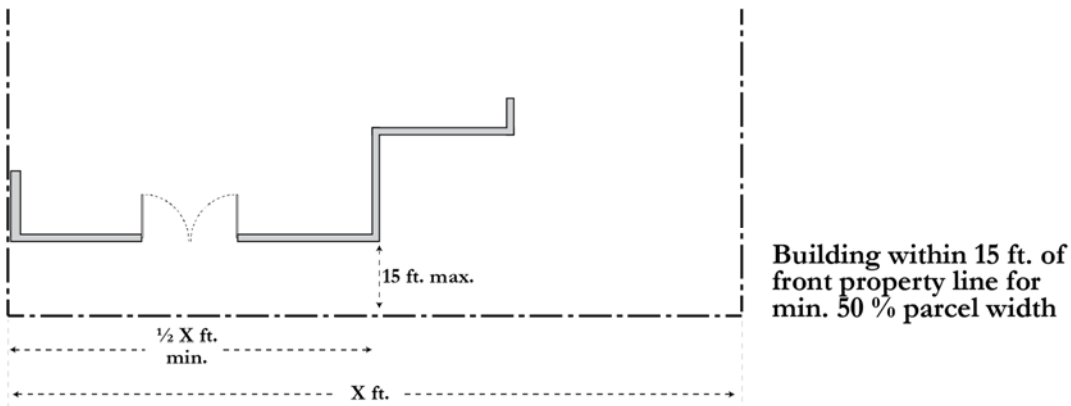
**Note:** Minimum build-to requirements in the MU-V zoning district in subsection D below are new.

- D. **Setbacks in the MU-V Zoning District.** The following setback standards apply to all new structures in the MU-V zoning district.

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

1. Building should be constructed within 15 feet of the front property line for a minimum of 50 percent of the parcel’s linear street frontage. See Figure 17.20-7. The Planning Commission may modify or waive this requirement upon finding that:
  - a. Compliance with the build-to width requirement would render the proposed project infeasible;
  - b. The project incorporates a front-facing courtyard of public seating area; or
  - c. An alternative site design would result in an enhanced pedestrian experience.

**FIGURE 17.20-7: BUILD TO LINE – MU-V ZONING DISTRICT**



2. Front setback areas shall be pedestrian oriented and contain semi-public amenities such as courtyards or outdoor seating areas.
3. Structures shall be setback a minimum of 10 feet from the property line on the northerly side of the first two hundred fifty feet of Cliff Drive, west of the intersection of Wharf Road.



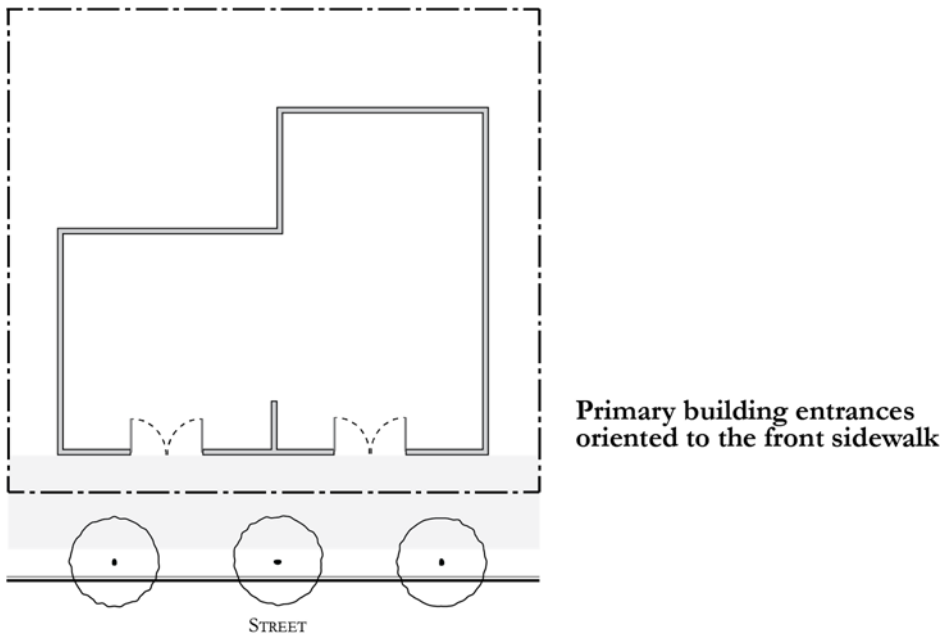
**Note:** Design standards for the Mixed Use Village zoning districts in subsection C below are new.

**E. General Design Standards.** The following standards apply to all new buildings and additions within the MU-V zoning districts, excluding the Village Residential Overlay.

1. **Building Orientation.** Buildings shall be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk. See Figure 17.20-2.

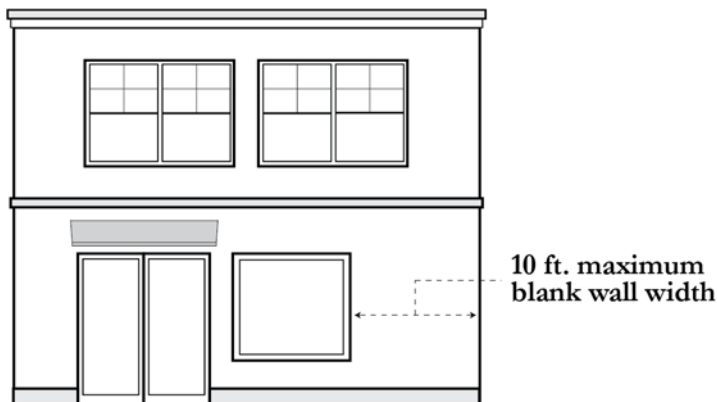
Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

**FIGURE 17.20-2: BUILDING ORIENTATION**



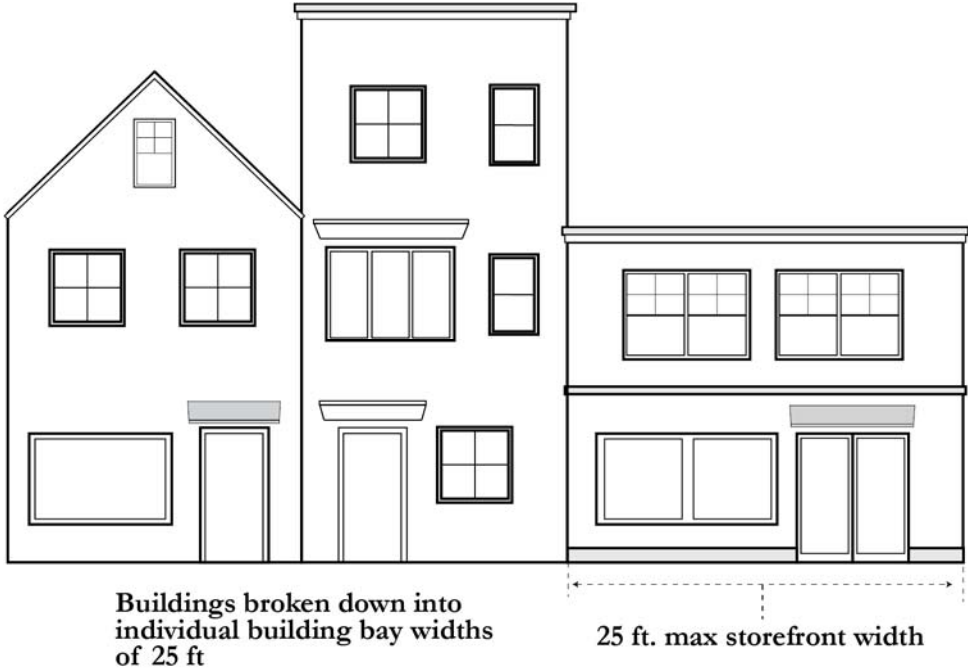
2. **Blank Walls.** The maximum length of an unarticulated/blank building wall fronting a public street shall be 10 feet. See Figure 17.20-3. Building articulation may be provided by:
  - a. Doors, windows, and other building openings;
  - b. Building projections or recesses, doorway and window trim, and other details that provide architectural articulation and design interest;
  - c. Varying wall planes, heights or contrasting materials and colors; and
  - d. Awnings, canopies or arcades to reinforce the pedestrian scale and provide shade and cover from the elements.

**FIGURE 17.20-3: BLANK WALL LIMITATIONS**



- 3. **Storefront Width.** The maximum building/storefront width shall be 25 feet. See Figure 17.20-4. Larger buildings shall be broken down into a pedestrian-scale rhythm with individual building bay widths of 25 feet.

FIGURE 17.20-4: STOREFRONT WIDTH



- 4. **Ground Floor Building Transparency.**
  - a. The ground floor street-facing building walls of non-residential uses shall provide transparent windows or doors with views into the building for a minimum of 65 percent of the building frontage located between 2½ and 7 feet above the sidewalk. See Figure 17.20-5. Ninety percent of the transparent windows or doors area shall remain clear to allow views into the building.

FIGURE 17.20-5: STOREFRONT TRANSPARENCY



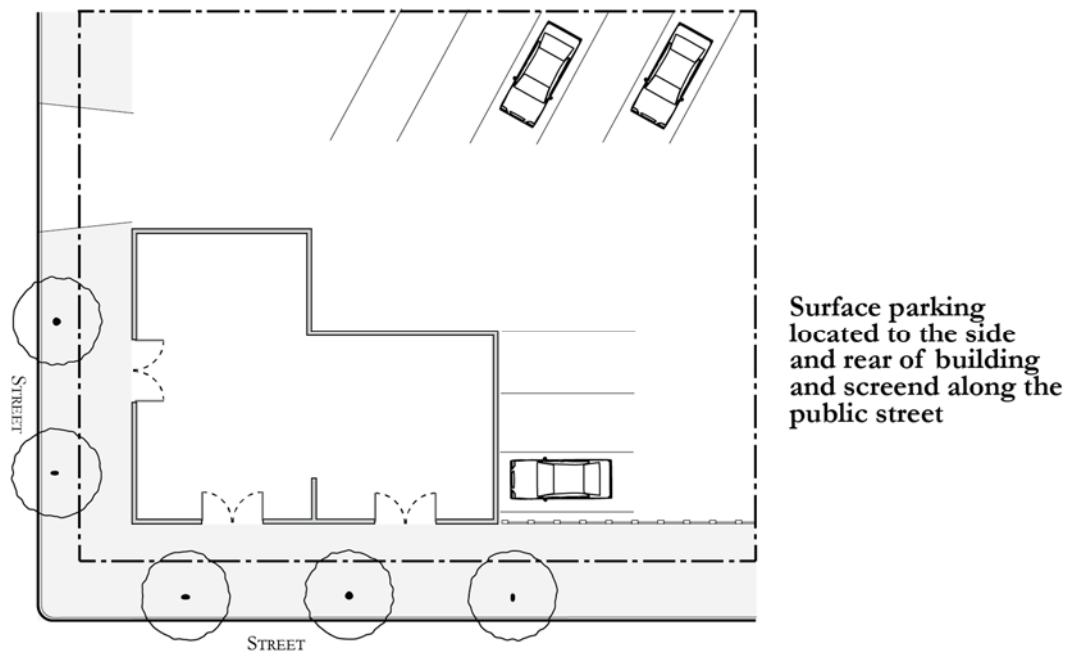
Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

- b. Exceptions to this transparency requirement may be allowed with a Design Permit if the Planning Commission finds that:
  - (1) The proposed use has unique operational characteristics which preclude building openings, such as for a cinema or theatre; and
  - (2) Street-facing building walls will exhibit architectural relief and detail, and will be enhanced with landscaping in such a way as to create visual interest at the pedestrian level.

**5. Parking Location and Buffers.**

- a. Surface parking shall be located to the rear or side of buildings. Surface parking may not be located between a building and a street-facing property line. See Figure 17.20-6.
- b. Surface parking adjacent to a street-facing property line shall be screened along the public right-of-way with a decorative wall, hedge, trellis, and/or landscaping at least 3 feet in height.
- c. Loading areas shall be located to the side and rear of buildings, and shall be sufficiently screened from the public right-of-way, as determined by the Community Development Director.

**FIGURE 17.20-6: PARKING LOCATION**



**6. Driveways and Curb Cuts.**

- a. New driveways shall comply with the dimension standards shown in Table 17.20-3 (Driveway Dimension Standards). The Community Development Director may approve exceptions to these standards in the case of shared or joint use of driveways and parking lots.



**TABLE 17.20-3: DRIVEWAY DIMENSION STANDARDS**

Driveway Type	Driveway Width	
	Minimum	Maximum
1-way	8 ft.	12 ft.[1]
2-way	20 ft.	25 ft. [1].

Note: [1] Driveways shall not exceed 40% of parcel width.

- b. New curb cuts, where allowed, shall be located and designed to maximize safety and convenience for pedestrians, bicycles and mass transit vehicles, as determined by the Community Development Director.
7. **Paved Site Areas.**
- a. The materials, colors, textures, and other design features of on-site paved areas, including courtyards, walkways, and patios, shall complement and enhance the overall design character of development on the site.
  - b. The use of asphalt for on-site paving is prohibited, except when used for parking areas and vehicle circulation.

**17.20.040 Development Standards – Mixed Use Neighborhood Zoning District**

**A. General.** Table 17.20-4 identifies development standards that apply in the Mixed Use Neighborhood (MU-N) zoning districts.



**Note:** Minimum parcel dimensions and maximum front setbacks in Table 17-20-2 below are new.

**TABLE 17.20-4: DEVELOPMENT STANDARDS IN THE MIXED USE ZONING DISTRICTS**

	Zoning District	Additional Standards
	MU-N	
<b>Site Requirements</b>		
Parcel Area, Minimum [1]	3,200 sq. ft.	
Parcel Width, Minimum [1]	40 ft.	
Parcel Depth, Minimum [1]	80 ft.	
Floor Area Ratio, Maximum	1.0	
Parking and Loading	See Chapter 17.76	
<b>Structure Requirements</b>		
Setbacks		
Front	<u>Min:</u> 0 ft. from property line or 10 ft. from curb, whichever is greater <u>Max:</u> 25 ft.	Section 17.20.0340.C
Rear	10 ft. min. from property line [2] [3] [4]	
Interior Side	10% of lot width [3] [4]	
Street Side	<u>Min:</u> 0 ft. from property line or 10 ft. from curb, whichever is greater <u>Max:</u> 25 ft.	
Height, Maximum	27 ft.	Section 17.20.040.B Section 17.48.040.D
Accessory Structures	See Chapter 17.52	

Notes:

[1] Parcel area, width, and depth requirements apply only to the creation of new parcels. These requirements do not apply to legally created parcels existing as of [effective date of updated Zoning Code]. See Capitola Municipal Code Title 16 (Subdivisions) for requirements that apply to lot line adjustments to existing parcels that do not comply with the parcel area, width, and depth requirements in this table.

[2] 20% of lot depth for residential use on parcel.

[3] The Planning Commission may approve reduced front, side, and rear setback requirements for properties fronting Capitola Avenue north of the trestle up to and including 431 Capitola Avenue.

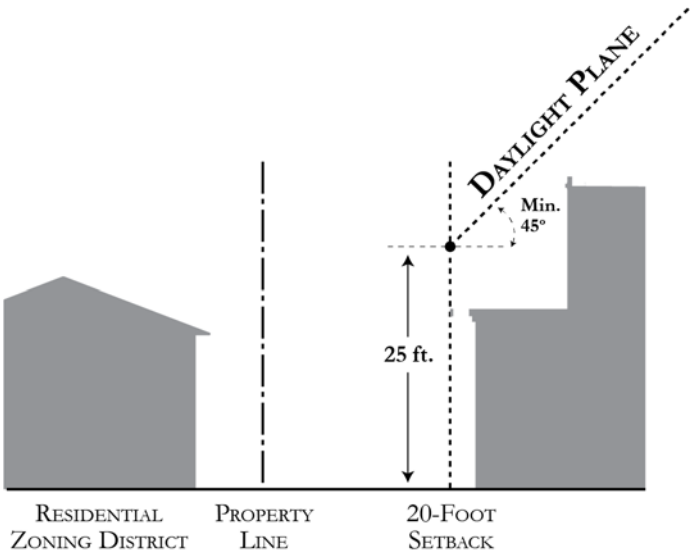
[4] The Planning Commission may reduce front, side, and rear setbacks when a parcel is surrounded by commercial properties .

**B. Building Orientation.**

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

- 1. Buildings shall be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk.
  - 2. The Planning Commission may grant an exception to the requirement in paragraph 1 above upon finding that unique conditions on the site require an alternative building orientation and that the proposed project would maintain a pedestrian-friendly and active street frontage to the greatest extent possible.
- C. Setbacks in the MU-N Zoning District.** Front setback areas in the MU-N Zoning District not used for vehicle parking or circulation shall be pedestrian oriented and shall be either landscaped or contain semi-public amenities such as courtyards or outdoor seating areas.
- D. Residential Transitions – Daylight Plane.** When a property abuts a residential zoning district, no structure shall extend above or beyond a daylight plane having a height of 25 feet at the setback from the residential property line and extending into the parcel at an angle of 45 degrees. See Figure 17.20-8.

FIGURE 17.20-8: RESIDENTIAL TRANSITIONS – DAYLIGHT PLANE



- E. Parking Location and Buffers.** Surface parking shall be located to the rear or side of buildings where possible. When parking is located between a building and a street-facing property line, the parking shall be either:
- 1. Screened along the street with a decorative wall, hedge, trellis, and/or landscaping at least 3 feet in height; or
  - 2. Designed to minimize visual impacts and support a pedestrian-friendly environment to the greatest extent possible as determined by the Planning Commission.

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

**F. Driveways and Curb Cuts.**

1. New driveways shall comply with the dimension standards shown in Table 17.20-5 (Driveway Dimension Standards). The Community Development Director may approve exceptions to these standards in the case of shared or joint use of driveways and parking lots.

**TABLE 17.20-5: DRIVEWAY DIMENSION STANDARDS**

Driveway Type	Driveway Width	
	Minimum	Maximum
1-way	8 ft.	12 ft.[1]
2-way	20 ft.	25 ft. [1].

Note: [1] Driveways shall not exceed 40% of parcel width.

- a. New curb cuts, where allowed, shall be located and designed to maximize safety and convenience for pedestrians, bicycles and mass transit vehicles, as determined by the Community Development Director.

## Chapter 17.24 – COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

### Sections:

- 17.24.010 Purpose of the Commercial and Industrial Zoning Districts
- 17.24.020 Land Use Regulations
- 17.24.030 Development Standards
- 17.24.040 Residential Mixed Use Development in Commercial Zoning Districts

### 17.24.010 Purpose of the Commercial and Industrial Zoning Districts

- A. Community Commercial (C-C) Zoning District.** The purpose of the C-C zoning district is to provide areas for a variety of commercial uses serving Capitola residents and visitors. The C-C zoning district allows for retail, restaurants, and services that meet the daily needs of the community. The scale, intensity, and design of development in the C-C zoning district is compatible with adjacent neighborhoods and contributes to Capitola's unique coastal village character. Interspersed residential and office uses in the C-C zoning district support a diverse local economy and range of housing choices.
- B. Regional Commercial (C-R) Zoning District.** The purpose of the C-R zoning district is to provide areas for commercial uses that serve regional shoppers as well as Capitola residents, workers, and visitors. The C-R zoning district maintains a critical mass of retail and service uses that maintain 41<sup>st</sup> Avenue as a successful retail destination. Office, medical, and residential uses are restricted to protect the long-term economic vitality of the corridor. Incremental redevelopment of underutilized properties in the C-R zoning district enhance the corridor as a pedestrian-friendly shopping destination that enhance Capitola's unique identity and quality of life.
- C. Industrial (I) Zoning District.** The purpose of the I zoning district is to provide an area for heavy commercial and light industrial uses in Capitola. The I zoning district allows for non-residential uses which are desired in the community but could be incompatible with land uses in other zoning districts. The I zoning district accommodates businesses that contribute to a diverse economy, provide local jobs, and serve the needs of residents and other businesses in Capitola.

### 17.24.020 Land Use Regulations

- A. Permitted Land Uses.** Table 17.24-1 identifies land uses permitted in the commercial and industrial zoning districts.



**Note:** Permitted land uses in the commercial and industrial zoning districts have been revised to better reflect the purpose of the zoning districts. New Minor Use Permit required for uses that need discretionary review but may not need a Planning Commission hearing.

**TABLE 17.24-1: PERMITTED LAND USES IN COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS**

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

Key P Permitted Use A Administrative Permit required M Minor Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District			Additional Requirements
	C-C	C-R	I	
<b>Residential Uses</b>				
Multi-Family Dwellings	C	C [5]	-	
Residential Mixed Use	C	C	-	17.24.040
<b>Public and Quasi-Public Uses</b>				
Colleges and Trade Schools	C	C	C	
Community Assembly	C	C	-	
Cultural Institutions	C	C	-	
Day Care Centers	C	C	-	
Emergency Shelters	-	-	P	17.96.030
Government Offices	See 17.24.020.C		C	
Medical Offices and Clinics	See 17.24.020.C		-	
Public Safety Facilities	C	C	C	
<b>Commercial Uses</b>				
Alcoholic Beverage Sales	C	C	C	
Banks and Financial Institutions	P [2]	P [2]	-	
Business Services	P [2]	P [2]	P	
Commercial Entertainment and Recreation	M	M	-	
Drive-Through Facilities	-	C [4]	-	
Eating and Drinking Establishments				
Bars and Lounges	C	C	-	
Mobile Food Vendors	-	-	C	
Restaurants and Cafes	M [2]	M [2]	-	
Take-Out Food and Beverage	M [2]	M [2]	-	
Food Preparation	M [2]	-	P	
Gas and Service Stations	C	C	-	
Liquor Stores	C	C	-	
Lodging				
Bed and Breakfast	C	-	-	
Hotel	C	C	-	
Maintenance and Repair Services	M	C	P	
Personal Services	P [1]	P [1]	-	
Professional Offices	See 17.24.020.C		P	
Salvage and Wrecking	-	-	P	
Self-Storage	C	-	C	17.96.150

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Retail	P	P	-	
Vehicle Repair	C	C	P	
Vehicle Sales and Rental	C [6]	C [6]	-	
Wholesaling	-	M [3]	P	
<b>Heavy Commercial and Industrial Uses</b>				
Construction and Material Yards	-	-	P	
Custom Manufacturing	M	M	P	
Light Manufacturing	-	-	P	
Warehousing and Distribution	-	-	P	
<b>Transportation, Communication, and Utility Uses</b>				
Utilities, Major	-	C	C	
Utilities, Minor	P	P	P	
Recycling Collection Facilities	C	C	C	Section 17.96.130
Wireless Communications Facilities	See 17.104			
<b>Other Uses</b>				
Accessory Uses	See 17.52			
Home Occupations	A	A	-	Chapter 17.96.040
Temporary Uses	See 17.76.190			
Urban Agriculture				
Home Garden	P	P	-	
Community Garden	M	M	-	
Urban Farm	C	C	-	

Notes:

- [1] Combination of two or more tenant suites within a multi-tenant building or greater than 5,000 sq. ft. requires Minor Use Permit
- [2] Combination of two or more tenant suites within a multi-tenant building or greater than 5,000 sq. ft. requires Conditional Use Permit
- [3] Without stock. Storage of merchandise limited to samples only.
- [4] Prohibited within 100 feet of a residential zoning district or residential use.
- [5] Permitted only on a mixed use site with the residential use secondary to the primary commercial uses on the site. Residential uses on the site are limited to less than 50 percent of the floor area of buildings on the site. Residential uses shall be located and designed to maintain a primarily commercial character and function on the site.
- [6] Majority of vehicles for sale must be new.

**B. Additional Permits.** In addition to permits identified in Table 17.24-1, development projects in the commercial and industrial zoning districts may also require a Design Permit pursuant to Chapter 17.120 (Design Permits). Modifications to a historic resource may require a Certificate of Appropriateness pursuant to Chapter 17.84 (Historic Preservation). Development in the coastal zone may require a Coastal Permit pursuant to Chapter 17.32 (Coastal Overlay Zone) independent of and in addition to any other required permit or approval.



**Note:** Limitations on office uses in subsection C below are new.

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)



C. **Office Uses in the C-C and C-R Zoning Districts.** In the C-C and C-R zoning districts, permits required for office uses, including professional, medical, banks, financial institutions and governmental offices, are shown in Table 17.24-2.

**TABLE 17.24-2: PERMITTED OFFICE USES IN THE C-C AND C-R ZONING DISTRICTS**

Location and Size of Office Use	C-C Zoning District	C-R Zoning District
Conversion of a retail use to an office use	N/A	C
Ground floor, less than 5,000 sq. ft.	P	C
Ground floor, 5,000 sq. ft. or more	C	C
Upper floor above a ground floor	P	P
Located within a multi-tenant site in which the office space is not located within a storefront and is setback from the front façade.	P	P

**17.24.030 Development Standards**

A. **General.** Table 17.24-3 identifies development standards that apply in the commercial and industrial zoning districts.

**TABLE 17.24-3: DEVELOPMENT STANDARDS IN COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS**

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

	C-C	C-R	I	Additional Standards
<b>Site Requirements</b>				
Parcel Area, Minimum	5,000 sq. ft.			
Parcel Width, Minimum	50 ft.			
Parcel Depth, Minimum	100 ft.			
Floor Area Ratio, Maximum	1.0	1.5	0.5	17.24.030.C 17.88
Residential Density, Maximum	20 du/acre		N/A	
<b>Structure Requirements</b>				
Setbacks, Minimum				
Front	See 17.24.030.B		0 ft.	
Rear	0 ft. unless adjacent to a residential zoning district (see 17.24.030.D)			
Interior Side	0 ft. unless adjacent to a residential zoning district (see 17.24.030.D)			
Street Side	See 17.24.030.B		0 ft.	
Height, Maximum	40ft.	40 ft.	30 ft.	17.24.030.C & D
Landscaped Open Space, Minimum	5%		Up to 5%, as determined by the permit approval process	Table 17.72-1
Parking and Loading	See 17.76			

**B. Front and Street Side Setbacks in the C-R and C-C Zoning Districts.** In the C-R and C-C zoning districts, buildings shall be setback from the front and street side property line so that:

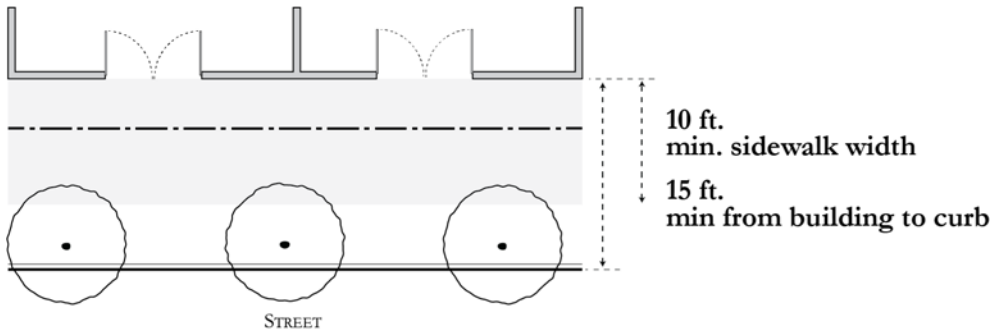
1. The building is at least 15 feet from the curb or street edge; and
2. Building placement allows for a minimum 10-foot sidewalk along the property frontage. See Figure 17.24-1.



**Note:** The existing Zoning Code requires front setbacks of 15 feet from the property line. Subsection B above requires front setbacks of 15 feet from the curb or street edge.

**FIGURE 17.24-1: FRONT AND STREET SIDE SETBACKS IN THE C-R AND C-C ZONING DISTRICTS**

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)



**C. Increased Floor Area and Height in C-C and C-R Zoning Districts.**



**Note:** Section 17.27.080 in the existing Zoning Code allows the City Council to approve height exceptions with no specified limit. This section establishes increased floor area and height allowances consistent with General Plan policies and adds in Chapter 17.88 an upper limit for height exceptions.

1. **General.** As provided in Chapter 17.88 (Incentives for Community Benefits), the City Council may approve exceptions to height and floor area ratio (FAR) limits shown in Table 17.24-2 for proposed projects in the C-C and C-R zoning districts. These exceptions are intended to facilitate the redevelopment of underutilized properties along 41<sup>st</sup> Avenue consistent with the vision for the corridor described in the General Plan.

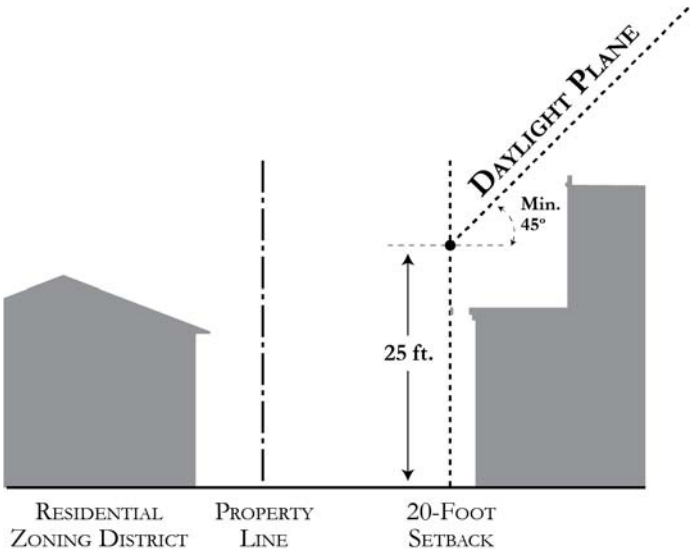
**D. Residential Transition Standards.** Where a commercial or industrial zoning district abuts a residential zoning district, the following standards apply.



**Note:** Daylight plane requirement in paragraph 2 below is new.

1. **Setbacks.** The minimum setback from the residential property line shall be 15 feet for interior side yards and 20 feet for rear yards.
2. **Daylight Plane.** No structure shall extend above or beyond a daylight plane having a height of 25 feet at the setback from the residential property line and extending into the parcel at an angle of 45 degrees. See Figure 17.24-2.
3. **Landscaping.** A landscaped planting area, extending a minimum of 10 feet from the property line, shall be provided along all residential property lines. A tree screen shall be planted in this area with trees planted at a minimum interval of 15 feet.

**FIGURE 17.24-2: RESIDENTIAL TRANSITIONS – DAYLIGHT PLANE**



4. **Loading.** Loading and unloading shall be designed to have the least amount of impact on neighboring residential uses. When feasible, loading and unloading provided from the commercial frontage rather than from areas adjacent residential uses.

E. **Capitola Mall Redevelopment.** The City may require the preparation and approval of a Specific Plan for a major redevelopment of the Capitola Mall, as determined by the Community Development Director.

**17.24.040 Residential Mixed Use Development in Commercial Zoning Districts**

**Note:** Standards for residential mixed use development in commercial zoning districts in this section are new.

A. **Purpose and Applicability.** This section establishes design standards for vertical mixed use development with housing above ground floor commercial uses in the Community Commercial (C-C) and Regional Commercial (C-R) zoning districts. These standards are intended to promote successful mixed use development that is pedestrian-friendly and contributes to the vitality of commercial districts in Capitola.

**B. Standards.**

1. **Ground Floor Uses.** Ground floor spaces fronting the primary street shall be occupied by retail, restaurant, and personal service uses that generate pedestrian activity.
2. **Building Placement.** Buildings shall be placed near the edge of the sidewalk. At all times there shall be at least 10 feet between the building wall and edge of sidewalk. Increased setbacks are permitted if they enhance pedestrian experience and add visual interest.

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

3. **Building Orientation.** Buildings shall be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk. The Planning Commission may allow buildings and their primary entrances to be oriented toward a public space. The primary entrance to a building shall not be oriented towards surface parking.
4. **Blank Walls.** The length of an unarticulated/blank building wall shall not exceed 10 feet. Architectural articulation should have similar pattern as other adjacent buildings to provide cohesive design in the neighborhood. Building articulation may be provided by:
  - a. Doors, windows, and other building openings;
  - b. Building projections or recesses, doorway and window trim, and other details that provide architectural articulation and design interest;
  - c. Varying wall planes, heights or contrasting materials and colors; and
  - d. Awnings, canopies, or arcades to reinforce the pedestrian scale and provide shade and cover from the elements.
5. **Storefront Width.** The width of a single building/storefront shall not exceed 50 feet. Larger buildings shall be broken down into a pedestrian-scale rhythm with individual building bay width of 25 to 50 feet.
6. **Ground Floor Building Transparency.** The ground floor street-facing building walls of non-residential uses shall provide transparent windows or doors with views into the building for a minimum of 65 percent of the building frontage located between 2½ and 7 feet above the sidewalk. 65 percent of the transparent windows or doors area shall remain clear to allow views into the building. Exceptions to this transparency requirement may be allowed if the Planning Commission finds that:
  - a. The proposed use has unique operational characteristics which preclude building openings, such as for a cinema or theatre; or
  - b. Street-facing building walls will exhibit architectural relief and detail, and will be enhanced with landscaping in such a way as to create visual interest at the pedestrian level.
7. **Retail Depth.** Ground floor commercial space shall have a depth of at least 45 feet or two-thirds of the parcel depth, whichever is less. Where possible, 60-foot depths are encouraged to accommodate a wider range of tenants, especially food tenants. The Planning Commission may grant an exception to the minimum retail depth requirement if the minimum retail depth is infeasible due to unusual physical conditions on the parcel.
8. **Ground-Floor Height.** Ground floor commercial space shall have a minimum floor-to-floor height of 15 feet. Where possible, 18-foot floor-to-floor heights are encouraged.

9. **Parking Location.** No more than 10 percent of off-street retail parking may be provided -along the side of retail as “teaser” parking. The remainder of the parking shall be behind the building or in underground/structured parking.

**FIGURE 17.24-3: RESIDENTIAL MIXED USE – TEASER PARKING**



10. **Driveways and Curb Cuts.** Pedestrian and vehicle conflicts shall be minimized by limiting the number of curb cuts to two per block and the width of curb cuts to 24 feet where feasible. To the extent possible, curb cuts shall be designed so pedestrian curb ramps are limited and pathways remain level as they cross the vehicle route.

## Chapter 17.28 – VISITOR SERVING ZONING DISTRICTS

### Sections:

- 17.28.010 Purpose of the Visitor Serving Zoning Districts
- 17.28.020 Dual Zoning
- 17.28.030 Land Use Regulations
- 17.28.040 Development Standards

### 17.28.010 Purpose of the Visitor Serving Zoning Districts

- A. General.** The purpose of the Visitor Serving (VS) zoning district and overlays is to provide the visiting public with a range of opportunities to enjoy Capitola’s coastal location. These VS ~~zoning~~-districts accommodate a range of visitor serving uses including overnight accommodations, dining establishments, and active and passive recreational facilities. Specific permitted uses depend on the resources present on the site and the surrounding land use and environmental context. The VS ~~zoning~~-districts include both the Visitor Serving base zoning district and the Visitor Serving overlay zone. The VS ~~zoning~~-districts implement policies to maintain and enhance visitor serving uses in Capitola consistent with the General Plan and Local Coastal Program (LCP).
- B. Visitor Serving Base Zoning District.** Parcels assigned a Visitor Serving (VS) base zoning district are shown in Figure 17.128-1. Parcels with a VS base zoning district must comply with the same land use regulations and development standards that apply to the Visitor Serving - General (VS-G) overlay subzone.
- C. Visitor Serving Overlay Subzones.** The VS overlay zone is divided into five subzones (see Figure 17.128-1) with unique land use and development standards:
1. **Visitor Serving - Rispin (VS-R).** Applies to the Rispin site (APN 035-371-01 & 02).

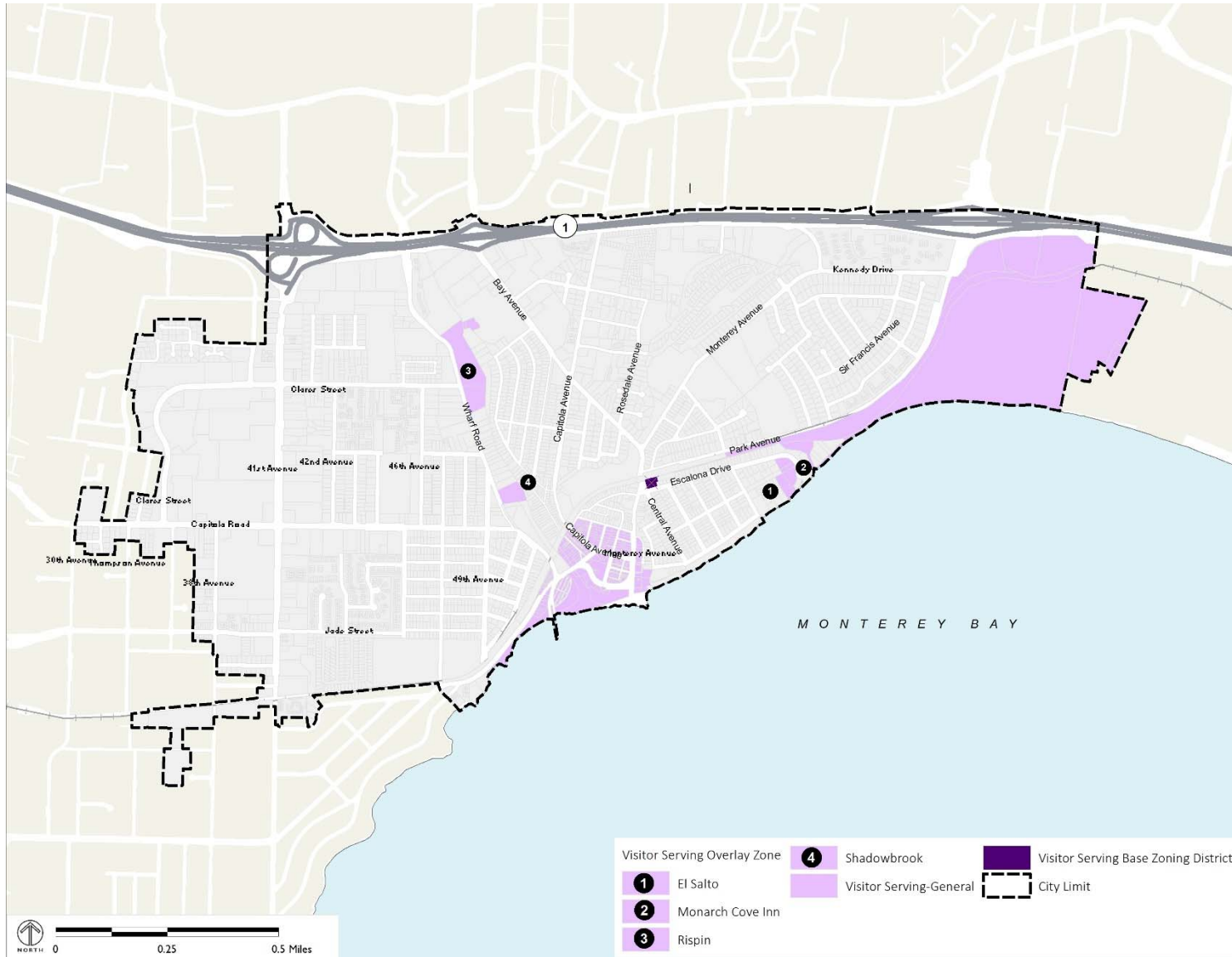
2. **Visitor Serving - Shadowbrook (VS-SB).** Applies to the Shadowbrook site (APN035-111-04).
3. **Visitor Serving - Monarch Cove Inn (VS-MC).** Applies to the Monarch Cove Inn site (APN 036-143-31 & 036-142-27) and the portion of parcel 036-142-28 that is located between the two Monarch Cove Inn parcels.
4. **Visitor Serving - El Salto (VS-ES).** Applies to the El Salto site (APN 036-143-35).
5. **Visitor Serving – General (VS-G).** Applies to all other parcels with a Visitor Serving subzone overlay designation.

#### 17.28.020 Dual Zoning

The VS ~~base zoning~~ districts may be the only zoning applicable to a property, but at times it is applied along with other zoning districts to a property, such as “VS/R-1” or “VS/P/OS” dual zoning. Dual zoning means that the uses and development standards of the VS base zoning district apply, although uses allowed by another zoning district may also be permitted through approval of a Conditional Use Permit. The Planning Commission may apply development standards from the other zoning district in lieu of or as well as the VS district. In cases of conflict, standards which are more protective of coastal resources shall prevail.



**FIGURE 17.28-1: VISITOR-SERVING DISTRICTS**



**17.28.030 Land Use Regulations**

**A. Permitted Land Uses.** Table 17.28-1 identifies land uses permitted in the VS zoning district and VS overlay subzones. Land use regulations for “VS-G” apply to the Visitor Serving base zoning district and to the Visitor Serving-General overlay subzone.



**Note:** Permitted land uses on the Monarch Cove property have been revised to prohibit festivals, live entertainment, and commercial places of amusement or recreation.

**TABLE 17.28-1: PERMITTED LAND USES IN THE VISITOR SERVING ZONING DISTRICTS**

Key P Permitted Use M Minor Use Permit required C Conditional Use Permit required – Use not allowed	VS Zoning Districts and Subzones					Additional Regulations
	VS-G	VS-R	VS-SB	VS-MC	VS-ES	
<b>Residential Uses</b>						
Employee Housing	C [1]	-	-	-	-	
Multi-Family Dwellings	C [2]	-	-	-	C [2]	
One Caretaker Unit for On-Site Security	C	C	C	C	C	
Single-Family Dwellings	C [3]	-	-	C [3]	C [3]	
<b>Public and Quasi-Public Uses</b>						
Community Assembly	C	C	-	-	-	
Cultural Institutions	C	C	-	-	-	
Day Care Centers	C	-	-	-	-	
Habitat Restoration and Habitat Interpretive facilities	C	C	C	C	-	
Parks and Recreational Facilities	C	C	-	-	-	
Public Parking Lots	C	C	-	-	-	
Public Paths	C	C	C	C	C	
Public Safety Facilities	C	-	-	-	-	
Public Wharfs	C	-	-	-	-	
Schools, Public or Private	C	-	-	-	-	
<b>Commercial Uses</b>						
Business Establishments that Provide Commercial Places of Amusement or Recreation, Live Entertainment, or Service of Alcoholic Beverage	C [4]	C [4]	C	-	-	
Business Establishments that Sell or Dispense Alcoholic Beverages for On-Site Consumption	C	C	C	C	-	
<b>Restaurants</b>						
Full Service	C [5]	C [5]	C [5]	-	-	
<b>Lodging</b>						
Hotels, Inns, Bed and Breakfast, and Hostels	C	C	-	C	C	

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Campgrounds [6]	C	-	-	-	-	
<b>Key</b> P Permitted Use M Minor Use Permit required C Conditional Use Permit required - Use not allowed	<b>VS Subzones</b>					<b>Additional Regulations</b>
	<b>VS-G</b>	<b>VS-R</b>	<b>VS-SB</b>	<b>VS-MC</b>	<b>VS-ES</b>	
Recreational Vehicle Parks	C	-	-	-	-	
<b>Transportation, Communication, and Utility Uses</b>						
Utilities, Major	C	C	C	C	C	
Utilities, Minor	P	P	P	P	P	
Wireless Communications Facilities	See Chapter 17.104					
<b>Other Uses</b>						
Access Roadways	C	C	C	C	C	
Accessory Structures and Uses, New	C [7]	C	C	C	C	
Accessory Structures and Uses Established Prior to Primary Use or Structure	C	C	-	C	-	
Change of Visitor Serving Commercial Uses within a Structure	C [8]	-	-	-	-	
Food Service Accessory to a Lodging Use [9]	C	C	-	C	C	
Home Occupations	C	-	-	-	-	Section 17.96.030
Expansion of a Legal Nonconforming Use within an Existing Structure	C	-	-	-	-	
Legal Nonconforming Use Changed to a Use of a Similar or More Restricted Nature	C	-	-	-	-	
Live Entertainment	C	C	C	-	-	
Offices Accessory to Visitor Serving Use	C	C	C	C	-	
Parking Areas to Serve the Primary Use	C	C	C	C	C	
Retail Accessory to a Visitor Serving Use	C	C	-	C	-	
Temporary Assemblages of People, such as Festivals, Fairs, and Community Events	C [10]	C [10]	C [10]	C [11]	-	
Weddings	C	C	C	C	-	

**Notes:**

- [1] Permitted only as an accessory use.
- [2] Multi-family dwellings shall comply with development standards in the Multi-Family Residential, Medium Density (RM-M) zoning district.
- [3] Single-family dwellings shall comply with development standards in the Single-Family Residential (R-1) zoning district.
- [4] May not be located within 200 feet of the boundary of a residential zoning district.
- [5] Drive up and car service is not allowed.
- [6] May include moderate intensity recreational uses, including tent platforms, cabins, parks, stables, bicycle paths, restrooms, and interpretive facilities.
- [7] Intensification of the primary use is not allowed.
- [8] The new use may not change the nature or intensity of the commercial use of the structure.
- [9] Permitted only to serve guests of the lodging use.
- [10] Events may not exceed 10 days and may not involve construction of permanent facilities.
- [11] Limited to a single two-day or less event per year.

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

~~**B. Additional Visitor Serving Uses.** In the VS-G, VS-MC, and VS-SB overlay subzones, the Planning Commission may allow other visitor serving uses of a similar character, density, and intensity as those listed in Table 17.28-1 if the Planning Commission finds the other uses to be consistent and compatible with the intent of this chapter, the General Plan, and the Local Coastal Program.~~

**C.B. Civic Uses in the VS-R Overlay Subzone.** The Planning Commission may allow additional civic uses in the VS-R overlay subzone beyond those specifically identified in Table 17.28-1 if the Planning Commission finds the additional civic use to be consistent with the purpose of the VS-R overlay subzone and compatible with existing uses present on the site.

**17.28.040 Development Standards**

**A. General.** Table 17.28-2 identifies development standards that apply in the VS zoning district and VS overlay subzones. Development standards for “VS-G” apply to the Visitor Serving base zoning district and to the Visitor Serving-General overlay subzone.

**TABLE 17.28-2: DEVELOPMENT STANDARDS IN THE VISITOR SERVING ZONING DISTRICTS**

	VS Zoning Districts	Additional Standards
Parcel Area, Minimum	5,000 sq. ft	
Impervious Surface, Maximum	VS-R: 25% VS-SB, VS-MC & VS-ES: 50% [1] VS-G: No maximum	
Floor Area Ratio, Maximum	0.25	
Setbacks, Minimum	See Section 17.28.040.B	
Height, Maximum	30 ft.	17.28.040.C

Notes:

[1] In the VS-SB overlay subzone, the impervious surface requirement applies to the parcel located directly adjacent to Soquel Creek. In the VS-ES overlay subzone, the impervious surface calculation excludes the portion of parcel 036-142-28 located outside of the Monarch Cove Inn.

**B. Setbacks.** The following setback requirements apply in the VS zoning districts.

1. The Planning Commission may require front, side and rear setbacks through the Design Review process to provide adequate light and air, ensure sufficient distance between adjoining uses to minimize any incompatibility, and to promote excellence of development. Where a side or rear yard abuts residential property, a setback of at least 10 feet shall be provided.
2. Front and exterior side yards shall not be used for required parking facilities.
3. For the visitor-serving El Salto parcels located adjacent to the bluff top, new development shall adhere to the setback and development provision provided in the LCP natural hazards policies and in Chapter 17.68 (Geologic Hazards).

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

4. To protect the waters and riparian habitat of Soquel Creek, new development on the Shadowbrook Restaurant and Rispin parcels shall adhere to the LCP natural systems policies and Chapter 17.64 (Environmentally Sensitive Habitat Areas).

**C. Height Exceptions.** With a recommendation from the Planning Commission, the City Council may approve additional height up to a maximum of 36 feet in the VS zoning districts when the following findings can be made:

1. The proposed development and design is compatible with existing land uses in surrounding areas, ~~and~~ the General Plan, ~~and the LCP.~~
2. Streets and thoroughfares are suitable and adequate to serve the proposed development.
3. The proposed development does not produce shadows which may adversely affect the enjoyment of adjacent streets, buildings, or open space.
4. Major public views are not blocked by the proposed development.

**D. Landscaping.** See Table 17.72-2 in Chapter 17.72 (Landscaping).

**E. Lighting.** In addition to outdoor lighting standards in Section 17.96.110, (Outdoor Lighting), the following lighting requirements apply in the VS zoning districts:

1. All exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled.
2. The location, type and wattage of exterior lighting must be approved by the Community Development Director prior to the issuance of building permits or the establishment of the use.

**Chapter 17.32 – SPECIAL PURPOSE ZONING DISTRICTS**

**Sections:**

- 17.32.010 Purpose of the Special Purpose Zoning Districts
- 17.32.020 Land Use Regulations
- 17.32.030 Development Standards

**17.32.010 Purpose of the Special Purpose Zoning Districts**

- A. Community Facility (CF).** The CF zoning district provides areas for public and community facilities serving Capitola residents and visitors. Land uses permitted in the CF zoning district include public uses such as governmental offices, police and fire stations, community centers, schools, libraries, and other similar uses. The CF zoning district implements the Public/Quasi-Public land use designation in the General Plan.
- B. Parks and Open Space (P/OS).** The P/OS zoning district provides parks, recreational facilities, and open space for the use and enjoyment of the community. The P/OS zoning district also protects and preserves environmentally sensitive natural areas and habitat in Capitola. The P/OS zoning district implements the Parks and Open Space land use designation in the General Plan.

**17.32.020 Land Use Regulations**

- A. Permitted Uses.** Table 17.32-1 identifies land uses permitted in the CF and P/OS zoning districts.
- B. Commercial Uses in the P/OS Zoning Districts.** Commercial uses that are accessory to a permitted use in in the P/OS zoning district are permitted with a Conditional Use Permit.
- C. Visitor Accommodations in New Brighten State Beach.** Visitor accommodations and campground uses are permitted in the New Brighten State beach.
- D. P/OS Standards.** The following standards apply to uses in the P/OS zoning district.
  1. Any structure, land use, or removal of vegetation or natural materials that in the opinion of the Planning Commission is inconsistent with the purpose of the P/OS zoning district is prohibited.
  2. Development shall be subordinate to its recreational, scenic, or natural resource purpose consistent with the Local Coastal Program (LCP). Natural resource protection shall include protection of arroyos, creeks and riparian corridors, woodlands and other environmentally sensitive habitat.
  3. No new permanent structures are permitted on the open, sandy beach area of Capitola except for facilities required for public health and safety (e.g., lifeguard stands, approved beach erosion control structures).

**TABLE 17.32-1: PERMITTED LAND USES IN THE CF AND P/OS ZONING DISTRICTS**

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

Key	Zoning District		Additional Regulations
	CF	P/OS	
<b>P</b> Permitted Use			
<b>A</b> Administrative Permit required			
<b>M</b> Minor Use Permit required			
<b>C</b> Conditional Use Permit required			
- Use not allowed			
<b>Public and Quasi-Public Uses</b>			
Colleges and Trade Schools	C	-	
Community Assembly	P [1]	-	
Cultural Institutions	P [1]	-	
Day Care Centers	P [1]	-	
Government Offices	P	-	
Parks and Recreational Facilities	P [1]	P [1]	
Public Safety Facilities	P	-	
Schools, Public or Private	P	-	
<b>Transportation, Communication, and Utilities Uses</b>			
Recycling Collection Facilities	C	-	17.96.130
Utilities, Major	C	C	
Utilities, Minor	P	P	
Wireless Telecommunications Facilities	See Chapter 17.104		
<b>Other Uses</b>			
Accessory Uses and Structures	See Chapter 17.52		
Temporary Uses and Structures	See Section 17.96.170		
Urban Agriculture			
Community Gardens	M [1]	M [1]	
Urban Farms	C [1]	C [1]	

Notes:

[1] Publicly owned and/or operated facilities only.

*Note: Public Parking in the Coastal Zone subsection E has been moved to Chapter 17.76 (Parking and Loading).*

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)



**17.32.030 Development Standards**

- A. Floor Area Ratio.** The maximum permitted floor area ratio (FAR) is 0.25 in the P/OS zoning district and as determined by the Planning Commission through the Design Review process in the P/OS zoning district.
- B. Other Development Standards.** Other development standards (e.g., setbacks, height, building coverage) in the CF and P/OS zoning districts shall be determined by the Planning Commission through the Design Review and Coastal Permit (if in the coastal zone) process.

## Chapter 17.36 – PLANNED DEVELOPMENT ZONING DISTRICT

Style Definition: Title: Level 1

### Sections:

- 17.36.010 Purpose of the Planned Development Zoning District
- 17.36.020 Where Allowed
- 17.36.030 Permitted Land Uses
- 17.36.040 Development Standards
- 17.36.050 Required Approvals
- 17.36.060 Conceptual Review
- 17.36.070 Planned Development Rezoning
- 17.36.080 Development Plans

### 17.36.010 Purpose of the Planned Development Zoning District

The purpose of the Planned Development (PD) zoning district is to allow for high quality development that deviates from standards and regulations applicable to the other zoning districts in Capitola. The PD zoning district is intended to promote creativity in building design, flexibility in permitted land uses, and innovation in development concepts. The PD zoning district provides land owners with enhanced flexibility to take advantage of unique site characteristics and develop projects that will provide public benefits for residents, employees, and visitors. Development within each PD zoning district is regulated by a Development Plan approved by the City Council.

### 17.36.020 Where Allowed



**Note:** This section prohibits PD zoning on properties designated for single-family residential use. Section 17.39.020 in the existing Zoning Code allows PD zoning for all uses. The existing minimum parcel size for PD zoning also has been removed.

The PD zoning district may be applied to any property in Capitola with an area of 20,000 square feet or more except for those designated as Single-Family Residential on the Zoning Map and General Plan Land Use Map.

### 17.36.030 Permitted Land Uses

Permitted land uses in each PD zoning district shall conform to the applicable General Plan land use designation and to the Development Plan that applies to the property.

### 17.36.040 Development Standards

- A. **Established in Development Plan.** Development standards (e.g., height, setbacks, building coverage) for each PD zoning district shall be established in the applicable Development Plan.

- B. Maximum Intensity.** The maximum permitted floor area ratio and residential density shall not exceed maximums established in the General Plan for the applicable land use designation.
- C. Public Improvements.** Public infrastructure and improvements in the PD zoning district shall conform to the city's standard specifications as maintained by the Public Works Director.

#### 17.36.050 Required Approvals

- A. Development Plan and Zoning Map Amendment.** Establishment of a PD zoning district requires approval of a Development Plan, ~~and~~ Zoning Map amendment, and LCP Amendment if the proposed PD zoning district is in the coastal zone.
- B. Design Review.** A proposed development must receive a Design Permit as required by Chapter 17.120 (Design Permits). All development and land uses within a PD zoning district shall be consistent with the approved Development Plan.

#### 17.36.060 Conceptual Review



**Note:** This section replaces the existing Preliminary Development Plan approval process with the requirement for Conceptual Review, which is an advisory (non-binding) process for the Planning Commission and City Council to provide feedback on the project prior to the submittal of a formal application.

Prior to submittal of an application for a PD rezoning and Development Plan, an applicant must complete the Conceptual Review process as described in Chapter 17.114. The Planning Commission and City Council shall each hold at least one noticed public hearing on the project as part of the Conceptual Review process.

#### 17.36.070 Planned Development Rezoning

- A. General Procedures and Requirements.** Establishing a PD zoning district requires City Council approval of a Zoning Map amendment consistent with Chapter 17.144 (Zoning Code Amendments). All procedures and requirements for Zoning Map Amendments in Chapter 17.144 apply to the establishment of a PD zoning district.
- B. Timing.** The City Council shall act on the Zoning Map Amendment concurrently with the Development Plan. A PD zoning district may be established only with concurrent approval of a Development Plan.
- C. Reference to Development Plan.** The ordinance adopted by the City Council establishing a PD zoning district shall reference the Development Plan approved concurrently with the Zoning Map Amendment.

#### 17.36.080 Development Plans

- A. Review Authority.** The City Council takes action on Development Plan applications following

recommendation from the Planning Commission.

**B. Timing.** A Development Plan application shall be submitted within one year of Conceptual Review for the proposed project. If an application is not submitted within one year of Conceptual Review, the applicant shall complete a second Conceptual Review process prior to submitting the Development Plan application.

**C. Application Submittal and Review.**

1. Development Plan applications shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department and the information required by Paragraph D (Application Materials) below.
2. If the property is not under a single ownership, all owners must join the application, and a map showing the extent of ownership shall be submitted with the application.

It is the responsibility of the applicant to provide evidence in support of the findings required by Paragraph G (Findings) below.

**D. Application Materials.** Applications for approval of a Development Plan shall include the following information and materials:

1. **Project Description.** A written description of the project proposed within the PD zoning district. The project description shall include a narrative statement of the project objectives and a statement of how the proposed project will comply with General Plan goals and policies for the applicable land use designation. An overview of the proposed land use, densities, open space, and parking should be included in the project description.
2. **Community Benefits.** A description of how the proposed development is superior to development that could occur under the standards in the existing zoning districts, and how it will achieve a substantial public benefits as defined in Paragraph H below.
3. **Site Map.** Maps depicting the existing topography, on-site structures and natural features, mature trees, and other significant vegetation and drainage patterns. The map shall show the proposed PD zoning district boundaries and all properties within 500 feet of the site boundary.
4. **Concept Plan.** An overall diagram of the project concept. This diagram shall illustrate the overall development concept, including proposed land uses, buildings, circulation, open space, and any other significant elements in the proposed project. Phases shall be clearly indicated if multiple phases are proposed.
5. **Land Use.** A map showing the location of each land use proposed within the site, including open space and common areas. The land use map shall be accompanied by a narrative description of permitted land uses, allowable accessory uses, and uses allowed by-right or with a Conditional Use Permit.
6. **Subdivision Map.** If the project involves the subdivision of land, a tentative parcel map or tentative map required by Title 16 (Subdivisions) of the Capitola Municipal Code.

7. **Circulation.** A map and descriptions of the major circulation features within the site including vehicular, bicycle, pedestrian facilities; traffic flow of internal traffic; and existing and proposed public streets and sidewalk improvements.
8. **Public Facilities and Open Space.** The amount (in square feet or acres) and percentage of site area that will be dedicated for all types of open space, including proposed recreational facilities and amenities; and any public facilities, including public utility easements, public buildings and public land uses.
9. **Development Standards.** All development standards that apply within the project, including:
  - a. Land use;
  - b. Circulation of traffic;
  - c. Landscaping;
  - d. Architecture;
  - e. Density and/or intensity;
  - f. Minimum building site;
  - g. Minimum lot dimensions;
  - h. Maximum building coverage;
  - i. Minimum setbacks;
  - j. Maximum building or structure heights;
  - k. Maximum height of fences and walls;
  - l. Signs;
  - m. Off-street parking; and
  - n. Other items as deemed appropriate by the Planning Commission and City Council.

**E. Planning Commission Review and Recommendation.**

1. The Planning Commission shall hold a public hearing on the Development Plan application as required by Chapter 17.148 (Public Notice and Hearings).
2. The Planning Commission shall recommend to the City Council the approval, approval with modification, or denial of the Development Plan application. The recommendation shall be based on the findings in Paragraph G (Findings) below.

**F. City Council Review and Decision.** Upon receipt of the Planning Commission's recommendation, the City Council shall conduct a public hearing and either approve, approve in modified form, or deny the Development Plan. The City Council may approve the application only if all of the findings in Paragraph G (Findings) below can be made.

**G. Findings.** The City Council may approve an application for a Development Plan if all of the

following findings can be made:

1. The proposed development is consistent with the General Plan, Local Coastal Program (if applicable), and any applicable specific plan or area plan adopted by the City Council.
2. The proposed development is superior to the development that could occur under the standards applicable in the existing zoning districts.
3. The proposed project will provide a substantial public benefits as defined in Paragraph H (Substantial Public Benefit Defined) below. The public benefit provided shall be of sufficient value as determined by the Planning Commission to justify deviation from the standards of the zoning district that currently applies to the property.
4. The site for the proposed development is adequate in size and shape to accommodate proposed land uses.
5. Adequate transportation facilities, infrastructure, and public services exist or will be provided to serve the proposed development.
6. The proposed development will not have a substantial adverse effect on surrounding property and will be compatible with the existing and planned land use character of the surrounding area.
7. Findings required for the concurrent approval of a Zoning Map Amendment can be made.



**Note:** The requirement that a PD project provide a substantial public benefit in Finding 3 above and described in subsection H below is new.

**H. Substantial Public Benefit Defined.** When used in this chapter, “substantial public benefit” means a project feature not otherwise required by the Zoning Code or any other provision of local, state, or federal law that substantially exceeds the city’s minimum development standards and significantly advances goals of the General Plan. A project must include one or more substantial public benefits to be rezoned as a planned development. The public benefit provided shall be of sufficient value as determined by City Council to justify deviation from the standards of the zoning district that currently apply to the property. Examples of substantial public benefits include but are not limited to:

1. Affordable housing that meets the income restrictions applicable in the Affordable Housing (-AH) overlay zone.
2. Public plazas, courtyards, open space, and other public gathering places that provide opportunities for people to informally meet and gather. The public space must either exceed the city's minimum requirement for required open space and/or include quality improvements to the public realm to create an exceptional experience for the public. Improvements to streets, sidewalks, curbs, gutters, sanitary and storm sewers, street trees, lighting, and other public infrastructure beyond the minimum required by the city or other public agencies.
3. New or improved pedestrian and bicycle pathways that enhance circulation within the

property and connectivity to the surrounding neighborhood.

4. Green building and sustainable development features that substantially exceed the city's minimum requirements.
5. Preservation, restoration, or rehabilitation of a historic resource.
6. Public art that exceeds the city's minimum public art requirement and is placed in a prominent and publicly accessible location.
7. New or enlarged business that increase the supply of jobs available to Capitola residents of all income levels.
8. Increased transportation options for residents and visitors to walk, bike, and take public transit to destinations and reduce greenhouse gas emissions.
9. Public parking lot that provides parking spaces in excess of the required number of parking spaces for use by the surrounding commercial district.
10. Publicly accessible parks, ~~and~~ open space, and recreational amenities beyond the minimum required by the city or other public agency.
11. Habitat restoration and or protection of natural resources beyond the minimum required by the city or other public agency.

#### I. Conditions of Approval.

1. The City Council may attach conditions of approval to a Development Plan to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
2. The City Council shall condition approval of the Development Plan on the completion of public improvements and grants of easement shown on the Development Plan.

#### J. Post-Decision Procedures.

Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to Development Plans.



**Note:** Effect of Development Plan in subsection K below is new.

#### K. Effect of Development Plan.

All future development and land uses within a PD zoning district shall comply with the approved Development Plan.

1. **Land Uses.** New land uses may be added in a PD zoning district provided the Development Plan identifies the use as a permitted or conditionally permitted land use. Establishing a land use not specifically permitted by the Development Plan would require an amendment to the PD zoning district.
2. **Structures.** New structures may be added in a PD zoning district provided the structures comply with development standards established in the Development Plan (e.g., height, setback, floor area ratio). Design Review consistent with Chapter 17.120 (Design Permits) is required for all new development that was not approved with the Development Plan.

PLANNED DEVELOPMENT ZONING DISTRICT

17.36

Development that exceeds development standards in the Development Plan is allowed only with an amendment to the PD zoning district.

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Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)



## Chapter 17.40 – RESIDENTIAL OVERLAY ZONES

### Sections:

- 17.40.010 Purpose
- 17.40.020 Affordable Housing (-AH) Overlay Zone
- 17.40.030 Vacation Rental Use (-VRU) Overlay Zone
- 17.40.040 Village Residential (-VR) Overlay Zone

### 17.40.010 Purpose

This chapter contains requirements for overlay zones that primarily apply to residential uses and residential areas. Overlay zones establish additional standards and regulations to specific areas, in addition to the requirements of the underlying base zoning district.

### 17.40.020 Affordable Housing (-AH) Overlay Zone

**A. Purpose.** The purpose of the Affordable Housing (-AH) overlay zone is to facilitate the provision of affordable housing units through the retention and rehabilitation of existing affordable units, or the construction of new affordable units. The -AH overlay zone is intended to:

1. Implement the goals and policies of the General Plan Housing Element and provide the opportunity and means for Capitola to meet its regional fair share allotment of affordable units.
2. Encourage the development of affordable units by assisting both the public and private sector in making the provision of these units economically viable.
3. Provide assurances to the City that these units will maintain a high degree of quality and will remain affordable to the target population over a reasonable duration of time.
4. Encourage the provision of affordable housing through the combination of the -AH overlay with the multi-family residential zone where the affordable housing projects are determined to be feasible and are consistent with the General Plan.
5. Provide a means of directing and simplifying the process for creating and maintaining affordable housing.
6. Provide incentives to developers, whether in new or rehabilitated housing, to maintain rental units for the long term (e.g., not less than 55 years) and affordable ownership units in perpetuity.

**B. Applicability.** The -AH overlay zone may only be applied to parcels that are one acre or more in size and located in a multi-family residential zoning district.

**C. Definitions.**

1. “Affordable housing” means housing capable of being purchased or rented by a household with “very low,” “low,” or “moderate” income levels at an “affordable housing cost” or “affordable rent,” as those terms are defined by the State of California.
2. “Affordable housing overlay district” means a zoning district that applies in addition to existing zoning designation where the city encourages the provision of affordable housing units as described in this chapter.
3. The “very low,” “low,” and “moderate” income levels are defined by the State of California in Sections 50105, 50079.5, and 50093, respectively, of the California Health and Safety Code, and in Subchapter 2 of Chapter 6.5 of Division 1 of Title 25 of the California Code of Regulations, commencing with Section 6900. These income levels are:
  - a. Very Low Income. Up to and including fifty percent of the Santa Cruz County median income, adjusted for family size, as defined by the state law;
  - b. Lower Income. Fifty-one percent to eighty percent of Santa Cruz County median income, adjusted for family size, as defined by the state law;
  - c. Moderate Income. Eighty-one percent to one hundred twenty percent of Santa Cruz County median income, adjusted for family size, as defined by state law.
4. “Affordable housing cost” and “affordable rent” are defined in Sections 50052.5 and 50053, respectively, of the California Health and Safety Code, and in Subchapter 2 of Chapter 6.5 of Division 1 of Title 25 of the California Code of Regulations, commencing with Section 6900.

**D. Relationship with State Density Bonus Law and Other State Laws.**

1. All of the state laws and regulations referenced above, or their successors in defined terms when amended, shall be incorporated herein as though fully set forth. In the event of any inconsistency or discrepancy between the income and affordability levels set forth in this chapter and the levels set in state laws and regulations, the state provisions shall control.
2. The -AH overlay zone provides a density increase for affordable housing development that in most cases exceeds density bonuses permitted by state law (Government Code Section 65915).
3. A development may utilize the -AH overlay zone as an alternative to the use of state density bonus but may not utilize both the overlay and state density bonuses.

**E. Permits and Approvals Required.**

1. Affordable housing developments proposed under this chapter require the execution of a Development Agreement by the City and the developer. The Development Agreement shall be prepared in accordance with the provisions of California Government Code Section 65864 et seq.

2. Affordable housing developments proposed under this chapter require approval of a Design Permit. All requirements in Chapter 17.120 (Design Permits) apply, except that the Planning Commission recommends Design Permit approval or denial to the City Council. The City Council may take action on the Design Permit application concurrently with or subsequent to action on the Development Agreement.

#### **F. Permitted Residential Density.**

1. Affordable housing developments with up to 20 units per acre are permitted in the -AH overlay zone. The 20 units per acre limit is based on a calculation that includes all existing and new units on the property.
2. Density permitted by in the -AH overlay zone may not exceed what can be accommodated by the site while meeting applicable parking, unit size, and other development standards.
3. Affordable housing development in the coastal zone may require a Coastal Permit in accordance with Chapter 17.32 (Coastal Overlay Zone).
- 2.4.

#### **G. Income Restrictions.**

1. A minimum of 50 percent of the units in an affordable housing development shall be income restricted affordable housing. All affordable units may be in a single category or part of a mixture of affordable unit types which include:
  - a. Moderate-income households;
  - b. Lower-income households;
  - c. Very low-income households; or
  - d. Extremely low-income households.
2. At minimum 50 percent of income-restricted affordable units (25 percent of the total project units) shall be affordable to low-, very low-, and extremely-low income households. A greater level of affordability will not allow a greater level of density.

#### **H. Development Incentives.**

1. **Purpose.**
  - a. In order to reduce costs associated with the development and construction of affordable housing, affordable housing developments within the -AH overlay zone shall be eligible for specified development incentives. These incentives allow for the relaxation of development standards normally applied to housing in Capitola and are established in order to facilitate and promote the development of affordable housing in the City.
  - b. Incentives shall be targeted to improve the project design or to yield the greatest number of affordable units and required level of affordability, so as to

permit the City to meet its regional fair share allotment of affordable housing and the goals of the Housing Element of the General Plan.

2. **Relaxed Development Standards.** The City shall allow the following relaxed development standards for projects that comply with the affordability required specified in Subsection G (Income Restrictions):

- a. **Minimum Building Site Area and Lot Area per Unit.** There shall be no minimum building site area requirement for individual parcels or dwelling sites within the -AH overlay zone. The building site area shall be designated on a site plan as approved by the City through the Design Permit review process.
- b. **Density Averaging.** Project density within the -AH overlay zone may be calculated by averaging the density on a project-wide basis so as to permit higher density levels in certain project portions in exchange for advantageous project design features as determined by the City through the Design Permit review process.
- c. **Setbacks.**
  - (1) The minimum setbacks from property lines shall be determined by the City through the Design Permit process.
  - (2) Minimum setbacks from property lines adjacent to or across from a single-family residential zone shall be same as underlying zoning district.



**Note:** Section 17.20.050.C.6 in the existing Zoning Code requires 20-foot first floor and 50-foot second floor minimum setbacks from property lines adjacent to or across from a single-family residential zoning district. Subparagraph c above removes this requirement as it is not a relaxed development standard and would render development infeasible in many locations.

- d. **Lot Coverage.** The City shall determine the maximum lot coverage for the proposed project through the Design Permit process.
- e. **Parking.** Projects shall provide a minimum of:
  - (1) Two off-street parking spaces per unit; and
  - (2) One off-street visitor parking space for every seven units.

3. **Additional Development Incentives.**

- a. As a further inducement to the development of affordable housing beyond the relaxed development standards described in Section 2 (Relaxed Development Standards) above, the City may choose to extend one or more additional development incentives depending on the quality, size, nature, and scope of the project being proposed.
- b. Additional development incentives may be in the form of waivers or modifications of other standards which would otherwise inhibit density and achievement of affordable housing goals for the development site, including, but not limited to, the placement of public works improvements.

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

## I. Design Standards.

### 1. Purpose and Applicability.

- a. The following design standards are intended to ensure high-quality development within the -AH overlay zone that enhances the visual qualities of Capitola and respects adjacent homes and neighborhoods.
- b. Design standards shall apply to all projects receiving development incentives described in Section H (Development Incentives) or residential densities greater than allowed by the applicable base zone.

### 2. Neighborhood Compatibility.

- a. Affordable housing developments shall be designed and developed in a manner compatible with and complementary to existing and potential development in the immediate vicinity of the project site.
  - b. Site planning on the perimeter shall provide for protection of the property from adverse surrounding influences and shall protect surrounding areas from potentially adverse influences from the property.
  - c. To the greatest extent possible, the design of the development shall promote privacy for residents and neighbors, security, and use of passive solar heating and cooling through proper placement of walls, windows, and landscaping.
  - d. Building design and materials shall blend with the neighborhood or existing structures on the site.
3. **Building Height.** Maximum building height shall be the same as in the underlying base zoning district.



**Note:** Section 17.20.050.C.5 in the existing Zoning limits height to two stories or 27 feet, which is less than the maximum permitted height in the RM zoning district. Paragraph 4 above allows a maximum height equal to the underlying zoning district to remove an additional barrier to the construction of affordable housing.

### 4. Common Open Space.

- a. Common open space shall comprise the greater of:
  - (1) 10 percent of the total area of the site; or
  - (2) 75 square feet for each dwelling unit.
- b. Areas occupied by buildings, streets, driveways, parking spaces, utility units, and trash enclosures may not be counted in satisfying the open space requirement.
- c. The following areas may be counted in satisfying the open space requirement:
  - (1) Landscaping and areas for passive and active recreation/open space with a minimum depth and width of 5 feet.
  - (2) Land occupied by recreational buildings and structures.

5. **Streets.**

- a. All public streets within or abutting the proposed development shall be improved to City specifications for the particular classification of street.
- b. All private streets shall meet fire code and access standards.

6. **Accessory Uses and Structures.** Accessory uses and structures shall be permitted as allowed by Chapter 17.52 (Accessory Structures and Uses) and as required through the Design Permit process.

7. **Signs.** Signs shall be permitted as allowed by Chapter 17.80 (Signs) and as required through the Design Review process.

**J. Assurance of Affordability.**

1. Affordable housing units developed under this section shall remain available to persons and families of very low, low, and moderate income, at an affordable housing cost or affordable rental cost, at those income and affordability levels as defined in Section 17.40.020.C (Definitions), for a period of 55 years, unless a longer period is required by a construction or mortgage financing program, mortgage insurance program, state law, or housing grant, loan or subsidy program.
2. The required period of affordability shall run concurrently with any period of affordability required by any other agency; provided, however, that the affordability period shall not be less than 55 years, as set forth in this section.
3. The project developer shall be required to enter into an appropriate agreement with the City to ensure affordability is maintained for the required period.

**K. Pre-Application Consultation.**

1. Prior to submitting an application for an affordable housing development within the -AH overlay zone, the applicant or prospective developer should request preliminary consultation meetings with the Community Development Department and other City staff as appropriate, to obtain information and guidance before incurring substantial expense in the preparation of plans, surveys and other data.
2. Preliminary consultations with City staff should address potential local, state, and federal affordable housing funding availability, and program requirements in guaranteeing project consistency with the objectives and requirements of the -AH overlay zone.

**L. Additional Application Requirements.** An application for an affordable housing development within the -AH overlay zone shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review) and Chapter 17.32 (Coastal Overlay Zone) if the project requires a Coastal Permit and shall ~~also~~ include the following materials and information:

1. Breakdown of affordable and market rate units including unit number, unit size, affordable designation of each unit (very low, low, or moderate), and rental rate or sale price.
2. The proposed means for assuring the continuing existence, maintenance and operation of the project as an affordable housing project.
3. Such other information as may be required by the Community Development Department to allow for a complete analysis and appraisal of the proposed project.

**M. Findings.** To approve or recommend approval of an affordable housing development, the review authority shall make all of the following findings, in addition to the findings required by Chapter 17.120 (Design Permits) and Chapter 17.32 (Coastal Overlay Zone) if the project requires a Coastal Permit:

1. The incentives granted for density and deviation from development and design standards, are commensurate with the level of affordability. Specifically, the greater the extent of concessions and incentives, the greater the level of affordability, quality, size, nature, and scope of the project being proposed.
2. The design of the proposed project, even with the concessions for density and deviation from development and design standards, is appropriate for the scale and style of the site and surrounding neighborhood. Specifically, the development will provide an attractive visual transition and will not significantly impact the integrity of the surrounding neighborhoods.
3. The developer has agreed to enter into an agreement to maintain the affordability of the project specific to the requirements of the City and any funding sources with greater or longer affordability requirements.
4. If located within the coastal zone, the project protects coastal resources, including but not limited to public recreational access, public views, sensitive habitat, and open space. ~~is found to be in conformity with the Local Coastal Program, including, but not limited to, sensitive habitat, public viewshed, public recreational access and open space protections.~~

#### 17.40.030 Vacation Rental Use (-VRU) Overlay Zone

- A. Purpose.** The -VRU overlay zone identifies locations within residential areas where the short term rental of dwelling units is permitted.
- B. Applicability.** Locations where the -VRU overlay zone applies is shown on the Zoning Map.
- C. Land Use Regulations.** Permitted uses in the -VRU overlay zone are the same as in the base zoning district, expect that vacation rental uses are permitted with a Minor Use Permit.

**D. Required Permit.** Each vacation rental unit is required to obtain a Vacation Rental Permit, as an Administrative Permit, in addition to registering each unit with the City as a business. This includes obtaining a business license, renewable annually, and transient occupancy tax registration.

**E. Development and Operations Standards.**

1. Vacation rentals in Capitola are prohibited outside of the -VRU overlay zone.
2. The maximum length of stay for a guest in a vacation rental unit is 30 consecutive calendar days.
3. Transient occupation registration is required for each vacation rental unit. A business license and transient occupancy tax registration must be obtained from the City. The business license shall be renewed annually.
4. Permit holders must submit monthly to the City a completed transient occupancy tax report and payment of all tax owing.
5. One parking space is required per vacation rental unit. Parking may be on site or within the Beach and Village Parking Lot 1 or 2 with proof of permit, if eligible. The on-site parking space must be maintained for exclusive use by guests during their stay.
6. The property owner must designate a person who has the authority to control the property and represent the owner. This responsible person must be available at all reasonable times to receive and act on complaints about the activities of the tenants.
7. A maximum of one sign per structure, not to exceed one square foot in size, is permitted to advertise the vacation rental.
8. Each unit must post the Vacation Rental Permit in a visible location within the unit. The Vacation Rental Permit will include a permit number, conditions of approval, and space to write the contact information for the responsible party.
9. If the unit is advertised on the internet, the first line of the posting must include the Vacation Rental Permit number for City reference.
10. No permit holder shall have a vested right to a renewed permit. If there is a history of the permit holder or tenants violating the permit's conditions, the permit may be revoked consistent with Section 17.60.120 (Permit Revocation). After a permit is revoked, the permit holder may reapply for a new permit one year after the revocation. The Community Development Director may deny an application based on previous code enforcement issues. A decision by the Community Development Director is appealable to the Planning Commission.



**17.40.040 Village Residential (-VR) Overlay Zone**

- A. Purpose.** The purpose of the -VR overlay zone is to limit certain areas within the Village to exclusive residential use, including vacation rentals.
- B. Land Use Regulations.**
- 1. Residential Uses Only.** Within the -VR overlay zone, only residential land uses (including vacation rentals) are permitted. Non-residential land uses, including but not limited to restaurants, retail, offices, and personal services, are not permitted in the -VR overlay zone.
  - 2. Existing Hotels and Motels.** Alterations and modifications to existing hotels and motels shall occur in a manner consistent with Chapter 17.92 (Nonconforming Lots, Uses and Structures).
- C. Development Standards.** Development standards in the -VR overlay zone are the same as the Village Mixed Use (MU-V) zoning district.

## Chapter 17.44 – COASTAL OVERLAY ZONE

### Sections:

- 17.44.010 Purpose
- 17.44.020 Local Coastal Program Components
- 17.44.030 Definitions
- 17.44.040 Relationship to Base Zoning Districts
- 17.44.050 Allowed Land Uses
- 17.44.060 Development Standards
- 17.44.070 Coastal Permit Requirements
- 17.44.080 Coastal Permit Exemptions
- 17.44.090 De Minimus Waiver of Coastal Permit
- 17.44.100 Challenges to City Determinations
- 17.44.110 Application Submittal
- 17.44.120 Public Notice and Hearing
- 17.44.130 Findings for Approval
- 17.44.140 Notice of Final Action
- 17.44.150 Appeals
- 17.44.160 Permit Issuance
- 17.44.170 Emergency Permits
- 17.44.180 Coastal Permit Amendments

### 17.44.010 Purpose

This chapter establishes requirements for the Coastal (-CZ) overlay zone which applies to all areas within the City of Capitola coastal zone. The -CZ overlay zone implement's the City's Local Coastal Program (LCP) in a manner consistent with the requirements of the California Coastal Act and all associated State regulations. This chapter contains requirements for Coastal Permits to ensure that development projects in the -CZ overlay zone are consistent with the City's Land Use Plan and Local Coastal Implementation Program (LCIP), which together constitute the City's Local Coastal Program (LCP).

### 17.44.020 Local Coastal Program Components

The City of Capitola Local Coastal Program shall consists of the Land Use Plan (LUP) and Implementation Plan (IP) as described below following components:

- A. Land Use Plan. The Land Use Plan (LUP), consisting of the policy text and the adopted land use, resource, constraint, and shoreline access maps, graphics, and charts. The land use plan, including all adopted tables, maps and definitions, shall be adopted as an element of the County General Plan and become an integral part thereof pursuant to

~~Chapter 13.01 SCCC. The land use plan policies and maps shall take precedence over any previously adopted for the Coastal Zone portion of the County. The City's certified LUP (June 1981) is divided into six parts/components as follows:~~

- ~~1. Locating and Planning New or Intensified Development and Public Works Facilities Component.~~
- ~~2. Public Access Component.~~
- ~~3. Visual Resources and Special Communities Component.~~
- ~~4. Recreation and Visitor-Serving Facilities Component.~~
- ~~5. Natural Systems Component.~~
- ~~6. Natural Hazards Component.~~

~~—Implementation Plan.~~

~~B. The Implementation Plan (IP) (certified January 1990), consisting of the following implementing ordinances consisting of the following of the City's Municipal Code chapters/sections:~~

- ~~1. Zoning Code (XXXChapter 17 (Zoning) Title 17) chapters as identified in Section 17.04.040 (Relationship to the Local Coastal Program).~~
- ~~2. Chapter 10.36 (Stopping, Standing, and Parking)~~
- ~~3. Chapter 12.12 (Community Tree and Forest Management)~~
- ~~4. Chapter 12.44 (Limiting Boats on Capitola Beaches During Evening Hours)~~
- ~~5. Chapter 15.28 (Excavation and Grading)~~
- ~~6. Chapter 16.68 (Condominium and Community Apartment Conversions)~~

~~17.44.02~~17.44.030 **Definitions**

Specialized terms as used in this chapter are defined as follows.

**A. Aggrieved Person.** Any person who, in person or through a representative, appeared at a City public hearing in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing informed the City of the nature of their concerns, or who for good cause was unable to do either. “Aggrieved Person” includes the applicant for a Coastal Permit.

~~—Coastal Bluff. A high bank or bold headland with a broad, precipitous, sometimes rounded cliff face overlooking a plain or body of water. A bluff may consist of a steep cliff face below and a more sloping upper bluff above. Coastal bluff shall mean:~~

~~(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and~~

~~B. (2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).~~

**C. Coastal Emergency.** A sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.

~~**B.D. Coastal Resources.** Coastal resources include, but are not limited to, public access and public access facilities and opportunities, recreation areas and recreational facilities and opportunities (including for recreational water-oriented activities), public views, natural landforms, marine resources, watercourses (e.g., rivers, streams, creeks, etc.) and their related corridors, waterbodies (e.g., wetlands, estuaries, lakes, etc.) and their related uplands, ground water resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources.~~

**C.E. Development.** Any of the following, whether on land or in or under water:

1. The placement or erection of any solid material or structure;
2. Discharge or disposal of any dredged material or of any gaseous, liquid, solid or thermal waste;
3. Grading, removing, dredging, mining or extraction of any materials;
4. Change in the density or intensity of use of land, including, but not limited to, subdivisions, and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use;
5. Change in the intensity of use of water, or access thereto;
6. Construction, reconstruction, demolition or alteration in the size of any structure, including any facility of any private, public or municipal utility;
- ~~6.~~ The removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973.

~~7. Development does not include the replacement of a mobile home with one which is not more than ten percent larger in floor area, nor equipping a mobile home with removable fixtures such as a porch, the total area of which does not exceed ten percent of the square footage of the mobile home itself.~~

~~**D. Development, New.** All development as defined above except the following:~~

- ~~1.— Structures Destroyed by Natural Disaster. The replacement of any structure, other than a public works facility, destroyed by a disaster; provided, that the replacement structure conforms to applicable existing zoning requirements, is for the same use as the destroyed structure, does not exceed either the floor area, height, or bulk of the destroyed structure by more than ten percent, and is sited in the same location on the affected property as the destroyed structure. As used in this section, “disaster” means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owners.~~
- ~~2.— Demolition and Reconstruction. The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than ten percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.~~
- ~~3.— Improvements. Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height or bulk of the structure by more than ten percent, which do not block or impede access, and which do not result in a seaward encroachment by the structure.~~
- ~~4.— Repair and Maintenance. Repair or maintenance activity which, pursuant to Public Resources Code Section 30610, requires no permit unless the activity will have an adverse impact on lateral public access along the beach.~~
- ~~5.— Reconstruction and Repair. The reconstruction or repair of any seawall; provided, that the reconstructed or repaired seawall is not seaward of the location of the former structure. As used in this section, “reconstruction or repair” of a seawall shall not include replacement by a different type of structure or other modification design or construction which results in different or greater impacts to shoreline resources than those of the existing structure.~~

~~**E. Emergency:** a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.~~

~~**F. Environmentally Sensitive Area.** Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. Environmentally sensitive areas include, but are not limited to, wetlands, riparian corridors, Monarch butterfly habitats, and upland areas supporting significant populations of state or federally listed rare, threatened or endangered species.~~

~~**G. Feasible.** That which is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.~~

~~**F.H. Local Coastal Program (LCP).** The City’s ~~H~~and ~~u~~Use ~~p~~Plan and Implementation Plan, Zoning Code, Zoning Map and actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.~~

~~**G.I. Major Energy Facility.** Any public or private processing, producing, generating, storing, transmitting or receiving facility for electricity, natural gas, petroleum, coal, or other source of energy, for which the estimated construction costs exceed twenty-five thousand dollars. A “major energy facility” means any of the previously listed facilities that costs more than \$100,000 with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index except for those governed by the provisions of Public Resources Code Section 30610, 30610.5, 30611, or 30624.~~

~~**H.J. Major Public Works Facility.**~~

~~1. Any of the following:~~

- ~~a. All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.~~
- ~~b. All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.~~
- ~~c. All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.~~
- ~~d. All community college facilities.~~

~~2. A “major public works facility” means any of the above listed facilities that costs more than \$100,000 with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index except for those governed by the provisions of Public Resources Code Section 30610, 30610.5, 30611, or 30624. Notwithstanding the above criteria, a “major public works facility” also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.~~

~~Any public works project located within an area for which Coastal Permits are appealable, and that cost more than \$25,000 except where service by a public agency is required to protect life and public property from imminent danger, or to restore, repair or maintain public works, utilities or services destroyed, damaged, or interrupted by natural disaster or serious accident.~~

~~**I. Notice of Categorical Exclusion.** A form signed by the Community Development Director stating that a development meets the requirements for exclusion and is exempt from the Coastal Permit requirement.~~

~~**Shoreline Protectiveon DeviceStructure.** “Shoreline protectiveon devicestructure” means any device, structure or material, including but not limited to riprap or such as a seawall, revetment, riprap, bulkhead, deep pier/caisson, bluff retention device, etc., built~~

~~for the purpose of serving a coastal dependent use, or protecting an existing structure or public beach in danger from erosion placed in an area where coastal processes operate.~~

**K. Sea.** The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks and flood control and drainage channels. ~~“Sea” does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, including any river, stream, tributary, creek or flood control or drainage channel flowing directly or indirectly into such area.~~

**L. Shoreline Protective Device.** ~~“Shoreline protective device” means any device, such as a seawall, revetment, riprap, bulkhead, deep pier/caisson, bluff retention device, etc., built for the purpose of serving a coastal-dependent use, or protecting an existing structure or public beach in danger from erosion.~~

**J.M. Stream.** ~~Streams in the coastal zone, perennial or intermittent, which are mapped by the United States Geological Survey (USGS) in the National Hydrographic Dataset).~~

**N. Structure.** Any improvement permanently attached to the ground, including, but ~~is~~ not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line and electrical power transmission and distribution line.

**K.O. Wetland.** ~~“Wetland” means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.~~

#### ~~17.44.030~~17.44.040 Relationship to Base Zoning Districts

The -CZ overlay zone applies to property in conjunction with the base zoning districts. In case of a conflict between regulations, the regulations in this chapter shall take precedence over those of the base zoning district.

#### ~~17.44.040~~17.44.050 Allowed Land Uses

Allowed land uses in the -CZ overlay zone are the same as in the underlying base zoning district. Permits required for these uses (e.g., Conditional Use Permit, Administrative Permit) are the same as in the underlying base zoning district, and are required in addition to any required Coastal Permit.

#### ~~17.44.050~~17.44.060 Development Standards

**General.** Development standards (e.g., structure height, setbacks) that apply to property in the -CZ overlay zone are the same as in the underlying base zoning district.

~~A. **Affordable Housing Density.** The City may approve a density greater than allowed by the base zoning district for affordable residential projects in the CZ overlay zone if the following criteria are met:~~

- ~~1. The proposed increased density is consistent with the Coastal Act Section 30604(f), and Government Code Section 65915, and Chapter 18.03 of the Capitola Municipal Code.~~
- ~~2. The project is found to be in conformity with the Local Coastal Program (including, but not limited to, sensitive habitat, public viewshed, public recreational access and open space protections), with the exception of the density provisions.~~

#### ~~17.44.060~~17.44.070 Coastal Permit Requirements

**A. Permit Required.** All activities that constitute development, as defined in 17.3217.42.020, within the -CZ overlay zone requires a Coastal Permit except as specified in Section ~~17.3217.42.070~~ (Coastal Permit Exemptions) ~~and Section 17.32.080 (Coastal Permit Exclusions).~~

**B. Review Authority.**

1. The Planning Commission shall take action on all Coastal Permit applications that require other discretionary approval by the City.
2. The Community Development Director shall take action on all Coastal Permit applications for projects that require no other discretionary approval by the City Planning Commission or City Council.
3. The City Council may take action on Coastal Permit applications for public works projects that require no other discretionary permit approvals from the City other than funding approval.
4. Development authorized by a Coastal Commission-issued Coastal Permit remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment and revocation. Any additional development proposed addition on a parcel with a to development completed under the authority of a Coastal Commission-issued Coastal Permit shall be reviewed by the City pursuant to an application for a new Coastal Permit, provided that the Coastal Commission determines that the development addition is not contrary to any terms or conditions of the Commission-issued permit.

**C. Additional Permits.** The review of a Coastal Permit application shall be processed concurrently with any other discretionary permit applications required by the City. The City may not grant any discretionary approval for a proposed project that conflicts with this chapter. Discretionary approvals become effective only after a Coastal Permit is approved as required by this chapter.

**D. Legal Development and Permitting Processes.** Development that legally occurred prior to the effective date of the Coastal Act of 1976 is considered lawfully established



development. Improvements, repair, modification, or additions subject to such existing development requires a Coastal Permit in accordance with the provisions of this chapter. The Coastal Permit may be approved if the proposed development is consistent with the policies and standards of the City's LCP.

- E. Illegal Development and Permitting Processes.** Development that occurred after the effective date of the Coastal Act of 1976 and that did not receive a Coastal Permit or was not otherwise authorized under the Coastal Act, is not lawfully established or authorized development. No improvements, repair, modification, or additions to such existing development may be approved unless a Coastal Permit is approved that authorizes the existing development, and any violations are abated. The Coastal Permit shall only be approved if the existing and proposed development is consistent with the policies and standards of the City's LCP.

#### 17.44.070 17.44.080 Coastal Permit Exemptions

The following projects are exempt from the requirement to obtain a Coastal Permit.

- A. Existing Single-Family Residences.** In accordance with PRC Section 30610(a) and 14 CCR Section 13250, ~~I~~ improvements to an existing single-family residence, including fixtures and structures directly attached to a residence, landscaping, and structures normally associated with a single-family residence, such as garages, swimming pools, fences and storage sheds, but not including guest houses or self-contained residential units. This exemption also applies to replacement of a mobile home with one which is not more than ten percent larger in floor area, nor equipping a mobile home with removable fixtures such as a porch, the total area of which does not exceed ten percent of the square-footage of the mobile home itself. This exemption does not include:
1. Improvements to a single-family residence if the residence and/or improvement is located on a beach, in a wetland, seaward of the mean high-tide line, within an environmentally sensitive habitat area, in an area designated highly scenic in the LCP, or within 50 feet of the edge of a coastal bluff.
  2. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, within 50 feet of the edge of a coastal bluff, or within an environmentally sensitive habitat area.
  3. The expansion or construction of water wells or septic systems.
  4. On property not included in Subparagraph A.1 above that is located between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, ~~or in a significant public viewshed,~~ when one of the following circumstances apply:
    - a. Improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure; or

- b. An additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to this section; or
  - c. An increase in height by more than ten percent of an existing structure; and/or any significant non-attached structure such as garages, shoreline protective works or docks.
5. In areas having a critically short water supply as declared by resolution of the Coastal Commission, construction of major water-using development not essential to residential use such as swimming pools, or construction or extension of landscape irrigation systems.

Any improvement to a single-family residence where the Coastal Permit issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a Coastal Permit.

**B. Other Existing Structures.** In accordance with PRC Section 30610(b) and 14 CCR Section 13253, Improvements to an existing structure, other than a single-family residence or public works facility, including landscaping, and fixtures; and other structures directly attached to the structure. This exemption does not include:

1. Improvements to a structure if the structure and/or improvement is located on a beach; in a wetland, or stream; seaward of the mean high-tide line; in an area designated highly scenic in the LCP; or within 50 feet of the edge of a coastal bluff.
2. Any significant alteration of land forms including removal or placement of vegetation, on a beach or sand dune; in a wetland or stream; within 100 feet of the edge of a coastal bluff, in a highly scenic area, or in an environmentally sensitive habitat area.
3. The expansion or construction of water wells or septic systems.
4. On property not included in subparagraph B.1 above that is located between the sea and the first public road paralleling the sea; or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance; or in a significant public viewshed, when one of the following circumstances apply:
  - a. Improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure;
  - b. An additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to this section;
  - c. An increase in height by more than 10 percent of an existing structure; or any significant non-attached structure such as garages, shoreline protective works or docks.

5. In areas having a critically short water supply as declared by resolution of the Coastal Commission construction of major water-using development ~~not essential to residential use~~ such as swimming pools, or construction or extension of landscape irrigation systems.
6. Any improvement to a structure where the Coastal Permit issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a Coastal Permit.
7. Any improvement to a structure which changes the intensity of use of the structure.
8. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including, but not limited to, a condominium conversion, stock cooperative conversion or motel/hotel timesharing conversion.

**C. Maintenance Dredging of Navigation Channels.** In accordance with PRC Section 30610(c), ~~M~~maintenance dredging of existing navigation channels or moving dredged material from those channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers.

1. Any method of routine maintenance dredging that involves:

- a. The dredging of 100,000 cubic yards or more within a twelve month period;
- b. The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, on any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams; or
- c. The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.

**~~C.D.~~ Public Roads.** Repair and maintenance of existing public roads, including resurfacing and other comparable development necessary to maintain the existing public road facility as it was constructed, provided that:

1. There is no excavation or disposal of fill outside the existing roadway prism; and
2. There is no addition to and no enlargement or expansion of the existing public road.

**~~D.E.~~ Public Parks.** Routine maintenance of existing public parks, including repair or modification of existing public facilities and landscaping where the level or type of public use or the size of structures will not be altered.

**~~E.~~ Public Utilities.** Repair, maintenance, replacement, and minor alterations of existing public water, sewer, natural gas, electrical, telephone, television, and flood control infrastructure.

**F. Repair or Maintenance Activities.** In accordance with PRC Section 30610(d) and 14 CCR §13252, Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities. This exemption does not include:

1. Any method of repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:
  - a. Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;
  - b. The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for agricultural dikes within enclosed bays or estuaries;
  - c. The replacement of twenty percent or more of the materials of an existing structure with materials of a different kind; or
  - d. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff, or environmentally sensitive habitat area, or within twenty feet of coastal waters or streams.

~~2.1. Any method of routine maintenance dredging that involves:~~

- ~~a. The dredging of 100,000 cubic yards or more within a twelve month period;~~
- ~~b.a. The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, on any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams; or~~
- ~~e.a. The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.~~

~~3.2.~~ Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:

- a. The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials.
- b. The presence, whether temporary or permanent, of mechanized equipment or construction materials.

~~4.3.~~ Unless destroyed by natural disaster, the replacement of 50 percent or more of a single family residence, seawall, revetment, bluff retaining wall, breakwater, groin or

any other structure that is not repair and maintenance under Coastal Act Section 30610(d) but instead constitutes a replacement structure requiring a Coastal Permit.

~~5. In any particular case, even though a method of repair and maintenance is identified above, the Executive Director of the Coastal Commission may, where the Director finds the impact of development on coastal resources or coastal access to be insignificant, waive the requirement of a permit. The waiver shall not be effective until it is reported to the Coastal Commission at its next regularly scheduled meeting. If any three commissioners object the waiver, the proposed improvement may not be undertaken without a permit.~~

**G. Replacement of Destroyed Structures.** The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure. As used in this section, “disaster” means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner; “bulk” means total interior cubic volume as measured from the exterior surface of the structure.

**H. Conversion of Existing Multi-Unit Residential Structures.** The conversion of any existing multi-unit residential structure to a time-share project, estate, or use, as defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this chapter, no Coastal Permit is required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multi-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, is to be considered a time-share project, estate, or use for purposes of this paragraph.

**I. Temporary Events.** Temporary events as defined in this section and which meet all of the following criteria:

1. The event will not occur between the Saturday of Memorial Day weekend through Labor Day, or if proposed in this period will be of less than ~~one~~ two days in duration including setup and take-down; and
2. The event will not occupy any portion of a publicly or privately owned sandy beach or park area, public pier, public beach parking area and there is no potential for adverse effect on sensitive coastal resources; and
3. A fee will not be charged for general public admission and/or seating where no fee is currently charged for use of the same area (not including booth or entry fees); or if a fee is charged, it is for preferred seating only and more than 75 percent of the provided seating capacity is available free of charge for general public use; and
4. The proposed event has been reviewed in advance by the City and it has been determined that it meets the following criteria:

- a. The event will result in no adverse impact on opportunities for public use of or access to the area due to the proposed location and or timing of the event either individually or together with other development or temporary events scheduled before or after the particular event;
- b. There will be no direct or indirect impacts from the event and its associated activities or access requirements on environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources;
- c. The event has not previously required a Coastal Permit to address and monitor associated impacts to coastal resources.

**J. Emergency Work.** Immediate emergency work necessary to protect life or property, or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

#### **17.44.090 De Minimis Waiver of Coastal Permit**

The Director may waive the requirement for a Coastal Permit through a De Minimis Coastal Permit Waiver in compliance with this Section upon a written determination that the development meets all of the criteria and procedural requirements set forth in subsections A through G: below:

- A. No Adverse Coastal Resource Impacts.** The development has no potential for adverse effects, either individually or cumulatively, on coastal resources.
- B. LCP Consistency.** The development is consistent with the certified Capitola Local Coastal Program.
- C. Not Appealable to ~~CGC~~Coastal Commission.** The development is not of a type or in a location where an action on the development would be appealable to the Coastal Commission.
- D. Notice.** Public notice of the proposed De Minimis Waiver of Coastal Permit and opportunities for public comment shall be provided as required by Section 17.120 (Public Notice and Hearing), including provision of notice to the Coastal Commission.
- E. Executive Director Determination.** The Director shall provide a notice of determination to issue a De Minimis Waiver to the Executive Director of the Coastal Commission no later than 10 days prior to the required public hearing. If the Executive Director notifies the Director that a waiver should not be issued, the applicant shall be required to obtain a Coastal Permit if the applicant wishes to proceed with the development.
- F. Review and Concurrence.** The Director's determination to issue a De Minimis Waiver shall be subject to review and concurrence by the Community Development Director,

Planning Commission or City Council, as applicable. The Director shall not issue a De Minimis Waiver until the public comment period, including at a minimum through and including the required public hearing, has expired. No De Minimis Waiver may be issued unless it has been reported to decision makers at a regularly scheduled meeting where the public shall have the opportunity to testify and otherwise participate in a hearing on the De Minimis Waiver. If two or more decision makers so request at this hearing, the De Minimis Waiver shall not be issued and, instead, an application for a Coastal Permit shall be required and processed in accordance with the provisions of this chapter. Otherwise, the Waiver shall be deemed approved, effective, and issued the day of the public hearing. In addition to the noticing requirements above, within seven (7) calendar days of effective date of a De Minimis Waiver of Coastal Permit, the Director shall notify the Coastal Commission and any persons who specifically requested notice of such action via first class mail, a Notice of Final Action describing the issuance and effectiveness of the De Minimis Waiver.

**J.G. Waiver Expiration.** A De Minimus Waiver shall expire and be of no further force and effect if the authorized development is not completed within two years of the effective date of the waiver. In this event, a Coastal Permit shall be required for the development.

~~17.44.080 Categorical Exclusions~~

~~17.44.090 Coastal Exclusion Zone A. Within Coastal Exclusion Zone A, as shown in the Capitola Permit and Appeal Jurisdiction Map, the following projects do not require a Coastal Permit:~~

~~17.44.100 Residential Projects.~~

~~17.44.110 The construction of new residential projects, including accessory dwelling units, and the reconstruction, demolition, repair, relocation, alteration or addition to a residential project of one to four units on existing lots at densities specified in the LCP, on lots of record or lot combinations legal as of the date of LCP certification.~~

~~17.44.120 The installation of fixtures and other structures accessory to the main residence, including but not limited to patio covers, swimming pools, garages, greenhouses, gazebos, fences, pre-fabricated storage sheds, and non-habitable accessory structures.~~

~~17.44.130 Non-Residential Projects.~~

~~17.44.140 The construction, reconstruction, demolition, relocation, or alteration of the size of a commercial structure less than 5,000 square feet in size located on legal lots of record zoned for commercial use.~~

~~17.44.150 Additions to existing structures where the resulting size is 5,000 square feet or less.~~

~~17.44.160 Change of use from commercial, industrial, public or quasi-public use in an existing structure.~~

~~17.44.170 Outdoor sales, commercial sidewalk/parking lot sales and outdoors display of merchandise.~~

~~17.44.180 Exclusions are not permitted for any improvement associated with the conversion of an existing structure occupied by visitor serving hotels, motels or other accommodations.~~

~~17.44.190 Land Clearing. When consistent with the City Community Tree and Forest Ordinance No. 863.~~



- ~~17.44.200 — Boundary Adjustments. Boundary adjustments not resulting in an increase in the number of building sites, buildable lots, or density of permitted development.~~
- ~~17.44.210 Grading and Filling. Grading and filling in conjunction with an approved project; or grading and filling consistent with the local coastal program provisions.~~
- ~~17.44.220 — Temporary Structures. All temporary (six months or less; non-renewable) structures and uses consistent with City regulations and that do not conflict with public access and access policies.~~
- ~~17.44.230 — Other Excluded Development and Activities.~~
- ~~17.44.240 — Abatement of dangerous buildings and other nuisances pursuant to the Municipal Code.~~
- ~~17.44.250 — Any project undertaken by a federal agency.~~
- ~~17.44.260 — Construction of new bikeways (within existing rights-of-ways), except if new construction reduces parking in the beach areas.~~
- ~~17.44.270 — Development requiring land use determinations with no potential for adverse impacts, and not including or affecting any visitor-serving uses.~~
- ~~17.44.280 — Driveway width modification requests which are in accordance with the provisions contained in Municipal Chapter 12.32.~~
- ~~17.44.290 — Encroachment permits.~~
- ~~17.44.300 — Home occupations.~~
- ~~17.44.310 Interior remodels and tenant improvements in residential and commercial structures when no intensification of the use and no loss of visitor-serving use is taking place.~~
- ~~17.44.320 — Lot mergers, certificates of compliance, and reversions not resulting in a net increase in the number of building sites or potential building sites.~~

- ~~17.44.330 — Public signs and other equipment installation in the public right-of-way, including but not limited to parking meters.~~
- ~~17.44.340 — Projects with valid permit from the California Coastal Commission.~~
- ~~17.44.350 — The installation of new or replacement signs and modifications to existing signs, provided the sign meets the requirements of the City of Capitola sign ordinance and/or LUP Implementation Plan, and excluding those signs governing shoreline areas.~~
- ~~17.44.360 — Tree removals consistent with Municipal Code Chapter 12.12 (Community Tree and Forest Management).~~
- ~~17.44.370 — Coastal Exclusion Zone B. Within Coastal Exclusion Zone B, as shown in the Capitola Permit and Appeal Jurisdiction Map, the following projects do not require a Coastal Permit:~~
- ~~17.44.380 — Bikeways. Construction of new bikeways (within existing rights-of-ways), except if new construction reduces parking in the beach areas.~~
- ~~17.44.390 — Fences. Fence up to six feet in height with an additional two feet of lattice, per the Capitola development standards.~~
- ~~17.44.400 — Fixtures and Accessory Structures. Attached fixtures and accessory structures up to 120 square feet.~~
- ~~17.44.410 Residential Remodels. Improvements to single-family residences or minor residential remodels, not located in the environmentally sensitive habitat areas, including additions up to thirty percent of living area or not exceeding 400 square feet, whichever is less, and with less than ten percent increase in height, with architectural materials and colors to match the existing house.~~
- ~~17.44.420 — Public Signs and Equipment. Public signs and other equipment installation in the public right-of-way, including but not be limited to parking meters.~~
- ~~17.44.430 — Secondary Dwellings Units. Secondary dwelling units consistent with Chapter 17.60 (Secondary Dwelling Units).~~

- ~~17.44.440 — Signs. The installation of new or replacement signs and modifications to existing signs consistent with Chapter 17.64 (Signs), and excluding those signs governing shoreline areas.~~
- ~~17.44.450 — Temporary Structures. All temporary (six months or less; non-renewable) structures and uses consistent with regulations and do not conflict with public access and access policies.~~
- ~~17.44.460 — Determination of Excludability.~~
- ~~17.44.470 — The determination of whether a development is categorically excluded or not, for purposes of notice, hearings, and appeals, shall be made by the Community Development Director at the time the Coastal Permit application is submitted.~~
- ~~17.44.480 — This determination shall be made with reference to the certified LCP, including any maps, categorical exclusions, land use designations and zoning regulations adopted as part of the LCP. Only developments that fully comply with the certified LCP may be allowed under a categorical exclusion.~~
- ~~17.44.490 — Notice of Exclusion.~~
- ~~17.44.500 — Notices of exclusion shall be issued on forms prepared for that purpose by the Community Development Department, and shall indicate the developer's name, street address, if any, and assessor's parcel number of the project site, a brief description of the development, a description of the reasons for why the development meets the standards for the applicable specific exclusion order, and the date of application for any other permit.~~
- ~~17.44.510A copy of the notice of exclusion shall be provided to the Coastal Commission and to any person who has requested such notice within five working days of issuance. The notice of exclusion may be issued at the time of project application but shall not become effective until all other approvals and permits required for the project are obtained. A copy of all terms and conditions imposed by the City shall be provided to the Coastal Commission, pursuant to Section 13315 of the California Code of Regulations.~~

~~17.44.520 — Effect of a Categorical Exclusion Order. Pursuant to the California Code of Regulations Section 13247, an order granting an exclusion for a category of development removes that category of development from the permit requirements of Chapter 7 of the California Coastal Act of 1976 to the extent and in the manner specifically provided in the exclusion order. Only development consistent with such order may take place unless the order is amended or terminated or a Coastal Permit is issued.~~

#### 17.44.530 17.44.100 Challenges to City Determinations

##### A. General.

- ~~1. In the case of disputes over the City's determination of Coastal Permit requirement, exclusion or applicable hearing and appeals procedures, the Community Development Director shall request an opinion of the Executive Director of the Coastal Commission. Local acceptance for filing and/or processing of the permit application shall cease until the Community Development Department receives the determination of appropriate process from the Executive Director of the Coastal Commission or the Coastal Commission. The determination of whether a development is, nonappealable, or appealable for purposes of notice, hearing, and appeals procedures shall be made by the Community Development Director at the time the Coastal Permit application for development within the Coastal Zone is submitted or as soon thereafter as possible, and in all cases prior to the application being deemed complete for processing.~~
- ~~2. This determination shall be made with reference to the certified Local Coastal Program, including any maps, land use designations and zoning ordinances which are adopted as part of the Local Coastal Program.~~

~~**B. Procedure.** Where an applicant, interested person, or the Community Development Director has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is, nonappealable, or appealable:~~

- ~~1. The Community Development Director shall make its determination as to what type of development is being proposed and shall inform the applicant of the notice and hearing requirements for that particular development (i.e., appealable or nonappealable).~~
- ~~2. If the determination of the local government is challenged by the applicant or an interested person, or if the Community Development Director wishes to have a Commission determination as to the appropriate designation, the Community Development Director shall notify the Commission by telephone of the dispute/question and shall request an Executive Director's opinion;~~

3. The Executive Director shall, within two working days of the request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is nonappealable or appealable;
- 2.4. Where, after the Executive Director's investigation, the Executive Director's determination is not in accordance with the Community Development Director's determination, the Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Commission shall schedule the hearing on the determination for the next Commission meeting –following the Community Development Department request.

#### 17.44.54017.44.110                      **Application Submittal**

- A. Coastal permit applications shall be filed and reviewed in compliance with Chapter 17.90 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.3217.42.110 (Findings for Approval).
- B. Application for a Coastal Permit shall be made concurrently with application for any other permits or approvals required by the Zoning Code.
- C. At time of submittal of Coastal Permit application, the City shall make a determination of whether the development is -appealable or non-appealable in accordance with Section 17.3217.42.080.

#### 17.44.55017.44.120                      **Public Notice and Hearing**

- A. **Planning Commission Review.** The Planning Commission shall review and act on a Coastal Permit application at a noticed public hearing in compliance with Chapter 17.120 (Public Notice and Hearings). However, processing at levels other than the Planning Commission shall apply in the following cases:
1. **City Council Review.** The proposed development does not requires any other discretionary permit approvals to be reviewed and acted upon by the ~~City Council~~ Planning Commission, in which case the Coastal Permit application will be reviewed and acted on by the City Council; or
  2. **Minor Development.** The City may waive the public hearing requirement for appealable development that qualifies as “minor development”. Such development shall that requires no other discretionary approval by the City. A public hearing may be waived if the project has no potential for adverse effects on coastal resources or public access to the shoreline, is consistent with the certified LCP, and if the following apply:
    - a. Notice that a public hearing would be held upon request is sent to all persons who would otherwise be required to be notified of a public hearing and any other persons who have shown interest;

- b. No request for a public hearing is received within fifteen working days from the date notice was mailed out; and
- c. The notice discloses that the failure to request a public hearing triggers the loss of appeal power on the matter being considered for administrative approval.

#### ~~17.44.560~~17.44.130 Findings for Approval

To approve a Coastal Permit, the review authority shall make all of the following findings:

- A. The project is consistent with the General Plan, the LUCP, and the Local Coastal Implementation Program.
- B. The project maintains public views between the sea and the first public roadway parallel to the sea.
- C. The project protects vegetation, natural habitats and natural resources consistent with LCP.
- D. The design, location, size, and operating characteristics of the proposed development is consistent with any applicable design plans and/or area plans incorporated into the LCP.
- E. The project maintains public access to the coast along any coastline as set forth in the LCP.
- F. The project supports the LCP goal of providing visitor-serving needs as appropriate.
- G. The project is consistent with the LCP goal of encouraging appropriate coastal development uses.
- H. The proposed development protects and where feasible enhances coastal resources.

#### ~~17.44.570~~17.44.140 Notice of Final Action

The City's action on a Coastal Permit shall become final when all local rights of appeal have been exhausted per Section ~~17.32~~17.42.130. Within seven calendar days of a final decision on a Coastal Permit application, the City shall provide notice of its action by first class mail to the applicant, the Coastal Commission, and any other persons who have requested such notice by submitting a self-addressed, stamped envelope to the City. The notice shall contain the City's approved staff report, plans, adopted findings, conditions of approval, indication of whether the project is appealable to the Coastal Commission and the reasons for why it is or is not, and procedures for appeal to the Commission. The City's decision on a Coastal Permit application shall be deemed final when all local rights of appeal have been exhausted as defined in Section ~~17.32~~17.42.130 (Appeals).

#### ~~17.44.580~~17.44.150 Appeals

- A. **Local Appeals.** Community Development Director decisions on Coastal Permits may be appealed to the Planning Commission and Planning Commission decisions may be

appealed to the City Council as described in Chapter 17.124 (Appeals and Calls for Review).

#### B. Appeals to the Coastal Commission.

1. In accordance with PRC Section 30603, Any approval decision by the City on a Coastal Permit in the geographic areas defined in subsection 3(a-c), below, or any approval or denial decision by the City on a Coastal Permit for a major public works project (including a publicly financed recreational facility and/or a special district development) or a major energy facility located anywhere in the coastal zone, may be appealed to the Coastal Commission.
2. Appeals to the Coastal Commission may be filed by the project applicant, any aggrieved person, or any two members of the Coastal Commission.
3. The following types of projects may be appealed to the Coastal Commission.
  - a. Projects located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
  - b. Projects located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.
  - c. Projects in a sensitive coastal resource area as defined in the LCP.
  - d. Any development which constitutes a major public works project or a major energy facility.
4. Appeals must be submitted to the Coastal Commission within 10 ~~calendar~~working days of Coastal Commission receipt of a complete notice of final action.
5. City decisions may be appealed to the Coastal Commission only after an appellant has exhausted all local appeals, except that exhaustion of all local appeals is not required if any of the following occur:
  - a. The City requires an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for Coastal Permits in the coastal zone.
  - b. An appellant was denied the right of the initial local appeal by a City ordinance which restricts the class of persons who may appeal a local decision.
  - c. An appellant was denied the right of local appeal because City notice and hearing procedures for the development did not comply with the provisions of this title.
  - d. The City required an appeal fee for the filing or processing of the appeal.
6. Grounds for appeal of an approved Coastal Permit are limited to the following:
  - a. The development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth by the California Coastal Act;

- b. An appeal of a denial of a permit for a major public works shall be limited to an allegation that the development conforms to the standards set forth in the certified local coastal program and the public access policies set forth in the California Coastal Act.
- ~~a. The development fails to provide adequate physical access, public or private commercial use, or interferes with such uses;~~
- ~~b. The development fails to protect public views from any public road or from a recreational area to and along the coast, as identified in the certified local coastal program;~~
- ~~c. The development is not compatible with the established physical scale of the area, as identified in the certified local coastal program;~~
- ~~d. The development may significantly alter existing natural landforms;~~
- ~~e. The development does not comply with shoreline erosion and geologic setback requirements.~~

#### 17.44.59017.44.160 Permit Issuance

##### A. Effective Date of a Coastal Permit.

1. In areas outside the Coastal Commission appeal area, Coastal Permits shall become effective seven working days after the City's final decision.
2. In areas within the Coastal Commission appeal area, Coastal Permits shall become effective after ten working days if no appeal has been filed. The ten-day appeal period shall start the day after the Coastal Commission receives adequate notice of the final local action.

**B. Expiration of Permits.** A Coastal Permit not exercised within two years shall expire and become void, except where an extension of time is approved as allowed by Section 17.128.060.C (Extension of Time).

**C. Revocation of Permits.** Coastal permits may be revoked as provided for in Section 17.128.090 (Permit Revocation)

**D. Resubmittals.** For a period of twelve months following the denial or revocation of a Coastal Permit, the City shall not accept an application for the same or substantially similar permit for the same site, unless the denial or revocation was made without prejudice, and so stated in the record.

#### 17.44.60017.44.170 Emergency Permits

**A. Purpose.** Emergency Coastal Permits may be granted at the discretion of the Community Development Director or a local official designated by the City Council for projects normally requiring Coastal Permit approval. To be eligible for an emergency permit, a project must be undertaken as an emergency measure to prevent loss or damage to life,



health or property, or to restore, repair, or maintain public works, utilities and services during and immediately following a natural disaster or serious accident.

- B. Application.** Application for an emergency permit shall be made to the City by letter if time allows, and by telephone or in person if time does not allow. The applicant shall submit the appropriate fees at the time of application for an emergency permit.
- C. Required Information.** The information to be reported during the emergency, if it is possible to do so, or to be fully reported after the emergency, shall include all of the following:
1. The nature of the emergency.
  2. The cause of the emergency, insofar as this can be established.
  3. The location of the emergency.
  4. The remedial, protective or preventive work required to deal with the emergency.
  5. The circumstances during the emergency that appeared to justify the course of action taken, including the probable consequences of failing to take action.
- D. Verification of Facts.** The Community Development Director or other designated local official shall verify the facts, including the existence and nature of the emergency, as time allows.
- E. Public Notice.** If time allows, the Community Development Director shall provide public notice of the proposed emergency action, with the extent and type of notice determined on the basis of the nature of the emergency itself.
- F. Criteria for Granting Permit.** The Community Development Director may grant an emergency permit upon making all of the following findings:
1. An emergency exists and requires action more quickly than permitted by the procedures for ordinary permits.
  2. The development can and will be completed within thirty days unless otherwise specified by the terms of the permit.
  3. Public comment on the proposed emergency action has been reviewed if time allows.
  4. The work proposed would be consistent with the requirements of the certified LCP.
- G. Conditions.** The Community Development Director may attached reasonable terms and conditions to the granting of an emergency permit, including an expiration date and the necessity for a regular permit application by a specified date.
- H. Limitations.**
1. The emergency work authorized under approval of an emergency permit shall be limited to activities necessary to protect the endangered structure or essential public structure.

2. The emergency approval shall be voided if the approved activity is not exercised within 15 days of issuance of the emergency permit.
  3. The approval shall expire 60 days after issuance. Any work completed outside of these time periods requires a regular Coastal Permit approval unless an extension is granted by the City.
- I. **Application for Regular Coastal Permit.** Upon the issuance of an emergency permit, the applicant shall submit a completed Coastal Permit application and any required technical reports within a time specified by the Community Development Director, not to exceed 30 days.
  - J. **Reporting of Emergency Permits.** The Community Development Director shall report emergency permits to the Coastal Commission and to the City Council and Planning Commission.

~~17.44.610~~17.44.180 Coastal Permit Amendments

- A. **New Application.** An applicant may request an amendment a Coastal Permit by filing a new application pursuant to the requirements of this chapter.
- B. **Consistency Required.** Any amendment approved for development in the coastal zone shall be found consistent with all applicable local coastal program requirements and this chapter with regards to requirements of jurisdiction, hearings, notices and findings for approval.

## Chapter 17.56 – ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES

### Sections:

- 17.56.010 Purpose and Intent
- 17.56.020 Coastal Permit
- 17.56.030 Archaeological Survey Report
- 17.56.040 Environmental Assessment Requirement
- 17.56.050 Development Standards



**Note:** Chapter 17.11 in the existing Zoning Code has been revised to apply archaeological and paleontological resource protection measures as city-wide standards rather than an overlay zone.

### ~~1-~~17.56.010 Purpose and Intent

This chapter establishes standards to protect Capitola’s archaeological and paleontological resources. New land uses and development, both public and private, shall be considered compatible with this purpose only where they incorporate all site planning and design features necessary to avoid or mitigate impacts to archaeological and paleontological resources.

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### ~~2-~~ Coastal Permit

~~Within the CZ overlay zone, a Coastal Permit is required for all development proposed within 750 feet of a known archaeological or paleontological resource as identified through a survey report, or as shown on current Capitola resource maps or other available information.~~

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### ~~3-~~17.56.020 Archaeological Survey Report

~~1-A. When Required.~~ An archaeological survey report is required for any development located within:

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1. An Archaeological/Paleontological Sensitivity Areas as shown in the Capitola Resource Map (Local Coastal Program, Map I-1);
2. 750 feet of a known archaeological resource; or
3. An area with a probability of containing archaeological resources, as determined through the City planner’s onsite investigation or other available information.

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~~2-B. Report Preparation.~~ The City will initiate the preparation of the survey report at the applicant’s expense utilizing a qualified archaeologist selected by the Community Development Department. The survey report shall be submitted to and accepted by the City prior to deeming the application complete.

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Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

**3.C. Mitigation Plan**

- 1. Where construction on, or construction impacts to, an ~~identified~~ archaeological or paleontological site cannot be avoided, as verified in the archaeological report prepared for the project, a mitigation plan shall be prepared for the project. The mitigation plan shall be submitted to and approved by the City prior to deeming the application complete, ~~the City shall approve the mitigation plan.~~
- 2. The mitigation plan shall include ~~be recommended~~ preservation measures in accordance with the guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.
- 3. The consulting archaeologist shall file ~~the both the archeological survey report and mitigation plan~~ with the State Office of Historic Preservation and where the plan contains recommendations that will impose any continuing restrictions or obligations on the property, an agreement approved by the City Attorney, binding the property's owner to the restrictions or requirements, shall also be recorded with the County Recorder. Such agreement shall list the official file number of the report and the location of the document.

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**4.D. Mitigation Measures.** The recommended mitigation measures contained in the archaeological survey report and mitigation plan shall be made a condition of approval.

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**5.E. Required Condition.** Where a mitigation plan has been prepared for a proposed development, a condition of project approval shall be that:

- 1. The preservation measures recommended in the mitigation plan shall be undertaken and completed prior to the issuance of building or grading permits, whichever comes first; or
- 2. Where appropriate, according to the recommendations contained in the mitigation plan, the preservation measures shall be undertaken concurrent with grading or other soil-disturbing activities and shall be undertaken in accordance with the mitigation plan, as a condition of the grading or building permit; and
- 3. The results of the preservation activities shall be compiled into a final report prepared by the archaeologist and submitted to the City prior to the issuance of building or grading permits. The City shall contract directly with the archaeologist to prepare the final report at the applicant's expense.

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**6.F. Report Standards.** The archeological survey report, mitigation plan, and final report shall be prepared according to the report standards of the Society of Professional Archaeologists and must include, at a minimum, a field survey by the archaeologist, survey of available state resource information at the Northwest Regional Information Center of the California Archaeological Inventory, description of the site's sensitivity and any identified archaeological resources, appropriate levels of development if any on the site, and recommended mitigation measures. The report may be required to include additional information, according to the circumstances of the particular site.

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~~7.~~ **Waiver of Report Requirement.** ~~The R~~requirement to prepare an archaeological survey report may be waived by the Community Development Director ~~under the following circumstances:~~if

~~8.G.A~~ a previous report was prepared for the site by a qualified archaeologist, as included on the City's list of archaeological consultants or as a member of the Society of Professional Archaeologists; and ~~either of the following apply:~~

1. The report clearly and adequately included the currently-proposed development site within the scope of its survey; or
2. The proposed development does not involve land clearing, land disturbance, or excavation into native soils.

~~4.~~ **Environmental Assessment Requirement**

~~All development proposed on parcels with known archaeological resources, as identified through the survey report, shall be subject to environmental assessment under the California Environmental Quality Act (CEQA) Guidelines.~~

~~5.17.56.030~~ **Development Standards**

~~1.A.~~ **Design and Location.** Development proposed ~~on parcels with an~~within areas identified ~~archeological site in Section 17.56.020.A (When Required)~~ shall be designed and located so as to avoid development on or impacts to the site. Alternative siting or location, reduction of project size, and other techniques shall be ~~utilized~~required where that technique will result in reduced impact to or non-disturbance of the archaeological site.

~~2.B.~~ **Mitigation Measures.** Development proposed within areas identified in Section 17.56.020.A (When Required) ~~on parcels with an archaeological site, as identified through an archaeological report prepared for the site,~~ shall be subject to the mitigation measures of the archaeological survey report as conditions of approval, to be completed prior to the issuance of building or grading permits.

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Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

## Chapter 17.60 – FENCES AND WALLS

### Sections:

- 17.60.010 Permit Requirements
- 17.60.020 Measurement of Fence and Wall Height
- 17.60.030 Height Limits
- 17.60.040 Fences Adjacent to Soquel Creek Pathway and Grand Avenue Walkway
- 17.60.050 Materials
- 17.60.060 Parking Lot Screening
- 17.60.070 Private Agreements

### 17.60.010 Permit Requirements

- A. Administrative Permit.** An Administrative Permit is required to establish a new fence or wall consistent with the height, placement, and material standards in this chapter. Replacement of an existing fence that is in compliance with standards of this chapter does not require a permit.
- B. Design Permit.** The Planning Commission may allow fences and walls that deviate from height, placement, and material standards with the approval of a Design Permit. The Planning Commission may approve a deviation to a fence standard provided that the deviation will not result in a significant adverse impact for neighboring properties or the community at large when one or more of the following apply:
1. Unique circumstances exist on the site, such as a property line abutting a highly trafficked public street or path or historic use of screening for the property; and/or
  2. The deviation is necessary for the reasonable use and enjoyment of the property.
- C. Building Permit.** Fences and walls may require a building permit as required by California Building Code.
- D. Encroachment Permit.**
1. A fence in the public right-of-way requires Public Works Department approval of a Minor Revocable Encroachment Permit. See Municipal Code Section 12.56.060(A).
  2. A wall in the public right of way requires Planning Commission approval of a Major Revocable Encroachment Permit. See Municipal Code Section 12.56.060(B).

### 17.60.020 Measurement of Fence and Wall Height



**Note:** Rules for the measurement of fence and wall height in this section are new.

- A. Measurement of Height.** The height of a fence or wall is measured from the finished grade at the base of the fence or wall to the top edge of the fence or wall.

- B. Fences on Walls.** If a fence is atop a wall, the total height is measured from the base of the wall.
- C. Different Finished Grades.** If the adjacent finished grade is different on opposite sides of a fence or wall, the height is measured from the side with the lowest finished grade to the highest point on the fence or wall.

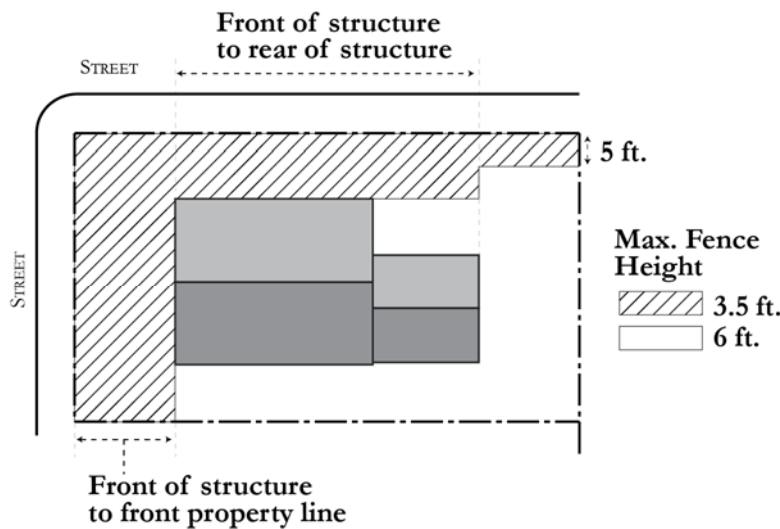
**17.60.030 Height Limits**

- A. Maximum Height.** The maximum height of fences and walls in all zoning districts is shown in Table 17.60-1 and Figure 17.60-1.

**TABLE 17.60-1: FENCE AND WALL HEIGHT**

Location	Maximum Height
Area from the front property line to the front facade of the primary structure	3 ½ ft.
Areas on a corner lot shown in Figure 17.60-1.	3 ½ ft.
All other locations	6 ft.
Alley	3 ½ ft.

**FIGURE 17.60-1: FENCE AND WALL HEIGHT**



- B. Fences and Walls as Landscape Feature.** A fence or wall used as a landscape feature which does not enclose the perimeter of the property may exceed the height limits in side and rear setback areas shown in Figure 17.60-1 up to a maximum of 6 feet.
- C. Decorative Features and Materials.**

1. An additional 2 feet of fence height is permitted above a 6-foot high fence for lattice or other similar material that is at least 50 percent transparent.
2. Decorative arches and other similar features above an entry walkway may be up to 10 feet in height within a required front and exterior side setbacks.



**Note:** Allowance for decorative arches in paragraph 2 above is new. Requirement that fences not interfere with use of parking spaces in subsection C below is new.

- D. Use of Parking Spaces.** Fences and walls may not be placed in a location that interferes with the use of a required on-site or street parking spaces.
- E. Coastal Access.** Fences may not prevent or obstruct public access to the coast or shoreline. Fences also may not block or obscure public views to the coast.

#### 17.60.040 Fences Adjacent to Soquel Creek Pathway and Grand Avenue Walkway

All fences adjacent to the pedestrian paths along the east side of Soquel Creek north of Stockton Avenue and along the Grand Avenue Walkway shall comply with the following standards:

- A. Maximum height: 3 ½ feet.
- B. Required material: wood, ornamental steel or iron, or other similar material.
- C. Fences may not be constructed of solid material. Fences shall maintain public views through the use of widely-spaced vertical posts or other techniques.

#### 17.60.050 Materials



**Note:** Material standards in this section are new.

- A. Permitted Materials.** Fences and walls shall be constructed of decorative masonry, ornamental steel or iron, or wood, and shall be of a complementary color and material with the primary building. Other materials may be permitted if the Community Development Director determines the design to be compatible with adjacent structures and its surrounding neighborhood.
- B. Prohibited Materials.**
1. Fences and walls may not be constructed of inappropriate materials such as sheet metal, vehicles, underground/above-ground tanks, garage doors, aluminum siding, corrugated tin, and other similar materials not specifically designed for use as fencing.



2. Barb-wire, razor wire, and electric fences are prohibited in all zoning districts. Chain link fences are prohibited in residential zoning districts, except for temporary use during construction with an active building permit.

#### **17.60.060 Parking Lot Screening**

Parking lots of six spaces or more shall be screened with a fence or wall as required by Subsection 17.76.060.I (Screening).

#### **17.60.070 Private Agreements**

This chapter is not intended to interfere with any agreement between private parties regarding the placement, height, or design of fences and walls. Where conflict occurs between this chapter and such a private agreement, the City shall follow this chapter. The City is not responsible for monitoring or enforcing private agreements or mediating fence and wall disputes between neighbors.

## Chapter 17.04 – PURPOSE AND EFFECT OF ZONING CODE

### Sections:

- 17.04.010 Title and Authority
- 17.04.020 Purpose of the Zoning Code
- 17.04.030 Relationship to the General Plan
- 17.04.040 Applicability of the Zoning Code

### 17.04.010 Title and Authority

Title 17 of the Capitola Municipal Code shall be known and cited as the “Capitola Zoning Code” and referred to in this title as “the Zoning Code.” The Zoning Code is adopted pursuant to the authority in Section 65850 of the California Government Code.

### 17.04.020 Purpose of the Zoning Code

- A. General.** The purpose of the Zoning Code is to implement the General Plan and the Local Coastal Program Land Use Plan (LUP) and to protect the public health, safety, and welfare.
- B. Specific.** The Zoning Code is intended to:
1. Preserve and enhance Capitola’s small-town feel and coastal village charm.
  2. Ensure that all development exhibits high-quality design that supports a unique sense of place.
  3. Protect and enhance the quality of life in residential neighborhoods.
  4. Encourage active and inviting commercial and mixed-use areas.
  5. Support a vibrant, diverse, and dynamic local economy.
  6. Allow for a broad range of housing choices that meets the needs of all segments of the community.
  7. Protect and enhance natural resources that contribute to Capitola’s unique identity and scenic beauty.
  8. Maintain and enhance coastal access and visitor-serving facilities and services.
  9. Protect and preserve the Capitola’s historic resources.
  10. Support a balanced transportation system that accommodates the needs of automobiles, pedestrians, bicycles, and other forms of transportation.
  - 10.11. Ensure the protection of coastal resources.

### 17.04.030 Relationship to the General Plan

The Zoning Code implements the General Plan by regulating the use of land and structures in Capitola. If the Zoning Code conflicts with the General Plan, the General Plan governs.

### 17.04.040 Relationship to the Local Coastal Program

A. General. The Zoning Code is a component of Capitola's Local Coastal Program (LCP) prepared in accordance with the California Coastal Act of 1976 (Coastal Act). The LCP consist of the Local Coastal Program Land Use Plan (LUP) and the Local Coastal Program Implementation Plan (IP). The LCP applies to areas within the coastal zone as identified on the City of Capitola Zoning Map and within the LCP.

#### B. Local Coastal Program Implementation Plan.

1. The Local Coastal Program IP establishes specific land use and development regulations to implement the Local Coastal Program LUP and the Coastal Act. The following Zoning Code chapters are a part of Capitola's Local Coastal Program IP:
  - a. All chapters in Part 2 (Zoning Districts and Overlay Zones).
  - b. All chapters in Part 3 (Citywide Standards).
  - c. Chapter 17.160 (Glossary).
2. Any portion of the Zoning Code not specifically identified in subsection (1) above is hereby declared to not be a component of Capitola's Local Coastal Program IP.

C. Conflicting Provisions. If the Local Coastal Program Implementation Plan conflicts with the Local Coastal Program Land Use Plan, the policy and/or standard that is most consistent with the Coastal Act shall govern.

### ~~17.04.040~~17.04.050 Applicability of the Zoning Code

- A. Applicability to Property.** The Zoning Code applies to all land, uses, and structures within the Capitola city limits.
- B. Compliance with Regulations.** All uses, structures, and development activity in Capitola shall comply with the Zoning Code.
- C. Conflicting Regulations.** Where conflict occurs with other city regulations or with state or federal laws, higher law shall control over lower law unless local variation is permitted. Where conflicting laws are of equal stature, the more restrictive shall control unless otherwise specified in the Zoning Code or in state or federal law. In the coastal zone, in case of conflict between the Local Coastal Program and any other City law, regulation, or policy, the Local Coastal Program shall prevail.

## Chapter 17.72 LANDSCAPING

### Sections:

- 17.72.010 Purpose
- 17.72.020 Applicability
- 17.72.030 Water Efficient Landscape Design and Installation Ordinance
- 17.72.040 Landscape Plans
- 17.72.050 Required Landscape Areas
- 17.72.060 Landscape Standards
- 17.72.070 Landscape Maintenance

### 17.72.010 Purpose

This chapter establishes landscaping standards to enhance the aesthetic appearance of developed areas in Capitola and to promote the efficient use of water resources.

### 17.72.020 Applicability



**Note:** Thresholds for additions to existing development in Subsections B and C are new. Existing Zoning Code Section 17.97.010 states standards apply to new construction and to remodels of commercial, industrial, multi-family, and planned development.

**A. Multi-Family and Non-Residential Projects.** The following multi-family and non-residential projects shall comply with all requirements of this chapter:

1. Construction of new structures.
2. Additions that increase the floor area of a multi-family or non-residential structure by 3,000 square feet or more.

**B. Singly Family Projects.**

1. New single-family homes shall comply with all requirements of this chapter.
2. If existing landscaping is disturbed or new landscaping is added as part of a remodel or addition to an existing single-family home that requires a Design Permit, the new landscaping shall comply with the standards in Section 17.72.060 (Landscape Standards). The City will evaluate compliance with these standards based on the plans and materials submitted as part of the Design Permit application. Submittal of a Landscape Plan for the entire site in accordance with Section 17.72.040 (Landscape Plans) is not required.

### 17.72.030 Water Efficient Landscape Design and Installation Ordinance

**Note:** This section is new as required by State law.



In addition to the requirements of this chapter, all applicable development in Capitola shall also comply with the Model Water Efficient Landscaping Ordinance prepared by the California Department of Water Resources (DWR), when required by the California Water Conservation in Landscaping Act (Government Code Section 65591 et seq.) If conflicts occur between the Model Water Efficient Landscaping Ordinance and the Zoning Code, the more restrictive policy to conserve water shall control.

### 17.72.040 Landscape Plans

- A. Landscape Plan Required.** Projects subject to the requirements of this chapter shall submit a landscape plan as part of planning permit applications (e.g., Design Permit applications) and subsequent building permit applications.
- B. Required Contents.** Landscape plans shall include the following features and information:
1. Site boundaries.
  2. Existing conditions on the property, including contours and existing structures.
  3. Structures immediately adjacent to the property.
  4. New structures and improvements proposed as part of the development project.
  5. Existing landscaping, trees, and vegetation to be retained specifying plant location, species, and size. Details of existing trees shall also include tree diameter measured 48 inches above existing grade and outer limit of tree canopy.
  6. New landscaping proposed as part of the development project specifying plant location, species, and size.
  7. Irrigation plan specifying the location, type, and size of all components of the irrigation system.
  8. Proposed grading.
  9. Additional information as determined by the Community Development Department to demonstrate compliance with the requirements of this chapter.
- C. Review and Approval.** The Community Development Department shall review all landscape plans to verify compliance with this chapter. Landscape plans shall be approved by the review authority responsible for approving the planning permits required for the proposed project.
- D. Changes to Approved Landscape Plans.**
1. Substantial modifications to an approved landscape plan shall be allowed only by the review authority which approved the landscape plan.

2. The Community Development Director may approve minor modifications to a landscape plan previously approved by the Planning Commission. Minor modifications are defined as changes to a landscape plan that do not alter the general design character of the landscaped area or alter a feature of the landscaped area specifically required by the Planning Commission.

**17.72.050 Required Landscape Areas**

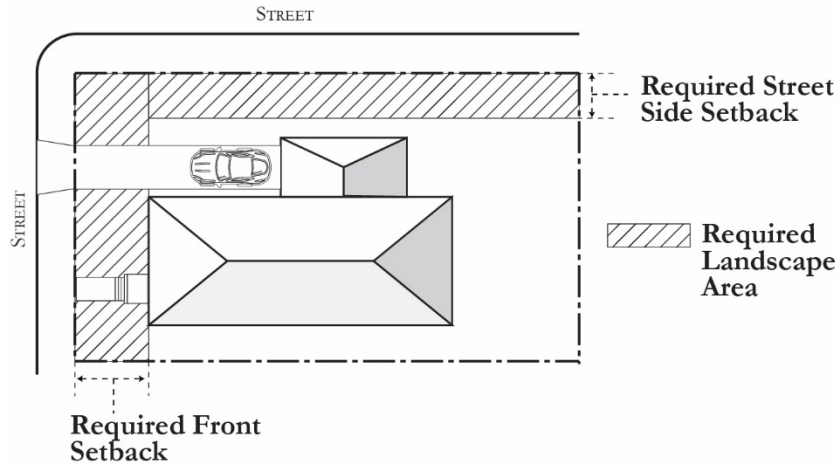
**A. Residential Zoning Districts.**

1. All required front and street side setback areas, excluding areas required for access to the property, shall be landscaped and maintained. See Figure 17.72-1.
2. Landscaping may consist of any combination of living plants, such as trees, shrubs and grass or related natural features, such as rock, stone, or mulch; and may include patios, courtyards, and outdoor dining areas. Decorative hardscape featuring pervious materials is permitted within required landscaping areas.

**B. Non-Residential Zoning Districts.**

1. The minimum landscaped area on a site is shown in Table 17.72-1.
2. In the MU-V and MU-N zoning districts, outdoor dining areas, courtyards, and other similar quasi-public areas may count toward landscaping requirements. In all other zoning districts these areas may not count toward landscaping requirements.

**FIGURE 17.72-1: REQUIRED LANDSCAPE AREA IN R-1 ZONING DISTRICT**



**TABLE 17.72-1: MINIMUM LANDSCAPED AREA IN NON-RESIDENTIAL ZONING DISTRICTS**

Zoning Districts	Minimum Landscaped Area
MU-V, MU-N, C-R, C-C, CF	5%
I	Up to 5%, as determined by the permit approval process

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

Zoning Districts	Minimum Landscaped Area
P/OS, PD, VA	As determined by the permit approval process

3. Except in the I zoning district, all required front and street side setback areas shall be landscaped, excluding areas required for access to the property and public or quasi-public open space such as courtyards and outdoor seating.

**C. Visitor Serving Properties.** Minimum required landscaping for certain visitor serving properties are shown in the Table 17.72-2.

**TABLE 17.72-2: MINIMUM LANDSCAPED AREA FOR VISITOR SERVING PROPERTIES**

Property	Minimum Landscaped Area
Rispin Site	75% as either landscaped areas in developed areas of the site, or unlandscaped natural areas in areas subject to conservation easements
Shadowbrook Restaurant Parcel and visitor-serving El Salto and Monarch Cove parcels	50% landscaped area or undeveloped open space

**17.72.060 Landscape Standards**

**A. General Standards.** The following standards apply pursuant to 17.72.020 within all zoning districts.

1. **Plant Selection.** A minimum of 90 percent of plants and trees shall be drought-tolerant as defined by the Water Use Classification of Landscape Species (WUCOLS.) Native plants adapted to the local climate are preferred.
2. **Turf Lawns.**
  - a. Turf areas shall be limited to 25 percent of the landscaped area. The Planning Commission may approve larger areas if the lawn area provides functional open space.
  - b. Drought-tolerant grass species shall be used exclusively.
  - c. Turf shall not be used on berms, slopes, or median islands where runoff is a problem.
3. **Slopes.** Turf and high water use plants shall not be planted on berms and slopes greater than 25 percent.
4. **Plant Groupings.** Where irrigation is proposed, plants shall be grouped in separate hydrozones (i.e., plants within each irrigation valve area shall have the same watering requirements).

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

5. **Water Features.** Decorative water features (e.g., fountains, ponds, waterfalls) must be approved by the Planning Commission and shall have recirculating water systems.
6. **Watering Times.** Watering shall ~~be limited to between~~ ~~start after~~ eight p.m. and ~~end before~~ ten a.m.
7. **Public Safety.** Plant species shall be selected and located so that at maturity they do not interfere with pedestrian, bicycle, or vehicular circulation or safety and do not conflict with overhead lights, or utility lines.



**Note:** Watering times in existing Zoning Code is six p.m. to ten a.m. changed to eight p.m. to ten a.m. as suggested by the Water District.

- B. Irrigation and Water Efficiency.** Irrigation systems shall be designed to avoid runoff, low head drainage, overspray, and other similar conditions where water flows outside of landscaped areas. Irrigation systems shall feature the following equipment:
1. Irrigation systems shall meet a minimum irrigation efficiency of 75 percent.
  2. Separate landscape water meters for landscape areas exceeding 5,000 square feet.
  3. Irrigation controllers capable of percent adjustment, multiple programming, and rain sensor.
  4. Overhead sprays shall have a precipitation rate of no more than 0.75 inches per hour.
  5. Separated valves and circuits based on water use and sun exposure. Separate valves for turf and non-turf and berm areas are required.
  6. Sprinkler heads and emitters selected for proper area coverage, application rate, operation pressure, adjustment capability, and ease of maintenance.
  7. Rain-sensing override devices are required for all irrigation systems.
  8. Drip or bubble irrigation are required for all trees.
  9. State-approved back flow prevention devices shall be installed on all irrigation systems



**Note:** Standards for irrigation efficiency in paragraph 1 and overhead spray precipitation rate in paragraph 4 are new as suggested by the water District.

- C. Timing of Installation.** Landscaping systems shall be installed prior to final building permit inspection or certification of occupancy.

### 17.72.070 Landscape Maintenance

The following landscape maintenance requirements apply to multi-family and non-residential properties.



- A. **General.** Landscape areas shall be maintained in a neat and healthful condition at all times.
- B. **Mulch.** Mulch shall be periodically added to the soil surface in all landscape areas.
- C. **Replacement of Dead or Dying Plants.** Plants that are dead or severely damaged or diseased shall be replaced by the property owner.
- D. **Removal of Landscaping.** Any removed mature landscaping shall be replaced with landscaping of similar size and maturity as that which was removed. Trees may only be removed and/or shall be replaced in accordance with the City's Tree Ordinance, Municipal Code Section 12.12
- E. **Irrigation Systems.** Irrigation systems shall be maintained in a fully functional manner as approved by the City and required by this chapter. Watering schedules should be adjusted periodically to reflect seasonal variations.

## Chapter 17.74 – SECONDARY DWELLING UNITS

### Sections:

- 17.60.010 Purpose
- 17.60.020 Permitted Location
- 17.60.030 Required Permits
- 17.60.040 Design and Development Standards
- 17.60.050 Findings
- 17.60.060 Deed Restrictions
- 17.60.070 Incentives

### 17.74.010 Purpose

This chapter establishes standards for the location and construction of secondary dwelling units consistent with Government Code Section 65852.2. These standards are intended to allow secondary dwelling units as a form of affordable housing in Capitola while maintaining the character and quality of life of residential neighborhoods.

### 17.74.020 Permitted Location



**Note:** This section allows secondary dwelling units in the R-1, RM, MU-V and MU-N zoning districts on parcels occupied by a single-family dwelling. The existing Zoning Code allows secondary dwelling units only in the R-1 zoning district.

Secondary dwelling units are permitted in:

- A. The Single-Family Residential (R-1) zoning district; and
- B. The Multi-Family Residential (RM) and Neighborhood Mixed Use (MU-N) zoning districts on lot of 5,000 square feet or more occupied by one single-family dwelling.

### 17.74.030 Required Permits

- A. **Administrative Permit.** Secondary dwelling units consistent with Section 17.74.040 (Design and Development Standards) are allowed with an Administrative Permit.
- B. **Design Permit and Conditional Use Permit.**



**Note:** Paragraph 1 below prohibits deviations from certain design and development standards. Section 17.99.040 in the existing Zoning Code allows for deviation from all design and development standards with a Conditional Use Permit and Design Permit.

1. With the approval of a Design Permit and a Conditional Use Permit, the Planning Commission may allow secondary dwelling units that deviate from the standards in Subsections D (Unit Size) through K (Open Space and Landscaping) in Section 17.74.040.

2. All two-story secondary dwelling units require Planning Commission approval of a Design Permit and Conditional Use Permit.
3. To approve a Conditional Use Permit for a secondary dwelling unit, the Planning Commission must make all of the findings in Section 17.74.050 (Findings).



**17.74.040 Design and Development Standards**

**Note:** The requirement that the property owner occupy either the primary residence or the secondary dwelling unit in Section 17.99.060 of the existing Zoning Code is removed from this section.

- A. Minimum Lot Size.** Secondary dwelling units are permitted only on parcels 5,000 square feet or greater.
- B. One Primary Residence on Parcel.** A secondary dwelling unit is permitted only when not more than one primary single-family dwelling is present on a parcel or is constructed concurrently with the secondary dwelling unit.
- C. Occupancy.** The property owner must occupy either the primary or secondary dwelling. The Planning Commission may grant an exception to this requirement in the case of unique hardship with the approval of Conditional Use Permit.
- D. Maximum Number per Parcel.** Only one secondary dwelling unit is allowed on a single lot.
- E. Unit Size.** Table 17.74-1 shows the maximum permitted floor area for a secondary dwelling unit, based on the size of the parcel in which it is located.

**TABLE 17.74-1: MAXIMUM SECONDARY DWELLING UNIT SIZE**

Parcel Size	Maximum Floor Area
5,000 – 7,500 sq. ft.	500 sq. ft.
7,501 – 10,000 sq. ft.	640 sq. ft.
Greater than 10,000 sq. ft.	800 sq. ft.

- F. Maximum Floor Area Ratio.** The combined floor area ratio of a lot with a primary residence and a secondary dwelling unit shall not exceed 0.60
- G. Height and Setback Standards.**



**Note:** Table 17.80-2 allows two-story secondary dwelling units and requires a minimum 4-foot rear setback from single-story secondary dwelling units. Section 17.99.060.5 in the existing Zoning Code prohibits two-story secondary dwelling units and requires a minimum 8-foot rear setback from single-story secondary dwelling units.

1. Height and setbacks standards for secondary dwelling units are shown in Table 17.74-2.
2. The Planning Commission may allow a detached secondary dwelling unit to exceed the height limits in Table 17.74-2 to accommodate a roof design that matches special roof features of the primary residence. Such a height exception requires Planning Commission approval of a Conditional Use Permit.

**TABLE 17.80-2: SECONDARY DWELLING UNIT SETBACK AND HEIGHT STANDARDS**

	Type of Secondary Dwelling Unit	
	Detached	Attached
<b>Setbacks, Minimum</b>		
Interior Side	5 ft.	Same as required for primary residence
Exterior Side	Same as required for primary residence	
Rear	<u>One story unit:</u> 8 ft. <u>Two story unit:</u> 10 ft.	
Front	Same as required for primary residence	
<b>Height, Maximum</b>		
One story	<u>One story unit:</u> 15 ft. [1] <u>Two story unit:</u> 22 ft.	Height of primary residence or <del>minimum-maximum</del> permitted in zoning district, whichever is less

Notes:

[1] Maximum height when 4 – 10 feet from property line is 12 feet.

**H. Two-Story Secondary Dwelling Units**

1. A two-story secondary dwelling unit may be configured as either:
  - a. Two levels of living space as part of a single secondary dwelling unit; or
  - b. Upper level living space located above a ground floor garage (“carriage house”).
2. All two-story secondary dwelling units require Planning Commission approval of a Design Permit and Conditional Use Permit.

Attachment: Coastal Commission Requested Edits (1617 : Zoning Code Update)

**I. Doors and Windows.**

1. The entrance to a detached secondary dwelling unit shall face the interior of the parcel unless the secondary dwelling unit is directly accessible from an alley or a public street.
2. Openings (e.g., doors and windows) on exterior walls that are closest to and face adjacent residentially-zoned properties shall be designed to minimize privacy impacts and maintain access to light and ventilation on adjacent properties.

**J. Parking.** One off-street parking space shall be provided for a secondary dwelling unit in addition to any off-street parking required for the primary residence.

**K. Orientation.**

1. The secondary dwelling unit generally limits the major access stairs, decks, entry doors, and major windows to the walls facing the primary residence, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard have been minimized.
2. Parking accessed from an alley shall maintain a 24-foot back-out area, which may include the alley.

**L. Design.** The design of the secondary dwelling unit shall relate to the design of the primary residence by use of the similar exterior wall materials, window types, door and window trims, roofing materials and roof pitch.

**M. Open Space and Landscaping.** The site plan shall provide open space and landscaping that is useful for both the secondary dwelling unit and the primary residence. Landscaping shall be designed to maintain privacy and provide screening for adjacent properties.

**N. Mobile Units.** Vehicles and trailers of any kind, with or without wheels, are prohibited as secondary dwelling units.

**O. Building Code Compliance.** The secondary dwelling unit shall meet the requirements of the Uniform Building Code.

**17.74.050 Findings**

To approve a Conditional Use Permit for a secondary dwelling unit, the Planning Commission shall find that:

- A.** The exterior design of the secondary dwelling unit is compatible with the existing residence on the lot through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.
- B.** The exterior design is in harmony with, and maintains the scale of, the neighborhood.

- C. The secondary dwelling unit will not create excessive noise, traffic, or parking congestion.
- D. The property fronts on an adequate water main and sewer line each with the capacity to serve the secondary dwelling unit.
- E. The site plan provides adequate open space and landscaping that is useful for both the secondary dwelling unit and the primary residence. Open space and landscaping provides for privacy and screening of adjacent properties.
- F. The location and design of the secondary dwelling unit maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, air, solar access, or parking of adjacent properties.
- G. The secondary dwelling unit generally limits the major access stairs, decks, entry doors, and major windows to the walls facing the primary residence, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard have been minimized. The design of the secondary dwelling unit relates to the design of the primary residence and does not visually dominate it or the surrounding properties.
- H. The site plan is consistent with physical development policies of the General Plan, any area plan or specific plan, or other City policy for physical development. If located in the coastal zone, the site plan is consistent with policies of the Local Coastal Plan.
- I. The orientation and location of buildings, structures, open spaces and other features of the site plan are such that they maintain natural resources including significant trees and shrubs to the extent feasible and minimize alteration of natural land forms.
- J. The site plan protects views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan restores and enhances the visual quality of visually degraded areas.

#### **17.74.060 Deed Restrictions**

- A. Before obtaining a building permit for a secondary dwelling unit, the property owner shall file with the County Recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:
  1. The secondary dwelling unit may not be sold separately.
  2. The secondary dwelling unit is restricted to the approved size.
- B. The above declarations are binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement and/or revoking the City's approval of the secondary dwelling unit.
- C. The deed restriction shall lapse upon removal of the secondary dwelling unit.

**17.74.070 Incentives****A. Fee Waivers for Affordable Units.**

1. The City may waive development fees for secondary dwelling units that will be rented at levels affordable to low or very low income households.
2. Applicants of affordable secondary dwelling units shall record a deed restriction limiting the rent to low or very low-income levels prior to issuance of a building permit.
3. Landlords of secondary dwelling units shall be relieved of any affordability condition upon payment of fees in the amount previously waived as a result of affordability requirements, subject to an annual consumer price index increase commencing with the date of application for building permit.

**B. Historic Properties.** The Planning Commission may allow exceptions to design and development standards for secondary dwelling units proposed on a property that contains a Historic Resource as defined in Chapter 17.84 (Historic Preservation). To allow such an exception, the Planning Commission shall approve a Conditional Use Permit and find that the exception is necessary to preserve the architectural character of the primary residence.

## Chapter 17.04 – PURPOSE AND EFFECT OF ZONING CODE

### Sections:

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  - ~~10.11.~~ Ensure the protection of coastal resources.



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1. The Local Coastal Program IP establishes specific land use and development regulations to implement the Local Coastal Program LUP and the Coastal Act. The following Zoning Code chapters are a part of Capitola's Local Coastal Program IP:
  - a. All chapters in Part 2 (Zoning Districts and Overlay Zones).
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  - c. Chapter 17.160 (Glossary).
2. Any portion of the Zoning Code not specifically identified in subsection (1) above is hereby declared to not be a component of Capitola's Local Coastal Program IP.

C. Conflicting Provisions. If the Local Coastal Program Implementation Plan conflicts with the Local Coastal Program Land Use Plan, the policy and/or standard that is most consistent with the Coastal Act shall govern.

### ~~17.04.040~~17.04.050 Applicability of the Zoning Code

- A. Applicability to Property.** The Zoning Code applies to all land, uses, and structures within the Capitola city limits.
- B. Compliance with Regulations.** All uses, structures, and development activity in Capitola shall comply with the Zoning Code.
- C. Conflicting Regulations.** Where conflict occurs with other city regulations or with state or federal laws, higher law shall control over lower law unless local variation is permitted. Where conflicting laws are of equal stature, the more restrictive shall control unless otherwise specified in the Zoning Code or in state or federal law. In the coastal zone, in case of conflict between the Local Coastal Program and any other City law, regulation, or policy, the Local Coastal Program shall prevail.